

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1274

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 37f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 37f. (1) For tax years that begin after December 31,  
2 2004 and before January 1, 2006, a taxpayer with gross receipts  
3 of \$10,000,000.00 or less for a tax year may claim a credit  
4 against the tax imposed by this act equal to the following  
5 percentages of compensation paid by the taxpayer to employees who  
6 perform created jobs, as determined under subsection (2), for  
7 that tax year in the following circumstances:
- 8       (a) If the taxpayer makes capital investment in this state of  
9 less than \$150,000.00 in the tax year, 0.50%.
- 10       (b) If the taxpayer makes capital investment in this state of  
11 \$150,000.00 or more but less than \$750,000.00, 1.5%.

1 (c) If the taxpayer makes capital investment in this state of  
2 \$750,000.00 or more in the tax year, 2.0%.

3 (2) Compensation paid to employees who perform created jobs  
4 for purposes of subsection (1) is determined as follows:

5 (a) For tax years that begin in 2004 and 2005, determine for  
6 each tax year the full-time equivalent job for each employee,  
7 which shall be the lesser of the following:

8 (i) An employment period ratio, which is equal to the  
9 employee's weeks worked in the tax year divided by 52.

10 (ii) An hours worked ratio, which is equal to the employee's  
11 hours worked during the tax year divided by the full-time  
12 equivalent annual hours of work set by the taxpayer. Each  
13 taxpayer shall set a full-time equivalent annual hours of work  
14 standard which shall be not less than 1,750 hours and not more  
15 than 2,080 hours.

16 (b) For the tax year that begins in 2005, determine the  
17 average compensation for full-time equivalent new jobs that  
18 perform high-technology activity or manufacturing jobs as  
19 follows:

20 (i) For the tax year that begins in 2005, calculate the sum  
21 of full-time equivalent jobs calculated in subdivision (a) for  
22 employees who perform high-technology activity or manufacturing  
23 jobs and who were hired in the tax year.

24 (ii) Determine the total compensation, not to exceed  
25 \$85,000.00 per employee, paid for all jobs under subparagraph  
26 (i).

27 (iii) Divide the amount determined under subparagraph (ii) by

1 the number determined under subparagraph (i).

2 (c) Determine the number of created jobs, which shall be  
3 determined as follows:

4 (i) For the tax year that begins in 2004, calculate the sum  
5 of the number of full-time equivalent jobs calculated under  
6 subdivision (a) for all employees.

7 (ii) For the tax year that begins in 2005, calculate the sum  
8 of the number of full-time equivalent jobs calculated under  
9 subdivision (a) for all employees.

10 (iii) Subtract the number under subparagraph (i) from the  
11 number under subparagraph (ii).

12 (iv) Determine the lesser of (b) (i) and (c) (iii).

13 (d) Multiply the number under subdivision (c) (iv) by the 2005  
14 average compensation under subdivision (b) (iii).

15 (3) If the credit allowed under this section for the tax year  
16 and any unused carryforward of the credit allowed under this  
17 section exceed the tax liability of the taxpayer for the tax  
18 year, the excess shall not be refunded, but may be carried  
19 forward as an offset to the tax liability in subsequent tax years  
20 for 10 tax years or until the excess credit is used up, whichever  
21 occurs first.

22 (4) A member of an affiliated group as defined in this act, a  
23 controlled group of corporations as defined in section 1563 of  
24 the internal revenue code and further described in 26 CFR  
25 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under  
26 common control as defined by the internal revenue code shall  
27 determine gross receipts for purposes of this section on a

1 consolidated basis.

2 (5) For purposes of determining compensation paid to  
3 employees, the taxpayer shall not include compensation paid to a  
4 spouse, parent, sibling, child, stepchild, adopted child, or  
5 stepparent of an active shareholder or officer, a shareholder of  
6 an S corporation, a partner of a partnership, a member of a  
7 limited liability company, or an individual who is a sole  
8 proprietor.

9 (6) The capital investment threshold for purposes of  
10 subsection (1) must be met at the principal place of employment  
11 of any employee of the taxpayer who performs a created job.

12 (7) For purposes of the credit under this section, leased  
13 employees are considered employees of the entity whose employment  
14 operations are managed by a professional employer organization.

15 (8) As used in this section:

16 (a) "Active shareholder" and "officer" mean those terms as  
17 defined in section 36.

18 (b) "Capital investment" means investment that can be used to  
19 calculate a credit under section 35a.

20 (c) "Created jobs" means jobs that meet all of the following  
21 criteria:

22 (i) Are jobs that perform high-technology activity or  
23 manufacturing jobs.

24 (ii) Did not exist in this state in the immediately preceding  
25 tax year.

26 (iii) Represent an overall increase in full-time equivalent  
27 jobs of the taxpayer in this state for the tax year above the

1 total number of full-time equivalent jobs of the taxpayer in the  
2 immediately preceding tax year.

3 (iv) Is not a job into which an employee transfers if the  
4 employee worked in this state for the taxpayer, a related entity  
5 of the taxpayer, or an entity with which the taxpayer files a  
6 consolidated return under section 77 in another job prior to  
7 beginning the created job.

8 (v) The benefits for the employee in the created job include  
9 coverage under health and welfare and noninsured benefit plans,  
10 including, but not limited to, prescription coverage, primary  
11 health care coverage, and hospitalization that is not limited to  
12 emergency room services or subject to dollar limits, deductibles,  
13 and coinsurance provisions that are not less favorable than those  
14 for physical illness generally.

15 (vi) Is not a qualified new job used to calculate a credit  
16 under section 37c or 37d.

17 (d) "High-technology activity" means that term as defined in  
18 section 3 of the Michigan economic growth authority act, 1995 PA  
19 24, MCL 207.803.

20 (e) "Manufacturing jobs" are jobs for a company that has a  
21 classification under sector 33, subsector 321, or subsector 322  
22 of the North American industrial classification system (NAICS).

23 (f) "Related entity" means an entity that meets any of the  
24 following criteria:

25 (i) More than 1% is owned by 1 of the following:

26 (A) Another entity.

27 (B) An entity that owns more than 1% of another entity.

1           (ii) It owns more than 1% of another entity.

2           (iii) It markets itself under a common name or trademark with  
3 any other entity or receives payroll, human resources,  
4 administrative, or other similar services from a company that  
5 provides those services to another entity.