

HOUSE BILL NO. 5100

October 05, 2023, Introduced by Reps. Martus, Hoskins, Rogers, Pohutsky, O'Neal, Byrnes, Andrews, Conlin, Puri and Hood and referred to the Committee on Economic Development and Small Business.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.847) by adding sections 277 and 677.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 277. (1) The Michigan strategic fund is authorized to**
2 **enter into agreements to provide tax credits available under this**
3 **section to support projects that have the potential for significant**
4 **technological advancements, job creation, and positive economic**
5 **impact.**

1 (2) Subject to the limitations under this section, for tax
2 years beginning on and after January 1, 2024, a taxpayer that is an
3 authorized business with 250 or more employees may claim a credit
4 against the tax imposed under this part equal to 10% of the
5 taxpayer's research and development expenses that are in excess of
6 the base amount as certified by the Michigan strategic fund. The
7 credit allowed under this section must not exceed \$2,000,000.00 per
8 tax year per taxpayer or \$10,000,000.00 over 5 tax years per
9 taxpayer as agreed to and certified by the Michigan strategic fund.
10 A taxpayer shall not claim a credit under this section for more
11 than 5 tax years under the same written agreement.

12 (3) The Michigan strategic fund shall not authorize more than
13 \$100,000,000.00 in total research and development tax credits for a
14 single calendar year. To the extent the Michigan strategic fund
15 receives applications from eligible businesses with less than 250
16 employees, not less than \$25,000,000.00 of the \$100,000,000.00 each
17 calendar year must be approved for those eligible businesses.

18 (4) For a taxpayer who is a member of a flow-through entity
19 that qualifies for the credit under this section, that taxpayer may
20 claim a credit against the member's tax liability under this part
21 based on the member's distributive share of business income
22 reported from that flow-through entity or an alternative method
23 approved by the department.

24 (5) A taxpayer shall not claim a credit under this section
25 unless the Michigan strategic fund has issued a certificate to the
26 taxpayer. The taxpayer shall attach the certificate to the annual
27 return filed under this part on which a credit under this section
28 is claimed. The certificate required by this subsection shall state
29 all of the following:

1 (a) The taxpayer is an authorized business.

2 (b) The amount of the credit under this section for the
3 authorized business for the designated tax year.

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

7 (6) The credit allowed under this section must be claimed
8 after all allowable nonrefundable credits under this part. If the
9 amount of the credit allowed under this section exceeds the tax
10 liability of the taxpayer for the tax year, that portion of the
11 credit that exceeds the tax liability of the taxpayer for the tax
12 year must not be refunded, but may be carried forward to offset tax
13 liability in subsequent tax years for 5 years or until used up,
14 whichever occurs first. Amounts carried forward do not affect the
15 maximum amount of credits that may be claimed in subsequent tax
16 years.

17 (7) As used in this section:

18 (a) "Authorized business", "base amount", "eligible business",
19 "research and development expenses", "research and development tax
20 credits", and "written agreement" mean those terms as defined in
21 section 90u of the Michigan strategic fund act, 1984 PA 270,
22 125.2090u.

23 (b) "Michigan strategic fund" means the Michigan strategic
24 fund created under the Michigan strategic fund act, 1984 PA 270,
25 MCL 125.2001 to 125.2094.

26 Sec. 677. (1) The Michigan strategic fund is authorized to
27 enter into agreements to provide tax credits available under this
28 section to support projects that have the potential for significant
29 technological advancements, job creation, and positive economic

1 impact.

2 (2) Subject to the limitations under this section, for tax
3 years beginning on and after January 1, 2024, a taxpayer that is an
4 authorized business with 250 or more employees may claim a credit
5 against the tax imposed under this part equal to 10% of the
6 taxpayer's research and development expenses that are in excess of
7 the base amount as certified by the Michigan strategic fund. The
8 credit allowed under this section must not exceed \$2,000,000.00 per
9 tax year per taxpayer or \$10,000,000.00 over 5 tax years per
10 taxpayer as agreed to and certified by the Michigan strategic fund.
11 A taxpayer shall not claim a credit under this section for more
12 than 5 tax years under the same written agreement.

13 (3) The Michigan strategic fund shall not authorize more than
14 \$100,000,000.00 in total research and development tax credits for a
15 single calendar year. To the extent the Michigan strategic fund
16 receives applications from eligible businesses with less than 250
17 employees, not less than \$25,000,000.00 of the \$100,000,000.00 each
18 calendar year must be approved for those eligible businesses.

19 (4) A taxpayer shall not claim a credit under this section
20 unless the Michigan strategic fund has issued a certificate to the
21 taxpayer. The taxpayer shall attach the certificate to the annual
22 return filed under this part on which a credit under this section
23 is claimed. The certificate required by this subsection shall state
24 all of the following:

25 (a) The taxpayer is an authorized business.

26 (b) The amount of the credit under this section for the
27 authorized business for the designated tax year.

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

1 taxpayer.

2 (5) The credit allowed under this section must be claimed
 3 after all allowable nonrefundable credits under this part. If the
 4 amount of the credit allowed under this section exceeds the tax
 5 liability of the taxpayer for the tax year, that portion of the
 6 credit that exceeds the tax liability of the taxpayer for the tax
 7 year must not be refunded, but may be carried forward to offset tax
 8 liability in subsequent tax years for 5 years or until used up,
 9 whichever occurs first. Amounts carried forward do not affect the
 10 maximum amount of credits that may be claimed in subsequent tax
 11 years.

12 (6) As used in this section:

13 (a) "Authorized business", "base amount", "eligible business",
 14 "research and development expenses", "research and development tax
 15 credits", and "written agreement" mean those terms as defined in
 16 section 90u of the Michigan strategic fund act, 1984 PA 270,
 17 125.2090u.

18 (b) "Michigan strategic fund" means the Michigan strategic
 19 fund created under the Michigan strategic fund act, 1984 PA 270,
 20 MCL 125.2001 to 125.2094.

21 Enacting section 1. This amendatory act does not take effect
 22 unless all of the following bills of the 102nd Legislature are
 23 enacted into law:

24 (a) Senate Bill No. ____ or House Bill No. 5101 (request no.
 25 03631'23).

26 (b) Senate Bill No. ____ or House Bill No. 5099 (request no.
 27 04141'23).

28 (c) Senate Bill No. ____ or House Bill No. 5102 (request no.
 29 04159'23).