

SENATE 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 as follows:

6 (a) For an authorized business with 250 or more employees, an
7 amount equal to the sum of 3% of the employer's qualifying research
8 and development expenses incurred during the calendar year ending
9 with or within the tax year up to the base amount and 10% of the

1 employer's qualifying research and development expenses incurred
2 during the calendar year ending with or within the tax year in
3 excess of the base amount. The credit amount calculated under this
4 subdivision must not exceed \$2,000,000.00 per tax year per
5 employer.

6 (b) For an authorized business with less than 250 employees,
7 an amount equal to the sum of 3% of the employer's qualifying
8 research and development expenses incurred during the calendar year
9 ending with or within the tax year up to the base amount and 15% of
10 the employer's qualifying research and development expenses
11 incurred during the calendar year ending with or within the tax
12 year in excess of the base amount. The credit amount calculated
13 under this subdivision must not exceed \$250,000.00 per tax year per
14 employer.

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

29 (3) To be eligible for a credit under this section, an

1 employer must submit, in a form and manner as prescribed by the
2 department, a tentative claim for which a credit under this section
3 is sought to the department on or before March 15 after the
4 calendar year ending with or within the tax year for which the
5 employer intends to submit a claim for the credit. The tentative
6 claim required under this subsection must include, at a minimum,
7 all of the following information:

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

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

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

14 (4) The department shall review all tentative claims submitted
15 under this subsection and if the amount of tentative claims
16 submitted exceeds the amount allowed under subsection (5), the
17 department shall publish a notice on its website notifying
18 claimants of the adjustment to the tentative claims for that
19 calendar year as required under subsection (5).

20 (5) The aggregate amount of credits allowed to be claimed by
21 all employers under this section and all taxpayers under section
22 677 based on qualifying research and development expenses incurred
23 in a single calendar year must not exceed \$100,000,000.00. If the
24 aggregate amount of credits claimed under this section and section
25 677 exceeds \$100,000,000.00, the department shall prorate the
26 amount of credits allowed for each claimant as follows:

27 (a) If the aggregate amount of credits claimed by all
28 employers qualifying under subsection (1) (b) and all taxpayers
29 qualifying under section 677(1) (b) does not exceed \$25,000,000.00,

1 the amount of credits claimed by each of those claimants must not
2 be prorated. However, for employers claiming a credit under
3 subsection (1) (a) or taxpayers claiming a credit under section
4 677(1) (a), the amount of credits claimed must be prorated so that
5 each claimant's allowed credits equal that claimant's pro rata
6 share of the remaining amount of credits allowed to be claimed
7 under this subsection and section 677(5).

8 (b) Except as provided in subdivision (c), if the aggregate
9 amount of credits claimed by all employers qualifying under
10 subsection (1) (b) and all taxpayers qualifying under section
11 677(1) (b) exceeds \$25,000,000.00, the amount of credits claimed by
12 each of those claimants must be prorated so that each claimant's
13 allowed credits equal that claimant's pro rata share of
14 \$25,000,000.00, and the amount of credits claimed by each employer
15 qualifying under subsection (1) (a) or taxpayer qualifying under
16 section 677(1) (a) must be prorated so that each claimant's allowed
17 credits equal that claimant's pro rata share of \$75,000,000.00.

18 (c) If the aggregate amount of credits claimed by all
19 employers qualifying under subsection (1) (b) and all taxpayers
20 qualifying under section 677(1) (b) exceeds 25% of the aggregate
21 amount of credits claimed by all employers under this section and
22 all taxpayers under section 677, then the proration under
23 subdivision (b) does not apply, and the amount of credits claimed
24 by each employer under this section and taxpayer under section 677
25 shall be prorated so that each claimant's allowed credits equal
26 that claimant's pro rata share of \$100,000,000.00.

27 (6) A member of a flow-through entity that submits a claim for
28 a credit under this section is not allowed to claim any portion of
29 that credit. An employer shall not assign or transfer all or any

1 portion of a credit allowed under this section. A credit or any
2 portion of a credit allowed under this section is not assignable or
3 transferable either by agreement or by operation of law.

4 (7) An employer shall, in a form and manner as prescribed by
5 the department, file a claim for a credit under this section with
6 the annual return required under section 711 for the tax year in
7 which a tentative claim for a credit under this section is
8 submitted. The credits allowed under this section must be claimed
9 after all allowable nonrefundable credits under this act. If the
10 amount of the credits allowed under this section exceeds the tax
11 liability of the employer for the tax year, that portion of the
12 credit that exceeds the tax liability of the employer for the tax
13 year must be refunded.

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