

SENATE BILL No. 94

January 25, 2007, Introduced by Senator CASSIS and referred to the Committee on Finance.

A bill to provide for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; and to provide for the interrelation of this act with other acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

1
2 Sec. 1. This act shall be known and may be cited as the
3 "business and economic stimulus tax act".

4 Sec. 2. A term used in this act and not defined differently

1 shall have the same meaning as when used in comparable context in
2 the laws of the United States relating to federal income taxes in
3 effect for the tax year unless a different meaning is clearly
4 required. A reference in this act to the internal revenue code
5 includes other provisions of the laws of the United States relating
6 to federal income taxes.

7 Sec. 3. (1) "Affiliated group" means 2 or more United States
8 corporations, 1 of which owns or controls, directly or indirectly,
9 80% or more of the capital stock or other ownership interest with
10 voting rights of the other United States corporation or United
11 States corporations. As used in this subsection, "United States
12 corporation" means a domestic corporation as that term is defined
13 in section 7701(a) (3) and (4) of the internal revenue code.

14 (2) "Assets" means the total value of assets at the beginning
15 of the tax year as determined under subdivision (a), not including
16 inventory, or for a financial organization or a mortgage company as
17 defined in section 45, the average value of property owned or
18 rented by the taxpayer as determined under subdivision (b):

19 (a) The total asset value of the taxpayer is the value of
20 assets that is required to be reported for federal income tax
21 purposes or the value that would be required to be reported if the
22 reporting of those assets were required. As used in this
23 subdivision, "assets" includes the following subparagraphs (i)
24 through (ix) and excludes subparagraphs (x) through (xii):

- 25 (i) Cash and cash equivalents.
26 (ii) Trade notes and accounts receivable.
27 (iii) Loans to shareholders or officers.

1 (iv) Mortgage and real estate loans.

2 (v) Other investments.

3 (vi) Buildings and other depreciable assets less accumulated
4 depreciation.

5 (vii) Depletable assets less accumulated depreciation.

6 (viii) Land, net of amortization.

7 (ix) Amortizable intangible assets, less accumulated
8 amortization.

9 (x) Other items determined to be assets according to generally
10 accepted accounting principles.

11 (xi) United States treasury securities or other United States
12 government obligations exempted from state taxation under federal
13 law.

14 (xii) Tax-exempt obligations.

15 (xiii) Goodwill.

16 (b) Property owned by the taxpayer is valued at its original
17 cost. Property rented by the taxpayer is valued at 7 times the net
18 annual rental rate. Net annual rental rate is the average annual
19 rental rate paid by the taxpayer over the immediately preceding 3
20 years less any annual rental rate received by the taxpayer from
21 subrentals over the immediately preceding 3 years. The average
22 value of property is determined by averaging the values at the
23 beginning and ending of the tax year.

24 (3) "Business activity" means a transfer of legal or equitable
25 title to or rental of property, whether real, personal, or mixed,
26 tangible or intangible, or the performance of services, or a
27 combination thereof, made or engaged in, or caused to be made or

1 engaged in, whether in intrastate, interstate, or foreign commerce,
2 with the object of gain, benefit, or advantage, whether direct or
3 indirect, to the taxpayer or to others, but does not include the
4 services rendered by an employee to his or her employer, services
5 as a director of a corporation, or a casual transaction. Although
6 an activity of a taxpayer may be incidental to another or others of
7 his or her business activities, each activity shall be considered
8 to be business engaged in within the meaning of this act.

9 (4) "Business income" means that part of federal taxable
10 income derived from business activity. For a partnership or
11 subchapter S corporation, business income includes payments and
12 items of income and expense that are attributable to business
13 activity of the partnership or subchapter S corporation and
14 separately reported to the partners or shareholders.

15 Sec. 4. (1) "Casual transaction" means a transaction made or
16 engaged in other than in the ordinary course of repeated and
17 successive transactions of a like character, except that a
18 transaction made or engaged in by a person that is incidental to
19 that person's regular business activity is a business activity
20 within the meaning of this act.

21 (2) "Compensation" means all wages, salaries, fees, bonuses,
22 commissions, or other payments made in the tax year on behalf of or
23 for the benefit of employees, officers, or directors of the
24 taxpayers. Compensation includes, but is not limited to, payments
25 that are subject to or specifically exempt or excepted from
26 withholding under sections 3401 to 3406 of the internal revenue
27 code. Compensation also includes, on a cash or accrual basis

1 consistent with the taxpayer's method of accounting for federal
2 income tax purposes, payments to individuals not currently working,
3 payments to dependents and heirs of individuals based on current or
4 previous labor services rendered by those individuals, payments to
5 a pension, retirement, or profit sharing plan, and payments for
6 insurance for which employees are the beneficiaries, including
7 payments under health and welfare and noninsured benefit plans and
8 payment of fees for the administration of health and welfare and
9 noninsured benefit plans. Compensation does not include any of the
10 following:

11 (a) Discounts on the price of the taxpayer's merchandise or
12 services sold to the taxpayer's employees, officers, or directors
13 that are not available to other customers.

14 (b) Payments to an independent contractor.

15 (c) Payments to state and federal unemployment compensation
16 funds.

17 (d) The employer's portion of payments under the federal
18 insurance contributions act, chapter 21 of subtitle C of the
19 internal revenue code, 26 USC 3101 to 3128, the railroad retirement
20 tax act, chapter 22 of subtitle C of the internal revenue code, 26
21 USC 3201 to 3241, and similar social insurance programs.

22 (e) Payments, including self-insurance payments, for worker's
23 compensation insurance or federal employers' liability act
24 insurance pursuant to 45 USC 51 to 60.

25 (f) Payments under health and welfare and noninsured benefit
26 plans for the benefit of persons who are residents of this state
27 and payments of fees for the administration of health and welfare

1 and noninsured benefit plans for the benefit of persons who are
2 residents of this state.

3 (3) "Corporation" means a person that is a corporation under
4 the internal revenue code.

5 (4) "Department" means the department of treasury.

6 (5) "Detroit consumer price index" means the most
7 comprehensive index of consumer prices available for the Detroit
8 area from the United States department of labor, bureau of labor
9 statistics.

10 Sec. 5. (1) "Employee" means an employee as defined in section
11 3401(c) of the internal revenue code. A person from whom an
12 employer is required to withhold for federal income tax purposes is
13 prima facie considered an employee.

14 (2) "Employer" means an employer as defined in section 3401(d)
15 of the internal revenue code. A person required to withhold for
16 federal income tax purposes is prima facie considered an employer.

17 (3) "Federal taxable income" means taxable income as defined
18 in section 63 of the internal revenue code.

19 (4) "Financial organization" means a bank, industrial bank,
20 trust company, building and loan or savings and loan association,
21 bank holding company as defined in 12 USC 1841, credit union,
22 safety and collateral deposit company, regulated investment company
23 as defined in the internal revenue code, or any other association,
24 joint stock company, or corporation at least 90% of whose assets
25 consist of intangible personal property and at least 90% of whose
26 gross receipts consist of dividends or interest or other charges
27 resulting from the use of money or credit.

1 (5) "Foreign person" means either of the following:

2 (a) An individual who is not a United States resident, whether
3 or not the individual is subject to taxation under the internal
4 revenue code.

5 (b) A person formed under the laws of a foreign country or a
6 political subdivision of a foreign country, whether or not the
7 person is subject to taxation under the internal revenue code.

8 (6) "Franchise tax base" means the taxpayer's assets less
9 liabilities.

10 Sec. 6. (1) "Gross receipts" means the entire amount received
11 by the taxpayer from any activity whether in intrastate,
12 interstate, or foreign commerce carried on for direct or indirect
13 gain, benefit, or advantage to the taxpayer or to others except for
14 the following:

15 (a) Proceeds from sales by a principal that the taxpayer
16 collects in an agency capacity solely on behalf of the principal
17 and delivers to the principal.

18 (b) Amounts received by the taxpayer as an agent solely on
19 behalf of the principal that are expended by the taxpayer for any
20 of the following:

21 (i) The performance of a service by a third party for the
22 benefit of the principal that is required by law to be performed by
23 a licensed person.

24 (ii) The performance of a service by a third party for the
25 benefit of the principal that the taxpayer has not undertaken a
26 contractual duty to perform.

27 (iii) Principal and interest under a mortgage loan or land

1 contract, lease or rental payments, or taxes, utilities, or
2 insurance premiums relating to real or personal property owned or
3 leased by the principal.

4 (iv) A capital asset of a type that is, or under the internal
5 revenue code will become, eligible for depreciation, amortization,
6 or accelerated cost recovery by the principal for federal income
7 tax purposes, or for real property owned or leased by the
8 principal.

9 (v) Property not described under subparagraph (iv) that is
10 purchased by the taxpayer on behalf of the principal and that the
11 taxpayer does not take title to or use in the course of performing
12 its contractual business activities.

13 (vi) Fees, taxes, assessments, levies, fines, penalties, or
14 other payments established by law that are paid to a governmental
15 entity and that are the legal obligation of the principal.

16 (c) Amounts that are excluded from gross income of a foreign
17 corporation engaged in the international operation of aircraft
18 under section 883(a) of the internal revenue code.

19 (d) Amounts received by an advertising agency used to acquire
20 advertising media time, space, production, or talent on behalf of
21 another person.

22 (e) Notwithstanding any other provision of this section,
23 amounts received by a taxpayer that manages real property owned by
24 the taxpayer's client that are deposited into a separate account
25 kept in the name of the taxpayer's client and that are not
26 reimbursements to the taxpayer and are not indirect payments for
27 management services that the taxpayer provides to that client.

1 (f) Proceeds from the taxpayer's transfer of an account
2 receivable if the sale that generated the account receivable was
3 included in gross receipts for federal income tax purposes. This
4 subdivision does not apply to a taxpayer that during the tax year
5 both buys and sells any receivables.

6 (g) Proceeds from any of the following:

7 (i) The original issue of stock or equity instruments.

8 (ii) The original issue of debt instruments.

9 (h) Refunds from returned merchandise.

10 (i) Cash and in-kind discounts.

11 (j) Trade discounts.

12 (k) Federal, state, or local tax refunds.

13 (l) Security deposits.

14 (m) Payment of the principal portion of loans.

15 (n) Value of property received in a like-kind exchange.

16 (o) Proceeds from a sale, transaction, exchange, involuntary
17 conversion, or other disposition of tangible, intangible, or real
18 property that is a capital asset as defined in section 1221(a) of
19 the internal revenue code or land that qualifies as property used
20 in the trade or business as defined in section 1231(b) of the
21 internal revenue code, less any gain from the disposition to the
22 extent that gain is included in federal taxable income.

23 (p) The proceeds from a policy of insurance, a settlement of a
24 claim, or a judgment in a civil action less any proceeds under this
25 subdivision that are included in federal taxable income.

26 (q) For a financial organization, gross proceeds do not
27 include any cost of funds or interest expense.

1 (2) "Gross receipts tax base" means, except for a foreign
2 person, the taxpayer's gross receipts less purchases from other
3 firms before apportionment under this act. For a foreign person,
4 gross receipts tax base is determined under section 12.

5 (3) "Insurance company" means an authorized insurer as defined
6 in section 106 of the insurance code of 1956, 1956 PA 218, MCL
7 500.106.

8 (4) "Internal revenue code" means the United States internal
9 revenue code of 1986 in effect on January 1, 2008 or, at the option
10 of the taxpayer, in effect for the tax year.

11 (5) "Inventory" means, except as provided in subdivision (d),
12 all of the following:

13 (a) The stock of goods held for resale in the regular course
14 of trade of a retail or wholesale business.

15 (b) Finished goods, goods in process, and raw materials of a
16 manufacturing business.

17 (c) Materials and supplies, including repair parts and fuel.

18 (d) Inventory does not include any of the following:

19 (i) Personal property under lease or principally intended for
20 lease rather than sale.

21 (ii) Property allowed a deduction or allowance for depreciation
22 or depletion under the internal revenue code.

23 (iii) Purchases from other firms.

24 (6) "Liabilities" means the total value of liabilities that are
25 required to be reported for federal income tax purposes or the value
26 that would be required to be reported if the reporting of those
27 liabilities were required. As used in this subsection, liabilities

1 include, but are not limited to, all of the following:

2 (a) Accounts payable.

3 (b) Notes payable.

4 (c) Dividends payable.

5 (d) Unearned revenues or advances.

6 (e) Refundable deposits.

7 (f) Accrued liabilities.

8 (g) Taxes payable.

9 (h) Bonus payments.

10 (i) Sales incentives.

11 (j) Environmental remediation liabilities.

12 (k) Bonds payable.

13 (l) Debt issued with stock warrants.

14 (m) Accrued pension costs.

15 (n) Capital lease obligations.

16 (o) Deferred income taxes.

17 (p) Other items determined to be liabilities according to
18 generally accepted accounting principles.

19 (7) "Nonbusiness income" means all income from casual
20 transactions and all income other than business income.

21 (8) "Officer" means an officer of a corporation other than a
22 subchapter S corporation, including all of the following:

23 (a) The chairperson of the board.

24 (b) The president, vice president, secretary, or treasurer of
25 the corporation or board.

1 (c) Persons performing similar duties to persons described in
2 subdivisions (a) and (b).

3 Sec. 7. (1) "Partner" means a partner or member of a
4 partnership.

5 (2) "Partnership" means a person that is a partnership for
6 federal income tax purposes.

7 (3) "Person" means an individual, firm, bank, financial
8 institution, limited partnership, limited liability partnership,
9 copartnership, partnership, joint venture, association,
10 corporation, subchapter S corporation, limited liability company,
11 receiver, estate, trust, or any other group or combination of
12 groups acting as a unit.

13 (4) "Purchases from other firms" means all of the following:

14 (a) Inventory.

15 (b) Assets of a type that are, or under the internal revenue code
16 will become, eligible for depreciation, amortization, or accelerated
17 capital cost recovery for federal income tax purposes.

18 (5) "Rent" includes a lease payment or other payment for the
19 use of any property to which the taxpayer does not have legal or
20 equitable title.

21 (6) "Revenue mile" means the transportation for a
22 consideration of 1 net ton in weight or 1 passenger the distance of
23 1 mile.

24 Sec. 8. (1) "Sale" or "sales" means the amounts received by
25 the taxpayer as consideration from the following:

26 (a) The transfer of title to, or possession of, property that
27 is stock in trade or other property of a kind that would properly

1 be included in the inventory of the taxpayer if on hand at the
2 close of the tax period or property held by the taxpayer primarily
3 for sale to customers in the ordinary course of the taxpayer's
4 trade or business.

5 (b) The performance of services that constitute business
6 activities other than those included in subdivision (a), or any
7 combination of business activities described in this subdivision
8 and subdivision (a).

9 (c) The rental, lease, licensing, or use of tangible or
10 intangible property that constitutes business activity.

11 (d) Sale or sales do not include dividends, interest, and
12 royalties except to the extent earned in the ordinary course of
13 business activity.

14 (2) "State" means any state of the United States, the District
15 of Columbia, the Commonwealth of Puerto Rico, any territory or
16 possession of the United States, and any foreign country, or a
17 political subdivision of any of the foregoing.

18 (3) "Subchapter S corporation" means a corporation electing
19 taxation under subchapter S or chapter 1 of subtitle A of the
20 internal revenue code, sections 1361 to 1379 of the internal
21 revenue code.

22 Sec. 9. (1) "Tax" means the tax imposed under this act,
23 including interest and penalties under this act, unless the term is
24 given a more limited meaning in the context of this act or a
25 provision of this act.

26 (2) Except as otherwise provided under this act, "tax base"
27 means the sum of the gross receipts tax base and the franchise tax

1 base, as allocated by the taxpayer under section 13.

2 (3) "Tax year" means the calendar year, or the fiscal year
3 ending during the calendar year, upon the basis of which the tax
4 base of a taxpayer is computed under this act. If a return is made
5 for a fractional part of a year, tax year means the period for
6 which the return is made. Except for the first return required by
7 this act, a taxpayer's tax year is for the same period as is
8 covered by its federal income tax return. A person that has a 52-
9 or 53-week tax year beginning not more than 7 days before December
10 31 of any year is considered to have a tax year beginning after
11 December of that tax year.

12 (4) "Taxpayer" means a person liable for a tax, interest, or
13 penalty under this act.

14 (5) "Unrelated business activity" means any business activity
15 that gives rise to unrelated taxable income as defined in the
16 internal revenue code.

17 CHAPTER 2

18 Sec. 10. (1) Except as otherwise provided in this act, there
19 is levied and imposed a specific tax at a rate determined
20 unanimously by the department, in cooperation with the house and
21 senate fiscal agencies, to produce, in conjunction with the revenue
22 received under the business income tax act, an amount equal to
23 \$1,510,000,000.00 on the tax base of every person with business
24 activity within this state adjusted for the exemptions provided in
25 section 11 allocated or apportioned to this state.

26 (2) The tax levied and imposed under this section is upon the
27 privilege of doing business and not upon income or property.

1 (3) During December 2009, and during each subsequent December,
2 the department shall determine the total amount of revenue
3 collected pursuant to this act and the business income tax act for
4 the state fiscal year ending on the immediately preceding September
5 30. If the revenue amount determined under this subsection exceeds
6 \$1,510,000,000.00 by an amount equal to the growth in the Detroit
7 consumer price index plus 1%, then the rate established under this
8 section shall be reduced to a rate for the current tax year
9 determined by the department, in cooperation with the house and
10 senate fiscal agencies, to produce, in conjunction with the rate
11 applied under the business income tax act, an amount equal to
12 \$1,510,000,000.00.

13 Sec. 11. (1) The following are exempt from the tax imposed by
14 this act:

15 (a) The United States, this state, other states, and the
16 agencies, political subdivisions, and enterprises of the United
17 States, this state, and other states.

18 (b) A person who is exempt from federal income tax under the
19 internal revenue code, and a partnership, limited liability
20 company, joint venture, general partnership, limited partnership,
21 unincorporated association, or other group or combination of
22 entities acting as a unit if the activities of the entity are
23 exclusively related to the charitable, educational, or other
24 purpose or function that is the basis for the exemption under the
25 internal revenue code from federal income taxation of the partners
26 or members and if all of the partners or members of the entity are
27 exempt from federal income tax under the internal revenue code,

1 except the following:

2 (i) An organization included under section 501(c)(12) or
3 501(c)(16) of the internal revenue code.

4 (ii) An organization exempt under section 501(c)(4) of the
5 internal revenue code that would be exempt under section 501(c)(12)
6 of the internal revenue code except that it failed to meet the
7 requirements in section 501(c)(12) that 85% or more of its income
8 consist of amounts collected from members.

9 (iii) The adjusted tax base attributable to the activities
10 giving rise to the unrelated taxable business income of an exempt
11 person.

12 (c) A nonprofit cooperative housing corporation. As used in
13 this subdivision, "nonprofit cooperative housing corporation" means
14 a cooperative housing corporation that is engaged in providing
15 housing services to its stockholders and members and that does not
16 pay dividends or interest on stock or membership investment but
17 that does distribute all earnings to its stockholders or members.
18 The exemption under this subdivision does not apply to a business
19 activity of a nonprofit cooperative housing corporation other than
20 providing housing services to its stockholders and members.

21 (d) That portion of the tax base attributable to the
22 production of agricultural goods by a person whose primary activity
23 is the production of agricultural goods. "Production of
24 agricultural goods" means commercial farming, including, but not
25 limited to, cultivation of the soil; growing and harvesting of an
26 agricultural, horticultural, or floricultural commodity; dairying;
27 raising of livestock, bees, fish, fur-bearing animals, or poultry;

1 or turf or tree farming, but does not include the marketing at
2 retail of agricultural goods except for sales of nursery stock
3 grown by the seller and sold to a nursery dealer licensed under
4 section 9 of the insect pest and plant disease act, 1931 PA 189,
5 MCL 286.209.

6 (e) Except as provided in subsection (2), a farmers'
7 cooperative corporation organized within the limitations of section
8 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under
9 subdivision (c) because the corporation was exempt from federal
10 income taxes under section 521 of the internal revenue code and
11 that would continue to be exempt under section 521 of the internal
12 revenue code except for either of the following activities:

13 (i) The corporation's repurchase from nonproducer customers of
14 portions or components of commodities the corporation markets to
15 those nonproducer customers and the corporation's subsequent
16 manufacturing or marketing of the repurchased portions or
17 components of the commodities.

18 (ii) The corporation's incidental or emergency purchases of
19 commodities from nonproducers to facilitate the manufacturing or
20 marketing of commodities purchased from producers.

21 (f) That portion of the tax base attributable to the direct
22 and indirect marketing activities of a farmers' cooperative
23 corporation organized within the limitations of section 98 of 1931
24 PA 327, MCL 450.98, if those marketing activities are provided on
25 behalf of the members of that corporation and are related to the
26 members' direct sales of their products to third parties or, for
27 livestock, are related to the members' direct or indirect sales of

1 that product to third parties. Marketing activities for a product
2 that is not livestock are not exempt under this subdivision if the
3 farmers' cooperative corporation takes physical possession of the
4 product. As used in this subdivision, "marketing activities" means
5 activities that include, but are not limited to, all of the
6 following:

7 (i) Activities under the agricultural commodities marketing
8 act, 1965 PA 232, MCL 290.651 to 290.674, and the agricultural
9 marketing and bargaining act, 1972 PA 344, MCL 290.701 to 290.726.

10 (ii) Dissemination of market information.

11 (iii) Establishment of price and other terms of trade.

12 (iv) Promotion.

13 (v) Research relating to members' products.

14 (g) That portion of the tax base attributable to the services
15 provided by an attorney-in-fact to a reciprocal insurer pursuant to
16 chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200
17 to 500.7234.

18 (h) That portion of the tax base attributable to a multiple
19 employer welfare arrangement that provides dental benefits only and
20 that has a certificate of authority under chapter 70 of the
21 insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

22 (2) Subsection (1)(e) does not exempt a farmers' cooperative
23 corporation if the total dollar value of the farmers' cooperative
24 corporation's incidental and emergency purchases described in
25 subsection (1)(e)(ii) are equal to or greater than 5% of the
26 corporation's total purchases.

27 (3) Except as otherwise provided in this section, a farmers'

1 cooperative corporation shall exclude from adjusted tax base the
2 revenue and expenses attributable to business transacted with
3 farmer or farmer cooperative corporation patrons to whom net
4 earnings are allocated in the form of patronage dividends as
5 defined in section 1388 of the internal revenue code.

6 (4) As used in subsection (1)(b), "exclusively" means that
7 term as applied for purposes of section 501(c)(3) of the internal
8 revenue code.

9 Sec. 12. (1) A foreign person shall calculate gross receipts
10 tax base under this section and, except as otherwise provided in
11 this section, the tax base of a foreign person is subject to all
12 adjustments and other provisions of this act.

13 (2) Except as otherwise provided in this section, except for a
14 taxpayer that pays the tax imposed under chapter 5, the gross
15 receipts tax base of a foreign person includes the taxpayer's gross
16 receipts that are related to United States business activity less
17 purchases from other firms, whether or not the foreign person is
18 subject to taxation under the internal revenue code.

19 (3) Compensation of a foreign person is total compensation
20 paid to employees, officers, and directors of the foreign person
21 for services performed in the United States.

22 (4) Notwithstanding the provisions of subsection (3), a
23 foreign person that does not have a permanent establishment in the
24 United States and whose business activity consists of the
25 transportation of persons or property for others by motor vehicle
26 may elect for purposes of this section to calculate compensation
27 related to United States business activity by 1 of the following

1 methods:

2 (a) Calculate compensation under subsection (3) and reduce the
3 final calculation by 50%.

4 (b) Calculate compensation by determining total compensation
5 everywhere, apportioned to the United States by a formula, the
6 numerator of which is revenue miles traveled in the United States
7 and the denominator of which is revenue miles traveled everywhere.

8 (5) To calculate gross receipts that are related to United
9 States business activity, a foreign person that does not have a
10 permanent establishment in the United States during the tax year or
11 that is not subject to taxation under the internal revenue code for
12 the tax year may use amounts that reasonably approximate the gross
13 receipts the person would have had had the person been subject to
14 the internal revenue code, provided the foreign person does not in
15 the ordinary course of its business maintain tax or financial
16 accounting records in accordance with the tax accounting
17 requirements of the internal revenue code. The tax base of a
18 foreign person described in this subsection shall not include gross
19 receipts from sales shipped or delivered to any purchaser within
20 the United States and for which title transfers outside the United
21 States.

22 (6) To calculate gross receipts that are related to United
23 States business activity, a Canadian person that is subject to
24 Canadian federal income tax under the income tax act (R.S.C. 1985,
25 c. 1 (5th Supp)) may use amounts properly calculated under the
26 income tax act (R.S.C. 1985, c. 1 (5th Supp)) to reasonably
27 approximate gross receipts. Amounts calculated under this

1 subsection are presumed to reasonably approximate gross receipts
2 that are related to United States business activity. The gross
3 receipts tax base of a Canadian person shall not include gross
4 receipts from sales shipped or delivered to any purchaser within
5 the United States and for which title transfers outside the United
6 States. As used in this subsection, "Canadian person" means a
7 foreign person that does not have a permanent establishment in the
8 United States during the tax year or that is not subject to
9 taxation under the internal revenue code for the tax year and is
10 either of the following:

11 (a) An entity formed under the laws of Canada or a province of
12 Canada.

13 (b) An individual who is physically present in Canada in the
14 aggregate exceeding 182 days in the tax year.

15 (7) As used in this section:

16 (a) "Compensation" means, for a foreign person, the daily
17 compensation paid to each employee, officer, and director of the
18 foreign person multiplied by the number of days that the employee,
19 officer, or director has physical contact with the United States in
20 the tax year. Physical contact with the United States for any part
21 of a day equals 1 day.

22 (b) "Gross receipts" means, for a foreign person, gross
23 receipts as defined in section 6 from United States business
24 activity or from sources within the United States. Gross receipts
25 includes all sales for which title transfers within the United
26 States; proceeds from all services performed within the United
27 States; and a pro rata portion of proceeds from services performed

1 both within and outside of the United States based on costs of
2 performance.

3 (c) "Permanent establishment" means either of the following:

4 (i) If an income tax treaty applies to the foreign person, that
5 term as defined in that income tax treaty in effect between the
6 United States and another nation.

7 (ii) If an income tax treaty does not apply to the foreign
8 person, that term as defined in the United States model income tax
9 convention.

10 (d) "Property" means, for a foreign person, all of the
11 taxpayer's real and tangible personal property owned or rented in
12 the United States during the tax year.

13 (e) "United States person" means that term as defined in
14 section 7701(a)(30) of the internal revenue code.

15 Sec. 13. (1) Except as otherwise provided under section 15, a
16 taxpayer shall elect 1 of the following methods for allocation of
17 the taxpayer's gross receipts tax base and the franchise tax base:

18 (a) 70% of the gross receipts tax base and 30% of the
19 franchise tax base.

20 (b) 60% of the gross receipts tax base and 40% of the
21 franchise tax base.

22 (c) 50% of the gross receipts tax base and 50% of the
23 franchise tax base.

24 (d) 40% of the gross receipts tax base and 60% of the
25 franchise tax base.

26 (e) 30% of the gross receipts tax base and 70% of the
27 franchise tax base.

1 (2) An election under subsection (1) shall be made every 3
2 years.

3 Sec. 15. (1) A taxpayer with gross receipts of more than
4 \$350,000.00 but not more than \$15,000,000.00 or that amount as
5 annually adjusted for inflation using the Detroit consumer price
6 index is not required to make an election under section 13, but
7 shall elect 1 of the following options:

8 (a) Calculate its tax liability under this act on the gross
9 receipts tax base only.

10 (b) Calculate its tax liability under the business income tax
11 act only.

12 (2) An election under subsection (1) shall be made every 3
13 years if the taxpayer remains eligible for the election under this
14 section.

15 (3) A taxpayer with gross receipts equal to or less than
16 \$350,000.00 shall be subject to a tax under this act as follows:

17 (a) Gross receipts of an amount equal to or less than
18 \$100,000.00, a tax liability of \$0.00. A taxpayer with a tax liability
19 of \$0.00 is not required to file a return under this act.

20 (b) Gross receipts of more than \$100,000.00 but less than or
21 equal to \$350,000.00, a tax liability of \$100.00.

22 CHAPTER 3

23 Sec. 20. Except as otherwise provided under this act, any
24 unused carryforward for any credit under former 1975 PA 228 may be
25 applied for the 2007 tax year and any unused carryforward after
26 2007 shall be extinguished.

27 Sec. 21. (1) For tax years that begin after December 31, 2008,

1 a taxpayer that has been issued a tax voucher certificate under
2 section 23 of the Michigan early stage venture investment act of
3 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a
4 portion of a tax voucher is transferred pursuant to the Michigan
5 early stage venture investment act of 2003, 2003 PA 296, MCL
6 125.2231 to 125.2263, may use the tax voucher to pay a liability of
7 the taxpayer due under this act.

8 (2) On and after November 21, 2005, the total amount of all
9 tax voucher certificates that shall be approved under this section,
10 section 37e of former 1975 PA 228, and the Michigan early stage
11 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
12 125.2263, shall not exceed an amount sufficient to allow the
13 Michigan early stage venture investment corporation to raise
14 \$450,000,000.00 for the purposes authorized under the Michigan
15 early stage venture investment act of 2003, 2003 PA 296, MCL
16 125.2231 to 125.2263. The total amount of all tax voucher
17 certificates under this section and section 37e of former 1975 PA
18 228 shall not exceed \$600,000,000.00.

19 (3) The department shall not approve a tax voucher certificate
20 under section 23(2) of the Michigan early stage venture investment
21 act of 2003, 2003 PA 296, MCL 125.2253, after December 31, 2015.

22 (4) For tax voucher certificates approved under subsection
23 (2), the amount of tax voucher certificates approved by the
24 department for use in any tax year shall not exceed 25% of the
25 total amount of all tax voucher certificates approved by the
26 department.

27 (5) Investors shall apply to the Michigan early stage venture

1 investment corporation for approval of tax voucher certificates at
2 the time and in the manner required under the Michigan early stage
3 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
4 125.2263.

5 (6) The Michigan early stage venture investment corporation
6 shall determine which investors are eligible for tax vouchers and
7 the amount of the tax vouchers allowed to each investor as provided
8 in the Michigan early stage venture investment act of 2003, 2003 PA
9 296, MCL 125.2231 to 125.2263.

10 (7) The tax voucher certificate, and any completed transfer
11 form that was issued pursuant to the Michigan early stage venture
12 investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263,
13 shall be attached to the taxpayer's annual return under this act.
14 The department may prescribe and implement alternative methods of
15 reporting and recording ownership, transfer, and utilization of tax
16 voucher certificates that are not inconsistent with this act.

17 (8) A tax voucher shall be used to pay a liability of the
18 taxpayer due under this act only in a tax year that begins after
19 December 31, 2008. The amount of the tax voucher that may be used
20 to pay a liability of the taxpayer due under this act in any tax
21 year shall not exceed the lesser of the following:

22 (a) The amount of the tax voucher stated on the tax voucher
23 certificate held by the taxpayer.

24 (b) The amount authorized to be used in the tax year under the
25 terms of the tax voucher certificate.

26 (c) The taxpayer's liability due under this act for the tax
27 year for which the tax voucher is to be applied.

1 (9) The department shall administer transfers of tax voucher
2 certificates or the transfer of the right to be issued and receive
3 a tax voucher certificate as provided in the Michigan early stage
4 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
5 125.2263, and shall take any action necessary to enforce and
6 effectuate the permissible issuance and use of tax voucher
7 certificates in a manner authorized under this section and the
8 Michigan early stage venture investment act of 2003, 2003 PA 296,
9 MCL 125.2231 to 125.2263.

10 (10) If the amount of a tax voucher certificate held by a
11 taxpayer or transferee exceeds the amount the taxpayer or
12 transferee may use under subsection (8)(b) or (c) in a tax year,
13 that excess may be used by the taxpayer or transferee to pay,
14 subject to the limitations of subsection (8), any future liability
15 of the taxpayer or transferee under this act.

16 (11) If a taxpayer requests, the department shall issue
17 separate replacement tax voucher certificates, or replacement
18 approval letters, evidencing the right of the holder to be issued
19 and receive a tax voucher certificate in an aggregate amount equal
20 to the amount of a tax voucher certificate or an approval letter
21 presented by a taxpayer. Replacement tax voucher certificates may
22 be used, and replacement approval letters may be issued, to
23 evidence the right to be issued and receive a tax voucher
24 certificate that will be used for 1 or more of the following
25 purposes:

26 (a) To pay any liability of the taxpayer under this act to the
27 extent permitted in any tax year by subsection (8).

1 (b) To pay any liability of the taxpayer under and to the
2 extent allowed under section 270 of the income tax act of 1967,
3 1967 PA 281, MCL 206.270.

4 (c) To be transferred to a taxpayer who may use the
5 replacement tax voucher certificate to pay any liability under this
6 act to the extent allowed under subsection (8).

7 (d) To be transferred to a person who may use the tax voucher
8 certificate to pay any liability under and to the extent allowed
9 under section 270 of the income tax act of 1967, 1967 PA 281, MCL
10 206.270.

11 (12) As used in this section:

12 (a) "Investor" means that term as defined in the Michigan
13 early stage venture investment act of 2003, 2003 PA 296, MCL
14 125.2231 to 125.2263.

15 (b) "Certificate" means the certificate issued under section
16 23 of the Michigan early stage venture investment act of 2003, 2003
17 PA 296, MCL 125.2253.

18 (c) "Transferee" means a taxpayer to whom a tax voucher
19 certificate has been transferred under section 23 of the Michigan
20 early stage venture investment act of 2003, 2003 PA 296, MCL
21 125.2253, and this section.

22 Sec. 22. (1) A taxpayer may claim a credit against the tax
23 imposed by this act for 1 or more of the following as applicable:

24 (a) The credit allowed under subsection (2).

25 (b) The credit allowed under subsection (6).

26 (2) A taxpayer that is certified under the Michigan next
27 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an

1 eligible taxpayer may claim a nonrefundable credit for the tax year
2 equal to the amount determined under subdivision (a) or (b),
3 whichever is less:

4 (a) The amount by which the taxpayer's tax liability
5 attributable to qualified business activity for the tax year
6 exceeds the taxpayer's baseline tax liability attributable to
7 qualified business activity.

8 (b) Ten percent of the amount by which the taxpayer's adjusted
9 qualified business activity performed in this state outside of a
10 renaissance zone for the tax year exceeds the taxpayer's adjusted
11 qualified business activity performed in this state outside of a
12 renaissance zone for the 2001 tax year under section 39e of former
13 1975 PA 228.

14 (3) For any tax year in which the eligible taxpayer's tax
15 liability attributable to qualified business activity for the tax
16 year does not exceed the taxpayer's baseline tax liability
17 attributable to qualified business activity, the eligible taxpayer
18 shall not claim the credit allowed under subsection (2).

19 (4) An affiliated group as defined in this act, a controlled
20 group of corporations as defined in section 1563 of the internal
21 revenue code and further described in 26 CFR 1.414(b)-1 and
22 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
23 defined by the internal revenue code shall not take the credit
24 allowed under subsection (2) unless the qualified business activity
25 of the group or entities is consolidated.

26 (5) A taxpayer that claims a credit under subsection (2) shall
27 attach a copy of each of the following as issued pursuant to the

1 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
2 207.827, to the annual return required under this act for each tax
3 year in which the taxpayer claims the credit allowed under
4 subsection (2):

5 (a) The proof of certification that the taxpayer is an
6 eligible taxpayer for the tax year.

7 (b) The proof of certification of the taxpayer's tax liability
8 attributable to qualified business activity for the tax year.

9 (c) The proof of certification of the taxpayer's baseline tax
10 liability attributable to qualified business activity.

11 (6) A taxpayer that is a qualified alternative energy entity
12 may claim a credit for the taxpayer's qualified payroll amount. A
13 taxpayer shall claim the credit under this subsection after all
14 allowable nonrefundable credits under this act.

15 (7) If the credit allowed under subsection (6) exceeds the tax
16 liability of the taxpayer for the tax year, that portion of the
17 credit that exceeds the tax liability shall be refunded.

18 (8) As used in this section:

19 (a) "Adjusted qualified business activity performed in this
20 state outside of a renaissance zone" means either of the following:

21 (i) Except as provided in subparagraph (ii), the taxpayer's
22 payroll for qualified business activity performed in this state
23 outside of a renaissance zone.

24 (ii) For a partnership, limited liability company, subchapter S
25 corporation, or individual, the amount determined under
26 subparagraph (i) plus the product of the following as related to the
27 taxpayer:

1 (A) Business income.

2 (B) The apportionment factor as determined under this chapter.

3 (C) The alternative energy business activity factor.

4 (b) "Alternative energy business activity factor" means a
5 fraction, the numerator of which is the ratio of the value of the
6 taxpayer's property used for qualified business activity and
7 located in this state outside of a renaissance zone for the year
8 for which the factor is being calculated to the value of all of the
9 taxpayer's property located in this state for that year plus the
10 ratio of the taxpayer's payroll for qualified business activity
11 performed in this state outside of a renaissance zone for that year
12 to all of the taxpayer's payroll in this state for that year and
13 the denominator of which is 2.

14 (c) "Alternative energy marine propulsion system",
15 "alternative energy system", "alternative energy vehicle", and
16 "alternative energy technology" mean those terms as defined in the
17 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
18 207.827.

19 (d) "Alternative energy zone" means a renaissance zone
20 designated as an alternative energy zone by the board of the
21 Michigan strategic fund under section 8a of the Michigan
22 renaissance zone act, 1996 PA 376, MCL 125.2688a.

23 (e) "Baseline tax liability attributable to qualified business
24 activity" means the taxpayer's tax liability for the 2001 tax year
25 under former 1975 PA 228 multiplied by the taxpayer's alternative
26 energy business activity factor for the 2001 tax year under former
27 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months

1 under former 1975 PA 228 shall annualize the amount calculated
2 under this subdivision as necessary to determine baseline tax
3 liability attributable to qualified business activity that reflects
4 a 12-month period.

5 (f) "Eligible taxpayer" means a taxpayer that has proof of
6 certification of qualified business activity under the Michigan
7 next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

8 (g) "Payroll" means total salaries and wages before deducting
9 any personal or dependency exemptions.

10 (h) "Qualified alternative energy entity" means a taxpayer
11 located in an alternative energy zone.

12 (i) "Qualified business activity" means research, development,
13 or manufacturing of an alternative energy marine propulsion system,
14 an alternative energy system, an alternative energy vehicle,
15 alternative energy technology, or renewable fuel.

16 (j) "Qualified employee" means an individual who is employed
17 by a qualified alternative energy entity, whose job
18 responsibilities are related to the research, development, or
19 manufacturing activities of the qualified alternative energy
20 entity, and whose regular place of employment is within an
21 alternative energy zone.

22 (k) "Qualified payroll amount" means an amount equal to
23 payroll of the qualified alternative energy entity attributable to
24 all qualified employees in the tax year of the qualified
25 alternative energy entity for which the credit under subsection (6)
26 is being claimed, multiplied by the tax rate for that tax year.

27 (l) "Renaissance zone" means a renaissance zone designated

1 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
2 to 125.2696.

3 (m) "Renewable fuel" means 1 or more of the following:

4 (i) Biodiesel or biodiesel blends containing at least 20%
5 biodiesel. As used in this subparagraph, "biodiesel" means a diesel
6 fuel substitute consisting of methyl or ethyl esters produced from
7 the transesterification of animal or vegetable fats with methanol
8 or ethanol.

9 (ii) Biomass. As used in this subparagraph, "biomass" means
10 residues from the wood and paper products industries, residues from
11 food production and processing, trees and grasses grown
12 specifically to be used as energy crops, and gaseous fuels produced
13 from solid biomass, animal wastes, municipal waste, or landfills.

14 (n) "Tax liability attributable to qualified business
15 activity" means the taxpayer's tax liability multiplied by the
16 taxpayer's alternative energy business activity factor for the tax
17 year.

18 (o) "Tax rate" means the rate imposed under section 51e of the
19 income tax act of 1967, 1967 PA 281, MCL 206.51e, annualized as
20 necessary, for the tax year in which the qualified alternative
21 energy entity claims a credit under subsection (6).

22 Sec. 23. (1) For a period of time not to exceed 20 years as
23 determined by the Michigan economic growth authority, a taxpayer
24 that is an authorized business or an eligible taxpayer may claim a
25 credit against the tax imposed by section 10 equal to the amount
26 certified each year by the Michigan economic growth authority as
27 follows:

1 (a) For an authorized business for the tax year, an amount not
2 to exceed the payroll of the authorized business attributable to
3 employees who perform qualified new jobs as determined under the
4 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
5 207.810, multiplied by the tax rate.

6 (b) For an eligible business as determined under section
7 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,
8 MCL 207.808, an amount not to exceed 50% of the payroll of the
9 eligible taxpayer attributable to employees who perform retained
10 jobs as determined under the Michigan economic growth authority
11 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate
12 for the tax year.

13 (c) For an eligible business as determined under section
14 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24,
15 MCL 207.808, an amount not to exceed the payroll of the eligible
16 taxpayer attributable to employees who perform retained jobs as
17 determined under the Michigan economic growth authority act, 1995
18 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the
19 tax year.

20 (2) A taxpayer shall not claim a credit under this section
21 unless the Michigan economic growth authority has issued a
22 certificate to the taxpayer. The taxpayer shall attach the
23 certificate to the annual return filed under this act on which a
24 credit under this section is claimed.

25 (3) The certificate required by subsection (2) shall state all
26 of the following:

27 (a) The taxpayer is an authorized business or an eligible

1 taxpayer.

2 (b) The amount of the credit under this section for the
3 authorized business or eligible taxpayer for the designated tax
4 year.

5 (c) The taxpayer's federal employer identification number or
6 the Michigan department of treasury number assigned to the
7 taxpayer.

8 (4) The Michigan economic growth authority may certify a
9 credit under this section based on an agreement entered into prior
10 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.
11 The number of years for which the credit may be claimed under this
12 section shall equal the maximum number of years designated in the
13 resolution reduced by the number of years for which a credit has
14 been claimed under section 37c of former 1975 PA 228.

15 (5) If the credit allowed under this section exceeds the tax
16 liability of the taxpayer for the tax year, that portion of the
17 credit that exceeds the tax liability of the taxpayer shall be
18 refunded.

19 (6) A taxpayer that claims a credit under subsection (1)(a),
20 section 24(1)(a), or section 37c or 37d of former 1975 PA 228, that
21 has an agreement with the Michigan economic growth authority based
22 on qualified new jobs as defined in section 3(n)(ii) of the
23 Michigan economic growth authority act, 1995 PA 24, MCL 207.803,
24 and that removes from this state 51% or more of those qualified new
25 jobs within 3 years after the first year in which the taxpayer
26 claims a credit described in this subsection shall pay to the
27 department no later than 12 months after those qualified new jobs

1 are removed from the state an amount equal to the total of all
2 credits described in this subsection that were claimed by the
3 taxpayer.

4 (7) If the Michigan economic growth authority or a designee of
5 the Michigan economic growth authority requests that a taxpayer who
6 claims the credit under this section get a statement prepared by a
7 certified public accountant verifying that the actual number of new
8 jobs created is the same number of new jobs used to calculate the
9 credit under this section, the taxpayer shall get the statement and
10 attach that statement to its annual return under this act on which
11 the credit under this section is claimed.

12 (8) For a credit allowed under this section, an affiliated
13 group as defined in this act, a controlled group of corporations as
14 defined in section 1563 of the internal revenue code and further
15 described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an
16 entity under common control as defined by the internal revenue code
17 shall claim only 1 credit for each tax year as follows:

18 (a) For an authorized business, for each expansion or location
19 evidenced by a written agreement whether or not a combined or
20 consolidated return is filed.

21 (b) For an eligible taxpayer, as provided in each written
22 agreement whether or not a combined or consolidated return is
23 filed.

24 (9) A credit shall not be claimed by a taxpayer under this
25 section if the taxpayer's initial certification as required in
26 subsection (3) is issued after December 31, 2013.

27 (10) As used in this section:

1 (a) "Authorized business", "facility", "full-time job",
2 "qualified high-technology business", and "written agreement" mean
3 those terms as defined in the Michigan economic growth authority
4 act, 1995 PA 24, MCL 207.801 to 207.810.

5 (b) "Eligible taxpayer" means an eligible business that meets
6 the criteria under section 8(5) of the Michigan economic growth
7 authority act, 1995 PA 24, MCL 207.808.

8 (c) "Michigan economic growth authority" means the Michigan
9 economic growth authority created in the Michigan economic growth
10 authority act, 1995 PA 24, MCL 207.801 to 207.810.

11 (d) "Payroll" means the total salaries and wages before
12 deducting any personal or dependency exemptions.

13 (e) "Qualified new jobs" means 1 or more of the following:

14 (i) The average number of full-time jobs at a facility of an
15 authorized business for a tax year in excess of the average number
16 of full-time jobs the authorized business maintained in this state
17 prior to the expansion or location as that is determined under the
18 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
19 207.810.

20 (ii) The average number of full-time jobs at a facility created
21 by an eligible business within 120 days before becoming an
22 authorized business that is in excess of the average number of
23 full-time jobs that the business maintained in this state 120 days
24 before becoming an authorized business, as determined under the
25 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
26 207.810.

27 (f) "Tax rate" means the rate imposed under section 51e of the

1 income tax act of 1967, 1967 PA 281, MCL 206.51e, for the tax year
2 in which the tax year of the taxpayer for which the credit is being
3 computed begins.

4 Sec. 24. (1) A taxpayer that is a business located and
5 conducting business activity within a renaissance zone may claim a
6 credit against the tax imposed by this act for the tax year to the
7 extent and for the duration provided pursuant to the Michigan
8 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal
9 to the lesser of the following:

10 (a) The tax liability attributable to business activity
11 conducted within a renaissance zone in the tax year.

12 (b) Ten percent of adjusted services performed in a designated
13 renaissance zone.

14 (c) For a taxpayer located and conducting business activity in
15 a renaissance zone before January 1, 2008, the product of the
16 following:

17 (i) The credit claimed under section 39b of former 1975 PA 228
18 for the tax year ending in 2007.

19 (ii) The ratio of the taxpayer's payroll in this state in the
20 tax year divided by the taxpayer's payroll in this state in its tax
21 year ending in 2007 under former 1975 PA 228.

22 (iii) The ratio of the taxpayer's renaissance zone business
23 activity factor for the tax year divided by the taxpayer's
24 renaissance zone business activity factor for its tax year ending
25 in 2007 under section 39b of former 1975 PA 228.

26 (2) Any portion of the taxpayer's tax liability that is
27 attributable to illegal activity conducted in the renaissance zone

1 shall not be used to calculate a credit under this section.

2 (3) The credit allowed under this section continues through
3 the tax year in which the renaissance zone designation expires.

4 (4) If the amount of the credit allowed under this section
5 exceeds the tax liability of the taxpayer for the tax year, that
6 portion of the credit that exceeds the tax liability shall not be
7 refunded.

8 (5) A taxpayer that claims a credit under this section shall
9 not employ, pay a speaker fee to, or provide any remuneration,
10 compensation, or consideration to any person employed by the state,
11 the state administrative board created in 1921 PA 2, MCL 17.1 to
12 17.3, or the renaissance zone review board created in 1996 PA 376,
13 MCL 125.2681 to 125.2696, whose employment relates or related in
14 any way to the authorization or enforcement of the credit allowed
15 under this section for any year in which the taxpayer claims a
16 credit under this section and for the 3 years after the last year
17 that a credit is claimed.

18 (6) To be eligible for the credit allowed under this section,
19 an otherwise qualified taxpayer shall file an annual return under
20 this act in a format determined by the department.

21 (7) Any portion of the taxpayer's tax liability that is
22 attributable to business activity related to the operation of a
23 casino, and business activity that is associated or affiliated with
24 the operation of a casino, including, but not limited to, the
25 operation of a parking lot, hotel, motel, or retail store, shall
26 not be used to calculate a credit under this section.

27 (8) As used in this section:

1 (a) "Adjusted services performed in a designated renaissance
2 zone" means either of the following:

3 (i) Except as provided in subparagraph (ii), the sum of the
4 taxpayer's payroll for services performed in a designated
5 renaissance zone plus an amount equal to the amount deducted in
6 arriving at federal taxable income for the tax year for
7 depreciation, amortization, or immediate or accelerated write-off
8 for tangible property exempt under section 7ff of the general
9 property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for
10 new property, in the immediately following tax year.

11 (ii) For a partnership, limited liability company, subchapter S
12 corporation, or individual, the amount determined under
13 subparagraph (i) plus the product of the following as related to the
14 taxpayer if greater than zero:

15 (A) Business income.

16 (B) The ratio of the taxpayer's total sales in this state
17 during the tax year divided by the taxpayer's total sales
18 everywhere during the tax year.

19 (C) The renaissance zone business activity factor.

20 (b) "Casino" means a casino regulated by this state pursuant
21 to the Michigan gaming control and revenue act, the Initiated Law
22 of 1996, MCL 432.201 to 432.226.

23 (c) "New property" means property that has not been subject
24 to, or exempt from, the collection of taxes under the general
25 property tax act, 1893 PA 206, MCL 211.1 to 211.157, and has not
26 been subject to, or exempt from, ad valorem property taxes levied
27 in another state, except that receiving an exemption as inventory

1 property does not disqualify property.

2 (d) "Payroll" means total salaries and wages before deducting
3 any personal or dependency exemptions.

4 (e) "Renaissance zone" means that term as defined in the
5 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
6 125.2696.

7 (f) "Renaissance zone business activity factor" means a
8 fraction, the numerator of which is the ratio of the average value
9 of the taxpayer's property located in a designated renaissance zone
10 to the average value of the taxpayer's property in this state plus
11 the ratio of the taxpayer's payroll for services performed in a
12 designated renaissance zone to all of the taxpayer's payroll in
13 this state and the denominator of which is 2.

14 (g) "Tax liability attributable to business activity conducted
15 within a renaissance zone" means the taxpayer's tax liability
16 multiplied by the renaissance zone business activity factor.

17 Sec. 25. (1) Subject to the criteria under this section, a
18 qualified taxpayer that has a preapproval letter issued after
19 December 31, 2007 and before January 1, 2013, or a taxpayer that
20 received a preapproval letter prior to January 1, 2008 under
21 section 38g of former 1975 PA 228 and has not received a
22 certificate of completion prior to the taxpayer's last tax year,
23 provided that the project is completed not more than 5 years after
24 the preapproval letter for the project is issued, or an assignee
25 under subsection (20), (21), or (22) may claim a credit that has
26 been approved under subsection (2), (3), or (4) against the tax
27 imposed by this act equal to either of the following:

1 (a) If the total of all credits for a project is \$1,000,000.00
2 or less, 10% of the cost of the qualified taxpayer's eligible
3 investment paid or accrued by the qualified taxpayer on an eligible
4 property provided that the project does not exceed the amount
5 stated in the preapproval letter. If eligible investment exceeds
6 the amount of eligible investment in the preapproval letter for
7 that project, the total of all credits for the project shall not
8 exceed the total of all credits on the certificate of completion.

9 (b) If the total of all credits for a project is more than
10 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in
11 subsection (6)(b), the project is located in a qualified local
12 governmental unit, a percentage as determined by the Michigan
13 economic growth authority not to exceed 10% of the cost of the
14 qualified taxpayer's eligible investment as determined under
15 subsection (9) paid or accrued by the qualified taxpayer on an
16 eligible property. If eligible investment exceeds the amount of
17 eligible investment in the preapproval letter for that project, the
18 total of all credits for the project shall not exceed the total of
19 all credits on the certificate of completion.

20 (2) If the cost of a project will be \$2,000,000.00 or less, a
21 qualified taxpayer shall apply to the Michigan economic growth
22 authority for approval of the project under this subsection. An
23 application under this subsection shall state whether the project
24 is a multiphase project. The chairperson of the Michigan economic
25 growth authority or his or her designee is authorized to approve an
26 application or project under this subsection. Only the chairperson
27 of the Michigan economic growth authority is authorized to deny an

1 application or project under this subsection. A project shall be
2 approved or denied not more than 45 days after receipt of the
3 application. If the chairperson of the Michigan economic growth
4 authority or his or her designee does not approve or deny the
5 application within 45 days after the application is received by the
6 Michigan economic growth authority, the application is considered
7 approved as written. The total of all credits for all projects
8 approved under this subsection shall not exceed \$10,000,000.00 in
9 any calendar year. If the chairperson of the Michigan economic
10 growth authority or his or her designee approves a project under
11 this subsection, the chairperson of the Michigan economic growth
12 authority or his or her designee shall issue a preapproval letter
13 that states that the taxpayer is a qualified taxpayer; the maximum
14 total eligible investment for the project on which credits may be
15 claimed and the maximum total of all credits for the project when
16 the project is completed and a certificate of completion is issued;
17 and the project number assigned by the Michigan economic growth
18 authority. If a project is denied under this subsection, a taxpayer
19 is not prohibited from subsequently applying under this subsection
20 for the same project or for another project. If the authority
21 approves a total of all credits for all projects under this
22 subsection of less than \$10,000,000.00 in a calendar year, the
23 authority may carry forward for 1 year only the difference between
24 \$10,000,000.00 and the total of all credits for all projects under
25 this subsection approved in the immediately preceding calendar
26 year. The Michigan economic growth authority shall develop and
27 implement the use of the application form to be used for projects

1 under this subsection. Before the Michigan economic growth
2 authority substantially changes the form, the Michigan economic
3 growth authority shall adopt the changes by resolution and give
4 notice of the proposed resolution to the secretary of the senate,
5 to the clerk of the house of representatives, and to each person
6 who requested from the Michigan economic growth authority in
7 writing or electronically to be notified regarding proposed
8 resolutions. The notice and proposed resolution and all attachments
9 shall be published on the Michigan economic growth authority's
10 internet website. The Michigan economic growth authority shall hold
11 a public hearing not sooner than 14 days and not later than 30 days
12 after the date notice of a proposed resolution is given and offer
13 an opportunity for persons to present data, views, questions, and
14 arguments. The Michigan economic growth authority board members or
15 1 or more persons designated by the Michigan economic growth
16 authority who have knowledge of the subject matter of the proposed
17 resolution shall be present at the public hearing and shall
18 participate in the discussion of the proposed resolution. The
19 Michigan economic growth authority may act on the proposed
20 resolution no sooner than 14 days after the public hearing. The
21 Michigan economic growth authority shall produce a final decision
22 document that describes the basis for its decision. The final
23 resolution and all attachments and the decision document shall be
24 provided to the secretary of the senate and to the clerk of the
25 house of representatives and shall be published on the Michigan
26 economic growth authority's internet website. The notice shall
27 include all of the following:

1 (a) A copy of the proposed resolution and all attachments.

2 (b) A statement that any person may express any data, views,
3 or arguments regarding the proposed resolution.

4 (c) The address to which written comments may be sent and the
5 date by which comments must be mailed or electronically
6 transmitted, which date shall not be restricted to only before the
7 date of the public hearing.

8 (d) The date, time, and place of the public hearing.

9 (3) If the cost of a project will be for more than
10 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
11 shall apply to the Michigan economic growth authority for approval
12 of the project under this subsection. An application under this
13 subsection shall state whether the project is a multiphase project.
14 The chairperson of the Michigan economic growth authority or his or
15 her designee is authorized to approve an application or project
16 under this subsection. Only the chairperson of the Michigan
17 economic growth authority is authorized to deny an application or
18 project under this subsection. A project shall be approved or
19 denied not more than 45 days after receipt of the application. If
20 the chairperson of the Michigan economic growth authority or his or
21 her designee does not approve or deny an application within 45 days
22 after the application is received by the Michigan economic growth
23 authority, the application is considered approved as written. The
24 total of all credits for all projects approved under this
25 subsection shall not exceed \$30,000,000.00 in any calendar year. If
26 the authority approves a total of all credits for all projects
27 under this subsection of less than \$30,000,000.00 in a calendar

1 year, the authority may carry forward for 1 year only the
2 difference between \$30,000,000.00 and the total of all credits for
3 all projects approved under this subsection in the immediately
4 preceding calendar year. The criteria in subsection (7) shall be
5 used when approving projects under this subsection. When approving
6 projects under this subsection, priority shall be given to projects
7 on a facility. The total of all credits for an approved project
8 under this subsection shall not exceed \$1,000,000.00. A taxpayer
9 may apply under this subsection instead of subsection (4) for
10 approval of a project that will be for more than \$10,000,000.00,
11 but the total of all credits for that project shall not exceed
12 \$1,000,000.00. If the chairperson of the Michigan economic growth
13 authority or his or her designee approves a project under this
14 subsection, the chairperson of the Michigan economic growth
15 authority or his or her designee shall issue a preapproval letter
16 that states that the taxpayer is a qualified taxpayer; the maximum
17 total eligible investment for the project on which credits may be
18 claimed and the maximum total of all credits for the project when
19 the project is completed and a certificate of completion is issued;
20 and the project number assigned by the Michigan economic growth
21 authority. If a project is denied under this subsection, a taxpayer
22 is not prohibited from subsequently applying under this subsection
23 or subsection (4) for the same project or for another project.

24 (4) If the cost of a project will be for more than
25 \$10,000,000.00 and, except as provided in subsection (6)(b), the
26 project is located in a qualified local governmental unit, a
27 qualified taxpayer shall apply to the Michigan economic growth

1 authority for approval of the project. An application under this
2 subsection shall state whether the project is a multiphase project.
3 The Michigan economic growth authority shall approve or deny the
4 project not more than 65 days after receipt of the application. A
5 project under this subsection shall not be approved without the
6 concurrence of the state treasurer. If the Michigan economic growth
7 authority does not approve or deny the application within 65 days
8 after it receives the application, the Michigan economic growth
9 authority shall send the application to the state treasurer. The
10 state treasurer shall approve or deny the application within 5 days
11 after receipt of the application. If the state treasurer does not
12 deny the application within 5 days after receipt of the
13 application, the application is considered approved. The Michigan
14 economic growth authority shall approve a limited number of
15 projects under this subsection during each calendar year as
16 provided in subsection (6). The Michigan economic growth authority
17 shall use the criteria in subsection (7) when approving projects
18 under this subsection, when determining the total amount of
19 eligible investment, and when determining the percentage of
20 eligible investment for the project to be used to calculate a
21 credit. The total of all credits for an approved project under this
22 subsection shall not exceed the amount designated in the
23 preapproval letter for that project. If the Michigan economic
24 growth authority approves a project under this subsection, the
25 Michigan economic growth authority shall issue a preapproval letter
26 that states that the taxpayer is a qualified taxpayer; the
27 percentage of eligible investment for the project determined by the

1 Michigan economic growth authority for purposes of subsection
2 (1)(b); the maximum total eligible investment for the project on
3 which credits may be claimed and the maximum total of all credits
4 for the project when the project is completed and a certificate of
5 completion is issued; and the project number assigned by the
6 Michigan economic growth authority. The Michigan economic growth
7 authority shall send a copy of the preapproval letter to the
8 department. If a project is denied under this subsection, a
9 taxpayer is not prohibited from subsequently applying under this
10 subsection or subsection (3) for the same project or for another
11 project.

12 (5) If the project is on property that is functionally
13 obsolete, the taxpayer shall include with the application an
14 affidavit signed by a level 3 or level 4 assessor, that states that
15 it is the assessor's expert opinion that the property is
16 functionally obsolete and the underlying basis for that opinion.

17 (6) The Michigan economic growth authority may approve not
18 more than 17 projects each calendar year under subsection (4), and
19 the following limitations apply:

20 (a) Of the 17 projects allowed under this subsection, the
21 total of all credits for each project may be more than
22 \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

23 (b) Of the 17 projects allowed under this subsection, up to 3
24 projects may be approved for projects that are not in a qualified
25 local governmental unit if the property is a facility for which
26 eligible activities are identified in a brownfield plan or, for 1
27 of the 3 projects, if the property is not a facility but is

1 functionally obsolete or blighted, property identified in a
2 brownfield plan. For purposes of this subdivision, a facility
3 includes a building or complex of buildings that was used by a
4 state or federal agency and that is no longer being used for the
5 purpose for which it was used by the state or federal agency.

6 (c) Of the 2 projects allowed under subdivision (a), 1 may be
7 a project that also qualifies under subdivision (b).

8 (7) The Michigan economic growth authority shall review all
9 applications for projects under subsection (4) and, if an
10 application is approved, shall determine the maximum total of all
11 credits for that project. Before approving a project for which the
12 total of all credits will be more than \$10,000,000.00 but
13 \$30,000,000.00 or less only, the Michigan economic growth authority
14 shall determine that the project would not occur in this state
15 without the tax credit offered under subsection (4). The Michigan
16 economic growth authority shall consider the following criteria to
17 the extent reasonably applicable to the type of project proposed
18 when approving a project under subsection (4), and the chairperson
19 of the Michigan economic growth authority or his or her designee
20 shall consider the following criteria to the extent reasonably
21 applicable to the type of project proposed when approving a project
22 under subsection (2) or (3) or when considering an amendment to a
23 project under subsection (9):

24 (a) The overall benefit to the public.

25 (b) The extent of reuse of vacant buildings and redevelopment
26 of blighted property.

27 (c) Creation of jobs.

1 (d) Whether the eligible property is in an area of high
2 unemployment.

3 (e) The level and extent of contamination alleviated by the
4 qualified taxpayer's eligible activities to the extent known to the
5 qualified taxpayer.

6 (f) The level of private sector contribution.

7 (g) The cost gap that exists between the site and a similar
8 greenfield site as determined by the Michigan economic growth
9 authority.

10 (h) If the qualified taxpayer is moving from another location
11 in this state, whether the move will create a brownfield.

12 (i) Whether the financial statements of the qualified taxpayer
13 indicate that it is financially sound and that the project is
14 economically sound.

15 (j) Any other criteria that the Michigan economic growth
16 authority or the chairperson of the Michigan economic growth
17 authority, as applicable, considers appropriate for the
18 determination of eligibility under subsection (3) or (4).

19 (8) A qualified taxpayer may apply for projects under this
20 section for eligible investment on more than 1 eligible property in
21 a tax year. Each project approved and each project for which a
22 certificate of completion is issued under this section shall be for
23 eligible investment on 1 eligible property.

24 (9) If, after a taxpayer's project has been approved and the
25 taxpayer has received a preapproval letter but before the project
26 is completed, the taxpayer determines that the project cannot be
27 completed as preapproved, the taxpayer may petition the Michigan

1 economic growth authority to amend the project. The total of
2 eligible investment for the project as amended shall not exceed the
3 amount allowed in the preapproval letter for that project.

4 (10) A project may be a multiphase project. If a project is a
5 multiphase project, when each component of the multiphase project
6 is completed, the taxpayer shall submit documentation that the
7 component is complete, an accounting of the cost of the component,
8 and the eligible investment for the component of each taxpayer
9 eligible for a credit for the project of which the component is a
10 part to the Michigan economic growth authority or the designee of
11 the Michigan economic growth authority, who shall verify that the
12 component is complete. When the completion of the component is
13 verified, a component completion certificate shall be issued to the
14 qualified taxpayer which shall state that the taxpayer is a
15 qualified taxpayer, the credit amount for the component, the
16 qualified taxpayer's federal employer identification number or the
17 Michigan treasury number assigned to the taxpayer, and the project
18 number. The taxpayer may assign all or part of the credit for a
19 multiphase project as provided in this section after a component
20 completion certificate for a component is issued. The qualified
21 taxpayer may transfer ownership of or lease the completed component
22 and assign a proportionate share of the credit for the entire
23 project to the qualified taxpayer that is the new owner or lessee.
24 A multiphase project shall not be divided into more than 20
25 components. A component is considered to be completed when a
26 certificate of occupancy has been issued by the local municipality
27 in which the project is located for all of the buildings or

1 facilities that comprise the completed component and a component
2 completion certificate is issued. A credit assigned based on a
3 multiphase project shall be claimed by the assignee in the tax year
4 in which the assignment is made. The total of all credits for a
5 multiphase project shall not exceed the amount stated in the
6 preapproval letter for the project under subsection (1). If all
7 components of a multiphase project are not completed by 10 years
8 after the date on which the preapproval letter for the project was
9 issued, the qualified taxpayer that received the preapproval letter
10 for the project shall pay to the state treasurer, as a penalty, an
11 amount equal to the sum of all credits claimed and assigned for all
12 components of the multiphase project and no credits based on that
13 multiphase project shall be claimed after that date by the
14 qualified taxpayer or any assignee of the qualified taxpayer. The
15 penalty under this subsection is subject to interest on the amount
16 of the credit claimed or assigned determined individually for each
17 component at the rate in section 23(2) of 1941 PA 122, MCL 205.23,
18 beginning on the date that the credit for that component was
19 claimed or assigned. As used in this subsection, "proportionate
20 share" means the same percentage of the total of all credits for
21 the project that the qualified investment for the completed
22 component is of the total qualified investment stated in the
23 preapproval letter for the entire project.

24 (11) When a project under this section is completed, the
25 taxpayer shall submit documentation that the project is completed,
26 an accounting of the cost of the project, the eligible investment
27 of each taxpayer if there is more than 1 taxpayer eligible for a

1 credit for the project, and, if the taxpayer is not the owner or
2 lessee of the eligible property on which the eligible investment
3 was made at the time the project is completed, that the taxpayer
4 was the owner or lessee of that eligible property when all eligible
5 investment of the taxpayer was made. The chairperson of the
6 Michigan economic growth authority or his or her designee, for
7 projects approved under subsection (2) or (3), or the Michigan
8 economic growth authority, for projects approved under subsection
9 (4), shall verify that the project is completed. The Michigan
10 economic growth authority shall conduct an on-site inspection as
11 part of the verification process for projects approved under
12 subsection (4). When the completion of the project is verified, a
13 certificate of completion shall be issued to each qualified
14 taxpayer that has made eligible investment on that eligible
15 property. The certificate of completion shall state the total
16 amount of all credits for the project and that total shall not
17 exceed the maximum total of all credits listed in the preapproval
18 letter for the project under subsection (2), (3), or (4) as
19 applicable and shall state all of the following:

- 20 (a) That the taxpayer is a qualified taxpayer.
- 21 (b) The total cost of the project and the eligible investment
22 of each qualified taxpayer.
- 23 (c) Each qualified taxpayer's credit amount.
- 24 (d) The qualified taxpayer's federal employer identification
25 number or the Michigan treasury number assigned to the taxpayer.
- 26 (e) The project number.
- 27 (f) For a project approved under subsection (4) for which the

1 total of all credits is more than \$10,000,000.00 but \$30,000,000.00
2 or less, the total of all credits and the schedule on which the
3 annual credit amount shall be claimed by the qualified taxpayer.

4 (g) For a multiphase project under subsection (10), the amount
5 of each credit assigned and the amount of all credits claimed in
6 each tax year before the year in which the project is completed.

7 (12) Except as otherwise provided in this section, qualified
8 taxpayers shall claim credits under this section in the tax year in
9 which the certificate of completion is issued. For a project
10 approved under subsection (4) for which the total of all credits is
11 more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified
12 taxpayer shall claim 10% of its approved credit each year for 10
13 years. A credit assigned based on a multiphase project shall be
14 claimed in the year in which the credit is assigned.

15 (13) The cost of eligible investment for leased machinery,
16 equipment, or fixtures is the cost of that property had the
17 property been purchased minus the lessor's estimate, made at the
18 time the lease is entered into, of the market value the property
19 will have at the end of the lease. A credit for property described
20 in this subsection is allowed only if the cost of that property had
21 the property been purchased and the lessor's estimate of the market
22 value at the end of the lease are provided to the Michigan economic
23 growth authority.

24 (14) Credits claimed by a lessee of eligible property are
25 subject to the total of all credits limitation under this section.

26 (15) Each qualified taxpayer and assignee under subsection
27 (20), (21), or (22) that claims a credit under this section shall

1 attach a copy of the certificate of completion and, if the credit
2 was assigned, a copy of the assignment form provided for under this
3 section to the annual return filed under this act on which the
4 credit under this section is claimed. An assignee of a credit based
5 on a multiphase project shall attach a copy of the assignment form
6 provided for under this section and the component completion
7 certificate provided for in subsection (10) to the annual return
8 filed under this act on which the credit is claimed but is not
9 required to file a copy of a certificate of completion.

10 (16) Except as otherwise provided in this subsection or
11 subsection (10), (18), (20), (21), or (22), a credit under this
12 section shall be claimed in the tax year in which the certificate
13 of completion is issued to the qualified taxpayer. For a project
14 described in subsection (11)(f) for which a schedule for claiming
15 annual credit amounts is designated on the certificate of
16 completion by the Michigan economic growth authority, the annual
17 credit amount shall be claimed in the tax year specified on the
18 certificate of completion.

19 (17) The credits approved under this section shall be
20 calculated after application of all other credits allowed under
21 this act. The credits under this section shall be calculated before
22 the calculation of the credit under section 23.

23 (18) If the credit allowed under this section for the tax year
24 and any unused carryforward of the credit allowed under this
25 section exceed the qualified taxpayer's or assignee's tax liability
26 for the tax year, that portion that exceeds the tax liability for
27 the tax year shall not be refunded but may be carried forward to

1 offset tax liability in subsequent tax years for 10 years or until
2 used up, whichever occurs first. Except as otherwise provided in
3 this subsection, the maximum time allowed under the carryforward
4 provisions under this subsection begins with the tax year in which
5 the certificate of completion is issued to the qualified taxpayer.
6 If the qualified taxpayer assigns all or any portion of its credit
7 approved under this section, the maximum time allowed under the
8 carryforward provisions for an assignee begins to run with the tax
9 year in which the assignment is made and the assignee first claims
10 a credit, which shall be the same tax year. The maximum time
11 allowed under the carryforward provisions for an annual credit
12 amount for a credit allowed under subsection (4) begins to run in
13 the tax year for which the annual credit amount is designated on
14 the certificate of completion issued under this section. A credit
15 carryforward available under section 38g of former 1975 PA 228 that
16 is unused at the end of the last tax year may be claimed against
17 the tax imposed under act for the years the carryforward would have
18 been available under former 1975 PA 228.

19 (19) If a project or credit under this section is for the
20 addition of personal property, if the cost of that personal
21 property is used to calculate a credit under this section, and if
22 the personal property is sold or disposed of or transferred from
23 eligible property to any other location, the qualified taxpayer
24 that sold, disposed of, or transferred the personal property shall
25 add the same percentage as determined under subsection (1) of the
26 federal basis of the personal property used for determining gain or
27 loss as of the date of the sale, disposition, or transfer to the

1 qualified taxpayer's tax liability under this act after application
2 of all credits under this act for the tax year in which the sale,
3 disposition, or transfer occurs. If a qualified taxpayer has an
4 unused carryforward of a credit under this section, the amount
5 otherwise added under this subsection to the qualified taxpayer's
6 tax liability may instead be used to reduce the qualified
7 taxpayer's carryforward under subsection (18).

8 (20) For credits under this section for projects for which a
9 certificate of completion is issued before January 1, 2006 and
10 except as otherwise provided in this subsection, if a qualified
11 taxpayer pays or accrues eligible investment on or to an eligible
12 property that is leased for a minimum term of 10 years or sold to
13 another taxpayer for use in a business activity, the qualified
14 taxpayer may assign all or a portion of the credit under this
15 section based on that eligible investment to the lessee or
16 purchaser of that eligible property. A credit assignment under this
17 subsection shall only be made to a taxpayer that when the
18 assignment is complete will be a qualified taxpayer. All credit
19 assignments under this subsection are irrevocable and, except for a
20 credit based on a multiphase project, shall be made in the tax year
21 in which the certificate of completion is issued, unless the
22 assignee is an unknown lessee. If a qualified taxpayer wishes to
23 assign all or a portion of its credit to a lessee but the lessee is
24 unknown in the tax year in which the certificate of completion is
25 issued, the qualified taxpayer may delay claiming and assigning the
26 credit until the first tax year in which the lessee is known. A
27 qualified taxpayer may claim a portion of a credit and assign the

1 remaining credit amount. Except as otherwise provided in this
2 subsection, if the qualified taxpayer both claims and assigns
3 portions of the credit, the qualified taxpayer shall claim the
4 portion it claims in the tax year in which the certificate of
5 completion is issued or, for a credit assigned and claimed for a
6 multiphase project before a certificate of completion is issued,
7 the taxpayer shall claim the credit in the year in which the credit
8 is assigned. If a qualified taxpayer assigns all or a portion of
9 the credit and the eligible property is leased to more than 1
10 taxpayer, the qualified taxpayer shall determine the amount of
11 credit assigned to each lessee. A lessee shall not subsequently
12 assign a credit or any portion of a credit assigned under this
13 subsection. A purchaser may subsequently assign a credit or any
14 portion of a credit assigned to the purchaser under this subsection
15 to a lessee of the eligible property. The credit assignment under
16 this subsection shall be made on a form prescribed by the Michigan
17 economic growth authority. The qualified taxpayer shall send a copy
18 of the completed assignment form to the Michigan economic growth
19 authority in the tax year in which the assignment is made. The
20 assignee shall attach a copy of the completed assignment form to
21 its annual return required to be filed under this act, for the tax
22 year in which the assignment is made and the assignee first claims
23 a credit, which shall be the same tax year. In addition to all
24 other procedures under this subsection, the following apply if the
25 total of all credits for a project is more than \$10,000,000.00 but
26 \$30,000,000.00 or less:

27 (a) The credit shall be assigned based on the schedule

1 contained in the certificate of completion.

2 (b) If the qualified taxpayer assigns all or a portion of the
3 credit amount, the qualified taxpayer shall assign the annual
4 credit amount for each tax year separately.

5 (c) More than 1 annual credit amount may be assigned to any 1
6 assignee and the qualified taxpayer may assign all or a portion of
7 each annual credit amount to any assignee.

8 (d) The qualified taxpayer shall not assign more than the
9 annual credit amount for each tax year.

10 (21) Except as otherwise provided in this subsection, for
11 projects for which a certificate of completion is issued before
12 January 1, 2006, and except as otherwise provided in this
13 subsection, if a qualified taxpayer is a partnership, limited
14 liability company, or subchapter S corporation, the qualified
15 taxpayer may assign all or a portion of a credit under this section
16 to its partners, members, or shareholders, based on their
17 proportionate share of ownership of the partnership, limited
18 liability company, or subchapter S corporation or based on an
19 alternative method approved by the Michigan economic growth
20 authority. A credit assignment under this subsection is irrevocable
21 and, except for a credit assignment based on a multiphase project,
22 shall be made in the tax year in which a certificate of completion
23 is issued. A qualified taxpayer may claim a portion of a credit and
24 assign the remaining credit amount. Except as otherwise provided in
25 this subsection, if the qualified taxpayer both claims and assigns
26 portions of the credit, the qualified taxpayer shall claim the
27 portion it claims in the tax year in which a certificate of

1 completion is issued or for a credit assigned and claimed for a
2 multiphase project, before the component completion certificate is
3 issued, the taxpayer shall claim the credit in the year in which
4 the credit is assigned. A partner, member, or shareholder that is
5 an assignee shall not subsequently assign a credit or any portion
6 of a credit assigned under this subsection. The credit assignment
7 under this subsection shall be made on a form prescribed by the
8 Michigan economic growth authority. The qualified taxpayer shall
9 send a copy of the completed assignment form to the Michigan
10 economic growth authority in the tax year in which the assignment
11 is made. A partner, member, or shareholder who is an assignee shall
12 attach a copy of the completed assignment form to its annual return
13 required under this act, for the tax year in which the assignment
14 is made and the assignee first claims a credit, which shall be the
15 same tax year. A credit assignment based on a credit for a
16 component of a multiphase project that is completed before January
17 1, 2006 shall be made under this subsection. In addition to all
18 other procedures under this subsection, the following apply if the
19 total of all credits for a project is more than \$10,000,000.00 but
20 \$30,000,000.00 or less:

21 (a) The credit shall be assigned based on the schedule
22 contained in the certificate of completion.

23 (b) If the qualified taxpayer assigns all or a portion of the
24 credit amount, the qualified taxpayer shall assign the annual
25 credit amount for each tax year separately.

26 (c) More than 1 annual credit amount may be assigned to any 1
27 assignee and the qualified taxpayer may assign all or a portion of

1 each annual credit amount to any assignee.

2 (d) The qualified taxpayer shall not assign more than the
3 annual credit amount for each tax year.

4 (22) For projects approved under section 38g of former 1975 PA
5 228 for which a certificate of completion is issued on and after
6 January 1, 2006, a qualified taxpayer may assign all or a portion
7 of a credit allowed under section 38g(2), (3), or (33) of former
8 1975 PA 228 under this subsection. A credit assignment under this
9 subsection is irrevocable and, except for a credit assignment based
10 on a multiphase project, shall be made in the tax year in which a
11 certificate of completion is issued unless the assignee is an
12 unknown lessee. If a qualified taxpayer wishes to assign all or a
13 portion of its credit to a lessee but the lessee is unknown in the
14 tax year in which the certificate of completion is issued, the
15 qualified taxpayer may delay claiming and assigning the credit
16 until the first tax year in which the lessee is known. A qualified
17 taxpayer may claim a portion of a credit and assign the remaining
18 credit amount. If the qualified taxpayer both claims and assigns
19 portions of the credit, the qualified taxpayer shall claim the
20 portion it claims in the tax year in which a certificate of
21 completion is issued pursuant to section 38g of former 1975 PA 228.
22 An assignee may subsequently assign a credit or any portion of a
23 credit assigned under this subsection to 1 or more assignees. An
24 assignment under this subsection of a credit allowed under section
25 38g(2), (3), or (33) of former 1975 PA 228 shall not be made after
26 10 years after the first tax year in which that credit under
27 section 38g(2), (3), or (33) of former 1975 PA 228 may be claimed.

1 The credit assignment or a subsequent reassignment under this
2 subsection shall be made on a form prescribed by the Michigan
3 economic growth authority. The qualified taxpayer shall send a copy
4 of the completed assignment form to the Michigan economic growth
5 authority in the tax year in which an assignment or reassignment is
6 made. An assignee or subsequent reassignee shall attach a copy of
7 the completed assignment form to its annual return required under
8 this act, for the tax year in which the assignment or reassignment
9 is made and the assignee or reassignee first claims a credit, which
10 shall be the same tax year. A credit assignment based on a credit
11 for a component of a multiphase project that is completed before
12 January 1, 2006 shall be made under section 38g(18) of former 1975
13 PA 228. A credit assignment based on a credit for a component of a
14 multiphase project that is completed on or after January 1, 2006
15 may be made under this section. In addition to all other procedures
16 and requirements under this section, the following apply if the
17 total of all credits for a project is more than \$10,000,000.00 but
18 \$30,000,000.00 or less:

19 (a) The credit shall be assigned based on the schedule
20 contained in the certificate of completion.

21 (b) If the qualified taxpayer assigns all or a portion of the
22 credit amount, the qualified taxpayer shall assign the annual
23 credit amount for each tax year separately.

24 (c) More than 1 annual credit amount may be assigned to any 1
25 assignee, and the qualified taxpayer may assign all or a portion of
26 each annual credit amount to any assignee.

27 (23) A qualified taxpayer or assignee under subsection (20),

1 (21), or (22) shall not claim a credit under subsection (1)(a) or
2 (b) based on eligible investment on which a credit claimed under
3 section 38d of former 1975 PA 228 was based.

4 (24) The Michigan economic growth authority may certify a
5 credit under this section based on an agreement entered into prior
6 to January 1, 2008 pursuant to section 38g of former 1975 PA 228.
7 The number of years for which the credit under this subsection may
8 be claimed under this act shall equal the maximum number of years
9 designated in the agreement reduced by the number of years for
10 which a credit had been claimed under section 38g of former 1975 PA
11 228.

12 (25) An eligible taxpayer that claims a credit under this
13 section is not prohibited from claiming a credit under section 23.
14 However, the eligible taxpayer shall not claim a credit under this
15 section and section 23 based on the same costs.

16 (26) Eligible investment attributable or related to the
17 operation of a professional sports stadium, and eligible investment
18 that is associated or affiliated with the operation of a
19 professional sports stadium, including, but not limited to, the
20 operation of a parking lot or retail store, shall not be used as a
21 basis for a credit under this section. Professional sports stadium
22 does not include a professional sports stadium that will no longer
23 be used by a professional sports team on and after the date that an
24 application related to that professional sports stadium is filed
25 under this section.

26 (27) Eligible investment attributable or related to the
27 operation of a casino, and eligible investment that is associated

1 or affiliated with the operation of a casino, including, but not
2 limited to, the operation of a parking lot, hotel, motel, or retail
3 store, shall not be used as a basis for a credit under this
4 section. As used in this subsection, "casino" means a casino
5 regulated by this state pursuant to the Michigan gaming control and
6 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

7 (28) Eligible investment attributable or related to the
8 construction of a new landfill or the expansion of an existing
9 landfill regulated under part 115 of the natural resources and
10 environmental protection act, 1994 PA 451, MCL 324.11501 to
11 324.11550, shall not be used as a basis for a credit under this
12 section.

13 (29) The Michigan economic growth authority annually shall
14 prepare and submit to the house of representatives and senate
15 committees responsible for tax policy and economic development
16 issues a report on the credits under subsection (3). The report
17 shall include, but is not limited to, all of the following:

18 (a) A listing of the projects under subsection (3) that were
19 approved in the calendar year.

20 (b) The total amount of eligible investment for projects
21 approved under subsection (3) in the calendar year.

22 (30) As used in this section:

23 (a) "Annual credit amount" means the maximum amount that a
24 qualified taxpayer is eligible to claim each tax year for a project
25 for which the total of all credits is more than \$10,000,000.00 but
26 \$30,000,000.00 or less, which shall be 10% of the qualified
27 taxpayer's credit amount approved under subsection (3).

1 (b) "Authority" means a brownfield redevelopment authority
2 created under the brownfield redevelopment financing act, 1996 PA
3 381, MCL 125.2651 to 125.2672.

4 (c) "Authorized business", "full-time job", "new capital
5 investment", "qualified high-technology business", "retained jobs",
6 and "written agreement" mean those terms as defined in the Michigan
7 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

8 (d) "Blighted", "brownfield plan", "eligible activities",
9 "facility", "functionally obsolete", "qualified local governmental
10 unit", and "response activity" mean those terms as defined in the
11 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
12 to 125.2672.

13 (e) "Eligible investment" means demolition, construction,
14 restoration, alteration, renovation, or improvement of buildings or
15 site improvements on eligible property and the addition of
16 machinery, equipment, and fixtures to eligible property after the
17 date that eligible activities on that eligible property have
18 started pursuant to a brownfield plan under the brownfield
19 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
20 and after the date that the preapproval letter is issued, if the
21 costs of the eligible investment are not otherwise reimbursed to
22 the taxpayer or paid for on behalf of the taxpayer from any source
23 other than the taxpayer. The addition of leased machinery,
24 equipment, or fixtures to eligible property by a lessee of the
25 machinery, equipment, or fixtures is eligible investment if the
26 lease of the machinery, equipment, or fixtures has a minimum term
27 of 10 years or is for the expected useful life of the machinery,

1 equipment, or fixtures, and if the owner of the machinery,
2 equipment, or fixtures is not the qualified taxpayer with regard to
3 that machinery, equipment, or fixtures.

4 (f) "Eligible property" means that term as defined in the
5 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
6 to 125.2672, except that, for purposes of subsection (2), all of
7 the following apply:

8 (i) Eligible property means property identified under a
9 brownfield plan that was used or is currently used for commercial,
10 industrial, or residential purposes and that is 1 of the following:

11 (A) Property for which eligible activities are identified
12 under the brownfield plan, is in a qualified local governmental
13 unit, and is a facility, functionally obsolete, or blighted.

14 (B) Property that is not in a qualified local governmental
15 unit but is within a downtown development district established
16 under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally
17 obsolete or blighted, and a component of the project on that
18 eligible property is 1 or more of the following:

19 (I) Infrastructure improvements that directly benefit the
20 eligible property.

21 (II) Demolition of structures that is not response activity
22 under section 20101 of the natural resources and environmental
23 protection act, 1994 PA 451, MCL 324.20101.

24 (III) Lead or asbestos abatement.

25 (IV) Site preparation that is not response activity under
26 section 20101 of the natural resources and environmental protection
27 act, 1994 PA 451, MCL 324.20101.

1 (C) Property for which eligible activities are identified
2 under the brownfield plan, is not in a qualified local governmental
3 unit, and is a facility.

4 (ii) Eligible property includes parcels that are adjacent or
5 contiguous to the eligible property if the development of the
6 adjacent or contiguous parcels is estimated to increase the
7 captured taxable value of the property or tax reverted property
8 owned or under the control of a land bank fast track authority
9 pursuant to the land bank fast track authority act, 2003 PA 258,
10 MCL 124.751 to 124.774.

11 (iii) Eligible property includes, to the extent included in the
12 brownfield plan, personal property located on the eligible
13 property.

14 (iv) Eligible property does not include qualified agricultural
15 property exempt under section 7ee of the general property tax act,
16 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
17 district for school operating purposes to the extent provided under
18 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

19 (g) "Last tax year" means the taxpayer's tax year under former
20 1975 PA 228 that begins after December 31, 2006 and before January
21 1, 2008.

22 (h) "Michigan economic growth authority" means the Michigan
23 economic growth authority created in the Michigan economic growth
24 authority act, 1995 PA 24, MCL 207.801 to 207.810.

25 (i) "Multiphase project" means a project approved under this
26 section that has more than 1 component, each of which can be
27 completed separately.

1 (j) "Personal property" means that term as defined in section
2 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
3 that personal property does not include either of the following:

4 (i) Personal property described in section 8(h), (i), or (j) of
5 the general property tax act, 1893 PA 206, MCL 211.8.

6 (ii) Buildings described in section 14(6) of the general
7 property tax act, 1893 PA 206, MCL 211.14.

8 (k) "Project" means the total of all eligible investment on an
9 eligible property or, for purposes of subsection (6)(b), 1 of the
10 following:

11 (i) All eligible investment on property not in a qualified
12 local governmental unit that is a facility.

13 (ii) All eligible investment on property that is not a facility
14 but is functionally obsolete or blighted.

15 (l) "Qualified local governmental unit" means that term as
16 defined in the obsolete property rehabilitation act, 2000 PA 146,
17 MCL 125.2781 to 125.2797.

18 (m) "Qualified taxpayer" means a taxpayer that meets both of
19 the following criteria:

20 (i) Owns or leases eligible property.

21 (ii) Certifies that, except as otherwise provided in this
22 subparagraph, the department of environmental quality has not sued
23 or issued a unilateral order to the taxpayer pursuant to part 201
24 of the natural resources and environmental protection act, 1994 PA
25 451, MCL 324.20101 to 324.20142, to compel response activity on or
26 to the eligible property, or expended any state funds for response
27 activity on or to the eligible property and demanded reimbursement

1 for those expenditures from the qualified taxpayer. However, if the
2 taxpayer has completed all response activity required by part 201
3 of the natural resources and environmental protection act, 1994 PA
4 451, MCL 324.20101 to 324.20142, is in compliance with any deed
5 restriction or administrative or judicial order related to the
6 required response activity, and has reimbursed the state for all
7 costs incurred by the state related to the required response
8 activity, the taxpayer meets the criteria under this subparagraph.

9 Sec. 26. (1) A qualified taxpayer that makes an eligible
10 contribution in an eligible business may claim a credit against the
11 tax imposed by the act equal to 50% of the taxpayer's eligible
12 contribution, not to exceed \$500,000.00.

13 (2) Prior to making an eligible contribution, a qualified
14 taxpayer shall submit an application to the authority for approval
15 of the credit. The application shall include at least all of the
16 following:

17 (a) An economic impact analysis, including all of the
18 following:

19 (i) The impact on both the qualified taxpayer and eligible
20 business.

21 (ii) The innovation impact on the technology sector.

22 (iii) The number of jobs created.

23 (b) A project and collaboration structure that includes:

24 (i) The structure of investment between the qualified taxpayer
25 and eligible business.

26 (ii) Technology development roles and responsibilities.

27 (iii) A commercialization plan, including intellectual property

1 structure.

2 (c) A technology summary, including a due diligence review by
3 the qualified taxpayer.

4 (d) Other collaborators or interested and supportive
5 businesses.

6 (i) A financial summary.

7 (ii) Total eligible contribution by the qualified taxpayer.

8 (iii) In-kind services provided by the qualified taxpayer.

9 (iv) Other investors or service providers in the project.

10 (v) Total overall investment into the project.

11 (3) The authority shall develop criteria to competitively
12 review applications, including, but not limited to, criteria
13 related to all of the following:

14 (a) Economic impact in Michigan.

15 (b) Total cash investment by the qualified taxpayer.

16 (c) Total in-kind services provided by the qualified taxpayer.

17 (d) Other collaborators and services provided.

18 (e) Impact of technology development across specific and other
19 sectors.

20 (f) The commercialization plan and potential for
21 commercialization.

22 (4) A qualified taxpayer shall not claim a credit under this
23 section unless the Michigan economic growth authority has issued a
24 certificate to the taxpayer. The taxpayer shall attach the
25 certificate to the annual return filed under this act on which a
26 credit under this section is claimed.

27 (5) The certificate required by subsection (4) shall state all

1 of the following:

2 (a) The taxpayer is an eligible business.

3 (b) The amount of the credit under this section for the
4 eligible business for the designated tax year, which shall be the
5 year in which contribution is made.

6 (c) The taxpayer's federal employer identification number or
7 the Michigan department of treasury number assigned to the
8 taxpayer.

9 (6) The authority shall not grant more than 25 credits under
10 this section for any 1 year, based on an application and a
11 competitive review criteria.

12 (7) A qualified taxpayer that receives a credit under this
13 section and the eligible business to which a contribution is made
14 shall enter into an agreement with the authority that requires the
15 qualified taxpayer and the eligible business to comply with the
16 relevant provisions of the application as determined by the
17 authority for a period of 5 years. If the authority determines that
18 there has not been compliance with the requirements of the terms of
19 the agreement, the qualified taxpayer shall be liable for an amount
20 equal to 125% of the total of all credits received under this
21 section for all tax years.

22 (8) As used in this section:

23 (a) "Authority" means the Michigan economic growth authority
24 created in the Michigan economic growth authority act, 1995 PA 24,
25 MCL 207.801 to 207.810.

26 (b) "Eligible contribution" means the transfer of pecuniary
27 interest in the form of cash, for the purposes of research and

1 development and technology innovation. An eligible contribution
2 does not include contract research.

3 (c) "Eligible business" means a taxpayer engaged in research
4 and development that together with any affiliates employs fewer
5 than 50 full-time employees or has gross receipts of less than
6 \$10,000,000.00 and has no prior financial interest in the qualified
7 taxpayer and in which the qualified taxpayer has no prior financial
8 interest.

9 (d) "Qualified taxpayer" means a taxpayer that meets all of
10 the following criteria:

11 (i) Proposes to fund, support, and collaborate in the research
12 and development and technology innovation with an eligible business
13 located in this state.

14 (ii) Has not received a credit under this section in the past
15 calendar year.

16 (e) "Research and development" means 1 of the following:

17 (i) Translational research conducted with the objective of
18 attaining a specific benefit or to solve a practical problem.

19 (ii) Activity that seeks to utilize, synthesize, or apply
20 existing knowledge, information, or resources to the resolution of
21 a specified problem, question, or issue, with high potential for
22 commercial application to create jobs in this state.

23 (iii) Original investigation for the advancement of scientific
24 or technological knowledge that will enhance the research capacity
25 of this state in a way that increases the ability to attract to or
26 develop companies, jobs, researchers, or students in this state.

27 Sec. 27. A taxpayer, other than a taxpayer that is a member of

1 an affiliated group, a controlled group of corporations, or an
2 entity under common control, whose gross receipts allocated or
3 apportioned to this state are greater than \$350,000.00 but less
4 than \$1,000,000.00, may claim a credit against the tax imposed
5 under this act equal to the tax liability before all other credits
6 multiplied by a fraction the numerator of which is the difference
7 between the taxpayer's allocated or apportioned gross receipts and
8 \$1,000,000.00 and the denominator of which is \$350,000.00.

9 Sec. 28. (1) A taxpayer may claim a credit against the tax
10 imposed by this act equal to 10% of the property taxes paid on
11 eligible personal property in the tax year in which the credit
12 under this section is claimed.

13 (2) A taxpayer may claim the credit under subsection (1) on a
14 form prescribed by the department. The taxpayer shall attach both
15 of the following to the form:

16 (a) A copy of the statement of assessable personal property
17 prepared pursuant to section 19 of the general property tax act,
18 1893 PA 206, MCL 211.19, identifying the eligible personal property
19 for which the credit under subsection (1) is claimed.

20 (b) A copy of the assessment or bill issued to and paid by the
21 taxpayer for the eligible personal property for which the credit
22 under subsection (1) is claimed.

23 (3) If the credit allowed under subsection (1) exceeds the tax
24 liability of the taxpayer for the tax year, that portion of the
25 credit that exceeds the tax liability for the tax year shall not be
26 refunded but may be carried forward to offset tax liability in
27 subsequent tax years for 10 years or until used up, whichever

1 occurs first.

2 (4) As used in this section:

3 (a) "Eligible personal property" means personal property that
4 meets all of the following conditions:

5 (i) Was acquired by the taxpayer claiming the credit under
6 subsection (1) within 5 years immediately preceding the date that
7 the taxpayer claims the credit under subsection (1).

8 (ii) Is classified as industrial personal property under
9 section 34c of the general property tax act, 1893 PA 206, MCL
10 211.34c.

11 (b) "Property taxes" means any of the following:

12 (i) Taxes collected under the general property tax act, 1893 PA
13 206, MCL 211.1 to 211.157.

14 (ii) Taxes collected under 1905 PA 282, MCL 207.1 to 207.21.

15 (iii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

16 (iv) Taxes levied under the obsolete property rehabilitation
17 act, 2000 PA 146, MCL 125.2781 to 125.2797.

18 (v) Taxes levied under the technology park development act,
19 1984 PA 385, MCL 207.702 to 207.718.

20 (vi) Taxes levied under the commercial rehabilitation act, 2005
21 PA 210, MCL 207.841 to 207.856.

22 (vii) Any payments made by a taxpayer pursuant to a contract
23 with a local tax collecting unit to the extent that those payments
24 are made to reimburse taxing units for property taxes that would
25 otherwise be collected under the general property tax act, 1893 PA
26 206, MCL 211.1 to 211.157.

27 Sec. 29. (1) Subject to subsection (4), an eligible taxpayer

1 may claim the Michigan entrepreneurial credit equal to 100% of the
2 tax imposed by this act.

3 (2) An eligible taxpayer may claim the credit under subsection
4 (1) on a form prescribed by the department.

5 (3) As used in this section, "eligible taxpayer" means a
6 taxpayer that meets all of the following conditions:

7 (a) Had less than \$25,000,000.00 in gross receipts in the
8 immediately preceding tax year. The \$25,000,000.00 amount shall be
9 annually adjusted for inflation using the Detroit consumer price
10 index.

11 (b) Has created in this state or transferred into this state
12 not fewer than 20 new jobs in the immediately preceding tax year.
13 As used in this subdivision, "new jobs" means jobs that meet all of
14 the following criteria:

15 (i) Did not exist in this state in the immediately preceding
16 tax year.

17 (ii) Represent an overall increase in full-time equivalent jobs
18 of the taxpayer in this state in the immediately preceding tax
19 year.

20 (iii) Are not jobs into which employees transfer if the
21 employees worked in this state for the taxpayer, a related entity
22 of the taxpayer, or an entity with which the taxpayer files a
23 consolidated return under this act in other jobs prior to beginning
24 the new jobs.

25 (c) Has made a capital investment in this state of not less
26 than \$3,000,000.00 in the immediately preceding tax year or
27 \$5,000,000.00 in the 2 immediately preceding tax years.

1 (4) An eligible taxpayer may claim the Michigan entrepreneurial
2 credit under this section not more than 3 times in 3 consecutive
3 years, beginning in the first year that the taxpayer claims the
4 Michigan entrepreneurial credit.

5 (5) If a taxpayer relocates outside of this state within 5 years
6 after claiming the Michigan entrepreneurial credit under this section
7 and is no longer subject to the tax imposed under this act, that
8 taxpayer is liable in an amount equal to the total of all credits
9 received under this section. Any liability under this subsection shall
10 be collected under 1941 PA 122, MCL 205.1 to 205.31.

11 CHAPTER 4

12 Sec. 40. Except as otherwise provided in this chapter, the
13 entire tax base of the taxpayer whose business activities are
14 confined solely to this state shall be allocated to this state.

15 Sec. 41. The tax base of a taxpayer whose business activities
16 are taxable both within and outside of this state is taxable in
17 another state in either of the following circumstances:

18 (a) The taxpayer is subject to a business privilege tax, a net
19 income tax, a franchise tax measured by net income, a franchise tax
20 for the privilege of doing business, or a corporate stock tax or a
21 tax of the type imposed under this act.

22 (b) The other state has jurisdiction to subject the taxpayer
23 to 1 or more of the taxes listed in subdivision (a) regardless of
24 whether the state does or does not subject the taxpayer to the tax.

25 Sec. 42. All of the tax base, other than the tax base derived
26 principally from transportation or financial services or
27 specifically allocated, shall be apportioned to this state by

1 multiplying the tax base by the sales factor. However, a taxpayer
2 that has no sales within this state shall apportion the tax base
3 using the average of the payroll and property factors.

4 Sec. 43. (1) Except as provided in subsection (2), the
5 property factor is a fraction, the numerator of which is the
6 average value of the taxpayer's real and tangible personal property
7 owned or rented in this state during the tax year and the
8 denominator of which is the average value of all the taxpayer's
9 real and tangible personal property owned or rented during the tax
10 year.

11 (2) The property factor for a foreign person is a fraction,
12 the numerator of which is the average value of the taxpayer's real
13 and tangible personal property owned or rented in this state during
14 the tax year by the taxpayer and the denominator of which is the
15 average value of all the taxpayer's real and tangible personal
16 property owned or rented in the United States during the tax year.

17 (3) Property owned by the taxpayer is valued at its original
18 cost. Property rented by the taxpayer is valued at 8 times the net
19 annual rental rate. Net annual rental rate is the annual rental
20 rate paid by the taxpayer less any annual rental rate received by
21 the taxpayer from subrentals.

22 (4) The average value of property shall be determined by
23 averaging the values at the beginning and ending of the tax year,
24 except that the department may require the periodic averaging of
25 values during the tax year if doing that is reasonably required to
26 properly reflect the average value of the taxpayer's property.

27 Sec. 44. (1) Except as otherwise provided in subsection (2),

1 the payroll factor is a fraction, the numerator of which is the
2 total wages paid in this state during the tax year by the taxpayer
3 and the denominator of which is the total wages paid everywhere
4 during the tax year by the taxpayer. For the purposes of this
5 chapter only, "wages" means all wages, salaries, fees, bonuses, and
6 commissions paid in the tax year on behalf of or for the benefit of
7 employees, officers, or directors of the taxpayer and includes, but
8 is not limited to, payments that are subject to or specifically
9 exempt or excepted from withholding under sections 3401 to 3406 of
10 the internal revenue code.

11 (2) The payroll factor for a foreign person is a fraction, the
12 numerator of which is the total wages paid for services performed
13 in this state during the tax year by the taxpayer and the
14 denominator of which is the total wages paid for services performed
15 in the United States during the tax year by the taxpayer.

16 (3) Wages are considered paid in this state in the following
17 circumstances:

18 (a) The individual's service is performed entirely within the
19 state.

20 (b) The individual's service is performed both within and
21 without the state, but the service performed without the state is
22 incidental to the individual's service within the state.

23 (c) Some of the individual's service is performed in the state
24 and the base of operations or, if there is no base of operations,
25 the place from which the service is directed or controlled is in
26 the state; or the base of operations or the place from which the
27 service is directed or controlled is not in any state in which some

1 part of the service is performed, but the individual's residence is
2 in this state.

3 Sec. 45. (1) Except as otherwise provided in subsection (2)
4 and section 46, the sales factor is a fraction, the numerator of
5 which is the total sales of the taxpayer in this state during the
6 tax year and the denominator of which is the total sales of the
7 taxpayer everywhere during the tax year.

8 (2) The sales factor for a foreign person is a fraction, the
9 numerator of which is the total sales of the taxpayer in this state
10 during the tax year and the denominator of which is the total sales
11 of the taxpayer in the United States during the tax year.

12 (3) Sales of tangible personal property are in this state if
13 the property is shipped or delivered to any purchaser within this
14 state regardless of the free on board point or other conditions of
15 the sales and if personal property is shipped from an office,
16 store, warehouse, factory, or other place of storage in this state
17 and the taxpayer is not taxable in the state of the purchaser. For
18 the purposes of this subsection only, "state" means any state of
19 the United States, the District of Columbia, the Commonwealth of
20 Puerto Rico, any territory or possession of the United States, or a
21 political subdivision thereof.

22 (4) Sales in this state also include the receipts from the
23 sale, lease, rental, or licensing of real property located in this
24 state and the lease, rental, or licensing of tangible personal
25 property located in this state.

26 (5) Sales, other than sales of tangible personal property, are
27 in this state in any of the following circumstances:

1 (a) The business activity is performed in this state.

2 (b) The business activity is performed both within and outside
3 of this state and, based on costs of performance, a greater
4 proportion of the business activity is performed within this state
5 than is performed outside this state.

6 (c) The business activity is planning, designing, or otherwise
7 facilitating construction activities within this state.

8 (6) Notwithstanding the provisions of subsection (5), receipts
9 derived by a mortgage company from the origination or sale of a
10 loan secured by residential real property is deemed a sale in this
11 state only if 1 or more of the following apply:

12 (a) The real property is located in this state.

13 (b) The real property is located both within this state and 1
14 or more other states and more than 50% of the fair market value of
15 the real property is located within this state.

16 (c) More than 50% of the real property is not located in any 1
17 state and the borrower is located in this state.

18 (7) For purposes of subsection (6), a borrower is considered
19 located in this state if the borrower's billing address is in this
20 state.

21 (8) For purposes of subsection (6), "mortgage company" means a
22 person who has greater than 70% of its revenues, in the ordinary
23 course of business, from the origination, sale, or servicing of
24 residential mortgage loans.

25 Sec. 46. (1) Notwithstanding section 45, a spun off
26 corporation that qualified to calculate its sales factor for 7
27 years under section 54 of former 1975 PA 228 may elect to calculate

1 its sales factor under this section for an additional 4 years
2 following those 7 years or 3 years if a taxpayer had an election
3 approved under section 54(1)(e) of former 1975 PA 228. Prior to the
4 end of the first year following the 7 years for which the taxpayer
5 qualified under section 54 of former 1975 PA 228 and if the spun
6 off corporation is not required to file amended returns under
7 section 54(5) of former 1975 PA 228, the spun off corporation may
8 request, in writing, approval from the state treasurer for the
9 election of the 4 additional years under this section. If the
10 taxpayer had an election approved under section 54(1)(e) of former
11 1978 PA 228, the taxpayer is not required to seek approval under
12 this section. The state treasurer must approve the election under
13 this subsection if the requirements of this section are met. The
14 request shall include all of the following:

15 (a) A statement that the spun off corporation qualifies for
16 the election under this section.

17 (b) A list of all corporations, limited liability companies,
18 and any other business entities that the spun off corporation
19 controlled at the time of the restructuring transaction.

20 (c) A commitment by the spun off corporation to invest at
21 least an additional \$200,000,000.00 of capital investment in this
22 state within the additional 4 years and maintain at least 80% of
23 the number of full-time equivalent employees in this state based on
24 the number of full-time equivalent employees in this state at the
25 beginning of the additional 4-year period for all of the additional
26 4 years; a commitment by the spun off corporation to invest an
27 additional \$400,000,000.00 in this state within the additional 4

1 years; or a commitment by the spun off corporation to invest a
2 total of \$1,300,000,000.00 in this state within the 11-year period
3 beginning with the year in which the restructuring transaction
4 under which a spun off corporation qualified under this subsection
5 was completed. The 4 years under this subdivision begins with the
6 eighth year following the tax year in which the restructuring
7 transaction under which a spun off corporation qualified under this
8 subsection was completed. For purposes of this subdivision, the
9 number of full-time equivalent employees includes employees in all
10 of the following circumstances:

11 (i) On temporary layoff.

12 (ii) On strike.

13 (iii) On a type of temporary leave other than the type under
14 subparagraphs (i) and (ii).

15 (iv) Transferred by the spun off corporation to a related
16 entity or to its immediately preceding former parent corporation.

17 (v) Transferred by the spun off corporation to another
18 employer because of the sale of the spun off corporation's location
19 in this state that was the work site of the employees.

20 (2) Prior to the end of the eleventh year following the
21 restructuring transaction under which a spun off corporation
22 qualified under subsection (1), a taxpayer that is a buyer of a
23 plant located in this state that was included in the initial
24 restructuring transaction under subsection (1) may elect to
25 calculate its sales factor under subsection (3) and disregard sales
26 by the taxpayer attributable to that plant to a former parent of a
27 spun off corporation and the sales attributable to the plant shall

1 be treated as sales by a spun off corporation. This election shall
2 extend for a period of 4 years following the date that the plant
3 was purchased reduced by the number of years for which the taxpayer
4 calculated its sales factor pursuant to section 54(2) of former
5 1975 PA 228. On or before the due date for filing the buyer's first
6 annual return under this act following the purchase of the plant,
7 the buyer shall request, in writing, approval from the state
8 treasurer for the election provided under this section and shall
9 attach a statement that the buyer qualifies for the election under
10 this section.

11 (3) A spun off corporation qualified under subsection (1) or
12 (2) that makes an election and is approved under subsection (1) or
13 (2) calculates its sales factor under section 45 subject to both of
14 the following:

15 (a) A purchaser in this state under section 45 does not
16 include a person that purchases from a seller that was included in
17 the purchaser's combined or consolidated annual return under this
18 act but, as a result of the restructuring transaction, ceased to be
19 included in the purchaser's combined or consolidated annual return
20 under this act. This subdivision applies only to sales that
21 originate from a plant located in this state.

22 (b) Total sales under section 45 do not include sales to a
23 purchaser that was a member of a Michigan affiliated group that had
24 included the seller in the filing of a combined or consolidated
25 annual return under this act but, as a result of the restructuring
26 transaction, ceased to include the seller. This subdivision applies
27 only to sales that originate from a plant located in this state to

1 a location in this state.

2 (4) At the end of the fourth tax year following an election
3 under this section, if the spun off corporation that elected to
4 calculate its sales factor under this section for the additional 4
5 years allowed under subsection (1) has failed to maintain the
6 required number of employees or failed to pay or accrue the capital
7 investment required under subsection (1)(c), the spun off
8 corporation shall file amended annual returns under this act for
9 the first through fourth tax years following the election under
10 this section, regardless of the statute of limitations under
11 section 27a of 1941 PA 122, MCL 205.27a, and pay any additional tax
12 plus interest based on the sales factor as calculated under section
13 45. Interest shall be calculated from the due date of the annual
14 return under this act or former 1975 PA 228 on which an exemption
15 under this section was first claimed.

16 (5) The amount of the spun off corporation's investment
17 commitments required under this section shall not be reduced by the
18 amount of any qualifying investments in Michigan plants that are
19 sold.

20 (6) As used in this section:

21 (a) "Spun off corporation" means an entity treated as a
22 controlled corporation under section 355 of the internal revenue
23 code. Controlled corporation includes a corporate subsidiary
24 created for the purpose of a restructuring transaction, a limited
25 liability company, or an operational unit or division with business
26 activities that were previously carried out as a part of the
27 distributing corporation.

1 (b) "Restructuring transaction" means a tax free distribution
2 under section 355 of the internal revenue code and includes tax
3 free transactions under section 355 of the internal revenue code
4 that are commonly referred to as spin offs, split ups, split offs,
5 or type D reorganizations.

6 Sec. 47. (1) The tax base of a taxpayer whose business
7 activities consist of transportation services rendered either
8 entirely within or partly within and partly outside this state
9 shall be determined under the provisions of this section and
10 section 48.

11 (2) The tax base attributable to this state of a taxpayer
12 described subsection (1), other than a taxpayer whose activity
13 consists of the transportation of oil or gas by pipeline, is that
14 portion of the tax base of the taxpayer derived from transportation
15 services wherever performed that the revenue miles of the taxpayer
16 in this state bear to the revenue miles of the taxpayer everywhere.

17 (3) The tax base attributable to this state of a taxpayer
18 whose business activity consists of the transportation both of
19 property and of individuals shall be that portion of the entire tax
20 base of the taxpayer that is equal to the sum of its passenger
21 miles and ton mile fractions, separately computed and individually
22 weighted by the ratio of gross receipts from passenger
23 transportation to total gross receipts from all transportation, and
24 by the ratio of gross receipts from freight transportation to total
25 gross receipts from all transportation, respectively.

26 (4) If the department determines that the information required
27 for the calculations under this section is not available or cannot

1 be obtained without unreasonable expense to the taxpayer, the
2 department may use other available information that in the opinion
3 of the department will result in an equitable allocation of the
4 taxpayer's receipts to this state.

5 Sec. 48. (1) The tax base attributable to this state of a
6 taxpayer whose business activity consists of the transportation of
7 oil by pipeline, is the tax base of the taxpayer in the ratio that
8 the barrel miles transported in this state bear to the barrel miles
9 transported by the taxpayer everywhere.

10 (2) The tax base attributable to this state of a taxpayer
11 whose business activities consists of the transportation of gas by
12 pipeline is the tax base of the taxpayer in the ratio that the
13 1,000 cubic feet miles transported in this state bear to the 1,000
14 cubic feet miles transported by the taxpayer everywhere.

15 Sec. 49. The tax base attributable to this state of a taxpayer
16 that is a financial organization is either of the following:

17 (a) The entire tax base of a taxpayer whose business
18 activities are confined solely to this state.

19 (b) For a taxpayer whose business activities are conducted
20 both within and outside of this state, that portion of its tax base
21 as its gross business in this state is to its gross business
22 everywhere during the period covered by its return. Gross business
23 is the sum of all of the following:

24 (i) Fees, commissions, or other compensation for financial
25 services.

26 (ii) Gross profits from trading in stocks, bonds, or other
27 securities.

1 (iii) Interest charged to customers for carrying debit balances
2 of margin accounts, without deduction of any costs incurred in
3 carrying the accounts.

4 (iv) Interest and dividends received.

5 (v) Any other gross income resulting from the operation as a
6 financial organization.

7 Sec. 50. (1) If the apportionment provisions of this act do
8 not fairly represent the extent of the taxpayer's business activity
9 in this state, the taxpayer may petition for or the treasurer may
10 require the following, with respect to all or a portion of the
11 taxpayer's business activity, if reasonable:

12 (a) Separate accounting.

13 (b) The exclusion of 1 or more of the factors.

14 (c) The inclusion of 1 or more additional factors that will
15 fairly represent the taxpayer's business activity in this state.

16 (d) The use of any other method to effectuate an equitable
17 allocation and apportionment of the taxpayer's tax base.

18 (2) An alternate method may be used only if it is approved by
19 the department.

20 (3) The apportionment provisions of this act shall fairly
21 represent the business activity attributed to the taxpayer in this
22 state, taken as a whole and without a separate examination of the
23 specific elements of the tax base unless it can be demonstrated
24 that the business activity attributed to the taxpayer in this state
25 is out of all appropriate proportion to the actual business
26 transacted in this state and leads to a grossly distorted result.
27 The tax levied under this act is an indivisible tax and not a

1 combination or series of several smaller taxes and relief from
2 apportionment shall be given only in extraordinary circumstances.

3 (4) The filing of a return or an amended return is not
4 considered a petition for the purposes of subsection (1).

5 CHAPTER 5

6 Sec. 60. (1) Each insurance company and each formerly
7 authorized insurance company with respect to premiums received
8 while an insurance company in this state shall pay to the
9 department a tax calculated as the product of .010735 times the
10 insurance company's tax base.

11 (2) The following are exempt from the tax imposed by this
12 section:

13 (a) Beginning January 1, 2008 and after being apportioned
14 under section 62(4), the first \$130,000,000.00 of disability
15 insurance premiums written in this state, other than credit
16 insurance and disability income insurance premiums, of each
17 insurance company subject to tax under this act. This exemption
18 shall be reduced by \$2.00 for each \$1.00 by which the insurance
19 company's gross premiums from insurance carrier services in this
20 state and outside this state exceed \$180,000,000.00.

21 (b) That portion of the tax base attributable to the services
22 provided by an attorney-in-fact to a reciprocal insurer pursuant to
23 chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200
24 to 500.7234.

25 (c) For tax years that begin after December 31, 2006, that
26 portion of the tax base attributable to a multiple employer welfare
27 arrangement that provides dental benefits only and that has a

1 certificate of authority under chapter 70 of the insurance code of
2 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

3 Sec. 61. (1) Except as otherwise provided in this section, the
4 tax base of an insurance company is the insurance company's
5 adjusted receipts as apportioned under subsection (3).

6 (2) The tax calculated on an insurance company under this act
7 is in lieu of all other privilege or franchise fees, income taxes,
8 or other taxes imposed by any other law of this state, except taxes
9 levied on real and personal property and except as otherwise
10 provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to
11 500.8302.

12 (3) The tax base of an insurance company doing business both
13 within and outside of this state or partly within and outside of
14 this state shall be that portion of the tax base of the taxpayer
15 that the gross direct premiums received for insurance upon property
16 or risk in this state, deducting premiums upon policies not taken
17 and returned premiums on canceled policies from Michigan, bears to
18 the gross direct premiums received for insurance upon property or
19 risk, deducting premiums upon policies not taken and returned
20 premiums on canceled policies, everywhere.

21 (4) As used in this section:

22 (a) "Adjusted receipts" means, except as provided in
23 subdivision (b), the sum of all of the following:

24 (i) Rental and royalty receipts from a person that is not
25 either of the following:

26 (A) An affiliated insurance company.

27 (B) An insurance agent of the taxpayer licensed under chapter

1 12 of the insurance code of 1956, 1956 PA 218, MCL 500.1200 to
2 500.1247.

3 (ii) Gross direct premiums received for insurance on property
4 or risk, deducting premiums on policies not taken and returned
5 premiums on canceled policies.

6 (iii) Receipts from administrative services only contracts with
7 a person who is not an affiliated insurance company or an
8 affiliated nonprofit corporation.

9 (iv) Receipts from business activity other than the business of
10 insurance. As used in this subparagraph, "business of insurance"
11 means any activity related to the sale of insurance, payment of
12 claims, or claims handling, on policies written by the taxpayer.

13 (v) Charges not including interest charges attributable to
14 premiums paid on a deferred or installment basis.

15 (vi) Receipts from servicing carrier fees received from the
16 Michigan auto insurance placement facility pursuant to chapter 33
17 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to
18 500.3390.

19 (b) Adjusted receipts do not include any of the following:

20 (i) Receipts from interest, dividends, or proceeds from the
21 sale of assets.

22 (ii) Receipts, other than receipts described in subsection
23 (4)(a)(i) or (ii), from an affiliated insurance company, an
24 affiliated nonprofit corporation, an employee of the taxpayer, or
25 an insurance agent of the taxpayer licensed under chapter 12 of the
26 insurance code of 1956, 1956 PA 218, MCL 500.1200 to 500.1247.

27 (iii) Receipts on the sale of annuities.

1 (iv) Receipts on all reinsurance transactions.

2 (c) "Affiliated insurance company" means an insurance company
3 that is a member of an affiliated group with the taxpayer or, if
4 the insurance company does not issue stock, 50% or more of the
5 members of that insurance company's board of directors are members
6 of the taxpayer's board of directors.

7 (d) "Affiliated nonprofit corporation" means a nonprofit
8 corporation, of which 80% or more of the members of the board of
9 directors are members of the taxpayer's board of directors.

10 Sec. 62. (1) An insurance company may claim a credit against
11 the tax imposed under this act in the following amounts, but not to
12 exceed the limitations provided in this section:

13 (a) Amounts paid to the Michigan worker's compensation
14 placement facility pursuant to chapter 23 of the insurance code of
15 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

16 (b) Amounts paid to the Michigan basic property insurance
17 association pursuant to chapter 29 of the insurance code of 1956,
18 1956 PA 218, MCL 500.2901 to 500.2954.

19 (c) Amounts paid to the Michigan automobile insurance
20 placement facility pursuant to chapter 33 of the insurance code of
21 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

22 (d) Amounts paid to the property and casualty guaranty
23 association pursuant to chapter 79 of the insurance code of 1956,
24 1956 PA 218, MCL 500.7901 to 500.7949.

25 (e) Amounts paid to the Michigan life and health guaranty
26 association pursuant to chapter 77 of the insurance code of 1956,
27 1956 PA 218, MCL 500.7701 to 500.7780.

1 (2) For each tax year, the total credit provided in subsection
2 (1) for all insurance companies shall not exceed the product of the
3 remainder obtained by deducting the sum of the statutory amount
4 certified by the director of management and budget in 2007 pursuant
5 to section 22c(3) of former 1975 PA 228, plus the credits allowed
6 under section 63 from the total tax liability of domestic insurance
7 companies under this act but before applying any credits multiplied
8 by a fraction the numerator of which is the total assessments paid
9 by all insurance companies to the associations and facilities
10 described in subsection (1) and the denominator of which is the
11 total assessments paid by domestic insurance companies to the
12 associations and facilities described in subsection (1). The
13 statutory amount certified by the director of management and budget
14 in 2007 pursuant to section 22c(3) of former 1975 PA 228 subtrahend
15 shall be adjusted annually in proportion to the change in total
16 general fund/general purpose revenues for the immediately preceding
17 year, as certified by the director of management and budget.

18 (3) For each tax year, the credit for each insurance company
19 shall not exceed an amount equal to the product of the total credit
20 limitation calculated under subsection (2) multiplied by a fraction
21 the numerator of which is the insurance company's total assessments
22 paid to the associations and facilities described in subsection (1)
23 and the denominator of which is the total assessments paid by all
24 insurance companies to the associations and facilities described in
25 subsection (1).

26 (4) The tax liability and assessments of an insurance company
27 from the immediately preceding tax year shall be used in

1 calculating the credits allowed under this section for each tax
2 year.

3 (5) Not later than June 30 of each year after 2007, the state
4 treasurer shall certify the amounts needed to calculate the credits
5 allowed under this section for the insurance company tax year
6 ending in that calendar year.

7 Sec. 63. An insurance company shall be allowed a credit
8 against the tax imposed under this act in an amount equal to 50% of
9 the examination fees paid by the insurance company during the tax
10 year pursuant to section 224 of the insurance code of 1956, 1956 PA
11 218, MCL 500.224.

12 Sec. 64. (1) For amounts paid pursuant to section 352 of the
13 worker's disability compensation act of 1969, 1969 PA 317, MCL
14 418.352, an insurance company subject to the worker's disability
15 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may
16 claim a credit against the tax imposed under this act for the tax
17 year in an amount equal to the amount paid during that tax year by
18 the insurance company pursuant to section 352 of the worker's
19 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as
20 certified by the director of the bureau of worker's disability
21 compensation pursuant to section 391(6) of the worker's disability
22 compensation act of 1969, 1969 PA 317, MCL 418.391.

23 (2) An insurance company claiming a credit under this section
24 may claim a portion of the credit allowed under this section equal
25 to the payments made during a calendar quarter pursuant to section
26 352 of the worker's disability compensation act of 1969, 1969 PA
27 317, MCL 418.352, against the estimated tax payments made under

1 section 70. Any credit in excess of an estimated payment shall be
2 refunded to the insurance company on a quarterly basis within 60
3 calendar days after receipt of a properly completed estimated tax
4 return. Any subsequent increase or decrease in the amount claimed
5 for payments made by the insurance company shall be reflected in
6 the amount of the credit taken for the calendar quarter in which
7 the amount of the adjustment is finalized.

8 (3) The credit under this section is in addition to any other
9 credits the insurance company is eligible for under this act.

10 (4) Any amount of the credit under this section that is in
11 excess of the tax liability of the insurance company for the tax
12 year shall be refunded, without interest, by the department to the
13 insurance company within 60 calendar days of receipt of a properly
14 completed annual return required under this act.

15 Sec. 65. (1) An insurance company is subject to the tax under
16 this act or section 476a of the insurance code of 1956, 1956 PA
17 218, MCL 500.476a, if applicable, whichever is greater.

18 (2) An insurance company's tax year is the calendar year.

19 (3) An insurance company shall file the annual return required
20 under this act before the March 2 immediately succeeding the end of
21 the tax year.

22 (4) For the purpose of calculating an estimated payment
23 required under section 70, the greater of the amount of tax imposed
24 on an insurance company under this act or under section 476a of the
25 insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be
26 considered the insurance company's tax liability for the
27 immediately preceding tax year.

1 (5) The requirements of section 28(1)(f) of 1941 PA 122, MCL
2 205.28, that prohibit an employee or authorized representative of,
3 a former employee or authorized representative of, or anyone
4 connected with the department from divulging any facts or
5 information obtained in connection with the administration of a
6 tax, do not apply to disclosure of a tax return required under this
7 section.

8 CHAPTER 6

9 Sec. 70. (1) A taxpayer that reasonably expects liability for
10 the tax year to exceed \$1,000.00 shall file an estimated return and
11 pay an estimated tax for each quarter of the taxpayer's tax year.

12 (2) For taxpayers on a calendar year basis, the quarterly
13 returns and estimated payments shall be made by April 15, July 15,
14 October 15, and January 15. Taxpayers not on a calendar year basis
15 shall file quarterly returns and make estimated payments on the
16 appropriate due date which in the taxpayer's fiscal year
17 corresponds to the calendar year.

18 (3) The estimated payment made with each quarterly return of
19 each tax year shall be for the estimated tax base for the quarter
20 or 25% of the estimated annual liability. The second, third, and
21 fourth estimated payments in each tax year shall include
22 adjustments, if necessary, to correct underpayments or overpayments
23 from previous quarterly payments in the tax year to a revised
24 estimate of the annual tax liability.

25 (4) The interest provided by this act shall not be assessed if
26 any of the following occur:

27 (a) If the sum of the estimated payments equals at least 85%

1 of the liability and the amount of each estimated payment
2 reasonably approximates the tax liability incurred during the
3 quarter for which the estimated payment was made.

4 (b) If the preceding year's tax liability under this act was
5 \$20,000.00 or less and if the taxpayer submitted 4 equal
6 installments the sum of which equals the immediately preceding tax
7 year's tax liability.

8 (5) Each estimated return shall be made on a form prescribed
9 by the department and shall include an estimate of the annual tax
10 liability and other information required by the state treasurer.
11 The form prescribed under this subsection may be combined with any
12 other tax reporting form prescribed by the department.

13 (6) With respect to a taxpayer filing an estimated tax return
14 for the taxpayer's first tax year of less than 12 months, the
15 amounts paid with each return shall be proportional to the number
16 of payments made in the first tax year.

17 (7) Payments made under this section shall be a credit against
18 the payment required with the annual tax return required in section
19 72.

20 (8) If the department considers it necessary to insure payment
21 of the tax or to provide a more efficient administration of the
22 tax, the department may require filing of the returns and payment
23 of the tax for other than quarterly or annual periods.

24 (9) A taxpayer that elects under the internal revenue code to
25 file an annual federal income tax return by March 1 in the year
26 following the taxpayer's tax year and does not make a quarterly
27 estimate or payment, or does not make a quarterly estimate or

1 payment and files a tentative annual return with a tentative
2 payment by January 15 in the year following the taxpayer's tax year
3 and a final return by April 15 in the year following the taxpayer's
4 tax year, has the same option in filing the estimated and annual
5 returns required by this act.

6 Sec. 71. A taxpayer subject to this act may elect to compute
7 the tax imposed by this act for the first tax year if that tax year
8 is less than 12 months in accordance with 1 of the following
9 methods:

10 (a) The tax may be computed as if this act were effective on
11 the first day of the taxpayer's annual accounting period and the
12 amount computed shall be multiplied by a fraction, the numerator of
13 which is the number of months in the taxpayer's first tax year and
14 the denominator of which is 12.

15 (b) The tax may be computed by determining the tax base in the
16 first tax year in accordance with an accounting method satisfactory
17 to the department that reflects the actual tax base attributable to
18 the period.

19 Sec. 72. (1) An annual or final return shall be filed with the
20 department in the form and content prescribed by the department by
21 the last day of the fourth month after the end of the taxpayer's
22 tax year. Any final liability shall be remitted with this return.

23 (2) If a person has apportioned or allocated gross receipts
24 for a tax year of less than 12 months, the amount in subsection (1)
25 shall be multiplied by a fraction, the numerator of which is the
26 number of months in the tax year and the denominator of which is
27 12.

1 (3) The department, upon application of the taxpayer and for
2 good cause shown, may extend the date for filing the annual return.
3 Interest at the rate under section 23(2) of 1941 PA 122, MCL
4 205.23, shall be added to the amount of the tax unpaid for the
5 period of the extension. The treasurer shall require with the
6 application payment of the estimated tax liability unpaid for the
7 tax period covered by the extension.

8 (4) If a taxpayer is granted an extension of time within which
9 to file the federal income tax return for any tax year, the filing
10 of a copy of the request for extension together with a tentative
11 return and payment of an estimated tax with the department by the
12 due date provided in subsection (1) shall automatically extend the
13 due date for the filing of an annual or final return under this act
14 until the last day of the eighth month following the original due
15 date of the return. Interest at the rate under section 23(2) of
16 1941 PA 122, MCL 205.23, shall be added to the amount of the tax
17 unpaid for the period of the extension.

18 (5) An affiliated group as defined in this act, a controlled
19 group of corporations as defined in section 1563 of the internal
20 revenue code and further described in 26 CFR 1.414(b)-1 and
21 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
22 defined in the internal revenue code shall consolidate the gross
23 receipts of the members of the affiliated group, member
24 corporations of the controlled group, or entities under common
25 control that have apportioned or allocated gross receipts, to
26 determine whether the group or entity shall pay a tax or file a
27 return as provided under subsection (1). An individual member of an

1 affiliated group or controlled group of corporations or an entity
2 under common control is not required to file a return or pay the
3 tax under this act if that member or entity has apportioned or
4 allocated gross receipts of less than \$100,000.00.

5 Sec. 73. (1) A taxpayer required to file a return under this
6 act may be required to furnish a true and correct copy of any
7 return or portion of any return filed under the provisions of the
8 internal revenue code.

9 (2) A taxpayer shall file an amended return with the
10 department showing any alteration in or modification of a federal
11 income tax return that affects its tax base under this act. The
12 amended return shall be filed within 120 days after the final
13 determination by the internal revenue service.

14 Sec. 74. (1) At the request of the department, a person
15 required by the internal revenue code to file or submit an
16 information return of income paid to others shall, to the extent
17 the information is applicable to residents of this state, at the
18 same time file or submit the information in the form and content
19 prescribed to the department.

20 (2) At the request of the department, a voluntary association,
21 joint venture, partnership, estate, or trust shall file a copy of
22 any tax return or portion of any tax return that was filed under
23 the provisions of the internal revenue code. The department may
24 prescribe alternate forms of returns.

25 Sec. 75. (1) The department may require or permit the filing
26 of a consolidated or combined return by an affiliated group of
27 United States corporations if all of the following conditions

1 exist:

2 (a) All members of the affiliated group are Michigan
3 taxpayers.

4 (b) Each member of the affiliated group maintains a
5 relationship with 1 or more members of the group which includes
6 intercorporate transactions of a substantial nature other than
7 control, ownership, or financing arrangements, or any combination
8 thereof.

9 (c) The business activities of each member of the affiliated
10 group are subject to apportionment by a specific apportionment
11 formula contained in this act, which specific formula also is
12 applicable to all other members of the affiliated group and would
13 be applicable to each member even if it were not a member of the
14 affiliated group.

15 (d) The consolidated or combined return includes all Michigan
16 taxpayers that meet the requirements of this subsection.

17 (2) As used in this section, "United States corporation" means
18 a domestic corporation as that term is defined in section
19 7701(a)(3) and (4) of the internal revenue code.

20 Sec. 76. (1) Except as expressly provided in section 75, a
21 provision of this act shall not be construed to permit or require
22 the filing of a consolidated or combined return or a consolidation
23 or combination of the tax base or apportionment factors of 2 or
24 more United States corporations.

25 (2) As used in this section, "United States corporation" means
26 a domestic corporation as that term is defined in section
27 7701(a)(3) and (4) of the internal revenue code.

1 Sec. 77. (1) The tax imposed by this act shall be administered
2 by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to
3 205.31, and this act. If a conflict exists between 1941 PA 122, MCL
4 205.1 to 205.31, and this act, the provisions of this act apply.

5 (2) The department may promulgate rules to implement this act
6 pursuant to the administrative procedures act of 1969, 1969 PA 306,
7 MCL 24.201 to 24.328.

8 (3) The department shall prescribe forms for use by taxpayers
9 and may promulgate rules in conformity with this act for the
10 maintenance by taxpayers of records, books, and accounts, and for
11 the computation of the tax, the manner and time of changing or
12 electing accounting methods and of exercising the various options
13 contained in this act, the making of returns, and the
14 ascertainment, assessment, and collection of the tax imposed under
15 this act.

16 (4) The tax imposed by this act is in addition to all other
17 taxes for which the taxpayer may be liable.

18 (5) The department shall prepare and publish statistics from
19 the records kept to administer the tax imposed by this act that
20 detail the distribution of tax receipts by type of business, legal
21 form of organization, sources of tax base, timing of tax receipts,
22 and types of deductions. The statistics shall not result in the
23 disclosure of information regarding any specific taxpayer.

24 Sec. 78. The proceeds of the tax collected under this act
25 shall be deposited in the general fund.

26 Enacting section 1. This act takes effect January 1, 2008.

27 Enacting section 2. This act does not take effect unless all

1 of the following bills of the 94th Legislature are enacted into
2 law:

3 (a) Senate Bill No. 96.

4

5 (b) Senate Bill No. 95.

6