

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5101

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.847) by adding section 717.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 717. (1) Subject to the limitations under this section,
2 for tax years beginning on and after January 1, 2025, an employer
3 that is an authorized business may claim a credit against the taxes
4 required to be withheld and remitted to this state under this
5 chapter as follows:
6 (a) For an authorized business with 250 or more employees, an
7 amount equal to the sum of 3% of the employer's qualifying research
8 and development expenses incurred during the calendar year ending
9 with or within the tax year up to the base amount and 10% of the

1 employer's qualifying research and development expenses incurred
2 during the calendar year ending with or within the tax year in
3 excess of the base amount. The credit amount calculated under this
4 subdivision must not exceed \$2,000,000.00 per tax year per
5 employer.

6 (b) For an authorized business with less than 250 employees,
7 an amount equal to the sum of 3% of the employer's qualifying
8 research and development expenses incurred during the calendar year
9 ending with or within the tax year up to the base amount and 15% of
10 the employer's qualifying research and development expenses
11 incurred during the calendar year ending with or within the tax
12 year in excess of the base amount. The credit amount calculated
13 under this subdivision must not exceed \$250,000.00 per tax year per
14 employer.

15 (2) Subject to the limitations under this section, an employer
16 that is an authorized business may claim an additional credit equal
17 to 5% of the qualifying research and development expenses used to
18 calculate the credit under subsection (1) that were incurred in
19 collaboration with a research university in this state pursuant to
20 a written agreement between the employer and the research
21 university. In order to claim the additional credit under this
22 subsection, if requested by the department, the employer must
23 provide the department with a copy of the written agreement with
24 the research university. The additional credit allowed under this
25 subsection must not exceed \$200,000.00 per tax year per employer.

26 (3) To be eligible for a credit under this section, an
27 employer must submit, in a form and manner as prescribed by the
28 department, a tentative claim for which a credit under this section
29 is sought to the department on or before April 1, 2026 for

1 tentative claims made for qualifying research and development
2 expenses incurred during the 2025 calendar year and for tentative
3 claims made for qualifying research and development expenses
4 incurred for each calendar year after 2025 on or before March 15
5 after the calendar year ending with or within the tax year for
6 which the employer intends to submit a claim for the credit. The
7 tentative claim required under this subsection must include, at a
8 minimum, all of the following information:

9 (a) If the credit is to be claimed under subsection (1) (a) or
10 (b) .

11 (b) The amount of qualifying research and development expenses
12 incurred for which a credit is being claimed.

13 (c) If an additional credit is to be claimed under subsection
14 (2) for collaboration with a research university.

15 (4) The department shall review all tentative claims submitted
16 under subsection (3) and if the amount of tentative claims
17 submitted exceeds the amount allowed under subsection (5), the
18 department shall publish a notice on its website notifying
19 claimants of the adjustment to the tentative claims for that
20 calendar year as required under subsection (5) .

21 (5) The aggregate amount of credits allowed to be claimed by
22 all employers under this section and all taxpayers under section
23 677 based on qualifying research and development expenses incurred
24 in a single calendar year must not exceed \$100,000,000.00. If the
25 aggregate amount of tentative claims submitted under this section
26 and section 677 exceeds \$100,000,000.00, the department shall
27 prorate the amount of credits allowed for each claimant as follows:

28 (a) If the aggregate amount of tentative claims submitted by
29 all employers qualifying under subsection (1) (b) and all taxpayers

1 qualifying under section 677(1)(b) does not exceed \$25,000,000.00,
2 the amount of credits claimed by each of those claimants must not
3 be prorated. However, for employers submitting a tentative claim
4 for a credit under subsection (1)(a) or taxpayers submitting a
5 tentative claim for a credit under section 677(1)(a), the amount of
6 tentative claims submitted must be prorated so that each claimant's
7 allowed credits equal that claimant's pro rata share of the
8 remaining amount of credits allowed to be claimed under this
9 subsection and section 677(5).

10 (b) Except as provided in subdivision (c), if the aggregate
11 amount of tentative claims submitted by all employers qualifying
12 under subsection (1)(b) and all taxpayers qualifying under section
13 677(1)(b) exceeds \$25,000,000.00, the amount of tentative claims
14 submitted by each of those claimants must be prorated so that each
15 claimant's allowed credits equal that claimant's pro rata share of
16 \$25,000,000.00, and the amount of tentative claims submitted by
17 each employer qualifying under subsection (1)(a) or taxpayer
18 qualifying under section 677(1)(a) must be prorated so that each
19 claimant's allowed credits equal that claimant's pro rata share of
20 \$75,000,000.00.

21 (c) If the aggregate amount of tentative claims submitted by
22 all employers qualifying under subsection (1)(b) and all taxpayers
23 qualifying under section 677(1)(b) exceeds 25% of the aggregate
24 amount of tentative claims submitted by all employers under this
25 section and all taxpayers under section 677, then the proration
26 under subdivision (b) does not apply, and the amount of tentative
27 claims submitted by each employer under this section and taxpayer
28 under section 677 shall be prorated so that each claimant's allowed
29 credits equal that claimant's pro rata share of \$100,000,000.00.

1 (6) A member of a flow-through entity that submits a claim for
2 a credit under this section is not allowed to claim any portion of
3 that credit. An employer shall not assign or transfer all or any
4 portion of a credit allowed under this section. A credit or any
5 portion of a credit allowed under this section is not assignable or
6 transferable either by agreement or by operation of law.

7 (7) An employer shall, in a form and manner as prescribed by
8 the department, file a claim for a credit under this section with
9 the annual return required under section 711 for the tax year in
10 which a tentative claim for a credit under this section is
11 submitted. The credits allowed under this section must be claimed
12 after all allowable nonrefundable credits under this act. If the
13 amount of the credits allowed under this section exceeds the tax
14 liability of the employer for the tax year, that portion of the
15 credit that exceeds the tax liability of the employer for the tax
16 year must be refunded.

17 (8) As used in this section:

18 (a) "Authorized business" means, except as otherwise provided
19 under this subdivision, a flow-through entity that is subject to
20 the withholding requirements under section 703(2) and that has
21 incurred during the calendar year ending with or within the tax
22 year for which a credit is being claimed under this section
23 qualifying research and development expenses in excess of the base
24 amount. Authorized business does not include a flow-through entity
25 that is subject to the Michigan business tax act, 2007 PA 36, MCL
26 208.1101 to 208.1519, or part 2, for the tax year.

27 (b) "Base amount" means the average annual amount of
28 qualifying research and development expenses incurred during the 3
29 calendar years immediately preceding the calendar year ending with

1 or within the tax year for which a credit is being claimed under
2 this section. An authorized business with no prior qualifying
3 research and development expenses has a base amount of zero. If
4 qualifying research and development expenses were incurred in only
5 1 or 2 of the immediately preceding 3 calendar years, the average
6 annual amount must be based on the number of calendar years during
7 which qualifying research and development expenses were incurred.

8 (c) "Qualifying research and development expenses" means
9 qualified research expenses as that term is defined in section
10 41(b) of the internal revenue code of 1986, 26 USC 41, for research
11 conducted in this state. Qualifying research and development
12 expenses do not include qualified research expenses for research
13 conducted outside of this state.

14 (d) "Research university" means a public university described
15 in section 4, 5, or 6 of article VIII of the state constitution of
16 1963 or an independent nonprofit college or university in this
17 state.