

HOUSE BILL No. 4734

May 4, 2005, Introduced by Reps. Elsenheimer, Baxter, Pastor, Stahl and Hildenbrand and referred to the Committee on Commerce.

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

26 (a) Of the 15 projects allowed under this subsection, the
27 total of all credits for each project may be more than

1 \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

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

10 (c) Of the 3 projects allowed under subdivision (a), 1 may be
11 a project that also qualifies under subdivision (b).

12 (6) The Michigan economic growth authority shall review all
13 applications for projects under subsection (3) and, if an
14 application is approved, shall determine the maximum total of all
15 credits for that project. Before approving a project for which the
16 total of all credits will be more than \$10,000,000.00 but
17 \$30,000,000.00 or less only, the Michigan economic growth authority
18 shall determine that the project would not occur in this state
19 without the tax credit offered under subsection (3), except that
20 the Michigan economic growth authority may approve 1 project the
21 construction of which began after January 1, 2000 and before
22 January 1, 2001 without determining that the eligible investment
23 would not occur in this state without the tax credit offered under
24 this section. The Michigan economic growth authority shall consider
25 the following criteria to the extent reasonably applicable to the
26 type of project proposed when approving a project under subsection
27 (3) and the chairperson of the Michigan economic growth authority

1 or his or her designee shall consider the following criteria to the
2 extent reasonably applicable to the type of project proposed when
3 approving a project under subsection (2) or when considering an
4 amendment to a project under subsection (31):

5 (a) The overall benefit to the public.

6 (b) The extent of reuse of vacant buildings and redevelopment
7 of blighted property.

8 (c) Creation of jobs.

9 (d) Whether the eligible property is in an area of high
10 unemployment.

11 (e) The level and extent of contamination alleviated by the
12 qualified taxpayer's eligible activities to the extent known to the
13 qualified taxpayer.

14 (f) The level of private sector contribution.

15 (g) The cost gap that exists between the site and a similar
16 greenfield site as determined by the Michigan economic growth
17 authority.

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

20 (i) Whether the financial statements of the qualified taxpayer
21 indicate that it is financially sound and that the project is
22 economically sound.

23 ~~—— (j) Any other criteria that the Michigan economic growth~~
24 ~~authority or the chairperson of the Michigan economic growth~~
25 ~~authority, as applicable, considers appropriate for the~~
26 ~~determination of eligibility under subsection (2) or (3).~~

27 (7) A qualified taxpayer may apply for projects under

1 subsection (2), ~~or~~ (3), **OR (33)** for eligible investment on more
2 than 1 eligible property in a tax year. Each project approved and
3 each project for which a certificate of completion is issued under
4 this section shall be for eligible investment on 1 eligible
5 property.

6 (8) When a project under subsection (2), ~~or~~ (3), **OR (33)** is
7 completed, the taxpayer shall submit documentation that the project
8 is completed, an accounting of the cost of the project, the
9 eligible investment of each taxpayer if there is more than 1
10 taxpayer eligible for a credit for the project, and, if the
11 taxpayer is not the owner or lessee of the eligible property on
12 which the eligible investment was made at the time the project is
13 completed, that the taxpayer was the owner or lessee of that
14 eligible property when all eligible investment of the taxpayer was
15 made. The chairperson of the Michigan economic growth authority or
16 his or her designee, for projects approved under subsection (2) **OR**
17 **(33)**, or the Michigan economic growth authority, for projects
18 approved under subsection (3), shall verify that the project is
19 completed. The Michigan economic growth authority shall conduct an
20 on-site inspection as part of the verification process **FOR PROJECTS**
21 **APPROVED UNDER SUBSECTION (3)**. When the completion of the project
22 is verified, a certificate of completion shall be issued to each
23 qualified taxpayer that has made eligible investment on that
24 eligible property. The certificate of completion shall state the
25 total amount of all credits for the project and that total shall
26 not exceed the maximum total of all credits listed in the
27 preapproval letter for the project under subsection (2), ~~or~~ (3),

1 OR (33) as applicable and shall state all of the following:

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

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

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

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

8 (e) The project number.

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

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

16 (9) Except as otherwise provided in this section, qualified
17 taxpayers shall claim credits under subsections (2), ~~and~~ (3), AND
18 (33) in the tax year in which the certificate of completion is
19 issued. 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 qualified taxpayer shall claim 10% of its approved
22 credit each year for 10 years. A credit assigned based on a
23 multiphase project shall be claimed in the year in which the credit
24 is assigned.

25 (10) The cost of eligible investment for leased machinery,
26 equipment, or fixtures is the cost of that property had the
27 property been purchased minus the lessor's estimate, made at the

1 time the lease is entered into, of the market value the property
2 will have at the end of the lease. A credit for property described
3 in this subsection is allowed only if the cost of that property had
4 the property been purchased and the lessor's estimate of the market
5 value at the end of the lease are provided to the Michigan economic
6 growth authority.

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

10 (12) Each qualified taxpayer and assignee under subsection
11 (17) or (18) that claims a credit under subsection (1)(a) or (b)
12 shall attach a copy of the certificate of completion and, if the
13 credit was assigned, a copy of the assignment form provided for
14 under this section to the annual return filed under this act on
15 which the credit under subsection (2), ~~or~~ (3), **OR (33)** is
16 claimed. An assignee of a credit based on a multiphase project
17 shall attach a copy of the assignment form provided for under this
18 section and the component completion certificate provided for in
19 subsection (32) to the annual return filed under this act on which
20 the credit is claimed but is not required to file a copy of a
21 certificate of completion.

22 (13) Except as otherwise provided in this subsection or
23 subsection (15), (17), (19), or (32), a credit under subsection
24 (2), ~~or~~ (3), **OR (33)** shall be claimed in the tax year in which
25 the certificate of completion is issued to the qualified taxpayer.
26 For a project described in subsection (8)(f) for which a schedule
27 for claiming annual credit amounts is designated on the certificate

1 of completion by the Michigan economic growth authority, the annual
2 credit amount shall be claimed in the tax year specified on the
3 certificate of completion.

4 (14) The credits approved under this section shall be
5 calculated after application of all other credits allowed under
6 this act. The credits under subsections (2), ~~and~~ (3), **AND (33)**
7 shall be calculated before the calculation of credits under
8 subsections (20) to (25) and before the credits under sections 37c
9 and 37d.

10 (15) If the credit allowed under subsection (2), ~~or~~ (3), **OR**
11 **(33)** for the tax year and any unused carryforward of the credit
12 allowed under subsection (2), ~~or~~ (3), **OR (33)** exceed the
13 qualified taxpayer's or assignee's tax liability for the tax year,
14 that portion that exceeds the tax liability for the tax year shall
15 not be refunded but may be carried forward to offset tax liability
16 in subsequent tax years for 10 years or until used up, whichever
17 occurs first. Except as otherwise provided in this subsection, the
18 maximum time allowed under the carryforward provisions under this
19 subsection begins with the tax year in which the certificate of
20 completion is issued to the qualified taxpayer. If the qualified
21 taxpayer assigns all or any portion of its credit approved under
22 subsection (2), ~~or~~ (3), **OR (33)**, the maximum time allowed under
23 the carryforward provisions for an assignee begins to run with the
24 tax year in which the assignment is made and the assignee first
25 claims a credit, which shall be the same tax year. The maximum time
26 allowed under the carryforward provisions for an annual credit
27 amount for a credit allowed under subsection (3) begins to run in

1 the tax year for which the annual credit amount is designated on
2 the certificate of completion issued under this section.

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

20 (17) For credits under subsections (2), ~~and~~ (3), **OR (33)** and
21 except as otherwise provided in this subsection, if a qualified
22 taxpayer pays or accrues eligible investment on or to an eligible
23 property that is leased for a minimum term of 10 years or sold to
24 another taxpayer for use in a business activity, the qualified
25 taxpayer may assign all or a portion of the credit based on that
26 eligible investment to the lessee or purchaser of that eligible
27 property. A credit assignment under this subsection shall only be

1 made to a taxpayer that when the assignment is complete will be a
2 qualified taxpayer. All credit assignments under this subsection
3 are irrevocable and, except for a credit based on a multiphase
4 project, shall be made in the tax year in which the certificate of
5 completion is issued, unless the assignee is an unknown lessee. If
6 a qualified taxpayer wishes to assign all or a portion of its
7 credit to a lessee but the lessee is unknown in the tax year in
8 which the certificate of completion is issued, the qualified
9 taxpayer may delay claiming and assigning the credit until the
10 first tax year in which the lessee is known. A qualified taxpayer
11 may claim a portion of a credit and assign the remaining credit
12 amount. Except as otherwise provided in this subsection, if the
13 qualified taxpayer both claims and assigns portions of the credit,
14 the qualified taxpayer shall claim the portion it claims in the tax
15 year in which the certificate of completion is issued or for a
16 credit assigned and claimed for a multiphase project before a
17 certificate of completion is issued, the taxpayer shall claim the
18 credit in the year in which the credit is assigned. If a qualified
19 taxpayer assigns all or a portion of the credit and the eligible
20 property is leased to more than 1 taxpayer, the qualified taxpayer
21 shall determine the amount of credit assigned to each lessee. A
22 lessee shall not subsequently assign a credit or any portion of a
23 credit assigned under this subsection. A purchaser may subsequently
24 assign a credit or any portion of a credit assigned to the
25 purchaser under this subsection to a lessee of the eligible
26 property. The credit assignment under this subsection shall be made
27 on a form prescribed by the Michigan economic growth authority. The

1 qualified taxpayer shall send a copy of the completed assignment
2 form to the Michigan economic growth authority in the tax year in
3 which the assignment is made. The assignee shall attach a copy of
4 the completed assignment form to its annual return required to be
5 filed under this act, for the tax year in which the assignment is
6 made and the assignee first claims a credit, which shall be the
7 same tax year. In addition to all other procedures under this
8 subsection, the following apply if the total of all credits for a
9 project is more than \$10,000,000.00 but \$30,000,000.00 or less:

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

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

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

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

20 (18) If a qualified taxpayer is a partnership, limited
21 liability company, or subchapter S corporation, the qualified
22 taxpayer may assign all or a portion of a credit allowed under
23 subsection (2), ~~or~~ (3), **OR (33)** to its partners, members, or
24 shareholders, based on their proportionate share of ownership of
25 the partnership, limited liability company, or subchapter S
26 corporation or based on an alternative method approved by the
27 Michigan economic growth authority. A credit assignment under this

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

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

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

27 (c) More than 1 annual credit amount may be assigned to any 1

1 assignee and the qualified taxpayer may assign all or a portion of
2 each annual credit amount to any assignee.

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

5 (19) A qualified taxpayer or assignee under subsection (17) or
6 (18) shall not claim a credit under subsection (1)(a) or (b) based
7 on eligible investment on which a credit claimed under section 38d
8 was based.

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

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

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

25 (ii) The tax liability attributable to the eligible taxpayer's
26 business activity multiplied by a fraction the numerator of which
27 is the ratio of the value of new capital investment to all of the

1 taxpayer's property located in this state plus the ratio of the
2 taxpayer's payroll attributable to retained jobs to all of the
3 taxpayer's payroll in this state and the denominator of which is 2.

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

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

13 (ii) The tax liability attributable to eligible taxpayer's
14 business activity multiplied by a fraction the numerator of which
15 is the ratio of the value of capital investment to all of the
16 taxpayer's property located in this state plus the ratio of the
17 taxpayer's payroll attributable to retained jobs to all of the
18 taxpayer's payroll in this state and the denominator of which is 2.

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

25 (22) An affiliated group as defined in this act, a controlled
26 group of corporations as defined in section 1563 of the internal
27 revenue code and further described in 26 CFR 1.414(b)-1 and

1 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
2 defined by the internal revenue code shall claim only 1 credit
3 under subsection (20) for each tax year based on each written
4 agreement whether or not a combined or consolidated return is
5 filed.

6 (23) A credit shall not be claimed by a taxpayer under
7 subsection (20) if the eligible taxpayer's initial certification
8 under section 9 of the Michigan economic growth authority act, 1995
9 PA 24, MCL 207.809, is issued after December 31, 2009. If the
10 Michigan economic growth authority or a designee of the Michigan
11 economic growth authority requests that a taxpayer who claims the
12 credit under subsection (20) get a statement prepared by a
13 certified public accountant verifying that the actual number of new
14 jobs created is the same number of new jobs used to calculate the
15 credit under subsection (20), the taxpayer shall get the statement
16 and attach that statement to its annual return under this act on
17 which the credit under subsection (20) is claimed.

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

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

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

7 (27) Eligible investment attributable or related to the
8 operation of a professional sports stadium, and eligible investment
9 that is associated or affiliated with the operation of a
10 professional sports stadium, including, but not limited to, the
11 operation of a parking lot or retail store, shall not be used as a
12 basis for a credit under subsection (2), ~~or (3)~~, **OR (33)**.
13 Professional sports stadium does not include a professional sports
14 stadium that will no longer be used by a professional sports team
15 on and after the date that an application related to that
16 professional sports stadium is filed under subsection (2), ~~or~~
17 **(3), OR (33)**.

18 (28) Eligible investment attributable or related to the
19 operation of a casino, and eligible investment that is associated
20 or affiliated with the operation of a casino, including, but not
21 limited to, the operation of a parking lot, hotel, motel, or retail
22 store, shall not be used as a basis for a credit under subsection
23 (2), ~~or (3)~~, **OR (33)**. As used in this subsection, "casino" means
24 a casino regulated by this state pursuant to the Michigan gaming
25 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
26 432.226.

27 (29) Eligible investment attributable or related to the

1 construction of a new landfill or the expansion of an existing
2 landfill regulated under part 115 of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.11501 to
4 324.11550, shall not be used as a basis for a credit under
5 subsection (2), ~~or~~ (3), **OR (33)**.

6 (30) The Michigan economic growth authority annually shall
7 prepare and submit to the house of representatives and senate
8 committees responsible for tax policy and economic development
9 issues a report on the credits under subsection (2). The report
10 shall include, but is not limited to, all of the following:

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

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

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

22 (32) A project under subsection (2) may be a multiphase
23 project but only if the project is an industrial or manufacturing
24 project. If a project is a multiphase project, when each component
25 of the multiphase project is completed, the taxpayer shall submit
26 documentation that the component is complete, an accounting of the
27 cost of the component, and the eligible investment for the

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

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

16 (33) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS \$200,000.00
17 OR LESS, A QUALIFIED TAXPAYER SHALL APPLY TO THE MICHIGAN ECONOMIC
18 GROWTH AUTHORITY FOR APPROVAL OF THE PROJECT UNDER THIS SUBSECTION.
19 SUBJECT TO SECTION 35C, THE CHAIRPERSON OF THE MICHIGAN ECONOMIC
20 GROWTH AUTHORITY OR HIS OR HER DESIGNEE SHALL APPROVE OR DENY A
21 PROJECT UNDER THIS SUBSECTION NOT MORE THAN 30 DAYS AFTER RECEIPT
22 OF THE APPLICATION. IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY DOES
23 NOT APPROVE OR DENY THE APPLICATION WITHIN 30 DAYS AFTER THE
24 APPLICATION IS RECEIVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY,
25 THE APPLICATION IS CONSIDERED APPROVED AS WRITTEN. IF A PROJECT IS
26 DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT PROHIBITED FROM
27 SUBSEQUENTLY APPLYING UNDER THIS SUBSECTION FOR THE SAME PROJECT OR

1 FOR ANOTHER PROJECT. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL
2 USE THE FOLLOWING CRITERIA TO APPROVE A PROJECT UNDER THIS
3 SUBSECTION:

4 (A) THE PROJECT IS FOR ELIGIBLE INVESTMENT.

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

7 (34) ~~—(33)—~~ As used in this section:

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

13 (b) "Authority" means a brownfield redevelopment authority
14 created under the brownfield redevelopment financing act, 1996 PA
15 381, MCL 125.2651 to 125.2672.

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

20 (d) "Blighted", "brownfield plan", "eligible activities",
21 "eligible property", "facility", "functionally obsolete", and
22 "response activity" mean those terms as defined in the brownfield
23 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

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

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

21 (f) "Eligible taxpayer" means an eligible business that meets
22 the criteria under section 8(5) of the Michigan economic growth
23 authority act, 1995 PA 24, MCL 207.808.

24 (g) "Michigan economic growth authority" means the Michigan
25 economic growth authority created in the Michigan economic growth
26 authority act, 1995 PA 24, MCL 207.801 to 207.810.

27 (h) "Multiphase project" means a project for which the total

1 of all credits is \$1,000,000.00 or less for a project approved
2 under subsection (2) that has more than 1 component, each of which
3 can be completed separately.

4 (i) "Payroll" and "tax rate" mean those terms as defined in
5 section 37c.

6 (j) "Personal property" means that term as defined in section
7 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
8 that personal property does not include either of the following:

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

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

13 (k) "Project" means the total of all eligible investment on an
14 eligible property or, for purposes of subsection (5)(b), all
15 eligible investment on property not in a qualified local
16 governmental unit that is a facility.

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

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

22 (i) Owns or leases eligible property.

23 (ii) Certifies that, except as otherwise provided in this
24 subparagraph, the department of environmental quality has not sued
25 or issued a unilateral order to the taxpayer pursuant to part 201
26 of the natural resources and environmental protection act, 1994 PA
27 451, MCL 324.20101 to 324.20142, to compel response activity on or

1 to the eligible property, or expended any state funds for response
2 activity on or to the eligible property and demanded reimbursement
3 for those expenditures from the qualified taxpayer. However, if the
4 taxpayer has completed all response activity required by part 201
5 of the natural resources and environmental protection act, 1994 PA
6 451, MCL 324.20101 to 324.20142, is in compliance with any deed
7 restriction or administrative or judicial order related to the
8 required response activity, and has reimbursed the state for all
9 costs incurred by the state related to the required response
10 activity, the taxpayer meets the criteria under this subparagraph.

11 (n) "Tax liability attributable to authorized business
12 activity" means the tax liability imposed by this act after the
13 calculation of credits provided in sections 36, 37, and 39.

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No.____ or House Bill No. 4733(request no.
16 01771'05) of the 93rd Legislature is enacted into law.