

SUBSTITUTE FOR
HOUSE BILL NO. 5100

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.847) by adding section 677.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 677. (1) Subject to the limitations under this section,
2 for tax years beginning on and after January 1, 2024, a taxpayer
3 that is an authorized business may claim a credit against the tax
4 imposed under this part in an amount equal to the sum of an amount
5 equal to 3% of the taxpayer's qualifying research and development
6 expenses incurred during the calendar year ending with or within
7 the tax year up to the base amount and the product of the
8 taxpayer's qualifying research and development expenses incurred
9 during the calendar year ending with or within the tax year in

1 excess of the base amount, multiplied by the following percentages
2 in the following circumstances:

3 (a) For a taxpayer with 250 or more employees, 10%. The credit
4 amount calculated under this subdivision must not exceed
5 \$2,000,000.00 per tax year per taxpayer.

6 (b) For a taxpayer with less than 250 employees, 15%. The
7 credit amount calculated under this subdivision must not exceed
8 \$250,000.00 per tax year per taxpayer.

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

23 (3) To be eligible for a credit under this section, a taxpayer
24 must submit, in a form and manner as prescribed by the department,
25 a tentative claim for which a credit under this section is sought
26 to the department on or before March 15 after the calendar year
27 ending with or within the tax year for which the taxpayer intends
28 to submit a claim for the credit on the taxpayer's annual return
29 required under this part. The tentative claim required under this

1 subsection must include, at a minimum, all of the following
2 information:

3 (a) If the credit is to be claimed under subsection (1) (a) or
4 (b).

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

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

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

15 (5) The aggregate amount of credits allowed to be claimed by
16 all taxpayers under this section and all employers under section
17 717 based on qualifying research and development expenses incurred
18 in a single calendar year must not exceed \$100,000,000.00. If the
19 aggregate amount of credits claimed under this section and section
20 717 exceeds \$100,000,000.00, the department shall prorate the
21 amount of credits allowed for each claimant as follows:

22 (a) If the aggregate amount of credits claimed by all
23 taxpayers qualifying under subsection (1) (b) and all employers
24 qualifying under section 717(1) (b) does not exceed \$25,000,000.00,
25 the amount of credits claimed by each of those claimants must not
26 be prorated. However, for taxpayers claiming a credit under
27 subsection (1) (a) or employers claiming a credit under section
28 717(1) (a), the amount of credits claimed must be prorated so that
29 each claimant's allowed credits equal that claimant's pro rata

1 share of the remaining amount of credits allowed to be claimed
2 under this subsection and section 717(5).

3 (b) Except as provided in subdivision (c), if the aggregate
4 amount of credits claimed by all taxpayers qualifying under
5 subsection (1)(b) and all employers qualifying under section
6 717(1)(b) exceeds \$25,000,000.00, the amount of credits claimed by
7 each of those claimants must be prorated so that each claimant's
8 allowed credits equal that claimant's pro rata share of
9 \$25,000,000.00, and the amount of credits claimed by each taxpayer
10 qualifying under subsection (1)(a) or employer qualifying under
11 section 717(1)(a) must be prorated so that each claimant's allowed
12 credits equal that claimant's pro rata share of \$75,000,000.00.

13 (c) If the aggregate amount of credits claimed by all
14 taxpayers qualifying under subsection (1)(b) and all employers
15 qualifying under section 717(1)(b) exceeds 25% of the aggregate
16 amount of credits claimed by all taxpayers under this section and
17 employers under section 717, then the proration under subdivision
18 (b) does not apply, and the amount of credits claimed by each
19 taxpayer under this section and employer under section 717 shall be
20 prorated so that each claimant's allowed credits equal that
21 claimant's pro rata share of \$100,000,000.00.

22 (6) A taxpayer shall not assign or transfer all or any portion
23 of a credit allowed under this section. A credit or any portion of
24 a credit allowed under this section is not assignable or
25 transferable either by agreement or by operation of law.

26 (7) A taxpayer shall, in a form and manner as prescribed by
27 the department, file a claim for a credit under this section with
28 the annual return required to be filed under this part for the same
29 tax year for which a credit under this section is claimed. The

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

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