

HOUSE BILL No. 5878

October 1, 2014, Introduced by Rep. Walsh and referred to the Committee on Commerce.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

(d) For state certified qualified production expenditures after ~~September 30, 2011,~~ **DECEMBER 31, 2014**, an agreement under this section shall provide for funding equal to the sum of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (E) ~~(g)~~ A television show may submit an application for no
20 more than 2 successive seasons, notwithstanding the fact that the
21 successive seasons have not been ordered. The successive season's
22 direct production expenditure, Michigan **QUALIFIED** personnel
23 expenditure, **AND** nonresident above the line personnel expenditure ~~7~~
24 ~~and nonresident below the line crew expenditure amounts shall be~~
25 based on the current season's estimated expenditures. Upon the
26 completion of production of each season, a television show may
27 submit an application for no more than 1 additional season.

1 (F) ~~(h)~~—As a separate and distinct part of the film and
2 digital media production assistance program, the office may create
3 a program to directly support and promote qualified facilities and
4 other infrastructure throughout this state.

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

8 (4) An eligible production company intending to produce a
9 qualified production in this state may submit an application for
10 funding under this section to the Michigan film office. The request
11 shall be submitted in a form prescribed by the office and shall be
12 accompanied by an application fee equal to 0.2% of the funding
13 requested but not less than \$200.00 and not more than \$5,000.00 and
14 all of the information and records requested by the office. An
15 application fee received by the office under this subsection shall
16 be deposited in the Michigan film promotion fund. The office shall
17 not process the application until it is complete. The office shall
18 process each application within 21 days after the application is
19 complete as determined by the office. As part of the application,
20 the company shall estimate direct production expenditures ~~7~~
21 ~~Michigan personnel expenditures, crew personnel expenditures, and~~
22 qualified personnel expenditures for an identified qualified
23 production. If the office determines to award funding under this
24 section to an eligible production company, the office with the
25 concurrence of the fund president shall enter into an agreement
26 under this section. The agreement shall include, but is not limited
27 to, all of the following:

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

7 (b) A statement identifying the company and the qualified
8 production that the company intends to produce in whole or in part
9 in this state.

10 (c) A unique number assigned to the qualified production by
11 the office.

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

14 (e) If the qualified production is a long-form narrative film
15 production, a requirement that the qualified production include
16 within its presentation worldwide for the life of the qualified
17 production an acknowledgment as provided by the office that
18 promotes the pure Michigan tourism campaign or any successor
19 campaign. If the qualified production is a television show, a
20 requirement that the qualified production include within each
21 broadcast of 30 minutes or longer an acknowledgment as provided by
22 the office that promotes the pure Michigan tourism campaign or any
23 successor campaign. If the qualified production is a music video, a
24 requirement that the music video include an acknowledgment as
25 provided by the office that promotes the pure Michigan tourism
26 campaign or any successor campaign. If the qualified production is
27 an interactive game, a requirement that the qualified production

1 include with each unit distributed and online promotions an
2 acknowledgment as provided by the office that promotes the pure
3 Michigan tourism campaign or any successor campaign. If the
4 qualified production is a long-form narrative film production, the
5 office also may require that, if the qualified production is
6 distributed by digital video disc or other digital media for the
7 secondary market, the qualified production include a video between
8 30 and 60 seconds long in a form approved by the office that
9 promotes the pure Michigan tourism campaign or any successor
10 campaign.

11 (f) A requirement that the company provide the office with the
12 information and independent certification the office deems
13 necessary to verify direct production expenditures, ~~Michigan~~
14 ~~personnel expenditures, crew personnel expenditures, AND~~ qualified
15 personnel expenditures, and eligibility for funding under this
16 section, which may include a report of direct production
17 expenditures, ~~Michigan personnel expenditures, crew personnel~~
18 ~~expenditures,~~ and qualified personnel expenditures for the
19 qualified production audited and certified by an independent
20 certified public accountant.

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

24 (5) In determining whether to award funding under this
25 section, the Michigan film office shall consider all of the
26 following:

27 (a) The potential that, in the absence of funding, the

1 qualified production will be produced in a location other than this
2 state.

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

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

8 (d) The extent to which state funding will attract private
9 investment for the production of qualified productions in this
10 state.

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

13 (f) The extent to which the qualified production will employ
14 Michigan residents.

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

25 (7) Information, records, or other data received, prepared,
26 used, or retained by the Michigan film office under this section
27 that are submitted by an eligible production company and considered

1 by the applicant and acknowledged by the office as confidential
2 shall not be subject to the disclosure requirements of the freedom
3 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
4 records, or other data shall only be considered confidential to the
5 extent that the information or records describe the commercial and
6 financial operations or intellectual property of the company, the
7 information or records have not been publicly disseminated at any
8 time, and disclosure of the information or records may put the
9 company at a competitive disadvantage. For purposes of this
10 subsection, information or records that describe commercial and
11 financial operations do not include that portion of information or
12 records that include any expenses that qualify under this section
13 as direct production expenditures or **QUALIFIED** personnel
14 expenditures.

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

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

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

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

27 (d) Any other measures considered relevant by the office or

1 the Michigan film advisory council.

2 (e) The name of each eligible production company and the
3 amount of each incentive dispersed for each state certified
4 qualified production.

5 ~~_____ (9) The Michigan film office shall not award funding after~~
6 ~~September 30, 2017.~~

7 (9) EXPENDITURES FOR ABOVE THE LINE PERSONNEL SHALL NOT EXCEED
8 25% OF THE TOTAL OF DIRECT EXPENDITURES AND QUALIFIED PERSONNEL
9 EXPENDITURES. EXPENDITURES FOR BELOW THE LINE PERSONNEL SHALL NOT
10 EXCEED 50% OF THE TOTAL OF DIRECT EXPENDITURES AND QUALIFIED
11 PERSONNEL EXPENDITURES. DIRECT EXPENDITURES SHALL NOT EXCEED 25% OF
12 THE TOTAL OF DIRECT EXPENDITURES AND QUALIFIED PERSONNEL
13 EXPENDITURES.

14 (10) The legislature finds and declares that funding
15 authorized under this section to encourage diversification of the
16 economy, to encourage film production, to encourage investment, and
17 to encourage the creation of jobs in this state is a public purpose
18 and of paramount concern in the interest of the health, safety, and
19 general welfare of the citizens of this state. It is the intent of
20 the legislature that the economic benefits, film production,
21 investment, and the creation of jobs resulting from this section
22 shall accrue substantially within this state.

23 (11) The fund board may authorize the use of money
24 appropriated for the program authorized by this section for
25 administration of the program. However, the fund board shall not
26 use more than 4% of the annual appropriation for administering the
27 program authorized under this section.

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

8 **(13) PERSONAL SERVICES CORPORATIONS OR PROFESSIONAL EMPLOYER**
9 **ORGANIZATIONS FOR THE SERVICES OF ABOVE THE LINE PERSONNEL**
10 **RECEIVING PAYMENTS QUALIFYING FOR FUNDING UNDER THIS SECTION SHALL**
11 **BE ORGANIZED UNDER MICHIGAN LAW.**

12 **(14)** ~~(13)~~ As used in this section:

13 (a) "Above the line personnel" means a producer, director,
14 writer, actor, other than extras, or other similar personnel whose
15 compensation is negotiated prior to the start of the production.

16 (b) "Below the line crew" means persons employed by an
17 eligible production company for state certified qualified
18 production expenditures made after production begins and before
19 production is completed, including, but not limited to, a best boy,
20 boom operator, camera loader, camera operator, assistant camera
21 operator, compositor, dialogue editor, film editor, assistant film
22 editor, focus puller, Foley operator, Foley editor, gaffer, grip,
23 key grip, lighting crew, lighting board operator, lighting
24 technician, music editor, sound editor, sound effects editor, sound
25 mixer, steadicam operator, first assistant camera operator, second
26 assistant camera operator, digital imaging technician, camera
27 operator working with a director of photography, electric best boy,

1 grip best boy, dolly grip, rigging grip, assistant key for makeup,
2 assistant key for hair, assistant script supervisor, set
3 construction foreperson, lead set dresser, assistant key for
4 wardrobe, scenic foreperson, assistant propmaster, assistant audio
5 mixer, assistant boom person, assistant key for special effects,
6 **STUNT PEOPLE**, and other similar personnel. Below the line crew does
7 not include a producer, director, writer, actor, or other similar
8 personnel.

9 ~~—— (c) "Crew personnel expenditure" means an expenditure made in~~
10 ~~this state directly attributable to the production or development~~
11 ~~of a qualified production that is a transaction subject to taxation~~
12 ~~in this state and is a payment or compensation for nonresident~~
13 ~~below the line crew, talent, management, or labor, not to exceed~~
14 ~~\$2,000,000.00 for any 1 employee or contractual or salaried~~
15 ~~employee of a qualified production, including both of the~~
16 ~~following:~~

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

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

1 ~~tax act of 1967, 1967 PA 281, MCL 206.351 and 206.703.~~

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

27 (i) Production work, production equipment, production software,

1 development work, postproduction work, postproduction equipment,
2 postproduction software, set design, set construction, set
3 operations, props, lighting, wardrobe, makeup, makeup accessories,
4 photography, sound synchronization, special effects, visual
5 effects, audio effects, digital effects, film processing, music,
6 sound mixing, editing, interactive game development and
7 programming, and related services and materials.

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

10 (iii) Catering, food, lodging, and related services and
11 materials.

12 (iv) Use of vehicles, which may include chartered aircraft
13 based in this state used for transportation in this state directly
14 attributable to production of a qualified production, but may not
15 include the chartering of aircraft for transportation outside of
16 this state.

17 (v) Commercial airfare if purchased through a travel agency or
18 travel company based in this state for travel to this state or
19 within this state directly attributable to production or
20 development of a qualified production.

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

23 (vii) Interest on a loan, if the entity from which the
24 financing is obtained is a public, private, or institutional entity
25 with the requisite level of physical presence in this state that is
26 not related to or affiliated with the eligible production company
27 or any above the line personnel or cast members, and whose

1 principal business activity is the lending of money to individuals
2 and businesses. In addition, the financing shall be a good faith
3 loan, payable by the eligible production company, evidenced by an
4 enforceable promissory note or other debt instrument with clear
5 repayment obligations and bearing a market-related rate of
6 interest.

7 (viii) Other expenditures for production of a qualified
8 production in accordance with generally accepted entertainment
9 industry practices.

10 (D) ~~(e)~~—"Eligible production company" or "company" means an
11 entity in the business of producing qualified productions or for
12 interactive games in the business of developing interactive games,
13 but does not include an entity that is more than 30% owned,
14 affiliated, or controlled by an entity or individual who is in
15 default on a loan made by this state, a loan guaranteed by this
16 state, or a loan made or guaranteed by any other state. For an
17 interactive game, an eligible production company need not possess
18 ownership of or legal control over all of the intellectual property
19 rights or other rights necessary to complete the qualified
20 production in its entirety nor be the same entity that distributes
21 or publishes the interactive game.

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

24 (i) Tangible personal property and services acquired by the
25 eligible production company from a source within this state. If an
26 item of tangible personal property is not available from a source
27 within this state and a vendor with the requisite physical presence

1 in this state that regularly sells or leases property of that kind
2 obtains the property from an out-of-state vendor and sells or
3 leases it to an eligible production company, that expenditure is
4 considered made in this state and is a direct production
5 expenditure and not an out-of-state production cost.

6 (ii) Services wholly performed within this state.

7 ~~—— (g) "Michigan personnel expenditure" means an expenditure made~~
8 ~~in this state directly attributable to the production or~~
9 ~~development of a qualified production that is a transaction subject~~
10 ~~to taxation in this state and is a payment or compensation payable~~
11 ~~to below the line crew for below the line crew members who are~~
12 ~~residents of this state and above the line personnel for above the~~
13 ~~line personnel who are residents of this state, not to exceed~~
14 ~~\$2,000,000.00 for any 1 employee or contractual or salaried~~
15 ~~employee who performs service in this state for the production of a~~
16 ~~qualified production, including both of the following:~~

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

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

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

3 **(G)** ~~(i)~~—"Postproduction expenditure" means a direct
4 expenditure for editing, Foley recording, automatic dialogue
5 replacement, sound editing, special or visual effects including
6 computer-generated imagery or other effects, scoring and music
7 editing, beginning and end credits, negative cutting, soundtrack
8 production, dubbing, subtitling, or addition of sound or visual
9 effects. Postproduction expenditure includes direct expenditures
10 for advertising, marketing, or related expenses.

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

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

16 (ii) Includes at least 8 work stations.

17 (iii) Has been a qualified film and digital media infrastructure
18 project from which an investment expenditure certificate was issued
19 under section 457 of the Michigan business tax act, 2007 PA 36, MCL
20 208.1457, or has been the location of a state certified qualified
21 production for which a postproduction certificate of completion was
22 issued under section 455 of the Michigan business tax act, 2007 PA
23 36, MCL 208.1455, or both.

24 **(I)** ~~(k)~~—"Producer" means an individual without regard to his
25 or her actual title or screen credit involved in or responsible for
26 any of the following:

27 (i) Funding for financing in whole or in part, or arranging for

1 the funding, or financing, of the qualified production.

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

4 (iii) Hiring above the line personnel.

5 (iv) Supervising the overall production of the qualified
6 production.

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

8 (J) ~~(I)~~ "Qualified facility" means a permanent facility within
9 this state equipped for the production of motion pictures,
10 television shows, or digital media production that meets all of the
11 following requirements:

12 (i) Includes more than 1 soundstage.

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

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

18 (iv) Has been a qualified film and digital media infrastructure
19 project for which an investment expenditure certificate was issued
20 under section 457 of the Michigan business tax act, 2007 PA 36, MCL
21 208.1457, or has been the location of a state certified qualified
22 production for which a postproduction certificate of completion was
23 issued under section 455 of the Michigan business tax act, 2007 PA
24 36, MCL 208.1455, or both.

25 (K) ~~(m)~~ "Qualified personnel expenditure" means an expenditure
26 made in this state directly attributable to the production or
27 development of a qualified production that is a transaction,

1 **INCLUDING PER DIEM AND LODGING**, subject to taxation in this state
 2 and is a payment or compensation for ~~nonresident above the line~~
 3 personnel, talent, management, or labor, ~~not to exceed~~
 4 ~~\$2,000,000.00 for any 1 employee or contractual or salaried~~
 5 ~~employee of a qualified production~~, including both of the
 6 following:

7 (i) Payment of wages, benefits, or fees for talent, management,
 8 or labor.

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

19 (I) ~~(n)~~ "State certified qualified production" or "qualified
 20 production" means single media or multimedia entertainment content
 21 created in whole or in part in this state for distribution or
 22 exhibition to the general public in 2 or more states by any means
 23 and media in any digital media format, film, or video tape,
 24 including, but not limited to, a motion picture, a documentary, a
 25 television series, a television miniseries, a television special,
 26 interstitial television programming, long-form television,
 27 interactive television, music videos, interactive games such as

1 video games or wireless games, including console, computer, mobile,
2 and online games, internet programming, an internet video, a sound
3 recording, a video, digital animation, or an interactive website.

4 Qualified production also includes any trailer, pilot, video
5 teaser, or demo created primarily to stimulate the sale, marketing,
6 promotion, or exploitation of future investment in a production.

7 Qualified production does not include any of the following:

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

11 (ii) A production that includes obscene matter or an obscene
12 performance.

13 (iii) A production that primarily consists of televised news or
14 current events.

15 (iv) A production that primarily consists of a live sporting
16 event.

17 (v) A production that primarily consists of political
18 advertising.

19 (vi) A radio program.

20 (vii) A weather show.

21 (viii) A financial market report.

22 (ix) An awards show or other gala event production.

23 (x) A production with the primary purpose of fund-raising.

24 (xi) A production that primarily is for employee training or
25 in-house corporate advertising or other similar production.

26 (xii) A commercial.