

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

**Introduced by Senators Richardville, Smith, Marleau, Jansen, Hildenbrand, Whitmer, Bieda, Gleason
and Nofs**

ENROLLED SENATE BILL No. 569

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," by amending sections 9, 29a, and 29d (MCL 125.2009, 125.2029a, and 125.2029d), section 9 as amended by 1987 PA 278 and sections 29a and 29d as added by 2008 PA 75, and by adding section 29h.

The People of the State of Michigan enact:

Sec. 9. (1) The fund shall transmit to the legislature each quarter a status report of its activities. The report shall include, but not be limited to, information on name and location of all applicants, amount and type of financial assistance being requested, type of project or product being financed, number of net jobs created or retained, duration of financial assistance, amount of financial support other than state resources, and the status of any loans of the fund, excluding industrial development revenue loans, which are in default. The report shall not include information exempt from disclosure under section 5.

(2) The auditor general or a certified public accountant appointed by the auditor general annually shall conduct and remit to the legislature an audit of the fund and, in the conduct of the audit, shall have access to all records of the fund at any time, whether or not confidential. Each audit required by this section shall include a determination of whether the fund is likely to be able to continue to meet its obligations, including a report on the status of outstanding loans and agreements made by the fund.

(3) The fund shall also transmit the status report described in subsection (1) and audit described in subsection (2) to the chairperson and minority vice-chairperson of the senate appropriations subcommittee on general government and the house of representatives appropriations subcommittee on general government. The fund shall make the status report and audit available to the public on the fund's website.

Sec. 29a. (1) The Michigan film office is created in the fund. The office shall be the successor to any authority, powers, duties, functions, or responsibilities of the Michigan film office under former section 21 of the history, arts, and libraries act, 2001 PA 63.

(2) The office may do all of the following:

(a) Promote and market locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.

(b) Provide to interested persons descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.

(c) Provide technical assistance to the film, television, and digital media industry in locating and securing the use of locations, talent, crews, facilities, and services in this state.

(d) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state and local efforts to attract film, digital media, and television production in this state.

(e) Serve as this state's chief liaison with the film, digital media, and television production industry and with other governmental units and agencies for the purpose of promoting, encouraging, and facilitating film, digital media, and television production in this state.

(f) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(g) Assist film, digital media, and television producers with securing location authorization and other appropriate services connected with film, digital media, and television production in this state.

(h) Scout potential film locations for national and international film, digital media, and television prospects.

(i) Escort film, digital media, and television producers on location scouting trips.

(j) Serve as a liaison between film, digital media, and television producers, state agencies, local agencies, federal agencies, community organizations and leaders, and the film, digital media, and television industry in this state.

(k) Assist film, digital media, and television producers in securing permits to film at specific locations in this state and in obtaining needed services related to the production of a film, digital media, or a television program.

(l) Represent this state at film, digital media, and television industry trade shows and film festivals.

(m) Sponsor workshops or conferences on topics relating to filmmaking, including, but not limited to, screenwriting, film financing, and the preparation of communities to attract and assist film, digital media, and television productions in this state.

(n) Encourage cooperation between local, state, and federal government agencies and local film offices in the location and production of films, digital media, and television programming in this state.

(o) Coordinate activities with local film offices.

(p) Facilitate cooperation from state departments and agencies, local governments, local film offices, federal agencies, and private sector entities in the location and production of films, digital media, and television programming in this state.

(q) Prepare, maintain, and distribute a directory of persons, firms, and governmental agencies available to assist in the production of films, digital media, and television programming in this state.

(r) Prepare, maintain, and distribute a digital library depicting the variety and extent of the locations within this state for film, digital media, and television productions.

(s) Prepare and distribute appropriate promotional and informational materials that do all of the following:

(i) Describe desirable locations in this state for film, digital media, and television production.

(ii) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(iii) Detail services and assistance available from state government, from local film offices, and from the film, digital media, and television industry in this state.

(t) Solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity. The film office shall disclose the identity and amount of all gifts, grants, and other donations on its website.

(u) Employ technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the office. The office shall determine the qualifications, duties, and compensation of those the office employs.

(v) Contract for goods and services and engage personnel as necessary to perform the duties of the office under this chapter.

(w) Study, develop, and prepare reports or plans the office considers necessary to assist the office in the exercise of its powers under this chapter and to monitor and evaluate progress under this chapter.

(x) Exercise the duties and responsibilities vested in the office under this chapter and all of the following:

(i) Section 88d.

(ii) Section 88j(3)(e).

(iii) Section 4cc of the general sales tax act, 1933 PA 167, MCL 205.54cc.

(iv) Sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(y) Create and operate a film and digital media production assistance program to encourage film and digital media production throughout this state as provided in section 29h.

(z) All other things necessary or convenient to achieve the objectives and purposes of the office, this chapter, or other laws that relate to the purposes and responsibilities of the office.

(3) The enumeration of a power in this chapter shall not be construed as a limitation upon the general powers of the office. The powers granted under this chapter are in addition to those powers granted by any other law.

(4) The commissioner and the president of the fund shall cooperate in administering the budget, procurement, and related management functions of the office. The fund may provide the office with staff support and other services to assist the office in performing the functions and duties of the office.

(5) State departments, agencies, boards, commissions, and officers and local film offices shall cooperate with the office in the performance of the office's duties under this chapter.

Sec. 29d. (1) The Michigan film promotion fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the promotion fund, including federal funds, other state revenues, gifts, bequests, and other donations, including, but not limited to, all of the following:

(a) Fees deposited in the promotion fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(b) Fees deposited in the promotion fund under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(c) Proceeds deposited in the promotion fund under section 88d.

(d) Funds appropriated to create and operate the film and digital media production assistance program.

(3) The state treasurer shall direct the investment of the promotion fund and shall credit to the promotion fund interest and earnings from promotion fund investments.

(4) Money in the promotion fund at the close of a fiscal year shall remain in the promotion fund and shall not lapse to the general fund.

(5) Money in the promotion fund may be expended, upon appropriation, to support the functions of the office under this chapter and other applicable law and for purposes authorized under this chapter.

(6) Beginning October 1, 2011, the fund shall transfer to and deposit in the promotion fund all money appropriated for Michigan strategic fund - film incentive funding under section 1201 of 2011 PA 63.

Sec. 29h. (1) The Michigan film office shall create and operate the film and digital media production assistance program. The film and digital media production assistance program may provide funds to eligible production companies for direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, or qualified personnel expenditures for state certified qualified productions.

(2) If the office receives applications that would exceed what the office can award in any year, the office may prioritize that application for funding in the subsequent year.

(3) The film and digital media production assistance program shall provide for all of the following:

(a) Funding shall be provided only to reimburse direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, or qualified personnel expenditures.

(b) To be eligible to apply for funding, the eligible production company shall have direct production expenditures, Michigan personnel expenditures, or a combination of direct production expenditures and Michigan personnel expenditures, of \$100,000.00 or more.

(c) To be eligible to apply for funding, the eligible production company shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(d) For state certified qualified production expenditures after September 30, 2011, an agreement under this section shall provide for funding equal to the sum of the following:

(i) 27% of direct production expenditures.

(ii) Michigan personnel expenditures as follows:

(A) 32% after September 30, 2011 and before January 1, 2015.

(B) 27% after December 31, 2014.

(iii) Crew personnel expenditures as follows:

(A) 25% after September 30, 2011 and before January 1, 2013.

(B) 20% after December 31, 2012 and before January 1, 2014.

(C) 15% after December 31, 2013 and before January 1, 2015.

(D) 10% after December 31, 2014.

(iv) Qualified personnel expenditures as follows:

(A) 27% after September 30, 2011 and before January 1, 2015.

(B) 12% after December 31, 2014.

(v) In addition to the expenditures described in subparagraphs (i), (ii), (iii), and (iv), 3% of direct production expenditures and Michigan personnel expenditures at a qualified facility or postproduction facility for a qualified production produced at the facility.

(e) Payments and compensation for all producers of a qualified production residing in this state shall not exceed 10% of the direct production expenditures and Michigan personnel expenditures for the qualified production.

(f) Payments and compensation for all producers of a qualified production who are not residents of this state shall not exceed 5% of the direct production expenditures and Michigan personnel expenditures for the qualified production.

(g) A television show may submit an application for no more than 2 successive seasons, notwithstanding the fact that the successive seasons have not been ordered. The successive season's direct production expenditure, Michigan personnel expenditure, nonresident above the line personnel expenditure, and nonresident below the line crew expenditure amounts shall be based on the current season's estimated expenditures. Upon the completion of production of each season, a television show may submit an application for no more than 1 additional season.

(h) As a separate and distinct part of the film and digital media production assistance program, the office may create a program to directly support and promote qualified facilities and other infrastructure throughout this state.

(i) That not less than 5% of the funding awarded under this section is awarded for postproduction expenditures for qualified productions.

(4) An eligible production company intending to produce a qualified production in this state may submit an application for funding under this section to the Michigan film office. The request shall be submitted in a form prescribed by the office and shall be accompanied by an application fee equal to 0.2% of the funding requested but not less than \$200.00 and not more than \$5,000.00 and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. The office shall process each application within 21 days after the application is complete as determined by the office. As part of the application, the company shall estimate direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, and qualified personnel expenditures for an identified qualified production. If the office determines to award funding under this section to an eligible production company, the office with the concurrence of the fund president shall enter into an agreement under this section. The agreement shall include, but is not limited to, all of the following:

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

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

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

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

(e) If the qualified production is a long-form narrative film production, a requirement that the qualified production include within its presentation worldwide for the life of the qualified production an acknowledgment as provided by the office that promotes the pure Michigan tourism campaign or any successor campaign. If the qualified production is a television show, a requirement that the qualified production include within each broadcast of 30 minutes or longer an acknowledgment as provided by the office that promotes the pure Michigan tourism campaign or any successor campaign. If the qualified production is a music video, a requirement that the music video include an acknowledgment as provided by the office that promotes the pure Michigan tourism campaign or any successor campaign. If the qualified production is an interactive game, a requirement that the qualified production include with each unit distributed and online promotions an acknowledgment as provided by the office that promotes the pure Michigan tourism campaign or any successor campaign. If the qualified production is a long-form narrative film production, the office also may require that, if the qualified production is distributed by digital video disc or other digital media for the secondary market, the qualified production include a video between 30 and 60 seconds long in a form approved by the office that promotes the pure Michigan tourism campaign or any successor campaign.

(f) A requirement that the company provide the office with the information and independent certification the office deems necessary to verify direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, qualified personnel expenditures, and eligibility for funding under this section, which may include a report of direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, and qualified personnel expenditures for the qualified production audited and certified by an independent certified public accountant.

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

(5) In determining whether to award funding under this section, the Michigan film office shall consider all of the following:

(a) The potential that, in the absence of funding, the qualified production will be produced in a location other than this state.

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

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

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

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

(f) The extent to which the qualified production will employ Michigan residents.

(6) If the Michigan film office determines that an eligible production company has complied with the terms of an agreement entered into under this section, the office shall award funding as provided in this section. A person that willfully submits information under this section that the person knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of funding provided to the person under this section. A penalty collected under this section shall be deposited in the Michigan film promotion fund.

(7) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the applicant and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage. For purposes of this subsection, information or records that describe commercial and financial operations do not include that portion of information or records that include any expenses that qualify under this section as direct production expenditures or personnel expenditures.

(8) Not later than March 1, 2012, the office shall produce a performance dashboard for the assistance authorized by this section. The performance dashboard shall be made available by the office on the fund's website and shall be updated at least annually. The performance dashboard shall include the following measures:

(a) Direct and indirect economic impacts in this state of the assistance authorized by this section.

(b) Direct and indirect job creation attributable to the assistance authorized by this section.

(c) Direct and indirect private investment in this state attributable to the assistance authorized by this section.

(d) Any other measures considered relevant by the office or the Michigan film advisory council.

(e) The name of each eligible production company and the amount of each incentive dispersed for each state certified qualified production.

(9) The Michigan film office shall not award funding after September 30, 2017.

(10) The legislature finds and declares that funding authorized under this section to encourage diversification of the economy, to encourage film production, to encourage investment, and to encourage the creation of jobs in this state is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits, film production, investment, and the creation of jobs resulting from this section shall accrue substantially within this state.

(11) The fund board may authorize the use of money appropriated for the program authorized by this section for administration of the program. However, the fund board shall not use more than 4% of the annual appropriation for administering the program authorized under this section.

(12) Beginning on September 30, 2011 and at the end of each fiscal year thereafter, the commissioner shall certify the total amount of unclaimed certificates of completion, agreements where work has not commenced as required in subsection (4), and agreements for qualified productions the commissioner reasonably believes will not be completed. Funding allocated for qualified productions described in the preceding sentence may be reallocated.

(13) As used in this section:

(a) "Above the line personnel" means a producer, director, writer, actor, other than extras, or other similar personnel whose compensation is negotiated prior to the start of the production.

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

(c) “Crew personnel expenditure” means an expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation for nonresident below the line crew, talent, management, or labor, not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee of a qualified production, including both of the following:

(i) Payment of wages, benefits, or fees for talent, management, or labor.

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to taxation in this state on the portion of the payment qualifying for funding under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and are withheld and paid to this state in the amount provided under section 351 or 703 of the income tax act of 1967, 1967 PA 281, MCL 206.351 and 206.703.

(d) “Direct production expenditure” means a development, preproduction, production, or postproduction expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state. Direct production expenditure does not include out-of-state production costs that are made in this state even if the costs are passed through a third-party company in this state or payments made by an eligible production company to its parent company, affiliate, subsidiary, or joint venture partner except where the payments are for transactions entered into pursuant to arm’s-length negotiations and which reflect a commercially reasonable price for the goods and services purchased. A direct production expenditure must have true economic substance within the state. Direct production expenditure does not include a prize payable to participants in a game show; an expenditure for entertainment, amusement, or recreation; or an expenditure of more than \$2,500.00 for the purchase of artwork or jewelry used in a production. Direct production expenditure does not include a Michigan personnel expenditure, a qualified personnel expenditure, or a crew personnel expenditure. Direct production expenditure includes payments to vendors doing business in this state to purchase or use tangible personal property in producing the qualified production or to purchase services relating to the production or development of the qualified production, including all of the following:

(i) Production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, makeup, makeup accessories, photography, sound synchronization, special effects, visual effects, audio effects, digital effects, film processing, music, sound mixing, editing, interactive game development and programming, and related services and materials.

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

(iii) Catering, food, lodging, and related services and materials.

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

(v) Commercial airfare if purchased through a travel agency or travel company based in this state for travel to this state or within this state directly attributable to production or development of a qualified production.

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

(vii) Interest on a loan, if the entity from which the financing is obtained is a public, private, or institutional entity with the requisite level of physical presence in this state that is not related to or affiliated with the eligible production company or any above the line personnel or cast members, and whose principal business activity is the lending of money to individuals and businesses. In addition, the financing shall be a good faith loan, payable by the eligible production company, evidenced by an enforceable promissory note or other debt instrument with clear repayment obligations and bearing a market-related rate of interest.

(viii) Other expenditures for production of a qualified production in accordance with generally accepted entertainment industry practices.

(e) “Eligible production company” or “company” means an entity in the business of producing qualified productions or for interactive games in the business of developing interactive games, but does not include an entity that is more than 30% owned, affiliated, or controlled by an entity or individual who is in default on a loan made by this state, a loan guaranteed by this state, or a loan made or guaranteed by any other state. For an interactive game, an eligible production company need not possess ownership of or legal control over all of the intellectual property rights or other rights necessary to complete the qualified production in its entirety nor be the same entity that distributes or publishes the interactive game.

(f) “Made in this state” means, for purposes of subdivision (c) only, all of the following:

(i) Tangible personal property and services acquired by the eligible production company from a source within this state. If an item of tangible personal property is not available from a source within this state and a vendor with the requisite physical presence in this state that regularly sells or leases property of that kind obtains the property from an out-of-state vendor and sells or leases it to an eligible production company, that expenditure is considered made in this state and is a direct production expenditure and not an out-of-state production cost.

(ii) Services wholly performed within this state.

(g) “Michigan personnel expenditure” means an expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation payable to below the line crew for below the line crew members who are residents of this state and above the line personnel for above the line personnel who are residents of this state, not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee who performs service in this state for the production of a qualified production, including both of the following:

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

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to taxation in this state on the portion of the payment qualifying for funding under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, are withheld and paid to this state in the amount provided under section 351 or 703 of the income tax act of 1967, 1967 PA 281, MCL 206.351 and 206.703.

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

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

(j) “Postproduction facility” means a permanent facility within this state equipped for the postproduction of motion pictures, television shows, or digital media production that meets all of the following requirements:

(i) Includes at least 3,000 square feet of contiguous space.

(ii) Includes at least 8 work stations.

(iii) Has been a qualified film and digital media infrastructure project from which an investment expenditure certificate was issued under section 457 of the Michigan business tax act, 2007 PA 36, MCL 208.1457, or has been the location of a state certified qualified production for which a postproduction certificate of completion was issued under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455, or both.

(k) “Producer” means an individual without regard to his or her actual title or screen credit involved in or responsible for any of the following:

(i) Funding for financing in whole or in part, or arranging for the funding, or financing, of the qualified production.

(ii) Obtaining the creative rights to or the intellectual property for development or production of the qualified production.

(iii) Hiring above the line personnel.

(iv) Supervising the overall production of the qualified production.

(v) Arranging for the exhibition of the qualified production.

(l) “Qualified facility” means a permanent facility within this state equipped for the production of motion pictures, television shows, or digital media production that meets all of the following requirements:

(i) Includes more than 1 soundstage.

(ii) Includes not less than 3,000 square feet of contiguous, column-free space for production activities with a height of at least 12 feet.

(iii) Includes any grid and sufficient built-in electric service for shooting without the need of portable electric generators.

(iv) Has been a qualified film and digital media infrastructure project for which an investment expenditure certificate was issued under section 457 of the Michigan business tax act, 2007 PA 36, MCL 208.1457, or has been the location of a state certified qualified production for which a postproduction certificate of completion was issued under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455, or both.

(m) "Qualified personnel expenditure" means an expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation for nonresident above the line personnel, talent, management, or labor, not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee of a qualified production, including both of the following:

(i) Payment of wages, benefits, or fees for talent, management, or labor.

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to taxation in this state on the portion of the payment qualifying for funding under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and are withheld and paid to this state in the amount provided under section 351 or 703 of the income tax act of 1967, 1967 PA 281, MCL 206.351 and 206.703.

(n) "State certified qualified production" or "qualified production" means single media or multimedia entertainment content created in whole or in part in this state for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games such as video games or wireless games, including console, computer, mobile, and online games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Qualified production also includes any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a production. Qualified production does not include any of the following:

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

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

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

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

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

(vi) A radio program.

(vii) A weather show.

(viii) A financial market report.

(ix) An awards show or other gala event production.

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

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

(xii) A commercial.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor