

# SENATE BILL NO. 1188

September 28, 2022, Introduced by Senator HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
(MCL 206.1 to 206.713) by adding sections 285 and 677.

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

1           Sec. 285. (1) Subject to the limitations under this section,  
2 beginning January 1, 2022 through December 31, 2031, the Michigan  
3 film and digital media office may approve an application for a  
4 credit against the tax imposed by this part for a state certified  
5 qualified production in an amount determined as follows:

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

1 the direct production expenditures.

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

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

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

9 (2) An applicant proposing to produce a qualified production  
10 in this state and seeking a credit for that qualified production  
11 must submit an application to the office. The application must be  
12 submitted in a form prescribed by the office and shall be  
13 accompanied by a \$1,000.00 nonrefundable application fee for a  
14 qualified production that is less than 20 minutes in duration or a  
15 \$2,000.00 nonrefundable application fee for a qualified production  
16 that is 20 minutes or more in duration and include all of the  
17 information and records requested by the office. An application fee  
18 received by the office under this subsection shall be deposited in  
19 the Michigan film promotion fund. The office shall not process or  
20 approve an application until it is complete. As part of the  
21 application, an applicant shall estimate direct production  
22 expenditures and qualified personnel expenditures for the proposed  
23 qualified production. The office shall approve or deny a complete  
24 application within 45 days after the application for a qualified  
25 production that is less than 20 minutes in duration is received by  
26 the office.

27 (3) In determining whether to approve an application under  
28 this section, the office shall consider the limitations under  
29 subsection (4) and all of the following:

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

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

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

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

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

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

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

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

29           (a) For qualified productions that are less than 20 minutes in

1 duration, not more than \$2,000,000.00 shall be approved for each of  
2 the first 3 calendar years of the credit, \$4,000,000.00 for each of  
3 the second 3 calendar years of the credit, and \$10,000,000.00 for  
4 each of the final 4 calendar years of the credit.

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

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

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

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

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

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

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

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

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

24           (7) Within 2 years of completion of the qualified production,  
25 the applicant shall provide the department with an independent  
26 certified public accountant's report on applying the agreed-upon  
27 procedures for the qualified production and submit a request to the  
28 office for a qualified production certificate of completion on a  
29 form prescribed by the office, along with any information or

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

- 27 (a) The name of the applicant.  
28 (b) The name of the state certified qualified production  
29 produced in whole or in part in this state.

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

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

5 (e) The date of completion for the qualified production in  
6 this state.

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

9 (g) The applicant's federal employer identification number and  
10 Michigan treasury number.

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

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

29 (9) The office shall forward a copy of each qualified

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



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

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

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

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

27 (13) Not later than March 1, 2023 and each March 1 thereafter  
28 through March 1, 2032, the office shall evaluate the credits under  
29 this section and section 677 and submit to the governor, the

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

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

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

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

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

29 (c) The number of applications approved under this section and

1 section 675 during the immediately preceding calendar year.

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

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

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

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

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

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

27 (e) "Direct production expenditure" means a preproduction,  
28 production, or postproduction expenditure that is made in this  
29 state to a qualified Michigan vendor and is not a personnel

1 expenditure, but is directly attributable to the production or  
2 distribution of a qualified production and that is a transaction  
3 subject to taxation in this state. Direct production expenditure  
4 does not include any pass-through transactions or purchases made  
5 from a qualified Michigan vendor for any goods or services that are  
6 not within the ordinary course of business of that qualified  
7 Michigan vendor. Direct production expenditures paid to a qualified  
8 Michigan vendor include, but are not limited to, the purchase or  
9 use of tangible personal property in producing or distributing the  
10 qualified production or to purchase services relating to the  
11 production or distribution of the qualified production, including  
12 all of the following:

13 (i) Expenditures for optioning to include Michigan-based  
14 content, including a "filmed in Michigan" logo, and optioning or  
15 purchasing intellectual property including, but not limited to,  
16 books, scripts, music, or trademarks relating to the purchase of a  
17 script, story, scenario, screenplay, or format, including all  
18 expenditures generally associated with the optioning or purchase of  
19 intellectual property, including option money, agent fees, and  
20 attorney fees relating to the transaction, but not including  
21 deferrals, deferments, royalties, profit participation, or recourse  
22 or nonrecourse loans negotiated by the applicant to obtain the  
23 rights to the intellectual property.

24 (ii) Production work, production equipment, production  
25 software, postproduction work, postproduction equipment,  
26 postproduction software, set design, set construction, set  
27 operations, props, lighting, wardrobe, makeup, makeup accessories,  
28 photography, sound synchronization, special effects, visual  
29 effects, audio effects, film or digital processing, music, sound

1 recording, sound editing and mixing, editing, and related services  
2 and materials.

3 (iii) Rental or use of facilities or equipment, use of  
4 soundstages or studios, location fees, and related services and  
5 materials.

6 (iv) Catering, food, lodging, and related services and  
7 materials, but not including any per diem disbursements made for  
8 food, lodging, and related services and materials.

9 (v) Use of vehicles, which may include chartered aircraft  
10 based in this state used for transportation in this state directly  
11 attributable to production of a qualified production, but may not  
12 include the chartering of aircraft for transportation outside of  
13 this state. For purposes of this subparagraph, use of vehicles and  
14 chartered aircraft includes fuel costs incurred in this state, and  
15 costs attributable to chartered aircraft are limited to 2 roundtrip  
16 fares per individual, per qualified production.

17 (vi) Commercial airfare for domestic travel to and from this  
18 state or within this state directly attributable to production or  
19 distribution of a qualified production. In calculating expenditures  
20 under this subparagraph, commercial airfare expenditures are  
21 limited to 2 roundtrip fares per individual, per qualified  
22 production.

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

25 (viii) Expenditures for distribution, including, but not limited  
26 to, preproduction, production, or postproduction costs relating to  
27 the creation of trailers, marketing videos, commercials, point-of-  
28 purchase videos, and content created on film or digital media,  
29 including, but not limited to, the duplication of films, videos,

1 compact discs, digital video discs, and digital files or other  
2 digital media created for consumer consumption in this state.

3 (f) "Economic impact data" means data related to the types of  
4 jobs created and retained in this state by the applicant during the  
5 qualified production and the amount spent to produce the qualified  
6 production in this state during the qualified production.

7 (g) "Entry level position" means the lowest level of a  
8 hierarchy in a production, including untrained or unskilled  
9 employees working on a qualified production.

10 (h) "Full-time equivalent employee" and "full-time equivalent  
11 job" means a job performed by an individual for 35 hours or more  
12 each week and whose income and Social Security taxes are withheld  
13 by the applicant. For purposes of calculating full-time equivalent  
14 employees under this section and section 677, an individual who is  
15 hired as an extra for the qualified production is considered a  
16 full-time equivalent employee for each day he or she is hired to  
17 work as an extra for the qualified production.

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

23 (j) "Michigan film and digital media office" or "office" means  
24 the office created under section 29a of the Michigan strategic fund  
25 act, 1984 PA 270, MCL 125.2029a.

26 (k) "Michigan film promotion fund" means the fund created  
27 under section 29d of the Michigan strategic fund act, 1984 PA 270,  
28 MCL 125.2029d.

29 (l) "Obscene matter or an obscene performance" means matter

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

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

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

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

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

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

25 (iii) Has at least 1 physical location in this state and has  
26 been doing business for at least 6 months before the date of the  
27 approval of the application for the qualified production under this  
28 section.

29 (iv) For a vendor engaged in the business of selling or renting

1 equipment, maintains inventory in this state on a continuous basis.

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

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

10 (i) Payment of wages.

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

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

19 (q) "Qualified production" means single media or multimedia  
20 content created in whole or in part in this state for distribution  
21 or exhibition by any means and media in any digital media format,  
22 film, or videotape, including, but not limited to, a motion  
23 picture, a documentary, a television series, a television  
24 miniseries, a television special, interstitial television  
25 programming, long-form television, interactive television, music  
26 videos, commercials, industrials, short films, web-based content,  
27 an internet video, a video, motion capture, or animation. Qualified  
28 production also includes any trailer, pilot, video teaser, or demo  
29 created primarily to stimulate the sale, marketing, promotion, or



1 exploitation of future investment in a production. Qualified  
2 production does not include any of the following:

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

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

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

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

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

14 (vi) A radio program.

15 (vii) A weather show.

16 (viii) A financial market report.

17 (ix) A talk show.

18 (x) A game show.

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

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

21 (xiii) A nonscripted reality production that is not a  
22 commercial.

23 (r) "Resident" means an individual who is domiciled in this  
24 state for at least 6 months before commencing work on a qualified  
25 production and has an operator's or chauffeur's license issued  
26 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923,  
27 an enhanced driver license issued under the enhanced driver license  
28 and enhanced official state personal identification act, 2008 PA

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

11 (s) "State certified qualified production" means a qualified  
12 production for which a qualified production certificate of  
13 completion has been issued by the office under this section or  
14 section 675.

15 (t) "Talent-related positions" means individuals with  
16 speaking, background, or extra roles that appear in front of the  
17 camera.

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

22 (v) "Wages" means all compensation paid for services rendered  
23 by an employee that are attributable to a qualified production.  
24 Compensation includes health, life, and disability insurance  
25 premiums, payments under the federal insurance contributions act,  
26 chapter 21 of subtitle C of the internal revenue code, 26 USC 3101  
27 to 3128, retirement or pension contributions, and vacation and sick  
28 leave pay.

29 Sec. 677. (1) Subject to the limitations under this section,

1 beginning January 1, 2022 through December 31, 2031, the Michigan  
2 film and digital media office may approve an application for a  
3 credit against the tax imposed by this part for a state certified  
4 qualified production in an amount determined as follows:

5 (a) Except as otherwise provided under subdivision (b), 25% of  
6 the direct production expenditures.

7 (b) If the office determines that the production includes an  
8 approved "filmed in Michigan" logo, 30% of direct production  
9 expenditures.

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

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

14 (2) An applicant proposing to produce a qualified production  
15 in this state and seeking a credit for that qualified production  
16 must submit an application to the office. The application must be  
17 submitted in a form prescribed by the office and shall be  
18 accompanied by a \$1,000.00 nonrefundable application fee for a  
19 qualified production that is less than 20 minutes in duration or a  
20 \$2,000.00 nonrefundable application fee for a qualified production  
21 that is 20 minutes or more in duration and include all of the  
22 information and records requested by the office. An application fee  
23 received by the office under this subsection shall be deposited in  
24 the Michigan film promotion fund. The office shall not process or  
25 approve an application until it is complete. As part of the  
26 application, an applicant shall estimate direct production  
27 expenditures and qualified personnel expenditures for the proposed  
28 qualified production. The office shall approve or deny a complete  
29 application within 45 days after the application for a qualified

1 production that is less than 20 minutes in duration is received by  
2 the office.

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

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

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

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

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

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

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

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

1           (4) Of the total number of applications approved under this  
2 section and section 285, the following limitations, plus any  
3 carryforward as provided under subsection (5) and section 285(5),  
4 apply:

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

10           (b) For qualified productions that are 20 minutes or more in  
11 duration, not more than \$50,000,000.00 for each of the first 3  
12 calendar years of the credit, \$75,000,000.00 for each of the second  
13 3 calendar years of the credit, and \$100,000,000.00 for each of the  
14 final 4 calendar years of the credit.

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

1 if the office determines that an applicant did not use any or a  
2 portion of the credit approved under the application under  
3 subsection (4) (b) or section 285(4) (b) during the calendar year,  
4 that remaining amount may be carried forward to the next calendar  
5 year for credits approved under subsection (4) (b) or section  
6 285(4) (b) .

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

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

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

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

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

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

25 (f) A requirement that the applicant provide the office with  
26 the information and independent certification the office and the  
27 department determines is necessary to verify direct production  
28 expenditures, qualified personnel expenditures, and eligibility for  
29 the credit under this section.

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

1 completion to the applicant. Each qualified production certificate  
2 of completion shall be signed by the Michigan film commissioner and  
3 shall include the following information:

4 (a) The name of the applicant.

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

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

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

11 (e) The date of completion for the qualified production in  
12 this state.

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

15 (g) The applicant's federal employer identification number or  
16 Michigan treasury number.

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

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



1 subsection, information or records that describe commercial and  
2 financial operations do not include that portion of information or  
3 records that include any expenses that qualify under this section  
4 as qualified personnel expenditures or direct production  
5 expenditures and for which a credit may be claimed.

6 (9) The office shall forward a copy of each qualified  
7 production certificate of completion issued under this section to  
8 the governor, the president of the Michigan strategic fund, the  
9 chairperson of the senate finance committee, the chairperson of the  
10 house tax policy committee, the director of the senate fiscal  
11 agency, and the director of the house fiscal agency. An applicant  
12 or assignee that claims a credit under this section shall submit  
13 with the annual return filed under this part on which the credit  
14 under this section is claimed a copy of the qualified production  
15 certificate of completion and, if the credit was assigned, a copy  
16 of the assignment form provided for under this section to the  
17 department within the same tax year in which the qualified  
18 production certificate of completion was issued. A credit amount  
19 assigned under this subsection may be claimed against the  
20 assignee's tax under this part or part 1. If the credit allowed  
21 under this section exceeds the tax liability of the applicant or  
22 assignee for the tax year or if the taxpayer claiming the credit  
23 does not have a tax liability under this part for the tax year,  
24 that portion that exceeds the tax liability for the tax year shall  
25 not be refunded but may be carried forward to offset tax liability  
26 in subsequent tax years for 5 years or until used up, whichever  
27 occurs first. The department shall, as soon as the information is  
28 available, annually report to the governor, the president of the  
29 Michigan strategic fund, the chairperson of the senate finance

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

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

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

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