

SENATE BILL No. 364

March 11, 2009, Introduced by Senator ALLEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3 and 8 (MCL 207.803 and 207.808), 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:

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, mining, research and development, wholesale
15 and trade, film and digital media production, or office operations
16 or a business that is a qualified high-technology business or a
17 business that is a tourism attraction facility or a qualified
18 lodging facility. Except for a retail establishment that meets the
19 criteria in section 8(11), an eligible business does not include
20 retail establishments, professional sports stadiums, or that
21 portion of an eligible business used exclusively for retail sales.
22 Professional sports stadium does not include a sports stadium in
23 existence on June 6, 2000 that is not used by a professional sports
24 team on the date that an application related to that professional
25 sports stadium is filed under section 8.

26 (h) "Facility" means a site or sites within this state in
27 which an authorized business or subsidiary business maintains

1 retained jobs or creates qualified new jobs.

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

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

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

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

27 (iv) A production that primarily consists of a live sporting

1 event.

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

4 (vi) A radio program.

5 (vii) A weather show.

6 (viii) A financial market report.

7 (ix) A talk show.

8 (x) A game show.

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

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

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

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

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

17 (i) An authorized business.

18 (ii) An employee leasing company.

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

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

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

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

26 (l) "High-technology activity" means **THE MANUFACTURE, TESTING,**
27 **ASSEMBLY, DEVELOPMENT, OR DESIGN OF** 1 or more of the following:

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

3 (A) Computer hardware and software.

4 (B) Data communications.

5 (C) Information technologies.

6 (D) Film and digital media production.

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

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

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

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

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

1 sources.

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

5 (viii) Product research and development.

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

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

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

17 (x) Tool and die manufacturing.

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

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

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

26 (xiv) Film and video, including motion picture and video
27 production and distribution, postproduction services, and

1 teleproduction and production services.

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

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

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

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

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

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

22 (o) "Qualified high-wage activity" means a business that has
23 an average wage of 300% or more of the federal minimum wage.
24 Qualified high-wage activity may also include, but is not limited
25 to, 1 or more of the following as long as they have an average wage
26 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 90 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.

18 Sec. 8. (1) After receipt of an application, the authority may
19 enter into an agreement with an eligible business for a tax credit
20 under section 9 if the authority determines that all of the
21 following are met:

22 (a) Except as provided in subsection (5), the eligible
23 business creates 1 or more of the following as determined by the
24 authority and provided with written agreement:

25 (i) A minimum of 50 qualified new jobs at the facility if
26 expanding in this state.

27 (ii) A minimum of 50 qualified new jobs at the facility if

1 locating in this state.

2 (iii) A minimum of 25 qualified new jobs at the facility if the
3 facility is located in a neighborhood enterprise zone as determined
4 under the neighborhood enterprise zone act, 1992 PA 147, MCL
5 207.771 to 207.786, is located in a renaissance zone under the
6 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
7 125.2696, or is located in a federally designated empowerment zone,
8 rural enterprise community, or enterprise community.

9 (iv) A minimum of 5 qualified new jobs at the facility if the
10 eligible business is a qualified high-technology business.

11 (v) A minimum of 5 qualified new jobs at the facility if the
12 eligible business is a rural business.

13 (b) Except as provided in subsection (5), the eligible
14 business agrees to maintain 1 or more of the following for each
15 year that a credit is authorized under this act:

16 (i) A minimum of 50 qualified new jobs at the facility if
17 expanding in this state.

18 (ii) A minimum of 50 qualified new jobs at the facility if
19 locating in this state.

20 (iii) A minimum of 25 qualified new jobs at the facility if the
21 facility is located in a neighborhood enterprise zone as determined
22 under the neighborhood enterprise zone act, 1992 PA 147, MCL
23 207.771 to 207.786, is located in a renaissance zone under the
24 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
25 125.2696, or is located in a federally designated empowerment zone,
26 rural enterprise community, or enterprise community.

27 (iv) If the eligible business is a qualified high-technology

1 business, all of the following apply:

2 (A) A minimum of 5 qualified new jobs at the facility.

3 (B) A minimum of 25 qualified new jobs at the facility within
4 5 years after the date of the expansion or location as determined
5 by the authority and a minimum of 25 qualified new jobs at the
6 facility each year thereafter for which a credit is authorized
7 under this act.

8 (v) If the eligible business is a rural business, all of the
9 following apply:

10 (A) A minimum of 5 qualified new jobs at the facility.

11 (B) A minimum of 25 qualified new jobs at the facility within
12 5 years after the date of the expansion or location as determined
13 by the authority.

14 (c) Except as provided in subsection (5) and as otherwise
15 provided in this subdivision, in addition to the jobs specified in
16 subdivision (b), the eligible business, if already located within
17 this state, agrees to maintain a number of full-time jobs equal to
18 or greater than the number of full-time jobs it maintained in this
19 state prior to the expansion, as determined by the authority. After
20 an eligible business has entered into a written agreement as
21 provided in subsection (2), the authority may adjust the number of
22 full-time jobs required to be maintained by the authorized business
23 under this subdivision, in order to adjust for decreases in full-
24 time jobs in the authorized business in this state due to the
25 divestiture of operations, provided a single other person continues
26 to maintain those full-time jobs in this state. The authority shall
27 not approve a reduction in the number of full-time jobs to be

1 maintained unless the authority has determined that it can monitor
2 the maintenance of the full-time jobs in this state by the other
3 person, and the authorized business agrees in writing that the
4 continued maintenance of the full-time jobs in this state by the
5 other person, as determined by the authority, is a condition of
6 receiving tax credits under the written agreement. A full-time job
7 maintained by another person under this subdivision, that otherwise
8 meets the requirements of section ~~3(i)~~**3(J)**, shall be considered a
9 full-time job, notwithstanding the requirement that a full-time job
10 be performed by an individual employed by an authorized business,
11 or an employee leasing company or professional employer
12 organization on behalf of an authorized business.

13 (d) Except as otherwise provided in this subdivision, the wage
14 paid for each retained job and qualified new job is equal to or
15 greater than 150% of the federal minimum wage. However, if the
16 eligible business is a qualified high-wage activity, then the wage
17 paid for each qualified new job is equal to or greater than 300% of
18 the federal minimum wage. However, beginning on ~~the effective date~~
19 ~~of the amendatory act that added this sentence~~ **AUGUST 4, 2008**, the
20 authority may include the value of the health care benefit in
21 determining the wage paid for each retained job or qualified new
22 job for an eligible business under this act.

23 (e) The plans for the expansion, retention, or location are
24 economically sound.

25 (f) Except for an eligible business described in subsection
26 (5)(c), the eligible business has not begun construction of the
27 facility.

1 (g) The expansion, retention, or location of the eligible
2 business will benefit the people of this state by increasing
3 opportunities for employment and by strengthening the economy of
4 this state.

5 (h) The tax credits offered under this act are an incentive to
6 expand, retain, or locate the eligible business in Michigan and
7 address the competitive disadvantages with sites outside this
8 state.

9 (i) A cost/benefit analysis reveals that authorizing the
10 eligible business to receive tax credits under this act will result
11 in an overall positive fiscal impact to the state.

12 (j) If the eligible business is a qualified high-technology
13 business described in section ~~3(m)(i)~~ **3(N)**, the eligible business
14 agrees that not less than 25% of the total operating expenses of
15 the business will be maintained for research and development for
16 the first 3 years of the written agreement.

17 (2) If the authority determines that the requirements of
18 subsection (1), (5), (9), or (11) have been met, the authority
19 shall determine the amount and duration of tax credits to be
20 authorized under section 9, and shall enter into a written
21 agreement as provided in this section. The duration of the tax
22 credits shall not exceed 20 years or for an authorized business
23 that is a distressed business, 3 years. In determining the amount
24 and duration of tax credits authorized, the authority shall
25 consider the following factors:

26 (a) The number of qualified new jobs to be created or retained
27 jobs to be maintained.

1 (b) The average wage and health care benefit level of the
2 qualified new jobs or retained jobs relative to the average wage
3 and health care benefit paid by private entities in the county in
4 which the facility is located.

5 (c) The total capital investment or new capital investment the
6 eligible business will make.

7 (d) The cost differential to the business between expanding,
8 locating, or retaining new jobs in Michigan and a site outside of
9 Michigan.

10 (e) The potential impact of the expansion, retention, or
11 location on the economy of Michigan.

12 (f) The cost of the credit under section 9, the staff,
13 financial, or economic assistance provided by the local government
14 unit, or local economic development corporation or similar entity,
15 and the value of assistance otherwise provided by this state.

16 (g) Whether the expansion, retention, or location will occur
17 in this state without the tax credits offered under this act.

18 (h) Whether the authorized business reuses or redevelops
19 property that was previously used for an industrial or commercial
20 purpose in locating the facility.

21 (3) A written agreement between an eligible business and the
22 authority shall include, but need not be limited to, all of the
23 following:

24 (a) A description of the business expansion, retention, or
25 location that is the subject of the agreement.

26 (b) Conditions upon which the authorized business designation
27 is made.

1 (c) A statement by the eligible business that a violation of
2 the written agreement may result in the revocation of the
3 designation as an authorized business and the loss or reduction of
4 future credits under section 9.

5 (d) A statement by the eligible business that a
6 misrepresentation in the application may result in the revocation
7 of the designation as an authorized business and the refund of
8 credits received under section 9.

9 (e) A method for measuring full-time jobs before and after an
10 expansion, retention, or location of an authorized business in this
11 state.

12 (f) A written certification from the eligible business
13 regarding all of the following:

14 (i) The eligible business will follow a competitive bid process
15 for the construction, rehabilitation, development, or renovation of
16 the facility, and that this process will be open to all Michigan
17 residents and firms. The eligible business may not discriminate
18 against any contractor on the basis of its affiliation or
19 nonaffiliation with any collective bargaining organization.

20 (ii) The eligible business will make a good faith effort to
21 employ, if qualified, Michigan residents at the facility.

22 (iii) The eligible business will make a good faith effort to
23 employ or contract with Michigan residents and firms to construct,
24 rehabilitate, develop, or renovate the facility.

25 (iv) The eligible business is encouraged to make a good faith
26 effort to utilize Michigan-based suppliers and vendors when
27 purchasing goods and services.

1 (g) A condition that if the eligible business qualified under
2 subsection (5)(b)(ii) and met the subsection (1)(e) requirement by
3 filing a chapter 11 plan of reorganization, the plan must be
4 confirmed by the bankruptcy court within 6 years of the date of the
5 agreement or the agreement is rescinded.

6 (4) Upon execution of a written agreement as provided in this
7 section, an eligible business is an authorized business.

8 (5) Through December 31, 2007, after receipt of an
9 application, the authority may enter into a written agreement with
10 an eligible business that meets 1 or more of the following
11 criteria:

12 (a) Is located in this state on the date of the application,
13 makes new capital investment of \$250,000,000.00 in this state, and
14 maintains 500 retained jobs, as determined by the authority.

15 (b) Meets 1 or more of the following criteria:

16 (i) Relocates production of a product to this state after the
17 date of the application, makes capital investment of
18 \$500,000,000.00 in this state, and maintains 500 retained jobs, as
19 determined by the authority.

20 (ii) Maintains ~~150-100~~ retained jobs at a facility, maintains
21 ~~1,000-750~~ or more full-time jobs in this state, and makes new
22 capital investment in this state.

23 (iii) Is located in this state on the date of the application,
24 maintains at least 100 retained jobs at a single facility, and
25 agrees to make new capital investment at that facility equal to the
26 greater of \$100,000.00 per retained job maintained at that facility
27 or \$10,000,000.00 to be completed or contracted for not later than

1 December 31, 2007.

2 (iv) Maintains 300 retained jobs at a facility; the facility is
3 at risk of being closed and if it were to close, the work would go
4 to a location outside this state, as determined by the authority;
5 new management or new ownership is proposed for the facility that
6 is committed to improve the viability of the facility, unless
7 otherwise provided in this subparagraph; and the tax credits
8 offered under this act are necessary for the facility to maintain
9 operations. The authority may not enter into a written agreement
10 under this subparagraph after December 31, 2007. Of the written
11 agreements entered into under this subparagraph, the authority may
12 enter into 3 written agreements under this subparagraph that are
13 excluded from the requirements of subsection (1)(e), (f), **AND** (h)
14 ~~, and (i)~~ if the authority considers it in the public interest and
15 if the eligible business would have met the requirements of
16 subsection (1)(g) ~~, **AND** (h) ~~, and (k)~~~~ within the immediately
17 preceding 6 months from the signing of the written agreement for a
18 tax credit. Of the 3 written agreements described in this
19 subparagraph, the authority may also waive the requirement for new
20 management if the existing management and labor make a commitment
21 to improve the viability and productivity of the facility to better
22 meet international competition as determined by the authority.

23 (v) Maintains 100 retained jobs at a facility; is a rural
24 business, unless otherwise provided in this subparagraph; the
25 facility is at risk of being closed and if it were to close, the
26 work would go to a location outside this state, as determined by
27 the authority; new management or new ownership is proposed for the

1 facility that is committed to improve the viability of the
2 facility; and the tax credits offered under this act are necessary
3 for the facility to maintain operations. The authority may not
4 enter into a written agreement under this subparagraph after
5 December 31, 2007. Of the written agreements entered into under
6 this subparagraph, the authority may enter into 3 written
7 agreements under this subparagraph that are excluded from the
8 requirements of subsection (1)(e), (f), and (h) if the authority
9 considers it in the public interest and if the eligible business
10 would have met the requirements of subsection ~~(1)(g)~~ **(1)(E), (G),**
11 **AND** (h) ~~, and (e)~~ within the immediately preceding 6 months from
12 the signing of the written agreement for a tax credit. Of the 3
13 written agreements described in this subparagraph, the authority
14 may also waive the requirement that the business be a rural
15 business if the business is located in a county with a population
16 of 500,000 or more and 600,000 or less.

17 (vi) Maintains 175 retained jobs and makes new capital
18 investment at a facility in a county with a population of not less
19 than 7,500 but not greater than 8,000.

20 (vii) Is located in this state on the date of the application,
21 maintains at least 675 retained jobs at a facility, agrees to
22 create 400 new jobs, and agrees to make a new capital investment of
23 at least \$45,000,000.00 to be completed or contracted for not later
24 than December 31, 2007. Of the written agreements entered into
25 under this subparagraph, the authority may enter into 1 written
26 agreement under this subparagraph that is excluded from the
27 requirements of subsection (1)(f) if the authority considers it in

1 the public interest.

2 (viii) Is located in this state on the date of the application,
3 makes new capital investment of \$250,000,000.00 or more in this
4 state, and makes that capital investment at a facility located
5 north of the 45th parallel.

6 (c) Is a distressed business.

7 (6) Each year, the authority shall not execute new written
8 agreements that in total provide for more than 400 yearly credits
9 over the terms of those agreements entered into that year for
10 eligible businesses that are not qualified high-technology
11 businesses, distressed businesses, rural businesses, or an eligible
12 business described in subsection (11).

13 (7) The authority shall not execute more than 50 new written
14 agreements each year for eligible businesses that are qualified
15 high-technology businesses or rural business. Only 25 of the 50
16 written agreements for businesses that are qualified high-
17 technology businesses or rural business may be executed each year
18 for qualified rural businesses.

19 (8) The authority shall not execute more than 20 new written
20 agreements each year for eligible businesses that are distressed
21 businesses. The authority shall not execute more than 5 of the
22 written agreements described in this subsection each year for
23 distressed businesses that had 1,000 or more full-time jobs at a
24 facility 4 years immediately preceding the application to the
25 authority under this act. The authority shall not execute more than
26 5 new written agreements each year for eligible businesses
27 described in subsection (11). The authority shall not execute more

1 than 4 new written agreements each year for eligible businesses
2 described in subsection (11) in local governmental units that have
3 a population greater than 16,000.

4 (9) Beginning January 1, 2008, after receipt of an
5 application, the authority may enter into a written agreement with
6 an eligible business that does not meet the criteria described in
7 subsection (1), if the eligible business meets all of the
8 following:

9 (a) Agrees to retain not fewer than 50 jobs.

10 (b) Agrees to invest, through construction, acquisition,
11 transfer, purchase, contract, or any other method as determined by
12 the authority, at a facility equal to \$50,000.00 or more per
13 retained job maintained at the facility.

14 (c) Certifies to the authority that, without the credits under
15 this act and without the new capital investment, the facility is at
16 risk of closing and the work and jobs would be removed to a
17 location outside of this state.

18 (d) Certifies to the authority that the management or
19 ownership is committed to improving the long-term viability of the
20 facility in meeting the national and international competition
21 facing the facility through better management techniques, best
22 practices, including state of the art lean manufacturing practices,
23 and market diversification.

24 (e) Certifies to the authority that it will make best efforts
25 to keep jobs in Michigan when making plant location and closing
26 decisions.

27 (f) Certifies to the authority that the workforce at the

1 facility demonstrates its commitment to improving productivity and
2 profitability at the facility through various means.

3 (10) Beginning on ~~the effective date of the amendatory act~~
4 ~~that added this subsection~~ **APRIL 28, 2008**, if the authority enters
5 into a written agreement with an eligible business, the written
6 agreement shall include a repayment provision of all or a portion
7 of the credits received by the eligible business for a facility if
8 the eligible business moves full-time jobs outside this state
9 during the term of the written agreement and for a period of years
10 after the term of the written agreement, as determined by the
11 authority.

12 (11) Beginning January 1, 2008, after receipt of an
13 application, the authority may enter into a written agreement with
14 an eligible business that does not meet the criteria described in
15 subsection (1), if the eligible business meets all of the
16 following:

17 (a) Agrees to create or retain not fewer than 15 jobs.

18 (b) Agrees to occupy property that is a historic resource as
19 that term is defined in section 435 of the Michigan business tax
20 act, 2007 PA 36, MCL 208.1435, and that is located in a downtown
21 district as defined in section 1 of 1975 PA 197, MCL 125.1651.

22 (c) The average wage paid for each retained job and full-time
23 job is equal to or greater than 150% of the federal minimum wage.