

# SENATE BILL No. 599

June 16, 2005, Introduced by Senator GEORGE and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

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  
10 (33) against the tax imposed by this act equal to either of the  
11 following:

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

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

20 (2) If the cost of a project will be for **MORE THAN**  
21 **\$2,000,000.00 BUT** \$10,000,000.00 or less, a qualified taxpayer  
22 shall apply to the Michigan economic growth authority for approval  
23 of the project under this subsection. An application under this  
24 subsection shall state whether the project is a multiphase project.  
25 The chairperson of the Michigan economic growth authority or his or  
26 her designee is authorized to approve an application or project  
27 under this subsection. Only the chairperson of the Michigan

1 economic growth authority is authorized to deny an application or  
2 project under this subsection. A project shall be approved or  
3 denied not more than 45 days after receipt of the application. If  
4 the chairperson of the Michigan economic growth authority or his or  
5 her designee does not approve or deny an application within 45 days  
6 after the application is received by the Michigan economic growth  
7 authority, the application is considered approved as written. The  
8 total of all credits for all projects approved under this  
9 subsection shall not exceed \$30,000,000.00 in any calendar year.  
10 The criteria in subsection (6) shall be used when approving  
11 projects under this subsection. When approving projects under this  
12 subsection, priority shall be given to projects on a facility. The  
13 total of all credits for an approved project under this subsection  
14 shall not exceed \$1,000,000.00. A taxpayer may apply under this  
15 subsection instead of subsection (3) for approval of a project that  
16 will be for more than \$10,000,000.00 but the total of all credits  
17 for that project shall not exceed \$1,000,000.00. If the chairperson  
18 of the Michigan economic growth authority or his or her designee  
19 approves a project under this subsection, the chairperson of the  
20 Michigan economic growth authority or his or her designee shall  
21 issue a preapproval letter that states that the taxpayer is a  
22 qualified taxpayer; the maximum total eligible investment for the  
23 project on which credits may be claimed and the maximum total of  
24 all credits for the project when the project is completed and a  
25 certificate of completion is issued; and the project number  
26 assigned by the Michigan economic growth authority. If a project is  
27 denied under this subsection, a taxpayer is not prohibited from

1 subsequently applying under this subsection or subsection (3) for  
2 the same project or for another project.

3 (3) If the cost of a project will be for more than  
4 \$10,000,000.00 and, except as provided in subsection (5)(b), the  
5 project is located in a qualified local governmental unit, a  
6 qualified taxpayer shall apply to the Michigan economic growth  
7 authority for approval of the project. The Michigan economic growth  
8 authority shall approve or deny the project not more than 65 days  
9 after receipt of the application. A project under this subsection  
10 shall not be approved without the concurrence of the state  
11 treasurer. If the Michigan economic growth authority does not  
12 approve or deny the application within 65 days after it receives  
13 the application, the Michigan economic growth authority shall send  
14 the application to the state treasurer. The state treasurer shall  
15 approve or deny the application within 5 days after receipt of the  
16 application. If the state treasurer does not deny the application  
17 within the 5 days after receipt of the application, the application  
18 is considered approved. The Michigan economic growth authority  
19 shall approve a limited number of projects under this subsection  
20 during each calendar year as provided in subsection (5). The  
21 Michigan economic growth authority shall use the criteria in  
22 subsection (6) when approving projects under this subsection, when  
23 determining the total amount of eligible investment, and when  
24 determining the percentage of eligible investment for the project  
25 to be used to calculate a credit. The total of all credits for an  
26 approved project under this subsection shall not exceed the amount  
27 designated in the preapproval letter for that project. If the

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

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

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

24 (a) Of the 15 projects allowed under this subsection, the  
25 total of all credits for each project may be more than  
26 \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

27 (b) Of the 15 projects allowed under this subsection, up to 3

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

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

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

1 approving a project under subsection (2) or when considering an  
2 amendment to a project under subsection (31):

3 (a) The overall benefit to the public.

4 (b) The extent of reuse of vacant buildings and redevelopment  
5 of blighted property.

6 (c) Creation of jobs.

7 (d) Whether the eligible property is in an area of high  
8 unemployment.

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

12 (f) The level of private sector contribution.

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

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

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

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

25 (7) A qualified taxpayer may apply for projects under  
26 subsection (2), ~~or~~ (3), **OR (33)** for eligible investment on more  
27 than 1 eligible property in a tax year. Each project approved and

1 each project for which a certificate of completion is issued under  
2 this section shall be for eligible investment on 1 eligible  
3 property.

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

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



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

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

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

6 (e) The project number.

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

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

14 (9) Except as otherwise provided in this section, qualified  
15 taxpayers shall claim credits under subsections (2), ~~and~~ (3), **AND**  
16 **(33)** in the tax year in which the certificate of completion is  
17 issued. For a project approved under subsection (3) for which the  
18 total of all credits is more than \$10,000,000.00 but \$30,000,000.00  
19 or less, the qualified taxpayer shall claim 10% of its approved  
20 credit each year for 10 years. A credit assigned based on a  
21 multiphase project shall be claimed in the year in which the credit  
22 is assigned.

23 (10) The cost of eligible investment for leased machinery,  
24 equipment, or fixtures is the cost of that property had the  
25 property been purchased minus the lessor's estimate, made at the  
26 time the lease is entered into, of the market value the property  
27 will have at the end of the lease. A credit for property described

1 in this subsection is allowed only if the cost of that property had  
2 the property been purchased and the lessor's estimate of the market  
3 value at the end of the lease are provided to the Michigan economic  
4 growth authority.

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

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

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

1 certificate of completion.

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

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

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

18           (17) For credits under subsections (2) and (3) **FOR PROJECTS**  
19    **COMPLETED BEFORE JANUARY 1, 2006** and except as otherwise provided  
20    in this subsection, if a qualified taxpayer pays or accrues  
21    eligible investment on or to an eligible property that is leased  
22    for a minimum term of 10 years or sold to another taxpayer for use  
23    in a business activity, the qualified taxpayer may assign all or a  
24    portion of the credit based on that eligible investment to the  
25    lessee or purchaser of that eligible property. A credit assignment  
26    under this subsection shall only be made to a taxpayer that when  
27    the assignment is complete will be a qualified taxpayer. All credit

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

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

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

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

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

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

19 **(E) IF THE CREDIT ASSIGNMENT IS TO AN UNKNOWN LESSEE, THE**  
20 **ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE BEFORE JANUARY 1,**  
21 **2006.**

22 **(F) IF THE CREDIT ASSIGNMENT IS BASED ON A CREDIT FOR A**  
23 **MULTIPHASE PROJECT, THE ASSIGNMENT UNDER THIS SUBSECTION SHALL BE**  
24 **MADE BEFORE JANUARY 1, 2006.**

25 (18) ~~—If—~~ **FOR PROJECTS COMPLETED BEFORE JANUARY 1, 2006, IF a**  
26 qualified taxpayer is a partnership, limited liability company, or  
27 subchapter S corporation, the qualified taxpayer may assign all or

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

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

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

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

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

11 **(E) IF THE CREDIT ASSIGNMENT IS TO AN UNKNOWN LESSEE, THE**  
12 **ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE BEFORE JANUARY 1,**  
13 **2006.**

14 **(F) IF THE CREDIT ASSIGNMENT IS BASED ON A CREDIT FOR A**  
15 **MULTIPHASE PROJECT, THE ASSIGNMENT UNDER THIS SUBSECTION SHALL BE**  
16 **MADE BEFORE JANUARY 1, 2006.**

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

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



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

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

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

16 (b) For an eligible business under section 8(5)(b) of the  
17 Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an  
18 amount that is not more than 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 eligible taxpayer's  
26 business activity multiplied by a fraction the numerator of which  
27 is the ratio of the value of 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 (21) An eligible taxpayer shall not claim a credit under  
5 subsection (20) unless the Michigan economic growth authority has  
6 issued a certificate under section 9 of the Michigan economic  
7 growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The  
8 eligible taxpayer shall attach the certificate to the return filed  
9 under this act on which a credit under subsection (20) is claimed.

10 (22) An affiliated group as defined in this act, a controlled  
11 group of corporations as defined in section 1563 of the internal  
12 revenue code and further described in 26 CFR 1.414(b)-1 and  
13 1.414(c)-1 to 1.414(c)-5, or an entity under common control as  
14 defined by the internal revenue code shall claim only 1 credit  
15 under subsection (20) for each tax year based on each written  
16 agreement whether or not a combined or consolidated return is  
17 filed.

18 (23) A credit shall not be claimed by a taxpayer under  
19 subsection (20) if the eligible taxpayer's initial certification  
20 under section 9 of the Michigan economic growth authority act, 1995  
21 PA 24, MCL 207.809, is issued after December 31, 2009. If the  
22 Michigan economic growth authority or a designee of the Michigan  
23 economic growth authority requests that a taxpayer who claims the  
24 credit under subsection (20) get a statement prepared by a  
25 certified public accountant verifying that the actual number of new  
26 jobs created is the same number of new jobs used to calculate the  
27 credit under subsection (20), the taxpayer shall get the statement

1 and attach that statement to its annual return under this act on  
2 which the credit under subsection (20) is claimed.

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

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

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

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

25 Professional sports stadium does not include a professional sports  
26 stadium that will no longer be used by a professional sports team  
27 on and after the date that an application related to that

1 professional sports stadium is filed under subsection (2), ~~or~~  
 2 (3), **OR (33)**.

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

12 (29) Eligible investment attributable or related to the  
 13 construction of a new landfill or the expansion of an existing  
 14 landfill regulated under part 115 of the natural resources and  
 15 environmental protection act, 1994 PA 451, MCL 324.11501 to  
 16 324.11550, shall not be used as a basis for a credit under  
 17 subsection (2), ~~or~~ (3), **OR (33)**.

18 (30) The Michigan economic growth authority annually shall  
 19 prepare and submit to the house of representatives and senate  
 20 committees responsible for tax policy and economic development  
 21 issues a report on the credits under ~~subsection~~ **SUBSECTIONS** (2)  
 22 **AND (33)**. The report shall include, but is not limited to, all of  
 23 the following:

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

26 (b) The total amount of eligible investment for projects  
 27 approved under ~~subsection~~ **SUBSECTIONS** (2) **AND (33)** in the

1 calendar year.

2 (31) If, after a taxpayer's project has been approved and the  
3 taxpayer has received a preapproval letter but before the project  
4 is completed, the taxpayer determines that the project cannot be  
5 completed as preapproved, the taxpayer may petition the Michigan  
6 economic growth authority to amend the project. The total of  
7 eligible investment for the project as amended shall not exceed the  
8 amount allowed in the preapproval letter for that project.

9 (32) A project under **SUBSECTION (33) MAY BE A MULTIPHASE**  
10 **PROJECT AND A PROJECT UNDER** subsection (2) may be a multiphase  
11 project but only if ~~the~~ **THAT** project **UNDER SUBSECTION (2)** is an  
12 industrial or manufacturing project. If a project is a multiphase  
13 project, when each component of the multiphase project is  
14 completed, the taxpayer shall submit documentation that the  
15 component is complete, an accounting of the cost of the component,  
16 and the eligible investment for the component of each taxpayer  
17 eligible for a credit for the project of which the component is a  
18 part to the Michigan economic growth authority or the designee of  
19 the Michigan economic growth authority, who shall verify that the  
20 component is complete. When the completion of the component is  
21 verified, a component completion certificate shall be issued to the  
22 qualified taxpayer which shall state that the taxpayer is a  
23 qualified taxpayer, the credit amount for the component, the  
24 qualified taxpayer's federal employer identification number or the  
25 Michigan treasury number assigned to the taxpayer, and the project  
26 number. The taxpayer may assign all or part of the credit for a  
27 multiphase project as provided in this section after a component

1 completion certificate for a component is issued. The qualified  
2 taxpayer may transfer ownership of or lease the completed component  
3 and assign a proportionate share of the credit for the entire  
4 project to the qualified taxpayer that is the new owner or lessee.  
5 A multiphase project shall not be divided into more than 3  
6 components. A component is considered to be completed when a  
7 certificate of occupancy has been issued by the local municipality  
8 in which the project is located for all of the buildings or  
9 facilities that comprise the completed component and a component  
10 completion certificate is issued. A credit assigned based on a  
11 multiphase project shall be claimed by the assignee in the tax year  
12 in which the assignment is made. The total of all credits for a  
13 multiphase project shall not exceed the amount stated in the  
14 preapproval letter for the project under subsection (1)(a) **OR (33),**  
15 **AS APPLICABLE.** If all components of a multiphase project are not  
16 completed by 10 years after the date on which the preapproval  
17 letter for the project was issued, the qualified taxpayer that  
18 received the preapproval letter for the project shall pay to the  
19 state treasurer, as a penalty, an amount equal to the sum of all  
20 credits claimed and assigned for all components of the multiphase  
21 project and no credits based on that multiphase project shall be  
22 claimed after that date by the qualified taxpayer or any assignee  
23 of the qualified taxpayer. The penalty under this subsection is  
24 subject to interest on the amount of the credit claimed or assigned  
25 determined individually for each component at the rate in section  
26 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the  
27 credit for that component was claimed or assigned. As used in this

1 subsection, "proportionate share" means the same percentage of the  
2 total of all credits for the project that the qualified investment  
3 for the completed component is of the total qualified investment  
4 stated in the preapproval letter for the entire project.

5 (33) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS \$200,000.00  
6 OR LESS, A QUALIFIED TAXPAYER SHALL APPLY TO THE MICHIGAN ECONOMIC  
7 GROWTH AUTHORITY FOR APPROVAL OF THE PROJECT UNDER THIS SUBSECTION.  
8 THE CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR HIS OR  
9 HER DESIGNEE SHALL APPROVE OR DENY A PROJECT UNDER THIS SUBSECTION  
10 NOT MORE THAN 30 DAYS AFTER RECEIPT OF THE APPLICATION. IF THE  
11 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY DOES NOT  
12 APPROVE OR DENY THE APPLICATION WITHIN 30 DAYS AFTER THE  
13 APPLICATION IS RECEIVED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY,  
14 THE APPLICATION IS CONSIDERED APPROVED AS WRITTEN. IF A PROJECT IS  
15 DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT PROHIBITED FROM  
16 SUBSEQUENTLY APPLYING UNDER THIS SUBSECTION FOR THE SAME PROJECT OR  
17 FOR ANOTHER PROJECT. THE CHAIRPERSON OF THE MICHIGAN ECONOMIC  
18 GROWTH AUTHORITY SHALL APPROVE NO MORE THAN 100 PROJECTS UNDER THIS  
19 SUBSECTION IN EACH CALENDAR YEAR AND APPROVING FIRST THOSE PROJECTS  
20 SUBMITTED FIRST. A PROJECT UNDER THIS SUBSECTION MAY BE A  
21 MULTIPHASE PROJECT. IF THE CHAIRPERSON OF THE MICHIGAN ECONOMIC  
22 GROWTH AUTHORITY APPROVES A PROJECT UNDER THIS SUBSECTION, THE  
23 CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL ASSIGN  
24 A PROJECT NUMBER TO THE PROJECT AND ISSUE A PREAPPROVAL LETTER THAT  
25 STATES THAT THE TAXPAYER IS A QUALIFIED TAXPAYER; THE MAXIMUM TOTAL  
26 ELIGIBLE INVESTMENT FOR THE PROJECT ON WHICH THE CREDITS MAY BE  
27 CLAIMED AND THE MAXIMUM TOTAL OF ALL CREDITS FOR THE PROJECT WHEN

1 THE PROJECT IS COMPLETED AND A CERTIFICATE OF COMPLETION IS ISSUED;  
2 AND THE PROJECT NUMBER ASSIGNED BY THE MICHIGAN ECONOMIC GROWTH  
3 AUTHORITY. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL USE ONLY  
4 THE FOLLOWING CRITERIA TO APPROVE A PROJECT UNDER THIS SUBSECTION:

5 (A) THE PROJECT IS FOR ELIGIBLE INVESTMENT.

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

8 (C) THE PROJECT WILL CREATE JOBS.

9 (34) FOR PROJECTS COMPLETED AFTER DECEMBER 31, 2005, A  
10 QUALIFIED TAXPAYER MAY ASSIGN ALL OR A PORTION OF A CREDIT ALLOWED  
11 UNDER SUBSECTION (2), (3), OR (33). A CREDIT ASSIGNMENT UNDER THIS  
12 SUBSECTION IS IRREVOCABLE AND, EXCEPT FOR A CREDIT ASSIGNMENT BASED  
13 ON A MULTIPHASE PROJECT, SHALL BE MADE IN THE TAX YEAR IN WHICH A  
14 CERTIFICATE OF COMPLETION IS ISSUED. A QUALIFIED TAXPAYER MAY CLAIM  
15 A PORTION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. IF  
16 THE QUALIFIED TAXPAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE  
17 CREDIT, THE QUALIFIED TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN  
18 THE TAX YEAR IN WHICH A CERTIFICATE OF COMPLETION IS ISSUED. AN  
19 ASSIGNEE SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A  
20 CREDIT ASSIGNED UNDER THIS SUBSECTION. THE CREDIT ASSIGNMENT UNDER  
21 THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE MICHIGAN  
22 ECONOMIC GROWTH AUTHORITY. THE QUALIFIED TAXPAYER SHALL SEND A COPY  
23 OF THE COMPLETED ASSIGNMENT FORM TO THE MICHIGAN ECONOMIC GROWTH  
24 AUTHORITY IN THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE. AN  
25 ASSIGNEE SHALL ATTACH A COPY OF THE COMPLETED ASSIGNMENT FORM TO  
26 ITS ANNUAL RETURN REQUIRED UNDER THIS ACT, FOR THE TAX YEAR IN  
27 WHICH THE ASSIGNMENT IS MADE AND THE ASSIGNEE FIRST CLAIMS A



1 CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

2 (35) —~~(33)~~— As used in this section:

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

8 (b) "Authority" means a brownfield redevelopment authority  
9 created under the brownfield redevelopment financing act, 1996 PA  
10 381, MCL 125.2651 to 125.2672.

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

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

21 (e) "Eligible investment" means demolition, construction,  
22 restoration, alteration, renovation, or improvement of buildings or  
23 site improvements on eligible property and the addition of  
24 machinery, equipment, and fixtures to eligible property after the  
25 date that eligible activities on that eligible property have  
26 started pursuant to a brownfield plan under the brownfield  
27 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,

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

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

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

26 **(H) —(g)— "Michigan economic growth authority" means the**  
27 **Michigan economic growth authority created in the Michigan economic**

1 growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

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

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

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

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

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

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

25 (i) Owns or leases eligible property.

26 (ii) Certifies that, except as otherwise provided in this  
27 subparagraph, the department of environmental quality has not sued

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

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