

SENATE BILL No. 1302

June 13, 2006, Introduced by Senator GILBERT and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending sections 38g and 39c (MCL 208.38g and 208.39c), section
38g as amended by 2006 PA 112 and section 39c as amended by 2006 PA
53.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38g. (1) Subject to the criteria under this section, an
2 eligible taxpayer may claim a credit against the tax imposed by
3 this act as determined under subsections (20) to (25); and subject
4 to the criteria under this section, a qualified taxpayer that has a
5 preapproval letter issued after December 31, 1999 and before
6 January 1, 2008, provided that the project is completed not more

1 than 5 years after the preapproval letter for the project is
2 issued, or an assignee under subsection (17) or (18) or section 35e
3 may claim a credit that has been approved under subsection (2),
4 (3), or (33) against the tax imposed by this act equal to either of
5 the following:

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

14 (b) If the total of all credits for a project is more than
15 \$1,000,000.00 but \$30,000,000.00 or less and, except as provided in
16 subsection (5)(b), the project is located in a qualified local
17 governmental unit, a percentage as determined by the Michigan
18 economic growth authority not to exceed 10% of the cost of the
19 qualified taxpayer's eligible investment as determined under
20 subsection (8) paid or accrued by the qualified taxpayer on an
21 eligible property. If eligible investment exceeds the amount of
22 eligible investment in the preapproval letter for that project, the
23 total of all credits for the project shall not exceed the total of
24 all credits on the certificate of completion.

25 (2) If the cost of a project will be for more than
26 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
27 shall apply to the Michigan economic growth authority for approval

1 of the project under this subsection. An application under this
2 subsection shall state whether the project is a multiphase project.
3 The chairperson of the Michigan economic growth authority or his or
4 her designee is authorized to approve an application or project
5 under this subsection. Only the chairperson of the Michigan
6 economic growth authority is authorized to deny an application or
7 project under this subsection. A project shall be approved or
8 denied not more than 45 days after receipt of the application. If
9 the chairperson of the Michigan economic growth authority or his or
10 her designee does not approve or deny an application within 45 days
11 after the application is received by the Michigan economic growth
12 authority, the application is considered approved as written. The
13 total of all credits for all projects approved under this
14 subsection shall not exceed \$30,000,000.00 in any calendar year.
15 After the first full calendar year after the effective date of the
16 amendatory act that added subsection (33), if the authority
17 approves a total of all credits for all projects under this
18 subsection of less than \$30,000,000.00 in a calendar year, the
19 authority may carry forward for 1 year only the difference between
20 \$30,000,000.00 and the total of all credits for all projects
21 approved under this subsection in the immediately preceding
22 calendar year. The criteria in subsection (6) shall be used when
23 approving projects under this subsection. When approving projects
24 under this subsection, priority shall be given to projects on a
25 facility. The total of all credits for an approved project under
26 this subsection shall not exceed \$1,000,000.00. A taxpayer may
27 apply under this subsection instead of subsection (3) for approval

1 of a project that will be for more than \$10,000,000.00 but the
2 total of all credits for that project shall not exceed
3 \$1,000,000.00. If the chairperson of the Michigan economic growth
4 authority or his or her designee approves a project under this
5 subsection, the chairperson of the Michigan economic growth
6 authority or his or her designee shall issue a preapproval letter
7 that states that the taxpayer is a qualified taxpayer; the maximum
8 total eligible investment for the project on which credits may be
9 claimed and the maximum total of all credits for the project when
10 the project is completed and a certificate of completion is issued;
11 and the project number assigned by the Michigan economic growth
12 authority. If a project is denied under this subsection, a taxpayer
13 is not prohibited from subsequently applying under this subsection
14 or subsection (3) for the same project or for another project.

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

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

1 subsection or subsection (2) for the same project or for another
2 project.

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

8 (5) The Michigan economic growth authority may approve not
9 more than 17 projects each calendar year under subsection (3), and
10 the following limitations apply:

11 (a) Of the 17 projects allowed under this subsection, the
12 total of all credits for each project may be more than
13 \$10,000,000.00 but \$30,000,000.00 or less for up to 2 projects.

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

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

26 (6) The Michigan economic growth authority shall review all
27 applications for projects under subsection (3) and, if an

1 application is approved, shall determine the maximum total of all
2 credits for that project. Before approving a project for which the
3 total of all credits will be more than \$10,000,000.00 but
4 \$30,000,000.00 or less only, the Michigan economic growth authority
5 shall determine that the project would not occur in this state
6 without the tax credit offered under subsection (3), except that
7 the Michigan economic growth authority may approve 1 project the
8 construction of which began after January 1, 2000 and before
9 January 1, 2001 without determining that the eligible investment
10 would not occur in this state without the tax credit offered under
11 this section. The Michigan economic growth authority shall consider
12 the following criteria to the extent reasonably applicable to the
13 type of project proposed when approving a project under subsection
14 (3) and the chairperson of the Michigan economic growth authority
15 or his or her designee shall consider the following criteria to the
16 extent reasonably applicable to the type of project proposed when
17 approving a project under subsection (2) or (33) or when
18 considering an amendment to a project under subsection (31):

19 (a) The overall benefit to the public.

20 (b) The extent of reuse of vacant buildings and redevelopment
21 of blighted property.

22 (c) Creation of jobs.

23 (d) Whether the eligible property is in an area of high
24 unemployment.

25 (e) The level and extent of contamination alleviated by the
26 qualified taxpayer's eligible activities to the extent known to the
27 qualified taxpayer.

1 (f) The level of private sector contribution.

2 (g) The cost gap that exists between the site and a similar
3 greenfield site as determined by the Michigan economic growth
4 authority.

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

7 (i) Whether the financial statements of the qualified taxpayer
8 indicate that it is financially sound and that the project is
9 economically sound.

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

14 (7) A qualified taxpayer may apply for projects under
15 subsection (2), (3), or (33) for eligible investment on more than 1
16 eligible property in a tax year. Each project approved and each
17 project for which a certificate of completion is issued under this
18 section shall be for eligible investment on 1 eligible property.

19 (8) When a project under subsection (2), (3), or (33) is
20 completed, the taxpayer shall submit documentation that the project
21 is completed, an accounting of the cost of the project, the
22 eligible investment of each taxpayer if there is more than 1
23 taxpayer eligible for a credit for the project, and, if the
24 taxpayer is not the owner or lessee of the eligible property on
25 which the eligible investment was made at the time the project is
26 completed, that the taxpayer was the owner or lessee of that
27 eligible property when all eligible investment of the taxpayer was

1 made. The chairperson of the Michigan economic growth authority or
2 his or her designee, for projects approved under subsection (2) or
3 (33), or the Michigan economic growth authority, for projects
4 approved under subsection (3), shall verify that the project is
5 completed. The Michigan economic growth authority shall conduct an
6 on-site inspection as part of the verification process for projects
7 approved under subsection (3). When the completion of the project
8 is verified, a certificate of completion shall be issued to each
9 qualified taxpayer that has made eligible investment on that
10 eligible property. The certificate of completion shall state the
11 total amount of all credits for the project and that total shall
12 not exceed the maximum total of all credits listed in the
13 preapproval letter for the project under subsection (2) or (3) or
14 section 35c as applicable and shall state all of the following:

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

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

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

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

21 (e) The project number.

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

26 (g) For a multiphase project under subsection (32), the amount
27 of each credit assigned and the amount of all credits claimed in

1 each tax year before the year in which the project is completed.

2 (9) Except as otherwise provided in this section, qualified
3 taxpayers shall claim credits under subsections (2), (3), and (33)
4 in the tax year in which the certificate of completion is issued.
5 For a project approved under subsection (3) for which the total of
6 all credits is more than \$10,000,000.00 but \$30,000,000.00 or less,
7 the qualified taxpayer shall claim 10% of its approved credit each
8 year for 10 years. A credit assigned based on a multiphase project
9 shall be claimed in the year in which the credit is assigned.

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

19 (11) For credits under subsections (2) and (3), credits
20 claimed by a lessee of eligible property are subject to the total
21 of all credits limitation under this section.

22 (12) Each qualified taxpayer and assignee under subsection
23 (17) or (18) or section 35e that claims a credit under subsection
24 (1)(a) or (b) or (33) shall attach a copy of the certificate of
25 completion and, if the credit was assigned, a copy of the
26 assignment form provided for under this section to the annual
27 return filed under this act on which the credit under subsection

1 (2), (3), or (33) is claimed. An assignee of a credit based on a
2 multiphase project shall attach a copy of the assignment form
3 provided for under this section and the component completion
4 certificate provided for in subsection (32) to the annual return
5 filed under this act on which the credit is claimed but is not
6 required to file a copy of a certificate of completion.

7 (13) Except as otherwise provided in this subsection or
8 subsection (15), (17), (18), or (32) or section 35e, a credit under
9 subsection (2), (3), or (33) shall be claimed in the tax year in
10 which the certificate of completion is issued to the qualified
11 taxpayer. For a project described in subsection (8)(f) for which a
12 schedule for claiming annual credit amounts is designated on the
13 certificate of completion by the Michigan economic growth
14 authority, the annual credit amount shall be claimed in the tax
15 year specified on the certificate of completion.

16 (14) The credits approved under this section shall be
17 calculated after application of all other credits allowed under
18 this act. The credits under subsections (2), (3), and (33) shall be
19 calculated before the calculation of credits under subsections (20)
20 to (25) and before the credits under sections 37c and 37d.

21 (15) If the credit allowed under subsection (2), (3), or (33)
22 for the tax year and any unused carryforward of the credit allowed
23 under subsection (2), (3), or (33) exceed the qualified taxpayer's
24 or assignee's tax liability for the tax year, that portion that
25 exceeds the tax liability for the tax year shall not be refunded
26 but may be carried forward to offset tax liability in subsequent
27 tax years for 10 years or until used up, whichever occurs first.

1 Except as otherwise provided in this subsection, the maximum time
2 allowed under the carryforward provisions under this subsection
3 begins with the tax year in which the certificate of completion is
4 issued to the qualified taxpayer. If the qualified taxpayer assigns
5 all or any portion of its credit approved under subsection (2),
6 (3), or (33), the maximum time allowed under the carryforward
7 provisions for an assignee begins to run with the tax year in which
8 the assignment is made and the assignee first claims a credit,
9 which shall be the same tax year. The maximum time allowed under
10 the carryforward provisions for an annual credit amount for a
11 credit allowed under subsection (3) begins to run in the tax year
12 for which the annual credit amount is designated on the certificate
13 of completion issued under this section.

14 (16) If a project or credit under subsection (2), (3), or (33)
15 is for the addition of personal property, if the cost of that
16 personal property is used to calculate a credit under subsection
17 (2), (3), or (33), and if the personal property is sold or disposed
18 of or transferred from eligible property to any other location, the
19 qualified taxpayer that sold, disposed of, or transferred the
20 personal property shall add the same percentage as determined
21 pursuant to subsection (1) of the federal basis of the personal
22 property used for determining gain or loss as of the date of the
23 sale, disposition, or transfer to the qualified taxpayer's tax
24 liability after application of all credits under this act for the
25 tax year in which the sale, disposition, or transfer occurs. If a
26 qualified taxpayer has an unused carryforward of a credit under
27 subsection (2), (3), or (33), the amount otherwise added under this

1 subsection to the qualified taxpayer's tax liability may instead be
2 used to reduce the qualified taxpayer's carryforward under
3 subsection (15).

4 (17) For credits under subsection (2), (3), or (33) for
5 projects for which a certificate of completion is issued before
6 January 1, 2006 and except as otherwise provided in this
7 subsection, if a qualified taxpayer pays or accrues eligible
8 investment on or to an eligible property that is leased for a
9 minimum term of 10 years or sold to another taxpayer for use in a
10 business activity, the qualified taxpayer may assign all or a
11 portion of the credit based on that eligible investment to the
12 lessee or purchaser of that eligible property. A credit assignment
13 under this subsection shall only be made to a taxpayer that when
14 the assignment is complete will be a qualified taxpayer. All credit
15 assignments under this subsection are irrevocable and, except for a
16 credit based on a multiphase project, shall be made in the tax year
17 in which the certificate of completion is issued, unless the
18 assignee is an unknown lessee. If a qualified taxpayer wishes to
19 assign all or a portion of its credit to a lessee but the lessee is
20 unknown in the tax year in which the certificate of completion is
21 issued, the qualified taxpayer may delay claiming and assigning the
22 credit until the first tax year in which the lessee is known. A
23 qualified taxpayer may claim a portion of a credit and assign the
24 remaining credit amount. Except as otherwise provided in this
25 subsection, if the qualified taxpayer both claims and assigns
26 portions of the credit, the qualified taxpayer shall claim the
27 portion it claims in the tax year in which the certificate of

1 completion is issued or for a credit assigned and claimed for a
2 multiphase project before a certificate of completion is issued,
3 the taxpayer shall claim the credit in the year in which the credit
4 is assigned. If a qualified taxpayer assigns all or a portion of
5 the credit and the eligible property is leased to more than 1
6 taxpayer, the qualified taxpayer shall determine the amount of
7 credit assigned to each lessee. A lessee shall not subsequently
8 assign a credit or any portion of a credit assigned under this
9 subsection. A purchaser may subsequently assign a credit or any
10 portion of a credit assigned to the purchaser under this subsection
11 to a lessee of the eligible property. The credit assignment under
12 this subsection shall be made on a form prescribed by the Michigan
13 economic growth authority. The qualified taxpayer shall send a copy
14 of the completed assignment form to the Michigan economic growth
15 authority in the tax year in which the assignment is made. The
16 assignee shall attach a copy of the completed assignment form to
17 its annual return required to be filed under this act, for the tax
18 year in which the assignment is made and the assignee first claims
19 a credit, which shall be the same tax year. In addition to all
20 other procedures under this subsection, the following apply if the
21 total of all credits for a project is more than \$10,000,000.00 but
22 \$30,000,000.00 or less:

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

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

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

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

6 (18) Except as otherwise provided in this subsection, for
7 projects for which a certificate of completion is issued before
8 January 1, 2006, if a qualified taxpayer is a partnership, limited
9 liability company, or subchapter S corporation, the qualified
10 taxpayer may assign all or a portion of a credit allowed under
11 subsection (2) or (3) to its partners, members, or shareholders,
12 based on their proportionate share of ownership of the partnership,
13 limited liability company, or subchapter S corporation or based on
14 an alternative method approved by the Michigan economic growth
15 authority. A credit assignment under this subsection is irrevocable
16 and, except for a credit assignment based on a multiphase project,
17 shall be made in the tax year in which a certificate of completion
18 is issued. A qualified taxpayer may claim a portion of a credit and
19 assign the remaining credit amount. If the qualified taxpayer both
20 claims and assigns portions of the credit, the qualified taxpayer
21 shall claim the portion it claims in the tax year in which a
22 certificate of completion is issued. A partner, member, or
23 shareholder that is an assignee shall not subsequently assign a
24 credit or any portion of a credit assigned under this subsection.
25 The credit assignment under this subsection shall be made on a form
26 prescribed by the Michigan economic growth authority. The qualified
27 taxpayer shall send a copy of the completed assignment form to the

1 Michigan economic growth authority in the tax year in which the
2 assignment is made. A partner, member, or shareholder who is an
3 assignee shall attach a copy of the completed assignment form to
4 its annual return required under this act, for the tax year in
5 which the assignment is made and the assignee first claims a
6 credit, which shall be the same tax year. A credit assignment based
7 on a credit for a component of a multiphase project that is
8 completed before January 1, 2006 shall be made under this
9 subsection. A credit assignment based on a credit for a component
10 of a multiphase project that is completed on or after January 1,
11 2006 may be made under this section or section 35e. In addition to
12 all other procedures under this subsection, the following apply if
13 the total of all credits for a project is more than \$10,000,000.00
14 but \$30,000,000.00 or less:

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

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

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

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

25 (19) A qualified taxpayer or assignee under subsection (17) or
26 (18) shall not claim a credit under subsection (1)(a) or (b) based
27 on eligible investment on which a credit claimed under section 38d

1 was based.

2 (20) In addition to the other credits allowed under this
3 section and sections 37c and 37d, for tax years that begin after
4 December 31, 1999 and for a period of time not to exceed 20 years
5 as determined by the Michigan economic growth authority, an
6 eligible taxpayer may credit against the tax imposed by section 31
7 the amount certified each year by the Michigan economic growth
8 authority that is 1 of the following:

9 (a) For an eligible business under section 8(5)(a) of the
10 Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an
11 amount that is not more than 50% of 1 or both of the following as
12 determined by the Michigan economic growth authority:

13 (i) An amount determined under the Michigan economic growth
14 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
15 exceed the payroll of the eligible taxpayer attributable to
16 employees who perform retained jobs multiplied by the tax rate for
17 the tax year.

18 (ii) The tax liability attributable to the eligible taxpayer's
19 business activity multiplied by a fraction the numerator of which
20 is the ratio of the value of new capital investment to all of the
21 taxpayer's property located in this state plus the ratio of the
22 taxpayer's payroll attributable to retained jobs to all of the
23 taxpayer's payroll in this state and the denominator of which is 2.

24 (b) For an eligible business under section 8(5)(b) of the
25 Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an
26 amount that is not more than 1 or both of the following as
27 determined by the Michigan economic growth authority:

1 (i) An amount determined under the Michigan economic growth
2 authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not
3 exceed the payroll of the eligible taxpayer attributable to
4 employees who perform retained jobs multiplied by the tax rate for
5 the tax year.

6 (ii) The tax liability attributable to eligible taxpayer's
7 business activity multiplied by a fraction the numerator of which
8 is the ratio of the value of capital investment to all of the
9 taxpayer's property located in this state plus the ratio of the
10 taxpayer's payroll attributable to retained jobs to all of the
11 taxpayer's payroll in this state and the denominator of which is 2.

12 (21) An eligible taxpayer shall not claim a credit under
13 subsection (20) unless the Michigan economic growth authority has
14 issued a certificate under section 9 of the Michigan economic
15 growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The
16 eligible taxpayer shall attach the certificate to the return filed
17 under this act on which a credit under subsection (20) is claimed.

18 (22) An affiliated group as defined in this act, a controlled
19 group of corporations as defined in section 1563 of the internal
20 revenue code and further described in 26 CFR 1.414(b)-1 and
21 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
22 defined by the internal revenue code shall claim only 1 credit
23 under subsection (20) for each tax year based on each written
24 agreement whether or not a combined or consolidated return is
25 filed.

26 (23) A credit shall not be claimed by a taxpayer under
27 subsection (20) if the eligible taxpayer's initial certification

1 under section 9 of the Michigan economic growth authority act, 1995
2 PA 24, MCL 207.809, is issued after December 31, 2009. If the
3 Michigan economic growth authority or a designee of the Michigan
4 economic growth authority requests that a taxpayer who claims the
5 credit under subsection (20) get a statement prepared by a
6 certified public accountant verifying that the actual number of new
7 jobs created is the same number of new jobs used to calculate the
8 credit under subsection (20), the taxpayer shall get the statement
9 and attach that statement to its annual return under this act on
10 which the credit under subsection (20) is claimed.

11 (24) If the credit allowed under subsection (20)(a)(ii) or
12 (b)(ii) for the tax year and any unused carryforward of the credit
13 allowed by subsection (20)(a)(ii) or (b)(ii) exceed the taxpayer's
14 tax liability for the tax year, that portion that exceeds the tax
15 liability for the tax year shall not be refunded but may be carried
16 forward to offset tax liability in subsequent tax years for 10
17 years or until used up, whichever occurs first.

18 (25) If the credit allowed under subsection (20)(a)(i) or
19 (b)(i) exceeds the tax liability of the eligible taxpayer for the
20 tax year, the excess shall be refunded to the eligible taxpayer.

21 (26) An eligible taxpayer that claims a credit under
22 subsection (1)(a), (1)(b), or (33) is not prohibited from claiming
23 a credit under subsection (20). However, the eligible taxpayer
24 shall not claim a credit under subsection (1)(a), (1)(b), or (33)
25 and subsection (20) based on the same costs.

26 (27) Eligible investment attributable or related to the
27 operation of a professional sports stadium, and eligible investment

1 that is associated or affiliated with the operation of a
2 professional sports stadium, including, but not limited to, the
3 operation of a parking lot or retail store, shall not be used as a
4 basis for a credit under subsection (2), (3), or (33). Professional
5 sports stadium does not include a professional sports stadium that
6 will no longer be used by a professional sports team on and after
7 the date that an application related to that professional sports
8 stadium is filed under subsection (2), (3), or (33).

9 (28) Eligible investment attributable or related to the
10 operation of a casino, and eligible investment that is associated
11 or affiliated with the operation of a casino, including, but not
12 limited to, the operation of a parking lot, hotel, motel, or retail
13 store, shall not be used as a basis for a credit under subsection
14 (2), (3), or (33). As used in this subsection, "casino" means a
15 casino regulated by this state pursuant to the Michigan gaming
16 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
17 432.226.

18 (29) Eligible investment attributable or related to the
19 construction of a new landfill or the expansion of an existing
20 landfill regulated under part 115 of the natural resources and
21 environmental protection act, 1994 PA 451, MCL 324.11501 to
22 324.11550, shall not be used as a basis for a credit under
23 subsection (2), (3), or (33).

24 (30) The Michigan economic growth authority annually shall
25 prepare and submit to the house of representatives and senate
26 committees responsible for tax policy and economic development
27 issues a report on the credits under subsection (2). The report

1 shall include, but is not limited to, all of the following:

2 (a) A listing of the projects under subsection (2) that were
3 approved in the calendar year.

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

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

13 (32) A project under subsection (2), (3), or (33) may be a
14 multiphase project but, for projects completed before January 1,
15 2006, only if the project is an industrial or manufacturing
16 project. If a project is a multiphase project, when each component
17 of the multiphase project is completed, the taxpayer shall submit
18 documentation that the component is complete, an accounting of the
19 cost of the component, and the eligible investment for the
20 component of each taxpayer eligible for a credit for the project of
21 which the component is a part to the Michigan economic growth
22 authority or the designee of the Michigan economic growth
23 authority, who shall verify that the component is complete. When
24 the completion of the component is verified, a component completion
25 certificate shall be issued to the qualified taxpayer which shall
26 state that the taxpayer is a qualified taxpayer, the credit amount
27 for the component, the qualified taxpayer's federal employer

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

1 component at the rate in section 23(2) of 1941 PA 122, MCL 205.23,
2 beginning on the date that the credit for that component was
3 claimed or assigned. As used in this subsection, "proportionate
4 share" means the same percentage of the total of all credits for
5 the project that the qualified investment for the completed
6 component is of the total qualified investment stated in the
7 preapproval letter for the entire project.

8 (33) If the total of all credits for a project is \$200,000.00
9 or less, a qualified taxpayer shall apply to the Michigan economic
10 growth authority for approval of the project under this subsection.
11 An application under this subsection shall state whether the
12 project is a multiphase project. Subject to section 35c, the
13 chairperson of the Michigan economic growth authority or his or her
14 designee is authorized to approve an application or project under
15 this subsection. Only the chairperson of the Michigan economic
16 growth authority is authorized to deny an application or project
17 under this subsection. A project shall be approved or denied not
18 more than 45 days after receipt of the application. If the
19 chairperson of the Michigan economic growth authority or his or her
20 designee does not approve or deny the application within 45 days
21 after the application is received by the Michigan economic growth
22 authority, the application is considered approved as written. If a
23 project is denied under this subsection, a taxpayer is not
24 prohibited from subsequently applying under this subsection for the
25 same project or for another project. The total of all credits for
26 all projects approved under this subsection shall not exceed
27 \$10,000,000.00 in any calendar year. After the first full calendar

1 year after the effective date of the amendatory act that added this
2 subsection, if the authority approves a total of all credits for
3 all projects under this subsection of less than \$10,000,000.00 in a
4 calendar year, the authority may carry forward for 1 year only the
5 difference between \$10,000,000.00 and the total of all credits for
6 all projects under this subsection approved in the immediately
7 preceding calendar year. If the chairperson of the Michigan
8 economic growth authority or his or her designee approves a project
9 under this subsection, the chairperson of the Michigan economic
10 growth authority or his or her designee shall issue a preapproval
11 letter that states that the taxpayer is a qualified taxpayer; the
12 maximum total eligible investment for the project on which credits
13 may be claimed and the maximum total of all credits for the project
14 when the project is completed and a certificate of completion is
15 issued; and the project number assigned by the Michigan economic
16 growth authority. The Michigan economic growth authority shall
17 develop and implement the use of the application form to be used
18 for projects under this subsection. Before the application form is
19 first used and if the Michigan economic growth authority
20 substantially changes the form, the Michigan economic growth
21 authority shall adopt the form or changes by resolution. After 60
22 days after the effective date of the amendatory act that added this
23 subsection and before the Michigan economic growth authority
24 substantially changes the application form, the Michigan economic
25 growth authority shall give notice of the proposed resolution to
26 the secretary of the senate, to the clerk of the house of
27 representatives, and to each person who requested from the Michigan

1 economic growth authority in writing or electronically to be
2 notified regarding proposed resolutions. The notice and proposed
3 resolution and all attachments shall be published on the Michigan
4 economic growth authority's internet website. The Michigan economic
5 growth authority shall hold a public hearing not sooner than 14
6 days and not later than 30 days after the date notice of a proposed
7 resolution is given and offer an opportunity for persons to present
8 data, views, questions, and arguments. The Michigan economic growth
9 authority board members or 1 or more persons designated by the
10 Michigan economic growth authority who have knowledge of the
11 subject matter of the proposed resolution shall be present at the
12 public hearing and shall participate in the discussion of the
13 proposed resolution. The Michigan economic growth authority may act
14 on the proposed resolution no sooner than 14 days after the public
15 hearing. The Michigan economic growth authority shall produce a
16 final decision document that describes the basis for its decision.
17 The final resolution and all attachments and the decision document
18 shall be provided to the secretary of the senate and to the clerk
19 of the house of representatives and shall be published on the
20 Michigan economic growth authority's internet website. The notice
21 shall include all of the following:

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

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

25 (c) The address to which written comments may be sent and the
26 date by which comments must be mailed or electronically
27 transmitted, which date shall not be restricted to only before the

1 date of the public hearing.

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

3 (34) A QUALIFIED TAXPAYER THAT HAS A PREAPPROVAL LETTER ISSUED
4 BEFORE DECEMBER 31, 2006 FOR A CREDIT APPROVED UNDER SUBSECTION
5 (2), (3), OR (33) FOR A PROJECT THAT IS NOT COMPLETED BEFORE THE
6 DATE ON WHICH THIS ACT IS REPEALED BUT IS COMPLETED BEFORE JANUARY
7 1, 2010 MAY CLAIM THE CREDIT AMOUNT APPROVED UNDER SUBSECTION (2),
8 (3), OR (33) AGAINST THE TAXPAYER'S TAX LIABILITY ON THE TAXPAYER'S
9 ANNUAL RETURN FILED UNDER THIS ACT FOR THE TAXPAYER'S LAST TAX YEAR
10 UNDER THIS ACT. A CREDIT UNDER THIS SUBSECTION SHALL BE TAKEN AFTER
11 ALL OTHER CREDITS THE TAXPAYER CLAIMS FOR THE TAX YEAR AND SHALL
12 NOT EXCEED THE AMOUNT THAT THE TAXPAYER WOULD HAVE BEEN ALLOWED TO
13 CLAIM FOR THE 2008 TAX YEAR FOR PROJECTS COMPLETED IN 2008 OR FOR
14 THE 2009 TAX YEAR FOR PROJECTS COMPLETED IN 2009. IF THE AMOUNT OF
15 A CREDIT UNDER THIS SUBSECTION EXCEEDS THE TAXPAYER'S TAX LIABILITY
16 FOR THE TAX YEAR, THE AMOUNT BY WHICH THE CREDIT EXCEEDS THE
17 TAXPAYER'S TAX LIABILITY SHALL BE REFUNDED.

18 (35) —(34)— As used in this section:

19 (a) "Annual credit amount" means the maximum amount that a
20 qualified taxpayer is eligible to claim each tax year for a project
21 for which the total of all credits is more than \$10,000,000.00 but
22 \$30,000,000.00 or less, which shall be 10% of the qualified
23 taxpayer's credit amount approved under subsection (3).

24 (b) "Authority" means a brownfield redevelopment authority
25 created under the brownfield redevelopment financing act, 1996 PA
26 381, MCL 125.2651 to 125.2672.

27 (c) "Authorized business", "full-time job", "new capital

1 investment", "qualified high-technology business", "retained jobs",
2 and "written agreement" mean those terms as defined in the Michigan
3 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

4 (d) "Blighted", "brownfield plan", "eligible activities",
5 "eligible property", "facility", "functionally obsolete",
6 "qualified local governmental unit", and "response activity" mean,
7 except as otherwise provided in subdivision (f), those terms as
8 defined in the brownfield redevelopment financing act, 1996 PA 381,
9 MCL 125.2651 to 125.2672.

10 (e) "Eligible investment" means demolition, construction,
11 restoration, alteration, renovation, or improvement of buildings or
12 site improvements on eligible property and the addition of
13 machinery, equipment, and fixtures to eligible property after the
14 date that eligible activities on that eligible property have
15 started pursuant to a brownfield plan under the brownfield
16 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
17 and after the date that the preapproval letter is issued, except
18 that the date that the preapproval letter is issued is not a
19 limitation for 1 project the construction of which began after
20 January 1, 2000 and before January 1, 2001 without the Michigan
21 economic growth authority determining that the project would not
22 occur in this state without the tax credit offered under this
23 section as provided in subsection (7), if the costs of the eligible
24 investment are not otherwise reimbursed to the taxpayer or paid for
25 on behalf of the taxpayer from any source other than the taxpayer.
26 The addition of leased machinery, equipment, or fixtures to
27 eligible property by a lessee of the machinery, equipment, or

1 fixtures is eligible investment if the lease of the machinery,
2 equipment, or fixtures has a minimum term of 10 years or is for the
3 expected useful life of the machinery, equipment, or fixtures, and
4 if the owner of the machinery, equipment, or fixtures is not the
5 qualified taxpayer with regard to that machinery, equipment, or
6 fixtures.

7 (f) "Eligible property" means that term as defined in the
8 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
9 to 125.2672, except that, for purposes of subsection (33), all of
10 the following apply:

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

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

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

22 (I) Infrastructure improvements that directly benefit the
23 eligible property.

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

27 (III) Lead or asbestos abatement.

1 (IV) Site preparation that is not response activity under
2 section 20101 of the natural resources and environmental protection
3 act, 1994 PA 451, MCL 324.20101.

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

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

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

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

22 (g) "Eligible taxpayer" means an eligible business that meets
23 the criteria under section 8(5) of the Michigan economic growth
24 authority act, 1995 PA 24, MCL 207.808.

25 (h) "Michigan economic growth authority" means the Michigan
26 economic growth authority created in the Michigan economic growth
27 authority act, 1995 PA 24, MCL 207.801 to 207.810.

1 (i) "Multiphase project" means a project approved under
2 subsection (2), (3), or (33) that has more than 1 component, each
3 of which can be completed separately.

4 (j) "Payroll" and "tax rate" mean those terms as defined in
5 section 37c.

6 (k) "Personal property" means that term as defined in section
7 8 of the general property tax act, 1893 PA 206, MCL 211.8, except
8 that personal property does not include either of the following:

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

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

13 (l) "Project" means the total of all eligible investment on an
14 eligible property or, for purposes of subsection (5)(b), 1 of the
15 following:

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

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

20 (m) "Qualified local governmental unit" means that term as
21 defined in the obsolete property rehabilitation act, 2000 PA 146,
22 MCL 125.2781 to 125.2797.

23 (n) "Qualified taxpayer" means a taxpayer that meets both of
24 the following criteria:

25 (i) Owns or leases eligible property.

26 (ii) Certifies that, except as otherwise provided in this
27 subparagraph, the department of environmental quality has not sued

1 or issued a unilateral order to the taxpayer pursuant to part 201
2 of the natural resources and environmental protection act, 1994 PA
3 451, MCL 324.20101 to 324.20142, to compel response activity on or
4 to the eligible property, or expended any state funds for response
5 activity on or to the eligible property and demanded reimbursement
6 for those expenditures from the qualified taxpayer. However, if the
7 taxpayer has completed all response activity required by part 201
8 of the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.20101 to 324.20142, is in compliance with any deed
10 restriction or administrative or judicial order related to the
11 required response activity, and has reimbursed the state for all
12 costs incurred by the state related to the required response
13 activity, the taxpayer meets the criteria under this subparagraph.

14 (o) "Tax liability attributable to authorized business
15 activity" means the tax liability imposed by this act after the
16 calculation of credits provided in sections 36, 37, and 39.

17 Sec. 39c. (1) A qualified taxpayer with a rehabilitation plan
18 certified after December 31, 1998 may credit against the tax
19 imposed by this act the amount determined pursuant to subsection
20 (2) for the qualified expenditures for the rehabilitation of a
21 historic resource pursuant to the rehabilitation plan in the year
22 in which the certification of completed rehabilitation of the
23 historic resource is issued provided that the certification of
24 completed rehabilitation was issued not more than 5 years after the
25 rehabilitation plan was certified by the Michigan historical
26 center.

27 (2) The credit allowed under this section shall be 25% of the

1 qualified expenditures that are eligible for the credit under
2 section 47(a)(2) of the internal revenue code if the taxpayer is
3 eligible for the credit under section 47(a)(2) of the internal
4 revenue code or, if the taxpayer is not eligible for the credit
5 under section 47(a)(2) of the internal revenue code, 25% of the
6 qualified expenditures that would qualify under section 47(a)(2) of
7 the internal revenue code except that the expenditures are made to
8 a historic resource that is not eligible for the credit under
9 section 47(a)(2) of the internal revenue code, subject to both of
10 the following:

11 (a) A taxpayer with qualified expenditures that are eligible
12 for the credit under section 47(a)(2) of the internal revenue code
13 may not claim a credit under this section for those qualified
14 expenditures unless the taxpayer has claimed and received a credit
15 for those qualified expenditures under section 47(a)(2) of the
16 internal revenue code.

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

20 (3) To be eligible for the credit under this section, the
21 taxpayer shall apply to and receive from the Michigan historical
22 center certification that the historic significance, the
23 rehabilitation plan, and the completed rehabilitation of the
24 historic resource meet the criteria under subsection (6) and either
25 of the following:

26 (a) All of the following criteria:

27 (i) The historic resource contributes to the significance of

1 the historic district in which it is located.

2 (ii) Both the rehabilitation plan and completed rehabilitation
3 of the historic resource meet the federal secretary of the
4 interior's standards for rehabilitation and guidelines for
5 rehabilitating historic buildings, 36 CFR part 67.

6 (iii) All rehabilitation work has been done to or within the
7 walls, boundaries, or structures of the historic resource or to
8 historic resources located within the property boundaries of the
9 property.

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

15 (4) If a qualified taxpayer is eligible for the credit allowed
16 under section 47(a)(2) of the internal revenue code, the qualified
17 taxpayer shall file for certification with the center to qualify
18 for the credit allowed under section 47(a)(2) of the internal
19 revenue code. If the qualified taxpayer has previously filed for
20 certification with the center to qualify for the credit allowed
21 under section 47(a)(2) of the internal revenue code, additional
22 filing for the credit allowed under this section is not required.

23 (5) The center may inspect a historic resource at any time
24 during the rehabilitation process and may revoke certification of
25 completed rehabilitation if the rehabilitation was not undertaken
26 as represented in the rehabilitation plan or if unapproved
27 alterations to the completed rehabilitation are made during the 5

1 years after the tax year in which the credit was claimed. The
2 center shall promptly notify the department of a revocation.

3 (6) Qualified expenditures for the rehabilitation of a
4 historic resource may be used to calculate the credit under this
5 section if the historic resource meets 1 of the criteria listed in
6 subdivision (a) and 1 of the criteria listed in subdivision (b):

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

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

12 (ii) A contributing resource located within a historic district
13 listed on the national register of historic places or the state
14 register of historic sites.

15 (iii) A contributing resource located within a historic district
16 designated by a local unit pursuant to an ordinance adopted under
17 the local historic districts act, 1970 PA 169, MCL 399.201 to
18 399.215.

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

22 (i) The historic resource is located in a designated historic
23 district in a local unit of government with an existing ordinance
24 under the local historic districts act, 1970 PA 169, MCL 399.201 to
25 399.215.

26 (ii) The historic resource is located in an incorporated local
27 unit of government that does not have an ordinance under the local

1 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and
2 has a population of less than 5,000.

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

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

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

1 The qualified taxpayer and assignees shall send a copy of the
2 completed assignment form to the department in the tax year in
3 which the assignment is made and attach a copy of the completed
4 assignment form to the annual return required to be filed under
5 this act for that tax year.

6 (8) If the credit allowed under this section for the tax year
7 and any unused carryforward of the credit allowed by this section
8 exceed the taxpayer's tax liability for the tax year, that portion
9 that exceeds the tax liability for the tax year shall not be
10 refunded but may be carried forward to offset tax liability in
11 subsequent tax years for 10 years or until used up, whichever
12 occurs first.

13 (9) If the taxpayer sells a historic resource for which a
14 credit under this section was claimed less than 5 years after the
15 year in which the credit was claimed, the following percentage of
16 the credit amount previously claimed relative to that historic
17 resource shall be added back to the tax liability of the taxpayer
18 in the year of the sale:

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

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

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

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

27 (e) If the sale is at least 4 years but less than 5 years

1 after the year in which the credit was claimed, 20%.

2 (f) If the sale is 5 years or more after the year in which the
3 credit was claimed, an addback to the taxpayer's tax liability
4 shall not be made.

5 (10) If a certification of completed rehabilitation is revoked
6 under subsection (5) less than 5 years after the year in which a
7 credit was claimed, the following percentage of the credit amount
8 previously claimed relative to that historic resource shall be
9 added back to the tax liability of the taxpayer in the year of the
10 revocation:

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

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

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

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

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

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

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

27 (12) The qualified taxpayer shall attach all of the following

1 to the qualified taxpayer's annual return required under this act
2 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
3 206.532, if applicable, on which the credit is claimed:

4 (a) Certification of completed rehabilitation.

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

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

12 (13) The department of history, arts, and libraries shall
13 promulgate rules to implement this section pursuant to the
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
15 24.328.

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

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

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

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

1 (c) The location of each new and ongoing rehabilitation
2 project.

3 (16) A QUALIFIED TAXPAYER THAT HAS A REHABILITATION PLAN
4 CERTIFIED BEFORE DECEMBER 31, 2006 FOR THE REHABILITATION OF A
5 HISTORIC RESOURCE FOR WHICH A CERTIFICATE OF COMPLETION IS NOT
6 ISSUED BEFORE THE DATE ON WHICH THIS ACT IS REPEALED BUT FOR WHICH
7 A CERTIFICATE OF COMPLETION IS ISSUED BEFORE JANUARY 1, 2010 MAY
8 CLAIM THE CREDIT ALLOWED UNDER THIS SECTION AGAINST THE TAXPAYER'S
9 TAX LIABILITY ON THE TAXPAYER'S ANNUAL RETURN FILED UNDER THIS ACT
10 FOR THE TAXPAYER'S LAST TAX YEAR UNDER THIS ACT. A CREDIT UNDER
11 THIS SUBSECTION SHALL BE TAKEN AFTER ALL OTHER CREDITS THE TAXPAYER
12 CLAIMS FOR THE TAX YEAR AND SHALL NOT EXCEED THE AMOUNT THAT THE
13 TAXPAYER WOULD HAVE BEEN ALLOWED TO CLAIM FOR THE 2008 TAX YEAR FOR
14 PROJECTS COMPLETED IN 2008 OR FOR THE 2009 TAX YEAR FOR PROJECTS
15 COMPLETED IN 2009. IF THE AMOUNT OF A CREDIT UNDER THIS SUBSECTION
16 EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR, THE AMOUNT
17 BY WHICH THE CREDIT EXCEEDS THE TAXPAYER'S TAX LIABILITY SHALL BE
18 REFUNDED.

19 (17) ~~—(16)—~~ As used in this section:

20 (a) "Contributing resource" means a historic resource that
21 contributes to the significance of the historic district in which
22 it is located.

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

27 (c) "Historic resource" means a publicly or privately owned

1 historic building, structure, site, object, feature, or open space
2 located within a historic district designated by the national
3 register of historic places, the state register of historic sites,
4 or a local unit acting under the local historic districts act, 1970
5 PA 169, MCL 399.201 to 399.215; or that is individually listed on
6 the state register of historic sites or national register of
7 historic places and includes all of the following:

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

10 (ii) An income-producing commercial, industrial, or residential
11 resource or a historic resource located within the property
12 boundaries of that resource.

13 (iii) A resource owned by a governmental body, nonprofit
14 organization, or tax-exempt entity that is used primarily by a
15 taxpayer lessee in a trade or business unrelated to the
16 governmental body, nonprofit organization, or tax-exempt entity and
17 that is subject to tax under this act.

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

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

22 (d) "Local unit" means a county, city, village, or township.

23 (e) "Long-term lease" means a lease term of at least 27.5
24 years for a residential resource or at least 31.5 years for a
25 nonresidential resource.

26 (f) "Michigan historical center" or "center" means the state
27 historic preservation office of the Michigan historical center of

1 the department of history, arts, and libraries or its successor
2 agency.

3 (g) "Open space" means undeveloped land, a naturally
4 landscaped area, or a formal or man-made landscaped area that
5 provides a connective link or a buffer between other resources.

6 (h) "Person" means an individual, partnership, corporation,
7 association, governmental entity, or other legal entity.

8 (i) "Qualified expenditures" means capital expenditures that
9 qualify for a rehabilitation credit under section 47(a)(2) of the
10 internal revenue code if the taxpayer is eligible for the credit
11 under section 47(a)(2) of the internal revenue code or, if the
12 taxpayer is not eligible for the credit under section 47(a)(2) of
13 the internal revenue code, the qualified expenditures that would
14 qualify under section 47(a)(2) of the internal revenue code except
15 that the expenditures are made to a historic resource that is not
16 eligible for the credit under section 47(a)(2) of the internal
17 revenue code that were paid not more than 5 years after the
18 certification of the rehabilitation plan that included those
19 expenditures was approved by the center, and that were paid after
20 December 31, 1998 for the rehabilitation of a historic resource.
21 Qualified expenditures do not include capital expenditures for
22 nonhistoric additions to a historic resource except an addition
23 that is required by state or federal regulations that relate to
24 historic preservation, safety, or accessibility.

25 (j) "Qualified taxpayer" means a person that is an assignee
26 under subsection (7) or either owns the resource to be
27 rehabilitated or has a long-term lease agreement with the owner of

1 the historic resource and that has qualified expenditures for the
2 rehabilitation of the historic resource equal to or greater than
3 10% of the state equalized valuation of the property. If the
4 historic resource to be rehabilitated is a portion of a historic or
5 nonhistoric resource, the state equalized valuation of only that
6 portion of the property shall be used for purposes of this
7 subdivision. If the assessor for the local tax collecting unit in
8 which the historic resource is located determines the state
9 equalized valuation of that portion, that assessor's determination
10 shall be used for purposes of this subdivision. If the assessor
11 does not determine that state equalized valuation of that portion,
12 qualified expenditures, for purposes of this subdivision, shall be
13 equal to or greater than 5% of the appraised value as determined by
14 a certified appraiser. If the historic resource to be rehabilitated
15 does not have a state equalized valuation, qualified expenditures
16 for purposes of this subdivision shall be equal to or greater than
17 5% of the appraised value of the resource as determined by a
18 certified appraiser.

19 (k) "Rehabilitation plan" means a plan for the rehabilitation
20 of a historic resource that meets the federal secretary of the
21 interior's standards for rehabilitation and guidelines for
22 rehabilitation of historic buildings under 36 CFR part 67.