

SENATE SUBSTITUTE FOR 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 repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 1

2 Sec. 101. This act shall be known and may be cited as the
3 "Michigan business tax act".

1 Sec. 103. A term used in this act and not defined differently
2 shall have the same meaning as when used in comparable context in
3 the laws of the United States relating to federal income taxes in
4 effect for the tax year unless a different meaning is clearly
5 required. A reference in this act to the internal revenue code
6 includes other provisions of the laws of the United States relating
7 to federal income taxes.

8 Sec. 105. (1) "Affiliated group" means 2 or more United States
9 corporations, 1 of which owns or controls, directly or indirectly,
10 80% or more of the capital stock or other ownership interest with
11 voting rights of the other United States corporation or United
12 States corporations. As used in this subsection, "United States
13 corporation" means a domestic corporation as that term is defined
14 in section 7701(a)(3) and (4) of the internal revenue code.

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

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

7 Sec. 107. (1) "Casual transaction" means a transaction made or
8 engaged in other than in the ordinary course of repeated and
9 successive transactions of a like character, except that a
10 transaction made or engaged in by a person that is incidental to
11 that person's regular business activity is a business activity
12 within the meaning of this act.

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

1 noninsured benefit plans. Compensation does not include any of the
2 following:

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

6 (b) Payments to an independent contractor.

7 (c) Payments to state and federal unemployment compensation
8 funds.

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

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

17 (f) Payments under health and welfare and noninsured benefit
18 plans for the benefit of persons who are residents of this state
19 and payments of fees for the administration of health and welfare
20 and noninsured benefit plans for the benefit of persons who are
21 residents of this state.

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

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

25 (5) "Detroit consumer price index" means the most
26 comprehensive index of consumer prices available for the Detroit
27 area from the United States department of labor, bureau of labor

1 statistics.

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

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

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

11 (4) "Financial organization" means any association, joint
12 stock company, or corporation, other than a financial institution
13 as defined under chapter 2B, at least 90% of whose assets consist
14 of intangible personal property and at least 90% of whose gross
15 receipts consist of dividends or interest or other charges
16 resulting from the use of money or credit.

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

18 (a) An individual who is not a United States resident, whether
19 or not the individual is subject to taxation under the internal
20 revenue code.

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

24 Sec. 111. (1) "Gross receipts" means the amount received by
25 the taxpayer from any activity whether in intrastate, interstate,
26 or foreign commerce carried on for direct or indirect gain,
27 benefit, or advantage to the taxpayer or to others except for the

1 following:

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

5 (b) Amounts received by the taxpayer as an agent solely on
6 behalf of the principal that are expended by the taxpayer for any
7 of the following:

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

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

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

18 (iv) A capital asset of a type that is, or under the internal
19 revenue code will become, eligible for depreciation, amortization,
20 or accelerated cost recovery by the principal for federal income
21 tax purposes, or for real property owned or leased by the
22 principal.

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

27 (vi) Fees, taxes, assessments, levies, fines, penalties, or

1 other payments established by law that are paid to a governmental
2 entity and that are the legal obligation of the principal.

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

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

9 (e) Notwithstanding any other provision of this section,
10 amounts received by a taxpayer that manages real property owned by
11 the taxpayer's client that are deposited into a separate account
12 kept in the name of the taxpayer's client and that are not
13 reimbursements to the taxpayer and are not indirect payments for
14 management services that the taxpayer provides to that client.

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

20 (g) Proceeds from any of the following:

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

22 (ii) The original issue of debt instruments.

23 (h) Refunds from returned merchandise.

24 (i) Cash and in-kind discounts.

25 (j) Trade discounts.

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

27 (l) Security deposits.

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

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

3 (o) Proceeds from a sale, transaction, exchange, involuntary
4 conversion, or other disposition of tangible, intangible, or real
5 property that is a capital asset as defined in section 1221(a) of
6 the internal revenue code or land that qualifies as property used
7 in the trade or business as defined in section 1231(b) of the
8 internal revenue code, less any gain from the disposition to the
9 extent that gain is included in federal taxable income.

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

13 (q) Compensation received by a taxpayer that is a staffing
14 company for personnel leased by that staffing company. As used in
15 this subdivision:

16 (i) "Compensation" includes all payroll tax and worker's
17 compensation costs.

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

22 (2) "Insurance company" means an authorized insurer as defined
23 in section 106 of the insurance code of 1956, 1956 PA 218, MCL
24 500.106.

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

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

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

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

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

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

10 (i) Personal property under lease or principally intended for
11 lease rather than sale.

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

14 (5) "Nonbusiness income" means all income from casual
15 transactions and all income other than business income.

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

18 (a) The chairperson of the board.

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

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

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

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

27 (3) "Person" means an individual, firm, bank, financial

1 organization, financial institution, limited partnership, limited
2 liability partnership, copartnership, partnership, joint venture,
3 association, corporation, subchapter S corporation, limited
4 liability company, receiver, estate, trust, or any other group or
5 combination of groups acting as a unit.

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

7 (a) Inventory acquired during the tax year.

8 (b) Assets acquired during the tax year of a type that are, or
9 under the internal revenue code will become, eligible for
10 depreciation, amortization, or accelerated capital cost recovery for
11 federal income tax purposes.

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

15 (6) "Revenue mile" means the transportation for a
16 consideration of 1 net ton in weight or 1 passenger the distance of
17 1 mile.

18 Sec. 115. (1) "Sale" or "sales" means the entire amount
19 received by the taxpayer as consideration from the following:

20 (a) The transfer of title to, or possession of, property that
21 is stock in trade or other property of a kind that would properly
22 be included in the inventory of the taxpayer if on hand at the
23 close of the tax period or property held by the taxpayer primarily
24 for sale to customers in the ordinary course of the taxpayer's
25 trade or business.

26 (b) The performance of services that constitute business
27 activities other than those included in subdivision (a), or any

1 combination of business activities described in this subdivision
2 and subdivision (a).

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

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

8 (2) "State" means any state of the United States, the District
9 of Columbia, the Commonwealth of Puerto Rico, any territory or
10 possession of the United States, and any foreign country, or a
11 political subdivision of any of the foregoing.

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

16 Sec. 117. (1) "Tax" means the tax imposed under this act,
17 including interest and penalties under this act, unless the term is
18 given a more limited meaning in the context of this act or a
19 provision of this act.

20 (2) Except as otherwise provided under this act, "tax base"
21 means the taxpayer's gross receipts less purchases from other firms
22 before apportionment under this act. For a foreign person, tax base
23 is determined under section 205. For a financial organization, tax
24 base means the taxpayer's gross receipts less any cost of funds or
25 interest expenses. For an insurance company, tax base is determined
26 under chapter 2A. For a financial institution, tax base is
27 determined under chapter 2B.

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

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

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

16 CHAPTER 2

17 Sec. 201. (1) Except as otherwise provided in this act and
18 except for a taxpayer that pays the tax imposed under chapter 2A or
19 2B, there is levied and imposed a specific tax at a rate of .54%.

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

22 (3) During December 2009, and during each subsequent December,
23 the department shall determine the total amount of revenue
24 collected pursuant to this act, not including any revenue collected
25 pursuant to chapter 2A, and the business income tax act for the
26 state fiscal year ending on the immediately preceding September 30.
27 If the revenue amount determined under this subsection exceeds

1 \$1,560,000,000.00 adjusted annually by an amount equal to the
2 growth in the Detroit consumer price index for the immediately
3 preceding fiscal year plus 1%, then the rate established under this
4 section shall be reduced to a rate for the current tax year
5 determined by the department, in cooperation with the house and
6 senate fiscal agencies, to produce, in conjunction with the rate
7 applied under the business income tax act, an amount equal to
8 \$1,560,000,000.00 adjusted annually by an amount equal to the
9 estimated growth in the Detroit consumer price index for the
10 current fiscal year as determined by the department, in cooperation
11 with the house and senate fiscal agencies, plus 1%.

12 Sec. 203. (1) The following are exempt from the tax imposed by
13 this act:

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

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

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

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

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

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

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

1 retail of agricultural goods except for sales of nursery stock
2 grown by the seller and sold to a nursery dealer licensed under
3 section 9 of the insect pest and plant disease act, 1931 PA 189,
4 MCL 286.209.

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

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

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

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

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

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

9 (ii) Dissemination of market information.

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

11 (iv) Promotion.

12 (v) Research relating to members' products.

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

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

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

26 (3) Except as otherwise provided in this section, a farmers'
27 cooperative corporation that is structured to allocate net earnings

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

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

9 Sec. 205. (1) A foreign person shall calculate tax base under
10 this section and, except as otherwise provided in this section, the
11 tax base of a foreign person is subject to all adjustments and
12 other provisions of this act.

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

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

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

1 methods:

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

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

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

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

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

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

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

14 (7) As used in this section:

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

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

1 performance.

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

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

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

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

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

14 Sec. 207. (1) A taxpayer with gross receipts of more than
15 \$350,000.00 but not more than \$15,000,000.00 or that amount as
16 annually adjusted for inflation using the Detroit consumer price
17 index shall elect 1 of the following options:

18 (a) Calculate its tax liability under this act.

19 (b) Calculate its tax liability under the business income tax
20 act.

21 (2) An election under subsection (1) shall be made every 3
22 years if the taxpayer remains eligible for the election under this
23 section.

24 (3) A taxpayer with gross receipts equal to or less than
25 \$350,000.00 shall have no tax liability and no filing requirement
26 under this act.

27 Sec. 209. (1) An out-of-state person has nexus in this state

1 if that person engages in any of the following activities:

2 (a) Has 1 or more employees who are residents of this state
3 conducting business activity in this state.

4 (b) Owns, rents, leases, maintains, or has the right to use
5 and uses tangible personal or real property that is permanently or
6 temporarily physically located in this state.

7 (c) Has employees who own, rent, lease, use, or maintain an
8 office or other establishment in this state.

9 (d) Has agents, representatives, independent contractors,
10 brokers, or others acting on its behalf that own, rent, lease, use,
11 or maintain an office or other establishment in this state, and the
12 office or other establishment is used in the representation of the
13 out-of-state person in this state and is significantly associated
14 with the out-of-state person's ability to establish and maintain a
15 market in this state.

16 (e) Has goods delivered to this state in vehicles it owns,
17 rents, leases, uses, or maintains or has goods delivered by a
18 related party acting as a representative of the out-of-state
19 person.

20 (f) Regularly and systematically conducts business activity in
21 this state through its employees, agents, representatives,
22 independent contractors, brokers, or others acting on its behalf,
23 whether or not these individuals or organizations reside in this
24 state.

25 (2) For purposes of subsection (1)(f), regular and systematic
26 business activity including, but not limited to those activities
27 listed under this subsection, exists if at least 10 days of

1 business activity occur in this state during that person's taxable
2 year. If less than 10 days of business activity occur during that
3 person's taxable year, regular and systematic business activity may
4 exist depending on the facts and circumstances of the taxpayer's
5 in-state business activity. Any of the following activities
6 conducted by the taxpayer in this state for 2 or more days within a
7 taxable year will be rebuttably presumed to constitute regular and
8 systematic business activity:

9 (a) Soliciting sales.

10 (b) Making repairs or providing maintenance or service to
11 property sold or to be sold.

12 (c) Collecting current or delinquent accounts related to sales
13 of tangible personal property through assignment or otherwise.

14 (d) Installing or supervising installation at or after
15 shipment or delivery.

16 (e) Conducting training for employees, agents,
17 representatives, independent contractors, brokers, or others acting
18 on its behalf, or for customers or potential customers.

19 (f) Providing customers any kind of technical assistance or
20 service, including, but not limited to, engineering assistance,
21 design service, quality control, product inspections, or similar
22 services.

23 (g) Investigating, handling, or otherwise assisting in
24 resolving customer complaints.

25 (h) Providing consulting services.

26 (i) Soliciting, negotiating, or entering into franchising,
27 licensing, or similar agreements.

1 (3) Lawyers, accountants, investment bankers, and other
2 similar professionals in this state who perform services for an
3 out-of-state person in their professional capacity shall not be
4 considered to be conducting in-state business activity on behalf of
5 the out-of-state person.

6 (4) If none of the out-of-state person's business activities
7 in this state fall under the business activities described in
8 subsection (2) and its only contacts with this state are limited to
9 conducting any of the activities listed below, for less than 10
10 days, then those contacts will not be presumed to create nexus. If
11 an activity is listed in subdivisions (a) through (f) below but
12 also is described under subsection (2), then subsection (2) shall
13 control. If an out-of-state person's only in-state business
14 activity is listed in subdivision (g), that activity shall not be
15 considered as solicitation for the purposes of subsection (2).
16 Conducting any of the activities listed below for more than 10 days
17 does not necessarily create nexus. Whether nexus has been created
18 will depend on the facts and circumstances of the following in-
19 state business activities:

20 (a) Meeting with in-state suppliers of goods or services.

21 (b) In-state meeting with government representatives in their
22 official capacity.

23 (c) Attending occasional meetings, including, but not limited
24 to, board meetings, retreats, seminars, and conferences sponsored
25 by others.

26 (d) Holding recruiting or hiring events.

27 (e) Advertising in this state through various media.

1 (f) Renting customer lists to or from an in-state entity.

2 (g) Attending or participating at a trade show at which no
3 orders for goods are taken and no sales are made.

4 (5) Nexus shall be determined on a person-by-person basis. A
5 taxpayer that is a member of a unitary business group or a
6 consolidated taxpayer group not meeting the requirements of
7 subsections (1) through (4) shall not be deemed to have nexus with
8 this state based solely upon the in-state nexus of another member
9 of the taxpayer's unitary business group or consolidated taxpayer
10 group.

11 CHAPTER 2A

12 Sec. 235. (1) Each insurance company and each formerly
13 authorized insurance company with respect to premiums received
14 while an insurance company in this state shall pay to the
15 department a tax calculated as the product of .010735 times the
16 insurance company's tax base.

17 (2) The following are exempt from the tax imposed by this
18 section:

19 (a) Beginning January 1, 2008 and after being apportioned
20 under section 51(3), the first \$130,000,000.00 of disability
21 insurance premiums written in this state, other than credit
22 insurance and disability income insurance premiums, of each
23 insurance company subject to tax under this act. This exemption
24 shall be reduced by \$2.00 for each \$1.00 by which the insurance
25 company's gross premiums from insurance carrier services in this
26 state and outside this state exceed \$180,000,000.00.

27 (b) 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 (c) For tax years that begin after December 31, 2006, that
5 portion of the tax base attributable to a multiple employer welfare
6 arrangement that provides dental benefits only and that has a
7 certificate of authority under chapter 70 of the insurance code of
8 1956, 1956 PA 218, MCL 500.7001 to 500.7090.

9 Sec. 236. (1) Except as otherwise provided in this section,
10 the tax base of an insurance company is the insurance company's
11 adjusted receipts as apportioned under subsection (3).

12 (2) The tax calculated on an insurance company under this
13 chapter is in lieu of all other privilege or franchise fees or
14 taxes, income taxes, or other taxes imposed by this act or any
15 other law of this state, except taxes levied on real and personal
16 property and except as otherwise provided in the insurance code of
17 1956, 1956 PA 218, MCL 500.100 to 500.8302.

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

27 (4) As used in this section:

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

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

5 (A) An affiliated insurance company.

6 (B) An insurance agent of the taxpayer licensed under chapter
7 12 of the insurance code of 1956, 1956 PA 218, MCL 500.1200 to
8 500.1247.

9 (ii) Gross direct premiums received for insurance on property
10 or risk, deducting premiums on policies not taken and returned
11 premiums on canceled policies.

12 (iii) Receipts from administrative services only contracts with
13 a person who is not an affiliated insurance company or an
14 affiliated nonprofit corporation.

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

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

21 (vi) Receipts from servicing carrier fees received from the
22 Michigan auto insurance placement facility pursuant to chapter 33
23 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to
24 500.3390.

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

26 (i) Receipts from interest, dividends, or proceeds from the
27 sale of assets.

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

6 (iii) Receipts on the sale of annuities.

7 (iv) Receipts on all reinsurance transactions.

8 (c) "Affiliated insurance company" means an insurance company
9 that is a member of an affiliated group with the taxpayer or, if
10 the insurance company does not issue stock, 50% or more of the
11 members of that insurance company's board of directors are members
12 of the taxpayer's board of directors.

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

16 Sec. 237. (1) An insurance company may claim a credit against
17 the tax imposed under this act in the following amounts, but may
18 not exceed the limitations provided in this section:

19 (a) Amounts paid to the Michigan worker's compensation
20 placement facility pursuant to chapter 23 of the insurance code of
21 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

22 (b) Amounts paid to the Michigan basic property insurance
23 association pursuant to chapter 29 of the insurance code of 1956,
24 1956 PA 218, MCL 500.2901 to 500.2954.

25 (c) Amounts paid to the Michigan automobile insurance
26 placement facility pursuant to chapter 33 of the insurance code of
27 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

1 (d) Amounts paid to the property and casualty guaranty
2 association pursuant to chapter 79 of the insurance code of 1956,
3 1956 PA 218, MCL 500.7901 to 500.7949.

4 (e) Amounts paid to the Michigan life and health guaranty
5 association pursuant to chapter 77 of the insurance code of 1956,
6 1956 PA 218, MCL 500.7701 to 500.7780.

7 (2) For each tax year, the total credit provided in subsection
8 (1) for all insurance companies shall not exceed the product of the
9 remainder obtained by deducting the sum of the statutory amount
10 certified by the director of management and budget in 2007 pursuant
11 to section 22c(3) of former 1975 PA 228, plus the credits allowed
12 under section 239 from the total tax liability of domestic
13 insurance companies under this act but before applying any credits
14 multiplied by a fraction the numerator of which is the total
15 assessments paid by all insurance companies to the associations and
16 facilities described in subsection (1) and the denominator of which
17 is the total assessments paid by domestic insurance companies to
18 the associations and facilities described in subsection (1). The
19 statutory amount certified by the director of management and budget
20 in 2007 pursuant to section 22c(3) of former 1975 PA 228 subtrahend
21 shall be adjusted annually in proportion to the change in total
22 general fund/general purpose revenues for the immediately preceding
23 year, as certified by the director of management and budget.

24 (3) For each tax year, the credit for each insurance company
25 shall not exceed an amount equal to the product of the total credit
26 limitation calculated under subsection (2) multiplied by a fraction
27 the numerator of which is the insurance company's total assessments

1 paid to the associations and facilities described in subsection (1)
2 and the denominator of which is the total assessments paid by all
3 insurance companies to the associations and facilities described in
4 subsection (1).

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

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

13 Sec. 239. An insurance company shall be allowed a credit
14 against the tax imposed under this act in an amount equal to 50% of
15 the examination fees paid by the insurance company during the tax
16 year pursuant to section 224 of the insurance code of 1956, 1956 PA
17 218, MCL 500.224.

18 Sec. 241. (1) For amounts paid pursuant to section 352 of the
19 worker's disability compensation act of 1969, 1969 PA 317, MCL
20 418.352, an insurance company subject to the worker's disability
21 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may
22 claim a credit against the tax imposed under this act for the tax
23 year in an amount equal to the amount paid during that tax year by
24 the insurance company pursuant to section 352 of the worker's
25 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as
26 certified by the director of the bureau of worker's disability
27 compensation pursuant to section 391(6) of the worker's disability

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

2 (2) An insurance company claiming a credit under this section
3 may claim a portion of the credit allowed under this section equal
4 to the payments made during a calendar quarter pursuant to section
5 352 of the worker's disability compensation act of 1969, 1969 PA
6 317, MCL 418.352, against the estimated tax payments made under
7 section 501. Any credit in excess of an estimated payment shall be
8 refunded to the insurance company on a quarterly basis within 60
9 calendar days after receipt of a properly completed estimated tax
10 return. Any increase or decrease in the amount claimed for payments
11 made by the insurance company shall be reflected in the amount of
12 the credit taken for the calendar quarter in which the amount of
13 the adjustment is finalized.

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

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

21 Sec. 243. (1) An insurance company is subject to the tax under
22 this act or section 476a of the insurance code of 1956, 1956 PA
23 218, MCL 500.476a, if applicable, whichever is greater.

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

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

1 (4) For the purpose of calculating an estimated payment
 2 required under section 501, the greater of the amount of tax
 3 imposed on an insurance company under this act or under section
 4 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a,
 5 shall be considered the insurance company's tax liability for the
 6 immediately preceding tax year.

7 (5) The requirements of section 28(1)(f) of 1941 PA 122, MCL
 8 205.28, that prohibit an employee or authorized representative of,
 9 a former employee or authorized representative of, or anyone
 10 connected with the department from divulging any facts or
 11 information obtained in connection with the administration of a
 12 tax, do not apply to disclosure of a tax return required under this
 13 section.

14 CHAPTER 2B

15 Sec. 261. As used in this chapter:

16 (a) "Billing address" means the location indicated in the
 17 books and records of the financial institution on the first day of
 18 the tax year or on a later date in the tax year when the customer
 19 relationship began as the address where any notice, statement, or
 20 bill relating to a customer's account is mailed.

21 (b) "Borrower is located in this state" or "credit card holder
 22 is located in this state" means a borrower, other than a credit
 23 card holder, that is engaged in a trade or business which maintains
 24 its commercial domicile in this state, or a borrower that is not
 25 engaged in a trade or business or a credit card holder whose
 26 billing address is in this state.

27 (c) "Commercial domicile" means the headquarters of the trade

1 or business, that is the place from which the trade or business is
2 principally managed and directed, or if a financial institution is
3 organized under the laws of a foreign country, of the commonwealth
4 of Puerto Rico, or any territory or possession of the United
5 States, such financial institution's commercial domicile shall be
6 deemed for the purposes of this chapter to be the state of the
7 United States or the District of Columbia from which such financial
8 institution's trade or business in the United States is principally
9 managed and directed. It shall be presumed, subject to rebuttal,
10 that the location from which the financial institution's trade or
11 business is principally managed and directed is the state of the
12 United States or the District of Columbia to which the greatest
13 number of employees are regularly connected or out of which they
14 are working, irrespective of where the services of such employees
15 are performed, as of the last day of the tax year.

16 (d) "Credit card" means a credit, travel, or entertainment
17 card.

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

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

23 (i) A bank holding company, a national bank, a state chartered
24 bank, an office of thrift supervision chartered bank or thrift
25 institution, a savings and loan holding company, or a credit union.

26 (ii) Any entity with at least 90% of its gross receipts derived
27 from any combination of interest, financial services fees, leasing

1 fees, or gross proceeds from the sale or brokerage of loans and
2 investments.

3 (iii) Any affiliate or subsidiary of an entity described in
4 subparagraph (i) or (ii).

5 (g) "Gross business" means the sum of the following:

6 (i) Fees, commissions, or other compensation for financial
7 services.

8 (ii) Gross proceeds from trading in stocks, bonds, or other
9 securities.

10 (iii) Interest charged to customers for carrying debit balances
11 of margin accounts, without deduction of any costs incurred in
12 carrying the accounts.

13 (iv) Interest and dividends received.

14 (v) Any other gross income resulting from the operation as a
15 financial institution.

16 (h) "Loan" means any extension of credit resulting from direct
17 negotiations between the financial institution and its customer, or
18 the purchase, in whole or in part, of such extension of credit from
19 another. Loans include participations, syndications, and leases
20 treated as loans for federal income tax purposes. Loans shall not
21 include properties treated as loans under section 595 of the
22 internal revenue code, futures or forward contracts, options,
23 notional principal contracts such as swaps, credit card
24 receivables, including purchased credit card relationships, non-
25 interest-bearing balances due from depository institutions, cash
26 items in the process of collection, federal funds sold, securities
27 purchased under agreements to resell, assets held in a trading

1 account, securities, interests in a real estate mortgage investment
2 conduit, or other mortgage-backed or asset-backed security, and
3 other similar items.

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

8 (j) "Merchant discount" means the fee or negotiated discount
9 charged to a merchant by the financial institution for the
10 privilege of participating in a program whereby a credit card is
11 accepted in payment for merchandise or services sold to the credit
12 card holder.

13 (k) "Michigan obligations" means a bond, note, or other
14 obligation issued by a governmental unit described in section 3 of
15 the shared credit rating act, 1985 PA 227, MCL 141.1053.

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

22 (m) "Principal base of operation", with respect to
23 transportation property, means the place of more or less permanent
24 nature from which said property is regularly directed or
25 controlled. With respect to an employee, the principal base of
26 operations means the place of more or less permanent nature from
27 which the employee regularly does any of the following:

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

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

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

6 (n) "Real property owned" and "tangible personal property
7 owned" mean real and tangible personal property respectively on
8 which the financial institution may claim depreciation for federal
9 income tax purposes or to which the financial institution holds
10 legal title and on which no other person may claim depreciation for
11 federal income tax purposes or could claim depreciation if subject
12 to federal income tax. Real and tangible personal properties do not
13 include coin, currency, or property acquired in lieu of or pursuant
14 to a foreclosure.

15 (o) "Regular place of business" means an office at which the
16 financial institution carries on its business in a regular and
17 systematic manner and which is continuously maintained, occupied,
18 and used by employees of the financial institution. The financial
19 institution shall have the burden of proving that an investment
20 asset or activity or trading asset or activity was properly
21 assigned to a regular place of business outside of this state by
22 demonstrating that the day-to-day decisions regarding the asset or
23 activity occurred at a regular place of business outside this
24 state. Where the day-to-day decisions regarding an investment asset
25 or activity or trading asset or activity occur at more than 1
26 regular place of business and 1 such regular place of business is
27 in this state and 1 such regular place of business is outside this

1 state, such asset or activity shall be considered to be located at
2 the regular place of business of the financial institution where
3 the investment or trading policies or guidelines with respect to
4 the asset or activity are established. Unless the financial
5 institution demonstrates to the contrary, such policies and
6 guidelines shall be presumed to be established at the commercial
7 domicile of the financial institution.

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

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

14 (r) "Transportation property" means vehicles and vessels
15 capable of moving under their own power, such as aircraft, trains,
16 water vessels, and motor vehicles, as well as any equipment or
17 containers attached to such property, such as rolling stock,
18 barges, or trailers.

19 (s) "United States obligations" means all obligations of the
20 United States exempt from taxation under 31 USC 3124(a) or exempt
21 under the United States constitution or any federal statute,
22 including the obligations of any instrumentality or agency of the
23 United States that are exempt from state or local taxation under
24 the United States constitution or any statute of the United States.

25 Sec. 263. (1) Every financial institution with business
26 activity in this state and with nexus in this state as determined
27 under section 209 is subject to a franchise tax. The franchise tax

1 is imposed upon the tax base of the financial institution as
2 determined under section 265 after allocation or apportionment to
3 this state, at the rate of 0.225%.

4 (2) The tax under this chapter is in lieu of the tax levied
5 and imposed under chapter 2 of this act and the business income tax
6 act.

7 Sec. 265. (1) For a financial institution, tax base means the
8 financial institution's net capital. Net capital means equity
9 capital as computed in accordance with generally accepted
10 accounting principles less goodwill as determined in accordance
11 with generally accepted accounting principles and less the book
12 value of United States obligations and Michigan obligations. If the
13 financial institution does not maintain its books and records in
14 accordance with generally accepted accounting principles, net
15 capital shall be computed in accordance with the books and records
16 used by the financial institution, so long as the method fairly
17 reflects the financial institution's net capital for purposes of
18 the tax levied by this chapter.

19 (2) Net capital shall be determined by adding the financial
20 institution's net capital for the current tax year and preceding 4
21 calendar years and dividing the resulting sum by 5. If a financial
22 institution has not been in existence for a period of 5 calendar
23 years, net capital shall be determined by adding together the
24 financial institution's net capital for the number of calendar
25 years the financial institution has been in existence and dividing
26 the resulting sum by the number of years the financial institution
27 has been in existence. For purposes of this section, a partial year

1 shall be treated as a full year.

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

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

8 (b) The combination of 2 or more financial institutions into 1
9 shall be treated as if the constituent financial institutions had
10 been a single financial institution in existence for the entire tax
11 year in which the combination occurred and each tax year after the
12 combination, and the book values and deductions for United States
13 obligations and Michigan obligations of the constituent
14 institutions shall be combined. A combination shall include any
15 acquisition required to be accounted for by the surviving financial
16 institution in accordance with generally accepted accounting
17 principles or a statutory merger or consolidation.

18 (c) The combination of 1 or more financial institutions and 1
19 or more savings and loan associations taxable under laws of this
20 state into a single financial institution shall be treated for the
21 taxable year in which the combination occurred as if the single
22 financial institution had been in existence for the entire tax year
23 and each tax year after the combination, and the book values and
24 deductions for United States obligations and Michigan obligations
25 of the financial institution and the equivalent for a savings and
26 loan association shall be combined. The conversion of a savings and
27 loan association taxable under the laws of this state into a

1 financial institution shall be treated for the tax year in which
2 the conversion occurred as if the savings and loan association had
3 been a financial institution for the entire tax year in which the
4 conversion occurred and each tax year after the conversion, and the
5 book values and deductions for United States obligations and
6 Michigan obligations which are the equivalent for a savings and
7 loan association shall be used. The savings and loan association
8 shall not be relieved of the responsibilities of filing and paying
9 tax under the laws of this state for tax years prior to the year of
10 any combination or conversion. Notwithstanding any other provision
11 of this chapter, the financial institution resulting from a
12 combination with or conversion of a savings and loan association
13 shall receive a credit on the franchise tax return equal to the
14 amount of tax paid under the laws of this state for the assessment
15 date occurring within the tax year during which the combination or
16 conversion takes place for franchise tax purposes.

17 Sec. 267. (1) Except as otherwise provided under this chapter,
18 the tax base of a financial institution whose business activities
19 are confined solely to this state shall be allocated to this state.
20 The tax base of a financial institution whose business activities
21 are both within and outside this state shall apportion its tax base
22 to this state by multiplying the tax base by the gross business
23 factor.

24 (2) The gross business factor is a fraction, the numerator of
25 which is the financial institution's total gross business in this
26 state during the tax year and the denominator of which is the total
27 gross business everywhere during the tax year.

1 Sec. 269. (1) Gross business of the financial institution in
2 this state is determined as follows:

3 (a) Receipts from credit card receivables including without
4 limitation interest and fees or penalties in the nature of interest
5 from credit card receivables and receipts from fees charged to
6 credit card holders such as annual fees are in this state if the
7 billing address of the credit card holder is located in this state.

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

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

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

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

17 (ii) For a loan secured by real property, if the real property
18 for which the loan is secured is located both within and without
19 this state and 1 or more other states and more than 50% of the fair
20 market value of the real property is located in this state.

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

25 (iv) The borrower is located in this state.

26 (e) Receipts from services are in this state if the service is
27 performed in this state or the service is performed both within and

1 without this state and based on cost of performance the greater
2 proportion of business activity is performed in this state.

3 (f) Receipts from investment assets and activities and trading
4 assets and activities are in this state if the assets are assigned
5 to a regular place of business of the financial institution within
6 this state.

7 (g) Interest charged to customers for carrying debit balances
8 on margin accounts without deduction of any costs incurred in
9 carrying the accounts is in this state if the customer is located
10 in this state.

11 (h) Interest from loans secured by real property is in this
12 state if the property is located in this state, if the property is
13 located both within this state and 1 or more other states and more
14 than 50% of the fair market value of the real property is located
15 in this state, and if more than 50% of the fair market value of the
16 real property is not located within any 1 state but the borrower is
17 located in this state.

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

20 (j) Interest and dividends from investment assets and
21 activities are in this state if the average value of the assets is
22 assigned to a regular place of business of the financial
23 institution within this state.

24 (k) Interest from federal funds sold and purchased and from
25 securities purchased under resale agreements and securities sold
26 under repurchase agreements is in this state if the agreements are
27 assigned to a regular place of business of the financial

1 institution within this state.

2 (l) Interest and dividends from trading assets and activities
3 are in this state if the value of the traded assets is assigned to
4 a regular place of business of the financial institution within
5 this state.

6 (m) Gross proceeds from the sale of loans secured by real
7 property are in this state if the property is in this state, if the
8 property is located both within this state and 1 or more other
9 states and more than 50% of the fair market value of the real
10 property is located within this state, or if more than 50% of the
11 fair market value of the real property is not located in any 1
12 state, but the borrower is located in this state.

13 (n) Gross proceeds from the sale of loans not secured by real
14 property are in this state if the borrower is located in this
15 state.

16 (o) Receipts from the lease of real property are in this state
17 if the property is located in this state.

18 (q) Receipts from the lease of tangible personal property are
19 in this state if the property is located in this state when it is
20 first placed in service by the lessee.

21 (r) Receipts from the lease of transportation of tangible
22 personal property are in this state if the property is used in this
23 state or if the extent of use of the property within this state
24 cannot be determined but the property has its principal base of
25 operations within this state.

26 (2) For purposes of this section:

27 (a) The value of real property owned by the financial

1 institution and tangible personal property owned by the financial
2 institution is the original cost or other basis of such property
3 for federal income tax purposes without regard to depletion,
4 depreciation, or amortization.

5 (b) Loans are valued at their outstanding principal balance,
6 without regard to any reserve for bad debts. If a loan is charged
7 off in whole or in part for federal income tax purposes, the
8 portion of the loan charged off is not outstanding. A specifically
9 allocated reserve established pursuant to regulatory or financial
10 accounting guidelines which are treated as charged off for federal
11 income tax purposes shall be treated as charged off for purposes of
12 this chapter.

13 (c) Credit card receivables are valued at their outstanding
14 principal balance, without regard to any reserve for bad debts. If
15 a credit card receivable is charged off in whole or in part for
16 federal income tax purposes, the portion of the receivable charged
17 off is not outstanding.

18 (d) The average value of property owned by a financial
19 institution shall be computed on an annual basis by adding the
20 value of the property on the first day of the tax year and the
21 value on the last day of the tax year and dividing the sum by 2. If
22 averaging on this basis does not properly reflect average value,
23 the department may require averaging on a more frequent basis. The
24 financial institution may elect to average on a more frequent
25 basis. If required by the department to average on a more frequent
26 basis or if the financial institution elects to average on a more
27 frequent basis, the same method of valuation must be used

1 consistently by the financial institution with respect to property
2 within and without this state and on all subsequent returns unless
3 the financial institution receives prior permission from the
4 department or the department requires a different method of
5 determining average value.

6 CHAPTER 3

7 Sec. 301. (1) Except as otherwise provided in this chapter,
8 the tax base of the taxpayer whose business activities are confined
9 solely to this state shall be allocated to this state.

10 (2) The tax base of a taxpayer whose business activities are
11 taxable both within and outside of this state is taxable in another
12 state in either of the following circumstances:

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

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

20 Sec. 302. All of the tax base, other than the tax base derived
21 principally from transportation or financial services for a
22 financial organization or specifically allocated, shall be
23 apportioned to this state by multiplying the tax base by the sales
24 factor.

25 Sec. 303. (1) Except as otherwise provided in subsection (2)
26 and section 305, the sales factor is a fraction, the numerator of
27 which is the sales of the taxpayer in this state during the tax

1 year and the denominator of which is the total sales of the
2 taxpayer everywhere during the tax year.

3 (2) The sales factor for a foreign person is a fraction, the
4 numerator of which is the total sales of the taxpayer in this state
5 during the tax year and the denominator of which is the total sales
6 of the taxpayer in the United States during the tax year.

7 (3) Sales of tangible personal property are in this state if
8 the property is shipped or delivered to any purchaser within this
9 state regardless of the free on board point or other conditions of
10 the sale. For the purposes of this subsection only, "state" means
11 any state of the United States, the District of Columbia, the
12 Commonwealth of Puerto Rico, any territory or possession of the
13 United States, or a political subdivision thereof.

14 (4) Sales in this state also include the receipts from the
15 sale, lease, rental, or licensing of real property located in this
16 state and the lease, rental, or licensing of tangible personal
17 property located in this state.

18 (5) Sales, other than sales of tangible personal property, are
19 in this state if the receipts are derived from customers within
20 this state. Sales in this state also include the receipts from the
21 performance of services if the recipient of the services receives
22 all of the benefit of the services in this state.

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

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

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

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

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

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

13 Sec. 305. (1) Notwithstanding section 307, a spun off
14 corporation that qualified to calculate its sales factor for 7
15 years under section 54 of former 1975 PA 228 may elect to calculate
16 its sales factor under this section for an additional 4 years
17 following those 7 years or 3 years if a taxpayer had an election
18 approved under section 54(1)(e) of former 1975 PA 228. Prior to the
19 end of the first year following the 7 years for which the taxpayer
20 qualified under section 54 of former 1975 PA 228 and if the spun
21 off corporation is not required to file amended returns under
22 section 54(5) of former 1975 PA 228, the spun off corporation may
23 request, in writing, approval from the state treasurer for the
24 election of the 4 additional years under this section. If the
25 taxpayer had an election approved under section 54(1)(e) of former
26 1978 PA 228, the taxpayer is not required to seek approval under
27 this section. The state treasurer must approve the election under

1 this subsection if the requirements of this section are met. The
2 request shall include all of the following:

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

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

8 (c) A commitment by the spun off corporation to invest at
9 least an additional \$200,000,000.00 of capital investment in this
10 state within the additional 4 years and maintain at least 80% of
11 the number of full-time equivalent employees in this state based on
12 the number of full-time equivalent employees in this state at the
13 beginning of the additional 4-year period for all of the additional
14 4 years; a commitment by the spun off corporation to invest an
15 additional \$400,000,000.00 in this state within the additional 4
16 years; or a commitment by the spun off corporation to invest a
17 total of \$1,300,000,000.00 in this state within the 11-year period
18 beginning with the year in which the restructuring transaction
19 under which a spun off corporation qualified under this subsection
20 was completed. The 4 years under this subdivision begins with the
21 eighth year following the tax year in which the restructuring
22 transaction under which a spun off corporation qualified under this
23 subsection was completed. For purposes of this subdivision, the
24 number of full-time equivalent employees includes employees in all
25 of the following circumstances:

26 (i) On temporary layoff.

27 (ii) On strike.

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

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

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

8 (2) Prior to the end of the eleventh year following the
9 restructuring transaction under which a spun off corporation
10 qualified under subsection (1), a taxpayer that is a buyer of a
11 plant located in this state that was included in the initial
12 restructuring transaction under subsection (1) may elect to
13 calculate its sales factor under subsection (3) and disregard sales
14 by the taxpayer attributable to that plant to a former parent of a
15 spun off corporation and the sales attributable to the plant shall
16 be treated as sales by a spun off corporation. This election shall
17 extend for a period of 4 years following the date that the plant
18 was purchased reduced by the number of years for which the taxpayer
19 calculated its sales factor pursuant to section 54(2) of former
20 1975 PA 228. On or before the due date for filing the buyer's first
21 annual return under this act following the purchase of the plant,
22 the buyer shall request, in writing, approval from the state
23 treasurer for the election provided under this section and shall
24 attach a statement that the buyer qualifies for the election under
25 this section.

26 (3) A spun off corporation qualified under subsection (1) or
27 (2) that makes an election and is approved under subsection (1) or

1 (2) calculates its sales factor under section 303 subject to both
2 of the following:

3 (a) A purchaser in this state under section 303 does not
4 include a person that purchases from a seller that was included in
5 the purchaser's combined or consolidated annual return under this
6 act but, as a result of the restructuring transaction, ceased to be
7 included in the purchaser's combined or consolidated annual return
8 under this act. This subdivision applies only to sales that
9 originate from a plant located in this state.

10 (b) Total sales under section 303 do not include sales to a
11 purchaser that was a member of a Michigan affiliated group that had
12 included the seller in the filing of a combined or consolidated
13 annual return under this act but, as a result of the restructuring
14 transaction, ceased to include the seller. This subdivision applies
15 only to sales that originate from a plant located in this state to
16 a location in this state.

17 (4) At the end of the fourth tax year following an election
18 under this section, if the spun off corporation that elected to
19 calculate its sales factor under this section for the additional 4
20 years allowed under subsection (1) has failed to maintain the
21 required number of employees or failed to pay or accrue the capital
22 investment required under subsection (1)(c), the spun off
23 corporation shall file amended annual returns under this act for
24 the first through fourth tax years following the election under
25 this section, regardless of the statute of limitations under
26 section 27a of 1941 PA 122, MCL 205.27a, and pay any additional tax
27 plus interest based on the sales factor as calculated under section

1 303. Interest shall be calculated from the due date of the annual
2 return under this act or former 1975 PA 228 on which an exemption
3 under this section was first claimed.

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

8 (6) As used in this section:

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

16 (b) "Restructuring transaction" means a tax free distribution
17 under section 355 of the internal revenue code and includes tax
18 free transactions under section 355 of the internal revenue code
19 that are commonly referred to as spin offs, split ups, split offs,
20 or type D reorganizations.

21 Sec. 307. (1) The tax base of a taxpayer whose business
22 activities consist of transportation services rendered either
23 entirely within or partly within and partly outside this state
24 shall be determined under the provisions of this section and
25 section 309.

26 (2) The tax base attributable to this state of a taxpayer
27 described subsection (1), other than a taxpayer whose activity

1 consists of the transportation of oil or gas by pipeline, is that
2 portion of the tax base of the taxpayer derived from transportation
3 services wherever performed that the revenue miles of the taxpayer
4 in this state bear to the revenue miles of the taxpayer everywhere.

5 (3) The tax base attributable to this state of a taxpayer
6 whose business activity consists of the transportation both of
7 property and of individuals shall be that portion of the entire tax
8 base of the taxpayer that is equal to the sum of its passenger
9 miles and ton mile fractions, separately computed and individually
10 weighted by the ratio of gross receipts from passenger
11 transportation to total gross receipts from all transportation, and
12 by the ratio of gross receipts from freight transportation to total
13 gross receipts from all transportation, respectively.

14 (4) If the department determines that the information required
15 for the calculations under this section is not available or cannot
16 be obtained without unreasonable expense to the taxpayer, the
17 department may use other available information that in the opinion
18 of the department will result in an equitable allocation of the
19 taxpayer's receipts to this state.

20 Sec. 309. (1) The tax base attributable to this state of a
21 taxpayer whose business activity consists of the transportation of
22 oil by pipeline, is the tax base of the taxpayer in the ratio that
23 the barrel miles transported in this state bear to the barrel miles
24 transported by the taxpayer everywhere.

25 (2) The tax base attributable to this state of a taxpayer
26 whose business activities consists of the transportation of gas by
27 pipeline is the tax base of the taxpayer in the ratio that the

1 1,000 cubic feet miles transported in this state bear to the 1,000
2 cubic feet miles transported by the taxpayer everywhere.

3 Sec. 311. The tax base attributable to this state of a
4 taxpayer that is a financial organization is either of the
5 following:

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

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

13 (i) Fees, commissions, or other compensation for financial
14 services.

15 (ii) Gross profits from trading in stocks, bonds, or other
16 securities.

17 (iii) Interest charged to customers for carrying debit balances
18 of margin accounts, without deduction of any costs incurred in
19 carrying the accounts.

20 (iv) Interest and dividends received.

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

23 Sec. 313. (1) If the apportionment provisions of this act do
24 not fairly represent the extent of the taxpayer's business activity
25 in this state, the taxpayer may petition for or the treasurer may
26 require the following, with respect to all or a portion of the
27 taxpayer's business activity, if reasonable:

1 (a) Separate accounting.

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

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

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

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

9 (3) The apportionment provisions of this act shall fairly
10 represent the business activity attributed to the taxpayer in this
11 state, taken as a whole and without a separate examination of the
12 specific elements of the tax base unless it can be demonstrated
13 that the business activity attributed to the taxpayer in this state
14 is out of all appropriate proportion to the actual business
15 transacted in this state and leads to a grossly distorted result.
16 The tax levied under this act is an indivisible tax and not a
17 combination or series of several smaller taxes and relief from
18 apportionment shall be given only in extraordinary circumstances.

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

21 CHAPTER 4

22 Sec. 401. Except as otherwise provided under this act, any
23 unused carryforward for any credit under former 1975 PA 228 may be
24 applied for the 2007 tax year and any unused carryforward after
25 2007 shall be extinguished.

26 Sec. 403. (1) For tax years that begin after December 31,
27 2008, a taxpayer that has been issued a tax voucher certificate

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

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

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

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

26 (5) Investors shall apply to the Michigan early stage venture
27 investment corporation for approval of tax voucher certificates at

1 the time and in the manner required under the Michigan early stage
2 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
3 125.2263.

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

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

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

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

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

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

27 (9) The department shall administer transfers of tax voucher

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

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

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

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

27 (b) To pay any liability of the taxpayer under and to the

1 extent allowed under section 270 of the income tax act of 1967,
2 1967 PA 281, MCL 206.270.

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

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

10 (12) As used in this section:

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

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

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

21 Sec. 405. (1) A taxpayer may claim a credit against the tax
22 imposed by this act for 1 or more of the following as applicable:

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

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

25 (2) A taxpayer that is certified under the Michigan next
26 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an
27 eligible taxpayer may claim a nonrefundable credit for the tax year

1 equal to the amount determined under subdivision (a) or (b),
2 whichever is less:

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

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

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

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

25 (5) A taxpayer that claims a credit under subsection (2) shall
26 attach a copy of each of the following as issued pursuant to the
27 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to

1 207.827, to the annual return required under this act for each tax
2 year in which the taxpayer claims the credit allowed under
3 subsection (2):

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

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

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

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

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

17 (8) As used in this section:

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

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

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

27 (A) Business income.

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

2 (C) The alternative energy business activity factor.

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

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

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

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

1 under this subdivision as necessary to determine baseline tax
2 liability attributable to qualified business activity that reflects
3 a 12-month period.

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

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

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

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

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

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

26 (l) "Renaissance zone" means a renaissance zone designated
27 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681

1 to 125.2696.

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

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

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

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

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

21 Sec. 407. (1) For a period of time not to exceed 20 years as
22 determined by the Michigan economic growth authority, a taxpayer
23 that is an authorized business or an eligible taxpayer may claim a
24 credit against the tax imposed by section 10 equal to the amount
25 certified each year by the Michigan economic growth authority as
26 follows:

27 (a) For an authorized business for the tax year, an amount not

1 to exceed the payroll of the authorized business attributable to
2 employees who perform qualified new jobs as determined under the
3 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
4 207.810, multiplied by the tax rate.

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

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

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

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

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

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

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

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

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

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

1 credits described in this subsection that were claimed by the
2 taxpayer.

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

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

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

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

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

26 (10) As used in this section:

27 (a) "Authorized business", "facility", "full-time job",

1 "qualified high-technology business", and "written agreement" mean
2 those terms as defined in the Michigan economic growth authority
3 act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

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

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

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

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

26 (f) "Tax rate" means the rate imposed under section 51e of the
27 income tax act of 1967, 1967 PA 281, MCL 206.51e, for the tax year

1 in which the tax year of the taxpayer for which the credit is being
2 computed begins.

3 Sec. 409. (1) A taxpayer that is a business located and
4 conducting business activity within a renaissance zone may claim a
5 credit against the tax imposed by this act for the tax year to the
6 extent and for the duration provided pursuant to the Michigan
7 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal
8 to the lesser of the following:

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

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

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

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

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

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

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

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

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

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

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

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

26 (8) As used in this section:

27 (a) "Adjusted services performed in a designated renaissance

1 zone" means either of the following:

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

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

14 (A) Business income.

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

18 (C) The renaissance zone business activity factor.

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

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

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

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

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

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

16 Sec. 411. (1) Subject to the criteria under this section, a
17 qualified taxpayer that has a preapproval letter issued after
18 December 31, 2007 and before January 1, 2013, or a taxpayer that
19 received a preapproval letter prior to January 1, 2008 under
20 section 38g of former 1975 PA 228 and has not received a
21 certificate of completion prior to the taxpayer's last tax year,
22 provided that the project is completed not more than 5 years after
23 the preapproval letter for the project is issued, or an assignee
24 under subsection (20), (21), or (22) may claim a credit that has
25 been approved under subsection (2), (3), or (4) against the tax
26 imposed by this act equal to either of the following:

27 (a) If the total of all credits for a project is \$1,000,000.00

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) The overall benefit to the public.

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

26 (c) Creation of jobs.

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

1 unemployment.

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

5 (f) The level of private sector contribution.

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

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

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

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

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

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

1 eligible investment for the project as amended shall not exceed the
2 amount allowed in the preapproval letter for that project.

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

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

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

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

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

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

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

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

25 (e) The project number.

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

1 or less, the total of all credits and the schedule on which the
2 annual credit amount shall be claimed by the qualified taxpayer.

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

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

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

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

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

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

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

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

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

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

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

1 of all 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 under section 38g of former 1975 PA
10 228.

11 (25) An eligible taxpayer that claims a credit under this
12 section is not prohibited from claiming a credit under section 407.
13 However, the eligible taxpayer shall not claim a credit under this
14 section and section 407 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) As used in this section:

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

27 (b) "Authority" means a brownfield redevelopment authority

1 created under the brownfield redevelopment financing act, 1996 PA
2 381, MCL 125.2651 to 125.2672.

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

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

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

1 equipment, or fixtures is not the qualified taxpayer with regard to
2 that machinery, equipment, or fixtures.

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

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

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

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

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

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

23 (III) Lead or asbestos abatement.

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

27 (C) Property for which eligible activities are identified

1 under the brownfield plan, is not in a qualified local governmental
2 unit, and is a facility.

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

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

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

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

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

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

27 (j) "Personal property" means that term as defined in section

1 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
2 that personal property does not include either of the following:

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

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

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

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

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

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

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

19 (i) Owns or leases eligible property.

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

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

8 Sec. 413. (1) A taxpayer, other than a taxpayer that is a
9 member of an affiliated group, a controlled group of corporations,
10 or an entity under common control, whose gross receipts allocated
11 or apportioned to this state are greater than \$350,000.00 but less
12 than \$1,000,000.00, may claim a credit against the tax imposed
13 under this act equal to the tax liability before all other credits
14 multiplied by a fraction the numerator of which is the difference
15 between the taxpayer's allocated or apportioned gross receipts and
16 \$1,000,000.00 and the denominator of which is \$650,000.00.

17 (2) A taxpayer, other than a taxpayer that is a member of an
18 affiliated group, a controlled group of corporations, or an entity
19 under common control, whose gross receipts are greater than
20 \$15,000,000.00 but less than \$50,000,000.00, may claim a credit
21 against the tax imposed under this act equal to the tax liability
22 before all other credits multiplied by a fraction the numerator of
23 which is the difference between the taxpayer's gross receipts and
24 \$50,000,000.00 and the denominator of which is \$35,000,000.00.

25 Sec. 415. (1) A taxpayer may claim a credit against the tax
26 imposed by this act equal to 25% of the property taxes paid on
27 eligible personal property in the tax year in which the credit

1 under this section is claimed. A taxpayer may claim a credit
2 against the tax imposed by this act equal to 20% of the property
3 taxes paid on personal property of a telephone company subject to
4 the tax levied under 1905 PA 282, MCL 207.1 to 207.21.

5 (2) A taxpayer may claim a credit under subsection (1) on a
6 form prescribed by the department. If applicable, the taxpayer
7 shall attach both of the following to the form:

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

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

15 (3) If a credit allowed under subsection (1) exceeds the tax
16 liability of the taxpayer for the tax year, that portion of the
17 credit that exceeds the tax liability for the tax year shall not be
18 refunded but may be carried forward to offset tax liability in
19 subsequent tax years for 10 years or until used up, whichever
20 occurs first.

21 (4) As used in this section:

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

24 (i) Was acquired by the taxpayer claiming the credit under
25 subsection (1) within 5 tax years immediately preceding the tax
26 year for which the taxpayer claims the credit under subsection (1).

27 (ii) Is classified as industrial personal property or

1 commercial personal property under section 34c of the general
2 property tax act, 1893 PA 206, MCL 211.34c.

3 (b) "Property taxes" means, except as otherwise provided in
4 this subdivision, taxes collected under the general property tax
5 act, 1893 PA 206, MCL 211.1 to 211.157. Property taxes do not
6 include any of the following:

7 (i) Except as otherwise provided under subsection (1), taxes
8 collected under 1905 PA 282, MCL 207.1 to 207.21.

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

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

12 (iv) Taxes levied under the technology park development act,
13 1984 PA 385, MCL 207.702 to 207.718.

14 (v) Taxes levied under the commercial rehabilitation act, 2005
15 PA 210, MCL 207.841 to 207.856.

16 (vi) Any payments made by a taxpayer pursuant to a contract
17 with a local tax collecting unit to the extent that those payments
18 are made to reimburse taxing units for property taxes that would
19 otherwise be collected under the general property tax act, 1893 PA
20 206, MCL 211.1 to 211.157.

21 Sec. 417. (1) Subject to subsection (4), an eligible taxpayer
22 may claim the Michigan entrepreneurial credit equal to 100% of the
23 tax imposed by this act.

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

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

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

5 (b) Has created in this state or transferred into this state
6 not fewer than 15 new jobs in the immediately preceding tax year.
7 As used in this subdivision, "new jobs" means jobs that meet all of
8 the following criteria:

9 (i) Did not exist in this state in the immediately preceding
10 tax year.

11 (ii) Represent an overall increase in full-time equivalent jobs
12 of the taxpayer in this state in the immediately preceding tax
13 year.

14 (iii) Are not jobs into which employees transfer if the
15 employees worked in this state for the taxpayer, a related entity
16 of the taxpayer, or an entity with which the taxpayer files a
17 consolidated return under this act in other jobs prior to beginning
18 the new jobs.

19 (c) Has made a capital investment in this state of not less
20 than \$1,000,000.00 in the immediately preceding tax year.

21 (4) An eligible taxpayer may claim the Michigan entrepreneurial
22 credit under this section not more than 5 times in 5 consecutive
23 years, beginning in the first year that the taxpayer claims the
24 Michigan entrepreneurial credit.

25 (5) If a taxpayer relocates outside of this state within 5 years
26 after claiming the Michigan entrepreneurial credit under this section
27 and is no longer subject to the tax imposed under this act, that

1 taxpayer is liable in an amount equal to the total of all credits
2 received under this section. Any liability under this subsection shall
3 be collected under 1941 PA 122, MCL 205.1 to 205.31.

4 Sec. 419. A taxpayer subject to 1905 PA 282, MCL 207.1 to 207.21,
5 shall be allowed a credit against the tax imposed by this act for the
6 taxable year, an amount equal to 5% of the tax imposed under 1905 PA
7 282, MCL 207.1 to 207.21. The credit allowed by this section shall not
8 be in excess of the tax liability of the taxpayer under this act.
9 Except as provided in subsection (2), this subsection shall not apply
10 to a taxpayer who files pursuant to the provisions of section 47.

11 Sec. 421. (1) An eligible taxpayer may claim a credit against the
12 tax imposed by this act equal to 10% of the taxpayer's tax liability
13 in the tax year that the credit is claimed under this section.

14 (2) An eligible taxpayer may claim the credit under this section
15 on a form prescribed by the department.

16 (3) As used in this section:

17 (a) "Eligible taxpayer" means a taxpayer that is a restaurant
18 that has imposed a smoking ban during the entire tax year for which
19 the credit is claimed.

20 (b) "Restaurant" means a fixed or mobile establishment serving
21 food to the public for consumption on the premises.

22 Sec. 423. (1) A taxpayer that maintains not fewer than 450 full-
23 time qualified research and development employees or 450 qualified
24 management staff employees may claim a credit against the tax imposed
25 by this act equal to the aggregate amount of all credits calculated
26 under subsection (2).

27 (2) The credit under this section shall be calculated

1 individually for either each qualified research and development
2 employee or each qualified management staff employee, respectively,
3 depending on which type of employee qualifies the taxpayer for the
4 credit under this section, as follows:

5 (a) If the annual wages subject to taxation for federal medicare
6 payments for a qualified research and development employee or a
7 qualified management staff employee are greater than the average
8 annual wages subject to taxation for federal medicare payments for
9 employees who are not qualified research and development or qualified
10 management staff employees, then subtract the amount of the average
11 annual wages subject to taxation for federal medicare payments for
12 employees of the taxpayer who are not qualified research and
13 development employees or qualified management staff employees from
14 each qualified research and development employee's and qualified
15 management staff employee's annual wages subject to taxation for
16 federal medicare payments or \$200,000.00, whichever is less.

17 (b) Multiply the sum of the calculation in subdivision (a) by
18 0.10.

19 (3) If the amount of the credit exceeds the tax liability of the
20 taxpayer for the tax year, the excess shall not be refunded.

21 (4) As used in this section:

22 (a) "Administrative employee" means an employee who is not
23 primarily involved in manual work and whose work is directly related
24 to management policies or general management operations.

25 (b) "Executive employee" means an employee who is primarily
26 engaged in the management of all or part of the total business
27 enterprise.

1 (c) "Full-time" means a minimum of 35 hours of an employee's time
2 a week for the entire normal year of company operations.

3 (d) "Management staff related functions and services" means those
4 functions involving financial, personnel, administrative, legal,
5 planning, or similar business functions performed by qualified
6 management staff employees in this state.

7 (e) "Professional employee" means an employee whose primary
8 duties require knowledge of an advanced type in a field of science,
9 technology, business, or other similar field requiring specialized
10 study. Such knowledge is characterized by a prolonged course of
11 specialized study. A professional employee's work must be original and
12 creative in nature and cannot be standardized over a specific period
13 of time. The work must require consistent exercise of discretion, and
14 the employee must spend at least 80% of his or her time performing
15 work directly related to management policies and centralized
16 activities.

17 (f) "Qualified management staff employee" means a full-time
18 executive, administrative, or professional employee performing
19 management staff related functions and services in this state.

20 (g) "Qualified research and development employee" means a full-
21 time employee who performs laboratory, scientific, or experimental
22 testing and development activities related to new products, new uses
23 of existing products, or improving existing products as part of a
24 group of employees who perform those research and development
25 activities for the taxpayer in this state.

26 Sec. 425. (1) For tax years that begin on or after January 1,
27 2008 and end before January 1, 2018, an eligible taxpayer may claim a

1 credit against the tax imposed by this act equal to the amount of the
2 capital expenditures during the tax year for which the credit under
3 this section is claimed, not to exceed \$2.00.

4 (2) Capital expenditures attributable or related to the operation
5 of a casino, and eligible investment that is associated or affiliated
6 with the operation of a casino, including, but not limited to, the
7 operation of a parking lot, hotel, motel, or retail store, shall not
8 be used as a basis for a credit under this section.

9 (3) If the credit allowed under this section for the tax year
10 exceeds the taxpayer's tax liability for the tax year, that portion
11 which exceeds the tax liability for the tax year shall not be refunded
12 and may not be carried forward to offset tax liability in subsequent
13 years.

14 (4) As used in this section:

15 (a) "Casino" means a casino regulated by this state pursuant to
16 the Michigan gaming control and revenue act, the Initiated Law of
17 1996, MCL 432.201 to 432.226.

18 (b) "Eligible taxpayer" means any of the following:

19 (i) A person who owns and operates an entertainment complex.

20 (ii) A person who is the lessee and operator of an entertainment
21 complex or the lessee of the land on which an entertainment complex is
22 located and operates that entertainment complex.

23 (iii) A person who operates and maintains an entertainment complex
24 under an operation and management agreement.

25 (c) "Entertainment complex" means a facility, and its ancillary
26 grounds and facilities, that satisfies all of the following:

27 (i) Has at least 15,000 fixed seats for patrons.

1 (ii) Serves food and beverages at the entertainment complex during
2 events each calendar year through concession outlets.

3 (iii) Engages in tourism promotion.

4 Sec. 427. (1) Except as otherwise limited in this section, a
5 taxpayer not subject to the income tax act of 1967, 1967 PA 281, MCL
6 206.1 to 206.532, may claim a credit against the tax imposed under
7 this act for the tax year equal to 50% of the aggregate amount of
8 charitable contributions made by the taxpayer during the tax year to a
9 public broadcast station as defined by 47 USC 397 that is not
10 affiliated with an institution of higher education, a public library,
11 an institution of higher learning located within this state, or the
12 Michigan colleges foundation or of charitable contributions made to a
13 nonprofit corporation, fund, foundation, trust, or association
14 organized and operated exclusively for the benefit of an institution
15 of higher learning. If an institution of higher learning receives the
16 contributions through a nonprofit corporation, fund, foundation,
17 trust, or association organized and operated exclusively for the
18 benefit of the institution of higher learning, the tax credit shall be
19 permitted only if the donee nonprofit corporation, fund, foundation,
20 trust, or association is controlled or approved and reviewed by the
21 governing boards of the institutions benefiting from the charitable
22 contributions. The nonprofit corporation, fund, foundation, trust, or
23 association shall provide copies of its annual independently audited
24 financial statements to the auditor general and to the chairpersons of
25 the senate and house appropriations committees.

26 (2) The amount allowable as a credit under this section for any
27 tax year shall not exceed 5% of the tax liability for that year as

1 determined without regard to this section or \$5,000.00, whichever is
2 less.

3 (3) As used in this section, "institution of higher learning"
4 means an educational institution located within this state meeting all
5 of the following requirements:

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

9 (b) It regularly offers education above the twelfth grade.

10 (c) It awards associate, bachelors, masters, or doctoral degrees
11 or any combination of those degrees or higher education credits
12 acceptable for those degrees granted by other institutions of higher
13 learning.

14 (d) It is recognized by the state board of education as an
15 institution of higher learning and appears as an institution of higher
16 learning in the annual publication of the department of education
17 entitled "the directory of institutions of higher education".

18 (4) As used in this section, "public library" means that term as
19 defined in section 2 of the state aid to public libraries act, 1977 PA
20 89, MCL 397.552.

21 (5) The credit allowed under this section shall not exceed the
22 tax liability of the taxpayer.

23 Sec. 429. (1) A qualified taxpayer with a rehabilitation plan
24 certified after December 31, 2007 or a qualified taxpayer that has a
25 rehabilitation plan certified before January 1, 2008 under section 39c
26 of former 1975 PA 228 for the rehabilitation of a historic resource
27 for which a certification of completed rehabilitation has been issued

1 after the end of the taxpayer's last tax year may credit against the
2 tax imposed by this act the amount determined pursuant to subsection
3 (2) for the qualified expenditures for the rehabilitation of a
4 historic resource pursuant to the rehabilitation plan in the year in
5 which the certification of completed rehabilitation of the historic
6 resource is issued provided that the certification of completed
7 rehabilitation was issued not more than 5 years after the
8 rehabilitation plan was certified by the Michigan historical center.

9 (2) The credit allowed under this section shall be 25% of the
10 qualified expenditures that are eligible for the credit under section
11 47(a)(2) of the internal revenue code if the taxpayer is eligible for
12 the credit under section 47(a)(2) of the internal revenue code or, if
13 the taxpayer is not eligible for the credit under section 47(a)(2) of
14 the internal revenue code, 25% of the qualified expenditures that
15 would qualify under section 47(a)(2) of the internal revenue code
16 except that the expenditures are made to a historic resource that is
17 not eligible for the credit under section 47(a)(2) of the internal
18 revenue code, subject to both of the following:

19 (a) A taxpayer with qualified expenditures that are eligible for
20 the credit under section 47(a)(2) of the internal revenue code may not
21 claim a credit under this section for those qualified expenditures
22 unless the taxpayer has claimed and received a credit for those
23 qualified expenditures under section 47(a)(2) of the internal revenue
24 code.

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

1 (3) To be eligible for the credit under this section, the
2 taxpayer shall apply to and receive from the Michigan historical
3 center certification that the historic significance, the
4 rehabilitation plan, and the completed rehabilitation of the historic
5 resource meet the criteria under subsection (6) and either of the
6 following:

7 (a) All of the following criteria:

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

10 (ii) Both the rehabilitation plan and completed rehabilitation of
11 the historic resource meet the federal secretary of the interior's
12 standards for rehabilitation and guidelines for rehabilitating
13 historic buildings, 36 CFR part 67.

14 (iii) All rehabilitation work has been done to or within the walls,
15 boundaries, or structures of the historic resource or to historic
16 resources located within the property boundaries of the property.

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

21 (4) If a qualified taxpayer is eligible for the credit allowed
22 under section 47(a)(2) of the internal revenue code, the qualified
23 taxpayer shall file for certification with the center to qualify for
24 the credit allowed under section 47(a)(2) of the internal revenue
25 code. If the qualified taxpayer has previously filed for certification
26 with the center to qualify for the credit allowed under section
27 47(a)(2) of the internal revenue code, additional filing for the

1 credit allowed under this section is not required.

2 (5) The center may inspect a historic resource at any time during
3 the rehabilitation process and may revoke certification of completed
4 rehabilitation if the rehabilitation was not undertaken as represented
5 in the rehabilitation plan or if unapproved alterations to the
6 completed rehabilitation are made during the 5 years after the tax
7 year in which the credit was claimed. The center shall promptly notify
8 the department of a revocation.

9 (6) Qualified expenditures for the rehabilitation of a historic
10 resource may be used to calculate the credit under this section if the
11 historic resource meets 1 of the criteria listed in subdivision (a)
12 and 1 of the criteria listed in subdivision (b):

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

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

18 (ii) A contributing resource located within a historic district
19 listed on the national register of historic places or the state
20 register of historic sites.

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

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

27 (i) The historic resource is located in a designated historic

1 district in a local unit of government with an existing ordinance
2 under the local historic districts act, 1970 PA 169, MCL 399.201 to
3 399.215.

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

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

10 (iv) The historic resource is located in an incorporated local
11 unit of government that does not have an ordinance under the local
12 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is
13 located within the boundaries of an association that has been
14 chartered under 1889 PA 39, MCL 455.51 to 455.72.

15 (7) If a qualified taxpayer is a partnership, limited liability
16 company, or subchapter S corporation, the qualified taxpayer may
17 assign all or any portion of a credit allowed under this section to
18 its partners, members, or shareholders, based on the partner's,
19 member's, or shareholder's proportionate share of ownership or based
20 on an alternative method approved by the department. A credit
21 assignment under this subsection is irrevocable and shall be made in
22 the tax year in which a certificate of completed rehabilitation is
23 issued. A qualified taxpayer may claim a portion of a credit and
24 assign the remaining credit amount. A partner, member, or shareholder
25 that is an assignee shall not subsequently assign a credit or any
26 portion of a credit assigned to the partner, member, or shareholder
27 under this subsection. A credit amount assigned under this subsection

1 may be claimed against the partner's, member's, or shareholder's tax
2 liability under this act or under the income tax act of 1967, 1967 PA
3 281, MCL 206.1 to 206.532. A credit assignment under this subsection
4 shall be made on a form prescribed by the department. The qualified
5 taxpayer and assignees shall send a copy of the completed assignment
6 form to the department in the tax year in which the assignment is made
7 and attach a copy of the completed assignment form to the annual
8 return required to be filed under this act for that tax year.

9 (8) If the credit allowed under this section for the tax year and
10 any unused carryforward of the credit allowed by this section exceed
11 the taxpayer's tax liability for the tax year, that portion that
12 exceeds the tax liability for the tax year shall not be refunded but
13 may be carried forward to offset tax liability in subsequent tax years
14 for 10 years or until used up, whichever occurs first. An unused
15 carryforward of a credit under section 39c of former 1975 PA 228 that
16 was unused at the end of the last tax year for which former 1975 PA
17 228 was in effect may be claimed against the tax imposed under this
18 act for the years the carryforward would have been available under
19 section 39c of former 1975 PA 228.

20 (9) If the taxpayer sells a historic resource for which a credit
21 was claimed under this section or under section 39c of former 1975 PA
22 228 less than 5 years after the year in which the credit was claimed,
23 the following percentage of the credit amount previously claimed
24 relative to that historic resource shall be added back to the tax
25 liability of the taxpayer in the year of the sale:

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

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

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

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

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

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

12 (10) If a certification of completed rehabilitation is revoked
13 under subsection (5) less than 5 years after the year in which a
14 credit was claimed under this section or under section 39c of former
15 1975 PA 228, the following percentage of the credit amount previously
16 claimed relative to that historic resource shall be added back to the
17 tax liability of the taxpayer in the year of the revocation:

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

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

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

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

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

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

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

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

11 (a) Certification of completed rehabilitation.

12 (b) Certification of historic significance related to the
13 historic resource and the qualified expenditures used to claim a
14 credit under this section.

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

19 (13) The department of history, arts, and libraries shall
20 promulgate rules to implement this section pursuant to the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

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

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

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

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

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

8 (16) As used in this section:

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

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

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

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

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

1 of that resource.

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

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

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

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

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

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

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

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

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

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

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

13 Sec. 431. (1) Subject to the applicable limitations in this
14 section, a taxpayer who does not claim a credit under section 261 of
15 the income tax act of 1967, 1967 PA 281, MCL 206.261, may credit
16 against the tax imposed by this act 50% of the amount the taxpayer
17 contributes during the taxable year to an endowment fund of a
18 community foundation or a school foundation.

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

22 (3) The credit allowed by this section is nonrefundable so that a
23 taxpayer shall not claim under this section a total credit amount that
24 reduces the taxpayer's tax liability to less than zero.

25 (4) As used in this section, "community foundation" means an
26 organization that applies for certification on or before May 15 of the
27 tax year for which the taxpayer is claiming the credit and that the

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

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

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

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

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

16 (e) Is not a supporting organization as an organization is
17 described in section 509(a)(3) of the internal revenue code and the
18 regulations of the United States department of treasury, 26 CFR
19 1.509(a)-4 and 1.509(a)-5.

20 (f) Meets the requirements for treatment as a single entity
21 contained in the regulations of the United States department of
22 treasury, 26 CFR 1.170A-9(e)(11).

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

1 established.

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

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

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

17 (k) In addition to all other criteria listed in this subsection
18 for a community foundation that is incorporated or established after
19 the effective date of the amendatory act that added this subdivision,
20 operates in a county of this state that was not served by a community
21 foundation when the community foundation was incorporated or
22 established or operates as a geographic component of an existing
23 certified community foundation.

24 (5) On or before July 1 of each year, the department shall report
25 to the house of representatives committee on taxation and the senate
26 committee on finance the total amount of tax credits claimed under
27 this section and under section 261 of the income tax act of 1967, 1967

1 PA 281, MCL 206.261, for the immediately preceding tax year.

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

15 Sec. 433. (1) A taxpayer may claim a credit against the tax
16 imposed by this act equal to the sum of 50% of the qualified expenses
17 defined in subsection (5)(d)(i) and (ii) and 100% of the qualified
18 expenses defined in subsection (5)(d)(iii) paid by the taxpayer in the
19 tax year in each of the following circumstances:

20 (a) Except for apprentices trained under subdivision (b) or (c),
21 an amount not to exceed \$2,000.00 for each apprentice trained by the
22 taxpayer in the tax year.

23 (b) For companies that have a classification under the North
24 American industrial classification system (NAICS) of 333511, 333512,
25 333513, 333514, or 333515 and for tax years that begin after December
26 31, 2003, an amount not to exceed \$4,000.00 for each apprentice
27 trained by the taxpayer in the tax year.

1 (c) For companies that have a classification under the North
2 American industrial classification system (NAICS) of 333511, 333512,
3 333513, 333514, or 333515 and for tax years that begin after December
4 31, 2003, an amount not to exceed \$1,000.00 for each special
5 apprentice trained by the taxpayer in the tax year.

6 (2) If the credit allowed under this section exceeds the tax
7 liability of the taxpayer under this act for the tax year, that
8 portion of the credit that exceeds the tax liability shall be
9 refunded.

10 (3) The credit allowed under this section shall be claimed on the
11 annual return required under section 72, or for a taxpayer that is not
12 required to file an annual return, the department shall provide that
13 the credit under this subsection may be claimed on the C-8044 form, a
14 successor form for persons not required to file an annual return, or
15 other simplified form prescribed by the department.

16 (4) For each year that this credit is in effect, the department
17 of labor and economic growth shall prepare a report containing
18 information including, but not limited to, the number of companies
19 taking advantage of the apprenticeship credit, the number of
20 apprentices participating in the program, the number of apprentices
21 who complete a program the costs of which were the basis of a credit
22 under this section, the number of apprentices that were hired by the
23 taxpayer after the apprenticeship training was completed for which the
24 taxpayer claimed a credit under this section for the costs of training
25 that apprentice, information on the employment status of individuals
26 who have completed an apprenticeship to the extent the information is
27 available, and the fiscal impact of the apprenticeship credit. This

1 report shall then be transmitted to the house tax policy and senate
2 finance committees and to the house and senate appropriations
3 committees. This report shall be due no later than the first day of
4 March each year.

5 (5) As used in this section:

6 (a) "Apprentice" means a person who is a resident of this state,
7 is 16 years of age or older but younger than 20 years of age, has not
8 obtained a high school diploma, is enrolled in high school or a
9 general education development (G.E.D.) test preparation program, and
10 is trained by a taxpayer through a program that meets all of the
11 following criteria:

12 (i) The program is registered with the bureau of apprenticeship
13 and training of the United States department of labor.

14 (ii) The program is provided pursuant to an apprenticeship
15 agreement signed by the taxpayer and the apprentice.

16 (iii) The program is filed with a local workforce development
17 board.

18 (iv) The minimum term in hours for the program shall be not less
19 than 4,000 hours.

20 (b) "Enrolled" means currently enrolled or expecting to enroll
21 after a period of less than 3 months during which the program is not
22 in operation and the apprentice is not enrolled.

23 (c) "Local workforce development board" means a board established
24 by the chief elected official of a local unit of government pursuant
25 to the job training partnership act, Public Law 97-300, 96 Stat. 1322,
26 that has the responsibility to ensure that the workforce needs of the
27 employers in the geographic area governed by the local unit of

1 government are met.

2 (d) "Qualified expenses" means all of the following expenses paid
3 by the taxpayer in a tax year that begins after December 31, 1996 for
4 expenses used to calculate a credit under subsection (1)(a) and after
5 December 31, 2003 for expenses used to calculate a credit under
6 subsection (1)(b) that were not paid for with funds the taxpayer
7 received or retained that the taxpayer would not otherwise have
8 received or retained and that are used for training an apprentice:

9 (i) Salary and wages paid to an apprentice.

10 (ii) Fringe benefits and other payroll expenses paid for the
11 benefit of an apprentice.

12 (iii) Costs of classroom instruction and related expenses
13 identified as costs for which the taxpayer is responsible under an
14 apprenticeship agreement, including but not limited to tuition, fees,
15 and books for college level courses taken while the apprentice is
16 enrolled in high school.

17 (e) "Special apprentice" means a person who is not an apprentice
18 as defined by subsection (5)(a), is a resident of this state, is 16
19 years of age or older but younger than 25 years of age, and is trained
20 by a taxpayer through a program that meets all of the criteria under
21 subdivision (a)(i) to (iv).

22 Sec. 435. (1) For tax years that begin after December 31, 2007
23 and before January 1, 2010, a taxpayer may claim a credit against the
24 tax imposed by this act, subject to the applicable limitations
25 provided by this section, in an amount equal to 50% of the fair market
26 value of an automobile donated by the taxpayer to a qualified
27 organization that intends to provide the automobile to a qualified

1 recipient.

2 (2) The value of a passenger vehicle shall be determined by the
3 qualified organization or by using the value of the automobile in the
4 appropriate guide published by the national automobile dealers
5 association, whichever is less.

6 (3) The amount allowable as a credit under this section for a tax
7 year shall not exceed \$100.00.

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

11 (5) As used in this section, "qualified organization" and
12 "qualified recipient" mean those terms as defined in section 4y of the
13 use tax act, 1937 PA 94, MCL 205.94y.

14 Sec. 437. (1) Except as otherwise limited in this section, a
15 taxpayer may claim a credit against the tax imposed under this act for
16 the tax year equal to 50% of the aggregate amount of contributions
17 made by the taxpayer during the tax year to a charitable or cultural
18 organization. If the charitable or cultural organization receives the
19 contributions through a nonprofit corporation, fund, foundation,
20 trust, or association organized and operated exclusively for the
21 benefit of the charitable or cultural organization, the tax credit
22 shall be permitted only if the donee nonprofit corporation, fund,
23 foundation, trust, or association is controlled or approved and
24 reviewed by the governing boards of the charitable or cultural
25 organization benefiting from the charitable contributions. The
26 nonprofit corporation, fund, foundation, trust, or association shall
27 provide copies of its annual independently audited financial

1 statements to the auditor general and to the chairpersons of the
2 senate and house appropriations committees.

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

7 (3) The credit allowed under this section shall not exceed the
8 tax liability of the taxpayer.

9 Sec. 439. (1) An eligible taxpayer may claim a credit equal to 5%
10 of the tax imposed by this act.

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

13 (3) As used in this section, "eligible taxpayer" means a taxpayer
14 that performs transportation services in this state, which
15 transportation services may include goods, people, or a combination of
16 goods and people and which may take place on air, land, or water.

17 CHAPTER 5

18 Sec. 501. (1) A taxpayer that reasonably expects liability for
19 the tax year to exceed \$1,000.00 shall file an estimated return and
20 pay an estimated tax for each quarter of the taxpayer's tax year. A
21 unitary business group or a consolidated taxpayer group may file a
22 single estimated return and pay estimated tax on behalf of the
23 group.

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

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

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

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

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

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

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

25 (6) With respect to a taxpayer filing an estimated tax return
26 for the taxpayer's first tax year of less than 12 months, the
27 amounts paid with each return shall be proportional to the number

1 of payments made in the first tax year.

2 (7) Payments made under this section shall be a credit against
3 the payment required with the annual tax return required in section
4 505.

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

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

18 Sec. 503. A taxpayer subject to this act may elect to compute
19 the tax imposed by this act for the first tax year if that tax year
20 is less than 12 months in accordance with 1 of the following
21 methods:

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

27 (b) The tax may be computed by determining the tax base in the

1 first tax year in accordance with an accounting method satisfactory
2 to the department that reflects the actual tax base attributable to
3 the period.

4 Sec. 505. (1) An annual or final return shall be filed with
5 the department in the form and content prescribed by the department
6 by the last day of the fourth month after the end of the taxpayer's
7 tax year. Any final liability shall be remitted with this return.

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

13 (3) The department, upon application of the taxpayer and for
14 good cause shown, may extend the date for filing the annual return.
15 Interest at the rate under section 23(2) of 1941 PA 122, MCL
16 205.23, shall be added to the amount of the tax unpaid for the
17 period of the extension. The treasurer shall require with the
18 application payment of the estimated tax liability unpaid for the
19 tax period covered by the extension.

20 (4) If a taxpayer is granted an extension of time within which
21 to file the federal income tax return for any tax year, the filing
22 of a copy of the request for extension together with a tentative
23 return and payment of an estimated tax with the department by the
24 due date provided in subsection (1) shall automatically extend the
25 due date for the filing of an annual or final return under this act
26 until the last day of the eighth month following the original due
27 date of the return. Interest at the rate under section 23(2) of

1 1941 PA 122, MCL 205.23, shall be added to the amount of the tax
2 unpaid for the period of the extension.

3 (5) An affiliated group as defined in this act, a controlled
4 group of corporations as defined in section 1563 of the internal
5 revenue code and further described in 26 CFR 1.414(b)-1 and
6 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
7 defined in the internal revenue code shall consolidate the gross
8 receipts of the members of the affiliated group, member
9 corporations of the controlled group, or entities under common
10 control that have apportioned or allocated gross receipts, to
11 determine whether the group or entity shall pay a tax or file a
12 return as provided under subsection (1). An individual member of an
13 affiliated group or controlled group of corporations or an entity
14 under common control is not required to file a return or pay the
15 tax under this act if that member or entity has apportioned or
16 allocated gross receipts of less than \$100,000.00.

17 Sec. 507. (1) A taxpayer required to file a return under this
18 act may be required to furnish a true and correct copy of any
19 return or portion of any return filed under the provisions of the
20 internal revenue code.

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

26 Sec. 508. (1) At the request of the department, a person
27 required by the internal revenue code to file or submit an

1 information return of income paid to others shall, to the extent
2 the information is applicable to residents of this state, at the
3 same time file or submit the information in the form and content
4 prescribed to the department.

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

10 Sec. 509. (1) Persons that are members of the same unitary
11 business group shall be treated as 1 taxpayer for purposes of any
12 original return; amended return that includes the same taxpayers of
13 the unitary business group which joined in filing the original
14 return, extension, claim for refund, assessment, collection, and
15 payment; and determination of the group's tax liability under this
16 act.

17 (2) A unitary business group shall file a single combined tax
18 return reporting the tax liability of all members of the group.

19 (3) The department may assess the entire amount of the tax and
20 all additional taxes, penalty, and interest computed on the basis
21 of the combined tax return against any 1 or more members of the
22 unitary business group.

23 (4) The sales factor for a unitary business member is a
24 fraction, the numerator of which is the total sales of the unitary
25 business member in this state during the tax year and the
26 denominator of which is the total sales of the unitary business
27 group everywhere during the tax year. In the case of a unitary

1 business group composed exclusively of taxpayers using the special
2 apportionment factors under section 307, 309, or 311 of this act,
3 the unitary business member's tax base shall be apportioned by a
4 fraction, the numerator of which is the special factor of the
5 unitary business member in this state during the tax year and the
6 denominator of which is the special factor of the unitary business
7 group everywhere during the tax year. Sales between members of the
8 unitary business group must be eliminated in calculating the sales
9 factor or the special factor.

10 (5) In no event, however, will any unitary business group
11 include members that are subject to apportionment by different
12 apportionment factors.

13 (6) As used in this section:

14 (a) "Unitary business group" means a group of persons related
15 through common ownership whose business activities are integrated
16 with, are dependent upon, and contribute to each other. A unitary
17 business group does not include a member whose business activity
18 outside the United States is 80% or more of that member's total
19 business activity. For purposes of this subdivision, business
20 activity within the United States is measured by the sales factor
21 ordinarily applicable under section 205 and chapter 3. The
22 computation required by the preceding sentence shall, in each case,
23 involve the division of the member's sales in the United States or
24 insurance premiums on property or risk in the United States, as the
25 case may be, by the respective worldwide figures for such items.
26 Common ownership of a unitary business group shall be determined as
27 follows:

1 (i) Common ownership in the case of a corporation or subchapter
2 S corporation is the direct or indirect control or ownership of
3 more than 50% of the outstanding stock by vote and value and the
4 direct or indirect control or ownership of more than 50% of the
5 outstanding value of stock of the persons carrying on unitary
6 business activity.

7 (ii) Common ownership in the case of partnerships is the direct
8 or indirect ownership or control of more than 50% of the
9 partnership interests of the partnerships carrying on unitary
10 business activity.

11 (b) "Unitary business member" means a person that is a member
12 of a unitary business group.

13 (c) "United States" means only the 50 states and the District
14 of Columbia, but does not include any territory or possession of
15 the United States or any area over which the United States has
16 asserted jurisdiction or claimed exclusive rights with respect to
17 the exploration for or exploitation of natural resources.

18 (7) For purposes of this section:

19 (a) An individual is considered the owner of the stock or the
20 owner of partnership interests owned, directly or indirectly, by or
21 for family members as defined by section 318(a)(1) of the internal
22 revenue code.

23 (b) Unitary business activity can ordinarily be illustrated if
24 the activities of the members are any of the following:

25 (i) In the same general line, such as manufacturing,
26 wholesaling, retailing of tangible personal property, insurance,
27 transportation, or finance.

1 (ii) Steps in a vertically structured enterprise or process,
2 such as the steps involved in the production of natural resources,
3 which might include exploration, mining, refining, and marketing.

4 (iii) Functionally integrated through the exercise of strong
5 centralized management, including, but not limited to, authority
6 over such matters as purchasing, financing, tax compliance, product
7 line, personnel, marketing, and capital investment.

8 Sec. 510. (1) A group of 2 or more persons may elect to be a
9 consolidated taxpayer group for the purposes of this act if the
10 group satisfies all of the following requirements:

11 (a) The group elects to include all persons having at least
12 50% of the vote, if applicable, and value of their ownership
13 interests owned or controlled, directly or constructively through
14 related interests, by common owners during all or any portion of
15 the tax period, together with the common owners. At the election of
16 the group, entities that are not incorporated or formed under the
17 laws of a state or of the United States and that meet the elected
18 ownership test shall either be included in the group or excluded
19 from the group. The group shall notify the department of the
20 foregoing elections before the due date of the return in which the
21 election is to become effective. If 50% of the vote, if applicable,
22 and value of a person's ownership interests is owned or controlled
23 by each of 2 consolidated taxpayer groups formed under the 50%
24 ownership or control test, that person is a member of each group
25 for the purposes of this section, and each group shall include in
26 the group's taxable receipts 50% of that person's taxable receipts.
27 Otherwise, all of that person's taxable receipts shall be included

1 in the tax base of the consolidated taxpayer group of which the
2 person is a member. In no event shall the ownership or control of
3 50% of the vote, if applicable, and value of a person's ownership
4 interests by 2 otherwise unrelated groups form the basis for
5 consolidating the groups into a single consolidated taxpayer group
6 or permit any exclusion under subsection (3) of taxable receipts
7 between members of the 2 groups. Subdivision (c) applies with
8 respect to the elections described in this subdivision.

9 (b) The group makes the election to be treated as a
10 consolidated taxpayer group in the manner prescribed under
11 subsection (4).

12 (c) No member of the group is subject to the tax imposed under
13 chapter 2A.

14 (d) Subject to review and audit by the department, the group
15 agrees that all of the following apply:

16 (i) The group shall file reports as a single taxpayer for at
17 least the next 5 years following the election so long as at least 2
18 or more of the members of the group meet the requirements of
19 subdivision (a).

20 (ii) Before the expiration of the fifth taxable year, the group
21 shall notify the department if it elects to cancel its designation
22 as a consolidated taxpayer group. If the group does not notify the
23 department, the election shall remain in effect for another 5
24 years.

25 (iii) If at any time during any of those 5 years following the
26 election, a former member of the group no longer meets the
27 requirements under subdivision (a), that member shall report and

1 pay the tax imposed under this act separately, as a member of a
2 unitary business group, or if the former member satisfies those
3 requirements, with respect to another consolidated taxpayer group,
4 as a member of that consolidated taxpayer group.

5 (iv) The group agrees to the application of subsection (2).

6 (2) A consolidated taxpayer group shall exclude taxable
7 receipts between its members. Nothing in this section shall have
8 the effect of excluding receipts received from persons that are not
9 members of the group.

10 (3) To make the election to be a consolidated taxpayer group,
11 a group of persons shall notify the department of the election in
12 the manner prescribed by the department. The election shall be made
13 before the later of the beginning of the first calendar quarter to
14 which the election applies or June 15, 2008. The election shall be
15 made on a form prescribed by the department for that purpose and
16 shall be signed by 1 or more individuals with authority, separately
17 or together, to make a binding election on behalf of all persons in
18 the group. Any person acquired or formed after the filing of the
19 election shall be included in the group if the person meets the
20 requirements of subsection (1)(a), and the group shall notify the
21 department of any additions to the group with the next tax return
22 it files with the department.

23 (4) Each member of a consolidated taxpayer group is jointly
24 and severally liable for the tax imposed by this act and any
25 penalties or interest thereon. The department may require 1 person
26 in the group to be the taxpayer for purposes of registration and
27 remittance of the tax, but all members of the group are subject to

1 assessment under this act.

2 (5) The sales factor for a consolidated member is calculated
3 under section 303(1) excluding sales between consolidated members.
4 The factors of each consolidated member are added together to total
5 1 sales factor for the consolidated taxpayer group. The allocation
6 of sales to determine the numerator of the sales factor is made as
7 though each corporation is filing a separate return.

8 (6) As used in this section:

9 (a) "Consolidated member" means each person within a
10 consolidated taxpayer group.

11 (b) "Consolidated taxpayer group" means a group of 2 or more
12 persons treated as a single taxpayer for purposes of this act as
13 the result of an election made under this section.

14 Sec. 513. (1) The tax imposed by this act shall be
15 administered by the department of treasury pursuant to 1941 PA 122,
16 MCL 205.1 to 205.31, and this act. If a conflict exists between
17 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of
18 this act apply.

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

22 (3) The department shall prescribe forms for use by taxpayers
23 and may promulgate rules in conformity with this act for the
24 maintenance by taxpayers of records, books, and accounts, and for
25 the computation of the tax, the manner and time of changing or
26 electing accounting methods and of exercising the various options
27 contained in this act, the making of returns, and the

1 ascertainment, assessment, and collection of the tax imposed under
2 this act.

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

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

11 Sec. 515. The proceeds of the tax collected under this act
12 shall be deposited in the general fund.

13 Sec. 901. This act is repealed effective January 1, 2018.

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

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

18 (a) Senate Bill No. 95.

19 (b) Senate Bill No. 96.