

**SUBSTITUTE FOR
HOUSE BILL NO. 4751**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 703, 705, 711, and 713 (MCL 206.703, 206.705,
206.711, and 206.713), section 703 as amended by 2014 PA 295,
section 705 as amended by 2011 PA 192, section 711 as amended by
2011 PA 193, and section 713 as added by 2011 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 703. (1) A person who disburses pension or annuity
2 payments, except as otherwise provided under this section, shall
3 withhold a tax in an amount computed by applying the rate
4 prescribed in section 51 on the taxable part of payments from an
5 employer pension, annuity, profit-sharing, stock bonus, or other
6 deferred compensation plan as well as from an individual retirement
7 arrangement, an annuity, an endowment, or a life insurance contract
8 issued by a life insurance company. Withholding shall be calculated

1 on the taxable disbursement after deducting from the taxable
2 portion the same proportion of the total amount of personal and
3 dependency exemptions of the individual allowed under this act.
4 Withholding is not required on any part of a distribution that is
5 not expected to be includable in the recipient's gross income or
6 that is deductible from adjusted gross income under section
7 30(1)(e) or (f).

8 (2) Every employer in this state required under the provisions
9 of the internal revenue code to withhold a tax on the compensation
10 of an individual, except as otherwise provided, shall deduct and
11 withhold a tax in an amount computed by applying, except as
12 provided by subsection (14), the rate prescribed in section 51 to
13 the remainder of the compensation after deducting from compensation
14 the same proportion of the total amount of personal and dependency
15 exemptions of the individual allowed under this act that the period
16 of time covered by the compensation is of 1 year. The department
17 may prescribe withholding tables that may be used by employers to
18 compute the amount of tax required to be withheld.

19 (3) Except as otherwise provided under this section, every
20 flow-through entity in this state shall withhold a tax in an amount
21 computed by applying the rate prescribed in section 51 to the
22 distributive share of taxable income reasonably expected to accrue
23 after allocation and apportionment under chapter 3 of each
24 nonresident member who is an individual after deducting from that
25 distributive income the same proportion of the total amount of
26 personal and dependency exemptions of the individual allowed under
27 this act. All of the taxes withheld under this section shall accrue

1 to the state on April 15, July 15, and October 15 of the flow-
2 through entity's tax year and January 15 of the following year,
3 except a flow-through entity that is not on a calendar year basis
4 shall substitute the appropriate due dates in the flow-through
5 entity's fiscal year that correspond to those in a calendar year.
6 Withholding for each period shall be equal to 1/4 of the total
7 withholding calculated on the distributive share that is reasonably
8 expected to accrue during the tax year of the flow-through entity.

9 (4) Except as otherwise provided under this section, every
10 flow-through entity with business activity in this state that has
11 more than \$200,000.00 of business income reasonably expected to
12 accrue in the tax year after allocation or apportionment shall
13 withhold a tax in an amount computed by applying the rate
14 prescribed in section 623 to the distributive share of the business
15 income of each member that is a corporation or that is a flow-
16 through entity. For purposes of calculating the \$200,000.00
17 withholding threshold, the business income of a flow-through entity
18 shall be apportioned to this state by multiplying the business
19 income by the sales factor of the flow-through entity. The sales
20 factor of the flow-through entity is a fraction, the numerator of
21 which is the total sales of the flow-through entity in this state
22 during the tax year and the denominator of which is the total sales
23 of the flow-through entity everywhere during the tax year. As used
24 in this subsection, "business income" means that term as defined in
25 section 603(2). For a partnership or S corporation, business income
26 includes payments and items of income and expense that are
27 attributable to business activity of the partnership or S

1 corporation and separately reported to the members. As used in this
2 subsection, "sales" means that term as defined in section 609 and
3 sales in this state is determined as provided in sections 665 and
4 669. All of the taxes withheld under this section shall accrue to
5 the state on April 15, July 15, and October 15 of the flow-through
6 entity's tax year and January 15 of the following year, except a
7 flow-through entity that is not on a calendar year basis shall
8 substitute the appropriate due dates in the flow-through entity's
9 fiscal year that correspond to those in a calendar year.

10 Withholding for each period shall be equal to 1/4 of the total
11 withholding calculated on the distributive share of business income
12 that is reasonably expected to accrue during the tax year of the
13 flow-through entity.

14 (5) If a flow-through entity is subject to the withholding
15 requirements of subsection (4), then a member of that flow-through
16 entity that is itself a flow-through entity shall withhold a tax on
17 the distributive share of business income as described in
18 subsection (4) of each of its members. The department shall apply
19 tax withheld by a flow-through entity on the distributive share of
20 business income of a member flow-through entity to the withholding
21 required of that member flow-through entity. All of the taxes
22 withheld under this section shall accrue to the state on April 15,
23 July 15, and October 15 of the flow-through entity's tax year and
24 January 15 of the following year, except a flow-through entity that
25 is not on a calendar year basis shall substitute the appropriate
26 due dates in the flow-through entity's fiscal year that correspond
27 to those in a calendar year. Withholding for each period shall be

1 equal to 1/4 of the total withholding calculated on the
2 distributive share of business income that is reasonably expected
3 to accrue during the tax year of the flow-through entity.

4 (6) Every casino licensee shall withhold a tax in an amount
5 computed by applying the rate prescribed in section 51 to the
6 winnings of a nonresident reportable by the casino licensee under
7 the internal revenue code.

8 (7) Every race meeting licensee or track licensee shall
9 withhold a tax in an amount computed by applying the rate
10 prescribed in section 51 to a payoff price on a winning ticket of a
11 nonresident reportable by the race meeting licensee or track
12 licensee under the internal revenue code that is the result of
13 pari-mutuel wagering at a licensed race meeting.

14 (8) Every casino licensee or race meeting licensee or track
15 licensee shall report winnings of a resident reportable by the
16 casino licensee or race meeting licensee or track licensee under
17 the internal revenue code to the department in the same manner and
18 format as required under the internal revenue code.

19 (9) Every eligible production company shall, to the extent not
20 withheld by a professional services corporation or professional
21 employer organization, deduct and withhold a tax in an amount
22 computed by applying the rate prescribed in section 51 to the
23 remainder of the payments made to the professional services
24 corporation or professional employer organization for the services
25 of a performing artist or crew member after deducting from those
26 payments the same proportion of the total amount of personal and
27 dependency exemptions of the individuals allowed under this act.

1 (10) Every publicly traded partnership that has equity
2 securities registered with the securities and exchange commission
3 under section 12 of title I of the securities and exchange act of
4 1934, 15 USC 78l, shall not be subject to withholding.

5 (11) Except as otherwise provided under this subsection, all
6 of the taxes withheld under this section shall accrue to the state
7 on the last day of the month in which the taxes are withheld but
8 shall be returned and paid to the department by the employer,
9 eligible production company, casino licensee, or race meeting
10 licensee or track licensee within 15 days after the end of any
11 month or as provided in section 705. For an employer or flow-
12 through entity that has entered into an agreement with a community
13 college pursuant to chapter 13 of the community college act of
14 1966, 1966 PA 331, MCL 389.161 to 389.166, **OR WITH A QUALIFYING**
15 **INTERMEDIATE SCHOOL DISTRICT PURSUANT TO PART 7C OF THE REVISED**
16 **SCHOOL CODE, 1976 PA 451, MCL 380.771 TO 380.776**, a portion of the
17 taxes withheld under this section that are attributable to each
18 employee in a new job created pursuant to the agreement shall
19 accrue to the community college **OR QUALIFYING INTERMEDIATE SCHOOL**
20 **DISTRICT** on the last day of the month in which the taxes are
21 withheld but shall be returned and paid to the community college **OR**
22 **QUALIFYING INTERMEDIATE SCHOOL DISTRICT** by the employer or flow-
23 through entity within 15 days after the end of any month or as
24 provided in section 705 for as long as the agreement remains in
25 effect. For purposes of this act and 1941 PA 122, MCL 205.1 to
26 205.31, payments made by an employer or flow-through entity to a
27 community college **OR QUALIFYING INTERMEDIATE SCHOOL DISTRICT** under

1 this subsection shall be considered income taxes paid to this
2 state.

3 (12) A person required by this section to deduct and withhold
4 taxes on compensation, a share of income available for distribution
5 on which withholding is required under subsection (3), (4), or (5),
6 winnings on which withholding is required under subsection (6), or
7 a payoff price on which withholding is required under subsection
8 (7) holds the amount of tax withheld as a trustee for this state
9 and is liable for the payment of the tax to this state or, if
10 applicable, to the community college **OR QUALIFYING INTERMEDIATE**
11 **SCHOOL DISTRICT** and is not liable to any individual for the amount
12 of the payment.

13 (13) An employer in this state is not required to deduct and
14 withhold a tax on the compensation paid to a nonresident individual
15 employee, who, under section 256, may claim a tax credit equal to
16 or in excess of the tax estimated to be due for the tax year or is
17 exempted from liability for the tax imposed by this act. In each
18 tax year, the nonresident individual shall furnish to the employer,
19 on a form approved by the department, a verified statement of
20 nonresidence.

21 (14) A person required to withhold a tax under this act, by
22 the fifteenth day of the following month, shall provide the
23 department with a copy of any exemption certificate on which the
24 employee, member, or person subject to withholding under subsection
25 (6) or (7) claims more than 9 personal or dependency exemptions,
26 claims a status that exempts the employee, member, or person
27 subject to withholding under subsection (6) or (7) from withholding

1 under this section.

2 (15) A person who disburses annuity payments pursuant to the
3 terms of a qualified charitable gift annuity is not required to
4 deduct and withhold a tax on those payments as prescribed under
5 subsection (1). As used in this subsection, "qualified charitable
6 gift annuity" means an annuity described under section 501(m)(5) of
7 the internal revenue code and issued by an organization exempt
8 under section 501(c)(3) of the internal revenue code.

9 (16) Notwithstanding the requirements of subsections (4) and
10 (5), if a flow-through entity receives an exemption certificate
11 from a member other than a nonresident individual, the flow-through
12 entity shall not withhold a tax on the distributive share of the
13 business income of that member if all of the following conditions
14 are met:

15 (a) The exemption certificate is completed by the member in
16 the form and manner prescribed by the department and certifies that
17 the member will do all of the following:

18 (i) File the returns required under this act.

19 (ii) Pay or withhold the tax required under this act on the
20 distributive share of the business income received from any flow-
21 through entity in which the member has an ownership or beneficial
22 interest, directly or indirectly through 1 or more other flow-
23 through entities.

24 (iii) Submit to the taxing jurisdiction of this state for
25 purposes of collection of the tax under this act together with
26 related interest and penalties under 1941 PA 122, MCL 205.1 to
27 205.31, imposed on the member with respect to the distributive

1 share of the business income of that member.

2 (b) The department may require the member to file the
3 exemption certificate with the department and provide a copy to the
4 flow-through entity.

5 (c) The department may require a flow-through entity that
6 receives an exemption certificate to attach a copy of the exemption
7 certificate to the annual reconciliation return as required by
8 section 711. A flow-through entity that is entirely exempt from the
9 withholding requirements of subsection (4) or (5) by this
10 subsection may be required to furnish a copy of the exemption
11 certificate in another manner prescribed by the department.

12 (d) A copy of the exemption certificate shall be retained by
13 the member and flow-through entity and made available to the
14 department upon request. Any copy of the exemption certificate
15 shall be maintained in a format and for the period required by 1941
16 PA 122, MCL 205.1 to 205.31.

17 (17) The department may revoke the election provided for in
18 subsection (16) if it determines that the member or a flow-through
19 entity is not abiding by the terms of the exemption certificate or
20 the requirements of subsection (16). If the department does revoke
21 the election option under subsection (16), the department shall
22 notify the affected flow-through entity that withholding is
23 required on the member under subsection (4) or (5), beginning 60
24 days after notice of revocation is received.

25 (18) Notwithstanding the requirements of subsections (4) and
26 (5), a flow-through entity is not required to withhold in
27 accordance with this section for a member that voluntarily elects

1 to file a return and pay the tax imposed by the Michigan business
2 tax act under section 680 or section 500 of the Michigan business
3 tax act, 2007 PA 36, MCL 208.1500.

4 (19) Notwithstanding the withholding requirements of
5 subsection (3), (4), or (5), a flow-through entity is not required
6 to comply with those withholding requirements to the extent that
7 the withholding would violate any of the following:

8 (a) Housing assistance payment programs distribution
9 restrictions under 24 CFR part 880, 881, 883, or 891.

10 (b) Rural housing service return on investment restrictions
11 under 7 CFR 3560.68 or 3560.305.

12 (c) Articles of incorporation or other document of
13 organization adopted pursuant to section 83 or 93 of the state
14 housing development authority act of 1966, 1966 PA 346, MCL
15 125.1483 and 125.1493.

16 Sec. 705. All provisions relating to the administration,
17 collection, and enforcement of this act and 1941 PA 122, MCL 205.1
18 to 205.31, apply to all persons required to withhold taxes and to
19 the taxes required to be withheld under this part. If the
20 department has reasonable grounds to believe that a person required
21 to withhold taxes under this part will not pay taxes withheld to
22 this state or, if applicable, to the community college **OR**
23 **QUALIFYING INTERMEDIATE SCHOOL DISTRICT**, as prescribed by this
24 part, or to provide a more efficient administration, the department
25 may require that person to make the return and pay to the
26 department or, if applicable, to the community college **OR**
27 **QUALIFYING INTERMEDIATE SCHOOL DISTRICT**, the tax deducted and

1 withheld at other than monthly periods, or from time to time, or
2 require that person to deposit the tax in a bank approved by the
3 department in a separate account, in trust for the department or,
4 if applicable, the community college **OR QUALIFYING INTERMEDIATE**
5 **SCHOOL DISTRICT**, and payable to the department, ~~or~~ the community
6 college, **OR THE QUALIFYING INTERMEDIATE SCHOOL DISTRICT**, and to
7 keep the amount of the taxes in the account until payment over to
8 the department, ~~or~~ the community college, **OR THE QUALIFYING**
9 **INTERMEDIATE SCHOOL DISTRICT**.

10 Sec. 711. (1) Every person required by this part to deduct and
11 withhold taxes for a tax year on compensation, winnings, or payoff
12 on a winning ticket shall furnish to each employee, member, or
13 person with winnings or a payoff on a winning ticket subject to
14 withholding under this part on or before January 31 of the
15 succeeding year a statement in duplicate of the total compensation,
16 winnings, or payoff on a winning ticket paid during the tax year
17 and the amount deducted or withheld. However, if employment is
18 terminated before the close of a calendar year by a person that
19 goes out of business or permanently ceases to exist, then the
20 statement required by this subsection shall be issued within 30
21 days after the last compensation, winnings, or payoff of a winning
22 ticket is paid. A duplicate of a statement made pursuant to this
23 section and an annual reconciliation return, MI-W3, shall be filed
24 with the department by February 28 of the succeeding year except
25 that a person that goes out of business or permanently ceases to
26 exist shall file the statement and the annual reconciliation return
27 within 30 days after going out of business or permanently ceasing

1 to exist. A flow-through entity that has withheld taxes on
2 distributive shares of business income reasonably expected to
3 accrue shall file an annual reconciliation return with the
4 department no later than the last day of the second month following
5 the end of the flow-through entity's federal tax year. The
6 department may require the flow-through entity to file an annual
7 business income information return with the department on the due
8 date, including extensions, of its annual federal information
9 return.

10 (2) Every person required by this part to deduct or withhold
11 taxes shall make a return or report in form and content and at
12 times as prescribed by the department. An employer or flow-through
13 entity that has entered into an agreement with a community college
14 pursuant to chapter 13 of the community college act of 1966, 1966
15 PA 331, MCL 389.161 to 389.166, **OR WITH A QUALIFYING INTERMEDIATE**
16 **SCHOOL DISTRICT PURSUANT TO PART 7C OF THE REVISED SCHOOL CODE,**
17 **1976 PA 351, MCL 380.771 TO 380.776,** and is required to deduct or
18 withhold taxes from compensation and make payments to a community
19 college **OR QUALIFYING INTERMEDIATE SCHOOL DISTRICT** pursuant to the
20 agreement for a portion of those taxes withheld shall, for as long
21 as the agreement remains in effect, delineate in the return or
22 report required under this subsection between the amount deducted
23 or withheld and paid to the state and that amount paid to a
24 community college **OR QUALIFYING INTERMEDIATE SCHOOL DISTRICT.**

25 (3) Every person that receives a pension or annuity payment,
26 employee, member, or person with winnings or a payoff on a winning
27 ticket subject to withholding under this part shall furnish to the

1 person that disburses the pension or annuity payment, his or her
2 employer, flow-through entity, eligible production company, casino
3 licensee, race meeting licensee, and track licensee information
4 required to make an accurate withholding. A person that receives
5 pension or annuity payments, employee, member, or person with
6 winnings or a payoff on a winning ticket subject to withholding
7 under this part shall file with the person that disburses the
8 pension or annuity payment, his or her employer, flow-through
9 entity, eligible production company, casino licensee, race meeting
10 licensee, and track licensee revised information within 10 days
11 after a decrease in the number of exemptions or a change in status
12 from a nonresident to a resident. The person who receives pension
13 or annuity payments, employee, nonresident member, or person with
14 winnings or a payoff on a winning ticket subject to withholding
15 under this part may file revised information when the number of
16 exemptions increases or when a change in status occurs from that of
17 a resident of this state to a nonresident of this state. Revised
18 information shall not be given retroactive effect for withholding
19 purposes. A person required by this part to deduct and withhold
20 taxes shall rely on this information for withholding purposes
21 unless directed by the department to withhold on some other basis.
22 If a person who receives a retirement or annuity payment, employee,
23 member, or person with winnings or a payoff on a winning ticket
24 subject to withholding under this part fails or refuses to furnish
25 information, the person required by this part to deduct and
26 withhold taxes shall withhold the full rate of tax from the
27 person's retirement or annuity payment, employee's total

1 compensation, the member's distributive share of business income
2 reasonably expected to accrue, or the winnings of a person with
3 winnings or a payoff on a winning ticket subject to withholding
4 under this part.

5 Sec. 713. (1) By July 1 of each year, based on the information
6 received from each community college district pursuant to section
7 163 of the community college act of 1966, 1966 PA 331, MCL 389.163,
8 the department shall submit to the governor, the clerk of the house
9 of representatives, the secretary of the senate, the chairperson of
10 each standing committee that has jurisdiction over economic
11 development issues, the chairperson of each legislative budget
12 subcommittee that has jurisdiction over economic development
13 issues, and the president of the Michigan strategic fund an annual
14 report concerning the operation and effectiveness of the new jobs
15 training programs and the corresponding withholding requirements
16 under this chapter. The report shall include all of the following:

17 (a) The number of community colleges participating in the new
18 jobs training program and the names of those colleges.

19 (b) The number of employers that have entered into agreements
20 with community colleges pursuant to the new jobs training program
21 and the names of those employers organized by major industry group
22 under the standard industrial classification code as compiled by
23 the United States ~~department of labor.~~ **DEPARTMENT OF LABOR.**

24 (c) The total amount of money from a new jobs credit from
25 withholding each employer described in subdivision (b) has remitted
26 to the community college district.

27 (d) The total amount of new jobs training revenue bonds each

1 community college district has authorized, issued, or sold.

2 (e) The total amount of each community college district's debt
3 related to agreements at the end of the calendar year.

4 (f) The number of degrees or certificates awarded to program
5 participants in the calendar year.

6 (g) The number of individuals who entered a program at each
7 community college district in the calendar year; who completed the
8 program in the calendar year; and who were enrolled in a program at
9 the end of the calendar year.

10 (h) The number of individuals who completed a program and were
11 hired by an employer described in subdivision (b) to fill new jobs.

12 (2) BY JULY 1 OF EACH YEAR, BASED ON THE INFORMATION RECEIVED
13 FROM EACH QUALIFYING INTERMEDIATE SCHOOL DISTRICT PURSUANT TO
14 SECTION 773 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.773,
15 THE DEPARTMENT SHALL SUBMIT TO THE GOVERNOR, THE CLERK OF THE HOUSE
16 OF REPRESENTATIVES, THE SECRETARY OF THE SENATE, THE CHAIRPERSON OF
17 EACH STANDING COMMITTEE THAT HAS JURISDICTION OVER ECONOMIC
18 DEVELOPMENT ISSUES, THE CHAIRPERSON OF EACH LEGISLATIVE BUDGET
19 SUBCOMMITTEE THAT HAS JURISDICTION OVER ECONOMIC DEVELOPMENT
20 ISSUES, AND THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND AN ANNUAL
21 REPORT CONCERNING THE OPERATION AND EFFECTIVENESS OF THE NEW JOBS
22 TRAINING PROGRAMS AND THE CORRESPONDING WITHHOLDING REQUIREMENTS
23 UNDER THIS CHAPTER. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

24 (A) THE NUMBER OF QUALIFYING INTERMEDIATE SCHOOL DISTRICTS
25 PARTICIPATING IN THE NEW JOBS TRAINING PROGRAM AND THE NAMES OF
26 THOSE DISTRICTS.

27 (B) THE NUMBER OF EMPLOYERS THAT HAVE ENTERED INTO AGREEMENTS

1 WITH QUALIFYING INTERMEDIATE SCHOOL DISTRICTS PURSUANT TO THE NEW
2 JOBS TRAINING PROGRAM AND THE NAMES OF THOSE EMPLOYERS ORGANIZED BY
3 MAJOR INDUSTRY GROUP UNDER THE STANDARD INDUSTRIAL CLASSIFICATION
4 CODE AS COMPILED BY THE UNITED STATES DEPARTMENT OF LABOR.

5 (C) THE TOTAL AMOUNT OF MONEY FROM A NEW JOBS CREDIT FROM
6 WITHHOLDING EACH EMPLOYER DESCRIBED IN SUBDIVISION (B) HAS REMITTED
7 TO A QUALIFYING INTERMEDIATE SCHOOL DISTRICT.

8 (D) THE TOTAL AMOUNT OF NEW JOBS TRAINING REVENUE BONDS EACH
9 QUALIFYING INTERMEDIATE SCHOOL DISTRICT HAS AUTHORIZED, ISSUED, OR
10 SOLD.

11 (E) THE TOTAL AMOUNT OF EACH QUALIFYING INTERMEDIATE SCHOOL
12 DISTRICT'S DEBT RELATED TO AGREEMENTS AT THE END OF THE CALENDAR
13 YEAR.

14 (F) THE NUMBER OF DEGREES OR CERTIFICATES AWARDED TO PROGRAM
15 PARTICIPANTS IN THE CALENDAR YEAR.

16 (G) THE NUMBER OF INDIVIDUALS WHO ENTERED A PROGRAM AT EACH
17 QUALIFYING INTERMEDIATE SCHOOL DISTRICT IN THE CALENDAR YEAR; WHO
18 COMPLETED THE PROGRAM IN THE CALENDAR YEAR; AND WHO WERE ENROLLED
19 IN A PROGRAM AT THE END OF THE CALENDAR YEAR.

20 (H) THE NUMBER OF INDIVIDUALS WHO COMPLETED A PROGRAM AND WERE
21 HIRED BY AN EMPLOYER DESCRIBED IN SUBDIVISION (B) TO FILL NEW JOBS.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.

24 Enacting section 2. This amendatory act does not take effect
25 unless House Bill No. 4750 of the 98th Legislature is enacted into
26 law.