

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4734

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38g (MCL 208.38g), as amended by 2003 PA 249.

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 (20) to (25); and subject
4 to the criteria under this section, a qualified taxpayer that has a
5 preapproval letter issued after December 31, 1999 and before
6 January 1, 2008, provided that the project is completed not more
7 than 5 years after the preapproval letter for the project is
8 issued, or an assignee under subsection (17) or (18) **OR SECTION 35E**
9 may claim a credit that has been approved under subsection (2), ~~or~~

1 (3), **OR (33)** against the tax imposed by this act equal to either of
2 the following:

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

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

22 (2) If the cost of a project will be for **MORE THAN**
23 **\$2,000,000.00 BUT** \$10,000,000.00 or less, a qualified taxpayer
24 shall apply to the Michigan economic growth authority for approval
25 of the project under this subsection. An application under this
26 subsection shall state whether the project is a multiphase project.
27 The chairperson of the Michigan economic growth authority or his or

1 her designee is authorized to approve an application or project
2 under this subsection. Only the chairperson of the Michigan
3 economic growth authority is authorized to deny an application or
4 project under this subsection. A project shall be approved or
5 denied not more than 45 days after receipt of the application. If
6 the chairperson of the Michigan economic growth authority or his or
7 her designee does not approve or deny an application within 45 days
8 after the application is received by the Michigan economic growth
9 authority, the application is considered approved as written. The
10 total of all credits for all projects approved under this
11 subsection shall not exceed \$30,000,000.00 in any calendar year.

12 **AFTER THE FIRST FULL CALENDAR YEAR AFTER THE EFFECTIVE DATE OF THE**
13 **AMENDATORY ACT THAT ADDED SUBSECTION (33), IF THE AUTHORITY**
14 **APPROVES A TOTAL OF ALL CREDITS FOR ALL PROJECTS UNDER THIS**
15 **SUBSECTION OF LESS THAN \$30,000,000.00 IN A CALENDAR YEAR, THE**
16 **AUTHORITY MAY CARRY FORWARD FOR 1 YEAR ONLY THE DIFFERENCE BETWEEN**
17 **\$30,000,000.00 AND THE TOTAL OF ALL CREDITS FOR ALL PROJECTS**
18 **APPROVED UNDER THIS SUBSECTION IN THE IMMEDIATELY PRECEDING**
19 **CALENDAR YEAR.** The criteria in subsection (6) shall be used when
20 approving projects under this subsection. When approving projects
21 under this subsection, priority shall be given to projects on a
22 facility. The total of all credits for an approved project under
23 this subsection shall not exceed \$1,000,000.00. A taxpayer may
24 apply under this subsection instead of subsection (3) for approval
25 of a project that will be for more than \$10,000,000.00 but the
26 total of all credits for that project shall not exceed
27 \$1,000,000.00. If the chairperson of the Michigan economic growth

1 authority or his or her designee approves a project under this
2 subsection, the chairperson of the Michigan economic growth
3 authority or his or her designee shall issue a preapproval letter
4 that states that the taxpayer is a qualified taxpayer; the maximum
5 total eligible investment for the project on which credits may be
6 claimed and the maximum total of all credits for the project when
7 the project is completed and a certificate of completion is issued;
8 and the project number assigned by the Michigan economic growth
9 authority. If a project is denied under this subsection, a taxpayer
10 is not prohibited from subsequently applying under this subsection
11 or subsection (3) for the same project or for another project.

12 (3) If the cost of a project will be for more than
13 \$10,000,000.00 and, except as provided in subsection (5)(b), the
14 project is located in a qualified local governmental unit, a
15 qualified taxpayer shall apply to the Michigan economic growth
16 authority for approval of the project. **AN APPLICATION UNDER THIS**
17 **SUBSECTION SHALL STATE WHETHER THE PROJECT IS A MULTIPHASE PROJECT.**
18 The Michigan economic growth authority shall approve or deny the
19 project not more than 65 days after receipt of the application. A
20 project under this subsection shall not be approved without the
21 concurrence of the state treasurer. If the Michigan economic growth
22 authority does not approve or deny the application within 65 days
23 after it receives the application, the Michigan economic growth
24 authority shall send the application to the state treasurer. The
25 state treasurer shall approve or deny the application within 5 days
26 after receipt of the application. If the state treasurer does not
27 deny the application within the 5 days after receipt of the

1 application, the application is considered approved. The Michigan
2 economic growth authority shall approve a limited number of
3 projects under this subsection during each calendar year as
4 provided in subsection (5). The Michigan economic growth authority
5 shall use the criteria in subsection (6) when approving projects
6 under this subsection, when determining the total amount of
7 eligible investment, and when determining the percentage of
8 eligible investment for the project to be used to calculate a
9 credit. The total of all credits for an approved project under this
10 subsection shall not exceed the amount designated in the
11 preapproval letter for that project. If the Michigan economic
12 growth authority approves a project under this subsection, the
13 Michigan economic growth authority shall issue a preapproval letter
14 that states that the taxpayer is a qualified taxpayer; the
15 percentage of eligible investment for the project determined by the
16 Michigan economic growth authority for purposes of subsection
17 (1)(b); the maximum total eligible investment for the project on
18 which credits may be claimed and the maximum total of all credits
19 for the project when the project is completed and a certificate of
20 completion is issued; and the project number assigned by the
21 Michigan economic growth authority. The Michigan economic growth
22 authority shall send a copy of the preapproval letter to the
23 department. If a project is denied under this subsection, a
24 taxpayer is not prohibited from subsequently applying under this
25 subsection or subsection (2) for the same project or for another
26 project.

27 (4) If the project is on property that is functionally

1 obsolete, the taxpayer shall include, with the application, an
 2 affidavit signed by a level 3 or level 4 assessor, that states that
 3 it is the assessor's expert opinion that the property is
 4 functionally obsolete and the underlying basis for that opinion.

5 (5) The Michigan economic growth authority may approve not
 6 more than ~~15~~ 17 projects each calendar year under subsection (3),
 7 and the following limitations apply:

8 (a) Of the ~~15~~ 17 projects allowed under this subsection, the
 9 total of all credits for each project may be more than
 10 \$10,000,000.00 but \$30,000,000.00 or less for up to ~~3~~ 2 projects.

11 (b) Of the ~~15~~ 17 projects allowed under this subsection, up
 12 to 3 projects may be approved for projects that are not in a
 13 qualified local governmental unit if the property is a facility for
 14 which eligible activities are identified in a brownfield plan **OR,**
 15 **FOR 1 OF THE 3 PROJECTS, IF THE PROPERTY IS NOT A FACILITY BUT IS**
 16 **FUNCTIONALLY OBSOLETE OR BLIGHTED, PROPERTY IDENTIFIED IN A**
 17 **BROWNFIELD PLAN.** For purposes of this subdivision, a facility
 18 includes a building or complex of buildings that was used by a
 19 state or federal agency and that is no longer being used for the
 20 purpose for which it was used by the state or federal agency.

21 (c) Of the ~~3~~ 2 projects allowed under subdivision (a), 1 may
 22 be a project that also qualifies under subdivision (b).

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

1 \$30,000,000.00 or less only, the Michigan economic growth authority
2 shall determine that the project would not occur in this state
3 without the tax credit offered under subsection (3), except that
4 the Michigan economic growth authority may approve 1 project the
5 construction of which began after January 1, 2000 and before
6 January 1, 2001 without determining that the eligible investment
7 would not occur in this state without the tax credit offered under
8 this section. The Michigan economic growth authority shall consider
9 the following criteria to the extent reasonably applicable to the
10 type of project proposed when approving a project under subsection
11 (3) and the chairperson of the Michigan economic growth authority
12 or his or her designee shall consider the following criteria to the
13 extent reasonably applicable to the type of project proposed when
14 approving a project under subsection (2) **OR (33)** or when
15 considering an amendment to a project under subsection (31):

16 (a) The overall benefit to the public.

17 (b) The extent of reuse of vacant buildings and redevelopment
18 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 activities to the extent known to the
24 qualified taxpayer.

25 (f) The level of private sector contribution.

26 (g) The cost gap that exists between the site and a similar
27 greenfield site as determined by the Michigan economic growth

1 authority.

2 (h) If the qualified taxpayer is moving from another location
3 in this state, whether the move will create a brownfield.

4 (i) Whether the financial statements of the qualified taxpayer
5 indicate that it is financially sound and that the project is
6 economically sound.

7 (j) Any other criteria that the Michigan economic growth
8 authority or the chairperson of the Michigan economic growth
9 authority, as applicable, considers appropriate for the
10 determination of eligibility under subsection (2) or (3).

11 (7) A qualified taxpayer may apply for projects under
12 subsection (2), ~~or~~ (3), **OR (33)** for eligible investment on more
13 than 1 eligible property in a tax year. Each project approved and
14 each project for which a certificate of completion is issued under
15 this section shall be for eligible investment on 1 eligible
16 property.

17 (8) When a project under subsection (2), ~~or~~ (3), **OR (33)** is
18 completed, the taxpayer shall submit documentation that the project
19 is completed, an accounting of the cost of the project, the
20 eligible investment of each taxpayer if there is more than 1
21 taxpayer eligible for a credit for the project, and, if the
22 taxpayer is not the owner or lessee of the eligible property on
23 which the eligible investment was made at the time the project is
24 completed, that the taxpayer was the owner or lessee of that
25 eligible property when all eligible investment of the taxpayer was
26 made. The chairperson of the Michigan economic growth authority or
27 his or her designee, for projects approved under subsection (2) **OR**

1 (33), or the Michigan economic growth authority, for projects
2 approved under subsection (3), shall verify that the project is
3 completed. The Michigan economic growth authority shall conduct an
4 on-site inspection as part of the verification process **FOR PROJECTS**
5 **APPROVED UNDER SUBSECTION (3)**. When the completion of the project
6 is verified, a certificate of completion shall be issued to each
7 qualified taxpayer that has made eligible investment on that
8 eligible property. The certificate of completion shall state the
9 total amount of all credits for the project and that total shall
10 not exceed the maximum total of all credits listed in the
11 preapproval letter for the project under subsection (2) or (3) **OR**
12 **SECTION 35C** as applicable and shall state all of the following:

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

14 (b) The total cost of the project and the eligible investment
15 of each qualified taxpayer.

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

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

19 (e) The project number.

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

24 (g) For a multiphase project under subsection (32), the amount
25 of each credit assigned and the amount of all credits claimed in
26 each tax year before the year in which the project is completed.

27 (9) Except as otherwise provided in this section, qualified

1 taxpayers shall claim credits under subsections (2), ~~and~~ (3), **AND**
2 **(33)** in the tax year in which the certificate of completion is
3 issued. For a project approved under subsection (3) for which the
4 total of all credits is more than \$10,000,000.00 but \$30,000,000.00
5 or less, the qualified taxpayer shall claim 10% of its approved
6 credit each year for 10 years. A credit assigned based on a
7 multiphase project shall be claimed in the year in which the credit
8 is assigned.

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

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

21 (12) Each qualified taxpayer and assignee under subsection
22 (17) or (18) **OR SECTION 35E** that claims a credit under subsection
23 (1)(a) or (b) **OR (33)** shall attach a copy of the certificate of
24 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), **OR (33)** is claimed. An assignee of a credit based on

1 a multiphase project shall attach a copy of the assignment form
2 provided for under this section and the component completion
3 certificate provided for in subsection (32) to the annual return
4 filed under this act on which the credit is claimed but is not
5 required to file a copy of a certificate of completion.

6 (13) Except as otherwise provided in this subsection or
7 subsection (15), (17), ~~-(19), or (32)-~~ **(18), OR (32) OR SECTION**
8 **35E**, a credit under subsection (2), ~~or~~ (3), **OR (33)** shall be
9 claimed in the tax year in which the certificate of completion is
10 issued to the qualified taxpayer. For a project described in
11 subsection (8)(f) for which a schedule for claiming annual credit
12 amounts is designated on the certificate of completion by the
13 Michigan economic growth authority, the annual credit amount shall
14 be claimed in the tax year specified on the certificate of
15 completion.

16 (14) The credits approved under this section shall be
17 calculated after application of all other credits allowed under
18 this act. The credits under subsections (2), ~~and~~ (3), **AND (33)**
19 shall be calculated before the calculation of credits under
20 subsections (20) to (25) and before the credits under sections 37c
21 and 37d.

22 (15) If the credit allowed under subsection (2), ~~or~~ (3), **OR**
23 **(33)** for the tax year and any unused carryforward of the credit
24 allowed under subsection (2), ~~or~~ (3), **OR (33)** exceed the
25 qualified taxpayer's or assignee's tax liability for the tax year,
26 that portion that exceeds the tax liability for the tax year shall
27 not be refunded but may be carried forward to offset tax liability

1 in subsequent tax years for 10 years or until used up, whichever
2 occurs first. Except as otherwise provided in this subsection, the
3 maximum time allowed under the carryforward provisions under this
4 subsection begins with the tax year in which the certificate of
5 completion is issued to the qualified taxpayer. If the qualified
6 taxpayer assigns all or any portion of its credit approved under
7 subsection (2), ~~or~~ (3), **OR (33)**, the maximum time allowed under
8 the carryforward provisions for an assignee begins to run with the
9 tax year in which the assignment is made and the assignee first
10 claims a credit, which shall be the same tax year. The maximum time
11 allowed under the carryforward provisions for an annual credit
12 amount for a credit allowed under subsection (3) begins to run in
13 the tax year for which the annual credit amount is designated on
14 the certificate of completion issued under this section.

15 (16) If a project or credit under subsection (2), ~~or~~ (3), **OR**
16 **(33)** is for the addition of personal property, if the cost of that
17 personal property is used to calculate a credit under subsection
18 (2), ~~or~~ (3), **OR (33)**, and if the personal property is sold or
19 disposed of or transferred from eligible property to any other
20 location, the qualified taxpayer that sold, disposed of, or
21 transferred the personal property shall add the same percentage as
22 determined pursuant to subsection (1) of the federal basis of the
23 personal property used for determining gain or loss as of the date
24 of the sale, disposition, or transfer to the qualified taxpayer's
25 tax liability after application of all credits under this act for
26 the tax year in which the sale, disposition, or transfer occurs. If
27 a qualified taxpayer has an unused carryforward of a credit under

1 subsection (2), ~~or~~ (3), **OR (33)**, the amount otherwise added under
2 this subsection to the qualified taxpayer's tax liability may
3 instead be used to reduce the qualified taxpayer's carryforward
4 under subsection (15).

5 (17) For credits under ~~subsections~~ **SUBSECTION (2)**, ~~and~~
6 **(3), OR (33) FOR PROJECTS FOR WHICH A CERTIFICATE OF COMPLETION IS**
7 **ISSUED BEFORE JANUARY 1, 2006** and except as otherwise provided in
8 this subsection, if a qualified taxpayer pays or accrues eligible
9 investment on or to an eligible property that is leased for a
10 minimum term of 10 years or sold to another taxpayer for use in a
11 business activity, the qualified taxpayer may assign all or a
12 portion of the credit based on that eligible investment to the
13 lessee or purchaser of that eligible property. A credit assignment
14 under this subsection shall only be made to a taxpayer that when
15 the assignment is complete will be a qualified taxpayer. All credit
16 assignments under this subsection are irrevocable and, except for a
17 credit based on a multiphase project, shall be made in the tax year
18 in which the certificate of completion is issued, unless the
19 assignee is an unknown lessee. If a qualified taxpayer wishes to
20 assign all or a portion of its credit to a lessee but the lessee is
21 unknown in the tax year in which the certificate of completion is
22 issued, the qualified taxpayer may delay claiming and assigning the
23 credit until the first tax year in which the lessee is known. A
24 qualified taxpayer may claim a portion of a credit and assign the
25 remaining credit amount. Except as otherwise provided in this
26 subsection, if the qualified taxpayer both claims and assigns
27 portions of the credit, the qualified taxpayer shall claim the

1 portion it claims in the tax year in which the certificate of
2 completion is issued or for a credit assigned and claimed for a
3 multiphase project before a certificate of completion is issued,
4 the taxpayer shall claim the credit in the year in which the credit
5 is assigned. If a qualified taxpayer assigns all or a portion of
6 the credit and the eligible property is leased to more than 1
7 taxpayer, the qualified taxpayer shall determine the amount of
8 credit assigned to each lessee. A lessee shall not subsequently
9 assign a credit or any portion of a credit assigned under this
10 subsection. A purchaser may subsequently assign a credit or any
11 portion of a credit assigned to the purchaser under this subsection
12 to a lessee of the eligible property. The credit assignment under
13 this subsection shall be made on a form prescribed by the Michigan
14 economic growth authority. The qualified taxpayer shall send a copy
15 of the completed assignment form to the Michigan economic growth
16 authority in the tax year in which the assignment is made. The
17 assignee shall attach a copy of the completed assignment form to
18 its annual return required to be filed under this act, for the tax
19 year in which the assignment is made and the assignee first claims
20 a credit, which shall be the same tax year. In addition to all
21 other procedures under this subsection, the following apply if the
22 total of all credits for a project is more than \$10,000,000.00 but
23 \$30,000,000.00 or less:

24 (a) The credit shall be assigned based on the schedule
25 contained in the certificate of completion.

26 (b) If the qualified taxpayer assigns all or a portion of the
27 credit amount, the qualified taxpayer shall assign the annual

1 credit amount for each tax year separately.

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

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

7 (18) ~~—If—~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR**
8 **PROJECTS FOR WHICH A CERTIFICATE OF COMPLETION IS ISSUED BEFORE**
9 **JANUARY 1, 2006, IF** a qualified taxpayer is a partnership, limited
10 liability company, or subchapter S corporation, the qualified
11 taxpayer may assign all or a portion of a credit allowed under
12 subsection (2) or (3) to its partners, members, or shareholders,
13 based on their proportionate share of ownership of the partnership,
14 limited liability company, or subchapter S corporation or based on
15 an alternative method approved by the Michigan economic growth
16 authority. A credit assignment under this subsection is irrevocable
17 and, except for a credit assignment based on a multiphase project,
18 shall be made in the tax year in which a certificate of completion
19 is issued. A qualified taxpayer may claim a portion of a credit and
20 assign the remaining credit amount. If the qualified taxpayer both
21 claims and assigns portions of the credit, the qualified taxpayer
22 shall claim the portion it claims in the tax year in which a
23 certificate of completion is issued. A partner, member, or
24 shareholder that is an assignee shall not subsequently assign a
25 credit or any portion of a credit assigned under this subsection.
26 The credit assignment under this subsection shall be made on a form
27 prescribed by the Michigan economic growth authority. The qualified

1 taxpayer shall send a copy of the completed assignment form to the
2 Michigan economic growth authority in the tax year in which the
3 assignment is made. A partner, member, or shareholder who is an
4 assignee shall attach a copy of the completed assignment form to
5 its annual return required under this act, for the tax year in
6 which the assignment is made and the assignee first claims a
7 credit, which shall be the same tax year. **A CREDIT ASSIGNMENT BASED**
8 **ON A CREDIT FOR A COMPONENT OF A MULTIPHASE PROJECT THAT IS**
9 **COMPLETED BEFORE JANUARY 1, 2006 SHALL BE MADE UNDER THIS**
10 **SUBSECTION. A CREDIT ASSIGNMENT BASED ON A CREDIT FOR A COMPONENT**
11 **OF A MULTIPHASE PROJECT THAT IS COMPLETED ON OR AFTER JANUARY 1,**
12 **2006 MAY BE MADE UNDER THIS SECTION OR SECTION 35E.** In addition to
13 all other procedures under this subsection, the following apply if
14 the total of all credits for a project is more than \$10,000,000.00
15 but \$30,000,000.00 or less:

16 (a) The credit shall be assigned based on the schedule
17 contained in the certificate of completion.

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

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

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

26 (19) A qualified taxpayer or assignee under subsection (17) or
27 (18) shall not claim a credit under subsection (1)(a) or (b) based

1 on eligible investment on which a credit claimed under section 38d
2 was based.

3 (20) In addition to the other credits allowed under this
4 section and sections 37c and 37d, for tax years that begin after
5 December 31, 1999 and for a period of time not to exceed 20 years
6 as determined by the Michigan economic growth authority, an
7 eligible taxpayer may credit against the tax imposed by section 31
8 the amount certified each year by the Michigan economic growth
9 authority that is 1 of the following:

10 (a) For an eligible business under section 8(5)(a) of the
11 Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an
12 amount that is not more than 50% of 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 for
18 the tax year.

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

25 (b) For an eligible business under section 8(5)(b) of the
26 Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an
27 amount that is not more than 1 or both of the following as

1 determined by the Michigan economic growth authority:

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

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

13 (21) An eligible taxpayer shall not claim a credit under
14 subsection (20) unless the Michigan economic growth authority has
15 issued a certificate under section 9 of the Michigan economic
16 growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The
17 eligible taxpayer shall attach the certificate to the return filed
18 under this act on which a credit under subsection (20) is claimed.

19 (22) An affiliated group as defined in this act, a controlled
20 group of corporations as defined in section 1563 of the internal
21 revenue code and further described in 26 CFR 1.414(b)-1 and
22 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
23 defined by the internal revenue code shall claim only 1 credit
24 under subsection (20) for each tax year based on each written
25 agreement whether or not a combined or consolidated return is
26 filed.

27 (23) A credit shall not be claimed by a taxpayer under

subsection (20) if the eligible taxpayer's initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, is issued after December 31, 2009. If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under subsection (20) get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under subsection (20), the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under subsection (20) is claimed.

(24) If the credit allowed under subsection (20)(a)(ii) or (b)(ii) for the tax year and any unused carryforward of the credit allowed by subsection (20)(a)(ii) or (b)(ii) exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(25) If the credit allowed under subsection (20)(a)(i) or (b)(i) exceeds the tax liability of the eligible taxpayer for the tax year, the excess shall be refunded to the eligible taxpayer.

(26) An eligible taxpayer that claims a credit under subsection (1)(a), ~~or (b)~~ **(1)(B), OR (33)** is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under ~~both subsections~~ **SUBSECTION (1)(a), ~~or (b)~~ (1)(B), OR (33)** and **SUBSECTION (20)** based on the same costs.

1 (27) Eligible investment attributable or related to the
2 operation of a professional sports stadium, and eligible investment
3 that is associated or affiliated with the operation of a
4 professional sports stadium, including, but not limited to, the
5 operation of a parking lot or retail store, shall not be used as a
6 basis for a credit under subsection (2), ~~or~~ (3), **OR (33)**.

7 Professional sports stadium does not include a professional sports
8 stadium that will no longer be used by a professional sports team
9 on and after the date that an application related to that
10 professional sports stadium is filed under subsection (2), ~~or~~
11 (3), **OR (33)**.

12 (28) Eligible investment attributable or related to the
13 operation of a casino, and eligible investment that is associated
14 or affiliated with the operation of a casino, including, but not
15 limited to, the operation of a parking lot, hotel, motel, or retail
16 store, shall not be used as a basis for a credit under subsection
17 (2), ~~or~~ (3), **OR (33)**. As used in this subsection, "casino" means
18 a casino regulated by this state pursuant to the Michigan gaming
19 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
20 432.226.

21 (29) Eligible investment attributable or related to the
22 construction of a new landfill or the expansion of an existing
23 landfill regulated under part 115 of the natural resources and
24 environmental protection act, 1994 PA 451, MCL 324.11501 to
25 324.11550, shall not be used as a basis for a credit under
26 subsection (2), ~~or~~ (3), **OR (33)**.

27 (30) The Michigan economic growth authority annually shall

1 prepare and submit to the house of representatives and senate
2 committees responsible for tax policy and economic development
3 issues a report on the credits under subsection (2). The report
4 shall include, but is not limited to, all of the following:

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

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

9 (31) If, after a taxpayer's project has been approved and the
10 taxpayer has received a preapproval letter but before the project
11 is completed, the taxpayer determines that the project cannot be
12 completed as preapproved, the taxpayer may petition the Michigan
13 economic growth authority to amend the project. The total of
14 eligible investment for the project as amended shall not exceed the
15 amount allowed in the preapproval letter for that project.

16 (32) A project under subsection (2), (3), OR (33) may be a
17 multiphase project but, **FOR PROJECTS COMPLETED BEFORE JANUARY 1,**
18 **2006,** only if the project is an industrial or manufacturing
19 project. If a project is a multiphase project, when each component
20 of the multiphase project is completed, the taxpayer shall submit
21 documentation that the component is complete, an accounting of the
22 cost of the component, and the eligible investment for the
23 component of each taxpayer eligible for a credit for the project of
24 which the component is a part to the Michigan economic growth
25 authority or the designee of the Michigan economic growth
26 authority, who shall verify that the component is complete. When
27 the completion of the component is verified, a component completion

1 certificate shall be issued to the qualified taxpayer which shall
2 state that the taxpayer is a qualified taxpayer, the credit amount
3 for the component, the qualified taxpayer's federal employer
4 identification number or the Michigan treasury number assigned to
5 the taxpayer, and the project number. The taxpayer may assign all
6 or part of the credit for a multiphase project as provided in this
7 section after a component completion certificate for a component is
8 issued. The qualified taxpayer may transfer ownership of or lease
9 the completed component and assign a proportionate share of the
10 credit for the entire project to the qualified taxpayer that is the
11 new owner or lessee. A multiphase project shall not be divided into
12 more than ~~3~~ 20 components. A component is considered to be
13 completed when a certificate of occupancy has been issued by the
14 local municipality in which the project is located for all of the
15 buildings or facilities that comprise the completed component and a
16 component completion certificate is issued. A credit assigned based
17 on a multiphase project shall be claimed by the assignee in the tax
18 year in which the assignment is made. The total of all credits for
19 a multiphase project shall not exceed the amount stated in the
20 preapproval letter for the project under subsection ~~(1)(a)~~ (1).
21 If all components of a multiphase project are not completed by 10
22 years after the date on which the preapproval letter for the
23 project was issued, the qualified taxpayer that received the
24 preapproval letter for the project shall pay to the state
25 treasurer, as a penalty, an amount equal to the sum of all credits
26 claimed and assigned for all components of the multiphase project
27 and no credits based on that multiphase project shall be claimed

1 after that date by the qualified taxpayer or any assignee of the
2 qualified taxpayer. The penalty under this subsection is subject to
3 interest on the amount of the credit claimed or assigned determined
4 individually for each component at the rate in section 23(2) of
5 1941 PA 122, MCL 205.23, beginning on the date that the credit for
6 that component was claimed or assigned. As used in this subsection,
7 "proportionate share" means the same percentage of the total of all
8 credits for the project that the qualified investment for the
9 completed component is of the total qualified investment stated in
10 the preapproval letter for the entire project.

11 (33) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS \$200,000.00
12 OR LESS, A QUALIFIED TAXPAYER SHALL APPLY TO THE MICHIGAN ECONOMIC
13 GROWTH AUTHORITY FOR APPROVAL OF THE PROJECT UNDER THIS SUBSECTION.
14 AN APPLICATION UNDER THIS SUBSECTION SHALL STATE WHETHER THE
15 PROJECT IS A MULTIPHASE PROJECT. SUBJECT TO SECTION 35C, THE
16 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR HIS OR HER
17 DESIGNEE IS AUTHORIZED TO APPROVE AN APPLICATION OR PROJECT UNDER
18 THIS SUBSECTION. ONLY THE CHAIRPERSON OF THE MICHIGAN ECONOMIC
19 GROWTH AUTHORITY IS AUTHORIZED TO DENY AN APPLICATION OR PROJECT
20 UNDER THIS SUBSECTION. A PROJECT SHALL BE APPROVED OR DENIED NOT
21 MORE THAN 45 DAYS AFTER RECEIPT OF THE APPLICATION. IF THE
22 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR HIS OR HER
23 DESIGNEE DOES NOT APPROVE OR DENY THE APPLICATION WITHIN 45 DAYS
24 AFTER THE APPLICATION IS RECEIVED BY THE MICHIGAN ECONOMIC GROWTH
25 AUTHORITY, THE APPLICATION IS CONSIDERED APPROVED AS WRITTEN. IF A
26 PROJECT IS DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT
27 PROHIBITED FROM SUBSEQUENTLY APPLYING UNDER THIS SUBSECTION FOR THE

1 SAME PROJECT OR FOR ANOTHER PROJECT. THE TOTAL OF ALL CREDITS FOR
2 ALL PROJECTS APPROVED UNDER THIS SUBSECTION SHALL NOT EXCEED
3 \$10,000,000.00 IN ANY CALENDAR YEAR. AFTER THE FIRST FULL CALENDAR
4 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SUBSECTION, IF THE AUTHORITY APPROVES A TOTAL OF ALL CREDITS FOR
6 ALL PROJECTS UNDER THIS SUBSECTION OF LESS THAN \$10,000,000.00 IN A
7 CALENDAR YEAR, THE AUTHORITY MAY CARRY FORWARD FOR 1 YEAR ONLY THE
8 DIFFERENCE BETWEEN \$10,000,000.00 AND THE TOTAL OF ALL CREDITS FOR
9 ALL PROJECTS UNDER THIS SUBSECTION APPROVED IN THE IMMEDIATELY
10 PRECEDING CALENDAR YEAR. IF THE CHAIRPERSON OF THE MICHIGAN
11 ECONOMIC GROWTH AUTHORITY OR HIS OR HER DESIGNEE APPROVES A PROJECT
12 UNDER THIS SUBSECTION, THE CHAIRPERSON OF THE MICHIGAN ECONOMIC
13 GROWTH AUTHORITY OR HIS OR HER DESIGNEE SHALL ISSUE A PREAPPROVAL
14 LETTER THAT STATES THAT THE TAXPAYER IS A QUALIFIED TAXPAYER; THE
15 MAXIMUM TOTAL ELIGIBLE INVESTMENT FOR THE PROJECT ON WHICH CREDITS
16 MAY BE CLAIMED AND THE MAXIMUM TOTAL OF ALL CREDITS FOR THE PROJECT
17 WHEN THE PROJECT IS COMPLETED AND A CERTIFICATE OF COMPLETION IS
18 ISSUED; AND THE PROJECT NUMBER ASSIGNED BY THE MICHIGAN ECONOMIC
19 GROWTH AUTHORITY. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL
20 DEVELOP AND IMPLEMENT THE USE OF THE APPLICATION FORM TO BE USED
21 FOR PROJECTS UNDER THIS SUBSECTION. BEFORE THE APPLICATION FORM IS
22 FIRST USED AND IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY
23 SUBSTANTIALLY CHANGES THE FORM, THE MICHIGAN ECONOMIC GROWTH
24 AUTHORITY SHALL ADOPT THE FORM OR CHANGES BY RESOLUTION. AFTER 60
25 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
26 SUBSECTION AND BEFORE THE MICHIGAN ECONOMIC GROWTH AUTHORITY
27 SUBSTANTIALLY CHANGES THE APPLICATION FORM, THE MICHIGAN ECONOMIC

1 GROWTH AUTHORITY SHALL GIVE NOTICE OF THE PROPOSED RESOLUTION TO
2 THE SECRETARY OF THE SENATE, TO THE CLERK OF THE HOUSE OF
3 REPRESENTATIVES, AND TO EACH PERSON WHO REQUESTED FROM THE MICHIGAN
4 ECONOMIC GROWTH AUTHORITY IN WRITING OR ELECTRONICALLY TO BE
5 NOTIFIED REGARDING PROPOSED RESOLUTIONS. THE NOTICE AND PROPOSED
6 RESOLUTION AND ALL ATTACHMENTS SHALL BE PUBLISHED ON THE MICHIGAN
7 ECONOMIC GROWTH AUTHORITY'S INTERNET WEBSITE. THE MICHIGAN ECONOMIC
8 GROWTH AUTHORITY SHALL HOLD A PUBLIC HEARING NOT SOONER THAN 14
9 DAYS AND NOT LATER THAN 30 DAYS AFTER THE DATE NOTICE OF A PROPOSED
10 RESOLUTION IS GIVEN AND OFFER AN OPPORTUNITY FOR PERSONS TO PRESENT
11 DATA, VIEWS, QUESTIONS, AND ARGUMENTS. THE MICHIGAN ECONOMIC GROWTH
12 AUTHORITY BOARD MEMBERS OR 1 OR MORE PERSONS DESIGNATED BY THE
13 MICHIGAN ECONOMIC GROWTH AUTHORITY WHO HAVE KNOWLEDGE OF THE
14 SUBJECT MATTER OF THE PROPOSED RESOLUTION SHALL BE PRESENT AT THE
15 PUBLIC HEARING AND SHALL PARTICIPATE IN THE DISCUSSION OF THE
16 PROPOSED RESOLUTION. THE MICHIGAN ECONOMIC GROWTH AUTHORITY MAY ACT
17 ON THE PROPOSED RESOLUTION NO SOONER THAN 14 DAYS AFTER THE PUBLIC
18 HEARING. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL PRODUCE A
19 FINAL DECISION DOCUMENT THAT DESCRIBES THE BASIS FOR ITS DECISION.
20 THE FINAL RESOLUTION AND ALL ATTACHMENTS AND THE DECISION DOCUMENT
21 SHALL BE PROVIDED TO THE SECRETARY OF THE SENATE AND TO THE CLERK
22 OF THE HOUSE OF REPRESENTATIVES AND SHALL BE PUBLISHED ON THE
23 MICHIGAN ECONOMIC GROWTH AUTHORITY'S INTERNET WEBSITE. THE NOTICE
24 SHALL INCLUDE ALL OF THE FOLLOWING:

25 (A) A COPY OF THE PROPOSED RESOLUTION AND ALL ATTACHMENTS.

26 (B) A STATEMENT THAT ANY PERSON MAY EXPRESS ANY DATA, VIEWS,
27 OR ARGUMENTS REGARDING THE PROPOSED RESOLUTION.

1 (C) THE ADDRESS TO WHICH WRITTEN COMMENTS MAY BE SENT AND THE
 2 DATE BY WHICH COMMENTS MUST BE MAILED OR ELECTRONICALLY
 3 TRANSMITTED, WHICH DATE SHALL NOT BE RESTRICTED TO ONLY BEFORE THE
 4 DATE OF THE PUBLIC HEARING.

5 (D) THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

6 (34) —(33)— As used in this section:

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

12 (b) "Authority" means a brownfield redevelopment authority
 13 created under the brownfield redevelopment financing act, 1996 PA
 14 381, MCL 125.2651 to 125.2672.

15 (c) "Authorized business", "full-time job", "new capital
 16 investment", "qualified high-technology business", "retained jobs",
 17 and "written agreement" mean those terms as defined in the Michigan
 18 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

19 (d) "Blighted", "brownfield plan", "eligible activities",
 20 "eligible property", "facility", "functionally obsolete",
 21 **"QUALIFIED LOCAL GOVERNMENTAL UNIT"**, and "response activity" mean,
 22 **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (F)**, those terms as
 23 defined in the brownfield redevelopment financing act, 1996 PA 381,
 24 MCL 125.2651 to 125.2672.

25 (e) "Eligible investment" means demolition, construction,
 26 restoration, alteration, renovation, or improvement of buildings or
 27 site improvements on eligible property and the addition of

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

22 (F) "ELIGIBLE PROPERTY" MEANS THAT TERM AS DEFINED IN THE
23 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651
24 TO 125.2672, EXCEPT THAT, FOR PURPOSES OF SUBSECTION (33), ALL OF
25 THE FOLLOWING APPLY:

26 (i) ELIGIBLE PROPERTY MEANS PROPERTY IDENTIFIED UNDER A
27 BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMERCIAL,

1 INDUSTRIAL, OR RESIDENTIAL PURPOSES AND THAT IS 1 OF THE FOLLOWING:

2 (A) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED
3 UNDER THE BROWNFIELD PLAN, IS IN A QUALIFIED LOCAL GOVERNMENTAL
4 UNIT, AND IS A FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED.

5 (B) PROPERTY THAT IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL
6 UNIT BUT IS WITHIN A DOWNTOWN DEVELOPMENT DISTRICT ESTABLISHED
7 UNDER 1975 PA 197, MCL 125.1651 TO 125.1681, AND IS FUNCTIONALLY
8 OBSOLETE OR BLIGHTED, AND A COMPONENT OF THE PROJECT ON THAT
9 ELIGIBLE PROPERTY IS 1 OR MORE OF THE FOLLOWING:

10 (I) INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE
11 ELIGIBLE PROPERTY.

12 (II) DEMOLITION OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY
13 UNDER SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
14 PROTECTION ACT, 1994 PA 451, MCL 324.20101.

15 (III) LEAD OR ASBESTOS ABATEMENT.

16 (IV) SITE PREPARATION THAT IS NOT RESPONSE ACTIVITY UNDER
17 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
18 ACT, 1994 PA 451, MCL 324.20101.

19 (C) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED
20 UNDER THE BROWNFIELD PLAN, IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL
21 UNIT, AND IS A FACILITY.

22 (ii) ELIGIBLE PROPERTY INCLUDES PARCELS THAT ARE ADJACENT OR
23 CONTIGUOUS TO THE ELIGIBLE PROPERTY IF THE DEVELOPMENT OF THE
24 ADJACENT OR CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE
25 CAPTURED TAXABLE VALUE OF THE PROPERTY OR TAX REVERTED PROPERTY
26 OWNED OR UNDER THE CONTROL OF A LAND BANK FAST TRACK AUTHORITY
27 PURSUANT TO THE LAND BANK FAST TRACK AUTHORITY ACT, 2003 PA 258,

1 MCL 124.751 TO 124.774.

2 (iii) ELIGIBLE PROPERTY INCLUDES, TO THE EXTENT INCLUDED IN THE
3 BROWNFIELD PLAN, PERSONAL PROPERTY LOCATED ON THE ELIGIBLE
4 PROPERTY.

5 (iv) ELIGIBLE PROPERTY DOES NOT INCLUDE QUALIFIED AGRICULTURAL
6 PROPERTY EXEMPT UNDER SECTION 7EE OF THE GENERAL PROPERTY TAX ACT,
7 1893 PA 206, MCL 211.7EE, FROM THE TAX LEVIED BY A LOCAL SCHOOL
8 DISTRICT FOR SCHOOL OPERATING PURPOSES TO THE EXTENT PROVIDED UNDER
9 SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

10 (G) ~~—(f)—~~ "Eligible taxpayer" means an eligible business that
11 meets the criteria under section 8(5) of the Michigan economic
12 growth authority act, 1995 PA 24, MCL 207.808.

13 (H) ~~—(g)—~~ "Michigan economic growth authority" means the
14 Michigan economic growth authority created in the Michigan economic
15 growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

16 (I) ~~—(h)—~~ "Multiphase project" means a project ~~for which the~~
17 ~~total of all credits is \$1,000,000.00 or less for a project~~
18 approved under subsection (2), (3), OR (33) that has more than 1
19 component, each of which can be completed separately.

20 (J) ~~—(i)—~~ "Payroll" and "tax rate" mean those terms as defined
21 in section 37c.

22 (K) ~~—(j)—~~ "Personal property" means that term as defined in
23 section 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) of
27 the general property tax act, 1893 PA 206, MCL 211.8.

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

(l) ~~(k)~~ "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), ~~all~~
1 OF THE FOLLOWING:

(i) **ALL** eligible investment on property not in a qualified local governmental unit that is a facility.

(ii) **ALL ELIGIBLE INVESTMENT ON PROPERTY THAT IS NOT A FACILITY BUT IS FUNCTIONALLY OBSOLETE OR BLIGHTED.**

(M) ~~(l)~~ "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(N) ~~(m)~~ "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(i) Owns or leases eligible property.

(ii) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the

1 required response activity, and has reimbursed the state for all
2 costs incurred by the state related to the required response
3 activity, the taxpayer meets the criteria under this subparagraph.

4 (0) ~~(n)~~ "Tax liability attributable to authorized business
5 activity" means the tax liability imposed by this act after the
6 calculation of credits provided in sections 36, 37, and 39.

7 Enacting section 1. This amendatory act does not take effect
8 unless all of the following bills of the 93rd Legislature are
9 enacted into law:

10 (a) Senate Bill No. 599.

11 (b) House Bill No. 4733.