

# SENATE BILL NO. 438

June 28, 2023, Introduced by Senators POLEHANKI, GEISS, WOJNO, KLINEFELT and MOSS  
and referred to the Committee on Economic and Community Development.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending sections 701 and 703 (MCL 206.701 and 206.703), section  
701 as amended by 2022 PA 148 and section 703 as amended by 2016 PA  
158, and by adding sections 285 and 677.

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

1           **Sec. 285. (1) As used in this section and section 677:**  
2           **(a) "Accredited production certificate" or "APC" means the**  
3 **approval certificate issued by the office certifying that the**  
4 **production proposed in the application is a qualified production.**

1           (b) "Agreed-upon procedures" means the instructions and  
2 procedures provided by the office to be performed by a certified  
3 public accountant for the determination and attestation of the  
4 amount of qualified production expenditures, qualified probationary  
5 Michigan vendor expenditures, and qualified personnel expenditures  
6 of a qualified production.

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

16           (d) "Approved logos" means "Filmed in Michigan", "Pure  
17 Michigan", "Michigan Film Industry Association", and "Michigan Film  
18 & Digital Media Office" logos approved by the office.

19           (e) "Certified public accountant" means an individual licensed  
20 as a certified public accountant under article 7 of the  
21 occupational code, 1980 PA 299, MCL 339.720 to 339.736.

22           (f) "Commence work" means the date on which filming, taping,  
23 photographing, or any other form of digital capturing for the  
24 qualified production begins, including any preparation activity  
25 necessary to start filming, taping, photographing, or capturing  
26 digitally. For purposes of an animated production, the commence  
27 work date is the date the artwork that is to be used in actual  
28 frames of the qualified production begins.

29           (g) "Commercial domicile" means a physical place from which

1 the trade or business of the person is directed or managed.

2 (h) "Economic impact data" means data related to the types of  
3 jobs created and retained in this state by the applicant during the  
4 qualified production and the amount spent to produce the qualified  
5 production in this state during the production period. The economic  
6 impact data must be broken down as follows:

7 (i) Number of entry-level positions.

8 (ii) Number of management-related positions.

9 (iii) Number of talent positions.

10 (iv) Number of production staff and crew.

11 (v) Number of qualified Michigan vendor-related positions.

12 (vi) Number of workday hires.

13 (vii) Number of postproduction, including visual effects,  
14 vendor-related positions.

15 (viii) The amount of qualified production expenditures,  
16 qualified probationary Michigan vendor expenditures, and qualified  
17 personnel expenditures attributable to labor and vendors,  
18 respectively.

19 (ix) The amount of any other expenditures incurred for the  
20 qualified production.

21 (i) "Entry-level position" means the lowest level of a  
22 hierarchy in a production, including untrained or unskilled  
23 employees.

24 (j) "Full-time employee" means a job performed for 35 hours or  
25 more each week by an individual.

26 (k) "Independent contractor" means an individual who is self-  
27 employed and whose earnings for services are subject to self-  
28 employment tax and the payer of the services has the right only to  
29 control or direct the result of the work, not what will be done or

1 how it will be done.

2 (l) "Inventory" means the stock of goods held for resale in the  
3 ordinary course of trade of a business. Inventory includes personal  
4 property under lease or principally intended for lease rather than  
5 sale or property allowed a deduction or allowance for depreciation  
6 or depletion under the internal revenue code.

7 (m) "Loan out company" means a personal service corporation or  
8 other entity that is contracted with by the applicant to provide  
9 specified individual personnel, such as artists, crew actors,  
10 producers, or directors, for the performance of services directly  
11 in a qualified production. Loan out company does not include an  
12 entity contracted with by the applicant to provide goods or  
13 ancillary services for a qualified production such as catering,  
14 construction, trailers, equipment, or transportation.

15 (n) "Location fees" means a payment made to an individual or  
16 entity for the use of property that is located in this state and  
17 subject to the levy of tax under the general property tax act, 1893  
18 PA 206, MCL 211.1 to 211.155.

19 (o) "Michigan film and digital media office" or "office" means  
20 the office created under section 29a of the Michigan strategic fund  
21 act, 1984 PA 270, MCL 125.2029a.

22 (p) "Michigan film promotion fund" means the fund created  
23 under section 29d of the Michigan strategic fund act, 1984 PA 270,  
24 MCL 125.2029d.

25 (q) "Obscene matter or an obscene performance" means matter  
26 described in 1984 PA 343, MCL 752.361 to 752.374.

27 (r) "Personal service corporation" means that term as defined  
28 under section 269A of the internal revenue code and includes any  
29 other entity, including a sole proprietorship or independent

1 contractor, that meets the principal activity and ownership  
2 requirements established for a personal service corporation under  
3 section 269A(b) of the internal revenue code.

4 (s) "Production period" means the time period between the  
5 greenlighting of a qualified production and the completion of the  
6 qualified production. Production period includes the preproduction,  
7 production, and postproduction time frames, but does not include  
8 the time to develop or acquire rights to produce the qualified  
9 production or the time to market, promote, or distribute the  
10 qualified production. As used in this subdivision:

11 (i) "Greenlighting" means the moment at which a studio or  
12 producer approves a project to move forward into preproduction and  
13 commits to the budgeting process.

14 (ii) "Postproduction" means the phase of production that  
15 follows production in which raw footage is edited and assembled  
16 into a finished product with sound synchronization, visual effects,  
17 color correction, and other miscellaneous edits.

18 (iii) "Preproduction" means the phase of production that  
19 precedes the bulk of the actual filming of the project.

20 (iv) "Production" means the phase of production in which the  
21 bulk of the filming takes place.

22 (t) "Production staff and crew" means office, production, and  
23 postproduction staff, including, but not limited to, accountants,  
24 coordinators, secretaries, casting agents, talent agents, model  
25 agents, and any other individual involved with cameras, casting,  
26 construction, costume, electric, editing, grip, location, hair,  
27 makeup, props, swing gang, set decorating, sound, special effects,  
28 transportation, and visual effects related to the qualified  
29 production.

1 (u) "Qualified Michigan vendor" means a business that  
2 satisfies each of the following:

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

6 (ii) Has at least 1 physical location in this state and has  
7 been doing business for at least 6 months before the date of the  
8 APC.

9 (iii) For a vendor engaged in the business of selling or renting  
10 equipment, maintains inventory in this state on a continuous basis  
11 and has at least 1 full-time employee in this state.

12 (iv) Is subject to the levy of taxes under this act, the  
13 general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and  
14 the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

15 (v) "Qualified personnel expenditure" means any payments and  
16 compensation up to \$500,000.00 for each employee or contractual or  
17 salaried employee, per qualified production project, who performs  
18 services in this state directly attributable to the qualified  
19 production, including all of the following:

20 (i) Payment of wages subject to the withholding requirements of  
21 this act.

22 (ii) Payment to a loan out company if the loan out company has  
23 complied with the withholding requirements of this act for each  
24 employee who performs services in this state directly attributable  
25 to the qualified production.

26 (w) "Qualified probationary Michigan vendor" means a Michigan  
27 vendor that satisfies each of the requirements to be a qualified  
28 Michigan vendor except that the vendor has only been doing business  
29 in this state for less than 6 months before the date of the APC and

1 if that vendor is engaged in the business of selling or renting  
2 equipment does not have at least 1 full-time employee in this  
3 state.

4 (x) "Qualified probationary Michigan vendor expenditure" means  
5 a production expenditure made in this state to a qualified  
6 probationary Michigan vendor that would have been a qualified  
7 production expenditure if the qualified probationary Michigan  
8 vendor was a qualified Michigan vendor.

9 (y) "Qualified production" means single media or multimedia  
10 content created in whole or in part in this state for distribution  
11 or exhibition by any means and media in any digital media format,  
12 film, or videotape, including, but not limited to, a motion  
13 picture, a documentary, a television series, a television  
14 miniseries, a television special, interstitial television  
15 programming, long-form television, interactive television, music  
16 videos, advertising commercials, commercial photography,  
17 industrials, short films, web-based content, an internet video, a  
18 video, motion capture, or animation. Qualified production also  
19 includes any trailer, pilot, video teaser, or demo created  
20 primarily to stimulate the sale, marketing, promotion, or  
21 exploitation of future investment in a production. Qualified  
22 production does not include any of the following:

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

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

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

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

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

5           (vi) A radio program.

6           (vii) A weather show.

7           (viii) A financial market report.

8           (ix) A talk show.

9           (x) A game show.

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

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

12          (xiii) A nonscripted reality production that is not a  
13 commercial.

14          (z) "Qualified production expenditure" means an expenditure  
15 made during the production period in this state to a qualified  
16 Michigan vendor that is directly attributable to the qualified  
17 production and that is a transaction subject to taxation in this  
18 state. Qualified production expenditure does not include any pass-  
19 through transactions or purchases made from a qualified Michigan  
20 vendor for any goods or services that are not within the ordinary  
21 course of business of that qualified Michigan vendor. Qualified  
22 production expenditures paid to a qualified Michigan vendor  
23 include, but are not limited to, the purchase, lease, or use of  
24 tangible personal property in this state during the production  
25 period of the qualified production or to acquire services performed  
26 in this state that are directly attributable to the qualified  
27 production. Qualified production expenditure does not include the  
28 purchase of tangible assets if those assets retain residual value  
29 or are not fully consumed by the qualified production during the



1 production period. Qualified production expenditure does not  
2 include an expenditure related to the acquisition or licensing of  
3 content used in the qualified production. Qualified production  
4 expenditure does include, but is not limited to, all of the  
5 following:

6 (i) Rental or use of facilities or equipment, use of  
7 soundstages or studios, location fees, and related services and  
8 materials to the extent those tangible assets are used in this  
9 state for the qualified production.

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

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

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

26 (v) Postproduction costs directly related to the qualified  
27 production during the production period for, but not limited to,  
28 animation, dailies, digital intermediate color grading, editing,  
29 Foley recording, automatic dialogue replacement, sound recording,

1 sound editing and mixing, special or visual effects including  
2 computer-generated imagery or other effects, scoring and music  
3 editing, beginning and end credits, negative processing and  
4 cutting, soundtrack production, dubbing, subtitling, or addition of  
5 sound or visual effects.

6 (vi) Stock footage or stock music.

7 (aa) "Resident" means an individual who is domiciled in this  
8 state and has an operator's or chauffeur's license issued under the  
9 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an  
10 enhanced driver license issued under the enhanced driver license  
11 and enhanced official state personal identification card act, 2008  
12 PA 23, MCL 28.301 to 28.308, an official state personal  
13 identification card issued under 1972 PA 222, MCL 28.291 to 28.300,  
14 or an enhanced official state personal identification card issued  
15 under the enhanced driver license and enhanced official state  
16 personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.  
17 As used in this subdivision, "domicile" means a place where an  
18 individual has the individual's true, fixed, and permanent home and  
19 principal establishment, to which, whenever absent therefrom, the  
20 individual intends to return, and domicile continues until another  
21 permanent establishment is established.

22 (bb) "State-certified qualified production" means a qualified  
23 production for which a tax credit certificate has been issued by  
24 the office under this section or section 677.

25 (cc) "Talent-related positions" means individuals with any  
26 speaking, background, or extra roles that appear on-screen or off-  
27 screen.

28 (dd) "Tax credit certificate" or "TCC" means the certificate  
29 issued by the office under subsection (8) upon completion of a

1 qualified production.

2 (ee) "Vendor-related positions" means jobs obtained or created  
3 through a contractor or subcontractor, including, but not limited  
4 to, security, janitorial, printing, florist, dry cleaners, and  
5 limousine services.

6 (ff) "Wages" means all compensation paid for services rendered  
7 by an employee that are attributable to a qualified production.  
8 Compensation includes health, life, and disability insurance  
9 premiums, payments under the federal insurance contributions act,  
10 26 USC 3101 to 3134, retirement or pension contributions, vacation  
11 and sick leave pay, and any per diem amounts paid to an employee  
12 for meals or lodging if those payments are subject to withholding  
13 under section 703.

14 (gg) "Workday hire" means an individual hired to work a single  
15 day.

16 (2) Subject to the limitations under this section, beginning  
17 after the effective date of the amendatory act that added this  
18 section and for the next consecutive 10 years, the Michigan film  
19 and digital media office may approve an application for a credit  
20 against the tax imposed by this part for a state-certified  
21 qualified production in an amount determined as follows, but not to  
22 exceed 20% of the annual amount allowed to be approved under  
23 subsection (5) for that calendar year unless the office determines  
24 that a credit in excess of the 20% of that cap is in the best  
25 economic interest of this state:

26 (a) 25% of the qualified production expenditures or, if the  
27 office determines that the proposed qualified production includes  
28 the approved logos or, if approved logos are prohibited, includes  
29 an alternative marketing mechanism approved by the office, 30% of

1 qualified production expenditures.

2 (b) 10% of the qualified probationary Michigan vendor  
3 expenditures.

4 (c) 30% of the qualified personnel expenditures attributable  
5 to employees who are residents of this state when the applicant  
6 commences work on the qualified production.

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

9 (e) If the office determines that the applicant satisfies  
10 either of the following, the office may approve an additional 5%  
11 under subdivisions (a), (b), (c), and (d), as applicable:

12 (i) Has qualified production expenditures or qualified  
13 probationary Michigan vendor expenditures that are attributable to  
14 a qualified Michigan vendor that is a minority owned business or  
15 woman owned business that is certified under section 4 of 1980 PA  
16 428, MCL 450.774, a business owned by persons with disabilities  
17 that is certified under section 4 of the business opportunity act  
18 for persons with disabilities, 1988 PA 112, MCL 450.794, or a  
19 veteran owned business.

20 (ii) Has qualified personnel expenditures attributable to  
21 employees who are members of a minority, persons with disabilities,  
22 or veterans. As used in this subdivision:

23 (A) "Business owned by persons with disabilities" and "persons  
24 with disabilities" mean those terms as defined in section 2 of the  
25 business opportunity act for persons with disabilities, 1988 PA  
26 112, MCL 450.792.

27 (B) "Minority", "minority owned business", and "woman owned  
28 business" mean those terms as defined in section 1 of 1980 PA 428,  
29 MCL 450.771.

1 (C) "Veteran" means that term as defined in section 1 of 1965  
2 PA 190, MCL 35.61.

3 (D) "Veteran owned business" means a business enterprise of  
4 which more than 50% of the voting shares or interest in the  
5 business is owned, controlled, and operated by individuals who are  
6 veterans and with respect to which more than 50% of the net profit  
7 or loss attributable to the business accrues to shareholders who  
8 are veterans.

9 (3) 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 is  
15 commercial photography or a \$2,000.00 nonrefundable application fee  
16 for a qualified production that is 20 minutes or more in duration  
17 and must include all of the information and records requested by  
18 the office. An application fee received by the office under this  
19 subsection shall be deposited in the Michigan film promotion fund.  
20 As part of the application, an applicant shall provide a detailed  
21 description of the proposed qualified production and an estimate of  
22 the qualified production expenditures, qualified probationary  
23 Michigan vendor expenditures, and qualified personnel expenditures  
24 for that proposed qualified production. The office shall not  
25 process or approve an application until it is complete. If an  
26 application is considered incomplete, the office shall notify the  
27 applicant, within 2 days after receipt of the incomplete  
28 application, describing the deficiency and requesting the  
29 additional information be submitted within 30 days. The office

1 shall consider completed applications in the order that they are  
2 received. The office shall not consider an application that is  
3 received less than 7 days before production begins for a proposed  
4 qualified production that is 20 minutes or more in duration or  
5 received less than 2 days before the production begins for a  
6 proposed qualified production that is less than 20 minutes in  
7 duration. Upon receipt of a completed application, the office shall  
8 approve or deny an application that is received for a proposed  
9 qualified production that is 20 minutes or more in duration within  
10 7 days and for a proposed qualified production that is less than 20  
11 minutes in duration or is commercial photography within 2 days.

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

15 (a) If the qualified production has verified financing.

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

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

27 (d) 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 accredited production certificate.

1 (5) Of the total number of applications approved under this  
2 section and section 677, the following limitations, plus any  
3 carryforward as provided under subsection (6) and section 677(5),  
4 apply:

5 (a) For qualified productions that are less than 20 minutes in  
6 duration or are commercial photography, not more than  
7 \$25,000,000.00 in tax credits shall be approved for each of the  
8 first 3 calendar years of the credit, \$50,000,000.00 in tax credits  
9 for each of the second 3 calendar years of the credit, and  
10 \$75,000,000.00 in tax credits for each of the final 4 calendar  
11 years of the credit.

12 (b) For qualified productions that are 20 minutes or more in  
13 duration, not more than \$100,000,000.00 in tax credits for each of  
14 the first 3 calendar years of the credit, \$150,000,000.00 in tax  
15 credits for each of the second 3 calendar years of the credit, and  
16 \$200,000,000.00 in tax credits for each of the final 4 calendar  
17 years of the credit.

18 (6) If the office does not receive enough applications under  
19 this section or section 677 to award the entire amount allocated  
20 during any calendar year, that remaining amount may be carried  
21 forward to the next calendar year.

22 (7) If the office approves an application, the office shall  
23 provide the applicant with an accredited production certificate,  
24 and the APC must include all of the following:

25 (a) A requirement that the applicant commence work in this  
26 state on the identified qualified production within 90 days of the  
27 date of the APC or else the application is denied. However, upon  
28 request submitted by the applicant based on good cause, the office  
29 may extend the period to commence work in this state for up to an

1 additional 90 days. For purposes of this subdivision, good cause  
2 includes, but is not limited to, force majeure or delays in  
3 securing key actors. The office shall not unreasonably deny a  
4 request under this subdivision.

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

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

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

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

14 (f) A requirement that the applicant provide the office with  
15 the information and independent certification the office and the  
16 department determine are necessary to verify qualified production  
17 expenditures, qualified probationary Michigan vendor expenditures,  
18 qualified personnel expenditures, and eligibility for the credit  
19 under this section.

20 (8) Within 2 years of completion of the qualified production,  
21 the applicant shall provide the office with an independent  
22 certified public accountant's report on applying the agreed-upon  
23 procedures for the qualified production and submit a request to the  
24 office for a tax credit certificate, along with any information or  
25 independent certification the office considers necessary to verify  
26 expenditures and calculate the amount of the credit. The office may  
27 request copies of the applicant's books and records for the  
28 qualified production and any other additional information it  
29 determines is necessary before issuing a TCC and need not issue the



1 TCC until satisfied that qualified production expenditures,  
2 qualified probationary Michigan vendor expenditures, qualified  
3 personnel expenditures, and eligibility are adequately established.  
4 The additional information requested must include an itemized  
5 statement of qualified production expenditures, qualified  
6 probationary Michigan vendor expenditures, and qualified personnel  
7 expenditures for the qualified production. The office shall verify  
8 the independent certified public accountant's report on applying  
9 the agreed-upon procedures for the qualified production and notify  
10 the department of the amount of the credit verified and to be  
11 awarded to the applicant within 60 days after receipt. After  
12 verifying the amount of the credit to be awarded, if the office  
13 determines that an applicant has complied with the terms of the  
14 APC, the office shall, within 15 days, issue a TCC to the  
15 applicant. Each TCC shall be signed by the Michigan film  
16 commissioner and shall include the following information:

17 (a) The name of the applicant.

18 (b) The name of the state-certified qualified production  
19 produced in whole or in part in this state.

20 (c) The applicant's qualified production expenditures,  
21 qualified probationary Michigan vendor expenditures, and qualified  
22 personnel expenditures for the qualified production.

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

25 (e) The date of completion for the state-certified qualified  
26 production in this state.

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

29 (g) The applicant's federal employer identification number and

1 Michigan treasury number.

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

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

21 (10) The office shall forward a copy of each TCC issued under  
22 this section to the governor, the state treasurer, the president of  
23 the Michigan strategic fund, the chairperson of the senate finance  
24 committee, the chairperson of the house tax policy committee, the  
25 director of the senate fiscal agency, and the director of the house  
26 fiscal agency. An applicant or assignee that claims a credit under  
27 this section shall submit with the annual return filed under this  
28 part on which the credit under this section is claimed a copy of  
29 the TCC and, if the credit was assigned, a copy of the assignment

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

26 (11) The credit under this section shall be claimed after all  
27 other credits under this part.

28 (12) An applicant may transfer and assign all or a portion of  
29 a credit awarded under this section to up to 10 assignees. An

1 applicant may claim a portion of a credit and assign the remaining  
2 credit amount. A credit assignment can only be made once within the  
3 first year after the qualified production certificate of completion  
4 is issued, and a credit assignment under this section is  
5 irrevocable. The credit assignment under this subsection shall be  
6 made on a form prescribed by the department.

7 (13) The amount of the credit awarded under this section must  
8 be reduced by a redemption fee equal to the greater of \$500.00 or  
9 1% of the credit claimed. The redemption fee must be deducted from  
10 the credit otherwise payable to the applicant claiming the credit  
11 and be deposited by the department in the Michigan film promotion  
12 fund.

13 (14) An applicant that willfully submits information under  
14 this section that the applicant knows to be fraudulent or false  
15 shall, in addition to any other penalties provided by law, be  
16 liable for a civil penalty of not more than the amount of the  
17 applicant's credit under this section. A penalty collected under  
18 this section must be deposited in the Michigan film promotion fund.

19 (15) Not later than March 1, 2025 and each March 1 thereafter  
20 through March 1, 2034, the office shall evaluate the credits under  
21 this section and section 677 and submit to the governor, the  
22 president of the Michigan strategic fund, the chairperson of the  
23 senate finance committee, the chairperson of the house tax policy  
24 committee, the director of the senate fiscal agency, and the  
25 director of the house fiscal agency an annual report concerning the  
26 operation and effectiveness of the credit under this section and  
27 section 677. The requirements of section 28(1)(f) of 1941 PA 122,  
28 MCL 205.28, do not apply to disclosure of tax information required  
29 by this subsection. The report shall include all of the following:

1 (a) A brief assessment of the overall effectiveness of the  
2 credit under this section and section 677 at attracting qualified  
3 productions to this state during the immediately preceding calendar  
4 year. The assessment must include the economic impact data of the  
5 credit program, including, but not limited to, all of the  
6 following:

7 (i) The number of workday hires created and if those workday  
8 hires were entry level, production staff and crew, management,  
9 talent-related positions, or vendor-related positions.

10 (ii) The number of workday hires who were residents of this  
11 state.

12 (iii) The total amount of qualified production expenditures in  
13 this state, and of those expenditures, the amount attributable to  
14 qualified Michigan vendors.

15 (iv) The extent to which the qualified productions had the  
16 effect of promoting this state as a tourist destination.

17 (v) The extent to which the credit attracted private  
18 investment during the production of qualified productions in this  
19 state.

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

28 (c) The number of applications approved under this section and  
29 section 677 during the immediately preceding calendar year.

1 (d) The number of TCCs issued during the immediately preceding  
2 calendar year and the total amount of credits awarded by those  
3 TCCs.

4 Sec. 677. (1) Subject to the limitations under this section,  
5 beginning after the effective date of the amendatory act that added  
6 this section and for the next 10 consecutive years, the Michigan  
7 film and digital media office may approve an application for a  
8 credit against the tax imposed by this part for a state-certified  
9 qualified production in an amount determined as follows but not to  
10 exceed 20% of the annual amount allowed to be approved under  
11 subsection (4) for that calendar year unless the office determines  
12 that a credit in excess of the 20% of that cap is in the best  
13 economic interest of this state:

14 (a) 25% of the qualified production expenditures or, if the  
15 office determines that the proposed qualified production includes  
16 the approved logos or, if approved logos are prohibited, includes  
17 an alternative marketing mechanism approved by the office, 30% of  
18 qualified production expenditures.

19 (b) 10% of the qualified probationary Michigan vendor  
20 expenditures.

21 (c) 30% of the qualified personnel expenditures attributable  
22 to employees who are residents of this state when the applicant  
23 commences work on the qualified production.

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

26 (e) If the office determines that the applicant satisfies  
27 either of the following, the office may approve an additional 5%  
28 under subdivisions (a), (b), (c), and (d), as applicable:

29 (i) Has qualified production expenditures or qualified

1 probatory Michigan vendor expenditures that are attributable to  
2 a qualified Michigan vendor that is a minority owned business or  
3 woman owned business that is certified under section 4 of 1980 PA  
4 428, MCL 450.774, a business owned by persons with disabilities  
5 that is certified under section 4 of the business opportunity act  
6 for persons with disabilities, 1988 PA 112, MCL 450.794, or a  
7 veteran owned business.

8 (ii) Has qualified personnel expenditures attributable to  
9 employees who are members of a minority, persons with disabilities,  
10 or veterans. As used in this subdivision:

11 (A) "Business owned by persons with disabilities" and "persons  
12 with disabilities" mean those terms as defined in section 2 of the  
13 business opportunity act for persons with disabilities, 1988 PA  
14 112, MCL 450.792.

15 (B) "Minority", "minority owned business", and "woman owned  
16 business" mean those terms as defined in section 1 of 1980 PA 428,  
17 MCL 450.771.

18 (C) "Veteran" means that term as defined in section 1 of 1965  
19 PA 190, MCL 35.61.

20 (D) "Veteran owned business" means a business enterprise of  
21 which more than 50% of the voting shares or interest in the  
22 business is owned, controlled, and operated by individuals who are  
23 veterans and with respect to which more than 50% of the net profit  
24 or loss attributable to the business accrues to shareholders who  
25 are veterans.

26 (2) An applicant proposing to produce a qualified production  
27 in this state and seeking a credit for that qualified production  
28 must submit an application to the office. The application must be  
29 submitted in a form prescribed by the office and shall be

1 accompanied by a \$1,000.00 nonrefundable application fee for a  
2 qualified production that is less than 20 minutes in duration or is  
3 commercial photography or a \$2,000.00 nonrefundable application fee  
4 for a qualified production that is 20 minutes or more in duration  
5 and must include all of the information and records requested by  
6 the office. An application fee received by the office under this  
7 subsection shall be deposited in the Michigan film promotion fund.  
8 As part of the application, an applicant shall provide a detailed  
9 description of the proposed qualified production and an estimate of  
10 the qualified production expenditures, qualified probationary  
11 Michigan vendor expenditures, and qualified personnel expenditures  
12 for the proposed qualified production. The office shall not process  
13 or approve an application until it is complete. If an application  
14 is considered incomplete, the office shall notify the applicant,  
15 within 2 days after receipt of the incomplete application,  
16 describing the deficiency and requesting the additional information  
17 be submitted within 30 days. The office shall consider completed  
18 applications in the order that they are received. The office shall  
19 not consider an application that is received less than 7 days  
20 before production begins for a proposed qualified production that  
21 is 20 minutes or more in duration or received less than 2 days  
22 before the production begins for a proposed qualified production  
23 that is less than 20 minutes in duration. Upon receipt of a  
24 completed application, the office shall approve or deny an  
25 application that is received for a proposed qualified production  
26 that is 20 minutes or more in duration within 7 days and for a  
27 proposed qualified production that is less than 20 minutes in  
28 duration or is commercial photography within 2 days.

29 (3) In determining whether to approve an application, the



1 office shall consider the limitations under subsection (4) and all  
2 of the following:

3 (a) If the qualified production has verified financing.

4 (b) If the applicant expects to spend at least \$300,000.00 in  
5 this state during the production period of a state-certified  
6 qualified production that is at least 20 minutes in duration or,  
7 for a state-certified qualified production that is less than 20  
8 minutes in duration or is commercial photography, spend at least  
9 \$50,000.00 in this state during the production period for that  
10 state-certified qualified production.

11 (c) If the applicant is delinquent in a tax or other  
12 obligation owed to this state or is owned or under common control  
13 of an entity that is delinquent in a tax or other obligation owed  
14 to this state.

15 (d) If the applicant intends to commence work on the qualified  
16 production within 90 days after approval of the application and the  
17 date of the accredited production certificate.

18 (4) Of the total number of applications approved under this  
19 section and section 285, the following limitations, plus any  
20 carryforward as provided under subsection (5) and section 285(6),  
21 apply:

22 (a) For qualified productions that are less than 20 minutes in  
23 duration or are commercial photography, not more than  
24 \$25,000,000.00 in tax credits shall be approved for each of the  
25 first 3 calendar years of the credit, \$50,000,000.00 in tax credits  
26 for each of the second 3 calendar years of the credit, and  
27 \$75,000,000.00 in tax credits for each of the final 4 calendar  
28 years of the credit.

29 (b) For qualified productions that are 20 minutes or more in

1 duration, not more than \$100,000,000.00 in tax credits for each of  
2 the first 3 calendar years of the credit, \$150,000,000.00 in tax  
3 credits for each of the second 3 calendar years of the credit, and  
4 \$200,000,000.00 in tax credits for each of the final 4 calendar  
5 years of the credit.

6 (5) If the office does not receive enough applications under  
7 this section and section 285 to award the entire amount allocated  
8 during any calendar year, that remaining amount may be carried  
9 forward to the next calendar year.

10 (6) If the office approves an application, the office shall  
11 provide the applicant with an accredited production certificate and  
12 the APC must include all of the following:

13 (a) A requirement that the applicant commence work in this  
14 state on the identified qualified production within 90 days of the  
15 date of the APC or else the application is denied. However, upon  
16 request submitted by the applicant based on good cause, the office  
17 may extend the period to commence work in this state for up to an  
18 additional 90 days. For purposes of this subdivision, good cause  
19 includes, but is not limited to, force majeure or delays in  
20 securing key actors. The office shall not unreasonably deny a  
21 request under this subdivision.

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

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

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

29 (e) A requirement that the applicant shall give preference to

1 qualified Michigan vendors and residents of this state.

2 (f) A requirement that the applicant provide the office with  
3 the information and independent certification the office and the  
4 department determines is necessary to verify qualified production  
5 expenditures, qualified probationary Michigan vendor expenditures,  
6 qualified personnel expenditures, and eligibility for the credit  
7 under this section.

8 (7) Within 2 years of completion of the qualified production,  
9 the applicant shall provide the office with an independent  
10 certified public accountant's report on applying the agreed-upon  
11 procedures for the qualified production and submit a request to the  
12 office for a tax credit certificate, along with any information or  
13 independent certification the office considers necessary to verify  
14 expenditures and calculate the amount of the credit. The office may  
15 request copies of the applicant's books and records for the  
16 qualified production and any other additional information it  
17 determines is necessary before issuing a TCC and need not issue the  
18 TCC until satisfied that qualified production expenditures,  
19 qualified probationary Michigan vendor expenditures, qualified  
20 personnel expenditures, and eligibility are adequately established.  
21 The additional information requested must include an itemized  
22 statement of qualified production expenditures, qualified  
23 probationary Michigan vendor expenditures, and qualified personnel  
24 expenditures for the qualified production. The office shall verify  
25 the independent certified public accountant's report on applying  
26 the agreed-upon procedures for the qualified production and notify  
27 the department of the amount of the credit verified and to be  
28 awarded to the applicant within 60 days after receipt. After  
29 verifying the amount of the credit to be awarded, if the office

1 determines that an applicant has complied with the terms of the  
2 APC, the office shall, within 15 days, issue a qualified production  
3 certificate of completion to the applicant. Each qualified  
4 production certificate of completion shall be signed by the  
5 Michigan film commissioner and shall include the following  
6 information:

7 (a) The name of the applicant.

8 (b) The name of the state-certified qualified production  
9 produced in whole or in part in this state.

10 (c) The applicant's qualified production expenditures,  
11 qualified probationary Michigan vendor expenditures, and qualified  
12 personnel expenditures for the qualified production.

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

15 (e) The date of completion for the state-certified qualified  
16 production in this state.

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

19 (g) The applicant's federal employer identification number or  
20 Michigan treasury number.

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

22 (8) Information, records, or other data received, prepared,  
23 used, or retained by the office under this section that are  
24 submitted by an applicant and considered by the applicant and  
25 acknowledged by the office as confidential shall not be subject to  
26 the disclosure requirements of the freedom of information act, 1976  
27 PA 442, MCL 15.231 to 15.246. Information, records, or other data  
28 shall only be considered confidential to the extent that the  
29 information or records describe the commercial and financial

1 operations or intellectual property of the applicant, the  
2 information or records have not been publicly disseminated at any  
3 time, and disclosure of the information or records may put the  
4 applicant at a competitive disadvantage. For purposes of this  
5 subsection, information or records that describe commercial and  
6 financial operations include that portion of information or records  
7 that include any expenses that qualify under this section as  
8 qualified personnel expenditures, qualified production  
9 expenditures, or qualified probationary Michigan vendor  
10 expenditures and for which a credit may be claimed.

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

1 department shall, as soon as the information is available, annually  
2 report to the governor, the president of the Michigan strategic  
3 fund, the chairperson of the senate finance committee, the  
4 chairperson of the house tax policy committee, the director of the  
5 senate fiscal agency, and the director of the house fiscal agency  
6 the total amount of the credits claimed under this section that  
7 exceed the taxpayer's tax liability for the most recent year that  
8 tax information is available and for which returns have cleared and  
9 been processed.

10 (10) The credit under this section shall be claimed after all  
11 other credits under this part.

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

20 (12) The amount of the credit awarded under this section must  
21 be reduced by a redemption fee equal to the greater of \$500.00 or  
22 1% of the credit claimed. The redemption fee must be deducted from  
23 the credit otherwise payable to the applicant claiming the credit  
24 and be deposited by the department in the Michigan film promotion  
25 fund.

26 (13) An applicant that willfully submits information under  
27 this section that the applicant knows to be fraudulent or false  
28 shall, in addition to any other penalties provided by law, be  
29 liable for a civil penalty of not more than the amount of the

1 applicant's credit under this section. A penalty collected under  
2 this section must be deposited in the Michigan film promotion fund.

3 Sec. 701. As used in this chapter:

4 (a) "Accredited production certificate", "applicant", "loan  
5 out company", and "qualified production" mean those terms as  
6 defined in section 285.

7 (b) ~~(a)~~—"Casino" means that term as defined in section 110.

8 (c) ~~(b)~~—"Casino licensee" means a person licensed to operate a  
9 casino under the Michigan Gaming Control and Revenue Act, 1996 IL  
10 1, MCL 432.201 to 432.226.

11 ~~(c) "Eligible production company" means that term as defined  
12 under section 455 of the Michigan business tax act, 2007 PA 36, MCL  
13 208.1455.~~

14 (d) "Flow-through entity" means an entity that for the  
15 applicable tax year is treated as an S corporation under section  
16 1362(a) of the internal revenue code, a general partnership, a  
17 limited partnership, a limited liability partnership, or a limited  
18 liability company, that for the applicable tax year is not taxed as  
19 a corporation for federal income tax purposes. Flow-through entity  
20 does not include any entity disregarded under section 699.

21 (e) "Member" means a shareholder of an S corporation, a  
22 partner in a general partnership, a limited partnership, or a  
23 limited liability partnership, a member of a limited liability  
24 company, or a beneficiary of a trust, that is a flow-through  
25 entity.

26 (f) "Nonresident" means an individual who is not a resident of  
27 or domiciled in this state, a business entity that does not have  
28 its commercial domicile in this state, or a trust not organized in  
29 this state.

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

3 (h) "Publicly traded partnership" means that term as defined  
4 under section 7704 of the internal revenue code.

5 (i) "Race meeting licensee" and "track licensee" mean a person  
6 to whom a race meeting license or track license is issued pursuant  
7 to section 8 of the horse racing law of 1995, 1995 PA 279, MCL  
8 431.308.

9 (j) "S corporation" means a corporation electing taxation  
10 under subchapter S of chapter 1 of subtitle A of the internal  
11 revenue code, sections 1361 to 1379 of the internal revenue code.

12 Sec. 703. (1) A person who disburses pension or annuity  
13 payments, except as otherwise provided under this section, shall  
14 withhold a tax in an amount computed by applying the rate  
15 prescribed in section 51 on the taxable part of payments from an  
16 employer pension, annuity, profit-sharing, stock bonus, or other  
17 deferred compensation plan as well as from an individual retirement  
18 arrangement, an annuity, an endowment, or a life insurance contract  
19 issued by a life insurance company. Withholding shall be calculated  
20 on the taxable disbursement after deducting from the taxable  
21 portion the same proportion of the total amount of personal and  
22 dependency exemptions of the individual allowed under this act.  
23 Withholding is not required on any part of a distribution that is  
24 not expected to be includable in the recipient's gross income or  
25 that is deductible from adjusted gross income under section  
26 30(1)(e) or (f).

27 (2) Every employer in this state required under the provisions  
28 of the internal revenue code to withhold a tax on the compensation  
29 of an individual, except as otherwise provided, shall deduct and



1 withhold a tax in an amount computed by applying, except as  
2 provided by subsection (14), the rate prescribed in section 51 to  
3 the remainder of the compensation after deducting from compensation  
4 the same proportion of the total amount of personal and dependency  
5 exemptions of the individual allowed under this act that the period  
6 of time covered by the compensation is of 1 year. The department  
7 may prescribe withholding tables that may be used by employers to  
8 compute the amount of tax required to be withheld.

9 (3) Except as otherwise provided under this section, for tax  
10 years that begin before July 1, 2016, every flow-through entity in  
11 this state shall withhold a tax in an amount computed by applying  
12 the rate prescribed in section 51 to the distributive share of  
13 taxable income reasonably expected to accrue after allocation and  
14 apportionment under chapter 3 of each nonresident member who is an  
15 individual after deducting from that distributive income the same  
16 proportion of the total amount of personal and dependency  
17 exemptions of the individual allowed under this act. All of the  
18 taxes withheld under this section shall accrue to the state on  
19 April 15, July 15, and October 15 of the flow-through entity's tax  
20 year and January 15 of the following year, except a flow-through  
21 entity that is not on a calendar year basis shall substitute the  
22 appropriate due dates in the flow-through entity's fiscal year that  
23 correspond to those in a calendar year. Withholding for each period  
24 shall be equal to 1/4 of the total withholding calculated on the  
25 distributive share that is reasonably expected to accrue during the  
26 tax year of the flow-through entity.

27 (4) Except as otherwise provided under this section, for tax  
28 years that begin before July 1, 2016, every flow-through entity  
29 with business activity in this state that has more than \$200,000.00

1 of business income reasonably expected to accrue in the tax year  
2 after allocation or apportionment shall withhold a tax in an amount  
3 computed by applying the rate prescribed in section 623 to the  
4 distributive share of the business income of each member that is a  
5 corporation or that is a flow-through entity. For purposes of  
6 calculating the \$200,000.00 withholding threshold, the business  
7 income of a flow-through entity shall be apportioned to this state  
8 by multiplying the business income by the sales factor of the flow-  
9 through entity. The sales factor of the flow-through entity is a  
10 fraction, the numerator of which is the total sales of the flow-  
11 through entity in this state during the tax year and the  
12 denominator of which is the total sales of the flow-through entity  
13 everywhere during the tax year. As used in this subsection,  
14 "business income" means that term as defined in section 603(2). For  
15 a partnership or S corporation, business income includes payments  
16 and items of income and expense that are attributable to business  
17 activity of the partnership or S corporation and separately  
18 reported to the members. As used in this subsection, "sales" means  
19 that term as defined in section 609 and sales in this state is  
20 determined as provided in sections 665 and 669. All of the taxes  
21 withheld under this section shall accrue to the state on April 15,  
22 July 15, and October 15 of the flow-through entity's tax year and  
23 January 15 of the following year, except a flow-through entity that  
24 is not on a calendar year basis shall substitute the appropriate  
25 due dates in the flow-through entity's fiscal year that correspond  
26 to those in a calendar year. Withholding for each period shall be  
27 equal to 1/4 of the total withholding calculated on the  
28 distributive share of business income that is reasonably expected  
29 to accrue during the tax year of the flow-through entity.

1           (5) For tax years that begin before July 1, 2016, if a flow-  
2 through entity is subject to the withholding requirements of  
3 subsection (4), then a member of that flow-through entity that is  
4 itself a flow-through entity shall withhold a tax on the  
5 distributive share of business income as described in subsection  
6 (4) of each of its members. The department shall apply tax withheld  
7 by a flow-through entity on the distributive share of business  
8 income of a member flow-through entity to the withholding required  
9 of that member flow-through entity. All of the taxes withheld under  
10 this section shall accrue to the state on April 15, July 15, and  
11 October 15 of the flow-through entity's tax year and January 15 of  
12 the following year, except a flow-through entity that is not on a  
13 calendar year basis shall substitute the appropriate due dates in  
14 the flow-through entity's fiscal year that correspond to those in a  
15 calendar year. Withholding for each period shall be equal to 1/4 of  
16 the total withholding calculated on the distributive share of  
17 business income that is reasonably expected to accrue during the  
18 tax year of the flow-through entity.

19           (6) Every casino licensee shall withhold a tax in an amount  
20 computed by applying the rate prescribed in section 51 to the  
21 winnings of a nonresident reportable by the casino licensee under  
22 the internal revenue code.

23           (7) Every race meeting licensee or track licensee shall  
24 withhold a tax in an amount computed by applying the rate  
25 prescribed in section 51 to a payoff price on a winning ticket of a  
26 nonresident reportable by the race meeting licensee or track  
27 licensee under the internal revenue code that is the result of  
28 pari-mutuel wagering at a licensed race meeting.

29           (8) Every casino licensee or race meeting licensee or track

1 licensee shall report winnings of a resident reportable by the  
 2 casino licensee or race meeting licensee or track licensee under  
 3 the internal revenue code to the department in the same manner and  
 4 format as required under the internal revenue code.

5 (9) Every ~~eligible production company~~ **applicant with an**  
 6 **accredited production certificate** shall, to the extent not withheld  
 7 by a ~~professional services corporation or professional employer~~  
 8 ~~organization~~, **loan out company**, deduct and withhold a tax in an  
 9 amount computed by applying the rate prescribed in section 51 to  
 10 the remainder of the payments made to the ~~professional services~~  
 11 ~~corporation or professional employer organization~~ **loan out company**  
 12 for the services of a ~~performing artist or crew member~~ **an**  
 13 **individual in a qualified production** after deducting from those  
 14 payments the same proportion of the total amount of personal and  
 15 dependency exemptions of the individuals allowed under this act.

16 (10) Every publicly traded partnership that has equity  
 17 securities registered with the securities and exchange commission  
 18 under section 12 of title I of the securities and exchange act of  
 19 1934, 15 USC 78l, shall not be subject to withholding.

20 (11) Except as otherwise provided under this subsection, all  
 21 of the taxes withheld under this section shall accrue to the state  
 22 on the last day of the month in which the taxes are withheld but  
 23 shall be returned and paid to the department by the employer,  
 24 ~~eligible production company~~, **applicant**, casino licensee, or race  
 25 meeting licensee or track licensee within 15 days after the end of  
 26 any month or as provided in section 705. For an employer that has  
 27 entered into an agreement with a community college pursuant to  
 28 chapter 13 of the community college act of 1966, 1966 PA 331, MCL  
 29 389.161 to 389.166, a portion of the taxes withheld under this

1 section that are attributable to each employee in a new job created  
2 pursuant to the agreement shall accrue to the community college on  
3 the last day of the month in which the taxes are withheld but shall  
4 be returned and paid to the community college by the employer  
5 within 15 days after the end of any month or as provided in section  
6 705 for as long as the agreement remains in effect. For purposes of  
7 this act and 1941 PA 122, MCL 205.1 to 205.31, payments made by an  
8 employer to a community college under this subsection shall be  
9 considered income taxes paid to this state.

10 (12) A person required by this section to deduct and withhold  
11 taxes on income under this section holds the amount of tax withheld  
12 as a trustee for this state and is liable for the payment of the  
13 tax to this state or, if applicable, to the community college and  
14 is not liable to any individual for the amount of the payment.

15 (13) An employer in this state is not required to deduct and  
16 withhold a tax on the compensation paid to a nonresident individual  
17 employee, who, under section 256, may claim a tax credit equal to  
18 or in excess of the tax estimated to be due for the tax year or is  
19 exempted from liability for the tax imposed by this act. In each  
20 tax year, the nonresident individual shall furnish to the employer,  
21 on a form approved by the department, a verified statement of  
22 nonresidence.

23 (14) A person required to withhold a tax under this act, by  
24 the fifteenth day of the following month, shall provide the  
25 department with a copy of any exemption certificate on which a  
26 person with income subject to withholding under subsection (6) or  
27 (7) claims more than 9 personal or dependency exemptions, claims a  
28 status that exempts the person subject to withholding under  
29 subsection (6) or (7) from withholding under this section.

1           (15) A person who disburses annuity payments pursuant to the  
2 terms of a qualified charitable gift annuity is not required to  
3 deduct and withhold a tax on those payments as prescribed under  
4 subsection (1). As used in this subsection, "qualified charitable  
5 gift annuity" means an annuity described under section 501(m)(5) of  
6 the internal revenue code and issued by an organization exempt  
7 under section 501(c)(3) of the internal revenue code.

8           (16) Notwithstanding the requirements of subsections (4) and  
9 (5), if a flow-through entity receives an exemption certificate  
10 from a member other than a nonresident individual, the flow-through  
11 entity shall not withhold a tax on the distributive share of the  
12 business income of that member if all of the following conditions  
13 are met:

14           (a) The exemption certificate is completed by the member in  
15 the form and manner prescribed by the department and certifies that  
16 the member will do all of the following:

17           (i) File the returns required under this act.

18           (ii) Pay or withhold the tax required under this act on the  
19 distributive share of the business income received from any flow-  
20 through entity in which the member has an ownership or beneficial  
21 interest, directly or indirectly through 1 or more other flow-  
22 through entities.

23           (iii) Submit to the taxing jurisdiction of this state for  
24 purposes of collection of the tax under this act together with  
25 related interest and penalties under 1941 PA 122, MCL 205.1 to  
26 205.31, imposed on the member with respect to the distributive  
27 share of the business income of that member.

28           (b) The department may require the member to file the  
29 exemption certificate with the department and provide a copy to the

1 flow-through entity.

2 (c) The department may require a flow-through entity that  
3 receives an exemption certificate to attach a copy of the exemption  
4 certificate to the annual reconciliation return as required by  
5 section 711. A flow-through entity that is entirely exempt from the  
6 withholding requirements of subsection (4) or (5) by this  
7 subsection may be required to furnish a copy of the exemption  
8 certificate in another manner prescribed by the department.

9 (d) A copy of the exemption certificate shall be retained by  
10 the member and flow-through entity and made available to the  
11 department upon request. Any copy of the exemption certificate  
12 shall be maintained in a format and for the period required by 1941  
13 PA 122, MCL 205.1 to 205.31.

14 (17) The department may revoke the election provided for in  
15 subsection (16) if it determines that the member or a flow-through  
16 entity is not abiding by the terms of the exemption certificate or  
17 the requirements of subsection (16). If the department does revoke  
18 the election option under subsection (16), the department shall  
19 notify the affected flow-through entity that withholding is  
20 required on the member under subsection (4) or (5), beginning 60  
21 days after notice of revocation is received.

22 (18) Notwithstanding the requirements of subsections (4) and  
23 (5), a flow-through entity is not required to withhold in  
24 accordance with this section for a member that voluntarily elects  
25 to file a return and pay the tax imposed by the Michigan business  
26 tax act under section 680 or section 500 of the Michigan business  
27 tax act, 2007 PA 36, MCL 208.1500.

28 (19) Notwithstanding the withholding requirements of  
29 subsection (3), (4), or (5), a flow-through entity is not required

1 to comply with those withholding requirements to the extent that  
2 the withholding would violate any of the following:

3 (a) Housing assistance payment programs distribution  
4 restrictions under 24 CFR part 880, 881, 883, or 891.

5 (b) Rural housing service return on investment restrictions  
6 under 7 CFR 3560.68 or 3560.305.

7 (c) Articles of incorporation or other document of  
8 organization adopted pursuant to section 83 or 93 of the state  
9 housing development authority act of 1966, 1966 PA 346, MCL  
10 125.1483 and 125.1493.

11 Enacting section 1. This amendatory act does not take effect  
12 unless Senate Bill No. 439 of the 102nd Legislature is enacted into  
13 law.