

SHORT SUMMARY:

The Film Package is a bipartisan, bicameral, 16-bill package. It was mentioned in the governor's State of the State address in late January. The Senate and House Commerce Committees will hold a joint hearing on March 4 to start work on the package.

BACKGROUND:

In her 2008 State of the State address, Governor Granholm framed this package as a commitment by all sides to work together in an "era of unprecedented cooperation." She said, "We agree that we must pass the most robust incentives in the nation to spur the growth of the film industry in Michigan."

According to Stateline, every state but Delaware, Massachusetts, and North Dakota maintain an official film office. Thirty-six states have incentive programs that at one time relied mainly on sales- and use-tax exemptions but are now evolving into more aggressive incentives. Louisiana and New Mexico are the benchmark states.

The film package is about more than just major motion pictures. It's about TV shows, commercials, documentaries, miniseries, video games, Internet programming, music videos and much more. It's about digital entertainment. Technology has opened the door to many new things here just as it has in many other sectors.

The literature is unanimous on the issue of film incentives – the movie business is bottom-line oriented; it is strictly about the credit. Film makers will go wherever they get the largest credit. Maryland lost the venue for the movie "Annapolis," a film about a young man who dreams of attending the U.S. Naval Academy at the last minute to Philadelphia on the day Pennsylvania adopted a sweeter tax break for film companies.

The industry standard is that between 50 and 60 percent of a production's budget is spent locally. According to a Texas Film Commission white paper, location film production uses very few public supported services such as schools, health care, etc. and the economic benefits reach far beyond the people who are hired directly by the company. Film makers working on location depend upon a wide array of services including hotels, restaurants, grocery stores, gas stations, rental car agencies, fabric stores, dry cleaners, office supply stores, furniture rental companies, health clubs, pager/cellular phone suppliers, lumber yards, film processing labs, local utility companies and many others.

According to a January, 2006 Virginia Commonwealth University study, a film production company usually leaves 25 to 35 percent of its budget behind in the community where it

films. For example, a film production with a \$10 million budget has an overall impact of about \$3 million on the local economy.

The VCU study also said that if Virginia enacted an incentive package competitive with their neighbors, the return on investment would be tremendous. The study said that if Virginia distributed \$10 million in incentives, the state would see an economic impact of \$143 million – for every dollar spent the return is \$14.30.

A 2001 U.S. Department of Commerce report estimates that film production and distribution generate more than \$20 billion in economic activity in the United States per year.

CONTENT OF THE FILM PACKAGE:

Request 6641 – MBT Credit (Kahn)

This bill is the centerpiece of the package. It creates a 40% refundable and assignable MBT credit for direct production expenditures. A 2% bonus is given for production in a core community. All credits are given by the Michigan Film Office with the concurrence of the State Treasurer. There is no cap on the number of credits that can be granted per year nor is there any cap on the amount of the credit per project. There is no sunset.

The firm must distribute or exhibit a single media or multimedia entertainment content to the general public in 2 or more states. They must also spend at least \$50,000 for the development, preproduction, production, and postproduction costs on a qualified production. The firm must begin production within 90 days of receiving a pre-production certificate from the Film Office.

Media eligible for the credit include motion pictures, video games, documentaries, Internet programming, TV series, Internet video, TV miniseries, sound recordings, TV specials, video, interactive TV, digital animation, music videos, interactive websites, interactive games, and interstitial TV programming. The bill prohibits credits for pornography, obscene material, TV news casts, sporting events and a few other items.

The bill grandfathers firms who start production between February 29, 2008 and the effective date of the bill so they can qualify for the credit.

The bill makes the information submitted to the Film Office exempt from FOIA and allows the taxpayer to determine what materials are confidential without any concurrence from any government entity. The bill establishes a civil penalty equal to the amount of the credit for willfully submitting information that is known to be fraudulent or false. This is on top of any other penalties provided by law.

All applicants must pay a \$100 application fee and credit recipients must pay a fee equal to ½ of 1 percent of the amount of the credit to the Michigan Film Promotion Fund.

Request 6336 – Income Tax Credit (Garcia)

This bill establishes an income tax credit that parallels the MBT credit. The amount of the credit is calculated using the MBT formula outlined in request 6641 above. The income tax credit is not refundable nor can it be carried forward, assigned or transferred. Recipients of the credit must pay a fee equal to ½ of 1 percent of the amount of the credit to the Michigan Film Promotion Fund.

Request 6340 – MEGA MBT Credit (Gilbert)

This bill adds film and digital media production to the list of businesses eligible for a MEGA credit. To be eligible, the single media or multimedia entertain content must be distributed or exhibited to the general public in 2 or more states. Media eligible for the credit include motion pictures, video games, documentaries, Internet programming, TV series, Internet video, TV miniseries, sound recordings, TV specials, video, interactive TV, digital animation, music videos, interactive websites, interactive games, and interstitial TV programming. The bill prohibits credits for pornography, obscene material, TV news casts, sporting events and a few other items.

Under existing law, once film and digital media companies are eligible for MEGA MBT credits the company would have to create 50 new jobs if they were a Michigan firm and 100 new jobs if they were an out-of-state firm coming to Michigan. If they locate in a rural area – counties with 90,000 people or less – the firm only must create 5 news jobs in the first year and 25 new jobs within 5 years. Currently, the MEGA act caps the number of regular MEGAs at 25 per year. The number of rural MEGAs is also capped at 25 per year.

Request 6334 – MBT Infrastructure Credit (Clarke)

This bill provides a MBT credit for infrastructure investments in film and digital media projects. The firm's investment must be pre-approved and certified by the Michigan Film Office with the concurrence of State Treasurer. Work must begin within 180 days of certification.

The minimum investment is \$250,000. The credit is set at 25% of the base investment. The bill contains claw back provisions and caps the total amount of all credits at \$10 million per year. The credit is not refundable but may be assigned or carried forward for up to 10 years.

All applicants must pay a \$100 application fee and credit recipients must pay a fee equal to ½ of 1 percent of the amount of the credit to the Michigan Film Promotion Fund. The bill makes the information submitted to the Film Office exempt from FOIA and allows the taxpayer to determine what materials are confidential without any concurrence from any government entity. The bill establishes a civil penalty equal to the amount of the credit for willfully submitting information that is known to be fraudulent or false. This is on top of any other penalties provided by law.

Request 6335 – Job Training Expenditure Credits (Birkholz)

This bill creates an on the job training credit for below the line crew. This includes all workers that are part of a production except for producers, directors, writers, actors and other similar personnel. The credit is worth 50% of qualified job training expenditures. It is not refundable but can be carried forward for up to 10 years. The credit expires in September, 2015. All applicants must pay a \$100 application fee and credit recipients must pay a fee equal to ½ of 1 percent of the amount of the credit to the Michigan Film Promotion Fund.

The credit is administered by the Michigan Film Office in concurrence with the State Treasurer. They determine what expenditures are eligible. The bill makes the information submitted to the Film Office exempt from FOIA and allows the taxpayer to determine what materials are confidential without any concurrence from any government

entity. The bill establishes a civil penalty equal to the amount of the credit for willfully submitting information that is known to be fraudulent or false. This is on top of any other penalties provided by law.

Request 6337 – Capital Gain Rollovers (Richardville)

This bill allows a taxpayer to deduct a gain from an investment in a production company if the gain is reinvested in another production company and that company produces a new film within two years. The minimum investment is \$25,000. This is similar to what is allowed for re-investments in competitive edge technologies (Added on passage of the 21st century jobs fund and updated by S.B. 568 which passed the Senate on January 29, 2008).

Request 6341 – Loan Enhancement Program under 21st Century Jobs (Hardiman)

This bill allows a film company to participate in the small business capital access program regardless of the size of the firm.

The bill also establishes a new loan enhancement program within the 21st Century Jobs program to provide loans to film and digital media companies. Loans are approved by the Chief Compliance Officer and the Michigan Film Office not by the MSF Board. (Administration of the capital access program and the other portions of the loan enhancement program are delegated to the MSF Board.)

The bill caps individual loans at \$15 million but does not cap total expenditures. This program will compete for loan enhancement funds against firms using the Choose Michigan fund. The loan enhancement program is eligible for up to \$18.75 million of the \$75 million appropriated for the 21st Century Jobs fund each year.

Request 6338 – Repeal Existing Sales Tax Credit (Barcia)

This bill phases-out the existing sales tax credit starting on February 29, 2008. It is repealed on December 31, 2009.

Request 6712 – Information Disclosure (Olshove)

This bill allows a person to disclose information that normally would not be permitted with regard to the administration of taxes or credits if it is required for the administration of the film sales tax credit (current film incentive that is being phased-out) or the 40% MBT credit authorized by the Kahn bill.

Request 6342 – Transfer Film Office to MSF (Allen)

This bill moves the Michigan Film Office to the Michigan Strategic Fund (MSF). The Film Office is independent of the Fund and headed by the film commissioner who must be a classified civil servant. The governor is the appointing authority of the commissioner.

The MSF – aka MEDC – is required to assist the Film Office with budget, procurement and other office functions if asked and must provide staff assistance subject to appropriation. The Film Office is financed with \$2 million from the original 21st Century Jobs fund appropriation, application fees and credit fees.

The bill establishes an advisory film council with 2 members appointed from lists provided by the Senate Majority Leader and Speaker of the House. The council is advisory only.

The bill repeals existing law in the History, Arts and Libraries Act regarding the Film Office.

Request 6345 – Film Office Clean-up (Stamas)

This bill cleans up the History, Arts and Libraries Act given the move of the Film Office to the MSF.

Cost Free Use of State and Local Property

The package contains 5 bills that allow the cost-free use of state and local property. These include:

Request 6350 (Patterson) – Michigan Department of Transportation

Request 6348 (Cropsey) – Department of Military Affairs

Request 6349 (Pappageorge) – Department of Natural Resources

Request 6347 (Hunter) – Department of Management and Budget

Request 6351 (Jansen) – Creates a new act that permits a local unit of government to authorize the use of their property without charge. It encourages local units to cooperate with the Michigan Film Office by providing the office with information about potential film locations.

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HIGHLIGHTS

16-bill bipartisan, bicameral package.

Intended to be the most aggressive incentive package in the country.

Creates 6 types of incentives.

Moves the Film Office from HAL to the MSF.

Phases-out the existing sales tax credit.

Allows for the free use of state property for film shoots.

Covers more than Hollywood-type motion pictures. Includes things like commercials, TV shows, miniseries, video games, Internet programs, etc.

Issue:	Film Package
Analyst:	FILLIN Analyst * MERGEFORMAT Jamie Clover Adams
Date:	3 March 2008