

## START-UP BUSINESS INCENTIVE PACKAGE

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### House Bill 5331

Sponsor: Rep. Lorence Wenke

### House Bill 5335

Sponsor: Rep. John Stakoe

Senate Bill 863 as passed by the Senate

Sponsor: Sen. Bill Hardiman

### House Bill 5341

Sponsor: Rep. Matt Milosch

Senate Bill 865 as passed by the Senate

Sponsor: Sen. Virg Bernero

### House Bill 5342

Sponsor: Rep. Glenn Steil Jr.

Senate Bill 867 as passed by the Senate

Sponsor: Sen. Gerald Van Woerkom

### House Bill 5343

Sponsor: Rep. Scott Hummel

Senate Bill 872 as passed by the Senate

Sponsor: Sen. Bruce Patterson

House Committee: Tax Policy

Senate Committee: Economic Development, Small Business and Regulatory Reform

Complete to 3-30-04

## A SUMMARY OF THE HOUSE AND SENATE BILLS AS LISTED ABOVE

Together, the bills would provide a qualified start-up business with a credit against or exemption from various taxes. A “qualified start up business” would be defined to mean a business that (1) has fewer than 25 full-time equivalent employees, (2) has sales of less than \$1 million in the tax year in which the credit is claimed, (3) has research and development expenses - as defined under the Internal Revenue Code - of at least 15 percent of its expenses in the tax year in which the credit was claimed, and (4) is not publicly traded. The term is defined in House Bill 5331 but is used in all of the bills.

### House Bill 5331 (Single Business Tax)

The bill would amend the Single Business Tax Act (MCL 208.31a) to provide a “qualified start-up business” a credit against the SBT equal to its tax liability for the tax year if the business does not record a profit in that tax year. The business would be able to claim the credit in any of the four subsequent years if it again fails to record a profit. [For instance, if a business claims the credit in 2005, it could also claim the credit in 2006-2009 in those years where it still does not record a profit. However, nothing seems to limit the credit to be claimed only during one five-year period. A firm could claim the credit in 2005 and 2009, and then claim the credit in 2013.]

If the credit and any unused carryforward exceeds the taxpayer's tax liability, the excess amount would not be refunded, but could be carried forward to offset the tax liability in subsequent years, up to 10 years or until the excess credit used exhausted, whichever occurs first.

### **House Bill 5335 (Neighborhood Enterprise Zone Act)**

The bill would amend the Neighborhood Enterprise Zone Act to provide that a new or rehabilitated facility owned or operated by a "qualified start-up business" would be exempt from the neighborhood enterprise zone tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking fund millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units. The tax exemption would be available for a period of five years starting on December 31 in the year in which the business first claimed the "unprofitable start-up" SBT credit offered in House Bill 5331.

The Neighborhood Enterprise Zone Act levies a specific tax in lieu of a general property tax, against new or rehabilitated facilities located within a neighborhood enterprise zone. The tax has two different calculations. For new facilities (not including land) that are not principal residences, the tax is determined by calculating the product of the taxable value of the facility (excluding land) and one-half of the average rate of taxation levied upon commercial, industrial, and utility property in the state for the previous year. For rehabilitated facilities, the tax is determined by calculating the product of the taxable value of the facility (excluding land) for the previous year (that is, prior to rehabilitation) and the total mills collected under the General Property Tax Act for the current year by all taxing units within which the facility is located.

### **House Bill 5341 (General Property Act)**

The bill would amend the General Property Tax Act (MCL 211.7gg) to provide that a "qualified start-up business" that claimed the "unprofitable start-up" SBT credit offered in House Bill 5331 would be exempt from all real and personal property taxes levied under the act for a period of five years beginning on the December 31 in the year in which the business first claimed the credit under House Bill 5331.

### **House Bill 5342 (Enterprise Zone Act)**

The bill would amend the Enterprise Zone Act (MCL 125.2121c) to provide that a new or rehabilitated facility owned or operated by a "qualified start-up business" would be exempt from the enterprise zone tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking fund millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units. The tax exemption would be available for a period of five years starting on December 31 in the year in which the business first claimed the "unprofitable start-up" SBT credit offered in House Bill 5331.

The Enterprise Zone Act (MCL 125.2121c) allows for the creation of special zones to spur investment and job creation in certain distressed areas throughout the state. In lieu of the property tax levied under the General Property Tax Act, a specific tax is levied on property within an enterprise zone. The tax has two basic calculations, depending on when the enterprise zone was created. For property located within an enterprise zone that was created before 1994 (only the City of Benton Harbor), the tax is, generally speaking, either (depending on the circumstances) (1) the product of one-half of the statewide average property tax rate on commercial, industrial and utility property, and the state equalized value of the property (excluding certain exemptions), or (2) the total property tax rate by all taxing units within which the property is located and the state equalized value (excluding certain exemptions). For property located within an enterprise zone created after 1993, the tax is the sum of the following:

- The product of (1) one-half of the statewide average property tax rate on commercial, industrial, and utility property, and (2) the increase in state equalized value (excluding certain exemptions).
- The product of (1) the total millage levied under the State Education Tax Act, and (2) the increased state equalized value (excluding certain exemptions).
- The total millage levied as real and personal property taxes by all taxing units, and (2) the initial state equalized value of that property (excluding certain exemptions).

#### **House Bill 5343 (Obsolete Property Rehabilitation Act)**

The bill would amend the Obsolete Property Rehabilitation Act to provide that a rehabilitated facility owned or operated by a “qualified start-up business” would be exempt from the tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking fund millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units. The tax exemption would be available for a period of five years starting on December 31 in the year in which the business first claimed the “unprofitable start-up” SBT credit offered in House Bill 5331.

Under the act, a qualified local unit of government may establish an obsolete property rehabilitation district to provide tax abatements to commercial facilities and residential property undergoing rehabilitation. In lieu of the property tax levied under the General Property Tax Act, the act levies the obsolete properties tax, which is the sum of the following:

- The product of (1) the total mills levied by all taxing units within which the obsolete property is located, for the year prior to year in which the obsolete property rehabilitation exemption certificate was certified - meaning, prior to rehabilitation, and (2) the taxable value of the obsolete property (excluding the taxable value of the land and personal property other certain personal property assessed under the General Property Tax Act).

- The product of the (1) state and local school operating mills and (2) the taxable value of the real and personal property of the rehabilitated facility, after making certain deductions.

### **House Bill 5345 (City Income Tax Act)**

The bill would amend the City Income Tax Act (MCL 141.635a) to provide a “qualified start-up business” a credit against the tax equal to its tax liability for the tax year if the business also claims the “unprofitable start-up” SBT credit offered in HB 5331. The credit could only be claimed for a period of five years, starting in the tax year in which the business claims the SBT credit. [Nothing, however, seems to require that the business also not record a profit in the four subsequent years, as a condition of claiming the credit.]

If the credit and any unused carryforward of the credit exceed the taxpayer’s tax liability under the act, the excess would not be refundable, but could be carried forward to offset the tax liability a period of 10 years or until that excess amount is used, whichever occurs first. [Note: the bill purports to add section 635a to the act. Presumably, the reference should be to Section 35a.]

The City Income Tax Act permits cities to levy an income tax of, generally speaking, one percent against business income that is attributable to a firm’s operations in that city. [The rates in Detroit, Grand Rapids, Highland Park, and Saginaw are greater than one percent.]

### **Senate Bill 863 (Income Tax Act)**

The bill would amend the Income Tax Act (MCL 206.51f) to provide a taxpayer that is a “qualified start-up business” and that does not have net income attributable to that business for two consecutive years with a credit equal to the start-up’s tax liability. The credit could only be claimed for the second of the two years with no net income and for each immediately following consecutive tax year in which the taxpayer does not have net income attributable to that business. If a qualified start-up business leaves the state within three years after the credit expires, it is liable for that proportional amount of the credit received. The bill applies to tax years beginning after December 31, 2003.

### **Senate Bill 867 (NREPA)**

Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (MCL 324.51105) provides that commercial forests are not subject to property taxes, but, with certain exceptions, are subject to a specific tax levied at \$1.10 per acre. The bill specifies that commercial forests owned or operated by a “qualified start-up business” would be exempt from the specific tax for a period of five years beginning on the December 31 of the year in which the business first claimed the “unprofitable start-up” SBT credit offered in House Bill 5331 or the Income Tax credit offered in Senate Bill 863. The business would have to file an exemption affidavit with the assessor of the tax collecting unit within 60 days of becoming eligible for the credit.

### **Senate Bill 865 (Lessee-User Tax)**

Public Act 189 of 1953 (MCL 211.181a) provides that, with certain exceptions, if real property exempt from ad valorem property taxation is leased, loaned, or otherwise made available to and used in connection of a for-profit business, the lessee or user of the property is subject to taxation (so-called lessee-user taxes) in the same amount and to the same extent as if the lessee or user owned that property. The bill would exempt, for taxes levied after December 31, 2003, real and personal property of a “qualified start-up business” from the lessee-user tax for a period of five years beginning on the December 31 of the year in which the business first claimed the “unprofitable start-up” SBT credit offered in House Bill 5331 or the income tax credit offered in Senate Bill 863. Property would not be exempted from (1) the collection of a special assessment levied by a tax collecting unit in which the property is located; (2) ad valorem property taxes specifically levied for the payment of principal and interest of bonds; and (3) a regional enhancement property tax levied by an intermediate school district or a sinking fund property tax levied by a school district under the Revised School Code.

### **Senate Bill 872 (Technology Park Development Act)**

The bill would amend the Technology Park Development Act (MCL 207.712) to exempt a facility owned or operated by a “qualified start-up business” from the Technology Park Facilities Tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking fund millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units. The tax exemption would be available for a period of five years starting on December 31 in the year in which the business first claimed the “unprofitable start-up” SBT credit offered in House Bill 5331.

The Technology Park Facilities Tax is a specific tax levied in lieu of the general property tax against facilities located in a technology park district, on the state equalized value of a facility (excluding land and inventory) at a rate of the sum of (1) one-half of the 1993 school operating millage and (2) one-half of all property tax mills, except the state and local school operating mills.

### **FISCAL IMPACT:**

The fiscal impact of these bills depends on the number of businesses that would qualify and the state and local taxes these businesses pay. Under the bills, the qualifying businesses do not make a profit, have fewer than 25 full-time equivalent employees, have sales of less than \$1 million, have R&D that makes up at least 15 percent of its expenses, and are not publicly traded.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.