

**SUBSTITUTE FOR
HOUSE BILL NO. 5101**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 717. (1) Subject to the limitations under this section,**
2 **for tax years beginning on and after January 1, 2024, an employer**
3 **that is an authorized business may claim a credit against the taxes**
4 **required to be withheld and remitted to this state under this**
5 **chapter in an amount equal to the product of the employer's**
6 **qualifying research and development expenses incurred during the**
7 **calendar year ending with or within the tax year in excess of the**
8 **base amount, multiplied by the following percentages in the**
9 **following circumstances:**



1 (a) For an authorized business with 250 or more employees,
2 10%. The credit amount calculated under this subdivision must not
3 exceed \$2,000,000.00 per tax year per employer.

4 (b) For an authorized business with less than 250 employees,
5 15%. The credit amount calculated under this subdivision must not
6 exceed \$250,000.00 per tax year per employer.

7 (2) Subject to the limitations under this section, an employer
8 claiming a credit under subsection (1) may claim an additional
9 credit equal to 5% of the qualifying research and development
10 expenses incurred during the calendar year ending with or within
11 the tax year that are in excess of the base amount if the
12 employer's qualifying research and development expenses for which
13 the credit is being claimed under subsection (1) are incurred in
14 collaboration with a research university in this state pursuant to
15 a written agreement between the employer and the research
16 university. In order to claim the additional credit under this
17 subsection, if requested by the department, the employer must
18 provide the department with a copy of the written agreement with
19 the research university. The additional credit allowed under this
20 subsection must not exceed \$200,000.00 per tax year per employer.

21 (3) To be eligible for a credit under this section, an
22 employer must submit, in a form and manner as prescribed by the
23 department, a tentative claim for which a credit under this section
24 is sought to the department on or before March 15 after the
25 calendar year ending with or within the tax year for which the
26 employer intends to submit a claim for the credit. The tentative
27 claim required under this subsection must include, at a minimum,
28 all of the following information:

29 (a) If the credit is to be claimed under subsection (1) (a) or



1 (b) .

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

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

6 (4) The department shall review all tentative claims submitted
7 under this subsection and if the amount of tentative claims
8 submitted exceeds the amount allowed under subsection (5), the
9 department shall publish a notice on its website notifying
10 claimants of the adjustment to the tentative claims for that
11 calendar year as required under subsection (5) .

12 (5) The aggregate amount of credits allowed to be claimed by
13 all employers under this section and all taxpayers under section
14 677 based on qualifying research and development expenses incurred
15 in a single calendar year must not exceed \$100,000,000.00. If the
16 aggregate amount of credits claimed under this section and section
17 677 exceeds \$100,000,000.00, the department shall prorate the
18 amount of credits allowed for each claimant as follows:

19 (a) If the aggregate amount of credits claimed by all
20 employers qualifying under subsection (1)(b) and all taxpayers
21 qualifying under section 677(1)(b) does not exceed \$25,000,000.00,
22 the amount of credits claimed by each of those claimants must not
23 be prorated. However, for employers claiming a credit under
24 subsection (1)(a) or taxpayers claiming a credit under section
25 677(1)(a), the amount of credits claimed must be prorated so that
26 each claimant's allowed credits equal that claimant's pro rata
27 share of the remaining amount of credits allowed to be claimed
28 under this subsection and section 677(5) .

29 (b) Except as provided in subdivision (c), if the aggregate



1 amount of credits claimed by all employers qualifying under
2 subsection (1) (b) and all taxpayers qualifying under section
3 677(1) (b) exceeds \$25,000,000.00, the amount of credits claimed by
4 each of those claimants must be prorated so that each claimant's
5 allowed credits equal that claimant's pro rata share of
6 \$25,000,000.00, and the amount of credits claimed by each employer
7 qualifying under subsection (1) (a) or taxpayer qualifying under
8 section 677(1) (a) must be prorated so that each claimant's allowed
9 credits equal that claimant's pro rata share of \$75,000,000.00.

10 (c) If the aggregate amount of credits claimed by all
11 employers qualifying under subsection (1) (b) and all taxpayers
12 qualifying under section 677(1) (b) exceeds 25% of the aggregate
13 amount of credits claimed by all employers under this section and
14 all taxpayers under section 677, then the proration under
15 subdivision (b) does not apply, and the amount of credits claimed
16 by each employer under this section and taxpayer under section 677
17 shall be prorated so that each claimant's allowed credits equal
18 that claimant's pro rata share of \$100,000,000.00.

19 (6) A member of a flow-through entity that submits a claim for
20 a credit under this section is not allowed to claim any portion of
21 that credit. An employer shall not assign or transfer all or any
22 portion of a credit allowed under this section. A credit or any
23 portion of a credit allowed under this section is not assignable or
24 transferable either by agreement or by operation of law.

25 (7) An employer shall, in a form and manner as prescribed by
26 the department, file a claim for a credit under this section with
27 the annual return required under section 711 for the tax year in
28 which a tentative claim for a credit under this section is
29 submitted. The credits allowed under this section must be claimed



1 after all allowable nonrefundable credits under this act. If the
2 amount of the credits allowed under this section exceeds the tax
3 liability of the employer for the tax year, that portion of the
4 credit that exceeds the tax liability of the employer for the tax
5 year must be refunded.

6 (8) As used in this section, "authorized business", "base
7 amount", "Michigan strategic fund", "qualifying research and
8 development expenses", and "research university" mean those terms
9 as defined in section 716.

