

**SUBSTITUTE FOR
SENATE BILL NO. 269**

(As amended April 6, 2000)

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 38g.

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 (18) TO (23) AND A QUAL-
4 IFIED TAXPAYER THAT HAS A PREAPPROVAL LETTER ISSUED AFTER
5 DECEMBER 31, 1999 AND BEFORE JANUARY 1, 2003 OR AN ASSIGNEE UNDER
6 SUBSECTION (16) MAY CLAIM A CREDIT THAT HAS BEEN APPROVED UNDER
7 SUBSECTION (2) OR (3) AGAINST THE TAX IMPOSED BY THIS ACT EQUAL
8 TO EITHER OF THE FOLLOWING:
9 (A) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS
10 \$1,000,000.00 OR LESS, 10% OF THE COST OF THE QUALIFIED

1 TAXPAYER'S ELIGIBLE INVESTMENT PAID OR ACCRUED BY THE QUALIFIED
2 TAXPAYER ON AN ELIGIBLE PROPERTY.

3 (B) IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS MORE THAN
4 \$1,000,000.00 BUT \$30,000,000.00 OR LESS, A PERCENTAGE NOT TO
5 EXCEED 10% OF THE COST OF THE QUALIFIED TAXPAYER'S ELIGIBLE
6 INVESTMENT PAID OR ACCRUED BY THE QUALIFIED TAXPAYER ON AN ELIGI-
7 BLE PROPERTY.

8 (2) IF A PROJECT WILL BE FOR \$10,000,000.00 OR LESS, A TAX-
9 PAYER SHALL APPLY TO THE TREASURER FOR APPROVAL OF THE PROJECT OR
10 A CREDIT, OR BOTH, UNDER THIS SUBSECTION. THE TREASURER SHALL
11 APPROVE OR DENY THE PROJECT OR CREDIT, OR BOTH, NOT MORE THAN 45
12 DAYS AFTER RECEIPT OF THE APPLICATION. A PROJECT MUST BE
13 APPROVED BEFORE A CREDIT RELATED TO THAT PROJECT IS APPROVED.
14 THE TREASURER SHALL APPROVE NOT MORE THAN 30 PROJECTS OR 30 CRED-
15 ITS UNDER THIS SUBSECTION DURING EACH CALENDAR YEAR. THE TREA-
16 SURER SHALL USE THE CRITERIA IN SUBSECTION (5) WHEN APPROVING
17 PROJECTS OR CREDITS UNDER THIS SUBSECTION. THE TREASURER SHALL
18 DETERMINE IF THE APPLICATION IS FOR A NEW PROJECT OR AN EXISTING
19 PROJECT. THE TOTAL OF ALL CREDITS FOR A PROJECT UNDER THIS SUB-
20 SECTION SHALL NOT EXCEED \$1,000,000.00. IF THE TREASURER
21 APPROVES A PROJECT OR CREDIT UNDER THIS SUBSECTION, THE TREASURER
22 SHALL ISSUE A PREAPPROVAL LETTER THAT STATES THAT THE TAXPAYER IS
23 A QUALIFIED TAXPAYER, THE QUALIFIED TAXPAYER'S MAXIMUM CREDIT
24 AMOUNT, THE TOTAL OF ALL CREDITS THAT MAY BE CLAIMED FOR THE
25 PROJECT WHEN THE ELIGIBLE INVESTMENT IS COMPLETED AND A CERTIFI-
26 CATE OF COMPLETION IS ISSUED UNDER THIS SECTION, AND THE PROJECT
27 NUMBER ASSIGNED BY THE TREASURER. IF A PROJECT OR CREDIT IS

1 DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT PROHIBITED FROM
2 SUBSEQUENTLY APPLYING FOR A PROJECT OR CREDIT UNDER THIS SUBSEC-
3 TION OR SUBSECTION (3) FOR THE SAME PROJECT OR FOR ANOTHER
4 PROJECT OR CREDIT.

5 (3) IF A PROJECT WILL BE FOR MORE THAN \$10,000,000.00, A
6 TAXPAYER SHALL APPLY TO THE MICHIGAN ECONOMIC GROWTH AUTHORITY
7 FOR APPROVAL OF THE PROJECT OR A CREDIT, OR BOTH, UNDER THIS
8 SUBSECTION. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL APPROVE
9 OR DENY THE PROJECT OR CREDIT, OR BOTH, NOT MORE THAN 65 DAYS
10 AFTER RECEIPT OF THE APPLICATION. A PROJECT MUST BE APPROVED
11 BEFORE A CREDIT RELATED TO THAT PROJECT IS APPROVED. A CREDIT
12 UNDER THIS SUBSECTION SHALL NOT BE APPROVED WITHOUT THE CONCUR-
13 RENCE OF THE STATE TREASURER. THE MICHIGAN ECONOMIC GROWTH
14 AUTHORITY SHALL APPROVE A LIMITED NUMBER OF PROJECTS UNDER THIS
15 SUBSECTION DURING EACH CALENDAR YEAR AS PROVIDED IN SUBSECTION
16 (4). THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL USE THE CRI-
17 TERIA IN SUBSECTION (5) WHEN APPROVING PROJECTS OR CREDITS UNDER
18 THIS SUBSECTION AND WHEN DETERMINING THE AMOUNT OF A CREDIT. THE
19 MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL DETERMINE IF THE APPLI-
20 CATION IS FOR A NEW PROJECT OR AN EXISTING PROJECT. THE TOTAL OF
21 ALL CREDITS FOR A PROJECT UNDER THIS SUBSECTION SHALL NOT EXCEED
22 \$30,000,000.00. IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY
23 APPROVES A CREDIT UNDER THIS SUBSECTION, THE MICHIGAN ECONOMIC
24 GROWTH AUTHORITY SHALL ISSUE A PREAPPROVAL LETTER THAT STATES
25 THAT THE TAXPAYER IS A QUALIFIED TAXPAYER, THE QUALIFIED
26 TAXPAYER'S MAXIMUM CREDIT AMOUNT, THE TOTAL OF ALL CREDITS THAT
27 MAY BE CLAIMED FOR THE PROJECT WHEN THE ELIGIBLE INVESTMENT IS

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269 as amended April 5, 2000

4

1 COMPLETED AND A CERTIFICATE OF COMPLETION IS ISSUED UNDER THIS
2 SECTION, AND THE PROJECT NUMBER ASSIGNED BY THE MICHIGAN ECONOMIC
3 GROWTH AUTHORITY. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL
4 SEND A COPY OF THE PREAPPROVAL LETTER TO THE DEPARTMENT. IF A
5 PROJECT OR CREDIT IS DENIED UNDER THIS SUBSECTION, A TAXPAYER IS
6 NOT PROHIBITED FROM SUBSEQUENTLY APPLYING FOR A PROJECT OR CREDIT
7 UNDER THIS SUBSECTION OR SUBSECTION (2) FOR THE SAME PROJECT OR
8 CREDIT OR FOR ANOTHER PROJECT OR CREDIT.

9 (4) THE MICHIGAN ECONOMIC GROWTH AUTHORITY MAY APPROVE NOT
10 MORE THAN 15 PROJECTS FOR WHICH THE TOTAL OF ALL CREDITS ALLOWED
11 FOR THE PROJECT IS MORE THAN \$1,000,000.00 BUT \$30,000,000.00 OR
12 LESS, AND THE FOLLOWING LIMITATIONS APPLY:

13 (A) OF THE 15 PROJECTS ALLOWED UNDER THIS SUBSECTION, THE
14 TOTAL OF ALL CREDITS FOR EACH PROJECT MAY BE MORE THAN
15 \$10,000,000.00 BUT \$30,000,000.00 OR LESS FOR UP TO 3 PROJECTS.

16 (B) OF THE 15 PROJECTS ALLOWED UNDER THIS SUBSECTION, UP TO
17 3 PROJECTS MAY BE APPROVED FOR PROJECTS THAT ARE NOT IN A QUALI-
18 FIED LOCAL GOVERNMENTAL UNIT IF THE PROPERTY IS A FACILITY.

19 (C) OF THE 3 PROJECTS ALLOWED UNDER SUBDIVISION (A), 1 MAY
20 BE A PROJECT THAT ALSO QUALIFIES UNDER SUBDIVISION (B).

21 (D) OF THE 3 PROJECTS ALLOWED UNDER SUBDIVISION (A), 1 OR
22 MORE PROJECTS

23 MAY BE APPROVED FOR ELI-
24 GIBLE INVESTMENT ON ELIGIBLE PROPERTY FOR CONSTRUCTION THAT BEGAN
25 AFTER JANUARY 1, 2000.

26 (5) THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL REVIEW ALL
27 APPLICATIONS FOR PROJECTS UNDER SUBSECTION (3) AND, IF AN

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269 as amended April 5, and April 6, 2000 5

1 APPLICATION IS APPROVED, SHALL DETERMINE THE AMOUNT OF THE CREDIT
2 PURSUANT TO SUBSECTION (1)(B). EXCEPT FOR A PROJECT DESCRIBED UNDER
3 SUBSECTION (4)(D), BEFORE APPROVING A PROJECT FOR
4 WHICH THE TOTAL OF ALL CREDITS WILL BE MORE THAN \$10,000,000.00
5 BUT \$30,000,000.00 OR LESS ONLY, THE MICHIGAN ECONOMIC GROWTH
6 AUTHORITY SHALL DETERMINE THAT THE PROJECT WOULD NOT OCCUR IN
7 THIS STATE WITHOUT THE TAX CREDIT OFFERED UNDER SUBSECTION (3).
8 THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL CONSIDER THE FOLLOW-
9 ING CRITERIA WHEN APPROVING A PROJECT UNDER SUBSECTION (3) AND THE
10 TREASURER SHALL CONSIDER THE FOLLOWING CRITERIA WHEN APPROVING A
11 PROJECT UNDER SUBSECTION (2) AND
12 DETERMINING THE TOTAL OF ALL CREDITS FOR A PROJECT:
13 (A) THE OVERALL BENEFIT TO THE PUBLIC.
14 (B) THE EXTENT OF REUSE OF VACANT BUILDINGS AND REDEVELOP-
15 MENT OF BLIGHTED PROPERTY.
16 (C) CREATION OF JOBS.
17 (D) WHETHER THE ELIGIBLE PROPERTY IS IN AN AREA OF HIGH
18 UNEMPLOYMENT.
19 (E) THE LEVEL AND EXTENT OF CONTAMINATION ALLEVIATED BY THE
20 QUALIFIED TAXPAYER'S ELIGIBLE INVESTMENT TO THE EXTENT KNOWN TO
21 THE QUALIFIED TAXPAYER.
22 (F) THE LEVEL OF PRIVATE SECTOR CONTRIBUTION.
23 (G) THE COST GAP THAT EXISTS BETWEEN THE SITE AND A SIMILAR
24 GREENFIELD SITE AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH
25 AUTHORITY.
(H) IF THE QUALIFIED TAXPAYER IS MOVING FROM ANOTHER LOCA-
TION IN THIS STATE, WHETHER THE MOVE WILL CREATE A BROWNFIELD.

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269 as amended April 6, 2000 6

1 (I) THE FINANCIAL STATEMENTS OF THE QUALIFIED TAXPAYER
2 INDICATE THAT IT IS FINANCIALLY SOUND AND THAT THE PROJECT IS
3 ECONOMICALLY SOUND.

4 (J) ANY OTHER CRITERIA THAT THE MICHIGAN ECONOMIC GROWTH
5 AUTHORITY OR THE TREASURER, AS APPLICABLE, CONSIDERS APPROPRIATE
6 FOR THE DETERMINATION OF ELIGIBILITY UNDER SUBSECTION (2) OR
7 (3).

8 (6) A QUALIFIED TAXPAYER MAY APPLY FOR PROJECTS OR CREDITS
9 UNDER SUBSECTION (2) OR (3) FOR ELIGIBLE INVESTMENT ON MORE THAN
10 1 ELIGIBLE PROPERTY IN A TAX YEAR. EACH PROJECT OR CREDIT
11 APPROVED AND EACH PROJECT FOR WHICH A CERTIFICATE OF COMPLETION
12 IS ISSUED UNDER THIS SECTION SHALL BE FOR ELIGIBLE INVESTMENT ON
13 1 ELIGIBLE PROPERTY.

14 (7) WHEN ELIGIBLE INVESTMENT ON AN ELIGIBLE PROPERTY IS COM-
15 PLETED FOR WHICH A CREDIT IS APPROVED UNDER SUBSECTION (2) OR (3),
16 THE TREASURER FOR CREDITS APPROVED UNDER SUBSECTION (2) OR THE
17 MICHIGAN ECONOMIC GROWTH AUTHORITY FOR CREDITS APPROVED UNDER
18 SUBSECTION (3) SHALL VERIFY THAT THE ELIGIBLE INVESTMENT IS
19 COMPLETED. FOR CREDITS APPROVED UNDER SUBSECTION (3), THE
20 MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL CONDUCT AN ON-SITE
21 INSPECTION AS PART OF THE VERIFICATION PROCESS. WHEN THE COMPLE-
22 TION OF THE ELIGIBLE INVESTMENT IS VERIFIED, A CERTIFICATE OF
23 COMPLETION SHALL BE ISSUED TO THE QUALIFIED TAXPAYER THAT HAS
24 MADE ELIGIBLE INVESTMENT ON THAT ELIGIBLE PROPERTY THAT STATES
25 ALL OF THE FOLLOWING:

26 (A) THAT THE TAXPAYER IS A QUALIFIED TAXPAYER.

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269

7

1 (B) THE QUALIFIED TAXPAYER'S CREDIT AMOUNT.

2 (C) THE QUALIFIED TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION
3 NUMBER OR THE MICHIGAN TREASURY NUMBER ASSIGNED TO THE TAXPAYER.

4 (D) THE PROJECT NUMBER.

5 (E) FOR A PROJECT APPROVED UNDER SUBSECTION (3) FOR WHICH
6 THE TOTAL OF ALL CREDITS IS MORE THAN \$10,000,000.00 BUT
7 \$30,000,000.00 OR LESS, THE TOTAL OF ALL CREDITS AND THE SCHEDULE
8 ON WHICH THE ANNUAL CREDIT AMOUNT SHALL BE CLAIMED BY THE QUALI-
9 FIED TAXPAYER.

10 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, QUALIFIED
11 TAXPAYERS SHALL CLAIM CREDITS UNDER SUBSECTIONS (2) AND (3) IN
12 THE TAX YEAR IN WHICH THE CERTIFICATE OF COMPLETION IS ISSUED.
13 FOR A PROJECT APPROVED UNDER SUBSECTION (3) FOR WHICH THE TOTAL
14 OF ALL CREDITS IS MORE THAN \$10,000,000.00 BUT \$30,000,000.00 OR
15 LESS, THE QUALIFIED TAXPAYER SHALL CLAIM 10% OF ITS APPROVED
16 CREDIT EACH YEAR FOR 10 YEARS.

17 (9) THE COST OF ELIGIBLE INVESTMENT FOR LEASED MACHINERY,
18 EQUIPMENT, OR FIXTURES IS THE TOTAL OF THE LEASE PAYMENTS BUT
19 DOES NOT INCLUDE INTEREST, FINANCE CHARGES, SERVICE CHARGES, HAN-
20 DLING CHARGES, OR SIMILAR CHARGES. THE COST OF ELIGIBLE INVEST-
21 MENT UNDER THIS SUBSECTION SHALL NOT EXCEED THE COST OF THE PROP-
22 ERTY HAD IT BEEN PURCHASED.

23 (10) FOR CREDITS UNDER SUBSECTIONS (2) AND (3), CREDITS
24 CLAIMED BY A LESSEE OF ELIGIBLE PROPERTY ARE SUBJECT TO THE TOTAL
25 OF ALL CREDITS LIMITATION UNDER THIS SECTION.

26 (11) EACH QUALIFIED TAXPAYER AND ASSIGNEE UNDER SUBSECTION
27 (16) THAT CLAIMS A CREDIT UNDER SUBSECTION (1)(A) OR (B) SHALL

1 ATTACH A COPY OF THE CERTIFICATE OF COMPLETION AND, IF THE CREDIT
2 WAS ASSIGNED, A COPY OF THE ASSIGNMENT FORM PROVIDED FOR UNDER
3 THIS SECTION TO THE ANNUAL RETURN FILED UNDER THIS ACT ON WHICH
4 THE CREDIT UNDER SUBSECTION (2) OR (3) IS CLAIMED.

5 (12) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (16), A
6 CREDIT UNDER SUBSECTION (2) OR (3) SHALL BE CLAIMED IN THE TAX
7 YEAR IN WHICH THE CERTIFICATE OF COMPLETION IS ISSUED TO THE
8 QUALIFIED TAXPAYER.

9 (13) THE CREDITS APPROVED UNDER THIS SECTION SHALL BE CALCU-
10 LATED AFTER APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS
11 ACT. THE CREDITS UNDER SUBSECTIONS (2) AND (3) SHALL BE CALCU-
12 LATED BEFORE THE CALCULATION OF CREDITS UNDER SUBSECTIONS (18) TO
13 (23).

14 (14) IF THE CREDIT ALLOWED UNDER SUBSECTION (2) OR (3) FOR
15 THE TAX YEAR AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED
16 UNDER SUBSECTION (2) OR (3) EXCEED THE QUALIFIED TAXPAYER'S OR
17 ASSIGNEE'S TAX LIABILITY FOR THE TAX YEAR, THAT PORTION THAT
18 EXCEEDS THE TAX LIABILITY FOR THE TAX YEAR SHALL NOT BE REFUNDED
19 BUT MAY BE CARRIED FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT
20 TAX YEARS FOR 10 YEARS OR UNTIL USED UP, WHICHEVER OCCURS FIRST.
21 THE MAXIMUM TIME ALLOWED UNDER THE CARRYFORWARD PROVISIONS UNDER
22 THIS SUBSECTION BEGINS WITH THE TAX YEAR IN WHICH THE CERTIFICATE
23 OF COMPLETION IS ISSUED TO THE QUALIFIED TAXPAYER. IF THE QUALI-
24 FIED TAXPAYER ASSIGNS ALL OR ANY PORTION OF ITS CREDIT APPROVED
25 UNDER SUBSECTION (2) OR (3), THE MAXIMUM TIME ALLOWED UNDER THE
26 CARRYFORWARD PROVISIONS FOR AN ASSIGNEE BEGINS TO RUN WITH THE
27 TAX YEAR IN WHICH THE ASSIGNMENT IS MADE AND THE ASSIGNEE FIRST

1 CLAIMS A CREDIT, WHICH SHALL BE THE SAME TAX YEAR. IN ADDITION
2 TO ALL OTHER PROCEDURES UNDER THIS SUBSECTION, THE CARRYFORWARD
3 PERIOD FOR AN ANNUAL CREDIT AMOUNT FOR A CREDIT ALLOWED UNDER
4 SUBSECTION (3) BEGINS TO RUN IN THE TAX YEAR FOR WHICH THE ANNUAL
5 CREDIT AMOUNT IS DESIGNATED ON THE CERTIFICATE OF COMPLETION
6 ISSUED UNDER THIS SECTION.

7 (15) IF ELIGIBLE INVESTMENT FOR A PROJECT OR CREDIT UNDER
8 SUBSECTION (2) OR (3) IS FOR THE ADDITION OF PERSONAL PROPERTY,
9 IF THE COST OF THAT PERSONAL PROPERTY IS USED TO CAL-
10 CULATE A CREDIT UNDER SUBSECTION (2) OR (3), AND IF THE PERSONAL
11 PROPERTY IS SOLD OR DISPOSED OF OR TRANSFERRED FROM ELIGIBLE
12 PROPERTY TO ANY OTHER LOCATION, THE QUALIFIED TAXPAYER THAT SOLD,
13 DISPOSED OF, OR TRANSFERRED THE PERSONAL PROPERTY SHALL ADD THE
14 SAME PERCENTAGE AS DETERMINED PURSUANT TO SUBSECTION (1) OF THE
15 FEDERAL BASIS OF THE PERSONAL PROPERTY USED FOR DETERMINING GAIN
16 OR LOSS AS OF THE DATE OF THE SALE, DISPOSITION, OR TRANSFER TO
17 THE QUALIFIED TAXPAYER'S TAX LIABILITY AFTER APPLICATION OF ALL
18 CREDITS UNDER THIS ACT FOR THE TAX YEAR IN WHICH THE SALE, DISPO-
19 SITION, OR TRANSFER OCCURS. IF A QUALIFIED TAXPAYER HAS AN
20 UNUSED CARRYFORWARD OF A CREDIT UNDER THIS SUBSECTION, THE AMOUNT
21 OTHERWISE ADDED UNDER THIS SUBSECTION TO THE QUALIFIED TAXPAYER'S
22 TAX LIABILITY MAY INSTEAD BE USED TO REDUCE THE QUALIFIED
23 TAXPAYER'S CARRYFORWARD UNDER THIS SECTION.

24 (16) FOR CREDITS UNDER SUBSECTIONS (2) AND (3) AND EXCEPT AS
25 OTHERWISE PROVIDED IN THIS SUBSECTION, IF A QUALIFIED TAXPAYER
26 PAYS OR ACCRUES ELIGIBLE INVESTMENT ON OR TO AN ELIGIBLE PROPERTY
27 THAT IS LEASED FOR A MINIMUM TERM OF 10 YEARS TO ANOTHER TAXPAYER

1 FOR USE IN A BUSINESS ACTIVITY, THE QUALIFIED TAXPAYER MAY ASSIGN
2 ALL OR A PORTION OF THE CREDIT BASED ON THAT ELIGIBLE INVESTMENT
3 TO THE LESSEE. A CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS
4 IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN WHICH THE CER-
5 TIFICATE OF COMPLETION IS ISSUED, UNLESS THE ASSIGNEE IS
6 UNKNOWN. IF A QUALIFIED TAXPAYER WISHES TO ASSIGN ALL OR A POR-
7 TION OF ITS CREDIT TO A LESSEE BUT THE LESSEE IS UNKNOWN IN THE
8 TAX YEAR IN WHICH THE CERTIFICATE OF COMPLETION IS ISSUED, THE
9 QUALIFIED TAXPAYER MAY DELAY CLAIMING AND ASSIGNING THE CREDIT
10 UNTIL THE FIRST TAX YEAR IN WHICH LESSEE IS KNOWN. A QUALIFIED
TAXPAYER MAY CLAIM A POR-
11 TION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. EXCEPT
12 AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF THE QUALIFIED TAX-
13 PAYER BOTH CLAIMS AND ASSIGNS PORTIONS OF THE CREDIT, THE QUALI-
14 FIED TAXPAYER SHALL CLAIM THE PORTION IT CLAIMS IN THE TAX YEAR
15 IN WHICH THE CERTIFICATE OF COMPLETION IS ISSUED. IF A QUALIFIED
16 TAXPAYER ASSIGNS ALL OR A PORTION OF THE CREDIT AND THE ELIGIBLE
17 PROPERTY IS LEASED TO MORE THAN 1 TAXPAYER, THE QUALIFIED TAX-
18 PAYER SHALL PRORATE THE CREDIT TO EACH LESSEE. A LESSEE SHALL
19 NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A CREDIT
20 ASSIGNED UNDER THIS SUBSECTION. THE CREDIT ASSIGNMENT UNDER THIS
21 SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.
22 THE QUALIFIED TAXPAYER SHALL SEND A COPY OF THE COMPLETED ASSIGN-
23 MENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN WHICH THE ASSIGN-
24 MENT IS MADE. THE ASSIGNEE SHALL ATTACH A COPY OF THE COMPLETED
25 ASSIGNMENT FORM TO ITS ANNUAL RETURN REQUIRED TO BE FILED UNDER
26 THIS ACT, FOR THE TAX YEAR IN WHICH THE ASSIGNMENT IS MADE AND
27 THE ASSIGNEE FIRST CLAIMS A CREDIT, WHICH SHALL BE THE SAME TAX

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269

11

1 YEAR. IN ADDITION TO ALL OTHER PROCEDURES UNDER THIS SUBSECTION,
2 THE FOLLOWING APPLY IF THE TOTAL OF ALL CREDITS FOR A PROJECT IS
3 MORE THAN \$10,000,000.00 BUT \$30,000,000.00 OR LESS:

4 (A) THE CREDIT SHALL BE ASSIGNED BASED ON THE SCHEDULE CON-
5 TAINED IN THE CERTIFICATE OF COMPLETION.

6 (B) IF THE QUALIFIED TAXPAYER ASSIGNS ALL OR A PORTION OF
7 THE CREDIT AMOUNT, THE QUALIFIED TAXPAYER SHALL ASSIGN THE ANNUAL
8 CREDIT AMOUNT FOR EACH TAX YEAR SEPARATELY.

9 (C) MORE THAN 1 ANNUAL CREDIT AMOUNT MAY BE ASSIGNED TO ANY
10 1 ASSIGNEE AND THE QUALIFIED TAXPAYER MAY ASSIGN ALL OR A PORTION
11 OF EACH ANNUAL CREDIT AMOUNT.

12 (D) THE QUALIFIED TAXPAYER SHALL NOT ASSIGN MORE THAN THE
13 ANNUAL CREDIT AMOUNT FOR EACH TAX YEAR.

14 (17) A QUALIFIED TAXPAYER OR ASSIGNEE UNDER SUBSECTION (16)
15 SHALL NOT CLAIM A CREDIT UNDER SUBSECTION (1)(A) OR (B) BASED ON
16 ELIGIBLE INVESTMENT ON WHICH A CREDIT CLAIMED UNDER SECTION 38D
17 WAS BASED.

18 (18) IN ADDITION TO THE OTHER CREDITS ALLOWED UNDER THIS
19 SECTION AND SECTIONS 37C AND 37D, FOR TAX YEARS THAT BEGIN AFTER
20 DECEMBER 31, 1999 AND FOR A PERIOD OF TIME NOT TO EXCEED 20 YEARS
21 AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, AN ELI-
22 GIBLE TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY SECTION 31
23 THE AMOUNT CERTIFIED EACH YEAR BY THE MICHIGAN ECONOMIC GROWTH
24 AUTHORITY THAT IS 1 OF THE FOLLOWING:

25 (A) FOR AN ELIGIBLE BUSINESS UNDER SECTION 8(5)(A) OF THE
26 MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.808,

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269

12

1 AN AMOUNT THAT IS NOT MORE THAN 50% OF 1 OR BOTH OF THE FOLLOWING
2 AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY:

3 (i) AN AMOUNT DETERMINED UNDER THE MICHIGAN ECONOMIC GROWTH
4 AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810, THAT DOES NOT
5 EXCEED THE PAYROLL OF THE ELIGIBLE TAXPAYER ATTRIBUTABLE TO
6 EMPLOYEES WHO PERFORM RETAINED JOBS MULTIPLIED BY THE TAX RATE
7 FOR THE TAX YEAR.

8 (ii) THE TAX LIABILITY ATTRIBUTABLE TO THE ELIGIBLE
9 TAXPAYER'S BUSINESS ACTIVITY MULTIPLIED BY A FRACTION THE NUMERA-
10 TOR OF WHICH IS THE RATIO OF THE VALUE OF NEW CAPITAL INVESTMENT
11 TO ALL OF THE TAXPAYER'S PROPERTY LOCATED IN THIS STATE PLUS THE
12 RATIO OF THE TAXPAYER'S PAYROLL ATTRIBUTABLE TO RETAINED JOBS TO
13 ALL OF THE TAXPAYER'S PAYROLL IN THIS STATE AND THE DENOMINATOR
14 OF WHICH IS 2.

15 (B) FOR AN ELIGIBLE BUSINESS UNDER SECTION 8(5)(B) OF THE
16 MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.808,
17 AN AMOUNT THAT IS NOT MORE THAN 1 OR BOTH OF THE FOLLOWING AS
18 DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY:

19 (i) AN AMOUNT DETERMINED UNDER THE MICHIGAN ECONOMIC GROWTH
20 AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810, THAT DOES NOT
21 EXCEED THE PAYROLL OF THE ELIGIBLE TAXPAYER ATTRIBUTABLE TO
22 EMPLOYEES WHO PERFORM RETAINED JOBS MULTIPLIED BY THE TAX RATE
23 FOR THE TAX YEAR.

24 (ii) THE TAX LIABILITY ATTRIBUTABLE TO ELIGIBLE TAXPAYER'S
25 BUSINESS MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS THE
26 RATIO OF THE VALUE OF CAPITAL INVESTMENT TO ALL OF THE TAXPAYER'S
27 PROPERTY LOCATED IN THIS STATE PLUS THE RATIO OF THE TAXPAYER'S

1 PAYROLL ATTRIBUTABLE TO RETAINED JOBS TO ALL OF THE TAXPAYER'S
2 PAYROLL IN THIS STATE AND THE DENOMINATOR OF WHICH IS 2.

3 (19) AN ELIGIBLE TAXPAYER SHALL NOT CLAIM A CREDIT UNDER
4 SUBSECTION (18) UNLESS THE MICHIGAN ECONOMIC GROWTH AUTHORITY HAS
5 ISSUED A CERTIFICATE UNDER SECTION 9 OF THE MICHIGAN ECONOMIC
6 GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.809, TO THE TAXPAYER.
7 THE ELIGIBLE TAXPAYER SHALL ATTACH THE CERTIFICATE TO THE RETURN
8 FILED UNDER THIS ACT ON WHICH A CREDIT UNDER SUBSECTION (18) IS
9 CLAIMED.

10 (20) AN AFFILIATED GROUP AS DEFINED IN THIS ACT, A CON-
11 TROLLED GROUP OF CORPORATIONS AS DEFINED IN SECTION 1563 OF THE
12 INTERNAL REVENUE CODE AND FURTHER DESCRIBED IN 26 C.F.R. 1.414
13 (b)-1 AND 1.414(c)-1 TO 1.414(c)-5, OR AN ENTITY UNDER COMMON
14 CONTROL AS DEFINED BY THE INTERNAL REVENUE CODE SHALL CLAIM ONLY
15 1 CREDIT UNDER SUBSECTION (18) FOR EACH TAX YEAR BASED ON EACH
16 WRITTEN AGREEMENT WHETHER OR NOT A COMBINED OR CONSOLIDATED
17 RETURN IS FILED.

18 (21) A CREDIT SHALL NOT BE CLAIMED BY A TAXPAYER UNDER SUB-
19 SECTION (18) IF THE ELIGIBLE TAXPAYER'S INITIAL CERTIFICATION
20 UNDER SECTION 9 OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT,
21 1995 PA 24, MCL 207.809, IS ISSUED AFTER DECEMBER 31, 2003.

22 (22) IF THE CREDIT ALLOWED UNDER SUBSECTION (18)(A)(ii) OR
23 (18)(B)(ii) FOR THE TAX YEAR AND ANY UNUSED CARRYFORWARD OF THE
24 CREDIT ALLOWED BY SUBSECTION (18) EXCEED THE TAXPAYER'S TAX
25 LIABILITY FOR THE TAX YEAR, THAT PORTION THAT EXCEEDS THE TAX
26 LIABILITY FOR THE TAX YEAR SHALL NOT BE REFUNDED BUT MAY BE

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269 as amended April 5, and April 6, 2000 14

1 CARRIED FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX YEARS
2 FOR 10 YEARS OR UNTIL USED UP, WHICHEVER OCCURS FIRST.

3 (23) IF THE CREDIT ALLOWED UNDER SUBSECTION (18)(A)(i) OR
4 (18)(B)(i) EXCEEDS THE TAX LIABILITY OF THE ELIGIBLE TAXPAYER FOR
5 THE TAX YEAR, THE EXCESS SHALL BE REFUNDED TO THE ELIGIBLE
6 TAXPAYER.

7 (24) AN ELIGIBLE TAXPAYER THAT CLAIMS A CREDIT UNDER SUBSEC-
8 TION (1) IS NOT PROHIBITED FROM CLAIMING A CREDIT UNDER SUBSEC-
9 TION (18). HOWEVER, THE ELIGIBLE TAXPAYER SHALL NOT CLAIM A
10 CREDIT UNDER BOTH SUBSECTIONS (1) AND (18) BASED ON THE SAME
11 COSTS.

12 (25) [REDACTED] ELIGIBLE
13 INVESTMENT ATTRIBUTABLE OR RELATED TO THE OPERATION OF A PROFES-
14 SIONAL SPORTS STADIUM, AND ELIGIBLE INVESTMENT THAT IS ASSOCIATED
15 OR AFFILIATED WITH THE OPERATION OF A PROFESSIONAL SPORTS STADI-
16 UM, INCLUDING, BUT NOT LIMITED TO, THE OPERATION OF A PARKING LOT
17 OR RETAIL STORE, SHALL NOT BE USED AS A BASIS FOR A CREDIT UNDER
18 SUBSECTION (2) OR (3).

19 (26) ELIGIBLE INVESTMENT ATTRIBUTABLE OR RELATED TO THE
20 OPERATION OF A CASINO, AND ELIGIBLE INVESTMENT THAT IS ASSOCIATED
21 OR AFFILIATED WITH THE OPERATION OF A CASINO, INCLUDING, BUT NOT
22 LIMITED TO, THE OPERATION OF A PARKING LOT, HOTEL, MOTEL, OR
23 RETAIL STORE, SHALL NOT BE USED AS A BASIS FOR A CREDIT UNDER
24 SUBSECTION (2) OR (3). AS USED IN THIS SUBSECTION, "CASINO" MEANS A
25 CASINO REGULATED BY THIS STATE PURSUANT TO THE MICHIGAN GAMING
26 CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.201
27 TO 432.226.

(27) THE DEPARTMENT ANNUALLY SHALL PREPARE AND SUBMIT TO THE
HOUSE OF REPRESENTATIVES AND SENATE COMMITTEES RESPONSIBLE FOR TAX
POLICY AND ECONOMIC DEVELOPMENT ISSUES A REPORT ON THE CREDITS UNDER
SUBSECTION (2). THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO,
ALL OF THE FOLLOWING:

(A) A LISTING OF THE CREDITS UNDER SUBSECTION (2) THAT WERE
APPROVED IN THE CALENDAR YEAR.

(B) THE TOTAL AMOUNT OF CREDITS APPROVED AND CLAIMED UNDER
SUBSECTION (2) IN THE CALENDAR YEAR.

1 (28) AS USED IN THIS SECTION:

2 (A) "ANNUAL CREDIT AMOUNT" MEANS THE MAXIMUM AMOUNT THAT A
3 QUALIFIED TAXPAYER IS ELIGIBLE TO CLAIM EACH TAX YEAR FOR A
4 PROJECT FOR WHICH THE TOTAL OF ALL CREDITS IS MORE THAN
5 \$10,000,000.00 BUT \$30,000,000.00 OR LESS FOR ELIGIBLE INVESTMENT
6 ON AN ELIGIBLE PROPERTY, 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", "FACILITY", "FULL-TIME JOB", "NEW
12 CAPITAL INVESTMENT", "RETAINED JOBS", AND "WRITTEN AGREEMENT"
13 MEAN THOSE TERMS AS DEFINED IN THE MICHIGAN ECONOMIC GROWTH
14 AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810.

15 (D) "BLIGHTED", "FACILITY", AND "FUNCTIONALLY OBSOLETE" MEAN
16 THOSE TERMS AS DEFINED IN THE BROWNFIELD REDEVELOPMENT FINANCING
17 ACT, 1996 PA 381, MCL 125.2651 TO 125.2672.

18 (E) "BROWNFIELD PLAN" MEANS A BROWNFIELD PLAN UNDER THE
19 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651
20 TO 125.2672.

21 (F) "ELIGIBLE ACTIVITIES" MEANS THAT TERM AS DEFINED IN THE
22 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651
23 TO 125.2672.

24 (G) "ELIGIBLE INVESTMENT" MEANS DEMOLITION, CONSTRUCTION,
25 RESTORATION, ALTERATION, RENOVATION, OR IMPROVEMENT OF BUILDINGS
26 OR SITE IMPROVEMENTS ON ELIGIBLE PROPERTY AND THE ADDITION OF
27 MACHINERY, EQUIPMENT, AND FIXTURES TO ELIGIBLE PROPERTY AFTER THE

1 DATE THAT ELIGIBLE ACTIVITIES ON THAT ELIGIBLE PROPERTY HAVE
2 STARTED PURSUANT TO A BROWNFIELD PLAN UNDER THE BROWNFIELD REDE-
3 VELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651 TO 125.2672,
4 IF THE COSTS OF THE ELIGIBLE INVESTMENT ARE NOT OTHERWISE REIM-
5 BURSED TO THE TAXPAYER OR PAID FOR ON BEHALF OF THE TAXPAYER FROM
6 ANY SOURCE OTHER THAN THE TAXPAYER. THE ADDITION OF LEASED
7 MACHINERY, EQUIPMENT, OR FIXTURES TO ELIGIBLE PROPERTY BY A
8 LESSEE OF THE MACHINERY, EQUIPMENT, OR FIXTURES IS ELIGIBLE
9 INVESTMENT IF THE LEASE OF THE MACHINERY, EQUIPMENT, OR FIXTURES
10 HAS A MINIMUM TERM OF 10 YEARS OR IS FOR THE EXPECTED USEFUL LIFE
11 OF THE MACHINERY, EQUIPMENT, OR FIXTURES, AND IF THE OWNER OF THE
12 MACHINERY, EQUIPMENT, OR FIXTURES IS NOT THE QUALIFIED TAXPAYER
13 WITH REGARD TO THAT MACHINERY, EQUIPMENT, OR FIXTURES.

14 (H) "ELIGIBLE PROPERTY" MEANS 1 OF THE FOLLOWING:

15 (i) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED IN
16 A BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMER-
17 CIAL, INDUSTRIAL, OR RESIDENTIAL PURPOSES THAT IS IN A QUALIFIED
18 LOCAL GOVERNMENTAL UNIT AND IS A FACILITY, FUNCTIONALLY OBSOLETE,
19 OR BLIGHTED.

20 (ii) FOR A PROJECT ALLOWED UNDER SUBSECTION (4)(B), A FACIL-
21 ITY THAT IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT.

22 (iii) A FACILITY IN THIS STATE FOR WHICH ELIGIBLE ACTIVITIES
23 ARE IDENTIFIED IN A BROWNFIELD PLAN IF THE TOTAL OF ALL CREDITS FOR
24 A PROJECT ON THAT FACILITY
24 ALLOWED UNDER THIS SECTION IS \$1,000,000.00 OR LESS.

25 (I) "ELIGIBLE TAXPAYER" MEANS AN ELIGIBLE BUSINESS THAT
26 MEETS THE CRITERIA UNDER SECTION 8(5) OF THE MICHIGAN ECONOMIC
27 GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.808.

1 (J) "MICHIGAN ECONOMIC GROWTH AUTHORITY" MEANS THE MICHIGAN
2 ECONOMIC GROWTH AUTHORITY CREATED IN THE MICHIGAN ECONOMIC GROWTH
3 AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810.

4 (K) "PAYROLL" AND "TAX RATE" MEAN THOSE TERMS AS DEFINED IN
5 SECTION 37C.

6 (L) "PERSONAL PROPERTY" MEANS THAT TERM AS DEFINED IN SEC-
7 TION 8 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.8,
8 EXCEPT THAT PERSONAL PROPERTY DOES NOT INCLUDE EITHER OF THE
9 FOLLOWING:

10 (i) PERSONAL PROPERTY DESCRIBED IN SECTION 8(H), (I), OR (J)
11 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.8.

12 (ii) BUILDINGS DESCRIBED IN SECTION 14(6) OF THE GENERAL
13 PROPERTY TAX ACT, 1893 PA 206, MCL 211.14.

14 (M) "PROJECT" MEANS THE TOTAL OF ALL ELIGIBLE INVESTMENT ON
15 AN ELIGIBLE PROPERTY OR, FOR PURPOSES OF SUBSECTION (4)(B), ALL
16 ELIGIBLE INVESTMENT ON PROPERTY NOT IN A QUALIFIED LOCAL GOVERN-
17 MENTAL UNIT THAT IS A FACILITY.

18 (N) "QUALIFIED LOCAL GOVERNMENTAL UNIT" MEANS THAT TERM AS
19 DEFINED IN THE OBSOLETE PROPERTY REHABILITATION ACT.

20 (O) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT MEETS BOTH OF
21 THE FOLLOWING CRITERIA:

22 (i) OWNS OR LEASES ELIGIBLE PROPERTY.

23 (ii) CERTIFIES THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY
24 HAS NOT SUED OR ISSUED A UNILATERAL ORDER TO THE TAXPAYER PURSU-
25 ANT TO PART 201 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PRO-
26 TECTION ACT, 1994 PA 451, MCL 324.20101 TO 324.20142, TO COMPEL
27 RESPONSE ACTIVITY ON OR TO THE ELIGIBLE PROPERTY, OR EXPENDED ANY

SB 269, As Passed Senate, April 6, 2000

Senate Bill No. 269

18

1 STATE FUNDS FOR RESPONSE ACTIVITY ON OR TO THE ELIGIBLE PROPERTY
2 AND DEMANDED REIMBURSEMENT FOR THOSE EXPENDITURES FROM THE QUALI-
3 FIED TAXPAYER.

4 (P) "RESPONSE ACTIVITY" MEANS THAT TERM AS DEFINED IN THE
5 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651
6 TO 125.2672.

7 (Q) "TAX LIABILITY ATTRIBUTABLE TO AUTHORIZED BUSINESS
8 ACTIVITY" MEANS THE TAX LIABILITY IMPOSED BY THIS ACT AFTER THE
9 CALCULATION OF CREDITS PROVIDED IN SECTIONS 36, 37, AND 39.

10 Enacting section 1. This amendatory act does not take
11 effect unless all of the following bills of the 90th Legislature
12 are enacted into law:

13 (a) House Bill No. 4400.

14 (b) House Bill No. 5443.

15 (c) House Bill No. 5444.