

# Legislative Analysis



## CREDIT FOR CERTAIN MICHIGAN BUSINESS INVESTMENTS

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**House Bill 4691 as introduced**  
**Sponsor: Rep. Abraham Aiyash**  
**Committee: Tax Policy**  
**Complete to 11-7-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4691 would amend the individual income tax provisions of the Income Tax Act to allow a taxpayer to claim a credit against tax liability equal to 50% of the taxpayer's investment in certain Michigan-based businesses as certified by the Michigan Strategic Fund (MSF) and further described below. The total credits would be capped at \$3,000 per taxpayer per business and \$3,000 per taxpayer per year.

Specifically, for tax years beginning on and after January 1, 2023, a taxpayer could claim a credit against the taxpayer's tax liability equal to 50% of *qualified investments* made by the taxpayer in *qualified businesses*, up to a total of \$3,000 per year. Credits based on investments in any one qualified business would be capped at \$3,000. If the amount of the credit exceeded the taxpayer's tax liability for a given tax year, the excess would not be refunded but could be carried forward to offset tax liability for up to 10 years.

*Qualified investment* would mean a cash or a cash equivalent investment certified by the MSF in a qualified business, as long as a *family member* of the investor is not an employee or owner of the business and as long as the investor or a family member of the investor does not have a preexisting fiduciary relationship with the business.

*Qualified business* would mean a business that MSF certifies as in compliance with all of the following at the time of the investment:

- The business has its headquarters in Michigan, is domiciled in Michigan, and has a majority of its employees working in Michigan, and its transactions are limited to residents of Michigan under the federal intrastate offering exemption, which seeks to facilitate the financing of local business operations.<sup>1</sup>
- The business receives at least 80% of its gross revenues from the operation of its business in Michigan.
- The business has at least 80% of its assets in Michigan.

*Family member* of an investor would mean the investor's spouse, parent or stepparent, sibling or stepsibling, child or stepchild, grandparent, grandchild, legal ward, or legally appointed guardian with a certified letter of guardianship.

To qualify for the credit described above, a taxpayer would have to request certification from MSF within 60 days of making the investment. A taxpayer could not claim a credit unless MSF has issued the taxpayer a certificate, which the taxpayer would have to attach to and file with the applicable annual tax return. The certificate would have to include the total amount of investment made by the taxpayer in each qualified business in the given tax year, the total

<sup>1</sup> <https://www.sec.gov/smallbusiness/exemptofferings/intrastateofferings>

amount of *qualified* investments made in each qualified business (if different from the previous amount), and the total amount of the credit that the taxpayer may claim for the tax year.

The bill would require MSF to develop an application and approval process to certify investments under the bill and adopt a program describing parameters and criteria to be used to approve investments, which could include determining and describing conditions to be met to be considered a qualified investment. An investment for which a credit under the bill was sought would be subject to the Uniform Securities Act<sup>2</sup> and would have to be made in compliance with applicable state and federal securities laws, rules, and regulations.

The bill includes an enacting section stating the intent of the legislature to annually appropriate sufficient funds to hold the State School Aid Fund harmless from any lost revenue due to the credits created by the bill. (However, this would not require such an appropriation to be made.)

Proposed MCL 206.280

### **BACKGROUND:**

The bill would reinstitute a credit similar to one in place for tax years 2010 to 2012, known as the “venture investment credit.” That credit allowed taxpayers to claim 25% of the amount of a qualified investment in a qualified business after obtaining certification from MSF. An individual could not claim more than \$250,000 in a tax year, and MSF could not certify more than \$9.0 million in credits in a calendar year. Additionally, an individual could not claim more than \$250,000 in credits based on investments in any one business, and MSF could not certify more than \$1.0 million in total investments in any one business. The credit was not refundable but could be carried forward for up to five years to offset the taxpayer’s tax liability.<sup>3</sup>

### **FISCAL IMPACT:**

As written, the bill would reduce individual income tax revenue by an unknown amount. Although the credit for any individual taxpayer is capped at \$3,000, without knowing how much qualified investment would occur in any given year and a taxpayer’s existing liability, it is not possible to construct a reliable estimate.

Because the credit is nonrefundable and would thus not increase refunds, it would reduce both general fund and School Aid Fund revenues. Approximately 25% of gross income tax revenue is earmarked to the School Aid Fund, with the remainder accruing to the general fund.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>2</sup> <http://legislature.mi.gov/doc.aspx?mcl-Act-551-of-2008>

<sup>3</sup> See <http://www.legislature.mi.gov/documents/2009-2010/billanalysis/House/pdf/2009-HLA-5921-6.pdf>

As enacted, the credit could be applied in tax years 2010 to 2013. However, the sunset (expiration date) was amended in 2011 to end the credit January 1, 2012.