

# HOUSE BILL No. 6153

May 22, 2008, Introduced by Rep. Opsommer and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending sections 403, 431, 433, 435, and 437 (MCL 208.1403, 208.1431, 208.1433, 208.1435, and 208.1437), section 403 as amended by 2007 PA 145, section 431 as amended by 2008 PA 111, section 433 as amended by 2007 PA 215, section 435 as amended by 2007 PA 216, and section 437 as amended by 2008 PA 89; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 403. (1) Notwithstanding any other provision in this act,  
2 the credits provided in this section shall be taken before any  
3 other credit under this act. For the 2008 tax year, the total  
4 combined credit allowed under this section shall not exceed 50% of

1 the tax liability imposed under this act before the imposition and  
2 levy of the surcharge under section 281. For the 2009 tax year and  
3 each tax year after 2009, the total combined credit allowed under  
4 this section shall not exceed 52% of the tax liability imposed  
5 under this act before the imposition and levy of the surcharge  
6 under section 281.

7 (2) Subject to the limitation in subsection (1), for the 2008  
8 tax year a taxpayer may claim a credit against the tax imposed by  
9 this act equal to 0.296% of the taxpayer's compensation in this  
10 state. For the 2009 tax year and each tax year after 2009, subject  
11 to the limitation in subsection (1), a taxpayer may claim a credit  
12 against the tax imposed by this act equal to 0.370% of the  
13 taxpayer's compensation in this state. ~~For purposes of this~~  
14 ~~subsection, a taxpayer includes a person subject to the tax imposed~~  
15 ~~under chapter 2A and a person subject to the tax imposed under~~  
16 ~~chapter 2B.~~ A professional employer organization shall not include  
17 payments by the professional employer organization to the officers  
18 and employees of a client of the professional employer organization  
19 whose employment operations are managed by the professional  
20 employer organization. A client may include payments by the  
21 professional employer organization to the officers and employees of  
22 the client whose employment operations are managed by the  
23 professional employer organization.

24 (3) Subject to the limitation in subsection (1), for the 2008  
25 tax year a taxpayer may claim a credit against the tax imposed by  
26 this act equal to 2.32% multiplied by the result of subtracting the  
27 sum of the amounts calculated under subdivisions (d), (e), and (f)

1 from the sum of the amounts calculated under subdivisions (a), (b),  
2 and (c). Subject to the limitation in subsection (1), for the 2009  
3 tax year and each tax year after 2009, a taxpayer may claim a  
4 credit against the tax imposed by this act equal to 2.9% multiplied  
5 by the result of subtracting the sum of the amounts calculated  
6 under subdivisions (d), (e), and (f) from the sum of the amounts  
7 calculated under subdivisions (a), (b), and (c):

8 (a) Calculate the cost, including fabrication and  
9 installation, paid or accrued in the taxable year of tangible  
10 assets of a type that are, or under the internal revenue code will  
11 become, eligible for depreciation, amortization, or accelerated  
12 capital cost recovery for federal income tax purposes, provided  
13 that the assets are physically located in this state for use in a  
14 business activity in this state and are not mobile tangible assets.

15 (b) Calculate the cost, including fabrication and  
16 installation, paid or accrued in the taxable year of mobile  
17 tangible assets of a type that are, or under the internal revenue  
18 code will become, eligible for depreciation, amortization, or  
19 accelerated capital cost recovery for federal income tax purposes.  
20 This amount shall be multiplied by the apportionment factor for the  
21 tax year as prescribed in chapter 3.

22 (c) For tangible assets, other than mobile tangible assets,  
23 purchased or acquired for use outside of this state in a tax year  
24 beginning after December 31, 2007 and subsequently transferred into  
25 this state and purchased or acquired for use in a business  
26 activity, calculate the federal basis used for determining gain or  
27 loss as of the date the tangible assets were physically located in

1 this state for use in a business activity plus the cost of  
2 fabrication and installation of the tangible assets in this state.

3 (d) If the cost of tangible assets described in subdivision  
4 (a) was paid or accrued in a tax year beginning after December 31,  
5 2007, or before December 31, 2007 to the extent the credit is used  
6 and at the rate at which the credit was used under former 1975 PA  
7 228 or this act, calculate the gross proceeds or benefit derived  
8 from the sale or other disposition of the tangible assets minus the  
9 gain, multiplied by the apportionment factor for the taxable year  
10 as prescribed in chapter 3, and plus the loss, multiplied by the  
11 apportionment factor for the taxable year as prescribed in chapter  
12 3 from the sale or other disposition reflected in federal taxable  
13 income and minus the gain from the sale or other disposition added  
14 to the business income tax base in section 201.

15 (e) If the cost of tangible assets described in subdivision  
16 (b) was paid or accrued in a tax year beginning after December 31,  
17 2007, or before December 31, 2007 to the extent the credit is used  
18 and at the rate at which the credit was used under former 1975 PA  
19 228 or this act, calculate the gross proceeds or benefit derived  
20 from the sale or other disposition of the tangible assets minus the  
21 gain and plus the loss from the sale or other disposition reflected  
22 in federal taxable income and minus the gain from the sale or other  
23 disposition added to the business income tax base in section 201.  
24 This amount shall be multiplied by the apportionment factor for the  
25 tax year as prescribed in chapter 3.

26 (f) For assets purchased or acquired in a tax year beginning  
27 after December 31, 2007, or before December 31, 2007 to the extent

1 the credit is used and at the rate at which the credit was used  
2 under former 1975 PA 228 or this act, that were eligible for a  
3 credit under subdivision (a) or (c) and that were transferred out  
4 of this state, calculate the federal basis used for determining  
5 gain or loss as of the date of the transfer.

6 (4) For a tax year in which the amount of the credit  
7 calculated under subsection (3) is negative, the absolute value of  
8 that amount is added to the taxpayer's tax liability for the tax  
9 year.

10 (5) A taxpayer that claims a credit under this section is not  
11 prohibited from claiming a credit under section 405. However, the  
12 taxpayer shall not claim a credit under this section and section  
13 405 based on the same costs and expenses.

14 Sec. 431. (1) Except as otherwise provided under this  
15 subsection, for a period of time not to exceed 20 years as  
16 determined by the Michigan economic growth authority, a taxpayer  
17 that is an authorized business may claim a credit against the tax  
18 imposed by this act equal to the amount certified each year by the  
19 Michigan economic growth authority as follows:

20 (a) Except as otherwise provided under this subdivision, for  
21 an authorized business for the tax year, an amount not to exceed  
22 the payroll of the authorized business attributable to employees  
23 who perform qualified new jobs as determined under the Michigan  
24 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
25 multiplied by the tax rate; beginning after ~~the effective date of~~  
26 ~~the amendatory act that added subdivision (d)~~ **APRIL 28, 2008**, for  
27 an authorized business for the tax year, an amount not to exceed

1 the sum of the payroll and health care benefits of the authorized  
2 business attributable to employees who perform qualified new jobs  
3 as determined under the Michigan economic growth authority act,  
4 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

5 (b) For an eligible business as determined under section  
6 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,  
7 MCL 207.808, an amount not to exceed 50% of the payroll of the  
8 authorized business attributable to employees who perform retained  
9 jobs as determined under the Michigan economic growth authority  
10 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate  
11 for the tax year.

12 (c) For an eligible business as determined under section  
13 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24,  
14 MCL 207.808, an amount not to exceed the payroll of the authorized  
15 business attributable to employees who perform retained jobs as  
16 determined under the Michigan economic growth authority act, 1995  
17 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
18 tax year.

19 (d) For an authorized business that is a qualified high-  
20 technology business, for a period of time not to exceed 7 years as  
21 determined by the Michigan economic growth authority, an amount not  
22 to exceed 200% of the sum of the payroll and health care benefits  
23 of the qualified high-technology business attributable to employees  
24 who perform qualified new jobs as determined under the Michigan  
25 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
26 for the first 3 tax years of the credit, multiplied by the tax rate  
27 and, for each of the remaining tax years of the credit, an amount

1 not to exceed 100% of the sum of the payroll and health care  
2 benefits of the qualified high-technology business attributable to  
3 employees who perform qualified new jobs as determined under the  
4 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
5 207.810, multiplied by the tax rate.

6 (e) For an authorized business as determined under section  
7 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL  
8 207.808, an amount up to, but not to exceed 100% of, the sum of the  
9 payroll and health care benefits of the authorized business  
10 attributable to employees who perform retained jobs multiplied by a  
11 fraction, the numerator of which is the amount of new capital  
12 investment made at the facility and the denominator of which is the  
13 product of the number of retained jobs multiplied by \$100,000.00,  
14 and then multiplied by the tax rate for the tax year.

15 (f) For an authorized business as determined under section  
16 8(11) of the Michigan economic growth authority act, 1995 PA 24,  
17 MCL 207.808, an amount not to exceed 100% of the sum of the payroll  
18 and health care benefits of the authorized business attributable to  
19 employees who perform new full-time jobs and retained jobs as  
20 determined under the Michigan economic growth authority act, 1995  
21 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
22 tax year.

23 (2) A taxpayer shall not claim a credit under this section  
24 unless the Michigan economic growth authority has issued a  
25 certificate to the taxpayer. The taxpayer shall attach the  
26 certificate to the annual return filed under this act on which a  
27 credit under this section is claimed.

1           (3) The certificate required by subsection (2) shall state all  
2 of the following:

3           (a) The taxpayer is an authorized business.

4           (b) The amount of the credit under this section for the  
5 authorized business for the designated tax year.

6           (c) The taxpayer's federal employer identification number or  
7 the Michigan department of treasury number assigned to the  
8 taxpayer.

9           (4) The Michigan economic growth authority may certify a  
10 credit under this section based on an agreement entered into prior  
11 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.  
12 The number of years for which the credit may be claimed under this  
13 section shall equal the maximum number of years designated in the  
14 resolution reduced by the number of years for which a credit has  
15 been claimed or could have been claimed under section 37c of former  
16 1975 PA 228.

17           (5) If the credit allowed under this section exceeds the tax  
18 liability of the taxpayer for the tax year, that portion of the  
19 credit that exceeds the tax liability of the taxpayer shall be  
20 refunded.

21           (6) Except as otherwise provided under this subsection, a  
22 taxpayer that claims a credit under subsection (1) or section 37c  
23 or 37d of former 1975 PA 228, that has an agreement with the  
24 Michigan economic growth authority based on qualified new jobs as  
25 defined in section ~~3 (p) (ii)~~ **3 (Q) (ii)** of the Michigan economic growth  
26 authority act, 1995 PA 24, MCL 207.803, and that removes from this  
27 state 51% or more of those qualified new jobs within 3 years after



1 the first year in which the taxpayer claims a credit described in  
2 this subsection shall pay to the department no later than 12 months  
3 after those qualified new jobs are removed from the state an amount  
4 equal to the total of all credits described in this subsection that  
5 were claimed by the taxpayer. Beginning after ~~the effective date of~~  
6 ~~the amendatory act that added subsection (1)(d)~~ **APRIL 28, 2008**, a  
7 taxpayer that claims a credit under subsection (1) and subsequently  
8 fails to meet the requirements of this section or any other  
9 conditions included in an agreement entered into with the Michigan  
10 economic growth authority in order to obtain a certificate for the  
11 credit claimed under this section or removes any of the qualified  
12 new jobs from this state during the term of the written agreement  
13 and for a period of years after the term of the written agreement,  
14 as determined by the Michigan economic growth authority, may have  
15 its credit reduced or terminated or have a percentage of the credit  
16 amount previously claimed under this section added back to the tax  
17 liability of the taxpayer in the tax year that the taxpayer fails  
18 to comply with this section or the agreement.

19 (7) If the Michigan economic growth authority or a designee of  
20 the Michigan economic growth authority requests that a taxpayer  
21 that claims the credit under this section get a statement prepared  
22 by a certified public accountant verifying that the actual number  
23 of new jobs created is the same number of new jobs used to  
24 calculate the credit under this section, the taxpayer shall get the  
25 statement and attach that statement to its annual return under this  
26 act on which the credit under this section is claimed.

27 (8) A credit shall not be claimed by a taxpayer under this

1 section if the taxpayer's initial certification as required in  
2 subsection (3) is issued after December 31, 2013.

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

5 (9) ~~(10)~~ As used in this section:

6 (a) "Authorized business", "facility", "full-time job",  
7 "qualified high-technology business", "retained jobs", and "written  
8 agreement" mean those terms as defined in the Michigan economic  
9 growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

10 (b) "Health care benefits" means all costs paid for a self-  
11 funded health care benefit plan or for an expense-incurred  
12 hospital, medical, or surgical policy or certificate, nonprofit  
13 health care corporation certificate, or health maintenance  
14 organization contract. Health care benefit does not include  
15 accident-only, credit, dental, or disability income insurance;  
16 long-term care insurance; coverage issued as a supplement to  
17 liability insurance; coverage only for a specified disease or  
18 illness; worker's compensation or similar insurance; or automobile  
19 medical payment insurance.

20 (c) "Michigan economic growth authority" means the Michigan  
21 economic growth authority created in the Michigan economic growth  
22 authority act, 1995 PA 24, MCL 207.801 to 207.810.

23 (d) "Payroll" means the total salaries and wages before  
24 deducting any personal or dependency exemptions.

25 (e) "Qualified new jobs" means 1 or more of the following:

26 (i) The average number of full-time jobs at a facility of an  
27 authorized business for a tax year in excess of the average number

1 of full-time jobs the authorized business maintained in this state  
2 prior to the expansion or location as that is determined under the  
3 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
4 207.810.

5 (ii) The average number of full-time jobs at a facility created  
6 by an eligible business up to 90 days before becoming an authorized  
7 business that is in excess of the average number of full-time jobs  
8 that the business maintained in this state up to 90 days before  
9 becoming an authorized business, as determined under the Michigan  
10 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

11 (f) "Tax rate" means the rate imposed under section 51 of the  
12 income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year  
13 in which the tax year of the taxpayer for which the credit is being  
14 computed begins.

15 Sec. 433. (1) A taxpayer that is a business located and  
16 conducting business activity within a renaissance zone may claim a  
17 credit against the tax imposed by this act for the tax year to the  
18 extent and for the duration provided pursuant to the Michigan  
19 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal  
20 to the lesser of the following:

21 (a) The tax liability attributable to business activity  
22 conducted within a renaissance zone in the tax year.

23 (b) Ten percent of adjusted services performed in a designated  
24 renaissance zone.

25 (c) For a taxpayer located and conducting business activity in  
26 a renaissance zone before December 31, 2002, the product of the  
27 following:

1 (i) The credit claimed under section 39b of former 1975 PA 228  
2 for the tax year ending in 2007.

3 (ii) The ratio of the taxpayer's payroll in this state in the  
4 tax year divided by the taxpayer's payroll in this state in its tax  
5 year ending in 2007 under former 1975 PA 228.

6 (iii) The ratio of the taxpayer's renaissance zone business  
7 activity factor for the tax year divided by the taxpayer's  
8 renaissance zone business activity factor for its tax year ending  
9 in 2007 under section 39b of former 1975 PA 228.

10 (2) Any portion of the taxpayer's tax liability that is  
11 attributable to illegal activity conducted in the renaissance zone  
12 shall not be used to calculate a credit under this section.

13 (3) The credit allowed under this section continues through  
14 the tax year in which the renaissance zone designation expires.

15 (4) If the amount of the credit allowed under this section  
16 exceeds the tax liability of the taxpayer for the tax year, that  
17 portion of the credit that exceeds the tax liability shall not be  
18 refunded.

19 (5) A taxpayer that claims a credit under this section shall  
20 not employ, pay a speaker fee to, or provide any remuneration,  
21 compensation, or consideration to any person employed by the state,  
22 the state administrative board created in 1921 PA 2, MCL 17.1 to  
23 17.3, or the renaissance zone review board created in 1996 PA 376,  
24 MCL 125.2681 to 125.2696, whose employment relates or related in  
25 any way to the authorization or enforcement of the credit allowed  
26 under this section for any year in which the taxpayer claims a  
27 credit under this section and for the 3 years after the last year

1 that a credit is claimed.

2 (6) To be eligible for the credit allowed under this section,  
3 an otherwise qualified taxpayer shall file an annual return under  
4 this act in a format determined by the department.

5 (7) Any portion of the taxpayer's tax liability that is  
6 attributable to business activity related to the operation of a  
7 casino, and business activity that is associated or affiliated with  
8 the operation of a casino, including, but not limited to, the  
9 operation of a parking lot, hotel, motel, or retail store, shall  
10 not be used to calculate a credit under this section.

11 ~~—— (8) For purposes of this section, taxpayer includes a person~~  
12 ~~subject to the tax imposed under chapters 2A and 2B.~~

13 (8) ~~(9)~~ As used in this section:

14 (a) "Adjusted services performed in a designated renaissance  
15 zone" means either of the following:

16 (i) Except as provided in subparagraph (ii), the sum of the  
17 taxpayer's payroll for services performed in a designated  
18 renaissance zone plus an amount equal to the amount deducted in  
19 arriving at federal taxable income for the tax year for  
20 depreciation, amortization, or immediate or accelerated write-off  
21 for tangible property exempt under section 7ff of the general  
22 property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for  
23 new property, in the immediately following tax year.

24 (ii) For a partnership, limited liability company, S  
25 corporation, or individual, the amount determined under  
26 subparagraph (i) plus the product of the following as related to the  
27 taxpayer if greater than zero:

1 (A) Business income.

2 (B) The ratio of the taxpayer's total sales in this state  
3 during the tax year divided by the taxpayer's total sales  
4 everywhere during the tax year.

5 (C) The renaissance zone business activity factor.

6 (b) "Casino" means a casino regulated by this state pursuant  
7 to the Michigan gaming control and revenue act, 1996 IL 1, MCL  
8 432.201 to 432.226.

9 (c) "New property" means property that has not been subject  
10 to, or exempt from, the collection of taxes under the general  
11 property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~**211.155**, and  
12 has not been subject to, or exempt from, ad valorem property taxes  
13 levied in another state, except that receiving an exemption as  
14 inventory property does not disqualify property.

15 (d) "Payroll" means total salaries and wages before deducting  
16 any personal or dependency exemptions.

17 (e) "Renaissance zone" means that term as defined in the  
18 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
19 125.2696.

20 (f) "Renaissance zone business activity factor" means a  
21 fraction, the numerator of which is the ratio of the average value  
22 of the taxpayer's property located in a designated renaissance zone  
23 to the average value of the taxpayer's property in this state plus  
24 the ratio of the taxpayer's payroll for services performed in a  
25 designated renaissance zone to all of the taxpayer's payroll in  
26 this state and the denominator of which is 2.

27 (g) "Tax liability attributable to business activity conducted

1 within a renaissance zone" means the taxpayer's tax liability  
2 multiplied by the renaissance zone business activity factor.

3       Sec. 435. (1) A qualified taxpayer with a rehabilitation plan  
4 certified after December 31, 2007 or a qualified taxpayer that has  
5 a rehabilitation plan certified before January 1, 2008 under  
6 section 39c of former 1975 PA 228 for the rehabilitation of an  
7 historic resource for which a certification of completed  
8 rehabilitation has been issued after the end of the taxpayer's last  
9 tax year may credit against the tax imposed by this act the amount  
10 determined pursuant to subsection (2) for the qualified  
11 expenditures for the rehabilitation of an historic resource  
12 pursuant to the rehabilitation plan in the year in which the  
13 certification of completed rehabilitation of the historic resource  
14 is issued provided that the certification of completed  
15 rehabilitation was issued not more than 5 years after the  
16 rehabilitation plan was certified by the Michigan historical  
17 center.

18       (2) The credit allowed under this section shall be 25% of the  
19 qualified expenditures that are eligible for the credit under  
20 section 47(a)(2) of the internal revenue code if the taxpayer is  
21 eligible for the credit under section 47(a)(2) of the internal  
22 revenue code or, if the taxpayer is not eligible for the credit  
23 under section 47(a)(2) of the internal revenue code, 25% of the  
24 qualified expenditures that would qualify under section 47(a)(2) of  
25 the internal revenue code except that the expenditures are made to  
26 an historic resource that is not eligible for the credit under  
27 section 47(a)(2) of the internal revenue code, subject to both of

1 the following:

2 (a) A taxpayer with qualified expenditures that are eligible  
3 for the credit under section 47(a)(2) of the internal revenue code  
4 may not claim a credit under this section for those qualified  
5 expenditures unless the taxpayer has claimed and received a credit  
6 for those qualified expenditures under section 47(a)(2) of the  
7 internal revenue code.

8 (b) A credit under this section shall be reduced by the amount  
9 of a credit received by the taxpayer for the same qualified  
10 expenditures under section 47(a)(2) of the internal revenue code.

11 (3) To be eligible for the credit under this section, the  
12 taxpayer shall apply to and receive from the Michigan historical  
13 center certification that the historic significance, the  
14 rehabilitation plan, and the completed rehabilitation of the  
15 historic resource meet the criteria under subsection (6) and either  
16 of the following:

17 (a) All of the following criteria:

18 (i) The historic resource contributes to the significance of  
19 the historic district in which it is located.

20 (ii) Both the rehabilitation plan and completed rehabilitation  
21 of the historic resource meet the federal secretary of the  
22 interior's standards for rehabilitation and guidelines for  
23 rehabilitating historic buildings, 36 CFR part 67.

24 (iii) All rehabilitation work has been done to or within the  
25 walls, boundaries, or structures of the historic resource or to  
26 historic resources located within the property boundaries of the  
27 property.



1           (b) The taxpayer has received certification from the national  
2 park service that the historic resource's significance, the  
3 rehabilitation plan, and the completed rehabilitation qualify for  
4 the credit allowed under section 47(a)(2) of the internal revenue  
5 code.

6           (4) If a qualified taxpayer is eligible for the credit allowed  
7 under section 47(a)(2) of the internal revenue code, the qualified  
8 taxpayer shall file for certification with the center to qualify  
9 for the credit allowed under section 47(a)(2) of the internal  
10 revenue code. If the qualified taxpayer has previously filed for  
11 certification with the center to qualify for the credit allowed  
12 under section 47(a)(2) of the internal revenue code, additional  
13 filing for the credit allowed under this section is not required.

14           (5) The center may inspect an historic resource at any time  
15 during the rehabilitation process and may revoke certification of  
16 completed rehabilitation if the rehabilitation was not undertaken  
17 as represented in the rehabilitation plan or if unapproved  
18 alterations to the completed rehabilitation are made during the 5  
19 years after the tax year in which the credit was claimed. The  
20 center shall promptly notify the department of a revocation.

21           (6) Qualified expenditures for the rehabilitation of an  
22 historic resource may be used to calculate the credit under this  
23 section if the historic resource meets 1 of the criteria listed in  
24 subdivision (a) and 1 of the criteria listed in subdivision (b):

25           (a) The resource is 1 of the following during the tax year in  
26 which a credit under this section is claimed for those qualified  
27 expenditures:

1           (i) Individually listed on the national register of historic  
2 places or state register of historic sites.

3           (ii) A contributing resource located within an historic  
4 district listed on the national register of historic places or the  
5 state register of historic sites.

6           (iii) A contributing resource located within an historic  
7 district designated by a local unit pursuant to an ordinance  
8 adopted under the local historic districts act, 1970 PA 169, MCL  
9 399.201 to 399.215.

10          (b) The resource meets 1 of the following criteria during the  
11 tax year in which a credit under this section is claimed for those  
12 qualified expenditures:

13           (i) The historic resource is located in a designated historic  
14 district in a local unit of government with an existing ordinance  
15 under the local historic districts act, 1970 PA 169, MCL 399.201 to  
16 399.215.

17           (ii) The historic resource is located in an incorporated local  
18 unit of government that does not have an ordinance under the local  
19 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and  
20 has a population of less than 5,000.

21           (iii) The historic resource is located in an unincorporated  
22 local unit of government.

23           (iv) The historic resource is located in an incorporated local  
24 unit of government that does not have an ordinance under the local  
25 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is  
26 located within the boundaries of an association that has been  
27 chartered under 1889 PA 39, MCL 455.51 to 455.72.

1           (7) If a qualified taxpayer is a partnership, limited  
2 liability company, or subchapter S corporation, the qualified  
3 taxpayer may assign all or any portion of a credit allowed under  
4 this section to its partners, members, or shareholders, based on  
5 the partner's, member's, or shareholder's proportionate share of  
6 ownership or based on an alternative method approved by the  
7 department. A credit assignment under this subsection is  
8 irrevocable and shall be made in the tax year in which a  
9 certificate of completed rehabilitation is issued. A qualified  
10 taxpayer may claim a portion of a credit and assign the remaining  
11 credit amount. A partner, member, or shareholder that is an  
12 assignee shall not subsequently assign a credit or any portion of a  
13 credit assigned to the partner, member, or shareholder under this  
14 subsection. A credit amount assigned under this subsection may be  
15 claimed against the partner's, member's, or shareholder's tax  
16 liability under this act or under the income tax act of 1967, 1967  
17 PA 281, MCL 206.1 to 206.532. A credit assignment under this  
18 subsection shall be made on a form prescribed by the department.  
19 The qualified taxpayer and assignees shall send a copy of the  
20 completed assignment form to the department in the tax year in  
21 which the assignment is made and attach a copy of the completed  
22 assignment form to the annual return required to be filed under  
23 this act for that tax year.

24           (8) If the credit allowed under this section for the tax year  
25 and any unused carryforward of the credit allowed by this section  
26 exceed the taxpayer's tax liability for the tax year, that portion  
27 that exceeds the tax liability for the tax year shall not be

1 refunded but may be carried forward to offset tax liability in  
2 subsequent tax years for 10 years or until used up, whichever  
3 occurs first. An unused carryforward of a credit under section 39c  
4 of former 1975 PA 228 that was unused at the end of the last tax  
5 year for which former 1975 PA 228 was in effect may be claimed  
6 against the tax imposed under this act for the years the  
7 carryforward would have been available under section 39c of former  
8 1975 PA 228.

9 (9) If the taxpayer sells an historic resource for which a  
10 credit was claimed under this section or under section 39c of  
11 former 1975 PA 228 less than 5 years after the year in which the  
12 credit was claimed, the following percentage of the credit amount  
13 previously claimed relative to that historic resource shall be  
14 added back to the tax liability of the taxpayer in the year of the  
15 sale:

16 (a) If the sale is less than 1 year after the year in which  
17 the credit was claimed, 100%.

18 (b) If the sale is at least 1 year but less than 2 years after  
19 the year in which the credit was claimed, 80%.

20 (c) If the sale is at least 2 years but less than 3 years  
21 after the year in which the credit was claimed, 60%.

22 (d) If the sale is at least 3 years but less than 4 years  
23 after the year in which the credit was claimed, 40%.

24 (e) If the sale is at least 4 years but less than 5 years  
25 after the year in which the credit was claimed, 20%.

26 (f) If the sale is 5 years or more after the year in which the  
27 credit was claimed, an addback to the taxpayer's tax liability

1 shall not be made.

2 (10) If a certification of completed rehabilitation is revoked  
3 under subsection (5) less than 5 years after the year in which a  
4 credit was claimed under this section or under section 39c of  
5 former 1975 PA 228, the following percentage of the credit amount  
6 previously claimed relative to that historic resource shall be  
7 added back to the tax liability of the taxpayer in the year of the  
8 revocation:

9 (a) If the revocation is less than 1 year after the year in  
10 which the credit was claimed, 100%.

11 (b) If the revocation is at least 1 year but less than 2 years  
12 after the year in which the credit was claimed, 80%.

13 (c) If the revocation is at least 2 years but less than 3  
14 years after the year in which the credit was claimed, 60%.

15 (d) If the revocation is at least 3 years but less than 4  
16 years after the year in which the credit was claimed, 40%.

17 (e) If the revocation is at least 4 years but less than 5  
18 years after the year in which the credit was claimed, 20%.

19 (f) If the revocation is 5 years or more after the year in  
20 which the credit was claimed, an addback to the taxpayer's tax  
21 liability shall not be made.

22 (11) The department of history, arts, and libraries through  
23 the Michigan historical center may impose a fee to cover the  
24 administrative cost of implementing the program under this section.

25 (12) The qualified taxpayer shall attach all of the following  
26 to the qualified taxpayer's annual return required under this act  
27 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to

1 206.532, if applicable, on which the credit is claimed:

2 (a) Certification of completed rehabilitation.

3 (b) Certification of historic significance related to the  
4 historic resource and the qualified expenditures used to claim a  
5 credit under this section.

6 (c) A completed assignment form if the qualified taxpayer has  
7 assigned any portion of a credit allowed under this section to a  
8 partner, member, or shareholder or if the taxpayer is an assignee  
9 of any portion of a credit allowed under this section.

10 (13) The department of history, arts, and libraries shall  
11 promulgate rules to implement this section pursuant to the  
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
13 24.328.

14 (14) The total of the credits claimed under this section and  
15 section 266 of the income tax act of 1967, 1967 PA 281, MCL  
16 206.266, for a rehabilitation project shall not exceed 25% of the  
17 total qualified expenditures eligible for the credit under this  
18 section for that rehabilitation project.

19 (15) The department of history, arts, and libraries through  
20 the Michigan historical center shall report all of the following to  
21 the legislature annually for the immediately preceding state fiscal  
22 year:

23 (a) The fee schedule used by the center and the total amount  
24 of fees collected.

25 (b) A description of each rehabilitation project certified.

26 (c) The location of each new and ongoing rehabilitation  
27 project.

1 ~~—— (16) For purposes of this section, taxpayer includes a person~~  
2 ~~subject to the tax imposed under chapter 2A or 2B.~~

3 (16) ~~(17)~~As used in this section:

4 (a) "Contributing resource" means an historic resource that  
5 contributes to the significance of the historic district in which  
6 it is located.

7 (b) "Historic district" means an area, or group of areas not  
8 necessarily having contiguous boundaries, that contains 1 resource  
9 or a group of resources that are related by history, architecture,  
10 archaeology, engineering, or culture.

11 (c) "Historic resource" means a publicly or privately owned  
12 historic building, structure, site, object, feature, or open space  
13 located within an historic district designated by the national  
14 register of historic places, the state register of historic sites,  
15 or a local unit acting under the local historic districts act, 1970  
16 PA 169, MCL 399.201 to 399.215, or that is individually listed on  
17 the state register of historic sites or national register of  
18 historic places, and includes all of the following:

19 (i) An owner-occupied personal residence or a historic resource  
20 located within the property boundaries of that personal residence.

21 (ii) An income-producing commercial, industrial, or residential  
22 resource or an historic resource located within the property  
23 boundaries of that resource.

24 (iii) A resource owned by a governmental body, nonprofit  
25 organization, or tax-exempt entity that is used primarily by a  
26 taxpayer lessee in a trade or business unrelated to the  
27 governmental body, nonprofit organization, or tax-exempt entity and

1 that is subject to tax under this act.

2 (iv) A resource that is occupied or utilized by a governmental  
3 body, nonprofit organization, or tax-exempt entity pursuant to a  
4 long-term lease or lease with option to buy agreement.

5 (v) Any other resource that could benefit from rehabilitation.

6 (d) "Last tax year" means the taxpayer's tax year under former  
7 1975 PA 228 that begins after December 31, 2006 and before January  
8 1, 2008.

9 (e) "Local unit" means a county, city, village, or township.

10 (f) "Long-term lease" means a lease term of at least 27.5  
11 years for a residential resource or at least 31.5 years for a  
12 nonresidential resource.

13 (g) "Michigan historical center" or "center" means the state  
14 historic preservation office of the Michigan historical center of  
15 the department of history, arts, and libraries or its successor  
16 agency.

17 (h) "Open space" means undeveloped land, a naturally  
18 landscaped area, or a formal or man-made landscaped area that  
19 provides a connective link or a buffer between other resources.

20 (i) "Person" means an individual, partnership, corporation,  
21 association, governmental entity, or other legal entity.

22 (j) "Qualified expenditures" means capital expenditures that  
23 qualify for a rehabilitation credit under section 47(a)(2) of the  
24 internal revenue code if the taxpayer is eligible for the credit  
25 under section 47(a)(2) of the internal revenue code or, if the  
26 taxpayer is not eligible for the credit under section 47(a)(2) of  
27 the internal revenue code, the qualified expenditures that would



1 qualify under section 47(a)(2) of the internal revenue code except  
2 that the expenditures are made to an historic resource that is not  
3 eligible for the credit under section 47(a)(2) of the internal  
4 revenue code that were paid not more than 5 years after the  
5 certification of the rehabilitation plan that included those  
6 expenditures was approved by the center, and that were paid after  
7 December 31, 1998 for the rehabilitation of an historic resource.  
8 Qualified expenditures do not include capital expenditures for  
9 nonhistoric additions to an historic resource except an addition  
10 that is required by state or federal regulations that relate to  
11 historic preservation, safety, or accessibility.

12 (k) "Qualified taxpayer" means a person that is an assignee  
13 under subsection (7) or either owns the resource to be  
14 rehabilitated or has a long-term lease agreement with the owner of  
15 the historic resource and that has qualified expenditures for the  
16 rehabilitation of the historic resource equal to or greater than  
17 10% of the state equalized valuation of the property. If the  
18 historic resource to be rehabilitated is a portion of an historic  
19 or nonhistoric resource, the state equalized valuation of only that  
20 portion of the property shall be used for purposes of this  
21 subdivision. If the assessor for the local tax collecting unit in  
22 which the historic resource is located determines the state  
23 equalized valuation of that portion, that assessor's determination  
24 shall be used for purposes of this subdivision. If the assessor  
25 does not determine that state equalized valuation of that portion,  
26 qualified expenditures, for purposes of this subdivision, shall be  
27 equal to or greater than 5% of the appraised value as determined by

1 a certified appraiser. If the historic resource to be rehabilitated  
2 does not have a state equalized valuation, qualified expenditures  
3 for purposes of this subdivision shall be equal to or greater than  
4 5% of the appraised value of the resource as determined by a  
5 certified appraiser.

6 (l) "Rehabilitation plan" means a plan for the rehabilitation  
7 of an historic resource that meets the federal secretary of the  
8 interior's standards for rehabilitation and guidelines for  
9 rehabilitation of historic buildings under 36 CFR part 67.

10 Sec. 437. (1) Subject to the criteria under this section, a  
11 qualified taxpayer that has unused credits or has a preapproval  
12 letter issued after December 31, 2007 and before January 1, 2013,  
13 or a taxpayer that received a preapproval letter prior to January  
14 1, 2008 under section 38g of former 1975 PA 228 and has not  
15 received a certificate of completion prior to the taxpayer's last  
16 tax year, provided that the project is completed not more than 5  
17 years after the preapproval letter for the project is issued unless  
18 extended under subsection (9) or if it is a multiphase project not  
19 more than 10 years after the preapproval letter, as amended, if  
20 applicable, for the project is issued, or an assignee under  
21 subsection (20), (21), or (22) may claim a credit that has been  
22 approved under section 38g of former 1975 PA 228 or under  
23 subsection (2), (3), or (4) against the tax imposed by this act  
24 equal to either of the following:

25 (a) For projects approved before ~~the effective date of the~~  
26 ~~amendatory act that added subsection (33)~~ **APRIL 8, 2008**, if the  
27 total of all credits for a project is \$1,000,000.00 or less, 10% of

1 the cost of the qualified taxpayer's eligible investment paid or  
2 accrued by the qualified taxpayer on an eligible property provided  
3 that the project does not exceed the amount stated in the  
4 preapproval letter, as amended. For projects approved on and after  
5 ~~the effective date of the amendatory act that added subsection (33)~~  
6 **APRIL 8, 2008**, if the total of all eligible investments for a  
7 project are \$10,000,000.00 or less, up to 12.5% of the costs of the  
8 qualified taxpayer's eligible investment paid or accrued by the  
9 qualified taxpayer on an eligible property or up to 15% of the  
10 costs of the qualified taxpayer's eligible investment paid or  
11 accrued by the qualified taxpayer on an eligible property if the  
12 project is designated as an urban development area project by the  
13 Michigan economic growth authority to the extent that the project  
14 does not exceed the amount stated in the preapproval letter, as  
15 amended, or, until December 31, 2010, up to 20% of the costs of the  
16 qualified taxpayer's eligible investment paid or accrued by the  
17 qualified taxpayer on an eligible property if the project is  
18 designated as an urban development area project by the Michigan  
19 economic growth authority. If eligible investment exceeds the  
20 amount of eligible investment in the preapproval letter, as  
21 amended, for that project, the total of all credits for the project  
22 shall not exceed the total of all credits on the certificate of  
23 completion.

24 (b) For projects approved before ~~the effective date of the~~  
25 ~~amendatory act that added subsection (33)~~ **APRIL 8, 2008**, if the  
26 total of all credits for a project is more than \$1,000,000.00 but  
27 \$30,000,000.00 or less and, except as provided in subsection

1 (6) (b), the project is located in a qualified local governmental  
2 unit, a percentage as determined by the Michigan economic growth  
3 authority not to exceed 10% of the cost of the qualified taxpayer's  
4 eligible investment as determined under subsection (11) paid or  
5 accrued by the qualified taxpayer on an eligible property. For  
6 projects approved on and after ~~the effective date of the amendatory~~  
7 ~~act that added subsection (33)~~ **APRIL 8, 2008**, if the total of all  
8 eligible investments for a project is more than \$10,000,000.00 but  
9 \$300,000,000.00 or less, up to 12.5% of the costs of the qualified  
10 taxpayer's eligible investment as determined under subsection (11)  
11 paid or accrued by the qualified taxpayer on an eligible property  
12 that, except as provided in subsection (6) (b), is located in a  
13 qualified local governmental unit, up to 15% of the cost of the  
14 qualified taxpayer's eligible investment as determined under  
15 subsection (11) paid or accrued by the qualified taxpayer on an  
16 eligible property if the project is designated as an urban  
17 development area project by the Michigan economic growth authority,  
18 or, until December 31, 2010, up to 20% of the costs of the  
19 qualified taxpayer's eligible investment as determined under  
20 subsection (11) paid or accrued by the qualified taxpayer on an  
21 eligible property if the project is designated as an urban  
22 development area project by the Michigan economic growth authority.  
23 If eligible investment exceeds the amount of eligible investment in  
24 the preapproval letter, as amended, for that project, the total of  
25 all credits for the project shall not exceed the total of all  
26 credits on the certificate of completion.

27 (2) If the cost of a project will be \$2,000,000.00 or less, a

1 qualified taxpayer shall apply to the Michigan economic growth  
2 authority for approval of the project under this subsection. An  
3 application under this subsection shall state whether the project  
4 is a multiphase project. Subject to the limitation provided under  
5 subsection ~~(31)~~(30), the chairperson of the Michigan economic  
6 growth authority or his or her designee is authorized to approve an  
7 application or project under this subsection. Only the chairperson  
8 of the Michigan economic growth authority is authorized to deny an  
9 application or project under this subsection. A project shall be  
10 approved or denied not more than 45 days after receipt of the  
11 application. If the chairperson of the Michigan economic growth  
12 authority or his or her designee does not approve or deny the  
13 application within 45 days after the application is received by the  
14 Michigan economic growth authority, the application is considered  
15 approved as written. If the chairperson of the Michigan economic  
16 growth authority or his or her designee approves a project under  
17 this subsection, the chairperson of the Michigan economic growth  
18 authority or his or her designee shall issue a preapproval letter  
19 that states that the taxpayer is a qualified taxpayer; the maximum  
20 total eligible investment for the project on which credits may be  
21 claimed and the maximum total of all credits for the project when  
22 the project is completed and a certificate of completion is issued;  
23 and the project number assigned by the Michigan economic growth  
24 authority. If a project is denied under this subsection, a taxpayer  
25 is not prohibited from subsequently applying under this subsection  
26 for the same project or for another project. The Michigan economic  
27 growth authority shall develop and implement the use of the

1 application form to be used for projects under this subsection.

2 (3) If the cost of a project will be for more than  
3 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer  
4 shall apply to the Michigan economic growth authority for approval  
5 of the project under this subsection. An application under this  
6 subsection shall state whether the project is a multiphase project.  
7 Subject to the limitation provided under subsection ~~(31)~~(30), the  
8 chairperson of the Michigan economic growth authority or his or her  
9 designee is authorized to approve an application or project under  
10 this subsection. Only the chairperson of the Michigan economic  
11 growth authority is authorized to deny an application or project  
12 under this subsection. A project shall be approved or denied not  
13 more than 45 days after receipt of the application. If the  
14 chairperson of the Michigan economic growth authority or his or her  
15 designee does not approve or deny an application within 45 days  
16 after the application is received by the Michigan economic growth  
17 authority, the application is considered approved as written. The  
18 criteria in subsection (7) shall be used when approving projects  
19 under this subsection. When approving projects under this  
20 subsection, priority shall be given to projects on a facility. The  
21 total of all credits for an approved project under this subsection  
22 shall not exceed the amounts authorized under subsection (1)(a). A  
23 taxpayer may apply under this subsection instead of subsection (4)  
24 for approval of a project that will be for more than  
25 \$10,000,000.00, but the total of all credits for that project shall  
26 not exceed the amounts authorized under subsection (1)(a). If the  
27 chairperson of the Michigan economic growth authority or his or her

1 designee approves a project under this subsection, the chairperson  
2 of the Michigan economic growth authority or his or her designee  
3 shall issue a preapproval letter that states that the taxpayer is a  
4 qualified taxpayer; the maximum total eligible investment for the  
5 project on which credits may be claimed and the maximum total of  
6 all credits for the project when the project is completed and a  
7 certificate of completion is issued; and the project number  
8 assigned by the Michigan economic growth authority. If a project is  
9 denied under this subsection, a taxpayer is not prohibited from  
10 subsequently applying under this subsection or subsection (4) for  
11 the same project or for another project.

12 (4) If the cost of a project will be for more than  
13 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
14 project is located in a qualified local governmental unit, a  
15 qualified taxpayer shall apply to the Michigan economic growth  
16 authority for approval of the project. An application under this  
17 subsection shall state whether the project is a multiphase project.  
18 The Michigan economic growth authority shall approve or deny the  
19 project not more than 65 days after receipt of the application. A  
20 project under this subsection shall not be approved without the  
21 concurrence of the state treasurer. If the Michigan economic growth  
22 authority does not approve or deny the application within 65 days  
23 after it receives the application, the Michigan economic growth  
24 authority shall send the application to the state treasurer. The  
25 state treasurer shall approve or deny the application within 5 days  
26 after receipt of the application. If the state treasurer does not  
27 deny the application within 5 days after receipt of the

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

27 (5) If the project is on property that is functionally



1 obsolete, the taxpayer shall include with the application an  
2 affidavit signed by a level 3 or level 4 assessor, that states that  
3 it is the assessor's expert opinion that the property is  
4 functionally obsolete and the underlying basis for that opinion.

5 (6) The Michigan economic growth authority may approve not  
6 more than 20 projects each calendar year under subsection (4), and  
7 the following limitations apply:

8 (a) Of the 20 projects allowed under this subsection, the  
9 total of all credits for each project may be more than  
10 \$10,000,000.00 but \$30,000,000.00 or less for only 1 project.

11 (b) Of the 20 projects allowed under this subsection, up to 3  
12 projects may be approved for projects that are not in a qualified  
13 local governmental unit if the property is a facility for which  
14 eligible activities are identified in a brownfield plan or, for 1  
15 of the 3 projects, if the property is not a facility but is  
16 functionally obsolete or blighted, property identified in a  
17 brownfield plan. For purposes of this subdivision, a facility  
18 includes a building or complex of buildings that was used by a  
19 state or federal agency and that is no longer being used for the  
20 purpose for which it was used by the state or federal agency.

21 (c) The project allowed under subdivision (a) may also qualify  
22 under subdivision (b).

23 (7) The Michigan economic growth authority shall review all  
24 applications for projects under subsection (4) and, if an  
25 application is approved, shall determine the maximum total of all  
26 credits for that project. Before approving a project for which the  
27 total of all credits will be more than \$10,000,000.00 but

1 \$30,000,000.00 or less only, the Michigan economic growth authority  
2 shall determine that the project would not occur in this state  
3 without the tax credit offered under subsection (4). The Michigan  
4 economic growth authority shall consider the following criteria to  
5 the extent reasonably applicable to the type of project proposed  
6 when approving a project under subsection (4), and the chairperson  
7 of the Michigan economic growth authority or his or her designee  
8 shall consider the following criteria to the extent reasonably  
9 applicable to the type of project proposed when approving a project  
10 under subsection (2) or (3) or when considering an amendment to a  
11 project under subsection (9):

12 (a) The overall benefit to the public.

13 (b) The extent of reuse of vacant buildings and redevelopment  
14 of blighted property.

15 (c) Creation of jobs.

16 (d) Whether the eligible property is in an area of high  
17 unemployment.

18 (e) The level and extent of contamination alleviated by the  
19 qualified taxpayer's eligible activities to the extent known to the  
20 qualified taxpayer.

21 (f) The level of private sector contribution.

22 (g) The cost gap that exists between the site and a similar  
23 greenfield site as determined by the Michigan economic growth  
24 authority.

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

27 (i) Whether the project is financially and economically sound.

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

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

10           (9) If, after a taxpayer's project has been approved and the  
11 taxpayer has received a preapproval letter but before the taxpayer  
12 has made an eligible investment, other than soft costs, at the  
13 property, the taxpayer determines that the project cannot be  
14 completed as preapproved, the taxpayer may petition the Michigan  
15 economic growth authority to amend the project and the preapproval  
16 letter to increase the maximum total eligible investment for the  
17 project on which credits may be claimed and the maximum total of  
18 all credits for the project. A taxpayer may petition the Michigan  
19 economic growth authority to make any other amendments to the  
20 project or preapproval letter at any time before a certificate of  
21 completion is issued. Amendments to the project or preapproval  
22 letter may include, but are not limited to, extending the duration  
23 of time provided to complete the project, as long as that extension  
24 does not exceed 10 years from the date of the preapproval letter.

25           (10) A project may be a multiphase project. If a project is a  
26 multiphase project, when each component of the multiphase project  
27 is completed, the taxpayer shall submit documentation that the

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

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

23 (11) When a project under this section is completed, the  
24 taxpayer shall submit documentation that the project is completed,  
25 an accounting of the cost of the project, the eligible investment  
26 of each taxpayer if there is more than 1 taxpayer eligible for a  
27 credit for the project, and, if the taxpayer is not the owner or

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

- 21 (a) That the taxpayer is a qualified taxpayer.
- 22 (b) The total cost of the project and the eligible investment  
23 of each qualified taxpayer.
- 24 (c) Each qualified taxpayer's credit amount.
- 25 (d) The qualified taxpayer's federal employer identification  
26 number or the Michigan treasury number assigned to the taxpayer.
- 27 (e) The project number.

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

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

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

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

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

27           (15) Each qualified taxpayer and assignee under subsection

1 (20), (21), or (22) that claims a credit under this section shall  
2 attach a copy of the certificate of completion and, if the credit  
3 was assigned, a copy of the assignment form provided for under this  
4 section to the annual return filed under this act on which the  
5 credit under this section is claimed. An assignee of a credit based  
6 on a multiphase project shall attach a copy of the assignment form  
7 provided for under this section and the component completion  
8 certificate provided for in subsection (10) to the annual return  
9 filed under this act on which the credit is claimed but is not  
10 required to file a copy of a certificate of completion.

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

20 (17) Except as otherwise provided under this subsection, the  
21 credits approved under this section shall be calculated after  
22 application of all other credits allowed under this act. The  
23 credits under this section shall be calculated before the  
24 calculation of the credits under sections 413, 423, 431, and 450.

25 (18) Except as otherwise provided under this subsection, if  
26 the credit allowed under this section for the tax year and any  
27 unused carryforward of the credit allowed under this section exceed



1 the qualified taxpayer's or assignee's tax liability for the tax  
2 year, that portion that exceeds the tax liability for the tax year  
3 shall not be refunded but may be carried forward to offset tax  
4 liability in subsequent tax years for 10 years or until used up,  
5 whichever occurs first. Except as otherwise provided in this  
6 subsection, the maximum time allowed under the carryforward  
7 provisions under this subsection begins with the tax year in which  
8 the certificate of completion is issued to the qualified taxpayer.  
9 If the qualified taxpayer assigns all or any portion of its credit  
10 approved under this section, the maximum time allowed under the  
11 carryforward provisions for an assignee begins to run with the tax  
12 year in which the assignment is made and the assignee first claims  
13 a credit, which shall be the same tax year. The maximum time  
14 allowed under the carryforward provisions for an annual credit  
15 amount for a credit allowed under subsection (4) begins to run in  
16 the tax year for which the annual credit amount is designated on  
17 the certificate of completion issued under this section. A credit  
18 carryforward available under section 38g of former 1975 PA 228 that  
19 is unused at the end of the last tax year may be claimed against  
20 the tax imposed under act for the years the carryforward would have  
21 been available under former 1975 PA 228. Beginning on and after ~~the~~  
22 ~~effective date of the amendatory act that added subsection (33)~~  
23 **APRIL 8, 2008**, if the credit allowed under this section for the tax  
24 year exceeds the qualified taxpayer's tax liability for the tax  
25 year, the qualified taxpayer may elect to have the excess refunded  
26 at a rate equal to 85% of that portion of the credit that exceeds  
27 the tax liability of the qualified taxpayer for the tax year and

1 forgo the remaining 15% of the credit and any carryforward.

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

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

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

1 of the completed assignment form to the Michigan economic growth  
2 authority in the tax year in which the assignment is made. The  
3 assignee shall attach a copy of the completed assignment form to  
4 its annual return required to be filed under this act, for the tax  
5 year in which the assignment is made and the assignee first claims  
6 a credit, which shall be the same tax year. In addition to all  
7 other procedures under this subsection, the following apply if the  
8 total of all credits for a project is more than \$10,000,000.00 but  
9 \$30,000,000.00 or less:

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

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

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

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

20 (21) Except as otherwise provided in this subsection, for  
21 projects for which a certificate of completion is issued before  
22 January 1, 2006, and except as otherwise provided in this  
23 subsection, if a qualified taxpayer is a partnership, limited  
24 liability company, or subchapter S corporation, the qualified  
25 taxpayer may assign all or a portion of a credit under this section  
26 to its partners, members, or shareholders, based on their  
27 proportionate share of ownership of the partnership, limited

1 liability company, or subchapter S corporation or based on an  
2 alternative method approved by the Michigan economic growth  
3 authority. A credit assignment under this subsection is irrevocable  
4 and, except for a credit assignment based on a multiphase project,  
5 shall be made in the tax year in which a certificate of completion  
6 is issued. A qualified taxpayer may claim a portion of a credit and  
7 assign the remaining credit amount. Except as otherwise provided in  
8 this 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 a certificate of  
11 completion is issued or for a credit assigned and claimed for a  
12 multiphase project, before the component completion certificate is  
13 issued, the taxpayer shall claim the credit in the year in which  
14 the credit is assigned. A partner, member, or shareholder that is  
15 an assignee shall not subsequently assign a credit or any portion  
16 of a credit assigned under this subsection. The credit assignment  
17 under this subsection shall be made on a form prescribed by the  
18 Michigan economic growth authority. The qualified taxpayer shall  
19 send a copy of the completed assignment form to the Michigan  
20 economic growth authority in the tax year in which the assignment  
21 is made. A partner, member, or shareholder who is an assignee shall  
22 attach a copy of the completed assignment form to its annual return  
23 required under this act, for the tax year in which the assignment  
24 is made and the assignee first claims a credit, which shall be the  
25 same tax year. A credit assignment based on a credit for a  
26 component of a multiphase project that is completed before January  
27 1, 2006 shall be made under this subsection. In addition to all

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

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

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

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

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

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

1 taxpayer may claim a portion of a credit and assign the remaining  
2 credit amount. If the qualified taxpayer both claims and assigns  
3 portions of the credit, the qualified taxpayer shall claim the  
4 portion it claims in the tax year in which a certificate of  
5 completion is issued pursuant to this section or section 38g of  
6 former 1975 PA 228. An assignee may subsequently assign a credit or  
7 any portion of a credit assigned under this subsection to 1 or more  
8 assignees. The credit assignment or a subsequent reassignment under  
9 this subsection shall be made on a form prescribed by the Michigan  
10 economic growth authority. The Michigan economic growth authority  
11 or its designee shall review and issue a completed assignment or  
12 reassignment certificate to the assignee or reassignee. An assignee  
13 or subsequent reassignee shall attach a copy of the completed  
14 assignment certificate to its annual return required under this  
15 act, for the tax year in which the assignment or reassignment is  
16 made and the assignee or reassignee first claims a credit, which  
17 shall be the same tax year. A credit assignment based on a credit  
18 for a component of a multiphase project that is completed before  
19 January 1, 2006 shall be made under section 38g(18) of former 1975  
20 PA 228. A credit assignment based on a credit for a component of a  
21 multiphase project that is completed on or after January 1, 2006  
22 may be made under this section. In addition to all other procedures  
23 and requirements under this section, the following apply if the  
24 total of all credits for a project is more than \$10,000,000.00 but  
25 \$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 of  
6 each annual credit amount to any assignee.

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

11 (24) When reviewing an application for a project for  
12 designation as an urban development area project, the Michigan  
13 economic growth authority for projects approved under subsection  
14 (4) or the chairperson of the Michigan economic growth authority or  
15 his or her designee for projects approved under subsections (2) and  
16 (3) shall consider all of the following criteria:

17 (a) If the project increases the density of the area by  
18 promoting multistory development.

19 (b) If the project promotes mixed-use development and walkable  
20 communities.

21 (c) If the project promotes sustainable redevelopment.

22 (d) If the project addresses areawide redevelopment and  
23 includes multiple parcels of property.

24 (e) If the project addresses underserved markets of commerce.

25 (f) Any other criteria determined by the Michigan economic  
26 growth authority or the chairperson of the Michigan economic growth  
27 authority.



1           (25) An eligible taxpayer that claims a credit under this  
2 section is not prohibited from claiming a credit under section 431.  
3 However, the eligible taxpayer shall not claim a credit under this  
4 section and section 431 based on the same costs.

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

15           (27) Eligible investment attributable or related to the  
16 operation of a casino, and eligible investment that is associated  
17 or affiliated with the operation of a casino, including, but not  
18 limited to, the operation of a parking lot, hotel, motel, or retail  
19 store, shall not be used as a basis for a credit under this  
20 section. As used in this subsection, "casino" means a casino  
21 regulated by this state pursuant to the Michigan gaming control and  
22 revenue act, 1996 IL 1, MCL 432.201 to 432.226.

23           (28) Eligible investment attributable or related to the  
24 construction of a new landfill or the expansion of an existing  
25 landfill regulated under part 115 of the natural resources and  
26 environmental protection act, 1994 PA 451, MCL 324.11501 to  
27 324.11550, shall not be used as a basis for a credit under this

1 section.

2 (29) The Michigan economic growth authority annually shall  
3 prepare and submit to the house of representatives and senate  
4 committees responsible for tax policy and economic development  
5 issues a report on the credits under subsections (2), (3), and (4).  
6 The report shall include, but is not limited to, all of the  
7 following:

8 (a) A listing of the projects under subsections (2), (3), and  
9 (4) that were approved in the calendar year.

10 (b) The total amount of eligible investment for projects  
11 approved under subsections (2), (3), and (4) in the calendar year.

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

14 (30) ~~(31)~~ For the 2008 calendar year, the total of all credits  
15 for all projects approved under subsection (2) or (3) shall not  
16 exceed \$63,000,000.00. For each calendar year after 2008, the total  
17 of all credits for all projects approved under subsection (2) or  
18 (3) shall not exceed \$40,000,000.00. If the Michigan economic  
19 growth authority approves a total of all credits for all projects  
20 under subsection (2) or (3) of less than \$40,000,000.00 in a  
21 calendar year, the Michigan economic growth authority may carry  
22 forward for 1 year only the difference between \$40,000,000.00 and  
23 the total of all credits for all projects under this subsection  
24 approved in the immediately preceding calendar year.

25 (31) ~~(32)~~ As used in this section:

26 (a) "Annual credit amount" means the maximum amount that a  
27 qualified taxpayer is eligible to claim each tax year for a project

1 for which the total of all credits is more than \$10,000,000.00 but  
2 \$30,000,000.00 or less, as approved under subsection (4).

3 (b) "Authority" means a brownfield redevelopment authority  
4 created under the brownfield redevelopment financing act, 1996 PA  
5 381, MCL 125.2651 to 125.2672.

6 (c) "Blighted", "brownfield plan", "eligible activities",  
7 "facility", "functionally obsolete", "qualified local governmental  
8 unit", and "response activity" mean those terms as defined in the  
9 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651  
10 to 125.2672.

11 (d) "Eligible investment" or "eligible investments" means,  
12 when made after the approval date of the brownfield plan but in any  
13 event no earlier than 90 days prior to the date of the preapproval  
14 letter, any demolition, construction, restoration, alteration,  
15 renovation, or improvement of buildings or site improvements on  
16 eligible property and the addition of machinery, equipment, and  
17 fixtures to eligible property after the date that eligible  
18 activities on that eligible property have started pursuant to a  
19 brownfield plan under the brownfield redevelopment financing act,  
20 1996 PA 381, MCL 125.2651 to 125.2672, if the costs of the eligible  
21 investment are not otherwise reimbursed to the taxpayer or paid for  
22 on behalf of the taxpayer from any source other than the taxpayer.  
23 The addition of leased machinery, equipment, or fixtures to  
24 eligible property by a lessee of the machinery, equipment, or  
25 fixtures is eligible investment if the lease of the machinery,  
26 equipment, or fixtures has a minimum term of 10 years or is for the  
27 expected useful life of the machinery, equipment, or fixtures, and

1 if the owner of the machinery, equipment, or fixtures is not the  
2 qualified taxpayer with regard to that machinery, equipment, or  
3 fixtures. For projects approved after ~~the effective date of the~~  
4 ~~amendatory act that added subsection (33)~~ **APRIL 8, 2008**, eligible  
5 investment does not include certain soft costs of the eligible  
6 investment as determined by the Michigan economic growth authority,  
7 including, but not limited to, developer fees, appraisals,  
8 performance bonds, closing costs, bank fees, loan fees, risk  
9 contingencies, financing costs, permanent or construction period  
10 interest, legal expenses, leasing or sales commissions, marketing  
11 costs, professional fees, shared savings, taxes, title insurance,  
12 bank inspection fees, insurance, and project management fees.  
13 Notwithstanding the foregoing, eligible investment does include  
14 architectural, engineering, surveying, and similar professional  
15 fees.

16 (e) "Eligible property", except as otherwise provided under  
17 subsection ~~(33)~~ **(32)**, means property for which eligible activities  
18 are identified under a brownfield plan that was used or is  
19 currently used for commercial, industrial, public, or residential  
20 purposes, including personal property located on the property, to  
21 the extent included in the brownfield plan, and that is 1 or more  
22 of the following:

23 (i) Is in a qualified local governmental unit and is a  
24 facility, functionally obsolete, or blighted and includes parcels  
25 that are adjacent or contiguous to that property if the development  
26 of the adjacent and contiguous parcels is estimated to increase the  
27 captured taxable value of that property.

1           (ii) Is not in a qualified local governmental unit and is a  
2 facility, and includes parcels that are adjacent or contiguous to  
3 that property if the development of the adjacent and contiguous  
4 parcels is estimated to increase the captured taxable value of that  
5 property.

6           (iii) Is tax reverted property owned or under the control of a  
7 land bank fast track authority.

8           (f) "Last tax year" means the taxpayer's tax year under former  
9 1975 PA 228 that begins after December 31, 2006 and before January  
10 1, 2008.

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

14           (h) "Multiphase project" means a project approved under this  
15 section that has more than 1 component, each of which can be  
16 completed separately.

17           (i) "Personal property" means that term as defined in section  
18 8 of the general property tax act, 1893 PA 206, MCL 211.8, except  
19 that personal property does not include either of the following:

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

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

24           (j) "Project" means the total of all eligible investment on an  
25 eligible property or, for purposes of subsection (6)(b), 1 of the  
26 following:

27           (i) All eligible investment on property not in a qualified

1 local governmental unit that is a facility.

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

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

7 (l) "Qualified taxpayer" means a taxpayer that meets both of  
8 the following criteria:

9 (i) Owns, leases, or has entered into an agreement to purchase  
10 or lease eligible property.

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

26 (m) "Urban development area project" means a project located  
27 on eligible property in the downtown or traditional central

1 business district of a qualified local governmental unit or county  
2 seat or along a traditional commercial corridor of a qualified  
3 local governmental unit or county seat as determined by the  
4 Michigan economic growth authority or the chairperson of the  
5 Michigan economic growth authority or his or her designee.

6 (32) ~~(33)~~—For purposes of subsection (2), eligible property  
7 means that term as defined under subsection ~~(32)(e)~~—(31) (E) except  
8 that all of the following apply:

9 (a) Eligible property means property identified under a  
10 brownfield plan that was used or is currently used for commercial,  
11 industrial, public, or residential purposes and that is 1 of the  
12 following:

13 (i) Property for which eligible activities are identified under  
14 the brownfield plan, is in a qualified local governmental unit, and  
15 is a facility, functionally obsolete, or blighted.

16 (ii) Property that is not in a qualified local governmental  
17 unit but is within a downtown development district established  
18 under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally  
19 obsolete or blighted, and a component of the project on that  
20 eligible property is 1 or more of the following:

21 (A) Infrastructure improvements that directly benefit the  
22 eligible property.

23 (B) Demolition of structures that is not response activity  
24 under section 20101 of the natural resources and environmental  
25 protection act, 1994 PA 451, MCL 324.20101.

26 (C) Lead or asbestos abatement.

27 (D) Site preparation that is not response activity under

1 section 20101 of the natural resources and environmental protection  
2 act, 1994 PA 451, MCL 324.20101.

3 (iii) Property for which eligible activities are identified  
4 under the brownfield plan, is not in a qualified local governmental  
5 unit, and is a facility.

6 (b) Eligible property includes parcels that are adjacent or  
7 contiguous to the eligible property if the development of the  
8 adjacent or contiguous parcels is estimated to increase the  
9 captured taxable value of the property or tax reverted property  
10 owned or under the control of a land bank fast track authority  
11 pursuant to the land bank fast track authority act, 2003 PA 258,  
12 MCL 124.751 to 124.774.

13 (c) Eligible property includes, to the extent included in the  
14 brownfield plan, personal property located on the eligible  
15 property.

16 (d) Eligible property does not include qualified agricultural  
17 property exempt under section 7ee of the general property tax act,  
18 1893 PA 206, MCL 211.7ee, from the tax levied by a local school  
19 district for school operating purposes to the extent provided under  
20 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

21 Enacting section 1. Section 400 of the Michigan business tax  
22 act, 2007 PA 36, MCL 208.1400, is repealed.