

SUBSTITUTE FOR
HOUSE BILL NO. 4829

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 437 (MCL 208.1437), as amended by 2021 PA 93;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 437. (1) Subject to the criteria under this section, a
2 qualified taxpayer that has unused credits or has a preapproval
3 letter issued after December 31, 2007 and before January 1, 2014,
4 or a taxpayer that received a preapproval letter prior to January
5 1, 2008 under section 38g of former 1975 PA 228 and has not
6 received a certificate of completion prior to the taxpayer's last
7 tax year, provided that the project is completed not more than 5
8 years after the preapproval letter for the project is issued unless

1 extended under subsection (9) or (34) or if it is a multiphase
2 project not more than 10 years after the preapproval letter, as
3 amended, if applicable, or as otherwise extended under subsection
4 (10), for the project is issued, or an assignee under subsection
5 (20), (21), or (22) may claim a credit that has been approved under
6 section 38g of former 1975 PA 228 or under subsection (2), (3), or
7 (4) against the tax imposed by this act equal to either of the
8 following:

9 (a) For projects approved before April 8, 2008, if the total
10 of all credits for a project is \$1,000,000.00 or less, 10% of the
11 cost of the qualified taxpayer's eligible investment paid or
12 accrued by the qualified taxpayer on an eligible property provided
13 that the project does not exceed the amount stated in the
14 preapproval letter, as amended. For projects approved, or amended,
15 on and after April 8, 2008, if the total of all eligible
16 investments for a project are \$10,000,000.00 or less, up to 12.5%
17 of the costs of the qualified taxpayer's eligible investment paid
18 or accrued by the qualified taxpayer on an eligible property or up
19 to 15% of the costs of the qualified taxpayer's eligible investment
20 paid or accrued by the qualified taxpayer on an eligible property
21 if the project is designated as an urban development area project
22 by the Michigan economic growth authority to the extent that the
23 project does not exceed the amount stated in the preapproval
24 letter, as amended, or, until December 31, 2010, up to 20% of the
25 costs of the qualified taxpayer's eligible investment paid or
26 accrued by the qualified taxpayer on an eligible property if the
27 project is designated as an urban development area project by the
28 Michigan economic growth authority. If eligible investment exceeds
29 the amount of eligible investment in the preapproval letter, as

1 amended, for that project, the total of all credits for the project
2 shall not exceed the total of all credits on the certificate of
3 completion.

4 (b) For projects approved before April 8, 2008, if the total
5 of all credits for a project is more than \$1,000,000.00 but
6 \$30,000,000.00 or less and, except as provided in subsection
7 (6)(b), the project is located in a qualified local governmental
8 unit, a percentage as determined by the Michigan economic growth
9 authority not to exceed 10% of the cost of the qualified taxpayer's
10 eligible investment as determined under subsection (11) paid or
11 accrued by the qualified taxpayer on an eligible property. For
12 projects approved, or amended, on and after April 8, 2008 and
13 before January 1, 2010, if the total of all eligible investments
14 for a project is more than \$10,000,000.00 but \$300,000,000.00 or
15 less, up to 12.5% of the costs of the qualified taxpayer's eligible
16 investment as determined under subsection (11) paid or accrued by
17 the qualified taxpayer on an eligible property that, except as
18 provided in subsection (6)(b), is located in a qualified local
19 governmental unit, up to 15% of the cost of the qualified
20 taxpayer's eligible investment as determined under subsection (11)
21 paid or accrued by the qualified taxpayer on an eligible property
22 if the project is designated as an urban development area project
23 by the Michigan economic growth authority, or, until December 31,
24 2010, up to 20% of the costs of the qualified taxpayer's eligible
25 investment as determined under subsection (11) paid or accrued by
26 the qualified taxpayer on an eligible property if the project is
27 designated as an urban development area project by the Michigan
28 economic growth authority. For projects approved, or amended, on
29 and after January 1, 2010, if the total of all eligible investments

1 for a project is more than \$10,000,000.00 but \$100,000,000.00 or
2 less, up to 12.5% of the costs of the qualified taxpayer's eligible
3 investment as determined under subsection (11) paid or accrued by
4 the qualified taxpayer on an eligible property that, except as
5 provided in subsection (6) (b), is located in a qualified local
6 governmental unit, up to 15% of the cost of the qualified
7 taxpayer's eligible investment as determined under subsection (11)
8 paid or accrued by the qualified taxpayer on an eligible property
9 if the project is designated as an urban development area project
10 by the Michigan economic growth authority, or, until December 31,
11 2010, up to 20% of the costs of the qualified taxpayer's eligible
12 investment as determined under subsection (11) paid or accrued by
13 the qualified taxpayer on an eligible property if the project is
14 designated as an urban development area project by the Michigan
15 economic growth authority. If eligible investment exceeds the
16 amount of eligible investment in the preapproval letter, as
17 amended, for that project, the total of all credits for the project
18 shall not exceed the total of all credits on the certificate of
19 completion except as authorized under subsection (34).

20 (2) If the cost of a project will be \$2,000,000.00 or less, a
21 qualified taxpayer shall apply to the Michigan economic growth
22 authority for approval of the project under this subsection. An
23 application under this subsection shall state whether the project
24 is a multiphase project. Subject to the limitation provided under
25 subsection (31), the chairperson of the Michigan economic growth
26 authority or his or her designee is authorized to approve an
27 application or project under this subsection. Only the chairperson
28 of the Michigan economic growth authority is authorized to deny an
29 application or project under this subsection. A project shall be

1 approved or denied not more than 45 days after receipt of the
2 application. If the chairperson of the Michigan economic growth
3 authority or his or her designee does not approve or deny the
4 application within 45 days after the application is received by the
5 Michigan economic growth authority, the application is considered
6 approved as written. If the chairperson of the Michigan economic
7 growth authority or his or her designee approves a project under
8 this subsection, the chairperson of the Michigan economic growth
9 authority or his or her designee shall issue a preapproval letter
10 that states that the taxpayer is a qualified taxpayer; the maximum
11 total eligible investment for the project on which credits may be
12 claimed and the maximum total of all credits for the project when
13 the project is completed and a certificate of completion is issued;
14 and the project number assigned by the Michigan economic growth
15 authority. If a project is denied under this subsection, a taxpayer
16 is not prohibited from subsequently applying under this subsection
17 for the same project or for another project. The Michigan economic
18 growth authority shall develop and implement the use of the
19 application form to be used for projects under this subsection.

20 (3) If the cost of a project will be for more than
21 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
22 shall apply to the Michigan economic growth authority for approval
23 of the project under this subsection. An application under this
24 subsection shall state whether the project is a multiphase project.
25 Subject to the limitation provided under subsection (31), the
26 chairperson of the Michigan economic growth authority or his or her
27 designee is authorized to approve an application or project under
28 this subsection. Only the chairperson of the Michigan economic
29 growth authority is authorized to deny an application or project

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

28 (4) If the cost of a project will be for more than
29 \$10,000,000.00 and, except as provided in subsection (6)(b), the

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

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

12 (5) If the project is on property that is functionally
13 obsolete, the taxpayer shall include with the application an
14 affidavit signed by a level 3 or level 4 assessor, that states that
15 it is the assessor's expert opinion that the property is
16 functionally obsolete and the underlying basis for that opinion.

17 (6) The Michigan economic growth authority may approve not
18 more than 20 projects each calendar year through December 31, 2009,
19 not more than 19 projects for the 2010 calendar year, and, except
20 as otherwise provided under subdivision (d), not more than 17
21 projects for each calendar year after December 31, 2010 under
22 subsection (4), and the following limitations apply:

23 (a) Of the projects allowed under this subsection, the total
24 of all credits for each project may be more than \$10,000,000.00 but
25 \$30,000,000.00 or less for only 1 project before December 31, 2009.

26 (b) Of the projects allowed under this subsection, up to 3
27 projects may be approved for projects that are not in a qualified
28 local governmental unit if the property is a facility for which
29 eligible activities are identified in a brownfield plan or, for 1

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

7 (c) The project allowed under subdivision (a) may also qualify
8 under subdivision (b).

9 (d) If the Michigan economic growth authority determines that
10 there are previously issued credits authorized under section 434(6)
11 available, the Michigan economic growth authority may approve 2
12 additional projects for each calendar year after December 31, 2010.
13 As used in this subdivision, "previously issued credits" means the
14 total amount of credits authorized by the Michigan economic growth
15 authority for a taxpayer under section 434(6) that meets all of the
16 following:

17 (i) The taxpayer did not use any or a portion of the credits
18 authorized under the written agreement under section 434(6).

19 (ii) The authority determined at a meeting upon a vote of the
20 majority of the members present that the credits previously
21 authorized satisfy subparagraph (i).

22 (7) The Michigan economic growth authority shall review all
23 applications for projects under subsection (4) and, if an
24 application is approved, shall determine the maximum total of all
25 credits for that project. Before approving a project for which the
26 total of all credits will be more than \$10,000,000.00 but
27 \$30,000,000.00 or less only, the Michigan economic growth authority
28 shall determine that the project would not occur in this state
29 without the tax credit offered under subsection (4). The Michigan

1 economic growth authority shall consider the following criteria to
2 the extent reasonably applicable to the type of project proposed
3 when approving a project under subsection (4), and the chairperson
4 of the Michigan economic growth authority or his or her designee
5 shall consider the following criteria to the extent reasonably
6 applicable to the type of project proposed when approving a project
7 under subsection (2) or (3) or when considering an amendment to a
8 project under subsection (9) or (34):

9 (a) The overall benefit to the public.

10 (b) The extent of reuse of vacant buildings and redevelopment
11 of blighted property.

12 (c) Creation of jobs.

13 (d) Whether the eligible property is in an area of high
14 unemployment.

15 (e) The level and extent of contamination alleviated by the
16 qualified taxpayer's eligible activities to the extent known to the
17 qualified taxpayer.

18 (f) The level of private sector contribution.

19 (g) The cost gap that exists between the site and a similar
20 greenfield site as determined by the Michigan economic growth
21 authority.

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

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

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

29 (8) A qualified taxpayer may apply for projects under this

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

5 (9) If, after a taxpayer's project has been approved and the
6 taxpayer has received a preapproval letter but before the taxpayer
7 has made an eligible investment, other than soft costs or as
8 otherwise authorized under subsection (34), at the property, the
9 taxpayer determines that the project cannot be completed as
10 preapproved, the taxpayer may petition the Michigan economic growth
11 authority to amend the project and the preapproval letter to
12 increase the maximum total eligible investment for the project on
13 which credits may be claimed and the maximum total of all credits
14 for the project. A taxpayer may petition the Michigan economic
15 growth authority to make any other amendments to the project or
16 preapproval letter at any time before a certificate of completion
17 is issued. Except as otherwise authorized under subsection (34),
18 amendments to the project or preapproval letter may include, but
19 are not limited to, extending the duration of time provided to
20 complete the project, as long as that extension does not exceed 10
21 years from the date of the preapproval letter or as otherwise
22 extended under subsection (10). However, if a project was approved
23 prior to December 31, 2008 for 20% of the qualified taxpayer's
24 eligible investment and a total of less than \$2,000,000.00 for all
25 credits for that project and that project has received a funding
26 reservation for an allocation of the federal low-income housing tax
27 credit administered by the Michigan state housing development
28 authority of more than \$1,100,000.00, then that project may be
29 amended to extend the duration of time provided to complete the

1 project to the placed-in-service date of the carryover allocation
2 agreement for the federal low-income housing tax credit.

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

1 projects approved under subsection (2) or (3), or the Michigan
2 economic growth authority, for projects approved under subsection
3 (4), verifies that the component is complete. A credit assigned
4 based on a multiphase project shall be claimed by the assignee in
5 the tax year in which the assignment is made. The total of all
6 credits for a multiphase project shall not exceed the amount stated
7 in the preapproval letter, as amended, for the project under
8 subsection (1). Except as otherwise provided under this subsection,
9 if all components of a multiphase project are not completed by 10
10 years after the date on which the preapproval letter, as amended,
11 if applicable, for the project was issued, the qualified taxpayer
12 that received the preapproval letter for the project shall pay to
13 the state treasurer, as a penalty, an amount equal to the sum of
14 all credits claimed and assigned for all components of the
15 multiphase project and no credits based on that multiphase project
16 shall be claimed after that date by the qualified taxpayer or any
17 assignee of the qualified taxpayer. A qualified taxpayer that was
18 approved for a credit based on a multiphase project by Resolution
19 2010-219 adopted by the Michigan economic growth authority and
20 issued a preapproval letter on June 10, 2011 has until ~~September~~
21 ~~14, 2023~~ **December 31, 2026** to complete that project and claim the
22 credit without penalty **if quarterly reports are submitted as**
23 **required under this subsection and that project is completed and**
24 **the temporary or final certificates of occupancy, as applicable,**
25 **have been issued by the local municipality in which the project is**
26 **located for all of the buildings or facilities that comprise the**
27 **completed component by December 31, 2026. A qualified taxpayer that**
28 **was approved for a credit based on a multiphase project by**
29 **Resolution 2010-219 and was issued a certificate of completion**

1 before December 31, 2021 is not subject to repayment to this state
2 under this subsection. A qualified taxpayer that was approved for a
3 credit based on a multiphase project by Resolution 2010-219 adopted
4 by the Michigan economic growth authority and issued a preapproval
5 letter on June 10, 2011, but has not been issued a certificate of
6 completion by September 14, 2023, must provide a quarterly report
7 to the Michigan strategic fund on the progress of that project,
8 including, but not limited to, the expected completion date, the
9 names of any contractors or subcontractors engaged on the project,
10 and the percentage of the project completed as of the immediately
11 preceding quarter. The penalty under this subsection is subject to
12 interest on the amount of the credit claimed or assigned determined
13 individually for each component at the rate in section 23(2) of
14 1941 PA 122, MCL 205.23, beginning on the date that the credit for
15 that component was claimed or assigned. As used in this subsection,
16 "proportionate share" means the same percentage of the total of all
17 credits for the project that the qualified investment for the
18 completed component is of the total qualified investment stated in
19 the preapproval letter, as amended, for the entire project.

20 (11) When a project under this section is completed, the
21 taxpayer shall submit documentation that the project is completed,
22 an accounting of the cost of the project, the eligible investment
23 of each taxpayer if there is more than 1 taxpayer eligible for a
24 credit for the project, and, if the taxpayer is not the owner or
25 lessee of the eligible property on which the eligible investment
26 was made at the time the project is completed, that the taxpayer
27 was the owner or lessee of, or was a party to an agreement to
28 purchase or lease, that eligible property when all eligible
29 investment of the taxpayer was made. The chairperson of the

1 Michigan economic growth authority or his or her designee, for
2 projects approved under subsection (2) or (3), or the Michigan
3 economic growth authority, for projects approved under subsection
4 (4), shall verify that the project is completed. The Michigan
5 economic growth authority shall conduct an on-site inspection as
6 part of the verification process for projects approved under
7 subsection (4). When the completion of the project is verified, a
8 certificate of completion shall be issued to each qualified
9 taxpayer that has made eligible investment on that eligible
10 property. The certificate of completion shall state the total
11 amount of all credits for the project and that total shall not
12 exceed the maximum total of all credits listed in the preapproval
13 letter for the project under subsection (2), (3), or (4) as
14 applicable and as amended under subsection (9) or (34) and shall
15 state all of the following:

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

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

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

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

22 (e) The project number.

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

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

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

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

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

20 (15) Each qualified taxpayer and assignee under subsection
21 (20), (21), or (22) that claims a credit under this section shall
22 attach a copy of the certificate of completion and, if the credit
23 was assigned, a copy of the assignment form provided for under this
24 section to the annual return filed under this act on which the
25 credit under this section is claimed. An assignee of a credit based
26 on a multiphase project shall attach a copy of the assignment form
27 provided for under this section and the component completion
28 certificate provided for in subsection (10) to the annual return
29 filed under this act on which the credit is claimed but is not

1 required to file a copy of a certificate of completion.

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

11 (17) Except as otherwise provided under this subsection, the
12 credits approved under this section shall be calculated after
13 application of all other credits allowed under this act. The
14 credits under this section shall be calculated before the
15 calculation of the credits under sections 413, 423, 431, and 450.

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

1 year in which the assignment is made and the assignee first claims
2 a credit, which shall be the same tax year. The maximum time
3 allowed under the carryforward provisions for an annual credit
4 amount for a credit allowed under subsection (4) begins to run in
5 the tax year for which the annual credit amount is designated on
6 the certificate of completion issued under this section. A credit
7 carryforward available under section 38g of former 1975 PA 228 that
8 is unused at the end of the last tax year may be claimed against
9 the tax imposed under this act for the years the carryforward would
10 have been available under former 1975 PA 228. Beginning on and
11 after April 8, 2008, if the credit allowed under this section for
12 the tax year exceeds the qualified taxpayer's tax liability for the
13 tax year, the qualified taxpayer may elect to have the excess
14 refunded at a rate equal to 85% of that portion of the credit that
15 exceeds the tax liability of the qualified taxpayer for the tax
16 year and forgo the remaining 15% of the credit and any
17 carryforward.

18 (19) If a project or credit under this section is for the
19 addition of personal property, if the cost of that personal
20 property is used to calculate a credit under this section, and if
21 the personal property is disposed of or transferred from the
22 eligible property to any other location, the qualified taxpayer
23 that disposed of that property, or transferred the personal
24 property shall add the same percentage as determined under
25 subsection (1) of the federal basis of the personal property used
26 for determining gain or loss as of the date of the disposition or
27 transfer to the qualified taxpayer's tax liability under this act
28 after application of all credits under this act for the tax year in
29 which the disposition or transfer occurs. If a qualified taxpayer

1 has an unused carryforward of a credit under this section, the
2 amount otherwise added under this subsection to the qualified
3 taxpayer's tax liability may instead be used to reduce the
4 qualified taxpayer's carryforward under subsection (18).

5 (20) For credits under this section for projects for which a
6 certificate of completion is issued before January 1, 2006 and
7 except as otherwise provided in this subsection, if a qualified
8 taxpayer pays or accrues eligible investment on or to an eligible
9 property that is leased for a minimum term of 10 years or sold to
10 another taxpayer for use in a business activity, the qualified
11 taxpayer may assign all or a portion of the credit under this
12 section based on that eligible investment to the lessee or
13 purchaser of that eligible property. A credit assignment under this
14 subsection shall only be made to a taxpayer that when the
15 assignment is complete will be a qualified taxpayer. All credit
16 assignments under this subsection are irrevocable and, except for a
17 credit based on a multiphase project, shall be made in the tax year
18 in which the certificate of completion is issued, unless the
19 assignee is an unknown lessee. If a qualified taxpayer wishes to
20 assign all or a portion of its credit to a lessee but the lessee is
21 unknown in the tax year in which the certificate of completion is
22 issued, the qualified taxpayer may delay claiming and assigning the
23 credit until the first tax year in which the lessee is known. A
24 qualified taxpayer may claim a portion of a credit and assign the
25 remaining credit amount. Except as otherwise provided in this
26 subsection, if the qualified taxpayer both claims and assigns
27 portions of the credit, the qualified taxpayer shall claim the
28 portion it claims in the tax year in which the certificate of
29 completion is issued or, for a credit assigned and claimed for a

1 multiphase project before a certificate of completion is issued,
2 the taxpayer shall claim the credit in the year in which the credit
3 is assigned. If a qualified taxpayer assigns all or a portion of
4 the credit and the eligible property is leased to more than 1
5 taxpayer, the qualified taxpayer shall determine the amount of
6 credit assigned to each lessee. A lessee shall not subsequently
7 assign a credit or any portion of a credit assigned under this
8 subsection. A purchaser may subsequently assign a credit or any
9 portion of a credit assigned to the purchaser under this subsection
10 to a lessee of the eligible property. The credit assignment under
11 this subsection shall be made on a form prescribed by the Michigan
12 economic growth authority. The qualified taxpayer shall send a copy
13 of the completed assignment form to the Michigan economic growth
14 authority in the tax year in which the assignment is made. The
15 assignee shall attach a copy of the completed assignment form to
16 its annual return required to be filed under this act, for the tax
17 year in which the assignment is made and the assignee first claims
18 a credit, which shall be the same tax year. In addition to all
19 other procedures under this subsection, the following apply if the
20 total of all credits for a project is more than \$10,000,000.00 but
21 \$30,000,000.00 or less:

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

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

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

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

3 (21) Except as otherwise provided in this subsection, for
4 projects for which a certificate of completion is issued before
5 January 1, 2006, and except as otherwise provided in this
6 subsection, if a qualified taxpayer is a partnership, limited
7 liability company, or subchapter S corporation, the qualified
8 taxpayer may assign all or a portion of a credit under this section
9 to its partners, members, or shareholders, based on their
10 proportionate share of ownership of the partnership, limited
11 liability company, or subchapter S corporation or based on an
12 alternative method approved by the Michigan economic growth
13 authority. A credit assignment under this subsection is irrevocable
14 and, except for a credit assignment based on a multiphase project,
15 shall be made in the tax year in which a certificate of completion
16 is issued. A qualified taxpayer may claim a portion of a credit and
17 assign the remaining credit amount. Except as otherwise provided in
18 this subsection, if the qualified taxpayer both claims and assigns
19 portions of the credit, the qualified taxpayer shall claim the
20 portion it claims in the tax year in which a certificate of
21 completion is issued or for a credit assigned and claimed for a
22 multiphase project, before the component completion certificate is
23 issued, the taxpayer shall claim the credit in the year in which
24 the credit is assigned. A partner, member, or shareholder that is
25 an assignee shall not subsequently assign a credit or any portion
26 of a credit assigned under this subsection. The credit assignment
27 under this subsection shall be made on a form prescribed by the
28 Michigan economic growth authority. The qualified taxpayer shall
29 send a copy of the completed assignment form to the Michigan

1 economic growth authority in the tax year in which the assignment
2 is made. A partner, member, or shareholder who is an assignee shall
3 attach a copy of the completed assignment form to its annual return
4 required under this act, for the tax year in which the assignment
5 is made and the assignee first claims a credit, which shall be the
6 same tax year. A credit assignment based on a credit for a
7 component of a multiphase project that is completed before January
8 1, 2006 shall be made under this subsection. In addition to all
9 other procedures under this subsection, the following apply if the
10 total of all credits for a project is more than \$10,000,000.00 but
11 \$30,000,000.00 or less:

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

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

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

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

22 (22) For projects approved under this section or section 38g
23 of former 1975 PA 228 for which a certificate of completion is
24 issued on and after January 1, 2006, a qualified taxpayer may
25 assign all or a portion of a credit allowed under this section or
26 section 38g(2), (3), or (33) of former 1975 PA 228 under this
27 subsection. A credit assignment under this subsection is
28 irrevocable and, except for a credit assignment based on a
29 multiphase project, shall be made in the tax year in which a

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

1 total of all credits for a project is more than \$10,000,000.00 but
2 \$30,000,000.00 or less:

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

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

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

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

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

21 (a) If the project increases the density of the area by
22 promoting multistory development.

23 (b) If the project promotes mixed-use development and walkable
24 communities.

25 (c) If the project promotes sustainable redevelopment.

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

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

29 (f) Any other criteria determined by the Michigan economic

1 growth authority or the chairperson of the Michigan economic growth
2 authority.

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

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

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

25 (28) Eligible investment attributable or related to the
26 construction of a new landfill or the expansion of an existing
27 landfill regulated under part 115 of the natural resources and
28 environmental protection act, 1994 PA 451, MCL 324.11501 to
29 ~~324.11554,~~ **324.11587**, shall not be used as a basis for a credit

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

25 (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
28 for which the total of all credits is more than \$10,000,000.00 but
29 \$30,000,000.00 or less, as approved under subsection (4).

1 (b) "Authority" means a brownfield redevelopment authority
2 created under the brownfield redevelopment financing act, 1996 PA
3 381, MCL 125.2651 to 125.2670.

4 (c) "Blighted", "brownfield plan", "eligible activities",
5 "facility", "functionally obsolete", "qualified local governmental
6 unit", and "response activity" mean those terms as defined in the
7 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
8 to 125.2670.

9 (d) "Eligible investment" or "eligible investments" means,
10 when made after the approval date of the brownfield plan but in any
11 event no earlier than 90 days prior to the date of the preapproval
12 letter, any demolition, construction, restoration, alteration,
13 renovation, or improvement of buildings or site improvements on
14 eligible property and the addition of machinery, equipment, and
15 fixtures to eligible property after the date that eligible
16 activities on that eligible property have started pursuant to a
17 brownfield plan under the brownfield redevelopment financing act,
18 1996 PA 381, MCL 125.2651 to 125.2670, if the costs of the eligible
19 investment are not otherwise reimbursed to the taxpayer or paid for
20 on behalf of the taxpayer from any source other than the taxpayer.
21 The addition of leased machinery, equipment, or fixtures to
22 eligible property by a lessee of the machinery, equipment, or
23 fixtures is eligible investment if the lease of the machinery,
24 equipment, or fixtures has a minimum term of 10 years or is for the
25 expected useful life of the machinery, equipment, or fixtures, and
26 if the owner of the machinery, equipment, or fixtures is not the
27 qualified taxpayer with regard to that machinery, equipment, or
28 fixtures. For projects approved after April 8, 2008, eligible
29 investment does not include certain soft costs of the eligible

1 investment as determined by the Michigan economic growth authority,
2 including, but not limited to, developer fees, appraisals,
3 performance bonds, closing costs, bank fees, loan fees, risk
4 contingencies, financing costs, permanent or construction period
5 interest, legal expenses, leasing or sales commissions, marketing
6 costs, professional fees, shared savings, taxes, title insurance,
7 bank inspection fees, insurance, and project management fees.
8 Notwithstanding the foregoing, eligible investment does include
9 architectural, engineering, surveying, and similar professional
10 fees.

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

18 (i) Is in a qualified local governmental unit and is a
19 facility, functionally obsolete, or blighted and includes parcels
20 that are adjacent or contiguous to that property if the development
21 of the adjacent and contiguous parcels is estimated to increase the
22 captured taxable value of that property.

23 (ii) Is not in a qualified local governmental unit and is a
24 facility, and includes parcels that are adjacent or contiguous to
25 that property if the development of the adjacent and contiguous
26 parcels is estimated to increase the captured taxable value of that
27 property.

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

1 (f) "Last tax year" means the taxpayer's tax year under former
2 1975 PA 228 that begins after December 31, 2006 and before January
3 1, 2008.

4 (g) "Michigan economic growth authority" means the Michigan
5 economic growth authority created in the Michigan economic growth
6 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

10 (i) "Personal property" means that term as defined in section
11 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
12 that personal property does not include either of the following:

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

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

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

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

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

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

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

29 (i) Owns, leases, or has entered into an agreement to purchase

1 or lease eligible property.

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

18 (m) "Urban development area project" means a project located
19 on eligible property in the downtown or traditional central
20 business district of a qualified local governmental unit or county
21 seat or along a traditional commercial corridor of a qualified
22 local governmental unit or county seat as determined by the
23 Michigan economic growth authority or the chairperson of the
24 Michigan economic growth authority or his or her designee.

25 (33) For purposes of subsection (2), eligible property means
26 that term as defined under subsection (32)(e) except that all of
27 the following apply:

28 (a) Eligible property means property identified under a
29 brownfield plan that was used or is currently used for commercial,

1 industrial, public, or residential purposes and that is 1 of the
2 following:

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

6 (ii) Property that is not in a qualified local governmental
7 unit but is within a downtown district established under part 2 of
8 the recodified tax increment financing act, 2018 PA 57, MCL
9 125.4201 to 125.4230, and is functionally obsolete or blighted, and
10 a component of the project on that eligible property is 1 or more
11 of the following:

12 (A) Infrastructure improvements that directly benefit the
13 eligible property.

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

17 (C) Lead or asbestos abatement.

18 (D) Site preparation that is not response activity under
19 section 20101 of the natural resources and environmental protection
20 act, 1994 PA 451, MCL 324.20101.

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

24 (b) Eligible property includes parcels that are adjacent or
25 contiguous to the eligible property if the development of the
26 adjacent or contiguous parcels is estimated to increase the
27 captured taxable value of the property or tax reverted property
28 owned or under the control of a land bank fast track authority
29 pursuant to the land bank fast track act, 2003 PA 258, MCL 124.751

1 to 124.774.

2 (c) Eligible property includes, to the extent included in the
3 brownfield plan, personal property located on the eligible
4 property.

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

10 (34) For credits approved by Resolutions 2011-154 and 2011-155
11 adopted by the Michigan economic growth authority and subsequently
12 amended by Resolutions 2019-046 and 2019-047 adopted by the
13 Michigan economic growth authority, the taxpayer may allocate
14 eligible investments made for 1 development area to the other
15 development area to maximize the combined credits for both of the
16 development areas as long as the sum of the credits for both
17 development areas does not exceed the sum of the credits approved
18 under Resolutions 2019-046 and 2019-047, and the taxpayer, after an
19 eligible investment is made, may petition the Michigan economic
20 growth authority to further amend the project and the preapproval
21 letter to do the following:

22 (a) To increase the maximum total eligible investment for the
23 project on which the credit may be claimed and the maximum total of
24 all credits for the project or allocate eligible investment made
25 from 1 adjacent development area to the other as long as the
26 subsequent amendment to the project and preapproval letter does not
27 exceed the sum of the maximum eligible investment or total credits
28 approved for each of the adjacent development areas under
29 Resolutions 2019-046 and 2019-047.

1 (b) To extend the duration of time for up to 5 additional
2 years to complete the project beyond the 10 years from the date of
3 the original preapproval letter.

4 Enacting section 1. Section 601 of the Michigan business tax
5 act, 2007 PA 36, MCL 208.1601, is repealed.