

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 822

A bill to amend 1975 PA 228, entitled  
"Single business tax act,"  
by amending section 38g (MCL 208.38g), as amended by 2003 PA  
249.

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 (20) to (25); and  
4 subject to the criteria under this section, a qualified taxpayer  
5 that has a preapproval letter issued after December 31, 1999 and  
6 before January 1, 2008, provided that the project is completed  
7 not more than 5 years after the preapproval letter for the  
8 project is issued, or an assignee under subsection (17) or (18)  
9 may claim a credit that has been approved under subsection (2) or  
10 (3) against the tax imposed by this act equal to either of the

1 following:

2 (a) If the total of all credits for a project is  
3 \$1,000,000.00 or less, 10% of the cost of the qualified  
4 taxpayer's eligible investment paid or accrued by the qualified  
5 taxpayer on an eligible property provided that the project does  
6 not exceed the amount stated in the preapproval letter. If  
7 eligible investment exceeds the amount of eligible investment in  
8 the preapproval letter for that project, the total of all credits  
9 for the project shall not exceed the total of all credits on the  
10 certificate of completion.

11 (b) If the total of all credits for a project is more than  
12 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided  
13 in subsection (5)(b), the project is located in a qualified local  
14 governmental unit, a percentage as determined by the Michigan  
15 economic growth authority not to exceed 10% of the cost of the  
16 qualified taxpayer's eligible investment as determined under  
17 subsection (8) paid or accrued by the qualified taxpayer on an  
18 eligible property. If eligible investment exceeds the amount of  
19 eligible investment in the preapproval letter for that project,  
20 the total of all credits for the project shall not exceed the  
21 total of all credits on the certificate of completion.

22 (2) If the cost of a project will be for \$10,000,000.00 or  
23 less, a qualified taxpayer shall apply to the Michigan economic  
24 growth authority for approval of the project under this  
25 subsection. An application under this subsection shall state  
26 whether the project is a multiphase project. The chairperson of  
27 the Michigan economic growth authority or his or her designee is

1 authorized to approve an application or project under this  
2 subsection. Only the chairperson of the Michigan economic growth  
3 authority is authorized to deny an application or project under  
4 this subsection. A project shall be approved or denied not more  
5 than 45 days after receipt of the application. If the  
6 chairperson of the Michigan economic growth authority or his or  
7 her designee does not approve or deny an application within 45  
8 days after the application is received by the Michigan economic  
9 growth authority, the application is considered approved as  
10 written. The total of all credits for all projects approved  
11 under this subsection shall not exceed \$30,000,000.00 in any  
12 calendar year. The criteria in subsection (6) shall be used when  
13 approving projects under this subsection. When approving  
14 projects under this subsection, priority shall be given to  
15 projects on a facility. The total of all credits for an approved  
16 project under this subsection shall not exceed \$1,000,000.00. A  
17 taxpayer may apply under this subsection instead of subsection  
18 (3) for approval of a project that will be for more than  
19 \$10,000,000.00 but the total of all credits for that project  
20 shall not exceed \$1,000,000.00. If the chairperson of the  
21 Michigan economic growth authority or his or her designee  
22 approves a project under this subsection, the chairperson of the  
23 Michigan economic growth authority or his or her designee shall  
24 issue a preapproval letter that states that the taxpayer is a  
25 qualified taxpayer; the maximum total eligible investment for the  
26 project on which credits may be claimed and the maximum total of  
27 all credits for the project when the project is completed and a

1 certificate of completion is issued; and the project number  
2 assigned by the Michigan economic growth authority. If a project  
3 is denied under this subsection, a taxpayer is not prohibited  
4 from subsequently applying under this subsection or subsection  
5 (3) for the same project or for another project.

6 (3) If the cost of a project will be for more than  
7 \$10,000,000.00 and, except as provided in subsection (5)(b), the  
8 project is located in a qualified local governmental unit, a  
9 qualified taxpayer shall apply to the Michigan economic growth  
10 authority for approval of the project. The Michigan economic  
11 growth authority shall approve or deny the project not more than  
12 65 days after receipt of the application. A project under this  
13 subsection shall not be approved without the concurrence of the  
14 state treasurer. If the Michigan economic growth authority does  
15 not approve or deny the application within 65 days after it  
16 receives the application, the Michigan economic growth authority  
17 shall send the application to the state treasurer. The state  
18 treasurer shall approve or deny the application within 5 days  
19 after receipt of the application. If the state treasurer does  
20 not deny the application within the 5 days after receipt of the  
21 application, the application is considered approved. The  
22 Michigan economic growth authority shall approve a limited number  
23 of projects under this subsection during each calendar year as  
24 provided in subsection (5). The Michigan economic growth  
25 authority shall use the criteria in subsection (6) when approving  
26 projects under this subsection, when determining the total amount  
27 of eligible investment, and when determining the percentage of

1 eligible investment for the project to be used to calculate a  
2 credit. The total of all credits for an approved project under  
3 this subsection shall not exceed the amount designated in the  
4 preapproval letter for that project. If the Michigan economic  
5 growth authority approves a project under this subsection, the  
6 Michigan economic growth authority shall issue a preapproval  
7 letter that states that the taxpayer is a qualified taxpayer; the  
8 percentage of eligible investment for the project determined by  
9 the Michigan economic growth authority for purposes of subsection  
10 (1)(b); the maximum total eligible investment for the project on  
11 which credits may be claimed and the maximum total of all credits  
12 for the project when the project is completed and a certificate  
13 of completion is issued; and the project number assigned by the  
14 Michigan economic growth authority. The Michigan economic growth  
15 authority shall send a copy of the preapproval letter to the  
16 department. If a project is denied under this subsection, a  
17 taxpayer is not prohibited from subsequently applying under this  
18 subsection or subsection (2) for the same project or for another  
19 project.

20 (4) If the project is on property that is functionally  
21 obsolete, the taxpayer shall include, with the application, an  
22 affidavit signed by a level 3 or level 4 assessor, that states  
23 that it is the assessor's expert opinion that the property is  
24 functionally obsolete and the underlying basis for that opinion.

25 (5) The Michigan economic growth authority may approve not  
26 more than 15 projects each calendar year under subsection (3),  
27 and the following limitations apply:

1 (a) Of the 15 projects allowed under this subsection, the  
2 total of all credits for each project may be more than  
3 \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

4 (b) Of the 15 projects allowed under this subsection, up to 3  
5 projects may be approved for projects that are not in a qualified  
6 local governmental unit if the property is a facility for which  
7 eligible activities are identified in a brownfield plan. For  
8 purposes of this subdivision, a facility includes a building or  
9 complex of buildings that was used by a state or federal agency  
10 and that is no longer being used for the purpose for which it was  
11 used by the state or federal agency.

12 (c) Of the 3 projects allowed under subdivision (a), 1 may be  
13 a project that also qualifies under subdivision (b).

14 (6) The Michigan economic growth authority shall review all  
15 applications for projects under subsection (3) and, if an  
16 application is approved, shall determine the maximum total of all  
17 credits for that project. Before approving a project for which  
18 the total of all credits will be more than \$10,000,000.00 but  
19 \$30,000,000.00 or less only, the Michigan economic growth  
20 authority shall determine that the project would not occur in  
21 this state without the tax credit offered under subsection (3),  
22 except that the Michigan economic growth authority may approve 1  
23 project the construction of which began after January 1, 2000 and  
24 before January 1, 2001 without determining that the eligible  
25 investment would not occur in this state without the tax credit  
26 offered under this section. The Michigan economic growth  
27 authority shall consider the following criteria to the extent

1 reasonably applicable to the type of project proposed when  
2 approving a project under subsection (3) and the chairperson of  
3 the Michigan economic growth authority or his or her designee  
4 shall consider the following criteria to the extent reasonably  
5 applicable to the type of project proposed when approving a  
6 project under subsection (2) or when considering an amendment to  
7 a project under subsection (31):

8 (a) The overall benefit to the public.

9 (b) The extent of reuse of vacant buildings and redevelopment  
10 of blighted property.

11 (c) Creation of jobs.

12 (d) Whether the eligible property is in an area of high  
13 unemployment.

14 (e) The level and extent of contamination alleviated by the  
15 qualified taxpayer's eligible activities to the extent known to  
16 the qualified taxpayer.

17 (f) The level of private sector contribution.

18 (g) The cost gap that exists between the site and a similar  
19 greenfield site as determined by the Michigan economic growth  
20 authority.

21 (h) If the qualified taxpayer is moving from another location  
22 in this state, whether the move will create a brownfield.

23 (i) Whether the financial statements of the qualified  
24 taxpayer indicate that it is financially sound and that the  
25 project is economically sound.

26 (j) Any other criteria that the Michigan economic growth  
27 authority or the chairperson of the Michigan economic growth

1 authority, as applicable, considers appropriate for the  
2 determination of eligibility under subsection (2) or (3).

3 (7) A qualified taxpayer may apply for projects under  
4 subsection (2) or (3) for eligible investment on more than 1  
5 eligible property in a tax year. Each project approved and each  
6 project for which a certificate of completion is issued under  
7 this section shall be for eligible investment on 1 eligible  
8 property.

9 (8) When a project under subsection (2) or (3) is completed,  
10 the taxpayer shall submit documentation that the project is  
11 completed, an accounting of the cost of the project, the eligible  
12 investment of each taxpayer if there is more than 1 taxpayer  
13 eligible for a credit for the project, and, if the taxpayer is  
14 not the owner or lessee of the eligible property on which the  
15 eligible investment was made at the time the project is  
16 completed, that the taxpayer was the owner or lessee of that  
17 eligible property when all eligible investment of the taxpayer  
18 was made. The chairperson of the Michigan economic growth  
19 authority or his or her designee, for projects approved under  
20 subsection (2), or the Michigan economic growth authority, for  
21 projects approved under subsection (3), shall verify that the  
22 project is completed. The Michigan economic growth authority  
23 shall conduct an on-site inspection as part of the verification  
24 process. When the completion of the project is verified, a  
25 certificate of completion shall be issued to each qualified  
26 taxpayer that has made eligible investment on that eligible  
27 property. The certificate of completion shall state the total



1 amount of all credits for the project and that total shall not  
2 exceed the maximum total of all credits listed in the preapproval  
3 letter for the project under subsection (2) or (3) as applicable  
4 and shall state all of the following:

5 (a) That the taxpayer is a qualified taxpayer.

6 (b) The total cost of the project and the eligible investment  
7 of each qualified taxpayer.

8 (c) Each qualified taxpayer's credit amount.

9 (d) The qualified taxpayer's federal employer identification  
10 number or the Michigan treasury number assigned to the taxpayer.

11 (e) The project number.

12 (f) For a project approved under subsection (3) for which the  
13 total of all credits is more than \$10,000,000.00 but  
14 \$30,000,000.00 or less, the total of all credits and the schedule  
15 on which the annual credit amount shall be claimed by the  
16 qualified taxpayer.

17 (g) For a multiphase project under subsection (32), the  
18 amount of each credit assigned and the amount of all credits  
19 claimed in each tax year before the year in which the project is  
20 completed.

21 (9) Except as otherwise provided in this section, qualified  
22 taxpayers shall claim credits under subsections (2) and (3) in  
23 the tax year in which the certificate of completion is issued.  
24 For a project approved under subsection (3) for which the total  
25 of all credits is more than \$10,000,000.00 but \$30,000,000.00 or  
26 less, the qualified taxpayer shall claim 10% of its approved  
27 credit each year for 10 years. A credit assigned based on a

1 multiphase project shall be claimed in the year in which the  
2 credit is assigned.

3       (10) The cost of eligible investment for leased machinery,  
4 equipment, or fixtures is the cost of that property had the  
5 property been purchased minus the lessor's estimate, made at the  
6 time the lease is entered into, of the market value the property  
7 will have at the end of the lease. A credit for property  
8 described in this subsection is allowed only if the cost of that  
9 property had the property been purchased and the lessor's  
10 estimate of the market value at the end of the lease are provided  
11 to the Michigan economic growth authority.

12       (11) For credits under subsections (2) and (3), credits  
13 claimed by a lessee of eligible property are subject to the total  
14 of all credits limitation under this section.

15       (12) Each qualified taxpayer and assignee under subsection  
16 (17) or (18) that claims a credit under subsection (1)(a) or (b)  
17 shall attach a copy of the certificate of completion and, if the  
18 credit was assigned, a copy of the assignment form provided for  
19 under this section to the annual return filed under this act on  
20 which the credit under subsection (2) or (3) is claimed. An  
21 assignee of a credit based on a multiphase project shall attach a  
22 copy of the assignment form provided for under this section and  
23 the component completion certificate provided for in  
24 subsection (32) to the annual return filed under this act on  
25 which the credit is claimed but is not required to file a copy of  
26 a certificate of completion.

27       (13) Except as otherwise provided in this subsection or

1 subsection (15), (17), (19), or (32), a credit under subsection  
2 (2) or (3) shall be claimed in the tax year in which the  
3 certificate of completion is issued to the qualified taxpayer.  
4 For a project described in subsection (8)(f) for which a schedule  
5 for claiming annual credit amounts is designated on the  
6 certificate of completion by the Michigan economic growth  
7 authority, the annual credit amount shall be claimed in the tax  
8 year specified on the certificate of completion.

9       (14) The credits approved under this section shall be  
10 calculated after application of all other credits allowed under  
11 this act. The credits under subsections (2) and (3) shall be  
12 calculated before the calculation of credits under subsections  
13 (20) to (25) and before the credits under sections 37c and 37d.

14       (15) 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 Except as otherwise provided in this subsection, the maximum time  
22 allowed under the carryforward provisions under this subsection  
23 begins with the tax year in which the certificate of completion  
24 is issued to the qualified taxpayer. If the qualified taxpayer  
25 assigns all or any portion of its credit approved under  
26 subsection (2) or (3), the maximum time allowed under the  
27 carryforward provisions for an assignee begins to run with the

1 tax year in which the assignment is made and the assignee first  
2 claims a credit, which shall be the same tax year. The maximum  
3 time allowed under the carryforward provisions for an annual  
4 credit amount for a credit allowed under subsection (3) begins to  
5 run in the tax year for which the annual credit amount is  
6 designated on the certificate of completion issued under this  
7 section.

8 (16) If a project or credit under subsection (2) or (3) is  
9 for the addition of personal property, if the cost of that  
10 personal property is used to calculate a credit under subsection  
11 (2) or (3), and if the personal property is sold or disposed of  
12 or transferred from eligible property to any other location, the  
13 qualified taxpayer that sold, disposed of, or transferred the  
14 personal property shall add the same percentage as determined  
15 pursuant to subsection (1) of the federal basis of the personal  
16 property used for determining gain or loss as of the date of the  
17 sale, disposition, or transfer to the qualified taxpayer's tax  
18 liability after application of all credits under this act for the  
19 tax year in which the sale, disposition, or transfer occurs. If  
20 a qualified taxpayer has an unused carryforward of a credit under  
21 subsection (2) or (3), the amount otherwise added under this  
22 subsection to the qualified taxpayer's tax liability may instead  
23 be used to reduce the qualified taxpayer's carryforward under  
24 subsection (15).

25 (17) For credits under subsections (2) and (3) and except as  
26 otherwise provided in this subsection, if a qualified taxpayer  
27 pays or accrues eligible investment on or to an eligible property

1 that is leased for a minimum term of 10 years or sold to another  
2 taxpayer for use in a business activity, the qualified taxpayer  
3 may assign all or a portion of the credit based on that eligible  
4 investment to the lessee or purchaser of that eligible property.  
5 A credit assignment under this subsection shall only be made to a  
6 taxpayer that when the assignment is complete will be a qualified  
7 taxpayer. All credit assignments under this subsection are  
8 irrevocable and, except for a credit based on a multiphase  
9 project, shall be made in the tax year in which the certificate  
10 of completion is issued, unless the assignee is an unknown  
11 lessee. If a qualified taxpayer wishes to assign all or a  
12 portion of its credit to a lessee but the lessee is unknown in  
13 the tax year in which the certificate of completion is issued,  
14 the qualified taxpayer may delay claiming and assigning the  
15 credit until the first tax year in which the lessee is known. A  
16 qualified taxpayer may claim a portion of a credit and assign the  
17 remaining credit amount. Except as otherwise provided in this  
18 subsection, if the qualified taxpayer both claims and assigns  
19 portions of the credit, the qualified taxpayer shall claim the  
20 portion it claims in the tax year in which the certificate of  
21 completion is issued or for a credit assigned and claimed for a  
22 multiphase project before a certificate of completion is issued,  
23 the taxpayer shall claim the credit in the year in which the  
24 credit is assigned. If a qualified taxpayer assigns all or a  
25 portion of the credit and the eligible property is leased to more  
26 than 1 taxpayer, the qualified taxpayer shall determine the  
27 amount of credit assigned to each lessee. A lessee shall not

1 subsequently assign a credit or any portion of a credit assigned  
2 under this subsection. A purchaser may subsequently assign a  
3 credit or any portion of a credit assigned to the purchaser under  
4 this subsection to a lessee of the eligible property. The credit  
5 assignment under this subsection shall be made on a form  
6 prescribed by the Michigan economic growth authority. The  
7 qualified taxpayer shall send a copy of the completed assignment  
8 form to the Michigan economic growth authority in the tax year in  
9 which the assignment is made. The assignee shall attach a copy  
10 of the completed assignment form to its annual return required to  
11 be filed under this act, for the tax year in which the assignment  
12 is made and the assignee first claims a credit, which shall be  
13 the same tax year. In addition to all other procedures under  
14 this subsection, the following apply if the total of all credits  
15 for a project is more than \$10,000,000.00 but \$30,000,000.00 or  
16 less:

17 (a) The credit shall be assigned based on the schedule  
18 contained in the certificate of completion.

19 (b) If the qualified taxpayer assigns all or a portion of the  
20 credit amount, the qualified taxpayer shall assign the annual  
21 credit amount for each tax year separately.

22 (c) More than 1 annual credit amount may be assigned to any 1  
23 assignee and the qualified taxpayer may assign all or a portion  
24 of each annual credit amount to any assignee.

25 (d) The qualified taxpayer shall not assign more than the  
26 annual credit amount for each tax year.

27 (18) If a qualified taxpayer is a partnership, limited

1 liability company, or subchapter S corporation, the qualified  
2 taxpayer may assign all or a portion of a credit allowed under  
3 subsection (2) or (3) to its partners, members, or shareholders,  
4 based on their proportionate share of ownership of the  
5 partnership, limited liability company, or subchapter S  
6 corporation or based on an alternative method approved by the  
7 Michigan economic growth authority. A credit assignment under  
8 this subsection is irrevocable and, except for a credit  
9 assignment based on a multiphase project, shall be made in the  
10 tax year in which a certificate of completion is issued. A  
11 qualified taxpayer may claim a portion of a credit and assign the  
12 remaining credit amount. If the qualified taxpayer both claims  
13 and assigns portions of the credit, the qualified taxpayer shall  
14 claim the portion it claims in the tax year in which a  
15 certificate of completion is issued. A partner, member, or  
16 shareholder that is an assignee shall not subsequently assign a  
17 credit or any portion of a credit assigned under this  
18 subsection. The credit assignment under this subsection shall be  
19 made on a form prescribed by the Michigan economic growth  
20 authority. The qualified taxpayer shall send a copy of the  
21 completed assignment form to the Michigan economic growth  
22 authority in the tax year in which the assignment is made. A  
23 partner, member, or shareholder who is an assignee shall attach a  
24 copy of the completed assignment form to its annual return  
25 required under this act, for the tax year in which the assignment  
26 is made and the assignee first claims a credit, which shall be  
27 the same tax year. In addition to all other procedures under

1 this subsection, the following apply if the total of all credits  
2 for a project is more than \$10,000,000.00 but \$30,000,000.00 or  
3 less:

4 (a) The credit shall be assigned based on the schedule  
5 contained in the certificate of completion.

6 (b) If the qualified taxpayer assigns all or a portion of the  
7 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 1  
10 assignee and the qualified taxpayer may assign all or a portion  
11 of each annual credit amount to any assignee.

12 (d) The qualified taxpayer shall not assign more than the  
13 annual credit amount for each tax year.

14 (19) A qualified taxpayer or assignee under subsection (17)  
15 or (18) shall not claim a credit under subsection (1)(a) or (b)  
16 based on eligible investment on which a credit claimed under  
17 section 38d was based.

18 (20) 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  
22 eligible taxpayer may credit against the tax imposed by section  
23 31 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,  
27 an amount that is not more than 50% of 1 or both of the following



1 as determined by the Michigan economic growth authority:

2 (i) An amount determined under the Michigan economic growth  
3 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not  
4 exceed the payroll of the eligible taxpayer attributable to  
5 employees who perform retained jobs multiplied by the tax rate  
6 for the tax year.

7 (ii) The tax liability attributable to the eligible  
8 taxpayer's business activity multiplied by a fraction the  
9 numerator of which is the ratio of the value of new capital  
10 investment to all of the taxpayer's property located in this  
11 state plus the ratio of the taxpayer's payroll attributable to  
12 retained jobs to all of the taxpayer's payroll in this state and  
13 the denominator of which is 2.

14 (b) For an eligible business under section 8(5)(b) of the  
15 Michigan economic growth authority act, 1995 PA 24, MCL 207.808,  
16 an amount that is not more than 1 or both of the following as  
17 determined by the Michigan economic growth authority:

18 (i) An amount determined under the Michigan economic growth  
19 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not  
20 exceed the payroll of the eligible taxpayer attributable to  
21 employees who perform retained jobs multiplied by the tax rate  
22 for the tax year.

23 (ii) The tax liability attributable to eligible taxpayer's  
24 business activity multiplied by a fraction the numerator of which  
25 is the ratio of the value of capital investment to all of the  
26 taxpayer's property located in this state plus the ratio of the  
27 taxpayer's payroll attributable to retained jobs to all of the

1 taxpayer's payroll in this state and the denominator of which is  
2 2.

3 (21) An eligible taxpayer shall not claim a credit under  
4 subsection (20) 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 (20) is  
9 claimed.

10 (22) An affiliated group as defined in this act, a controlled  
11 group of corporations as defined in section 1563 of the internal  
12 revenue code and further described in 26 CFR 1.414(b)-1 and  
13 1.414(c)-1 to 1.414(c)-5, or an entity under common control as  
14 defined by the internal revenue code shall claim only 1 credit  
15 under subsection (20) for each tax year based on each written  
16 agreement whether or not a combined or consolidated return is  
17 filed.

18 (23) A credit shall not be claimed by a taxpayer under  
19 subsection (20) 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, 2009. If  
22 the Michigan economic growth authority or a designee of the  
23 Michigan economic growth authority requests that a taxpayer who  
24 claims the credit under subsection (20) get a statement prepared  
25 by a certified public accountant verifying that the actual number  
26 of new jobs created is the same number of new jobs used to  
27 calculate the credit under subsection (20), the taxpayer shall

1 get the statement and attach that statement to its annual return  
2 under this act on which the credit under subsection (20) is  
3 claimed.

4 (24) If the credit allowed under subsection (20)(a)(ii) or  
5 (b)(ii) for the tax year and any unused carryforward of the  
6 credit allowed by subsection (20)(a)(ii) or (b)(ii) exceed the  
7 taxpayer's tax liability for the tax year, that portion that  
8 exceeds the tax liability for the tax year shall not be refunded  
9 but may be carried forward to offset tax liability in subsequent  
10 tax years for 10 years or until used up, whichever occurs first.

11 (25) If the credit allowed under subsection (20)(a)(i) or  
12 (b)(i) exceeds the tax liability of the eligible taxpayer for the  
13 tax year, the excess shall be refunded to the eligible taxpayer.

14 (26) An eligible taxpayer that claims a credit under  
15 subsection (1)(a) or (b) is not prohibited from claiming a credit  
16 under subsection (20). However, the eligible taxpayer shall not  
17 claim a credit under both subsections (1)(a) or (b) and (20)  
18 based on the same costs.

19 (27) Eligible investment attributable or related to the  
20 operation of a professional sports stadium, and eligible  
21 investment that is associated or affiliated with the operation of  
22 a professional sports stadium, including, but not limited to, the  
23 operation of a parking lot or retail store, shall not be used as  
24 a basis for a credit under subsection (2) or (3) **unless the**  
25 **eligible investment is incurred or expended in the development of**  
26 **privately owned property that is appurtenant, adjacent, or**  
27 **contiguous to or with a professional sports stadium that has a**

1 **seating capacity of not less than 55,000.** Professional sports  
2 stadium does not include a professional sports stadium that will  
3 no longer be used by a professional sports team on and after the  
4 date that an application related to that professional sports  
5 stadium is filed under subsection (2) or (3).

6 (28) Eligible investment attributable or related to the  
7 operation of a casino, and eligible investment that is associated  
8 or affiliated with the operation of a casino, including, but not  
9 limited to, the operation of a parking lot, hotel, motel, or  
10 retail store, shall not be used as a basis for a credit under  
11 subsection (2) or (3). As used in this subsection, "casino"  
12 means a casino regulated by this state pursuant to the Michigan  
13 gaming control and revenue act, the Initiated Law of 1996,  
14 MCL 432.201 to 432.226.

15 (29) Eligible investment attributable or related to the  
16 construction of a new landfill or the expansion of an existing  
17 landfill regulated under part 115 of the natural resources and  
18 environmental protection act, 1994 PA 451, MCL 324.11501 to  
19 324.11550, shall not be used as a basis for a credit under  
20 subsection (2) or (3).

21 (30) The Michigan economic growth authority annually shall  
22 prepare and submit to the house of representatives and senate  
23 committees responsible for tax policy and economic development  
24 issues a report on the credits under subsection (2). The report  
25 shall include, but is not limited to, all of the following:

26 (a) A listing of the projects under subsection (2) that were  
27 approved in the calendar year.

1 (b) The total amount of eligible investment for projects  
2 approved under subsection (2) in the calendar year.

3 (31) If, after a taxpayer's project has been approved and the  
4 taxpayer has received a preapproval letter but before the project  
5 is completed, the taxpayer determines that the project cannot be  
6 completed as preapproved, the taxpayer may petition the Michigan  
7 economic growth authority to amend the project. The total of  
8 eligible investment for the project as amended shall not exceed  
9 the amount allowed in the preapproval letter for that project.

10 (32) A project under subsection (2) may be a multiphase  
11 project but only if the project is an industrial or manufacturing  
12 project. If a project is a multiphase project, when each  
13 component of the multiphase project is completed, the taxpayer  
14 shall submit documentation that the component is complete, an  
15 accounting of the cost of the component, and the eligible  
16 investment for the component of each taxpayer eligible for a  
17 credit for the project of which the component is a part to the  
18 Michigan economic growth authority or the designee of the  
19 Michigan economic growth authority, who shall verify that the  
20 component is complete. When the completion of the component is  
21 verified, a component completion certificate shall be issued to  
22 the qualified taxpayer which shall state that the taxpayer is a  
23 qualified taxpayer, the credit amount for the component, the  
24 qualified taxpayer's federal employer identification number or  
25 the Michigan treasury number assigned to the taxpayer, and the  
26 project number. The taxpayer may assign all or part of the  
27 credit for a multiphase project as provided in this section after

1 a component completion certificate for a component is issued.  
2 The qualified taxpayer may transfer ownership of or lease the  
3 completed component and assign a proportionate share of the  
4 credit for the entire project to the qualified taxpayer that is  
5 the new owner or lessee. A multiphase project shall not be  
6 divided into more than 3 components. A component is considered  
7 to be completed when a certificate of occupancy has been issued  
8 by the local municipality in which the project is located for all  
9 of the buildings or facilities that comprise the completed  
10 component and a component completion certificate is issued. A  
11 credit assigned based on a multiphase project shall be claimed by  
12 the assignee in the tax year in which the assignment is made.  
13 The total of all credits for a multiphase project shall not  
14 exceed the amount stated in the preapproval letter for the  
15 project under subsection (1)(a). If all components of a  
16 multiphase project are not completed by 10 years after the date  
17 on which the preapproval letter for the project was issued, the  
18 qualified taxpayer that received the preapproval letter for the  
19 project shall pay to the state treasurer, as a penalty, an amount  
20 equal to the sum of all credits claimed and assigned for all  
21 components of the multiphase project and no credits based on that  
22 multiphase project shall be claimed after that date by the  
23 qualified taxpayer or any assignee of the qualified taxpayer.  
24 The penalty under this subsection is subject to interest on the  
25 amount of the credit claimed or assigned determined individually  
26 for each component at the rate in section 23(2) of 1941 PA 122,  
27 MCL 205.23, beginning on the date that the credit for that

1 component was claimed or assigned. As used in this subsection,  
2 "proportionate share" means the same percentage of the total of  
3 all credits for the project that the qualified investment for the  
4 completed component is of the total qualified investment stated  
5 in the preapproval letter for the entire project.

6 (33) As used in this section:

7 (a) "Annual credit amount" means the maximum amount that a  
8 qualified taxpayer is eligible to claim each tax year for a  
9 project for which the total of all credits is more than  
10 \$10,000,000.00 but \$30,000,000.00 or less, which shall be 10% of  
11 the qualified taxpayer's credit amount approved under subsection  
12 (3).

13 (b) "Authority" means a brownfield redevelopment authority  
14 created under the brownfield redevelopment financing act, 1996  
15 PA 381, MCL 125.2651 to 125.2672.

16 (c) "Authorized business", "full-time job", "new capital  
17 investment", "qualified high-technology business", "retained  
18 jobs", and "written agreement" mean those terms as defined in the  
19 Michigan economic growth authority act, 1995 PA 24, MCL 207.801  
20 to 207.810.

21 (d) "Blighted", "brownfield plan", "eligible activities",  
22 "eligible property", "facility", "functionally obsolete", and  
23 "response activity" mean those terms as defined in the brownfield  
24 redevelopment financing act, 1996 PA 381, MCL 125.2651 to  
25 125.2672.

26 (e) "Eligible investment" means demolition, construction,  
27 restoration, alteration, renovation, or improvement of buildings

1 or site improvements on eligible property and the addition of  
2 machinery, equipment, and fixtures to eligible property after the  
3 date that eligible activities on that eligible property have  
4 started pursuant to a brownfield plan under the brownfield  
5 redevelopment financing act, 1996 PA 381, MCL 125.2651 to  
6 125.2672, and after the date that the preapproval letter is  
7 issued, except that the date that the preapproval letter is  
8 issued is not a limitation for 1 project the construction of  
9 which began after January 1, 2000 and before January 1, 2001  
10 without the Michigan economic growth authority determining that  
11 the project would not occur in this state without the tax credit  
12 offered under this section as provided in subsection (7), if the  
13 costs of the eligible investment are not otherwise reimbursed to  
14 the taxpayer or paid for on behalf of the taxpayer from any  
15 source other than the taxpayer. The addition of leased  
16 machinery, equipment, or fixtures to eligible property by a  
17 lessee of the machinery, equipment, or fixtures is eligible  
18 investment if the lease of the machinery, equipment, or fixtures  
19 has a minimum term of 10 years or is for the expected useful life  
20 of the machinery, equipment, or fixtures, and if the owner of the  
21 machinery, equipment, or fixtures is not the qualified taxpayer  
22 with regard to that machinery, equipment, or fixtures.

23 (f) "Eligible taxpayer" means an eligible business that meets  
24 the criteria under section 8(5) of the Michigan economic growth  
25 authority act, 1995 PA 24, MCL 207.808.

26 (g) "Michigan economic growth authority" means the Michigan  
27 economic growth authority created in the Michigan economic growth



1 authority act, 1995 PA 24, MCL 207.801 to 207.810.

2 (h) "Multiphase project" means a project for which the total  
3 of all credits is \$1,000,000.00 or less for a project approved  
4 under subsection (2) that has more than 1 component, each of  
5 which can be completed separately.

6 (i) "Payroll" and "tax rate" mean those terms as defined in  
7 section 37c.

8 (j) "Personal property" means that term as defined in section  
9 8 of the general property tax act, 1893 PA 206, MCL 211.8, except  
10 that personal property does not include either of the following:

11 (i) Personal property described in section 8(h), (i), or (j)  
12 of the general property tax act, 1893 PA 206, MCL 211.8.

13 (ii) Buildings described in section 14(6) of the general  
14 property tax act, 1893 PA 206, MCL 211.14.

15 (k) "Project" means the total of all eligible investment on  
16 an eligible property or, for purposes of subsection (5)(b), all  
17 eligible investment on property not in a qualified local  
18 governmental unit that is a facility.

19 (l) "Qualified local governmental unit" means that term as  
20 defined in the obsolete property rehabilitation act, 2000 PA 146,  
21 MCL 125.2781 to 125.2797.

22 (m) "Qualified taxpayer" means a taxpayer that meets both of  
23 the following criteria:

24 (i) Owns or leases eligible property.

25 (ii) Certifies that, except as otherwise provided in this  
26 subparagraph, the department of environmental quality has not  
27 sued or issued a unilateral order to the taxpayer pursuant to

1 part 201 of the natural resources and environmental protection  
2 act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response  
3 activity on or to the eligible property, or expended any state  
4 funds for response activity on or to the eligible property and  
5 demanded reimbursement for those expenditures from the qualified  
6 taxpayer. However, if the taxpayer has completed all response  
7 activity required by part 201 of the natural resources and  
8 environmental protection act, 1994 PA 451, MCL 324.20101 to  
9 324.20142, is in compliance with any deed restriction or  
10 administrative or judicial order related to the required response  
11 activity, and has reimbursed the state for all costs incurred by  
12 the state related to the required response activity, the taxpayer  
13 meets the criteria under this subparagraph.

14 (n) "Tax liability attributable to authorized business  
15 activity" means the tax liability imposed by this act after the  
16 calculation of credits provided in sections 36, 37, and 39.