

# SENATE BILL No. 1012

February 25, 2004, Introduced by Senator THOMAS and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 39e (MCL 208.39e), as amended by 2002 PA  
622.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 39e. (1) A taxpayer may claim a credit against the tax  
2 imposed by this act for 1 or more of the following as  
3 applicable:

4       (a) The credit allowed under subsection (2).

5       (b) The credit allowed under subsection (6).

6       (2) For tax years that begin after December 31, 2002, a  
7 taxpayer that is certified under the Michigan next energy  
8 authority act, 2002 PA 593, MCL 207.821 to 207.827, as an  
9 eligible taxpayer may claim a nonrefundable credit for the tax  
10 year equal to the amount determined under subdivision (a) or (b),

1 whichever is less:

2 (a) The amount by which the taxpayer's tax liability  
3 attributable to qualified business activity for the tax year  
4 exceeds the taxpayer's baseline tax liability attributable to  
5 qualified business activity.

6 (b) For tax years that begin after December 31, 2002, 10% of  
7 the amount by which the taxpayer's adjusted qualified business  
8 activity performed in this state outside of a renaissance zone  
9 for the tax year exceeds the taxpayer's adjusted qualified  
10 business activity performed in this state outside of a  
11 renaissance zone for the 2001 tax year.

12 (3) For any tax year in which the eligible taxpayer's tax  
13 liability attributable to qualified business activity for the tax  
14 year does not exceed the taxpayer's baseline tax liability  
15 attributable to qualified business activity, the eligible  
16 taxpayer shall not claim the credit allowed under  
17 subsection (2).

18 (4) An affiliated group as defined in this act, a controlled  
19 group of corporations as defined in section 1563 of the internal  
20 revenue code and further described in 26 ~~C.F.R.~~ **CFR** 1.414(b)-1  
21 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control  
22 as defined by the internal revenue code shall not take the credit  
23 allowed under subsection (2) unless the qualified business  
24 activity of the group or entities is consolidated.

25 (5) A taxpayer that claims a credit under subsection (2)  
26 shall attach a copy of each of the following as issued pursuant  
27 to the Michigan next energy authority act, 2002 PA 593,

1 MCL 207.821 to 207.827, to the annual return required under this  
2 act for each tax year in which the taxpayer claims the credit  
3 allowed under subsection (2):

4 (a) The proof of certification that the taxpayer is an  
5 eligible taxpayer for the tax year.

6 (b) The proof of certification of the taxpayer's tax  
7 liability attributable to qualified business activity for the tax  
8 year.

9 (c) The proof of certification of the taxpayer's baseline tax  
10 liability attributable to qualified business activity.

11 (6) For tax years that begin after December 31, 2002, a  
12 taxpayer that is a qualified alternative energy entity may claim  
13 a credit for the taxpayer's qualified payroll amount. A taxpayer  
14 shall claim the credit under this subsection after all allowable  
15 nonrefundable credits under this act.

16 (7) If the credit allowed under subsection (6) exceeds the  
17 tax liability of the taxpayer for the tax year, that portion of  
18 the credit that exceeds the tax liability shall be refunded.

19 (8) Notwithstanding any other provision of this act and  
20 **except as provided in this subsection,** for tax years that begin  
21 after December 31, 2002, a person whose apportioned or allocated  
22 gross receipts are less than \$350,000.00 for the tax year need  
23 not file a return or pay the tax as provided under this act.  
24 **However, for tax years that begin after December 31, 2004, if a**  
25 **person is engaged in the person's first or second year of**  
26 **business activity in this state and the person's apportioned or**  
27 **allocated gross receipts are less than \$500,000.00 for the tax**

1 year, the person need not file a return or pay the tax as  
2 provided under this act.

3 (9) As used in this section:

4 (a) "Adjusted qualified business activity performed in this  
5 state outside of a renaissance zone" means either of the  
6 following:

7 (i) Except as provided in subparagraph (ii), the taxpayer's  
8 payroll for qualified business activity performed in this state  
9 outside of a renaissance zone.

10 (ii) For a partnership, limited liability company,  
11 S corporation, or individual, the amount determined under  
12 subparagraph (i) plus the product of the following as related to  
13 the taxpayer:

14 (A) Business income.

15 (B) The apportionment factor as determined under chapter 3.

16 (C) The alternative energy business activity factor.

17 (b) "Alternative energy business activity factor" means a  
18 fraction the numerator of which is the ratio of the value of the  
19 taxpayer's property used for qualified business activity and  
20 located in this state outside of a renaissance zone for the year  
21 for which the factor is being calculated to the value of all of  
22 the taxpayer's property located in this state for that year plus  
23 the ratio of the taxpayer's payroll for qualified business  
24 activity performed in this state outside of a renaissance zone  
25 for that year to all of the taxpayer's payroll in this state for  
26 that year and the denominator of which is 2.

27 (c) "Alternative energy marine propulsion system",

1 "alternative energy system", "alternative energy vehicle", and  
2 "alternative energy technology" mean those terms as defined in  
3 the Michigan next energy authority act, 2002 PA 593, MCL 207.821  
4 to 207.827.

5 (d) "Alternative energy zone" means a renaissance zone  
6 designated as an alternative energy zone by the board of the  
7 Michigan strategic fund under section 8a of the Michigan  
8 renaissance zone act, 1996 PA 376, MCL 125.2688a.

9 (e) "Baseline tax liability attributable to qualified  
10 business activity" means the taxpayer's tax liability for the  
11 2001 tax year multiplied by the taxpayer's alternative energy  
12 business activity factor for the 2001 tax year. A taxpayer with  
13 a 2001 tax year of less than 12 months shall annualize the amount  
14 calculated under this subdivision as necessary to determine  
15 baseline tax liability attributable to qualified business  
16 activity that reflects a 12-month period.

17 (f) "Eligible taxpayer" means a taxpayer that has proof of  
18 certification of qualified business activity under the Michigan  
19 next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

20 (g) "Payroll" means total salaries and wages before deducting  
21 any personal or dependency exemptions.

22 (h) "Qualified alternative energy entity" means a taxpayer  
23 located in an alternative energy zone.

24 (i) "Qualified business activity" means research,  
25 development, or manufacturing of an alternative energy marine  
26 propulsion system, an alternative energy system, an alternative  
27 energy vehicle, alternative energy technology, or renewable

1 fuel.

2 (j) "Qualified employee" means an individual who is employed  
3 by a qualified alternative energy entity, whose job  
4 responsibilities are related to the research, development, or  
5 manufacturing activities of the qualified alternative energy  
6 entity, and whose regular place of employment is within an  
7 alternative energy zone.

8 (k) "Qualified payroll amount" means an amount equal to  
9 payroll of the qualified alternative energy entity attributable  
10 to all qualified employees in the tax year of the qualified  
11 alternative energy entity for which the credit under  
12 subsection (6) is being claimed, multiplied by the tax rate for  
13 that tax year.

14 (l) "Renaissance zone" means a renaissance zone designated  
15 under the Michigan renaissance zone act, 1996 PA 376,  
16 MCL 125.2681 to 125.2696.

17 (m) "Renewable fuel" means 1 or more of the following:

18 (i) Biodiesel or biodiesel blends containing at least  
19 20% biodiesel. As used in this subparagraph, "biodiesel" means a  
20 diesel fuel substitute consisting of methyl or ethyl esters  
21 produced from the transesterification of animal or vegetable fats  
22 with methanol or ethanol.

23 (ii) Biomass. As used in this subparagraph, "biomass" means  
24 residues from the wood and paper products industries, residues  
25 from food production and processing, trees and grasses grown  
26 specifically to be used as energy crops, and gaseous fuels  
27 produced from solid biomass, animal wastes, municipal waste, or

1 landfills.

2       (n) "Tax liability attributable to qualified business  
3 activity" means the taxpayer's tax liability multiplied by the  
4 taxpayer's alternative energy business activity factor for the  
5 tax year.

6       (o) "Tax rate" means the rate imposed under sections 51, 51d,  
7 and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51,  
8 206.51d, and 206.51e, annualized as necessary, for the tax year  
9 in which the qualified alternative energy entity claims a credit  
10 under subsection (6).