

**SUBSTITUTE FOR  
HOUSE BILL NO. 4367**

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; to provide for the interrelation of this act with other acts; to make appropriations; and to repeal acts and parts of acts.

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

**1** **CHAPTER 1**

**2** Sec. 1. (1) This act shall be known and may be cited as the  
**3** "Michigan business tax act".

1           (2) It is the intent of the legislature that the tax levied  
2 under this act and the various credits available under this act  
3 will serve to improve the economic condition of this state, foster  
4 continued and diverse economic growth in this state, and enable  
5 this state to compete fairly and effectively in the world  
6 marketplace for economic development opportunities that will  
7 provide for and protect the health, safety, and welfare of the  
8 citizens of this state, now and in the future.

9           Sec. 2. A term used in this act and not defined differently  
10 shall have the same meaning as when used in comparable context in  
11 the laws of the United States relating to federal income taxes in  
12 effect for the tax year unless a different meaning is clearly  
13 required. A reference in this act to the internal revenue code  
14 includes other provisions of the laws of the United States relating  
15 to federal income taxes.

16           Sec. 3. (1) "Business activity" means a transfer of legal or  
17 equitable title to or rental of property, whether real, personal,  
18 or mixed, tangible or intangible, or the performance of services,  
19 or a combination thereof, made or engaged in, or caused to be made  
20 or engaged in, whether in intrastate, interstate, or foreign  
21 commerce, with the object of gain, benefit, or advantage, whether  
22 direct or indirect, to the taxpayer or to others, but does not  
23 include the services rendered by an employee to his or her employer  
24 or services as a director of a corporation. Although an activity of  
25 a taxpayer may be incidental to another or others of his or her  
26 business activities, each activity shall be considered to be  
27 business engaged in within the meaning of this act.

1           (2) "Business income" means that part of federal taxable  
2 income derived from business activity. For a partnership or S  
3 corporation, business income includes payments and items of income  
4 and expense that are attributable to business activity of the  
5 partnership or S corporation and separately reported to the  
6 partners or shareholders. For a tax-exempt person, business income  
7 means only that part of federal taxable income derived from  
8 unrelated business activity.

9           Sec. 4. (1) "Client" means an entity whose employment  
10 operations are managed by a professional employer organization.

11           (2) "Compensation" means all wages, salaries, fees, bonuses,  
12 commissions, or other payments made in the tax year on behalf of or  
13 for the benefit of employees, officers, or directors of the  
14 taxpayers. Compensation includes, but is not limited to, payments  
15 that are subject to or specifically exempt or excepted from  
16 withholding under sections 3401 to 3406 of the internal revenue  
17 code. Compensation, for the client of a professional employer  
18 organization, includes payments to the professional employer  
19 organization for officer and employee services. Compensation also  
20 includes, on a cash or accrual basis consistent with the taxpayer's  
21 method of accounting for federal income tax purposes, payments to  
22 individuals not currently working, payments to dependents and heirs  
23 of individuals based on current or previous labor services rendered  
24 by those individuals, payments to a pension, retirement, or profit  
25 sharing plan, and payments for insurance for which employees are  
26 the beneficiaries, including payments under health and welfare and  
27 noninsured benefit plans and payment of fees for the administration

1 of health and welfare and noninsured benefit plans. Compensation  
2 for a taxpayer licensed under article 25 or 26 of the occupational  
3 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to  
4 339.2637, includes payments to an independent contractor licensed  
5 under article 25 or 26 of the occupational code, 1980 PA 299, MCL  
6 339.2501 to 339.2518 and 339.2601 to 339.2637. Compensation does  
7 not include any of the following:

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

11 (b) Except as otherwise provided in this subsection, payments  
12 to an independent contractor.

13 (c) Payments to state and federal unemployment compensation  
14 funds.

15 (d) The employer's portion of payments under the federal  
16 insurance contributions act, chapter 21 of subtitle C of the  
17 internal revenue code, 26 USC 3101 to 3128, the railroad retirement  
18 tax act, chapter 22 of subtitle C of the internal revenue code, 26  
19 USC 3201 to 3233, and similar social insurance programs.

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

23 (f) For a professional employer organization, payments to the  
24 officers and employees of a professional employer organization for  
25 services performed for a client.

26 (3) "Corporation" means a taxpayer that is required or has  
27 elected to file as a corporation under the internal revenue code.

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

2 Sec. 5. (1) "Employee" means an employee as defined in section  
3 3401(c) of the internal revenue code. A person from whom an  
4 employer is required to withhold for federal income tax purposes is  
5 prima facie considered an employee.

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

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

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

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

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

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

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

1           (iii) Principal and interest under a mortgage loan or land  
2 contract, lease or rental payments, or taxes, utilities, or  
3 insurance premiums relating to real or personal property owned or  
4 leased by the principal.

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

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

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

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

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

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

1 management services that the taxpayer provides to that client.

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

7 (g) Proceeds from any of the following:

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

9 (ii) The original issue of debt instruments.

10 (h) Refunds from returned merchandise.

11 (i) Cash and in-kind discounts.

12 (j) Trade discounts.

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

14 (l) Security deposits.

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

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

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

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

27 (2) "Insurance company" means an authorized insurer as defined

1 in section 106 of the insurance code of 1956, 1956 PA 218, MCL  
2 500.106.

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

6 (4) "Officer" means an officer of a corporation other than a  
7 subchapter S corporation, including all of the following:

8 (a) The chairperson of the board.

9 (b) The president, vice president, secretary, or treasurer of  
10 the corporation or board.

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

13 Sec. 7. (1) "Partner" means a partner or member of a  
14 partnership.

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

17 (3) "Person" means an individual, firm, bank, financial  
18 institution, limited partnership, limited liability partnership,  
19 copartnership, partnership, joint venture, association,  
20 corporation, subchapter S corporation, limited liability company,  
21 receiver, estate, trust, or any other group or combination of  
22 groups acting as a unit.

23 (4) "Professional employer organization" means an organization  
24 that provides the management and administration of the human  
25 resources of another entity by contractually assuming substantial  
26 employer rights and responsibilities through a professional  
27 employer agreement that establishes an employer relationship with



1 the leased officers or employees assigned to the other entity by  
2 doing all of the following:

3 (a) Maintaining the right of direction and control of  
4 employees' work, although this responsibility may be shared with  
5 the other entity.

6 (b) Paying wages and employment taxes of the employees out of  
7 its own accounts.

8 (c) Reporting, collecting, and depositing state and federal  
9 employment taxes for the employees.

10 (d) Retaining the right to hire and fire employees.

11 (5) "Revenue mile" means the transportation for a  
12 consideration of 1 net ton in weight or 1 passenger the distance of  
13 1 mile.

14 Sec. 8. (1) "Sale" or "sales" means, except as provided in  
15 subdivision (d), the amounts received by the taxpayer as  
16 consideration from the following:

17 (a) The transfer of title to, or possession of, property that  
18 is stock in trade or other property of a kind that would properly  
19 be included in the inventory of the taxpayer if on hand at the  
20 close of the tax period or property held by the taxpayer primarily  
21 for sale to customers in the ordinary course of the taxpayer's  
22 trade or business. For intangible property, the amounts received  
23 shall be limited to any gain received from the disposition of that  
24 property.

25 (b) The performance of services that constitute business  
26 activities other than those included in subdivision (a), or any  
27 combination of business activities described in this subsection.

1 (c) The rental, lease, licensing, or use of tangible or  
2 intangible property, including interest, that constitutes business  
3 activity.

4 (d) For taxpayers not engaged in any other business  
5 activities, sales include interest, dividends, and other income  
6 from investment assets and activities and from trading assets and  
7 activities.

8 (2) "Shareholder" means a person who owns outstanding stock in  
9 a business or is a member of a business entity that files as a  
10 corporation for federal income tax purposes. An individual is  
11 considered as the owner of the stock owned, directly or indirectly,  
12 by or for family members as defined by section 318(a)(1) of the  
13 internal revenue code.

14 (3) "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 Sec. 9. (1) "Tax" means the tax imposed under this act,  
19 including interest and penalties under this act, unless the term is  
20 given a more limited meaning in the context of this act or a  
21 provision of this act.

22 (2) "Tax-exempt person" means an organization that is exempt  
23 from federal income tax under section 501(a) of the internal  
24 revenue code, and a partnership, limited liability company, joint  
25 venture, unincorporated association, or other group or combination  
26 of organizations acting as a unit if all such organizations are  
27 exempt from federal income tax under section 501(a) of the internal

1 revenue code and if all activities of the unit are exclusively  
2 related to the charitable, educational, or other purposes or  
3 functions that are the basis for the exemption of such  
4 organizations from federal income tax, except the following:

5 (a) An organization exempt under section 501(c)(12) or (16) of  
6 the internal revenue code.

7 (b) An organization exempt under section 501(c)(4) of the  
8 internal revenue code that would be exempt under section 501(c)(12)  
9 of the internal revenue code but for its failure to meet the  
10 requirement in section 501(c)(12) that 85% or more of its income  
11 must consist of amounts collected from members.

12 (3) "Tax year" means the calendar year, or the fiscal year  
13 ending during the calendar year, upon the basis of which the tax  
14 base of a taxpayer is computed under this act. If a return is made  
15 for a fractional part of a year, tax year means the period for  
16 which the return is made. Except for the first return required by  
17 this act, a taxpayer's tax year is for the same period as is  
18 covered by its federal income tax return. A taxpayer that has a 52-  
19 or 53-week tax year beginning not more than 7 days before December  
20 31 of any year is considered to have a tax year beginning after  
21 December of that tax year.

22 (4) "Taxpayer" means a person or a unitary business group  
23 liable for a tax, interest, or penalty under this act.

24 (5) "Temporary employee" means an employee that meets both of  
25 the following criteria:

26 (a) The wages and other compensation of the employee are  
27 determined exclusively by the entity that supplies the temporary

1 employee.

2 (b) The employee is employed by an entity that provides the  
3 employee primarily for the purpose of meeting temporary or seasonal  
4 employee needs of an entity's customers.

5 (6) "Unitary business group" means a group of United States  
6 persons, 1 of which owns or controls, directly or indirectly, more  
7 than 50% of the ownership interest with voting rights of the other  
8 United States persons, that has business activities or operations  
9 which result in a flow of value between persons included in the  
10 unitary business group or multiple persons or in a flow of value  
11 within a single legal entity regardless of whether each entity is a  
12 sole proprietorship, corporation, partnership, limited liability  
13 company, trust, or other person under this act. For purposes of  
14 this subsection, flow of value is determined by reviewing the  
15 totality of facts and circumstances of business activities and  
16 operations as follows:

17 (a) Activities that evidence a flow of value between related  
18 persons include, but are not limited to, assisting in the  
19 acquisition of equipment, assisting with filling personnel needs,  
20 lending funds or guaranteeing loans, interplay in the area of  
21 business expansion, providing technical assistance, supervising,  
22 providing general operational guidance, providing overall  
23 operational strategic advice, or common use of trade names and  
24 patents. Flow of value must be more than the flow of funds arising  
25 out of passive investment and consists of more than occasional  
26 financial oversight.

27 (b) Transactions separately accounted for may evidence a flow

1 of value. The fact that a business uses or can use a separate  
2 accounting system, including, but not limited to, separate  
3 accounting between divisions of a single legal entity, between  
4 multiple persons under common ownership, on an arm's length basis,  
5 on a geographical basis, or by business function, does not  
6 determine whether a group is a unitary business group.

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

9 (8) "Unrelated business activity" means, for a tax-exempt  
10 person, business activity directly connected with an unrelated  
11 trade or business as defined in section 513 of the internal revenue  
12 code.

## 13 CHAPTER 2

14 Sec. 20. (1) Except as otherwise provided in this act, there  
15 is levied and imposed a business income tax on every taxpayer with  
16 business activity within this state unless prohibited by 15 USC 381  
17 to 384. The business income tax is imposed on the business income  
18 tax base, after allocation or apportionment to this state, at the  
19 rate of 6.95%.

20 (2) The business income tax base means a taxpayer's business  
21 income subject to the following adjustments, before allocation or  
22 apportionment, and the adjustments in subsections (3), (4), and (5)  
23 after allocation or apportionment:

24 (a) Add interest income and dividends derived from obligations  
25 or securities of states other than this state, in the same amount  
26 that was excluded from federal taxable income, less the related  
27 portion of expenses not deducted in computing federal taxable

1 income because of sections 265 and 291 of the internal revenue  
2 code.

3 (b) Add all taxes on or measured by net income and the tax  
4 imposed under this act to the extent the taxes were deducted in  
5 arriving at federal taxable income.

6 (c) Add any carryback or carryover of a net operating loss to  
7 the extent deducted in arriving at federal taxable income.

8 (d) To the extent included in federal taxable income, deduct  
9 dividends and royalties received from persons other than United  
10 States persons, including, but not limited to, amounts determined  
11 under section 78 of the internal revenue code or sections 951 to  
12 964 of the internal revenue code.

13 (e) If dividends qualify as a deduction in computing the  
14 taxpayer's federal taxable income, a taxpayer shall not deduct  
15 those dividends under this subsection.

16 (f) To the extent included in federal taxable income, add the  
17 loss or subtract the income from the business income tax base that  
18 is attributable to another entity whose business activities are  
19 taxable under this section or would be subject to the tax under  
20 this section if the business activities were in this state.

21 (g) To the extent deducted arriving at federal taxable income,  
22 add any royalty, interest, or other expense paid to a person  
23 related to the taxpayer by ownership or control for the use of an  
24 intangible asset if the person is not included in the taxpayer's  
25 unitary business group.

26 (3) Deduct from the allocated or apportioned business income  
27 tax base any remaining business loss carryforward calculated under

1 section 23b(h) of former 1975 PA 228 to the extent not deducted in  
2 tax years beginning before January 1, 2008. A carryforward may be  
3 deducted in any tax year that is not more than 10 taxable years  
4 after the loss year. For a unitary business group, the business  
5 loss carryforward under this subsection may only be deducted  
6 against the business income tax base of that person included in the  
7 unitary business group calculated as if it were not a person  
8 included in the unitary business group.

9 (4) Deduct any available business loss. As used in this  
10 subsection, "business loss" means a negative business income  
11 taxable amount after allocation or apportionment. The business loss  
12 shall be carried forward to the year immediately succeeding the  
13 loss year as an offset to the allocated or apportioned business  
14 income tax base, then successively to the next 19 taxable years  
15 following the loss year or until the loss is used up, whichever  
16 occurs first, but for not more than 20 taxable years after the loss  
17 year.

18 (5) The business income tax base of a unitary business group  
19 is the sum of the business income tax base of each person included  
20 in the unitary business group less any items of income and related  
21 deductions arising from transactions including dividends between  
22 persons included in the unitary business group.

23 Sec. 22. (1) Except as otherwise provided in this act, there  
24 is levied and imposed a net worth tax on every taxpayer with  
25 business activity within this state at a rate of 0.488% on each  
26 taxpayer's net worth tax base allocated and apportioned to this  
27 state. The tax imposed under this section is not a tax on business

1 income and is imposed to the fullest extent permitted by the United  
2 States constitution without regard to whether a taxpayer is subject  
3 to the business income tax imposed under section 20.

4 (2) Except as otherwise provided under subsection (3), net  
5 worth tax base means a taxpayer's net worth.

6 (3) A member of an affiliated group shall add to its net worth  
7 tax base all indebtedness owed to another member of the affiliated  
8 group. If any part of the capital of the creditor is capital  
9 borrowed from a source other than a member of the affiliated group,  
10 the debtor, which is required under this subsection to include in  
11 its net worth tax base the amount of debt by reason of being a  
12 member of the affiliated group of the creditor, may deduct from the  
13 debt included a proportionate part determined on the basis of the  
14 ratio of the borrowed capital of the creditor to the total assets  
15 of the creditor. If the creditor is also taxable under this  
16 section, the creditor is allowed to deduct from the total of its  
17 net worth tax base the amount of any debt owed to it by a member of  
18 the affiliated group to the extent that the debt has been included  
19 in the net worth tax base of the debtor reporting for taxation  
20 under the provisions of this section.

21 (4) As used in this section:

22 (a) "Affiliated group" means 2 or more United States persons,  
23 1 of which owns or controls, directly or indirectly, more than 50%  
24 of the ownership interest with voting rights of the other United  
25 States persons.

26 (b) "Indebtedness" means all loans, credits, goods, supplies,  
27 or other capital of any nature, other than indebtedness endorsed,



1 guaranteed, or otherwise supported by a member of the affiliated  
2 group.

3 (c) "Net worth" means, except as otherwise provided under this  
4 section for a unitary business group, the difference between total  
5 assets less total liabilities, computed in accordance with  
6 generally accepted accounting principles. If the taxpayer does not  
7 maintain its books and records in accordance with generally  
8 accepted accounting principles, net worth shall be computed in  
9 accordance with the books and records used by the taxpayer, so long  
10 as the method fairly reflects the taxpayer's net worth for purposes  
11 of the tax levied by this part. For a unitary business group, "net  
12 worth" means the difference between the total assets less the total  
13 liabilities of the unitary business group at the close of business  
14 on the last day of the tax year as shown by a pro forma  
15 consolidated balance sheet including all persons included in the  
16 unitary business group. The pro forma consolidated balance sheet  
17 shall be prepared in accordance with generally accepted accounting  
18 principles wherein transactions and holdings between persons  
19 included in the unitary business group and holdings in nondomestic  
20 persons have been eliminated.

21 Sec. 24. (1) Except as otherwise provided in this section, the  
22 following are exempt from the tax imposed by this act:

23 (a) The United States, this state, other states, and the  
24 agencies, political subdivisions, and enterprises of the United  
25 States, this state, and other states.

26 (b) A person who is exempt from federal income tax under the  
27 internal revenue code, and a partnership, limited liability

1 company, joint venture, general partnership, limited partnership,  
2 unincorporated association, or other group or combination of  
3 entities acting as a unit if the activities of the entity are  
4 exclusively related to the charitable, educational, or other  
5 purpose or function that is the basis for the exemption under the  
6 internal revenue code from federal income taxation of the partners  
7 or members and if all of the partners or members of the entity are  
8 exempt from federal income tax under the internal revenue code,  
9 except the following:

10 (i) An organization included under section 501(c)(12) or  
11 501(c)(16) of the internal revenue code.

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

17 (iii) The tax base attributable to the activities giving rise to  
18 the unrelated taxable business income of an exempt person.

19 (c) A nonprofit cooperative housing corporation. As used in  
20 this subdivision, "nonprofit cooperative housing corporation" means  
21 a cooperative housing corporation that is engaged in providing  
22 housing services to its stockholders and members and that does not  
23 pay dividends or interest on stock or membership investment but  
24 that does distribute all earnings to its stockholders or members.  
25 The exemption under this subdivision does not apply to a business  
26 activity of a nonprofit cooperative housing corporation other than  
27 providing housing services to its stockholders and members.

1 (d) That portion of the tax base attributable to the  
2 production of agricultural goods by a person whose primary activity  
3 is the production of agricultural goods. "Production of  
4 agricultural goods" means commercial farming, including, but not  
5 limited to, cultivation of the soil; growing and harvesting of an  
6 agricultural, horticultural, or floricultural commodity; dairying;  
7 raising of livestock, bees, fish, fur-bearing animals, or poultry;  
8 or turf or tree farming, but does not include the marketing at  
9 retail of agricultural goods except for sales of nursery stock  
10 grown by the seller and sold to a nursery dealer licensed under  
11 section 9 of the insect pest and plant disease act, 1931 PA 189,  
12 MCL 286.209.

13 (e) Except as provided in subsection (3), a farmers'  
14 cooperative corporation organized within the limitations of section  
15 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under  
16 subdivision (c) because the corporation was exempt from federal  
17 income taxes under section 521 of the internal revenue code and  
18 that would continue to be exempt under section 521 of the internal  
19 revenue code except for either of the following activities:

20 (i) The corporation's repurchase from nonproducer customers of  
21 portions or components of commodities the corporation markets to  
22 those nonproducer customers and the corporation's subsequent  
23 manufacturing or marketing of the repurchased portions or  
24 components of the commodities.

25 (ii) The corporation's incidental or emergency purchases of  
26 commodities from nonproducers to facilitate the manufacturing or  
27 marketing of commodities purchased from producers.

1 (f) That portion of the tax base attributable to the direct  
2 and indirect marketing activities of a farmers' cooperative  
3 corporation organized within the limitations of section 98 of 1931  
4 PA 327, MCL 450.98, if those marketing activities are provided on  
5 behalf of the members of that corporation and are related to the  
6 members' direct sales of their products to third parties or, for  
7 livestock, are related to the members' direct or indirect sales of  
8 that product to third parties. Marketing activities for a product  
9 that is not livestock are not exempt under this subdivision if the  
10 farmers' cooperative corporation takes physical possession of the  
11 product. As used in this subdivision, "marketing activities" means  
12 activities that include, but are not limited to, all of the  
13 following:

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

17 (ii) Dissemination of market information.

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

19 (iv) Promotion.

20 (v) Research relating to members' products.

21 (g) 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 (h) That portion of the tax base attributable to a multiple  
26 employer welfare arrangement that provides dental benefits only and  
27 that has a certificate of authority under chapter 70 of the

1 insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

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

7 (3) Except as otherwise provided in this section, a farmers'  
8 cooperative corporation shall exclude from adjusted tax base the  
9 revenue and expenses attributable to business transacted with  
10 farmer or farmer cooperative corporation patrons to whom net  
11 earnings are allocated in the form of patronage dividends as  
12 defined in section 1388 of the internal revenue code.

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

16 CHAPTER 2A

17 Sec. 25. (1) Each insurance company shall pay a tax determined  
18 under this section.

19 (2) The tax imposed by this act on each insurance company  
20 shall be a tax equal to 1.25% of gross direct premiums written on  
21 property or risk located or residing in this state. Direct premiums  
22 do not include any of the following:

23 (a) Premiums on policies not taken.

24 (b) Returned premiums on canceled policies.

25 (c) Receipts from the sale of annuities.

26 (d) Receipts on reinsurance premiums if the tax has been paid  
27 on the original premiums.

1 (e) The first \$190,000,000.00 of disability insurance premiums  
2 written in this state, other than credit insurance and disability  
3 income insurance premiums, of each insurance company subject to tax  
4 under this chapter. This exemption shall be reduced by \$2.00 for  
5 each \$1.00 by which the insurance company's gross direct premiums  
6 from insurance carrier services in this state and outside this  
7 state exceed \$450,000,000.00.

8 (3) The tax calculated under this section is in lieu of all  
9 other privilege or franchise fees or taxes imposed by any other law  
10 of this state, except taxes on real and personal property, taxes  
11 collected under the general sales tax act, 1933 PA 167, MCL 205.1  
12 to 205.78, and taxes collected under the use tax act, 1937 PA 94,  
13 MCL 205.91 to 205.111, and except as otherwise provided in the  
14 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

15 Sec. 26. (1) An insurance company may claim a credit against  
16 the tax imposed under this act in the following amounts:

17 (a) Amounts paid to the Michigan worker's compensation  
18 placement facility pursuant to chapter 23 of the insurance code of  
19 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

20 (b) Amounts paid to the Michigan basic property insurance  
21 association pursuant to chapter 29 of the insurance code of 1956,  
22 1956 PA 218, MCL 500.2901 to 500.2954.

23 (c) Amounts paid to the Michigan automobile insurance  
24 placement facility pursuant to chapter 33 of the insurance code of  
25 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

26 (d) Amounts paid to the property and casualty guaranty  
27 association pursuant to chapter 79 of the insurance code of 1956,

1 1956 PA 218, MCL 500.7901 to 500.7949.

2 (e) Amounts paid to the Michigan life and health guaranty  
3 association pursuant to chapter 77 of the insurance code of 1956,  
4 1956 PA 218, MCL 500.7701 to 500.7780.

5 (2) The assessments of an insurance company from the  
6 immediately preceding tax year shall be used in calculating the  
7 credits allowed under this section for each tax year.

8 Sec. 27. (1) An insurance company shall be allowed a credit  
9 against the tax imposed under this act in an amount equal to 50% of  
10 the examination fees paid by the insurance company during the tax  
11 year pursuant to section 224 of the insurance code of 1956, 1956 PA  
12 218, MCL 500.224.

13 (2) An insurance company may claim a credit against the tax  
14 imposed under this act equal to 0.8% of the insurance company's  
15 compensation in this state, not to exceed 50% of the insurance  
16 company's tax liability for the tax year after claiming the other  
17 credits allowed by this act.

18 Sec. 28. (1) For amounts paid pursuant to section 352 of the  
19 worker's disability compensation act of 1969, 1969 PA 317, MCL  
20 418.352, an insurance company subject to the worker's disability  
21 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may  
22 claim a credit against the tax imposed under this act for the tax  
23 year in an amount equal to the amount paid during that tax year by  
24 the insurance company pursuant to section 352 of the worker's  
25 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as  
26 certified by the director of the bureau of worker's disability  
27 compensation pursuant to section 391(6) of the worker's disability

1 compensation act of 1969, 1969 PA 317, MCL 418.391.

2 (2) An insurance company claiming a credit under this section  
3 may claim a portion of the credit allowed under this section equal  
4 to the payments made during a calendar quarter pursuant to section  
5 352 of the worker's disability compensation act of 1969, 1969 PA  
6 317, MCL 418.352, against the estimated tax payments made under  
7 section 60. Any credit in excess of an estimated payment shall be  
8 refunded to the insurance company on a quarterly basis within 60  
9 calendar days after receipt of a properly completed estimated tax  
10 return. Any subsequent increase or decrease in the amount claimed  
11 for payments made by the insurance company shall be reflected in  
12 the amount of the credit taken for the calendar quarter in which  
13 the amount of the adjustment is finalized.

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

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

21 Sec. 29. (1) An insurance company is subject to the tax  
22 imposed by this act or by section 476a of the insurance code of  
23 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is  
24 greater.

25 (2) The tax year of an insurance company is the calendar year.

26 (3) Notwithstanding section 62, an insurance company shall  
27 file the annual return required under this act before March 2 after



1 the end of the tax year, and an automatic extension under section  
2 62(4) is not available.

3 (4) For the purpose of calculating an estimated payment  
4 required by section 60, the greater of the amount of tax imposed on  
5 an insurance company under this act or under section 476a of the  
6 insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be  
7 considered the insurance company's tax liability for the  
8 immediately preceding tax year.

9 (5) The requirements of section 28(1)(f) of 1941 PA 122, MCL  
10 205.28, that prohibit an employee or authorized representative of,  
11 a former employee or authorized representative of, or anyone  
12 connected with the department from divulging any facts or  
13 information obtained in connection with the administration of a  
14 tax, do not apply to disclosure of a tax return required by this  
15 section.

16 CHAPTER 3

17 Sec. 30. (1) Except as otherwise provided in this chapter,  
18 each tax base established under chapter 2 shall be apportioned in  
19 accordance with this chapter.

20 (2) A taxpayer whose business activities are confined solely  
21 to this state shall be allocated to this state. A taxpayer whose  
22 business activities are subject to tax both within and outside of  
23 this state are subject to tax in another state in either of the  
24 following circumstances:

25 (a) The taxpayer is subject to a business privilege tax, a net  
26 income tax, a franchise tax measured by net income, a franchise tax  
27 for the privilege of doing business, or a corporate stock tax or a

1 tax of the type imposed under this act in that state.

2 (b) That state has jurisdiction to subject the taxpayer to 1  
3 or more of the taxes listed in subdivision (a) regardless of  
4 whether that state does or does not subject the taxpayer to that  
5 tax.

6 (3) Both the business income tax base and the net worth tax  
7 base of a taxpayer subject to tax both within and outside of this  
8 state shall be apportioned to this state by multiplying the tax  
9 base by the sales factor calculated under section 32.

10 Sec. 32. (1) Except as otherwise provided in subsection (2)  
11 and section 38, the sales factor is a fraction, the numerator of  
12 which is the total sales of the taxpayer in this state during the  
13 tax year and the denominator of which is the total sales of the  
14 taxpayer everywhere during the tax year.

15 (2) Except as otherwise provided under this subsection, for a  
16 taxpayer that is a unitary business group, sales include sales in  
17 this state of every person included in the unitary business group  
18 without regard to whether the person has nexus in this state. Sales  
19 between persons included in a unitary business group must be  
20 eliminated in calculating the sales factor.

21 Sec. 33. (1) Sales of the taxpayer in this state are  
22 determined as follows:

23 (a) Sales of tangible personal property are in this state if  
24 the property is shipped or delivered to any purchaser within this  
25 state based on the ultimate destination at the point that the  
26 property comes to rest regardless of the free on board point or  
27 other conditions of the sales.

1 (b) Receipts from the sale, lease, rental, or licensing of  
2 real property are in this state if that property is located in this  
3 state.

4 (c) Receipts from the lease or rental of tangible personal  
5 property are sales in this state to the extent that the property is  
6 utilized in this state. The extent of utilization of tangible  
7 personal property in this state is determined by multiplying the  
8 receipts by a fraction, the numerator of which is the number of  
9 days of physical location of the property in this state during the  
10 lease or rental period in the tax year and the denominator of which  
11 is the number of days of physical location of the property  
12 everywhere during all lease or rental periods in the tax year. If  
13 the physical location of the property during the lease or rental  
14 period is unknown or unascertainable by the taxpayer, the tangible  
15 personal property is utilized in the state in which the property  
16 was located at the time the lease or rental payer obtained  
17 possession.

18 (d) Receipts from the lease or rental of mobile transportation  
19 property owned by the taxpayer are in this state to the extent that  
20 the property is used in this state. The extent an aircraft will be  
21 deemed to be used in this state and the amount of receipts that is  
22 to be included in the numerator of this state's sales factor is  
23 determined by multiplying all the receipts from the lease or rental  
24 of the aircraft by a fraction, the numerator of the fraction is the  
25 number of landings of the aircraft in this state and the  
26 denominator of the fraction is the total number of landings of the  
27 aircraft. If the extent of the use of any transportation property

1 within this state cannot be determined, then the receipts are in  
2 this state if the property has its principal base of operations in  
3 this state. A motor vehicle will be deemed to be used wholly in the  
4 state in which it is registered.

5 (e) Royalties and other income received for the use of or for  
6 the privilege of using intangible property, including patents,  
7 know-how, formulas, designs, processes, patterns, copyrights, trade  
8 names, service names, franchises, licenses, contracts, customer  
9 lists, computer software, or similar items, are attributed to the  
10 state in which the property is used by the purchaser. If the  
11 property is used in more than 1 state, the royalties or other  
12 income shall be apportioned to this state pro rata according to the  
13 portion of use in this state. If the portion of use in this state  
14 cannot be determined, the royalties or other income shall be  
15 excluded from both the numerator and the denominator. Intangible  
16 property is used in this state if the purchaser uses the intangible  
17 property or the rights to the intangible property in the regular  
18 course of its business operations in this state, regardless of the  
19 location of the purchaser's customers.

20 (2) Sales from the performance of services are in this state  
21 and attributable to this state as follows:

22 (a) Except as otherwise provided in this section, all receipts  
23 from the performance of services are included in the numerator of  
24 the apportionment factor if the recipient of the services receives  
25 all of the benefit of the services in this state. If the recipient  
26 of the services receives some of the benefit of the services in  
27 this state, the receipts are included in the numerator of the

1 appportionment factor in proportion to the extent that the recipient  
2 receives benefit of the services in this state.

3 (b) Sales derived from securities brokerage services  
4 attributable to this state are determined by multiplying the total  
5 dollar amount of receipts from securities brokerage services by a  
6 fraction, the numerator of which is the sales of securities  
7 brokerage services to customers within this state, and the  
8 denominator of which is the sales of securities brokerage services  
9 to all customers. Receipts from securities brokerage services  
10 include commissions on transactions, the spread earned on principal  
11 transactions in which the broker buys or sells from its account,  
12 total margin interest paid on behalf of brokerage accounts owned by  
13 the broker's customers, and fees and receipts of all kinds from the  
14 underwriting of securities. If receipts from brokerage services can  
15 be associated with a particular customer, but it is impractical to  
16 associate the receipts with the address of the customer, then the  
17 address of the customer shall be presumed to be the address of the  
18 branch office that generates the transactions for the customer.

19 (c) Sales of services that are derived directly or indirectly  
20 from the sale of management, distribution, administration, or  
21 securities brokerage services to, or on behalf of, a regulated  
22 investment company or its beneficial owners, including receipts  
23 derived directly or indirectly from trustees, sponsors, or  
24 participants of employee benefit plans that have accounts in a  
25 regulated investment company, shall be attributable to this state  
26 to the extent that the shareholders of the regulated investment  
27 company are domiciled within this state. For purposes of this

1 subdivision, "domicile" means the shareholder's mailing address on  
2 the records of the regulated investment company. If the regulated  
3 investment company or the person providing management services to  
4 the regulated investment company has actual knowledge that the  
5 shareholder's primary residence or principal place of business is  
6 different than the shareholder's mailing address, then the  
7 shareholder's primary residence or principal place of business is  
8 the shareholder's domicile. A separate computation shall be made  
9 with respect to the receipts derived from each regulated investment  
10 company. The total amount of sales attributable to this state shall  
11 be equal to the total receipts received by each regulated  
12 investment company multiplied by a fraction determined as follows:

13 (i) The numerator of the fraction is the average of the sum of  
14 the beginning-of-year and end-of-year number of shares owned by the  
15 regulated investment company shareholders who have their domicile  
16 in this state.

17 (ii) The denominator of the fraction is the average of the sum  
18 of the beginning-of-year and end-of-year number of shares owned by  
19 all shareholders.

20 (iii) For purposes of the fraction, the year shall be the tax  
21 year of the regulated investment company that ends with or within  
22 the tax year of the taxpayer.

23 (3) Receipts from the origination of a loan or group of loans  
24 or gains from the sale of a loan or group of loans secured by  
25 residential real property is deemed a sale in this state only if 1  
26 or more of the following apply:

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

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

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

6 (4) Interest from loans secured by real property is in this  
7 state if the property is located within this state or if the  
8 property is located both within this state and 1 or more other  
9 states, if more than 50% of the fair market value of the real  
10 property is located within this state, or if more than 50% of the  
11 fair market value of the real property is not located within any 1  
12 state, if the borrower is located in this state. The determination  
13 of whether the real property securing a loan is located within this  
14 state shall be made as of the time the original agreement was made  
15 and any and all subsequent substitutions of collateral shall be  
16 disregarded.

17 (5) Interest from loans not secured by real property is in  
18 this state if the borrower is located in this state.

19 (6) Gains from the sale of loans or a group of loans not  
20 secured by real property, including income recorded under the  
21 coupon stripping rules of section 1286 of the internal revenue  
22 code, are in this state if the borrower is in this state.

23 (7) Receipts from credit card receivables, including interest  
24 and fees or penalties in the nature of interest from credit card  
25 receivables and receipts from fees charged to cardholders, such as  
26 annual fees, are in this state if the billing address of the card  
27 holder is in this state.

1           (8) Receipts from the sale of credit card or other receivables  
2 is in this state if the billing address of the customer is in this  
3 state. Credit card issuer's reimbursements fees are in this state  
4 if the billing address of the cardholder is in this state. Receipts  
5 from merchant discount, computed net of any cardholder chargebacks,  
6 but not reduced by any interchange transaction fees or by any  
7 issuer's reimbursement fees paid to another for charges made by its  
8 cardholders, are in this state if the commercial domicile of the  
9 merchant is in this state.

10           (9) Loan servicing fees derived from loans of another secured  
11 by real property are in this state if the real property is located  
12 in this state, or the real property is located both within and  
13 outside of this state and 1 or more states if more than 50% of the  
14 fair market value of the real property is located in this state, or  
15 more than 50% of the fair market value of the real property is not  
16 located in any 1 state, and the borrower is located in this state.  
17 Loan servicing fees derived from loans of another not secured by  
18 real property are in this state if the borrower is located in this  
19 state. If the location of the security cannot be determined, then  
20 loan servicing fees for servicing either the secured or the  
21 unsecured loans of another are in this state if the lender to whom  
22 the loan servicing service is provided is located in this state.

23           (10) Receipts from the sale of securities and other assets  
24 from investment and trading activities, including, but not limited  
25 to, interest, dividends, and gains are in this state in either of  
26 the following circumstances:

27           (a) The person's customer is in this state.



1 (b) If the location of the person's customer cannot be  
2 determined, both of the following:

3 (i) Interest, dividends, and other income from investment  
4 assets and activities and from trading assets and activities,  
5 including, but not limited to, investment securities; trading  
6 account assets; federal funds; securities purchased and sold under  
7 agreements to resell or repurchase; options; futures contracts;  
8 forward contracts; notional principal contracts such as swaps;  
9 equities; and foreign currency transactions are in this state if  
10 the average value of the assets is assigned to a regular place of  
11 business of the taxpayer within this state. Interest from federal  
12 funds sold and purchased and from securities purchased under resale  
13 agreements and securities sold under repurchase agreements are in  
14 this state if the average value of the assets is assigned to a  
15 regular place of business of the taxpayer within this state. The  
16 amount of receipts and other income from investment assets and  
17 activities is in this state if assets are assigned to a regular  
18 place of business of the taxpayer within this state.

19 (ii) The amount of receipts from trading assets and activities,  
20 including, but not limited to, assets and activities in the matched  
21 book, in the arbitrage book, and foreign currency transactions, but  
22 excluding amounts otherwise sourced in this section, are in this  
23 state if the assets are assigned to a regular place of business of  
24 the taxpayer within this state.

25 (11) Receipts from transportation services rendered by a  
26 person subject to tax in another state are in this state and shall  
27 be attributable to this state as follows:

1 (a) Except as otherwise provided in subdivisions (b) through  
2 (e), receipts shall be proportioned based on the ratio that revenue  
3 miles of the person in this state bear to the revenue miles of the  
4 person everywhere.

5 (b) Receipts from maritime transportation services shall be  
6 attributable to this state as follows:

7 (i) 50% of those receipts that either originate or terminate in  
8 this state.

9 (ii) 100% of those receipts that both originate and terminate  
10 in this state.

11 (c) Receipts attributable to this state of a person whose  
12 business activity consists of the transportation both of property  
13 and of individuals shall be proportioned based on the total gross  
14 receipts for passenger miles and ton mile fractions, separately  
15 computed and individually weighted by the ratio of gross receipts  
16 from passenger transportation to total gross receipts from all  
17 transportation, and by the ratio of gross receipts from freight  
18 transportation to total gross receipts from all transportation,  
19 respectively.

20 (d) Receipts attributable to this state of a person whose  
21 business activity consists of the transportation of oil by pipeline  
22 shall be proportioned based on the ratio that the gross receipts  
23 for the barrel miles transported in this state bear to the gross  
24 receipts for the barrel miles transported by the person everywhere.

25 (e) Receipts attributable to this state of a person whose  
26 business activities consist of the transportation of gas by  
27 pipeline shall be proportioned based on the ratio that the gross

1 receipts for the 1,000 cubic feet miles transported in this state  
2 bear to the gross receipts for the 1,000 cubic feet miles  
3 transported by the person everywhere.

4 (12) For purposes of subsection (11), if a taxpayer can show  
5 that revenue mile information is not available or cannot be  
6 obtained without unreasonable expense to the taxpayer, receipts  
7 attributable to this state shall be that portion of the revenue  
8 derived from transportation services everywhere performed that the  
9 miles of transportation services performed in this state bears to  
10 the miles of transportation services performed everywhere. If the  
11 department determines that the information required for the  
12 calculations under subsection (11) are not available or cannot be  
13 obtained without unreasonable expense to the taxpayer, the  
14 department may use other available information that in the opinion  
15 of the department will result in an equitable allocation of the  
16 taxpayer's receipts to this state.

17 (13) Except as provided in subsections (14) through (19),  
18 receipts from the sale of telecommunications service or mobile  
19 telecommunications service are in this state if the customer's  
20 place of primary use of the service is in this state. As used in  
21 this subsection, "place of primary use" means the customer's  
22 residential street address or primary business street address where  
23 the customer's use of the telecommunications service primarily  
24 occurs. For mobile telecommunications service, the customer's  
25 residential street address or primary business street address is  
26 the place of primary use only if it is within the licensed service  
27 area of the customer's home service provider.

1           (14) Receipts from the sale of telecommunications service sold  
2 on an individual call-by-call basis are in this state if either of  
3 the following applies:

4           (a) The call both originates and terminates in this state.

5           (b) The call either originates or terminates in this state and  
6 the service address is located in this state.

7           (15) Receipts from the sale of postpaid telecommunications  
8 service are in this state if the origination point of the  
9 telecommunication signal, as first identified by the service  
10 provider's telecommunication system or as identified by information  
11 received by the seller from its service provider if the system used  
12 to transport telecommunication signals is not the seller's, is  
13 located in this state.

14           (16) Receipts from the sale of prepaid telecommunications  
15 service or prepaid mobile telecommunications service are in this  
16 state if the purchaser obtains the prepaid card or similar means of  
17 conveyance at a location in this state. Receipts from recharging a  
18 prepaid telecommunications service or mobile telecommunications  
19 service is in this state if the purchaser's billing information  
20 indicates a location in this state.

21           (17) Receipts from the sale of private communication services  
22 are in this state as follows:

23           (a) 100% of the receipts from the sale of each channel  
24 termination point within this state.

25           (b) 100% of the receipts from the sale of the total channel  
26 mileage between each termination point within this state.

27           (c) 50% of the receipts from the sale of service segments for

1 a channel between 2 customer channel termination points, 1 of which  
2 is located in this state and the other is located outside of this  
3 state, which segments are separately charged.

4 (d) The receipts from the sale of service for segments with a  
5 channel termination point located in this state and in 2 or more  
6 other states or equivalent jurisdictions, and which segments are  
7 not separately billed, are in this state based on a percentage  
8 determined by dividing the number of customer channel termination  
9 points in this state by the total number of customer channel  
10 termination points.

11 (18) Receipts from the sale of billing services and ancillary  
12 services for telecommunications service are in this state based on  
13 the location of the purchaser's customers. If the location of the  
14 purchaser's customers is not known or cannot be determined, the  
15 sale of billing services and ancillary services for  
16 telecommunications service are in this state based on the location  
17 of the purchaser.

18 (19) Receipts from sales of telecommunication services to  
19 other telecommunication service providers for resale are in this  
20 state in an amount determined by multiplying the total receipts  
21 from sales of telecommunication services to other telecommunication  
22 service providers by a fraction the numerator of which is the total  
23 carrier's carrier service revenues for this state and the  
24 denominator of which is the sum of the total carrier's carrier  
25 service revenues for all states or equivalent jurisdictions in  
26 which the taxpayer is doing business for the most recent year  
27 available as of the due date of the return, determined without

1 regard to extensions. As used in this subsection, "total carrier's  
2 carrier service revenues" means the amounts reported by the federal  
3 communications commission in its report titled "Telecommunications  
4 Revenues by State", table 15.6, or the successor to that report.

5 (20) Receipts from the sale of access fees are in this state  
6 as follows:

7 (a) 100% of the receipts from access fees attributable to  
8 intrastate telecommunications service that both originates and  
9 terminates in this state.

10 (b) 50% of the receipts from access fees attributable to  
11 interstate telecommunications service if the interstate call either  
12 originates or terminates in this state.

13 (c) 100% of the receipts from interstate end user access line  
14 charges, if the customer's service address is in this state. As  
15 used in this subdivision, "interstate end user access line charges"  
16 includes, but is not limited to, the surcharge approved by the  
17 federal communications commission and levied pursuant to 47 CFR 69.

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

21 Sec. 34. (1) Notwithstanding sections 32 and 33, a spun off  
22 corporation that qualified to calculate its sales factor for 7  
23 years under section 54 of former 1975 PA 228 may elect to calculate  
24 its sales factor under this section for an additional 4 years  
25 following those 7 years or 3 years if a taxpayer had an election  
26 approved under section 54(1)(e) of former 1975 PA 228. Prior to the  
27 end of the first year following the 7 years for which the taxpayer

1 qualified under section 54 of former 1975 PA 228 and if the spun  
2 off corporation is not required to file amended returns under  
3 section 54(5) of former 1975 PA 228, the spun off corporation may  
4 request, in writing, approval from the state treasurer for the  
5 election of the 4 additional years under this section. If the  
6 taxpayer had an election approved under section 54(1)(e) of former  
7 1975 PA 228, the taxpayer is not required to seek approval under  
8 this section. The department shall approve the election under this  
9 subsection if the requirements of this section are met. The request  
10 shall include all of the following:

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

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

16 (c) A commitment by the spun off corporation to invest at  
17 least an additional \$200,000,000.00 of capital investment in this  
18 state within the additional 4 years and maintain at least 80% of  
19 the number of full-time equivalent employees in this state based on  
20 the number of full-time equivalent employees in this state at the  
21 beginning of the additional 4-year period for all of the additional  
22 4 years; a commitment by the spun off corporation to invest an  
23 additional \$400,000,000.00 in this state within the additional 4  
24 years; or a commitment by the spun off corporation to invest a  
25 total of \$1,300,000,000.00 in this state within the 11-year period  
26 beginning with the year in which the restructuring transaction  
27 under which a spun off corporation qualified under this subsection

1 was completed. The 4-year period under this subdivision begins with  
2 the eighth year following the tax year in which the restructuring  
3 transaction under which a spun off corporation qualified under this  
4 subsection was completed. For purposes of this subdivision, the  
5 number of full-time equivalent employees includes employees in all  
6 of the following circumstances:

7 (i) On temporary layoff.

8 (ii) On strike.

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

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

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

16 (2) Prior to the end of the eleventh year following the  
17 restructuring transaction under which a spun off corporation  
18 qualified under subsection (1), a taxpayer that is a buyer of a  
19 plant located in this state that was included in the initial  
20 restructuring transaction under subsection (1) may elect to  
21 calculate its sales factor under subsection (3) and disregard sales  
22 by the taxpayer attributable to that plant to a former parent of a  
23 spun off corporation and the sales attributable to the plant shall  
24 be treated as sales by a spun off corporation. This election shall  
25 extend for a period of 4 years following the date that the plant  
26 was purchased reduced by the number of years for which the taxpayer  
27 calculated its sales factor pursuant to section 54(2) of former



1 1975 PA 228. On or before the due date for filing the buyer's first  
2 annual return under this act following the purchase of the plant,  
3 the buyer shall request, in writing, approval from the department  
4 for the election provided under this section and shall attach a  
5 statement that the buyer qualifies for the election under this  
6 section.

7 (3) A spun off corporation qualified under subsection (1) or  
8 (2) that makes an election and is approved under subsection (1) or  
9 (2) calculates its sales factor under section 54 of former 1975 PA  
10 228 subject to both of the following:

11 (a) A purchaser in this state under section 52 of former 1975  
12 PA 228 does not include a person that purchases from a seller that  
13 was included in the purchaser's combined or consolidated annual  
14 return under this act but, as a result of the restructuring  
15 transaction, ceased to be included in the purchaser's combined or  
16 consolidated annual return under this act. This subdivision applies  
17 only to sales that originate from a plant located in this state.

18 (b) Total sales under section 51 of former 1975 PA 228 do not  
19 include sales to a purchaser that was a member of a Michigan  
20 affiliated business group that had included the seller in the  
21 filing of a combined annual return under this act but, as a result  
22 of the restructuring transaction, ceased to include the seller.  
23 This subdivision applies only to sales that originate from a plant  
24 located in this state to a location in this state.

25 (4) At the end of the fourth tax year following an election  
26 under this section, if the spun off corporation that elected to  
27 calculate its sales factor under this section for the additional 4

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

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

16 (6) A taxpayer whose assets were wholly owned either directly  
17 or indirectly by a taxpayer from whom a spun off corporation  
18 qualifies to apportion its tax base under this section and that  
19 ceased to be wholly owned on November 30, 2006 may annually elect  
20 on its originally filed tax return to apportion its tax base to  
21 this state using the same receipts factor reported on the combined  
22 tax return filed by its former parent company for the same taxable  
23 year.

24 (7) As used in this section:

25 (a) "Restructuring transaction" means a tax free distribution  
26 under section 355 of the internal revenue code and includes tax  
27 free transactions under section 355 of the internal revenue code

1 that are commonly referred to as spin offs, split ups, split offs,  
2 or type D reorganizations.

3 (b) "Spun off corporation" means an entity treated as a  
4 controlled corporation under section 355 of the internal revenue  
5 code. Controlled corporation includes a corporate subsidiary  
6 created for the purpose of a restructuring transaction, a limited  
7 liability company, or an operational unit or division with business  
8 activities that were previously carried out as a part of the  
9 distributing corporation.

10 Sec. 36. (1) If the apportionment provisions of this act do  
11 not fairly represent the extent of the taxpayer's business activity  
12 in this state, the taxpayer may petition for or the treasurer may  
13 require the following, with respect to all or a portion of the  
14 taxpayer's business activity, if reasonable:

15 (a) Separate accounting.

16 (b) The inclusion of 1 or more additional or alternative  
17 factors that will fairly represent the taxpayer's business activity  
18 in this state.

19 (c) The use of any other method to effectuate an equitable  
20 allocation and apportionment of the taxpayer's tax base.

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

23 (3) The apportionment provisions of this act shall be  
24 rebuttably presumed to fairly represent the business activity  
25 attributed to the taxpayer in this state, taken as a whole and  
26 without a separate examination of the specific elements of either  
27 tax base unless it can be demonstrated that the business activity

1 attributed to the taxpayer in this state is out of all appropriate  
2 proportion to the actual business activity transacted in this state  
3 and leads to a grossly distorted result or would operate  
4 unconstitutionally to tax the extraterritorial activity of the  
5 taxpayer.

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

8 Sec. 38. All other receipts not otherwise sourced under this  
9 chapter shall be sourced based on where the benefit to the customer  
10 is received or, if where the benefit to the customer is received  
11 cannot be determined, to the customer's location.

#### 12 CHAPTER 4

13 Sec. 40. (1) Notwithstanding any other provision in this act,  
14 the credit provided in this section shall be taken before any other  
15 credit under this act. A taxpayer whose business activities in this  
16 state include regulated activities may claim a credit against the  
17 tax imposed under section 22 equal to the product of the taxpayer's  
18 net worth tax base allocated and apportioned to this state  
19 multiplied by .17% and then multiplied by a fraction the numerator  
20 of which is the taxpayer's total sales within this state as  
21 determined under chapter 3 related to regulated activities and the  
22 denominator of which is the taxpayer's total sales within this  
23 state as determined under chapter 3 for all business activities.

24 (2) As used in this section, "regulated activities" means  
25 those business activities for which the taxpayer is licensed or  
26 regulated under any of the following:

27 (a) Banking code of 1999, 1999 PA 276, MCL 487.11101 to

- 1 487.15105.
- 2 (b) Credit union act, 2003 PA 215, MCL 490.101 to 490.601.
- 3 (c) Savings bank act, 1996 PA 354, MCL 487.3101 to 487.3804.
- 4 (d) Savings and loan act of 1980, 1980 PA 307, MCL 491.102 to  
5 491.1202.
- 6 (e) Mortgage brokers, lenders, and servicers licensing act,  
7 1987 PA 173, MCL 445.1651 to 445.1684.
- 8 (f) The secondary mortgage loan act, 1981 PA 125, MCL 493.51  
9 to 493.81.
- 10 (g) Consumer financial services act, 1988 PA 161, MCL 487.2051  
11 to 487.2072.
- 12 (h) 1984 PA 379, MCL 493.101 to 493.114.
- 13 (i) Motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL  
14 492.101 to 492.141.
- 15 (j) Regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
- 16 (k) Home improvement finance act, 1965 PA 332, MCL 445.1101 to  
17 445.1431.
- 18 (l) Retail installment sales act, 1966 PA 224, MCL 445.851 to  
19 445.873.
- 20 (m) Deferred presentment service transactions act, 2005 PA  
21 244, MCL 487.2121 to 487.2173.
- 22 (n) Uniform securities act, 1964 PA 265, MCL 451.501 to  
23 451.818.
- 24 (o) Money transmission services act, 2006 PA 250, MCL 487.1001  
25 to 487.1047.
- 26 (p) Debt management act, 1975 PA 148, MCL 451.411 to 451.437.
- 27 (q) Article 25 of the occupational code, 1980 PA 299, MCL

1 339.2501 to 339.2518.

2 (r) Chapter 12 of the insurance code of 1956, 1956 PA 218, MCL  
3 500.1200 to 500.1247.

4 Sec. 41. (1) Notwithstanding any other provision in this act,  
5 the credits provided in this section shall be taken after the  
6 credit under section 40 and before any other credit under this act.  
7 The total combined credit allowed under this section shall not  
8 exceed 75% of the total tax liability imposed under this act.

9 (2) Subject to the limitation in subsection (1), a taxpayer  
10 may claim a credit against the tax imposed by this act equal to  
11 0.8% of the taxpayer's compensation in this state.

12 (3) Subject to the limitation in subsection (1), a taxpayer  
13 may claim a credit against the tax imposed by this act equal to  
14 3.3% multiplied by the result of subtracting the sum of the amounts  
15 calculated under subdivisions (d), (e), and (f) from the sum of the  
16 amounts calculated under subdivisions (a), (b), and (c):

17 (a) Calculate the cost, including fabrication and  
18 installation, paid or accrued in the taxable year of tangible  
19 assets of a type that are, or under the internal revenue code will  
20 become, eligible for depreciation, amortization, or accelerated  
21 capital cost recovery for federal income tax purposes, provided  
22 that the assets are physically located in this state for use in a  
23 business activity in this state and are not mobile tangible assets.

24 (b) Calculate the cost, including fabrication and  
25 installation, paid or accrued in the taxable year of mobile  
26 tangible assets of a type that are, or under the internal revenue  
27 code will become, eligible for depreciation, amortization, or

1 accelerated capital cost recovery for federal income tax purposes.  
2 This amount shall be multiplied by the apportionment factor for the  
3 tax year as prescribed in chapter 3.

4 (c) For tangible assets, other than mobile tangible assets,  
5 purchased or acquired for use outside of this state in a tax year  
6 beginning after December 31, 2007 and subsequently transferred into  
7 this state and purchased or acquired for use in a business  
8 activity, calculate the federal basis used for determining gain or  
9 loss as of the date the tangible assets were physically located in  
10 this state for use in a business activity plus the cost of  
11 fabrication and installation of the tangible assets in this state.

12 (d) If the cost of tangible assets described in subdivision  
13 (a) was paid or accrued in a tax year beginning after December 31,  
14 2007, calculate the gross proceeds or benefit derived from the sale  
15 or other disposition of the tangible assets minus the gain,  
16 multiplied by the apportionment factor for the taxable year as  
17 prescribed in chapter 3, and plus the loss, multiplied by the  
18 apportionment factor for the taxable year as prescribed in chapter  
19 3 from the sale or other disposition reflected in federal taxable  
20 income and minus the gain from the sale or other disposition added  
21 to the business income tax base in section 20.

22 (e) If the cost of tangible assets described in subdivision  
23 (b) was paid or accrued in a tax year beginning after December 31,  
24 2007, calculate the gross proceeds or benefit derived from the sale  
25 or other disposition of the tangible assets minus the gain and plus  
26 the loss from the sale or other disposition reflected in federal  
27 taxable income and minus the gain from the sale or other

1 disposition added to the business income tax base in section 20.  
2 This amount shall be multiplied by the apportionment factor for the  
3 tax year as prescribed in chapter 3.

4 (f) For assets purchased or acquired in a tax year beginning  
5 after December 31, 2007 that were eligible for a credit under  
6 subdivision (a) or (c) and that were transferred out of this state,  
7 calculate the federal basis used for determining gain or loss as of  
8 the date of the transfer.

9 (4) For a tax year in which the amount of the credit  
10 calculated under subsection (3) is negative, the absolute value of  
11 that amount is added to the taxpayer's tax liability for the tax  
12 year.

13 (5) A taxpayer that is an insurance company is not eligible  
14 for the credit allowed under this section.

15 (6) A taxpayer that claims a credit under this section is not  
16 prohibited from claiming a credit under section 42. However, the  
17 taxpayer shall not claim a credit under this section and section 42  
18 based on the same costs and expenses.

19 Sec. 42. (1) A taxpayer may claim a credit against the tax  
20 imposed by this act equal to 4% of the taxpayer's research and  
21 development expenses in this state in the tax year.

22 (2) If the amount of the credit allowed under this section  
23 exceeds the tax liability of the taxpayer for the tax year, that  
24 excess shall not be refunded and shall not be carried forward as an  
25 offset to the tax liability in subsequent tax years.

26 (3) As used in this section, "research and development  
27 expenses" means that term as defined in section 41(b) of the



1 internal revenue code.

2       Sec. 43. (1) A qualified taxpayer that makes an eligible  
3 contribution in an eligible business may claim a credit against the  
4 tax imposed by the act equal to 50% of the taxpayer's eligible  
5 contribution, not to exceed \$500,000.00.

6       (2) Prior to making an eligible contribution, a qualified  
7 taxpayer shall submit an application to the authority for approval  
8 of the credit. The application shall include at least all of the  
9 following:

10       (a) An economic impact analysis, including all of the  
11 following:

12       (i) The impact on both the qualified taxpayer and eligible  
13 business.

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

15       (iii) The number of jobs created.

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

17       (i) The structure of investment between the qualified taxpayer  
18 and eligible business.

19       (ii) Technology development roles and responsibilities.

20       (iii) A commercialization plan, including intellectual property  
21 structure.

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

24       (d) Other collaborators or interested and supportive  
25 businesses.

26       (i) A financial summary.

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

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

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

3 (v) Total overall investment into the project.

4 (3) The authority shall develop criteria to competitively  
5 review applications, including, but not limited to, criteria  
6 related to all of the following:

7 (a) Economic impact in Michigan.

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

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

10 (d) Other collaborators and services provided.

11 (e) Impact of technology development across specific and other  
12 sectors.

13 (f) The commercialization plan and potential for  
14 commercialization.

15 (4) A qualified taxpayer shall not claim a credit under this  
16 section unless the Michigan economic growth authority has issued a  
17 certificate to the taxpayer. The taxpayer shall attach the  
18 certificate to the annual return filed under this act on which a  
19 credit under this section is claimed.

20 (5) The certificate required by subsection (4) shall state all  
21 of the following:

22 (a) The taxpayer is an eligible business.

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

26 (c) The taxpayer's federal employer identification number or  
27 the Michigan department of treasury number assigned to the

1 taxpayer.

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

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

15 (8) As used in this section:

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

19 (b) "Eligible contribution" means the transfer of pecuniary  
20 interest in the form of cash, for the purposes of research and  
21 development and technology innovation. An eligible contribution  
22 does not include contract research.

23 (c) "Eligible business" means a taxpayer engaged in research  
24 and development that together with any affiliates employs fewer  
25 than 50 full-time employees or has gross receipts of less than  
26 \$10,000,000.00 and has no prior financial interest in the qualified  
27 taxpayer and in which the qualified taxpayer has no prior financial

1 interest.

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

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

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

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

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

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

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

20 Sec. 43a. (1) For tax years that begin on or after January 1,  
21 2008 and end before January 1, 2018, an eligible taxpayer may claim  
22 a credit against the tax imposed by this act equal to the amount of  
23 the capital expenditures during the tax year for which the credit  
24 under this section is claimed, not to exceed \$1.00.

25 (2) If the credit allowed under this section for the tax year  
26 exceeds the taxpayer's tax liability for the tax year, that portion  
27 which exceeds the tax liability for the tax year shall not be

1 refunded and may not be carried forward to offset tax liability in  
2 subsequent years.

3 (3) As used in this section:

4 (a) "Eligible taxpayer" means any of the following:

5 (i) A person who owns and operates a motorsports entertainment  
6 complex.

7 (ii) A person who is the lessee and operator of a motorsports  
8 entertainment complex or the lessee of the land on which a  
9 motorsports entertainment complex is located and operates that  
10 mortorsports entertainment complex.

11 (iii) A person who operates and maintains a motorsports  
12 entertainment complex under an operation and management agreement.

13 (b) "Motorsports entertainment complex" means a closed-course  
14 motorsports facility, and its ancillary grounds and facilities,  
15 that satisfies all of the following:

16 (i) Has at least 70,000 fixed seats for race patrons.

17 (ii) Has at least 6 scheduled days of motorsports events each  
18 calendar year.

19 (iii) Serves food and beverages at the motorsports entertainment  
20 complex during motorsports events each calendar year through  
21 concession outlets, which are staffed by individuals who represent  
22 or are members of 1 or more nonprofit civic or charitable  
23 organizations that directly benefit from the concession outlets'  
24 sales.

25 (iv) Engages in tourism promotion.

26 (v) Has permanent exhibitions of motorsports history, events,  
27 or vehicles within the motorsports entertainment complex.

1 (c) "Motorsports event" means a motorsports race and its  
2 ancillary activities that have been sanctioned by a sanctioning  
3 body.

4 (d) "Sanctioning body" means the American motorcycle  
5 association (AMA); auto racing club of America (ARCA); championship  
6 auto racing teams (CART); grand American road racing association  
7 (GRAND AM); Indy racing league (IRL); national association for  
8 stock car auto racing (NASCAR); national hot rod association  
9 (NHRA); professional sportscar racing (PSR); sports car club of  
10 America (SCCA); United States auto club (USAC); Michigan state  
11 promoters association; or any successor organization or any other  
12 nationally or internationally recognized governing body of  
13 motorsports that establishes an annual schedule of motorsports  
14 events and grants rights to conduct the events, that has  
15 established and administers rules and regulations governing all  
16 participants involved in the events and all persons conducting the  
17 events, and that requires certain liability assurances, including  
18 insurance.

19 Sec. 44. A taxpayer whose gross receipts allocated or  
20 apportioned to this state are greater than \$350,000.00 but less  
21 than \$700,000.00, may claim a credit against the tax imposed under  
22 this act equal to the tax liability after the credit under section  
23 47 and before all other credits multiplied by a fraction the  
24 numerator of which is the difference between the person's allocated  
25 or apportioned gross receipts and \$700,000.00 and the denominator  
26 of which is \$350,000.00.

27 Sec. 45. (1) A taxpayer may claim a credit against the tax

1 imposed by this act equal to 50% of the amount paid for taxes  
2 levied on eligible personal property in the tax year.

3 (2) If the amount of the credit allowed under this section  
4 exceeds the tax liability of the taxpayer for the tax year, that  
5 excess shall be refunded.

6 (3) As used in this section, "eligible personal property"  
7 means personal property that is classified as industrial personal  
8 property under section 34c of the general property tax act, 1893 PA  
9 206, MCL 211.34c, or is personal property of a telephone company  
10 subject to tax levied under 1905 PA 282, MCL 207.1 to 207.21.

11 Sec. 46. (1) A taxpayer that meets the criteria under  
12 subsection (4) and that is a qualified start-up business that does  
13 not have business income for 2 consecutive tax years may claim a  
14 credit against the tax imposed under this act for the second of  
15 those 2 consecutive tax years and each immediately following  
16 consecutive tax year in which the taxpayer does not have business  
17 income equal to the taxpayer's tax liability for the tax year in  
18 which the taxpayer has no business income. If the taxpayer has  
19 business income in any tax year after the credit under this section  
20 is claimed, the taxpayer shall claim the credit under this section  
21 for any following tax year only if the taxpayer subsequently has no  
22 business income for 2 consecutive tax years. The taxpayer may claim  
23 the credit for the second of those 2 consecutive tax years and each  
24 immediately following consecutive tax year in which the taxpayer  
25 does not have business income.

26 (2) A credit under this section shall not be claimed for more  
27 than a total of 5 tax years.

1           (3) A taxpayer that qualified to claim the credit under  
2 section 31a of former 1975 PA 228 may claim the credit under this  
3 section for a total of 5 years, reduced by the number of years the  
4 taxpayer was eligible to claim the credit under section 31a of  
5 former 1975 PA 228.

6           (4) If a taxpayer that took the credit under this section has  
7 no business activity in this state and has any business activity  
8 outside of this state for any of the first 3 tax years after the  
9 last tax year for which it took the credit under this section, the  
10 taxpayer shall add to its tax liability the following amounts:

11           (a) If the taxpayer has no business activity in this state for  
12 the first tax year after the last tax year for which a credit under  
13 this section is claimed, 100% of the total of all credits claimed  
14 under this section.

15           (b) If the taxpayer has no business activity in this state for  
16 the second tax year after the last tax year for which a credit  
17 under this section is claimed, 67% of the total of all credits  
18 claimed under this section.

19           (c) If the taxpayer has no business activity for the third tax  
20 year after the last tax year for which a credit under this section  
21 is claimed, 33% of the total of all credits claimed under this  
22 section.

23           (5) For the tax year for which a credit under this section is  
24 claimed, compensation, directors' fees, or distributive shares paid  
25 by the taxpayer to any 1 of the following shall not exceed  
26 \$135,000.00:

27           (a) A shareholder or officer of a corporation other than an S



1 corporation.

2 (b) A partner of a partnership or limited liability  
3 partnership.

4 (c) A shareholder of an S corporation.

5 (d) A member of a limited liability corporation.

6 (e) An individual who is an owner.

7 (6) As used in this section:

8 (a) "Business income" means business income as defined in  
9 section 3 excluding funds received from small business innovation  
10 research grants and small business technology transfer programs  
11 established under the small business innovation development act of  
12 1982, Public Law 97-219, reauthorized under the small business  
13 research and development enhancement act, Public Law 102-564, and  
14 subsequently reauthorized under the small business reauthorization  
15 act of 2000, Public Law 106-554.

16 (b) "Michigan economic development corporation" means the  
17 public body corporate created under section 28 of article VII of  
18 the state constitution of 1963 and the urban cooperation act of  
19 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual  
20 interlocal agreement effective April 5, 1999, as amended, between  
21 local participating economic development corporations formed under  
22 the economic development corporations act, 1974 PA 338, MCL  
23 125.1601 to 125.1636, and the Michigan strategic fund.

24 (c) "Qualified start-up business" means a business that meets  
25 all of the following criteria as certified annually by the Michigan  
26 economic development corporation:

27 (i) Has fewer than 25 full-time equivalent employees.

1           (ii) Has sales of less than \$1,000,000.00 in the tax year for  
2 which the credit under this section is claimed.

3           (iii) Research and development expenses make up at least 15% of  
4 its expenses in the tax year for which the credit under this  
5 section is claimed.

6           (iv) Is not publicly traded.

7           (v) Met 1 of the following criteria during 1 of the initial 2  
8 consecutive tax years in which the qualified start-up business had  
9 no business income:

10           (A) During the immediately preceding 7 years was in 1 of the  
11 first 2 years of contribution liability under section 19 of the  
12 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

13           (B) During the immediately preceding 7 years would have been  
14 in 1 of the first 2 years of contribution liability under section  
15 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
16 MCL 421.19, if the qualified start-up business had employees and  
17 was liable under the Michigan employment security act, 1936 (Ex  
18 Sess) PA 1, MCL 421.1 to 421.75.

19           (C) During the immediately preceding 7 years would have been  
20 in 1 of the first 2 years of contribution liability under section  
21 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
22 MCL 421.19, if the qualified start-up business had not assumed  
23 successor liability under section 15(g) of the Michigan employment  
24 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

25           (d) "Research and development" means qualified research as  
26 that term is defined in section 41(d) of the internal revenue code.

27           Sec. 47. (1) The credit provided in this section shall be

1 taken after the credits under sections 40 and 41 and before any  
2 other credit under this act and is available to any taxpayer with  
3 gross receipts that do not exceed \$10,000,000.00 and with adjusted  
4 business income minus the loss adjustment that does not exceed  
5 \$475,000.00, subject to the following:

6 (a) An individual, a partnership, or a subchapter S  
7 corporation is disqualified if the individual, any 1 partner of the  
8 partnership, or any 1 shareholder of the subchapter S corporation  
9 receives more than \$115,000.00 as a distributive share of the  
10 adjusted business income minus the loss adjustment of the  
11 individual, the partnership, or the subchapter S corporation.

12 (b) A corporation other than a subchapter S corporation is  
13 disqualified if either of the following occur for the respective  
14 tax year:

15 (i) Compensation and directors' fees of a shareholder or  
16 officer exceed \$115,000.00.

17 (ii) The sum of the following amounts exceeds \$115,000.00:

18 (A) Compensation and directors' fees of a shareholder.

19 (B) The product of the percentage of outstanding ownership or  
20 of outstanding stock owned by that shareholder multiplied by the  
21 difference between the sum of business income and, to the extent  
22 deducted in determining federal taxable income, a carry back or a  
23 carry over of a net operating loss or capital loss, minus the loss  
24 adjustment.

25 (c) Subject to the reduction percentage determined under  
26 subsection (3), the credit determined under this subsection shall  
27 be reduced by the following percentages in the following

1 circumstances:

2 (i) If an individual, any 1 partner of the partnership, or any  
3 1 shareholder of the subchapter S corporation receives as a  
4 distributive share of adjusted business income minus the loss  
5 adjustment of the individual, partnership, or subchapter S  
6 corporation; if compensation and directors' fees of a shareholder  
7 or officer of a corporation other than a subchapter S corporation  
8 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
9 is more than \$95,000.00 but less than \$100,000.00, the credit is  
10 reduced by 20%.

11 (ii) If an individual, any 1 partner of the partnership, or any  
12 1 shareholder of the subchapter S corporation receives as a  
13 distributive share of adjusted business income minus the loss  
14 adjustment of the individual, partnership, or subchapter S  
15 corporation; if compensation and directors' fees of a shareholder  
16 or officer of a corporation other than a subchapter S corporation  
17 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
18 is \$100,000.00 or more but less than \$105,000.00, the credit is  
19 reduced by 40%.

20 (iii) If an individual, any 1 partner of the partnership, or any  
21 1 shareholder of the subchapter S corporation receives as a  
22 distributive share of adjusted business income minus the loss  
23 adjustment of the individual, partnership, or subchapter S  
24 corporation; if compensation and directors' fees of a shareholder  
25 or officer of a corporation other than a subchapter S corporation  
26 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
27 is \$105,000.00 or more but less than \$110,000.00, the credit is

1 reduced by 60%.

2 (iv) If an individual, any 1 partner of the partnership, or any  
3 1 shareholder of the subchapter S corporation receives as a  
4 distributive share of adjusted business income minus the loss  
5 adjustment of the individual, partnership, or subchapter S  
6 corporation; if compensation and directors' fees of a shareholder  
7 or officer of a corporation other than a subchapter S corporation  
8 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
9 is \$110,000.00 or more but not in excess of \$115,000.00, the credit  
10 is reduced by 80%.

11 (2) For the purposes of determining disqualification under  
12 subsection (1), an active shareholder's share of business income  
13 shall not be attributed to another active shareholder.

14 (3) To determine the reduction percentage under subsection  
15 (1) (c), the following apply:

16 (a) The reduction percentage for a partnership or subchapter S  
17 corporation is based on the distributive share of adjusted business  
18 income minus loss adjustment of the partner or shareholder with the  
19 greatest distributive share of adjusted business income minus loss  
20 adjustment.

21 (b) The reduction percentage for a corporation other than a  
22 subchapter S corporation is the greater of the following:

23 (i) The reduction percentage based on the compensation and  
24 directors' fees of the shareholder or officer with the greatest  
25 amount of compensation and directors' fees.

26 (ii) The reduction percentage based on the sum of the amounts  
27 in subsection (1) (b) (ii) (A) and (B) for the shareholder or officer

1 with the greatest sum of the amounts in subsection (1) (b) (ii) (A) and  
2 (B).

3 (4) A taxpayer that qualifies under subsection (1) is allowed  
4 a credit against the tax imposed under this act. The credit under  
5 this subsection is the amount by which the tax imposed under this  
6 act exceeds 1.8% of adjusted business income.

7 (5) If gross receipts exceed \$9,000,000.00, the credit shall  
8 be reduced by a fraction, the numerator of which is the amount of  
9 gross receipts over \$9,000,000.00 and the denominator of which is  
10 \$1,000,000.00. The credit shall not exceed 100% of the tax  
11 liability imposed under this act.

12 (6) For a taxpayer that reports for a tax year less than 12  
13 months, the amounts specified in this section for gross receipts,  
14 adjusted business income, and share of business income shall be  
15 multiplied by a fraction, the numerator of which is the number of  
16 months in the tax year and the denominator of which is 12.

17 (7) The department shall permit a taxpayer that elects to  
18 claim the credit allowed under this section based on the amount by  
19 which the tax imposed under this act exceeds the percentage of  
20 adjusted business income for the tax year as determined under  
21 subsection (4), and that is not required to reduce the credit  
22 pursuant to subsection (1) or (5), to file and pay the tax imposed  
23 by this act without computing the tax imposed under section 20.

24 (8) As used in this section:

25 (a) "Active shareholder" means a shareholder who receives at  
26 least \$10,000.00 in compensation, directors' fees, or dividends  
27 from the business, and who owns at least 5% of the outstanding

1 stock or other ownership interest.

2 (b) "Adjusted business income" means business income as  
3 defined in section 3 with all of the following adjustments:

4 (i) Add compensation and directors' fees of active shareholders  
5 of a corporation.

6 (ii) Add, to the extent deducted in determining federal taxable  
7 income, a carry back or a carry over of a net operating loss.

8 (iii) Add, to the extent deducted in determining federal taxable  
9 income, a capital loss.

10 (iv) Add compensation and directors' fees of officers of a  
11 corporation.

12 (c) "Loss adjustment" means the amount by which adjusted  
13 business income was less than zero in any of the 5 tax years  
14 immediately preceding the tax year for which eligibility for the  
15 credit under this section is being determined. In determining the  
16 loss adjustment for a tax year, a taxpayer is not required to use  
17 more of the taxpayer's total negative adjusted business income than  
18 the amount needed to qualify the taxpayer for the credit under this  
19 section. A taxpayer shall not be considered to have used any  
20 portion of the taxpayer's negative adjusted business income amount  
21 unless the portion used is necessary to qualify for the credit  
22 under this section. A taxpayer shall not reuse a negative adjusted  
23 business income amount used as a loss adjustment in a previous tax  
24 year or use a negative adjusted business income amount from a year  
25 in which the taxpayer did not receive the credit under this  
26 section.

27 (d) "Subchapter S corporation" means a corporation that elects

1 to be subject to taxation under subchapter S of chapter 1 of  
2 subtitle A of the internal revenue code, 26 USC 1361 to 1379.

3       Sec. 48. (1) For tax years that begin after December 31, 2008,  
4 a taxpayer that has been issued a tax voucher certificate under  
5 section 23 of the Michigan early stage venture investment act of  
6 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a  
7 portion of a tax voucher is transferred pursuant to the Michigan  
8 early stage venture investment act of 2003, 2003 PA 296, MCL  
9 125.2231 to 125.2263, may use the tax voucher to pay a liability of  
10 the taxpayer due under this act.

11       (2) On and after November 21, 2005, the total amount of all  
12 tax voucher certificates that shall be approved under this section,  
13 section 37e of former 1975 PA 228, and the Michigan early stage  
14 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to  
15 125.2263, shall not exceed an amount sufficient to allow the  
16 Michigan early stage venture investment corporation to raise  
17 \$450,000,000.00 for the purposes authorized under the Michigan  
18 early stage venture investment act of 2003, 2003 PA 296, MCL  
19 125.2231 to 125.2263. The total amount of all tax voucher  
20 certificates under this section and section 37e of former 1975 PA  
21 228 shall not exceed \$600,000,000.00.

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

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



1 total amount of all tax voucher certificates approved by the  
2 department.

3 (5) Investors shall apply to the Michigan early stage venture  
4 investment corporation for approval of tax voucher certificates at  
5 the time and in the manner required under the Michigan early stage  
6 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to  
7 125.2263.

8 (6) The Michigan early stage venture investment corporation  
9 shall determine which investors are eligible for tax vouchers and  
10 the amount of the tax vouchers allowed to each investor as provided  
11 in the Michigan early stage venture investment act of 2003, 2003 PA  
12 296, MCL 125.2231 to 125.2263.

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

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

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

27 (b) The amount authorized to be used in the tax year under the

1 terms of the tax voucher certificate.

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

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

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

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

1 purposes:

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

4 (b) To pay any liability of the taxpayer under and to the  
5 extent allowed under section 270 of the income tax act of 1967,  
6 1967 PA 281, MCL 206.270.

7 (c) To be transferred to a taxpayer that may use the  
8 replacement tax voucher certificate to pay any liability under this  
9 act to the extent allowed under subsection (8).

10 (d) To be transferred to a taxpayer that may use the tax  
11 voucher certificate to pay any liability under and to the extent  
12 allowed under section 270 of the income tax act of 1967, 1967 PA  
13 281, MCL 206.270.

14 (12) As used in this section:

15 (a) "Investor" means that term as defined in the Michigan  
16 early stage venture investment act of 2003, 2003 PA 296, MCL  
17 125.2231 to 125.2263.

18 (b) "Certificate" means the certificate issued under section  
19 23 of the Michigan early stage venture investment act of 2003, 2003  
20 PA 296, MCL 125.2253.

21 (c) "Transferee" means a taxpayer to whom a tax voucher  
22 certificate has been transferred under section 23 of the Michigan  
23 early stage venture investment act of 2003, 2003 PA 296, MCL  
24 125.2253, and this section.

25 Sec. 49. (1) A taxpayer that is not subject to the income tax  
26 act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit  
27 against the tax imposed by this act, subject to the applicable

1 limitations under this section, equal to 50% of the aggregate  
2 amount of charitable contributions made by the taxpayer during the  
3 tax year to all of the following:

4 (a) A public broadcast station as defined by 47 USC 397 that  
5 is not affiliated with an institution of higher education.

6 (b) A public library.

7 (c) An institution of higher learning located in this state or  
8 a nonprofit corporation, fund, foundation, trust, or association  
9 organized and operated exclusively for the benefit of an  
10 institution of higher learning.

11 (d) The Michigan colleges foundation.

12 (e) A municipality or a nonprofit corporation affiliated with  
13 both a municipality and an art, historical, or zoological institute  
14 located in the municipality for the purpose of benefiting the art,  
15 historical, or zoological institute located in that municipality.

16 (f) An institution devoted to the procurement, care, study,  
17 and display of objects of lasting interest or value.

18 (2) The tax credit allowed under this section for a donation  
19 under subsection (1)(c) is allowed only if the donee corporation,  
20 fund, foundation, trust, or association is controlled or approved  
21 and reviewed by the governing board of the institution of higher  
22 learning that benefits from the charitable contributions. The  
23 nonprofit corporation, fund, foundation, trust, or association  
24 shall provide copies of its annual independently audited financial  
25 statements to the auditor general of this state and chairpersons of  
26 the appropriation committees of the senate and house or  
27 representatives.

1           (3) The credit allowed under this section for any tax year  
2 shall not exceed 5% of the tax liability of the taxpayer for that  
3 tax year as determined without regard to this section or \$5,000.00,  
4 whichever is less.

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

9           (5) As used in this section:

10           (a) "Institution of higher learning" means an educational  
11 institution located within this state meeting all of the following  
12 requirements:

13           (i) Maintains a regular faculty and curriculum and has a  
14 regularly enrolled body of students in attendance at the place  
15 where its educational activities are carried on.

16           (ii) Regularly offers education above the twelfth grade.

17           (iii) Awards associate, bachelor's, master's, or doctoral  
18 degrees or any combination of those degrees or higher education  
19 credits acceptable for those degrees granted by other institutions  
20 of higher learning.

21           (iv) Is recognized by the state board of education as an  
22 institution of higher learning and appears as an institution of  
23 higher learning in the annual publication of the department of  
24 education entitled "the directory of institutions of higher  
25 education".

26           (b) "Public library" means a public library as defined in  
27 section 2 of 1977 PA 89, MCL 397.552.

1           Sec. 50. (1) A taxpayer that is an employer or carrier that is  
2 subject to the worker's disability compensation act of 1969, 1969  
3 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax  
4 imposed by this act an amount equal to the amount paid during that  
5 tax year by the taxpayer pursuant to section 352 of the worker's  
6 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as  
7 certified by the director of the bureau of worker's disability  
8 compensation pursuant to section 391(6) of the worker's disability  
9 compensation act of 1969, 1969 PA 317, MCL 418.391.

10           (2) A taxpayer that claims a credit under this section shall  
11 claim a portion of the credit allowed by this section equal to the  
12 payments made during a calendar quarter pursuant to section 352 of  
13 the worker's disability compensation act of 1969, 1969 PA 317, MCL  
14 418.352, against the estimated tax payments made under section 71.  
15 Any subsequent increase or decrease in the amount claimed for  
16 payments made by the insurer or self-insurer shall be reflected in  
17 the amount of the credit taken for the calendar quarter in which  
18 the amount of the adjustment is finalized.

19           (3) The credit under this section is in addition to any other  
20 credits the taxpayer is eligible for under this act.

21           (4) If the amount of the credit allowed under this section  
22 exceeds the tax liability of the taxpayer for the tax year, that  
23 portion of the credit that exceeds the tax liability shall be  
24 refunded.

25           Sec. 51. (1) Subject to the applicable limitations in this  
26 section, a taxpayer that does not claim a credit under section 261  
27 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim

1 a credit against the tax imposed by this act equal to 50% of the  
2 amount the taxpayer contributed during the tax year to an endowment  
3 fund of a community foundation.

4 (2) The credit allowed by this section shall not exceed 5% of  
5 the taxpayer's tax liability for the tax year before claiming any  
6 credits allowed by this act or \$5,000.00, whichever is less.

7 (3) If the amount of the credit allowed under this section  
8 exceeds the tax liability of the taxpayer for the tax year, that  
9 portion of the credit that exceeds the tax liability shall not be  
10 refunded.

11 (4) A taxpayer may claim a credit under this section for  
12 contributions to a community foundation made before the expiration  
13 of the 18-month period after a community foundation was  
14 incorporated or established during which the community foundation  
15 must build an endowment value of \$100,000.00 as provided in  
16 subsection (6)(g). If the community foundation does not reach the  
17 required \$100,000.00 endowment value during that 18-month period,  
18 contributions to the community foundation made after the date on  
19 which the 18-month period expires shall not be used to calculate a  
20 credit under this section. At any time after the expiration of the  
21 18-month period under subsection (6)(g) that the community  
22 foundation has an endowment value of \$100,000.00, the community  
23 foundation may apply to the department for certification under this  
24 section.

25 (5) On or before July 1 of each year, the department shall  
26 report to the house of representatives committee on tax policy and  
27 the senate finance committee the total amount of tax credits

1 claimed under this section and under section 261 of the income tax  
2 act of 1967, 1967 PA 281, MCL 206.261, for the immediately  
3 preceding tax year.

4 (6) As used in this section, "community foundation" means an  
5 organization that applies for certification under subsection (4) on  
6 or before May 15 of the tax year for which the taxpayer is claiming  
7 the credit and that the department certifies for that tax year as  
8 meeting all of the following requirements:

9 (a) Qualifies for exemption from federal income taxation under  
10 section 501(c)(3) of the internal revenue code.

11 (b) Supports a broad range of charitable activities within the  
12 specific geographic area of this state that it serves, such as a  
13 municipality or county.

14 (c) Maintains an ongoing program to attract new endowment  
15 funds by seeking gifts and bequests from a wide range of potential  
16 donors in the community or area served.

17 (d) Is publicly supported as defined by the regulations of the  
18 United States department of treasury, 26 CFR 1.170A-9(e)(10). To  
19 maintain certification, the community foundation shall submit  
20 documentation to the department annually that demonstrates  
21 compliance with this subdivision.

22 (e) Is not a supporting organization as an organization is  
23 described in section 509(a)(3) of the internal revenue code and in  
24 26 CFR 1.509(a)-4 and 1.509(a)-5.

25 (f) Meets the requirements for treatment as a single entity  
26 contained in 26 CFR 1.170A-9(e)(11).

27 (g) Except as provided in subsection (4), is incorporated or



1 established as a trust at least 6 months before the beginning of  
2 the tax year for which the credit under this section is claimed and  
3 that has an endowment value of at least \$100,000.00 before the  
4 expiration of 18 months after the community foundation is  
5 incorporated or established.

6 (h) Has an independent governing body representing the general  
7 public's interest and that is not appointed by a single outside  
8 entity.

9 (i) Provides evidence to the department that the community  
10 foundation has, before the expiration of 6 months after the  
11 community foundation is incorporated or established, and maintains  
12 continually during the tax year for which the credit under this  
13 section is claimed, at least 1 part-time or full-time employee.

14 (j) For community foundations that have an endowment value of  
15 \$1,000,000.00 or more only, the community foundation is subject to  
16 an annual independent financial audit and provides copies of that  
17 audit to the department not more than 3 months after the completion  
18 of the audit. For community foundations that have an endowment  
19 value of less than \$1,000,000.00, the community foundation is  
20 subject to an annual review and an audit every third year.

21 (k) In addition to all other criteria listed in this  
22 subsection for a community foundation that is incorporated or  
23 established after January 9, 2001, operates in a county of this  
24 state that was not served by a community foundation when the  
25 community foundation was incorporated or established or operates as  
26 a geographic component of an existing certified community  
27 foundation.

1           Sec. 52. (1) A taxpayer that does not claim a credit under  
2 section 261 of the income tax act of 1967, 1967 PA 281, MCL  
3 206.261, for a contribution to a shelter for homeless persons, food  
4 kitchen, food bank, or other entity, the primary purpose of which  
5 is to provide overnight accommodation, food, or meals to persons  
6 who are indigent, may claim a credit against the tax imposed by  
7 this act equal to 50% of the cash amount the taxpayer contributed  
8 during the tax year to a shelter for homeless persons, food  
9 kitchen, food bank, or other entity, the primary purpose of which  
10 is to provide overnight accommodation, food, or meals to persons  
11 who are indigent, if a contribution to that entity is tax  
12 deductible for the donor under the internal revenue code.

13           (2) The credit allowed by this section shall not exceed 5% of  
14 the taxpayer's tax liability for the tax year before claiming any  
15 credits allowed by this act or \$5,000.00, whichever is less.

16           (3) If the amount of the credit allowed under this section  
17 exceeds the tax liability of the taxpayer for the tax year, that  
18 portion of the credit that exceeds the tax liability shall not be  
19 refunded.

20           (4) An entity described in subsection (1) may request that the  
21 department determine whether a contribution to that entity  
22 qualifies for the credit under this section. The department shall  
23 make a determination and respond to a request no later than 30 days  
24 after the department receives the request.

25           (5) On or before July 1 of each year, the department shall  
26 report to the house of representatives committee on tax policy and  
27 the senate committee on finance the total amount of tax credits

1 claimed under this section, section 51, and section 261 of the  
2 income tax act of 1967, 1967 PA 281, MCL 206.261, for the  
3 immediately preceding tax year.

4 Sec. 53. (1) A taxpayer may claim a credit against the tax  
5 imposed by this act for 1 or more of the following as applicable:

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

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

8 (2) A taxpayer that is certified under the Michigan next  
9 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an  
10 eligible taxpayer may claim a nonrefundable credit for the tax year  
11 equal to the amount determined under subdivision (a) or (b),  
12 whichever is less:

13 (a) The amount by which the taxpayer's tax liability  
14 attributable to qualified business activity for the tax year  
15 exceeds the taxpayer's baseline tax liability attributable to  
16 qualified business activity.

17 (b) Ten percent of the amount by which the taxpayer's adjusted  
18 qualified business activity performed in this state outside of a  
19 renaissance zone for the tax year exceeds the taxpayer's adjusted  
20 qualified business activity performed in this state outside of a  
21 renaissance zone for the 2001 tax year under section 39e of former  
22 1975 PA 228.

23 (3) For any tax year in which the eligible taxpayer's tax  
24 liability attributable to qualified business activity for the tax  
25 year does not exceed the taxpayer's baseline tax liability  
26 attributable to qualified business activity, the eligible taxpayer  
27 shall not claim the credit allowed under subsection (2).

1           (4) A taxpayer that claims a credit under subsection (2) shall  
2 attach a copy of each of the following as issued pursuant to the  
3 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
4 207.827, to the annual return required under this act for each tax  
5 year in which the taxpayer claims the credit allowed under  
6 subsection (2):

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

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

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

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

17           (6) If the credit allowed under subsection (5) exceeds the tax  
18 liability of the taxpayer for the tax year, that portion of the  
19 credit that exceeds the tax liability shall be refunded.

20           (7) As used in this section:

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

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

26           (ii) For a partnership, limited liability company, S  
27 corporation, or individual, the amount determined under

1 subparagraph (i) plus the product of the following as related to the  
2 taxpayer:

3 (A) Business income.

4 (B) The apportionment factor as determined under chapter 3.

5 (C) The alternative energy business activity factor.

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

16 (c) "Alternative energy marine propulsion system",  
17 "alternative energy system", "alternative energy vehicle", and  
18 "alternative energy technology" mean those terms as defined in the  
19 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
20 207.827.

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

25 (e) "Baseline tax liability attributable to qualified business  
26 activity" means the taxpayer's tax liability for the 2001 tax year  
27 under former 1975 PA 228 multiplied by the taxpayer's alternative

1 energy business activity factor for the 2001 tax year under former  
2 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months  
3 under former 1975 PA 228 shall annualize the amount calculated  
4 under this subdivision as necessary to determine baseline tax  
5 liability attributable to qualified business activity that reflects  
6 a 12-month period.

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

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

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

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

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

24 (k) "Qualified payroll amount" means an amount equal to  
25 payroll of the qualified alternative energy entity attributable to  
26 all qualified employees in the tax year of the qualified  
27 alternative energy entity for which the credit under subsection (6)

1 is being claimed, multiplied by the tax rate for that tax year.

2 (l) "Renaissance zone" means a renaissance zone designated  
3 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681  
4 to 125.2696.

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

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

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

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

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

24 Sec. 54. (1) For a period of time not to exceed 20 years as  
25 determined by the Michigan economic growth authority, a taxpayer  
26 that is an authorized business or an eligible taxpayer may claim a  
27 credit against the tax imposed by this act equal to the amount

1 certified each year by the Michigan economic growth authority as  
2 follows:

3 (a) For an authorized business for the tax year, an amount not  
4 to exceed the payroll of the authorized business attributable to  
5 employees who perform qualified new jobs as determined under the  
6 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
7 207.810, multiplied by the tax rate.

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

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

22 (2) A taxpayer shall not claim a credit under this section  
23 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 (3) The certificate required by subsection (2) shall state all



1 of the following:

2 (a) The taxpayer is an authorized business or an eligible  
3 taxpayer.

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

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

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

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

21 (6) A taxpayer that claims a credit under subsection (1) or  
22 section 37c or 37d of former 1975 PA 228, that has an agreement  
23 with the Michigan economic growth authority based on qualified new  
24 jobs as defined in section 3(n)(ii) of the Michigan economic growth  
25 authority act, 1995 PA 24, MCL 207.803, and that removes from this  
26 state 51% or more of those qualified new jobs within 3 years after  
27 the first year in which the taxpayer claims a credit described in

1 this subsection shall pay to the department no later than 12 months  
2 after those qualified new jobs are removed from the state an amount  
3 equal to the total of all credits described in this subsection that  
4 were claimed by the taxpayer.

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

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

16 (9) As used in this section:

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

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

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

27 (d) "Payroll" means the total salaries and wages before

1 deducting any personal or dependency exemptions.

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

3 (i) The average number of full-time jobs at a facility of an  
4 authorized business for a tax year in excess of the average number  
5 of full-time jobs the authorized business maintained in this state  
6 prior to the expansion or location as that is determined under the  
7 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
8 207.810.

9 (ii) The average number of full-time jobs at a facility created  
10 by an eligible business within 120 days before becoming an  
11 authorized business that is in excess of the average number of  
12 full-time jobs that the business maintained in this state 120 days  
13 before becoming an authorized business, as determined under the  
14 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
15 207.810.

16 (f) "Tax rate" means the rate imposed under section 51e of the  
17 income tax act of 1967, 1967 PA 281, MCL 206.51e, for the tax year  
18 in which the tax year of the taxpayer for which the credit is being  
19 computed begins.

20 Sec. 55. (1) A taxpayer that is a business located and  
21 conducting business activity within a renaissance zone may claim a  
22 credit against the tax imposed by this act for the tax year to the  
23 extent and for the duration provided pursuant to the Michigan  
24 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal  
25 to the lesser of the following:

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

1 (b) Ten percent of adjusted services performed in a designated  
2 renaissance zone.

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

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

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

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

15 (2) Any portion of the taxpayer's tax liability that is  
16 attributable to illegal activity conducted in the renaissance zone  
17 shall not be used to calculate a credit under this section.

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

20 (4) If the amount of the credit allowed under this section  
21 exceeds the tax liability of the taxpayer for the tax year, that  
22 portion of the credit that exceeds the tax liability shall not be  
23 refunded.

24 (5) A taxpayer that claims a credit under this section shall  
25 not employ, pay a speaker fee to, or provide any remuneration,  
26 compensation, or consideration to any person employed by the state,  
27 the state administrative board created in 1921 PA 2, MCL 17.1 to

1 17.3, or the renaissance zone review board created in 1996 PA 376,  
2 MCL 125.2681 to 125.2696, whose employment relates or related in  
3 any way to the authorization or enforcement of the credit allowed  
4 under this section for any year in which the taxpayer claims a  
5 credit under this section and for the 3 years after the last year  
6 that a credit is claimed.

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

10 (7) Any portion of the taxpayer's tax liability that is  
11 attributable to business activity related to the operation of a  
12 casino, and business activity that is associated or affiliated with  
13 the operation of a casino, including, but not limited to, the  
14 operation of a parking lot, hotel, motel, or retail store, shall  
15 not be used to calculate a credit under this section.

16 (8) As used in this section:

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

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

27 (ii) For a partnership, limited liability company, S

1 corporation, or individual, the amount determined under  
2 subparagraph (i) plus the product of the following as related to the  
3 taxpayer if greater than zero:

4 (A) Business income.

5 (B) The ratio of the taxpayer's total sales in this state  
6 during the tax year divided by the taxpayer's total sales  
7 everywhere during the tax year.

8 (C) The renaissance zone business activity factor.

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

12 (c) "New property" means property that has not been subject  
13 to, or exempt from, the collection of taxes under the general  
14 property tax act, 1893 PA 206, MCL 211.1 to 211.157, and has not  
15 been subject to, or exempt from, ad valorem property taxes levied  
16 in another state, except that receiving an exemption as inventory  
17 property does not disqualify property.

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

20 (e) "Renaissance zone" means that term as defined in the  
21 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
22 125.2696.

23 (f) "Renaissance zone business activity factor" means a  
24 fraction, the numerator of which is the ratio of the average value  
25 of the taxpayer's property located in a designated renaissance zone  
26 to the average value of the taxpayer's property in this state plus  
27 the ratio of the taxpayer's payroll for services performed in a

1 designated renaissance zone to all of the taxpayer's payroll in  
2 this state and the denominator of which is 2.

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

6 Sec. 56. (1) A qualified taxpayer with a rehabilitation plan  
7 certified after December 31, 2007 or a qualified taxpayer that has  
8 a rehabilitation plan certified before January 1, 2008 under  
9 section 39c of former 1975 PA 228 for the rehabilitation of a  
10 historic resource for which a certification of completed  
11 rehabilitation has been issued after the end of the taxpayer's last  
12 tax year may credit against the tax imposed by this act the amount  
13 determined pursuant to subsection (2) for the qualified  
14 expenditures for the rehabilitation of a historic resource pursuant  
15 to the rehabilitation plan in the year in which the certification  
16 of completed rehabilitation of the historic resource is issued  
17 provided that the certification of completed rehabilitation was  
18 issued not more than 5 years after the rehabilitation plan was  
19 certified by the Michigan historical center.

20 (2) The credit allowed under this section shall be 25% of the  
21 qualified expenditures that are eligible for the credit under  
22 section 47(a)(2) of the internal revenue code if the taxpayer is  
23 eligible for the credit under section 47(a)(2) of the internal  
24 revenue code or, if the taxpayer is not eligible for the credit  
25 under section 47(a)(2) of the internal revenue code, 25% of the  
26 qualified expenditures that would qualify under section 47(a)(2) of  
27 the internal revenue code except that the expenditures are made to

1 a historic resource that is not eligible for the credit under  
2 section 47(a)(2) of the internal revenue code, subject to both of  
3 the following:

4 (a) A taxpayer with qualified expenditures that are eligible  
5 for the credit under section 47(a)(2) of the internal revenue code  
6 may not claim a credit under this section for those qualified  
7 expenditures unless the taxpayer has claimed and received a credit  
8 for those qualified expenditures under section 47(a)(2) of the  
9 internal revenue code.

10 (b) A credit under this section shall be reduced by the amount  
11 of a credit received by the taxpayer for the same qualified  
12 expenditures under section 47(a)(2) of the internal revenue code.

13 (3) To be eligible for the credit under this section, the  
14 taxpayer shall apply to and receive from the Michigan historical  
15 center certification that the historic significance, the  
16 rehabilitation plan, and the completed rehabilitation of the  
17 historic resource meet the criteria under subsection (6) and either  
18 of the following:

19 (a) All of the following criteria:

20 (i) The historic resource contributes to the significance of  
21 the historic district in which it is located.

22 (ii) Both the rehabilitation plan and completed rehabilitation  
23 of the historic resource meet the federal secretary of the  
24 interior's standards for rehabilitation and guidelines for  
25 rehabilitating historic buildings, 36 CFR part 67.

26 (iii) All rehabilitation work has been done to or within the  
27 walls, boundaries, or structures of the historic resource or to



1 historic resources located within the property boundaries of the  
2 property.

3 (b) The taxpayer has received certification from the national  
4 park service that the historic resource's significance, the  
5 rehabilitation plan, and the completed rehabilitation qualify for  
6 the credit allowed under section 47(a)(2) of the internal revenue  
7 code.

8 (4) If a qualified taxpayer is eligible for the credit allowed  
9 under section 47(a)(2) of the internal revenue code, the qualified  
10 taxpayer shall file for certification with the center to qualify  
11 for the credit allowed under section 47(a)(2) of the internal  
12 revenue code. If the qualified taxpayer has previously filed for  
13 certification with the center to qualify for the credit allowed  
14 under section 47(a)(2) of the internal revenue code, additional  
15 filing for the credit allowed under this section is not required.

16 (5) The center may inspect a historic resource at any time  
17 during the rehabilitation process and may revoke certification of  
18 completed rehabilitation if the rehabilitation was not undertaken  
19 as represented in the rehabilitation plan or if unapproved  
20 alterations to the completed rehabilitation are made during the 5  
21 years after the tax year in which the credit was claimed. The  
22 center shall promptly notify the department of a revocation.

23 (6) Qualified expenditures for the rehabilitation of a  
24 historic resource may be used to calculate the credit under this  
25 section if the historic resource meets 1 of the criteria listed in  
26 subdivision (a) and 1 of the criteria listed in subdivision (b):

27 (a) The resource is 1 of the following during the tax year in

1 which a credit under this section is claimed for those qualified  
2 expenditures:

3 (i) Individually listed on the national register of historic  
4 places or state register of historic sites.

5 (ii) A contributing resource located within a historic district  
6 listed on the national register of historic places or the state  
7 register of historic sites.

8 (iii) A contributing resource located within a historic district  
9 designated by a local unit pursuant to an ordinance adopted under  
10 the local historic districts act, 1970 PA 169, MCL 399.201 to  
11 399.215.

12 (b) The resource meets 1 of the following criteria during the  
13 tax year in which a credit under this section is claimed for those  
14 qualified expenditures:

15 (i) The historic resource is located in a designated historic  
16 district in a local unit of government with an existing ordinance  
17 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
18 399.215.

19 (ii) The historic resource is located in an incorporated local  
20 unit of government that does not have an ordinance under the local  
21 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and  
22 has a population of less than 5,000.

23 (iii) The historic resource is located in an unincorporated  
24 local unit of government.

25 (iv) The historic resource is located in an incorporated local  
26 unit of government that does not have an ordinance under the local  
27 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is

1 located within the boundaries of an association that has been  
2 chartered under 1889 PA 39, MCL 455.51 to 455.72.

3 (7) If a qualified taxpayer is a partnership, limited  
4 liability company, or subchapter S corporation, the qualified  
5 taxpayer may assign all or any portion of a credit allowed under  
6 this section to its partners, members, or shareholders, based on  
7 the partner's, member's, or shareholder's proportionate share of  
8 ownership or based on an alternative method approved by the  
9 department. A credit assignment under this subsection is  
10 irrevocable and shall be made in the tax year in which a  
11 certificate of completed rehabilitation is issued. A qualified  
12 taxpayer may claim a portion of a credit and assign the remaining  
13 credit amount. A partner, member, or shareholder that is an  
14 assignee shall not subsequently assign a credit or any portion of a  
15 credit assigned to the partner, member, or shareholder under this  
16 subsection. A credit amount assigned under this subsection may be  
17 claimed against the partner's, member's, or shareholder's tax  
18 liability under this act or under the income tax act of 1967, 1967  
19 PA 281, MCL 206.1 to 206.532. A credit assignment under this  
20 subsection shall be made on a form prescribed by the department.  
21 The qualified taxpayer and assignees shall send a copy of the  
22 completed assignment form to the department in the tax year in  
23 which the assignment is made and attach a copy of the completed  
24 assignment form to the annual return required to be filed under  
25 this act for that tax year.

26 (8) If the credit allowed under this section for the tax year  
27 and any unused carryforward of the credit allowed by this section

1 exceed the taxpayer's tax liability for the tax year, that portion  
2 that exceeds the tax liability for the tax year shall not be  
3 refunded but may be carried forward to offset tax liability in  
4 subsequent tax years for 10 years or until used up, whichever  
5 occurs first. An unused carryforward of a credit under section 39c  
6 of former 1975 PA 228 that was unused at the end of the last tax  
7 year for which former 1975 PA 228 was in effect may be claimed  
8 against the tax imposed under this act for the years the  
9 carryforward would have been available under section 39c of former  
10 1975 PA 228.

11 (9) If the taxpayer sells a historic resource for which a  
12 credit was claimed under this section or under section 39c of  
13 former 1975 PA 228 less than 5 years after the year in which the  
14 credit was claimed, the following percentage of the credit amount  
15 previously claimed relative to that historic resource shall be  
16 added back to the tax liability of the taxpayer in the year of the  
17 sale:

18 (a) If the sale is less than 1 year after the year in which  
19 the credit was claimed, 100%.

20 (b) If the sale is at least 1 year but less than 2 years after  
21 the year in which the credit was claimed, 80%.

22 (c) If the sale is at least 2 years but less than 3 years  
23 after the year in which the credit was claimed, 60%.

24 (d) If the sale is at least 3 years but less than 4 years  
25 after the year in which the credit was claimed, 40%.

26 (e) If the sale is at least 4 years but less than 5 years  
27 after the year in which the credit was claimed, 20%.

1 (f) If the sale is 5 years or more after the year in which the  
2 credit was claimed, an addback to the taxpayer's tax liability  
3 shall not be made.

4 (10) If a certification of completed rehabilitation is revoked  
5 under subsection (5) less than 5 years after the year in which a  
6 credit was claimed under this section or under section 39c of  
7 former 1975 PA 228, the following percentage of the credit amount  
8 previously claimed relative to that historic resource shall be  
9 added back to the tax liability of the taxpayer in the year of the  
10 revocation:

11 (a) If the revocation is less than 1 year after the year in  
12 which the credit was claimed, 100%.

13 (b) If the revocation is at least 1 year but less than 2 years  
14 after the year in which the credit was claimed, 80%.

15 (c) If the revocation is at least 2 years but less than 3  
16 years after the year in which the credit was claimed, 60%.

17 (d) If the revocation is at least 3 years but less than 4  
18 years after the year in which the credit was claimed, 40%.

19 (e) If the revocation is at least 4 years but less than 5  
20 years after the year in which the credit was claimed, 20%.

21 (f) If the revocation is 5 years or more after the year in  
22 which the credit was claimed, an addback to the taxpayer's tax  
23 liability shall not be made.

24 (11) The department of history, arts, and libraries through  
25 the Michigan historical center may impose a fee to cover the  
26 administrative cost of implementing the program under this section.

27 (12) The qualified taxpayer shall attach all of the following

1 to the qualified taxpayer's annual return required under this act  
2 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to  
3 206.532, if applicable, on which the credit is claimed:

4 (a) Certification of completed rehabilitation.

5 (b) Certification of historic significance related to the  
6 historic resource and the qualified expenditures used to claim a  
7 credit under this section.

8 (c) A completed assignment form if the qualified taxpayer has  
9 assigned any portion of a credit allowed under this section to a  
10 partner, member, or shareholder or if the taxpayer is an assignee  
11 of any portion of a credit allowed under this section.

12 (13) The department of history, arts, and libraries shall  
13 promulgate rules to implement this section pursuant to the  
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328.

16 (14) The total of the credits claimed under this section and  
17 section 266 of the income tax act of 1967, 1967 PA 281, MCL  
18 206.266, for a rehabilitation project shall not exceed 25% of the  
19 total qualified expenditures eligible for the credit under this  
20 section for that rehabilitation project.

21 (15) The department of history, arts, and libraries through  
22 the Michigan historical center shall report all of the following to  
23 the legislature annually for the immediately preceding state fiscal  
24 year:

25 (a) The fee schedule used by the center and the total amount  
26 of fees collected.

27 (b) A description of each rehabilitation project certified.

1 (c) The location of each new and ongoing rehabilitation  
2 project.

3 (16) As used in this section:

4 (a) "Contributing resource" means a historic resource that  
5 contributes to the significance of the historic district in which  
6 it is located.

7 (b) "Historic district" means an area, or group of areas not  
8 necessarily having contiguous boundaries, that contains 1 resource  
9 or a group of resources that are related by history, architecture,  
10 archaeology, engineering, or culture.

11 (c) "Historic resource" means a publicly or privately owned  
12 historic building, structure, site, object, feature, or open space  
13 located within a historic district designated by the national  
14 register of historic places, the state register of historic sites,  
15 or a local unit acting under the local historic districts act, 1970  
16 PA 169, MCL 399.201 to 399.215, or that is individually listed on  
17 the state register of historic sites or national register of  
18 historic places, and includes all of the following:

19 (i) An owner-occupied personal residence or a historic resource  
20 located within the property boundaries of that personal residence.

21 (ii) An income-producing commercial, industrial, or residential  
22 resource or a historic resource located within the property  
23 boundaries of that resource.

24 (iii) A resource owned by a governmental body, nonprofit  
25 organization, or tax-exempt entity that is used primarily by a  
26 taxpayer lessee in a trade or business unrelated to the  
27 governmental body, nonprofit organization, or tax-exempt entity and

1 that is subject to tax under this act.

2 (iv) A resource that is occupied or utilized by a governmental  
3 body, nonprofit organization, or tax-exempt entity pursuant to a  
4 long-term lease or lease with option to buy agreement.

5 (v) Any other resource that could benefit from rehabilitation.

6 (d) "Last tax year" means the taxpayer's tax year under former  
7 1975 PA 228 that begins after December 31, 2006 and before January  
8 1, 2008.

9 (e) "Local unit" means a county, city, village, or township.

10 (f) "Long-term lease" means a lease term of at least 27.5  
11 years for a residential resource or at least 31.5 years for a  
12 nonresidential resource.

13 (g) "Michigan historical center" or "center" means the state  
14 historic preservation office of the Michigan historical center of  
15 the department of history, arts, and libraries or its successor  
16 agency.

17 (h) "Open space" means undeveloped land, a naturally  
18 landscaped area, or a formal or man-made landscaped area that  
19 provides a connective link or a buffer between other resources.

20 (i) "Person" means an individual, partnership, corporation,  
21 association, governmental entity, or other legal entity.

22 (j) "Qualified expenditures" means capital expenditures that  
23 qualify for a rehabilitation credit under section 47(a)(2) of the  
24 internal revenue code if the taxpayer is eligible for the credit  
25 under section 47(a)(2) of the internal revenue code or, if the  
26 taxpayer is not eligible for the credit under section 47(a)(2) of  
27 the internal revenue code, the qualified expenditures that would



1 qualify under section 47(a)(2) of the internal revenue code except  
2 that the expenditures are made to a historic resource that is not  
3 eligible for the credit under section 47(a)(2) of the internal  
4 revenue code that were paid not more than 5 years after the  
5 certification of the rehabilitation plan that included those  
6 expenditures was approved by the center, and that were paid after  
7 December 31, 1998 for the rehabilitation of a historic resource.  
8 Qualified expenditures do not include capital expenditures for  
9 nonhistoric additions to a historic resource except an addition  
10 that is required by state or federal regulations that relate to  
11 historic preservation, safety, or accessibility.

12 (k) "Qualified taxpayer" means a person that is an assignee  
13 under subsection (7) or either owns the resource to be  
14 rehabilitated or has a long-term lease agreement with the owner of  
15 the historic resource and that has qualified expenditures for the  
16 rehabilitation of the historic resource equal to or greater than  
17 10% of the state equalized valuation of the property. If the  
18 historic resource to be rehabilitated is a portion of a historic or  
19 nonhistoric resource, the state equalized valuation of only that  
20 portion of the property shall be used for purposes of this  
21 subdivision. If the assessor for the local tax collecting unit in  
22 which the historic resource is located determines the state  
23 equalized valuation of that portion, that assessor's determination  
24 shall be used for purposes of this subdivision. If the assessor  
25 does not determine that state equalized valuation of that portion,  
26 qualified expenditures, for purposes of this subdivision, shall be  
27 equal to or greater than 5% of the appraised value as determined by

1 a certified appraiser. If the historic resource to be rehabilitated  
2 does not have a state equalized valuation, qualified expenditures  
3 for purposes of this subdivision shall be equal to or greater than  
4 5% of the appraised value of the resource as determined by a  
5 certified appraiser.

6 (l) "Rehabilitation plan" means a plan for the rehabilitation  
7 of a historic resource that meets the federal secretary of the  
8 interior's standards for rehabilitation and guidelines for  
9 rehabilitation of historic buildings under 36 CFR part 67.

10 Sec. 57. (1) Subject to the criteria under this section, a  
11 qualified taxpayer that has unused credits or has a preapproval  
12 letter issued after December 31, 2007 and before January 1, 2013,  
13 or a taxpayer that received a preapproval letter prior to January  
14 1, 2008 under section 38g of former 1975 PA 228 and has not  
15 received a certificate of completion prior to the taxpayer's last  
16 tax year, provided that the project is completed not more than 5  
17 years after the preapproval letter for the project is issued, or an  
18 assignee under subsection (20), (21), or (22) may claim a credit  
19 that has been approved under subsection (2), (3), or (4) against  
20 the tax imposed by this act equal to either of the following:

21 (a) If the total of all credits for a project is \$1,000,000.00  
22 or less, 10% of the cost of the qualified taxpayer's eligible  
23 investment paid or accrued by the qualified taxpayer on an eligible  
24 property provided that the project does not exceed the amount  
25 stated in the preapproval letter. If eligible investment exceeds  
26 the amount of eligible investment in the preapproval letter for  
27 that project, the total of all credits for the project shall not

1 exceed the total of all credits on the certificate of completion.

2 (b) If the total of all credits for a project is more than  
3 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in  
4 subsection (6)(b), the project is located in a qualified local  
5 governmental unit, a percentage as determined by the Michigan  
6 economic growth authority not to exceed 10% of the cost of the  
7 qualified taxpayer's eligible investment as determined under  
8 subsection (9) paid or accrued by the qualified taxpayer on an  
9 eligible property. If eligible investment exceeds the amount of  
10 eligible investment in the preapproval letter for that project, the  
11 total of all credits for the project shall not exceed the total of  
12 all credits on the certificate of completion.

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

1 approved under this subsection shall not exceed \$10,000,000.00 in  
2 any calendar year. If the chairperson of the Michigan economic  
3 growth authority or his or her designee approves a project under  
4 this subsection, the chairperson of the Michigan economic growth  
5 authority or his or her designee shall issue a preapproval letter  
6 that states that the taxpayer is a qualified taxpayer; the maximum  
7 total eligible investment for the project on which credits may be  
8 claimed and the maximum total of all credits for the project when  
9 the project is completed and a certificate of completion is issued;  
10 and the project number assigned by the Michigan economic growth  
11 authority. If a project is denied under this subsection, a taxpayer  
12 is not prohibited from subsequently applying under this subsection  
13 for the same project or for another project. If the authority  
14 approves a total of all credits for all projects under this  
15 subsection of less than \$10,000,000.00 in a calendar year, the  
16 authority may carry forward for 1 year only the difference between  
17 \$10,000,000.00 and the total of all credits for all projects under  
18 this subsection approved in the immediately preceding calendar  
19 year. The Michigan economic growth authority shall develop and  
20 implement the use of the application form to be used for projects  
21 under this subsection. Before the Michigan economic growth  
22 authority substantially changes the form, the Michigan economic  
23 growth authority shall adopt the changes by resolution and give  
24 notice of the proposed resolution to the secretary of the senate,  
25 to the clerk of the house of representatives, and to each person  
26 who requested from the Michigan economic growth authority in  
27 writing or electronically to be notified regarding proposed

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

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

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

24 (c) The address to which written comments may be sent and the  
25 date by which comments must be mailed or electronically  
26 transmitted, which date shall not be restricted to only before the  
27 date of the public hearing.

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

2 (3) If the cost of a project will be for more than  
3 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer  
4 shall apply to the Michigan economic growth authority for approval  
5 of the project under this subsection. An application under this  
6 subsection shall state whether the project is a multiphase project.  
7 The chairperson of the Michigan economic growth authority or his or  
8 her designee is authorized to approve an application or project  
9 under this subsection. Only the chairperson of the Michigan  
10 economic growth authority is authorized to deny an application or  
11 project under this subsection. A project shall be approved or  
12 denied not more than 45 days after receipt of the application. If  
13 the chairperson of the Michigan economic growth authority or his or  
14 her designee does not approve or deny an application within 45 days  
15 after the application is received by the Michigan economic growth  
16 authority, the application is considered approved as written. The  
17 total of all credits for all projects approved under this  
18 subsection shall not exceed \$30,000,000.00 in any calendar year. If  
19 the authority approves a total of all credits for all projects  
20 under this subsection of less than \$30,000,000.00 in a calendar  
21 year, the authority may carry forward for 1 year only the  
22 difference between \$30,000,000.00 and the total of all credits for  
23 all projects approved under this subsection in the immediately  
24 preceding calendar year. The criteria in subsection (7) shall be  
25 used when approving projects under this subsection. When approving  
26 projects under this subsection, priority shall be given to projects  
27 on a facility. The total of all credits for an approved project

1 under this subsection shall not exceed \$1,000,000.00. A taxpayer  
2 may apply under this subsection instead of subsection (4) for  
3 approval of a project that will be for more than \$10,000,000.00,  
4 but the total of all credits for that project shall not exceed  
5 \$1,000,000.00. If the chairperson of the Michigan economic growth  
6 authority or his or her designee approves a project under this  
7 subsection, the chairperson of the Michigan economic growth  
8 authority or his or her designee shall issue a preapproval letter  
9 that states that the taxpayer is a qualified taxpayer; the maximum  
10 total eligible investment for the project on which credits may be  
11 claimed and the maximum total of all credits for the project when  
12 the project is completed and a certificate of completion is issued;  
13 and the project number assigned by the Michigan economic growth  
14 authority. If a project is denied under this subsection, a taxpayer  
15 is not prohibited from subsequently applying under this subsection  
16 or subsection (4) for the same project or for another project.

17 (4) If the cost of a project will be for more than  
18 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
19 project is located in a qualified local governmental unit, a  
20 qualified taxpayer shall apply to the Michigan economic growth  
21 authority for approval of the project. An application under this  
22 subsection shall state whether the project is a multiphase project.  
23 The Michigan economic growth authority shall approve or deny the  
24 project not more than 65 days after receipt of the application. A  
25 project under this subsection shall not be approved without the  
26 concurrence of the state treasurer. If the Michigan economic growth  
27 authority does not approve or deny the application within 65 days

1 after it receives the application, the Michigan economic growth  
2 authority shall send the application to the state treasurer. The  
3 state treasurer shall approve or deny the application within 5 days  
4 after receipt of the application. If the state treasurer does not  
5 deny the application within 5 days after receipt of the  
6 application, the application is considered approved. The Michigan  
7 economic growth authority shall approve a limited number of  
8 projects under this subsection during each calendar year as  
9 provided in subsection (6). The Michigan economic growth authority  
10 shall use the criteria in subsection (7) when approving projects  
11 under this subsection, when determining the total amount of  
12 eligible investment, and when determining the percentage of  
13 eligible investment for the project to be used to calculate a  
14 credit. The total of all credits for an approved project under this  
15 subsection shall not exceed the amount designated in the  
16 preapproval letter for that project. If the Michigan economic  
17 growth authority approves a project under this subsection, the  
18 Michigan economic growth authority shall issue a preapproval letter  
19 that states that the taxpayer is a qualified taxpayer; the  
20 percentage of eligible investment for the project determined by the  
21 Michigan economic growth authority for purposes of subsection  
22 (1)(b); the maximum total eligible investment for the project on  
23 which credits may be claimed and the maximum total of all credits  
24 for the project when the project is completed and a certificate of  
25 completion is issued; and the project number assigned by the  
26 Michigan economic growth authority. The Michigan economic growth  
27 authority shall send a copy of the preapproval letter to the



1 department. If a project is denied under this subsection, a  
2 taxpayer is not prohibited from subsequently applying under this  
3 subsection or subsection (3) for the same project or for another  
4 project.

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

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

13 (a) Of the 17 projects allowed under this subsection, the  
14 total of all credits for each project may be more than  
15 \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

16 (b) Of the 17 projects allowed under this subsection, up to 3  
17 projects may be approved for projects that are not in a qualified  
18 local governmental unit if the property is a facility for which  
19 eligible activities are identified in a brownfield plan or, for 1  
20 of the 3 projects, if the property is not a facility but is  
21 functionally obsolete or blighted, property identified in a  
22 brownfield plan. For purposes of this subdivision, a facility  
23 includes a building or complex of buildings that was used by a  
24 state or federal agency and that is no longer being used for the  
25 purpose for which it was used by the state or federal agency.

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

1           (7) The Michigan economic growth authority shall review all  
2 applications for projects under subsection (4) and, if an  
3 application is approved, shall determine the maximum total of all  
4 credits for that project. Before approving a project for which the  
5 total of all credits will be more than \$10,000,000.00 but  
6 \$30,000,000.00 or less only, the Michigan economic growth authority  
7 shall determine that the project would not occur in this state  
8 without the tax credit offered under subsection (4). The Michigan  
9 economic growth authority shall consider the following criteria to  
10 the extent reasonably applicable to the type of project proposed  
11 when approving a project under subsection (4), and the chairperson  
12 of the Michigan economic growth authority or his or her designee  
13 shall consider the following criteria to the extent reasonably  
14 applicable to the type of project proposed when approving a project  
15 under subsection (2) or (3) or when considering an amendment to a  
16 project under subsection (9):

17           (a) The overall benefit to the public.

18           (b) The extent of reuse of vacant buildings and redevelopment  
19 of blighted property.

20           (c) Creation of jobs.

21           (d) Whether the eligible property is in an area of high  
22 unemployment.

23           (e) The level and extent of contamination alleviated by the  
24 qualified taxpayer's eligible activities to the extent known to the  
25 qualified taxpayer.

26           (f) The level of private sector contribution.

27           (g) The cost gap that exists between the site and a similar

1 greenfield site as determined by the Michigan economic growth  
2 authority.

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

5 (i) Whether the financial statements of the qualified taxpayer  
6 indicate that it is financially sound and that the project is  
7 economically sound.

8 (j) Any other criteria that the Michigan economic growth  
9 authority or the chairperson of the Michigan economic growth  
10 authority, as applicable, considers appropriate for the  
11 determination of eligibility under subsection (3) or (4).

12 (8) A qualified taxpayer may apply for projects under this  
13 section for eligible investment on more than 1 eligible property in  
14 a tax year. Each project approved and each project for which a  
15 certificate of completion is issued under this section shall be for  
16 eligible investment on 1 eligible property.

17 (9) If, after a taxpayer's project has been approved and the  
18 taxpayer has received a preapproval letter but before the project  
19 is completed, the taxpayer determines that the project cannot be  
20 completed as preapproved, the taxpayer may petition the Michigan  
21 economic growth authority to amend the project. The total of  
22 eligible investment for the project as amended shall not exceed the  
23 amount allowed in the preapproval letter for that project.

24 (10) A project may be a multiphase project. If a project is a  
25 multiphase project, when each component of the multiphase project  
26 is completed, the taxpayer shall submit documentation that the  
27 component is complete, an accounting of the cost of the component,

1 and the eligible investment for the component of each taxpayer  
2 eligible for a credit for the project of which the component is a  
3 part to the Michigan economic growth authority or the designee of  
4 the Michigan economic growth authority, who shall verify that the  
5 component is complete. When the completion of the component is  
6 verified, a component completion certificate shall be issued to the  
7 qualified taxpayer which shall state that the taxpayer is a  
8 qualified taxpayer, the credit amount for the component, the  
9 qualified taxpayer's federal employer identification number or the  
10 Michigan treasury number assigned to the taxpayer, and the project  
11 number. The taxpayer may assign all or part of the credit for a  
12 multiphase project as provided in this section after a component  
13 completion certificate for a component is issued. The qualified  
14 taxpayer may transfer ownership of or lease the completed component  
15 and assign a proportionate share of the credit for the entire  
16 project to the qualified taxpayer that is the new owner or lessee.  
17 A multiphase project shall not be divided into more than 20  
18 components. A component is considered to be completed when a  
19 certificate of occupancy has been issued by the local municipality  
20 in which the project is located for all of the buildings or  
21 facilities that comprise the completed component and a component  
22 completion certificate is issued. A credit assigned based on a  
23 multiphase project shall be claimed by the assignee in the tax year  
24 in which the assignment is made. The total of all credits for a  
25 multiphase project shall not exceed the amount stated in the  
26 preapproval letter for the project under subsection (1). If all  
27 components of a multiphase project are not completed by 10 years

1 after the date on which the preapproval letter for the project was  
2 issued, the qualified taxpayer that received the preapproval letter  
3 for the project shall pay to the state treasurer, as a penalty, an  
4 amount equal to the sum of all credits claimed and assigned for all  
5 components of the multiphase project and no credits based on that  
6 multiphase project shall be claimed after that date by the  
7 qualified taxpayer or any assignee of the qualified taxpayer. The  
8 penalty under this subsection is subject to interest on the amount  
9 of the credit claimed or assigned determined individually for each  
10 component at the rate in section 23(2) of 1941 PA 122, MCL 205.23,  
11 beginning on the date that the credit for that component was  
12 claimed or assigned. As used in this subsection, "proportionate  
13 share" means the same percentage of the total of all credits for  
14 the project that the qualified investment for the completed  
15 component is of the total qualified investment stated in the  
16 preapproval letter for the entire project.

17 (11) When a project under this section is completed, the  
18 taxpayer shall submit documentation that the project is completed,  
19 an accounting of the cost of the project, the eligible investment  
20 of each taxpayer if there is more than 1 taxpayer eligible for a  
21 credit for the project, and, if the taxpayer is not the owner or  
22 lessee of the eligible property on which the eligible investment  
23 was made at the time the project is completed, that the taxpayer  
24 was the owner or lessee of that eligible property when all eligible  
25 investment of the taxpayer was made. The chairperson of the  
26 Michigan economic growth authority or his or her designee, for  
27 projects approved under subsection (2) or (3), or the Michigan

1 economic growth authority, for projects approved under subsection  
2 (4), shall verify that the project is completed. The Michigan  
3 economic growth authority shall conduct an on-site inspection as  
4 part of the verification process for projects approved under  
5 subsection (4). When the completion of the project is verified, a  
6 certificate of completion shall be issued to each qualified  
7 taxpayer that has made eligible investment on that eligible  
8 property. The certificate of completion shall state the total  
9 amount of all credits for the project and that total shall not  
10 exceed the maximum total of all credits listed in the preapproval  
11 letter for the project under subsection (2), (3), or (4) as  
12 applicable and shall state all of the following:

13 (a) That the taxpayer is a qualified taxpayer.

14 (b) The total cost of the project and the eligible investment  
15 of each qualified taxpayer.

16 (c) Each qualified taxpayer's credit amount.

17 (d) The qualified taxpayer's federal employer identification  
18 number or the Michigan treasury number assigned to the taxpayer.

19 (e) The project number.

20 (f) For a project approved under subsection (4) for which the  
21 total of all credits is more than \$10,000,000.00 but \$30,000,000.00  
22 or less, the total of all credits and the schedule on which the  
23 annual credit amount shall be claimed by the qualified taxpayer.

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

27 (12) Except as otherwise provided in this section, qualified

1 taxpayers shall claim credits under this section in the tax year in  
2 which the certificate of completion is issued. For a project  
3 approved under subsection (4) for which the total of all credits is  
4 more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified  
5 taxpayer shall claim 10% of its approved credit each year for 10  
6 years. A credit assigned based on a multiphase project shall be  
7 claimed in the year in which the credit is assigned.

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

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

19 (15) Each qualified taxpayer and assignee under subsection  
20 (20), (21), or (22) that claims a credit under this section shall  
21 attach a copy of the certificate of completion and, if the credit  
22 was assigned, a copy of the assignment form provided for under this  
23 section to the annual return filed under this act on which the  
24 credit under this section is claimed. An assignee of a credit based  
25 on a multiphase project shall attach a copy of the assignment form  
26 provided for under this section and the component completion  
27 certificate provided for in subsection (10) to the annual return

1 filed under this act on which the credit is claimed but is not  
2 required to file a copy of a certificate of completion.

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

12 (17) The credits approved under this section shall be  
13 calculated after application of all other credits allowed under  
14 this act. The credits under this section shall be calculated before  
15 the calculation of the credit under section 54.

16 (18) If the credit allowed under this section for the tax year  
17 and any unused carryforward of the credit allowed under this  
18 section exceed the qualified taxpayer's or assignee's tax liability  
19 for the tax year, that portion that exceeds the tax liability for  
20 the tax year shall not be refunded but may be carried forward to  
21 offset tax liability in subsequent tax years for 10 years or until  
22 used up, whichever occurs first. Except as otherwise provided in  
23 this subsection, the maximum time allowed under the carryforward  
24 provisions under this subsection begins with the tax year in which  
25 the certificate of completion is issued to the qualified taxpayer.  
26 If the qualified taxpayer assigns all or any portion of its credit  
27 approved under this section, the maximum time allowed under the



1 carryforward provisions for an assignee begins to run with the tax  
2 year in which the assignment is made and the assignee first claims  
3 a credit, which shall be the same tax year. The maximum time  
4 allowed under the carryforward provisions for an annual credit  
5 amount for a credit allowed under subsection (4) begins to run in  
6 the tax year for which the annual credit amount is designated on  
7 the certificate of completion issued under this section. A credit  
8 carryforward available under section 38g of former 1975 PA 228 that  
9 is unused at the end of the last tax year may be claimed against  
10 the tax imposed under act for the years the carryforward would have  
11 been available under former 1975 PA 228.

12 (19) If a project or credit under this section is for the  
13 addition of personal property, if the cost of that personal  
14 property is used to calculate a credit under this section, and if  
15 the personal property is sold or disposed of or transferred from  
16 eligible property to any other location, the qualified taxpayer  
17 that sold, disposed of, or transferred the personal property shall  
18 add the same percentage as determined under subsection (1) of the  
19 federal basis of the personal property used for determining gain or  
20 loss as of the date of the sale, disposition, or transfer to the  
21 qualified taxpayer's tax liability under this act after application  
22 of all credits under this act for the tax year in which the sale,  
23 disposition, or transfer occurs. If a qualified taxpayer has an  
24 unused carryforward of a credit under this section, the amount  
25 otherwise added under this subsection to the qualified taxpayer's  
26 tax liability may instead be used to reduce the qualified  
27 taxpayer's carryforward under subsection (18).

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

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

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

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

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

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

3 (21) Except as otherwise provided in this subsection, for  
4 projects for which a certificate of completion is issued before  
5 January 1, 2006, and except as otherwise provided in this  
6 subsection, if a qualified taxpayer is a partnership, limited  
7 liability company, or subchapter S corporation, the qualified  
8 taxpayer may assign all or a portion of a credit under this section  
9 to its partners, members, or shareholders, based on their  
10 proportionate share of ownership of the partnership, limited  
11 liability company, or subchapter S corporation or based on an  
12 alternative method approved by the Michigan economic growth  
13 authority. A credit assignment under this subsection is irrevocable  
14 and, except for a credit assignment based on a multiphase project,  
15 shall be made in the tax year in which a certificate of completion  
16 is issued. A qualified taxpayer may claim a portion of a credit and  
17 assign the remaining credit amount. Except as otherwise provided in  
18 this subsection, 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 or for a credit assigned and claimed for a  
22 multiphase project, before the component completion certificate is  
23 issued, the taxpayer shall claim the credit in the year in which  
24 the credit is assigned. A partner, member, or shareholder that is  
25 an assignee shall not subsequently assign a credit or any portion  
26 of a credit assigned under this subsection. The credit assignment  
27 under this subsection shall be made on a form prescribed by the

1 Michigan economic growth authority. The qualified taxpayer shall  
2 send a copy of the completed assignment form to the Michigan  
3 economic growth authority in the tax year in which the assignment  
4 is made. A partner, member, or shareholder who is an assignee shall  
5 attach a copy of the completed assignment form to its annual return  
6 required under this act, for the tax year in which the assignment  
7 is made and the assignee first claims a credit, which shall be the  
8 same tax year. A credit assignment based on a credit for a  
9 component of a multiphase project that is completed before January  
10 1, 2006 shall be made under this subsection. In addition to all  
11 other procedures under this subsection, the following apply if the  
12 total of all credits for a project is more than \$10,000,000.00 but  
13 \$30,000,000.00 or less:

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

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

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

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

24 (22) For projects approved under section 38g of former 1975 PA  
25 228 for which a certificate of completion is issued on and after  
26 January 1, 2006, a qualified taxpayer may assign all or a portion  
27 of a credit allowed under section 38g(2), (3), or (33) of former

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

1 this act, for the tax year in which the assignment or reassignment  
2 is made and the assignee or reassignee first claims a credit, which  
3 shall be the same tax year. A credit assignment based on a credit  
4 for a component of a multiphase project that is completed before  
5 January 1, 2006 shall be made under section 38g(18) of former 1975  
6 PA 228. A credit assignment based on a credit for a component of a  
7 multiphase project that is completed on or after January 1, 2006  
8 may be made under this section. In addition to all other procedures  
9 and requirements under this section, the following apply if the  
10 total of all credits for a project is more than \$10,000,000.00 but  
11 \$30,000,000.00 or less:

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

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

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

20 (23) A qualified taxpayer or assignee under subsection (20),  
21 (21), or (22) shall not claim a credit under subsection (1)(a) or  
22 (b) based on eligible investment on which a credit claimed under  
23 section 38d of former 1975 PA 228 was based.

24 (24) The Michigan economic growth authority may certify a  
25 credit under this section based on an agreement entered into prior  
26 to January 1, 2008 pursuant to section 38g of former 1975 PA 228.  
27 The number of years for which the credit under this subsection may

1 be claimed under this act shall equal the maximum number of years  
2 designated in the agreement reduced by the number of years for  
3 which a credit had been claimed under section 38g of former 1975 PA  
4 228.

5 (25) An eligible taxpayer that claims a credit under this  
6 section is not prohibited from claiming a credit under section 54.  
7 However, the eligible taxpayer shall not claim a credit under this  
8 section and section 54 based on the same costs.

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

19 (27) Eligible investment attributable or related to the  
20 operation of a casino, and eligible investment that is associated  
21 or affiliated with the operation of a casino, including, but not  
22 limited to, the operation of a parking lot, hotel, motel, or retail  
23 store, shall not be used as a basis for a credit under this  
24 section. As used in this subsection, "casino" means a casino  
25 regulated by this state pursuant to the Michigan gaming control and  
26 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

27 (28) Eligible investment attributable or related to the



1 construction of a new landfill or the expansion of an existing  
2 landfill regulated under part 115 of the natural resources and  
3 environmental protection act, 1994 PA 451, MCL 324.11501 to  
4 324.11550, shall not be used as a basis for a credit under this  
5 section.

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

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

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

15 (30) As used in this section:

16 (a) "Annual credit amount" means the maximum amount that a  
17 qualified taxpayer is eligible to claim each tax year for a project  
18 for which the total of all credits is more than \$10,000,000.00 but  
19 \$30,000,000.00 or less, which shall be 10% of the qualified  
20 taxpayer's credit amount approved under subsection (3).

21 (b) "Authority" means a brownfield redevelopment authority  
22 created under the brownfield redevelopment financing act, 1996 PA  
23 381, MCL 125.2651 to 125.2672.

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

1 (d) "Blighted", "brownfield plan", "eligible activities",  
2 "facility", "functionally obsolete", "qualified local governmental  
3 unit", and "response activity" mean those terms as defined in the  
4 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651  
5 to 125.2672.

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

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

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

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

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

12           (I) Infrastructure improvements that directly benefit the  
13 eligible property.

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

17           (III) Lead or asbestos abatement.

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

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

24           (ii) Eligible property includes parcels that are adjacent or  
25 contiguous to the eligible property if the development of the  
26 adjacent or contiguous parcels is estimated to increase the  
27 captured taxable value of the property or tax reverted property

1 owned or under the control of a land bank fast track authority  
2 pursuant to the land bank fast track authority act, 2003 PA 258,  
3 MCL 124.751 to 124.774.

4 (iii) Eligible property includes, to the extent included in the  
5 brownfield plan, personal property located on the eligible  
6 property.

7 (iv) Eligible property does not include qualified agricultural  
8 property exempt under section 7ee of the general property tax act,  
9 1893 PA 206, MCL 211.7ee, from the tax levied by a local school  
10 district for school operating purposes to the extent provided under  
11 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

12 (g) "Last tax year" means the taxpayer's tax year under former  
13 1975 PA 228 that begins after December 31, 2006 and before January  
14 1, 2008.

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

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

21 (j) "Personal property" means that term as defined in section  
22 8 of the general property tax act, 1893 PA 206, MCL 211.8, except  
23 that personal property does not include either of the following:

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

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

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

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

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

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

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

13 (i) Owns or leases eligible property.

14 (ii) Certifies that, except as otherwise provided in this  
15 subparagraph, the department of environmental quality has not sued  
16 or issued a unilateral order to the taxpayer pursuant to part 201  
17 of the natural resources and environmental protection act, 1994 PA  
18 451, MCL 324.20101 to 324.20142, to compel response activity on or  
19 to the eligible property, or expended any state funds for response  
20 activity on or to the eligible property and demanded reimbursement  
21 for those expenditures from the qualified taxpayer. However, if the  
22 taxpayer has completed all response activity required by part 201  
23 of the natural resources and environmental protection act, 1994 PA  
24 451, MCL 324.20101 to 324.20142, is in compliance with any deed  
25 restriction or administrative or judicial order related to the  
26 required response activity, and has reimbursed the state for all  
27 costs incurred by the state related to the required response

1 activity, the taxpayer meets the criteria under this subparagraph.

2       Sec. 58. (1) A taxpayer may claim a credit against the tax  
3 imposed by this act equal to \$1.00 per long ton of qualified low-  
4 grade hematite consumed in an industrial or manufacturing process  
5 that is the business activity of the taxpayer.

6       (2) If the credit allowed under this section for the tax year  
7 and any unused carryforward of the credit allowed under this  
8 section exceed the tax liability of the taxpayer for the tax year,  
9 the excess shall not be refunded, but may be carried forward as an  
10 offset to the tax liability in subsequent tax years for 5 tax years  
11 or until the excess credit is used up, whichever occurs first.

12       (3) The credit under this section shall be based on low-grade  
13 hematite consumed on and after January 1, 2000.

14       (4) As used in this section:

15       (a) "Consumed in an industrial or manufacturing process" means  
16 a process in which low-grade hematite is used as a raw material in  
17 the production of pig iron or steel.

18       (b) "Low-grade hematite" means any hematitic iron formation  
19 that is not of sufficient quality in its original mineral state to  
20 be mined and shipped for the production of pig iron or steel  
21 without first being drilled, blasted, crushed, and ground very fine  
22 to liberate the iron minerals and for which additional  
23 beneficiation and agglomeration are required to produce a product  
24 of sufficient quality to be used in the production of pig iron or  
25 steel.

26       (c) "Qualified low-grade hematite" means pellets produced from  
27 low-grade hematitic iron ore mined in the United States.

1           Sec. 59. (1) For tax years ending after December 31, 2007, if  
2 the total revenue collected from the tax imposed under this act in  
3 a tax year, excluding any tax liability for insurance companies  
4 under chapter 2A, exceeds \$2,501,000,000.00 in 2008 and  
5 \$2,573,000,000.00 in 2009, respectively, by more than 10% after the  
6 application of all credits under this act, that excess amount shall  
7 be applied as a credit in the immediately succeeding tax year as  
8 provided in subsection (2).

9           (2) The credit available under subsection (1) shall be applied  
10 pro rata to those taxpayers that claimed 1 or more credits under  
11 section 41 or 42 in the immediately preceding tax year.

12           (3) If the amount of the credit allowed under this section and  
13 any unused carryforward of the credit exceed the tax liability of  
14 the taxpayer for the tax year, that excess shall not be refunded,  
15 but may be carried forward as an offset to the tax liability in  
16 subsequent tax years for 10 years or until the excess credit is  
17 used up, whichever occurs first.

18           (4) This section is repealed December 31, 2009.

19   CHAPTER 6

20           Sec. 60. (1) A taxpayer that reasonably expects liability for  
21 the tax year to exceed \$600.00 shall file an estimated return and  
22 pay an estimated tax for each quarter of the taxpayer's tax year.

23           (2) For taxpayers on a calendar year basis, the quarterly  
24 returns and estimated payments shall be made by April 15, July 15,  
25 October 15, and January 15. Taxpayers not on a calendar year basis  
26 shall file quarterly returns and make estimated payments on the

1 appropriate due date which in the taxpayer's fiscal year  
2 corresponds to the calendar year.

3 (3) The estimated payment made with each quarterly return of  
4 each tax year shall be for the estimated business income tax base  
5 and net worth tax base for the quarter or 25% of the estimated  
6 annual liability. The second, third, and fourth estimated payments  
7 in each tax year shall include adjustments, if necessary, to  
8 correct underpayments or overpayments from previous quarterly  
9 payments in the tax year to a revised estimate of the annual tax  
10 liability.

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

13 (a) If the sum of the estimated payments equals at least 85%  
14 of the liability and the amount of each estimated payment  
15 reasonably approximates the tax liability incurred during the  
16 quarter for which the estimated payment was made.

17 (b) If the preceding year's tax liability under this act or  
18 former 1975 PA 228 was \$20,000.00 or less and if the taxpayer  
19 submitted 4 equal installments the sum of which equals the  
20 immediately preceding tax year's tax liability.

21 (5) Each estimated return shall be made on a form prescribed  
22 by the department and shall include an estimate of the annual tax  
23 liability and other information required by the state treasurer.  
24 The form prescribed under this subsection may be combined with any  
25 other tax reporting form prescribed by the department.

26 (6) With respect to a taxpayer filing an estimated tax return  
27 for the taxpayer's first tax year of less than 12 months, the



1 amounts paid with each return shall be proportional to the number  
2 of payments made in the first tax year.

3 (7) Payments made under this section shall be a credit against  
4 the payment required with the annual tax return required in section  
5 62.

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

10 (9) A taxpayer that elects under the internal revenue code to  
11 file an annual federal income tax return by March 1 in the year  
12 following the taxpayer's tax year and does not make a quarterly  
13 estimate or payment, or does not make a quarterly estimate or  
14 payment and files a tentative annual return with a tentative  
15 payment by January 15 in the year following the taxpayer's tax year  
16 and a final return by April 15 in the year following the taxpayer's  
17 tax year, has the same option in filing the estimated and annual  
18 returns required by this act.

19 Sec. 61. If a taxpayer's tax year to which this act applies  
20 ends before December 31, 2008 or if a taxpayer's first tax year is  
21 less than 12 months then a taxpayer subject to this act may elect  
22 to compute the tax imposed by this act for the portion of that tax  
23 year to which this act applies or that first tax year in accordance  
24 with 1 of the following methods:

25 (a) The tax may be computed as if this act were effective on  
26 the first day of the taxpayer's annual accounting period and the  
27 amount computed shall be multiplied by a fraction, the numerator of

1 which is the number of months in the taxpayer's first tax year and  
2 the denominator of which is 12.

3 (b) The tax may be computed by determining the business income  
4 tax base and net worth tax base in the first tax year in accordance  
5 with an accounting method satisfactory to the department that  
6 reflects the actual business income tax base and net worth tax base  
7 attributable to the period.

8 Sec. 62. (1) An annual or final return shall be filed with the  
9 department in the form and content prescribed by the department by  
10 the last day of the fourth month after the end of the taxpayer's  
11 tax year. Any final liability shall be remitted with this return. A  
12 taxpayer whose apportioned or allocated gross receipts are less  
13 than \$350,000.00 does not need to file a return or pay the tax  
14 imposed under this act.

15 (2) If a taxpayer has apportioned or allocated gross receipts  
16 for a tax year of less than 12 months, the amount in subsection (1)  
17 shall be multiplied by a fraction, the numerator of which is the  
18 number of months in the tax year and the denominator of which is  
19 12.

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

27 (4) If a taxpayer is granted an extension of time within which

1 to file the federal income tax return for any tax year, the filing  
2 of a copy of the request for extension together with a tentative  
3 return and payment of an estimated tax with the department by the  
4 due date provided in subsection (1) shall automatically extend the  
5 due date for the filing of an annual or final return under this act  
6 until the last day of the eighth month following the original due  
7 date of the return. Interest at the rate under section 23(2) of  
8 1941 PA 122, MCL 205.23, shall be added to the amount of the tax  
9 unpaid for the period of the extension.

10       Sec. 63. (1) A taxpayer required to file a return under this  
11 act may be required to furnish a true and correct copy of any  
12 return or portion of any return filed under the provisions of the  
13 internal revenue code.

14       (2) A taxpayer shall file an amended return with the  
15 department showing any alteration in or modification of a federal  
16 income tax return that affects its business income tax base or net  
17 worth tax base under this act. The amended return shall be filed  
18 within 120 days after the final determination by the internal  
19 revenue service.

20       Sec. 64. (1) At the request of the department, a person or  
21 unitary business group required by the internal revenue code to  
22 file or submit an information return of income paid to others  
23 shall, to the extent the information is applicable to residents of  
24 this state, at the same time file or submit the information in the  
25 form and content prescribed to the department.

26       (2) At the request of the department, a voluntary association,  
27 joint venture, partnership, estate, or trust shall file a copy of

1 any tax return or portion of any tax return that was filed under  
2 the provisions of the internal revenue code. The department may  
3 prescribe alternate forms of returns.

4       Sec. 65. A unitary business group shall file a combined return  
5 that includes each United States person included in the unitary  
6 business group. Each United States person included in a unitary  
7 business group or included in a combined return shall be treated as  
8 a single taxpayer and all intercompany transactions shall be  
9 eliminated from the business income tax base, net worth tax base,  
10 and the apportionment formula under this act.

11       Sec. 66. (1) The tax imposed by this act shall be administered  
12 by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to  
13 205.31, and this act. If a conflict exists between 1941 PA 122, MCL  
14 205.1 to 205.31, and this act, the provisions of this act apply.

15       (2) The department shall promulgate rules to implement this  
16 act pursuant to the administrative procedures act of 1969, 1969 PA  
17 306, MCL 24.201 to 24.328.

18       (3) The department shall prescribe forms for use by taxpayers  
19 and may promulgate rules in conformity with this act for the  
20 maintenance by taxpayers of records, books, and accounts, and for  
21 the computation of the tax, the manner and time of changing or  
22 electing accounting methods and of exercising the various options  
23 contained in this act, the making of returns, and the  
24 ascertainment, assessment, and collection of the tax imposed under  
25 this act.

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

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

7           Sec. 67. (1) In fiscal year 2007-2008, \$203,700,000.00 of the  
8 revenue collected under this act shall be distributed to the school  
9 aid fund and the balance shall be deposited into the general fund.  
10 In fiscal year 2008-2009, \$613,700,000.00 of the revenue collected  
11 under this act shall be distributed to the school aid fund and the  
12 balance shall be deposited into the general fund. For each fiscal  
13 year after the 2008-2009 fiscal year, that amount from the  
14 immediately preceding fiscal year as annually adjusted for  
15 inflation using the Detroit consumer price index shall be  
16 distributed to the school aid fund and the balance shall be  
17 deposited into the general fund.

18           (2) As used in this section, "Detroit consumer price index"  
19 means the most comprehensive index of consumer prices available for  
20 the Detroit area from the United States department of labor, bureau  
21 of labor statistics.

22           Sec. 68. There is appropriated to the department for the 2006-  
23 2007 state fiscal year the sum of \$10,000,000.00 to implement the  
24 requirements of this act. Any portion of this amount under this  
25 section that is not expended in the 2006-2007 state fiscal year  
26 shall not lapse to the general fund but shall be carried forward in  
27 a work project account that is in compliance with section 451a of

1 the management and budget act, 1984 PA 431, MCL 18.1451a, for the  
2 following state fiscal year.

3       Sec. 69. If a final order of a court of competent jurisdiction  
4 for which all rights of appeal have been exhausted or have expired  
5 determines that any provision of this act that provides a  
6 deduction, credit, or exemption with respect to employment,  
7 persons, services, investment, or any other activity that is  
8 limited only to this state is unconstitutional or applies to  
9 employment, persons, services, investment, or any other activity  
10 outside of this state, that credit, deduction, or exemption shall  
11 be severed and shall not be in effect for any other tax year for  
12 which the final order shall apply, and the remaining provisions of  
13 this act shall remain in effect.

14       Enacting section 1. This act takes effect January 1, 2008 and  
15 applies to all tax years ending after December 31, 2007.

16       Enacting section 2. This act does not take effect unless all  
17 of the following bills of the 94th Legislature are enacted into  
18 law:

- 19       (a) House Bill No. 4369.  
20       (b) House Bill No. 4370.  
21       (c) House Bill No. 4371.  
22       (d) House Bill No. 4372.