

# HOUSE BILL No. 6350

July 23, 2008, Introduced by Reps. Hildenbrand, Proos, Marleau, Palmer, Schuitmaker, Casperson, LaJoy, Elsenheimer, Horn, Meekhof, Stahl, Shaffer, Agema, Hansen, Opsommer, Robertson, Booher, Walker, Caul, Nofs, Caswell, Nitz, Knollenberg, Moolenaar and Pearce and referred to the Committee on Commerce.

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending section 3 (MCL 207.803), as amended by 2008 PA 108.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. As used in this act:

2       (a) "Affiliated business" means a business that is at least  
3       50% owned and controlled, directly or indirectly, by an associated  
4       business.

5       (b) "Associated business" means a business that owns at least  
6       50% of and controls, directly or indirectly, an authorized  
7       business.

8       (c) "Authorized business" means 1 of the following:

1           (i) A single eligible business with a unique federal employer  
2      identification number that has met the requirements of section 8  
3      and with which the authority has entered into a written agreement  
4      for a tax credit under section 9.

5           (ii) A single eligible business with a unique federal employer  
6      identification number that has met the requirements of section 8,  
7      except as provided in this subparagraph, and with which the  
8      authority has entered into a written agreement for a tax credit  
9      under section 9. An eligible business is not required to create  
10     qualified new jobs or maintain retained jobs if qualified new jobs  
11     are created or retained jobs are maintained by an associated  
12     business, subsidiary business, affiliated business, or an employee  
13     leasing company or professional employer organization that has  
14     entered into a contractual service agreement with the authorized  
15     business in which the employee leasing company or professional  
16     employer organization withholds income and social security taxes on  
17     behalf of the authorized business.

18          (d) "Authority" means the Michigan economic growth authority  
19      created under section 4.

20          (e) "Business" means proprietorship, joint venture,  
21      partnership, limited liability partnership, trust, business trust,  
22      syndicate, association, joint stock company, corporation,  
23      cooperative, limited liability company, or any other organization.

24          (f) "Distressed business" means a business that meets all of  
25      the following as verified by the Michigan economic growth  
26      authority:

27           (i) Four years immediately preceding the application to the

1 authority under this act, the business had 150 or more full-time  
2 jobs in this state.

3 (ii) Within the immediately preceding 4 years, there has been a  
4 reduction of not less than 30% of the number of full-time jobs in  
5 this state during any consecutive 3-year period. The highest number  
6 of full-time jobs within the consecutive 3-year period shall be  
7 used in order to determine the percentage reduction of full-time  
8 jobs in this subparagraph.

9 (iii) Is not a seasonal employer as defined in section 27 of the  
10 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

11 (g) "Eligible business" means a distressed business or  
12 business that proposes to maintain retained jobs after December 31,  
13 1999 or to create qualified new jobs in this state after April 18,  
14 1995 in manufacturing, **OIL REFINING, OIL PRODUCT PIPELINE**  
15 **TRANSMISSION**, mining, research and development, wholesale and  
16 trade, film and digital media production, or office operations or a  
17 business that is a qualified high-technology business or a business  
18 that is a tourism attraction facility or a qualified lodging  
19 facility. Except for a retail establishment that meets the criteria  
20 in section 8(11), an eligible business does not include retail  
21 establishments, professional sports stadiums, or that portion of an  
22 eligible business used exclusively for retail sales. Professional  
23 sports stadium does not include a sports stadium in existence on  
24 June 6, 2000 that is not used by a professional sports team on the  
25 date that an application related to that professional sports  
26 stadium is filed under section 8.

27 (h) "Facility" means a site or sites within this state in

1 which an authorized business or subsidiary business maintains  
2 retained jobs or creates qualified new jobs.

3 (i) "Film and digital media production" means the development,  
4 preproduction, production, postproduction, and distribution of  
5 single media or multimedia entertainment content for distribution  
6 or exhibition to the general public in 2 or more states by any  
7 means and media in any digital media format, film, or video tape,  
8 including, but not limited to, a motion picture, a documentary, a  
9 television series, a television miniseries, a television special,  
10 interstitial television programming, long-form television,  
11 interactive television, music videos, interactive games, video  
12 games, internet programming, an internet video, a sound recording,  
13 a video, digital animation, or an interactive website. Film and  
14 digital media production also includes the development,  
15 preproduction, production, postproduction, and distribution of a  
16 trailer, pilot, video teaser, or demo created primarily to  
17 stimulate the sale, marketing, promotion, or exploitation of future  
18 investment in a film or digital media production. Film or digital  
19 media production does not include the production of any of the  
20 following:

21 (i) A production for which records are required to be  
22 maintained with respect to any performer in the production under 18  
23 USC 2257.

24 (ii) A production that includes obscene matter or an obscene  
25 performance as described in 1984 PA 343, MCL 752.361 to 752.374.

26 (iii) A production that primarily consists of televised news or  
27 current events.

1 (iv) A production that primarily consists of a live sporting  
2 event.

3 (v) A production that primarily consists of political  
4 advertising.

5 (vi) A radio program.

6 (vii) A weather show.

7 (viii) A financial market report.

8 (ix) A talk show.

9 (x) A game show.

10 (xi) A production that primarily markets a product or service.

11 (xii) An awards show or other gala event production.

12 (xiii) A production with the primary purpose of fund-raising.

13 (xiv) A production that primarily is for employee training or  
14 in-house corporate advertising or other similar production.

15 (j) "Full-time job" means a job performed by an individual for  
16 35 hours or more each week and whose income and social security  
17 taxes are withheld by 1 or more of the following:

18 (i) An authorized business.

19 (ii) An employee leasing company.

20 (iii) A professional employer organization on behalf of the  
21 authorized business.

22 (iv) Another person as provided in section 8(1)(c).

23 (v) A business that sells all or part of its assets to an  
24 eligible business that receives a credit under section 8(1) or (5).

25 (k) "Local governmental unit" means a county, city, village,  
26 or township in this state.

27 (l) "High-technology activity" means 1 or more of the

1 following:

2 (i) Advanced computing, which is any technology used in the  
3 design and development of any of the following:

4 (A) Computer hardware and software.

5 (B) Data communications.

6 (C) Information technologies.

7 (D) Film and digital media production.

8 (ii) Advanced materials, which are materials with engineered  
9 properties created through the development of specialized process  
10 and synthesis technology.

11 (iii) Biotechnology, which is any technology that uses living  
12 organisms, cells, macromolecules, microorganisms, or substances  
13 from living organisms to make or modify a product, improve plants  
14 or animals, or develop microorganisms for useful purposes.  
15 Biotechnology does not include human cloning as defined in section  
16 16274 of the public health code, 1978 PA 368, MCL 333.16274, or  
17 stem cell research with embryonic tissue.

18 (iv) Electronic device technology, which is any technology that  
19 involves microelectronics, semiconductors, electronic equipment,  
20 and instrumentation, radio frequency, microwave, and millimeter  
21 electronics, and optical and optic-electrical devices, or data and  
22 digital communications and imaging devices.

23 (v) Engineering or laboratory testing related to the  
24 development of a product.

25 (vi) Technology that assists in the assessment or prevention of  
26 threats or damage to human health or the environment, including,  
27 but not limited to, environmental cleanup technology, pollution

1 prevention technology, or development of alternative energy  
2 sources.

3 (vii) Medical device technology, which is any technology that  
4 involves medical equipment or products other than a pharmaceutical  
5 product that has therapeutic or diagnostic value and is regulated.

6 (viii) Product research and development.

7 (ix) Advanced vehicles technology, which is any technology that  
8 involves electric vehicles, hybrid vehicles, or alternative fuel  
9 vehicles, or components used in the construction of electric  
10 vehicles, hybrid vehicles, or alternative fuel vehicles. For  
11 purposes of this act:

12 (A) "Electric vehicle" means a road vehicle that draws  
13 propulsion energy only from an on-board source of electrical  
14 energy.

15 (B) "Hybrid vehicle" means a road vehicle that can draw  
16 propulsion energy from both a consumable fuel and a rechargeable  
17 energy storage system.

18 (x) Tool and die manufacturing.

19 (xi) Competitive edge technology as defined in section 88a of  
20 the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

21 (xii) Digital media, including internet publishing and  
22 broadcasting, video gaming, web development, and entertainment  
23 technology.

24 (xiii) Music production, including record production and  
25 development, sound recording studios, and integrated high-  
26 technology record production and distribution.

27 (xiv) Film and video, including motion picture and video

1 production and distribution, postproduction services, and  
2 teleproduction and production services.

3 (m) "New capital investment" means 1 or more of the following:

4 (i) New construction. As used in this subparagraph:

5 (A) "New construction" means property not in existence on the  
6 date the authorized business enters into a written agreement with  
7 the authority and not replacement construction. New construction  
8 includes the physical addition of equipment or furnishings, subject  
9 to section 27(2)(a) to (o) of the general property tax act, 1893 PA  
10 206, MCL 211.27.

11 (B) "Replacement construction" means that term as defined in  
12 section 34d(1)(b)(v) of the general property tax act, 1893 PA 206,  
13 MCL 211.34d.

14 (ii) The purchase of new personal property. As used in this  
15 subparagraph, "new personal property" means personal property that  
16 is not subject to or that is exempt from the collection of taxes  
17 under the general property tax act, 1893 PA 206, MCL 211.1 to  
18 211.155, on the date the authorized business enters into a written  
19 agreement with the authority.

20 (n) "Qualified high-technology business" means a business or  
21 facility whose primary business activity is high-technology  
22 activity or a qualified high-wage activity.

23 (o) "Qualified high-wage activity" means a business that has  
24 an average wage. Qualified high-wage activity may also include, but  
25 is not limited to, 1 or more of the following as long as they have  
26 an average wage of 300% or more of the federal minimum wage:

27 (i) Architecture and design, including architectural design,



1 graphic design, interior design, fashion design, and industrial  
2 design.

3 (ii) Advertising and marketing, including advertising and  
4 marketing firms and agencies, public relations agencies, and  
5 display advertising.

6 (p) "Qualified lodging facility" means 1 or more of the  
7 following:

8 (i) Lodging facilities that constitute a portion of a tourism  
9 attraction facility and represent less than 50% of the total cost  
10 of the tourism attraction facility, or the lodging facilities are  
11 to be located on recreational property owned or leased by the  
12 municipal, state, or federal government.

13 (ii) The lodging facilities involve the restoration or  
14 rehabilitation of a structure that is listed individually in the  
15 national register of historic places or are located in a national  
16 register historic district and certified by this state as  
17 contributing to the historic significance of the district, and the  
18 rehabilitation or restoration project has been approved in advance  
19 by this state.

20 (q) "Qualified new job" means 1 of the following:

21 (i) A full-time job created by an authorized business at a  
22 facility that is in excess of the number of full-time jobs the  
23 authorized business maintained in this state prior to the expansion  
24 or location, as determined by the authority.

25 (ii) For jobs created after July 1, 2000, a full-time job at a  
26 facility created by an eligible business that is in excess of the  
27 number of full-time jobs maintained by that eligible business in

1 this state up to 120 days before the eligible business became an  
2 authorized business, as determined by the authority.

3 (iii) For a distressed business, a full-time job at a facility  
4 that is in excess of the number of full-time jobs maintained by  
5 that eligible business in this state on the date the eligible  
6 business became an authorized business.

7 (r) "Retained jobs" means the number of full-time jobs at a  
8 facility of an authorized business maintained in this state on a  
9 specific date as that date and number of jobs is determined by the  
10 authority.

11 (s) "Rural business" means an eligible business located in a  
12 county with a population of 90,000 or less.

13 (t) "Subsidiary business" means a business that is directly or  
14 indirectly controlled or at least 80% owned by an authorized  
15 business.

16 (u) "Tourism attraction facility" means a cultural or  
17 historical site, a recreation or entertainment facility, an area of  
18 natural phenomena or scenic beauty, or an entertainment destination  
19 center as determined by the Michigan economic growth authority as  
20 follows:

21 (i) In making a determination, the Michigan economic growth  
22 authority shall consider all of the following:

23 (A) Whether the facility will actually attract tourists.

24 (B) Whether 50% or more of the persons using the facility  
25 reside outside a 100-mile radius.

26 (C) Whether 50% or more of the gross receipts are from  
27 admissions, food, or nonalcoholic drinks.

1 (D) Whether the facility offers a unique experience.

2 (ii) The Michigan economic growth authority shall not determine  
3 any of the following as a tourism attraction facility:

4 (A) Facilities, other than an entertainment destination  
5 center, that are primarily devoted to the retail sale of goods, a  
6 theme restaurant destination attraction, or a tourism attraction  
7 where the attraction is a secondary and subordinate component to  
8 the sale of goods.

9 (B) Recreational facilities that do not serve as a likely  
10 destination where individuals who are not residents of the state  
11 would remain overnight in commercial lodging at or near the  
12 facility.

13 (v) "Written agreement" means a written agreement made  
14 pursuant to section 8. A written agreement may address new jobs,  
15 qualified new jobs, full-time jobs, retained jobs, or any  
16 combination of new jobs, qualified new jobs, full-time jobs, or  
17 retained jobs.