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DRAFT 3  
HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 94

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; and to make appropriations.

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

1  
2

CHAPTER 1

Sec. 101. (1) This act shall be known and may be cited as the



1 "Michigan business tax act".

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

10 Sec. 103. A term used in this act and not defined differently  
11 shall have the same meaning as when used in comparable context in  
12 the laws of the United States relating to federal income taxes in  
13 effect for the tax year unless a different meaning is clearly  
14 required. A reference in this act to the internal revenue code  
15 includes other provisions of the laws of the United States relating  
16 to federal income taxes.

17 Sec. 105. (1) "Business activity" means a transfer of legal or  
18 equitable title to or rental of property, whether real, personal,  
19 or mixed, tangible or intangible, or the performance of services,  
20 or a combination thereof, made or engaged in, or caused to be made  
21 or engaged in, whether in intrastate, interstate, or foreign  
22 commerce, with the object of gain, benefit, or advantage, whether  
23 direct or indirect, to the taxpayer or to others, but does not  
24 include the services rendered by an employee to his or her employer  
25 or services as a director of a corporation. Although an activity of  
26 a taxpayer may be incidental to another or to other of his or her  
27 business activities, each activity shall be considered to be



1 business engaged in within the meaning of this act.

2 (2) "Business income" means that part of federal taxable  
3 income derived from business activity. For a partnership or S  
4 corporation, business income includes payments and items of income  
5 and expense that are attributable to business activity of the  
6 partnership or S corporation and separately reported to the  
7 partners or shareholders. For an organization that is a mutual or  
8 cooperative electric company exempt under section 501(c)(12) of the  
9 internal revenue code, business income equals what that  
10 organization's federal taxable income would be if that organization  
11 was not exempt under the internal revenue code, less capital  
12 credits paid to members of that organization, and less income  
13 resulting from a charge approved by a state or federal regulatory  
14 agency that is restricted for a specified purpose and refunded by  
15 the state or regulatory agency if it is not used for the specified  
16 purpose. For a tax-exempt person, business income means only that  
17 part of federal taxable income derived from unrelated business  
18 activity.

19 Sec. 107. (1) "Client" means an entity whose employment  
20 operations are managed by a professional employer organization.

21 (2) "Compensation" means all wages, salaries, fees, bonuses,  
22 commissions, other payments made in the tax year on behalf of or  
23 for the benefit of employees, officers, or directors of the  
24 taxpayers, and any earnings that are net earnings from self-  
25 employment as defined under section 1402 of the internal revenue  
26 code of the taxpayer or a partner or limited liability company  
27 member of the taxpayer. Compensation includes, but is not limited



1 to, payments that are subject to or specifically exempt or excepted  
2 from withholding under sections 3401 to 3406 of the internal  
3 revenue code. Compensation also includes, on a cash or accrual  
4 basis consistent with the taxpayer's method of accounting for  
5 federal income tax purposes, payments to a pension, retirement, or  
6 profit sharing plan other than those payments attributable to  
7 unfunded accrued actuarial liabilities, and payments for insurance  
8 for which employees are the beneficiaries, including payments under  
9 health and welfare and noninsured benefit plans and payment of fees  
10 for the administration of health and welfare and noninsured benefit  
11 plans. Compensation for a taxpayer licensed under article 25 or 26  
12 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and  
13 339.2601 to 339.2637, includes payments to an independent  
14 contractor licensed under article 25 or 26 of the occupational  
15 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to  
16 339.2637. Compensation does not include any of the following:

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

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

22 (c) Payments to state and federal unemployment compensation  
23 funds.

24 (d) The employer's portion of payments under the federal  
25 insurance contributions act, chapter 21 of subtitle C of the  
26 internal revenue code, 26 USC 3101 to 3128, the railroad retirement  
27 tax act, chapter 22 of subtitle C of the internal revenue code, 26



1 USC 3201 to 3233, and similar social insurance programs.

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

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

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

8 Sec. 109. (1) "Employee" means an employee as defined in  
9 section 3401(c) of the internal revenue code. A person from whom an  
10 employer is required to withhold for federal income tax purposes is  
11 prima facie considered an employee.

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

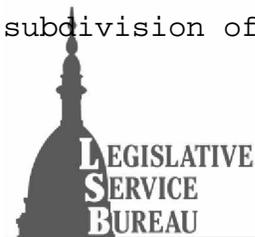
15 (3) "Federal taxable income" means taxable income as defined  
16 in section 63 of the internal revenue code.

17 (4) "Financial institution" means that term as defined under  
18 chapter 2B.

19 (5) "Foreign operating entity" means a United States person  
20 that satisfies each of the following:

21 (a) Would otherwise be a part of a unitary business group that  
22 has at least 1 person included in the unitary business group that  
23 is taxable in this state.

24 (b) Has substantial operations outside the United States, the  
25 District of Columbia, the Commonwealth of Puerto Rico, any  
26 territory or possession of the United States, or a political  
27 subdivision of any of the foregoing.



1 (c) At least 80% of its income is active foreign business  
2 income as defined in section 861(c)(1)(B) of the internal revenue  
3 code.

4 Sec. 111. (1) "Gross receipts" means the entire amount  
5 received by the taxpayer from any activity whether in intrastate,  
6 interstate, or foreign commerce carried on for direct or indirect  
7 gain, benefit, or advantage to the taxpayer or to others except for  
8 the following:

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

12 (b) Amounts received by the taxpayer as an agent solely on  
13 behalf of the principal that are expended by the taxpayer for any  
14 of the following:

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

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

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

25 (iv) A capital asset of a type that is, or under the internal  
26 revenue code will become, eligible for depreciation, amortization,  
27 or accelerated cost recovery by the principal for federal income



1 tax purposes, or for real property owned or leased by the  
2 principal.

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

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

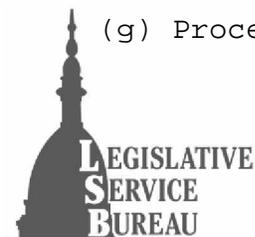
10 (c) Amounts that are excluded from gross income of a foreign  
11 corporation engaged in the international operation of aircraft  
12 under section 883(a) of the internal revenue code.

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

16 (e) Notwithstanding any other provision of this section,  
17 amounts received by a taxpayer that manages real property owned by  
18 a third party that are deposited into a separate account kept in  
19 the name of that third party and that are not reimbursements to the  
20 taxpayer and are not indirect payments for management services that  
21 the taxpayer provides to that third party.

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

27 (g) Proceeds from any of the following:



- 1 (i) The original issue of stock or equity instruments.
- 2 (ii) The original issue of debt instruments.
- 3 (h) Refunds from returned merchandise.
- 4 (i) Cash and in-kind discounts.
- 5 (j) Trade discounts.
- 6 (k) Federal, state, or local tax refunds.
- 7 (l) Security deposits.
- 8 (m) Payment of the principal portion of loans.
- 9 (n) Value of property received in a like-kind exchange.
- 10 (o) Proceeds from a sale, transaction, exchange, involuntary
- 11 conversion, or other disposition of tangible, intangible, or real
- 12 property that is a capital asset as defined in section 1221(a) of
- 13 the internal revenue code or land that qualifies as property used
- 14 in the trade or business as defined in section 1231(b) of the
- 15 internal revenue code, less any gain from the disposition to the
- 16 extent that gain is included in federal taxable income.
- 17 (p) The proceeds from a policy of insurance, a settlement of a
- 18 claim, or a judgment in a civil action less any proceeds under this
- 19 subdivision that are included in federal taxable income.
- 20 (q) For a sales finance company, as defined in section 2 of
- 21 the motor vehicles sales finance act, 1950 (Ex Sess) PA 27, MCL
- 22 492.102, and directly or indirectly owned in whole or in part by a
- 23 motor vehicle manufacturer as of January 1, 2008, amounts realized
- 24 from the repayment, maturity, sale, or redemption of the principal
- 25 of a loan, bond, or mutual fund, certificate of deposit, or similar
- 26 marketable instrument.
- 27 (r) For a sales finance company, as defined in section 2 of



1 the motor vehicles sales finance act, 1950 (Ex Sess) PA 27, MCL  
 2 492.102, and directly or indirectly owned in whole or in part by a  
 3 motor vehicle manufacturer as of January 1, 2008, the principal  
 4 amount received under a repurchase agreement or other transaction  
 5 properly characterized as a loan.

6 (s) For a mortgage company, proceeds representing the  
 7 principal balance of loans transferred or sold in the tax year. For  
 8 purposes of this subdivision, "mortgage company" means a person  
 9 that is licensed under the mortgage brokers, lenders, and servicers  
 10 licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the  
 11 secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and  
 12 has greater than 90% of its revenues, in the ordinary course of  
 13 business, from the origination, sale, or servicing of residential  
 14 mortgage loans.

15 (2) "Insurance company" means an authorized insurer as defined  
 16 in section 106 of the insurance code of 1956, 1956 PA 218, MCL  
 17 500.106.

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

21 (4) "Inventory" means, except as provided in subdivision (d),  
 22 all of the following:

23 (a) The stock of goods held for resale in the regular course  
 24 of trade of a retail or wholesale business, including electricity  
 25 or natural gas purchased for resale.

26 (b) Finished goods, goods in process, and raw materials of a  
 27 manufacturing business purchased from another person.



1 (c) For a person that is a new motor vehicle dealer licensed  
 2 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923,  
 3 floor plan interest expenses for new motor vehicles. For purposes  
 4 of this subdivision, "floor plan interest" means interest paid that  
 5 finances any part of the person's purchase of new motor vehicle  
 6 inventory from a manufacturer, distributor, or supplier. However,  
 7 amounts attributable to any invoiced items used to provide more  
 8 favorable floor plan assistance to a person subject to the tax  
 9 imposed under this act than to a person not subject to this tax is  
 10 considered interest paid by a manufacturer, distributor, or  
 11 supplier.

12 (d) Inventory does not include either of the following:

13 (i) Personal property under lease or principally intended for  
 14 lease rather than sale.

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

17 (5) "Officer" means an officer of a corporation other than a  
 18 subchapter S corporation, including all of the following:

19 (a) The chairperson of the board.

20 (b) The president, vice president, secretary, or treasurer of  
 21 the corporation or board.

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

24 Sec. 113. (1) "Partner" means a partner or member of a  
 25 partnership.

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



1           (3) "Person" means an individual, firm, bank, financial  
2 institution, insurance company, limited partnership, limited  
3 liability partnership, copartnership, partnership, joint venture,  
4 association, corporation, subchapter S corporation, limited  
5 liability company, receiver, estate, trust, or any other group or  
6 combination of groups acting as a unit.

7           (4) "Professional employer organization" means an organization  
8 that provides the management and administration of the human  
9 resources of another entity by contractually assuming substantial  
10 employer rights and responsibilities through a professional  
11 employer agreement that establishes an employer relationship with  
12 the leased officers or employees assigned to the other entity by  
13 doing all of the following:

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

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

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

21           (d) Retaining a right to hire and fire employees.

22           (5) Professional employer organization is not a staffing  
23 company as that term is defined in subsection (6).

24           (6) "Purchases from other firms" means all of the following:

25           (a) Inventory acquired during the tax year, including freight,  
26 shipping, delivery, or engineering charges included in the original  
27 contract price.



1 (b) Assets, including the costs of fabrication and installation,  
 2 acquired during the tax year of a type that are, or under the internal  
 3 revenue code will become, eligible for depreciation, amortization, or  
 4 accelerated capital cost recovery for federal income tax purposes.

5 (c) To the extent not included in inventory or depreciable  
 6 property, materials and supplies, including repair parts and fuel.

7 (d) For a staffing company, compensation of personnel supplied to  
 8 customers of staffing companies. As used in this subdivision:

9 (i) "Compensation" means that term as defined under section 107  
 10 plus all payroll tax and worker's compensation costs.

11 (ii) "Staffing company" means a taxpayer whose business activities  
 12 are included in industry group 736 under the standard industrial  
 13 classification code as compiled by the United States department of  
 14 labor.

15 (e) For a person included in major group 15 under the standard  
 16 industrial classification code as compiled by the United States  
 17 department of labor that does not qualify for a credit under section  
 18 417, services purchased for a construction project under a contract  
 19 specific to that project. Services do not include materials purchased  
 20 for or by the subcontractor for a contract.

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

24 Sec. 115. (1) "Sale" or "sales" means, except as provided in  
 25 subdivision (d), the amounts received by the taxpayer as  
 26 consideration from the following:

27 (a) The transfer of title to, or possession of, property that



1 is stock in trade or other property of a kind that would properly  
2 be included in the inventory of the taxpayer if on hand at the  
3 close of the tax period or property held by the taxpayer primarily  
4 for sale to customers in the ordinary course of the taxpayer's  
5 trade or business. For intangible property, the amounts received  
6 shall be limited to any gain received from the disposition of that  
7 property.

8 (b) The performance of services that constitute business  
9 activities.

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

13 (d) Any combination of business activities described in  
14 subdivisions (a), (b), and (c).

15 (e) For taxpayers not engaged in any other business  
16 activities, sales include interest, dividends, and other income  
17 from investment assets and activities and from trading assets and  
18 activities.

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

25 (3) "State" means any state of the United States, the District  
26 of Columbia, the Commonwealth of Puerto Rico, any territory or  
27 possession of the United States, and any foreign country, or a



1 political subdivision of any of the foregoing.

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

6 Sec. 117. (1) "Tangible personal property" means that term as  
7 defined in section 2 of the use tax act, 1937 PA 94, MCL 205.92.

8 (2) "Tax" means the tax imposed under this act, including  
9 interest and penalties under this act, unless the term is given a  
10 more limited meaning in the context of this act or a provision of  
11 this act.

12 (3) "Tax-exempt person" means an organization that is exempt  
13 from federal income tax under section 501(a) of the internal  
14 revenue code, and a partnership, limited liability company, joint  
15 venture, unincorporated association, or other group or combination  
16 of organizations acting as a unit if all such organizations are  
17 exempt from federal income tax under section 501(a) of the internal  
18 revenue code and if all activities of the unit are exclusively  
19 related to the charitable, educational, or other purposes or  
20 functions that are the basis for the exemption of such  
21 organizations from federal income tax, except the following:

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

24 (b) An organization exempt under section 501(c)(4) of the  
25 internal revenue code that would be exempt under section 501(c)(12)  
26 of the internal revenue code but for its failure to meet the  
27 requirement in section 501(c)(12) that 85% or more of its income



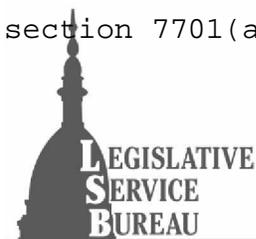
1 must consist of amounts collected from members.

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

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

14 (6) "Unitary business group" means a group of United States  
15 persons, other than a foreign operating entity, 1 of which owns or  
16 controls, directly or indirectly, more than 50% of the ownership  
17 interest with voting rights or ownership interests that confer  
18 comparable rights to voting rights of the other United States  
19 persons, and that has business activities or operations which  
20 result in a flow of value between or among persons included in the  
21 unitary business group or has business activities or operations  
22 that are integrated with, are dependent upon, or contribute to each  
23 other. For purposes of this subsection, flow of value is determined  
24 by reviewing the totality of facts and circumstances of business  
25 activities and operations.

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



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

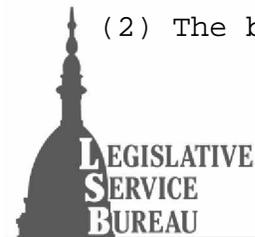
5 CHAPTER 2

6 Sec. 200. (1) Except as otherwise provided in this act or  
 7 under subsection (2), a taxpayer has substantial nexus in this  
 8 state and is subject to the tax imposed under this act if the  
 9 taxpayer has a physical presence in this state for a period of more  
 10 than 1 day during the tax year or if the taxpayer actively solicits  
 11 sales in this state and has gross receipts of \$350,000.00 or more  
 12 sourced to this state.

13 (2) As used in this section, "physical presence" means any  
 14 activity conducted by the taxpayer or on behalf of the taxpayer by  
 15 the taxpayer's employee, agent, or independent contractor acting in  
 16 a representative capacity. Physical presence does not include the  
 17 activities of professionals providing services in a professional  
 18 capacity or other service providers if the activity is not  
 19 significantly associated with the taxpayer's ability to establish  
 20 and maintain a market in this state.

21 Sec. 201. (1) Except as otherwise provided in this act, there  
 22 is levied and imposed a business income tax on every taxpayer with  
 23 business activity within this state unless prohibited by 15 USC 381  
 24 to 384. The business income tax is imposed on the business income  
 25 tax base, after allocation or apportionment to this state, at the  
 26 rate of 4.95%.

27 (2) The business income tax base means a taxpayer's business



1 income subject to the following adjustments, before allocation or  
2 apportionment, and the adjustments in subsections (3) and (4) after  
3 allocation or apportionment:

4 (a) Add interest income and dividends derived from obligations  
5 or securities of states other than this state, in the same amount  
6 that was excluded from federal taxable income, less the related  
7 portion of expenses not deducted in computing federal taxable  
8 income because of sections 265 and 291 of the internal revenue  
9 code.

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

13 (c) Add any carryback or carryover of a net operating loss  
14 incurred after December 31, 2007 to the extent deducted in arriving  
15 at federal taxable income.

16 (d) To the extent included in federal taxable income, deduct  
17 dividends and royalties received from persons other than United  
18 States persons, including, but not limited to, amounts determined  
19 under section 78 of the internal revenue code or sections 951 to  
20 964 of the internal revenue code.

21 (e) To the extent included in federal taxable income, add the  
22 loss or subtract the income from the business income tax base that  
23 is attributable to another entity whose business activities are  
24 taxable under this section or would be subject to the tax under  
25 this section if the business activities were in this state.

26 (f) Except as otherwise provided under this subdivision, to  
27 the extent deducted arriving at federal taxable income, add any



1 royalty, interest, or other expense paid to a person related to the  
2 taxpayer by ownership or control for the use of an intangible asset  
3 if the person is not included in the taxpayer's unitary business  
4 group. Any royalty, interest, or other expense described under this  
5 subdivision shall not be added if the taxpayer can demonstrate that  
6 the transaction has a nontax business purpose, is conducted with  
7 arm's-length pricing and rates as described in 26 USC 482, and  
8 satisfies 1 of the following:

9 (i) Is a pass through of another transaction between a third  
10 party.

11 (ii) Results in double taxation. For purposes of this  
12 subparagraph, double taxation exists if the taxpayer is subject to  
13 tax in another jurisdiction.

14 (iii) Is unreasonable as determined by the treasurer and the  
15 taxpayer.

16 (g) To the extent included in federal taxable income, for a  
17 noncorporate entity deduct interest income derived from United  
18 States obligations.

19 (h) For the 2008 tax year, if the book-tax difference results  
20 in a deferred liability, account for the book-tax difference as an  
21 asset on the taxpayer's books and records. For each tax year after  
22 the 2008 tax year, adjust to the extent necessary to reflect a 10-  
23 year amortization of the book-tax difference for each qualifying  
24 asset on the taxpayer's books and records, in equal installments  
25 over each of the 10 tax years beginning with the 2013 tax year. If  
26 the adjustment under this subdivision is greater than the  
27 taxpayer's business income tax base, any adjustment that is unused



1 may be carried forward and applied as an adjustment to the  
2 taxpayer's business income before apportionment in future years. As  
3 used in this subdivision:

4 (i) "Book-tax difference" means the difference, if any, between  
5 the taxpayer's qualifying asset's net book value shown on the  
6 taxpayer's books and records on December 31, 2007, and the  
7 qualifying asset's adjusted federal tax basis on December 31, 2007.

8 (ii) "Qualifying asset" means any asset shown on the taxpayer's  
9 books and records on December 31, 2007, in accordance with  
10 generally accepted accounting principles.

11 (i) To the extent included in federal taxable income, deduct  
12 80% of any earnings that are net earnings from self-employment as  
13 defined under section 1402 of the internal revenue code of the  
14 taxpayer or a partner or limited liability company member of the  
15 taxpayer.

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

25 (4) The business income tax base of a unitary business group  
26 is the sum of the business income tax base of each person, other  
27 than a foreign operating entity or a person subject to the tax



1 under chapter 2A or 2B, included in the unitary business group less  
2 any items of income and related deductions arising from  
3 transactions including dividends between persons included in the  
4 unitary business group.

5 Sec. 203. (1) Except as otherwise provided in this act, there  
6 is levied and imposed a modified gross receipts tax on every  
7 taxpayer with nexus as determined under section 200. The modified  
8 gross receipts tax is imposed on the modified gross receipts tax  
9 base, after allocation or apportionment to this state at a rate of  
10 0.80%.

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

13 (3) The modified gross receipts tax base means a taxpayer's  
14 gross receipts less purchases from other firms before apportionment  
15 under this act.

16 (4) For the 2008 tax year, deduct 65% of any remaining  
17 business loss carryforward calculated under section 23b(h) of  
18 former 1975 PA 228 that was actually incurred in the 2006 or 2007  
19 tax year to the extent not deducted in tax years beginning before  
20 January 1, 2008. A deduction under this subsection shall not  
21 include any business loss carryforward that was incurred before  
22 January 1, 2006. If the taxpayer is a unitary business group, the  
23 business loss carryforward under this subsection may only be  
24 deducted against the modified gross receipts tax base of that  
25 person included in the unitary business group calculated as if the  
26 person was not included in the unitary business group.

27 Sec. 207. (1) Except as otherwise provided in this section,



1 the following are exempt from the tax imposed by this act:

2 (a) The United States, this state, other states, and the  
3 agencies, political subdivisions, and enterprises of the United  
4 States, this state, and other states.

5 (b) A person who is exempt from federal income tax under the  
6 internal revenue code, and a partnership, limited liability  
7 company, joint venture, general partnership, limited partnership,  
8 unincorporated association, or other group or combination of  
9 entities acting as a unit if the activities of the entity are  
10 exclusively related to the charitable, educational, or other  
11 purpose or function that is the basis for the exemption under the  
12 internal revenue code from federal income taxation of the partners  
13 or members and if all of the partners or members of the entity are  
14 exempt from federal income tax under the internal revenue code,  
15 except the following:

16 (i) An organization included under section 501(c)(12) or  
17 501(c)(16) of the internal revenue code.

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

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

25 (c) A nonprofit cooperative housing corporation. As used in  
26 this subdivision, "nonprofit cooperative housing corporation" means  
27 a cooperative housing corporation that is engaged in providing



1 housing services to its stockholders and members and that does not  
 2 pay dividends or interest on stock or membership investment but  
 3 that does distribute all earnings to its stockholders or members.  
 4 The exemption under this subdivision does not apply to a business  
 5 activity of a nonprofit cooperative housing corporation other than  
 6 providing housing services to its stockholders and members.

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

19 (e) Except as provided in subsection (2), a farmers'  
 20 cooperative corporation organized within the limitations of section  
 21 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under  
 22 subdivision (b) because the corporation was exempt from federal  
 23 income taxes under section 521 of the internal revenue code and  
 24 that would continue to be exempt under section 521 of the internal  
 25 revenue code except for either of the following activities:

26 (i) The corporation's repurchase from nonproducer customers of  
 27 portions or components of commodities the corporation markets to



1 those nonproducer customers and the corporation's subsequent  
2 manufacturing or marketing of the repurchased portions or  
3 components of the commodities.

4 (ii) The corporation's incidental or emergency purchases of  
5 commodities from nonproducers to facilitate the manufacturing or  
6 marketing of commodities purchased from producers.

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

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

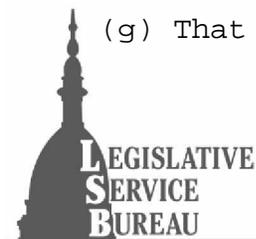
23 (ii) Dissemination of market information.

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

25 (iv) Promotion.

26 (v) Research relating to members' products.

27 (g) That portion of the tax base attributable to the services



1 provided by an attorney-in-fact to a reciprocal insurer pursuant to  
 2 chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200  
 3 to 500.7234.

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

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

13 (3) Except as otherwise provided in this section, a farmers'  
 14 cooperative corporation that is structured to allocate net earnings  
 15 in the form of patronage dividends as defined in section 1388 of  
 16 the internal revenue code to its farmer or farmer cooperative  
 17 corporation patrons shall exclude from its adjusted tax base the  
 18 revenue and expenses attributable to business transacted with its  
 19 farmer or farmer cooperative corporation patrons.

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

#### 23 CHAPTER 2A

24 Sec. 235. (1) Each insurance company shall pay a tax  
 25 determined under this chapter.

26 (2) The tax imposed by this chapter on each insurance company  
 27 shall be a tax equal to 1.25% of gross direct premiums written on



1 property or risk located or residing in this state. Direct premiums  
2 do not include any of the following:

3 (a) Premiums on policies not taken.

4 (b) Returned premiums on canceled policies.

5 (c) Receipts from the sale of annuities.

6 (d) Receipts on reinsurance premiums if the tax has been paid  
7 on the original premiums.

8 (e) The first \$190,000,000.00 of disability insurance premiums  
9 written in this state, other than credit insurance and disability  
10 income insurance premiums, of each insurance company subject to tax  
11 under this chapter. This exemption shall be reduced by \$2.00 for  
12 each \$1.00 by which the insurance company's gross direct premiums  
13 from insurance carrier services in this state and outside this  
14 state exceed \$280,000,000.00.

15 (3) The tax calculated under this chapter is in lieu of all  
16 other privilege or franchise fees or taxes imposed by this act or  
17 any other law of this state, except taxes on real and personal  
18 property, taxes collected under the general sales tax act, 1933 PA  
19 167, MCL 205.1 to 205.78, and taxes collected under the use tax  
20 act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise  
21 provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
22 500.8302.

23 Sec. 237. (1) An insurance company may claim a credit against  
24 the tax imposed under this chapter in the following amounts:

25 (a) Amounts paid to the Michigan worker's compensation  
26 placement facility pursuant to chapter 23 of the insurance code of  
27 1956, 1956 PA 218, MCL 500.2301 to 500.2352.



1 (b) Amounts paid to the Michigan basic property insurance  
 2 association pursuant to chapter 29 of the insurance code of 1956,  
 3 1956 PA 218, MCL 500.2901 to 500.2954.

4 (c) Amounts paid to the Michigan automobile insurance  
 5 placement facility pursuant to chapter 33 of the insurance code of  
 6 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

7 (d) Amounts paid to the property and casualty guaranty  
 8 association pursuant to chapter 79 of the insurance code of 1956,  
 9 1956 PA 218, MCL 500.7901 to 500.7949.

10 (e) Amounts paid to the Michigan life and health guaranty  
 11 association pursuant to chapter 77 of the insurance code of 1956,  
 12 1956 PA 218, MCL 500.7701 to 500.7780.

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

16 Sec. 239. (1) An insurance company shall be allowed a credit  
 17 against the tax imposed under this chapter in an amount equal to  
 18 50% of the examination fees paid by the insurance company during  
 19 the tax year pursuant to section 224 of the insurance code of 1956,  
 20 1956 PA 218, MCL 500.224.

21 (2) An insurance company that does not make any of the  
 22 payments described under section 237(1)(a) through (d) may claim a  
 23 credit against the tax imposed under this act as provided under  
 24 section 403(2), not to exceed 65% of the insurance company's tax  
 25 liability for the tax year after claiming the other credits allowed  
 26 by this chapter.

27 Sec. 241. (1) For amounts paid pursuant to section 352 of the

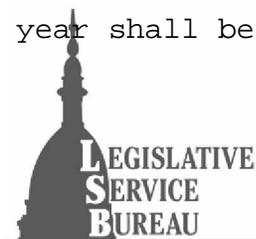


1 worker's disability compensation act of 1969, 1969 PA 317, MCL  
2 418.352, an insurance company subject to the worker's disability  
3 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may  
4 claim a credit against the tax imposed under this chapter for the  
5 tax year in an amount equal to the amount paid during that tax year  
6 by the insurance company pursuant to section 352 of the worker's  
7 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as  
8 certified by the director of the bureau of worker's disability  
9 compensation pursuant to section 391(6) of the worker's disability  
10 compensation act of 1969, 1969 PA 317, MCL 418.391.

11 (2) An insurance company claiming a credit under this section  
12 may claim a portion of the credit allowed under this section equal  
13 to the payments made during a calendar quarter pursuant to section  
14 352 of the worker's disability compensation act of 1969, 1969 PA  
15 317, MCL 418.352, against the estimated tax payments made under  
16 section 501. Any credit in excess of an estimated payment shall be  
17 refunded to the insurance company on a quarterly basis within 60  
18 calendar days after receipt of a properly completed estimated tax  
19 return. Any subsequent increase or decrease in the amount claimed  
20 for payments made by the insurance company shall be reflected in  
21 the amount of the credit taken for the calendar quarter in which  
22 the amount of the adjustment is finalized.

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

25 (4) Any amount of the credit under this section that is in  
26 excess of the tax liability of the insurance company for the tax  
27 year shall be refunded, without interest, by the department to the



1 insurance company within 60 calendar days of receipt of a properly  
2 completed annual return required under this act.

3 Sec. 243. (1) An insurance company is subject to the tax  
4 imposed by this chapter or by section 476a of the insurance code of  
5 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is  
6 greater.

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

8 (3) Notwithstanding section 505, an insurance company shall  
9 file the annual return required under this act before March 2 after  
10 the end of the tax year, and an automatic extension under section  
11 505(4) is not available.

12 (4) For the purpose of calculating an estimated payment  
13 required by section 501, the greater of the amount of tax imposed  
14 on an insurance company under this chapter or under section 476a of  
15 the insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be  
16 considered the insurance company's tax liability for the  
17 immediately preceding tax year.

18 (5) The requirements of section 28(1)(f) of 1941 PA 122, MCL  
19 205.28, that prohibit an employee or authorized representative of,  
20 a former employee or authorized representative of, or anyone  
21 connected with the department from divulging any facts or  
22 information obtained in connection with the administration of a  
23 tax, do not apply to disclosure of a tax return required by this  
24 section.

## 25 CHAPTER 2B

26 Sec. 261. As used in this chapter:

27 (a) "Billing address" means the location indicated in the



1 books and records of the financial institution on the first day of  
2 the tax year or on a later date in the tax year when the customer  
3 relationship began as the address where any notice, statement, or  
4 bill relating to a customer's account is mailed.

5 (b) "Borrower is located in this state" or "credit card holder  
6 is located in this state" means a borrower, other than a credit  
7 card holder, that is engaged in a trade or business which maintains  
8 its commercial domicile in this state, or a borrower that is not  
9 engaged in a trade or business or a credit card holder whose  
10 billing address is in this state.

11 (c) "Commercial domicile" means the headquarters of the trade  
12 or business, that is the place from which the trade or business is  
13 principally managed and directed, or if a financial institution is  
14 organized under the laws of a foreign country, of the commonwealth  
15 of Puerto Rico, or any territory or possession of the United  
16 States, such financial institution's commercial domicile shall be  
17 deemed for the purposes of this chapter to be the state of the  
18 United States or the District of Columbia from which such financial  
19 institution's trade or business in the United States is principally  
20 managed and directed. It shall be presumed, subject to rebuttal,  
21 that the location from which the financial institution's trade or  
22 business is principally managed and directed is the state of the  
23 United States or the District of Columbia to which the greatest  
24 number of employees are regularly connected or out of which they  
25 are working, irrespective of where the services of such employees  
26 are performed, as of the last day of the tax year.

27 (d) "Credit card" means a credit, travel, or entertainment



1 card.

2 (e) "Credit card issuer's reimbursement fee" means the fee a  
3 financial institution receives from a merchant's bank because 1 of  
4 the persons to whom the financial institution has issued a credit  
5 card has charged merchandise or services to the credit card.

6 (f) "Financial institution" means any of the following:

7 (i) A bank holding company, a national bank, a state chartered  
8 bank, an office of thrift supervision chartered bank or thrift  
9 institution, or a savings and loan holding company.

10 (ii) Any subsidiary, other than an insurance company subject to  
11 the tax imposed under chapter 2A, of an entity described in  
12 subparagraph (i).

13 (iii) A unitary business group of entities described in  
14 subparagraph (i) or (ii), or both.

15 (g) "Gross business" means the sum of the following less  
16 transactions between those entities included in a unitary business  
17 group:

18 (i) Fees, commissions, or other compensation for financial  
19 services.

20 (ii) Net gains, not less than zero, from the sale of loans and  
21 other intangibles.

22 (iii) Net gains, not less than zero, from trading in stocks,  
23 bonds, or other securities.

24 (iv) Interest charged to customers for carrying debit balances  
25 of margin accounts.

26 (v) Interest and dividends received.

27 (vi) Any other gross proceeds resulting from the operation as a



1 financial institution.

2 (h) "Loan" means any extension of credit resulting from direct  
3 negotiations between the financial institution and its customer, or  
4 the purchase, in whole or in part, of such extension of credit from  
5 another. Loans include participations, syndications, and leases  
6 treated as loans for federal income tax purposes. Loans shall not  
7 include properties treated as loans under section 595 of the  
8 internal revenue code, futures or forward contracts, options,  
9 notional principal contracts such as swaps, credit card  
10 receivables, including purchased credit card relationships, non-  
11 interest-bearing balances due from depository institutions, cash  
12 items in the process of collection, federal funds sold, securities  
13 purchased under agreements to resell, assets held in a trading  
14 account, securities, interests in a real estate mortgage investment  
15 conduit, or other mortgage-backed or asset-backed security, and  
16 other similar items.

17 (i) "Loan secured by real property" means that 50% or more of  
18 the aggregate value of the collateral used to secure a loan or  
19 other obligation, when valued at fair market value as of the time  
20 the original loan or obligation was incurred, was real property.

21 (j) "Merchant discount" means the fee or negotiated discount  
22 charged to a merchant by the financial institution for the  
23 privilege of participating in a program whereby a credit card is  
24 accepted in payment for merchandise or services sold to the credit  
25 card holder.

26 (k) "Michigan obligations" means a bond, note, or other  
27 obligation issued by a governmental unit described in section 3 of



1 the shared credit rating act, 1985 PA 227, MCL 141.1053.

2 (l) "Participation" means an extension of credit in which an  
3 undivided ownership interest is held on a pro rata basis in a  
4 single loan or pool of loans and related collateral. In a loan  
5 participation, the credit originator initially makes the loan and  
6 then subsequently resells all or a portion of it to other lenders.  
7 The participation may or may not be known to the borrower.

8 (m) "Principal base of operation", with respect to  
9 transportation property, means the place of more or less permanent  
10 nature from which said property is regularly directed or  
11 controlled. With respect to an employee, the principal base of  
12 operations means the place of more or less permanent nature from  
13 which the employee regularly does any of the following:

14 (i) Starts his or her work and to which he or she customarily  
15 returns in order to receive instructions from his or her employer.

16 (ii) Communicates with his or her customers or other persons.

17 (iii) Performs any other functions necessary to the exercise of  
18 his or her trade or profession at some other point or points.

19 (n) "Real property owned" and "tangible personal property  
20 owned" mean real and tangible personal property respectively on  
21 which the financial institution may claim depreciation for federal  
22 income tax purposes or to which the financial institution holds  
23 legal title and on which no other person may claim depreciation for  
24 federal income tax purposes or could claim depreciation if subject  
25 to federal income tax. Real and tangible personal properties do not  
26 include coin, currency, or property acquired in lieu of or pursuant  
27 to a foreclosure.



1 (o) "Regular place of business" means an office at which the  
2 financial institution carries on its business in a regular and  
3 systematic manner and which is continuously maintained, occupied,  
4 and used by employees of the financial institution. The financial  
5 institution shall have the burden of proving that an investment  
6 asset or activity or trading asset or activity was properly  
7 assigned to a regular place of business outside of this state by  
8 demonstrating that the day-to-day decisions regarding the asset or  
9 activity occurred at a regular place of business outside this  
10 state. Where the day-to-day decisions regarding an investment asset  
11 or activity or trading asset or activity occur at more than 1  
12 regular place of business and 1 such regular place of business is  
13 in this state and 1 such regular place of business is outside this  
14 state, such asset or activity shall be considered to be located at  
15 the regular place of business of the financial institution where  
16 the investment or trading policies or guidelines with respect to  
17 the asset or activity are established. Unless the financial  
18 institution demonstrates to the contrary, such policies and  
19 guidelines shall be presumed to be established at the commercial  
20 domicile of the financial institution.

21 (p) "Rolling stock" means railroad freight or passenger cars,  
22 locomotives, or other rail cars.

23 (q) "Syndication" means an extension of credit in which 2 or  
24 more persons finance the credit and each person is at risk only up  
25 to a specified percentage of the total extension of the credit or  
26 up to a specified dollar amount.

27 (r) "Transportation property" means vehicles and vessels



1 capable of moving under their own power, such as aircraft, trains,  
2 water vessels, and motor vehicles, as well as any equipment or  
3 containers attached to such property, such as rolling stock,  
4 barges, or trailers.

5 (s) "United States obligations" means all obligations of the  
6 United States exempt from taxation under 31 USC 3124(a) or exempt  
7 under the United States constitution or any federal statute,  
8 including the obligations of any instrumentality or agency of the  
9 United States that are exempt from state or local taxation under  
10 the United States constitution or any statute of the United States.

11 Sec. 263. (1) Every financial institution with nexus in this  
12 state as determined under section 200 is subject to a franchise  
13 tax. The franchise tax is imposed upon the tax base of the  
14 financial institution as determined under section 265 after  
15 allocation or apportionment to this state, at the rate of 0.235%.

16 (2) The tax under this chapter is in lieu of the tax levied  
17 and imposed under chapter 2 of this act.

18 Sec. 265. (1) For a financial institution, tax base means the  
19 financial institution's net capital. Net capital means equity  
20 capital as computed in accordance with generally accepted  
21 accounting principles less goodwill arising from purchase  
22 accounting adjustments for transactions that occurred after  
23 December 31, 2007, and the book value of United States obligations  
24 and Michigan obligations. If the financial institution does not  
25 maintain its books and records in accordance with generally  
26 accepted accounting principles, net capital shall be computed in  
27 accordance with the books and records used by the financial



1 institution, so long as the method fairly reflects the financial  
2 institution's net capital for purposes of the tax levied by this  
3 chapter. Net capital does not include up to 110% of the minimum  
4 regulatory capitalization requirements of a person subject to the  
5 tax imposed under chapter 2A.

6 (2) Net capital shall be determined by adding the financial  
7 institution's net capital for the current tax year and preceding 4  
8 calendar years and dividing the resulting sum by 5. If a financial  
9 institution has not been in existence for a period of 5 calendar  
10 years, net capital shall be determined by adding together the  
11 financial institution's net capital for the number of calendar  
12 years the financial institution has been in existence and dividing  
13 the resulting sum by the number of years the financial institution  
14 has been in existence. For purposes of this section, a partial year  
15 shall be treated as a full year.

16 (3) For purposes of this section, each of the following  
17 applies:

18 (a) A change in identity, form, or place of organization of 1  
19 financial institution shall be treated as if a single financial  
20 institution had been in existence for the entire tax year in which  
21 the change occurred and each tax year after the change.

22 (b) The combination of 2 or more financial institutions into 1  
23 shall be treated as if the constituent financial institutions had  
24 been a single financial institution in existence for the entire tax  
25 year in which the combination occurred and each tax year after the  
26 combination, and the book values and deductions for United States  
27 obligations and Michigan obligations of the constituent



1 institutions shall be combined. A combination shall include any  
2 acquisition required to be accounted for by the surviving financial  
3 institution in accordance with generally accepted accounting  
4 principles or a statutory merger or consolidation.

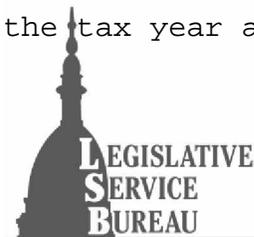
5       Sec. 267. (1) Except as otherwise provided under this chapter,  
6 the tax base of a financial institution whose business activities  
7 are confined solely to this state shall be allocated to this state.  
8 The tax base of a financial institution whose business activities  
9 are subject to tax both within and outside this state shall be  
10 apportioned to this state by multiplying the tax base by the gross  
11 business factor.

12       (2) A financial institution whose business activities are  
13 subject to tax both within and outside of this state is subject to  
14 tax in another state in either of the following circumstances:

15       (a) The financial institution is subject to a business  
16 privilege tax, a net income tax, a franchise tax measured by net  
17 income, a franchise tax for the privilege of doing business, or a  
18 corporate stock tax or a tax of the type imposed under this act in  
19 that state.

20       (b) That state has jurisdiction to subject the financial  
21 institution to 1 or more of the taxes listed in subdivision (a)  
22 regardless of whether that state does or does not subject the  
23 financial institution to that tax.

24       (3) Except as otherwise provided in subsection (4), the gross  
25 business factor is a fraction, the numerator of which is the total  
26 gross business of the financial institution in this state during  
27 the tax year and the denominator of which is the total gross



1 business of the financial institution everywhere during the tax  
2 year.

3 (4) Except as otherwise provided under this subsection, for a  
4 financial institution that is included in a unitary business group,  
5 gross business includes gross business in this state of every  
6 financial institution included in the unitary business group  
7 without regard to whether the financial institution has nexus in  
8 this state. Gross business between financial institutions included  
9 in a unitary business group must be eliminated in calculating the  
10 gross business factor.

11 Sec. 269. Gross business in this state of the financial  
12 institution is determined as follows:

13 (a) Receipts from credit card receivables including without  
14 limitation interest and fees or penalties in the nature of interest  
15 from credit card receivables and receipts from fees charged to  
16 credit card holders such as annual fees are in this state if the  
17 billing address of the credit card holder is located in this state.

18 (b) Credit card issuer's reimbursement fees are in this state  
19 if the billing address of the credit card holder is located in this  
20 state.

21 (c) Receipts from merchant discounts are in this state if the  
22 commercial domicile of the merchant is in this state.

23 (d) Loan servicing fees are in this state under any of the  
24 following circumstances:

25 (i) For a loan secured by real property, if the real property  
26 for which the loan is secured is in this state.

27 (ii) For a loan secured by real property, if the real property



1 for which the loan is secured is located both within and without  
2 this state and 1 or more other states and more than 50% of the fair  
3 market value of the real property is located in this state.

4 (iii) For a loan secured by real property, if more than 50% of  
5 the fair market value of the real property for which the loan is  
6 secured is not located within any 1 state but the borrower is  
7 located in this state.

8 (iv) For a loan not secured by real property, the borrower is  
9 located in this state.

10 (e) Receipts from services are in this state if the recipient  
11 of the services receives all of the benefit of the services in this  
12 state. If the recipient of the services receives some of the  
13 benefit of the services in this state, the receipts are included in  
14 the numerator of the apportionment factor in proportion to the  
15 extent that the recipient receives benefit of the services in this  
16 state.

17 (f) Receipts from investment assets and activities and trading  
18 assets and activities, including interest and dividends, are in  
19 this state if the financial institution's customer is in this  
20 state. If the location of the financial institution's customer  
21 cannot be determined, both of the following:

22 (i) Interest, dividends, and other income from investment  
23 assets and activities and from trading assets and activities,  
24 including, but not limited to, investment securities; trading  
25 account assets; federal funds; securities purchased and sold under  
26 agreements to resell or repurchase; options; futures contracts;  
27 forward contracts; notional principal contracts such as swaps;



1 equities; and foreign currency transactions are in this state if  
2 the average value of the assets is assigned to a regular place of  
3 business of the taxpayer within this state. Interest from federal  
4 funds sold and purchased and from securities purchased under resale  
5 agreements and securities sold under repurchase agreements are in  
6 this state if the average value of the assets is assigned to a  
7 regular place of business of the taxpayer within this state. The  
8 amount of receipts and other income from investment assets and  
9 activities is in this state if assets are assigned to a regular  
10 place of business of the taxpayer within this state.

11 (ii) The amount of receipts from trading assets and activities,  
12 including, but not limited to, assets and activities in the matched  
13 book, in the arbitrage book, and foreign currency transactions, but  
14 excluding amounts otherwise sourced in this section, are in this  
15 state if the assets are assigned to a regular place of business of  
16 the taxpayer within this state.

17 (g) Interest charged to customers for carrying debit balances  
18 on margin accounts without deduction of any costs incurred in  
19 carrying the accounts is in this state if the customer is located  
20 in this state.

21 (h) Interest from loans secured by real property is in this  
22 state if the property is located in this state, if the property is  
23 located both within this state and 1 or more other states and more  
24 than 50% of the fair market value of the real property is located  
25 in this state, and if more than 50% of the fair market value of the  
26 real property is not located within any 1 state but the borrower is  
27 located in this state.



1 (i) Interest from loans not secured by real property is in  
2 this state if the borrower is located in this state.

3 (j) Interest from federal funds sold and purchased and from  
4 securities purchased under resale agreements and securities sold  
5 under repurchase agreements is in this state if the agreements are  
6 assigned to a regular place of business of the financial  
7 institution within this state.

8 (k) Gross proceeds from the sale of loans secured by real  
9 property or mortgage service rights relating to real property are  
10 in this state if the property is in this state, if the property is  
11 located both within this state and 1 or more other states and more  
12 than 50% of the fair market value of the real property is located  
13 within this state, or if more than 50% of the fair market value of  
14 the real property is not located in any 1 state, but the borrower  
15 is located in this state.

16 (l) Gross proceeds from the sale of loans not secured by real  
17 property or any other intangible assets are in this state if the  
18 borrower or depositor is located in this state.

19 (m) Receipts from the lease of real property are in this state  
20 if the property is located in this state.

21 (n) Receipts from the lease of tangible personal property are  
22 in this state if the property is located in this state when it is  
23 first placed in service by the lessee.

24 (o) Receipts from the lease of transportation tangible  
25 personal property are in this state if the property is used in this  
26 state or if the extent of use of the property within this state  
27 cannot be determined but the property has its principal base of



1 operations within this state.

2 CHAPTER 3

3 Sec. 301. (1) Except as otherwise provided in this act, each  
4 tax base established under this act shall be apportioned in  
5 accordance with this chapter.

6 (2) Each tax base of a taxpayer whose business activities are  
7 confined solely to this state shall be allocated to this state.  
8 Each tax base of a taxpayer whose business activities are subject  
9 to tax both within and outside of this state shall be apportioned  
10 to this state by multiplying each tax base by the sales factor  
11 calculated under section 303.

12 (3) A taxpayer whose business activities are subject to tax  
13 both within and outside of this state is subject to tax in another  
14 state in either of the following circumstances:

15 (a) The taxpayer is subject to a business privilege tax, a net  
16 income tax, a franchise tax measured by net income, a franchise tax  
17 for the privilege of doing business, or a corporate stock tax or a  
18 tax of the type imposed under this act in that state.

19 (b) That state has jurisdiction to subject the taxpayer to 1  
20 or more of the taxes listed in subdivision (a) regardless of  
21 whether that state does or does not subject the taxpayer to that  
22 tax.

23 Sec. 303. (1) Except as otherwise provided in subsection (2)  
24 and section 311, the sales factor is a fraction, the numerator of  
25 which is the total sales of the taxpayer in this state during the  
26 tax year and the denominator of which is the total sales of the  
27 taxpayer everywhere during the tax year.



1           (2) Except as otherwise provided under this subsection, for a  
2 taxpayer that is a unitary business group, sales include sales in  
3 this state of every person included in the unitary business group  
4 without regard to whether the person has nexus in this state. Sales  
5 between persons included in a unitary business group must be  
6 eliminated in calculating the sales factor.

7           Sec. 305. (1) Sales of the taxpayer in this state are  
8 determined as follows:

9           (a) Sales of tangible personal property are in this state if  
10 the property is shipped or delivered, or, in the case of  
11 electricity and gas, the contract requires the property to be  
12 shipped or delivered, to any purchaser within this state based on  
13 the ultimate destination at the point that the property comes to  
14 rest regardless of the free on board point or other conditions of  
15 the sales.

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

19           (c) Receipts from the lease or rental of tangible personal  
20 property are sales in this state to the extent that the property is  
21 utilized in this state. The extent of utilization of tangible  
22 personal property in this state is determined by multiplying the  
23 receipts by a fraction, the numerator of which is the number of  
24 days of physical location of the property in this state during the  
25 lease or rental period in the tax year and the denominator of which  
26 is the number of days of physical location of the property  
27 everywhere during all lease or rental periods in the tax year. If



1 the physical location of the property during the lease or rental  
2 period is unknown or cannot be determined, the tangible personal  
3 property is utilized in the state in which the property was located  
4 at the time the lease or rental payer obtained possession.

5 (d) Receipts from the lease or rental of mobile transportation  
6 property owned by the taxpayer are in this state to the extent that  
7 the property is used in this state. The extent an aircraft will be  
8 deemed to be used in this state and the amount of receipts that is  
9 to be included in the numerator of this state's sales factor is  
10 determined by multiplying all the receipts from the lease or rental  
11 of the aircraft by a fraction, the numerator of the fraction is the  
12 number of landings of the aircraft in this state and the  
13 denominator of the fraction is the total number of landings of the  
14 aircraft. If the extent of the use of any transportation property  
15 within this state cannot be determined, then the receipts are in  
16 this state if the property has its principal base of operations in  
17 this state.

18 (e) Royalties and other income received for the use of or for  
19 the privilege of using intangible property, including patents,  
20 know-how, formulas, designs, processes, patterns, copyrights, trade  
21 names, service names, franchises, licenses, contracts, customer  
22 lists, computer software, or similar items, are attributed to the  
23 state in which the property is used by the purchaser. If the  
24 property is used in more than 1 state, the royalties or other  
25 income shall be apportioned to this state pro rata according to the  
26 portion of use in this state. If the portion of use in this state  
27 cannot be determined, the royalties or other income shall be



1 excluded from both the numerator and the denominator. Intangible  
2 property is used in this state if the purchaser uses the intangible  
3 property or the rights to the intangible property in the regular  
4 course of its business operations in this state, regardless of the  
5 location of the purchaser's customers.

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

8 (a) Except as otherwise provided in this section, all receipts  
9 from the performance of services are included in the numerator of  
10 the apportionment factor if the recipient of the services receives  
11 all of the benefit of the services in this state. If the recipient  
12 of the services receives some of the benefit of the services in  
13 this state, the receipts are included in the numerator of the  
14 apportionment factor in proportion to the extent that the recipient  
15 receives benefit of the services in this state.

16 (b) Sales derived from securities brokerage services  
17 attributable to this state are determined by multiplying the total  
18 dollar amount of receipts from securities brokerage services by a  
19 fraction, the numerator of which is the sales of securities  
20 brokerage services to customers within this state, and the  
21 denominator of which is the sales of securities brokerage services  
22 to all customers. Receipts from securities brokerage services  
23 include commissions on transactions, the spread earned on principal  
24 transactions in which the broker buys or sells from its account,  
25 total margin interest paid on behalf of brokerage accounts owned by  
26 the broker's customers, and fees and receipts of all kinds from the  
27 underwriting of securities. If receipts from brokerage services can



1 be associated with a particular customer, but it is impractical to  
2 associate the receipts with the address of the customer, then the  
3 address of the customer shall be presumed to be the address of the  
4 branch office that generates the transactions for the customer.

5 (c) Sales of services that are derived directly or indirectly  
6 from the sale of management, distribution, administration, or  
7 securities brokerage services to, or on behalf of, a regulated  
8 investment company or its beneficial owners, including receipts  
9 derived directly or indirectly from trustees, sponsors, or  
10 participants of employee benefit plans that have accounts in a  
11 regulated investment company, shall be attributable to this state  
12 to the extent that the shareholders of the regulated investment  
13 company are domiciled within this state. For purposes of this  
14 subdivision, "domicile" means the shareholder's mailing address on  
15 the records of the regulated investment company. If the regulated  
16 investment company or the person providing management services to  
17 the regulated investment company has actual knowledge that the  
18 shareholder's primary residence or principal place of business is  
19 different than the shareholder's mailing address, then the  
20 shareholder's primary residence or principal place of business is  
21 the shareholder's domicile. A separate computation shall be made  
22 with respect to the receipts derived from each regulated investment  
23 company. The total amount of sales attributable to this state shall  
24 be equal to the total receipts received by each regulated  
25 investment company multiplied by a fraction determined as follows:

26 (i) The numerator of the fraction is the average of the sum of  
27 the beginning-of-year and end-of-year number of shares owned by the



1 regulated investment company shareholders who have their domicile  
2 in this state.

3 (ii) The denominator of the fraction is the average of the sum  
4 of the beginning-of-year and end-of-year number of shares owned by  
5 all shareholders.

6 (iii) For purposes of the fraction, the year shall be the tax  
7 year of the regulated investment company that ends with or within  
8 the tax year of the taxpayer.

9 (3) Receipts from the origination of a loan or gains from the  
10 sale of a loan secured by residential real property is deemed a  
11 sale in this state only if 1 or more of the following apply:

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

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

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

18 (4) Interest from loans secured by real property is in this  
19 state if the property is located within this state or if the  
20 property is located both within this state and 1 or more other  
21 states, if more than 50% of the fair market value of the real  
22 property is located within this state, or if more than 50% of the  
23 fair market value of the real property is not located within any 1  
24 state, if the borrower is located in this state. The determination  
25 of whether the real property securing a loan is located within this  
26 state shall be made as of the time the original agreement was made  
27 and any and all subsequent substitutions of collateral shall be



1 disregarded.

2 (5) Interest from a loan not secured by real property is in  
3 this state if the borrower is located in this state.

4 (6) Gains from the sale of a loan not secured by real  
5 property, including income recorded under the coupon stripping  
6 rules of section 1286 of the internal revenue code, are in this  
7 state if the borrower is in this state.

8 (7) Receipts from credit card receivables, including interest,  
9 fees, and penalties from credit card receivables and receipts from  
10 fees charged to cardholders, such as annual fees, are in this state  
11 if the billing address of the card holder is in this state.

12 (8) Receipts from the sale of credit card or other receivables  
13 is in this state if the billing address of the customer is in this  
14 state. Credit card issuer's reimbursements fees are in this state  
15 if the billing address of the cardholder is in this state. Receipts  
16 from merchant discounts, computed net of any cardholder  
17 chargebacks, but not reduced by any interchange transaction fees or  
18 by any issuer's reimbursement fees paid to another for charges made  
19 by its cardholders, are in this state if the commercial domicile of  
20 the merchant is in this state.

21 (9) Loan servicing fees derived from loans of another secured  
22 by real property are in this state if the real property is located  
23 in this state, or the real property is located both within and  
24 outside of this state and 1 or more states if more than 50% of the  
25 fair market value of the real property is located in this state, or  
26 more than 50% of the fair market value of the real property is not  
27 located in any 1 state, and the borrower is located in this state.



1 Loan servicing fees derived from loans of another not secured by  
2 real property are in this state if the borrower is located in this  
3 state. If the location of the security cannot be determined, then  
4 loan servicing fees for servicing either the secured or the  
5 unsecured loans of another are in this state if the lender to whom  
6 the loan servicing service is provided is located in this state.

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

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

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

14 (i) Interest, dividends, and other income from investment  
15 assets and activities and from trading assets and activities,  
16 including, but not limited to, investment securities; trading  
17 account assets; federal funds; securities purchased and sold under  
18 agreements to resell or repurchase; options; futures contracts;  
19 forward contracts; notional principal contracts such as swaps;  
20 equities; and foreign currency transactions are in this state if  
21 the average value of the assets is assigned to a regular place of  
22 business of the taxpayer within this state. Interest from federal  
23 funds sold and purchased and from securities purchased under resale  
24 agreements and securities sold under repurchase agreements are in  
25 this state if the average value of the assets is assigned to a  
26 regular place of business of the taxpayer within this state. The  
27 amount of receipts and other income from investment assets and



1 activities is in this state if assets are assigned to a regular  
2 place of business of the taxpayer within this state.

3 (ii) The amount of receipts from trading assets and activities,  
4 including, but not limited to, assets and activities in the matched  
5 book, in the arbitrage book, and foreign currency transactions, but  
6 excluding amounts otherwise sourced in this section, are in this  
7 state if the assets are assigned to a regular place of business of  
8 the taxpayer within this state.

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

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

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

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

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

22 (c) Receipts attributable to this state of a person whose  
23 business activity consists of the transportation both of property  
24 and of individuals shall be proportioned based on the total gross  
25 receipts for passenger miles and ton mile fractions, separately  
26 computed and individually weighted by the ratio of gross receipts  
27 from passenger transportation to total gross receipts from all



1 transportation, and by the ratio of gross receipts from freight  
2 transportation to total gross receipts from all transportation,  
3 respectively.

4 (d) Receipts attributable to this state of a person whose  
5 business activity consists of the transportation of oil by pipeline  
6 shall be proportioned based on the ratio that the gross receipts  
7 for the barrel miles transported in this state bear to the gross  
8 receipts for the barrel miles transported by the person everywhere.

9 (e) Receipts attributable to this state of a person whose  
10 business activities consist of the transportation of gas by  
11 pipeline shall be proportioned based on the ratio that the gross  
12 receipts for the 1,000 cubic feet miles transported in this state  
13 bear to the gross receipts for the 1,000 cubic feet miles  
14 transported by the person everywhere.

15 (12) For purposes of subsection (11), if a taxpayer can show  
16 that revenue mile information is not available or cannot be  
17 obtained without unreasonable expense to the taxpayer, receipts  
18 attributable to this state shall be that portion of the revenue  
19 derived from transportation services everywhere performed that the  
20 miles of transportation services performed in this state bears to  
21 the miles of transportation services performed everywhere. If the  
22 department determines that the information required for the  
23 calculations under subsection (11) are not available or cannot be  
24 obtained without unreasonable expense to the taxpayer, the  
25 department may use other available information that in the opinion  
26 of the department will result in an equitable allocation of the  
27 taxpayer's receipts to this state.



1 (13) Except as provided in subsections (14) through (19),  
2 receipts from the sale of telecommunications service or mobile  
3 telecommunications service are in this state if the customer's  
4 place of primary use of the service is in this state. As used in  
5 this subsection, "place of primary use" means the customer's  
6 residential street address or primary business street address where  
7 the customer's use of the telecommunications service primarily  
8 occurs. For mobile telecommunications service, the customer's  
9 residential street address or primary business street address is  
10 the place of primary use only if it is within the licensed service  
11 area of the customer's home service provider.

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

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

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

18 (15) Receipts from the sale of postpaid telecommunications  
19 service are in this state if the origination point of the  
20 telecommunication signal, as first identified by the service  
21 provider's telecommunication system or as identified by information  
22 received by the seller from its service provider if the system used  
23 to transport telecommunication signals is not the seller's, is  
24 located in this state.

25 (16) Receipts from the sale of prepaid telecommunications  
26 service or prepaid mobile telecommunications service are in this  
27 state if the purchaser obtains the prepaid card or similar means of



1 conveyance at a location in this state. Receipts from recharging a  
2 prepaid telecommunications service or mobile telecommunications  
3 service is in this state if the purchaser's billing information  
4 indicates a location in this state.

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

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

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

11 (c) 50% of the receipts from the sale of service segments for  
12 a channel between 2 customer channel termination points, 1 of which  
13 is located in this state and the other is located outside of this  
14 state, which segments are separately charged.

15 (d) The receipts from the sale of service for segments with a  
16 channel termination point located in this state and in 2 or more  
17 other states or equivalent jurisdictions, and which segments are  
18 not separately billed, are in this state based on a percentage  
19 determined by dividing the number of customer channel termination  
20 points in this state by the total number of customer channel  
21 termination points.

22 (18) Receipts from the sale of billing services and ancillary  
23 services for telecommunications service are in this state based on  
24 the location of the purchaser's customers. If the location of the  
25 purchaser's customers is not known or cannot be determined, the  
26 sale of billing services and ancillary services for  
27 telecommunications service are in this state based on the location



1 of the purchaser.

2 (19) Receipts to access a carrier's network or from the sale  
3 of telecommunication services for resale are in this state as  
4 follows:

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

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

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

16 (d) Gross receipts from sales of telecommunication services to  
17 other telecommunication service providers for resale shall be  
18 sourced to this state using the apportionment concepts used for  
19 non-resale receipts of telecommunications services if the  
20 information is readily available to make that determination. If the  
21 information is not readily available, then the taxpayer may use any  
22 other reasonable and consistent method.

23 (20) Terms used in subsections (13) through (19) have the same  
24 meaning as those terms defined in the streamlined sales and use tax  
25 agreement administered under the streamlined sales and use tax  
26 administration act, 2004 PA 174, MCL 205.801 to 205.833.

27 (21) For purposes of this section, a borrower is considered



1 located in this state if the borrower's billing address is in this  
2 state.

3 Sec. 307. (1) Notwithstanding sections 303 and 305, a spun off  
4 corporation that qualified to calculate its sales factor for 7  
5 years under section 54 of former 1975 PA 228 may elect to calculate  
6 its sales factor under this section for an additional 4 years  
7 following those 7 years or 3 years if a taxpayer had an election  
8 approved under section 54(1)(e) of former 1975 PA 228. Prior to the  
9 end of the first year following the 7 years for which the taxpayer  
10 qualified under section 54 of former 1975 PA 228 and if the spun  
11 off corporation is not required to file amended returns under  
12 section 54(5) of former 1975 PA 228, the spun off corporation may  
13 request, in writing, approval from the state treasurer for the  
14 election of the 4 additional years under this section. If the  
15 taxpayer had an election approved under section 54(1)(e) of former  
16 1975 PA 228, the taxpayer is not required to seek approval under  
17 this section. The department shall approve the election under this  
18 subsection if the requirements of this section are met. The request  
19 shall include all of the following:

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

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

25 (c) A commitment by the spun off corporation to invest at  
26 least an additional \$200,000,000.00 of capital investment in this  
27 state within the additional 4 years and maintain at least 80% of



1 the number of full-time equivalent employees in this state based on  
2 the number of full-time equivalent employees in this state at the  
3 beginning of the additional 4-year period for all of the additional  
4 4 years; a commitment by the spun off corporation to invest an  
5 additional \$400,000,000.00 in this state within the additional 4  
6 years; or a commitment by the spun off corporation to invest a  
7 total of \$1,300,000,000.00 in this state within the 11-year period  
8 beginning with the year in which the restructuring transaction  
9 under which a spun off corporation qualified under this subsection  
10 was completed. The 4-year period under this subdivision begins with  
11 the eighth year following the tax year in which the restructuring  
12 transaction under which a spun off corporation qualified under this  
13 subsection was completed. For purposes of this subdivision, the  
14 number of full-time equivalent employees includes employees in all  
15 of the following circumstances:

16 (i) On temporary layoff.

17 (ii) On strike.

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

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

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

25 (2) Prior to the end of the eleventh year following the  
26 restructuring transaction under which a spun off corporation  
27 qualified under subsection (1), a taxpayer that is a buyer of a



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

16 (3) A spun off corporation qualified under subsection (1) or  
17 (2) that makes an election and is approved under subsection (1) or  
18 (2) calculates its sales factor under section 54 of former 1975 PA  
19 228 subject to both of the following:

20 (a) A purchaser in this state under section 52 of former 1975  
21 PA 228 does not include a person that purchases from a seller that  
22 was included in the purchaser's combined or consolidated annual  
23 return under this act but, as a result of the restructuring  
24 transaction, ceased to be included in the purchaser's combined or  
25 consolidated annual return under this act. This subdivision applies  
26 only to sales that originate from a plant located in this state.

27 (b) Total sales under section 51 of former 1975 PA 228 do not



1 include sales to a purchaser that was a member of a Michigan  
2 affiliated business group that had included the seller in the  
3 filing of a combined annual return under this act but, as a result  
4 of the restructuring transaction, ceased to include the seller.  
5 This subdivision applies only to sales that originate from a plant  
6 located in this state to a location in this state.

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

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

25 (6) A taxpayer whose assets were wholly owned either directly  
26 or indirectly by a taxpayer from whom a spun off corporation  
27 qualifies to apportion its tax base under this section and that



1 ceased to be wholly owned on November 30, 2006 may annually elect  
2 on its originally filed tax return to apportion its tax base to  
3 this state using the same receipts factor reported on the combined  
4 tax return filed by its former parent company for the same taxable  
5 year.

6 (7) As used in this section:

7 (a) "Restructuring transaction" means a tax free distribution  
8 under section 355 of the internal revenue code and includes tax  
9 free transactions under section 355 of the internal revenue code  
10 that are commonly referred to as spin offs, split ups, split offs,  
11 or type D reorganizations.

12 (b) "Spun off corporation" means an entity treated as a  
13 controlled corporation under section 355 of the internal revenue  
14 code. Controlled corporation includes a corporate subsidiary  
15 created for the purpose of a restructuring transaction, a limited  
16 liability company, or an operational unit or division with business  
17 activities that were previously carried out as a part of the  
18 distributing corporation.

19 Sec. 309. (1) If the apportionment provisions of this act do  
20 not fairly represent the extent of the taxpayer's business activity  
21 in this state, the taxpayer may petition for or the treasurer may  
22 require the following, with respect to all or a portion of the  
23 taxpayer's business activity, if reasonable:

24 (a) Separate accounting.

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



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

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

5 (3) The apportionment provisions of this act shall be  
6 rebuttably presumed to fairly represent the business activity  
7 attributed to the taxpayer in this state, taken as a whole and  
8 without a separate examination of the specific elements of either  
9 tax base unless it can be demonstrated that the business activity  
10 attributed to the taxpayer in this state is out of all appropriate  
11 proportion to the actual business activity transacted in this state  
12 and leads to a grossly distorted result or would operate  
13 unconstitutionally to tax the extraterritorial activity of the  
14 taxpayer.

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

17 Sec. 311. All other receipts not otherwise sourced under this  
18 act shall be sourced based on where the benefit to the customer is  
19 received or, if where the benefit to the customer is received  
20 cannot be determined, to the customer's location.

#### 21 CHAPTER 4

22 Sec. 400. For purposes of this chapter, taxpayer does not  
23 include a person subject to the tax imposed under chapter 2a or 2b  
24 unless specifically included in the section.

25 Sec. 401. Except as otherwise provided under this act, any  
26 unused carryforward for any credit under former 1975 PA 228 may be  
27 applied for the 2008 and 2009 tax years and any unused carryforward



1 after 2009 shall be extinguished.

2           Sec. 403. (1) Notwithstanding any other provision in this act,  
3 the credits provided in this section shall be taken before any  
4 other credit under this act. The total combined credit allowed  
5 under this section shall not exceed 65% of the total tax liability  
6 imposed under this act.

7           (2) Subject to the limitation in subsection (1), a taxpayer  
8 may claim a credit against the tax imposed by this act equal to  
9 0.370% of the taxpayer's compensation in this state. For purposes  
10 of this subsection, a taxpayer includes a person described in  
11 section 239(2) and subject to the tax imposed under chapter 2A. A  
12 professional employer organization shall not include payments by  
13 the professional employer organization to the officers and  
14 employees of a client of the professional employer organization  
15 whose employment operations are managed by the professional  
16 employer organization. A client may include payments by the  
17 professional employer organization to the officers and employees of  
18 the client whose employment operations are managed by the  
19 professional employer organization.

20           (3) Subject to the limitation in subsection (1), a taxpayer  
21 may claim a credit against the tax imposed by this act equal to  
22 2.9% multiplied by the result of subtracting the sum of the amounts  
23 calculated under subdivisions (d), (e), and (f) from the sum of the  
24 amounts calculated under subdivisions (a), (b), and (c):

25           (a) Calculate the cost, including fabrication and  
26 installation, paid or accrued in the taxable year of tangible  
27 assets of a type that are, or under the internal revenue code will



1 become, eligible for depreciation, amortization, or accelerated  
 2 capital cost recovery for federal income tax purposes, provided  
 3 that the assets are physically located in this state for use in a  
 4 business activity in this state and are not mobile tangible assets.

5 (b) Calculate the cost, including fabrication and  
 6 installation, paid or accrued in the taxable year of mobile  
 7 tangible assets of a type that are, or under the internal revenue  
 8 code will become, eligible for depreciation, amortization, or  
 9 accelerated capital cost recovery for federal income tax purposes.  
 10 This amount shall be multiplied by the apportionment factor for the  
 11 tax year as prescribed in chapter 3.

12 (c) For tangible assets, other than mobile tangible assets,  
 13 purchased or acquired for use outside of this state in a tax year  
 14 beginning after December 31, 2007 and subsequently transferred into  
 15 this state and purchased or acquired for use in a business  
 16 activity, calculate the federal basis used for determining gain or  
 17 loss as of the date the tangible assets were physically located in  
 18 this state for use in a business activity plus the cost of  
 19 fabrication and installation of the tangible assets in this state.

20 (d) If the cost of tangible assets described in subdivision  
 21 (a) was paid or accrued in a tax year beginning after December 31,  
 22 2007, or before December 31, 2007 to the extent the credit is used  
 23 under former 1975 PA 228 or this act, calculate the gross proceeds  
 24 or benefit derived from the sale or other disposition of the  
 25 tangible assets minus the gain, multiplied by the apportionment  
 26 factor for the taxable year as prescribed in chapter 3, and plus  
 27 the loss, multiplied by the apportionment factor for the taxable



1 year as prescribed in chapter 3 from the sale or other disposition  
2 reflected in federal taxable income and minus the gain from the  
3 sale or other disposition added to the business income tax base in  
4 section 201.

5 (e) If the cost of tangible assets described in subdivision  
6 (b) was paid or accrued in a tax year beginning after December 31,  
7 2007, or before December 31, 2007 to the extent the credit is used  
8 under former 1975 PA 228 or this act, calculate the gross proceeds  
9 or benefit derived from the sale or other disposition of the  
10 tangible assets minus the gain and plus the loss from the sale or  
11 other disposition reflected in federal taxable income and minus the  
12 gain from the sale or other disposition added to the business  
13 income tax base in section 201. This amount shall be multiplied by  
14 the apportionment factor for the tax year as prescribed in chapter  
15 3.

16 (f) For assets purchased or acquired in a tax year beginning  
17 after December 31, 2007, or before December 31, 2007 to the extent  
18 the credit is used under former 1975 PA 228 or this act, that were  
19 eligible for a credit under subdivision (a) or (c) and that were  
20 transferred out of this state, calculate the federal basis used for  
21 determining gain or loss as of the date of the transfer.

22 (4) For a tax year in which the amount of the credit  
23 calculated under subsection (3) is negative, the absolute value of  
24 that amount is added to the taxpayer's tax liability for the tax  
25 year.

26 (5) A taxpayer that claims a credit under this section is not  
27 prohibited from claiming a credit under section 405. However, the



1 taxpayer shall not claim a credit under this section and section  
2 405 based on the same costs and expenses.

3       Sec. 405. A taxpayer may claim a credit against the tax  
4 imposed by this act equal to 1.90% of the taxpayer's research and  
5 development expenses in this state in the tax year. The credit  
6 under this section combined with the total combined credit allowed  
7 under section 403 shall not exceed 75% of the total tax liability  
8 imposed under this act. As used in this section, "research and  
9 development expenses" means that term as defined in section 41(b)  
10 of the internal revenue code.

11       Sec. 407. (1) For the 2008, 2009, and 2010 tax years, a  
12 qualified taxpayer that makes an eligible contribution in an  
13 eligible business may claim a credit against the tax imposed by the  
14 act equal to 30% of the taxpayer's eligible contribution, not to  
15 exceed \$300,000.00.

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

19       (a) An economic impact analysis, including all of the  
20 following:

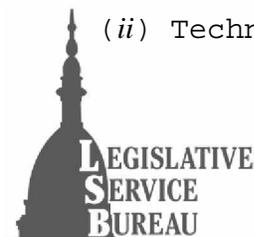
21       (i) The impact on both the qualified taxpayer and eligible  
22 business.

23       (ii) The number of jobs created.

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

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

27       (ii) Technology development roles and responsibilities.



1 (iii) A commercialization plan, including intellectual property  
2 structure.

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

5 (d) A financial summary.

6 (3) The authority shall develop criteria to competitively  
7 review applications, including criteria related to both of the  
8 following:

9 (a) Total cash investment by the qualified taxpayer.

10 (b) Total in-kind services provided by the qualified taxpayer.

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

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

18 (a) The taxpayer is an eligible business.

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

22 (c) The taxpayer's federal employer identification number or  
23 the Michigan department of treasury number assigned to the  
24 taxpayer.

25 (6) The authority shall not grant more than 20 credits under  
26 this section for any 1 year, based on an application and a  
27 competitive review criteria.



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

11 (8) As used in this section:

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

15 (b) "Eligible contribution" means the transfer of pecuniary  
 16 interest in the form of cash of not less than \$350,000.00, for the  
 17 purposes of research and development and technology innovation. An  
 18 eligible contribution does not include contract research.

19 (c) "Eligible business" means a taxpayer engaged in research  
 20 and development that together with any affiliates employs fewer  
 21 than 50 full-time employees or has gross receipts of less than  
 22 \$10,000,000.00 and has no prior financial interest in the qualified  
 23 taxpayer and in which the qualified taxpayer has no prior financial  
 24 interest.

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

27 (i) Proposes to fund, support, and collaborate in the research



1 and development and technology innovation with an eligible business  
2 located in this state.

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

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

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

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

12 Sec. 409. (1) For tax years that begin on or after January 1,  
13 2008 and end before January 1, 2013, an eligible taxpayer may claim  
14 a credit against the tax imposed by this act equal to the  
15 following:

16 (a) For the 2008 through 2010 tax years, 65% of the eligible  
17 taxpayer's total tax liability imposed under this act not to exceed  
18 \$1,700,000.00.

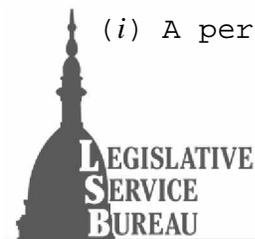
19 (b) For the 2011 tax year, 45% of the eligible taxpayer's  
20 total tax liability imposed under this act not to exceed  
21 \$1,180,000.00.

22 (c) For the 2012 tax year, 25% of the eligible taxpayer's  
23 total tax liability imposed under this act not to exceed  
24 \$650,000.00.

25 (2) As used in this section:

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

27 (i) A person who owns and operates a motorsports entertainment



1 complex and has at least 2 days of motor sports events each  
 2 calendar year which shall be comparable to NASCAR Nextel cup events  
 3 held in 2007 or their successor events.

4 (ii) A person who is the lessee and operator of a motorsports  
 5 entertainment complex or the lessee of the land on which a  
 6 motorsports entertainment complex is located and operates that  
 7 motorsports entertainment complex.

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

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

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

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

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

22 (iv) Engages in tourism promotion.

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

25 (c) "Motorsports event" means a motorsports race and its  
 26 ancillary activities that have been sanctioned by a sanctioning  
 27 body.



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

16 Sec. 410. (1) For tax years that begin on or after January 1,  
17 2008 and end before January 1, 2013, an eligible taxpayer may claim  
18 a credit against the tax imposed by this act equal to the  
19 following:

20 (a) For the 2008 through 2010 tax years, 65% of the eligible  
21 taxpayer's total tax liability imposed under this act not to exceed  
22 \$1,300,000.00.

23 (b) For the 2011 tax year, 45% of the eligible taxpayer's  
24 total tax liability imposed under this act not to exceed  
25 \$910,000.00.

26 (c) For the 2012 tax year, 25% of the eligible taxpayer's  
27 total tax liability imposed under this act not to exceed



1 \$520,000.00.

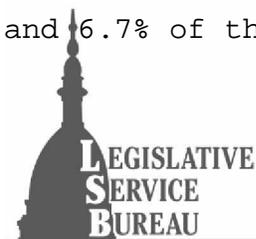
2 (2) As used in this section, "eligible taxpayer" means an  
3 owner of a facility or stadium, including grounds and ancillary  
4 facilities, that has a capacity of at least 14,000 patrons and is  
5 primarily used for professional sporting events or other  
6 entertainment and that has not received proceeds from a state  
7 appropriation, a public bond issue from a local unit of government  
8 or public authority, or a state or local tax or fee to assist in  
9 the construction or debt retirement of the facility other than a  
10 state or local tax or fee from a public entity for road or  
11 infrastructure assistance.

12 Sec. 411. A taxpayer whose gross receipts allocated or  
13 apportioned to this state are greater than \$350,000.00 but less  
14 than \$700,000.00, may claim a credit against the tax imposed under  
15 this act equal to the tax liability after the credit under section  
16 417 and before all other credits multiplied by a fraction the  
17 numerator of which is the difference between the person's allocated  
18 or apportioned gross receipts and \$700,000.00 and the denominator  
19 of which is \$350,000.00.

20 Sec. 413. (1) Subject to subsection (2), a taxpayer may claim  
21 a credit against the tax imposed by this act equal to the  
22 following:

23 (a) Thirty-five percent of the amount paid for property taxes  
24 levied on eligible personal property in the tax year.

25 (b) Twenty-three percent of the amount paid for property taxes  
26 levied on eligible telephone personal property in the 2008 tax year  
27 and 6.7% of the amount paid for property taxes levied on eligible



1 telephone personal property in subsequent tax years.

2 (c) Ten percent of the amount paid for property taxes levied  
3 on eligible natural gas pipeline property in the tax year.

4 (2) To qualify for the credit under subsection (1), the  
5 taxpayer shall file, if applicable, within the time prescribed each  
6 of the following:

7 (a) The statement of assessable personal property prepared  
8 pursuant to section 19 of the general property tax act, 1893 PA  
9 206, MCL 211.19, identifying the eligible personal property or  
10 eligible natural gas pipeline property, or both, for which the  
11 credit under subsection (1) is claimed.

12 (b) The annual report filed under section 6 of 1905 PA 282,  
13 MCL 207.6, identifying the eligible telephone personal property for  
14 which the credit under subsection (1) is claimed.

15 (c) The assessment or bill issued to and paid by the taxpayer  
16 for the eligible personal property, eligible natural gas pipeline  
17 property, or eligible telephone property for which the credit under  
18 subsection (1) is claimed.

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

22 (4) As used in this section:

23 (a) "Eligible natural gas pipeline property" means property  
24 that is classified as utility personal property under section 34c  
25 of the general property tax act, 1893 PA 206, MCL 211.34c, and is  
26 subject to regulation under the natural gas act, 15 USC 717 to  
27 717z.



1 (b) "Eligible personal property" means personal property that  
2 is classified as industrial personal property under section 34c of  
3 the general property tax act, 1893 PA 206, MCL 211.34c, and in the  
4 case of personal property that is subject to 1974 PA 198, MCL  
5 207.551 to 207.572, is situated on land classified as industrial  
6 real property under section 34c of the general property tax act,  
7 1893 PA 206, MCL 211.34c.

8 (c) "Eligible telephone personal property" means personal  
9 property of a telephone company subject to the tax levied under  
10 1905 PA 282, MCL 207.1 to 207.21.

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

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

14 (ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

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

17 Sec. 415. (1) A taxpayer that meets the criteria under  
18 subsection (4) and that is a qualified start-up business that does  
19 not have business income for 2 consecutive tax years may claim a  
20 credit against the tax imposed under this act for the second of  
21 those 2 consecutive tax years and each immediately following  
22 consecutive tax year in which the taxpayer does not have business  
23 income equal to the taxpayer's tax liability for the tax year in  
24 which the taxpayer has no business income. If the taxpayer has  
25 business income in any tax year after the credit under this section  
26 is claimed, the taxpayer shall claim the credit under this section  
27 for any following tax year only if the taxpayer subsequently has no



1 business income for 2 consecutive tax years. The taxpayer may claim  
2 the credit for the second of those 2 consecutive tax years and each  
3 immediately following consecutive tax year in which the taxpayer  
4 does not have business income.

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

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

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

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

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

25 (c) If the taxpayer has no business activity for the third tax  
26 year after the last tax year for which a credit under this section  
27 is claimed, 33% of the total of all credits claimed under this



1 section.

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

6 (a) A shareholder or officer of a corporation other than an S  
 7 corporation.

8 (b) A partner of a partnership or limited liability  
 9 partnership.

10 (c) A shareholder of an S corporation.

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

12 (e) An individual who is an owner.

13 (6) As used in this section:

14 (a) "Business income" means business income as defined in  
 15 section 105 excluding funds received from small business innovation  
 16 research grants and small business technology transfer programs  
 17 established under the small business innovation development act of  
 18 1982, Public Law 97-219, reauthorized under the small business  
 19 research and development enhancement act, Public Law 102-564, and  
 20 subsequently reauthorized under the small business reauthorization  
 21 act of 2000, Public Law 106-554.

22 (b) "Michigan economic development corporation" means the  
 23 public body corporate created under section 28 of article VII of  
 24 the state constitution of 1963 and the urban cooperation act of  
 25 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual  
 26 interlocal agreement effective April 5, 1999, as amended, between  
 27 local participating economic development corporations formed under



1 the economic development corporations act, 1974 PA 338, MCL  
2 125.1601 to 125.1636, and the Michigan strategic fund.

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

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

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

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

12 (iv) Is not publicly traded.

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

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

19 (B) 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 employees and  
23 was liable under the Michigan employment security act, 1936 (Ex  
24 Sess) PA 1, MCL 421.1 to 421.75.

25 (C) During the immediately preceding 7 years would have been  
26 in 1 of the first 2 years of contribution liability under section  
27 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,



1 MCL 421.19, if the qualified start-up business had not assumed  
 2 successor liability under section 15(g) of the Michigan employment  
 3 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

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

6 Sec. 417. (1) The credit provided in this section shall be  
 7 taken after the credits under sections 403 and 405 and before any  
 8 other credit under this act and is available to any taxpayer with  
 9 gross receipts that do not exceed \$20,000,000.00 and with adjusted  
 10 business income minus the loss adjustment that does not exceed  
 11 \$1,300,000.00 as adjusted annually for inflation using the Detroit  
 12 consumer price index and subject to the following:

13 (a) An individual, a partnership, a limited liability company,  
 14 or a subchapter S corporation is disqualified if the individual,  
 15 any 1 partner of the partnership, any 1 member of the limited  
 16 liability company, or any 1 shareholder of the subchapter S  
 17 corporation receives more than \$180,000.00 as a distributive share  
 18 of the adjusted business income minus the loss adjustment of the  
 19 individual, the partnership, the limited liability company, or the  
 20 subchapter S corporation.

21 (b) A corporation other than a subchapter S corporation is  
 22 disqualified if either of the following occur for the respective  
 23 tax year:

24 (i) Compensation and directors' fees of a shareholder or  
 25 officer exceed \$180,000.00.

26 (ii) The sum of the following amounts exceeds \$180,000.00:

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



1 (B) The product of the percentage of outstanding ownership or  
2 of outstanding stock owned by that shareholder multiplied by the  
3 difference between the sum of business income and, to the extent  
4 deducted in determining federal taxable income, a carry back or a  
5 carry over of a net operating loss or capital loss, minus the loss  
6 adjustment.

7 (c) Subject to the reduction percentage determined under  
8 subsection (3), the credit determined under this subsection shall  
9 be reduced by the following percentages in the following  
10 circumstances:

11 (i) If an individual, any 1 partner of the partnership, any 1  
12 member of the limited liability company, or any 1 shareholder of  
13 the subchapter S corporation receives as a distributive share of  
14 adjusted business income minus the loss adjustment of the  
15 individual, partnership, limited liability company, or subchapter S  
16 corporation; if compensation and directors' fees of a shareholder  
17 or officer of a corporation other than a subchapter S corporation  
18 are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B)  
19 is more than \$160,000.00 but less than \$165,000.00, the credit is  
20 reduced by 20%.

21 (ii) If an individual, any 1 partner of the partnership, any 1  
22 member of the limited liability company, or any 1 shareholder of  
23 the subchapter S corporation receives as a distributive share of  
24 adjusted business income minus the loss adjustment of the  
25 individual, partnership, limited liability company, or subchapter S  
26 corporation; if compensation and directors' fees of a shareholder  
27 or officer of a corporation other than a subchapter S corporation



1 are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B)  
2 is \$165,000.00 or more but less than \$170,000.00, the credit is  
3 reduced by 40%.

4 (iii) If an individual, any 1 partner of the partnership, any 1  
5 member of the limited liability company, or any 1 shareholder of  
6 the subchapter S corporation receives as a distributive share of  
7 adjusted business income minus the loss adjustment of the  
8 individual, partnership, limited liability company, or subchapter S  
9 corporation; if compensation and directors' fees of a shareholder  
10 or officer of a corporation other than a subchapter S corporation  
11 are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B)  
12 is \$170,000.00 or more but less than \$175,000.00, the credit is  
13 reduced by 60%.

14 (iv) If an individual, any 1 partner of the partnership, any 1  
15 member of the limited liability company, or any 1 shareholder of  
16 the subchapter S corporation receives as a distributive share of  
17 adjusted business income minus the loss adjustment of the  
18 individual, partnership, limited liability company, or subchapter S  
19 corporation; if compensation and directors' fees of a shareholder  
20 or officer of a corporation other than a subchapter S corporation  
21 are; or if the sum of the amounts in subdivision (b)(ii)(A) and (B)  
22 is \$175,000.00 or more but not in excess of \$180,000.00, the credit  
23 is reduced by 80%.

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

27 (3) To determine the reduction percentage under subsection



1 (1)(c), the following apply:

2 (a) The reduction percentage for a partnership, limited  
3 liability company, or subchapter S corporation is based on the  
4 distributive share of adjusted business income minus loss  
5 adjustment of the partner, member, or shareholder with the greatest  
6 distributive share of adjusted business income minus loss  
7 adjustment.

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

10 (i) The reduction percentage based on the compensation and  
11 directors' fees of the shareholder or officer with the greatest  
12 amount of compensation and directors' fees.

13 (ii) The reduction percentage based on the sum of the amounts  
14 in subsection (1)(b)(ii)(A) and (B) for the shareholder or officer  
15 with the greatest sum of the amounts in subsection (1)(b)(ii)(A) and  
16 (B).

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

21 (5) If gross receipts exceed \$19,000,000.00, the credit shall  
22 be reduced by a fraction, the numerator of which is the amount of  
23 gross receipts over \$19,000,000.00 and the denominator of which is  
24 \$1,000,000.00. The credit shall not exceed 100% of the tax  
25 liability imposed under this act.

26 (6) For a taxpayer that reports for a tax year less than 12  
27 months, the amounts specified in this section for gross receipts,



1 adjusted business income, and share of business income shall be  
 2 multiplied by a fraction, the numerator of which is the number of  
 3 months in the tax year and the denominator of which is 12.

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

11 (8) Compensation paid by the professional employer  
 12 organization to the officers of the client and to employees of the  
 13 professional employer organization who are assigned or leased to  
 14 and perform services for the client shall be included in  
 15 determining eligibility under this section.

16 (9) As used in this section:

17 (a) "Active shareholder" means a shareholder who receives at  
 18 least \$10,000.00 in compensation, directors' fees, or dividends  
 19 from the business, and who owns at least 5% of the outstanding  
 20 stock or other ownership interest.

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

23 (i) Add compensation and directors' fees of active shareholders  
 24 of a corporation.

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

27 (iii) Add, to the extent deducted in determining federal taxable



1 income, a capital loss.

2 (iv) Add compensation and directors' fees of officers of a  
3 corporation.

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

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

23 Sec. 419. (1) For tax years that begin after December 31,  
24 2008, a taxpayer that has been issued a tax voucher certificate  
25 under section 23 of the Michigan early stage venture investment act  
26 of 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or  
27 a portion of a tax voucher is transferred pursuant to the Michigan



1 early stage venture investment act of 2003, 2003 PA 296, MCL  
2 125.2231 to 125.2263, may use the tax voucher to pay a liability of  
3 the taxpayer due under this act.

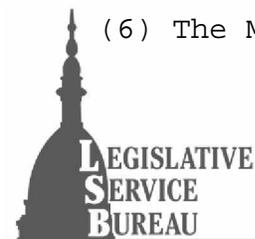
4 (2) The total amount of all tax voucher certificates that  
5 shall be approved under this section, section 37e of former 1975 PA  
6 228, and the Michigan early stage venture investment act of 2003,  
7 2003 PA 296, MCL 125.2231 to 125.2263, shall not exceed an amount  
8 sufficient to allow the Michigan early stage venture investment  
9 corporation to raise \$450,000,000.00 for the purposes authorized  
10 under the Michigan early stage venture investment act of 2003, 2003  
11 PA 296, MCL 125.2231 to 125.2263. The total amount of all tax  
12 voucher certificates under this section and section 37e of former  
13 1975 PA 228 shall not exceed \$600,000,000.00.

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

17 (4) For tax voucher certificates approved under subsection  
18 (2), the amount of tax voucher certificates approved by the  
19 department for use in any tax year shall not exceed 25% of the  
20 total amount of all tax voucher certificates approved by the  
21 department.

22 (5) Investors shall apply to the Michigan early stage venture  
23 investment corporation for approval of tax voucher certificates at  
24 the time and in the manner required under the Michigan early stage  
25 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to  
26 125.2263.

27 (6) The Michigan early stage venture investment corporation



1 shall determine which investors are eligible for tax vouchers and  
2 the amount of the tax vouchers allowed to each investor as provided  
3 in the Michigan early stage venture investment act of 2003, 2003 PA  
4 296, MCL 125.2231 to 125.2263.

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

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

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

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

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

23 (9) The department shall administer transfers of tax voucher  
24 certificates or the transfer of the right to be issued and receive  
25 a tax voucher certificate as provided in the Michigan early stage  
26 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to  
27 125.2263, and shall take any action necessary to enforce and



1 effectuate the permissible issuance and use of tax voucher  
2 certificates in a manner authorized under this section and the  
3 Michigan early stage venture investment act of 2003, 2003 PA 296,  
4 MCL 125.2231 to 125.2263.

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

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

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

23 (b) To pay any liability of the taxpayer under and to the  
24 extent allowed under section 270 of the income tax act of 1967,  
25 1967 PA 281, MCL 206.270.

26 (c) To be transferred to a taxpayer that may use the  
27 replacement tax voucher certificate to pay any liability under this



1 act to the extent allowed under subsection (8).

2 (d) To be transferred to a taxpayer that may use the tax  
3 voucher certificate to pay any liability under and to the extent  
4 allowed under section 270 of the income tax act of 1967, 1967 PA  
5 281, MCL 206.270.

6 (12) As used in this section:

7 (a) "Investor" means that term as defined in the Michigan  
8 early stage venture investment act of 2003, 2003 PA 296, MCL  
9 125.2231 to 125.2263.

10 (b) "Certificate" means the certificate issued under section  
11 23 of the Michigan early stage venture investment act of 2003, 2003  
12 PA 296, MCL 125.2253.

13 (c) "Transferee" means a taxpayer to whom a tax voucher  
14 certificate has been transferred under section 23 of the Michigan  
15 early stage venture investment act of 2003, 2003 PA 296, MCL  
16 125.2253, and this section.

17 Sec. 421. (1) A taxpayer that is not subject to the income tax  
18 act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit  
19 against the tax imposed by this act, subject to the applicable  
20 limitations under this section, equal to 50% of the aggregate  
21 amount of charitable contributions made by the taxpayer during the  
22 tax year to all of the following:

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

25 (b) A public library.

26 (c) An institution of higher learning located in this state or  
27 a nonprofit corporation, fund, foundation, trust, or association



1 organized and operated exclusively for the benefit of an  
2 institution of higher learning.

3 (d) The Michigan colleges foundation.

4 (e) A municipality or a nonprofit corporation affiliated with  
5 an art, historical, or zoological institute for the purpose of  
6 benefiting the art, historical, or zoological institute.

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

9 (g) The Michigan housing and community development fund  
10 created in section 3 of the Michigan housing and community  
11 development fund act, 2004 PA 479, MCL 125.2823.

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

22 (3) The credit allowed under this section for any tax year  
23 shall not exceed 5% of the tax liability of the taxpayer for that  
24 tax year as determined without regard to this section or  
25 \$10,000.00, whichever is less.

26 (4) If the amount of the credit allowed under this section  
27 exceeds the tax liability of the taxpayer for the tax year, that



1 portion of the credit that exceeds the tax liability shall not be  
2 refunded.

3 (5) As used in this section:

4 (a) "Institution of higher learning" means an educational  
5 institution located within this state meeting all of the following  
6 requirements:

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

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

11 (iii) Awards associate, bachelor's, master's, or doctoral  
12 degrees or any combination of those degrees or higher education  
13 credits acceptable for those degrees granted by other institutions  
14 of higher learning.

15 (iv) Is recognized by the state board of education as an  
16 institution of higher learning and appears as an institution of  
17 higher learning in the annual publication of the department of  
18 education entitled "the directory of institutions of higher  
19 education".

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

22 Sec. 423. (1) A taxpayer that is an employer that is subject  
23 to the worker's disability compensation act of 1969, 1969 PA 317,  
24 MCL 418.101 to 418.941, may claim a credit against the tax imposed  
25 by this act an amount equal to the amount paid during that tax year  
26 by the taxpayer pursuant to section 352 of the worker's disability  
27 compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by



1 the director of the bureau of worker's disability compensation  
2 pursuant to section 391(6) of the worker's disability compensation  
3 act of 1969, 1969 PA 317, MCL 418.391.

4 (2) A taxpayer that claims a credit under this section shall  
5 claim a portion of the credit allowed by this section equal to the  
6 payments made during a calendar quarter pursuant to section 352 of  
7 the worker's disability compensation act of 1969, 1969 PA 317, MCL  
8 418.352, against the estimated tax payments made under section 501.  
9 Any subsequent increase or decrease in the amount claimed for  
10 payments made by the insurer or self-insurer shall be reflected in  
11 the amount of the credit taken for the calendar quarter in which  
12 the amount of the adjustment is finalized.

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

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

19 Sec. 425. (1) Subject to the applicable limitations in this  
20 section, a taxpayer that does not claim a credit under section 261  
21 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim  
22 a credit against the tax imposed by this act equal to 50% of the  
23 amount the taxpayer contributed during the tax year to an endowment  
24 fund of a community foundation or an education foundation.

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



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

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

19 (5) On or before July 1 of each year, the department shall  
20 report to the house of representatives committee on tax policy and  
21 the senate finance committee the total amount of tax credits  
22 claimed under this section and under section 261 of the income tax  
23 act of 1967, 1967 PA 281, MCL 206.261, for the immediately  
24 preceding tax year.

25 (6) As used in this section:

26 (a) "Community foundation" means an organization that applies  
27 for certification under subsection (4) on or before May 15 of the



1 tax year for which the taxpayer is claiming the credit and that the  
2 department certifies for that tax year as meeting all of the  
3 following requirements:

4 (i) Qualifies for exemption from federal income taxation under  
5 section 501(c)(3) of the internal revenue code.

6 (ii) Supports a broad range of charitable activities within the  
7 specific geographic area of this state that it serves, such as a  
8 municipality or county.

9 (iii) Maintains an ongoing program to attract new endowment  
10 funds by seeking gifts and bequests from a wide range of potential  
11 donors in the community or area served.

12 (iv) Is publicly supported as defined by the regulations of the  
13 United States department of treasury, 26 CFR 1.170A-9(e)(10). To  
14 maintain certification, the community foundation shall submit  
15 documentation to the department annually that demonstrates  
16 compliance with this subparagraph.

17 (v) Is not a supporting organization as an organization is  
18 described in section 509(a)(3) of the internal revenue code and in  
19 26 CFR 1.509(a)-4 and 1.509(a)-5.

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

22 (vii) Except as provided in subsection (4), is incorporated or  
23 established as a trust at least 6 months before the beginning of  
24 the tax year for which the credit under this section is claimed and  
25 that has an endowment value of at least \$100,000.00 before the  
26 expiration of 18 months after the community foundation is  
27 incorporated or established.



1           (viii) Has an independent governing body representing the  
2 general public's interest and that is not appointed by a single  
3 outside entity.

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

9           (x) For community foundations that have an endowment value of  
10 \$1,000,000.00 or more only, the community foundation is subject to  
11 an annual independent financial audit and provides copies of that  
12 audit to the department not more than 3 months after the completion  
13 of the audit. For community foundations that have an endowment  
14 value of less than \$1,000,000.00, the community foundation is  
15 subject to an annual review and an audit every third year.

16           (xi) In addition to all other criteria listed in this  
17 subsection for a community foundation that is incorporated or  
18 established after January 9, 2001, operates in a county of this  
19 state that was not served by a community foundation when the  
20 community foundation was incorporated or established or operates as  
21 a geographic component of an existing certified community  
22 foundation.

23           (b) "Education foundation" means an organization that applies  
24 for certification on or before April 1 of the tax year for which  
25 the taxpayer is claiming the credit that annually submits  
26 documentation to the department that demonstrates continued  
27 compliance with this subdivision, and that the department certifies



1 for that tax year as meeting all of the following requirements:

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

4 (ii) Maintains an ongoing program to attract new funds by  
5 seeking gifts and bequests from a wide range of potential donors in  
6 the community or area served.

7 (iii) All funds, gifts, and bequests are exclusively dedicated  
8 to a school district or public school academy or a foundation  
9 described in section 509(a)(1) or 509(a)(3) of the internal revenue  
10 code that is located in the community or area served and that is  
11 located in this state.

12 (iv) Is publicly supported as defined by the regulations of the  
13 United States department of treasury, 26 CFR 1.170A-9(e)(10).

14 (v) Meets the requirements for treatment as a single entity  
15 contained in the regulations of the United States department of  
16 treasury, 26 CFR 1.170A-9(e)(11).

17 (vi) Is incorporated or established as a trust at least 6  
18 months before the beginning of the tax year for which the credit is  
19 claimed.

20 (vii) Has an independent governing body representing the  
21 general public's interest and that is not appointed by a single  
22 outside entity.

23 (viii) Is subject to a program review each year and an  
24 independent financial audit every 3 years and provides copies of  
25 the reviews and audits to the department not more than 3 months  
26 after the review or audit is completed.

27 Sec. 427. (1) A taxpayer that does not claim a credit under



1 section 261 of the income tax act of 1967, 1967 PA 281, MCL  
2 206.261, for a contribution to a shelter for homeless persons, food  
3 kitchen, food bank, or other entity, the primary purpose of which  
4 is to provide overnight accommodation, food, or meals to persons  
5 who are indigent, may claim a credit against the tax imposed by  
6 this act equal to 50% of the cash amount the taxpayer contributed  
7 during the tax year to a shelter for homeless persons, food  
8 kitchen, food bank, or other entity, the primary purpose of which  
9 is to provide overnight accommodation, food, or meals to persons  
10 who are indigent, if a contribution to that entity is tax  
11 deductible for the donor under the internal revenue code.

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

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

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

24 (5) On or before July 1 of each year, the department shall  
25 report to the house of representatives committee on tax policy and  
26 the senate committee on finance the total amount of tax credits  
27 claimed under this section, section 425, and section 261 of the



1 income tax act of 1967, 1967 PA 281, MCL 206.261, for the  
2 immediately preceding tax year.

3 Sec. 429. (1) A taxpayer may claim a credit against the tax  
4 imposed by this act for 1 or more of the following as applicable:

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

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

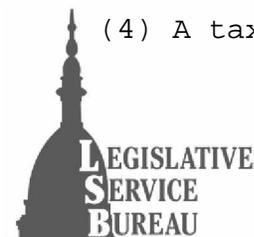
7 (2) A taxpayer that is certified under the Michigan next  
8 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an  
9 eligible taxpayer may claim a nonrefundable credit for the tax year  
10 equal to the amount determined under subdivision (a) or (b),  
11 whichever is less:

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

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

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

27 (4) A taxpayer that claims a credit under subsection (2) shall



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

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

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

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

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

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

19 (7) As used in this section:

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

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

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



1 taxpayer:

2 (A) Business income.

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

4 (C) The alternative energy business activity factor.

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

23 Sec. 431. (1) For a period of time not to exceed 20 years as  
24 determined by the Michigan economic growth authority, a taxpayer  
25 that is an authorized business or an eligible taxpayer may claim a  
26 credit against the tax imposed by this act equal to the amount  
27 certified each year by the Michigan economic growth authority as



1 follows:

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

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

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

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

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



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

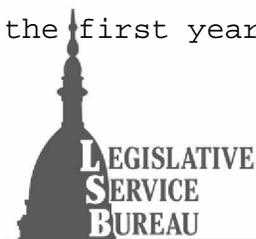
3 (b) The amount of the credit under this section for the  
4 authorized business or eligible taxpayer for the designated tax  
5 year.

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

9 (4) The Michigan economic growth authority may certify a  
10 credit under this section based on an agreement entered into prior  
11 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.  
12 The number of years for which the credit may be claimed under this  
13 section shall equal the maximum number of years designated in the  
14 resolution reduced by the number of years for which a credit has  
15 been claimed or could have been claimed under section 37c of former  
16 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) For purposes of this section, taxpayer includes a person  
 17 subject to the tax imposed under chapter 2B.

18 (10) As used in this section:

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

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

26 (c) "Michigan economic growth authority" means the Michigan  
 27 economic growth authority created in the Michigan economic growth



1 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

5 (i) The average number of full-time jobs at a facility of an  
6 authorized business for a tax year in excess of the average number  
7 of full-time jobs the authorized business maintained in this state  
8 prior to the expansion or location as that is determined under the  
9 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
10 207.810.

11 (ii) The average number of full-time jobs at a facility created  
12 by an eligible business within 120 days before becoming an  
13 authorized business that is in excess of the average number of  
14 full-time jobs that the business maintained in this state 120 days  
15 before becoming an authorized business, as determined under the  
16 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
17 207.810.

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

22 Sec. 433. (1) A taxpayer that is a business located and  
23 conducting business activity within a renaissance zone may claim a  
24 credit against the tax imposed by this act for the tax year to the  
25 extent and for the duration provided pursuant to the Michigan  
26 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal  
27 to the lesser of the following:



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

3 (b) Ten percent of adjusted services performed in a designated  
4 renaissance zone.

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

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

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

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

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

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

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

26 (5) A taxpayer that claims a credit under this section shall  
27 not employ, pay a speaker fee to, or provide any remuneration,



1 compensation, or consideration to any person employed by the state,  
 2 the state administrative board created in 1921 PA 2, MCL 17.1 to  
 3 17.3, or the renaissance zone review board created in 1996 PA 376,  
 4 MCL 125.2681 to 125.2696, whose employment relates or related in  
 5 any way to the authorization or enforcement of the credit allowed  
 6 under this section for any year in which the taxpayer claims a  
 7 credit under this section and for the 3 years after the last year  
 8 that a credit is claimed.

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

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

18 (8) As used in this section:

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

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



1 new property, in the immediately following tax year.

2 (ii) For a partnership, limited liability company, S  
3 corporation, or individual, the amount determined under  
4 subparagraph (i) plus the product of the following as related to the  
5 taxpayer if greater than zero:

6 (A) Business income.

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

10 (C) The renaissance zone business activity factor.

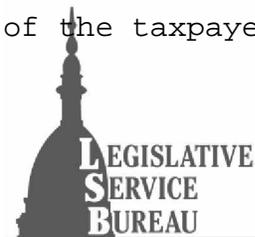
11 (b) "Casino" means a casino regulated by this state pursuant  
12 to the Michigan gaming control and revenue act, the Initiated Law  
13 of 1996, MCL 432.201 to 432.226.

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

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

22 (e) "Renaissance zone" means that term as defined in the  
23 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
24 125.2696.

25 (f) "Renaissance zone business activity factor" means a  
26 fraction, the numerator of which is the ratio of the average value  
27 of the taxpayer's property located in a designated renaissance zone



1 to the average value of the taxpayer's property in this state plus  
 2 the ratio of the taxpayer's payroll for services performed in a  
 3 designated renaissance zone to all of the taxpayer's payroll in  
 4 this state and the denominator of which is 2.

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

8 Sec. 435. (1) A qualified taxpayer with a rehabilitation plan  
 9 certified after December 31, 2007 or a qualified taxpayer that has  
 10 a rehabilitation plan certified before January 1, 2008 under  
 11 section 39c of former 1975 PA 228 for the rehabilitation of a  
 12 historic resource for which a certification of completed  
 13 rehabilitation has been issued after the end of the taxpayer's last  
 14 tax year may credit against the tax imposed by this act the amount  
 15 determined pursuant to subsection (2) for the qualified  
 16 expenditures for the rehabilitation of a historic resource pursuant  
 17 to the rehabilitation plan in the year in which the certification  
 18 of completed rehabilitation of the historic resource is issued  
 19 provided that the certification of completed rehabilitation was  
 20 issued not more than 5 years after the rehabilitation plan was  
 21 certified by the Michigan historical center.

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



1 qualified expenditures that would qualify under section 47(a)(2) of  
2 the internal revenue code except that the expenditures are made to  
3 a historic resource that is not eligible for the credit under  
4 section 47(a)(2) of the internal revenue code, subject to both of  
5 the following:

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

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

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

21 (a) All of the following criteria:

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

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



1 (iii) All rehabilitation work has been done to or within the  
2 walls, boundaries, or structures of the historic resource or to  
3 historic resources located within the property boundaries of the  
4 property.

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

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

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

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



1 subdivision (a) and 1 of the criteria listed in subdivision (b):

2 (a) The resource is 1 of the following during the tax year in  
3 which a credit under this section is claimed for those qualified  
4 expenditures:

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

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

10 (iii) A contributing resource located within a historic district  
11 designated by a local unit pursuant to an ordinance adopted under  
12 the local historic districts act, 1970 PA 169, MCL 399.201 to  
13 399.215.

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

17 (i) The historic resource is located in a designated historic  
18 district in a local unit of government with an existing ordinance  
19 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
20 399.215.

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

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

27 (iv) The historic resource is located in an incorporated local



1 unit of government that does not have an ordinance under the local  
2 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is  
3 located within the boundaries of an association that has been  
4 chartered under 1889 PA 39, MCL 455.51 to 455.72.

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



1 (8) If the credit allowed under this section for the tax year  
2 and any unused carryforward of the credit allowed by this section  
3 exceed the taxpayer's tax liability for the tax year, that portion  
4 that exceeds the tax liability for the tax year shall not be  
5 refunded but may be carried forward to offset tax liability in  
6 subsequent tax years for 10 years or until used up, whichever  
7 occurs first. An unused carryforward of a credit under section 39c  
8 of former 1975 PA 228 that was unused at the end of the last tax  
9 year for which former 1975 PA 228 was in effect may be claimed  
10 against the tax imposed under this act for the years the  
11 carryforward would have been available under section 39c of former  
12 1975 PA 228.

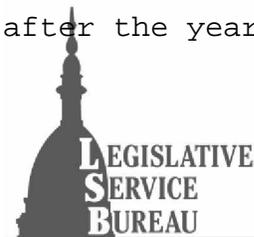
13 (9) If the taxpayer sells a historic resource for which a  
14 credit was claimed under this section or under section 39c of  
15 former 1975 PA 228 less than 5 years after the year in which the  
16 credit was claimed, the following percentage of the credit amount  
17 previously claimed relative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

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

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

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

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



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

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

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

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

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

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

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

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

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

26 (11) The department of history, arts, and libraries through  
27 the Michigan historical center may impose a fee to cover the



1 administrative cost of implementing the program under this section.

2 (12) The qualified taxpayer shall attach all of the following  
3 to the qualified taxpayer's annual return required under this act  
4 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to  
5 206.532, if applicable, on which the credit is claimed:

6 (a) Certification of completed rehabilitation.

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

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

14 (13) The department of history, arts, and libraries shall  
15 promulgate rules to implement this section pursuant to the  
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
17 24.328.

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

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

27 (a) The fee schedule used by the center and the total amount



1 of fees collected.

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

3 (c) The location of each new and ongoing rehabilitation  
4 project.

5 (16) For purposes of this section, taxpayer includes a person  
6 subject to the tax imposed under chapter 2B.

7 (17) As used in this section:

8 (a) "Contributing resource" means a historic resource that  
9 contributes to the significance of the historic district in which  
10 it is located.

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

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

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

25 (ii) An income-producing commercial, industrial, or residential  
26 resource or a historic resource located within the property  
27 boundaries of that resource.



1 (iii) A resource owned by a governmental body, nonprofit  
2 organization, or tax-exempt entity that is used primarily by a  
3 taxpayer lessee in a trade or business unrelated to the  
4 governmental body, nonprofit organization, or tax-exempt entity and  
5 that is subject to tax under this act.

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

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

10 (d) "Last tax year" means the taxpayer's tax year under former  
11 1975 PA 228 that begins after December 31, 2006 and before January  
12 1, 2008.

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

14 (f) "Long-term lease" means a lease term of at least 27.5  
15 years for a residential resource or at least 31.5 years for a  
16 nonresidential resource.

17 (g) "Michigan historical center" or "center" means the state  
18 historic preservation office of the Michigan historical center of  
19 the department of history, arts, and libraries or its successor  
20 agency.

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

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

26 (j) "Qualified expenditures" means capital expenditures that  
27 qualify for a rehabilitation credit under section 47(a)(2) of the



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

16 (k) "Qualified taxpayer" means a person that is an assignee  
17 under subsection (7) or either owns the resource to be  
18 rehabilitated or has a long-term lease agreement with the owner of  
19 the historic resource and that has qualified expenditures for the  
20 rehabilitation of the historic resource equal to or greater than  
21 10% of the state equalized valuation of the property. If the  
22 historic resource to be rehabilitated is a portion of a historic or  
23 nonhistoric resource, the state equalized valuation of only that  
24 portion of the property shall be used for purposes of this  
25 subdivision. If the assessor for the local tax collecting unit in  
26 which the historic resource is located determines the state  
27 equalized valuation of that portion, that assessor's determination

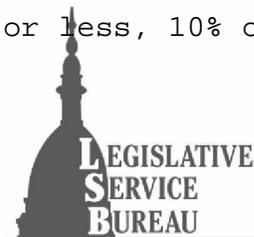


1 shall be used for purposes of this subdivision. If the assessor  
 2 does not determine that state equalized valuation of that portion,  
 3 qualified expenditures, for purposes of this subdivision, shall be  
 4 equal to or greater than 5% of the appraised value as determined by  
 5 a certified appraiser. If the historic resource to be rehabilitated  
 6 does not have a state equalized valuation, qualified expenditures  
 7 for purposes of this subdivision shall be equal to or greater than  
 8 5% of the appraised value of the resource as determined by a  
 9 certified appraiser.

10 (l) "Rehabilitation plan" means a plan for the rehabilitation  
 11 of a historic resource that meets the federal secretary of the  
 12 interior's standards for rehabilitation and guidelines for  
 13 rehabilitation of historic buildings under 36 CFR part 67.

14 Sec. 437. (1) Subject to the criteria under this section, a  
 15 qualified taxpayer that has unused credits or has a preapproval  
 16 letter issued after December 31, 2007 and before January 1, 2013,  
 17 or a taxpayer that received a preapproval letter prior to January  
 18 1, 2008 under section 38g of former 1975 PA 228 and has not  
 19 received a certificate of completion prior to the taxpayer's last  
 20 tax year, provided that the project is completed not more than 5  
 21 years after the preapproval letter for the project is issued, or an  
 22 assignee under subsection (20), (21), or (22) may claim a credit  
 23 that has been approved under section 38g of former 1975 PA 228 or  
 24 under subsection (2), (3), or (4) against the tax imposed by this  
 25 act equal to either of the following:

26 (a) If the total of all credits for a project is \$1,000,000.00  
 27 or less, 10% of the cost of the qualified taxpayer's eligible



1 investment paid or accrued by the qualified taxpayer on an eligible  
2 property provided that the project does not exceed the amount  
3 stated in the preapproval letter. If eligible investment exceeds  
4 the amount of eligible investment in the preapproval letter for  
5 that project, the total of all credits for the project shall not  
6 exceed the total of all credits on the certificate of completion.

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

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

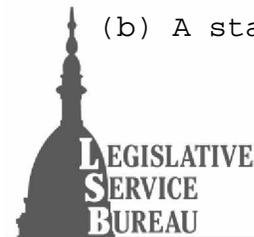


1 application. If the chairperson of the Michigan economic growth  
2 authority or his or her designee does not approve or deny the  
3 application within 45 days after the application is received by the  
4 Michigan economic growth authority, the application is considered  
5 approved as written. The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



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

- 26 (a) A copy of the proposed resolution and all attachments.  
27 (b) A statement that any person may express any data, views,



1 or arguments regarding the proposed resolution.

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

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

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

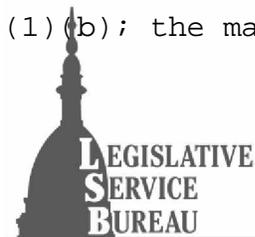


1 all projects approved under this subsection in the immediately  
2 preceding calendar year. The criteria in subsection (7) shall be  
3 used when approving projects under this subsection. When approving  
4 projects under this subsection, priority shall be given to projects  
5 on a facility. The total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

22 (4) If the cost of a project will be for more than  
23 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
24 project is located in a qualified local governmental unit, a  
25 qualified taxpayer shall apply to the Michigan economic growth  
26 authority for approval of the project. An application under this  
27 subsection shall state whether the project is a multiphase project.



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



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

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

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

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

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



1 includes a building or complex of buildings that was used by a  
2 state or federal agency and that is no longer being used for the  
3 purpose for which it was used by the state or federal agency.

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

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

22 (a) The overall benefit to the public.

23 (b) The extent of reuse of vacant buildings and redevelopment  
24 of blighted property.

25 (c) Creation of jobs.

26 (d) Whether the eligible property is in an area of high  
27 unemployment.



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

4 (f) The level of private sector contribution.

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

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

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

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

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

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



1 amount allowed in the preapproval letter for that project.

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



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

22 (11) When a project under this section is completed, the  
23 taxpayer shall submit documentation that the project is completed,  
24 an accounting of the cost of the project, the eligible investment  
25 of each taxpayer if there is more than 1 taxpayer eligible for a  
26 credit for the project, and, if the taxpayer is not the owner or  
27 lessee of the eligible property on which the eligible investment



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

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

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

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

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

24 (e) The project number.

25 (f) For a project approved under subsection (4) for which the  
26 total of all credits is more than \$10,000,000.00 but \$30,000,000.00  
27 or less, the total of all credits and the schedule on which the



1 annual credit amount shall be claimed by the qualified taxpayer.

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

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

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

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

24 (15) Each qualified taxpayer and assignee under subsection  
25 (20), (21), or (22) that claims a credit under this section shall  
26 attach a copy of the certificate of completion and, if the credit  
27 was assigned, a copy of the assignment form provided for under this



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

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

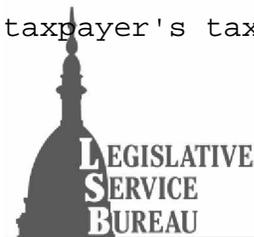
17 (17) The credits approved under this section shall be  
18 calculated after application of all other credits allowed under  
19 this act. The credits under this section shall be calculated before  
20 the calculation of the credit under section 431.

21 (18) If the credit allowed under this section for the tax year  
22 and any unused carryforward of the credit allowed under this  
23 section exceed the qualified taxpayer's or assignee's tax liability  
24 for the tax year, that portion that exceeds the tax liability for  
25 the tax year shall not be refunded but may be carried forward to  
26 offset tax liability in subsequent tax years for 10 years or until  
27 used up, whichever occurs first. Except as otherwise provided in



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

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



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

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



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

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



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

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

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

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



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



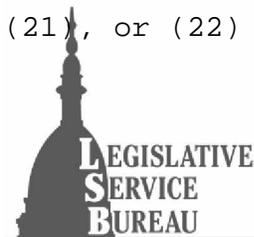
1 subsection shall be made on a form prescribed by the Michigan  
2 economic growth authority. The qualified taxpayer shall send a copy  
3 of the completed assignment form to the Michigan economic growth  
4 authority in the tax year in which an assignment or reassignment is  
5 made. An assignee or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

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

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

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

26 (23) A qualified taxpayer or assignee under subsection (20),  
27 (21), or (22) shall not claim a credit under subsection (1)(a) or



1 (b) based on eligible investment on which a credit claimed under  
2 section 38d of former 1975 PA 228 was based.

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

11 (25) An eligible taxpayer that claims a credit under this  
12 section is not prohibited from claiming a credit under section 431.  
13 However, the eligible taxpayer shall not claim a credit under this  
14 section and section 431 based on the same costs.

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

25 (27) Eligible investment attributable or related to the  
26 operation of a casino, and eligible investment that is associated  
27 or affiliated with the operation of a casino, including, but not



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

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

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

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

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

21 (30) For purposes of this section, taxpayer includes a person  
22 subject to the tax imposed under chapter 2B.

23 (31) As used in this section:

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



1 taxpayer's credit amount approved under subsection (3).

2 (b) "Authority" means a brownfield redevelopment authority  
3 created under the brownfield redevelopment financing act, 1996 PA  
4 381, MCL 125.2651 to 125.2672.

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

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

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



1 of 10 years or is for the expected useful life of the machinery,  
 2 equipment, or fixtures, and if the owner of the machinery,  
 3 equipment, or fixtures is not the qualified taxpayer with regard to  
 4 that machinery, equipment, or fixtures.

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

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

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

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

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

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

25 (III) Lead or asbestos abatement.

26 (IV) Site preparation that is not response activity under  
 27 section 20101 of the natural resources and environmental protection



1 act, 1994 PA 451, MCL 324.20101.

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

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

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

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

20 (g) "Last tax year" means the taxpayer's tax year under former  
21 1975 PA 228 that begins after December 31, 2006 and before January  
22 1, 2008.

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

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



1 completed separately.

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

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

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

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

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

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

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

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

21 (i) Owns or leases eligible property.

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



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

10 Sec. 439. (1) A taxpayer may claim a credit against the tax  
 11 imposed by this act equal to \$1.00 per long ton of qualified low-  
 12 grade hematite consumed in an industrial or manufacturing process  
 13 that is the business activity of the taxpayer.

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

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

22 (4) As used in this section:

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

26 (b) "Low-grade hematite" means any hematitic iron formation  
 27 that is not of sufficient quality in its original mineral state to



1 be mined and shipped for the production of pig iron or steel  
2 without first being drilled, blasted, crushed, and ground very fine  
3 to liberate the iron minerals and for which additional  
4 beneficiation and agglomeration are required to produce a product  
5 of sufficient quality to be used in the production of pig iron or  
6 steel.

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

9 Sec. 441. (1) For the 2008, 2009, and 2010 tax years, except  
10 as otherwise provided under subsection (2), a taxpayer may claim  
11 the Michigan entrepreneurial credit equal to 100% of the eligible  
12 taxpayer's tax liability imposed by this act if the taxpayer meets  
13 all of the following conditions:

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

18 (b) For the first tax year in which the credit under this  
19 section is claimed, has created in this state or transferred into  
20 this state not fewer than 20 new jobs in the immediately preceding  
21 tax year. For each subsequent tax year that the taxpayer claims a  
22 credit under this section, has increased the number of new jobs in  
23 this state by at least 20% from the immediately preceding tax year.

24 (c) For the first tax year in which the credit under this  
25 section is claimed, has made a capital investment in this state of  
26 not less than \$1,250,000.00 in the immediately preceding tax year.  
27 For each subsequent tax year that the taxpayer claims a credit



1 under this section, has made a capital investment in this state of  
 2 not less than \$600,000.00 in the immediately preceding tax year.  
 3 For purposes of determining eligibility under this subdivision, the  
 4 capital investment shall not include the purchase of an existing  
 5 plant or the purchase of existing equipment.

6 (d) Is not a retail establishment.

7 (2) A taxpayer that is an eligible business as defined in  
 8 section 407 and that received an eligible contribution as defined  
 9 in section 407 for which a credit was claimed by another taxpayer  
 10 may claim the Michigan entrepreneurial credit equal to 100% of the  
 11 taxpayer's tax liability imposed by this act if the taxpayer meets  
 12 all of the following conditions:

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

17 (b) Has increased the number of new jobs in this state by at  
 18 least 20% from the immediately preceding tax year.

19 (c) Is not a retail establishment.

20 (3) An eligible taxpayer may claim the credit under this  
 21 section on a form prescribed by the department.

22 (4) If the new jobs for which the taxpayer qualifies for this  
 23 credit are relocated outside of this state within 5 years after  
 24 claiming the Michigan entrepreneurial credit under this section, that  
 25 taxpayer is liable in an amount equal to the total of all credits  
 26 received under this section. Any liability under this subsection shall  
 27 be collected under 1941 PA 122, MCL 205.1 to 205.31.



1 (5) As used in this section:

2 (a) "Detroit consumer price index" means the most  
3 comprehensive index of consumer prices available for the Detroit  
4 area from the United States department of labor, bureau of labor  
5 statistics.

6 (b) "New jobs" means jobs that meet all of the following  
7 criteria:

8 (i) Did not exist in this state in the immediately preceding  
9 tax year.

10 (ii) Represent an overall increase in full-time equivalent jobs  
11 of the taxpayer in this state in the immediately preceding tax  
12 year.

13 (iii) Are not jobs into which employees transfer if the  
14 employees worked in this state for the taxpayer in other jobs prior  
15 to beginning the new jobs.

16 Sec. 445. (1) A taxpayer that is a new motor vehicle dealer  
17 licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
18 257.923, may claim a credit against the tax imposed by this act  
19 equal to 2% of the amount paid by the taxpayer to acquire new motor  
20 vehicle inventory in the tax year, not to exceed \$7,500.00.

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

25 (3) As used in this section, "new motor vehicle inventory"  
26 means new motor vehicles or motor vehicle parts.

27 Sec. 447. (1) An eligible taxpayer may claim a credit against



1 the tax imposed by this act equal to 0.125% of the taxpayer's  
2 compensation in this state, not to exceed \$3,000,000.00.

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 not be refunded and shall not be carried forward as an  
6 offset to the tax liability in subsequent tax years.

7 (3) A taxpayer that claims a credit under this section shall  
8 not claim a credit under section 449.

9 (4) As used in this section, "eligible taxpayer" means a  
10 taxpayer that meets all of the following conditions:

11 (a) Operates at least 17,000,000 square feet of enclosed  
12 retail space and 2,000,000 square feet of enclosed warehouse space  
13 in this state.

14 (b) Sells all of the following at retail:

15 (i) Fresh, frozen, or processed food, food products, or  
16 consumable necessities:

17 (ii) Prescriptions and over-the-counter medications.

18 (iii) Health and beauty care products.

19 (iv) Cosmetics.

20 (v) Pet products.

21 (vi) Carbonated beverages.

22 (vii) Beer, wine, or liquor.

23 (c) Sales of the items listed in subdivision (b) represent  
24 more than 35% of the taxpayer's total sales in the tax year.

25 (d) Maintains its headquarters operation in this state.

26 Sec. 449. (1) An eligible taxpayer may claim a credit against  
27 the tax imposed by this act equal to 0.125% of the taxpayer's



1 compensation in this state, not to exceed \$200,000.00.

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

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

8 (a) Operates at least 2,500,000 square feet of enclosed retail  
9 space and 1,400,000 square feet of enclosed warehouse,  
10 headquarters, and transportation services in this state.

11 (b) Sells all of the following at retail:

12 (i) Fresh, frozen, or processed food, food products, or  
13 consumable necessities.

14 (ii) Prescriptions and over-the-counter medications.

15 (iii) Health and beauty care products.

16 (iv) Cosmetics.

17 (v) Pet products.

18 (vi) Carbonated beverages.

19 (vii) Beer, wine, or liquor.

20 (c) Sales of the items listed in subdivision (b) represent  
21 more than 35% of the taxpayer's total sales in the tax year.

22 (d) The taxpayer maintains its headquarters operation in this  
23 state.

## 24 CHAPTER 5

25 Sec. 501. (1) A taxpayer that reasonably expects liability for  
26 the tax year to exceed \$800.00 shall file an estimated return and  
27 pay an estimated tax for each quarter of the taxpayer's tax year.



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

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

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

17 (a) If the sum of the estimated payments equals at least 85%  
18 of the liability and the amount of each estimated payment  
19 reasonably approximates the tax liability incurred during the  
20 quarter for which the estimated payment was made.

21 (b) For the 2009 tax year and each subsequent tax year, if the  
22 preceding year's tax liability under this act was \$20,000.00 or  
23 less and if the taxpayer submitted 4 equal installments the sum of  
24 which equals the immediately preceding tax year's tax liability.

25 (5) Each estimated return shall be made on a form prescribed  
26 by the department and shall include an estimate of the annual tax  
27 liability and other information required by the state treasurer.



1 The form prescribed under this subsection may be combined with any  
2 other tax reporting form prescribed by the department.

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

7 (7) Payments made under this section shall be a credit against  
8 the payment required with the annual tax return required in section  
9 505.

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

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

23 Sec. 503. If a taxpayer's tax year to which this act applies  
24 ends before December 31, 2008 or if a taxpayer's first tax year is  
25 less than 12 months then a taxpayer subject to this act may elect  
26 to compute the tax imposed by this act for the portion of that tax  
27 year to which this act applies or that first tax year in accordance



1 with 1 of the following methods:

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

7 (b) The tax may be computed by determining the business income  
8 tax base and modified gross receipts tax base in the first tax year  
9 in accordance with an accounting method satisfactory to the  
10 department that reflects the actual business income tax base and  
11 modified gross receipts tax base attributable to the period.

12 Sec. 505. (1) An annual or final return shall be filed with  
13 the department in the form and content prescribed by the department  
14 by the last day of the fourth month after the end of the taxpayer's  
15 tax year. Any final liability shall be remitted with this return. A  
16 taxpayer, other than a taxpayer subject to the tax imposed under  
17 chapter 2A or 2B, whose apportioned or allocated gross receipts are  
18 less than \$350,000.00 does not need to file a return or pay the tax  
19 imposed under this act.

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

25 (3) The department, upon application of the taxpayer and for  
26 good cause shown, may extend the date for filing the annual return.  
27 Interest at the rate under section 23(2) of 1941 PA 122, MCL



1 205.23, shall be added to the amount of the tax unpaid for the  
2 period of the extension. The treasurer shall require with the  
3 application payment of the estimated tax liability unpaid for the  
4 tax period covered by the extension.

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

15 Sec. 507. (1) A taxpayer required to file a return under this  
16 act may be required to furnish a true and correct copy of any  
17 return or portion of any return filed under the provisions of the  
18 internal revenue code.

19 (2) A taxpayer shall file an amended return with the  
20 department showing any alteration in or modification of a federal  
21 income tax return that affects its business income tax base or  
22 modified gross receipts tax base under this act. The amended return  
23 shall be filed within 120 days after the final determination by the  
24 internal revenue service.

25 Sec. 509. (1) At the request of the department, a taxpayer  
26 required by the internal revenue code to file or submit an  
27 information return of income paid to others shall, to the extent



1 the information is applicable to residents of this state, at the  
2 same time file or submit the information in the form and content  
3 prescribed to the department.

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

9 Sec. 511. A unitary business group shall file a combined  
10 return that includes each United States person, other than a  
11 foreign operating entity, that is included in the unitary business  
12 group. Each United States person included in a unitary business  
13 group or included in a combined return shall be treated as a single  
14 person and all transactions between those persons included in the  
15 unitary business group shall be eliminated from the business income  
16 tax base, modified gross receipts tax base, and the apportionment  
17 formula under this act. If a United States person included in a  
18 unitary business group or included in a combined return is subject  
19 to the tax under chapter 2A or 2B, any business income attributable  
20 to that person shall be eliminated from the business income tax  
21 base, any modified gross receipts attributable to that person shall  
22 be eliminated from the modified gross receipts tax base, and any  
23 sales attributable to that person shall be eliminated from the  
24 apportionment formula under this act.

25 Sec. 513. (1) The tax imposed by this act shall be  
26 administered by the department of treasury pursuant to 1941 PA 122,  
27 MCL 205.1 to 205.31, and this act. If a conflict exists between



1 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of  
2 this act apply.

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

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

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

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

22 Sec. 515. (1) In fiscal year 2007-2008, \$203,700,000.00 of the  
23 revenue collected under this act shall be distributed to the school  
24 aid fund and the balance shall be deposited into the general fund.  
25 In fiscal year 2008-2009, \$613,700,000.00 of the revenue collected  
26 under this act shall be distributed to the school aid fund and the  
27 balance shall be deposited into the general fund. For each fiscal



1 year after the 2008-2009 fiscal year, that amount from the  
2 immediately preceding fiscal year as annually adjusted for  
3 inflation using the Detroit consumer price index shall be  
4 distributed to the school aid fund and the balance shall be  
5 deposited into the general fund.

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

10 Sec. 517. There is appropriated to the department for the  
11 2006-2007 state fiscal year the sum of \$1,000,000.00 to begin  
12 implementing the requirements of this act. Any portion of this  
13 amount under this section that is not expended in the 2006-2007  
14 state fiscal year shall not lapse to the general fund but shall be  
15 carried forward in a work project account that is in compliance  
16 with section 451a of the management and budget act, 1984 PA 431,  
17 MCL 18.1451a, for the following state fiscal year.

18 Sec. 519. If a final order of a court of competent  
19 jurisdiction for which all rights of appeal have been exhausted or  
20 have expired determines that any provision of this act that  
21 provides a deduction, credit, or exemption with respect to  
22 employment, persons, services, investment, or any other activity  
23 that is limited only to this state is unconstitutional or applies  
24 to employment, persons, services, investment, or any other activity  
25 outside of this state, that credit, deduction, or exemption shall  
26 be severed and shall not be in effect for any other tax year for  
27 which the final order shall apply, and the remaining provisions of



1 this act shall remain in effect.

2       Sec. 601. (1) For the 2008 tax year, except as otherwise  
3 provided under subsection (4), if the total revenue collected from  
4 the tax imposed under this act, excluding any revenue collected  
5 pursuant to chapter 2A, exceeds \$2,398,000.00, 50% of that excess  
6 shall be applied as a credit in the immediately succeeding tax  
7 years provided in subsection (3) and the remaining 50% shall be  
8 deposited into the countercyclical budget and economic  
9 stabilization fund pursuant to section 353 of the management and  
10 budget act, 1984 PA 431, MCL 18.1352.

11       (2) For the 2009 tax year, except as otherwise provided under  
12 subsection (4), if the total revenue collected from the tax imposed  
13 under this act, excluding any revenue collected pursuant to chapter  
14 2A, exceeds \$2,398,000.00 as adjusted annually by an amount equal  
15 to the growth in the Detroit consumer price index for the  
16 immediately preceding fiscal year plus 1% after application of all  
17 credits under this act, 50% of that excess shall be applied as a  
18 rebate in the immediately succeeding tax year as provided in  
19 subsection (5) and the remaining 50% shall be deposited into the  
20 countercyclical budget and economic stabilization fund pursuant to  
21 section 353 of the management and budget act, 1984 PA 431, MCL  
22 18.1352.

23       (3) For the 2010 tax year, except as otherwise provided under  
24 subsection (4), if the total revenue collected from the tax imposed  
25 under this act, excluding any revenue collected pursuant to chapter  
26 2A, exceeds the base amount determined under subsection (2) for  
27 fiscal year 2009 as adjusted annually by an amount equal to the



1 growth in the Detroit consumer price index for the immediately  
 2 preceding fiscal year plus 1% after application of all credits  
 3 under this act, 50% of that excess shall be applied as a rebate in  
 4 the immediately succeeding tax year as provided in subsection (5)  
 5 and the remaining 50% shall be deposited into the countercyclical  
 6 budget and economic stabilization fund pursuant to section 353 of  
 7 the management and budget act, 1984 PA 431, MCL 18.1353.

8 (4) If the amount by which the total revenue collected from  
 9 the tax imposed under this act, excluding any revenue collected  
 10 pursuant to chapter 2A, exceeds the amount described in each  
 11 applicable subsection by less than \$1,000,000.00, then all of that  
 12 excess shall be deposited into the countercyclical budget and  
 13 economic stabilization fund pursuant to section 353 of the  
 14 management and budget act, 1984 PA 431, MCL 18.1353.

15 (5) The rebate available under subsection (1), (2), or (3)  
 16 shall be applied pro rata to the taxpayers that made positive net  
 17 cash payments during the fiscal year. The taxpayer's pro rata share  
 18 shall be the total rebate available under subsection (1), (2), or  
 19 (3) multiplied by a fraction the numerator of which is the positive  
 20 net payments made by the taxpayer during the fiscal year and the  
 21 denominator of which is the sum of the positive net cash payments  
 22 made by all taxpayers during the fiscal year. For purposes of this  
 23 subsection, "fiscal year" means the state fiscal year that  
 24 commences October 1 and continues through September 30.

25 (6) For purposes of this section, "Detroit consumer price  
 26 index" means the most comprehensive index of consumer prices  
 27 available for the Detroit area from the United States department of



1 labor, bureau of labor statistics.

2 Enacting section 1. This act takes effect January 1, 2008 and  
3 applies to all business activity occurring after December 31, 2007.

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

7 (a) House Bill No. 4369.

8 (b) House Bill No. 4370.

9 (c) House Bill No. 4371.

10 (d) House Bill No. 4372.

