

# SENATE BILL No. 569

June 7, 2005, Introduced by Senator ALLEN and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 266 (MCL 206.266), as amended by 2001 PA 70.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 266. (1) A qualified taxpayer with a rehabilitation plan  
2 certified after December 31, 1998 may credit against the tax  
3 imposed by this act the amount determined pursuant to subsection  
4 (2) for the qualified expenditures for the rehabilitation of a  
5 historic resource pursuant to the rehabilitation plan in the year  
6 in which the certification of completed rehabilitation of the  
7 historic resource is issued provided that the certification of  
8 completed rehabilitation was issued not more than 5 years after the  
9 rehabilitation plan was certified by the Michigan historical  
10 center.

1           (2) The credit allowed under this section shall be 25% of the  
2 qualified expenditures that are eligible for the credit under  
3 section 47(a)(2) of the internal revenue code if the taxpayer is  
4 eligible for the credit under section 47(a)(2) of the internal  
5 revenue code or, if the taxpayer is not eligible for the credit  
6 under section 47(a)(2) of the internal revenue code, 25% of the  
7 qualified expenditures that would qualify under section 47(a)(2) of  
8 the internal revenue code except that the expenditures are made to  
9 a historic resource that is not eligible for the credit under  
10 section 47(a)(2) of the internal revenue code, subject to both of  
11 the following:

12           (a) A taxpayer with qualified expenditures that are eligible  
13 for the credit under section 47(a)(2) of the internal revenue code  
14 may not claim a credit under this section for those qualified  
15 expenditures unless the taxpayer has claimed and received a credit  
16 for those qualified expenditures under section 47(a)(2) of the  
17 internal revenue code.

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

21           (3) To be eligible for the credit under this section, the  
22 taxpayer shall apply to and receive from the Michigan historical  
23 center certification that the historic significance, the  
24 rehabilitation plan, and the completed rehabilitation of the  
25 historic resource meet the criteria under subsection (6) and either  
26 of the following:

27           (a) All of the following criteria:

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

3           (ii) Both the rehabilitation plan and completed rehabilitation  
4 of the historic resource meet the federal secretary of the  
5 interior's standards for rehabilitation and guidelines for  
6 rehabilitating historic buildings, 36 ~~C.F.R.~~ **CFR** part 67.

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

11           (b) The taxpayer has received certification from the national  
12 park service that the historic resource's significance, the  
13 rehabilitation plan, and the completed rehabilitation qualify for  
14 the credit allowed under section 47(a)(2) of the internal revenue  
15 code.

16           (4) If a qualified taxpayer is eligible for the credit allowed  
17 under section 47(a)(2) of the internal revenue code, the qualified  
18 taxpayer shall file for certification with the center to qualify  
19 for the credit allowed under section 47(a)(2) of the internal  
20 revenue code. If the qualified taxpayer has previously filed for  
21 certification with the center to qualify for the credit allowed  
22 under section 47(a)(2) of the internal revenue code, additional  
23 filing for the credit allowed under this section is not required.

24           (5) The center may inspect a historic resource at any time  
25 during the rehabilitation process and may revoke certification of  
26 completed rehabilitation if the rehabilitation was not undertaken  
27 as represented in the rehabilitation plan or if unapproved

1 alterations to the completed rehabilitation are made during the 5  
2 years after the tax year in which the credit was claimed. The  
3 center shall promptly notify the department of a revocation.

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

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

11 (i) Individually listed on the national register of historic  
12 places or state register of historic sites.

13 (ii) A contributing resource located within a historic district  
14 listed on the national register of historic places or the state  
15 register of historic sites.

16 (iii) A contributing resource located within a historic district  
17 designated by a local unit pursuant to an ordinance adopted under  
18 the local historic districts act, 1970 PA 169, MCL 399.201 to  
19 399.215.

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

23 (i) The historic resource is located in a designated historic  
24 district in a local unit of government with an existing ordinance  
25 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
26 399.215.

27 (ii) The historic resource is located in an incorporated local

1 unit of government that does not have an ordinance under the local  
2 historic districts act, 1970 PA 169, MCL 399.201 to 399.215. ~~—, and~~  
3 ~~has a population of less than 5,000.~~

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

6 (7) A credit amount assigned under section 39c(7) of the  
7 single business tax act, 1975 PA 228, MCL 208.39c, may be claimed  
8 against the partner's, member's, or shareholder's tax liability  
9 under this act as provided in section 39c(7) of the single  
10 business tax act, 1975 PA 228, MCL 208.39c.

11 (8) If the credit allowed under this section for the tax year  
12 and any unused carryforward of the credit allowed by this section  
13 exceed the taxpayer's tax liability for the tax year, that portion  
14 that exceeds the tax liability for the tax year shall not be  
15 refunded but may be carried forward to offset tax liability in  
16 subsequent tax years for 10 years or until used up, whichever  
17 occurs first.

18 (9) If the taxpayer sells a historic resource for which a  
19 credit under this section was claimed less than 5 years after the  
20 year in which the credit was claimed, the following percentage of  
21 the credit amount previously claimed relative to that historic  
22 resource shall be added back to the tax liability of the taxpayer  
23 in the year of the sale:

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

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

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

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

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

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

10 (10) If a certification of completed rehabilitation is revoked  
11 under subsection (5) less than 5 years after the year in which a  
12 credit was claimed, the following percentage of the credit amount  
13 previously claimed relative to that historic resource shall be  
14 added back to the tax liability of the taxpayer in the year of the  
15 revocation:

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

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

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

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

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

26 (f) If the revocation is 5 years or more after the year in  
27 which the credit was claimed, an addback to the taxpayer's tax

1 liability shall not be made.

2 (11) The department of history, arts, and libraries through  
3 the Michigan historical center may impose a fee to cover the  
4 administrative cost of implementing the program under this section.

5 (12) The qualified taxpayer shall attach all of the following  
6 to the qualified taxpayer's annual return under this act:

7 (a) Certification of completed rehabilitation.

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

11 (c) A completed assignment form if the qualified taxpayer is  
12 an assignee under section 39c of the single business tax act, 1975  
13 PA 228, MCL 208.39c, of any portion of a credit allowed under that  
14 section.

15 (13) The department of history, arts, and libraries shall  
16 promulgate rules to implement this section pursuant to the  
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
18 24.328.

19 (14) The total of the credits claimed under this section and  
20 section 39c of the single business tax act, 1975 PA 228, MCL  
21 208.39c, for a rehabilitation project shall not exceed 25% of the  
22 total qualified expenditures eligible for the credit under this  
23 section for that rehabilitation project.

24 (15) The department of history, arts, and libraries through  
25 the Michigan historical center shall report all of the following to  
26 the legislature annually for the immediately preceding state fiscal  
27 year:

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

3 (b) A description of each rehabilitation project certified.

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

6 (16) As used in this section:

7 (a) "Contributing resource" means a historic resource that  
8 contributes to the significance of the historic district in which  
9 it is located.

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

14 (c) "Historic resource" means a publicly or privately owned  
15 historic building, structure, site, object, feature, or open space  
16 located within a historic district designated by the national  
17 register of historic places, the state register of historic sites,  
18 or a local unit acting under the local historic districts act, 1970  
19 PA 169, MCL 399.201 to 399.215; or that is individually listed on  
20 the state register of historic sites or national register of  
21 historic places and includes all of the following:

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

24 (ii) An income-producing commercial, industrial, or residential  
25 resource or a historic resource located within the property  
26 boundaries of that resource.

27 (iii) A resource owned by a governmental body, nonprofit



1 organization, or tax-exempt entity that is used primarily by a  
2 taxpayer lessee in a trade or business unrelated to the  
3 governmental body, nonprofit organization, or tax-exempt entity and  
4 that is subject to tax under this act.

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

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

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

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

13 (f) "Michigan historical center" or "center" means the state  
14 historic preservation office of the Michigan historical center of  
15 the department of history, arts, and libraries or its successor  
16 agency.

17 (g) "Open space" means undeveloped land, a naturally  
18 landscaped area, or a formal or man-made landscaped area that  
19 provides a connective link or a buffer between other resources.

20 (h) "Person" means an individual, partnership, corporation,  
21 association, governmental entity, or other legal entity.

22 (i) "Qualified expenditures" means capital expenditures that  
23 qualify for a rehabilitation credit under section 47(a)(2) of the  
24 internal revenue code if the taxpayer is eligible for the credit  
25 under section 47(a)(2) of the internal revenue code or, if the  
26 taxpayer is not eligible for the credit under section 47(a)(2) of  
27 the internal revenue code, the qualified expenditures that would

1 qualify under section 47(a)(2) of the internal revenue code except  
2 that the expenditures are made to a historic resource that is not  
3 eligible for the credit under section 47(a)(2) of the internal  
4 revenue code, that were paid not more than 5 years after the  
5 certification of the rehabilitation plan that included those  
6 expenditures was approved by the center, and that were paid after  
7 December 31, 1998 for the rehabilitation of a historic resource.  
8 Qualified expenditures do not include capital expenditures for  
9 nonhistoric additions to a historic resource except an addition  
10 that is required by state or federal regulations that relate to  
11 historic preservation, safety, or accessibility.

12 (j) "Qualified taxpayer" means a person that is an assignee  
13 under section 39c of the single business tax act, 1975 PA 228, MCL  
14 208.39c, or either owns the resource to be rehabilitated or has a  
15 long-term lease agreement with the owner of the historic resource  
16 and that has qualified expenditures for the rehabilitation of the  
17 historic resource equal to or greater than 10% of the state  
18 equalized valuation of the property. If the historic resource to be  
19 rehabilitated is a portion of a historic or nonhistoric resource,  
20 the state equalized valuation of only that portion of the property  
21 shall be used for purposes of this subdivision. If the assessor for  
22 the local tax collecting unit in which the historic resource is  
23 located determines the state equalized valuation of that portion,  
24 that assessor's determination shall be used for purposes of this  
25 subdivision. If the assessor does not determine that state  
26 equalized valuation of that portion, qualified expenditures, for  
27 purposes of this subdivision, shall be equal to or greater than 5%

1 of the appraised value as determined by a certified appraiser. If  
2 the historic resource to be rehabilitated does not have a state  
3 equalized valuation, qualified expenditures for purposes of this  
4 subdivision shall be equal to or greater than 5% of the appraised  
5 value of the resource as determined by a certified appraiser.

6 (k) "Rehabilitation plan" means a plan for the rehabilitation  
7 of a historic resource that meets the federal secretary of the  
8 interior's standards for rehabilitation and guidelines for  
9 rehabilitation of historic buildings under 36 ~~C.F.R.~~ **CFR** part 67.

10 Enacting section 1. This amendatory act is effective for tax  
11 years that begin after December 31, 2004.