

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; to make appropriations; and to repeal acts and parts of acts.

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

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CHAPTER 1

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

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

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

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

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

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

19           (2) "Compensation" means all wages, salaries, fees, bonuses,  
20 commissions, other payments made in the tax year on behalf of or  
21 for the benefit of employees, officers, or directors of the  
22 taxpayers, and any earnings that are net earnings from self-  
23 employment as defined under section 1402 of the internal revenue  
24 code of the taxpayer or a partner or limited liability company  
25 member of the taxpayer. Compensation includes, but is not limited  
26 to, payments that are subject to or specifically exempt or excepted  
27 from withholding under sections 3401 to 3406 of the internal

1 revenue code. Compensation, for the client of a professional  
2 employer organization, includes payments to the professional  
3 employer organization for the compensation of professional employer  
4 services. Compensation also includes, on a cash or accrual basis  
5 consistent with the taxpayer's method of accounting for federal  
6 income tax purposes, payments to a pension, retirement, or profit  
7 sharing plan, and payments for insurance for which employees are  
8 the beneficiaries, including payments under health and welfare and  
9 noninsured benefit plans and payment of fees for the administration  
10 of health and welfare and noninsured benefit plans. Compensation  
11 for a taxpayer licensed under article 25 or 26 of the occupational  
12 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to  
13 339.2637, includes payments to an independent contractor licensed  
14 under article 25 or 26 of the occupational code, 1980 PA 299, MCL  
15 339.2501 to 339.2518 and 339.2601 to 339.2637. Compensation does  
16 not include any of the following:

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

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

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

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

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

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

5 (f) For a professional employer organization, payments to the  
6 officers and employees of a professional employer organization for  
7 services performed for a client.

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

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

11 (5) "Depository financial institution" means that term as  
12 defined under chapter 2B.

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

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

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

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

27 (a) Proceeds from sales by a principal that the taxpayer

1 collects in an agency capacity solely on behalf of the principal  
2 and delivers to the principal.

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

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

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

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

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

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

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

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

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

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

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

18 (g) Proceeds from any of the following:

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

20 (ii) The original issue of debt instruments.

21 (h) Refunds from returned merchandise.

22 (i) Cash and in-kind discounts.

23 (j) Trade discounts.

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

25 (l) Security deposits.

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

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

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

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

11 (2) "Insurance company" means an authorized insurer as defined  
12 in section 106 of the insurance code of 1956, 1956 PA 218, MCL  
13 500.106.

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

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

19 (a) The chairperson of the board.

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

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

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

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

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

7           (4) "Professional employer organization" means a person that  
8 provides professional employer services.

9           (5) "Professional employer services" means an arrangement to  
10 which all of the following apply:

11           (a) Employees of a professional employer organization are  
12 assigned to work at a client company.

13           (b) Employment responsibilities are shared by the professional  
14 employer organization and the client company.

15           (c) The employee's assignment is intended to be of a long-term  
16 or continuing nature, rather than temporary or seasonal in nature.

17           (d) A majority of the workforce at a client company work site  
18 or a majority of the personnel of a specialized group within that  
19 workforce consists of assigned employees of the professional  
20 employer organization.

21           (6) Professional employer services do not include services  
22 that provide temporary employees, independent contractors,  
23 personnel placement services, managed services, payroll services  
24 that do not involve employee staffing or leasing, the sharing of  
25 employees by commonly owned companies within the meaning of section  
26 414(b) or (c) of the internal revenue code, or other similar groups  
27 that do not meet the requirements of subsection (5).

1           (7) "Revenue mile" means the transportation for a  
2 consideration of 1 net ton in weight or 1 passenger the distance of  
3 1 mile.

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

7           (a) The transfer of title to, or possession of, property that  
8 is stock in trade or other property of a kind that would properly  
9 be included in the inventory of the taxpayer if on hand at the  
10 close of the tax period or property held by the taxpayer primarily  
11 for sale to customers in the ordinary course of the taxpayer's  
12 trade or business. For intangible property, the amounts received  
13 shall be limited to any gain received from the disposition of that  
14 property.

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

18           (c) The rental, lease, licensing, or use of tangible or  
19 intangible property, including interest, that constitutes business  
20 activity.

21           (d) For taxpayers not engaged in any other business  
22 activities, sales include interest, dividends, and other income  
23 from investment assets and activities and from trading assets and  
24 activities.

25           (2) "Shareholder" means a person who owns outstanding stock in  
26 a business or is a member of a business entity that files as a  
27 corporation for federal income tax purposes. An individual is

1 considered as the owner of the stock owned, directly or indirectly,  
2 by or for family members as defined by section 318(a)(1) of the  
3 internal revenue code.

4 (3) "State" means any state of the United States, the District  
5 of Columbia, the Commonwealth of Puerto Rico, any territory or  
6 possession of the United States, and any foreign country, or a  
7 political subdivision of any of the foregoing.

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

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

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

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

26 (b) An organization exempt under section 501(c)(4) of the  
27 internal revenue code that would be exempt under section 501(c)(12)

1 of the internal revenue code but for its failure to meet the  
2 requirement in section 501(c)(12) that 85% or more of its income  
3 must consist of amounts collected from members.

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

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

16 (6) "Temporary employee" means a person employed under an  
17 arrangement by which a professional employer organization hires its  
18 own employees and assigns them to a client company to support or  
19 supplement the client's workforce in a special work situation,  
20 including, but not limited to, the following:

21 (a) An employee absence.

22 (b) A temporary skill shortage.

23 (c) A seasonal workload.

24 (d) A special assignment or project.

25 (7) "Unitary business group" means a group of United States  
26 persons, 1 of which owns or controls, directly or indirectly, more  
27 than 50% of the ownership interest with voting rights of the other

1 United States persons, that has business activities or operations  
2 which result in a flow of value between persons included in the  
3 unitary business group or multiple persons or in a flow of value  
4 within a single legal entity regardless of whether each entity is a  
5 sole proprietorship, corporation, partnership, limited liability  
6 company, trust, or other person under this act. For purposes of  
7 this subsection, flow of value is determined by reviewing the  
8 totality of facts and circumstances of business activities and  
9 operations as follows:

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

20 (b) Transactions separately accounted for may evidence a flow  
21 of value. The fact that a business uses or can use a separate  
22 accounting system, including, but not limited to, separate  
23 accounting between divisions of a single legal entity, between  
24 multiple persons under common ownership, on an arm's length basis,  
25 on a geographical basis, or by business function, does not  
26 determine whether a group is a unitary business group.

27 (8) "United States person" means that term as defined in

1 section 7701(a)(30) of the internal revenue code.

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

6 CHAPTER 2

7 Sec. 201. (1) Except as otherwise provided in this act, there  
8 is levied and imposed a business income tax on every taxpayer with  
9 business activity within this state unless prohibited by 15 USC 381  
10 to 384. The business income tax is imposed on the business income  
11 tax base, after allocation or apportionment to this state, at the  
12 rate of 6.95%.

13 (2) The business income tax base means a taxpayer's business  
14 income subject to the following adjustments, before allocation or  
15 apportionment, and the adjustments in subsections (3), (4), and (5)  
16 after allocation or apportionment:

17 (a) Add interest income and dividends derived from obligations  
18 or securities of states other than this state, in the same amount  
19 that was excluded from federal taxable income, less the related  
20 portion of expenses not deducted in computing federal taxable  
21 income because of sections 265 and 291 of the internal revenue  
22 code.

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

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

1 (d) To the extent included in federal taxable income, deduct  
2 dividends and royalties received from persons other than United  
3 States persons, including, but not limited to, amounts determined  
4 under section 78 of the internal revenue code or sections 951 to  
5 964 of the internal revenue code.

6 (e) To the extent included in federal taxable income, add the  
7 loss or subtract the income from the business income tax base that  
8 is attributable to another entity whose business activities are  
9 taxable under this section or would be subject to the tax under  
10 this section if the business activities were in this state.

11 (f) To the extent deducted arriving at federal taxable income,  
12 add any royalty, interest, or other expense paid to a person  
13 related to the taxpayer by ownership or control for the use of an  
14 intangible asset if the person is not included in the taxpayer's  
15 unitary business group.

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

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

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

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

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

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

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

25 Sec. 203. (1) Except as otherwise provided in this act, there  
26 is levied and imposed a net worth tax on every taxpayer with  
27 business activity within this state at a rate of 0.488% on each

1 taxpayer's net worth tax base allocated and apportioned to this  
2 state. The tax imposed under this section is not a tax on business  
3 income and is imposed to the fullest extent permitted by the United  
4 States constitution without regard to whether a taxpayer is subject  
5 to the business income tax imposed under section 201.

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

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

23 (4) For a taxpayer required to charge any amount to equity  
24 under financial accounting standards statement number 158, that  
25 taxpayer shall compute its net worth in accordance with generally  
26 accepted accounting principles in effect prior to January 1, 2008  
27 for defined benefit pension and other postretirement benefit plans.

1 (5) As used in this section:

2 (a) "Affiliated group" means 2 or more United States persons,  
3 1 of which owns or controls, directly or indirectly, more than 50%  
4 of the ownership interest with voting rights of the other United  
5 States persons.

6 (b) "Indebtedness" means all loans, credits, goods, supplies,  
7 or other capital of any nature, other than indebtedness endorsed,  
8 guaranteed, or otherwise supported by a member of the affiliated  
9 group.

10 (c) "Net worth" means, except as otherwise provided under this  
11 section for a unitary business group, a 501(c)(12) organization, or  
12 an electric or natural gas public utility company, the difference  
13 between total assets less total liabilities, computed in accordance  
14 with generally accepted accounting principles. If the taxpayer does  
15 not maintain its books and records in accordance with generally  
16 accepted accounting principles, net worth shall be computed in  
17 accordance with the books and records used by the taxpayer, so long  
18 as the method fairly reflects the taxpayer's net worth for purposes  
19 of the tax levied by this part. For a unitary business group, "net  
20 worth" means the difference between the total assets less the total  
21 liabilities of the unitary business group at the close of business  
22 on the last day of the tax year as shown by a pro forma  
23 consolidated balance sheet including all persons included in the  
24 unitary business group. The pro forma consolidated balance sheet  
25 shall be prepared in accordance with generally accepted accounting  
26 principles wherein transactions and holdings between persons  
27 included in the unitary business group and holdings in nondomestic

1 persons have been eliminated. For an organization exempt under  
2 section 501(c)(12) of the internal revenue code, "net worth" means  
3 the difference between total assets less investments in other  
4 organizations, less total liabilities of the 501(c)(12)  
5 organization computed in accordance with generally accepted  
6 accounting principles, less income collected and accumulated for a  
7 specified purpose in accordance with an order from a state or  
8 federal regulatory agency that must be refunded if not used for the  
9 specified purpose. An electric or natural gas public utility  
10 company, when computing its net worth, shall exclude the excess of  
11 regulatory assets over regulatory liabilities.

12       Sec. 205. (1) Except as otherwise provided under subsection  
13 (2), a taxpayer that has a physical presence in this state for a  
14 period of more than 1 day during the tax year has substantial nexus  
15 in this state and is subject to the tax under this act.

16       (2) If a final order of a court of competent jurisdiction for  
17 which all rights of appeal have been exhausted or have expired  
18 holds that a physical presence is not required to impose a business  
19 income or business activity tax, then the minimum nexus standard  
20 defined by the courts as necessary to establish nexus shall apply  
21 for each tax year after the final holding and the tax under this  
22 act shall be imposed to the fullest extent permitted by the United  
23 States constitution.

24       (3) As used in this section, "physical presence" means any  
25 activity conducted on behalf of the taxpayer by the taxpayer's  
26 employee, agent, or independent contractor acting in a  
27 representative capacity. Physical presence does not include the

1 activities of professionals providing services in a professional  
2 capacity or other service providers if the activity is not  
3 significantly associated with the taxpayer's ability to establish  
4 and maintain a market in this state.

5 Sec. 207. (1) Except as otherwise provided in this section,  
6 the following are exempt from the tax imposed by this act:

7 (a) The United States, this state, other states, and the  
8 agencies, political subdivisions, and enterprises of the United  
9 States, this state, and other states.

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

21 (i) An organization included under section 501(c)(12) or  
22 501(c)(16) of the internal revenue code.

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

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

3           (c) A nonprofit cooperative housing corporation. As used in  
4 this subdivision, "nonprofit cooperative housing corporation" means  
5 a cooperative housing corporation that is engaged in providing  
6 housing services to its stockholders and members and that does not  
7 pay dividends or interest on stock or membership investment but  
8 that does distribute all earnings to its stockholders or members.  
9 The exemption under this subdivision does not apply to a business  
10 activity of a nonprofit cooperative housing corporation other than  
11 providing housing services to its stockholders and members.

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

24           (e) Except as provided in subsection (2), a farmers'  
25 cooperative corporation organized within the limitations of section  
26 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under  
27 subdivision (b) because the corporation was exempt from federal

1 income taxes under section 521 of the internal revenue code and  
2 that would continue to be exempt under section 521 of the internal  
3 revenue code except for either of the following activities:

4 (i) The corporation's repurchase from nonproducer customers of  
5 portions or components of commodities the corporation markets to  
6 those nonproducer customers and the corporation's subsequent  
7 manufacturing or marketing of the repurchased portions or  
8 components of the commodities.

9 (ii) The corporation's incidental or emergency purchases of  
10 commodities from nonproducers to facilitate the manufacturing or  
11 marketing of commodities purchased from producers.

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

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

1           (ii) Dissemination of market information.

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

3           (iv) Promotion.

4           (v) Research relating to members' products.

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

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

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

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

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

## CHAPTER 2A

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

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

8       (a) Premiums on policies not taken.

9       (b) Returned premiums on canceled policies.

10       (c) Receipts from the sale of annuities.

11       (d) Receipts on reinsurance premiums if the tax has been paid  
12 on the original premiums.

13       (e) The first \$190,000,000.00 of disability insurance premiums  
14 written in this state, other than credit insurance and disability  
15 income insurance premiums, of each insurance company subject to tax  
16 under this chapter. This exemption shall be reduced by \$2.00 for  
17 each \$1.00 by which the insurance company's gross direct premiums  
18 from insurance carrier services in this state and outside this  
19 state exceed \$450,000,000.00.

20       (3) The tax calculated under this chapter is in lieu of all  
21 other privilege or franchise fees or taxes imposed by this act or  
22 any other law of this state, except taxes on real and personal  
23 property, taxes collected under the general sales tax act, 1933 PA  
24 167, MCL 205.1 to 205.78, and taxes collected under the use tax  
25 act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise  
26 provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
27 500.8302.

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

3           (a) Amounts paid to the Michigan worker's compensation  
4 placement facility pursuant to chapter 23 of the insurance code of  
5 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

6           (b) Amounts paid to the Michigan basic property insurance  
7 association pursuant to chapter 29 of the insurance code of 1956,  
8 1956 PA 218, MCL 500.2901 to 500.2954.

9           (c) Amounts paid to the Michigan automobile insurance  
10 placement facility pursuant to chapter 33 of the insurance code of  
11 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

12           (d) Amounts paid to the property and casualty guaranty  
13 association pursuant to chapter 79 of the insurance code of 1956,  
14 1956 PA 218, MCL 500.7901 to 500.7949.

15           (e) Amounts paid to the Michigan life and health guaranty  
16 association pursuant to chapter 77 of the insurance code of 1956,  
17 1956 PA 218, MCL 500.7701 to 500.7780.

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

21           Sec. 239. An insurance company shall be allowed a credit  
22 against the tax imposed under this chapter in an amount equal to  
23 50% of the examination fees paid by the insurance company during  
24 the tax year pursuant to section 224 of the insurance code of 1956,  
25 1956 PA 218, MCL 500.224.

26           Sec. 241. (1) For amounts paid pursuant to section 352 of the  
27 worker's disability compensation act of 1969, 1969 PA 317, MCL

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

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

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

24 (4) Any amount of the credit under this section that is in  
25 excess of the tax liability of the insurance company for the tax  
26 year shall be refunded, without interest, by the department to the  
27 insurance company within 60 calendar days of receipt of a properly

1 completed annual return required under this act.

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

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

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

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

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

#### 24 CHAPTER 2B

25 Sec. 261. As used in this chapter:

26 (a) "Depository financial institution" means a bank holding  
27 company, a national bank, a state chartered bank, an office of

1 thrift supervision chartered bank or thrift institution, a savings  
2 and loan holding company, or a credit union.

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

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

12 Sec. 263. (1) Every depository financial institution with  
13 business activity in this state and with nexus in this state as  
14 determined under section 205 is subject to a franchise tax. The  
15 franchise tax is imposed upon the tax base of the depository  
16 financial institution as determined under section 265 after  
17 allocation or apportionment to this state, at the rate of 0.44%.

18 (2) The tax under this chapter is in lieu of the tax levied  
19 and imposed under chapter 2 or 2A of this act.

20 Sec. 265. (1) For a depository financial institution, tax base  
21 means the depository financial institution's net capital. Net  
22 capital shall be determined by adding the value determined under  
23 subsection (2) for the current tax year and preceding 4 calendar  
24 years and dividing the resulting sum by 5. If a depository  
25 financial institution has not been in existence for a period of 5  
26 calendar years, net capital shall be determined by adding together  
27 the values determined under subsection (2) for the number of

1 calendar years the depository financial institution has been in  
2 existence and dividing the resulting sum by the number of years the  
3 depository financial institution has been in existence. For  
4 purposes of this section, a partial year shall be treated as a full  
5 year.

6 (2) The value of net capital for each year for purposes of  
7 subsection (1) shall be determined by making the following  
8 adjustments:

9 (a) Adding together the book value of each of the following:

10 (i) Capital stock paid in.

11 (ii) Surplus.

12 (iii) Undivided profits and capital reserves.

13 (iv) Net unrealized holding gains or losses on available for  
14 sale securities.

15 (v) Cumulative foreign currency translation adjustments.

16 (b) Deducting from the total determined under subdivision (a)  
17 an amount equal to the same percentage of the total as the book  
18 value of United States obligations and Michigan obligations bears  
19 to the book value of the total assets of the depository financial  
20 institution.

21 (3) For purposes of subsection (2), net capital shall include  
22 equity related to investment in subsidiaries and, except as  
23 otherwise provided in subsections (4) and (5), the foregoing book  
24 values and deductions for United States obligations and Michigan  
25 obligations for each year shall be determined by the reports of  
26 condition for each quarter filed in accordance with the  
27 requirements of the board of governors of the federal reserve

1 system, the comptroller of the currency, the federal deposit  
2 insurance corporation, or other applicable regulatory authority.  
3 Book values shall be calculated by averaging the quarterly book  
4 values as determined by the reports of condition.

5 (4) For any year in which a depository financial institution  
6 does not file 4 quarterly reports of condition, book values and  
7 deductions for United States obligations and Michigan obligations  
8 shall be determined by adding together the respective book values  
9 and deductions for United States obligations and Michigan  
10 obligations as determined by each quarterly report of condition  
11 filed for the year and the respective book values and deductions  
12 for United States obligations and Michigan obligations determined  
13 in accordance with generally accepted accounting principles as of  
14 the end of each of the remaining quarters and dividing the  
15 resulting sums by 4.

16 (5) For any calendar year in which a depository financial  
17 institution ceases to be in existence for 4 quarters, other than by  
18 combination with another depository financial institution, the book  
19 value for that year shall be determined by adding together the book  
20 values and deductions for United States obligations and Michigan  
21 obligations for each quarter in which the financial institution was  
22 in existence and dividing the sums by 4.

23 (6) In the case of a depository financial institution which  
24 does not file reports of condition, book values shall be determined  
25 in accordance with generally accepted accounting principles.

26 (7) For purposes of this section, each of the following  
27 applies:

1 (a) A change in identity, form, or place of organization of 1  
2 depository financial institution shall be treated as if a single  
3 depository financial institution had been in existence prior to as  
4 well as after the change.

5 (b) The combination of 2 or more depository financial  
6 institutions into 1 shall be treated as if the constituent  
7 depository financial institutions had been a single depository  
8 financial institution in existence prior to as well as after the  
9 combination, and the book values and deductions for United States  
10 obligations and Michigan obligations from the reports of condition  
11 of the constituent institutions shall be combined. A combination  
12 shall include any acquisition required to be accounted for by the  
13 surviving depository financial institution under the pooling of  
14 interest method in accordance with generally accepted accounting  
15 principles or a statutory merger or consolidation.

16 (c) The combination of 1 or more depository financial  
17 institutions and 1 or more savings and loan associations taxable  
18 under laws of this state into a single depository financial  
19 institution shall be treated for the taxable year in which the  
20 combination occurred as if the single depository financial  
21 institution had been in existence prior to as well as after the  
22 combination, and the book values and deductions for United States  
23 obligations and Michigan obligations from the reports of condition  
24 of the depository financial institution and the reports to the  
25 federal regulatory agency which are the equivalent of reports of  
26 condition for a savings and loan association shall be combined. The  
27 conversion of a savings and loan association taxable under the laws



1 accordance with this chapter.

2 (2) A taxpayer whose business activities are confined solely  
3 to this state shall be allocated to this state. A taxpayer whose  
4 business activities are subject to tax both within and outside of  
5 this state are subject to tax in another state in either of the  
6 following circumstances:

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

11 (b) That state has jurisdiction to subject the taxpayer to 1  
12 or more of the taxes listed in subdivision (a) regardless of  
13 whether that state does or does not subject the taxpayer to that  
14 tax.

15 (3) Both the business income tax base and the net worth tax  
16 base of a taxpayer subject to tax both within and outside of this  
17 state shall be apportioned to this state by multiplying the tax  
18 base by the sales factor calculated under section 303.

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

24 (2) Except as otherwise provided under this subsection, for a  
25 taxpayer that is a unitary business group, sales include sales in  
26 this state of every person included in the unitary business group  
27 without regard to whether the person has nexus in this state. Sales

1 between persons included in a unitary business group must be  
2 eliminated in calculating the sales factor.

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

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

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

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

1 possession.

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

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

1 property or the rights to the intangible property in the regular  
2 course of its business operations in this state, regardless of the  
3 location of the purchaser's customers.

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

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

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

1 address of the customer shall be presumed to be the address of the  
2 branch office that generates the transactions for the customer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of the purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) On temporary layoff.

17 (ii) On strike.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (7) As used in this section:

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

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

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

24 (a) Separate accounting.

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

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

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

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

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

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

#### 21 CHAPTER 4

22 Sec. 401. (1) Notwithstanding any other provision in this act,  
23 the credit provided in this section shall be taken before any other  
24 credit under this act. A taxpayer whose business activities in this  
25 state include regulated activities may claim a credit against the  
26 tax imposed under section 203 equal to the product of the  
27 taxpayer's net worth tax base allocated and apportioned to this

1 state multiplied by .17% and then multiplied by a fraction the  
2 numerator of which is the taxpayer's total sales within this state  
3 as determined under chapter 3 related to regulated activities and  
4 the denominator of which is the taxpayer's total sales within this  
5 state as determined under chapter 3 for all business activities.

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

9 (a) Mortgage brokers, lenders, and servicers licensing act,  
10 1987 PA 173, MCL 445.1651 to 445.1684.

11 (b) The secondary mortgage loan act, 1981 PA 125, MCL 493.51  
12 to 493.81.

13 (c) Consumer financial services act, 1988 PA 161, MCL 487.2051  
14 to 487.2072.

15 (d) 1984 PA 379, MCL 493.101 to 493.114.

16 (e) Motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL  
17 492.101 to 492.141.

18 (f) Regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.

19 (g) Home improvement finance act, 1965 PA 332, MCL 445.1101 to  
20 445.1431.

21 (h) Retail installment sales act, 1966 PA 224, MCL 445.851 to  
22 445.873.

23 (i) Deferred presentment service transactions act, 2005 PA  
24 244, MCL 487.2121 to 487.2173.

25 (j) Uniform securities act, 1964 PA 265, MCL 451.501 to  
26 451.818.

27 (k) Money transmission services act, 2006 PA 250, MCL 487.1001

1 to 487.1047.

2 (l) Debt management act, 1975 PA 148, MCL 451.411 to 451.437.

3 (m) Article 25 of the occupational code, 1980 PA 299, MCL  
4 339.2501 to 339.2518.

5 (n) Chapter 12 of the insurance code of 1956, 1956 PA 218, MCL  
6 500.1200 to 500.1247.

7 Sec. 403. (1) Notwithstanding any other provision in this act,  
8 the credits provided in this section shall be taken after the  
9 credit under section 401 and before any other credit under this  
10 act. The total combined credit allowed under this section shall not  
11 exceed 65% of the total tax liability imposed under this act.

12 (2) Subject to the limitation in subsection (1), a taxpayer  
13 may claim a credit against the tax imposed by this act equal to  
14 0.56% of the taxpayer's compensation in this state.

15 (3) Subject to the limitation in subsection (1), a taxpayer  
16 may claim a credit against the tax imposed by this act equal to  
17 3.3% multiplied by the result of subtracting the sum of the amounts  
18 calculated under subdivisions (d), (e), and (f) from the sum of the  
19 amounts calculated under subdivisions (a), (b), and (c):

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

27 (b) Calculate the cost, including fabrication and

1 installation, paid or accrued in the taxable year of mobile  
2 tangible assets of a type that are, or under the internal revenue  
3 code will become, eligible for depreciation, amortization, or  
4 accelerated capital cost recovery for federal income tax purposes.  
5 This amount shall be multiplied by the apportionment factor for the  
6 tax year as prescribed in chapter 3.

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

15 (d) If the cost of tangible assets described in subdivision  
16 (a) was paid or accrued in a tax year beginning after December 31,  
17 2007, calculate the gross proceeds or benefit derived from the sale  
18 or other disposition of the tangible assets minus the gain,  
19 multiplied by the apportionment factor for the taxable year as  
20 prescribed in chapter 3, and plus the loss, multiplied by the  
21 apportionment factor for the taxable year as prescribed in chapter  
22 3 from the sale or other disposition reflected in federal taxable  
23 income and minus the gain from the sale or other disposition added  
24 to the business income tax base in section 201.

25 (e) If the cost of tangible assets described in subdivision  
26 (b) was paid or accrued in a tax year beginning after December 31,  
27 2007, calculate the gross proceeds or benefit derived from the sale

1 or other disposition of the tangible assets minus the gain and plus  
2 the loss from the sale or other disposition reflected in federal  
3 taxable income and minus the gain from the sale or other  
4 disposition added to the business income tax base in section 201.  
5 This amount shall be multiplied by the apportionment factor for the  
6 tax year as prescribed in chapter 3.

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

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

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

18 (6) A taxpayer that claims a credit under this section is not  
19 prohibited from claiming a credit under section 405. However, the  
20 taxpayer shall not claim a credit under this section and section  
21 405 based on the same costs and expenses.

22 Sec. 405. A taxpayer may claim a credit against the tax  
23 imposed by this act equal to 4% of the taxpayer's research and  
24 development expenses in this state in the tax year. The credit  
25 under this section combined with the total credit allowed under  
26 section 403 shall not exceed 75% of the total tax liability imposed  
27 under this act. As used in this section, "research and development

1 expenses" means that term as defined in section 41(b) of the  
2 internal revenue code.

3       Sec. 407. (1) A qualified taxpayer that makes an eligible  
4 contribution in an eligible business may claim a credit against the  
5 tax imposed by the act equal to 50% of the taxpayer's eligible  
6 contribution, not to exceed \$500,000.00.

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

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

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

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

16       (iii) The number of jobs created.

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

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

20       (ii) Technology development roles and responsibilities.

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

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

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

27       (i) A financial summary.

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

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

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

4 (v) Total overall investment into the project.

5 (3) The authority shall develop criteria to competitively

6 review applications, including, but not limited to, criteria

7 related to all of the following:

8 (a) Economic impact in Michigan.

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

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

11 (d) Other collaborators and services provided.

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

13 sectors.

14 (f) The commercialization plan and potential for

15 commercialization.

16 (4) A qualified taxpayer shall not claim a credit under this

17 section unless the Michigan economic growth authority has issued a

18 certificate to the taxpayer. The taxpayer shall attach the

19 certificate to the annual return filed under this act on which a

20 credit under this section is claimed.

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

22 of the following:

23 (a) The taxpayer is an eligible business.

24 (b) The amount of the credit under this section for the

25 eligible business for the designated tax year, which shall be the

26 year in which contribution is made.

27 (c) The taxpayer's federal employer identification number or

1 the Michigan department of treasury number assigned to the  
2 taxpayer.

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

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

16 (8) As used in this section:

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

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

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

1 taxpayer and in which the qualified taxpayer has no prior financial  
2 interest.

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

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

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

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

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

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

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

21 Sec. 409. (1) For tax years that begin on or after January 1,  
22 2008 and end before January 1, 2018, an eligible taxpayer may claim  
23 a credit against the tax imposed by this act equal to the amount of  
24 the capital expenditures during the tax year for which the credit  
25 under this section is claimed, not to exceed \$1.00.

26 (2) If the credit allowed under this section for the tax year  
27 exceeds the taxpayer's tax liability for the tax year, that portion

1 which exceeds the tax liability for the tax year shall not be  
2 refunded and may not be carried forward to offset tax liability in  
3 subsequent years.

4 (3) As used in this section:

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

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

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

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

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

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

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

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

26 (iv) Engages in tourism promotion.

27 (v) Has permanent exhibitions of motorsports history, events,

1 or vehicles within the motorsports entertainment complex.

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

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

20 Sec. 411. A taxpayer whose gross receipts allocated or  
21 apportioned to this state are greater than \$350,000.00 but less  
22 than \$700,000.00, may claim a credit against the tax imposed under  
23 this act equal to the tax liability after the credit under section  
24 417 and before all other credits multiplied by a fraction the  
25 numerator of which is the difference between the person's allocated  
26 or apportioned gross receipts and \$700,000.00 and the denominator  
27 of which is \$350,000.00.

1           Sec. 413. (1) A taxpayer may claim a credit against the tax  
2 imposed by this act equal to 50% of the amount paid for taxes  
3 levied on eligible personal property in the tax year and a credit  
4 against the tax imposed by this act equal to 30% of the amount paid  
5 for taxes levied on eligible telephone personal property in the tax  
6 year.

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

10          (3) As used in this section:

11          (a) "Eligible personal property" means personal property that  
12 is classified as industrial personal property under section 34c of  
13 the general property tax act, 1893 PA 206, MCL 211.34c.

14          (b) "Eligible telephone personal property" means personal  
15 property of a telephone company subject to the tax levied under  
16 1905 PA 282, MCL 207.1 to 207.21.

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

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

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

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

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

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

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

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

1 section.

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

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

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

10 (c) A shareholder of an S corporation.

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

12 (e) An individual who is an owner.

13 (6) As used in this section:

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

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

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

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

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

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

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

12 (iv) Is not publicly traded.

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

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

19 (B) During the immediately preceding 7 years would have been  
20 in 1 of the first 2 years of contribution liability under section  
21 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,  
22 MCL 421.19, if the qualified start-up business had employees and  
23 was liable under the Michigan employment security act, 1936 (Ex  
24 Sess) PA 1, MCL 421.1 to 421.75.

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

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

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

6 Sec. 417. (1) The credit provided in this section shall be  
7 taken after the credits under sections 401, 403, and 405 and before  
8 any other credit under this act and is available to any taxpayer  
9 with gross receipts that do not exceed \$10,000,000.00 and with  
10 adjusted business income minus the loss adjustment that does not  
11 exceed \$475,000.00, subject to the following as adjusted annually  
12 for inflation using the Detroit consumer price index:

13 (a) An individual, a partnership, a limited liability company,  
14 or a subchapter S corporation is disqualified if the individual,  
15 any 1 partner of the partnership, any 1 member of the limited  
16 liability company, or any 1 shareholder of the subchapter S  
17 corporation receives more than \$115,000.00 as a distributive share  
18 of the adjusted business income minus the loss adjustment of the  
19 individual, the partnership, the limited liability company, or the  
20 subchapter S corporation.

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

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

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

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

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

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

11 (i) If an individual, any 1 partner of the partnership, any 1  
12 member of the limited liability company, or any 1 shareholder of  
13 the subchapter S corporation receives as a distributive share of  
14 adjusted business income minus the loss adjustment of the  
15 individual, partnership, limited liability company, or subchapter S  
16 corporation; if compensation and directors' fees of a shareholder  
17 or officer of a corporation other than a subchapter S corporation  
18 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
19 is more than \$95,000.00 but less than \$100,000.00, the credit is  
20 reduced by 20%.

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

1 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
2 is \$100,000.00 or more but less than \$105,000.00, the credit is  
3 reduced by 40%.

4 (iii) If an individual, any 1 partner of the partnership, any 1  
5 member of the limited liability company, or any 1 shareholder of  
6 the subchapter S corporation receives as a distributive share of  
7 adjusted business income minus the loss adjustment of the  
8 individual, partnership, limited liability company, or subchapter S  
9 corporation; if compensation and directors' fees of a shareholder  
10 or officer of a corporation other than a subchapter S corporation  
11 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
12 is \$105,000.00 or more but less than \$110,000.00, the credit is  
13 reduced by 60%.

14 (iv) If an individual, any 1 partner of the partnership, any 1  
15 member of the limited liability company, or any 1 shareholder of  
16 the subchapter S corporation receives as a distributive share of  
17 adjusted business income minus the loss adjustment of the  
18 individual, partnership, limited liability company, or subchapter S  
19 corporation; if compensation and directors' fees of a shareholder  
20 or officer of a corporation other than a subchapter S corporation  
21 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)  
22 is \$110,000.00 or more but not in excess of \$115,000.00, the credit  
23 is reduced by 80%.

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

27 (3) To determine the reduction percentage under subsection

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

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

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

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

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

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

21 (5) If gross receipts exceed \$9,000,000.00, the credit shall  
22 be reduced by a fraction, the numerator of which is the amount of  
23 gross receipts over \$9,000,000.00 and the denominator of which is  
24 \$1,000,000.00. The credit shall not exceed 100% of the tax  
25 liability imposed under this act.

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

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

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

11 (8) As used in this section:

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

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

18 (i) Add compensation and directors' fees of active shareholders  
19 of a corporation.

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

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

24 (iv) Add compensation and directors' fees of officers of a  
25 corporation.

26 (c) "Detroit consumer price index" means the most  
27 comprehensive index of consumer prices available for the Detroit

1 area from the United States department of labor, bureau of labor  
2 statistics.

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

18 (e) "Subchapter S corporation" means a corporation that elects  
19 to be subject to taxation under subchapter S of chapter 1 of  
20 subtitle A of the internal revenue code, 26 USC 1361 to 1379.

21 Sec. 419. (1) For tax years that begin after December 31,  
22 2008, a taxpayer that has been issued a tax voucher certificate  
23 under section 23 of the Michigan early stage venture investment act  
24 of 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or  
25 a portion of a tax voucher is transferred pursuant to the Michigan  
26 early stage venture investment act of 2003, 2003 PA 296, MCL  
27 125.2231 to 125.2263, may use the tax voucher to pay a liability of

1 the taxpayer due under this act.

2 (2) On and after November 21, 2005, the total amount of all  
3 tax voucher certificates that shall be approved under this section,  
4 section 37e of former 1975 PA 228, and the Michigan early stage  
5 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to  
6 125.2263, shall not exceed an amount sufficient to allow the  
7 Michigan early stage venture investment corporation to raise  
8 \$450,000,000.00 for the purposes authorized under the Michigan  
9 early stage venture investment act of 2003, 2003 PA 296, MCL  
10 125.2231 to 125.2263. The total amount of all tax voucher  
11 certificates under this section and section 37e of former 1975 PA  
12 228 shall not exceed \$600,000,000.00.

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

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

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

26 (6) The Michigan early stage venture investment corporation  
27 shall determine which investors are eligible for tax vouchers and

1 the amount of the tax vouchers allowed to each investor as provided  
2 in the Michigan early stage venture investment act of 2003, 2003 PA  
3 296, MCL 125.2231 to 125.2263.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (12) As used in this section:

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

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

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

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

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

24 (b) A public library.

25 (c) An institution of higher learning located in this state or  
26 a nonprofit corporation, fund, foundation, trust, or association  
27 organized and operated exclusively for the benefit of an

1 institution of higher learning.

2 (d) The Michigan colleges foundation.

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

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

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

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

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

26 (5) As used in this section:

27 (a) "Institution of higher learning" means an educational

1 institution located within this state meeting all of the following  
2 requirements:

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

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

7 (iii) Awards associate, bachelor's, master's, or doctoral  
8 degrees or any combination of those degrees or higher education  
9 credits acceptable for those degrees granted by other institutions  
10 of higher learning.

11 (iv) Is recognized by the state board of education as an  
12 institution of higher learning and appears as an institution of  
13 higher learning in the annual publication of the department of  
14 education entitled "the directory of institutions of higher  
15 education".

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

18 Sec. 423. (1) A taxpayer that is an employer or carrier that  
19 is subject to the worker's disability compensation act of 1969,  
20 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the  
21 tax imposed by this act an amount equal to the amount paid during  
22 that tax year by the taxpayer pursuant to section 352 of the  
23 worker's disability compensation act of 1969, 1969 PA 317, MCL  
24 418.352, as certified by the director of the bureau of worker's  
25 disability compensation pursuant to section 391(6) of the worker's  
26 disability compensation act of 1969, 1969 PA 317, MCL 418.391.

27 (2) A taxpayer that claims a credit under this section shall

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

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

11 (4) If the amount of the credit allowed under this section  
12 exceeds the tax liability of the taxpayer for the tax year, that  
13 portion of the credit that exceeds the tax liability shall be  
14 refunded.

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

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

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

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

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

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

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

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

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

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

12 (e) Is not a supporting organization as an organization is  
13 described in section 509(a)(3) of the internal revenue code and in  
14 26 CFR 1.509(a)-4 and 1.509(a)-5.

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

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

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

26 (i) Provides evidence to the department that the community  
27 foundation has, before the expiration of 6 months after the

1 community foundation is incorporated or established, and maintains  
2 continually during the tax year for which the credit under this  
3 section is claimed, at least 1 part-time or full-time employee.

4 (j) For community foundations that have an endowment value of  
5 \$1,000,000.00 or more only, the community foundation is subject to  
6 an annual independent financial audit and provides copies of that  
7 audit to the department not more than 3 months after the completion  
8 of the audit. For community foundations that have an endowment  
9 value of less than \$1,000,000.00, the community foundation is  
10 subject to an annual review and an audit every third year.

11 (k) In addition to all other criteria listed in this  
12 subsection for a community foundation that is incorporated or  
13 established after January 9, 2001, operates in a county of this  
14 state that was not served by a community foundation when the  
15 community foundation was incorporated or established or operates as  
16 a geographic component of an existing certified community  
17 foundation.

18 Sec. 427. (1) A taxpayer that does not claim a credit under  
19 section 261 of the income tax act of 1967, 1967 PA 281, MCL  
20 206.261, for a contribution to a shelter for homeless persons, food  
21 kitchen, food bank, or other entity, the primary purpose of which  
22 is to provide overnight accommodation, food, or meals to persons  
23 who are indigent, may claim a credit against the tax imposed by  
24 this act equal to 50% of the cash amount the taxpayer contributed  
25 during the tax year to a shelter for homeless persons, food  
26 kitchen, food bank, or other entity, the primary purpose of which  
27 is to provide overnight accommodation, food, or meals to persons

1 who are indigent, if a contribution to that entity is tax  
2 deductible for the donor under the internal revenue code.

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

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

10 (4) An entity described in subsection (1) may request that the  
11 department determine whether a contribution to that entity  
12 qualifies for the credit under this section. The department shall  
13 make a determination and respond to a request no later than 30 days  
14 after the department receives the request.

15 (5) On or before July 1 of each year, the department shall  
16 report to the house of representatives committee on tax policy and  
17 the senate committee on finance the total amount of tax credits  
18 claimed under this section, section 425, and section 261 of the  
19 income tax act of 1967, 1967 PA 281, MCL 206.261, for the  
20 immediately preceding tax year.

21 Sec. 429. (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) A taxpayer that claims a credit under subsection (2) shall  
19 attach a copy of each of the following as issued pursuant to the  
20 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
21 207.827, to the annual return required under this act for each tax  
22 year in which the taxpayer claims the credit allowed under  
23 subsection (2):

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

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

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

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

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

10 (7) As used in this section:

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

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

16 (ii) For a partnership, limited liability company, S  
17 corporation, or individual, the amount determined under  
18 subparagraph (i) plus the product of the following as related to the  
19 taxpayer:

20 (A) Business income.

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

22 (C) The alternative energy business activity factor.

23 (b) "Alternative energy business activity factor" means a  
24 fraction, the numerator of which is the ratio of the value of the  
25 taxpayer's property used for qualified business activity and  
26 located in this state outside of a renaissance zone for the year  
27 for which the factor is being calculated to the value of all of the

1 taxpayer's property located in this state for that year plus the  
2 ratio of the taxpayer's payroll for qualified business activity  
3 performed in this state outside of a renaissance zone for that year  
4 to all of the taxpayer's payroll in this state for that year and  
5 the denominator of which is 2.

6 (c) "Alternative energy marine propulsion system",  
7 "alternative energy system", "alternative energy vehicle", and  
8 "alternative energy technology" mean those terms as defined in the  
9 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to  
10 207.827.

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

15 (e) "Baseline tax liability attributable to qualified business  
16 activity" means the taxpayer's tax liability for the 2001 tax year  
17 under former 1975 PA 228 multiplied by the taxpayer's alternative  
18 energy business activity factor for the 2001 tax year under former  
19 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months  
20 under former 1975 PA 228 shall annualize the amount calculated  
21 under this subdivision as necessary to determine baseline tax  
22 liability attributable to qualified business activity that reflects  
23 a 12-month period.

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

27 (g) "Payroll" means total salaries and wages before deducting

1 any personal or dependency exemptions.

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

4 (i) "Qualified business activity" means research, development,  
5 or manufacturing of an alternative energy marine propulsion system,  
6 an alternative energy system, an alternative energy vehicle,  
7 alternative energy technology, or renewable fuel.

8 (j) "Qualified employee" means an individual who is employed  
9 by a qualified alternative energy entity, whose job  
10 responsibilities are related to the research, development, or  
11 manufacturing activities of the qualified alternative energy  
12 entity, and whose regular place of employment is within an  
13 alternative energy zone.

14 (k) "Qualified payroll amount" means an amount equal to  
15 payroll of the qualified alternative energy entity attributable to  
16 all qualified employees in the tax year of the qualified  
17 alternative energy entity for which the credit under subsection (6)  
18 is being claimed, multiplied by the tax rate for that tax year.

19 (l) "Renaissance zone" means a renaissance zone designated  
20 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681  
21 to 125.2696.

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

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

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

6           (n) "Tax liability attributable to qualified business  
7 activity" means the taxpayer's tax liability multiplied by the  
8 taxpayer's alternative energy business activity factor for the tax  
9 year.

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

14           Sec. 431. (1) For a period of time not to exceed 20 years as  
15 determined by the Michigan economic growth authority, a taxpayer  
16 that is an authorized business or an eligible taxpayer may claim a  
17 credit against the tax imposed by this act equal to the amount  
18 certified each year by the Michigan economic growth authority as  
19 follows:

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

25           (b) For an eligible business as determined under section  
26 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,  
27 MCL 207.808, an amount not to exceed 50% of the payroll of the

1 eligible taxpayer attributable to employees who perform retained  
2 jobs as determined under the Michigan economic growth authority  
3 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate  
4 for the tax year.

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

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

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

19 (a) The taxpayer is an authorized business or an eligible  
20 taxpayer.

21 (b) The amount of the credit under this section for the  
22 authorized business or eligible taxpayer for the designated tax  
23 year.

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

27 (4) The Michigan economic growth authority may certify a

1 credit under this section based on an agreement entered into prior  
2 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.  
3 The number of years for which the credit may be claimed under this  
4 section shall equal the maximum number of years designated in the  
5 resolution reduced by the number of years for which a credit has  
6 been claimed under section 37c of former 1975 PA 228.

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

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

22 (7) If the Michigan economic growth authority or a designee of  
23 the Michigan economic growth authority requests that a taxpayer  
24 that claims the credit under this section get a statement prepared  
25 by a certified public accountant verifying that the actual number  
26 of new jobs created is the same number of new jobs used to  
27 calculate the credit under this section, the taxpayer shall get the

1 statement and attach that statement to its annual return under this  
2 act on which the credit under this section is claimed.

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

6 (9) As used in this section:

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

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

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

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

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

20 (i) The average number of full-time jobs at a facility of an  
21 authorized business for a tax year in excess of the average number  
22 of full-time jobs the authorized business maintained in this state  
23 prior to the expansion or location as that is determined under the  
24 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
25 207.810.

26 (ii) The average number of full-time jobs at a facility created  
27 by an eligible business within 120 days before becoming an

1 authorized business that is in excess of the average number of  
2 full-time jobs that the business maintained in this state 120 days  
3 before becoming an authorized business, as determined under the  
4 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
5 207.810.

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

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

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

18 (b) Ten percent of adjusted services performed in a designated  
19 renaissance zone.

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

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

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

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

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

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

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

14           (5) A taxpayer that claims a credit under this section shall  
15 not employ, pay a speaker fee to, or provide any remuneration,  
16 compensation, or consideration to any person employed by the state,  
17 the state administrative board created in 1921 PA 2, MCL 17.1 to  
18 17.3, or the renaissance zone review board created in 1996 PA 376,  
19 MCL 125.2681 to 125.2696, whose employment relates or related in  
20 any way to the authorization or enforcement of the credit allowed  
21 under this section for any year in which the taxpayer claims a  
22 credit under this section and for the 3 years after the last year  
23 that a credit is claimed.

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

27           (7) Any portion of the taxpayer's tax liability that is

1 attributable to business activity related to the operation of a  
2 casino, and business activity that is associated or affiliated with  
3 the operation of a casino, including, but not limited to, the  
4 operation of a parking lot, hotel, motel, or retail store, shall  
5 not be used to calculate a credit under this section.

6 (8) As used in this section:

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

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

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

21 (A) Business income.

22 (B) The ratio of the taxpayer's total sales in this state  
23 during the tax year divided by the taxpayer's total sales  
24 everywhere during the tax year.

25 (C) The renaissance zone business activity factor.

26 (b) "Casino" means a casino regulated by this state pursuant  
27 to the Michigan gaming control and revenue act, the Initiated Law

1 of 1996, MCL 432.201 to 432.226.

2 (c) "New property" means property that has not been subject  
3 to, or exempt from, the collection of taxes under the general  
4 property tax act, 1893 PA 206, MCL 211.1 to 211.157, and has not  
5 been subject to, or exempt from, ad valorem property taxes levied  
6 in another state, except that receiving an exemption as inventory  
7 property does not disqualify property.

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

10 (e) "Renaissance zone" means that term as defined in the  
11 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
12 125.2696.

13 (f) "Renaissance zone business activity factor" means a  
14 fraction, the numerator of which is the ratio of the average value  
15 of the taxpayer's property located in a designated renaissance zone  
16 to the average value of the taxpayer's property in this state plus  
17 the ratio of the taxpayer's payroll for services performed in a  
18 designated renaissance zone to all of the taxpayer's payroll in  
19 this state and the denominator of which is 2.

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

23 Sec. 435. (1) A qualified taxpayer with a rehabilitation plan  
24 certified after December 31, 2007 or a qualified taxpayer that has  
25 a rehabilitation plan certified before January 1, 2008 under  
26 section 39c of former 1975 PA 228 for the rehabilitation of a  
27 historic resource for which a certification of completed

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

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

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

27 (b) A credit under this section shall be reduced by the amount

1 of a credit received by the taxpayer for the same qualified  
2 expenditures under section 47(a)(2) of the internal revenue code.

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

9 (a) All of the following criteria:

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

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

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

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

25 (4) If a qualified taxpayer is eligible for the credit allowed  
26 under section 47(a)(2) of the internal revenue code, the qualified  
27 taxpayer shall file for certification with the center to qualify

1 for the credit allowed under section 47(a)(2) of the internal  
2 revenue code. If the qualified taxpayer has previously filed for  
3 certification with the center to qualify for the credit allowed  
4 under section 47(a)(2) of the internal revenue code, additional  
5 filing for the credit allowed under this section is not required.

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

13 (6) Qualified expenditures for the rehabilitation of a  
14 historic resource may be used to calculate the credit under this  
15 section if the historic resource meets 1 of the criteria listed in  
16 subdivision (a) and 1 of the criteria listed in subdivision (b):

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

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

22 (ii) A contributing resource located within a historic district  
23 listed on the national register of historic places or the state  
24 register of historic sites.

25 (iii) A contributing resource located within a historic district  
26 designated by a local unit pursuant to an ordinance adopted under  
27 the local historic districts act, 1970 PA 169, MCL 399.201 to

1 399.215.

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

5 (i) The historic resource is located in a designated historic  
6 district in a local unit of government with an existing ordinance  
7 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
8 399.215.

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

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

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

20 (7) If a qualified taxpayer is a partnership, limited  
21 liability company, or subchapter S corporation, the qualified  
22 taxpayer may assign all or any portion of a credit allowed under  
23 this section to its partners, members, or shareholders, based on  
24 the partner's, member's, or shareholder's proportionate share of  
25 ownership or based on an alternative method approved by the  
26 department. A credit assignment under this subsection is  
27 irrevocable and shall be made in the tax year in which a

1 certificate of completed rehabilitation is issued. A qualified  
2 taxpayer may claim a portion of a credit and assign the remaining  
3 credit amount. A partner, member, or shareholder that is an  
4 assignee shall not subsequently assign a credit or any portion of a  
5 credit assigned to the partner, member, or shareholder under this  
6 subsection. A credit amount assigned under this subsection may be  
7 claimed against the partner's, member's, or shareholder's tax  
8 liability under this act or under the income tax act of 1967, 1967  
9 PA 281, MCL 206.1 to 206.532. A credit assignment under this  
10 subsection shall be made on a form prescribed by the department.  
11 The qualified taxpayer and assignees shall send a copy of the  
12 completed assignment form to the department in the tax year in  
13 which the assignment is made and attach a copy of the completed  
14 assignment form to the annual return required to be filed under  
15 this act for that tax year.

16 (8) If the credit allowed under this section for the tax year  
17 and any unused carryforward of the credit allowed by this section  
18 exceed the taxpayer's tax liability for the tax year, that portion  
19 that exceeds the tax liability for the tax year shall not be  
20 refunded but may be carried forward to offset tax liability in  
21 subsequent tax years for 10 years or until used up, whichever  
22 occurs first. An unused carryforward of a credit under section 39c  
23 of former 1975 PA 228 that was unused at the end of the last tax  
24 year for which former 1975 PA 228 was in effect may be claimed  
25 against the tax imposed under this act for the years the  
26 carryforward would have been available under section 39c of former  
27 1975 PA 228.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (12) The qualified taxpayer shall attach all of the following  
18 to the qualified taxpayer's annual return required under this act  
19 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to  
20 206.532, if applicable, on which the credit is claimed:

21 (a) Certification of completed rehabilitation.

22 (b) Certification of historic significance related to the  
23 historic resource and the qualified expenditures used to claim a  
24 credit under this section.

25 (c) A completed assignment form if the qualified taxpayer has  
26 assigned any portion of a credit allowed under this section to a  
27 partner, member, or shareholder or if the taxpayer is an assignee

1 of any portion of a credit allowed under this section.

2 (13) The department of history, arts, and libraries shall  
3 promulgate rules to implement this section pursuant to the  
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
5 24.328.

6 (14) The total of the credits claimed under this section and  
7 section 266 of the income tax act of 1967, 1967 PA 281, MCL  
8 206.266, for a rehabilitation project shall not exceed 25% of the  
9 total qualified expenditures eligible for the credit under this  
10 section for that rehabilitation project.

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

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

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

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

20 (16) As used in this section:

21 (a) "Contributing resource" means a historic resource that  
22 contributes to the significance of the historic district in which  
23 it is located.

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

1 (c) "Historic resource" means a publicly or privately owned  
2 historic building, structure, site, object, feature, or open space  
3 located within a historic district designated by the national  
4 register of historic places, the state register of historic sites,  
5 or a local unit acting under the local historic districts act, 1970  
6 PA 169, MCL 399.201 to 399.215, or that is individually listed on  
7 the state register of historic sites or national register of  
8 historic places, and includes all of the following:

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

11 (ii) An income-producing commercial, industrial, or residential  
12 resource or a historic resource located within the property  
13 boundaries of that resource.

14 (iii) A resource owned by a governmental body, nonprofit  
15 organization, or tax-exempt entity that is used primarily by a  
16 taxpayer lessee in a trade or business unrelated to the  
17 governmental body, nonprofit organization, or tax-exempt entity and  
18 that is subject to tax under this act.

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

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

23 (d) "Last tax year" means the taxpayer's tax year under former  
24 1975 PA 228 that begins after December 31, 2006 and before January  
25 1, 2008.

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

27 (f) "Long-term lease" means a lease term of at least 27.5

1 years for a residential resource or at least 31.5 years for a  
2 nonresidential resource.

3 (g) "Michigan historical center" or "center" means the state  
4 historic preservation office of the Michigan historical center of  
5 the department of history, arts, and libraries or its successor  
6 agency.

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

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

12 (j) "Qualified expenditures" means capital expenditures that  
13 qualify for a rehabilitation credit under section 47(a)(2) of the  
14 internal revenue code if the taxpayer is eligible for the credit  
15 under section 47(a)(2) of the internal revenue code or, if the  
16 taxpayer is not eligible for the credit under section 47(a)(2) of  
17 the internal revenue code, the qualified expenditures that would  
18 qualify under section 47(a)(2) of the internal revenue code except  
19 that the expenditures are made to a historic resource that is not  
20 eligible for the credit under section 47(a)(2) of the internal  
21 revenue code that were paid not more than 5 years after the  
22 certification of the rehabilitation plan that included those  
23 expenditures was approved by the center, and that were paid after  
24 December 31, 1998 for the rehabilitation of a historic resource.  
25 Qualified expenditures do not include capital expenditures for  
26 nonhistoric additions to a historic resource except an addition  
27 that is required by state or federal regulations that relate to

1 historic preservation, safety, or accessibility.

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

23 (l) "Rehabilitation plan" means a plan for the rehabilitation  
24 of a historic resource that meets the federal secretary of the  
25 interior's standards for rehabilitation and guidelines for  
26 rehabilitation of historic buildings under 36 CFR part 67.

27 Sec. 437. (1) Subject to the criteria under this section, a

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

12 (a) If the total of all credits for a project is \$1,000,000.00  
13 or less, 10% of the cost of the qualified taxpayer's eligible  
14 investment paid or accrued by the qualified taxpayer on an eligible  
15 property provided that the project does not exceed the amount  
16 stated in the preapproval letter. If eligible investment exceeds  
17 the amount of eligible investment in the preapproval letter for  
18 that project, the total of all credits for the project shall not  
19 exceed the total of all credits on the certificate of completion.

20 (b) If the total of all credits for a project is more than  
21 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in  
22 subsection (6)(b), the project is located in a qualified local  
23 governmental unit, a percentage as determined by the Michigan  
24 economic growth authority not to exceed 10% of the cost of the  
25 qualified taxpayer's eligible investment as determined under  
26 subsection (9) paid or accrued by the qualified taxpayer on an  
27 eligible property. If eligible investment exceeds the amount of

1 eligible investment in the preapproval letter for that project, the  
2 total of all credits for the project shall not exceed the total of  
3 all credits on the certificate of completion.

4 (2) If the cost of a project will be \$2,000,000.00 or less, a  
5 qualified taxpayer shall apply to the Michigan economic growth  
6 authority for approval of the project under this subsection. An  
7 application under this subsection shall state whether the project  
8 is a multiphase project. The chairperson of the Michigan economic  
9 growth authority or his or her designee is authorized to approve an  
10 application or project under this subsection. Only the chairperson  
11 of the Michigan economic growth authority is authorized to deny an  
12 application or project under this subsection. A project shall be  
13 approved or denied not more than 45 days after receipt of the  
14 application. If the chairperson of the Michigan economic growth  
15 authority or his or her designee does not approve or deny the  
16 application within 45 days after the application is received by the  
17 Michigan economic growth authority, the application is considered  
18 approved as written. The total of all credits for all projects  
19 approved under this subsection shall not exceed \$10,000,000.00 in  
20 any calendar year. If the chairperson of the Michigan economic  
21 growth authority or his or her designee approves a project under  
22 this subsection, the chairperson of the Michigan economic growth  
23 authority or his or her designee shall issue a preapproval letter  
24 that states that the taxpayer is a qualified taxpayer; the maximum  
25 total eligible investment for the project on which credits may be  
26 claimed and the maximum total of all credits for the project when  
27 the project is completed and a certificate of completion is issued;

1 and the project number assigned by the Michigan economic growth  
2 authority. If a project is denied under this subsection, a taxpayer  
3 is not prohibited from subsequently applying under this subsection  
4 for the same project or for another project. If the authority  
5 approves a total of all credits for all projects under this  
6 subsection of less than \$10,000,000.00 in a calendar year, the  
7 authority may carry forward for 1 year only the difference between  
8 \$10,000,000.00 and the total of all credits for all projects under  
9 this subsection approved in the immediately preceding calendar  
10 year. The Michigan economic growth authority shall develop and  
11 implement the use of the application form to be used for projects  
12 under this subsection. Before the Michigan economic growth  
13 authority substantially changes the form, the Michigan economic  
14 growth authority shall adopt the changes by resolution and give  
15 notice of the proposed resolution to the secretary of the senate,  
16 to the clerk of the house of representatives, and to each person  
17 who requested from the Michigan economic growth authority in  
18 writing or electronically to be notified regarding proposed  
19 resolutions. The notice and proposed resolution and all attachments  
20 shall be published on the Michigan economic growth authority's  
21 internet website. The Michigan economic growth authority shall hold  
22 a public hearing not sooner than 14 days and not later than 30 days  
23 after the date notice of a proposed resolution is given and offer  
24 an opportunity for persons to present data, views, questions, and  
25 arguments. The Michigan economic growth authority board members or  
26 1 or more persons designated by the Michigan economic growth  
27 authority who have knowledge of the subject matter of the proposed

1 resolution shall be present at the public hearing and shall  
2 participate in the discussion of the proposed resolution. The  
3 Michigan economic growth authority may act on the proposed  
4 resolution no sooner than 14 days after the public hearing. The  
5 Michigan economic growth authority shall produce a final decision  
6 document that describes the basis for its decision. The final  
7 resolution and all attachments and the decision document shall be  
8 provided to the secretary of the senate and to the clerk of the  
9 house of representatives and shall be published on the Michigan  
10 economic growth authority's internet website. The notice shall  
11 include all of the following:

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

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

15 (c) The address to which written comments may be sent and the  
16 date by which comments must be mailed or electronically  
17 transmitted, which date shall not be restricted to only before the  
18 date of the public hearing.

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

20 (3) If the cost of a project will be for more than  
21 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer  
22 shall apply to the Michigan economic growth authority for approval  
23 of the project under this subsection. An application under this  
24 subsection shall state whether the project is a multiphase project.  
25 The chairperson of the Michigan economic growth authority or his or  
26 her designee is authorized to approve an application or project  
27 under this subsection. Only the chairperson of the Michigan

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

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

8 (4) If the cost of a project will be for more than  
9 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
10 project is located in a qualified local governmental unit, a  
11 qualified taxpayer shall apply to the Michigan economic growth  
12 authority for approval of the project. An application under this  
13 subsection shall state whether the project is a multiphase project.  
14 The Michigan economic growth authority shall approve or deny the  
15 project not more than 65 days after receipt of the application. A  
16 project under this subsection shall not be approved without the  
17 concurrence of the state treasurer. If the Michigan economic growth  
18 authority does not approve or deny the application within 65 days  
19 after it receives the application, the Michigan economic growth  
20 authority shall send the application to the state treasurer. The  
21 state treasurer shall approve or deny the application within 5 days  
22 after receipt of the application. If the state treasurer does not  
23 deny the application within 5 days after receipt of the  
24 application, the application is considered approved. The Michigan  
25 economic growth authority shall approve a limited number of  
26 projects under this subsection during each calendar year as  
27 provided in subsection (6). The Michigan economic growth authority

1 shall use the criteria in subsection (7) when approving projects  
2 under this subsection, when determining the total amount of  
3 eligible investment, and when determining the percentage of  
4 eligible investment for the project to be used to calculate a  
5 credit. The total of all credits for an approved project under this  
6 subsection shall not exceed the amount designated in the  
7 preapproval letter for that project. If the Michigan economic  
8 growth authority approves a project under this subsection, the  
9 Michigan economic growth authority shall issue a preapproval letter  
10 that states that the taxpayer is a qualified taxpayer; the  
11 percentage of eligible investment for the project determined by the  
12 Michigan economic growth authority for purposes of subsection  
13 (1)(b); the maximum total eligible investment for the project on  
14 which credits may be claimed and the maximum total of all credits  
15 for the project when the project is completed and a certificate of  
16 completion is issued; and the project number assigned by the  
17 Michigan economic growth authority. The Michigan economic growth  
18 authority shall send a copy of the preapproval letter to the  
19 department. If a project is denied under this subsection, a  
20 taxpayer is not prohibited from subsequently applying under this  
21 subsection or subsection (3) for the same project or for another  
22 project.

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

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

4 (a) Of the 17 projects allowed under this subsection, the  
5 total of all credits for each project may be more than  
6 \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

7 (b) Of the 17 projects allowed under this subsection, up to 3  
8 projects may be approved for projects that are not in a qualified  
9 local governmental unit if the property is a facility for which  
10 eligible activities are identified in a brownfield plan or, for 1  
11 of the 3 projects, if the property is not a facility but is  
12 functionally obsolete or blighted, property identified in a  
13 brownfield plan. For purposes of this subdivision, a facility  
14 includes a building or complex of buildings that was used by a  
15 state or federal agency and that is no longer being used for the  
16 purpose for which it was used by the state or federal agency.

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

19 (7) The Michigan economic growth authority shall review all  
20 applications for projects under subsection (4) and, if an  
21 application is approved, shall determine the maximum total of all  
22 credits for that project. Before approving a project for which the  
23 total of all credits will be more than \$10,000,000.00 but  
24 \$30,000,000.00 or less only, the Michigan economic growth authority  
25 shall determine that the project would not occur in this state  
26 without the tax credit offered under subsection (4). The Michigan  
27 economic growth authority shall consider the following criteria to

1 the extent reasonably applicable to the type of project proposed  
2 when approving a project under subsection (4), and the chairperson  
3 of the Michigan economic growth authority or his or her designee  
4 shall consider the following criteria to the extent reasonably  
5 applicable to the type of project proposed when approving a project  
6 under subsection (2) or (3) or when considering an amendment to a  
7 project under subsection (9):

8 (a) The overall benefit to the public.

9 (b) The extent of reuse of vacant buildings and redevelopment  
10 of blighted property.

11 (c) Creation of jobs.

12 (d) Whether the eligible property is in an area of high  
13 unemployment.

14 (e) The level and extent of contamination alleviated by the  
15 qualified taxpayer's eligible activities to the extent known to the  
16 qualified taxpayer.

17 (f) The level of private sector contribution.

18 (g) The cost gap that exists between the site and a similar  
19 greenfield site as determined by the Michigan economic growth  
20 authority.

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

23 (i) Whether the financial statements of the qualified taxpayer  
24 indicate that it is financially sound and that the project is  
25 economically sound.

26 (j) Any other criteria that the Michigan economic growth  
27 authority or the chairperson of the Michigan economic growth

1 authority, as applicable, considers appropriate for the  
2 determination of eligibility under subsection (3) or (4).

3 (8) A qualified taxpayer may apply for projects under this  
4 section for eligible investment on more than 1 eligible property in  
5 a tax year. Each project approved and each project for which a  
6 certificate of completion is issued under this section shall be for  
7 eligible investment on 1 eligible property.

8 (9) If, after a taxpayer's project has been approved and the  
9 taxpayer has received a preapproval letter but before the project  
10 is completed, the taxpayer determines that the project cannot be  
11 completed as preapproved, the taxpayer may petition the Michigan  
12 economic growth authority to amend the project. The total of  
13 eligible investment for the project as amended shall not exceed the  
14 amount allowed in the preapproval letter for that project.

15 (10) A project may be a multiphase project. If a project is a  
16 multiphase project, when each component of the multiphase project  
17 is completed, the taxpayer shall submit documentation that the  
18 component is complete, an accounting of the cost of the component,  
19 and the eligible investment for the component of each taxpayer  
20 eligible for a credit for the project of which the component is a  
21 part to the Michigan economic growth authority or the designee of  
22 the Michigan economic growth authority, who shall verify that the  
23 component is complete. When the completion of the component is  
24 verified, a component completion certificate shall be issued to the  
25 qualified taxpayer which shall state that the taxpayer is a  
26 qualified taxpayer, the credit amount for the component, the  
27 qualified taxpayer's federal employer identification number or the

1 Michigan treasury number assigned to the taxpayer, and the project  
2 number. The taxpayer may assign all or part of the credit for a  
3 multiphase project as provided in this section after a component  
4 completion certificate for a component is issued. The qualified  
5 taxpayer may transfer ownership of or lease the completed component  
6 and assign a proportionate share of the credit for the entire  
7 project to the qualified taxpayer that is the new owner or lessee.  
8 A multiphase project shall not be divided into more than 20  
9 components. A component is considered to be completed when a  
10 certificate of occupancy has been issued by the local municipality  
11 in which the project is located for all of the buildings or  
12 facilities that comprise the completed component and a component  
13 completion certificate is issued. A credit assigned based on a  
14 multiphase project shall be claimed by the assignee in the tax year  
15 in which the assignment is made. The total of all credits for a  
16 multiphase project shall not exceed the amount stated in the  
17 preapproval letter for the project under subsection (1). If all  
18 components of a multiphase project are not completed by 10 years  
19 after the date on which the preapproval letter for the project was  
20 issued, the qualified taxpayer that received the preapproval letter  
21 for the project shall pay to the state treasurer, as a penalty, an  
22 amount equal to the sum of all credits claimed and assigned for all  
23 components of the multiphase project and no credits based on that  
24 multiphase project shall be claimed after that date by the  
25 qualified taxpayer or any assignee of the qualified taxpayer. The  
26 penalty under this subsection is subject to interest on the amount  
27 of the credit claimed or assigned determined individually for each

1 component at the rate in section 23(2) of 1941 PA 122, MCL 205.23,  
2 beginning on the date that the credit for that component was  
3 claimed or assigned. As used in this subsection, "proportionate  
4 share" means the same percentage of the total of all credits for  
5 the project that the qualified investment for the completed  
6 component is of the total qualified investment stated in the  
7 preapproval letter for the entire project.

8 (11) When a project under this section is completed, the  
9 taxpayer shall submit documentation that the project is completed,  
10 an accounting of the cost of the project, the eligible investment  
11 of each taxpayer if there is more than 1 taxpayer eligible for a  
12 credit for the project, and, if the taxpayer is not the owner or  
13 lessee of the eligible property on which the eligible investment  
14 was made at the time the project is completed, that the taxpayer  
15 was the owner or lessee of that eligible property when all eligible  
16 investment of the taxpayer was made. The chairperson of the  
17 Michigan economic growth authority or his or her designee, for  
18 projects approved under subsection (2) or (3), or the Michigan  
19 economic growth authority, for projects approved under subsection  
20 (4), shall verify that the project is completed. The Michigan  
21 economic growth authority shall conduct an on-site inspection as  
22 part of the verification process for projects approved under  
23 subsection (4). When the completion of the project is verified, a  
24 certificate of completion shall be issued to each qualified  
25 taxpayer that has made eligible investment on that eligible  
26 property. The certificate of completion shall state the total  
27 amount of all credits for the project and that total shall not

1 exceed the maximum total of all credits listed in the preapproval  
2 letter for the project under subsection (2), (3), or (4) as  
3 applicable and shall state all of the following:

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

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

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

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

10 (e) The project number.

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

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

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

26 (13) The cost of eligible investment for leased machinery,  
27 equipment, or fixtures is the cost of that property had the

1 property been purchased minus the lessor's estimate, made at the  
2 time the lease is entered into, of the market value the property  
3 will have at the end of the lease. A credit for property described  
4 in this subsection is allowed only if the cost of that property had  
5 the property been purchased and the lessor's estimate of the market  
6 value at the end of the lease are provided to the Michigan economic  
7 growth authority.

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

10 (15) Each qualified taxpayer and assignee under subsection  
11 (20), (21), or (22) that claims a credit under this section shall  
12 attach a copy of the certificate of completion and, if the credit  
13 was assigned, a copy of the assignment form provided for under this  
14 section to the annual return filed under this act on which the  
15 credit under this section is claimed. An assignee of a credit based  
16 on a multiphase project shall attach a copy of the assignment form  
17 provided for under this section and the component completion  
18 certificate provided for in subsection (10) to the annual return  
19 filed under this act on which the credit is claimed but is not  
20 required to file a copy of a certificate of completion.

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

1 credit amount shall be claimed in the tax year specified on the  
2 certificate of completion.

3 (17) The credits approved under this section shall be  
4 calculated after application of all other credits allowed under  
5 this act. The credits under this section shall be calculated before  
6 the calculation of the credit under section 431.

7 (18) If the credit allowed under this section for the tax year  
8 and any unused carryforward of the credit allowed under this  
9 section exceed the qualified taxpayer's or assignee's tax liability  
10 for the tax year, that portion that exceeds the tax liability for  
11 the tax year shall not be refunded but may be carried forward to  
12 offset tax liability in subsequent tax years for 10 years or until  
13 used up, whichever occurs first. Except as otherwise provided in  
14 this subsection, the maximum time allowed under the carryforward  
15 provisions under this subsection begins with the tax year in which  
16 the certificate of completion is issued to the qualified taxpayer.  
17 If the qualified taxpayer assigns all or any portion of its credit  
18 approved under this section, the maximum time allowed under the  
19 carryforward provisions for an assignee begins to run with the tax  
20 year in which the assignment is made and the assignee first claims  
21 a credit, which shall be the same tax year. The maximum time  
22 allowed under the carryforward provisions for an annual credit  
23 amount for a credit allowed under subsection (4) begins to run in  
24 the tax year for which the annual credit amount is designated on  
25 the certificate of completion issued under this section. A credit  
26 carryforward available under section 38g of former 1975 PA 228 that  
27 is unused at the end of the last tax year may be claimed against

1 the tax imposed under act for the years the carryforward would have  
2 been available under former 1975 PA 228.

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

19 (20) For credits under this section for projects for which a  
20 certificate of completion is issued before January 1, 2006 and  
21 except as otherwise provided in this subsection, if a qualified  
22 taxpayer pays or accrues eligible investment on or to an eligible  
23 property that is leased for a minimum term of 10 years or sold to  
24 another taxpayer for use in a business activity, the qualified  
25 taxpayer may assign all or a portion of the credit under this  
26 section based on that eligible investment to the lessee or  
27 purchaser of that eligible property. A credit assignment under this

1 subsection shall only be made to a taxpayer that when the  
2 assignment is complete will be a qualified taxpayer. All credit  
3 assignments under this subsection are irrevocable and, except for a  
4 credit based on a multiphase project, shall be made in the tax year  
5 in which the certificate of completion is issued, unless the  
6 assignee is an unknown lessee. If a qualified taxpayer wishes to  
7 assign all or a portion of its credit to a lessee but the lessee is  
8 unknown in the tax year in which the certificate of completion is  
9 issued, the qualified taxpayer may delay claiming and assigning the  
10 credit until the first tax year in which the lessee is known. A  
11 qualified taxpayer may claim a portion of a credit and assign the  
12 remaining credit amount. Except as otherwise provided in this  
13 subsection, if the qualified taxpayer both claims and assigns  
14 portions of the credit, the qualified taxpayer shall claim the  
15 portion it claims in the tax year in which the certificate of  
16 completion is issued or, for a credit assigned and claimed for a  
17 multiphase project before a certificate of completion is issued,  
18 the taxpayer shall claim the credit in the year in which the credit  
19 is assigned. If a qualified taxpayer assigns all or a portion of  
20 the credit and the eligible property is leased to more than 1  
21 taxpayer, the qualified taxpayer shall determine the amount of  
22 credit assigned to each lessee. A lessee shall not subsequently  
23 assign a credit or any portion of a credit assigned under this  
24 subsection. A purchaser may subsequently assign a credit or any  
25 portion of a credit assigned to the purchaser under this subsection  
26 to a lessee of the eligible property. The credit assignment under  
27 this subsection shall be made on a form prescribed by the Michigan

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

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

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

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

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

21 (21) Except as otherwise provided in this subsection, for  
22 projects for which a certificate of completion is issued before  
23 January 1, 2006, and except as otherwise provided in this  
24 subsection, if a qualified taxpayer is a partnership, limited  
25 liability company, or subchapter S corporation, the qualified  
26 taxpayer may assign all or a portion of a credit under this section  
27 to its partners, members, or shareholders, based on their

1 proportionate share of ownership of the partnership, limited  
2 liability company, or subchapter S corporation or based on an  
3 alternative method approved by the Michigan economic growth  
4 authority. A credit assignment under this subsection is irrevocable  
5 and, except for a credit assignment based on a multiphase project,  
6 shall be made in the tax year in which a certificate of completion  
7 is issued. A qualified taxpayer may claim a portion of a credit and  
8 assign the remaining credit amount. Except as otherwise provided in  
9 this subsection, if the qualified taxpayer both claims and assigns  
10 portions of the credit, the qualified taxpayer shall claim the  
11 portion it claims in the tax year in which a certificate of  
12 completion is issued or for a credit assigned and claimed for a  
13 multiphase project, before the component completion certificate is  
14 issued, the taxpayer shall claim the credit in the year in which  
15 the credit is assigned. A partner, member, or shareholder that is  
16 an assignee shall not subsequently assign a credit or any portion  
17 of a credit assigned under this subsection. The credit assignment  
18 under this subsection shall be made on a form prescribed by the  
19 Michigan economic growth authority. The qualified taxpayer shall  
20 send a copy of the completed assignment form to the Michigan  
21 economic growth authority in the tax year in which the assignment  
22 is made. A partner, member, or shareholder who is an assignee shall  
23 attach a copy of the completed assignment form to its annual return  
24 required under this act, for the tax year in which the assignment  
25 is made and the assignee first claims a credit, which shall be the  
26 same tax year. A credit assignment based on a credit for a  
27 component of a multiphase project that is completed before January

1 1, 2006 shall be made under this subsection. In addition to all  
2 other procedures under this subsection, the following apply if the  
3 total of all credits for a project is more than \$10,000,000.00 but  
4 \$30,000,000.00 or less:

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

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

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

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

15 (22) For projects approved under section 38g of former 1975 PA  
16 228 for which a certificate of completion is issued on and after  
17 January 1, 2006, a qualified taxpayer may assign all or a portion  
18 of a credit allowed under section 38g(2), (3), or (33) of former  
19 1975 PA 228 under this subsection. A credit assignment under this  
20 subsection is irrevocable and, except for a credit assignment based  
21 on a multiphase project, shall be made in the tax year in which a  
22 certificate of completion is issued unless the assignee is an  
23 unknown lessee. If a qualified taxpayer wishes to assign all or a  
24 portion of its credit to a lessee but the lessee is unknown in the  
25 tax year in which the certificate of completion is issued, the  
26 qualified taxpayer may delay claiming and assigning the credit  
27 until the first tax year in which the lessee is known. A qualified

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

1 total of all credits for a project is more than \$10,000,000.00 but  
2 \$30,000,000.00 or less:

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

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

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

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

15 (24) The Michigan economic growth authority may certify a  
16 credit under this section based on an agreement entered into prior  
17 to January 1, 2008 pursuant to section 38g of former 1975 PA 228.  
18 The number of years for which the credit under this subsection may  
19 be claimed under this act shall equal the maximum number of years  
20 designated in the agreement reduced by the number of years for  
21 which a credit had been claimed under section 38g of former 1975 PA  
22 228.

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

27 (26) Eligible investment attributable or related to the

1 operation of a professional sports stadium, and eligible investment  
2 that is associated or affiliated with the operation of a  
3 professional sports stadium, including, but not limited to, the  
4 operation of a parking lot or retail store, shall not be used as a  
5 basis for a credit under this section. Professional sports stadium  
6 does not include a professional sports stadium that will no longer  
7 be used by a professional sports team on and after the date that an  
8 application related to that professional sports stadium is filed  
9 under this section.

10 (27) Eligible investment attributable or related to the  
11 operation of a casino, and eligible investment that is associated  
12 or affiliated with the operation of a casino, including, but not  
13 limited to, the operation of a parking lot, hotel, motel, or retail  
14 store, shall not be used as a basis for a credit under this  
15 section. As used in this subsection, "casino" means a casino  
16 regulated by this state pursuant to the Michigan gaming control and  
17 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

18 (28) Eligible investment attributable or related to the  
19 construction of a new landfill or the expansion of an existing  
20 landfill regulated under part 115 of the natural resources and  
21 environmental protection act, 1994 PA 451, MCL 324.11501 to  
22 324.11550, shall not be used as a basis for a credit under this  
23 section.

24 (29) The Michigan economic growth authority annually shall  
25 prepare and submit to the house of representatives and senate  
26 committees responsible for tax policy and economic development  
27 issues a report on the credits under subsection (3). The report

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

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

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

6 (30) As used in this section:

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

12 (b) "Authority" means a brownfield redevelopment authority  
13 created under the brownfield redevelopment financing act, 1996 PA  
14 381, MCL 125.2651 to 125.2672.

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

19 (d) "Blighted", "brownfield plan", "eligible activities",  
20 "facility", "functionally obsolete", "qualified local governmental  
21 unit", and "response activity" mean those terms as defined in the  
22 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651  
23 to 125.2672.

24 (e) "Eligible investment" means demolition, construction,  
25 restoration, alteration, renovation, or improvement of buildings or  
26 site improvements on eligible property and the addition of  
27 machinery, equipment, and fixtures to eligible property after the

1 date that eligible activities on that eligible property have  
2 started pursuant to a brownfield plan under the brownfield  
3 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,  
4 and after the date that the preapproval letter is issued, if the  
5 costs of the eligible investment are not otherwise reimbursed to  
6 the taxpayer or paid for on behalf of the taxpayer from any source  
7 other than the taxpayer. The addition of leased machinery,  
8 equipment, or fixtures to eligible property by a lessee of the  
9 machinery, equipment, or fixtures is eligible investment if the  
10 lease of the machinery, equipment, or fixtures has a minimum term  
11 of 10 years or is for the expected useful life of the machinery,  
12 equipment, or fixtures, and if the owner of the machinery,  
13 equipment, or fixtures is not the qualified taxpayer with regard to  
14 that machinery, equipment, or fixtures.

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

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

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

25 (B) Property that is not in a qualified local governmental  
26 unit but is within a downtown development district established  
27 under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally

1 obsolete or blighted, and a component of the project on that  
2 eligible property is 1 or more of the following:

3 (I) Infrastructure improvements that directly benefit the  
4 eligible property.

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

8 (III) Lead or asbestos abatement.

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

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

15 (ii) Eligible property includes parcels that are adjacent or  
16 contiguous to the eligible property if the development of the  
17 adjacent or contiguous parcels is estimated to increase the  
18 captured taxable value of the property or tax reverted property  
19 owned or under the control of a land bank fast track authority  
20 pursuant to the land bank fast track authority act, 2003 PA 258,  
21 MCL 124.751 to 124.774.

22 (iii) Eligible property includes, to the extent included in the  
23 brownfield plan, personal property located on the eligible  
24 property.

25 (iv) Eligible property does not include qualified agricultural  
26 property exempt under section 7ee of the general property tax act,  
27 1893 PA 206, MCL 211.7ee, from the tax levied by a local school

1 district for school operating purposes to the extent provided under  
2 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

3 (g) "Last tax year" means the taxpayer's tax year under former  
4 1975 PA 228 that begins after December 31, 2006 and before January  
5 1, 2008.

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

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

12 (j) "Personal property" means that term as defined in section  
13 8 of the general property tax act, 1893 PA 206, MCL 211.8, except  
14 that personal property does not include either of the following:

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

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

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

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

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

26 (l) "Qualified local governmental unit" means that term as  
27 defined in the obsolete property rehabilitation act, 2000 PA 146,

1 MCL 125.2781 to 125.2797.

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

4 (i) Owns or leases eligible property.

5 (ii) Certifies that, except as otherwise provided in this  
6 subparagraph, the department of environmental quality has not sued  
7 or issued a unilateral order to the taxpayer pursuant to part 201  
8 of the natural resources and environmental protection act, 1994 PA  
9 451, MCL 324.20101 to 324.20142, to compel response activity on or  
10 to the eligible property, or expended any state funds for response  
11 activity on or to the eligible property and demanded reimbursement  
12 for those expenditures from the qualified taxpayer. However, if the  
13 taxpayer has completed all response activity required by part 201  
14 of the natural resources and environmental protection act, 1994 PA  
15 451, MCL 324.20101 to 324.20142, is in compliance with any deed  
16 restriction or administrative or judicial order related to the  
17 required response activity, and has reimbursed the state for all  
18 costs incurred by the state related to the required response  
19 activity, the taxpayer meets the criteria under this subparagraph.

20 Sec. 439. (1) A taxpayer may claim a credit against the tax  
21 imposed by this act equal to \$1.00 per long ton of qualified low-  
22 grade hematite consumed in an industrial or manufacturing process  
23 that is the business activity of the taxpayer.

24 (2) If the credit allowed under this section for the tax year  
25 and any unused carryforward of the credit allowed under this  
26 section exceed the tax liability of the taxpayer for the tax year,  
27 the excess shall not be refunded, but may be carried forward as an

1 offset to the tax liability in subsequent tax years for 5 tax years  
2 or until the excess credit is used up, whichever occurs first.

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

5 (4) As used in this section:

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

9 (b) "Low-grade hematite" means any hematitic iron formation  
10 that is not of sufficient quality in its original mineral state to  
11 be mined and shipped for the production of pig iron or steel  
12 without first being drilled, blasted, crushed, and ground very fine  
13 to liberate the iron minerals and for which additional  
14 beneficiation and agglomeration are required to produce a product  
15 of sufficient quality to be used in the production of pig iron or  
16 steel.

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

19 Sec. 441. (1) Subject to subsection (4), an eligible taxpayer  
20 may claim the Michigan entrepreneurial credit equal to 100% of the  
21 tax imposed by this act.

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

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

26 (a) Had less than \$25,000,000.00 in gross receipts in the  
27 immediately preceding tax year. The \$25,000,000.00 amount shall be

1 annually adjusted for inflation using the Detroit consumer price  
2 index.

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

7 (i) Did not exist in this state in the immediately preceding  
8 tax year.

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

12 (iii) Are not jobs into which employees transfer if the  
13 employees worked in this state for the taxpayer in other jobs prior  
14 to beginning the new jobs.

15 (c) Has made a capital investment in this state of not less  
16 than \$1,250,000.00 in the immediately preceding tax year.

17 (4) An eligible taxpayer may claim the Michigan entrepreneurial  
18 credit under this section not more than 5 times in the 5 consecutive  
19 tax years beginning in the first year that the taxpayer claims the  
20 Michigan entrepreneurial credit.

21 (5) If the new jobs for which the taxpayer qualifies for this  
22 credit are relocated outside of this state within 5 years after  
23 claiming the Michigan entrepreneurial credit under this section, that  
24 taxpayer is liable in an amount equal to the total of all credits  
25 received under this section. Any liability under this subsection shall  
26 be collected under 1941 PA 122, MCL 205.1 to 205.31.

27 Sec. 443. (1) For tax years ending after December 31, 2007, if

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

8 (2) The credit available under subsection (1) shall be applied  
9 pro rata to those taxpayers that claimed 1 or more credits under  
10 section 403 or 405 in the immediately preceding tax year.

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

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

18 Sec. 445. (1) A taxpayer that is a dealer or wholesaler  
19 licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
20 257.923, may claim a credit against the tax imposed by this act  
21 equal to 2% of the amount paid by the taxpayer to acquire motor  
22 vehicle inventory in the tax year, not to exceed \$10,000.00.

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

27 (3) As used in this section, "motor vehicle inventory" means

1 new or used motor vehicles or motor vehicle parts.

2 CHAPTER 5

3 Sec. 501. (1) A taxpayer that reasonably expects liability for  
4 the tax year to exceed \$600.00 shall file an estimated return and  
5 pay an estimated tax for each quarter of the taxpayer's tax year.

6 (2) For taxpayers on a calendar year basis, the quarterly  
7 returns and estimated payments shall be made by April 15, July 15,  
8 October 15, and January 15. Taxpayers not on a calendar year basis  
9 shall file quarterly returns and make estimated payments on the  
10 appropriate due date which in the taxpayer's fiscal year  
11 corresponds to the calendar year.

12 (3) The estimated payment made with each quarterly return of  
13 each tax year shall be for the estimated business income tax base  
14 and net worth tax base for the quarter or 25% of the estimated  
15 annual liability. The second, third, and fourth estimated payments  
16 in each tax year shall include adjustments, if necessary, to  
17 correct underpayments or overpayments from previous quarterly  
18 payments in the tax year to a revised estimate of the annual tax  
19 liability.

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

22 (a) If the sum of the estimated payments equals at least 85%  
23 of the liability and the amount of each estimated payment  
24 reasonably approximates the tax liability incurred during the  
25 quarter for which the estimated payment was made.

26 (b) If the preceding year's tax liability under this act or  
27 former 1975 PA 228 was \$20,000.00 or less and if the taxpayer

1 submitted 4 equal installments the sum of which equals the  
2 immediately preceding tax year's tax liability.

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

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

12 (7) Payments made under this section shall be a credit against  
13 the payment required with the annual tax return required in section  
14 505.

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

19 (9) A taxpayer that elects under the internal revenue code to  
20 file an annual federal income tax return by March 1 in the year  
21 following the taxpayer's tax year and does not make a quarterly  
22 estimate or payment, or does not make a quarterly estimate or  
23 payment and files a tentative annual return with a tentative  
24 payment by January 15 in the year following the taxpayer's tax year  
25 and a final return by April 15 in the year following the taxpayer's  
26 tax year, has the same option in filing the estimated and annual  
27 returns required by this act.

1           Sec. 503. If a taxpayer's tax year to which this act applies  
2 ends before December 31, 2008 or if a taxpayer's first tax year is  
3 less than 12 months then a taxpayer subject to this act may elect  
4 to compute the tax imposed by this act for the portion of that tax  
5 year to which this act applies or that first tax year in accordance  
6 with 1 of the following methods:

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

12           (b) The tax may be computed by determining the business income  
13 tax base and net worth tax base in the first tax year in accordance  
14 with an accounting method satisfactory to the department that  
15 reflects the actual business income tax base and net worth tax base  
16 attributable to the period.

17           Sec. 505. (1) An annual or final return shall be filed with  
18 the department in the form and content prescribed by the department  
19 by the last day of the fourth month after the end of the taxpayer's  
20 tax year. Any final liability shall be remitted with this return. A  
21 taxpayer whose apportioned or allocated gross receipts are less  
22 than \$350,000.00 does not need to file a return or pay the tax  
23 imposed under this act.

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

1 12.

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

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

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

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

1 revenue service.

2       Sec. 509. (1) At the request of the department, a person or  
3 unitary business group required by the internal revenue code to  
4 file or submit an information return of income paid to others  
5 shall, to the extent the information is applicable to residents of  
6 this state, at the same time file or submit the information in the  
7 form and content prescribed to the department.

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

13       Sec. 511. A unitary business group shall file a combined  
14 return that includes each United States person included in the  
15 unitary business group. Each United States person included in a  
16 unitary business group or included in a combined return shall be  
17 treated as a single taxpayer and all intercompany transactions  
18 shall be eliminated from the business income tax base, net worth  
19 tax base, and the apportionment formula under this act. If a United  
20 States person included in a unitary business group or included in a  
21 combined return is subject to the tax under chapter 2A or 2B, any  
22 business income attributable to that person shall be eliminated  
23 from the business income tax base, net worth tax base, and the  
24 apportionment formula under this act.

25       Sec. 513. (1) The tax imposed by this act shall be  
26 administered by the department of treasury pursuant to 1941 PA 122,  
27 MCL 205.1 to 205.31, and this act. If a conflict exists between

1 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of  
2 this act apply.

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

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

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

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

22 Sec. 515. (1) In fiscal year 2007-2008, \$203,700,000.00 of the  
23 revenue collected under this act shall be distributed to the school  
24 aid fund and the balance shall be deposited into the general fund.  
25 In fiscal year 2008-2009, \$613,700,000.00 of the revenue collected  
26 under this act shall be distributed to the school aid fund and the  
27 balance shall be deposited into the general fund. For each fiscal

1 year after the 2008-2009 fiscal year, that amount from the  
2 immediately preceding fiscal year as annually adjusted for  
3 inflation using the Detroit consumer price index shall be  
4 distributed to the school aid fund and the balance shall be  
5 deposited into the general fund.

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

10 Sec. 517. There is appropriated to the department for the  
11 2006-2007 state fiscal year the sum of \$10,000,000.00 to implement  
12 the requirements of this act. Any portion of this amount under this  
13 section that is not expended in the 2006-2007 state fiscal year  
14 shall not lapse to the general fund but shall be carried forward in  
15 a work project account that is in compliance with section 451a of  
16 the management and budget act, 1984 PA 431, MCL 18.1451a, for the  
17 following state fiscal year.

18 Sec. 519. If a final order of a court of competent  
19 jurisdiction for which all rights of appeal have been exhausted or  
20 have expired determines that any provision of this act that  
21 provides a deduction, credit, or exemption with respect to  
22 employment, persons, services, investment, or any other activity  
23 that is limited only to this state is unconstitutional or applies  
24 to employment, persons, services, investment, or any other activity  
25 outside of this state, that credit, deduction, or exemption shall  
26 be severed and shall not be in effect for any other tax year for  
27 which the final order shall apply, and the remaining provisions of

1 this act shall remain in effect.

2 Enacting section 1. This act takes effect January 1, 2008 and  
3 applies to all business activity occurring after December 31, 2007.

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

7 (a) House Bill No. 4369.

8 (b) House Bill No. 4370.

9 (c) House Bill No. 4371.

10 (d) House Bill No. 4372.