

**SUBSTITUTE FOR
HOUSE BILL NO. 4818**

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 257.

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:

9 (i) A single eligible business with a unique federal employer
10 identification number that has met the requirements of section 8

1 and with which the authority has entered into a written agreement
2 for a tax credit under section 9.

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

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

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

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

25 (i) Four years immediately preceding the application to the
26 authority under this act, the business had 150 or more full-time
27 jobs in this state.

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

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

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

24 (h) "Facility" means a site or sites within this state in
25 which an authorized business or subsidiary business maintains
26 retained jobs or creates qualified new jobs.

27 (i) "Film and digital media production" means the development,

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

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

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

23 (iii) A production that primarily consists of televised news or
24 current events.

25 (iv) A production that primarily consists of a live sporting
26 event.

27 (v) A production that primarily consists of political

1 advertising.

2 (vi) A radio program.

3 (vii) A weather show.

4 (viii) A financial market report.

5 (ix) A talk show.

6 (x) A game show.

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

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

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

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

12 (j) "Full-time job" means a job performed by an individual for
13 35 hours or more each week and whose income and social security
14 taxes are withheld by 1 or more of the following:

15 (i) An authorized business.

16 (ii) An employee leasing company.

17 (iii) A professional employer organization on behalf of the
18 authorized business.

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

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

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

24 (l) "High-technology activity" means 1 or more of the
25 following:

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

1 (A) Computer hardware and software.

2 (B) Data communications.

3 (C) Information technologies.

4 (D) Film and digital media production.

5 (ii) Advanced materials, which are materials with engineered
6 properties created through the development of specialized process
7 and synthesis technology.

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

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

20 (v) Engineering or laboratory testing related to the
21 development of a product.

22 (vi) Technology that assists in the assessment or prevention of
23 threats or damage to human health or the environment, including,
24 but not limited to, environmental cleanup technology, pollution
25 prevention technology, or development of alternative energy
26 sources.

27 (vii) Medical device technology, which is any technology that

1 involves medical equipment or products other than a pharmaceutical
2 product that has therapeutic or diagnostic value and is regulated.

3 (viii) Product research and development.

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

9 (A) "Electric vehicle" means a road vehicle that draws
10 propulsion energy only from an on-board source of electrical
11 energy.

12 (B) "Hybrid vehicle" means a road vehicle that can draw
13 propulsion energy from both a consumable fuel and a rechargeable
14 energy storage system.

15 (x) Tool and die manufacturing.

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

18 (xii) Digital media, including internet publishing and
19 broadcasting, video gaming, web development, and entertainment
20 technology.

21 (xiii) Music production, including record production and
22 development, sound recording studios, and integrated high-
23 technology record production and distribution.

24 (xiv) Film and video, including motion picture and video
25 production and distribution, postproduction services, and
26 teleproduction and production services.

27 (xv) **GREEN CHEMISTRY. AS USED IN THIS SUBPARAGRAPH, "GREEN**

1 CHEMISTRY" MEANS CHEMISTRY AND CHEMICAL ENGINEERING TO DESIGN
2 CHEMICAL PRODUCTS OR PROCESSES THAT REDUCE OR ELIMINATE THE USE OR
3 GENERATION OF HAZARDOUS SUBSTANCES, WHILE PRODUCING HIGH-QUALITY
4 PRODUCTS THROUGH SAFE AND EFFICIENT MANUFACTURING PROCESSES. GREEN
5 CHEMISTRY IS GUIDED BY THE FOLLOWING 12 PRINCIPLES:

6 (A) PREVENT WASTE: DESIGN CHEMICAL SYNTHESSES TO PREVENT WASTE,
7 LEAVING NO WASTE TO TREAT OR CLEAN UP.

8 (B) DESIGN SAFER CHEMICALS AND PRODUCTS: DESIGN CHEMICAL
9 PRODUCTS TO BE FULLY EFFECTIVE, YET HAVE LITTLE OR NO TOXICITY.

10 (C) DESIGN LESS HAZARDOUS CHEMICAL SYNTHESSES: DESIGN SYNTHESSES
11 TO USE AND GENERATE SUBSTANCES WITH LITTLE OR NO TOXICITY TO HUMANS
12 AND THE ENVIRONMENT.

13 (D) USE RENEWABLE FEEDSTOCKS: USE RAW MATERIALS AND FEEDSTOCKS
14 THAT ARE RENEWABLE RATHER THAN DEPLETING. RENEWABLE FEEDSTOCKS ARE
15 OFTEN MADE FROM AGRICULTURAL PRODUCTS OR ARE THE WASTES OF OTHER
16 PROCESSES; DEPLETING FEEDSTOCKS ARE MADE FROM FOSSIL FUELS,
17 INCLUDING PETROLEUM, NATURAL GAS, OR COAL, OR ARE MINED.

18 (E) USE CATALYSTS, NOT STOICHIOMETRIC REAGENTS: MINIMIZE WASTE
19 BY USING CATALYTIC REACTIONS. CATALYSTS ARE USED IN SMALL AMOUNTS
20 AND CAN CARRY OUT A SINGLE REACTION MANY TIMES. THEY ARE PREFERABLE
21 TO STOICHIOMETRIC REAGENTS, WHICH ARE USED IN EXCESS AND WORK ONLY
22 ONCE.

23 (F) AVOID CHEMICAL DERIVATIVES: AVOID USING BLOCKING OR
24 PROTECTING GROUPS OR ANY TEMPORARY MODIFICATIONS IF POSSIBLE.
25 DERIVATIVES USE ADDITIONAL REAGENTS AND GENERATE WASTE.

26 (G) MAXIMIZE ATOM ECONOMY: DESIGN SYNTHESSES SO THAT THE FINAL
27 PRODUCT CONTAINS THE MAXIMUM PROPORTION OF THE STARTING MATERIALS.

1 THERE SHOULD BE FEW, IF ANY, WASTED ATOMS.

2 (H) USE SAFER SOLVENTS AND REACTION CONDITIONS: AVOID USING
3 SOLVENTS, SEPARATION AGENTS, OR OTHER AUXILIARY CHEMICALS. IF THESE
4 CHEMICALS ARE NECESSARY, USE INNOCUOUS CHEMICALS.

5 (I) INCREASE ENERGY EFFICIENCY: RUN CHEMICAL REACTIONS AT
6 AMBIENT TEMPERATURE AND PRESSURE WHENEVER POSSIBLE.

7 (J) DESIGN CHEMICALS AND PRODUCTS TO DEGRADE AFTER USE: DESIGN
8 CHEMICAL PRODUCTS TO BREAK DOWN TO INNOCUOUS SUBSTANCES AFTER USE
9 SO THAT THEY DO NOT ACCUMULATE IN THE ENVIRONMENT.

10 (K) ANALYZE IN REAL-TIME TO PREVENT POLLUTION: INCLUDE IN-
11 PROCESS REAL-TIME MONITORING AND CONTROL DURING SYNTHESSES TO
12 MINIMIZE OR ELIMINATE THE FORMATION OF BY-PRODUCTS.

13 (L) MINIMIZE THE POTENTIAL FOR ACCIDENTS: DESIGN CHEMICALS AND
14 THEIR FORMS, INCLUDING SOLID, LIQUID, OR GAS, TO MINIMIZE THE
15 POTENTIAL FOR CHEMICAL ACCIDENTS, INCLUDING EXPLOSIONS, FIRES, AND
16 RELEASES TO THE ENVIRONMENT.

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

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

19 (A) "New construction" means property not in existence on the
20 date the authorized business enters into a written agreement with
21 the authority and not replacement construction. New construction
22 includes the physical addition of equipment or furnishings, subject
23 to section 27(2)(a) to (o) of the general property tax act, 1893 PA
24 206, MCL 211.27.

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

1 (ii) The purchase of new personal property. As used in this
2 subparagraph, "new personal property" means personal property that
3 is not subject to or that is exempt from the collection of taxes
4 under the general property tax act, 1893 PA 206, MCL 211.1 to
5 211.155, on the date the authorized business enters into a written
6 agreement with the authority.

7 (n) "Qualified high-technology business" means a business or
8 facility whose primary business activity is high-technology
9 activity or a qualified high-wage activity.

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

15 (i) Architecture and design, including architectural design,
16 graphic design, interior design, fashion design, and industrial
17 design.

18 (ii) Advertising and marketing, including advertising and
19 marketing firms and agencies, public relations agencies, and
20 display advertising.

21 (p) "Qualified lodging facility" means 1 or more of the
22 following:

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

1 (ii) The lodging facilities involve the restoration or
2 rehabilitation of a structure that is listed individually in the
3 national register of historic places or are located in a national
4 register historic district and certified by this state as
5 contributing to the historic significance of the district, and the
6 rehabilitation or restoration project has been approved in advance
7 by this state.

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

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

13 (ii) For jobs created after July 1, 2000, a full-time job at a
14 facility created by an eligible business that is in excess of the
15 number of full-time jobs maintained by that eligible business in
16 this state up to 90 days before the eligible business became an
17 authorized business, as determined by the authority.

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

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

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

1 (t) "Subsidiary business" means a business that is directly or
2 indirectly controlled or at least 80% owned by an authorized
3 business.

4 (u) "Tourism attraction facility" means a cultural or
5 historical site, a recreation or entertainment facility, an area of
6 natural phenomena or scenic beauty, or an entertainment destination
7 center as determined by the Michigan economic growth authority as
8 follows:

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

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

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

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

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

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

19 (A) Facilities, other than an entertainment destination
20 center, that are primarily devoted to the retail sale of goods, a
21 theme restaurant destination attraction, or a tourism attraction
22 where the attraction is a secondary and subordinate component to
23 the sale of goods.

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

1 (v) "Written agreement" means a written agreement made
2 pursuant to section 8. A written agreement may address new jobs,
3 qualified new jobs, full-time jobs, retained jobs, or any
4 combination of new jobs, qualified new jobs, full-time jobs, or
5 retained jobs.