SENATE BILL NO. 655

October 30, 2025, Introduced by Senators VICTORY and ALBERT and referred to Committee on Government Operations.

A bill to amend 2007 PA 36, entitled

"Michigan business tax act,"

by amending sections 107, 111, 415, 419, 435, and 460 (MCL 208.1107, 208.1111, 208.1415, 208.1419, 208.1435, and 208.1460), section 107 as amended by 2011 PA 292, section 111 as amended by 2014 PA 282, section 419 as amended by 2015 PA 194, section 435 as amended by 2012 PA 605, and section 460 as added by 2008 PA 335.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 107. (1) "Certificated credit" means any of the following:

(a) A tax voucher certificate that has been issued to a taxpayer under an agreement entered into before January 1, 2012 under section 419 or section 23 of ~~the Michigan early stage venture investment act of 2003,~~ **former** 2003 PA 296. ~~, MCL 125.2253.~~

(b) A credit for which a preapproval letter has been issued to a qualified taxpayer under section 437 before January 1, 2012 to the extent the credit has not been fully claimed or paid ~~prior to~~ **before** January 1, 2012.

(c) Except as otherwise provided under subdivision (i), a credit or voucher certificate for which a taxpayer or a qualified taxpayer has entered into an agreement with the Michigan economic growth authority under sections 430, 431, 431a, 431b, 431c, 432, 434, or 450 before January 1, 2012 to the extent the credit or voucher certificate has not been fully claimed or paid ~~prior to~~ **before** January 1, 2012.

(d) A credit for which a taxpayer or eligible production company has entered into an agreement with the Michigan film office with the concurrence of the state treasurer under **former** section 455 or 457 before January 1, 2012 to the extent the credit has not been fully claimed or paid before January 1, 2012.

(e) A credit for which a qualified taxpayer has received a part 2 approval, approved rehabilitation plan, approved high community impact rehabilitation plan, or preapproval letter from the state historic preservation office under section 435 before January 1, 2012 to the extent the credit has not been fully claimed or paid before January 1, 2012.

(f) A credit under section 433 but only for a taxpayer that has a development agreement executed between a taxpayer and the Michigan strategic fund before January 1, 2012 or for a taxpayer that has entered into a qualified collaborative agreement under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, before January 1, 2012. As used in this subsection, "qualified collaborative agreement" means that term as defined in section 8d of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688d.

(g) A credit applicable to this act granted under section 36109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36109.

(h) A credit allowed a taxpayer under section 409 if the taxpayer has met the capital expenditure requirements under section 409(4).

(i) A credit for which a taxpayer has entered into an agreement with the Michigan economic growth authority under section 434(6) before July 1, 2012.

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

(3) "Compensation" means all wages, salaries, fees, bonuses, commissions, other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayers, and any earnings that are net earnings from self-employment as defined under section 1402 of the internal revenue code of the taxpayer or a partner or limited liability company member of the taxpayer. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to a pension, retirement, or

profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of health and welfare and noninsured benefit plans. Compensation for a taxpayer licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637, includes payments to an independent contractor licensed under article 25 or 26 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637. Compensation does not include any of the following:

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

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

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

(d) The employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 USC 3101 to ~~3128,~~ **3134**, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 USC 3201 to ~~3233,~~ **3241**, and similar social insurance programs.

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

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

(5) "Department" means the department of treasury.

Sec. 111. (1) "Gross receipts" means the entire amount received by the taxpayer as determined by using the taxpayer's method of accounting used for federal income tax purposes, less any amount deducted as bad debt for federal income tax purposes that corresponds to items of gross receipts included in the modified gross receipts tax base for the current tax year or a past tax year phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter, from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

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

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

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

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

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

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

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

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

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

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

(e) Amounts received by a newspaper to acquire advertising space not owned by that newspaper in another newspaper on behalf of another person. This subdivision does not apply to any consideration received by the taxpayer for acquiring that advertising space.

(f) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by a third party that are deposited into a separate account kept in the name of that third party and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that third party.

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

(h) Proceeds from any of the following:

(*i*) The original issue of stock or equity instruments or equity issued by a regulated investment company as that term is defined under section 851 of the internal revenue code.

(*ii*) The original issue of debt instruments.

(i) Refunds from returned merchandise.

(j) Cash and in-kind discounts.

(k) Trade discounts.

(*l*) Federal, state, or local tax refunds.

(m) Security deposits.

(n) Payment of the principal portion of loans.

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

(p) Proceeds from a sale, transaction, exchange, involuntary conversion, maturity, redemption, repurchase, recapitalization, or other disposition or reorganization of tangible, intangible, or real property, less any gain from the disposition or reorganization to the extent that the gain is included in the taxpayer's federal taxable income, if the property satisfies 1 or more of the following:

(*i*) The property is a capital asset as defined in section 1221(a) of the internal revenue code.

(*ii*) The property is land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code.

(*iii*) The property is used in a hedging transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; interest rate fluctuations; or commodity price fluctuations. For purposes of this subparagraph, the actual transfer of title of real or tangible personal property to another person is not a hedging transaction. Only the overall net gain from the hedging transactions entered into during the tax year is included in gross receipts. As used in this subparagraph, "hedging transaction" means that term as defined under section 1221 of the internal revenue code, regardless of whether the transaction was identified by the taxpayer as a hedge for federal income tax purposes ~~, provided, however, that~~ **if** transactions excluded under this subparagraph and not identified as a hedge for federal income tax purposes ~~shall be~~ **are** identifiable to the department by the taxpayer as a hedge in its books and records.

(*iv*) The property is investment and trading assets managed as part of the person's treasury function. For purposes of this subparagraph, a person principally engaged in the trade or business of purchasing and selling investment and trading assets is not performing a treasury function. Only the overall net gain from the treasury function incurred during the tax year is included in gross receipts. As used in this subparagraph, "treasury function" means the pooling and management of investment and trading assets for the purpose of satisfying the cash flow or liquidity needs of the taxpayer's trade or business.

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

(r) For a sales finance company, as defined in section 2 of the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, and for a person that is a broker or dealer as defined under section 78c(a)(4) or (5) of the securities exchange act of 1934, 15 USC 78c, or a person included in the unitary business group of that broker or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, amounts realized from the repayment, maturity, sale, or redemption of the principal of a loan, bond, or mutual fund, certificate of deposit, or similar marketable instrument ~~provided~~ **if** such instruments are not held as inventory.

(s) For a sales finance company, as defined in section 2 of the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.102, and directly or indirectly owned in whole or in part by a motor vehicle manufacturer as of January 1, 2008, and for a person that is a broker or dealer as defined under section 78c(a)(4) or (5) of the securities exchange act of 1934, 15 USC 78c, or a person included in the unitary business group of that broker or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, the principal amount received under a repurchase agreement or other transaction properly characterized as a loan.

(t) For a mortgage company, proceeds representing the principal balance of loans transferred or sold in the tax year. For purposes of this subdivision, "mortgage company" means a person that is licensed under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and has greater than 90% of its revenues, in the ordinary course of business, from the origination, sale, or servicing of residential mortgage loans.

(u) For a professional employer organization, any amount charged by a professional employer organization that represents the actual cost of wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer arrangement.

(v) Any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax and paid by a manufacturer, distributor, or supplier.

(w) For an individual, estate, or person organized for estate or gift planning purposes, amounts received other than those from transactions, activities, and sources in the regular course of the person's trade or business. For purposes of this subdivision, all of the following apply:

(*i*) Amounts received from transactions, activities, and sources in the regular course of the person's business include, but are not limited to, the following:

(A) Receipts from tangible and intangible property if the acquisition, rental, lease, management, or disposition of the property constitutes integral parts of the person's regular trade or business operations.

(B) Receipts received in the course of the person's trade or business from stock and securities of any foreign or domestic corporation and dividend and interest income.

(C) Receipts derived from isolated sales, leases, assignments, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving tangible, intangible, or real property if the property is or was used in the person's trade or business operation.

(D) Receipts derived from the sale of an interest in a business that constitutes an integral part of the person's regular trade or business.

(E) Receipts derived from the lease or rental of real property.

(*ii*) Receipts excluded from gross receipts include, but are not limited to, the following:

(A) Receipts derived from investment activity, including interest, dividends, royalties, and gains from an investment portfolio or retirement account, if the investment activity is not part of the person's trade or business.

(B) Receipts derived from the disposition of tangible, intangible, or real property held for personal use and enjoyment, such as a personal residence or personal assets.

(x) Receipts derived from investment activity other than receipts from transactions, activities, and sources in the regular course of the person's trade or business by a person that is organized exclusively to conduct investment activity and that does not conduct investment activity for any person other than an individual or a person related to that individual or by a common trust fund established under the collective investment funds act, 1941 PA 174, MCL 555.101 to 555.113. For purposes of this subdivision, a person is related to an individual if that person is a spouse, brother or sister, whether of the whole or half blood or by adoption, ancestor, lineal descendent of that individual or related person, or a trust benefiting that individual or 1 or more persons related to that individual.

(y) Interest income and dividends derived from obligations or securities of the United States government, this state, or any governmental unit of this state. As used in this subdivision, "governmental unit" means that term as defined in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053.

(z) Dividends and royalties received or deemed received from a foreign operating entity or a person other than a United States person, including, but not limited to, the amounts determined under section 78 of the internal revenue code and sections 951 to 964 of the internal revenue code, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(aa) To the extent not deducted as purchases from other firms under section 203, each of the following:

(*i*) Sales or use taxes collected from or reimbursed by a consumer or other taxes the taxpayer collected directly from or was reimbursed by a purchaser and remitted to a local, state, or federal tax authority, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*ii*) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the internal revenue code or other applicable state law, phased in over a 3-year period starting with 60% of that amount in the 2008 tax year, 75% in the 2009 tax year, and 100% in the 2010 tax year and each tax year thereafter.

(*iii*) In the case of receipts from the sale of motor fuel by a person with a motor fuel tax license or a retail dealer, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the internal revenue code or under other applicable state law, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*iv*) In the case of receipts from the sale of beer, wine, or intoxicating liquor by a person holding a license to sell, distribute, or produce those products, an amount equal to federal and state excise taxes paid by any person on or for such beer, wine, or intoxicating liquor under subtitle E of the internal revenue code or other applicable state law, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(*v*) In the case of receipts from the sale of communication, video, internet access and related services and equipment, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter. This subparagraph does not include the recovery of net income taxes, net worth taxes, property taxes, or the tax imposed under this act.

(*vi*) In the case of receipts from the sale of electricity, natural gas, or other energy source, any government imposed tax, fee, or other imposition in the nature of a tax or fee required by law, ordinance, regulation, ruling, or other legal authority and authorized to be charged on a customer's bill or invoice, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter. This subparagraph does not include the recovery of net income taxes, net worth taxes, property taxes, or the tax imposed under this act.

(*vii*) Any deposit required under any of the following, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter:

(A) 1976 IL 1, MCL 445.571 to 445.576.

(B) R 436.1629 of the Michigan ~~administrative code.~~**Administrative Code.**

(C) R 436.1723a of the Michigan ~~administrative code.~~**Administrative Code.**

(D) Any substantially similar beverage container deposit law of another state.

(*viii*) An excise tax collected pursuant to the airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, collected from or reimbursed by a consumer and remitted as provided in the airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, phased in over a 5-year period starting with 50% of that amount in the 2008 tax year, 60% in the 2009 tax year, 60% in the 2010 tax year, 75% in the 2011 tax year, and 100% in the 2012 tax year and each tax year thereafter.

(bb) Amounts attributable to an ownership interest in a pass-through entity, regulated investment company, real estate investment trust, or cooperative corporation whose business activities are taxable under section 203 or would be subject to the tax under section 203 if the business activities were in this state. For purposes of this subdivision:

(*i*) "Cooperative corporation" means those organizations described under subchapter T of the internal revenue code.

(*ii*) "Pass-through" entity means a partnership, subchapter S corporation, or other person, other than an individual, that is not classified for federal income tax purposes as an association taxed as a corporation.

(*iii*) "Real estate investment trust" means that term as defined under section 856 of the internal revenue code.

(*iv*) "Regulated investment company" means that term as defined under section 851 of the internal revenue code.

(cc) For a regulated investment company as that term is defined under section 851 of the internal revenue code, receipts derived from investment activity by that regulated investment company.

(dd) For fiscal years that begin after September 30, 2009, unless the state budget director certifies to the state treasurer by January 1 of that fiscal year that the federally certified rates for actuarial soundness required under 42 CFR 438.6 and that are specifically developed for Michigan's health maintenance organizations that hold a contract with this state for ~~medicaid~~ **Medicaid** services provide explicit adjustment for their obligations required for payment of the tax under this act, amounts received by the taxpayer during that fiscal year for ~~medicaid~~ **Medicaid** premium or reimbursement of costs associated with service provided to a ~~medicaid~~ **Medicaid** recipient or beneficiary.

(ee) For a taxpayer that provides health care management consulting services, amounts received by the taxpayer as fees from its clients that are expended by the taxpayer to reimburse those clients for labor and nonlabor services that are paid by the client and reimbursed to the client pursuant to a services agreement.

(ff) Amounts attributed to the taxpayer pursuant to a discharge of indebtedness as described under section ~~61(a)(12)~~ **61(a)(11)** of the internal revenue code, including forgiveness of a nonrecourse debt.

(2) "Insurance company" means an authorized insurer as defined in sections 106 and 108 of the insurance code of 1956, 1956 PA 218, MCL 500.106 and 500.108.

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

(4) "Inventory" means, except as provided in subdivision (e), all of the following **as described in subdivisions (a) to (d)**:

(a) The stock of goods held for resale in the regular course of trade of a retail or wholesale business, including electricity or natural gas purchased for resale.

(b) Finished goods, goods in process, and raw materials of a manufacturing business purchased from another person.

(c) For a person that is a new motor vehicle dealer licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, floor plan interest expenses for new motor vehicles. For purposes of this subdivision, "floor plan interest" means interest paid that finances any part of the person's purchase of new motor vehicle inventory from a manufacturer, distributor, or supplier. However, amounts attributable to any invoiced items used to provide more favorable floor plan assistance to a person subject to the tax imposed under this act than to a person not subject to this tax is considered interest paid by a manufacturer, distributor, or supplier.

(d) For a person that is a securities trader, broker, or dealer or a person included in the unitary business group of that securities trader, broker, or dealer that buys and sells for its own account, contracts that are subject to the commodity exchange act, 7 USC 1 to 27f, the cost of securities as defined under section 475(c)(2) of the internal revenue code and for a securities trader the cost of commodities as defined under section 475(e)(2) and for a broker or dealer the cost of commodities as defined under section 475(e)(2)(B), (C), and (D) of the internal revenue code, excluding interest expense other than interest expense related to repurchase agreements. As used in this subdivision:

(*i*) "Broker" means that term as defined under section 78c(a)(4) of the securities exchange act of 1934, 15 USC 78c.

(*ii*) "Dealer" means that term as defined under section 78c(a)(5) of the securities exchange act of 1934, 15 USC 78c.

(*iii*) "Securities trader" means a person that engages in the trade or business of purchasing and selling investments and trading assets.

(e) Inventory does not include either of the following:

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

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

(5) "Michigan strategic fund" means either of the following, as applicable:

(a) Until the effective date of the economic development fair competition and free enterprise act, the Michigan strategic fund created under former 1984 PA 270.

(b) Beginning on the effective date of the economic development fair competition and free enterprise act, the bureau of fair competition and free enterprise created in section 7 of the economic development fair competition and free enterprise act. If this subdivision applies, a reference to the president of the Michigan strategic fund means the director of the bureau.

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

(a) The chairperson of the board.

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

(c) Persons performing similar duties and responsibilities to persons described in subdivisions (a) and (b) that include, at a minimum, major decision making.

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

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

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

(4) If a taxpayer that took the credit under this section or under former 1975 PA 228 has no business activity in this state and has any business activity outside of this state for any of the first 3 tax years after the last tax year for which it took the credit under this section, the taxpayer shall add to its tax liability the following amounts:

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

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

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

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

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

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

(c) A shareholder of an S corporation.

(d) A member of a limited liability corporation.

(e) An individual who is an owner.

(6) As used in this section:

(a) "Business income" means business income as defined in section 105 excluding funds received from small business innovation research grants and small business technology transfer programs established under the small business innovation development act of 1982, Public Law 97-219, reauthorized under the small business research and development enhancement act **of 1992**, Public Law 102-564, and subsequently reauthorized under the small business reauthorization act of 2000, Public Law 106-554.

(b) "Michigan economic development corporation" means **either of the following, as applicable**:

(*i*) Until the effective date of the economic development fair competition and free enterprise act, the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(*ii*) Beginning on the effective date of the economic development fair competition and free enterprise act, the bureau of fair competition and free enterprise created in section 7 of the economic development fair competition and free enterprise act.

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

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

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

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

(*iv*) Is not publicly traded.

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

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

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

(C) During the immediately preceding 7 years would have been in 1 of the first 2 years of contribution liability under section 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19, if the qualified start-up business had not assumed successor liability under section 15(g) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

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

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

(2) The total amount of all tax voucher certificates that ~~shall be~~ **are** approved under this section, section 37e of former 1975 PA 228, and ~~the Michigan early stage venture investment act of 2003,~~ **former** 2003 PA 296 ~~, MCL 125.2231 to 125.2263, shall~~ **must** not exceed an amount sufficient to allow the Michigan early stage

venture investment corporation to raise $450,000,000.00 for the purposes authorized under ~~the Michigan early stage venture investment act of 2003,~~ **former** 2003 PA 296. ~~, MCL 125.2231 to 125.2263.~~ The total amount of all tax voucher certificates under this section and section 37e of former 1975 PA 228 ~~shall~~ **must** not exceed $450,000,000.00.

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

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

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

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

(7) The tax voucher certificate, and any completed transfer form that was issued pursuant to ~~the Michigan early stage venture investment act of 2003,~~ **former** 2003 PA 296 ~~, MCL 125.2231 to 125.2263, shall~~ **must** be attached to the taxpayer's annual return

under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with this act.

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

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

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

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

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

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

of the taxpayer or transferee under this act.

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

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

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

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

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

(12) As used in this section:

(a) "Investor" means that term as defined in ~~the Michigan early stage venture investment act of 2003,~~ **section 3 of former** 2003 PA 296. ~~, MCL 125.2231 to 125.2263.~~

(b) "Certificate" means the certificate issued under section 23 of ~~the Michigan early stage venture investment act of 2003,~~

former 2003 PA 296. ~~, MCL 125.2253.~~

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

Sec. 435. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 2007 or a qualified taxpayer that has a rehabilitation plan certified before January 1, 2008 under section 39c of former 1975 PA 228 for the rehabilitation of an historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of an historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued. Only those expenditures that are paid or incurred during the time periods prescribed for the credit under section 47(a)(2) of the internal revenue code and any related treasury regulations ~~shall be~~ **are** considered qualified expenditures.

(2) The credit allowed under this subsection ~~shall be~~ **is** 25% of the qualified expenditures that are eligible, or would have been eligible except that the taxpayer entered into an agreement under subsection (13), for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code

except that the expenditures are made to an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code or the taxpayer has entered into an agreement under subsection (13).

(b) A credit under this subsection ~~shall~~ **must** be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under subsection (2), the taxpayer shall apply to and receive from the Michigan state housing development authority **certification** that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

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

(*ii*) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal ~~secretary of the interior's~~ **Secretary of the Interior's** standards for rehabilitation ~~and guidelines for rehabilitating historic buildings,~~ **under** 36 CFR part 67 **and related guidelines for rehabilitating historic buildings**.

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

(b) The taxpayer has received certification from the ~~national park service~~ **National Park Service** that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

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

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

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

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

(*i*) Individually listed on the ~~national register of historic places~~ **National Register of Historic Places** or state register of historic sites.

(*ii*) A contributing resource located within an historic district listed on the ~~national register of historic places~~ **National Register of Historic Places** or the state register of historic sites.

(*iii*) A contributing resource located within an historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

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

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

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

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

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

(*v*) The historic resource is subject to a historic preservation easement.

(7) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning before January 1, 2009, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a credit allowed under this section to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and ~~shall~~ **must** be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532.~~ **206.847**. A credit assignment under this subsection ~~shall~~ **must** be made on a form prescribed by the department. The qualified taxpayer and assignees shall attach a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that tax year.

(8) For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008, a qualified taxpayer may assign all or any portion of the credit allowed under this section. A credit assignment under this subsection is irrevocable and ~~shall~~ **must** be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completed rehabilitation is issued pursuant to this section. An assignee may subsequently assign the credit or any portion of the credit assigned under this subsection to 1 or more assignees. An assignment or subsequent reassignment of a credit ~~can~~ **must** be made in the year the certificate of completed rehabilitation is issued. A credit assignment or subsequent reassignment under this section ~~shall~~ **must** be made on a form prescribed by the department. The department or its designee shall review and issue a completed assignment or reassignment certificate to the assignee or reassignee. A credit amount assigned under this subsection may be claimed against the assignees' tax under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532.~~ **206.847.** An assignee or subsequent reassignee shall attach a copy of the completed assignment certificate to the annual return required to be filed under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532,~~ **206.847,** for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which ~~shall~~ **must** be the same tax year.

(9) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year ~~shall~~ **must** not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. If a qualified taxpayer has an unused carryforward of a credit under this section, the amount otherwise added under subsection (10), (11), or (12) to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under this section. An unused carryforward of a credit under section 39c of former 1975 PA 228 that was unused at the end of the last tax year for which former 1975 PA 228 was in effect may be claimed against the tax imposed under this act for the years the carryforward would have been available under section 39c of former 1975 PA 228. For projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008 and for which the credit amount allowed is less than $250,000.00, a qualified taxpayer may elect to forgo the carryover period and receive a refund of the amount of the credit that exceeds the qualified taxpayer's tax liability. The amount of the refund ~~shall~~ **must** be equal to 90% of the amount of the credit that exceeds the qualified taxpayer's tax liability. An election under this subsection ~~shall~~ **must** be made in the year that a certificate of completed rehabilitation is issued and ~~shall be~~ **is** irrevocable.

(10) For tax years beginning before January 1, 2009, if the taxpayer sells an historic resource for which a credit was claimed under this section or under section 39c of former 1975 PA 228 less than 5 years after the year in which the credit was claimed, the

following percentage of the credit amount previously claimed relative to that historic resource ~~shall~~ **must** be added back to the tax liability of the taxpayer in the year of the sale:

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

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

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

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

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

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

(11) For tax years beginning before January 1, 2009, if a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed under this section or under section 39c of former 1975 PA 228, the following percentage of the credit amount previously claimed relative to that historic resource ~~shall~~ **must** be added back to the tax liability of the taxpayer in the year of the revocation:

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

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

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

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

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

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

(12) Except as otherwise provided under subsection (13), for tax years beginning after December 31, 2008, if a certificate of completed rehabilitation is revoked under subsection (5), a preapproval letter is revoked under subsection (23)(b), or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service as defined in section 47(b)(1) of the internal revenue code and related treasury regulations or if a certificate of completed rehabilitation issued after December 1, 2008 is revoked under subsection (5) during a tax year beginning after December 31, 2008, a preapproval letter issued after December 1, 2008 is revoked under subsection (23)(b) during a tax year beginning after December 31, 2008, or an historic resource is sold or disposed of less than 5 years after the historic resource is placed in service during a tax year beginning after December 31, 2008, the following percentage of the credit amount previously claimed relative to that historic resource ~~shall~~ **must** be added back to the tax liability of the qualified taxpayer that received the certificate of completed rehabilitation and not the assignee in the year of the revocation:

(a) If the revocation is less than 1 year after the historic resource is placed in service, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the historic resource is placed in service, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the historic resource is placed in service, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the historic resource is placed in service, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the historic resource is placed in service, 20%.

(f) If the revocation is at least 5 years or more after the historic resource is placed in service, an addback to the qualified taxpayer tax liability ~~shall~~ **is** not ~~be~~ required.

(13) Subsection (12) ~~shall~~ **does** not apply if the qualified taxpayer enters into a written agreement with the authority that will allow for the transfer or sale of the historic resource and provides the following:

(a) Reasonable assurance that ~~subsequent to~~ **after** the transfer the property will remain a historic resource during the 5-year period after the historic resource is placed in service.

(b) A method that the department can recover an amount from the taxpayer equal to the appropriate percentage of credit added back as described under subsection (12).

(c) An encumbrance on the title to the historic resource being sold or transferred, stating that the property must remain a historic resource throughout the 5-year period after the historic resource is placed in service.

(d) A provision for the payment by the taxpayer of all legal and professional fees associated with the drafting, review, and recording of the written agreement required under this subsection.

(14) The authority may impose a fee to cover the administrative cost of implementing the program under this section.

(15) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.532,~~ **206.847**, if applicable, on which the credit is claimed:

(a) Certification of completed rehabilitation.

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

(c) A completed assignment form if the qualified taxpayer or assignee has assigned any portion of a credit allowed under this section or if the taxpayer is an assignee of any portion of a credit allowed under this section.

(16) The authority may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(17) The total of the credits claimed under subsection (2) and section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266, for a rehabilitation project ~~shall~~ **must** not exceed 25% of the total qualified expenditures eligible for the credit under subsection (2) for that rehabilitation project.

(18) The authority shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

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

(b) A description of each rehabilitation project certified.

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

(19) In addition to the credit allowed under subsection (2)

and subject to the criteria under this subsection and subsections (21), (22), and (23), for tax years that begin on and after January 1, 2009 a qualified taxpayer that has a preapproval letter issued on or before December 31, 2013 may claim an additional credit that has been approved under this subsection or subsection (20) against the tax imposed by this act equal to a percentage established in the taxpayer's preapproval letter of the qualified taxpayer's qualified expenditures for the rehabilitation of an historic resource or the actual amount of the qualified taxpayer's qualified expenditures incurred during the completion of the rehabilitation of an historic resource, whichever is less. The authority may approve 1 credit under this subsection for a qualified taxpayer that receives a certificate of completed rehabilitation for a credit under subsection (2) on or after January 1, 2009 and before November 15, 2009 notwithstanding that the qualified taxpayer has not received a preapproval letter for a credit under this subsection. The qualified taxpayer must apply for the additional credit under this subsection before January 1, 2010. If the additional credit approved under this subsection for a qualified taxpayer that has not received a preapproval letter on or before December 31, 2009 exceeds the allotted amount available for additional credits approved under this subsection in the calendar year ending December 31, 2009, then $2,800,000.00 of the allotted amount available in the calendar year ending December 31, 2010 may be allocated to that 1 credit. The total amount of all additional credits approved under this subsection shall not exceed $8,000,000.00 in calendar year ending December 31, 2009; $9,000,000.00 in calendar year ending December 31, 2010; $10,000,000.00 in calendar year ending December 31, 2011;

$11,000,000.00 in calendar year ending December 31, 2012; and $12,000,000.00 in calendar year ending December 31, 2013 and, except as otherwise provided under this subsection, at least, 25% of the allotted amount for additional credits approved under this subsection during each calendar year ~~shall~~ **must** be allocated to rehabilitation plans that have $1,000,000.00 or less in qualified expenditures. On October 1 of each calendar year, if the total of all credits approved under subdivision (a) for the calendar year is less than the minimum allotted amount, the authority may use the remainder of that allotted amount to approve applications for additional credits submitted under subdivision (b) for that calendar year. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter and comply with the following:

(a) For a rehabilitation plan that has $1,000,000.00 or less in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. Subject to the limitation provided under this subsection, the authority is authorized to approve an application under this subdivision and determine the percentage of at least 10% but not more than 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. If the authority approves the application under this subdivision, then the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(b) For a rehabilitation plan that has more than $1,000,000.00

in qualified expenditures, the taxpayer shall apply to the authority for approval of the additional credit under this subsection. The authority, subject to the approval of the president of the Michigan strategic fund or his or her designee, is authorized to approve an application under this subdivision and determine the percentage of up to 15% of the taxpayer's qualified expenditures for which he or she may claim an additional credit. An application ~~shall~~ **must** be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund or his or her designee. If the president of the Michigan strategic fund or his or her designee does not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund or his or her designee approves the application under this subdivision, the director of the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

(20) Except as otherwise provided under this subsection, the authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may approve 3 additional credits during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures, and 2 additional credits during the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the

qualified taxpayer's qualified expenditures, for certain rehabilitation plans that the authority determines is a high community impact rehabilitation plan that will have a significantly greater historic, social, and economic impact than those plans described under subsection (19)(a) and (b). The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may use 1 of the 2 additional credits available during the 2010 calendar year to approve an additional credit during the 2009 calendar year of up to 15% of the qualified taxpayer's qualified expenditures and 1 of the 2 additional credits available during the 2011 calendar year to approve an additional credit during the 2010 calendar year of up to 15% of the qualified taxpayer's qualified expenditures. Subject to the limitations provided under subsection (21), for the 2011, 2012, and 2013 calendar years, of the additional credits available under this subsection the authority may use 1 of those credits to approve a combined rehabilitation plan that the authority determines would allow for the rehabilitation of several multiple historic resources within the same geographic district and would have a greater impact on the community than the approval of a plan for the rehabilitation of a single larger historic resource. To be eligible for the additional credit under this subsection, the taxpayer shall apply to and receive a preapproval letter from the authority. The authority, subject to the approval of the president of the Michigan strategic fund and the state treasurer, may combine applications that are received for the rehabilitation of historic resources that are located within the same geographic district and that taken as a whole satisfy the additional requirements under subsection (28) and consider the approval of the combination of those applications as the approval of a single credit for a combined rehabilitation plan. An application ~~shall~~ **must** be approved or denied not more than 15 business days after the authority has reviewed the application, determined the percentage amount of the credit for that applicant, and submitted the same to the president of the Michigan strategic fund and the state treasurer. If the president of the Michigan strategic fund and the state treasurer do not approve or deny the application within 15 business days after the application is received from the authority, the application is considered approved and the credit awarded in the amount as determined by the authority. If the president of the Michigan strategic fund and the state treasurer approve the application under this subsection, the authority shall issue a preapproval letter to the taxpayer that states that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the high community impact rehabilitation plan when it is complete and a certification of completed rehabilitation is issued. Before approving a credit under this subsection, the authority shall consider all of the following criteria to the extent reasonably applicable:

(a) The importance of the historic resource to the community in which it is located.

(b) If the rehabilitation of the historic resource will act as a catalyst for additional rehabilitation or revitalization of the community in which it is located.

(c) The potential that the rehabilitation of the historic resource will have for creating or preserving jobs and employment in the community in which it is located.

(d) Other social benefits the rehabilitation of the historic resource will bring to the community in which it is located.

(e) The amount of local community and financial support for the rehabilitation of the historic resource.

(f) The taxpayer's financial need of the additional credit.

(g) Whether the taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code.

(h) Any other criteria that the authority, the president of the Michigan strategic fund, and the state treasurer consider appropriate for the determination of approval under this subsection.

(21) The maximum amount of credit that a taxpayer or an assignee may claim under subsection (20) during a tax year is $3,000,000.00. If the amount of the credit approved in the taxpayer's certificate of completed renovation is greater than $3,000,000.00 that portion that exceeds the cap shall be carried forward to offset tax liability in subsequent tax years until used up. The aggregate amount of credits approved under subsection (20) for a combined rehabilitation plan ~~shall~~ **must** not exceed $24,000,000.00. Except as otherwise provided in the preapproval letter, the amount of the credit allowed for a combined rehabilitation plan ~~shall~~ **must** be applied pro rata to each of the qualified taxpayers that submitted an application under subsection (20) that was considered a part of a combined rehabilitation plan. The taxpayer's pro rata share ~~shall be~~ **is** the total amount of the credit allowed multiplied by a fraction the numerator of which is the amount of investment made by the taxpayer for the rehabilitation of the taxpayer's historic resource during the tax year and the denominator of which is the sum of the investments made by all taxpayers for the rehabilitation of all historic

resources included within the combined rehabilitation plan during the tax year.

(22) Before approving a credit, determining the amount of such credit, and issuing a preapproval letter for such credit under subsection (19) or before considering an amendment to the preapproval letter, the authority shall consider the following criteria to the extent reasonably applicable:

(a) The importance of the historic resource to the community.

(b) The physical condition of the historic resource.

(c) The taxpayer's financial need of the additional credit.

(d) The overall economic impact the renovation will have on the community.

(e) Any other criteria that the authority and the president of the Michigan strategic fund, as applicable, consider appropriate for the determination of approval under subsection (19).

(23) The authority may at any time before a certification of completed rehabilitation is issued for a credit for which a preapproval letter was issued pursuant to subsection (19) do the following:

(a) Subject to the limitations and parameters under subsection (19), make amendments to the preapproval letter, which may include revising the amount of qualified expenditures for which the taxpayer may claim the additional credit under subsection (19).

(b) Revoke the preapproval letter if the authority determines that there has not been substantial progress toward completion of the rehabilitation plan or that the rehabilitation plan cannot be completed. The authority shall provide the qualified taxpayer with a notice of his or her intent to revoke the preapproval letter 45 days ~~prior to~~ **before** the proposed date of revocation.

(24) If a preapproval letter is revoked under subsection (23)(b), the amount of the credit approved under that preapproval letter ~~shall~~ **must** be added to the annual cap in the calendar year that the preapproval letter is revoked. After a certification of completed rehabilitation is issued for a rehabilitation plan approved under subsection (19), if the authority determines that the actual amount of the additional credit to be claimed by the taxpayer for the calendar year is less than the amount approved under the preapproval letter, the difference ~~shall~~ **must** be added to the annual cap in the calendar year that the certification of completed rehabilitation is issued.

(25) Unless otherwise specifically provided under subsections (19) through (24), all other provisions under this section such as the recapture of credits, assignment of credits, and refundability of credits in excess of a qualified taxpayer's tax liability apply to the additional credits issued under subsections (19) and (20).

(26) In addition to meeting the criteria in subsection (20)(a) through (h), 3 of the credits available under subsection (20), including the credit used from the 2010 calendar year, and approved during the 2009 calendar year for a high community impact rehabilitation plan ~~shall~~ **must** be for an application meeting 1 of the following criteria:

(a) All of the following:

(*i*) The historic resource must be at least 70 years old.

(*ii*) The historic resource must comprise at least 500,000 total square feet.

(*iii*) The historic resource must be located in a county with a population of more than 1,500,000.

(*iv*) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(b) All of the following:

(*i*) The historic resource must be at least 85 years old.

(*ii*) The historic resource must comprise at least 120,000 total square feet.

(*iii*) The historic resource must be located in a county with a population of more than 400,000 and less than 500,000.

(*iv*) The historic resource must be located in a city with a population of more than 100,000 and less than 125,000.

(*v*) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(c) All of the following:

(*i*) The historic resource must be at least 70 years old.

(*ii*) The historic resource must comprise at least 180,000 total square feet but not more than 250,000 square feet and must exceed 30 stories in height.

(*iii*) The historic resource must be located in a county with a population of more than 1,500,000.

(*iv*) The historic resource must be located in a city with an unemployment rate that is at least 2% higher than the current state average unemployment rate at the time of the application.

(*v*) The historic resource must be located in a historic district that contains a park bifurcated by an all-American road designated by the federal highway administration in a city with a population of more than 750,000.

(*vi*) The historic resource must have been included in a rehabilitation plan for which an application was submitted by the application deadline for consideration of an additional credit for the 2009 calendar year for a high community impact rehabilitation plan.

(27) In addition to meeting the criteria in subsection (20)(a) through (h), 1 of the credits available under subsection (20), including the credit used from the 2011 calendar year, and approved during the 2010 calendar year for a high community impact rehabilitation plan ~~shall~~ **must** be for an application that meets all of the following criteria:

(a) The historic resource must be at least 85 years old.

(b) The historic resource must comprise at least 85,000 total square feet.

(c) The historic resource must be located in a county with a population of more than 500,000 but less than 600,000 according to the official 2000 federal decennial census.

(d) The historic resource must be located in a city with a population of more than 180,000 but less than 200,000 according to the official 2000 federal decennial census.

(e) The historic resource is or was formerly owned by the United States government or formerly housed agencies of the United States government, or both.

(f) The historic resource houses facilities operated in conjunction with a public university.

(28) In addition to meeting the criteria in subsection (20)(a) through (h), the credit available during the 2011, 2012, and 2013 calendar years and approved for a combined rehabilitation plan under subsection (20) ~~shall~~ **must** be for applications that taken as a whole meet all of the following criteria:

(a) The geographic district in which the historic resources to be rehabilitated are located must not exceed 1 square mile.

(b) The historic resources to be rehabilitated combined must comprise more than 1,000,000 square feet.

(c) The historic resources to be rehabilitated combined must be redeveloped into residential, commercial, and retail establishments.

(d) The combined investment associated with the historic resources to be rehabilitated must be at least $150,000,000.00.

(e) Each historic resource to be rehabilitated must be at least 50,000 square feet.

(f) The historic resources to be rehabilitated combined must be at least 80% vacant.

(29) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapter 2A or 2B.

(30) Notwithstanding subsections (7) and (8), for projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2007 and ending before January 1, 2012, an assignment by a qualified taxpayer of all or any portion of a credit allowed under subsection (1), (19), or (20), made within the 12 months immediately succeeding the tax year in which the certificate of completed rehabilitation is issued, will qualify as an assignment under subsections (7) and (8).

(31) As used in this section:

(a) "Combined rehabilitation plan" means a rehabilitation plan for the rehabilitation of 1 or more historic resources that are located within the same geographic district.

(b) "Contributing resource" means an historic resource that contributes to the significance of the historic district in which it is located.

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

(d) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within an historic district designated by the ~~national register of historic places,~~ **National Register of Historic Places**, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or that is individually listed on the state register of historic sites or national register of historic places, and includes all of the following:

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

(*ii*) An income-producing commercial, industrial, or residential resource or an historic resource located within the property boundaries of that resource.

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

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

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

(e) "Last tax year" means the taxpayer's tax year under former 1975 PA 228 that begins after December 31, 2006 and before January

1, 2008.

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

(g) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(h) "Michigan state housing development authority" or "authority" means the public body corporate and politic created by section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

~~(i) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.~~

(i) ~~(j)~~ "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(j) ~~(k)~~ "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(k) ~~(*l*)~~ "Preapproval letter" means a letter issued by the authority that indicates the date that the complete part 2 application was received and the amount of the credit allocated to the project based on the estimated rehabilitation cost included in the application.

(*l*) ~~(m)~~ "Qualified expenditures" means capital expenditures that qualify, or would qualify except that the taxpayer entered into an agreement under subsection (13), for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to an historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid. Qualified expenditures do not include capital expenditures for nonhistoric additions to an historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(m) ~~(n)~~ "Qualified taxpayer" means a person that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of an historic or nonhistoric resource, the state equalized valuation of only that portion of the property ~~shall~~ **must** be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination ~~shall~~ **must** be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, ~~shall~~ **must** be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision ~~shall~~ **must** be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(n) ~~(o)~~ "Rehabilitation plan" means a plan for the rehabilitation of an historic resource that meets the federal ~~secretary of the interior's~~ **Secretary of the Interior's** standards for rehabilitation ~~and guidelines for rehabilitation of historic buildings~~ under 36 CFR part 67 **and related guidelines for rehabilitating historic buildings**.

Sec. 460. (1) For tax years that begin after December 31, 2008 and end before January 1, 2012, subject to the limitations provided under this section, a taxpayer that is an owner of a service station may claim a credit against the tax imposed by this act equal to 30% of the cost incurred during the tax year to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends and to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends, not to exceed $20,000.00 per tax year per taxpayer.

(2) In determining the amount of the credit under subsection (1), a taxpayer shall not include any costs to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends or to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends for which the taxpayer received a grant under the service station matching grant program created under section 78 of ~~the Michigan strategic fund act,~~ **former** 1984 PA 270. ~~, MCL 125.2078.~~

(3) The total amount of all credits allowed under this section ~~shall~~ **must** not exceed $1,000,000.00 per calendar year. If the credit allowed under this section exceeds the liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability ~~shall~~ **must** not be refunded.

(4) A taxpayer shall not claim a credit under this section unless the energy office has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection ~~shall~~ **must** state all of the following:

(a) The taxpayer is the owner of a service station and has converted existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends or created new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends, or both, during the tax year for which this credit is sought.

(b) The amount of the costs incurred by the taxpayer during the designated tax year to convert existing fuel delivery systems to provide E85 fuel or qualified biodiesel blends and to create new fuel delivery systems designed to provide E85 fuel or qualified biodiesel blends and the amount of any grant awarded during the designated tax year to the taxpayer based on the same costs.

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

(5) A taxpayer that claims a credit under this section and subsequently stops using the fuel delivery systems to provide E85 fuel or qualified biodiesel blends or within 3 years of receiving this credit may, as determined by the Michigan strategic fund, have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the year that the taxpayer stops using the fuel delivery systems to provide E85 fuel or qualified biodiesel blends.

(6) As used in this section:

(a) "Biodiesel" means a fuel composed of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department of agriculture **and rural development.**

(b) "Biodiesel blend" means a fuel composed of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

(c) "E85 fuel" means a fuel blend containing between 70% and 85% denatured fuel ethanol and gasoline suitable for use in a spark-ignition engine and that meets American ~~society for testing and materials~~ **Society for Testing and Materials** D-5798 specifications.

~~(d) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.~~

(d) ~~(e)~~ "Qualified biodiesel blends" means any biodiesel blend that is blended on site utilizing on-demand bio-blending equipment that is installed after the effective date of the amendatory act that added this section.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 631 of the 103rd Legislature is enacted into law.