

**SUBSTITUTE FOR
SENATE BILL NO. 599**

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) may claim a
9 credit that has been approved under subsection (2), ~~or~~ (3), OR

1 (33) against the tax imposed by this act equal to either of the
2 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 The criteria in subsection (6) shall be used when approving
13 projects under this subsection. When approving projects under this
14 subsection, priority shall be given to projects on a facility. The
15 total of all credits for an approved project under this subsection
16 shall not exceed \$1,000,000.00. A taxpayer may apply under this
17 subsection instead of subsection (3) for approval of a project that
18 will be for more than \$10,000,000.00 but the total of all credits
19 for that project shall not exceed \$1,000,000.00. If the chairperson
20 of the Michigan economic growth authority or his or her designee
21 approves a project under this subsection, the chairperson of the
22 Michigan economic growth authority or his or her designee shall
23 issue a preapproval letter that states that the taxpayer is a
24 qualified taxpayer; the maximum total eligible investment for the
25 project on which credits may be claimed and the maximum total of
26 all credits for the project when the project is completed and a
27 certificate of completion is issued; and the project number

1 assigned by the Michigan economic growth authority. If a project is
2 denied under this subsection, a taxpayer is not prohibited from
3 subsequently applying under this subsection or subsection (3) for
4 the same project or for another project.

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

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

18 (4) If the project is on property that is functionally
19 obsolete, the taxpayer shall include, with the application, an
20 affidavit signed by a level 3 or level 4 assessor, that states that
21 it is the assessor's expert opinion that the property is
22 functionally obsolete and the underlying basis for that opinion.

23 **FOR PROJECTS UNDER SUBSECTION (33), THE AFFIDAVIT REQUIRED UNDER**
24 **THIS SUBSECTION SHALL BE REVIEWED BY THE STATE TAX COMMISSION**
25 **WITHIN 45 DAYS OF RECEIPT OF THE AFFIDAVIT. AFTER REVIEWING THE**
26 **AFFIDAVIT, THE STATE TAX COMMISSION SHALL PROVIDE A WRITTEN**
27 **STATEMENT TO THE TAXPAYER THAT STATES THAT, UPON REVIEW, THE STATE**

1 TAX COMMISSION AGREES WITH THE ASSESSOR'S OPINION THAT THE PROPERTY
2 IS FUNCTIONALLY OBSOLETE AND WITH THE BASIS FOR THAT OPINION. THE
3 TAXPAYER SHALL INCLUDE THE WRITTEN STATEMENT FROM THE STATE TAX
4 COMMISSION WITH THE ASSESSOR'S AFFIDAVIT AND THE APPLICATION.

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

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

11 (b) Of the 15 projects allowed under this subsection, up to 3
12 projects may be approved for projects that are not in a qualified
13 local governmental unit if the property is a facility for which
14 eligible activities are identified in a brownfield plan. For
15 purposes of this subdivision, a facility includes a building or
16 complex of buildings that was used by a state or federal agency and
17 that is no longer being used for the purpose for which it was used
18 by the state or federal agency.

19 (c) ~~Of the 3 projects~~ **THE PROJECT** allowed under subdivision

20 (a) ~~—, 1—~~ may be a project that also qualifies under subdivision

21 (b).

22 (6) The Michigan economic growth authority shall review all
23 applications for projects under subsection (3) and, if an
24 application is approved, shall determine the maximum total of all
25 credits for that project. Before approving a project for which the
26 total of all credits will be more than \$10,000,000.00 but
27 \$30,000,000.00 or less only, the Michigan economic growth authority

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

15 (a) The overall benefit to the public.

16 (b) The extent of reuse of vacant buildings and redevelopment
17 of blighted property.

18 (c) Creation of jobs.

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

21 (e) The level and extent of contamination alleviated by the
22 qualified taxpayer's eligible activities to the extent known to the
23 qualified taxpayer.

24 (f) The level of private sector contribution.

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

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

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

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

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

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

1 approved under subsection (3), shall verify that the project is
2 completed. The Michigan economic growth authority shall conduct an
3 on-site inspection as part of the verification process **FOR PROJECTS**
4 **APPROVED UNDER SUBSECTION (3)**. When the completion of the project
5 is verified, a certificate of completion shall be issued to each
6 qualified taxpayer that has made eligible investment on that
7 eligible property. The certificate of completion shall state the
8 total amount of all credits for the project and that total shall
9 not exceed the maximum total of all credits listed in the
10 preapproval letter for the project under subsection (2), ~~or~~ (3),
11 **OR (33)** as applicable and shall state all of the following:
12 (a) That the taxpayer is a qualified taxpayer.
13 (b) The total cost of the project and the eligible investment
14 of each qualified taxpayer.
15 (c) Each qualified taxpayer's credit amount.
16 (d) The qualified taxpayer's federal employer identification
17 number or the Michigan treasury number assigned to the taxpayer.
18 (e) The project number.
19 (f) For a project approved under subsection (3) for which the
20 total of all credits is more than \$10,000,000.00 but \$30,000,000.00
21 or less, the total of all credits and the schedule on which the
22 annual credit amount shall be claimed by the qualified taxpayer.
23 (g) For a multiphase project under subsection (32), the amount
24 of each credit assigned and the amount of all credits claimed in
25 each tax year before the year in which the project is completed.
26 (9) Except as otherwise provided in this section, qualified
27 taxpayers shall claim credits under subsections (2), ~~and~~ (3), **AND**

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

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

17 (11) For credits under subsections (2), ~~and~~ (3), **AND (33)**,
18 credits claimed by a lessee of eligible property are subject to the
19 total of all credits limitation under this section.

20 (12) Each qualified taxpayer and assignee under subsection
21 (17) or (18) that claims a credit under subsection (1)(a) or (b)
22 shall attach a copy of the certificate of completion and, if the
23 credit was assigned, a copy of the assignment form provided for
24 under this section to the annual return filed under this act on
25 which the credit under subsection (2), ~~or~~ (3), **OR (33)** is
26 claimed. An assignee of a credit based on a multiphase project
27 shall attach a copy of the assignment form provided for under this

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

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

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

20 (15) If the credit allowed under subsection (2), ~~or~~ (3), **OR**
21 **(33)** for the tax year and any unused carryforward of the credit
22 allowed under subsection (2), ~~or~~ (3), **OR (33)** exceed the
23 qualified taxpayer's or assignee's tax liability for the tax year,
24 that portion that exceeds the tax liability for the tax year shall
25 not be refunded but may be carried forward to offset tax liability
26 in subsequent tax years for 10 years or until used up, whichever
27 occurs first. Except as otherwise provided in this subsection, the

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

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

1 instead be used to reduce the qualified taxpayer's carryforward
2 under subsection (15).

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

1 credit in the year in which the credit is assigned. If a qualified
2 taxpayer assigns all or a portion of the credit and the eligible
3 property is leased to more than 1 taxpayer, the qualified taxpayer
4 shall determine the amount of credit assigned to each lessee. A
5 lessee shall not subsequently assign a credit or any portion of a
6 credit assigned under this subsection. A purchaser may subsequently
7 assign a credit or any portion of a credit assigned to the
8 purchaser under this subsection to a lessee of the eligible
9 property. The credit assignment under this subsection shall be made
10 on a form prescribed by the Michigan economic growth authority. The
11 qualified taxpayer shall send a copy of the completed assignment
12 form to the Michigan economic growth authority in the tax year in
13 which the assignment is made. The assignee shall attach a copy of
14 the completed assignment form to its annual return required to be
15 filed under this act, for the tax year in which the assignment is
16 made and the assignee first claims a credit, which shall be the
17 same tax year. In addition to all other procedures **AND REQUIREMENTS**
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 (a) The credit shall be assigned based on the schedule
22 contained in the certificate of completion.

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

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

1 each annual credit amount to any assignee.

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

4 (18) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR**
5 **PROJECTS COMPLETED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT**
6 **THAT ADDED SUBSECTION (34), IF** a qualified taxpayer is a
7 partnership, limited liability company, or subchapter S
8 corporation, the qualified taxpayer may assign all or a portion of
9 a credit allowed under subsection (2) or (3) to its partners,
10 members, or shareholders, based on their proportionate share of
11 ownership of the partnership, limited liability company, or
12 subchapter S corporation or based on an alternative method approved
13 by the Michigan economic growth authority. A credit assignment
14 under this subsection is irrevocable and, except for a credit
15 assignment based on a multiphase project, shall be made in the tax
16 year in which a certificate of completion is issued. A qualified
17 taxpayer may claim a portion of a credit and assign the remaining
18 credit amount. If the qualified taxpayer both claims and assigns
19 portions of the credit, the qualified taxpayer shall claim the
20 portion it claims in the tax year in which a certificate of
21 completion is issued. A partner, member, or shareholder that is an
22 assignee shall not subsequently assign a credit or any portion of a
23 credit assigned under this subsection. The credit assignment under
24 this subsection shall be made on a form prescribed by the Michigan
25 economic growth authority. The qualified taxpayer shall send a copy
26 of the completed assignment form to the Michigan economic growth
27 authority in the tax year in which the assignment is made. A

1 partner, member, or shareholder who is an assignee shall attach a
2 copy of the completed assignment form to its annual return required
3 under this act, for the tax year in which the assignment is made
4 and the assignee first claims a credit, which shall be the same tax
5 year. **A CREDIT ASSIGNMENT BASED ON A CREDIT FOR A COMPONENT OF A**
6 **MULTIPHASE PROJECT THAT IS COMPLETED BEFORE THE EFFECTIVE DATE OF**
7 **THE AMENDATORY ACT THAT ADDED SUBSECTION (34) SHALL BE MADE UNDER**
8 **THIS SUBSECTION. A CREDIT ASSIGNMENT BASED ON A CREDIT FOR A**
9 **COMPONENT OF A MULTIPHASE PROJECT THAT IS COMPLETED ON OR AFTER THE**
10 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (34) MAY**
11 **BE MADE UNDER SUBSECTION (34).** In addition to all other procedures
12 **AND REQUIREMENTS** under this subsection, the following apply if the
13 total of all credits for a project is more than \$10,000,000.00 but
14 \$30,000,000.00 or less:

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

17 (b) If the qualified taxpayer assigns all or a portion of the
18 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 1
21 assignee and the qualified taxpayer may assign all or a portion of
22 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) A qualified taxpayer or assignee under subsection (17) or
26 (18) shall not claim a credit under subsection (1)(a) or (b) based
27 on eligible investment on which a credit claimed under section 38d

1 was based.

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

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

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

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

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

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

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

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

18 (22) 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 CFR 1.414(b)-1 and
21 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
22 defined by the internal revenue code shall claim only 1 credit
23 under subsection (20) for each tax year based on each written
24 agreement whether or not a combined or consolidated return is
25 filed.

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

(27) Eligible investment attributable or related to the

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

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

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

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

26 (30) The Michigan economic growth authority annually shall
27 prepare and submit to the house of representatives and senate

1 committees responsible for tax policy and economic development
2 issues a report on the credits under ~~subsection~~ **SUBSECTIONS** (2)
3 **AND (33)**. The report shall include, but is not limited to, all of
4 the following:

5 (a) A listing of the projects under ~~subsection~~ **SUBSECTIONS**
6 (2) **AND (33)** that were approved in the calendar year.

7 (b) The total amount of eligible investment for projects
8 approved under ~~subsection~~ **SUBSECTIONS** (2) **AND (33)** in the
9 calendar year.

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

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

1 completion certificate shall be issued to the qualified taxpayer
2 which shall state that the taxpayer is a qualified taxpayer, the
3 credit amount for the component, the qualified taxpayer's federal
4 employer identification number or the Michigan treasury number
5 assigned to the taxpayer, and the project number. The taxpayer may
6 assign all or part of the credit for a multiphase project as
7 provided in this section after a component completion certificate
8 for a component is issued. The qualified taxpayer may transfer
9 ownership of or lease the completed component and assign a
10 proportionate share of the credit for the entire project to the
11 qualified taxpayer that is the new owner or lessee. A multiphase
12 project shall not be divided into more than 3 components. A
13 component is considered to be completed when a certificate of
14 occupancy has been issued by the local municipality in which the
15 project is located for all of the buildings or facilities that
16 comprise the completed component and a component completion
17 certificate is issued. A credit assigned based on a multiphase
18 project shall be claimed by the assignee in the tax year in which
19 the assignment is made. The total of all credits for a multiphase
20 project shall not exceed the amount stated in the preapproval
21 letter for the project under subsection (1)(a) **OR (33), AS**
22 **APPLICABLE**. If all components of a multiphase project are not
23 completed by 10 years after the date on which the preapproval
24 letter for the project was issued, the qualified taxpayer that
25 received the preapproval letter for the project shall pay to the
26 state treasurer, as a penalty, an amount equal to the sum of all
27 credits claimed and assigned for all components of the multiphase

1 project and no credits based on that multiphase project shall be
2 claimed after that date by the qualified taxpayer or any assignee
3 of the qualified taxpayer. The penalty under this subsection is
4 subject to interest on the amount of the credit claimed or assigned
5 determined individually for each component at the rate in section
6 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the
7 credit for that component was claimed or assigned. As used in this
8 subsection, "proportionate share" means the same percentage of the
9 total of all credits for the project that the qualified investment
10 for the completed component is of the total qualified investment
11 stated in the preapproval letter for the entire project.

12 (33) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS \$200,000.00
13 OR LESS, A QUALIFIED TAXPAYER SHALL APPLY TO THE MICHIGAN ECONOMIC
14 GROWTH AUTHORITY FOR APPROVAL OF THE PROJECT UNDER THIS SUBSECTION
15 ON A FORM PRESCRIBED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY. THE
16 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR HIS OR HER
17 DESIGNEE SHALL APPROVE OR DENY A PROJECT UNDER THIS SUBSECTION NOT
18 MORE THAN 45 DAYS AFTER RECEIPT OF THE APPLICATION. IF THE
19 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY DOES NOT
20 APPROVE OR DENY THE APPLICATION WITHIN 45 DAYS AFTER THE
21 APPLICATION IS RECEIVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY,
22 THE APPLICATION IS CONSIDERED APPROVED AS WRITTEN. RECEIPT OF THE
23 APPLICATION IS CONSIDERED TO BE THE DATE THE APPLICATION IS
24 RECEIVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY. IF THE
25 APPLICATION IS CONSIDERED INCOMPLETE BY THE MICHIGAN ECONOMIC
26 GROWTH AUTHORITY, THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL
27 NOTIFY THE QUALIFIED TAXPAYER IN WRITING, OR MAKE THE INFORMATION

1 ELECTRONICALLY AVAILABLE, WITHIN 14 DAYS AFTER RECEIPT OF THE
2 INCOMPLETE APPLICATION, DESCRIBING THE DEFICIENCY AND REQUESTING
3 THE ADDITIONAL INFORMATION. THE 45-DAY PERIOD FOR APPROVAL OR
4 DENIAL IS TOLLED UPON NOTIFICATION BY THE MICHIGAN ECONOMIC GROWTH
5 AUTHORITY OF A DEFICIENCY UNTIL THE DATE THE REQUESTED INFORMATION
6 IS RECEIVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY. THE
7 DETERMINATION OF THE COMPLETENESS OF AN APPLICATION DOES NOT
8 OPERATE AS AN APPROVAL OF AN APPLICATION AND DOES NOT CONFER
9 ELIGIBILITY UPON AN APPLICANT DETERMINED OTHERWISE INELIGIBLE. IF A
10 PROJECT IS DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT
11 PROHIBITED FROM SUBSEQUENTLY APPLYING UNDER THIS SUBSECTION FOR THE
12 SAME PROJECT OR FOR ANOTHER PROJECT. THE CHAIRPERSON OF THE
13 MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL APPROVE NO MORE THAN 100
14 PROJECTS UNDER THIS SUBSECTION IN EACH CALENDAR YEAR AND APPROVING
15 FIRST THOSE PROJECTS SUBMITTED FIRST. A PROJECT UNDER THIS
16 SUBSECTION MAY BE A MULTIPHASE PROJECT. IF THE CHAIRPERSON OF THE
17 MICHIGAN ECONOMIC GROWTH AUTHORITY APPROVES A PROJECT UNDER THIS
18 SUBSECTION, THE CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH
19 AUTHORITY SHALL ASSIGN A PROJECT NUMBER TO THE PROJECT AND ISSUE A
20 PREAPPROVAL LETTER THAT STATES THAT THE TAXPAYER IS A QUALIFIED
21 TAXPAYER; THE MAXIMUM TOTAL ELIGIBLE INVESTMENT FOR THE PROJECT ON
22 WHICH THE CREDITS MAY BE CLAIMED AND THE MAXIMUM TOTAL OF ALL
23 CREDITS FOR THE PROJECT WHEN THE PROJECT IS COMPLETED AND A
24 CERTIFICATE OF COMPLETION IS ISSUED; AND THE PROJECT NUMBER
25 ASSIGNED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY. THE MICHIGAN
26 ECONOMIC GROWTH AUTHORITY SHALL USE ONLY THE FOLLOWING CRITERIA TO
27 APPROVE A PROJECT UNDER THIS SUBSECTION:

1 (A) THE PROJECT IS FOR ELIGIBLE INVESTMENT.

2 (B) THE PROJECT IS ON PROPERTY THAT IS A FACILITY, IS
3 BLIGHTED, OR IS FUNCTIONALLY OBSOLETE.

4 (C) THE PROJECT WILL RECEIVE A LOCAL CONTRIBUTION.

5 (D) THE PROJECT WILL INCREASE THE STATE EQUALIZED VALUATION OF
6 THE PROPERTY INVOLVED.

7 (34) FOR PROJECTS COMPLETED AFTER THE EFFECTIVE DATE OF THE
8 AMENDATORY ACT THAT ADDED THIS SUBSECTION, A QUALIFIED TAXPAYER MAY
9 ASSIGN ALL OR A PORTION OF A CREDIT ALLOWED UNDER SUBSECTION (2),
10 (3), OR (33). A CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS
11 IRREVOCABLE AND, EXCEPT FOR A CREDIT ASSIGNMENT BASED ON A
12 MULTIPHASE PROJECT, SHALL BE MADE IN THE TAX YEAR IN WHICH A
13 CERTIFICATE OF COMPLETION IS ISSUED. A QUALIFIED TAXPAYER MAY CLAIM
14 A PORTION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. IF
15 THE QUALIFIED TAXPAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE
16 CREDIT, THE QUALIFIED TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN
17 THE TAX YEAR IN WHICH A CERTIFICATE OF COMPLETION IS ISSUED. AN
18 ASSIGNEE SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A
19 CREDIT ASSIGNED UNDER THIS SUBSECTION. THE CREDIT ASSIGNMENT UNDER
20 THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE MICHIGAN
21 ECONOMIC GROWTH AUTHORITY. THE QUALIFIED TAXPAYER SHALL SEND A COPY
22 OF THE COMPLETED ASSIGNMENT FORM TO THE MICHIGAN ECONOMIC GROWTH
23 AUTHORITY IN THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE. AN
24 ASSIGNEE SHALL ATTACH A COPY OF THE COMPLETED ASSIGNMENT FORM TO
25 ITS ANNUAL RETURN REQUIRED UNDER THIS ACT, FOR THE TAX YEAR IN
26 WHICH THE ASSIGNMENT IS MADE AND THE ASSIGNEE FIRST CLAIMS A
27 CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

1 (35) ~~—(33)—~~ As used in this section:

2 (a) "Annual credit amount" means the maximum amount that a
3 qualified taxpayer is eligible to claim each tax year for a project
4 for which the total of all credits is more than \$10,000,000.00 but
5 \$30,000,000.00 or less, which shall be 10% of the qualified
6 taxpayer's credit amount approved under subsection (3).

7 (b) "Authority" means a brownfield redevelopment authority
8 created under the brownfield redevelopment financing act, 1996 PA
9 381, MCL 125.2651 to 125.2672.

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

14 (d) "Blighted", "brownfield plan", "eligible activities",
15 "eligible property", "facility", "functionally obsolete",
16 **"QUALIFIED LOCAL GOVERNMENTAL UNIT"**, and "response activity" mean,
17 **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (G)**, those terms as
18 defined in the brownfield redevelopment financing act, 1996 PA 381,
19 MCL 125.2651 to 125.2672.

20 **(E) "COMPLETED APPLICATION" MEANS AN APPLICATION COMPLETE ON**
21 **ITS FACE AND SUBMITTED WITH ALL NECESSARY INFORMATION, RECORDS,**
22 **APPROVAL, SECURITY, OR SIMILAR ITEM REQUIRED BY LAW OR RULE.**

23 **(F) ~~—(e)—~~** "Eligible investment" means demolition,
24 construction, restoration, alteration, renovation, or improvement
25 of buildings or site improvements on eligible property and the
26 addition of machinery, equipment, and fixtures to eligible property
27 after the date that eligible activities on that eligible property

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

20 (G) "ELIGIBLE PROPERTY" MEANS THAT TERM AS DEFINED IN THE
21 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651
22 TO 125.2672, EXCEPT THAT, FOR PURPOSES OF SUBSECTION (33), ELIGIBLE
23 PROPERTY IS NOT REQUIRED TO BE IN A QUALIFIED LOCAL GOVERNMENTAL
24 UNIT.

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

1 (I) ~~—(g)—~~ "Michigan economic growth authority" means the
 2 Michigan economic growth authority created in the Michigan economic
 3 growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

4 (J) ~~—(h)—~~ "Multiphase project" means a project for which the
 5 total of all credits is \$1,000,000.00 or less for a project
 6 approved under subsection (2) that has more than 1 component, each
 7 of which can be completed separately.

8 (K) ~~—(i)—~~ "Payroll" and "tax rate" mean those terms as defined
 9 in section 37c.

10 (L) ~~—(j)—~~ "Personal property" means that term as defined in
 11 section 8 of the general property tax act, 1893 PA 206, MCL 211.8,
 12 except that personal property does not include either of the
 13 following:

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

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

18 (M) ~~—(k)—~~ "Project" means the total of all eligible investment
 19 on an eligible property or, for purposes of subsection (5)(b), all
 20 eligible investment on property not in a qualified local
 21 governmental unit that is a facility.

22 (N) ~~—(l)—~~ "Qualified local governmental unit" means that term
 23 as defined in the obsolete property rehabilitation act, 2000 PA
 24 146, MCL 125.2781 to 125.2797.

25 (O) ~~—(m)—~~ "Qualified taxpayer" means a taxpayer that meets
 26 both of the following criteria:

27 (i) Owns or leases eligible property.

1 (ii) Certifies that, except as otherwise provided in this
2 subparagraph, the department of environmental quality has not sued
3 or issued a unilateral order to the taxpayer pursuant to part 201
4 of the natural resources and environmental protection act, 1994 PA
5 451, MCL 324.20101 to 324.20142, to compel response activity on or
6 to the eligible property, or expended any state funds for response
7 activity on or to the eligible property and demanded reimbursement
8 for those expenditures from the qualified taxpayer. However, if the
9 taxpayer has completed all response activity required by part 201
10 of the natural resources and environmental protection act, 1994 PA
11 451, MCL 324.20101 to 324.20142, is in compliance with any deed
12 restriction or administrative or judicial order related to the
13 required response activity, and has reimbursed the state for all
14 costs incurred by the state related to the required response
15 activity, the taxpayer meets the criteria under this subparagraph.

16 (P) ~~—(n)—~~ "Tax liability attributable to authorized business
17 activity" means the tax liability imposed by this act after the
18 calculation of credits provided in sections 36, 37, and 39.