

HOUSE BILL No. 5246

November 4, 2003, Introduced by Reps. Farhat, Gaffney, Voorhees, Koetje, Hummel, Vander Veen, Shaffer, Tabor, Shackleton, Palmer, Palsrok, Ehardt, Mortimer, Kooiman, Stahl, Milosch, LaJoy, Acciavatti, Hune, Caswell, Bisbee, Nitz and Richardville and referred to the Committee on Commerce.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 38g (MCL 208.38g), as amended by 2002 PA
726.

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 department for
24 approval of the project under this subsection. An application
25 under this subsection shall state whether the project is a
26 multiphase project. The state treasurer or a designee of the
27 state treasurer is authorized to approve an application or

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

1 subsequently applying under this subsection or subsection (3) for
2 the same project or for another project.

3 (3) If the cost of a project will be for more than
4 \$10,000,000.00 and, except as provided in subsection (5)(b), the
5 project is located in a qualified local governmental unit, a
6 qualified taxpayer shall apply to the Michigan economic growth
7 authority for approval of the project. The Michigan economic
8 growth authority shall approve or deny the project not more than
9 65 days after receipt of the application. A project under this
10 subsection shall not be approved without the concurrence of the
11 state treasurer. If the Michigan economic growth authority does
12 not approve or deny the application within 65 days after it
13 receives the application, the Michigan economic growth authority
14 shall send the application to the state treasurer. The state
15 treasurer shall approve or deny the application within 5 days
16 after receipt of the application. If the state treasurer does
17 not deny the application within the 5 days after receipt of the
18 application, the application is considered approved. The
19 Michigan economic growth authority shall approve a limited number
20 of projects under this subsection during each calendar year as
21 provided in subsection (5). The Michigan economic growth
22 authority shall use the criteria in subsection (6) when approving
23 projects under this subsection, when determining the total amount
24 of eligible investment, and when determining the percentage of
25 eligible investment for the project to be used to calculate a
26 credit. The total of all credits for an approved project under
27 this subsection shall not exceed the amount designated in the

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

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

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

25 (a) Of the 15 projects allowed under this subsection, the
26 total of all credits for each project may be more than
27 \$10,000,000.00 but \$30,000,000.00 or less for up to 3 projects.

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

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

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

1 criteria to the extent reasonably applicable to the type of
2 project proposed when approving a project under subsection (2) or
3 when considering an amendment to a project under
4 subsection (31):

5 (a) The overall benefit to the public.

6 (b) The extent of reuse of vacant buildings and redevelopment
7 of blighted property.

8 (c) Creation of jobs.

9 (d) Whether the eligible property is in an area of high
10 unemployment.

11 (e) The level and extent of contamination alleviated by the
12 qualified taxpayer's eligible activities to the extent known to
13 the qualified taxpayer.

14 (f) The level of private sector contribution.

15 (g) The cost gap that exists between the site and a similar
16 greenfield site as determined by the Michigan economic growth
17 authority.

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

20 (i) Whether the financial statements of the qualified
21 taxpayer indicate that it is financially sound and that the
22 project is economically sound.

23 (j) Any other criteria that the Michigan economic growth
24 authority or the state treasurer, as applicable, considers
25 appropriate for the determination of eligibility under subsection
26 (2) or (3).

27 (7) A qualified taxpayer may apply for projects under

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

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

1 applicable and shall state all of the following:

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

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

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

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

8 (e) The project number.

9 (f) For a project approved under subsection (3) for which the
10 total of all credits is more than \$10,000,000.00 but
11 \$30,000,000.00 or less, the total of all credits and the schedule
12 on which the annual credit amount shall be claimed by the
13 qualified taxpayer.

14 (g) For a multiphase project under subsection ~~-(33)-~~ **(32)**,
15 the amount of each credit assigned and the amount of all credits
16 claimed in each tax year before the year in which the project is
17 completed.

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

27 (10) The cost of eligible investment for leased machinery,

1 equipment, or fixtures is the cost of that property had the
2 property been purchased minus the lessor's estimate, made at the
3 time the lease is entered into, of the market value the property
4 will have at the end of the lease. A credit for property
5 described in this subsection is allowed only if the cost of that
6 property had the property been purchased and the lessor's
7 estimate of the market value at the end of the lease are provided
8 to the department or the Michigan economic growth authority, as
9 applicable.

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

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

25 (13) Except as otherwise provided in this subsection or
26 subsection (15), (17), (19), or (32), a credit under subsection
27 (2) or (3) shall be claimed in the tax year in which the

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

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

12 (15) If the credit allowed under subsection (2) or (3) for
13 the tax year and any unused carryforward of the credit allowed
14 under subsection (2) or (3) exceed the qualified taxpayer's or
15 assignee's tax liability for the tax year, that portion that
16 exceeds the tax liability for the tax year shall not be refunded
17 but may be carried forward to offset tax liability in subsequent
18 tax years for 10 years or until used up, whichever occurs first.
19 Except as otherwise provided in this subsection, the maximum time
20 allowed under the carryforward provisions under this subsection
21 begins with the tax year in which the certificate of completion
22 is issued to the qualified taxpayer. If the qualified taxpayer
23 assigns all or any portion of its credit approved under
24 subsection (2) or (3), the maximum time allowed under the
25 carryforward provisions for an assignee begins to run with the
26 tax year in which the assignment is made and the assignee first
27 claims a credit, which shall be the same tax year. The maximum

1 time allowed under the carryforward provisions for an annual
2 credit amount for a credit allowed under subsection (3) begins to
3 run in the tax year for which the annual credit amount is
4 designated on the certificate of completion issued under this
5 section.

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

23 (17) For credits under subsections (2) and (3) and except as
24 otherwise provided in this subsection, if a qualified taxpayer
25 pays or accrues eligible investment on or to an eligible property
26 that is leased for a minimum term of 10 years or sold to another
27 taxpayer for use in a business activity, the qualified taxpayer

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

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

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

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

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

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

24 (18) If a qualified taxpayer is a partnership, limited
25 liability company, or subchapter S corporation, the qualified
26 taxpayer may assign all or a portion of a credit allowed under
27 subsection (2) or (3) to its partners, members, or shareholders,

1 based on their proportionate share of ownership of the
2 partnership, limited liability company, or subchapter S
3 corporation or based on an alternative method approved by the
4 department. A credit assignment under this subsection is
5 irrevocable and, except for a credit assignment based on a
6 multiphase project, shall be made in the tax year in which a
7 certificate of completion is issued. A qualified taxpayer may
8 claim a portion of a credit and assign the remaining credit
9 amount. If the qualified taxpayer both claims and assigns
10 portions of the credit, the qualified taxpayer shall claim the
11 portion it claims in the tax year in which a certificate of
12 completion is issued. A partner, member, or shareholder that is
13 an assignee shall not subsequently assign a credit or any portion
14 of a credit assigned under this subsection. The credit
15 assignment under this subsection shall be made on a form
16 prescribed by the department. The qualified taxpayer shall send
17 a copy of the completed assignment form to the department in the
18 tax year in which the assignment is made. A partner, member, or
19 shareholder who is an assignee shall attach a copy of the
20 completed assignment form to its annual return required under
21 this act, for the tax year in which the assignment is made and
22 the assignee first claims a credit, which shall be the same tax
23 year. In addition to all other procedures under this subsection,
24 the following apply if the total of all credits for a project is
25 more than \$10,000,000.00 but \$30,000,000.00 or less:

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

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

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

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

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

13 (20) In addition to the other credits allowed under this
14 section and sections 37c and 37d, for tax years that begin after
15 December 31, 1999 and for a period of time not to exceed 20 years
16 as determined by the Michigan economic growth authority, an
17 eligible taxpayer may credit against the tax imposed by section
18 31 the amount certified each year by the Michigan economic growth
19 authority that is 1 of the following:

20 (a) For an eligible business under section 8(5)(a) of the
21 Michigan economic growth authority act, 1995 PA 24, MCL 207.808,
22 an amount that is not more than 50% of 1 or both of the following
23 as determined by the Michigan economic growth authority:

24 (i) An amount determined under the Michigan economic growth
25 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
26 exceed the payroll of the eligible taxpayer attributable to
27 employees who perform retained jobs multiplied by the tax rate

1 for the tax year.

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

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

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

18 (ii) The tax liability attributable to eligible taxpayer's
19 business **activity** multiplied by a fraction the numerator of which
20 is the ratio of the value of capital investment to all of the
21 taxpayer's property located in this state plus the ratio of the
22 taxpayer's payroll attributable to retained jobs to all of the
23 taxpayer's payroll in this state and the denominator of which is
24 2.

25 (21) An eligible taxpayer shall not claim a credit under
26 subsection (20) unless the Michigan economic growth authority has
27 issued a certificate under section 9 of the Michigan economic

1 growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer.
2 The eligible taxpayer shall attach the certificate to the return
3 filed under this act on which a credit under subsection (20) is
4 claimed.

5 (22) An affiliated group as defined in this act, a controlled
6 group of corporations as defined in section 1563 of the internal
7 revenue code and further described in 26 C.F.R. 1.414(b)-1 and
8 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
9 defined by the internal revenue code shall claim only 1 credit
10 under subsection (20) for each tax year based on each written
11 agreement whether or not a combined or consolidated return is
12 filed.

13 (23) A credit shall not be claimed by a taxpayer under
14 subsection (20) if the eligible taxpayer's initial certification
15 under section 9 of the Michigan economic growth authority act,
16 1995 PA 24, MCL 207.809, is issued after December 31, ~~2003~~
17 **2009. The department shall audit the taxpayer each year to**
18 **verify that the actual number of new jobs created is the same as**
19 **the number of retained jobs used to calculate the credit under**
20 **subsection (20) claimed for the tax year.**

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

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

4 (26) An eligible taxpayer that claims a credit under
5 subsection (1)(a) or (b) is not prohibited from claiming a credit
6 under subsection (20). However, the eligible taxpayer shall not
7 claim a credit under both subsections (1)(a) or (b) and (20)
8 based on the same costs.

9 (27) Eligible investment attributable or related to the
10 operation of a professional sports stadium, and eligible
11 investment that is associated or affiliated with the operation of
12 a professional sports stadium, including, but not limited to, the
13 operation of a parking lot or retail store, shall not be used as
14 a basis for a credit under subsection (2) or (3). Professional
15 sports stadium does not include a professional sports stadium
16 that will no longer be used by a professional sports team on and
17 after the date that an application related to that professional
18 sports stadium is filed under subsection (2) or (3).

19 (28) 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"
25 means a casino regulated by this state pursuant to the Michigan
26 gaming control and revenue act, the Initiated Law of 1996,
27 MCL 432.201 to 432.226.

1 (29) Eligible investment attributable or related to the
2 construction of a new landfill or the expansion of an existing
3 landfill regulated under part 115 of the natural resources and
4 environmental protection act, 1994 PA 451, MCL 324.11501 to
5 324.11550, shall not be used as a basis for a credit under
6 subsection (2) or (3).

7 (30) The department annually shall prepare and submit to the
8 house of representatives and senate committees responsible for
9 tax policy and economic development issues a report on the
10 credits under subsection (2). The report shall include, but is
11 not limited to, all of the following:

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

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

16 (31) If, after a taxpayer's project has been approved and the
17 taxpayer has received a preapproval letter but before the project
18 is completed, the taxpayer determines that the project cannot be
19 completed as preapproved, the taxpayer may petition the
20 department for projects approved under subsection (2) or the
21 Michigan economic growth authority for projects approved under
22 subsection (3) to amend the project. The total of eligible
23 investment for the project as amended shall not exceed the amount
24 allowed in the preapproval letter for that project.

25 (32) A project under subsection (2) may be a multiphase
26 project but only if the project is an industrial or manufacturing
27 project. If a project is a multiphase project, when each

1 component of the multiphase project is completed, the taxpayer
2 shall submit documentation that the component is complete, an
3 accounting of the cost of the component, and the eligible
4 investment for the component of each taxpayer eligible for a
5 credit for the project of which the component is a part to the
6 state treasurer or the designee of the state treasurer who shall
7 verify that the component is complete. When the completion of
8 the component is verified, a component completion certificate
9 shall be issued to the qualified taxpayer which shall state that
10 the taxpayer is a qualified taxpayer, the credit amount for the
11 component, the qualified taxpayer's federal employer
12 identification number or the Michigan treasury number assigned to
13 the taxpayer, and the project number. The taxpayer may assign
14 all or part of the credit for a multiphase project as provided in
15 this section after a component completion certificate for a
16 component is issued. The qualified taxpayer may transfer
17 ownership of or lease the completed component and assign a
18 proportionate share of the credit for the entire project to the
19 qualified taxpayer that is the new owner or lessee. A multiphase
20 project shall not be divided into more than 3 components. A
21 component is considered to be completed when a certificate of
22 occupancy has been issued by the local municipality in which the
23 project is located for all of the buildings or facilities that
24 comprise the completed component and a component completion
25 certificate is issued. A credit assigned based on a multiphase
26 project shall be claimed by the assignee in the tax year in which
27 the assignment is made. The total of all credits for a

1 multiphase project shall not exceed the amount stated in the
2 preapproval letter for the project under subsection (1)(a). If
3 all components of a multiphase project are not completed by 10
4 years after the date on which the preapproval letter for the
5 project was issued, the qualified taxpayer that received the
6 preapproval letter for the project shall pay to the state
7 treasurer, as a penalty, an amount equal to the sum of all
8 credits claimed and assigned for all components of the multiphase
9 project and no credits based on that multiphase project shall be
10 claimed after that date by the qualified taxpayer or any assignee
11 of the qualified taxpayer. The penalty under this subsection is
12 subject to interest on the amount of the credit claimed or
13 assigned determined individually for each component at the rate
14 in section 23(2) of 1941 PA 122, MCL 205.23 beginning on the date
15 that the credit for that component was claimed or assigned. As
16 used in this subsection, "proportionate share" means the same
17 percentage of the total of all credits for the project that the
18 qualified investment for the completed component is of the total
19 qualified investment stated in the preapproval letter for the
20 entire project.

21 (33) As used in this section:

22 (a) "Annual credit amount" means the maximum amount that a
23 qualified taxpayer is eligible to claim each tax year for a
24 project for which the total of all credits is more than
25 \$10,000,000.00 but \$30,000,000.00 or less, which shall be 10% of
26 the qualified taxpayer's credit amount approved under subsection
27 (3).

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

4 (c) "Authorized business", "full-time job", "new capital
5 investment", "retained jobs", and "written agreement" mean those
6 terms as defined in the Michigan economic growth authority act,
7 1995 PA 24, MCL 207.801 to 207.810.

8 (d) "Blighted", "brownfield plan", "eligible activities",
9 "eligible property", "facility", "functionally obsolete", and
10 "response activity" mean those terms as defined in the brownfield
11 redevelopment financing act, 1996 PA 381, MCL 125.2651 to
12 125.2672.

13 (e) "Eligible investment" means demolition, construction,
14 restoration, alteration, renovation, or improvement of buildings
15 or site improvements on eligible property and the addition of
16 machinery, equipment, and fixtures to eligible property after the
17 date that eligible activities on that eligible property have
18 started pursuant to a brownfield plan under the brownfield
19 redevelopment financing act, 1996 PA 381, MCL 125.2651 to
20 125.2672, and after the date that the preapproval letter is
21 issued, except that the date that the preapproval letter is
22 issued is not a limitation for 1 project the construction of
23 which began after January 1, 2000 and before January 1, 2001
24 without the Michigan economic growth authority determining that
25 the project would not occur in this state without the tax credit
26 offered under this section as provided in subsection (7), if the
27 costs of the eligible investment are not otherwise reimbursed to

1 the taxpayer or paid for on behalf of the taxpayer from any
2 source other than the taxpayer. The addition of leased
3 machinery, equipment, or fixtures to eligible property by a
4 lessee of the machinery, equipment, or fixtures is eligible
5 investment if the lease of the machinery, equipment, or fixtures
6 has a minimum term of 10 years or is for the expected useful life
7 of the machinery, equipment, or fixtures, and if the owner of the
8 machinery, equipment, or fixtures is not the qualified taxpayer
9 with regard to that machinery, equipment, or fixtures.

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

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

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

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

22 (j) "Personal property" means that term as defined in section
23 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
24 that personal property does not include either of the following:

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

27 (ii) Buildings described in section 14(6) of the general

1 property tax act, 1893 PA 206, MCL 211.14.

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

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

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

11 (i) Owns or leases eligible property.

12 (ii) Certifies that, except as otherwise provided in this
13 subparagraph, the department of environmental quality has not
14 sued or issued a unilateral order to the taxpayer pursuant to
15 part 201 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response
17 activity on or to the eligible property, or expended any state
18 funds for response activity on or to the eligible property and
19 demanded reimbursement for those expenditures from the qualified
20 taxpayer. However, if the taxpayer has completed all response
21 activity required by part 201 of the natural resources and
22 environmental protection act, 1994 PA 451, MCL 324.20101 to
23 324.20142, is in compliance with any deed restriction or
24 administrative or judicial order related to the required response
25 activity, and has reimbursed the state for all costs incurred by
26 the state related to the required response activity, the taxpayer
27 meets the criteria under this subparagraph.

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

4 Enacting section 1. This amendatory act does not take
5 effect unless Senate Bill No. _____ or House Bill No. _____
6 (request no. 05208'03) of the 92nd Legislature is enacted into
7 law.