

Act No. 126  
Public Acts of 2009  
Approved by the Governor  
October 27, 2009  
Filed with the Secretary of State  
October 27, 2009  
EFFECTIVE DATE: October 27, 2009

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senator Cassis

# **ENROLLED SENATE BILL No. 774**

AN ACT to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” by amending section 431 (MCL 208.1431), as amended by 2008 PA 111.

*The People of the State of Michigan enact:*

Sec. 431. (1) Except as otherwise provided under this subsection, for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may claim a credit against the tax imposed by this act equal to the amount certified each year by the Michigan economic growth authority as follows:

(a) Except as otherwise provided under this subdivision, for an authorized business for the tax year, an amount not to exceed the payroll of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate; beginning after April 28, 2008, for an authorized business for the tax year, an amount not to exceed the sum of the payroll and health care benefits of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(b) For an eligible business as determined under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 50% of the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(c) For an eligible business as determined under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(d) For an authorized business that is a qualified high-technology business, for a period of time not to exceed 7 years as determined by the Michigan economic growth authority, an amount not to exceed 200% of the sum of the payroll and health care benefits of the qualified high-technology business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, for the first 3 tax years of the credit, multiplied by the tax rate and, for each of the remaining tax years of the credit, an amount not to exceed 100% of the sum of the payroll and health care benefits of the qualified high-technology business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(e) For an authorized business as determined under section 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount up to, but not to exceed 100% of, the sum of the payroll and health care benefits of the authorized business attributable to employees who perform retained jobs multiplied by a fraction, the numerator of which is the amount of new capital investment made at the facility and the denominator of which is the product of the number of retained jobs multiplied by \$100,000.00, and then multiplied by the tax rate for the tax year.

(f) For an authorized business as determined under section 8(11) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 100% of the sum of the payroll and health care benefits of the authorized business attributable to employees who perform new full-time jobs and retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(2) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the annual return filed under this act on which a credit under this section is claimed.

(3) The certificate required by subsection (2) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.

(4) The Michigan economic growth authority may certify a credit under this section based on an agreement entered into prior to January 1, 2008 pursuant to section 37c of former 1975 PA 228. The number of years for which the credit may be claimed under this section shall equal the maximum number of years designated in the resolution reduced by the number of years for which a credit has been claimed or could have been claimed under section 37c of former 1975 PA 228.

(5) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer shall be refunded.

(6) Except as otherwise provided under this subsection, a taxpayer that claims a credit under subsection (1) or section 37c or 37d of former 1975 PA 228, that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(q)(ii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, and that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer. Beginning after April 28, 2008, a taxpayer that claims a credit under subsection (1) and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for the credit claimed under this section or removes any of the qualified new jobs from this state during the term of the written agreement and for a period of years after the term of the written agreement, as determined by the Michigan economic growth authority, may have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the tax year that the taxpayer fails to comply with this section or the agreement.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer that claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) A credit shall not be claimed by a taxpayer under this section if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2013.

(9) For the 2010 calendar year and each calendar year after 2010, the total amount of all credits allowed to be claimed in the first year of all new written agreements approved in that calendar year under this section shall not exceed \$95,000,000.00.

(10) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapter 2A and a person subject to the tax imposed under chapter 2B.

(11) As used in this section:

(a) "Authorized business", "facility", "full-time job", "qualified high-technology business", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Health care benefits" means all costs paid for a self-funded health care benefit plan or for an expense-incurred hospital, medical, or surgical policy or certificate, nonprofit health care corporation certificate, or health maintenance organization contract. Health care benefit does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical payment insurance.

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

(d) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(e) "Qualified new jobs" means 1 or more of the following:

(i) The average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

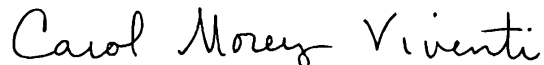
(ii) The average number of full-time jobs at a facility created by an eligible business up to 90 days before becoming an authorized business that is in excess of the average number of full-time jobs that the business maintained in this state up to 90 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(f) "Tax rate" means the rate imposed under section 51 of the income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

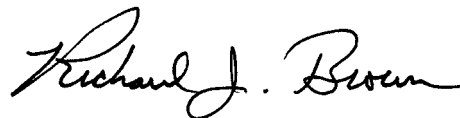
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 70.
- (b) Senate Bill No. 71.
- (c) House Bill No. 4922.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 70 was filed with the Secretary of State October 27, 2009, and became 2009 PA 124, Imd. Eff. Oct. 27, 2009.

Senate Bill No. 71 was filed with the Secretary of State October 27, 2009, and became 2009 PA 125, Imd. Eff. Oct. 27, 2009.

House Bill No. 4922 was filed with the Secretary of State October 27, 2009, and became 2009 PA 123, Imd. Eff. Oct. 27, 2009.