

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5511

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 437. (1) Subject to the criteria under this section, a
2 qualified taxpayer that has unused credits or has a preapproval
3 letter issued after December 31, 2007 and before January 1, 2013,
4 or a taxpayer that received a preapproval letter prior to January
5 1, 2008 under section 38g of former 1975 PA 228 and has not
6 received a certificate of completion prior to the taxpayer's last
7 tax year, provided that the project is completed not more than 5
8 years after the preapproval letter for the project is issued **UNLESS**
9 **EXTENDED UNDER SUBSECTION (9) OR IF IT IS A MULTIPHASE PROJECT NOT**

1 MORE THAN 10 YEARS AFTER THE PREAPPROVAL LETTER, AS AMENDED, IF
2 APPLICABLE, FOR THE PROJECT IS ISSUED, or an assignee under
3 subsection (20), (21), or (22) may claim a credit that has been
4 approved under section 38g of former 1975 PA 228 or under
5 subsection (2), (3), or (4) against the tax imposed by this act
6 equal to either of the following:

7 (a) ~~IF~~ FOR PROJECTS APPROVED BEFORE THE EFFECTIVE DATE OF THE
8 AMENDATORY ACT THAT ADDED SUBSECTION (33), IF the total of all
9 credits for a project is \$1,000,000.00 or less, 10% of the cost of
10 the qualified taxpayer's eligible investment paid or accrued by the
11 qualified taxpayer on an eligible property provided that the
12 project does not exceed the amount stated in the preapproval
13 letter, AS AMENDED. FOR PROJECTS APPROVED ON AND AFTER THE
14 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (33), IF
15 THE TOTAL OF ALL ELIGIBLE INVESTMENTS FOR A PROJECT ARE
16 \$10,000,000.00 OR LESS, UP TO 12.5% OF THE COSTS OF THE QUALIFIED
17 TAXPAYER'S ELIGIBLE INVESTMENT PAID OR ACCRUED BY THE QUALIFIED
18 TAXPAYER ON AN ELIGIBLE PROPERTY OR UP TO 15% OF THE COSTS OF THE
19 QUALIFIED TAXPAYER'S ELIGIBLE INVESTMENT PAID OR ACCRUED BY THE
20 QUALIFIED TAXPAYER ON AN ELIGIBLE PROPERTY IF THE PROJECT IS
21 DESIGNATED AS AN URBAN DEVELOPMENT AREA PROJECT BY THE MICHIGAN
22 ECONOMIC GROWTH AUTHORITY TO THE EXTENT THAT THE PROJECT DOES NOT
23 EXCEED THE AMOUNT STATED IN THE PREAPPROVAL LETTER, AS AMENDED, OR,
24 UNTIL DECEMBER 31, 2010, UP TO 20% OF THE COSTS OF THE QUALIFIED
25 TAXPAYER'S ELIGIBLE INVESTMENT PAID OR ACCRUED BY THE QUALIFIED
26 TAXPAYER ON AN ELIGIBLE PROPERTY IF THE PROJECT IS DESIGNATED AS AN
27 URBAN DEVELOPMENT AREA PROJECT BY THE MICHIGAN ECONOMIC GROWTH

1 **AUTHORITY.** If eligible investment exceeds the amount of eligible
2 investment in the preapproval letter, **AS AMENDED**, for that project,
3 the total of all credits for the project shall not exceed the total
4 of all credits on the certificate of completion.

5 (b) ~~IF~~ **FOR PROJECTS APPROVED BEFORE THE EFFECTIVE DATE OF THE**
6 **AMENDATORY ACT THAT ADDED SUBSECTION (33), IF** the total of all
7 credits for a project is more than \$1,000,000.00 but \$30,000,000.00
8 or less and, except as provided in subsection (6)(b), the project
9 is located in a qualified local governmental unit, a percentage as
10 determined by the Michigan economic growth authority not to exceed
11 10% of the cost of the qualified taxpayer's eligible investment as
12 determined under subsection ~~(9)~~ **(11)** paid or accrued by the
13 qualified taxpayer on an eligible property. **FOR PROJECTS APPROVED**
14 **ON AND AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
15 **SUBSECTION (33), IF THE TOTAL OF ALL ELIGIBLE INVESTMENTS FOR A**
16 **PROJECT IS MORE THAN \$10,000,000.00 BUT \$300,000,000.00 OR LESS, UP**
17 **TO 12.5% OF THE COSTS OF THE QUALIFIED TAXPAYER'S ELIGIBLE**
18 **INVESTMENT AS DETERMINED UNDER SUBSECTION (11) PAID OR ACCRUED BY**
19 **THE QUALIFIED TAXPAYER ON AN ELIGIBLE PROPERTY THAT, EXCEPT AS**
20 **PROVIDED IN SUBSECTION (6)(B), IS LOCATED IN A QUALIFIED LOCAL**
21 **GOVERNMENTAL UNIT, UP TO 15% OF THE COST OF THE QUALIFIED**
22 **TAXPAYER'S ELIGIBLE INVESTMENT AS DETERMINED UNDER SUBSECTION (11)**
23 **PAID OR ACCRUED BY THE QUALIFIED TAXPAYER ON AN ELIGIBLE PROPERTY**
24 **IF THE PROJECT IS DESIGNATED AS AN URBAN DEVELOPMENT AREA PROJECT**
25 **BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, OR, UNTIL DECEMBER 31,**
26 **2010, UP TO 20% OF THE COSTS OF THE QUALIFIED TAXPAYER'S ELIGIBLE**
27 **INVESTMENT AS DETERMINED UNDER SUBSECTION (11) PAID OR ACCRUED BY**

1 THE QUALIFIED TAXPAYER ON AN ELIGIBLE PROPERTY IF THE PROJECT IS
2 DESIGNATED AS AN URBAN DEVELOPMENT AREA PROJECT BY THE MICHIGAN
3 ECONOMIC GROWTH AUTHORITY. If eligible investment exceeds the
4 amount of eligible investment in the preapproval letter, **AS**
5 **AMENDED**, for that project, the total of all credits for the project
6 shall not exceed the total of all credits on the certificate of
7 completion.

8 (2) If the cost of a project will be \$2,000,000.00 or less, a
9 qualified taxpayer shall apply to the Michigan economic growth
10 authority for approval of the project under this subsection. An
11 application under this subsection shall state whether the project
12 is a multiphase project. ~~The~~ **SUBJECT TO THE LIMITATION PROVIDED**
13 **UNDER SUBSECTION (31), THE** chairperson of the Michigan economic
14 growth authority or his or her designee is authorized to approve an
15 application or project under this subsection. Only the chairperson
16 of the Michigan economic growth authority is authorized to deny an
17 application or project under this subsection. A project shall be
18 approved or denied not more than 45 days after receipt of the
19 application. If the chairperson of the Michigan economic growth
20 authority or his or her designee does not approve or deny the
21 application within 45 days after the application is received by the
22 Michigan economic growth authority, the application is considered
23 approved as written. ~~The total of all credits for all projects~~
24 ~~approved under this subsection shall not exceed \$10,000,000.00 in~~
25 ~~any calendar year.~~ If the chairperson of the Michigan economic
26 growth authority or his or her designee approves a project under
27 this subsection, the chairperson of the Michigan economic growth

1 authority or his or her designee shall issue a preapproval letter
2 that states that the taxpayer is a qualified taxpayer; the maximum
3 total eligible investment for the project on which credits may be
4 claimed and the maximum total of all credits for the project when
5 the project is completed and a certificate of completion is issued;
6 and the project number assigned by the Michigan economic growth
7 authority. If a project is denied under this subsection, a taxpayer
8 is not prohibited from subsequently applying under this subsection
9 for the same project or for another project. ~~If the authority
10 approves a total of all credits for all projects under this
11 subsection of less than \$10,000,000.00 in a calendar year, the
12 authority may carry forward for 1 year only the difference between
13 \$10,000,000.00 and the total of all credits for all projects under
14 this subsection approved in the immediately preceding calendar
15 year.~~The Michigan economic growth authority shall develop and
16 implement the use of the application form to be used for projects
17 under this subsection. ~~Before the Michigan economic growth
18 authority substantially changes the form, the Michigan economic
19 growth authority shall adopt the changes by resolution and give
20 notice of the proposed resolution to the secretary of the senate,
21 to the clerk of the house of representatives, and to each person
22 who requested from the Michigan economic growth authority in
23 writing or electronically to be notified regarding proposed
24 resolutions. The notice and proposed resolution and all attachments
25 shall be published on the Michigan economic growth authority's
26 internet website. The Michigan economic growth authority shall hold
27 a public hearing not sooner than 14 days and not later than 30 days~~

1 ~~after the date notice of a proposed resolution is given and offer~~
2 ~~an opportunity for persons to present data, views, questions, and~~
3 ~~arguments. The Michigan economic growth authority board members or~~
4 ~~1 or more persons designated by the Michigan economic growth~~
5 ~~authority who have knowledge of the subject matter of the proposed~~
6 ~~resolution shall be present at the public hearing and shall~~
7 ~~participate in the discussion of the proposed resolution. The~~
8 ~~Michigan economic growth authority may act on the proposed~~
9 ~~resolution no sooner than 14 days after the public hearing. The~~
10 ~~Michigan economic growth authority shall produce a final decision~~
11 ~~document that describes the basis for its decision. The final~~
12 ~~resolution and all attachments and the decision document shall be~~
13 ~~provided to the secretary of the senate and to the clerk of the~~
14 ~~house of representatives and shall be published on the Michigan~~
15 ~~economic growth authority's internet website. The notice shall~~
16 ~~include all of the following:~~

17 ~~—— (a) A copy of the proposed resolution and all attachments.~~

18 ~~—— (b) A statement that any person may express any data, views,~~
19 ~~or arguments regarding the proposed resolution.~~

20 ~~—— (c) The address to which written comments may be sent and the~~
21 ~~date by which comments must be mailed or electronically~~
22 ~~transmitted, which date shall not be restricted to only before the~~
23 ~~date of the public hearing.~~

24 ~~—— (d) The date, time, and place of the public hearing.~~

25 (3) 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~~ **SUBJECT TO THE LIMITATION PROVIDED UNDER SUBSECTION (31), THE**
4 chairperson of the Michigan economic growth authority or his or her
5 designee is authorized to approve an application or project under
6 this subsection. Only the chairperson of the Michigan economic
7 growth authority is authorized to deny an application or project
8 under this subsection. A project shall be approved or denied not
9 more than 45 days after receipt of the application. If the
10 chairperson of the Michigan economic growth authority or his or her
11 designee does not approve or deny an application within 45 days
12 after the application is received by the Michigan economic growth
13 authority, the application is considered approved as written. ~~The~~
14 ~~total of all credits for all projects approved under this~~
15 ~~subsection shall not exceed \$30,000,000.00 in any calendar year. If~~
16 ~~the authority approves a total of all credits for all projects~~
17 ~~under this subsection of less than \$30,000,000.00 in a calendar~~
18 ~~year, the authority may carry forward for 1 year only the~~
19 ~~difference between \$30,000,000.00 and the total of all credits for~~
20 ~~all projects approved under this subsection in the immediately~~
21 ~~preceding calendar year.~~ The criteria in subsection (7) shall be
22 used when approving projects under this subsection. When approving
23 projects under this subsection, priority shall be given to projects
24 on a facility. The total of all credits for an approved project
25 under this subsection shall not exceed \$1,000,000.00 **THE AMOUNTS**
26 **AUTHORIZED UNDER SUBSECTION (1) (A)**. A taxpayer may apply under this
27 subsection instead of subsection (4) for approval of a project that

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

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

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

1 taxpayer is not prohibited from subsequently applying under this
2 subsection or subsection (3) for the same project or for another
3 project.

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

9 (6) The Michigan economic growth authority may approve not
10 more than ~~17-20~~ projects each calendar year under subsection (4),
11 and the following limitations apply:

12 (a) Of the ~~17-20~~ projects allowed under this subsection, the
13 total of all credits for each project may be more than
14 \$10,000,000.00 but \$30,000,000.00 or less for ~~up to 2 projects~~ **ONLY**
15 **1 PROJECT.**

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

26 (c) ~~Of the 2 projects~~ **THE PROJECT** allowed under subdivision

27 (a) ~~, 1 may be a project that also qualifies~~ **MAY ALSO QUALIFY** under

1 subdivision (b).

2 (7) The Michigan economic growth authority shall review all
3 applications for projects under subsection (4) and, if an
4 application is approved, shall determine the maximum total of all
5 credits for that project. Before approving a project for which the
6 total of all credits will be more than \$10,000,000.00 but
7 \$30,000,000.00 or less only, the Michigan economic growth authority
8 shall determine that the project would not occur in this state
9 without the tax credit offered under subsection (4). The Michigan
10 economic growth authority shall consider the following criteria to
11 the extent reasonably applicable to the type of project proposed
12 when approving a project under subsection (4), and the chairperson
13 of the Michigan economic growth authority or his or her designee
14 shall consider the following criteria to the extent reasonably
15 applicable to the type of project proposed when approving a project
16 under subsection (2) or (3) or when considering an amendment to a
17 project under subsection (9):

18 (a) The overall benefit to the public.

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

21 (c) Creation of jobs.

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

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

27 (f) The level of private sector contribution.

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

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

6 (i) Whether the ~~financial statements of the qualified taxpayer~~
7 ~~indicate that it~~ **PROJECT** is financially sound and that the project
8 ~~is~~ **AND** economically sound.

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

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

18 (9) If, after a taxpayer's project has been approved and the
19 taxpayer has received a preapproval letter but before the ~~project~~
20 ~~is completed~~ **TAXPAYER HAS MADE AN ELIGIBLE INVESTMENT, OTHER THAN**
21 **SOFT COSTS, AT THE PROPERTY**, the taxpayer determines that the
22 project cannot be completed as preapproved, the taxpayer may
23 petition the Michigan economic growth authority to amend the
24 project **AND THE PREAPPROVAL LETTER TO INCREASE THE MAXIMUM TOTAL**
25 **ELIGIBLE INVESTMENT FOR THE PROJECT ON WHICH CREDITS MAY BE CLAIMED**
26 **AND THE MAXIMUM TOTAL OF ALL CREDITS FOR THE PROJECT.** ~~The total of~~
27 ~~eligible investment for the project as amended shall not exceed the~~

1 ~~amount allowed in the preapproval letter for that project. A~~
2 **TAXPAYER MAY PETITION THE MICHIGAN ECONOMIC GROWTH AUTHORITY TO**
3 **MAKE ANY OTHER AMENDMENTS TO THE PROJECT OR PREAPPROVAL LETTER AT**
4 **ANY TIME BEFORE A CERTIFICATE OF COMPLETION IS ISSUED. AMENDMENTS**
5 **TO THE PROJECT OR PREAPPROVAL LETTER MAY INCLUDE, BUT ARE NOT**
6 **LIMITED TO, EXTENDING THE DURATION OF TIME PROVIDED TO COMPLETE THE**
7 **PROJECT, AS LONG AS THAT EXTENSION DOES NOT EXCEED 10 YEARS FROM**
8 **THE DATE OF THE PREAPPROVAL LETTER.**

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

1 project to the qualified taxpayer that is the new owner or lessee.
2 A multiphase project shall not be divided into more than ~~20~~10
3 components. A component is considered to be completed when a
4 certificate of occupancy has been issued by the local municipality
5 in which the project is located for all of the buildings or
6 facilities that comprise the completed component and a component
7 completion certificate is issued **OR THE CHAIRPERSON OF THE MICHIGAN**
8 **ECONOMIC GROWTH AUTHORITY OR HIS OR HER DESIGNEE, FOR PROJECTS**
9 **APPROVED UNDER SUBSECTION (2) OR (3), OR THE MICHIGAN ECONOMIC**
10 **GROWTH AUTHORITY, FOR PROJECTS APPROVED UNDER SUBSECTION (4),**
11 **VERIFIES THAT THE COMPONENT IS COMPLETE.** A credit assigned based on
12 a multiphase project shall be claimed by the assignee in the tax
13 year in which the assignment is made. The total of all credits for
14 a multiphase project shall not exceed the amount stated in the
15 preapproval letter, **AS AMENDED,** for the project under subsection
16 (1). If all components of a multiphase project are not completed by
17 10 years after the date on which the preapproval letter, **AS**
18 **AMENDED, IF APPLICABLE,** for the project was issued, the qualified
19 taxpayer that received the preapproval letter for the project shall
20 pay to the state treasurer, as a penalty, an amount equal to the
21 sum of all credits claimed and assigned for all components of the
22 multiphase project and no credits based on that multiphase project
23 shall be claimed after that date by the qualified taxpayer or any
24 assignee of the qualified taxpayer. The penalty under this
25 subsection is subject to interest on the amount of the credit
26 claimed or assigned determined individually for each component at
27 the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on

1 the date that the credit for that component was claimed or
2 assigned. As used in this subsection, "proportionate share" means
3 the same percentage of the total of all credits for the project
4 that the qualified investment for the completed component is of the
5 total qualified investment stated in the preapproval letter, **AS**
6 **AMENDED**, for the entire project.

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

1 exceed the maximum total of all credits listed in the preapproval
2 letter for the project under subsection (2), (3), or (4) as
3 applicable **AND AS AMENDED UNDER SUBSECTION (9)** and shall state all
4 of the following:

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

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

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

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

11 (e) The project number.

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

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

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

27 (13) The cost of eligible investment for leased machinery,

1 equipment, or fixtures is the cost of that property had the
2 property been purchased minus the lessor's estimate, made at the
3 time the lease is entered into, of the market value the property
4 will have at the end of the lease. A credit for property described
5 in this subsection is allowed only if the cost of that property had
6 the property been purchased and the lessor's estimate of the market
7 value at the end of the lease are provided to the Michigan economic
8 growth authority.

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

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

22 (16) Except as otherwise provided in this subsection or
23 subsection (10), (18), (20), (21), or (22), a credit under this
24 section shall be claimed in the tax year in which the certificate
25 of completion is issued to the qualified taxpayer. For a project
26 described in subsection (11)(f) for which a schedule for claiming
27 annual credit amounts is designated on the certificate of

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1 completion by the Michigan economic growth authority, the annual
2 credit amount shall be claimed in the tax year specified on the
3 certificate of completion.

4 (17) ~~<<The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION,**
THE>> credits approved under this section shall be
5 calculated after application of all other credits allowed under
6 this act. The credits under this section shall be calculated before
7 the calculation of the ~~<<credit under section 431. CREDITS UNDER~~
SECTIONS 413, 423, 431, AND 450.>>

8 (18) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IF**
9 the credit allowed under this section for the tax year and any
10 unused carryforward of the credit allowed under this section exceed
11 the qualified taxpayer's or assignee's tax liability for the tax
12 year, that portion that exceeds the tax liability for the tax year
13 shall not be refunded but may be carried forward to offset tax
14 liability in subsequent tax years for 10 years or until used up,
15 whichever occurs first. Except as otherwise provided in this
16 subsection, the maximum time allowed under the carryforward
17 provisions under this subsection begins with the tax year in which
18 the certificate of completion is issued to the qualified taxpayer.
19 If the qualified taxpayer assigns all or any portion of its credit
20 approved under this section, the maximum time allowed under the
21 carryforward provisions for an assignee begins to run with the tax
22 year in which the assignment is made and the assignee first claims
23 a credit, which shall be the same tax year. The maximum time
24 allowed under the carryforward provisions for an annual credit
25 amount for a credit allowed under subsection (4) begins to run in
26 the tax year for which the annual credit amount is designated on
27 the certificate of completion issued under this section. A credit

1 carryforward available under section 38g of former 1975 PA 228 that
2 is unused at the end of the last tax year may be claimed against
3 the tax imposed under act for the years the carryforward would have
4 been available under former 1975 PA 228. **BEGINNING ON AND AFTER THE**
5 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (33), IF**
6 **THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR EXCEEDS THE**
7 **QUALIFIED TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR, THE QUALIFIED**
8 **TAXPAYER MAY ELECT TO HAVE THE EXCESS REFUNDED AT A RATE EQUAL TO**
9 **85% OF THAT PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY OF**
10 **THE QUALIFIED TAXPAYER FOR THE TAX YEAR AND FORGO THE REMAINING 15%**
11 **OF THE CREDIT AND ANY CARRYFORWARD.**

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

1 used to reduce the qualified taxpayer's carryforward under
2 subsection (18).

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

1 assignee and the qualified taxpayer may assign all or a portion of
2 each annual credit amount to any assignee.

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

5 (21) Except as otherwise provided in this subsection, for
6 projects for which a certificate of completion is issued before
7 January 1, 2006, and except as otherwise provided in this
8 subsection, 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 under this section
11 to its partners, members, or shareholders, based on their
12 proportionate share of ownership of the partnership, limited
13 liability company, or subchapter S corporation or based on an
14 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. Except as otherwise provided in
20 this subsection, if the qualified taxpayer both claims and assigns
21 portions of the credit, the qualified taxpayer shall claim the
22 portion it claims in the tax year in which a certificate of
23 completion is issued or for a credit assigned and claimed for a
24 multiphase project, before the component completion certificate is
25 issued, the taxpayer shall claim the credit in the year in which
26 the credit is assigned. A partner, member, or shareholder that is
27 an assignee shall not subsequently assign a credit or any portion

1 of a credit assigned under this subsection. The credit assignment
2 under this subsection shall be made on a form prescribed by the
3 Michigan economic growth authority. The qualified taxpayer shall
4 send a copy of the completed assignment form to the Michigan
5 economic growth authority in the tax year in which the assignment
6 is made. A partner, member, or shareholder who is an assignee shall
7 attach a copy of the completed assignment form to its annual return
8 required under this act, for the tax year in which the assignment
9 is made and the assignee first claims a credit, which shall be the
10 same tax year. A credit assignment based on a credit for a
11 component of a multiphase project that is completed before January
12 1, 2006 shall be made under this subsection. In addition to all
13 other procedures under this subsection, the following apply if the
14 total of all credits for a project is more than \$10,000,000.00 but
15 \$30,000,000.00 or less:

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

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

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

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

26 (22) For projects approved under **THIS SECTION OR** section 38g
27 of former 1975 PA 228 for which a certificate of completion is

1 issued on and after January 1, 2006, a qualified taxpayer may
2 assign all or a portion of a credit allowed under **THIS SECTION OR**
3 section 38g(2), (3), or (33) of former 1975 PA 228 under this
4 subsection. A credit assignment under this subsection is
5 irrevocable and, except for a credit assignment based on a
6 multiphase project, shall be made in the tax year in which a
7 certificate of completion is issued unless the assignee is an
8 unknown lessee. If a qualified taxpayer wishes to assign all or a
9 portion of its credit to a lessee but the lessee is unknown in the
10 tax year in which the certificate of completion is issued, the
11 qualified taxpayer may delay claiming and assigning the credit
12 until the first tax year in which the lessee is known. A qualified
13 taxpayer may claim a portion of a credit and assign the remaining
14 credit amount. If the qualified taxpayer both claims and assigns
15 portions of the credit, the qualified taxpayer shall claim the
16 portion it claims in the tax year in which a certificate of
17 completion is issued pursuant to **THIS SECTION OR** section 38g of
18 former 1975 PA 228. An assignee may subsequently assign a credit or
19 any portion of a credit assigned under this subsection to 1 or more
20 assignees. ~~An assignment under this subsection of a credit allowed~~
21 ~~under section 38g(2), (3), or (33) of former 1975 PA 228 shall not~~
22 ~~be made after 10 years after the first tax year in which that~~
23 ~~credit under section 38g(2), (3), or (33) of former 1975 PA 228 may~~
24 ~~be claimed.~~ The credit assignment or a subsequent reassignment
25 under this subsection shall be made on a form prescribed by the
26 Michigan economic growth authority. ~~The qualified taxpayer shall~~
27 ~~send a copy of the completed assignment form to the Michigan~~

1 ~~economic growth authority in the tax year in which an assignment or~~
2 ~~reassignment is made.~~ **THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR ITS**
3 **DESIGNEE SHALL REVIEW AND ISSUE A COMPLETED ASSIGNMENT OR**
4 **REASSIGNMENT CERTIFICATE TO THE ASSIGNEE OR REASSIGNEE.** An assignee
5 or subsequent reassignee shall attach a copy of the completed
6 assignment ~~form~~ **CERTIFICATE** to its annual return required under
7 this act, for the tax year in which the assignment or reassignment
8 is made and the assignee or reassignee first claims a credit, which
9 shall be the same tax year. A credit assignment based on a credit
10 for a component of a multiphase project that is completed before
11 January 1, 2006 shall be made under section 38g(18) of former 1975
12 PA 228. A credit assignment based on a credit for a component of a
13 multiphase project that is completed on or after January 1, 2006
14 may be made under this section. In addition to all other procedures
15 and requirements under this section, the following apply if the
16 total of all credits for a project is more than \$10,000,000.00 but
17 \$30,000,000.00 or less:

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

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

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

26 (23) A qualified taxpayer or assignee under subsection (20),
27 (21), or (22) shall not claim a credit under subsection (1)(a) or

1 (b) based on eligible investment on which a credit claimed under
2 section 38d of former 1975 PA 228 was based.

3 ~~(24) The Michigan economic growth authority may certify a~~
4 ~~credit under this section based on an agreement entered into prior~~
5 ~~to January 1, 2008 pursuant to section 38g of former 1975 PA 228.~~
6 ~~The number of years for which the credit under this subsection may~~
7 ~~be claimed under this act shall equal the maximum number of years~~
8 ~~designated in the agreement reduced by the number of years for~~
9 ~~which a credit had been claimed or could have been claimed under~~
10 ~~section 38g of former 1975 PA 228.~~ WHEN REVIEWING AN APPLICATION
11 FOR A PROJECT FOR DESIGNATION AS AN URBAN DEVELOPMENT AREA PROJECT,
12 THE MICHIGAN ECONOMIC GROWTH AUTHORITY FOR PROJECTS APPROVED UNDER
13 SUBSECTION (4) OR THE CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH
14 AUTHORITY OR HIS OR HER DESIGNEE FOR PROJECTS APPROVED UNDER
15 SUBSECTIONS (2) AND (3) SHALL CONSIDER ALL OF THE FOLLOWING
16 CRITERIA:

17 (A) IF THE PROJECT INCREASES THE DENSITY OF THE AREA BY
18 PROMOTING MULTISTORY DEVELOPMENT.

19 (B) IF THE PROJECT PROMOTES MIXED-USE DEVELOPMENT AND WALKABLE
20 COMMUNITIES.

21 (C) IF THE PROJECT PROMOTES SUSTAINABLE REDEVELOPMENT.

22 (D) IF THE PROJECT ADDRESSES AREAWIDE REDEVELOPMENT AND
23 INCLUDES MULTIPLE PARCELS OF PROPERTY.

24 (E) IF THE PROJECT ADDRESSES UNDERSERVED MARKETS OF COMMERCE.

25 (F) ANY OTHER CRITERIA DETERMINED BY THE MICHIGAN ECONOMIC
26 GROWTH AUTHORITY OR THE CHAIRPERSON OF THE MICHIGAN ECONOMIC GROWTH
27 AUTHORITY.

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

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

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

24 (28) Eligible investment attributable or related to the
25 construction of a new landfill or the expansion of an existing
26 landfill regulated under part 115 of the natural resources and
27 environmental protection act, 1994 PA 451, MCL 324.11501 to

1 324.11550, shall not be used as a basis for a credit under this
2 section.

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

9 (a) A listing of the projects under ~~subsection~~**SUBSECTIONS**
10 **(2), (3), AND (4)** that were approved in the calendar year.

11 (b) The total amount of eligible investment for projects
12 approved under ~~subsection~~**SUBSECTIONS (2), (3), AND (4)** in the
13 calendar year.

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

16 **(31) FOR THE 2008 CALENDAR YEAR, THE TOTAL OF ALL CREDITS FOR**
17 **ALL PROJECTS APPROVED UNDER SUBSECTION (2) OR (3) SHALL NOT EXCEED**
18 **\$63,000,000.00. FOR EACH CALENDAR YEAR AFTER 2008, THE TOTAL OF ALL**
19 **CREDITS FOR ALL PROJECTS APPROVED UNDER SUBSECTION (2) OR (3) SHALL**
20 **NOT EXCEED \$40,000,000.00. IF THE MICHIGAN ECONOMIC GROWTH**
21 **AUTHORITY APPROVES A TOTAL OF ALL CREDITS FOR ALL PROJECTS UNDER**
22 **SUBSECTION (2) OR (3) OF LESS THAN \$40,000,000.00 IN A CALENDAR**
23 **YEAR, THE MICHIGAN ECONOMIC GROWTH AUTHORITY MAY CARRY FORWARD FOR**
24 **1 YEAR ONLY THE DIFFERENCE BETWEEN \$40,000,000.00 AND THE TOTAL OF**
25 **ALL CREDITS FOR ALL PROJECTS UNDER THIS SUBSECTION APPROVED IN THE**
26 **IMMEDIATELY PRECEDING CALENDAR YEAR.**

27 **(32) ~~(31)~~As used in this section:**

1 (a) "Annual credit amount" means the maximum amount that a
2 qualified taxpayer is eligible to claim each tax year for a project
3 for which the total of all credits is more than \$10,000,000.00 but
4 \$30,000,000.00 or less, ~~which shall be 10% of the qualified~~
5 ~~taxpayer's credit amount~~ **AS** approved under subsection ~~(3)~~ **(4)**.

6 (b) "Authority" means a brownfield redevelopment authority
7 created under the brownfield redevelopment financing act, 1996 PA
8 381, MCL 125.2651 to 125.2672.

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

13 **(C)** ~~(d)~~ "Blighted", "brownfield plan", "eligible activities",
14 "facility", "functionally obsolete", "qualified local governmental
15 unit", and "response activity" mean those terms as defined in the
16 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
17 to 125.2672.

18 **(D)** ~~(e)~~ "Eligible investment" **OR "ELIGIBLE INVESTMENTS"** means,
19 **WHEN MADE AFTER THE APPROVAL DATE OF THE BROWNFIELD PLAN BUT IN ANY**
20 **EVENT NO EARLIER THAN 90 DAYS PRIOR TO THE DATE OF THE PREAPPROVAL**
21 **LETTER, ANY** demolition, construction, restoration, alteration,
22 renovation, or improvement of buildings or site improvements on
23 eligible property and the addition of machinery, equipment, and
24 fixtures to eligible property after the date that eligible
25 activities on that eligible property have started pursuant to a
26 brownfield plan under the brownfield redevelopment financing act,
27 1996 PA 381, MCL 125.2651 to 125.2672, ~~and after the date that the~~

1 ~~preapproval letter is issued,~~ if the costs of the eligible
2 investment are not otherwise reimbursed to the taxpayer or paid for
3 on behalf of the taxpayer from any source other than the taxpayer.
4 The addition of leased machinery, equipment, or fixtures to
5 eligible property by a lessee of the machinery, equipment, or
6 fixtures is eligible investment if the lease of the machinery,
7 equipment, or fixtures has a minimum term of 10 years or is for the
8 expected useful life of the machinery, equipment, or fixtures, and
9 if the owner of the machinery, equipment, or fixtures is not the
10 qualified taxpayer with regard to that machinery, equipment, or
11 fixtures. **FOR PROJECTS APPROVED AFTER THE EFFECTIVE DATE OF THE**
12 **AMENDATORY ACT THAT ADDED SUBSECTION (33), ELIGIBLE INVESTMENT DOES**
13 **NOT INCLUDE CERTAIN SOFT COSTS OF THE ELIGIBLE INVESTMENT AS**
14 **DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, INCLUDING,**
15 **BUT NOT LIMITED TO, DEVELOPER FEES, APPRAISALS, PERFORMANCE BONDS,**
16 **CLOSING COSTS, BANK FEES, LOAN FEES, RISK CONTINGENCIES, FINANCING**
17 **COSTS, PERMANENT OR CONSTRUCTION PERIOD INTEREST, LEGAL EXPENSES,**
18 **LEASING OR SALES COMMISSIONS, MARKETING COSTS, PROFESSIONAL FEES,**
19 **SHARED SAVINGS, TAXES, TITLE INSURANCE, BANK INSPECTION FEES,**
20 **INSURANCE, AND PROJECT MANAGEMENT FEES. NOTWITHSTANDING THE**
21 **FOREGOING, ELIGIBLE INVESTMENT DOES INCLUDE ARCHITECTURAL,**
22 **ENGINEERING, SURVEYING, AND SIMILAR PROFESSIONAL FEES.**

23 (E) ~~(f)~~ "Eligible property", **EXCEPT AS OTHERWISE PROVIDED**
24 **UNDER SUBSECTION (33),** means ~~that term as defined in the brownfield~~
25 ~~redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,~~
26 ~~except that, for purposes of subsection (2), all of the following~~
27 ~~apply:~~

1 ~~—— (i) Eligible property means property identified under a~~
2 ~~brownfield plan that was used or is currently used for commercial,~~
3 ~~industrial, or residential purposes and that is 1 of the following:~~
4 ~~—— (A) Property for which eligible activities are identified~~
5 ~~under the brownfield plan, is in a qualified local governmental~~
6 ~~unit, and is a facility, functionally obsolete, or blighted.~~
7 ~~—— (B) Property that is not in a qualified local governmental~~
8 ~~unit but is within a downtown development district established~~
9 ~~under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally~~
10 ~~obsolete or blighted, and a component of the project on that~~
11 ~~eligible property is 1 or more of the following:~~
12 ~~—— (I) Infrastructure improvements that directly benefit the~~
13 ~~eligible property.~~
14 ~~—— (II) 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 ~~—— (III) Lead or asbestos abatement.~~
18 ~~—— (IV) 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 ~~—— (C) 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 ~~—— (ii) 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~~

1 ~~owned or under the control of a land bank fast track authority~~
 2 ~~pursuant to the land bank fast track authority act, 2003 PA 258,~~
 3 ~~MCL 124.751 to 124.774.~~

4 ~~—— (iii) Eligible property includes, to the extent included in the~~
 5 ~~brownfield plan, personal property located on the eligible~~
 6 ~~property.~~

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

12 **PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED UNDER A**
 13 **BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMERCIAL,**
 14 **INDUSTRIAL, PUBLIC, OR RESIDENTIAL PURPOSES, INCLUDING PERSONAL**
 15 **PROPERTY LOCATED ON THE PROPERTY, TO THE EXTENT INCLUDED IN THE**
 16 **BROWNFIELD PLAN, AND THAT IS 1 OR MORE OF THE FOLLOWING:**

17 **(i) IS IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A**
 18 **FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED AND INCLUDES PARCELS**
 19 **THAT ARE ADJACENT OR CONTIGUOUS TO THAT PROPERTY IF THE DEVELOPMENT**
 20 **OF THE ADJACENT AND CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE**
 21 **CAPTURED TAXABLE VALUE OF THAT PROPERTY.**

22 **(ii) IS NOT IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND IS A**
 23 **FACILITY, AND INCLUDES PARCELS THAT ARE ADJACENT OR CONTIGUOUS TO**
 24 **THAT PROPERTY IF THE DEVELOPMENT OF THE ADJACENT AND CONTIGUOUS**
 25 **PARCELS IS ESTIMATED TO INCREASE THE CAPTURED TAXABLE VALUE OF THAT**
 26 **PROPERTY.**

27 **(iii) IS TAX REVERTED PROPERTY OWNED OR UNDER THE CONTROL OF A**

1 **LAND BANK FAST TRACK AUTHORITY.**

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

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

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

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

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

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

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

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

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

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

1 MCL 125.2781 to 125.2797.

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

4 (i) Owns, ~~or~~ leases, **OR HAS ENTERED INTO AN AGREEMENT TO**
5 **PURCHASE OR LEASE** eligible property.

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

21 (M) **"URBAN DEVELOPMENT AREA PROJECT" MEANS A PROJECT LOCATED**
22 **ON ELIGIBLE PROPERTY IN THE DOWNTOWN OR TRADITIONAL CENTRAL**
23 **BUSINESS DISTRICT OF A QUALIFIED LOCAL GOVERNMENTAL UNIT OR COUNTY**
24 **SEAT OR ALONG A TRADITIONAL COMMERCIAL CORRIDOR OF A QUALIFIED**
25 **LOCAL GOVERNMENTAL UNIT OR COUNTY SEAT AS DETERMINED BY THE**
26 **MICHIGAN ECONOMIC GROWTH AUTHORITY OR THE CHAIRPERSON OF THE**
27 **MICHIGAN ECONOMIC GROWTH AUTHORITY OR HIS OR HER DESIGNEE.**

1 (33) FOR PURPOSES OF SUBSECTION (2), ELIGIBLE PROPERTY MEANS
2 THAT TERM AS DEFINED UNDER SUBSECTION (32) (E) EXCEPT THAT ALL OF
3 THE FOLLOWING APPLY:

4 (A) ELIGIBLE PROPERTY MEANS PROPERTY IDENTIFIED UNDER A
5 BROWNFIELD PLAN THAT WAS USED OR IS CURRENTLY USED FOR COMMERCIAL,
6 INDUSTRIAL, PUBLIC, OR RESIDENTIAL PURPOSES AND THAT IS 1 OF THE
7 FOLLOWING:

8 (i) PROPERTY FOR WHICH ELIGIBLE ACTIVITIES ARE IDENTIFIED UNDER
9 THE BROWNFIELD PLAN, IS IN A QUALIFIED LOCAL GOVERNMENTAL UNIT, AND
10 IS A FACILITY, FUNCTIONALLY OBSOLETE, OR BLIGHTED.

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

16 (A) INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE
17 ELIGIBLE PROPERTY.

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

21 (C) LEAD OR ASBESTOS ABATEMENT.

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

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

1 (B) ELIGIBLE PROPERTY INCLUDES PARCELS THAT ARE ADJACENT OR
2 CONTIGUOUS TO THE ELIGIBLE PROPERTY IF THE DEVELOPMENT OF THE
3 ADJACENT OR CONTIGUOUS PARCELS IS ESTIMATED TO INCREASE THE
4 CAPTURED TAXABLE VALUE OF THE PROPERTY OR TAX REVERTED PROPERTY
5 OWNED OR UNDER THE CONTROL OF A LAND BANK FAST TRACK AUTHORITY
6 PURSUANT TO THE LAND BANK FAST TRACK AUTHORITY ACT, 2003 PA 258,
7 MCL 124.751 TO 124.774.

8 (C) ELIGIBLE PROPERTY INCLUDES, TO THE EXTENT INCLUDED IN THE
9 BROWNFIELD PLAN, PERSONAL PROPERTY LOCATED ON THE ELIGIBLE
10 PROPERTY.

11 (D) ELIGIBLE PROPERTY DOES NOT INCLUDE QUALIFIED AGRICULTURAL
12 PROPERTY EXEMPT UNDER SECTION 7EE OF THE GENERAL PROPERTY TAX ACT,
13 1893 PA 206, MCL 211.7EE, FROM THE TAX LEVIED BY A LOCAL SCHOOL
14 DISTRICT FOR SCHOOL OPERATING PURPOSES TO THE EXTENT PROVIDED UNDER
15 SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211.