

HOUSE BILL No. 6501

November 7, 2002, Introduced by Rep. Richardville and referred to the Committee on Tax Policy.

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)-~~ (21) to ~~-(24)-~~
4 (26); 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 (18) or ~~-(17)-~~ (19) may claim a credit that has been approved
10 under subsection (2) or (3) against the tax imposed by this act
11 equal to either of the following:

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)~~ (9) 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~~ THE STATE TREA-
26 SURER OR A DESIGNEE OF THE STATE TREASURER IS AUTHORIZED TO
27 APPROVE AN APPLICATION OR PROJECT UNDER THIS SUBSECTION. ONLY

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

1 prohibited from subsequently applying under this subsection or
2 subsection (3) for the same project or for another project.

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

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

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

22 (5) ~~-(4)-The~~ EXCEPT AS PROVIDED IN SUBSECTION (6), THE
23 Michigan economic growth authority may approve not more than 15
24 projects each calendar year under subsection (3), and the follow-
25 ing limitations apply:

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) IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY APPROVES FEWER
15 THAN 15 PROJECTS IN A CALENDAR YEAR, THE MICHIGAN ECONOMIC GROWTH
16 AUTHORITY MAY CARRY FORWARD FOR 1 YEAR ONLY THE DIFFERENCE
17 BETWEEN 15 AND THE NUMBER OF NEW AGREEMENTS EXECUTED IN THE IMME-
18 DIATELY PRECEDING CALENDAR YEAR. EACH YEAR THE MICHIGAN ECONOMIC
19 GROWTH AUTHORITY MAY APPROVE THE 15 PROJECTS FOR THAT YEAR PLUS
20 THE NUMBER OF PROJECTS CARRIED FORWARD FROM THE IMMEDIATELY PRE-
21 CEDING YEAR. THE CARRIED FORWARD PROJECTS SHALL NOT BE APPROVED
22 FOR MORE THAN \$10,000,000.00.

23 (7) ~~—(5)—~~ The Michigan economic growth authority shall
24 review all applications for projects under subsection (3) and, if
25 an application is approved, shall determine the maximum total of
26 all credits for that project. Before approving a project for
27 which the total of all credits will be more than \$10,000,000.00

1 but \$30,000,000.00 or less only, the Michigan economic growth
2 authority shall determine that the project would not occur in
3 this state without the tax credit offered under subsection (3),
4 except that the Michigan economic growth authority may approve 1
5 project the construction of which began after January 1, 2000 and
6 before January 1, 2001 without determining that the eligible
7 investment would not occur in this state without the tax credit
8 offered under this section. The Michigan economic growth author-
9 ity shall consider the following criteria to the extent reason-
10 ably applicable to the type of project proposed when approving a
11 project under subsection (3) and the state treasurer OR A DESIG-
12 NEE OF THE STATE TREASURER shall consider the following criteria
13 to the extent reasonably applicable to the type of project pro-
14 posed when approving a project under subsection (2) OR WHEN CON-
15 SIDERING AN AMENDMENT TO A PROJECT UNDER SUBSECTION (32):

16 (a) The overall benefit to the public.

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

19 (c) Creation of jobs.

20 (d) Whether the eligible property is in an area of high
21 unemployment.

22 (e) The level and extent of contamination alleviated by the
23 qualified taxpayer's eligible ~~investment~~ ACTIVITIES to the
24 extent known to the qualified taxpayer.

25 (f) The level of private sector contribution.

1 (g) The cost gap that exists between the site and a similar
2 greenfield site as determined by the Michigan economic growth
3 authority.

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

6 (i) Whether the financial statements of the qualified tax-
7 payer indicate that it is financially sound and that the project
8 is economically sound.

9 (j) Any other criteria that the Michigan economic growth
10 authority or the state treasurer, as applicable, considers appro-
11 priate for the determination of eligibility under subsection (2)
12 or (3).

13 (8) ~~-(6)-~~ A qualified taxpayer may apply for projects under
14 subsection (2) or (3) for eligible investment on more than 1 eli-
15 gible property in a tax year. Each project approved and each
16 project for which a certificate of completion is issued under
17 this section shall be for eligible investment on 1 eligible
18 property.

19 (9) ~~-(7)-~~ When a project under subsection (2) or (3) is com-
20 pleted, the taxpayer shall submit documentation that the project
21 is completed, an accounting of the cost of the project, ~~and~~ the
22 eligible investment of each taxpayer if there is more than 1 tax-
23 payer eligible for a credit for the project, AND, IF THE TAXPAYER
24 IS NOT THE OWNER OR LESSEE OF THE ELIGIBLE PROPERTY ON WHICH THE
25 ELIGIBLE INVESTMENT WAS MADE AT THE TIME THE PROJECT IS COM-
26 PLETED, THAT THE TAXPAYER WAS THE OWNER OR LESSEE OF THAT
27 ELIGIBLE PROPERTY WHEN ALL ELIGIBLE INVESTMENT OF THE TAXPAYER

1 WAS MADE. The state treasurer OR A DESIGNEE OF THE STATE
2 TREASURER, for projects approved under subsection (2), or the
3 Michigan economic growth authority, for projects approved under
4 subsection (3), shall verify that the project is completed. For
5 projects approved under subsection (3), the Michigan economic
6 growth authority shall conduct an on-site inspection as part of
7 the verification process. When the completion of the project is
8 verified, a certificate of completion shall be issued to each
9 qualified taxpayer that has made eligible investment on that eli-
10 gible property. The certificate of completion shall state the
11 total amount of all credits for the project and that total shall
12 not exceed the maximum total of all credits listed in the preap-
13 proval letter for the project under subsection (2) or (3) as
14 applicable and shall state all of the following:

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

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

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

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

21 (e) The project number.

22 (f) For a project approved under subsection (3) for which
23 the total of all credits is more than \$10,000,000.00 but
24 \$30,000,000.00 or less, the total of all credits and the schedule
25 on which the annual credit amount shall be claimed by the quali-
26 fied taxpayer.

1 (10) ~~-(8)-~~ Except as otherwise provided in this section,
2 qualified taxpayers shall claim credits under subsections (2) and
3 (3) in the tax year in which the certificate of completion is
4 issued. For a project approved under subsection (3) for which
5 the total of all credits is more than \$10,000,000.00 but
6 \$30,000,000.00 or less, the qualified taxpayer shall claim 10% of
7 its approved credit each year for 10 years.

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

18 (12) ~~-(10)-~~ For credits under subsections (2) and (3), cred-
19 its claimed by a lessee of eligible property are subject to the
20 total of all credits limitation under this section.

21 (13) ~~-(11)-~~ Each qualified taxpayer and assignee under sub-
22 section ~~-(16)-~~ (18) or ~~-(17)-~~ (19) that claims a credit under
23 subsection (1)(a) or (b) shall attach a copy of the certificate
24 of completion and, if the credit was assigned, a copy of the
25 assignment form provided for under this section to the annual
26 return filed under this act on which the credit under subsection
27 (2) or (3) is claimed.

1 (14) ~~-(12)-~~ Except as otherwise provided in this subsection
2 or subsection ~~-(14)-~~ (16), ~~-(16)-~~ (18), or ~~-(17)-~~ (19), a credit
3 under subsection (2) or (3) shall be claimed in the tax year in
4 which the certificate of completion is issued to the qualified
5 taxpayer. For a project described in subsection ~~-(7)(f)-~~ (9)(F)
6 for which a schedule for claiming annual credit amounts is desig-
7 nated on the certificate of completion by the Michigan economic
8 growth authority, the annual credit amount shall be claimed in
9 the tax year specified on the certificate of completion.

10 (15) ~~-(13)-~~ The credits approved under this section shall be
11 calculated after application of all other credits allowed under
12 this act. The credits under subsections (2) and (3) shall be
13 calculated before the calculation of credits under subsections
14 ~~-(19)-~~ (21) to ~~-(24)-~~ (26) and before the credits under sections
15 37c and 37d.

16 (16) ~~-(14)-~~ If the credit allowed under subsection (2) or
17 (3) for the tax year and any unused carryforward of the credit
18 allowed under subsection (2) or (3) exceed the qualified
19 taxpayer's or assignee's tax liability for the tax year, that
20 portion that exceeds the tax liability for the tax year shall not
21 be refunded but may be carried forward to offset tax liability in
22 subsequent tax years for 10 years or until used up, whichever
23 occurs first. Except as otherwise provided in this subsection,
24 the maximum time allowed under the carryforward provisions under
25 this subsection begins with the tax year in which the certificate
26 of completion is issued to the qualified taxpayer. If the
27 qualified taxpayer assigns all or any portion of its credit

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

10 (17) ~~-(15)-~~ If a project or credit under subsection (2) or
11 (3) is for the addition of personal property, if the cost of that
12 personal property is used to calculate a credit under subsection
13 (2) or (3), and if the personal property is sold or disposed of
14 or transferred from eligible property to any other location, the
15 qualified taxpayer that sold, disposed of, or transferred the
16 personal property shall add the same percentage as determined
17 pursuant to subsection (1) of the federal basis of the personal
18 property used for determining gain or loss as of the date of the
19 sale, disposition, or transfer to the qualified taxpayer's tax
20 liability after application of all credits under this act for the
21 tax year in which the sale, disposition, or transfer occurs. If
22 a qualified taxpayer has an unused carryforward of a credit under
23 subsection (2) or (3), the amount otherwise added under this sub-
24 section to the qualified taxpayer's tax liability may instead be
25 used to reduce the qualified taxpayer's carryforward under sub-
26 section ~~-(14)-~~ (16).

1 (18) ~~-(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 shall be made in
12 the tax year in which the certificate of completion is issued,
13 unless the assignee is AN unknown LESSEE. If a qualified tax-
14 payer wishes to assign all or a portion of its credit to a lessee
15 but the lessee is unknown in the tax year in which the certifi-
16 cate of completion is issued, the qualified taxpayer may delay
17 claiming and assigning the credit until the first tax year in
18 which the lessee is known. A qualified taxpayer may claim a por-
19 tion of a credit and assign the remaining credit amount. Except
20 as otherwise provided in this subsection, if the qualified tax-
21 payer both claims and assigns portions of the credit, the quali-
22 fied taxpayer shall claim the portion it claims in the tax year
23 in which the certificate of completion is issued. If a qualified
24 taxpayer assigns all or a portion of the credit and the eligible
25 property is leased to more than 1 taxpayer, the qualified tax-
26 payer shall ~~-prorate-~~ DETERMINE the AMOUNT OF credit ASSIGNED to
27 each lessee. A lessee shall not subsequently assign a credit or

1 any portion of a credit assigned under this subsection. A
2 PURCHASER MAY SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A
3 CREDIT ASSIGNED TO THE PURCHASER UNDER THIS SUBSECTION TO A
4 LESSEE OF THE ELIGIBLE PROPERTY. The credit assignment under this
5 subsection shall be made on a form prescribed by the department.
6 The qualified taxpayer shall send a copy of the completed assign-
7 ment form to the department in the tax year in which the assign-
8 ment is made. The assignee shall attach a copy of the completed
9 assignment form to its annual return required to be filed under
10 this act, for the tax year in which the assignment is made and
11 the assignee first claims a credit, which shall be the same tax
12 year. In addition to all other procedures under this subsection,
13 the following apply if the total of all credits for a project is
14 more than \$10,000,000.00 but \$30,000,000.00 or less:

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

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

20 (c) More than 1 annual credit amount may be assigned to any
21 1 assignee and the qualified taxpayer may assign all or a portion
22 of each annual credit amount to any assignee.

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

25 (19) ~~-(17)-~~ If a qualified taxpayer is a partnership,
26 limited liability company, or subchapter S corporation, the
27 qualified taxpayer may assign all or a portion of a credit

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

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

4 (c) More than 1 annual credit amount may be assigned to any
5 1 assignee and the qualified taxpayer may assign all or a portion
6 of each annual credit amount to any assignee.

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

9 (20) ~~-(18)-~~ A qualified taxpayer or assignee under subsec-
10 tion ~~-(16)-~~ (18) or ~~-(17)-~~ (19) shall not claim a credit under
11 subsection (1)(a) or (b) based on eligible investment on which a
12 credit claimed under section 38d was based.

13 (21) ~~-(19)-~~ In addition to the other credits allowed under
14 this section and sections 37c and 37d, for tax years that begin
15 after December 31, 1999 and for a period of time not to exceed 20
16 years as determined by the Michigan economic growth authority, an
17 eligible taxpayer may credit against the tax imposed by section
18 31 the amount certified each year by the Michigan economic growth
19 authority that is 1 of the following:

20 (a) For an eligible business under section 8(5)(a) of the
21 Michigan economic growth authority act, 1995 PA 24, MCL 207.808,
22 an amount that is not more than 50% of 1 or both of the following
23 as determined by the Michigan economic growth authority:

24 (i) An amount determined under the Michigan economic growth
25 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
26 exceed the payroll of the eligible taxpayer attributable to

1 employees who perform retained jobs multiplied by the tax rate
2 for the tax year.

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

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

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

19 (ii) The tax liability attributable to eligible taxpayer's
20 business multiplied by a fraction the numerator of which is the
21 ratio of the value of capital investment to all of the taxpayer's
22 property located in this state plus the ratio of the taxpayer's
23 payroll attributable to retained jobs to all of the taxpayer's
24 payroll in this state and the denominator of which is 2.

25 (22) ~~-(20)-~~ An eligible taxpayer shall not claim a credit
26 under subsection ~~-(19)-~~ (21) unless the Michigan economic growth
27 authority has issued a certificate under section 9 of the

1 Michigan economic growth authority act, 1995 PA 24, MCL 207.809,
2 to the taxpayer. The eligible taxpayer shall attach the certifi-
3 cate to the return filed under this act on which a credit under
4 subsection ~~-(19)-~~ (21) is claimed.

5 (23) ~~-(21)-~~ An affiliated group as defined in this act, a
6 controlled group of corporations as defined in section 1563 of
7 the internal revenue code and further described in 26
8 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity
9 under common control as defined by the internal revenue code
10 shall claim only 1 credit under subsection ~~-(19)-~~ (21) for each
11 tax year based on each written agreement whether or not a com-
12 bined or consolidated return is filed.

13 (24) ~~-(22)-~~ A credit shall not be claimed by a taxpayer
14 under subsection ~~-(19)-~~ (21) if the eligible taxpayer's initial
15 certification under section 9 of the Michigan economic growth
16 authority act, 1995 PA 24, MCL 207.809, is issued after December
17 31, 2003.

18 (25) ~~-(23)-~~ If the credit allowed under subsection
19 ~~-(19)(a)(ii)-~~ (21)(A)(ii) or ~~-(19)(b)(ii)-~~ (B)(ii) for the tax
20 year and any unused carryforward of the credit allowed by subsec-
21 tion ~~-(19)(a)(ii)-~~ (21)(A)(ii) or (b)(ii) exceed the taxpayer's
22 tax liability for the tax year, that portion that exceeds the tax
23 liability for the tax year shall not be refunded but may be car-
24 ried forward to offset tax liability in subsequent tax years for
25 10 years or until used up, whichever occurs first.

26 (26) ~~-(24)-~~ If the credit allowed under subsection
27 ~~-(19)(a)(i)-~~ (21)(A)(i) or ~~-(19)(b)(i)-~~ (B)(i) exceeds the tax

1 liability of the eligible taxpayer for the tax year, the excess
2 shall be refunded to the eligible taxpayer.

3 (27) ~~-(25)-~~ An eligible taxpayer that claims a credit under
4 subsection (1)(a) or (b) is not prohibited from claiming a credit
5 under subsection ~~-(19)-~~ (21). However, the eligible taxpayer
6 shall not claim a credit under both subsections (1)(a) or (b) and
7 ~~-(19)-~~ (21) based on the same costs.

8 (28) ~~-(26)-~~ Eligible investment attributable or related to
9 the operation of a professional sports stadium, and eligible
10 investment that is associated or affiliated with the operation of
11 a professional sports stadium, including, but not limited to, the
12 operation of a parking lot or retail store, shall not be used as
13 a basis for a credit under subsection (2) or (3). Professional
14 sports stadium does not include a professional sports stadium
15 that will no longer be used by a professional sports team on and
16 after the date that an application related to that professional
17 sports stadium is filed under subsection (2) or (3).

18 (29) ~~-(27)-~~ Eligible investment attributable or related to
19 the operation of a casino, and eligible investment that is asso-
20 ciated or affiliated with the operation of a casino, including,
21 but not limited to, the operation of a parking lot, hotel, motel,
22 or retail store, shall not be used as a basis for a credit under
23 subsection (2) or (3). As used in this subsection, "casino"
24 means a casino regulated by this state pursuant to the Michigan
25 gaming control and revenue act, the Initiated Law of 1996,
26 MCL 432.201 to 432.226.

1 (30) ~~-(28)-~~ Eligible investment attributable or related to
2 the construction of a new landfill or the expansion of an
3 existing landfill regulated under part 115 of the natural
4 resources and environmental protection act, 1994 PA 451,
5 MCL 324.11501 to 324.11550, shall not be used as a basis for a
6 credit under subsection (2) or (3).

7 (31) ~~-(29)-~~ The department annually shall prepare and submit
8 to the house of representatives and senate committees responsible
9 for tax policy and economic development issues a report on the
10 credits under subsection (2). The report shall include, but is
11 not limited to, all of the following:

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

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

16 (32) IF, AFTER A TAXPAYER'S PROJECT HAS BEEN APPROVED AND
17 THE TAXPAYER HAS RECEIVED A PREAPPROVAL LETTER BUT BEFORE THE
18 PROJECT IS COMPLETED, THE TAXPAYER DETERMINES THAT THE PROJECT
19 CANNOT BE COMPLETED AS PREAPPROVED, THE TAXPAYER MAY PETITION THE
20 DEPARTMENT FOR PROJECTS APPROVED UNDER SUBSECTION (2) OR THE
21 MICHIGAN ECONOMIC GROWTH AUTHORITY FOR PROJECTS APPROVED UNDER
22 SUBSECTION (3) TO AMEND THE PROJECT. THE TOTAL OF ELIGIBLE
23 INVESTMENT FOR THE PROJECT AS AMENDED SHALL NOT EXCEED THE AMOUNT
24 ALLOWED IN THE PREAPPROVAL LETTER FOR THAT PROJECT.

25 (33) ~~-(30)-~~ As used in this section:

26 (a) "Annual credit amount" means the maximum amount that a
27 qualified taxpayer is eligible to claim each tax year for a

1 project for which the total of all credits is more than
2 \$10,000,000.00 but \$30,000,000.00 or less, which shall be 10% of
3 the qualified taxpayer's credit amount approved under subsection
4 (3).

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

8 (c) "Authorized business", "full-time job", "new capital
9 investment", "retained jobs", and "written agreement" mean those
10 terms as defined in the Michigan economic growth authority act,
11 1995 PA 24, MCL 207.801 to 207.810.

12 (d) "Blighted", "brownfield plan", "eligible activities",
13 "eligible property", "facility", "functionally obsolete", and
14 "response activity" mean those terms as defined in the brownfield
15 redevelopment financing act, 1996 PA 381, MCL 125.2651 to
16 125.2672.

17 (e) "Eligible investment" means demolition, construction,
18 restoration, alteration, renovation, or improvement of buildings
19 or site improvements on eligible property and the addition of
20 machinery, equipment, and fixtures to eligible property after the
21 date that eligible activities on that eligible property have
22 started pursuant to a brownfield plan under the brownfield rede-
23 velopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
24 and after the date that the preapproval letter is issued, except
25 that the date that the preapproval letter is issued is not a lim-
26 itation for 1 project the construction of which began after
27 January 1, 2000 and before January 1, 2001 without the Michigan

1 economic growth authority determining that the project would not
2 occur in this state without the tax credit offered under this
3 section as provided in subsection ~~-(5)-~~ (7), if the costs of the
4 eligible investment are not otherwise reimbursed to the taxpayer
5 or paid for on behalf of the taxpayer from any source other than
6 the taxpayer. The addition of leased machinery, equipment, or
7 fixtures to eligible property by a lessee of the machinery,
8 equipment, or fixtures is eligible investment if the lease of the
9 machinery, equipment, or fixtures has a minimum term of 10 years
10 or is for the expected useful life of the machinery, equipment,
11 or fixtures, and if the owner of the machinery, equipment, or
12 fixtures is not the qualified taxpayer with regard to that
13 machinery, equipment, or fixtures.

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

17 (g) "Michigan economic growth authority" means the Michigan
18 economic growth authority created in the Michigan economic growth
19 authority act, 1995 PA 24, MCL 207.801 to 207.810.

20 (h) "Payroll" and "tax rate" mean those terms as defined in
21 section 37c.

22 (i) "Personal property" means that term as defined in sec-
23 tion 8 of the general property tax act, 1893 PA 206, MCL 211.8,
24 except that personal property does not include either of the
25 following:

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

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

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

7 (k) "Qualified local governmental unit" means that term as
8 defined in the obsolete property rehabilitation act.

9 (l) "Qualified taxpayer" means a taxpayer that meets both of
10 the following criteria:

11 (i) Owns or leases eligible property.

12 (ii) Certifies that, EXCEPT AS OTHERWISE PROVIDED IN THIS
13 SUBPARAGRAPH, the department of environmental quality has not
14 sued or issued a unilateral order to the taxpayer pursuant to
15 part 201 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response
17 activity on or to the eligible property, or expended any state
18 funds for response activity on or to the eligible property and
19 demanded reimbursement for those expenditures from the qualified
20 taxpayer. HOWEVER, IF THE TAXPAYER HAS COMPLETED ALL RESPONSE
21 ACTIVITY REQUIRED BY PART 201 OF THE NATURAL RESOURCES AND ENVI-
22 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20101 TO
23 324.20142, IS IN COMPLIANCE WITH ANY DEED RESTRICTION OR ADMINIS-
24 TRATIVE OR JUDICIAL ORDER RELATED TO THE REQUIRED RESPONSE ACTIV-
25 ITY, AND HAS REIMBURSED THE STATE FOR ALL COSTS INCURRED BY THE
26 STATE RELATED TO THE REQUIRED RESPONSE ACTIVITY, THE TAXPAYER
27 MEETS THE CRITERIA UNDER THIS SUBPARAGRAPH.

1 (m) "Tax liability attributable to authorized business
2 activity" means the tax liability imposed by this act after the
3 calculation of credits provided in sections 36, 37, and 39.