

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 6501

(As amended by the Senate, December 13, 2002)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38g. (1) Subject to the criteria under this section, an
2 eligible taxpayer may claim a credit against the tax imposed by
3 this act as determined under subsections ~~-(19)-~~ (20) to ~~-(24)-~~
4 (25); and subject to the criteria under this section, a qualified
5 taxpayer that has a preapproval letter issued after December 31,
6 1999 and before January 1, ~~-2003-~~ 2008, provided that the project
7 is completed not more than 5 years after the preapproval letter
8 for the project is issued, or an assignee under subsection ~~-(16)-~~
9 ~~or~~ (17) OR (18) may claim a credit that has been approved under
10 subsection (2) or (3) against the tax imposed by this act equal
11 to either of the following:

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1 (a) If the total of all credits for a project is
2 \$1,000,000.00 or less, 10% of the cost of the qualified
3 taxpayer's eligible investment paid or accrued by the qualified
4 taxpayer on an eligible property provided that the project does
5 not exceed the amount stated in the preapproval letter. If eli-
6 gible investment exceeds the amount of eligible investment in the
7 preapproval letter for that project, the total of all credits for
8 the project shall not exceed the total of all credits on the cer-
9 tificate of completion.

10 (b) If the total of all credits for a project is more than
11 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided
12 in subsection ~~-(4)(b)-~~ (5)(B), the project is located in a quali-
13 fied local governmental unit, a percentage as determined by the
14 Michigan economic growth authority not to exceed 10% of the cost
15 of the qualified taxpayer's eligible investment as determined
16 under subsection ~~-(7)-~~ (8) paid or accrued by the qualified tax-
17 payer on an eligible property. If eligible investment exceeds
18 the amount of eligible investment in the preapproval letter for
19 that project, the total of all credits for the project shall not
20 exceed the total of all credits on the certificate of
21 completion.

22 (2) If the cost of a project will be for \$10,000,000.00 or
23 less, a QUALIFIED taxpayer shall apply to the ~~state treasurer~~
24 DEPARTMENT for approval of the project under this subsection.
25 ~~The state treasurer shall approve or deny the~~ AN APPLICATION
26 UNDER THIS SUBSECTION SHALL STATE WHETHER THE PROJECT IS A
27 MULTIPHASE PROJECT. THE STATE TREASURER OR A DESIGNEE OF THE

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1 STATE TREASURER IS AUTHORIZED TO APPROVE AN APPLICATION OR
2 PROJECT UNDER THIS SUBSECTION. ONLY THE STATE TREASURER IS
3 AUTHORIZED TO DENY AN APPLICATION OR PROJECT UNDER THIS
4 SUBSECTION. A project SHALL BE APPROVED OR DENIED not more than
5 45 days after receipt of the application. If the state treasurer
6 OR THE STATE TREASURER'S DESIGNEE does not approve or deny an
7 application within 45 days after ~~he or she receives~~ the appli-
8 cation IS RECEIVED BY THE DEPARTMENT, the application is consid-
9 ered approved as written. The total of all credits for all
10 projects approved under this subsection shall not exceed
11 \$30,000,000.00 in any calendar year. The ~~state treasurer shall~~
12 ~~use the~~ criteria in subsection ~~-(5)-~~ (6) SHALL BE USED when
13 approving projects under this subsection. When approving
14 projects under this subsection, ~~the state treasurer shall give~~
15 priority SHALL BE GIVEN to projects on a facility. The total of
16 all credits for an approved project under this subsection shall
17 not exceed \$1,000,000.00. A taxpayer may apply under this sub-
18 section instead of subsection (3) for approval of a project that
19 will be for more than \$10,000,000.00 but the total of all credits
20 for that project shall not exceed \$1,000,000.00. If the state
21 treasurer OR A DESIGNEE OF THE STATE TREASURER approves a project
22 under this subsection, the state treasurer OR A DESIGNEE OF THE
23 STATE TREASURER shall issue a preapproval letter that states that
24 the taxpayer is a qualified taxpayer; the maximum total eligible
25 investment for the project on which credits may be claimed and
26 the maximum total of all credits for the project when the project
27 is completed and a certificate of completion is issued; and the

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1 project number assigned by the ~~state treasurer~~ DEPARTMENT. If
2 a project is denied under this subsection, a taxpayer is not pro-
3 hibited from subsequently applying under this subsection or sub-
4 section (3) for the same project or for another project.

5 (3) If the cost of a project will be for more than
6 \$10,000,000.00 and, except as provided in subsection ~~-(4)(b)-~~
7 (5)(B), the project is located in a qualified local governmental
8 unit, a QUALIFIED taxpayer shall apply to the Michigan economic
9 growth authority for approval of the project. The Michigan eco-
10 nomic growth authority shall approve or deny the project not more
11 than 65 days after receipt of the application. A project under
12 this subsection shall not be approved without the concurrence of
13 the state treasurer. If the Michigan economic growth authority
14 does not approve or deny the application within 65 days after it
15 receives the application, the Michigan economic growth authority
16 shall send the application to the state treasurer. The state
17 treasurer shall approve or deny the application within 5 days
18 after receipt of the application. If the state treasurer does
19 not deny the application within the 5 days after receipt of the
20 application, the application is considered approved. The
21 Michigan economic growth authority shall approve a limited number
22 of projects under this subsection during each calendar year as
23 provided in subsection ~~-(4)-~~ (5). The Michigan economic growth
24 authority shall use the criteria in subsection ~~-(5)-~~ (6) when
25 approving projects under this subsection, when determining the
26 total amount of eligible investment, and when determining the
27 percentage of eligible investment for the project to be used to

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1 calculate a credit. The total of all credits for an approved
2 project under this subsection shall not exceed the amount desig-
3 nated in the preapproval letter for that project. If the
4 Michigan economic growth authority approves a project under this
5 subsection, the Michigan economic growth authority shall issue a
6 preapproval letter that states that the taxpayer is a qualified
7 taxpayer; the percentage of eligible investment for the project
8 determined by the Michigan economic growth authority for purposes
9 of subsection (1)(b); the maximum total eligible investment for
10 the project on which credits may be claimed and the maximum total
11 of all credits for the project when the project is completed and
12 a certificate of completion is issued; and the project number
13 assigned by the Michigan economic growth authority. The Michigan
14 economic growth authority shall send a copy of the preapproval
15 letter to the department. If a project is denied under this sub-
16 section, a taxpayer is not prohibited from subsequently applying
17 under this subsection or subsection (2) for the same project or
18 for another project.

19 (4) IF THE PROJECT IS ON PROPERTY THAT IS FUNCTIONALLY OBSO-
20 LETE, THE TAXPAYER SHALL INCLUDE, WITH THE APPLICATION, AN AFFI-
21 DAVIT SIGNED BY A LEVEL 3 OR LEVEL 4 ASSESSOR, THAT STATES THAT
22 IT IS THE ASSESSOR'S EXPERT OPINION THAT THE PROPERTY IS FUNC-
23 TIONALLY OBSOLETE AND THE UNDERLYING BASIS FOR THAT OPINION.

24 (5) ~~—(4)—~~ The Michigan economic growth authority may approve
25 not more than 15 projects each calendar year under subsection
26 (3), and the following limitations apply:

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1 (a) Of the 15 projects allowed under this subsection, the
2 total of all credits for each project may be more than
3 \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

4 (b) Of the 15 projects allowed under this subsection, up to
5 3 projects may be approved for projects that are not in a quali-
6 fied local governmental unit if the property is a facility for
7 which eligible activities are identified in a brownfield plan.
8 For purposes of this subdivision, a facility includes a building
9 or complex of buildings that was used by a state or federal
10 agency and that is no longer being used for the purpose for which
11 it was used by the state or federal agency.

12 (c) Of the 3 projects allowed under subdivision (a), 1 may
13 be a project that also qualifies under subdivision (b).

14 (6) ~~-(5)-~~ The Michigan economic growth authority shall
15 review all applications for projects under subsection (3) and, if
16 an application is approved, shall determine the maximum total of
17 all credits for that project. Before approving a project for
18 which the total of all credits will be more than \$10,000,000.00
19 but \$30,000,000.00 or less only, the Michigan economic growth
20 authority shall determine that the project would not occur in
21 this state without the tax credit offered under subsection (3),
22 except that the Michigan economic growth authority may approve 1
23 project the construction of which began after January 1, 2000 and
24 before January 1, 2001 without determining that the eligible
25 investment would not occur in this state without the tax credit
26 offered under this section. The Michigan economic growth
27 authority shall consider the following criteria to the extent

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1 reasonably applicable to the type of project proposed when
2 approving a project under subsection (3) and the state treasurer
3 OR A DESIGNEE OF THE STATE TREASURER shall consider the following
4 criteria to the extent reasonably applicable to the type of
5 project proposed when approving a project under subsection (2) OR
6 WHEN CONSIDERING AN AMENDMENT TO A PROJECT UNDER
7 SUBSECTION (31):

8 (a) The overall benefit to the public.

9 (b) The extent of reuse of vacant buildings and redevelop-
10 ment of blighted property.

11 (c) Creation of jobs.

12 (d) Whether the eligible property is in an area of high
13 unemployment.

14 (e) The level and extent of contamination alleviated by the
15 qualified taxpayer's eligible ~~investment~~ ACTIVITIES to the
16 extent known to the qualified taxpayer.

17 (f) The level of private sector contribution.

18 (g) The cost gap that exists between the site and a similar
19 greenfield site as determined by the Michigan economic growth
20 authority.

21 (h) If the qualified taxpayer is moving from another loca-
22 tion in this state, whether the move will create a brownfield.

23 (i) Whether the financial statements of the qualified tax-
24 payer indicate that it is financially sound and that the project
25 is economically sound.

26 (j) Any other criteria that the Michigan economic growth
27 authority or the state treasurer, as applicable, considers

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1 appropriate for the determination of eligibility under subsection
2 (2) or (3).

3 (7) ~~-(6)-~~ A qualified taxpayer may apply for projects under
4 subsection (2) or (3) for eligible investment on more than 1 eli-
5 gible property in a tax year. Each project approved and each
6 project for which a certificate of completion is issued under
7 this section shall be for eligible investment on 1 eligible
8 property.

9 (8) ~~-(7)-~~ When a project under subsection (2) or (3) is com-
10 pleted, the taxpayer shall submit documentation that the project
11 is completed, an accounting of the cost of the project, ~~and~~ the
12 eligible investment of each taxpayer if there is more than 1 tax-
13 payer eligible for a credit for the project, AND, IF THE TAXPAYER
14 IS NOT THE OWNER OR LESSEE OF THE ELIGIBLE PROPERTY ON WHICH THE
15 ELIGIBLE INVESTMENT WAS MADE AT THE TIME THE PROJECT IS COM-
16 PLETED, THAT THE TAXPAYER WAS THE OWNER OR LESSEE OF THAT ELIGI-
17 BLE PROPERTY WHEN ALL ELIGIBLE INVESTMENT OF THE TAXPAYER WAS
18 MADE. The state treasurer OR A DESIGNEE OF THE STATE TREASURER,
19 for projects approved under subsection (2), or the Michigan eco-
20 nomic growth authority, for projects approved under subsection
21 (3), shall verify that the project is completed. For projects
22 approved under subsection (3), the Michigan economic growth
23 authority shall conduct an on-site inspection as part of the ver-
24 ification process. When the completion of the project is veri-
25 fied, a certificate of completion shall be issued to each quali-
26 fied taxpayer that has made eligible investment on that eligible
27 property. The certificate of completion shall state the total

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1 amount of all credits for the project and that total shall not
2 exceed the maximum total of all credits listed in the preapproval
3 letter for the project under subsection (2) or (3) as applicable
4 and shall state all of the following:

5 (a) That the taxpayer is a qualified taxpayer.

6 (b) The total cost of the project and the eligible invest-
7 ment of each qualified taxpayer.

8 (c) Each qualified taxpayer's credit amount.

9 (d) The qualified taxpayer's federal employer identification
10 number or the Michigan treasury number assigned to the taxpayer.

11 (e) The project number.

12 (f) For a project approved under subsection (3) for which
13 the total of all credits is more than \$10,000,000.00 but
14 \$30,000,000.00 or less, the total of all credits and the schedule
15 on which the annual credit amount shall be claimed by the quali-
16 fied taxpayer.

17 (G) FOR A MULTIPHASE PROJECT UNDER SUBSECTION (33), THE
18 AMOUNT OF EACH CREDIT ASSIGNED AND THE AMOUNT OF ALL CREDITS
19 CLAIMED IN EACH TAX YEAR BEFORE THE YEAR IN WHICH THE PROJECT IS
20 COMPLETED.

21 (9) ~~—(8)—~~ Except as otherwise provided in this section,
22 qualified taxpayers shall claim credits under subsections (2) and
23 (3) in the tax year in which the certificate of completion is
24 issued. For a project approved under subsection (3) for which
25 the total of all credits is more than \$10,000,000.00 but
26 \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of
27 its approved credit each year for 10 years. A CREDIT ASSIGNED

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1 BASED ON A MULTIPHASE PROJECT SHALL BE CLAIMED IN THE YEAR IN
2 WHICH THE CREDIT IS ASSIGNED.

3 (10) ~~-(9)-~~ The cost of eligible investment for leased
4 machinery, equipment, or fixtures is the cost of that property
5 had the property been purchased minus the lessor's estimate, made
6 at the time the lease is entered into, of the market value the
7 property will have at the end of the lease. A credit for prop-
8 erty described in this subsection is allowed only if the cost of
9 that property had the property been purchased and the lessor's
10 estimate of the market value at the end of the lease are provided
11 to the ~~state treasurer~~ DEPARTMENT or the Michigan economic
12 growth authority, as applicable.

13 (11) ~~-(10)-~~ For credits under subsections (2) and (3), cred-
14 its claimed by a lessee of eligible property are subject to the
15 total of all credits limitation under this section.

16 (12) ~~-(11)-~~ Each qualified taxpayer and assignee under sub-
17 section ~~-(16)-~~ or (17) OR (18) that claims a credit under subsec-
18 tion (1)(a) or (b) shall attach a copy of the certificate of com-
19 pletion and, if the credit was assigned, a copy of the assignment
20 form provided for under this section to the annual return filed
21 under this act on which the credit under subsection (2) or (3) is
22 claimed. AN ASSIGNEE OF A CREDIT BASED ON A MULTIPHASE PROJECT
23 SHALL ATTACH A COPY OF THE ASSIGNMENT FORM PROVIDED FOR UNDER
24 THIS SECTION AND THE COMPONENT COMPLETION CERTIFICATE PROVIDED
25 FOR IN SUBSECTION (32) TO THE ANNUAL RETURN FILED UNDER THIS ACT
26 ON WHICH THE CREDIT IS CLAIMED BUT IS NOT REQUIRED TO FILE A COPY
27 OF A CERTIFICATE OF COMPLETION.

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1 (13) ~~—(12)—~~ Except as otherwise provided in this subsection
2 or subsection ~~—(14), (16), or—~~ (15), (17), (19), OR (32), a
3 credit under subsection (2) or (3) shall be claimed in the tax
4 year in which the certificate of completion is issued to the
5 qualified taxpayer. For a project described in subsection
6 ~~—(7)(f)—~~ (8)(F) for which a schedule for claiming annual credit
7 amounts is designated on the certificate of completion by the
8 Michigan economic growth authority, the annual credit amount
9 shall be claimed in the tax year specified on the certificate of
10 completion.

11 (14) ~~—(13)—~~ The credits approved under this section shall be
12 calculated after application of all other credits allowed under
13 this act. The credits under subsections (2) and (3) shall be
14 calculated before the calculation of credits under subsections
15 ~~—(19) to (24)—~~ (20) TO (25) and before the credits under sections
16 37c and 37d.

17 (15) ~~—(14)—~~ If the credit allowed under subsection (2) or
18 (3) for the tax year and any unused carryforward of the credit
19 allowed under subsection (2) or (3) exceed the qualified
20 taxpayer's or assignee's tax liability for the tax year, that
21 portion that exceeds the tax liability for the tax year shall not
22 be refunded but may be carried forward to offset tax liability in
23 subsequent tax years for 10 years or until used up, whichever
24 occurs first. Except as otherwise provided in this subsection,
25 the maximum time allowed under the carryforward provisions under
26 this subsection begins with the tax year in which the certificate
27 of completion is issued to the qualified taxpayer. If the

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1 qualified taxpayer assigns all or any portion of its credit
2 approved under subsection (2) or (3), the maximum time allowed
3 under the carryforward provisions for an assignee begins to run
4 with the tax year in which the assignment is made and the
5 assignee first claims a credit, which shall be the same tax
6 year. The maximum time allowed under the carryforward provisions
7 for an annual credit amount for a credit allowed under subsection
8 (3) begins to run in the tax year for which the annual credit
9 amount is designated on the certificate of completion issued
10 under this section.

11 (16) ~~-(15)-~~ If a project or credit under subsection (2) or
12 (3) is for the addition of personal property, if the cost of that
13 personal property is used to calculate a credit under subsection
14 (2) or (3), and if the personal property is sold or disposed of
15 or transferred from eligible property to any other location, the
16 qualified taxpayer that sold, disposed of, or transferred the
17 personal property shall add the same percentage as determined
18 pursuant to subsection (1) of the federal basis of the personal
19 property used for determining gain or loss as of the date of the
20 sale, disposition, or transfer to the qualified taxpayer's tax
21 liability after application of all credits under this act for the
22 tax year in which the sale, disposition, or transfer occurs. If
23 a qualified taxpayer has an unused carryforward of a credit under
24 subsection (2) or (3), the amount otherwise added under this sub-
25 section to the qualified taxpayer's tax liability may instead be
26 used to reduce the qualified taxpayer's carryforward under
27 subsection ~~-(14)-~~ (15).

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1 (17) ~~—(16)—~~ For credits under subsections (2) and (3) and
2 except as otherwise provided in this subsection, if a qualified
3 taxpayer pays or accrues eligible investment on or to an eligible
4 property that is leased for a minimum term of 10 years OR SOLD to
5 another taxpayer for use in a business activity, the qualified
6 taxpayer may assign all or a portion of the credit based on that
7 eligible investment to the lessee OR PURCHASER OF THAT ELIGIBLE
8 PROPERTY. A CREDIT ASSIGNMENT UNDER THIS SUBSECTION SHALL ONLY
9 BE MADE TO A TAXPAYER THAT WHEN THE ASSIGNMENT IS COMPLETE WILL
10 BE A QUALIFIED TAXPAYER. ~~—A ALL credit —assignment—~~ ASSIGNMENTS
11 under this subsection ~~—is—~~ ARE irrevocable and, EXCEPT FOR A
12 CREDIT BASED ON A MULTIPHASE PROJECT, shall be made in the tax
13 year in which the certificate of completion is issued, unless the
14 assignee is AN unknown LESSEE. If a qualified taxpayer wishes to
15 assign all or a portion of its credit to a lessee but the lessee
16 is unknown in the tax year in which the certificate of completion
17 is issued, the qualified taxpayer may delay claiming and assign-
18 ing the credit until the first tax year in which the lessee is
19 known. A qualified taxpayer may claim a portion of a credit and
20 assign the remaining credit amount. Except as otherwise provided
21 in this subsection, if the qualified taxpayer both claims and
22 assigns portions of the credit, the qualified taxpayer shall
23 claim the portion it claims in the tax year in which the certifi-
24 cate of completion is issued OR FOR A CREDIT ASSIGNED AND CLAIMED
25 FOR A MULTIPHASE PROJECT BEFORE A CERTIFICATE OF COMPLETION IS
26 ISSUED, THE TAXPAYER SHALL CLAIM THE CREDIT IN THE YEAR IN WHICH
27 THE CREDIT IS ASSIGNED. If a qualified taxpayer assigns all or a

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1 portion of the credit and the eligible property is leased to more
2 than 1 taxpayer, the qualified taxpayer shall ~~prorate~~ DETERMINE
3 the AMOUNT OF credit ASSIGNED to each lessee. A lessee shall not
4 subsequently assign a credit or any portion of a credit assigned
5 under this subsection. A PURCHASER MAY SUBSEQUENTLY ASSIGN A
6 CREDIT OR ANY PORTION OF A CREDIT ASSIGNED TO THE PURCHASER UNDER
7 THIS SUBSECTION TO A LESSEE OF THE ELIGIBLE PROPERTY. The credit
8 assignment under this subsection shall be made on a form pre-
9 scribed by the department. The qualified taxpayer shall send a
10 copy of the completed assignment form to the department in the
11 tax year in which the assignment is made. The assignee shall
12 attach a copy of the completed assignment form to its annual
13 return required to be filed under this act, for the tax year in
14 which the assignment is made and the assignee first claims a
15 credit, which shall be the same tax year. In addition to all
16 other procedures under this subsection, the following apply if
17 the total of all credits for a project is more than
18 \$10,000,000.00 but \$30,000,000.00 or less:

19 (a) The credit shall be assigned based on the schedule con-
20 tained in the certificate of completion.

21 (b) If the qualified taxpayer assigns all or a portion of
22 the credit amount, the qualified taxpayer shall assign the annual
23 credit amount for each tax year separately.

24 (c) More than 1 annual credit amount may be assigned to any
25 1 assignee and the qualified taxpayer may assign all or a portion
26 of each annual credit amount to any assignee.

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1 (d) The qualified taxpayer shall not assign more than the
2 annual credit amount for each tax year.

3 (18) ~~-(17)-~~ If a qualified taxpayer is a partnership,
4 limited liability company, or subchapter S corporation, the qual-
5 ified taxpayer may assign all or a portion of a credit allowed
6 under subsection (2) or (3) to its partners, members, or share-
7 holders, based on their proportionate share of ownership of the
8 partnership, limited liability company, or subchapter S corpora-
9 tion OR BASED ON AN ALTERNATIVE METHOD APPROVED BY THE
10 DEPARTMENT. A credit assignment under this subsection is irrevocable and, EXCEPT FOR A CREDIT ASSIGNMENT BASED ON A MULTIPHASE
11 PROJECT, shall be made in the tax year in which a certificate of
12 completion is issued. A qualified taxpayer may claim a portion
13 of a credit and assign the remaining credit amount. If the qual-
14 ified taxpayer both claims and assigns portions of the credit,
15 the qualified taxpayer shall claim the portion it claims in the
16 tax year in which a certificate of completion is issued. A part-
17 ner, member, or shareholder that is an assignee shall not subse-
18 quently assign a credit or any portion of a credit assigned under
19 this subsection. The credit assignment under this subsection
20 shall be made on a form prescribed by the department. The quali-
21 fied taxpayer shall send a copy of the completed assignment form
22 to the department in the tax year in which the assignment is
23 made. A partner, member, or shareholder who is an assignee shall
24 attach a copy of the completed assignment form to its annual
25 return required under this act, for the tax year in which the
26 assignment is made and the assignee first claims a credit, which
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1 shall be the same tax year. In addition to all other procedures
2 under this subsection, the following apply if the total of all
3 credits for a project is more than \$10,000,000.00 but
4 \$30,000,000.00 or less:

5 (a) The credit shall be assigned based on the schedule con-
6 tained in the certificate of completion.

7 (b) If the qualified taxpayer assigns all or a portion of
8 the credit amount, the qualified taxpayer shall assign the annual
9 credit amount for each tax year separately.

10 (c) More than 1 annual credit amount may be assigned to any
11 1 assignee and the qualified taxpayer may assign all or a portion
12 of each annual credit amount to any assignee.

13 (d) The qualified taxpayer shall not assign more than the
14 annual credit amount for each tax year.

15 (19) ~~-(18)-~~ A qualified taxpayer or assignee under subsec-
16 tion ~~-(16)-or~~ (17) OR (18) shall not claim a credit under sub-
17 section (1)(a) or (b) based on eligible investment on which a
18 credit claimed under section 38d was based.

19 (20) ~~-(19)-~~ In addition to the other credits allowed under
20 this section and sections 37c and 37d, for tax years that begin
21 after December 31, 1999 and for a period of time not to exceed 20
22 years as determined by the Michigan economic growth authority, an
23 eligible taxpayer may credit against the tax imposed by section
24 31 the amount certified each year by the Michigan economic growth
25 authority that is 1 of the following:

26 (a) For an eligible business under section 8(5)(a) of the
27 Michigan economic growth authority act, 1995 PA 24, MCL 207.808,

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1 an amount that is not more than 50% of 1 or both of the following
2 as determined by the Michigan economic growth authority:

3 (i) An amount determined under the Michigan economic growth
4 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
5 exceed the payroll of the eligible taxpayer attributable to
6 employees who perform retained jobs multiplied by the tax rate
7 for the tax year.

8 (ii) The tax liability attributable to the eligible
9 taxpayer's business activity multiplied by a fraction the numera-
10 tor of which is the ratio of the value of new capital investment
11 to all of the taxpayer's property located in this state plus the
12 ratio of the taxpayer's payroll attributable to retained jobs to
13 all of the taxpayer's payroll in this state and the denominator
14 of which is 2.

15 (b) For an eligible business under section 8(5)(b) of the
16 Michigan economic growth authority act, 1995 PA 24, MCL 207.808,
17 an amount that is not more than 1 or both of the following as
18 determined by the Michigan economic growth authority:

19 (i) An amount determined under the Michigan economic growth
20 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
21 exceed the payroll of the eligible taxpayer attributable to
22 employees who perform retained jobs multiplied by the tax rate
23 for the tax year.

24 (ii) The tax liability attributable to eligible taxpayer's
25 business multiplied by a fraction the numerator of which is the
26 ratio of the value of capital investment to all of the taxpayer's
27 property located in this state plus the ratio of the taxpayer's

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1 payroll attributable to retained jobs to all of the taxpayer's
2 payroll in this state and the denominator of which is 2.

3 (21) ~~-(20)-~~ An eligible taxpayer shall not claim a credit
4 under subsection ~~-(19)-~~ (20) unless the Michigan economic growth
5 authority has issued a certificate under section 9 of the
6 Michigan economic growth authority act, 1995 PA 24, MCL 207.809,
7 to the taxpayer. The eligible taxpayer shall attach the certifi-
8 cate to the return filed under this act on which a credit under
9 subsection ~~-(19)-~~ (20) is claimed.

10 (22) ~~-(21)-~~ An affiliated group as defined in this act, a
11 controlled group of corporations as defined in section 1563 of
12 the internal revenue code and further described in 26
13 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity
14 under common control as defined by the internal revenue code
15 shall claim only 1 credit under subsection ~~-(19)-~~ (20) for each
16 tax year based on each written agreement whether or not a com-
17 bined or consolidated return is filed.

18 (23) ~~-(22)-~~ A credit shall not be claimed by a taxpayer
19 under subsection ~~-(19)-~~ (20) if the eligible taxpayer's initial
20 certification under section 9 of the Michigan economic growth
21 authority act, 1995 PA 24, MCL 207.809, is issued after December
22 31, 2003.

23 (24) ~~-(23)-~~ If the credit allowed under subsection
24 ~~-(19)-(a)(ii)-~~ (20)(A)(ii) or ~~-(19)-(b)(ii)-~~ (B)(ii) for the tax
25 year and any unused carryforward of the credit allowed by subsec-
26 tion ~~-(19)-(a)(ii)-~~ (20)(A)(ii) or (b)(ii) exceed the taxpayer's
27 tax liability for the tax year, that portion that exceeds the tax

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1 liability for the tax year shall not be refunded but may be
2 carried forward to offset tax liability in subsequent tax years
3 for 10 years or until used up, whichever occurs first.

4 (25) ~~-(24)-~~ If the credit allowed under subsection
5 ~~-(19)(a)(i)-~~ (20)(A)(i) or ~~-(19)(b)(i)-~~ (B)(i) exceeds the tax
6 liability of the eligible taxpayer for the tax year, the excess
7 shall be refunded to the eligible taxpayer.

8 (26) ~~-(25)-~~ An eligible taxpayer that claims a credit under
9 subsection (1)(a) or (b) is not prohibited from claiming a credit
10 under subsection ~~-(19)-~~ (20). However, the eligible taxpayer
11 shall not claim a credit under both subsections (1)(a) or (b) and
12 ~~-(19)-~~ (20) based on the same costs.

13 (27) ~~-(26)-~~ Eligible investment attributable or related to
14 the operation of a professional sports stadium, and eligible
15 investment that is associated or affiliated with the operation of
16 a professional sports stadium, including, but not limited to, the
17 operation of a parking lot or retail store, shall not be used as
18 a basis for a credit under subsection (2) or (3). Professional
19 sports stadium does not include a professional sports stadium
20 that will no longer be used by a professional sports team on and
21 after the date that an application related to that professional
22 sports stadium is filed under subsection (2) or (3).

23 (28) ~~-(27)-~~ Eligible investment attributable or related to
24 the operation of a casino, and eligible investment that is asso-
25 ciated or affiliated with the operation of a casino, including,
26 but not limited to, the operation of a parking lot, hotel, motel,
27 or retail store, shall not be used as a basis for a credit under

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1 subsection (2) or (3). As used in this subsection, "casino"
2 means a casino regulated by this state pursuant to the Michigan
3 gaming control and revenue act, the Initiated Law of 1996,
4 MCL 432.201 to 432.226.

5 (29) ~~-(28)-~~ Eligible investment attributable or related to
6 the construction of a new landfill or the expansion of an exist-
7 ing landfill regulated under part 115 of the natural resources
8 and environmental protection act, 1994 PA 451, MCL 324.11501 to
9 324.11550, shall not be used as a basis for a credit under sub-
10 section (2) or (3).

11 (30) ~~-(29)-~~ The department annually shall prepare and submit
12 to the house of representatives and senate committees responsible
13 for tax policy and economic development issues a report on the
14 credits under subsection (2). The report shall include, but is
15 not limited to, all of the following:

16 (a) A listing of the projects under subsection (2) that were
17 approved in the calendar year.

18 (b) The total amount of eligible investment for projects
19 approved under subsection (2) in the calendar year.

20 (31) IF, AFTER A TAXPAYER'S PROJECT HAS BEEN APPROVED AND
21 THE TAXPAYER HAS RECEIVED A PREAPPROVAL LETTER BUT BEFORE THE
22 PROJECT IS COMPLETED, THE TAXPAYER DETERMINES THAT THE PROJECT
23 CANNOT BE COMPLETED AS PREAPPROVED, THE TAXPAYER MAY PETITION THE
24 DEPARTMENT FOR PROJECTS APPROVED UNDER SUBSECTION (2) OR THE
25 MICHIGAN ECONOMIC GROWTH AUTHORITY FOR PROJECTS APPROVED UNDER
26 SUBSECTION (3) TO AMEND THE PROJECT. THE TOTAL OF ELIGIBLE

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1 INVESTMENT FOR THE PROJECT AS AMENDED SHALL NOT EXCEED THE AMOUNT
2 ALLOWED IN THE PREAPPROVAL LETTER FOR THAT PROJECT.

3 (32) A PROJECT UNDER SUBSECTION (2) MAY BE A MULTIPHASE
4 PROJECT BUT ONLY IF THE PROJECT IS AN INDUSTRIAL OR MANUFACTURING
5 PROJECT. IF A PROJECT IS A MULTIPHASE PROJECT, WHEN EACH COMPO-
6 NENT OF THE MULTIPHASE PROJECT IS COMPLETED, THE TAXPAYER SHALL
7 SUBMIT DOCUMENTATION THAT THE COMPONENT IS COMPLETE, AN ACCOUNT-
8 ING OF THE COST OF THE COMPONENT, AND THE ELIGIBLE INVESTMENT FOR
9 THE COMPONENT OF EACH TAXPAYER ELIGIBLE FOR A CREDIT FOR THE
10 PROJECT OF WHICH THE COMPONENT IS A PART TO THE STATE TREASURER
11 OR THE DESIGNEE OF THE STATE TREASURER WHO SHALL VERIFY THAT THE
12 COMPONENT IS COMPLETE. WHEN THE COMPLETION OF THE COMPONENT IS
13 VERIFIED, A COMPONENT COMPLETION CERTIFICATE SHALL BE ISSUED TO
14 THE QUALIFIED TAXPAYER WHICH SHALL STATE THAT THE TAXPAYER IS A
15 QUALIFIED TAXPAYER, THE CREDIT AMOUNT FOR THE COMPONENT, THE
16 QUALIFIED TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR
17 THE MICHIGAN TREASURY NUMBER ASSIGNED TO THE TAXPAYER, AND THE
18 PROJECT NUMBER. THE TAXPAYER MAY ASSIGN ALL OR PART OF THE
19 CREDIT FOR A MULTIPHASE PROJECT AS PROVIDED IN THIS SECTION AFTER
20 A COMPONENT COMPLETION CERTIFICATE FOR A COMPONENT IS ISSUED.
21 THE QUALIFIED TAXPAYER MAY TRANSFER OWNERSHIP OF OR LEASE THE
22 COMPLETED COMPONENT AND ASSIGN A PROPORTIONATE SHARE OF THE
23 CREDIT FOR THE ENTIRE PROJECT TO THE QUALIFIED TAXPAYER THAT IS
24 THE NEW OWNER OR LESSEE. A MULTIPHASE PROJECT SHALL NOT BE
25 DIVIDED INTO MORE THAN 3 COMPONENTS. A COMPONENT IS CONSIDERED
26 TO BE COMPLETED WHEN A CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED
27 BY THE LOCAL MUNICIPALITY IN WHICH THE PROJECT IS LOCATED FOR ALL

1 OF THE BUILDINGS OR FACILITIES THAT COMPRISE THE COMPLETED
2 COMPONENT AND A COMPONENT COMPLETION CERTIFICATE IS ISSUED. A
3 CREDIT ASSIGNED BASED ON A MULTIPHASE PROJECT SHALL BE CLAIMED BY
4 THE ASSIGNEE IN THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE.
5 THE TOTAL OF ALL CREDITS FOR A MULTIPHASE PROJECT SHALL NOT
6 EXCEED THE AMOUNT STATED IN THE PREAPPROVAL LETTER FOR THE
7 PROJECT UNDER SUBSECTION (1)(A). IF ALL COMPONENTS OF A MULTIPHASE
PROJECT ARE NOT COMPLETED BY 10 YEARS AFTER THE DATE ON WHICH THE
PREAPPROVAL LETTER FOR THE PROJECT WAS ISSUED, THE QUALIFIED TAXPAYER
THAT RECEIVED THE PREAPPROVAL LETTER FOR THE PROJECT SHALL PAY TO THE
STATE TREASURER, AS A PENALTY, AN AMOUNT EQUAL TO THE SUM OF ALL CREDITS
CLAIMED AND ASSIGNED FOR ALL COMPONENTS OF THE MULTIPHASE PROJECT AND NO
CREDITS BASED ON THAT MULTIPHASE PROJECT SHALL BE CLAIMED AFTER THAT DATE
BY THE QUALIFIED TAXPAYER OR ANY ASSIGNEE OF THE QUALIFIED TAXPAYER. THE
PENALTY UNDER THIS SUBSECTION IS SUBJECT TO INTEREST ON THE AMOUNT OF THE
CREDIT CLAIMED OR ASSIGNED DETERMINED INDIVIDUALLY FOR EACH COMPONENT AT
THE RATE IN SECTION 23(2) OF 1941 PA 122. MCL 205.23 BEGINNING ON THE
DATE THAT THE CREDIT FOR THAT COMPONENT WAS CLAIMED OR ASSIGNED. AS USED
8 "PROPORTIONATE SHARE" MEANS THE SAME PERCENTAGE OF THE TOTAL OF
9 ALL CREDITS FOR THE PROJECT THAT THE QUALIFIED INVESTMENT FOR THE
10 COMPLETED COMPONENT IS OF THE TOTAL QUALIFIED INVESTMENT STATED
11 IN THE PREAPPROVAL LETTER FOR THE ENTIRE PROJECT.

12 (33) ~~—(30)—~~ As used in this section:

13 (a) "Annual credit amount" means the maximum amount that a
14 qualified taxpayer is eligible to claim each tax year for a
15 project for which the total of all credits is more than
16 \$10,000,000.00 but \$30,000,000.00 or less, which shall be 10% of
17 the qualified taxpayer's credit amount approved under subsection
18 (3).

19 (b) "Authority" means a brownfield redevelopment authority
20 created under the brownfield redevelopment financing act, 1996
21 PA 381, MCL 125.2651 to 125.2672.

22 (c) "Authorized business", "full-time job", "new capital
23 investment", "retained jobs", and "written agreement" mean those
24 terms as defined in the Michigan economic growth authority act,
25 1995 PA 24, MCL 207.801 to 207.810.

26 (d) "Blighted", "brownfield plan", "eligible activities",
27 "eligible property", "facility", "functionally obsolete", and
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1 "response activity" mean those terms as defined in the brownfield
2 redevelopment financing act, 1996 PA 381, MCL 125.2651 to
3 125.2672.

4 (e) "Eligible investment" means demolition, construction,
5 restoration, alteration, renovation, or improvement of buildings
6 or site improvements on eligible property and the addition of
7 machinery, equipment, and fixtures to eligible property after the
8 date that eligible activities on that eligible property have
9 started pursuant to a brownfield plan under the brownfield rede-
10 velopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
11 and after the date that the preapproval letter is issued, except
12 that the date that the preapproval letter is issued is not a lim-
13 itation for 1 project the construction of which began after
14 January 1, 2000 and before January 1, 2001 without the Michigan
15 economic growth authority determining that the project would not
16 occur in this state without the tax credit offered under this
17 section as provided in subsection ~~-(5)-~~ (7), if the costs of the
18 eligible investment are not otherwise reimbursed to the taxpayer
19 or paid for on behalf of the taxpayer from any source other than
20 the taxpayer. The addition of leased machinery, equipment, or
21 fixtures to eligible property by a lessee of the machinery,
22 equipment, or fixtures is eligible investment if the lease of the
23 machinery, equipment, or fixtures has a minimum term of 10 years
24 or is for the expected useful life of the machinery, equipment,
25 or fixtures, and if the owner of the machinery, equipment, or
26 fixtures is not the qualified taxpayer with regard to that
27 machinery, equipment, or fixtures.

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1 (f) "Eligible taxpayer" means an eligible business that
2 meets the criteria under section 8(5) of the Michigan economic
3 growth authority act, 1995 PA 24, MCL 207.808.

4 (g) "Michigan economic growth authority" means the Michigan
5 economic growth authority created in the Michigan economic growth
6 authority act, 1995 PA 24, MCL 207.801 to 207.810.

7 (H) "MULTIPHASE PROJECT" MEANS A PROJECT FOR WHICH THE TOTAL
8 OF ALL CREDITS IS \$1,000,000.00 OR LESS FOR A PROJECT APPROVED
9 UNDER SUBSECTION (2) THAT HAS MORE THAN 1 COMPONENT, EACH OF
10 WHICH CAN BE COMPLETED SEPARATELY.

11 (I) ~~(h)~~ "Payroll" and "tax rate" mean those terms as
12 defined in section 37c.

13 (J) ~~(i)~~ "Personal property" means that term as defined in
14 section 8 of the general property tax act, 1893 PA 206,
15 MCL 211.8, except that personal property does not include either
16 of the following:

17 (i) Personal property described in section 8(h), (i), or (j)
18 of the general property tax act, 1893 PA 206, MCL 211.8.

19 (ii) Buildings described in section 14(6) of the general
20 property tax act, 1893 PA 206, MCL 211.14.

21 (K) ~~(j)~~ "Project" means the total of all eligible invest-
22 ment on an eligible property or, for purposes of subsection
23 ~~(4)(b)~~ (5)(B), all eligible investment on property not in a
24 qualified local governmental unit that is a facility.

25 (l) ~~(k)~~ "Qualified local governmental unit" means that
26 term as defined in the obsolete property rehabilitation act.

1 (M) ~~(I)~~ "Qualified taxpayer" means a taxpayer that meets
2 both of the following criteria:

3 (i) Owns or leases eligible property.

4 (ii) Certifies that, EXCEPT AS OTHERWISE PROVIDED IN THIS
5 SUBPARAGRAPH, the department of environmental quality has not
6 sued or issued a unilateral order to the taxpayer pursuant to
7 part 201 of the natural resources and environmental protection
8 act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response
9 activity on or to the eligible property, or expended any state
10 funds for response activity on or to the eligible property and
11 demanded reimbursement for those expenditures from the qualified
12 taxpayer. HOWEVER, IF THE TAXPAYER HAS COMPLETED ALL RESPONSE
13 ACTIVITY REQUIRED BY PART 201 OF THE NATURAL RESOURCES AND ENVI-
14 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20101 TO
15 324.20142, IS IN COMPLIANCE WITH ANY DEED RESTRICTION OR ADMINIS-
16 TRATIVE OR JUDICIAL ORDER RELATED TO THE REQUIRED RESPONSE ACTIV-
17 ITY, AND HAS REIMBURSED THE STATE FOR ALL COSTS INCURRED BY THE
18 STATE RELATED TO THE REQUIRED RESPONSE ACTIVITY, THE TAXPAYER
19 MEETS THE CRITERIA UNDER THIS SUBPARAGRAPH.

20 (N) ~~(m)~~ "Tax liability attributable to authorized business
21 activity" means the tax liability imposed by this act after the
22 calculation of credits provided in sections 36, 37, and 39.