

HOUSE BILL No. 6676

November 30, 2006, Introduced by Rep. Byrum and referred to the Committee on Tax Policy.

A bill to provide for the imposition, levy, computation, collection, assessment, and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

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

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1 "Michigan business tax act".

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

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

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

1 (3) "Business income" means federal taxable income plus the
2 amount of a deduction claimed under section 199 of the internal
3 revenue code related to domestic production activities, except that
4 for a person other than a corporation business income means that
5 part of federal taxable income derived from business activity plus
6 the amount of a deduction claimed under section 199 of the internal
7 revenue code related to domestic production activities. For a
8 partnership, business income includes payments and items of income
9 and expense that are attributable to business activity of the
10 partnership and separately reported to the partners.

11 Sec. 4. (1) "Casual transaction" means a transaction made or
12 engaged in other than in the ordinary course of repeated and
13 successive transactions of a like character, except that a
14 transaction made or engaged in by a person that is incidental to
15 that person's regular business activity is a business activity
16 within the meaning of this act. A transaction that is incidental to
17 a person's regular business activity includes transactions that
18 occur as a result of or in connection with the person's regular
19 business activity. Sales of intangible investment assets by an
20 individual that are not incidental to the individual's regular
21 business activity, and that result in gross receipts of less than
22 \$350,000.00 in any 1 tax year, are considered not to be repeated
23 and successive, and are considered to be casual transactions.

24 (2) "Client" means an entity whose employment operations are
25 managed by a professional employer organization.

26 (3) Except as otherwise provided in subsections (4) and (5),
27 "compensation" means all wages, salaries, fees, bonuses,

1 commissions, or other payments made in the tax year on behalf of or
2 for the benefit of employees, officers, or directors of the
3 taxpayers. Compensation includes, but is not limited to, payments
4 that are subject to or specifically exempt or excepted from
5 withholding under sections 3401 to 3406 of the internal revenue
6 code. Compensation also includes, on a cash or accrual basis
7 consistent with the taxpayer's method of accounting for federal
8 income tax purposes, payments to individuals not currently working,
9 payments to dependents and heirs of individuals based on current or
10 previous labor services rendered by those individuals, payments to
11 a pension, retirement, or profit sharing plan, and payments for
12 insurance for which employees are the beneficiaries, including
13 payments under health and welfare and noninsured benefit plans and
14 payment of fees for the administration of health and welfare and
15 noninsured benefit plans. Compensation does not include any of the
16 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) Payments to an independent contractor.

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

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

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

4 (f) Payments under health and welfare and noninsured benefit
5 plans for the benefit of persons who are residents of this state
6 and payments of fees for the administration of health and welfare
7 and noninsured benefit plans for the benefit of persons who are
8 residents of this state.

9 (4) Except as otherwise provided in subsection (5), for
10 purposes of determining compensation of a professional employer
11 organization, compensation includes payments by the professional
12 employer organization to the officers and employees of an entity
13 whose employment operations are managed by the professional
14 employer organization. Except as otherwise provided in subsection
15 (5), compensation of the entity whose employment operations are
16 managed by a professional employer organization does not include
17 compensation paid by the professional employer organization to the
18 officers and employees of the entity whose employment operations
19 are managed by the professional employer organization.

20 (5) Notwithstanding the provisions of subsection (4), the
21 following apply:

22 (a) A professional employer organization and a client may
23 jointly elect, in a manner determined by the department, to include
24 in the compensation of the client, and exclude from the
25 compensation of the professional employer organization,
26 compensation paid by the professional employer organization to the
27 officers of the client and to employees of the professional

1 employer organization who are assigned to and perform services for
2 the client and who are not temporary employees.

3 (b) Officers and employees of a client that has made an
4 election under subdivision (a) include employees for whom the
5 professional employer organization is required to withhold taxes
6 for federal income tax purposes. This subdivision does not apply to
7 compensation paid to a temporary employee.

8 (c) A professional employer organization that has made an
9 election under subdivision (a) shall submit to the client, within
10 30 days after the end of the client's tax year, a statement
11 reporting the compensation paid to employees and officers of the
12 client that was reimbursed by the client. If the report required by
13 this subdivision is not submitted, the amount of compensation shall
14 be considered to be the entire amount paid by the client to the
15 professional employer organization.

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

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

19 Sec. 5. (1) "Employee" means an employee as defined in section
20 3401(c) of the internal revenue code. A person from whom an
21 employer is required to withhold for federal income tax purposes is
22 prima facie considered an employee.

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

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

1 (4) "Financial organization" means a bank, industrial bank,
2 trust company, building and loan or savings and loan association,
3 bank holding company as defined in 12 USC 1841, credit union,
4 safety and collateral deposit company, regulated investment company
5 as defined in the internal revenue code, or any other association,
6 joint stock company, or corporation at least 90% of whose assets
7 consist of intangible personal property and at least 90% of whose
8 gross receipts income consists of dividends or interest or other
9 charges resulting from the use of money or credit.

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

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

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

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

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

27 (iii) Principal and interest under a mortgage loan or land

1 contract, lease or rental payments, or taxes, utilities, or
2 insurance premiums relating to real or personal property owned or
3 leased by the principal.

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

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

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

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

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

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

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

6 (g) Proceeds from any of the following:

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

8 (ii) The original issue of debt instruments.

9 (h) Refunds from returned merchandise.

10 (i) Cash and in-kind discounts.

11 (j) Trade discounts.

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

13 (l) Security deposits.

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

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

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

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

26 (2) "Insurance company" means an authorized insurer as defined
27 in section 106 of the insurance code of 1956, 1956 PA 218, MCL

1 500.106.

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

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

7 (a) The stock of goods held for resale in the regular course
8 of trade of a retail or wholesale business.

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

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

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

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

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

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

19 (a) The chairperson of the board.

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

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

24 Sec. 7. (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, limited partnership, co-partnership, partnership,
3 joint venture, association, corporation, receiver, estate, trust,
4 or any other group or combination of groups acting as a unit.

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

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

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

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

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

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

23 (6) "Revenue mile" means the transportation for a
24 consideration of 1 net ton in weight or 1 passenger the distance of
25 1 mile.

26 Sec. 8. (1) "Sale" or "sales" means the amounts received by
27 the taxpayer as consideration from the following:

1 (a) The transfer of title to, or possession of, property that
2 is stock in trade or other property of a kind that would properly
3 be included in the inventory of the taxpayer if on hand at the
4 close of the tax period or property held by the taxpayer primarily
5 for sale to customers in the ordinary course of the taxpayer's
6 trade or business.

7 (b) The performance of services that constitute business
8 activities other than those included in subdivision (a), or any
9 combination of business activities described in this subdivision
10 and subdivision (a).

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

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

19 (3) "State" means any state of the United States, the District
20 of Columbia, the Commonwealth of Puerto Rico, any territory or
21 possession of the United States, and any foreign country, or a
22 political subdivision of any of the foregoing.

23 Sec. 9. (1) "Tax base" means gross receipts before
24 apportionment or allocation plus the additions provided in this
25 section.

26 (2) Add the total value of assets at the beginning of the tax
27 year as determined under subdivision (a), not including inventory,

1 or for a financial organization or a mortgage company as defined in
2 section 45, the average value of property owned or rented by the
3 taxpayer as determined under subdivision (b):

4 (a) The total asset value of the taxpayer is the value of
5 assets that is required to be reported for federal income tax
6 purposes or the value that would be required to be reported if the
7 reporting of those assets were required. As used in this
8 subdivision, "assets" includes the following subparagraphs (i)
9 through (x) and excludes subparagraphs (xi) through (xiii):

10 (i) Cash.

11 (ii) Trade notes and accounts receivable.

12 (iii) Loans to shareholders.

13 (iv) Mortgage and real estate loans.

14 (v) Other investments.

15 (vi) Buildings and other depreciable assets less accumulated
16 depreciation.

17 (vii) Depletable assets less accumulated depreciation.

18 (viii) Land, net of amortization.

19 (ix) Amortizable intangible assets, less accumulated
20 amortization.

21 (x) Other assets.

22 (xi) United States treasury securities or other United States
23 government obligations exempted from state taxation under federal
24 law.

25 (xii) Tax exempt obligations.

26 (xiii) Goodwill.

27 (b) Property owned by the taxpayer is valued at its original

1 cost. Property rented by the taxpayer is valued at 8 times the net
2 annual rental rate. Net annual rental rate is the annual rental
3 rate paid by the taxpayer less any annual rental rate received by
4 the taxpayer from subrentals. The average value of property is
5 determined by averaging the values at the beginning and ending of
6 the tax year, unless the treasurer requires the periodic averaging
7 of values during the tax year if the treasurer determines that
8 periodic averaging is reasonably required to reflect properly the
9 average value of the taxpayer's property.

10 (3) If business income less, to the extent included in federal
11 taxable income, dividends received or considered received including
12 the foreign dividend gross-up provided for in the internal revenue
13 code is greater than zero, multiply that amount by 15 and add the
14 result to the tax base.

15 Sec. 10. (1) "Tax" means the tax imposed under this act,
16 including interest and penalties under this act, unless the term is
17 given a more limited meaning in the context of this act or a
18 provision of this act.

19 (2) "Tax year" means the calendar year, or the fiscal year
20 ending during the calendar year, upon the basis of which the tax
21 base of a taxpayer is computed under this act. If a return is made
22 for a fractional part of a year, tax year means the period for
23 which the return is made. Except for the first return required by
24 this act, a taxpayer's tax year is for the same period as is
25 covered by its federal income tax return. A person that has a 52-
26 or 53-week tax year beginning not more than 7 days before December
27 31 of any year is considered to have a tax year beginning after

1 December of that tax year.

2 (3) "Taxpayer" means a person liable for a tax, interest, or
3 penalty under this act.

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

6 (a) The wages and other compensation of the employee are
7 determined exclusively by the entity that supplies the temporary
8 employee.

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

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

15 Sec. 11. (1) A foreign person shall calculate business income
16 under this section and, except as otherwise provided in this
17 section, the tax base of a foreign person is subject to all
18 adjustments and other provisions of this act.

19 (2) Except as otherwise provided in this section, except for a
20 taxpayer that pays the tax imposed under sections 21 and 22, the
21 tax base of a foreign person includes the sum of business income
22 and the additions under section 9 that are related to United States
23 business activity, whether or not the foreign person is subject to
24 taxation under the internal revenue code.

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

1 (4) Notwithstanding the provisions of subsection (3), a
2 foreign person that does not have a permanent establishment in the
3 United States and whose business activity consists of the
4 transportation of persons or property for others by motor vehicle
5 may elect for purposes of this section to calculate compensation
6 related to United States business activity by 1 of the following
7 methods:

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

10 (b) Calculate compensation by determining total compensation
11 everywhere, apportioned to the United States by a formula, the
12 numerator of which is revenue miles traveled in the United States
13 and the denominator of which is revenue miles traveled everywhere.

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

1 United States.

2 (6) To calculate business income and the additions under
3 section 9 that are related to United States business activity, a
4 Canadian person that is subject to Canadian federal income tax
5 under the income tax act (R.S.C. 1985, c. 1 (5th Supp)) may use
6 amounts properly calculated under the income tax act (R.S.C. 1985,
7 c. 1 (5th Supp)) to reasonably approximate business income and the
8 additions under section 9 that are related to United States
9 business activity. Amounts calculated under this subsection are
10 presumed to reasonably approximate business income and the
11 additions under section 9 that are related to United States
12 business activity. The tax base of a Canadian person shall not
13 include gross income from sales shipped or delivered to any
14 purchaser within the United States and for which title transfers
15 outside the United States. As used in this subsection, "Canadian
16 person" means a foreign person that does not have a permanent
17 establishment in the United States during the tax year or that is
18 not subject to taxation under the internal revenue code for the tax
19 year and is either of the following:

20 (a) An entity formed under the laws of Canada or a province of
21 Canada.

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

24 (7) As used in this section:

25 (a) "Business income" means, for a foreign person, gross
26 income attributable to the taxpayer's United States business
27 activity and gross income derived from sources within the United

1 States minus the deductions allowed under the internal revenue code
2 that are related to that gross income. Gross income includes the
3 proceeds from sales shipped or delivered to any purchaser within
4 the United States and for which title transfers within the United
5 States; proceeds from services performed within the United States;
6 and a pro rata proportion of the proceeds from services performed
7 both within and outside the United States, based on cost of
8 performance.

9 (b) "Compensation" means, for a foreign person, the daily
10 compensation paid to each employee, officer, and director of the
11 foreign person multiplied by the number of days that the employee,
12 officer, or director has physical contact with the United States in
13 the tax year. Physical contact with the United States for any part
14 of a day equals 1 day.

15 (c) "Gross receipts" means, for a foreign person, gross
16 receipts as defined in section 6(1) from United States business
17 activity or from sources within the United States. Gross receipts
18 includes all sales for which title transfers within the United
19 States; proceeds from all services performed within the United
20 States; and a pro rata portion of proceeds from services performed
21 both within and outside of the United States based on costs of
22 performance.

23 (d) "Permanent establishment" means either of the following:

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

27 (ii) If an income tax treaty does not apply to the foreign

1 person, that term as defined in the United States model income tax
2 convention.

3 (e) "Property" means, for a foreign person, all of the
4 taxpayer's real and tangible personal property owned or rented in
5 the United States during the tax year.

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

8 (8) As used in this section and sections 43, 44, and 45,
9 "foreign person" means either of the following:

10 (a) An individual who is not a United States resident, whether
11 or not the individual is subject to taxation under the internal
12 revenue code.

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

16 Sec. 12. The tax base of nonprofit persons not required to pay
17 federal income taxes shall be the sum of the additions specified in
18 section 9.

19 CHAPTER 2

20 Sec. 20. (1) Except as otherwise provided in this act, there
21 is levied and imposed a specific tax of 0.125% on the tax base of
22 every person with business activity within this state adjusted for
23 the exemptions provided in section 23 allocated or apportioned to
24 this state

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

27 Sec. 21. (1) Each insurance company shall pay a tax determined

1 under this section.

2 (2) Except as otherwise provided by this section, the tax
3 imposed by this act on each insurance company shall be a tax equal
4 to 1.25% of gross direct premiums written on property or risk
5 located or residing in this state. Direct premiums do not include
6 any of the following:

7 (a) Premiums on policies not taken.

8 (b) Returned premiums on canceled policies.

9 (c) Receipts from the sale of annuities.

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

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

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

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

25 (3) Notwithstanding section 72, an insurance company shall
26 file the annual return required under this act before March 2 after
27 the end of the tax year, and an automatic extension under section

1 72(4) is not available.

2 (4) For the purpose of calculating an estimated payment
3 required by section 70, the greater of the amount of tax imposed on
4 an insurance company under this act or under section 476a of the
5 insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be
6 considered the insurance company's tax liability for the
7 immediately preceding tax year.

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

15 Sec. 23. (1) The following are exempt from the tax imposed by
16 this act:

17 (a) The United States, this state, other states, and the
18 agencies, political subdivisions, and enterprises of the United
19 States, this state, and other states.

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

1 or members and if all of the partners or members of the entity are
2 exempt from federal income tax under the internal revenue code,
3 except the following:

4 (i) An organization included under section 501(c)(12) or
5 501(c)(16) of the internal revenue code.

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

11 (iii) The adjusted tax base attributable to the activities
12 giving rise to the unrelated taxable business income of an exempt
13 person.

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

23 (d) That portion of the tax base attributable to the
24 production of agricultural goods by a person whose primary activity
25 is the production of agricultural goods. "Production of
26 agricultural goods" means commercial farming, including, but not
27 limited to, cultivation of the soil; growing and harvesting of an

1 agricultural, horticultural, or floricultural commodity; dairying;
2 raising of livestock, bees, fish, fur-bearing animals, or poultry;
3 or turf or tree farming, but does not include the marketing at
4 retail of agricultural goods except for sales of nursery stock
5 grown by the seller and sold to a nursery dealer licensed under
6 section 9 of the insect pest and plant disease act, 1931 PA 189,
7 MCL 286.209.

8 (e) Except as provided in subsection (3), a farmers'
9 cooperative corporation organized within the limitations of section
10 98 of 1931 PA 327, MCL 450.98, that was at any time exempt under
11 subdivision (c) because the corporation was exempt from federal
12 income taxes under section 521 of the internal revenue code and
13 that would continue to be exempt under section 521 of the internal
14 revenue code except for either of the following activities:

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

20 (ii) The corporation's incidental or emergency purchases of
21 commodities from nonproducers to facilitate the manufacturing or
22 marketing of commodities purchased from producers.

23 (f) That portion of the tax base attributable to the direct
24 and indirect marketing activities of a farmers' cooperative
25 corporation organized within the limitations of section 98 of 1931
26 PA 327, MCL 450.98, if those marketing activities are provided on
27 behalf of the members of that corporation and are related to the

1 members' direct sales of their products to third parties or, for
2 livestock, are related to the members' direct or indirect sales of
3 that product to third parties. Marketing activities for a product
4 that is not livestock are not exempt under this subdivision if the
5 farmers' cooperative corporation takes physical possession of the
6 product. As used in this subdivision, "marketing activities" means
7 activities that include, but are not limited to, all of the
8 following:

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

12 (ii) Dissemination of market information.

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

14 (iv) Promotion.

15 (v) Research relating to members' products.

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

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

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

1 corporation's total purchases.

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

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

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

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

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

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

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

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

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

23 (5) A member of an affiliated group as defined in this act, a
24 controlled group of corporations as defined in section 1563 of the
25 internal revenue code and further described in 26 CFR 1.414(b)-1
26 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
27 defined by the internal revenue code shall determine number of

1 employees, sales, and business income for purposes of this section
2 on a consolidated basis.

3 (6) For the tax year for which a credit under this section is
4 claimed, compensation, directors' fees, or distributive shares paid
5 by the taxpayer to any 1 of the following shall not exceed
6 \$135,000.00:

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

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

11 (c) A shareholder of an S corporation.

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

13 (e) An individual who is an owner.

14 (7) As used in this section:

15 (a) "Business income" means business income as defined in
16 section 3 excluding funds received from small business innovation
17 research grants and small business technology transfer programs
18 established under the small business innovation development act of
19 1982, Public Law 97-219, reauthorized under the small business
20 research and development enhancement act, Public Law 102-564, and
21 subsequently reauthorized under the small business reauthorization
22 act of 2000, Public Law 106-554.

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

1 local participating economic development corporations formed under
2 the economic development corporations act, 1974 PA 338, MCL
3 125.1601 to 125.1636, and the Michigan strategic fund.

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

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

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

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

13 (iv) Is not publicly traded.

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

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

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

26 (C) During the immediately preceding 7 years would have been
27 in 1 of the first 2 years of contribution liability under section

1 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,
2 MCL 421.19, if the qualified start-up business had not assumed
3 successor liability under section 15(g) of the Michigan employment
4 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

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

7 Sec. 25. (1) The credit provided in this section shall be
8 taken before any other credit under this act and is available to
9 any person with gross receipts that do not exceed \$10,000,000.00
10 and with adjusted business income minus the loss adjustment that
11 does not exceed \$475,000.00, subject to the following:

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

18 (b) A corporation other than a subchapter S corporation is
19 disqualified if either of the following occur for the respective
20 tax year:

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

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

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

25 (B) The product of the percentage of outstanding ownership or
26 of outstanding stock owned by that shareholder multiplied by the
27 difference between the sum of business income and, to the extent

1 deducted in determining federal taxable income, a carry back or a
2 carry over of a net operating loss or capital loss, minus the loss
3 adjustment.

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

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

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

26 (iii) If an individual, any 1 partner of the partnership, or any
27 1 shareholder of the subchapter S corporation receives as a

1 distributive share of adjusted business income minus the loss
2 adjustment of the individual, partnership, or subchapter S
3 corporation; if compensation and directors' fees of a shareholder
4 or officer of a corporation other than a subchapter S corporation
5 are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B)
6 is \$105,000.00 or more but less than \$110,000.00, the credit is
7 reduced by 60%.

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

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

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

22 (a) The reduction percentage for a partnership or subchapter S
23 corporation is based on the distributive share of adjusted business
24 income minus loss adjustment of the partner or shareholder with the
25 greatest distributive share of adjusted business income minus loss
26 adjustment.

27 (b) The reduction percentage for a corporation other than a

1 subchapter S corporation is the greater of the following:

2 (i) The reduction percentage based on the compensation and
3 directors' fees of the shareholder or officer with the greatest
4 amount of compensation and directors' fees.

5 (ii) The reduction percentage based on the sum of the amounts
6 in subsection (1)(b)(ii)(A) and (B) for the shareholder or officer
7 with the greatest sum of the amounts in subsection (1)(b)(ii)(A) and
8 (B).

9 (4) A person who qualifies under subsection (1) is allowed a
10 credit against the tax imposed under section 20. The credit under
11 this subsection is the amount by which the tax imposed under
12 section 20 exceeds 1.8% of adjusted business income.

13 (5) If gross receipts exceed \$9,000,000.00, the credit shall
14 be reduced by a fraction, the numerator of which is the amount of
15 gross receipts over \$9,000,000.00 and the denominator of which is
16 \$1,000,000.00. The credit shall not exceed 100% of the tax
17 liability imposed by section 20.

18 (6) An affiliated group as defined in this act, a controlled
19 group of corporations as defined in section 1563 of the internal
20 revenue code and further described in 26 CFR 1.414(b)-1 and
21 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
22 defined by the internal revenue code shall not take the credit
23 allowed by this section unless the business activities of the
24 entities are consolidated. The gross receipts, adjusted business
25 income, and tax base of all members of the group must be combined
26 to determine eligibility and to compute the credit under this
27 section. If any 1 individual, partner, officer, or shareholder has

1 compensation or a distributive share of adjusted business income,
2 or a combination of compensation and a distributive share of
3 adjusted business income, in excess of the amounts specified in
4 this section from any 1 member of the group, the group is not
5 eligible for the credit. Each member's business activities
6 attributable to its tax year or years ending within the calendar
7 year are required to be consolidated on a form prescribed by the
8 department.

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

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

21 (9) If a professional employer organization does not make an
22 election under section 4(5) with each of its clients, the
23 professional employer organization shall not claim a credit under
24 this section. If a client does not make an election under section
25 4(5) with its professional employer organization, the client shall
26 not claim a credit under this section.

27 (10) As used in this section:

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

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

7 (i) Add compensation and directors' fees of active shareholders
8 of a corporation.

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

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

13 (iv) Add compensation and directors' fees of officers of a
14 corporation.

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

1 in which the taxpayer did not receive the credit under this
2 section.

3 (d) "Subchapter S corporation" means a corporation that elects
4 to be subject to taxation under subchapter S of chapter 1 of
5 subtitle A of the internal revenue code, 26 USC 1361 to 1379.

6 Sec. 26. (1) For tax years that begin after December 31, 2008,
7 a taxpayer that has been issued a tax voucher certificate under
8 section 23 of the Michigan early stage venture investment act of
9 2003, 2003 PA 296, MCL 125.2253, or any taxpayer to which all or a
10 portion of a tax voucher is transferred pursuant to the Michigan
11 early stage venture investment act of 2003, 2003 PA 296, MCL
12 125.2231 to 125.2263, may use the tax voucher to pay a liability of
13 the taxpayer due under this act.

14 (2) On and after November 21, 2005, the total amount of all
15 tax voucher certificates that shall be approved under this section,
16 section 37e of former 1975 PA 228, and the Michigan early stage
17 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
18 125.2263, shall not exceed an amount sufficient to allow the
19 Michigan early stage venture investment corporation to raise
20 \$450,000,000.00 for the purposes authorized under the Michigan
21 early stage venture investment act of 2003, 2003 PA 296, MCL
22 125.2231 to 125.2263. The total amount of all tax voucher
23 certificates under this section and section 37e of former 1975 PA
24 228 shall not exceed \$600,000,000.00.

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

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

6 (5) Investors shall apply to the Michigan early stage venture
7 investment corporation for approval of tax voucher certificates at
8 the time and in the manner required under the Michigan early stage
9 venture investment act of 2003, 2003 PA 296, MCL 125.2231 to
10 125.2263.

11 (6) The Michigan early stage venture investment corporation
12 shall determine which investors are eligible for tax vouchers and
13 the amount of the tax vouchers allowed to each investor as provided
14 in the Michigan early stage venture investment act of 2003, 2003 PA
15 296, MCL 125.2231 to 125.2263.

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

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

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

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

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

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

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

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

1 be used, and replacement approval letters may be issued, to
2 evidence the right to be issued and receive a tax voucher
3 certificate that will be used for 1 or more of the following
4 purposes:

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

7 (b) To pay any liability of the taxpayer under and to the
8 extent allowed under section 270 of the income tax act of 1967,
9 1967 PA 281, MCL 206.270.

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

13 (d) To be transferred to a person who may use the tax voucher
14 certificate to pay any liability under and to the extent allowed
15 under section 270 of the income tax act of 1967, 1967 PA 281, MCL
16 206.270.

17 (12) As used in this section:

18 (a) "Investor" means that term as defined in the Michigan
19 early stage venture investment act of 2003, 2003 PA 296, MCL
20 125.2231 to 125.2263.

21 (b) "Certificate" means the certificate issued under section
22 23 of the Michigan early stage venture investment act of 2003, 2003
23 PA 296, MCL 125.2253.

24 (c) "Transferee" means a taxpayer to whom a tax voucher
25 certificate has been transferred under section 23 of the Michigan
26 early stage venture investment act of 2003, 2003 PA 296, MCL
27 125.2253, and this section.

1 Sec. 27. (1) A taxpayer that is not subject to the income tax
2 act of 1967, 1967 PA 281, MCL 206.1 to 206.532, may claim a credit
3 against the tax imposed by this act, subject to the applicable
4 limitations under this section, equal to 50% of the aggregate
5 amount of charitable contributions made by the taxpayer during the
6 tax year to all of the following:

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

9 (b) A public library.

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

14 (d) The Michigan colleges foundation,

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

25 (3) The credit allowed under this section for any tax year
26 shall not exceed 5% of the tax liability of the taxpayer for that
27 tax year as determined without regard to this section or \$5,000.00,

1 whichever is less.

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

6 (5) As used in this section:

7 (a) "Institution of higher learning" means an educational
8 institution located within this state meeting all of the following
9 requirements:

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

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

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

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

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

25 Sec. 28. (1) A taxpayer that is an employer or carrier that is
26 subject to the worker's disability compensation act of 1969, 1969
27 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax

1 imposed by this act an amount equal to the amount paid during that
2 tax year by the taxpayer pursuant to section 352 of the worker's
3 disability compensation act of 1969, 1969 PA 317, MCL 418.352, as
4 certified by the director of the bureau of worker's disability
5 compensation pursuant to section 391(6) of the worker's disability
6 compensation act of 1969, 1969 PA 317, MCL 418.391.

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

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

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

22 Sec. 29. (1) Subject to the applicable limitations in this
23 section, a taxpayer that does not claim a credit under section 261
24 of the income tax act of 1967, 1967 PA 281, MCL 206.261, may claim
25 a credit against the tax imposed by this act equal to 50% of the
26 amount the taxpayer contributed during the tax year to an endowment
27 fund of a community foundation.

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

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

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

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

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

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

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

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

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

19 (e) Is not a supporting organization as an organization is
20 described in section 509(a)(3) of the internal revenue code and in
21 26 CFR 1.509(a)-4 and 1.509(a)-5.

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

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

1 expiration of 18 months after the community foundation is
2 incorporated or established.

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

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

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

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

25 Sec. 30. (1) A taxpayer who does not claim a credit under
26 section 261 of the income tax act of 1967, 1967 PA 281, MCL
27 206.261, for a contribution to a shelter for homeless persons, food

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

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

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

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

22 (5) On or before July 1 of each year, the department shall
23 report to the house of representatives committee on tax policy and
24 the senate committee on finance the total amount of tax credits
25 claimed under this section, section 29, and section 261 of the
26 income tax act of 1967, 1967 PA 281, MCL 206.261, for the
27 immediately preceding tax year.

1 Sec. 31. (1) A taxpayer may claim a credit against the tax
2 imposed by this act for 1 or more of the following as applicable:

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

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

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

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

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

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

25 (4) An affiliated group as defined in this act, a controlled
26 group of corporations as defined in section 1563 of the internal
27 revenue code and further described in 26 CFR 1.414(b)-1 and

1 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
2 defined by the internal revenue code shall not take the credit
3 allowed under subsection (2) unless the qualified business activity
4 of the group or entities is consolidated.

5 (5) A taxpayer that claims a credit under subsection (2) shall
6 attach a copy of each of the following as issued pursuant to the
7 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
8 207.827, to the annual return required under this act for each tax
9 year in which the taxpayer claims the credit allowed under
10 subsection (2):

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

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

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

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

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

24 (8) As used in this section:

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

27 (i) Except as provided in subparagraph (ii), the taxpayer's

1 payroll for qualified business activity performed in this state
2 outside of a renaissance zone.

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

7 (A) Business income.

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

9 (C) The alternative energy business activity factor.

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

20 (c) "Alternative energy marine propulsion system",
21 "alternative energy system", "alternative energy vehicle", and
22 "alternative energy technology" mean those terms as defined in the
23 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
24 207.827.

25 (d) "Alternative energy zone" means a renaissance zone
26 designated as an alternative energy zone by the board of the
27 Michigan strategic fund under section 8a of the Michigan

1 renaissance zone act, 1996 PA 376, MCL 125.2688a.

2 (e) "Baseline tax liability attributable to qualified business
3 activity" means the taxpayer's tax liability for the 2001 tax year
4 under former 1975 PA 228 multiplied by the taxpayer's alternative
5 energy business activity factor for the 2001 tax year under former
6 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months
7 under former 1975 PA 228 shall annualize the amount calculated
8 under this subdivision as necessary to determine baseline tax
9 liability attributable to qualified business activity that reflects
10 a 12-month period.

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

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

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

18 (i) "Qualified business activity" means research, development,
19 or manufacturing of an alternative energy marine propulsion system,
20 an alternative energy system, an alternative energy vehicle,
21 alternative energy technology, or renewable fuel.

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

1 (k) "Qualified payroll amount" means an amount equal to
2 payroll of the qualified alternative energy entity attributable to
3 all qualified employees in the tax year of the qualified
4 alternative energy entity for which the credit under subsection (6)
5 is being claimed, multiplied by the tax rate for that tax year.

6 (l) "Renaissance zone" means a renaissance zone designated
7 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
8 to 125.2696.

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

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

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

20 (n) "Tax liability attributable to qualified business
21 activity" means the taxpayer's tax liability multiplied by the
22 taxpayer's alternative energy business activity factor for the tax
23 year.

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

1 Sec. 32. (1) For a period of time not to exceed 20 years as
2 determined by the Michigan economic growth authority, a taxpayer
3 that is an authorized business or an eligible taxpayer may claim a
4 credit against the tax imposed by section 20 equal to the amount
5 certified each year by the Michigan economic growth authority as
6 follows:

7 (a) For an authorized business for the tax year, an amount not
8 to exceed the payroll of the authorized business attributable to
9 employees who perform qualified new jobs as determined under the
10 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
11 207.810, multiplied by the tax rate.

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

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

26 (2) A taxpayer shall not claim a credit under this section
27 unless the Michigan economic growth authority has issued a

1 certificate to the taxpayer. The taxpayer shall attach the
2 certificate to the annual return filed under this act on which a
3 credit under this section is claimed.

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

6 (a) The taxpayer is an authorized business or an eligible
7 taxpayer.

8 (b) The amount of the credit under this section for the
9 authorized business or eligible taxpayer for the designated tax
10 year.

11 (c) The taxpayer's federal employer identification number or
12 the Michigan department of treasury number assigned to the
13 taxpayer.

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

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

25 (6) A taxpayer that claims a credit under subsection (1)(a),
26 section 33(a), or section 37c or 37d of former 1975 PA 228, that
27 has an agreement with the Michigan economic growth authority based

1 on qualified new jobs as defined in section 3(n)(ii) of the
2 Michigan economic growth authority act, 1995 PA 24, MCL 207.803,
3 and that removes from this state 51% or more of those qualified new
4 jobs within 3 years after the first year in which the taxpayer
5 claims a credit described in this subsection shall pay to the
6 department no later than 12 months after those qualified new jobs
7 are removed from the state an amount equal to the total of all
8 credits described in this subsection that were claimed by the
9 taxpayer.

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

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

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

27 (b) For an eligible taxpayer, as provided in each written

1 agreement whether or not a combined or consolidated return is
2 filed.

3 (9) 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 (10) 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. 33. (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. 34. (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 section 20 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. 35. (1) Subject to the criteria under this section, a

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

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

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

1 total of all credits for the project shall not exceed the total of
2 all credits on the certificate of completion.

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

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

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

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

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

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

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

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

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

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

7 (4) If the cost of a project will be for more than
8 \$10,000,000.00 and, except as provided in subsection (6)(b), the
9 project is located in a qualified local governmental unit, a
10 qualified taxpayer shall apply to the Michigan economic growth
11 authority for approval of the project. An application under this
12 subsection shall state whether the project is a multiphase project.
13 The Michigan economic growth authority shall approve or deny the
14 project not more than 65 days after receipt of the application. A
15 project under this subsection shall not be approved without the
16 concurrence of the state treasurer. If the Michigan economic growth
17 authority does not approve or deny the application within 65 days
18 after it receives the application, the Michigan economic growth
19 authority shall send the application to the state treasurer. The
20 state treasurer shall approve or deny the application within 5 days
21 after receipt of the application. If the state treasurer does not
22 deny the application within 5 days after receipt of the
23 application, the application is considered approved. The Michigan
24 economic growth authority shall approve a limited number of
25 projects under this subsection during each calendar year as
26 provided in subsection (6). The Michigan economic growth authority
27 shall use the criteria in subsection (7) when approving projects

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

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

27 (6) The Michigan economic growth authority may approve not

1 more than 17 projects each calendar year under subsection (4), and
2 the following limitations apply:

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

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

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

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

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

7 (a) The overall benefit to the public.

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

10 (c) Creation of jobs.

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

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

16 (f) The level of private sector contribution.

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

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

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

25 (j) Any other criteria that the Michigan economic growth
26 authority or the chairperson of the Michigan economic growth
27 authority, as applicable, considers appropriate for the

1 determination of eligibility under subsection (3) or (4).

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

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

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

1 number. The taxpayer may assign all or part of the credit for a
2 multiphase project as provided in this section after a component
3 completion certificate for a component is issued. The qualified
4 taxpayer may transfer ownership of or lease the completed component
5 and assign a proportionate share of the credit for the entire
6 project to the qualified taxpayer that is the new owner or lessee.
7 A multiphase project shall not be divided into more than 20
8 components. A component is considered to be completed when a
9 certificate of occupancy has been issued by the local municipality
10 in which the project is located for all of the buildings or
11 facilities that comprise the completed component and a component
12 completion certificate is issued. A credit assigned based on a
13 multiphase project shall be claimed by the assignee in the tax year
14 in which the assignment is made. The total of all credits for a
15 multiphase project shall not exceed the amount stated in the
16 preapproval letter for the project under subsection (1). If all
17 components of a multiphase project are not completed by 10 years
18 after the date on which the preapproval letter for the project was
19 issued, the qualified taxpayer that received the preapproval letter
20 for the project shall pay to the state treasurer, as a penalty, an
21 amount equal to the sum of all credits claimed and assigned for all
22 components of the multiphase project and no credits based on that
23 multiphase project shall be claimed after that date by the
24 qualified taxpayer or any assignee of the qualified taxpayer. The
25 penalty under this subsection is subject to interest on the amount
26 of the credit claimed or assigned determined individually for each
27 component at the rate in section 23(2) of 1941 PA 122, MCL 205.23,

1 beginning on the date that the credit for that component was
2 claimed or assigned. As used in this subsection, "proportionate
3 share" means the same percentage of the total of all credits for
4 the project that the qualified investment for the completed
5 component is of the total qualified investment stated in the
6 preapproval letter for the entire project.

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

1 letter for the project under subsection (2), (3), or (4) as
2 applicable and shall state all of the following:

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

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

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

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

9 (e) The project number.

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

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

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

25 (13) The cost of eligible investment for leased machinery,
26 equipment, or fixtures is the cost of that property had the
27 property been purchased minus the lessor's estimate, made at the

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

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

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

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

1 certificate of completion.

2 (17) The credits approved under this section shall be
3 calculated after application of all other credits allowed under
4 this act. The credits under this section shall be calculated before
5 the calculation of the credit under section 32.

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

1 been available under former 1975 PA 228.

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

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

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

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

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

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

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

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

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

1 liability company, or subchapter S corporation or based on an
2 alternative method approved by the Michigan economic growth
3 authority. A credit assignment under this subsection is irrevocable
4 and, except for a credit assignment based on a multiphase project,
5 shall be made in the tax year in which a certificate of completion
6 is issued. A qualified taxpayer may claim a portion of a credit and
7 assign the remaining credit amount. Except as otherwise provided in
8 this subsection, if the qualified taxpayer both claims and assigns
9 portions of the credit, the qualified taxpayer shall claim the
10 portion it claims in the tax year in which a certificate of
11 completion is issued or for a credit assigned and claimed for a
12 multiphase project, before the component completion certificate is
13 issued, the taxpayer shall claim the credit in the year in which
14 the credit is assigned. A partner, member, or shareholder that is
15 an assignee shall not subsequently assign a credit or any portion
16 of a credit assigned under this subsection. The credit assignment
17 under this subsection shall be made on a form prescribed by the
18 Michigan economic growth authority. The qualified taxpayer shall
19 send a copy of the completed assignment form to the Michigan
20 economic growth authority in the tax year in which the assignment
21 is made. A partner, member, or shareholder who is an assignee shall
22 attach a copy of the completed assignment form to its annual return
23 required under this act, for the tax year in which the assignment
24 is made and the assignee first claims a credit, which shall be the
25 same tax year. A credit assignment based on a credit for a
26 component of a multiphase project that is completed before January
27 1, 2006 shall be made under this subsection. In addition to all

1 other procedures under this subsection, the following apply if the
2 total of all credits for a project is more than \$10,000,000.00 but
3 \$30,000,000.00 or less:

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

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

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

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

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

1 credit amount. If the qualified taxpayer both claims and assigns
2 portions of the credit, the qualified taxpayer shall claim the
3 portion it claims in the tax year in which a certificate of
4 completion is issued pursuant to section 38g of former 1975 PA 228.
5 An assignee may subsequently assign a credit or any portion of a
6 credit assigned under this subsection to 1 or more assignees. An
7 assignment under this subsection of a credit allowed under section
8 38g(2), (3), or (33) of former 1975 PA 228 shall not be made after
9 10 years after the first tax year in which that credit under
10 section 38g(2), (3), or (33) of former 1975 PA 228 may be claimed.
11 The credit assignment or a subsequent reassignment under this
12 subsection shall be made on a form prescribed by the Michigan
13 economic growth authority. The qualified taxpayer shall send a copy
14 of the completed assignment form to the Michigan economic growth
15 authority in the tax year in which an assignment or reassignment is
16 made. An assignee or subsequent reassignee shall attach a copy of
17 the completed assignment form to its annual return required under
18 this act, for the tax year in which the assignment or reassignment
19 is made and the assignee or reassignee first claims a credit, which
20 shall be the same tax year. A credit assignment based on a credit
21 for a component of a multiphase project that is completed before
22 January 1, 2006 shall be made under section 38g(18) of former 1975
23 PA 228. A credit assignment based on a credit for a component of a
24 multiphase project that is completed on or after January 1, 2006
25 may be made under this section. In addition to all other procedures
26 and requirements under this section, the following apply if the
27 total of all credits for a project is more than \$10,000,000.00 but

1 \$30,000,000.00 or less:

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

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

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

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

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

22 (25) An eligible taxpayer that claims a credit under this
23 section is not prohibited from claiming a credit under section 32.
24 However, the eligible taxpayer shall not claim a credit under this
25 section and section 32 based on the same costs.

26 (26) Eligible investment attributable or related to the
27 operation of a professional sports stadium, and eligible investment

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

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

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

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

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

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

5 (30) As used in this section:

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

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

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

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

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

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

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

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

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

24 (B) Property that is not in a qualified local governmental
25 unit but is within a downtown development district established
26 under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally
27 obsolete or blighted, and a component of the project on that

1 eligible property is 1 or more of the following:

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

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

7 (III) Lead or asbestos abatement.

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

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

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

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

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

1 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

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

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

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

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

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

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

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

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

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

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

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

3 (i) Owns or leases eligible property.

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

19 Sec. 36. (1) A qualified taxpayer that makes an eligible
20 contribution in an eligible business may claim a credit against the
21 tax imposed by the act equal to 50% of the taxpayer's eligible
22 contribution, not to exceed \$500,000.00.

23 (2) Prior to making an eligible contribution, a qualified
24 taxpayer shall submit an application to the authority for approval
25 of the credit. The application shall include at least all of the
26 following:

27 (a) An economic impact analysis, including all of the

1 following:

2 (i) The impact on both the qualified taxpayer and eligible
3 business.

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

5 (iii) The number of jobs created.

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

7 (i) The structure of investment between the qualified taxpayer
8 and eligible business.

9 (ii) Technology development roles and responsibilities.

10 (iii) A commercialization plan, including intellectual property
11 structure.

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

14 (d) Other collaborators or interested and supportive
15 businesses.

16 (i) A financial summary.

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

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

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

20 (v) Total overall investment into the project.

21 (3) The authority shall develop criteria to competitively
22 review applications, including, but not limited to, criteria
23 related to all of the following:

24 (a) Economic impact in Michigan.

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

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

27 (d) Other collaborators and services provided.

1 (e) Impact of technology development across specific and other
2 sectors.

3 (f) The commercialization plan and potential for
4 commercialization.

5 (4) A qualified taxpayer shall not claim a credit under this
6 section unless the Michigan economic growth authority has issued a
7 certificate to the taxpayer. The taxpayer shall attach the
8 certificate to the annual return filed under this act on which a
9 credit under this section is claimed.

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

12 (a) The taxpayer is an eligible business.

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

16 (c) The taxpayer's federal employer identification number or
17 the Michigan department of treasury number assigned to the
18 taxpayer.

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

22 (7) A qualified taxpayer that receives a credit under this
23 section and the eligible business to which a contribution is made
24 shall enter into an agreement with the authority that requires the
25 qualified taxpayer and the eligible business to comply with the
26 relevant provisions of the application as determined by the
27 authority for a period of 5 years. If the authority determines that

1 there has not been compliance with the requirements of the terms of
2 the agreement, the qualified taxpayer shall be liable for an amount
3 equal to 125% of the total of all credits received under this
4 section for all tax years.

5 (8) As used in this section:

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

9 (b) "Eligible contribution" means the transfer of pecuniary
10 interest in the form of cash, for the purposes of research and
11 development and technology innovation. An eligible contribution
12 does not include contract research.

13 (c) "Eligible business" means a taxpayer engaged in research
14 and development that together with any affiliates employs fewer
15 than 50 full-time employees or has gross receipts of less than
16 \$10,000,000.00 and has no prior financial interest in the qualified
17 taxpayer and in which the qualified taxpayer has no prior financial
18 interest.

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

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

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

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

27 (i) Translational research conducted with the objective of

1 attaining a specific benefit or to solve a practical problem.

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

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

10 Sec. 37. (1) A taxpayer, other than a taxpayer that is a
11 member of an affiliated group, a controlled group of corporations,
12 or an entity under common control, whose gross receipts allocated
13 or apportioned to this state are greater than \$350,000.00 but less
14 than \$700,000.00, may claim a credit against the tax imposed under
15 this act equal to the tax liability after the credit under section
16 25 and before all other credits multiplied by a fraction the
17 numerator of which is the difference between the taxpayer's
18 allocated or apportioned gross receipts and \$700,000.00 and the
19 denominator of which is \$350,000.00.

20 (2) A taxpayer that is a member of an affiliated group, a
21 controlled group of corporations, or an entity under common
22 control, whose gross receipts allocated or apportioned to this
23 state are greater than \$100,000.00 but less than \$200,000.00, may
24 claim a credit against the tax imposed under this act equal to the
25 tax liability after the credit under section 25 and before all
26 other credits multiplied by a fraction the numerator of which is
27 the difference between the taxpayer's allocated or apportioned

1 gross receipts and \$200,000.00 and the denominator of which is
2 \$200,000.00.

3 CHAPTER 3

4 Sec. 40. Except as otherwise provided in this chapter, the
5 entire tax base of the taxpayer whose business activities are
6 confined solely to this state shall be allocated to this state.

7 Sec. 41. The tax base of a taxpayer whose business activities
8 are taxable both within and outside of this state is taxable in
9 another state in either of the following circumstances:

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

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

17 Sec. 42. All of the tax base, other than the tax base derived
18 principally from transportation or financial services or
19 specifically allocated, shall be apportioned to this state by
20 multiplying the tax base by the sales factor. However, a taxpayer
21 that has no sales within this state shall apportion the tax base
22 using the average of the payroll and property factors.

23 Sec. 43. (1) Except as provided in subsection (2), the
24 property factor is a fraction, the numerator of which is the
25 average value of the taxpayer's real and tangible personal property
26 owned or rented in this state during the tax year and the
27 denominator of which is the average value of all the taxpayer's

1 real and tangible personal property owned or rented during the tax
2 year.

3 (2) The property factor for a foreign person is a fraction,
4 the numerator of which is the average value of the taxpayer's real
5 and tangible personal property owned or rented in this state during
6 the tax year by the taxpayer and the denominator of which is the
7 average value of all the taxpayer's real and tangible personal
8 property owned or rented in the United States during the tax year.

9 (3) Property owned by the taxpayer is valued at its original
10 cost. Property rented by the taxpayer is valued at 8 times the net
11 annual rental rate. Net annual rental rate is the annual rental
12 rate paid by the taxpayer less any annual rental rate received by
13 the taxpayer from subrentals.

14 (4) The average value of property shall be determined by
15 averaging the values at the beginning and ending of the tax year,
16 except that the department may require the periodic averaging of
17 values during the tax year if doing that is reasonably required to
18 properly reflect the average value of the taxpayer's property.

19 Sec. 44. (1) Except as otherwise provided in subsection (2),
20 the payroll factor is a fraction, the numerator of which is the
21 total wages paid in this state during the tax year by the taxpayer
22 and the denominator of which is the total wages paid everywhere
23 during the tax year by the taxpayer. For the purposes of this
24 chapter only, "wages" means all wages, salaries, fees, bonuses, and
25 commissions paid in the tax year on behalf of or for the benefit of
26 employees, officers, or directors of the taxpayer and includes, but
27 is not limited to, payments that are subject to or specifically

1 exempt or excepted from withholding under sections 3401 to 3406 of
2 the internal revenue code.

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

8 (3) Wages are considered paid in this state in the following
9 circumstances:

10 (a) The individual's service is performed entirely within the
11 state.

12 (b) The individual's service is performed both within and
13 without the state, but the service performed without the state is
14 incidental to the individual's service within the state.

15 (c) Some of the individual's service is performed in the state
16 and the base of operations or, if there is no base of operations,
17 the place from which the service is directed or controlled is in
18 the state; or the base of operations or the place from which the
19 service is directed or controlled is not in any state in which some
20 part of the service is performed, but the individual's residence is
21 in this state.

22 Sec. 45. (1) Except as otherwise provided in subsection (2)
23 and section 46, the sales factor is a fraction, the numerator of
24 which is the total sales of the taxpayer in this state during the
25 tax year and the denominator of which is the total sales of the
26 taxpayer everywhere during the tax year.

27 (2) The sales factor for a foreign person is a fraction, the

1 numerator of which is the total sales of the taxpayer in this state
2 during the tax year and the denominator of which is the total sales
3 of the taxpayer in the United States during the tax year.

4 (3) Sales of tangible personal property are in this state if
5 the property is shipped or delivered to any purchaser within this
6 state regardless of the free on board point or other conditions of
7 the sales and if personal property is shipped from an office,
8 store, warehouse, factory, or other place of storage in this state
9 and the taxpayer is not taxable in the state of the purchaser. For
10 the purposes of this subsection only, "state" means any state of
11 the United States, the District of Columbia, the Commonwealth of
12 Puerto Rico, any territory or possession of the United States, or a
13 political subdivision thereof.

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

18 (5) Sales, other than sales of tangible personal property, are
19 in this state in any of the following circumstances:

20 (a) The business activity is performed in this state.

21 (b) The business activity is performed both within and outside
22 of this state and, based on costs of performance, a greater
23 proportion of the business activity is performed within this state
24 than is performed outside this state.

25 (c) The business activity is planning, designing, or otherwise
26 facilitating construction activities within this state.

27 (6) Notwithstanding the provisions of subsection (5), receipts

1 derived by a mortgage company from the origination or sale of a
2 loan secured by residential real property is deemed a sale in this
3 state only if 1 or more of the following apply:

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

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

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

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

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

17 Sec. 46. (1) Notwithstanding section 45, a spun off
18 corporation that qualified to calculate its sales factor for 7
19 years under section 54 of former 1975 PA 228 may elect to calculate
20 its sales factor under this section for an additional 4 years
21 following those 7 years or 3 years if a taxpayer had an election
22 approved under section 54(1)(e) of former 1975 PA 228. Prior to the
23 end of the first year following the 7 years for which the taxpayer
24 qualified under section 54 of former 1975 PA 228 and if the spun
25 off corporation is not required to file amended returns under
26 section 54(5) of former 1975 PA 228, the spun off corporation may
27 request, in writing, approval from the state treasurer for the

1 election of the 4 additional years under this section. If the
2 taxpayer had an election approved under section 54(1)(e) of former
3 1978 PA 228, the taxpayer is not required to seek approval under
4 this section. The state treasurer must approve the election under
5 this subsection if the requirements of this section are met. The
6 request shall include all of the following:

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

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

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

1 number of full-time equivalent employees includes employees in all
2 of the following circumstances:

3 (i) On temporary layoff.

4 (ii) On strike.

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

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

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

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

1 attach a statement that the buyer qualifies for the election under
2 this section.

3 (3) A spun off corporation qualified under subsection (1) or
4 (2) that makes an election and is approved under subsection (1) or
5 (2) calculates its sales factor under section 45 subject to both of
6 the following:

7 (a) A purchaser in this state under section 45 does not
8 include a person that purchases from a seller that was included in
9 the purchaser's combined or consolidated annual return under this
10 act but, as a result of the restructuring transaction, ceased to be
11 included in the purchaser's combined or consolidated annual return
12 under this act. This subdivision applies only to sales that
13 originate from a plant located in this state.

14 (b) Total sales under section 45 do not include sales to a
15 purchaser that was a member of a Michigan affiliated group that had
16 included the seller in the filing of a combined or consolidated
17 annual return under this act but, as a result of the restructuring
18 transaction, ceased to include the seller. This subdivision applies
19 only to sales that originate from a plant located in this state to
20 a location in this state.

21 (4) At the end of the fourth tax year following an election
22 under this section, if the spun off corporation that elected to
23 calculate its sales factor under this section for the additional 4
24 years allowed under subsection (1) has failed to maintain the
25 required number of employees or failed to pay or accrue the capital
26 investment required under subsection (1)(c), the spun off
27 corporation shall file amended annual returns under this act for

1 the first through fourth tax years following the election under
2 this section, regardless of the statute of limitations under
3 section 27a of 1941 PA 122, MCL 205.27a, and pay any additional tax
4 plus interest based on the sales factor as calculated under section
5 45. Interest shall be calculated from the due date of the annual
6 return under this act or former 1975 PA 228 on which an exemption
7 under this section was first claimed.

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

12 (6) As used in this section:

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

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

24 Sec. 47. (1) The tax base of a taxpayer whose business
25 activities consist of transportation services rendered either
26 entirely within or partly within and partly outside this state
27 shall be determined under the provisions of this section and

1 section 48.

2 (2) The tax base attributable to this state of a taxpayer
3 described subsection (1), other than a taxpayer whose activity
4 consists of the transportation of oil or gas by pipeline, is that
5 portion of the tax base of the taxpayer derived from transportation
6 services wherever performed that the revenue miles of the taxpayer
7 in this state bear to the revenue miles of the taxpayer everywhere.

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

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

23 Sec. 48. (1) The tax base attributable to this state of a
24 taxpayer whose business activity consists of the transportation of
25 oil by pipeline, is the tax base of the taxpayer in the ratio that
26 the barrel miles transported in this state bear to the barrel miles
27 transported by the taxpayer everywhere.

1 (2) The tax base attributable to this state of a taxpayer
2 whose business activities consists of the transportation of gas by
3 pipeline is the tax base of the taxpayer in the ratio that the
4 1,000 cubic feet miles transported in this state bear to the 1,000
5 cubic feet miles transported by the taxpayer everywhere.

6 Sec. 49. The tax base attributable to this state of a taxpayer
7 that is a financial organization is either of the following:

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

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

15 (i) Fees, commissions, or other compensation for financial
16 services.

17 (ii) Gross profits from trading in stocks, bonds, or other
18 securities.

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

22 (iv) Interest and dividends received.

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

25 Sec. 50. (1) If the apportionment provisions of this act do
26 not fairly represent the extent of the taxpayer's business activity
27 in this state, the taxpayer may petition for or the treasurer may

1 require the following, with respect to all or a portion of the
2 taxpayer's business activity, if reasonable:

3 (a) Separate accounting.

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

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

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

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

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

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

23 CHAPTER 4

24 Sec. 70. (1) A taxpayer that reasonably expects liability for
25 the tax year to exceed \$600.00 shall file an estimated return and
26 pay an estimated tax for each quarter of the taxpayer's tax year.

27 (2) For taxpayers on a calendar year basis, the quarterly

1 returns and estimated payments shall be made by April 15, July 15,
2 October 15, and January 15. Taxpayers not on a calendar year basis
3 shall file quarterly returns and make estimated payments on the
4 appropriate due date which in the taxpayer's fiscal year
5 corresponds to the calendar year.

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

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

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

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

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

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

5 (7) Payments made under this section shall be a credit against
6 the payment required with the annual tax return required in section
7 72.

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

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

21 Sec. 71. A taxpayer subject to this act may elect to compute
22 the tax imposed by this act for the first tax year if that tax year
23 is less than 12 months in accordance with 1 of the following
24 methods:

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

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

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

7 Sec. 72. (1) An annual or final return shall be filed with the
8 department in the form and content prescribed by the department by
9 the last day of the fourth month after the end of the taxpayer's
10 tax year. Any final liability shall be remitted with this return. A
11 person whose apportioned or allocated gross receipts are less than
12 \$350,000.00 does not need to file a return or pay the tax imposed
13 under this act.

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

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

26 (4) If a taxpayer is granted an extension of time within which
27 to file the federal income tax return for any tax year, the filing

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

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

23 Sec. 73. (1) A taxpayer required to file a return under this
24 act may be required to furnish a true and correct copy of any
25 return or portion of any return filed under the provisions of the
26 internal revenue code.

27 (2) A taxpayer shall file an amended return with the

1 department showing any alteration in or modification of a federal
2 income tax return that affects its tax base under this act. The
3 amended return shall be filed within 120 days after the final
4 determination by the internal revenue service.

5 Sec. 74. (1) At the request of the department, a person
6 required by the internal revenue code to file or submit an
7 information return of income paid to others shall, to the extent
8 the information is applicable to residents of this state, at the
9 same time file or submit the information in the form and content
10 prescribed to the department.

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

16 Sec. 75. (1) The department may require or permit the filing
17 of a consolidated or combined return by an affiliated group of
18 United States corporations if all of the following conditions
19 exist:

20 (a) All members of the affiliated group are Michigan
21 taxpayers.

22 (b) Each member of the affiliated group maintains a
23 relationship with 1 or more members of the group which includes
24 intercorporate transactions of a substantial nature other than
25 control, ownership, or financing arrangements, or any combination
26 thereof.

27 (c) The business activities of each member of the affiliated

1 group are subject to apportionment by a specific apportionment
2 formula contained in this act, which specific formula also is
3 applicable to all other members of the affiliated group and would
4 be applicable to each member even if it were not a member of the
5 affiliated group.

6 (d) The consolidated or combined return includes all Michigan
7 taxpayers that meet the requirements of this subsection.

8 (2) As used in this section, "United States corporation" means
9 a domestic corporation as that term is defined in section
10 7701(a)(3) and (4) of the internal revenue code.

11 Sec. 76. (1) Except as expressly provided in section 75, a
12 provision of this act shall not be construed to permit or require
13 the filing of a consolidated or combined return or a consolidation
14 or combination of the tax base or apportionment factors of 2 or
15 more United States corporations.

16 (2) As used in this section, "United States corporation" means
17 a domestic corporation as that term is defined in section
18 7701(a)(3) and (4) of the internal revenue code.

19 CHAPTER 5

20 Sec. 80. (1) The tax imposed by this act shall be administered
21 by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to
22 205.31, and this act. If a conflict exists between 1941 PA 122, MCL
23 205.1 to 205.31, and this act, the provisions of this act apply.

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

27 (3) The department shall prescribe forms for use by taxpayers

1 and may promulgate rules in conformity with this act for the
2 maintenance by taxpayers of records, books, and accounts, and for
3 the computation of the tax, the manner and time of changing or
4 electing accounting methods and of exercising the various options
5 contained in this act, the making of returns, and the
6 ascertainment, assessment, and collection of the tax imposed under
7 this act.

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

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

16 Sec. 81. The proceeds of the tax collected under this act
17 shall be distributed as follows:

18 (a) An amount equal to 24.4% of the net proceeds collected
19 from the tax imposed under this act shall be deposited in the state
20 school aid fund created under section 11 of article IX of the state
21 constitution of 1963.

22 (b) The balance of the proceeds after the deposit required
23 under subdivision (a) shall be deposited in the general fund.

24 Sec. 82. There is appropriated to the department for the 2006-
25 2007 state fiscal year the sum of \$10,000,000.00 to implement the
26 requirements of this act. Any portion of this amount under this
27 section that is not expended in the 2006-2007 state fiscal year

1 shall not lapse to the general fund but shall be carried forward in
2 a work project account that is in compliance with section 451a of
3 the management and budget act, 1984 PA 431, MCL 18.1451a, for the
4 following state fiscal year.

5 CHAPTER 6

6 Sec. 90. If a final order of a court of competent jurisdiction
7 for which all rights of appeal have been exhausted or have expired
8 determines that any provision of this act that provides a
9 deduction, credit, or exemption with respect to employment,
10 persons, services, investment, or any other activity that is
11 limited only to this state is unconstitutional or applies to
12 employment, persons, services, investment, or any other activity
13 outside of this state, that credit, deduction, or exemption shall
14 be severed and shall not be in effect for any other tax year for
15 which the final order shall apply, and the remaining provisions of
16 this act shall remain in effect.

17 Sec. 91. If a final order of a court of competent jurisdiction
18 for which all rights of appeal have been exhausted or have expired
19 determines that any provision of this act is subject to the
20 limitations of Public Law 86-272 or that the application of the
21 apportionment provisions of this act to section 9(2) or (3) is
22 unconstitutional, both of the following apply:

23 (a) The provisions of section 9(2) or (3) are severed from
24 this act.

25 (b) The rate imposed under section 20 for any tax year to
26 which that final order applies shall be 0.375%.

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

1 Enacting section 2. This act does not take effect unless all
2 of the following bills of the 93rd Legislature are enacted into law:

3 (a) Senate Bill No. ____ or House Bill No. 6678(request no.
4 07524'06 *).

5 (b) Senate Bill No. ____ or House Bill No. 6677(request no.
6 07525'06 *).

7 (c) Senate Bill No. ____ or House Bill No. 6679(request no.
8 07526'06 *).

9 (d) Senate Bill No. ____ or House Bill No. 6680(request no.
10 07527'06 *).