

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 383

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 113, 409, 455, 457, 459, and 510 (MCL
208.1113, 208.1409, 208.1455, 208.1457, 208.1459, and 208.1510),
section 113 as amended by 2008 PA 472, sections 409 and 455 as
amended and section 510 as added by 2011 PA 39, 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. 113. (1) "Partner" means a partner or member of a
2 partnership.

3 (2) "Partnership" means a taxpayer that is required to or has
4 elected to file as a partnership for federal income tax purposes.

5 (3) "Person" means an individual, firm, bank, financial

1 institution, insurance company, limited partnership, limited
2 liability partnership, copartnership, partnership, joint venture,
3 association, corporation, subchapter S corporation, limited
4 liability company, receiver, estate, trust, or any other group or
5 combination of groups acting as a unit.

6 (4) "Professional employer organization" means an organization
7 that provides the management and administration of the human
8 resources of another entity by contractually assuming substantial
9 employer rights and responsibilities through a professional
10 employer agreement that establishes an employer relationship with
11 the leased officers or employees assigned to the other entity by
12 doing all of the following:

13 (a) Maintaining a right of direction and control of employees'
14 work, although this responsibility may be shared with the other
15 entity.

16 (b) Paying wages and employment taxes of the employees out of
17 its own accounts.

18 (c) Reporting, collecting, and depositing state and federal
19 employment taxes for the employees.

20 (d) Retaining a right to hire and fire employees.

21 (5) Professional employer organization is not a staffing
22 company as that term is defined in subsection (6).

23 (6) "Purchases from other firms" means all of the following:

24 (a) Inventory acquired during the tax year, including freight,
25 shipping, delivery, or engineering charges included in the original
26 contract price for that inventory.

27 (b) Assets, including the costs of fabrication and

1 installation, acquired during the tax year of a type that are, or
2 under the internal revenue code will become, eligible for
3 depreciation, amortization, or accelerated capital cost recovery
4 for federal income tax purposes.

5 (c) To the extent not included in inventory or depreciable
6 property, materials and supplies, including repair parts and fuel.

7 (d) For a staffing company, compensation of personnel supplied
8 to customers of staffing companies. As used in this subdivision:

9 (i) "Compensation" means that term as defined under section 107
10 plus all payroll tax and worker's compensation costs.

11 (ii) "Staffing company" means a taxpayer whose business
12 activities are included in industry group 736 under the standard
13 industrial classification code as compiled by the United States
14 department of labor.

15 (e) For a person included in major group 15, 16, or 17 under
16 the standard industrial classification code as compiled by the
17 United States department of labor that does not qualify for a
18 credit under section 417, both of the following:

19 (i) Payments to subcontractors for a construction project under
20 a contract specific to that project.

21 (ii) To the extent not deducted under subdivisions (a) and (c),
22 payments for materials deducted as purchases in determining the
23 cost of goods sold for the purpose of calculating total income on
24 the taxpayer's federal income tax return.

25 (f) For the 2008 tax year and each tax year after 2008, all
26 film rental or royalty payments paid by a theater owner to a film
27 distributor, a film producer, or a film distributor and producer.

1 (g) For a taxpayer licensed under article 25 or 26 of the
2 occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and
3 339.2601 to 339.2637, payments to an independent contractor
4 licensed under article 25 or 26 of the occupational code, 1980 PA
5 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637.

6 (H) FOR A PERSON CLASSIFIED UNDER THE 2002 NORTH AMERICAN
7 INDUSTRIAL CLASSIFICATION SYSTEM NUMBER 484 AS COMPILED BY THE
8 UNITED STATES OFFICE OF MANAGEMENT AND BUDGET THAT DOES NOT QUALIFY
9 FOR A CREDIT UNDER SECTION 417, PAYMENTS TO SUBCONTRACTORS TO
10 TRANSPORT FREIGHT BY MOTOR VEHICLE UNDER A CONTRACT SPECIFIC TO
11 THAT FREIGHT TO BE TRANSPORTED BY MOTOR VEHICLE.

12 (7) "Revenue mile" means the transportation for a
13 consideration of 1 net ton in weight or 1 passenger the distance of
14 1 mile.

15 Sec. 409. (1) For tax years that begin on or after January 1,
16 2008 and end before January 1, 2013, an eligible taxpayer may claim
17 a credit against the tax imposed by this act equal to the amount of
18 capital expenditures in this state on infield renovation,
19 grandstand and infrastructure upgrades, and any other construction
20 and upgrades, subject to the following:

21 (a) For the 2008 through 2010 tax years, the credit shall not
22 exceed \$2,100,000.00 or the taxpayer's tax liability under this
23 act, whichever is less.

24 (b) For the 2011 through the 2012 tax years, the credit shall
25 not exceed \$1,580,000.00 or the taxpayer's tax liability under this
26 act, whichever is less.

27 (2) Subject to the limitation provided under this subsection,

1 for tax years that begin on or after December 1, 2012 and end
2 before January 1, 2017, an eligible taxpayer may claim a credit
3 against the tax imposed by this act equal to the amount of capital
4 expenditures in this state on infield renovation, grandstand and
5 infrastructure upgrades, and any other construction and upgrades.
6 The credit allowed under this subsection shall not exceed
7 \$1,580,000.00 or the taxpayer's tax liability under this act,
8 **WHICHEVER IS LESS.**

9 (3) **IN ADDITION TO THE CREDIT ALLOWED UNDER SUBSECTION (1),**
10 **FOR THE 2009 TAX YEAR AN ELIGIBLE TAXPAYER MAY CLAIM A CREDIT**
11 **AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO 50% OF THE AMOUNT OF**
12 **NECESSARY EXPENDITURES IN THIS STATE INCURRED INCLUDING ANY**
13 **PROFESSIONAL FEES, ADDITIONAL POLICE OFFICERS, AND ANY TRAFFIC**
14 **MANAGEMENT DEVICES, TO ENSURE TRAFFIC AND PEDESTRIAN SAFETY WHILE**
15 **HOSTING THE REQUISITE MOTORSPORTS EVENTS EACH CALENDAR YEAR. FOR**
16 **THE 2010 AND 2011 TAX YEARS, AN ELIGIBLE TAXPAYER MAY CLAIM A**
17 **CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO ALL OF THE**
18 **NECESSARY EXPENDITURES IN THIS STATE INCURRED INCLUDING ANY**
19 **PROFESSIONAL FEES, ADDITIONAL POLICE OFFICERS, AND ANY TRAFFIC**
20 **MANAGEMENT DEVICES, TO ENSURE TRAFFIC AND PEDESTRIAN SAFETY WHILE**
21 **HOSTING THE REQUISITE MOTORSPORTS EVENTS EACH CALENDAR YEAR. IF THE**
22 **AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION EXCEEDS THE TAX**
23 **LIABILITY OF THE TAXPAYER FOR THE TAX YEAR THAT EXCESS SHALL BE**
24 **REFUNDED.**

25 (4) ~~(3)~~ To be eligible to claim the credit allowed under
26 subsection (1), an eligible taxpayer shall expend at least
27 \$30,000,000.00 on capital expenditures before January 1, 2011. To

1 be eligible to claim the credit allowed under subsection (2), an
2 eligible taxpayer shall, in addition to the expenditures required
3 to claim the credit under subsection (1), expend, at a minimum, an
4 additional \$32,000,000.00 on capital expenditures as follows:

5 (a) At least \$10,000,000.00 after December 31, 2010 and before
6 January 1, 2013.

7 (b) Including the amount expended under subdivision (a), a
8 cumulative total of at least \$32,000,000.00 after December 31, 2010
9 and before January 1, 2016.

10 (5) ~~(4)~~—As used in this section:

11 (a) "Eligible taxpayer" means any of the following:

12 (i) A person who owns and operates a motorsports entertainment
13 complex and has at least 2 days of motorsports events each calendar
14 year which shall be comparable to NASCAR Nextel cup events held in
15 2007 or their successor events.

16 (ii) A person who is the lessee and operator of a motorsports
17 entertainment complex or the lessee of the land on which a
18 motorsports entertainment complex is located and operates that
19 motorsports entertainment complex.

20 (iii) A person who operates and maintains a motorsports
21 entertainment complex under an operation and management agreement.

22 (b) "Motorsports entertainment complex" means a closed-course
23 motorsports facility, and its ancillary grounds and facilities,
24 that satisfies all of the following:

25 (i) Has at least 70,000 fixed seats for race patrons.

26 (ii) Has at least 6 scheduled days of motorsports events each
27 calendar year.

1 (iii) Serves food and beverages at the motorsports entertainment
2 complex during motorsports events each calendar year through
3 concession outlets, which are staffed by individuals who represent
4 or are members of 1 or more nonprofit civic or charitable
5 organizations that directly benefit from the concession outlets'
6 sales.

7 (iv) Engages in tourism promotion.

8 (v) Has permanent exhibitions of motorsports history, events,
9 or vehicles within the motorsports entertainment complex.

10 (c) "Motorsports event" means a motorsports race and its
11 ancillary activities that have been sanctioned by a sanctioning
12 body.

13 (d) "Sanctioning body" means the American motorcycle
14 association (AMA); auto racing club of America (ARCA); championship
15 auto racing teams (CART); grand American road racing association
16 (GRAND AM); Indy racing league (IRL); national association for
17 stock car auto racing (NASCAR); national hot rod association
18 (NHRA); professional sports car racing (PSR); sports car club of
19 America (SCCA); United States auto club (USAC); Michigan state
20 promoters association; or any successor organization or any other
21 nationally or internationally recognized governing body of
22 motorsports that establishes an annual schedule of motorsports
23 events and grants rights to conduct the events, that has
24 established and administers rules and regulations governing all
25 participants involved in the events and all persons conducting the
26 events, and that requires certain liability assurances, including
27 insurance.

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 as provided under this section.
5 To qualify for the credit under this section, a company shall meet
6 all of the following requirements:

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

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

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

13 (d) Submit the postproduction certificate of completion issued
14 by the office under subsection (5) to the department under
15 subsection (8).

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

19 (2) For direct production expenditures or qualified personnel
20 expenditures made after February 29, 2008 **AND BEFORE THE EFFECTIVE**
21 **DATE OF THE AMENDATORY ACT THAT ADDED THIS LANGUAGE**, an agreement
22 under this section may provide for an eligible production company
23 to claim a tax credit equal to 42% of direct production
24 expenditures for a state certified qualified production in a core
25 community, 40% of direct production expenditures for a state
26 certified qualified production in part of this state other than a
27 core community, and 30% for qualified personnel expenditures. **FOR**

1 DIRECT PRODUCTION EXPENDITURES OR QUALIFIED PERSONNEL EXPENDITURES
2 MADE ON AND AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
3 ADDED THIS LANGUAGE, AN AGREEMENT UNDER THIS SECTION MAY PROVIDE
4 FOR AN ELIGIBLE PRODUCTION COMPANY TO CLAIM A TAX CREDIT AS
5 DETERMINED BY THE MICHIGAN FILM OFFICE, WITH THE CONCURRENCE OF THE
6 STATE TREASURER, OF UP TO 42% FOR EACH SEPARATE DIRECT PRODUCTION
7 EXPENDITURE FOR A STATE CERTIFIED QUALIFIED PRODUCTION IN A CORE
8 COMMUNITY, UP TO 40% FOR EACH SEPARATE DIRECT PRODUCTION
9 EXPENDITURE FOR A STATE CERTIFIED QUALIFIED PRODUCTION IN PART OF
10 THIS STATE OTHER THAN A CORE COMMUNITY, AND UP TO 30% FOR EACH
11 SEPARATE QUALIFIED PERSONNEL EXPENDITURE. A taxpayer shall not
12 claim a credit under this section for any of the following:

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

15 (B) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
16 FOR WHICH THE COMPANY CLAIMS A CREDIT UNDER SECTION 367 OF THE
17 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367.

18 (C) ~~(b)~~—A direct expenditure, or qualified personnel
19 expenditure, for which another taxpayer claims a credit under this
20 section, ~~or~~ a credit under section 459, OR A CREDIT UNDER SECTION
21 367 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367.

22 (3) An eligible production company intending to produce a
23 qualified production in this state, or that initiated production of
24 a qualified production after February 29, 2008 and before April 8,
25 2008, may submit an application to enter into an agreement under
26 this section to the Michigan film office. Except for a qualified
27 production for which production was initiated after February 29,

1 2008 and before April 8, 2008, direct production expenditures and
2 qualified personnel expenditures incurred prior to approval of an
3 agreement under this section are not eligible for the credit under
4 this section. The request shall be submitted in a form prescribed
5 by the Michigan film office and shall be accompanied by a \$100.00
6 application fee and all of the information and records requested by
7 the office. An application fee received by the office under this
8 subsection shall be deposited in the Michigan film promotion fund.
9 The office shall not process the application until it is complete.
10 As part of the application, the company shall estimate direct
11 production expenditures and qualified personnel expenditures for an
12 identified qualified production. If the office, with the
13 concurrence of the state treasurer, determines to enter into an
14 agreement under this section, the agreement shall provide for all
15 of the following:

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

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

1 obscene matter or an obscene performance.

2 (e) If the qualified production is a long-form narrative film
3 production, a requirement that the qualified production include an
4 acknowledgement that the qualified production was filmed in this
5 state.

6 (f) A requirement that the company provide the office with the
7 information and independent certification the office and the
8 department deem necessary to verify direct production expenditures,
9 qualified personnel expenditures, and eligibility for the credit
10 under this section.

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

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

17 (a) The potential that in the absence of the credit the
18 qualified production will be produced in a location other than this
19 state.

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

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

25 (d) The extent to which the credit will attract private
26 investment for the production of qualified productions in this
27 state.

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

3 (5) If the Michigan film office determines that an eligible
4 production company has complied with the terms of an agreement
5 entered into under this section, the office shall issue a
6 postproduction certificate of completion to the company. The
7 company shall submit a request to the office for a postproduction
8 certificate of completion on a form prescribed by the office, along
9 with any information or independent certification the office or the
10 department deems necessary. The office shall process each request
11 within 60 days after the request is complete. However, the office
12 may request additional information or independent certification
13 before issuing a postproduction certificate of completion and need
14 not issue the postproduction certificate of completion until
15 satisfied that direct production expenditures, qualified personnel
16 expenditures, and eligibility are adequately established. The
17 additional information requested may include a report of direct
18 production expenditures and qualified personnel expenditures for
19 the qualified production audited and certified by an independent
20 certified public accountant. Each postproduction certificate of
21 completion shall be signed by the Michigan film commissioner and
22 shall include the following information:

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

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

26 (c) The eligible production company's direct production
27 expenditures and qualified personnel expenditures for the qualified

1 production.

2 (D) **THE ELIGIBLE PRODUCTION COMPANY'S CREDIT AMOUNT.**

3 (E) ~~(d)~~—The date of completion for the qualified production in
4 this state.

5 (F) ~~(e)~~—The unique number assigned to the qualified production
6 project by the Michigan film office under subsection (3).

7 (G) ~~(f)~~—The eligible production company's federal employer
8 identification number or Michigan treasury number.

9 (H) ~~(g)~~—Any independent certification required by the
10 department or the Michigan film office.

11 (6) Information, records, or other data received, prepared,
12 used, or retained by the Michigan film office under this section
13 that are submitted by an eligible production company and considered
14 by the taxpayer and acknowledged by the office as confidential
15 shall not be subject to the disclosure requirements of the freedom
16 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
17 records, or other data shall only be considered confidential to the
18 extent that the information or records describe the commercial and
19 financial operations or intellectual property of the company, the
20 information or records have not been publicly disseminated at any
21 time, and disclosure of the information or records may put the
22 company at a competitive disadvantage. For purposes of this
23 subsection, information or records that describe commercial and
24 financial operations do not include that portion of information or
25 records that include any expenses that qualify under this section
26 as qualified personnel expenditures or direct production
27 expenditures and for which a credit may be claimed.

1 (7) The Michigan film office shall, on January 15 and July 15
2 in each year, make available on its website a detailed semiannual
3 report that includes, at a minimum, all of the following:

4 (a) The number of applications received for a credit under
5 this section in the immediately preceding 6 months, including the
6 name of the eligible production company that submitted the
7 application and a brief description of the proposed qualified
8 production, including the locations in this state to be used in the
9 production and the proposed amount of money to be expended by the
10 eligible production company to produce the qualified production in
11 this state.

12 (b) The number of applications approved during the immediately
13 preceding 6 months.

14 (c) The number of postproduction certificates of completion
15 issued during the immediately preceding 6 months and the total
16 amount of credits certified under those postproduction certificates
17 of completion.

18 (8) An eligible production company shall submit a
19 postproduction certificate of completion issued under subsection
20 (5) to the department. The Michigan film office shall forward a
21 copy of each postproduction certificate of completion issued
22 pursuant to this subsection to the governor, the president of the
23 Michigan strategic fund, the chairperson of the senate finance
24 committee, the chairperson of the house tax policy committee, the
25 director of the senate fiscal agency, and the director of the house
26 fiscal agency. If the credit allowed under this section exceeds the
27 tax liability of the company for the tax year or if the company

1 claiming the credit does not have a tax liability under this act
2 for the tax year, the department shall refund the excess or pay the
3 amount of the credit to the company. The department shall, as soon
4 as the information is available, annually report to the governor,
5 the president of the Michigan strategic fund, the chairperson of
6 the senate finance committee, the chairperson of the house tax
7 policy committee, the director of the senate fiscal agency, and the
8 director of the house fiscal agency the total amount of the credits
9 certified under this section that exceed the taxpayer's tax
10 liability for the most recent year that tax information is
11 available and for which returns have cleared and been processed.
12 The credit under this section shall be claimed after all other
13 credits under this act.

14 (9) An eligible production company may assign all or a portion
15 of a credit under this section to any assignee. An assignee may
16 subsequently assign a credit or any portion of a credit assigned
17 under this subsection to 1 or more assignees. A company may claim a
18 portion of a credit and assign the remaining credit amount. A
19 credit assignment under this subsection is irrevocable. The credit
20 assignment under this subsection shall be made on a form prescribed
21 by the department. The qualified taxpayer shall send a copy of the
22 completed assignment form to the department in the tax year in
23 which the assignment is made and shall attach a copy of the form to
24 the return on which the credit is claimed.

25 (10) The amount of the credit under this section shall be
26 reduced by a credit application and redemption fee equal to 0.5% of
27 the credit claimed, which shall be deducted from the credit

1 otherwise payable to the taxpayer claiming the credit and be
2 deposited by the department in the Michigan film promotion fund.

3 (11) A taxpayer that willfully submits information under this
4 section that the taxpayer knows to be fraudulent or false shall, in
5 addition to any other penalties provided by law, be liable for a
6 civil penalty equal to the amount of the taxpayer's credit under
7 this section. A penalty collected under this section shall be
8 deposited in the Michigan film promotion fund.

9 (12) Not later than March 1 of each year after 2008, the
10 Michigan film office shall submit to the governor, the president of
11 the Michigan strategic fund, the chairperson of the senate finance
12 committee, the chairperson of the house tax policy committee, the
13 director of the senate fiscal agency, and the director of the house
14 fiscal agency an annual report concerning the operation and
15 effectiveness of the credit under this section. The requirements of
16 section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to
17 disclosure of tax information required by this subsection. The
18 report shall include all of the following:

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

22 (b) The number of qualified productions for which the eligible
23 production company applied for a tax credit under this section
24 during the immediately preceding year, the names of the qualified
25 productions produced in this state for which credits were begun or
26 completed in the immediately preceding year, and the locations in
27 this state that were used in the production of qualified

1 productions in the immediately preceding calendar year.

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

7 (d) The number of below the line crew employed in this state
8 by eligible production companies that qualified for the credit
9 under this section in the immediately preceding calendar year, how
10 many of those persons employed were residents of this state and not
11 included in qualified personnel expenditures, and the total number
12 of hours worked on the qualified production for which a credit is
13 granted.

14 (e) For requests for postproduction certificates of completion
15 submitted after January 2, 2011, the number of above the line
16 personnel employed in this state by the eligible production
17 companies that qualified for the credit under this section in the
18 immediately preceding calendar year and how many of those personnel
19 employed were residents of this state. For purposes of this
20 subdivision, above the line personnel means personnel who are not
21 below the line crew.

22 (f) For requests for postproduction certificates of completion
23 submitted after January 2, 2011, the number of persons employed in
24 this state by the eligible production companies that qualified for
25 the credit under this section in the immediately preceding calendar
26 year that earned more than \$250,000.00 on a qualified production
27 and how many of those persons were residents of this state.

1 (g) The value of all tax credit certificates of completion
2 issued under this section in the immediately preceding calendar
3 year.

4 (h) The amount known by the Michigan film office of other
5 state and local assistance provided to eligible production
6 companies in addition to the tax credit under this section.

7 (13) As used in this section:

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

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

13 (c) "Direct production expenditure" means a development,
14 preproduction, production, or postproduction expenditure made in
15 this state that is not a qualified personnel expenditure directly
16 attributable to the production or distribution of a qualified
17 production that is a transaction subject to taxation in this state,
18 including, but not limited to, all of the following:

19 (i) Payments to vendors doing business in this state to
20 purchase or use tangible personal property in producing or
21 distributing the qualified production or to purchase services
22 relating to the production or distribution of the qualified
23 production, including all of the following:

24 (A) Expenditures for optioning or purchasing intellectual
25 property including, but not limited to, books, scripts, music, or
26 trademarks relating to the development or purchase of a script,
27 story, scenario, screenplay, or format, including all expenditures

1 generally associated with the optioning or purchase of intellectual
2 property, including option money, agent fees, and attorney fees
3 relating to the transaction, but not including deferrals,
4 deferments, royalties, profit participation, or recourse or
5 nonrecourse loans negotiated by the eligible production company to
6 obtain the rights to the intellectual property.

7 (B) Production work, production equipment, production
8 software, development work, postproduction work, postproduction
9 equipment, postproduction software, set design, set construction,
10 set operations, props, lighting, wardrobe, makeup, makeup
11 accessories, photography, sound synchronization, special effects,
12 visual effects, audio effects, film processing, music, sound
13 mixing, editing, and related services and materials.

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

16 (D) Catering, food, lodging, and related services and
17 materials.

18 (E) Use of vehicles, which may include chartered aircraft
19 based in this state used for transportation in this state directly
20 attributable to production of a qualified production, but may not
21 include the chartering of aircraft for transportation outside of
22 this state.

23 (F) Commercial airfare if purchased through a travel agency or
24 travel company based in this state for travel to and from this
25 state or within this state directly attributable to production or
26 distribution of a qualified production.

27 (G) Insurance coverage or bonding if purchased from an

1 insurance agent based in this state.

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

4 (I) Preproduction, production, or postproduction costs
5 relating to the creation of trailers, marketing videos,
6 commercials, point-of-purchase videos, and content created on film
7 or digital media, including, but not limited to, the duplication of
8 films, videos, compact discs, digital video discs, and digital
9 files or other digital media created for consumer consumption.

10 (II) Purchase of equipment relating to the duplication or
11 market distribution of any content created or produced in this
12 state.

13 (I) Other expenditures for production of a qualified
14 production in accordance with generally accepted entertainment
15 industry practices.

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

20 (A) Payment of wages, benefits, or fees for talent,
21 management, or labor.

22 (B) Payment to a personal services corporation or professional
23 employer organization for the services of a performing artist or
24 crew member if the personal services corporation or professional
25 employer organization is subject to the tax levied under this act
26 on the portion of the payment qualifying for the tax credit under
27 this section and the payments received by the performing artist or

1 crew member that are subject to taxation under the income tax act
2 of 1967, 1967 PA 281, MCL 206.1 to ~~206.697~~, **206.713**, and are
3 withheld and paid to this state in the amount provided under
4 section 351 of the income tax act of 1967, 1967 PA 281, MCL
5 206.351.

6 (d) "Eligible production company" or "company" means an entity
7 in the business of producing qualified productions, but does not
8 include an entity that is more than 30% owned, affiliated, or
9 controlled by an entity or individual who is in default on a loan
10 made by this state, a loan guaranteed by this state, or a loan made
11 or guaranteed by any other state.

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

21 (f) "Michigan film office" or "office" means the Michigan film
22 office created under chapter 2A of the Michigan strategic fund act,
23 1984 PA 270, MCL 125.2029 to 125.2029g.

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

27 (h) "Obscene matter or an obscene performance" means matter

1 described in 1984 PA 343, MCL 752.361 to 752.374.

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

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

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

22 (ii) Payment to a personal services corporation or professional
23 employer organization for the services of a performing artist or
24 crew member if the personal services corporation or professional
25 employer organization is subject to the tax levied under this act
26 on the portion of the payment qualifying for the tax credit under
27 this section and the payments received by the performing artist or

1 crew member that are subject to taxation under the income tax act
2 of 1967, 1967 PA 281, MCL 206.1 to ~~206.697~~, **206.713**, and are
3 withheld and paid to this state in the amount provided under
4 section 351 of the income tax act of 1967, 1967 PA 281, MCL
5 206.351.

6 (k) "State certified qualified production" or "qualified
7 production" means single media or multimedia entertainment content
8 created in whole or in part in this state for distribution or
9 exhibition to the general public in 2 or more states by any means
10 and media in any digital media format, film, or video tape,
11 including, but not limited to, a motion picture, a documentary, a
12 television series, a television miniseries, a television special,
13 interstitial television programming, long-form television,
14 interactive television, music videos, interactive games, video
15 games, commercials, internet programming, an internet video, a
16 sound recording, a video, digital animation, or an interactive
17 website. Qualified production also includes any trailer, pilot,
18 video teaser, or demo created primarily to stimulate the sale,
19 marketing, promotion, or exploitation of future investment in a
20 production. Qualified production does not include any of the
21 following:

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

25 (ii) A production that includes obscene matter or an obscene
26 performance.

27 (iii) A production that primarily consists of televised news or

1 current events.

2 (iv) A production that primarily consists of a live sporting
3 event.

4 (v) A production that primarily consists of political
5 advertising.

6 (vi) A radio program.

7 (vii) A weather show.

8 (viii) A financial market report.

9 (ix) A talk show.

10 (x) A game show.

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

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

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

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

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

21 (m) "State certified qualified production" means a qualified
22 production for which a postproduction certificate of completion has
23 been issued by the office under subsection (5).

24 Sec. 457. (1) Until September 30, 2015, the Michigan film
25 office, with the concurrence of the state treasurer, may enter into
26 an agreement with a taxpayer providing the taxpayer with a credit
27 against the tax imposed by this act for an investment in a

1 qualified film and digital media infrastructure project, as
2 provided under this section. To qualify for the credit under this
3 section, a taxpayer shall meet all of the following requirements:

4 (a) Before January 1, 2009, invest and expend at least
5 \$100,000.00 for a qualified film and digital media infrastructure
6 project in this state; after December 31, 2008, invest and expend
7 at least \$250,000.00 for a qualified film and digital media
8 infrastructure project in this state.

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

10 (c) Receive an investment expenditure certificate from the
11 office under subsection (5).

12 (d) Submit the investment expenditure certificate issued by
13 the office under subsection (5) to the department under subsection
14 (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~~ **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
19 **ADDED THIS LANGUAGE, FOR** investment expenditures made by a taxpayer
20 for all qualified film and digital media infrastructure projects in
21 this state, an agreement under this section may provide for the
22 taxpayer to claim a tax credit equal to 25% of the taxpayer's base
23 investment. **ON AND AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT**
24 **THAT ADDED THIS LANGUAGE, FOR INVESTMENT EXPENDITURES MADE BY A**
25 **TAXPAYER FOR ALL QUALIFIED FILM AND DIGITAL MEDIA INFRASTRUCTURE**
26 **PROJECTS IN THIS STATE, AN AGREEMENT UNDER THIS SECTION MAY PROVIDE**
27 **FOR THE TAXPAYER TO CLAIM A TAX CREDIT OF UP TO 25% OF THE**

1 **TAXPAYER'S BASE INVESTMENT AS DETERMINED BY THE MICHIGAN FILM**
2 **OFFICE, WITH THE CONCURRENCE OF THE STATE TREASURER.** The credit
3 under this section shall be reduced by any credit claimed by the
4 taxpayer under section 437 for the same base investment. No more
5 than \$20,000,000.00 in total credits under this section shall be
6 authorized in a tax year. If all or a portion of a qualified film
7 and digital media infrastructure project is a facility that may be
8 used for purposes unrelated to production or postproduction
9 activities, then the project is eligible for the credit only if the
10 department determines that the facility will support and be
11 necessary to secure production or postproduction activity for the
12 production and postproduction facility and the taxpayer agrees to
13 both of the following:

14 (a) The facility will be used as a state of the art production
15 or postproduction facility or as support and component of the
16 facility for the useful life of the facility.

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

19 (3) A taxpayer seeking a credit under this section may submit
20 an application to enter into an agreement under this section to the
21 Michigan film office. The application shall be submitted in a form
22 prescribed by the Michigan film office and shall be accompanied by
23 a \$100.00 application fee and all of the information and records
24 requested by the office. An application fee received by the office
25 under this subsection shall be deposited in the Michigan film
26 promotion fund. The office shall not process the application until
27 it is complete. If the office, with the concurrence of the state

1 treasurer, determines to enter into an agreement under this
2 section, the agreement shall provide for all of the following:

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

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

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

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

15 (e) A projected budget for the qualified film and digital
16 media infrastructure project.

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

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

23 (h) A requirement that the taxpayer provide the office with
24 the information and independent certification the office and the
25 department deem necessary to verify investment expenditures and
26 eligibility for the credit under this section.

27 (i) A requirement that if the cost of tangible assets

1 described in subsection (11)(a) was paid or accrued in a tax year
2 beginning after December 31, 2007, the taxpayer shall repay an
3 amount equal to 25% of the gross proceeds or benefit derived from
4 the sale or other disposition of the tangible assets minus the
5 gain, multiplied by the apportionment factor for the taxable year
6 as prescribed in chapter 3, and plus the loss, multiplied by the
7 apportionment factor for the taxable year as prescribed in chapter
8 3 from the sale or other disposition reflected in federal taxable
9 income and minus the gain from the sale or other disposition added
10 to the business income tax base in section 201.

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

14 (a) The potential that in the absence of the credit the
15 qualified film and digital media infrastructure project will be
16 constructed in a location other than this state.

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

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

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

26 (5) If the Michigan film office determines that a taxpayer has
27 complied with the terms of an agreement entered into under this

1 section, the office shall issue an investment expenditure
2 certificate to the taxpayer. The taxpayer shall submit a request to
3 the office for an investment expenditure certificate on a form
4 prescribed by the office, along with any information or independent
5 certification the office or the department deems necessary. The
6 office shall process each request within 60 days after the request
7 is complete. However, the office may request additional information
8 or independent certification before issuing an investment
9 expenditure certificate and need not issue the investment
10 expenditure certificate until satisfied that investment
11 expenditures and eligibility are adequately established. The
12 additional information requested may include a report of
13 expenditures audited and certified by an independent certified
14 public accountant. Each investment expenditure certificate shall be
15 signed by the Michigan film commissioner and shall include the
16 following information:

17 (a) The name of the taxpayer.

18 (b) A description of the qualified film and digital media
19 infrastructure project.

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

22 **(D) THE TAXPAYER'S CREDIT AMOUNT.**

23 **(E)** ~~(d)~~—The unique number assigned to the qualified film and
24 digital media infrastructure project by the office under subsection
25 (3).

26 **(F)** ~~(e)~~—The taxpayer's federal employer identification number
27 or Michigan treasury number.

1 (G) ~~(F)~~—Any independent certification required by the
2 department or the Michigan film office.

3 (6) Information, records, or other data received, prepared,
4 used, or retained by the Michigan film office under this section
5 that are submitted by an eligible production company and considered
6 by the taxpayer and acknowledged by the office as confidential
7 shall not be subject to the disclosure requirements of the freedom
8 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
9 records, or other data shall only be considered confidential to the
10 extent that the information or records describe the commercial and
11 financial operations or intellectual property of the company, the
12 information or records have not been publicly disseminated at any
13 time, and disclosure of the information or records may put the
14 company at a competitive disadvantage.

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

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

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

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

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

21 (11) As used in this section:

22 (a) "Base investment" means the cost, including fabrication
23 and installation, paid or accrued in the taxable year of tangible
24 assets of a type that are, or under the internal revenue code will
25 become, eligible for depreciation, amortization, or accelerated
26 capital cost recovery for federal income tax purposes, provided
27 that the assets are physically located in this state for use in a

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

6 (b) "Michigan film office" or "office" means the Michigan film
7 office created under chapter 2A of the Michigan strategic fund act,
8 1984 PA 270, MCL 125.2029 to 125.2029g.

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

12 (d) "Qualified film and digital media infrastructure project"
13 means a film, video, television, or digital media production and
14 postproduction facility located in this state, movable and
15 immovable property and equipment related to the facility, and any
16 other facility that is a necessary component of the primary
17 facility. A qualified film and digital media infrastructure project
18 does not include a movie theater or other commercial exhibition
19 facility, a facility used to produce obscene matter or an obscene
20 performance as described in 1984 PA 343, MCL 752.361 to 752.374, or
21 a facility used for a production for which records are required to
22 be maintained with respect to any performer in the production under
23 18 USC 2257.

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

1 qualified job training expenditures, as provided under this
2 section. To qualify for the credit under this section, a company
3 shall meet all of the following requirements:

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

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

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

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

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

19 (2) ~~For~~ **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
20 **ADDED THIS LANGUAGE, FOR** a qualified job training expenditure made
21 by a company, the company may claim a tax credit equal to 50% of
22 the qualified job training expenditure. **ON AND AFTER THE EFFECTIVE**
23 **DATE OF THE AMENDATORY ACT THAT ADDED THIS LANGUAGE, FOR A**
24 **QUALIFIED JOB TRAINING EXPENDITURE MADE BY A COMPANY, THE COMPANY**
25 **MAY CLAIM A TAX CREDIT OF UP TO 50% OF THE QUALIFIED JOB TRAINING**
26 **EXPENDITURE AS DETERMINED BY THE MICHIGAN FILM OFFICE, WITH THE**
27 **CONCURRENCE OF THE STATE TREASURER.** A company shall not claim a

1 credit under this section for any of the following:

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

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

7 (c) A direct expenditure, or qualified personnel expenditure,
8 for which another taxpayer claims a credit under this section, a
9 credit under section 455, or a credit under section 367 of the
10 income tax act of 1967, 1967 PA 281, MCL 206.367.

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

23 (a) A unique number assigned to the state certified qualified
24 production for which qualified job training expenditures were
25 incurred by the company.

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

1 (c) A requirement that the company provide the office with the
2 information and independent certification the office and the
3 department deem necessary to verify qualified job training
4 expenditures and eligibility for the credit under this section.

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

8 (a) The extent to which the state certified qualified
9 production and qualified job training expenditure may have the
10 effect of promoting economic development or job creation in this
11 state.

12 (b) The extent to which the credit may assist in attracting
13 additional private investment for the production of motion
14 pictures, videos, television programs, and digital media in this
15 state.

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

19 (5) If the Michigan film office determines that a company has
20 complied with the terms of an agreement entered into under this
21 section, the office shall issue a qualified job training
22 expenditure certificate to the company. The company shall submit a
23 request to the office for a qualified job training expenditure
24 certificate on a form prescribed by the office, along with any
25 information or independent certification the office or the
26 department deems necessary. The office shall process each request
27 within 60 days after the request is complete. However, the office

1 may request additional information or independent certification
2 before issuing a certificate and need not issue the certificate
3 until satisfied that qualified job training expenditures and
4 eligibility are adequately established. The additional information
5 requested may include a report of expenditures audited and
6 certified by an independent certified public accountant. Each
7 qualified job training expenditure certificate shall be signed by
8 the Michigan film commissioner and shall include the following
9 information:

10 (a) The name of the taxpayer.

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

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

15 (d) The date on which production of the state certified
16 qualified production began in this state, the date on which
17 production of the state certified qualified production ended in
18 this state, the total number of production days in this state, and
19 the approximate total crew size for the state certified qualified
20 production.

21 **(E) THE COMPANY'S CREDIT AMOUNT.**

22 **(F)** ~~(e)~~—The unique number assigned to the state certified
23 qualified production by the office under subsection (3).

24 **(G)** ~~(f)~~—The company's federal employer identification number
25 or Michigan treasury number.

26 **(H)** ~~(g)~~—Any independent certification required by the
27 department or the Michigan film office.

1 (6) Information, records, or other data received, prepared,
2 used, or retained by the Michigan film office under this section
3 that are submitted by an eligible production company and considered
4 by the taxpayer and acknowledged by the office as confidential
5 shall not be subject to the disclosure requirements of the freedom
6 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
7 records, or other data shall only be considered confidential to the
8 extent that the information or records describe the commercial and
9 financial operations or intellectual property of the company, the
10 information or records have not been publicly disseminated at any
11 time, and disclosure of the information or records may put the
12 company at a competitive disadvantage.

13 (7) To claim a credit under this section, a company shall
14 submit a qualified job training expenditure certificate issued
15 under subsection (5) to the department. If the credit allowed under
16 this section exceeds the amount of taxes owed by the company under
17 this act for a tax year, that portion of the credit that exceeds
18 the tax liability of the company for the tax year shall not be
19 refunded but may be carried forward as a credit against tax
20 liability under this act in subsequent tax years for a period not
21 to exceed 10 tax years.

22 (8) The credit under this section shall be claimed after all
23 other credits under this act. The amount of the credit under this
24 section shall be reduced by a credit application and redemption fee
25 equal to 0.5% of the credit claimed, which shall be deducted from
26 the credit otherwise payable to the taxpayer claiming the credit
27 and be deposited by the department in the Michigan film promotion

1 fund.

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

8 (10) As used in this section:

9 (a) "Below the line crew" means persons employed by an
10 eligible production company for state certified qualified
11 production expenditures made after production begins and before
12 production is completed, including, but not limited to, a best boy,
13 boom operator, camera loader, camera operator, assistant camera
14 operator, compositor, dialogue editor, film editor, assistant film
15 editor, focus puller, Foley operator, Foley editor, gaffer, grip,
16 key grip, lighting crew, lighting board operator, lighting
17 technician, music editor, sound editor, sound effects editor, sound
18 mixer, steadicam operator, first assistant camera operator, second
19 assistant camera operator, digital imaging technician, camera
20 operator working with a director of photography, electric best boy,
21 grip best boy, dolly grip, rigging grip, assistant key for makeup,
22 assistant key for hair, assistant script supervisor, set
23 construction foreperson, lead set dresser, assistant key for
24 wardrobe, scenic foreperson, assistant propmaster, assistant audio
25 mixer, assistant boom person, assistant key for special effects,
26 and other similar personnel. Below the line crew does not include a
27 producer, director, writer, actor, or other similar personnel.

1 (b) "Eligible production company" means that term as defined
2 in section 455.

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

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

9 (e) "Qualified job training expenditure" means salary and
10 other expenditures paid by an eligible production company to
11 provide qualified personnel with on-the-job training as a member of
12 the below the line crew for a state certified qualified production
13 that is intended to upgrade or enhance the skills of the qualified
14 personnel and address deficiencies in skills among residents of
15 this state as determined by the office.

16 (f) "Qualified personnel" means a person who has resided in
17 this state for not less than 12 months, who has legal status for
18 employment, and who demonstrates sufficient prior experience or
19 training in the film and digital media industry, as certified by
20 the Michigan film office. Qualified personnel includes, but is not
21 limited to, a person who has completed a training program at a
22 Michigan proprietary school licensed by the department of labor and
23 economic growth that offers a program of instruction in film and
24 video production and has been designated with a classification of
25 instructional programs code of 50 by the department of labor and
26 economic growth and a person in an advanced crew position that
27 meets the residency requirements of this subdivision and is hired

1 and mentored by a key or supervisor. Qualified personnel do not
2 include a person with fewer than 1 or more than 4 film credits in
3 the same below the line crew position for which the eligible
4 production company claimed a credit under this section.

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

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

9 Sec. 510. (1) If a certificate of completion, assignment
10 certificate, or component completion certificate is issued **FOR A**
11 **TAX YEAR BEGINNING AFTER DECEMBER 31, 2011** under section 437 to a
12 taxpayer or if a certificate of completed rehabilitation,
13 assignment certificate, or reassignment certificate is issued **FOR A**
14 **TAX YEAR BEGINNING AFTER DECEMBER 31, 2011** under section 435 to a
15 taxpayer, **BEGINNING ON AND AFTER JANUARY 1, 2012** the taxpayer may
16 elect to claim a refundable credit for 90% of the amount of that
17 certificate. ~~or any carryforward remaining from that certificate,~~
18 ~~whichever is less.~~ The claim may be filed before the end of the tax
19 year, and the department shall pay the refundable credit within 60
20 days after receiving the claim. A taxpayer claiming a credit under
21 this section shall forgo the remaining 10% of the credit.

22 (2) If section 437 or 435 provides that payment of a credit
23 will be made over a period of years or limits the annual amount of
24 a payment, a refundable credit may only be claimed under subsection
25 (1) for the amount payable in the year claimed. A taxpayer may
26 elect to claim a refundable credit under subsection (1) in each
27 year that a credit is payable under section 437 or 435.

1 Notwithstanding the foregoing, a taxpayer may elect under
2 subsection (1) to claim the balance of a refundable credit awarded
3 under section 435(20), but the amount of that refund shall be equal
4 to 86% of the amount of the credit and the taxpayer shall forgo the
5 remaining 14% of the credit.

6 (3) Notwithstanding the provisions of section 437(18) and
7 section 435(9), for tax years ending after December 31, 2011, a
8 taxpayer may not claim a refundable credit under section 437(18) or
9 section 435(9) and may only claim a refundable credit under
10 sections 437 and 435 as provided in subsection (1) **OR (2)**.

11 Enacting section 1. Sections 409, 455, and 510 of the Michigan
12 business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510,
13 as amended by this amendatory act, are retroactive and effective
14 May 26, 2011. This provision is curative and is intended to express
15 the original intent of the legislature concerning the application
16 of 2011 PA 39.