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House Bill 4189 (Substitute H-3 as reported without amendment)  
House Bill 4190 (Substitute S-2 as reported)  
House Bill 4191 (Substitute H-3 as reported without amendment)  
Sponsor: Representative Jason Sheppard (H.B. 4189)  
Representative Michael Webber (H.B. 4190)  
Representative Kevin Coleman (H.B. 4191)  
House Committee: Tax Policy  
Ways and Means  
Senate Committee: Finance

### **CONTENT**

House Bill 4189 (H-3) would amend the Michigan Business Tax Act to do the following:

- Allow a taxpayer, for the first tax year ending after October 1, 2018, only, to elect to file a return and pay the Michigan Business Tax (MBT) instead of the Corporate Income Tax (CIT).
- Specify that, if the first tax year ending after October 1, 2018, ended before the bill's effective date and the taxpayer had already filed a return for that tax year under the CIT, that the taxpayer could elect to file the return and pay the MBT, instead, if within a statute of limitations period.
- Specify that the terms, conditions, and amount of a certificated credit that was the basis for the election under the bill would have to continue and could not be expanded in any manner that would increase the total amount of the credit.
- Allow the Department of Treasury to require documentation from the taxpayer that elected to file a return under the bill to support the acquisition of the certificated credit that was the basis for the election.
- Modify the definition of "taxpayer" to reflect the proposed changes in the bill.

House Bill 4190 (S-2) would amend the Michigan Economic Growth Authority Act to do the following:

- Allow the Michigan Economic Growth Authority (MEGA) or its successor to modify or amend the MEGA tax credit agreement approved by the Michigan Strategic Fund Board on November 27, 2018, and subsequently assign or transfer that agreement as long as the modification or amendment reduced the total amount of the credit, did not extend the term to claim the credit, and the value of the credit taken by the transferee did not exceed \$12.0 million.
- Require the Authority or its successor to establish guidelines for the amendment, modification, or transfer described above and publish those guidelines on its website.
- Specify that a provision prohibiting the Authority from executing new written agreements that in total provide for more than 300 yearly credits over the terms of those agreements, plus up to 85 additional yearly credits taken from previously issued credits, would be in effect through calendar year 2014.

House Bill 4191 (H-3) would amend the Part 2 (Corporate Income Tax) of the Income Tax Act to specify that a taxpayer that acquired a specified certificated credit authorized by the Authority in 2004 under the Michigan Business Tax Act could, for the first tax year ending after October 1, 2018, only, elect to file the return and pay the MBT in lieu of the CIT if certain conditions were met.

House Bill 4189 (H-3) would repeal the Michigan Business Tax Act effective for tax years beginning after December 31, 2031. House Bills 4189 (H-3) and 4191 (H-3) also would be retroactive and effective for tax years beginning after December 31, 2017.

MCL 208.1117 & 208.1500 (H.B. 4189)  
207.808 (H.B. 4190)  
206.680 (H.B. 4191)

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bills would decrease General Fund revenue in some fiscal years by approximately \$12.0 million, but would increase revenue in fiscal years beginning after 2031 by approximately \$2.0 million per year.

By allowing certain taxpayers to claim MBT credits they otherwise would be unable to claim, the bills likely would reduce revenue by \$12.0 million. Depending on the effective date of the bills and when the returns were filed, the reduction could occur sometime between fiscal year (FY) 2018-19 and FY 2021-22, and likely would occur in FY 2019-20.

However, the bill would amend the repealing section of the MBT. Under current law, the Michigan Business Tax Act is repealed "effective on the date that the secretary of state receives a written notice from the department of treasury that the last certificated credit or any carryforward from that certificated credit has been claimed." The bill instead would repeal the Act for tax years that begin after December 31, 2031. The new repealing language would eliminate the Farmland Preservation Credit that is awarded under the MBT, which is a certificated credit. However, unlike most other certificated credits, the Farmland Preservation Credit has no sunset and new credits continue to be awarded. Currently, Farmland Preservation credits under the MBT average about \$2.0 million per year.

The bills would have no impact on local unit revenue.

Date Completed: 9-6-19

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Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

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