

Act No. 588
Public Acts of 2002
Approved by the Governor
October 16, 2002
Filed with the Secretary of State
October 16, 2002
EFFECTIVE DATE: October 16, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

**Introduced by Reps. Vander Veen, DeRossett, Howell, Richardville, Gilbert, Meyer, Newell, Shulman, Bisbee, Cassis, Birkholz, Kuipers, Voorhees, Vear, Mead, Pumford, Ehardt, Jelinek, Ruth Johnson, Cameron Brown, George, Faunce, Kowall, Gosselin, Bishop, Hummel, DeVuyt, Julian, Koetje, Allen, Tabor and Raczkowski
Reps. Caul, Durhal, Hager, Hardman, Kooiman, Lipsey, Middaugh, Stallworth, Stewart, Thomas and Vander Roest named co-sponsors**

ENROLLED HOUSE BILL No. 6073

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," (MCL 208.1 to 208.145) by adding section 39f.

The People of the State of Michigan enact:

Sec. 39f. (1) For tax years that begin after December 31, 2002, an eligible taxpayer may claim a credit against the tax imposed by this act equal to 6-1/2% of the excess of qualified research expenses paid in the tax year that relate to the eligible taxpayer's pharmaceutical based business activity in this state over the average qualified research expenses that relate to the eligible taxpayer's pharmaceutical based business activity in this state paid during the 3 immediately preceding tax years.

(2) The amount of a credit for any tax year under subsection (1) shall not exceed 200% of the eligible taxpayer's average qualified research expenses that relate to the taxpayer's pharmaceutical based business activity in this state for the 3 immediately preceding tax years.

(3) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded but may be carried forward as an offset to the tax liability in subsequent tax years for 7 tax years or until the excess credit is used up, whichever occurs first.

(4) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine the credit allowed under this section on a consolidated basis.

(5) An eligible taxpayer may assign all or a portion of a credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which qualified research expenses are paid. An eligible taxpayer may claim a portion of the credit and assign a portion of the remaining credit amount. However, the eligible

taxpayer shall not assign in any tax year more than 40% of the total amount of the credit allowed for that year. If the eligible taxpayer both claims and assigns portions of the credit, the eligible taxpayer shall claim the portion it claims in the tax year in which the qualified research expenses are paid. An assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the department. The eligible taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year.

(6) The total of all credits allowed under this section shall not exceed \$10,000,000.00 for any 1 tax year.

(7) As used in this section:

(a) "Eligible taxpayer" means a company that meets all of the following criteria within 18 months after the effective date of the amendatory act that added this section:

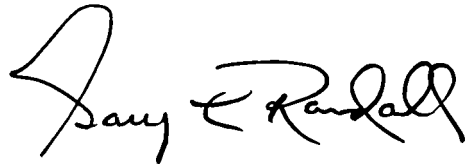
(i) Is engaged primarily in manufacturing, research and development, and sale of pharmaceuticals.

(ii) Has not less than 8,500 employees located in this state. The primary places of employment for all the employees required under this subparagraph shall be located within a 100-mile radius of each other.

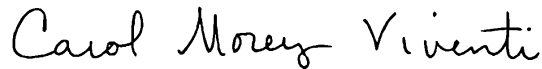
(iii) Of the total number of employees located in this state, has not less than 5,000 engaged primarily in research and development of pharmaceuticals.

(b) "Qualified research expenses" means that term as defined in section 41 of the internal revenue code.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

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Governor.