

# HOUSE BILL No. 4009

January 27, 2005, Introduced by Rep. Accavitti and referred to the Committee on Tax Policy.

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
(MCL 208.1 to 208.145) by adding section 35c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 35C. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,  
2        2005, A QUALIFIED TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX  
3        IMPOSED BY THIS ACT EQUAL TO 10% OF THE JOB SKILLS TRAINING  
4        EXPENSES PAID BY THE QUALIFIED TAXPAYER IN THE TAX YEAR.

5        (2) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX  
6        LIABILITY OF THE TAXPAYER UNDER THIS ACT FOR THE TAX YEAR, THAT  
7        PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL NOT BE  
8        REFUNDED BUT MAY BE CARRIED FORWARD UNTIL THE CREDIT IS USED UP.

9        (3) A QUALIFIED TAXPAYER THAT CLAIMS A CREDIT UNDER THIS

1 SECTION SHALL SUBMIT PROOF OF THE EXPENDITURES USED TO CALCULATE  
2 THE CREDIT UNDER THIS SECTION AND THAT THOSE EXPENDITURES ARE FOR  
3 CERTIFIED JOB SKILLS TRAINING PROGRAMS WITH ITS ANNUAL RETURN  
4 REQUIRED UNDER THIS ACT ON WHICH THE CREDIT IS CLAIMED.

5 (4) A QUALIFIED TAXPAYER THAT IS A FLOW-THROUGH ENTITY MAY BE  
6 ASSIGNED ALL OR A PORTION OF THE CREDIT ALLOWED UNDER THIS SECTION  
7 TO 1 OR MORE OF ITS MEMBERS. AN ASSIGNMENT UNDER THIS SECTION SHALL  
8 BE BASED ON THE PERCENTAGE OF THE MEMBER'S DISTRIBUTIVE SHARE OF  
9 THE INCOME OF THE FLOW-THROUGH ENTITY OR BASED ON AN ALTERNATIVE  
10 METHOD APPROVED BY THE DEPARTMENT. A CREDIT ASSIGNMENT UNDER THIS  
11 SUBSECTION IS IRREVOCABLE. A QUALIFIED TAXPAYER MAY CLAIM A PORTION  
12 OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. A MEMBER THAT  
13 IS AN ASSIGNEE SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY  
14 PORTION OF A CREDIT ASSIGNED UNDER THIS SUBSECTION. THE CREDIT  
15 ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED  
16 BY THE DEPARTMENT. THE QUALIFIED TAXPAYER SHALL SEND A COPY OF THE  
17 COMPLETED ASSIGNMENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN  
18 WHICH THE ASSIGNMENT IS MADE. A MEMBER WHO IS AN ASSIGNEE SHALL  
19 ATTACH A COPY OF THE COMPLETED ASSIGNMENT FORM TO ITS ANNUAL RETURN  
20 REQUIRED UNDER THIS ACT, FOR THE TAX YEAR IN WHICH THE ASSIGNMENT  
21 IS MADE AND THE ASSIGNEE FIRST CLAIMS A CREDIT, WHICH SHALL BE THE  
22 SAME TAX YEAR.

23 (5) AS USED IN THIS SECTION:

24 (A) "FLOW-THROUGH ENTITY" MEANS AN S CORPORATION, PARTNERSHIP,  
25 LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED  
26 LIABILITY COMPANY. FLOW-THROUGH ENTITY DOES NOT INCLUDE A PUBLICLY  
27 TRADED PARTNERSHIP AS THAT TERM IS DEFINED IN SECTION 7704 OF THE

1 INTERNAL REVENUE CODE THAT HAS EQUITY SECURITIES REGISTERED WITH  
2 THE SECURITIES AND EXCHANGE COMMISSION UNDER SECTION 12 OF TITLE I  
3 OF THE SECURITIES EXCHANGE ACT OF 1934, 15 USC 781.

4 (B) "HIGHLY COMPENSATED EMPLOYEES" MEANS THAT TERM AS DEFINED  
5 IN SECTION 414(Q) OF THE INTERNAL REVENUE CODE.

6 (C) "JOB SKILLS TRAINING EXPENSES" MEANS EXPENSES, NOT  
7 INCLUDING INDIRECT COSTS SUCH AS WAGES, SALARIES, AND FRINGE  
8 BENEFITS PAID TO EMPLOYEES WHILE THE EMPLOYEES ATTEND CERTIFIED JOB  
9 SKILLS TRAINING PROGRAMS, THAT ARE INCURRED BY A QUALIFIED TAXPAYER  
10 FOR ANY OF THE FOLLOWING:

11 (i) SPONSORING OR COSPONSORING A CERTIFIED JOB SKILLS TRAINING  
12 PROGRAM THAT THE QUALIFIED TAXPAYER PROVIDES FOR ITS EMPLOYEES, TO  
13 THE EXTENT THE EXPENSES ARE INCURRED TO PROVIDE TRAINING TO ITS  
14 EMPLOYEES AND NOT TO OTHER PROGRAM PARTICIPANTS.

15 (ii) REIMBURSING AN EMPLOYEE FOR PARTICIPATION IN A CERTIFIED  
16 JOB SKILLS TRAINING PROGRAM NOT SPONSORED OR COSPONSORED BY THE  
17 QUALIFIED TAXPAYER.

18 (D) "JOB SKILLS TRAINING PROGRAM" MEANS A JOB SKILLS TRAINING  
19 PROGRAM CERTIFIED BY THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
20 UNDER THE JOB SKILLS TRAINING PROGRAM CERTIFICATION ACT DESIGNED TO  
21 DO ALL OF THE FOLLOWING:

22 (i) DEVELOP, ENHANCE, OR UPGRADE BASIC WORKFORCE SKILLS OF AN  
23 EMPLOYEE INCLUDING LITERACY, COMMUNICATION SKILLS, COMPUTATIONAL  
24 SKILLS, AND OTHER TRANSFERABLE WORKFORCE SKILLS.

25 (ii) DEVELOP, ENHANCE, OR UPGRADE ADVANCED, SPECIALIZED, OR  
26 INDUSTRY SPECIFIC SKILLS OF AN EMPLOYEE THAT ARE DIRECTLY RELATED  
27 TO THE EMPLOYEE'S JOB OR CAREER.

1           (E) "MEMBER OF A FLOW-THROUGH ENTITY" MEANS A SHAREHOLDER OF  
2 AN S CORPORATION, A PARTNER IN A PARTNERSHIP OR LIMITED  
3 PARTNERSHIP, OR A MEMBER OF A LIMITED LIABILITY COMPANY.

4           (F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT PAYS AN AVERAGE  
5 HOURLY WAGE TO ITS EMPLOYEES, OTHER THAN HIGHLY COMPENSATED  
6 EMPLOYEES, THAT EXCEEDS 150% OF THE FEDERAL MINIMUM WAGE.

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.\_\_\_\_ or House Bill No. 4010(request no.  
11 00656'05).

12           (b) Senate Bill No.\_\_\_\_ or House Bill No. 4011(request no.  
13 00657'05).