

# HOUSE BILL No. 6625

November 14, 2006, Introduced by Rep. Kolb and referred to the Committee on Tax Policy.

A bill to provide for certain credits for certain approved projects.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Approved costs" means the sum of both of the following as  
3       determined by the Michigan economic development corporation and  
4       incorporated into an environmental stewardship agreement:

5       (i) Up to 100% of the eligible skills upgrade costs.

6       (ii) Up to 25% of eligible equipment costs.

7       (b) "Department" means the department of treasury.

8       (c) "Eligible equipment costs" means all of the following:

9       (i) Obligations incurred for labor and to vendors, contractors,

1 subcontractors, builders, suppliers, deliverymen, and materialmen  
2 in connection with the acquisition, construction, equipping, and  
3 installation of an environmental stewardship project.

4 (ii) The cost of contract bonds and of insurance of all kinds  
5 that may be required or necessary during the course of acquisition,  
6 construction, equipping, and installation of an environmental  
7 stewardship project that is not paid by the vendor, supplier,  
8 deliveryman, contractor, or otherwise provided.

9 (iii) Costs of architectural and engineering services, including  
10 estimates, plans and specifications, preliminary investigations,  
11 and supervision of construction, rehabilitation, and installation,  
12 as well as for the performance of all the duties required by or  
13 consequent upon the acquisition, construction, equipping, and  
14 installation of an environmental stewardship project.

15 (iv) Costs required to be paid under the terms of any contract  
16 for the acquisition, construction, equipping, and installation of  
17 an environmental stewardship project.

18 (v) Costs paid by the eligible taxpayer that are required for  
19 the installation of utilities, including, but not limited to,  
20 water, sewer, sewage treatment, gas, electricity, communications,  
21 and access to transportation, and including off-site construction  
22 of the facilities necessary for implementation of an environmental  
23 stewardship project.

24 (vi) All other costs of a nature comparable to those described  
25 in this subsection.

26 (d) "Eligible skills upgrade training costs" means:

27 (i) Fees or salaries paid to instructors who are employees of

1 the eligible taxpayer, instructors who are full-time, part-time, or  
2 adjunct instructors with an educational institution, and  
3 instructors who are consultants on contract with the eligible  
4 taxpayer in connection with an occupational training program  
5 sponsored by the eligible taxpayer for its full-time employees and  
6 specifically relating to an environmental stewardship project.

7 (ii) Administrative fees charged by educational institutions in  
8 connection with an occupational training program sponsored by the  
9 eligible taxpayer for its full-time employees and specifically  
10 relating to an environmental stewardship project.

11 (iii) The cost of supplies, materials, and equipment used  
12 exclusively in an occupational training program sponsored by the  
13 eligible taxpayer for its full-time employees and specifically  
14 relating to an environmental stewardship project.

15 (iv) The cost of leasing a training facility if space is  
16 unavailable at an educational institution or at the premises of the  
17 eligible taxpayer in connection with an occupational training  
18 program sponsored by the eligible taxpayer for its full-time  
19 employees and specifically relating to an environmental stewardship  
20 project.

21 (v) Employee wages paid in connection with an occupational  
22 training program sponsored by the eligible taxpayer for its full-  
23 time employees and specifically relating to an environmental  
24 stewardship project.

25 (vi) Travel expenses paid by the eligible taxpayer incurred by  
26 its full-time employees resulting directly from the costs of  
27 transportation, lodging, and meals that are directly related to an

1 occupational training program necessary for the implementation of  
2 an environmental stewardship project.

3 (vii) All other costs of a nature comparable to those described  
4 in this subsection.

5 (e) "Eligible taxpayer" means an entity that undertakes an  
6 environmental stewardship project.

7 (f) "Employee benefits" means nonmandated costs paid by an  
8 eligible taxpayer for its full-time employees for health insurance,  
9 life insurance, dental insurance, vision insurance, defined  
10 benefits, and 401(k) or similar plans.

11 (g) "Environmental stewardship product" means any new  
12 manufactured product or substantially improved existing  
13 manufactured product that has a lesser or reduced adverse effect on  
14 human health and the environment or provides for improvement to  
15 human health and the environment when compared with existing  
16 products or competing products that serve the same purpose.  
17 Environmental stewardship products include, but are not limited to,  
18 products that contain recycled content, minimize waste, conserve  
19 energy or water, and reduce the amount of toxics disposed or  
20 consumed, but do not include products that are the result of the  
21 production of energy or energy producing fuels.

22 (h) "Environmental stewardship project" or "project" means all  
23 of the following:

24 (i) The acquisition, construction, and installation of new  
25 equipment and all of the following related to the project:

26 (A) The construction, rehabilitation, and installation of  
27 improvements to facilities necessary to house the new equipment,

1 including surveys.

2 (B) Installation of utilities including water, sewer, sewage  
3 treatment, gas, electricity, communications, and similar  
4 facilities.

5 (C) Off-site construction of utility extensions to the  
6 boundaries of the real property on which the facilities are  
7 located.

8 (ii) The provision of an occupational training program to  
9 provide the employees of an approved company or its affiliate with  
10 the knowledge and skills necessary to manufacture the new product.

11 (i) "Full-time employee" means a person employed by an  
12 eligible taxpayer for a minimum of 35 hours per week and whose  
13 compensation is subject to the income tax act of 1967, 1967 PA 281,  
14 MCL 206.1 to 206.532.

15 (j) "Manufacturing" means any activity involving the  
16 manufacturing, processing, assembling, or production of any  
17 property, including processing that results in a change in the  
18 condition of the property and any related activity or function,  
19 together with the storage, warehousing, distribution, and related  
20 office facilities.

21 (k) "Michigan economic development corporation" means the  
22 public body corporate created under section 28 of article VII of  
23 the state constitution of 1963 and the urban cooperation act of  
24 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual  
25 interlocal agreement effective April 5, 1999, as amended, between  
26 local participating economic development corporations formed under  
27 the economic development corporations act, 1974 PA 338, MCL

1 125.1601 to 125.1636, and the Michigan strategic fund.

2 (l) "Michigan strategic fund" means the Michigan strategic fund  
3 as described in the Michigan strategic fund act, 1984 PA 270, MCL  
4 125.2001 to 125.2094.

5 Sec. 3. (1) Subject to the criteria under this act, an  
6 eligible taxpayer may claim a credit for approved costs of a  
7 project that has been approved under this section against a tax  
8 designated by law as the successor tax to the former single  
9 business tax act, 1975 PA 228, MCL 208.1 to 208.145.

10 (2) A taxpayer may apply to the Michigan economic development  
11 corporation for approval of a project the costs of which will be  
12 the basis of a credit under this act. The application shall include  
13 all of the following:

14 (a) The nature of the product to be manufactured.

15 (b) Costs associated with the project.

16 (c) The anticipated duration of the project.

17 (d) Alternatives that are available to the taxpayer.

18 (e) The influence the credit allowed under this act had on the  
19 taxpayer's decision to locate the project in this state.

20 (f) Any additional information related to the project that the  
21 Michigan economic development corporation requires.

22 (3) The Michigan economic development corporation shall  
23 approve or deny an application for a project not more than 45 days  
24 after receipt of the application. If the Michigan economic  
25 development corporation does not approve or deny an application  
26 within 45 days after the application is received by the Michigan  
27 economic development corporation, the application is considered

1 approved as written. If a project is denied under this subsection,  
2 a taxpayer is not prohibited from subsequently applying under this  
3 act for the same project or for another project. If the Michigan  
4 economic development corporation approves a project under this act,  
5 the Michigan economic development corporation shall enter into an  
6 environmental stewardship agreement with the taxpayer. The Michigan  
7 economic development corporation shall use the following criteria  
8 to approve projects under this section:

9 (a) A determination that without the credits allowed under  
10 this act, the taxpayer would not bring the project to this state.

11 (b) The project has eligible costs of at least \$5,000,000.00.

12 (c) The ability of the taxpayer to assure that within 6 months  
13 after the project approval date, the eligible taxpayer will  
14 compensate at least 90% of its full-time employees whose jobs were  
15 created or retained as part of the project with a base hourly wage  
16 equal to or greater than 1 of the following:

17 (i) Except as provided in subparagraph (iii), 75% of the average  
18 hourly wage paid in this state.

19 (ii) Except as provided in subparagraph (iii), 75% of the average  
20 hourly wage paid in the county in which the project will be  
21 completed.

22 (iii) If the base hourly wage calculated under subparagraph (i)  
23 or (ii) is less than 150% of the federal minimum wage, the base  
24 hourly wage shall be 150% of the federal minimum wage.

25 (d) The eligible taxpayer will provide employee benefits equal  
26 to at least 15% of the applicable base hourly wage under  
27 subdivision (c). The requirement under this subdivision may be

1 waived if the eligible taxpayer compensated employees who were  
2 hired as part of the project total hourly compensation equal to or  
3 greater than 115% of the applicable base hourly wage under  
4 subdivision (c) through increased hourly wages combined with  
5 employee benefits.

6 Sec. 5. (1) If the project is approved under section 3, the  
7 Michigan economic development corporation may enter into an  
8 environmental stewardship agreement with an eligible taxpayer. The  
9 agreement shall state all of the following as determined by the  
10 Michigan economic development corporation:

11 (a) The taxpayer is an eligible taxpayer.

12 (b) The amount of approved costs.

13 (c) The total amount of the tax credit allowed under this act  
14 and the annual credit amount and the following limitations apply:

15 (i) The annual credit amount shall not exceed 25% of the total  
16 credit allowable.

17 (ii) The total number of tax years for which the credit may be  
18 claimed shall not exceed 10 years.

19 (d) Penalties that apply if the environmental stewardship  
20 agreement is terminated under subsection (2).

21 (e) All records pertaining to the project on which a credit  
22 under this section is based shall be available to the Michigan  
23 economic development corporation for review and audit.

24 (2) All eligible costs for each project shall be expended and  
25 the project completed not more than 3 years after the date on which  
26 an environmental stewardship agreement under subsection (1) has  
27 been finalized. If the project is not completed within the 3-year

1 period, the Michigan economic development corporation may do any of  
2 the following:

3 (a) Reduce the total credit amount.

4 (b) Disallow a credit for specified tax years.

5 (c) Terminate the environmental stewardship agreement.

6 (3) If an environmental stewardship agreement is terminated  
7 under subsection (2), the Michigan economic development corporation  
8 may require, at its discretion, that the eligible taxpayer repay  
9 credit amounts as determined in the environmental stewardship  
10 agreement.

11 Sec. 7. An eligible taxpayer may assign all or a portion of a  
12 credit allowed under this act. A credit assignment under this  
13 section is irrevocable and shall be made in the first tax year in  
14 which an eligible taxpayer is allowed to claim a credit under the  
15 environmental stewardship agreement. An eligible taxpayer may claim  
16 a portion of a credit and assign the remaining credit amount. If  
17 the eligible taxpayer both claims and assigns portions of the  
18 credit, the eligible taxpayer shall claim the portion it claims in  
19 the first tax year in which the eligible taxpayer is allowed to  
20 claim a credit under the environmental stewardship agreement. An  
21 assignee may subsequently assign a credit or any portion of a  
22 credit assigned under this act to 1 or more assignees. An  
23 assignment under this act shall not be made after 10 years after  
24 the first tax year in which that credit may be claimed. The credit  
25 assignment or a subsequent reassignment under this act shall be  
26 made on a form prescribed by the Michigan economic development  
27 corporation. The eligible taxpayer shall send a copy of the

1 completed assignment form to the Michigan economic development  
2 corporation in the tax year in which an assignment or reassignment  
3 is made. An assignee or subsequent reassignee shall attach a copy  
4 of the completed assignment form to its annual return required  
5 under an act designated by law as the successor tax to the former  
6 single business tax act, 1975 PA 228, MCL 208.1 to 208.145, for the  
7 tax year in which the assignment or reassignment is made and the  
8 assignee or reassignee first claims a credit, which shall be the  
9 same tax year.

10 Sec. 9. On or before December 1 of each year, the department  
11 shall issue a report to the Michigan economic development  
12 corporation that includes all of the following:

13 (a) The total amount of credits claimed under this act in the  
14 immediately preceding state fiscal year.

15 (b) Each eligible taxpayer and both the total amount of credit  
16 approved for that taxpayer and the amount claimed by that taxpayer  
17 in the taxpayer's tax year ending immediately before the date of  
18 the report.