

SENATE BILL No. 982

December 6, 2007, Introduced by Senators ALLEN, HUNTER, CLARKE, STAMAS and GILBERT and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 437 (MCL 208.1437).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 437. (1) Subject to the criteria under this section, a
2 qualified taxpayer that has unused credits or has a preapproval
3 letter issued after December 31, 2007 and before January 1, 2013,
4 or a taxpayer that received a preapproval letter prior to January
5 1, 2008 under section 38g of former 1975 PA 228 and has not
6 received a certificate of completion prior to the taxpayer's last
7 tax year, provided that the project is completed not more than 5

1 years after the preapproval letter for the project is issued, or an
2 assignee under subsection (20), (21), or (22) may claim a credit
3 that has been approved under section 38g of former 1975 PA 228 or
4 under subsection (2), (3), or (4) against the tax imposed by this
5 act equal to either of the following:

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

14 (b) If the total of all credits for a project is more than
15 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in
16 subsection (6)(b), the project is located in a qualified local
17 governmental unit, a percentage as determined by the Michigan
18 economic growth authority not to exceed 10% of the cost of the
19 qualified taxpayer's eligible investment as determined under
20 subsection (9) paid or accrued by the qualified taxpayer on an
21 eligible property. If eligible investment exceeds the amount of
22 eligible investment in the preapproval letter for that project, the
23 total of all credits for the project shall not exceed the total of
24 all credits on the certificate of completion.

25 (2) If the cost of a project will be \$2,000,000.00 or less, a
26 qualified taxpayer shall apply to the Michigan economic growth
27 authority for approval of the project under this subsection. An

1 application under this subsection shall state whether the project
2 is a multiphase project. The chairperson of the Michigan economic
3 growth authority or his or her designee is authorized to approve an
4 application or project under this subsection. Only the chairperson
5 of the Michigan economic growth authority is authorized to deny an
6 application or project under this subsection. A project shall be
7 approved or denied not more than 45 days after receipt of the
8 application. If the chairperson of the Michigan economic growth
9 authority or his or her designee does not approve or deny the
10 application within 45 days after the application is received by the
11 Michigan economic growth authority, the application is considered
12 approved as written. The total of all credits for all projects
13 approved under this subsection shall not exceed \$10,000,000.00 in
14 any calendar year. If the chairperson of the Michigan economic
15 growth authority or his or her designee approves a project under
16 this subsection, the chairperson of the Michigan economic growth
17 authority or his or her designee shall issue a preapproval letter
18 that states that the taxpayer is a qualified taxpayer; the maximum
19 total eligible investment for the project on which credits may be
20 claimed and the maximum total of all credits for the project when
21 the project is completed and a certificate of completion is issued;
22 and the project number assigned by the Michigan economic growth
23 authority. If a project is denied under this subsection, a taxpayer
24 is not prohibited from subsequently applying under this subsection
25 for the same project or for another project. If the authority
26 approves a total of all credits for all projects under this
27 subsection of less than \$10,000,000.00 in a calendar year, the

1 authority may carry forward for 1 year only the difference between
2 \$10,000,000.00 and the total of all credits for all projects under
3 this subsection approved in the immediately preceding calendar
4 year. The Michigan economic growth authority shall develop and
5 implement the use of the application form to be used for projects
6 under this subsection. Before the Michigan economic growth
7 authority substantially changes the form, the Michigan economic
8 growth authority shall adopt the changes by resolution and give
9 notice of the proposed resolution to the secretary of the senate,
10 to the clerk of the house of representatives, and to each person
11 who requested from the Michigan economic growth authority in
12 writing or electronically to be notified regarding proposed
13 resolutions. The notice and proposed resolution and all attachments
14 shall be published on the Michigan economic growth authority's
15 internet website. The Michigan economic growth authority shall hold
16 a public hearing not sooner than 14 days and not later than 30 days
17 after the date notice of a proposed resolution is given and offer
18 an opportunity for persons to present data, views, questions, and
19 arguments. The Michigan economic growth authority board members or
20 1 or more persons designated by the Michigan economic growth
21 authority who have knowledge of the subject matter of the proposed
22 resolution shall be present at the public hearing and shall
23 participate in the discussion of the proposed resolution. The
24 Michigan economic growth authority may act on the proposed
25 resolution no sooner than 14 days after the public hearing. The
26 Michigan economic growth authority shall produce a final decision
27 document that describes the basis for its decision. The final

1 resolution and all attachments and the decision document shall be
2 provided to the secretary of the senate and to the clerk of the
3 house of representatives and shall be published on the Michigan
4 economic growth authority's internet website. The notice shall
5 include all of the following:

6 (a) A copy of the proposed resolution and all attachments.

7 (b) A statement that any person may express any data, views,
8 or arguments regarding the proposed resolution.

9 (c) The address to which written comments may be sent and the
10 date by which comments must be mailed or electronically
11 transmitted, which date shall not be restricted to only before the
12 date of the public hearing.

13 (d) The date, time, and place of the public hearing.

14 (3) If the cost of a project will be for more than
15 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
16 shall apply to the Michigan economic growth authority for approval
17 of the project under this subsection. An application under this
18 subsection shall state whether the project is a multiphase project.
19 The chairperson of the Michigan economic growth authority or his or
20 her designee is authorized to approve an application or project
21 under this subsection. Only the chairperson of the Michigan
22 economic growth authority is authorized to deny an application or
23 project under this subsection. A project shall be approved or
24 denied not more than 45 days after receipt of the application. If
25 the chairperson of the Michigan economic growth authority or his or
26 her designee does not approve or deny an application within 45 days
27 after the application is received by the Michigan economic growth

1 authority, the application is considered approved as written. The
2 total of all credits for all projects approved under this
3 subsection shall not exceed \$30,000,000.00 in any calendar year. If
4 the authority approves a total of all credits for all projects
5 under this subsection of less than \$30,000,000.00 in a calendar
6 year, the authority may carry forward for 1 year only the
7 difference between \$30,000,000.00 and the total of all credits for
8 all projects approved under this subsection in the immediately
9 preceding calendar year. The criteria in subsection (7) shall be
10 used when approving projects under this subsection. When approving
11 projects under this subsection, priority shall be given to projects
12 on a facility. The total of all credits for an approved project
13 under this subsection shall not exceed \$1,000,000.00. A taxpayer
14 may apply under this subsection instead of subsection (4) for
15 approval of a project that will be for more than \$10,000,000.00,
16 but the total of all credits for that project shall not exceed
17 \$1,000,000.00. If the chairperson of the Michigan economic growth
18 authority or his or her designee approves a project under this
19 subsection, the chairperson of the Michigan economic growth
20 authority or his or her designee shall issue a preapproval letter
21 that states that the taxpayer is a qualified taxpayer; the maximum
22 total eligible investment for the project on which credits may be
23 claimed and the maximum total of all credits for the project when
24 the project is completed and a certificate of completion is issued;
25 and the project number assigned by the Michigan economic growth
26 authority. If a project is denied under this subsection, a taxpayer
27 is not prohibited from subsequently applying under this subsection

1 or subsection (4) for the same project or for another project.

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

17 (5) 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 that
20 it is the assessor's expert opinion that the property is
21 functionally obsolete and the underlying basis for that opinion.

22 (6) The Michigan economic growth authority may approve not
23 more than 17 projects each calendar year under subsection (4), and
24 the following limitations apply:

25 (a) Of the 17 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 2 projects.

1 (b) Of the 17 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 or, for 1
5 of the 3 projects, if the property is not a facility but is
6 functionally obsolete or blighted, property identified in a
7 brownfield plan. For purposes of this subdivision, a facility
8 includes a building or complex of buildings that was used by a
9 state or federal agency and that is no longer being used for the
10 purpose for which it was used by the state or federal agency.

11 (c) Of the 2 projects allowed under subdivision (a), 1 may be
12 a project that also qualifies under subdivision (b).

13 (7) The Michigan economic growth authority shall review all
14 applications for projects under subsection (4) and, if an
15 application is approved, shall determine the maximum total of all
16 credits for that project. Before approving a project for which the
17 total of all credits will be more than \$10,000,000.00 but
18 \$30,000,000.00 or less only, the Michigan economic growth authority
19 shall determine that the project would not occur in this state
20 without the tax credit offered under subsection (4). The Michigan
21 economic growth authority shall consider the following criteria to
22 the extent reasonably applicable to the type of project proposed
23 when approving a project under subsection (4), and the chairperson
24 of the Michigan economic growth authority or his or her designee
25 shall consider the following criteria to the extent reasonably
26 applicable to the type of project proposed when approving a project
27 under subsection (2) or (3) or when considering an amendment to a

1 project under subsection (9):

2 (a) The overall benefit to the public.

3 (b) The extent of reuse of vacant buildings and redevelopment
4 of blighted property.

5 (c) Creation of jobs.

6 (d) Whether the eligible property is in an area of high
7 unemployment.

8 (e) The level and extent of contamination alleviated by the
9 qualified taxpayer's eligible activities to the extent known to the
10 qualified taxpayer.

11 (f) The level of private sector contribution.

12 (g) The cost gap that exists between the site and a similar
13 greenfield site as determined by the Michigan economic growth
14 authority.

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

17 (i) Whether the financial statements of the qualified taxpayer
18 indicate that it is financially sound and that the project is
19 economically sound.

20 (j) Any other criteria that the Michigan economic growth
21 authority or the chairperson of the Michigan economic growth
22 authority, as applicable, considers appropriate for the
23 determination of eligibility under subsection (3) or (4).

24 (8) A qualified taxpayer may apply for projects under this
25 section for eligible investment on more than 1 eligible property in
26 a tax year. Each project approved and each project for which a
27 certificate of completion is issued under this section shall be for

1 eligible investment on 1 eligible property.

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

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

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

1 preapproval letter for the entire project.

2 (11) When a project under this section is completed, the
3 taxpayer shall submit documentation that the project is completed,
4 an accounting of the cost of the project, the eligible investment
5 of each taxpayer if there is more than 1 taxpayer eligible for a
6 credit for the project, and, if the taxpayer is not the owner or
7 lessee of the eligible property on which the eligible investment
8 was made at the time the project is completed, that the taxpayer
9 was the owner or lessee of that eligible property when all eligible
10 investment of the taxpayer was made. The chairperson of the
11 Michigan economic growth authority or his or her designee, for
12 projects approved under subsection (2) or (3), or the Michigan
13 economic growth authority, for projects approved under subsection
14 (4), shall verify that the project is completed. The Michigan
15 economic growth authority shall conduct an on-site inspection as
16 part of the verification process for projects approved under
17 subsection (4). When the completion of the project is verified, a
18 certificate of completion shall be issued to each qualified
19 taxpayer that has made eligible investment on that eligible
20 property. The certificate of completion shall state the total
21 amount of all credits for the project and that total shall not
22 exceed the maximum total of all credits listed in the preapproval
23 letter for the project under subsection (2), (3), or (4) as
24 applicable and shall state all of the following:

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

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

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

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

4 (e) The project number.

5 (f) For a project approved under subsection (4) for which the
6 total of all credits is more than \$10,000,000.00 but \$30,000,000.00
7 or less, the total of all credits and the schedule on which the
8 annual credit amount shall be claimed by the qualified taxpayer.

9 (g) For a multiphase project under subsection (10), the amount
10 of each credit assigned and the amount of all credits claimed in
11 each tax year before the year in which the project is completed.

12 (12) Except as otherwise provided in this section, qualified
13 taxpayers shall claim credits under this section in the tax year in
14 which the certificate of completion is issued. For a project
15 approved under subsection (4) for which the total of all credits is
16 more than \$10,000,000.00 but \$30,000,000.00 or less, the qualified
17 taxpayer shall claim 10% of its approved credit each year for 10
18 years. A credit assigned based on a multiphase project shall be
19 claimed in the year in which the credit is assigned.

20 (13) The cost of eligible investment for leased machinery,
21 equipment, or fixtures is the cost of that property had the
22 property been purchased minus the lessor's estimate, made at the
23 time the lease is entered into, of the market value the property
24 will have at the end of the lease. A credit for property described
25 in this subsection is allowed only if the cost of that property had
26 the property been purchased and the lessor's estimate of the market
27 value at the end of the lease are provided to the Michigan economic

1 growth authority.

2 (14) Credits claimed by a lessee of eligible property are
3 subject to the total of all credits limitation under this section.

4 (15) Each qualified taxpayer and assignee under subsection
5 (20), (21), or (22) that claims a credit under this section shall
6 attach a copy of the certificate of completion and, if the credit
7 was assigned, a copy of the assignment form provided for under this
8 section to the annual return filed under this act on which the
9 credit under this section is claimed. An assignee of a credit based
10 on a multiphase project shall attach a copy of the assignment form
11 provided for under this section and the component completion
12 certificate provided for in subsection (10) to the annual return
13 filed under this act on which the credit is claimed but is not
14 required to file a copy of a certificate of completion.

15 (16) Except as otherwise provided in this subsection or
16 subsection (10), (18), (20), (21), or (22), a credit under this
17 section shall be claimed in the tax year in which the certificate
18 of completion is issued to the qualified taxpayer. For a project
19 described in subsection (11)(f) for which a schedule for claiming
20 annual credit amounts is designated on the certificate of
21 completion by the Michigan economic growth authority, the annual
22 credit amount shall be claimed in the tax year specified on the
23 certificate of completion.

24 (17) The credits approved under this section shall be
25 calculated after application of all other credits allowed under
26 this act. The credits under this section shall be calculated before
27 the calculation of the credit under section 431.

1 (18) If the credit allowed under this section for the tax year
2 and any unused carryforward of the credit allowed under this
3 section exceed the qualified taxpayer's or assignee's tax liability
4 for the tax year, that portion that exceeds the tax liability for
5 the tax year shall not be refunded but may be carried forward to
6 offset tax liability in subsequent tax years for 10 years or until
7 used up, whichever occurs first. Except as otherwise provided in
8 this subsection, the maximum time allowed under the carryforward
9 provisions under this subsection begins with the tax year in which
10 the certificate of completion is issued to the qualified taxpayer.
11 If the qualified taxpayer assigns all or any portion of its credit
12 approved under this section, the maximum time allowed under the
13 carryforward provisions for an assignee begins to run with the tax
14 year in which the assignment is made and the assignee first claims
15 a credit, which shall be the same tax year. The maximum time
16 allowed under the carryforward provisions for an annual credit
17 amount for a credit allowed under subsection (4) begins to run in
18 the tax year for which the annual credit amount is designated on
19 the certificate of completion issued under this section. A credit
20 carryforward available under section 38g of former 1975 PA 228 that
21 is unused at the end of the last tax year may be claimed against
22 the tax imposed under act for the years the carryforward would have
23 been available under former 1975 PA 228.

24 (19) If a project or credit under this section is for the
25 addition of personal property, if the cost of that personal
26 property is used to calculate a credit under this section, and if
27 the personal property is sold to a purchaser other than an assignee

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

14 (20) For credits under this section for projects for which a
15 certificate of completion is issued before January 1, 2006 and
16 except as otherwise provided in this subsection, if a qualified
17 taxpayer pays or accrues eligible investment on or to an eligible
18 property that is leased for a minimum term of 10 years or sold to
19 another taxpayer for use in a business activity, the qualified
20 taxpayer may assign all or a portion of the credit under this
21 section based on that eligible investment to the lessee or
22 purchaser of that eligible property. A credit assignment under this
23 subsection shall only be made to a taxpayer that when the
24 assignment is complete will be a qualified taxpayer. All credit
25 assignments under this subsection are irrevocable and, except for a
26 credit based on a multiphase project, shall be made in the tax year
27 in which the certificate of completion is issued, unless the

1 assignee is an unknown lessee. If a qualified taxpayer wishes to
2 assign all or a portion of its credit to a lessee but the lessee is
3 unknown in the tax year in which the certificate of completion is
4 issued, the qualified taxpayer may delay claiming and assigning the
5 credit until the first tax year in which the lessee is known. A
6 qualified taxpayer may claim a portion of a credit and assign the
7 remaining credit amount. Except as otherwise provided in this
8 subsection, if the qualified taxpayer both claims and assigns
9 portions of the credit, the qualified taxpayer shall claim the
10 portion it claims in the tax year in which the certificate of
11 completion is issued or, for a credit assigned and claimed for a
12 multiphase project before a certificate of completion is issued,
13 the taxpayer shall claim the credit in the year in which the credit
14 is assigned. If a qualified taxpayer assigns all or a portion of
15 the credit and the eligible property is leased to more than 1
16 taxpayer, the qualified taxpayer shall determine the amount of
17 credit assigned to each lessee. A lessee shall not subsequently
18 assign a credit or any portion of a credit assigned under this
19 subsection. A purchaser may subsequently assign a credit or any
20 portion of a credit assigned to the purchaser under this subsection
21 to a lessee of the eligible property. The credit assignment under
22 this subsection shall be made on a form prescribed by the Michigan
23 economic growth authority. The qualified taxpayer shall send a copy
24 of the completed assignment form to the Michigan economic growth
25 authority in the tax year in which the assignment is made. The
26 assignee shall attach a copy of the completed assignment form to
27 its annual return required to be filed under this act, for the tax

1 year in which the assignment is made and the assignee first claims
2 a credit, which shall be the same tax year. In addition to all
3 other procedures under this subsection, the following apply if the
4 total of all credits for a project is more than \$10,000,000.00 but
5 \$30,000,000.00 or less:

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

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

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

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

16 (21) Except as otherwise provided in this subsection, for
17 projects for which a certificate of completion is issued before
18 January 1, 2006, and except as otherwise provided in this
19 subsection, if a qualified taxpayer is a partnership, limited
20 liability company, or subchapter S corporation, the qualified
21 taxpayer may assign all or a portion of a credit under this section
22 to its partners, members, or shareholders, based on their
23 proportionate share of ownership of the partnership, limited
24 liability company, or subchapter S corporation or based on an
25 alternative method approved by the Michigan economic growth
26 authority. A credit assignment under this subsection is irrevocable
27 and, except for a credit assignment based on a multiphase project,

1 shall be made in the tax year in which a certificate of completion
2 is issued. A qualified taxpayer may claim a portion of a credit and
3 assign the remaining credit amount. Except as otherwise provided in
4 this subsection, if the qualified taxpayer both claims and assigns
5 portions of the credit, the qualified taxpayer shall claim the
6 portion it claims in the tax year in which a certificate of
7 completion is issued or for a credit assigned and claimed for a
8 multiphase project, before the component completion certificate is
9 issued, the taxpayer shall claim the credit in the year in which
10 the credit is assigned. A partner, member, or shareholder that is
11 an assignee shall not subsequently assign a credit or any portion
12 of a credit assigned under this subsection. The credit assignment
13 under this subsection shall be made on a form prescribed by the
14 Michigan economic growth authority. The qualified taxpayer shall
15 send a copy of the completed assignment form to the Michigan
16 economic growth authority in the tax year in which the assignment
17 is made. A partner, member, or shareholder who is an assignee shall
18 attach a copy of the completed assignment form to its annual return
19 required under this act, for the tax year in which the assignment
20 is made and the assignee first claims a credit, which shall be the
21 same tax year. A credit assignment based on a credit for a
22 component of a multiphase project that is completed before January
23 1, 2006 shall be made under this subsection. In addition to all
24 other procedures under this subsection, the following apply if the
25 total of all credits for a project is more than \$10,000,000.00 but
26 \$30,000,000.00 or less:

27 (a) The credit shall be assigned based on the schedule

1 contained in the certificate of completion.

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

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

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

10 (22) For projects approved under **THIS SECTION OR** section 38g
11 of former 1975 PA 228 for which a certificate of completion is
12 issued on and after January 1, 2006, a qualified taxpayer may
13 assign all or a portion of a credit allowed under **THIS SECTION OR**
14 section 38g(2), (3), or (33) of former 1975 PA 228 under this
15 subsection. A credit assignment under this subsection is
16 irrevocable and, except for a credit assignment based on a
17 multiphase project, shall be made in the tax year in which a
18 certificate of completion is issued unless the assignee is an
19 unknown lessee. If a qualified taxpayer wishes to assign all or a
20 portion of its credit to a lessee but the lessee is unknown in the
21 tax year in which the certificate of completion is issued, the
22 qualified taxpayer may delay claiming and assigning the credit
23 until the first tax year in which the lessee is known. A qualified
24 taxpayer may claim a portion of a credit and assign the remaining
25 credit amount. If the qualified taxpayer both claims and assigns
26 portions of the credit, the qualified taxpayer shall claim the
27 portion it claims in the tax year in which a certificate of

1 completion is issued pursuant to **THIS SECTION OR** section 38g of
2 former 1975 PA 228. An assignee may subsequently assign a credit or
3 any portion of a credit assigned under this subsection to 1 or more
4 assignees. An assignment under this subsection of a credit allowed
5 under **THIS SECTION OR** section 38g(2), (3), or (33) of former 1975
6 PA 228 shall not be made after 10 years after the first tax year in
7 which that credit under **THIS SECTION OR** section 38g(2), (3), or
8 (33) of former 1975 PA 228 may be claimed. The credit assignment or
9 a subsequent reassignment under this subsection shall be made on a
10 form prescribed by the Michigan economic growth authority. The
11 qualified taxpayer shall send a copy of the completed assignment
12 form to the Michigan economic growth authority in the tax year in
13 which an assignment or reassignment is made. An assignee or
14 subsequent reassignee shall attach a copy of the completed
15 assignment form to its annual return required under this act, for
16 the tax year in which the assignment or reassignment is made and
17 the assignee or reassignee first claims a credit, which shall be
18 the same tax year. A credit assignment based on a credit for a
19 component of a multiphase project that is completed before January
20 1, 2006 shall be made under section 38g(18) of former 1975 PA 228.
21 A credit assignment based on a credit for a component of a
22 multiphase project that is completed on or after January 1, 2006
23 may be made under this section. In addition to all other procedures
24 and requirements under this section, the following apply if the
25 total of all credits for a project is more than \$10,000,000.00 but
26 \$30,000,000.00 or less:

27 (a) The credit shall be assigned based on the schedule

1 contained in the certificate of completion.

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

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

8 (23) A qualified taxpayer or assignee under subsection (20),
9 (21), or (22) shall not claim a credit under subsection (1)(a) or
10 (b) based on eligible investment on which a credit claimed under
11 section 38d of former 1975 PA 228 was based.

12 (24) The Michigan economic growth authority may certify a
13 credit under this section based on an agreement entered into prior
14 to January 1, 2008 pursuant to section 38g of former 1975 PA 228.
15 The number of years for which the credit under this subsection may
16 be claimed under this act shall equal the maximum number of years
17 designated in the agreement reduced by the number of years for
18 which a credit had been claimed or could have been claimed under
19 section 38g of former 1975 PA 228.

20 (25) An eligible taxpayer that claims a credit under this
21 section is not prohibited from claiming a credit under section 431.
22 However, the eligible taxpayer shall not claim a credit under this
23 section and section 431 based on the same costs.

24 (26) Eligible investment attributable or related to the
25 operation of a professional sports stadium, and eligible investment
26 that is associated or affiliated with the operation of a
27 professional sports stadium, including, but not limited to, the

1 operation of a parking lot or retail store, shall not be used as a
2 basis for a credit under this section. Professional sports stadium
3 does not include a professional sports stadium that will no longer
4 be used by a professional sports team on and after the date that an
5 application related to that professional sports stadium is filed
6 under this section.

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

15 (28) 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 this
20 section.

21 (29) 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 (3). The report
25 shall include, but is not limited to, all of the following:

26 (a) A listing of the projects under subsection (3) that were
27 approved in the calendar year.

1 (b) The total amount of eligible investment for projects
2 approved under subsection (3) in the calendar year.

3 (30) For purposes of this section, taxpayer includes a person
4 subject to the tax imposed under chapters 2A and 2B.

5 (31) As used in this section:

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

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

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

18 (d) "Blighted", "brownfield plan", "eligible activities",
19 "facility", "functionally obsolete", "qualified local governmental
20 unit", and "response activity" mean those terms as defined in the
21 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
22 to 125.2672.

23 (e) "Eligible investment" means demolition, construction,
24 restoration, alteration, renovation, or improvement of buildings or
25 site improvements on eligible property and the addition of
26 machinery, equipment, and fixtures to eligible property after the
27 date that eligible activities on that eligible property have

1 started pursuant to a brownfield plan under the brownfield
 2 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
 3 and after the date that the preapproval letter is issued, if the
 4 costs of the eligible investment are not otherwise reimbursed to
 5 the taxpayer or paid for on behalf of the taxpayer from any source
 6 other than the taxpayer. The addition of leased machinery,
 7 equipment, or fixtures to eligible property by a lessee of the
 8 machinery, equipment, or fixtures is eligible investment if the
 9 lease of the machinery, equipment, or fixtures has a minimum term
 10 of 10 years or is for the expected useful life of the machinery,
 11 equipment, or fixtures, and if the owner of the machinery,
 12 equipment, or fixtures is not the qualified taxpayer with regard to
 13 that machinery, equipment, or fixtures.

14 (f) "Eligible property", **EXCEPT AS OTHERWISE PROVIDED UNDER**
 15 **SUBSECTION (32)**, ~~means that term as defined in the brownfield~~
 16 ~~redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,~~
 17 ~~except that, for purposes of subsection (2), all of the following~~
 18 ~~apply:~~

19 ~~—— (i) Eligible property means property identified under a~~
 20 ~~brownfield plan that was used or is currently used for commercial,~~
 21 ~~industrial, or residential purposes and that is 1 of the following:~~

22 ~~—— (A) Property for which eligible activities are identified~~
 23 ~~under the brownfield plan, is in a qualified local governmental~~
 24 ~~unit, and is a facility, functionally obsolete, or blighted.~~

25 ~~—— (B) Property that is not in a qualified local governmental~~
 26 ~~unit but is within a downtown development district established~~
 27 ~~under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally~~

1 ~~obsolete or blighted, and a component of the project on that~~
2 ~~eligible property is 1 or more of the following:~~

3 ~~—— (I) Infrastructure improvements that directly benefit the~~
4 ~~eligible property.~~

5 ~~—— (II) Demolition of structures that is not response activity~~
6 ~~under section 20101 of the natural resources and environmental~~
7 ~~protection act, 1994 PA 451, MCL 324.20101.~~

8 ~~—— (III) Lead or asbestos abatement.~~

9 ~~—— (IV) Site preparation that is not response activity under~~
10 ~~section 20101 of the natural resources and environmental protection~~
11 ~~act, 1994 PA 451, MCL 324.20101.~~

12 ~~—— (C) Property for which eligible activities are identified~~
13 ~~under the brownfield plan, is not in a qualified local governmental~~
14 ~~unit, and is a facility.~~

15 ~~—— (ii) Eligible property includes parcels that are adjacent or~~
16 ~~contiguous to the eligible property if the development of the~~
17 ~~adjacent or contiguous parcels is estimated to increase the~~
18 ~~captured taxable value of the property or tax reverted property~~
19 ~~owned or under the control of a land bank fast track authority~~
20 ~~pursuant to the land bank fast track authority act, 2003 PA 258,~~
21 ~~MCL 124.751 to 124.774.~~

22 ~~—— (iii) Eligible property includes, to the extent included in the~~
23 ~~brownfield plan, personal property located on the eligible~~
24 ~~property.~~

25 ~~—— (iv) Eligible property does not include qualified agricultural~~
26 ~~property exempt under section 7ee of the general property tax act,~~
27 ~~1893 PA 206, MCL 211.7ee, from the tax levied by a local school~~

1 ~~district for school operating purposes to the extent provided under~~
2 ~~section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.~~

3 PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED UNDER A
4 BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMERCIAL,
5 INDUSTRIAL, OR RESIDENTIAL PURPOSES, INCLUDING PERSONAL PROPERTY
6 LOCATED ON THE PROPERTY, TO THE EXTENT INCLUDED IN THE BROWNFIELD
7 PLAN, AND THAT IS 1 OR MORE OF THE FOLLOWING:

8 (i) IS IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
9 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED AND INCLUDES PARCELS
10 THAT ARE ADJACENT OR CONTIGUOUS TO THAT PROPERTY IF THE DEVELOPMENT
11 OF THE ADJACENT AND CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE
12 CAPTURED TAXABLE VALUE OF THAT PROPERTY.

13 (ii) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
14 FACILITY, AND INCLUDES PARCELS THAT ARE ADJACENT OR CONTIGUOUS TO
15 THAT PROPERTY IF THE DEVELOPMENT OF THE ADJACENT AND CONTIGUOUS
16 PARCELS IS ESTIMATED TO INCREASE THE CAPTURED TAXABLE VALUE OF THAT
17 PROPERTY.

18 (iii) IS TAX REVERTED PROPERTY OWNED OR UNDER THE CONTROL OF A
19 LAND BANK FAST TRACK AUTHORITY.

20 (iv) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT, IS A
21 QUALIFIED FACILITY, AND IS A FACILITY, FUNCTIONALLY OBSOLETE, OR
22 BLIGHTED, IF THE ELIGIBLE ACTIVITIES ON THE PROPERTY ARE LIMITED TO
23 THE ELIGIBLE ACTIVITIES IDENTIFIED IN SECTION 2 (M) (vi) OF THE
24 BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2652.

25 (v) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A
26 FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED, IF THE ELIGIBLE
27 ACTIVITIES ON THE PROPERTY ARE LIMITED TO THE ELIGIBLE ACTIVITIES

1 IDENTIFIED IN SECTION 2(M) (vii) OF THE BROWNFIELD REDEVELOPMENT
2 FINANCING ACT, 1996 PA 381, MCL 125.2652.

3 (g) "Last tax year" means the taxpayer's tax year under former
4 1975 PA 228 that begins after December 31, 2006 and before January
5 1, 2008.

6 (h) "Michigan economic growth authority" means the Michigan
7 economic growth authority created in the Michigan economic growth
8 authority act, 1995 PA 24, MCL 207.801 to 207.810.

9 (i) "Multiphase project" means a project approved under this
10 section that has more than 1 component, each of which can be
11 completed separately.

12 (j) "Personal property" means that term as defined in section
13 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
14 that personal property does not include either of the following:

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

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

19 (k) "Project" means the total of all eligible investment on an
20 eligible property or, for purposes of subsection (6)(b), 1 of the
21 following:

22 (i) All eligible investment on property not in a qualified
23 local governmental unit that is a facility.

24 (ii) All eligible investment on property that is not a facility
25 but is functionally obsolete or blighted.

26 (l) "Qualified local governmental unit" means that term as
27 defined in the obsolete property rehabilitation act, 2000 PA 146,

1 MCL 125.2781 to 125.2797.

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

4 (i) Owns or leases eligible property.

5 (ii) Certifies that, except as otherwise provided in this
6 subparagraph, the department of environmental quality has not sued
7 or issued a unilateral order to the taxpayer pursuant to part 201
8 of the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.20101 to 324.20142, to compel response activity on or
10 to the eligible property, or expended any state funds for response
11 activity on or to the eligible property and demanded reimbursement
12 for those expenditures from the qualified taxpayer. However, if the
13 taxpayer has completed all response activity required by part 201
14 of the natural resources and environmental protection act, 1994 PA
15 451, MCL 324.20101 to 324.20142, is in compliance with any deed
16 restriction or administrative or judicial order related to the
17 required response activity, and has reimbursed the state for all
18 costs incurred by the state related to the required response
19 activity, the taxpayer meets the criteria under this subparagraph.

20 (32) FOR PURPOSES OF SUBSECTION (2), ELIGIBLE PROPERTY MEANS
21 THAT TERM AS DEFINED UNDER SUBSECTION (31) EXCEPT THAT ALL OF THE
22 FOLLOWING APPLY:

23 (A) ELIGIBLE PROPERTY MEANS PROPERTY IDENTIFIED UNDER A
24 BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMERCIAL,
25 INDUSTRIAL, OR RESIDENTIAL PURPOSES AND THAT IS 1 OF THE FOLLOWING:

26 (i) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED UNDER
27 THE BROWNFIELD PLAN, IS IN A QUALIFIED LOCAL GOVERNMENTAL UNIT, AND

1 IS A FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED.

2 (ii) PROPERTY THAT IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL
3 UNIT BUT IS WITHIN A DOWNTOWN DEVELOPMENT DISTRICT ESTABLISHED
4 UNDER 1975 PA 197, MCL 125.1651 TO 125.1681, AND IS FUNCTIONALLY
5 OBSOLETE OR BLIGHTED, AND A COMPONENT OF THE PROJECT ON THAT
6 ELIGIBLE PROPERTY IS 1 OR MORE OF THE FOLLOWING:

7 (A) INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE
8 ELIGIBLE PROPERTY.

9 (B) DEMOLITION OF STRUCTURES THAT IS NOT RESPONSE ACTIVITY
10 UNDER SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
11 PROTECTION ACT, 1994 PA 451, MCL 324.20101.

12 (C) LEAD OR ASBESTOS ABATEMENT.

13 (D) SITE PREPARATION THAT IS NOT RESPONSE ACTIVITY UNDER
14 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
15 ACT, 1994 PA 451, MCL 324.20101.

16 (iii) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED
17 UNDER THE BROWNFIELD PLAN, IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL
18 UNIT, AND IS A FACILITY.

19 (B) ELIGIBLE PROPERTY INCLUDES PARCELS THAT ARE ADJACENT OR
20 CONTIGUOUS TO THE ELIGIBLE PROPERTY IF THE DEVELOPMENT OF THE
21 ADJACENT OR CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE
22 CAPTURED TAXABLE VALUE OF THE PROPERTY OR TAX REVERTED PROPERTY
23 OWNED OR UNDER THE CONTROL OF A LAND BANK FAST TRACK AUTHORITY
24 PURSUANT TO THE LAND BANK FAST TRACK AUTHORITY ACT, 2003 PA 258,
25 MCL 124.751 TO 124.774.

26 (C) ELIGIBLE PROPERTY INCLUDES, TO THE EXTENT INCLUDED IN THE
27 BROWNFIELD PLAN, PERSONAL PROPERTY LOCATED ON THE ELIGIBLE

1 PROPERTY.

2 (D) ELIGIBLE PROPERTY DOES NOT INCLUDE QUALIFIED AGRICULTURAL
3 PROPERTY EXEMPT UNDER SECTION 7EE OF THE GENERAL PROPERTY TAX ACT,
4 1893 PA 206, MCL 211.7EE, FROM THE TAX LEVIED BY A LOCAL SCHOOL
5 DISTRICT FOR SCHOOL OPERATING PURPOSES TO THE EXTENT PROVIDED UNDER
6 SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.

7 Enacting section 1. This amendatory act takes effect January
8 1, 2008.