

# Legislative Analysis



## INCENTIVES FOR PRODUCTION COMPANIES MAKING MOVIES, TV SHOWS, VIDEOS, ETC.

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**House Bill 5841 (Substitute H-1)**  
**Sponsor: Rep. Andy Meisner**

**House Bill 5849 (Substitute H-1)**  
**Sponsor: Rep. Marc Corriveau**

**House Bill 5842 (Substitute H-1)**  
**Sponsor: Rep. Coleman Young**

**House Bill 5850 (Substitute H-1)**  
**Sponsor: Rep. Andy Coulouris**

**House Bill 5843 without amendment**  
**Sponsor: Rep. Kim Meltzer**

**House Bill 5851 (Substitute H-1)**  
**Sponsor: Rep. Frank Accavitti, Jr.**

**House Bill 5844 without amendment**  
**Sponsor: Rep. Bert Johnson**

**House Bill 5852 (Substitute H-1)**  
**Sponsor: Rep. Dave Hildenbrand**

**House Bill 5845 Substitute H-1)**  
**Sponsor: Rep. Bill Huizenga**

**House Bill 5853 (Substitute H-1)**  
**Sponsor: Rep. Kathleen Law**

**House Bill 5846 (Substitute H-1)**  
**Sponsor: Rep. Barb Byrum**

**House Bill 5854 (Substitute H-1)**  
**Sponsor: Rep. Ed Clemente**

**House Bill 5847 without amendment**  
**Sponsor: Rep. Marie Donigan**

**House Bill 5855 (Substitute H-1)**  
**Sponsor: Rep. Fred Miller**

**House Bill 5848 (Substitute H-1)**  
**Sponsor: Rep. Robert Jones**

**House Bill 5856 (Substitute H-1)**  
**Sponsor: Rep. Mary Valentine**

**Committee: Commerce**

**Complete to 3-17-08**

### **A SUMMARY OF HOUSE BILLS 5841-5856 AS PASSED BY THE HOUSE**

This package of bills provides various incentives aimed at encouraging the production of motion pictures, television programs, music videos, interactive games, and similar productions in Michigan. The bills provide tax credits for production costs and job training, tax credits and deductions for private investment in certain media productions and in media production facilities, and state financed loans. The proposal also offers the possibility of the free use of state and local government property for production purposes. The package also proposes moving the State Film Office from the Department of History, Arts, and Libraries to the Michigan Strategic Fund.

Following is a description of House Bills 5841-5856.

House Bill 5841 would amend the Michigan Business Tax Act to provide a credit against the tax for certain companies involved in the production of motion pictures, television programs, music videos, interactive games, and similar productions in Michigan. Credits would be available to companies that apply to and enter into agreements with the Michigan Film Office and would require the concurrence of the State Treasurer. Credits could equal 42 percent of "direct production expenditures" for a production in a "core community;" 40 percent of those expenditures in a part of the state other than a core community; and 30 percent of "qualified personnel expenditures." The credit would be refundable; that is, if it exceeded tax liability, the state would pay the excess amount to the company. The bill applies to productions initiated after February 29, 2008.

The term "direct production expenditure" refers to a development, production, or postproduction expenditure. The bill contains a lengthy list of included expenditures; it includes personnel expenditure for Michigan residents. The term "qualified personnel expenditure" refers to payments or compensation for "below-the-line crew" who were not residents of the state for at least 60 days prior to approval of the production. The term "below-the-line crew" is defined in House Bill 5849 and includes a long list of job categories; it does not include, however, a producer, director, writer, actor, or similar personnel. There is, for in-state and out-of-state personnel, a \$2 million cap on compensation that can be used in calculating a credit.

To qualify, a company would have to spend at least \$50,000 in Michigan and not be delinquent on any state taxes. A company could not claim this credit if it had claimed the job training credit or the income tax credit or if someone else had claimed a credit based on the same expenditures. The credit would be reduced by a credit application redemption fee equal to one-half of one percent of the credit, with that amount to be deposited in the Michigan Film Promotion Fund. Work in the state on the project would have to begin within 90 days after the agreement or the agreement would expire (although this time period could be extended for an additional 90 days). The agreement would also contain a requirement that the production not depict obscene matter or an obscene performance.

In determining whether to enter into an agreement, the Film Office would consider (1) the potential that the production would be produced elsewhere without the credit; (2) the extent to which the production might promote Michigan as a tourist destination; (3) the extent to which the production could promote economic development or job creation in the state; (4) the extent to which the credit will attract private investment in productions; and (5) the company's record in completing commitments to engage in productions.

If, at the request of the company, the Film Office determines a company has met the terms of the agreement, it would issue a postproduction certificate to the company. The certificate would contain, among other things, the company's direct production expenditures for the production in question.

Annually, the chair of the Film Office would have to submit to the Governor and the Chairs of the Senate Finance Committee and House Tax Policy Committee a report on

the effectiveness of MBT credit, with the report to include (1) a brief assessment of its overall effectiveness; (2) the number of applications for the credit, the names of the productions produced for which credits were begun or completed, and the locations used; (3) the amount of money spent by each company, along with a breakdown of spending on goods, services, and salaries and wages; (4) an estimate of the number of people employed by production companies qualifying for the credit; and (5) the value of all certificates of completion in the preceding year.

House Bill 5842 would amend the General Sales Tax Act to repeal the current sales tax credit for motion picture production companies as of December 31, 2009. The bill also would reflect the transfer of the Michigan Film Office from the Department of History, Arts, and Libraries to the Michigan Strategic Fund, and to make other technical amendments.

House Bill 5843 would amend the Revenue Act (Public Act 122 of 1941) to allow the disclosure of certain information if the disclosure is needed for the administration of either the existing sales tax credit or the proposed MBT credit for production companies.

House Bill 5844 would amend the Income Tax Act to allow a production company to claim a credit equal to the amount of the credit available under the MBT (as long as the MBT credit is not claimed as well). This would be a nonrefundable credit (that is, it could not exceed total tax liability). The credit would be reduced by a credit application redemption fee equal to one-half of one percent of the credit, with that amount to be deposited in the Michigan Film Promotion Fund.

House Bill 5845 would amend the Income Tax Act to allow a deduction from taxable income for all or a portion of a gain from an initial equity investment of \$25,000 or more in an eligible production company engaged in a production in Michigan if an amount equal to the sum of the taxpayer's basis in the investment plus the gain is reinvested in a company that engages in another production in the state within two years. This would apply for tax years beginning after December 31, 2007 and before October 1, 2015.

House Bill 5846 would amend the Michigan Business Tax Act to make available a credit for an investment of \$100,000 or more in 2008 and \$250,000 or more in 2009 and beyond in a qualified film and digital media infrastructure project. Credits would be available to companies that apply to and enter into agreements with the Michigan Film Office and would require the concurrence of the State Treasurer. The credit would be equal to 25 percent of the taxpayer's base investment. No more than \$20 million in total credits could be authorized in any one tax year. An "infrastructure project" under the bill would be a production or post-production facility, movable and immovable property and equipment related to the facility, and any other facility that supports and is a necessary component to the production or post-production facility. (The term does not include a movie theater.) Work on the project would have to begin within 180 days after the date of the agreement (although a 90-day extension would be available.) This credit is available until September 30, 2015. The bill contains some of the same kind of procedural provisions for obtaining a credit certificate and the credit as House Bill 5841.

House Bill 5847 would amend the Michigan Economic Growth Authority Act to include film and media production businesses among the businesses eligible under the act for existing MEGA tax incentives.

House Bill 5848 would amend the Michigan Strategic Fund Act to do the following: (1) Allow a loan under the Small Business Access Program to be issued to an eligible production company or private equity fund (even if the company or fund is not a small business). (2) Create the Michigan Film and Digital Media Investment Loan Program, as a separate and distinct part of the existing Loan Enhancement Program, to invest in loans to eligible production companies or to film and media private equity funds. No more than \$15 million could be loaned to any one production company or private equity fund for any one production. Loans would be made for productions filmed in the state in which a majority of below-the-line crew members were Michigan residents. Loans could be made for up to 80 percent of the amount of anticipated tax credits. Half of the earnings from loans would go to the Investment Fund and half to the Promotion Fund; all of the repayment of principal would go the Investment Fund. (3) Create the Choose Michigan Film and Digital Media Loan Fund to invest in loans to production companies and private equity funds eligible for a tax credit under the MEGA Act or the MBT, with the minimum amount of a loan set at \$500,000 and the maximum term ten years.

House Bill 5849 would amend the Michigan Business Tax Act to provide for a credit to production companies for qualified job training expenditures made to provide on-the-job training to Michigan residents on film crews for training that upgrades or enhances their skills. Credits would be available to companies that enter into agreements with the Michigan Film Office and would require the concurrence of the State Treasurer. The credit would equal 50 percent of job training expenditures. It would be available until September 30, 2015.

House Bill 5850 would amend the Michigan Strategic Fund Act to (1) place the Michigan Film Office within the Strategic Fund, essentially reestablishing the Film Office and specifying that it is the successor to the Film Office currently found in Chapter 21 of the History, Arts, and Libraries Act. (2) Place into the statute the position of Michigan Film Commissioner, who would be the head of the Film Office. (3) Create within the Fund the Michigan Film Office Advisory Council. (4) Create the Michigan Film Promotion Fund and allow its powers and duties to be exercised and performed by the Michigan Economic Development Corporation. (5) Repeal as of May 4, 2008, Sections 21 and 22 of the History, Arts, and Library Act, which currently contains provisions regarding the Film Office, the Film Commissioner, and the Film Advisory Council. The statutory duties of the Film Office would be greatly expanded under the proposed legislation. The Advisory Council membership would be changed somewhat.

House Bill 5851 would amend the Management and Budget Act to allow the DMB director to authorize a person engaged in film production in Michigan to use without charge property owned or under the control of the department. The economic and other benefits to the state from film production would be considered the value received in exchange for the use of the property. The use of the property would be under the terms

established by the DMB director. The department would be required to cooperate with the Michigan Film Office by providing information about potential film locations under its control.

House Bill 5852 would amend the Michigan Military Act to allow the Adjutant General to authorize a person engaged in film production in Michigan to use without charge property owned or under the control of the Department of Military and Veterans Affairs. The economic and other benefits to the state from film production would be considered the value received in exchange for the use of the property. The use of the property would be under the terms established by the Adjutant General. The department would be required to cooperate with the Michigan Film Office by providing information about potential film locations under its control.

House Bill 5853 would amend the Natural Resources and Environmental Protection Act to allow the DNR director to authorize a person engaged in film production in Michigan to use without charge property owned or under the control of the DNR. The economic and other benefits to the state from film production would be considered the value received in exchange for the use of the property. The use of the property would be under the terms established by the DNR director. The department would be required to cooperate with the Michigan Film Office by providing information about potential film locations under its control.

House Bill 5854 would amend Public Act 286 of 1964 (the state transportation commission act) to allow the director of the State Transportation Commission to authorize a person engaged in film production in Michigan to use without charge property owned or under the control of the commission. The economic and other benefits to the state from film production would be considered the value received in exchange for the use of the property. The use of the property would be under the terms established by the commission or the director of the Department of Transportation. The department and commission would be required to cooperate with the Michigan Film Office by providing information about potential film locations under its control.

House Bill 5855 would create a new act, the Local Government Filming Location Access Act, to allow a local unit of government to authorize a person engaged in film production in Michigan to use without charge property owned or under the control of the commission. The economic and other benefits to the state from film production would be considered the value received in exchange for the use of the property. The use of the property would be under the terms established by the local unit of government. A local unit would be required to cooperate with the Michigan Film Office by providing information about potential film locations.

House Bill 5856 would amend the History, Arts, and Libraries Act to remove definitions in the act that relate to the Michigan Film Office and the Michigan Film Advisory Commission (which would be removed from HAL under the legislative package).

#### Qualified Production

This term is defined in House Bill 5841 and used throughout the package of bills. The term refers to single media or multimedia entertainment content created in whole or in part in Michigan for distribution or exhibition to the general public in two or more states by any means, and media in any digital media format, film, or videotape, including 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, video games, commercials, Internet programming, Internet videos, sound recordings, a video, digital animation, or an interactive website. It also applies to trailers, pilots, video teasers, or demos created to stimulate the sale or future investment in a production. Eligible productions would not include obscene matter, televised news or current events, live sporting events, political advertising, radio programs, weather shows, financial market reports, talk shows, game shows, product or service marketing productions, awards shows or other "gala event" productions, or employee training and in-house corporate advertising programs.

### **FISCAL IMPACT:**

At this time, there is not enough information to make revenue and expenditure estimates regarding the tax benefits and loan programs. The bills that allow state and local property to be used for production could have an impact on state and local government, but the impact is indeterminate. House Bill 5850 could increase administrative costs of the Michigan Economic Development Corporation by an indeterminate amount relating to the establishment of the Michigan Film Office, the Film Commissioner, and the Advisory Council within the Michigan Strategic Fund. That bill also establishes a misdemeanor for misrepresenting oneself as connected to the Film Office and Advisory Council. That would have an indeterminate fiscal impact on local correctional systems. To the extent that more offenders were sentenced to probation or jail for misdemeanor offenses, local units of government could incur increased costs of misdemeanor probation supervision or jail incarceration, both of which vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of such revenues. Revenue from civil penalties assessed under the package for applicants who submit fraudulent or false information would be deposited in the Michigan Film Production Promotion Fund.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.