

# HOUSE BILL No. 4751

June 18, 2015, Introduced by Reps. Potvin, Robinson, Iden, Canfield, LaVoy, McBroom, Derek Miller and Hughes and referred to the Committee on Workforce and Talent Development.

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

1 issued by a life insurance company. Withholding shall be calculated  
2 on the taxable disbursement after deducting from the taxable  
3 portion the same proportion of the total amount of personal and  
4 dependency exemptions of the individual allowed under this act.  
5 Withholding is not required on any part of a distribution that is  
6 not expected to be includable in the recipient's gross income or  
7 that is deductible from adjusted gross income under section  
8 30(1)(e) or (f).

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

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

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

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

1 attributable to business activity of the partnership or S  
2 corporation and separately reported to the members. As used in this  
3 subsection, "sales" means that term as defined in section 609 and  
4 sales in this state is determined as provided in sections 665 and  
5 669. All of the taxes withheld under this section shall accrue to  
6 the state on April 15, July 15, and October 15 of the flow-through  
7 entity's tax year and January 15 of the following year, except a  
8 flow-through entity that is not on a calendar year basis shall  
9 substitute the appropriate due dates in the flow-through entity's  
10 fiscal year that correspond to those in a calendar year.  
11 Withholding for each period shall be equal to 1/4 of the total  
12 withholding calculated on the distributive share of business income  
13 that is reasonably expected to accrue during the tax year of the  
14 flow-through entity.

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

1 to those in a calendar year. Withholding for each period shall be  
2 equal to 1/4 of the total withholding calculated on the  
3 distributive share of business income that is reasonably expected  
4 to accrue during the tax year of the flow-through entity.

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

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

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

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

1 dependency exemptions of the individuals allowed under this act.

2 (10) Every publicly traded partnership that has equity  
3 securities registered with the securities and exchange commission  
4 under section 12 of title I of the securities and exchange act of  
5 1934, 15 USC 78l, shall not be subject to withholding.

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

1 **DISTRICT** under this subsection shall be considered income taxes  
2 paid to this 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 INTERMEDIATE SCHOOL**  
11 **DISTRICT** and is not liable to any individual for the amount of the  
12 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 **INTERMEDIATE SCHOOL DISTRICT**, as prescribed by this part, or to  
24 provide a more efficient administration, the department may require  
25 that person to make the return and pay to the department or, if  
26 applicable, to the community college **OR INTERMEDIATE SCHOOL**  
27 **DISTRICT**, the tax deducted and withheld at other than monthly

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

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

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

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

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

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

1 reasonably expected to accrue, or the winnings of a person with  
2 winnings or a payoff on a winning ticket subject to withholding  
3 under this part.

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

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

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

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

26       (d) The total amount of new jobs training revenue bonds each  
27 community college district has authorized, issued, or sold.

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

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

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

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

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

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

25 (B) THE NUMBER OF EMPLOYERS THAT HAVE ENTERED INTO AGREEMENTS  
26 WITH INTERMEDIATE SCHOOL DISTRICTS PURSUANT TO THE NEW JOBS  
27 TRAINING PROGRAM AND THE NAMES OF THOSE EMPLOYERS ORGANIZED BY

1 MAJOR INDUSTRY GROUP UNDER THE STANDARD INDUSTRIAL CLASSIFICATION  
2 CODE AS COMPILED BY THE UNITED STATES DEPARTMENT OF LABOR.

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

6 (D) THE TOTAL AMOUNT OF NEW JOBS TRAINING REVENUE BONDS EACH  
7 INTERMEDIATE SCHOOL DISTRICT HAS AUTHORIZED, ISSUED, OR SOLD.

8 (E) THE TOTAL AMOUNT OF EACH INTERMEDIATE SCHOOL DISTRICT'S  
9 DEBT RELATED TO AGREEMENTS AT THE END OF THE CALENDAR YEAR.

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

12 (G) THE NUMBER OF INDIVIDUALS WHO ENTERED A PROGRAM AT EACH  
13 INTERMEDIATE SCHOOL DISTRICT IN THE CALENDAR YEAR; WHO COMPLETED  
14 THE PROGRAM IN THE CALENDAR YEAR; AND WHO WERE ENROLLED IN A  
15 PROGRAM AT THE END OF THE CALENDAR YEAR.

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

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

20 Enacting section 2. This amendatory act does not take effect  
21 unless Senate Bill No. \_\_\_\_ or House Bill No. 4750 (request no.  
22 02303'15) of the 98th Legislature is enacted into law.