

HOUSE BILL No. 5921

March 3, 2010, Introduced by Reps. Lipton, Clemente, Robert Jones, Geiss, Segal, Scripps, Stanley, Durhal, Cushingberry and Leland and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.532) by adding section 278.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 278. (1) SUBJECT TO THE LIMITATIONS PROVIDED UNDER THIS
2 SECTION, FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2009 AND END
3 BEFORE JANUARY 1, 2014, A TAXPAYER THAT MAKES A QUALIFIED
4 INVESTMENT IN A QUALIFIED BUSINESS DURING THE TAX YEAR MAY CLAIM A
5 CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO 25% OF THAT
6 QUALIFIED INVESTMENT.

7 (2) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER
8 SHALL REQUEST CERTIFICATION FROM THE MICHIGAN STRATEGIC FUND WITHIN

1 60 DAYS OF MAKING THE INVESTMENT. A TAXPAYER SHALL NOT CLAIM A
2 CREDIT UNDER THIS SECTION UNLESS THE MICHIGAN STRATEGIC FUND HAS
3 ISSUED A CERTIFICATE TO THE TAXPAYER. THE MICHIGAN STRATEGIC FUND
4 SHALL NOT CERTIFY MORE THAN \$1,000,000.00 IN QUALIFIED INVESTMENTS
5 IN ANY 1 QUALIFIED BUSINESS. THE TAXPAYER SHALL ATTACH THE
6 CERTIFICATE TO THE ANNUAL RETURN FILED UNDER THIS ACT ON WHICH A
7 CREDIT UNDER THIS SECTION IS CLAIMED. THE CERTIFICATE REQUIRED
8 UNDER THIS SUBSECTION SHALL SPECIFY ALL OF THE FOLLOWING:

9 (A) THE TOTAL AMOUNT OF INVESTMENT MADE DURING THE TAX YEAR BY
10 THE TAXPAYER TO EACH QUALIFIED BUSINESS.

11 (B) THE TOTAL AMOUNT OF QUALIFIED INVESTMENTS MADE TO EACH
12 QUALIFIED BUSINESS IF DIFFERENT FROM THE PREVIOUS AMOUNT.

13 (C) THE TOTAL AMOUNT OF THE CREDIT UNDER THIS SECTION THAT THE
14 TAXPAYER IS ALLOWED TO CLAIM FOR THE DESIGNATED TAX YEAR.

15 (3) A TAXPAYER SHALL NOT CLAIM A CREDIT OF MORE THAN
16 \$500,000.00 BASED ON AN INVESTMENT IN ANY 1 QUALIFIED BUSINESS AND
17 SHALL NOT CLAIM A CREDIT OF MORE THAN \$500,000.00 FOR QUALIFIED
18 INVESTMENTS IN ALL QUALIFIED BUSINESSES IN ANY 1 YEAR. THE CREDIT
19 ALLOWED UNDER THIS SECTION SHALL BE TAKEN BY THE TAXPAYER IN EQUAL
20 INSTALLMENTS OVER 2 YEARS BEGINNING WITH THE TAX YEAR IN WHICH THE
21 CERTIFICATION WAS ISSUED.

22 (4) THE TOTAL AMOUNT OF CREDITS THAT THE MICHIGAN STRATEGIC
23 FUND MAY CERTIFY UNDER THIS SECTION PER CALENDAR YEAR SHALL NOT
24 EXCEED \$10,000,000.00. IF THE MICHIGAN STRATEGIC FUND APPROVES A
25 TOTAL OF ALL CREDITS FOR INVESTMENTS UNDER THIS SECTION OF LESS
26 THAN \$10,000,000.00 IN A CALENDAR YEAR, THE MICHIGAN STRATEGIC FUND
27 MAY CARRY FORWARD THE DIFFERENCE BETWEEN THE \$10,000,000.00 AND THE

1 TOTAL OF ALL CREDITS FOR ALL INVESTMENTS APPROVED IN THE
2 IMMEDIATELY PRECEDING CALENDAR YEAR AND CERTIFY ADDITIONAL CREDITS
3 IN THE IMMEDIATELY SUCCEEDING CALENDAR YEAR.

4 (5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
5 EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT
6 PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY OF THE
7 TAXPAYER FOR THE TAX YEAR SHALL NOT BE REFUNDED BUT MAY BE CARRIED
8 FORWARD TO OFFSET TAX LIABILITY UNDER THIS ACT IN SUBSEQUENT TAX
9 YEARS FOR A PERIOD NOT TO EXCEED 15 TAX YEARS OR UNTIL USED UP,
10 WHICHEVER OCCURS FIRST.

11 (6) THE BOARD SHALL DEVELOP AN APPLICATION AND APPROVAL
12 PROCESS IN ORDER TO CERTIFY INVESTMENTS UNDER THIS SECTION AND
13 ADOPT A PROGRAM DESCRIBING PARAMETERS AND CRITERIA TO BE USED FOR
14 APPROVING INVESTMENTS. AS PART OF THAT PROGRAM ADOPTION, THE BOARD
15 MAY DO ANY OF THE FOLLOWING:

16 (A) APPORTION THE ANNUAL AGGREGATE CREDIT DESCRIBED IN THIS
17 SECTION TO INCLUDE SET-ASIDES BY CREDIT SIZE, EARLY STAGE, AND
18 OTHER CATEGORIES.

19 (B) DEVELOP A METHOD TO DEFINE, REGISTER, AND APPROVE ANGEL
20 INVESTOR GROUPS, SEED CAPITAL FIRMS, AND VENTURE CAPITAL FIRMS.

21 (C) DETERMINE AND DESCRIBE THE CONDITIONS TO BE MET TO BE
22 CONSIDERED AN INVESTMENT ALONGSIDE OR THROUGH AN APPROVED ANGEL
23 GROUP, SEED CAPITAL FIRM, OR VENTURE CAPITAL FIRM.

24 (7) AS USED IN THIS SECTION:

25 (A) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE MICHIGAN
26 STRATEGIC FUND.

27 (B) "HIGH-TECHNOLOGY ACTIVITY" MEANS 1 OR MORE OF THE

1 FOLLOWING:

2 (i) ADVANCED COMPUTING, WHICH IS ANY TECHNOLOGY USED IN THE
3 DESIGN AND DEVELOPMENT OF ANY OF THE FOLLOWING:

4 (A) COMPUTER HARDWARE AND SOFTWARE.

5 (B) DATA COMMUNICATIONS.

6 (C) INFORMATION TECHNOLOGIES.

7 (D) FILM AND DIGITAL MEDIA PRODUCTION.

8 (ii) ADVANCED MATERIALS, WHICH ARE MATERIALS WITH ENGINEERED
9 PROPERTIES CREATED THROUGH THE DEVELOPMENT OF SPECIALIZED PROCESS
10 AND SYNTHESIS TECHNOLOGY.

11 (iii) BIOTECHNOLOGY, WHICH IS ANY TECHNOLOGY THAT USES LIVING
12 ORGANISMS, CELLS, MACROMOLECULES, MICROORGANISMS, OR SUBSTANCES
13 FROM LIVING ORGANISMS TO MAKE OR MODIFY A PRODUCT, IMPROVE PLANTS
14 OR ANIMALS, OR DEVELOP MICROORGANISMS FOR USEFUL PURPOSES.
15 BIOTECHNOLOGY DOES NOT INCLUDE HUMAN CLONING AS DEFINED IN SECTION
16 16274 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16274.

17 (iv) ELECTRONIC DEVICE TECHNOLOGY, WHICH IS ANY TECHNOLOGY THAT
18 INVOLVES MICROELECTRONICS, SEMICONDUCTORS, ELECTRONIC EQUIPMENT,
19 AND INSTRUMENTATION, RADIO FREQUENCY, MICROWAVE, AND MILLIMETER
20 ELECTRONICS, AND OPTICAL AND OPTIC-ELECTRICAL DEVICES, OR DATA AND
21 DIGITAL COMMUNICATIONS AND IMAGING DEVICES.

22 (v) ENGINEERING OR LABORATORY TESTING RELATED TO THE
23 DEVELOPMENT OF A PRODUCT.

24 (vi) TECHNOLOGY THAT ASSISTS IN THE ASSESSMENT OR PREVENTION OF
25 THREATS OR DAMAGE TO HUMAN HEALTH OR THE ENVIRONMENT, INCLUDING,
26 BUT NOT LIMITED TO, ENVIRONMENTAL CLEANUP TECHNOLOGY, POLLUTION
27 PREVENTION TECHNOLOGY, OR DEVELOPMENT OF ALTERNATIVE ENERGY

1 SOURCES.

2 (vii) MEDICAL DEVICE TECHNOLOGY, WHICH IS ANY TECHNOLOGY THAT
3 INVOLVES MEDICAL EQUIPMENT OR PRODUCTS OTHER THAN A PHARMACEUTICAL
4 PRODUCT THAT HAS THERAPEUTIC OR DIAGNOSTIC VALUE AND IS REGULATED.

5 (viii) PRODUCT RESEARCH AND DEVELOPMENT.

6 (ix) ADVANCED VEHICLES TECHNOLOGY, WHICH IS ANY TECHNOLOGY THAT
7 INVOLVES ELECTRIC VEHICLES, HYBRID VEHICLES, OR ALTERNATIVE FUEL
8 VEHICLES, OR COMPONENTS USED IN THE CONSTRUCTION OF ELECTRIC
9 VEHICLES, HYBRID VEHICLES, OR ALTERNATIVE FUEL VEHICLES. AS USED IN
10 THIS SUBPARAGRAPH:

11 (A) "ELECTRIC VEHICLE" MEANS A ROAD VEHICLE THAT DRAWS
12 PROPULSION ENERGY ONLY FROM AN ON-BOARD SOURCE OF ELECTRICAL
13 ENERGY.

14 (B) "HYBRID VEHICLE" MEANS A ROAD VEHICLE THAT CAN DRAW
15 PROPULSION ENERGY FROM BOTH A CONSUMABLE FUEL AND A RECHARGEABLE
16 ENERGY STORAGE SYSTEM.

17 (x) TOOL AND DIE MANUFACTURING.

18 (xi) COMPETITIVE EDGE TECHNOLOGY AS DEFINED IN SECTION 88A OF
19 THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2088A.

20 (xii) DIGITAL MEDIA, INCLUDING INTERNET PUBLISHING AND
21 BROADCASTING, VIDEO GAMING, WEB DEVELOPMENT, AND ENTERTAINMENT
22 TECHNOLOGY.

23 (xiii) MUSIC PRODUCTION, INCLUDING RECORD PRODUCTION AND
24 DEVELOPMENT, SOUND RECORDING STUDIOS, AND INTEGRATED HIGH-
25 TECHNOLOGY RECORD PRODUCTION AND DISTRIBUTION.

26 (xiv) FILM AND VIDEO, INCLUDING MOTION PICTURE AND VIDEO
27 PRODUCTION AND DISTRIBUTION, POSTPRODUCTION SERVICES, AND

1 TELEPRODUCTION AND PRODUCTION SERVICES.

2 (C) "MICHIGAN STRATEGIC FUND" MEANS THE MICHIGAN STRATEGIC
3 FUND AS DESCRIBED IN THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,
4 MCL 125.2001 TO 125.2093.

5 (D) "QUALIFIED BUSINESS" MEANS A BUSINESS THAT THE BOARD
6 CERTIFIES AS IN COMPLIANCE WITH ALL OF THE FOLLOWING AT THE TIME OF
7 THE INVESTMENT:

8 (i) THE BUSINESS IS A SEED OR EARLY STAGE BUSINESS AS DEFINED
9 IN SECTION 3 OF THE MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF
10 2003, 2003 PA 296, MCL 125.2233.

11 (ii) THE BUSINESS HAS, OR WILL HAVE AS DETERMINED BY THE BOARD,
12 ITS HEADQUARTERS IN THIS STATE, IS DOMICILED IN THIS STATE, AND HAS
13 A MAJORITY OF ITS EMPLOYEES WORKING IN THIS STATE.

14 (iii) THE BUSINESS HAS A PREINVESTMENT VALUATION OF LESS THAN
15 \$10,000,000.00 AND HAS FEWER THAN 100 FULL-TIME EQUIVALENT
16 EMPLOYEES.

17 (iv) THE BUSINESS HAS BEEN IN EXISTENCE LESS THAN 5 YEARS. THIS
18 SUBPARAGRAPH DOES NOT APPLY TO A BUSINESS IN WHICH THE BUSINESS
19 ACTIVITY IS DERIVED FROM RESEARCH AT AN INSTITUTION OF HIGHER
20 EDUCATION LOCATED WITHIN THIS STATE OR AN ORGANIZATION EXEMPT FROM
21 FEDERAL TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE
22 CODE AND THAT IS LOCATED WITHIN THIS STATE.

23 (v) THE BUSINESS IS A QUALIFIED HIGH-TECHNOLOGY BUSINESS.

24 (E) "QUALIFIED HIGH-TECHNOLOGY BUSINESS" MEANS A BUSINESS OR
25 FACILITY WHOSE PRIMARY BUSINESS ACTIVITY IS HIGH-TECHNOLOGY
26 ACTIVITY OR A QUALIFIED HIGH-WAGE ACTIVITY.

27 (F) "QUALIFIED HIGH-WAGE ACTIVITY" MEANS THAT TERM AS DEFINED

1 UNDER SECTION 3 OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995
2 PA 24, MCL 207.803.

3 (G) "QUALIFIED INVESTMENT" MEANS AN INVESTMENT OF AT LEAST
4 \$15,000.00 CERTIFIED BY THE MICHIGAN STRATEGIC FUND THAT IS MADE
5 ALONGSIDE OF, OR THROUGH, A SEED VENTURE CAPITAL OR ANGEL INVESTOR
6 GROUP THAT IS REGISTERED WITH AND APPROVED BY THE MICHIGAN
7 STRATEGIC FUND AND IS NOT IN A BUSINESS IN WHICH ANY MEMBER OF THE
8 INVESTOR'S FAMILY IS AN EMPLOYEE OR OWNER OF THE BUSINESS OR IN
9 WHICH THE INVESTOR OR ANY MEMBER OF THE INVESTOR'S FAMILY HAS A
10 PREEXISTING FIDUCIARY RELATIONSHIP WITH THE BUSINESS.

11 Enacting section 1. This amendatory act shall be known as the
12 "small business investment credit".