

**SUBSTITUTE FOR
SENATE BILL NO. 1103**

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 29h (MCL 125.2029h), as added by 2011 PA 291.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

6 (b) To be eligible to apply for funding, the eligible
7 production company shall have direct production expenditures ~~,~~
8 ~~Michigan~~ **OR QUALIFIED** personnel expenditures, or a combination of
9 direct production expenditures and ~~Michigan~~ **QUALIFIED** personnel
10 expenditures, of \$100,000.00 or more.

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

16 (d) For state certified qualified production expenditures
17 after ~~September 30, 2011,~~ **DECEMBER 1, 2014**, an agreement under this
18 section shall provide for funding equal to the sum of the
19 following:

20 (i) ~~27%~~ **25%** of direct production expenditures **AND QUALIFIED**
21 **PERSONNEL EXPENDITURES.**

22 ~~—— (ii) Michigan personnel expenditures as follows:~~

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

24 ~~—— (B) 27% after December 31, 2014.~~

25 ~~—— (iii) Crew personnel expenditures as follows:~~

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

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

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

2 ~~—— (D) 10% after December 31, 2014.~~

3 ~~—— (iv) Qualified personnel expenditures as follows:~~

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

5 ~~—— (B) 12% after December 31, 2014.~~

6 ~~(ii) (v)~~ In addition to the expenditures described in
7 subparagraphs ~~(i), (ii), (iii), and (iv)~~, **SUBPARAGRAPH (i)**, 3% of direct
8 production expenditures and Michigan **QUALIFIED** personnel
9 expenditures at a qualified facility or postproduction facility for
10 a qualified production produced at the facility.

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

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

19 ~~(E) (g)~~ A television show may submit an application for ~~no~~ 1
20 ~~OR~~ more than 2 successive seasons, notwithstanding the fact that
21 the successive seasons have not been ordered. The successive
22 season's direct production expenditure, Michigan **EXPENDITURES AND**
23 **QUALIFIED** personnel expenditure, nonresident above the line
24 personnel expenditure, and nonresident below the line crew
25 expenditure amounts **EXPENDITURES** shall be based on the current
26 season's estimated expenditures. Upon the completion of production
27 of each season, a television show may submit an application for ~~no~~

1 ~~more than 1~~ **SUCCESSIVE** additional ~~season~~ **SEASONS**. **IF A TELEVISION**
2 **SHOW RECEIVED FUNDING UNDER THIS SECTION AND COMPLETED THE**
3 **PRODUCTION OF THAT TELEVISION SHOW SEASON, THE TELEVISION SHOW**
4 **SHALL RECEIVE A PREFERENCE FOR FUNDING THE IMMEDIATELY SUCCEEDING**
5 **SEASON FOR THAT TELEVISION SHOW.**

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

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

13 (H) **THAT NOT LESS THAN 10% OF THE FUNDING AWARDED UNDER THIS**
14 **SECTION IS AWARDED FOR QUALIFIED PRODUCTIONS THAT ARE MOTION**
15 **PICTURES, DOCUMENTARIES, OR TELEVISION SERIES WITH A BUDGET OF LESS**
16 **THAN \$15,000,000.00.**

17 (4) An eligible production company intending to produce a
18 qualified production in this state may submit an application for
19 funding under this section to the Michigan film office. The request
20 shall be submitted in a form prescribed by the office and shall be
21 accompanied by an application fee equal to 0.2% of the funding
22 requested but not less than \$200.00 and not more than \$5,000.00 and
23 all of the information and records requested by the office. An
24 application fee received by the office under this subsection shall
25 be deposited in the Michigan film promotion fund. The office shall
26 not process the application until it is complete. **IF AN ELIGIBLE**
27 **PRODUCTION COMPANY IS PRODUCING A QUALIFIED PRODUCTION AT A**

1 QUALIFIED FACILITY, A COPY OF THE AGREEMENT BETWEEN THE ELIGIBLE
2 PRODUCTION COMPANY AND THE QUALIFIED FACILITY SHALL BE PROVIDED TO
3 THE OFFICE BEFORE THE OFFICE ENTERS INTO AN AGREEMENT TO AWARD
4 FUNDING UNDER THIS SECTION. The office shall process each
5 application within 21 days after the application is complete as
6 determined by the office. As part of the application, the company
7 shall estimate direct production expenditures, ~~Michigan personnel~~
8 ~~expenditures, crew personnel expenditures,~~ and qualified personnel
9 expenditures for an identified qualified production. If the office
10 determines to award funding under this section to an eligible
11 production company, the office with the concurrence of the fund
12 president **OR HIS OR HER DESIGNEE** shall enter into an agreement
13 under this section. The agreement shall include, but is not limited
14 to, all of the following:

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

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

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

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

1 (e) If the qualified production is a long-form narrative film
2 production, a requirement that the qualified production include
3 within its presentation worldwide for the life of the qualified
4 production an acknowledgment as provided by the office that
5 promotes the pure Michigan tourism campaign or any successor
6 campaign. If the qualified production is a television show, a
7 requirement that the qualified production include within each
8 broadcast of 30 minutes or longer an acknowledgment as provided by
9 the office that promotes the pure Michigan tourism campaign or any
10 successor campaign. If the qualified production is a music video, a
11 requirement that the music video include an acknowledgment as
12 provided by the office that promotes the pure Michigan tourism
13 campaign or any successor campaign. If the qualified production is
14 an interactive game, a requirement that the qualified production
15 include with each unit distributed and online promotions an
16 acknowledgment as provided by the office that promotes the pure
17 Michigan tourism campaign or any successor campaign. If the
18 qualified production is a long-form narrative film production, the
19 office also may require that, if the qualified production is
20 distributed by digital video disc or other digital media for the
21 secondary market, the qualified production include a video between
22 30 and 60 seconds long in a form approved by the office that
23 promotes the pure Michigan tourism campaign or any successor
24 campaign.

25 (f) A requirement that the company provide the office with the
26 information and independent certification the office deems
27 necessary to verify direct production expenditures ~~, Michigan~~

1 ~~personnel expenditures, crew personnel expenditures, AND~~ qualified
2 personnel expenditures, and eligibility for funding under this
3 section, which may include a report of direct production
4 expenditures ~~, Michigan personnel expenditures, crew personnel~~
5 ~~expenditures,~~ and qualified personnel expenditures for the
6 qualified production audited and certified by an independent
7 certified public accountant.

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

11 (H) A REQUIREMENT THAT RESIDUAL PAYMENTS TO ABOVE THE LINE
12 PERSONNEL, PERSONAL SERVICE CORPORATIONS, LOAN OUT COMPANIES,
13 PROFESSIONAL EMPLOYER ORGANIZATIONS, OR OTHER LIMITED COMPANIES OR
14 CORPORATIONS FOR A QUALIFIED PRODUCTION ARE SUBJECT TO TAXATION IN
15 THIS STATE UNDER THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1
16 TO 206.713, AND TAXES SHALL BE WITHHELD FROM THOSE RESIDUAL
17 PAYMENTS AND PAID TO THIS STATE IN THE AMOUNT PROVIDED UNDER
18 SECTION 703 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
19 206.703. PERSONAL SERVICES CORPORATIONS, LOAN OUT COMPANIES,
20 PROFESSIONAL EMPLOYER ORGANIZATIONS, OR OTHER LIMITED LIABILITY
21 COMPANIES OR CORPORATIONS FOR THE SERVICES OF ABOVE THE LINE
22 PERSONNEL RECEIVING PAYMENTS FOR DIRECT PRODUCTION EXPENDITURES OR
23 QUALIFIED PERSONNEL EXPENDITURES UNDER THIS SECTION SHALL BE
24 ORGANIZED UNDER THE LAWS OF THIS STATE AND SHALL MAINTAIN ACTIVE
25 STATUS IN THIS STATE FOR AS LONG AS RESIDUAL PAYMENTS FROM THE
26 QUALIFIED PRODUCTION CONTINUE TO BE PAID. RESIDUAL PAYMENTS SHALL
27 INCLUDE DEFERRED, RESIDUAL, OR CONTINGENT COMPENSATION, ROYALTIES,

1 OR PROFIT PARTICIPATION RELATING TO THE FILM OR DIGITAL MEDIA
2 PRODUCTION. AS USED IN THIS SUBDIVISION, "LOAN OUT COMPANY" MEANS A
3 PERSONAL SERVICE CORPORATION OR OTHER ENTITY CONTRACTED WITH AND
4 RETAINED BY THE PRODUCTION COMPANY TO PROVIDE INDIVIDUAL PERSONNEL,
5 INCLUDING ARTISTS, CREW, ACTORS, DIRECTORS, AND PRODUCERS, FOR THE
6 PERFORMANCE OF SERVICES USED DIRECTLY IN A PRODUCTION, BUT NOT
7 INCLUDING ENTITIES RETAINED BY THE PRODUCTION COMPANY TO PROVIDE
8 TANGIBLE PROPERTY OR OUTSIDE CONTRACTOR SERVICE, INCLUDING
9 CATERING, CONSTRUCTION, TRAILERS, EQUIPMENT, AND TRANSPORTATION.

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

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

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

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

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

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

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

1 (G) WHETHER THE ELIGIBLE PRODUCTION COMPANY WILL HOLD A
2 PREMIERE IN THIS STATE FOR THE QUALIFIED PRODUCTION.

3 (H) WHETHER THE ELIGIBLE PRODUCTION COMPANY WILL MAKE FILM
4 TRAILERS AND CLIPS AVAILABLE TO THE OFFICE FOR THE PURE MICHIGAN
5 TOURISM CAMPAIGN OR ANY SUCCESSOR CAMPAIGN TO PROMOTE THE QUALIFIED
6 PRODUCTION AND THE PURE MICHIGAN TOURISM CAMPAIGN OR ANY SUCCESSOR
7 CAMPAIGN.

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

18 (7) Information, records, or other data received, prepared,
19 used, or retained by the Michigan film office under this section
20 that are submitted by an eligible production company and considered
21 by the applicant and acknowledged by the office as confidential
22 shall not be subject to the disclosure requirements of the freedom
23 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
24 records, or other data shall only be considered confidential to the
25 extent that the information or records describe the commercial and
26 financial operations or intellectual property of the company, the
27 information or records have not been publicly disseminated at any

1 time, and disclosure of the information or records may put the
2 company at a competitive disadvantage. For purposes of this
3 subsection, information or records that describe commercial and
4 financial operations do not include that portion of information or
5 records that include any expenses that qualify under this section
6 as direct production expenditures or **QUALIFIED** personnel
7 expenditures.

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

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

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

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

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

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

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

27 (9) **FUNDING UNDER THIS SECTION FOR ABOVE THE LINE PERSONNEL**

1 SHALL NOT EXCEED 30% OF TOTAL FUNDING UNDER THIS SECTION FOR EACH
2 QUALIFIED PRODUCTION.

3 (10) TO BE ELIGIBLE FOR FUNDING UNDER THIS SECTION, EXCEPT AS
4 OTHERWISE PROVIDED IN SUBSECTION (11), MICHIGAN RESIDENTS SHALL BE
5 HIRED TO WORK ON QUALIFIED PRODUCTIONS AS FOLLOWS:

6 (A) THROUGH SEPTEMBER 30, 2017, AT A RATIO OF NOT LESS THAN 1
7 MICHIGAN RESIDENT FOR EVERY NONRESIDENT HIRED.

8 (B) BEGINNING OCTOBER 1, 2018 THROUGH SEPTEMBER 30, 2020, AT A
9 RATIO OF NOT LESS THAN 1.5 MICHIGAN RESIDENTS FOR EVERY NONRESIDENT
10 HIRED.

11 (C) BEGINNING OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2022, AT A
12 RATIO OF NOT LESS THAN 2 MICHIGAN RESIDENTS FOR EVERY NONRESIDENT
13 HIRED.

14 (D) BEGINNING OCTOBER 1, 2022, AT A RATIO OF NOT LESS THAN 3
15 MICHIGAN RESIDENTS FOR EVERY NONRESIDENT HIRED.

16 (11) A PRODUCER MAY APPLY TO THE MICHIGAN ECONOMIC DEVELOPMENT
17 CORPORATION FOR A WAIVER OF THE MICHIGAN RESIDENT HIRING
18 REQUIREMENTS DESCRIBED IN SUBSECTION (10), BASED ON THE
19 UNAVAILABILITY OF QUALIFIED MICHIGAN RESIDENTS. THE MICHIGAN
20 ECONOMIC DEVELOPMENT CORPORATION MAY WAIVE THE MICHIGAN RESIDENT
21 HIRING REQUIREMENT DESCRIBED IN SUBSECTION (10) IF THE MICHIGAN
22 ECONOMIC DEVELOPMENT CORPORATION DETERMINES THAT THERE IS AN
23 INSUFFICIENT NUMBER OF QUALIFIED MICHIGAN RESIDENTS FOR THE
24 QUALIFIED PRODUCTION.

25 (12) ~~(10)~~ The legislature finds and declares that funding
26 authorized under this section to encourage diversification of the
27 economy, to encourage film production, to encourage investment, and

1 to encourage the creation of jobs in this state is a public purpose
2 and of paramount concern in the interest of the health, safety, and
3 general welfare of the citizens of this state. It is the intent of
4 the legislature that the economic benefits, film production,
5 investment, and the creation of jobs resulting from this section
6 shall accrue substantially within this state.

7 (13) ~~(11)~~ The fund board may authorize the use of money
8 appropriated for the program authorized by this section for
9 administration of the program. However, the fund board shall not
10 use more than 4% of the annual appropriation for administering the
11 program authorized under this section.

12 (14) ~~(12) Beginning on September 30, 2011 and at~~ **AT** the end of
13 each fiscal year, ~~thereafter,~~ the commissioner shall certify the
14 total amount of unclaimed certificates of completion, agreements
15 where work has not commenced as required in subsection (4), and
16 agreements for qualified productions the commissioner reasonably
17 believes will not be completed. Funding allocated for qualified
18 productions described in the preceding sentence may be reallocated.

19 (15) ~~(13)~~ As used in this section:

20 (a) "Above the line personnel" means a producer, director,
21 writer, actor, other than extras **AND STUNT PERFORMERS**, or other
22 similar personnel whose compensation is negotiated prior to the
23 start of the production.

24 (b) "Below the line crew" means persons employed by an
25 eligible production company for state certified qualified
26 production expenditures made after production begins and before
27 production is completed, including, but not limited to, a best boy,

1 boom operator, camera loader, camera operator, assistant camera
2 operator, compositor, **COOK, DRIVER**, dialogue editor, film editor,
3 assistant film editor, focus puller, Foley operator, Foley editor,
4 gaffer, grip, key grip, lighting crew, lighting board operator,
5 lighting technician, music editor, sound editor, sound effects
6 editor, sound mixer, steadicam operator, first assistant camera
7 operator, second assistant camera operator, digital imaging
8 technician, camera operator working with a director of photography,
9 electric best boy, grip best boy, dolly grip, rigging grip,
10 assistant key for makeup, assistant key for hair, assistant script
11 supervisor, set construction foreperson, lead set dresser,
12 assistant key for wardrobe, scenic foreperson, assistant
13 propmaster, assistant audio mixer, assistant boom person, assistant
14 key for special effects, **STUNT PERFORMER**, and other similar
15 personnel. Below the line crew does not include a producer,
16 director, writer, actor, or other similar personnel.

17 ~~—— (c) "Crew personnel expenditure" means an expenditure made in~~
18 ~~this state directly attributable to the production or development~~
19 ~~of a qualified production that is a transaction subject to taxation~~
20 ~~in this state and is a payment or compensation for nonresident~~
21 ~~below the line crew, talent, management, or labor, not to exceed~~
22 ~~\$2,000,000.00 for any 1 employee or contractual or salaried~~
23 ~~employee of a qualified production, including both of the~~
24 ~~following:~~

25 ~~—— (i) Payment of wages, benefits, or fees for talent, management,~~
26 ~~or labor.~~

27 ~~—— (ii) Payment to a personal services corporation or professional~~

1 ~~employer organization for the services of a performing artist or~~
2 ~~crew member if the personal services corporation or professional~~
3 ~~employer organization is subject to taxation in this state on the~~
4 ~~portion of the payment qualifying for funding under this section~~
5 ~~and the payments received by the performing artist or crew member~~
6 ~~that are subject to taxation under the income tax act of 1967, 1967~~
7 ~~PA 281, MCL 206.1 to 206.713, and are withheld and paid to this~~
8 ~~state in the amount provided under section 351 or 703 of the income~~
9 ~~tax act of 1967, 1967 PA 281, MCL 206.351 and 206.703.~~

10 (C) ~~(d)~~ "Direct production expenditure" means a development,
11 preproduction, production, or postproduction expenditure made in
12 this state directly attributable to the production or development
13 of a qualified production that is a transaction subject to taxation
14 in this state. Direct production expenditure does not include out-
15 of-state production costs that are made in this state even if the
16 costs are passed through a third-party company in this state or
17 payments made by an eligible production company to its parent
18 company, affiliate, subsidiary, or joint venture partner except
19 where the payments are for transactions entered into pursuant to
20 arm's-length negotiations and which reflect a commercially
21 reasonable price for the goods and services purchased. A direct
22 production expenditure must have true economic substance within the
23 state. Direct production expenditure does not include a prize
24 payable to participants in a game show; an expenditure for
25 entertainment, amusement, or recreation; or an expenditure of more
26 than \$2,500.00 for the purchase of artwork or jewelry used in a
27 production. Direct production expenditure does not include a

1 ~~Michigan personnel expenditure, a~~ qualified personnel expenditure.
2 ~~, or a crew personnel expenditure.~~ Direct production expenditure
3 includes payments to vendors doing business in this state to
4 purchase or use tangible personal property in producing the
5 qualified production or to purchase services relating to the
6 production or development of the qualified production, including
7 all of the following:

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

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

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

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

25 (v) Commercial airfare if purchased through a travel agency or
26 travel company based in this state for travel to this state or
27 within this state directly attributable to production or

1 development of a qualified production.

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

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

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

18 (D) ~~(e)~~—"Eligible production company" or "company" means an
19 entity in the business of producing qualified productions or for
20 interactive games in the business of developing interactive games,
21 but does not include an entity that is more than 30% owned,
22 affiliated, or controlled by an entity or individual who is in
23 default on a loan made by this state, a loan guaranteed by this
24 state, or a loan made or guaranteed by any other state. For an
25 interactive game, an eligible production company need not possess
26 ownership of or legal control over all of the intellectual property
27 rights or other rights necessary to complete the qualified

1 production in its entirety nor be the same entity that distributes
2 or publishes the interactive game.

3 (E) ~~(f)~~—"Made in this state" means ~~, for purposes of~~
4 ~~subdivision (e) only,~~ all of the following:

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

14 (ii) Services wholly performed within this state.

15 ~~—— (g) "Michigan personnel expenditure" means an expenditure made~~
16 ~~in this state directly attributable to the production or~~
17 ~~development of a qualified production that is a transaction subject~~
18 ~~to taxation in this state and is a payment or compensation payable~~
19 ~~to below the line crew for below the line crew members who are~~
20 ~~residents of this state and above the line personnel for above the~~
21 ~~line personnel who are residents of this state, not to exceed~~
22 ~~\$2,000,000.00 for any 1 employee or contractual or salaried~~
23 ~~employee who performs service in this state for the production of a~~
24 ~~qualified production, including both of the following:~~

25 ~~—— (i) Payment of wages, benefits, or fees.~~

26 ~~—— (ii) Payment to a personal services corporation or professional~~
27 ~~employer organization for the services of a performing artist or~~

1 ~~crew member if the personal services corporation or professional~~
2 ~~employer organization is subject to taxation in this state on the~~
3 ~~portion of the payment qualifying for funding under this section~~
4 ~~and the payments received by the performing artist or crew member~~
5 ~~that are subject to taxation under the income tax act of 1967, 1967~~
6 ~~PA 281, MCL 206.1 to 206.713, are withheld and paid to this state~~
7 ~~in the amount provided under section 351 or 703 of the income tax~~
8 ~~act of 1967, 1967 PA 281, MCL 206.351 and 206.703.~~

9 **(F)** ~~(h)~~—"Obscene matter or an obscene performance" means
10 matter described in 1984 PA 343, MCL 752.361 to 752.374.

11 **(G)** ~~(i)~~—"Postproduction expenditure" means a direct
12 expenditure for editing, Foley recording, automatic dialogue
13 replacement, sound editing, special or visual effects including
14 computer-generated imagery or other effects, scoring and music
15 editing, beginning and end credits, negative cutting, soundtrack
16 production, dubbing, subtitling, or addition of sound or visual
17 effects. Postproduction expenditure includes direct expenditures
18 for advertising, marketing, or related expenses.

19 **(H)** ~~(j)~~—"Postproduction facility" means a permanent facility
20 within this state equipped for the postproduction of motion
21 pictures, television shows, or digital media production that meets
22 all of the following requirements:

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

24 *(ii)* Includes at least 8 work stations.

25 *(iii)* Has been a qualified film and digital media infrastructure
26 project from which an investment expenditure certificate was issued
27 under section 457 of the Michigan business tax act, 2007 PA 36, MCL

1 208.1457, or has been the location of a state certified qualified
2 production for which a postproduction certificate of completion was
3 issued under section 455 of the Michigan business tax act, 2007 PA
4 36, MCL 208.1455, or both.

5 (I) ~~(K)~~—"Producer" means an individual without regard to his
6 or her actual title or screen credit involved in or responsible for
7 any of the following:

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

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

12 (iii) Hiring above the line personnel.

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

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

16 (J) ~~(H)~~—"Qualified facility" means a permanent facility within
17 this state equipped for the production of motion pictures,
18 television shows, or digital media production that meets all of the
19 following requirements:

20 (i) Includes more than 1 soundstage.

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

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

26 (iv) Has been a qualified film and digital media infrastructure
27 project for which an investment expenditure certificate was issued

1 under section 457 of the Michigan business tax act, 2007 PA 36, MCL
2 208.1457, or has been the location of a state certified qualified
3 production for which a postproduction certificate of completion was
4 issued under section 455 of the Michigan business tax act, 2007 PA
5 36, MCL 208.1455, or both.

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

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

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

26 (L) ~~(n)~~—"State certified qualified production" or "qualified
27 production" means single media or multimedia entertainment content

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

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

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

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

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

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

26 (vi) A radio program.

27 (vii) A weather show.

- 1 (iiii) A financial market report.
- 2 (ix) An awards show or other gala event production.
- 3 (x) A production with the primary purpose of fund-raising.
- 4 (xi) A production that primarily is for employee training or
- 5 in-house corporate advertising or other similar production.
- 6 (xii) A commercial.