

# HOUSE BILL No. 6113

May 4, 2010, Introduced by Reps. Agema, Amash, McMillin, DeShazor, Haveman, Paul Scott, Green, Meekhof, Meltzer, Walsh, Crawford, Lund, Rogers, Genetski, Kowall and Booher and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending sections 431a, 431b, and 431c (MCL 208.1431a,  
208.1431b, and 208.1431c), section 431a as amended by 2009 PA 159,  
section 431b as added by 2008 PA 109, and section 431c as amended  
by 2009 PA 160.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 431a. (1) A qualified taxpayer may claim a credit against  
2 the tax imposed by this act equal to the sum of up to 100% of each  
3 qualified supplier's and qualified customer's payroll attributable  
4 to employees who perform qualified new jobs as determined by the  
5 Michigan economic growth authority, multiplied by the tax rate for  
6 the tax year and that credit may include each of the qualified  
7 supplier's and qualified customer's payroll described above for a

1 period of up to 5 years as determined by the Michigan economic  
2 growth authority. If the credit allowed under this subsection  
3 exceeds the liability of the taxpayer for the tax year, the  
4 taxpayer may elect to have that portion that exceeds the tax  
5 liability of the taxpayer refunded or to have the excess carried  
6 forward to offset tax liability in subsequent years for 10 years or  
7 until it is used up, whichever occurs first. The Michigan economic  
8 growth authority shall not designate more than 5 new anchor  
9 companies in each calendar year and shall not approve more than 5  
10 new credits in each calendar year under this subsection. An anchor  
11 company has 5 years from the date on which the anchor company is  
12 designated as an anchor company to seek certification from the  
13 Michigan economic growth authority as a qualified taxpayer for each  
14 qualified supplier and qualified customer that is included in the  
15 credit which that anchor company is seeking under this section. **THE**  
16 **MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL NOT DESIGNATE A TAXPAYER**  
17 **AS AN ANCHOR COMPANY AFTER DECEMBER 31, 2010 AND SHALL NOT APPROVE**  
18 **ANY NEW CREDITS UNDER THIS SECTION AFTER DECEMBER 31, 2010.**

19 However, a credit shall not be provided for a tax year prior to the  
20 tax year during which the designation as an anchor company is made.

21 (2) The Michigan economic growth authority may also provide  
22 that qualified sales to a qualified customer shall not be  
23 considered in calculating the sales factor under this act for the  
24 tax year for which a credit is provided under this section. Not  
25 later than July 1 of each year, the Michigan economic growth  
26 authority shall disclose to the senate majority leader or his or  
27 her designee, the speaker of the house of representatives or his or

1 her designee, and the chairperson of each standing committee of the  
2 house of representatives and the senate that primarily addresses  
3 and has jurisdiction over issues pertaining to taxation, finance,  
4 and economic development the name and address of each qualified  
5 customer whose sales are not considered in the sales factor  
6 pursuant to this subsection.

7 (3) A taxpayer shall not claim a credit under this section  
8 unless the Michigan economic growth authority has issued a  
9 certificate to the taxpayer. The taxpayer shall attach the  
10 certificate to the annual return filed under this act on which the  
11 credit under this section is claimed. The certificate required by  
12 this subsection shall state all of the following:

13 (a) The taxpayer is a qualified taxpayer and the date on which  
14 the taxpayer was designated as an anchor company.

15 (b) The amount of the credit under this section for the  
16 qualified taxpayer for the designated tax year.

17 (c) The amount of the qualified sales to a qualified customer.

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

21 (4) A qualified taxpayer that claims a credit under this  
22 section and subsequently fails to meet the requirements of this  
23 section or any other conditions included in an agreement entered  
24 into with the Michigan economic growth authority in order to obtain  
25 a certificate for which the credit was under this section may, as  
26 to be determined by the Michigan economic growth authority, have  
27 its credit reduced or terminated or have a percentage of the credit

1 amount previously claimed under this section added back to the tax  
2 liability of the taxpayer in the year that the taxpayer fails to  
3 comply with this section or the agreement.

4 (5) A credit under this section may be taken after all other  
5 allowable nonrefundable credits under this act.

6 (6) As used in this section:

7 (a) "Anchor company" means a qualified high-technology  
8 business that is an integral part of a high-technology activity and  
9 that has the ability or potential ability to influence business  
10 decisions and site location of qualified suppliers and customers.

11 (b) "Business", "qualified high-technology activity", and  
12 "qualified high-technology business" mean those terms as defined in  
13 the Michigan economic growth authority act, 1995 PA 24, MCL 207.801  
14 to 207.810.

15 (c) "Full-time job" means a job performed by an individual for  
16 35 hours or more each week and whose income and social security  
17 taxes are withheld by 1 or more of the following:

18 (i) A qualified supplier or qualified customer.

19 (ii) An employee leasing company on behalf of a qualified  
20 supplier or qualified customer.

21 (iii) A professional employer organization on behalf of a  
22 qualified supplier or qualified customer.

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

26 (e) "Qualified new job" means a full-time job created by a  
27 qualified supplier or qualified customer at a facility or

1 facilities that is in excess of the number of full-time jobs a  
2 qualified supplier or qualified customer maintained in this state  
3 or at a facility prior to the expansion or location, as determined  
4 by the authority.

5 (f) "Qualified sales to a qualified customer" means sales to a  
6 qualified customer that are in excess of the Michigan sales to the  
7 customer prior to the year of expansion or location within this  
8 state as determined by the Michigan economic growth authority and  
9 that would otherwise be included in the calculation of the sales  
10 factor under this act.

11 (g) "Qualified supplier" and "qualified customer" ~~means~~ **MEAN** a  
12 business that opens a new location in this state, a business that  
13 locates in this state, or an existing business located in this  
14 state that expands its business as a result of an anchor company  
15 and satisfies prior to the issuance of a certificate and at the  
16 time specified in the agreement with the qualified taxpayer, as  
17 certified by the Michigan economic growth authority, each of the  
18 following:

19 (i) Has financial transactions with the anchor company.

20 (ii) Sells a critical or unique component or technology  
21 necessary for the anchor company to market a finished product as  
22 the result of a commercial relationship with the anchor company or  
23 buys a critical or unique component from the anchor company.

24 (iii) Has created more than 10 qualified new jobs.

25 (iv) Has made an investment of at least \$1,000,000.00 as  
26 certified by the Michigan economic growth authority.

27 (h) "Qualified taxpayer" means a taxpayer that was designated

1 by the Michigan economic growth authority as an anchor company  
2 within the last 5 years and that has influenced a qualified  
3 supplier or qualified customer to open, locate, or expand in this  
4 state.

5 (i) "Tax rate" means the rate imposed under section 51 of the  
6 income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year  
7 in which the tax year of the taxpayer for which the credit is being  
8 computed begins.

9 Sec. 431b. (1) Upon application **THROUGH DECEMBER 31, 2010**, a  
10 person or group of persons acting collectively may enter into an  
11 agreement with the Michigan economic growth authority for a credit  
12 under this section. In determining whether to enter into an  
13 agreement with a person or group of persons, the authority shall  
14 consider the following factors:

15 (a) The number of qualified new jobs or products, or both, to  
16 be created or maintained as a result of winning a federal  
17 procurement contract offered by the United States department of  
18 defense, department of energy, or department of homeland security.

19 (b) The potential impact of the expansion, retention, or  
20 location on the economy of Michigan if the person or group of  
21 persons acting collectively is awarded the federal contract  
22 described under subdivision (a).

23 (c) The number of out-of-state persons bidding against the  
24 person or group of persons acting collectively for the federal  
25 contract described under subdivision (a).

26 (d) The total capital investment or new capital investment the  
27 person or group of persons acting collectively will make to win and

1 maintain the federal contract described under subdivision (a).

2 (2) The agreement required under subsection (1) shall include,  
3 but is not limited to, all of the following:

4 (a) A description of the federal contract for which the person  
5 or group of persons acting collectively intends to bid.

6 (b) A description of the person's or group's expansion,  
7 retention, or location that is necessary if awarded the federal  
8 contract that is the subject of the agreement.

9 (c) Conditions upon which the person or group of persons  
10 acting collectively is designated a qualified taxpayer under this  
11 section.

12 (d) A statement by the person or group of persons acting  
13 collectively that a violation of the written agreement may result  
14 in the revocation of the designation as a qualified taxpayer and  
15 the loss or reduction of future credits under this section.

16 (e) A statement by the person or group of persons acting  
17 collectively that a misrepresentation in the application may result  
18 in the revocation of the designation as a qualified taxpayer and  
19 the refund of credits received under this section.

20 (f) A method for measuring qualified new jobs before and after  
21 the award of a federal contract and the expansion, retention, or  
22 location of the person or group of persons acting collectively in  
23 this state as a result of winning the federal contract.

24 (3) A qualified taxpayer may claim a credit against the tax  
25 imposed by this act in an amount up to 100% of the qualified  
26 taxpayer's payroll attributable to employees who perform qualified  
27 new jobs created as a result of the person or group of persons

1 acting collectively being awarded a federal procurement contract by  
2 the United States department of defense, department of energy, or  
3 department of homeland security as determined by the Michigan  
4 economic growth authority, multiplied by the tax rate for the tax  
5 year for a period of up to 7 years or the term of the contract,  
6 whichever is less, as determined by the Michigan economic growth  
7 authority. If the qualified taxpayer is a group of persons acting  
8 collectively, the Michigan economic growth authority shall  
9 determine the amount of the credit which each person included in  
10 the group is allowed to claim by multiplying the amount of the  
11 credit allowed collectively by the qualified taxpayer by a  
12 fraction, the numerator of which is the person's payroll  
13 attributable to employees who perform qualified new jobs and the  
14 denominator of which is 100% of the qualified taxpayer's payroll  
15 attributable to employees who perform qualified new jobs, and then  
16 certifying the amount of the credit that each person is allowed to  
17 claim respectively. If the credit allowed under this subsection  
18 exceeds the liability of the taxpayer for the tax year, the  
19 taxpayer may elect to have that portion that exceeds the tax  
20 liability of the taxpayer refunded or to have the excess carried  
21 forward to offset tax liability in subsequent years for 10 years or  
22 until it is used up, whichever occurs first. The Michigan economic  
23 growth authority shall not execute more than 10 new written  
24 agreements each year. If a qualified taxpayer is awarded a credit  
25 under this section, any subsequent credits awarded to that  
26 qualified taxpayer shall not be included in determining the yearly  
27 limit of 10 new agreements under this subsection.

1 (4) A taxpayer shall not claim a credit under this section  
2 unless the Michigan economic growth authority has issued the  
3 taxpayer a certificate of designation as a qualified taxpayer.  
4 However, a credit shall not be provided for a tax year prior to the  
5 tax year during which the certification is made. The taxpayer shall  
6 attach the certificate to the annual return filed under this act on  
7 which the credit under this section is claimed. The certificate  
8 required by this subsection shall state all of the following:

9 (a) The taxpayer is a qualified taxpayer.

10 (b) The amount of the credit under this section for the  
11 qualified taxpayer for the designated tax year or, if the qualified  
12 taxpayer is a group of persons, the percentage of the amount of the  
13 credit that the taxpayer is allowed to claim for the designated tax  
14 year.

15 (c) The taxpayer's federal employer identification number or  
16 the Michigan department of treasury number assigned to the  
17 taxpayer.

18 (5) As used in this section:

19 (a) "Full-time job" means a job performed by an individual for  
20 35 hours or more each week and whose income and social security  
21 taxes are withheld by 1 or more of the following:

22 (i) A taxpayer.

23 (ii) An employee leasing company on behalf of a taxpayer.

24 (iii) A professional employer organization on behalf of a  
25 taxpayer.

26 (b) "Michigan economic growth authority" or "authority" means  
27 the Michigan economic growth authority created in the Michigan

1 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

2 (c) "Qualified new job" means a full-time job created by a  
3 qualified taxpayer at a facility or facilities that is in excess of  
4 the number of full-time jobs the qualified taxpayer maintained in  
5 this state or at a facility prior to being awarded the federal  
6 procurement contract and the expansion or location, as determined  
7 by the authority.

8 (d) "Qualified taxpayer" means a person that individually  
9 satisfies each of the following or a group of 1 or more persons  
10 that enter into a cooperative or informal agreement to act  
11 collectively and satisfy each of the following:

12 (i) Has entered into an agreement with the authority as  
13 described under this section.

14 (ii) Has submitted a competitive bid for a federal procurement  
15 contract offered by the United States department of defense,  
16 department of energy, or department of homeland security.

17 (iii) Has been awarded the federal contract for which the person  
18 or group of persons acting collectively submitted a bid under  
19 subparagraph (ii).

20 (iv) Has created a minimum of 25 qualified new jobs.

21 Sec. 431c. (1) Except as otherwise provided under this  
22 section, a qualified taxpayer may claim a credit against the tax  
23 imposed by this act equal to the sum of up to 5.0% of the taxable  
24 value of each qualified supplier's or customer's taxable property  
25 that is located within the 10-mile radius of the qualified taxpayer  
26 and that is subject to collection of general ad valorem taxes under  
27 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,

1 for a period of up to 5 years, as determined by the Michigan  
2 economic growth authority. If a qualified supplier's or customer's  
3 taxable property is subject to the specific tax levied under 1974  
4 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only  
5 include up to 2.5% of the taxable value of that property in the  
6 calculation of the amount of the credit allowed under this section.  
7 The Michigan economic growth authority shall not designate more  
8 than 5 taxpayers as an anchor company in each calendar year and  
9 shall not approve more than 5 new credits in each calendar year  
10 under this subsection. **THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL**  
11 **NOT DESIGNATE A TAXPAYER AS AN ANCHOR COMPANY AFTER DECEMBER 31,**  
12 **2010 AND SHALL NOT APPROVE ANY NEW CREDITS UNDER THIS SECTION AFTER**  
13 **DECEMBER 31, 2010.** A taxpayer has 5 years from the date on which  
14 the taxpayer is designated as an anchor company to seek  
15 certification as a qualified taxpayer for each qualified supplier  
16 or customer for which a credit is sought under this section.

17 (2) A taxpayer shall not claim a credit under this section  
18 unless the Michigan economic growth authority has issued a  
19 certificate to the qualified taxpayer. However, a credit shall not  
20 be provided for a tax year prior to the tax year during which the  
21 certification is issued. The qualified taxpayer shall attach the  
22 certificate to the annual return filed under this act on which the  
23 credit under this section is claimed. The certificate required by  
24 this subsection shall state all of the following:

25 (a) The taxpayer is a qualified taxpayer and the date on which  
26 the taxpayer was designated as an anchor company.

27 (b) The amount of the credit under this section for the

1 taxpayer for the designated tax year.

2 (c) The taxpayer's federal employer identification number or  
3 the Michigan department of treasury number assigned to the  
4 taxpayer.

5 (3) A qualified taxpayer that claims a credit under this  
6 section and subsequently fails to meet the requirements of this  
7 section or any other conditions established by the Michigan  
8 economic growth authority in order to obtain a certificate for  
9 which the credit was claimed under this section may, as to be  
10 determined by the Michigan economic growth authority, have its  
11 credit reduced or terminated or have a percentage of the credit  
12 amount previously claimed under this section added back to the tax  
13 liability of the qualified taxpayer in the year that the qualified  
14 taxpayer fails to comply with this section or the agreement.

15 (4) If the credit allowed under this subsection exceeds the  
16 liability of the qualified taxpayer for the tax year, the qualified  
17 taxpayer may elect to have that portion that exceeds the tax  
18 liability of the qualified taxpayer refunded or to have the excess  
19 carried forward to offset tax liability in subsequent years for 5  
20 years or until it is used up, whichever occurs first.

21 (5) As used in this section:

22 (a) "Anchor company" means a qualified high-technology  
23 business that is an integral part of a high-technology activity and  
24 that has the ability or potential ability to influence business  
25 decisions and site location of qualified suppliers and customers.

26 (b) "Business", "qualified high-technology activity", and  
27 "qualified high-technology business" mean those terms as defined in

1 the Michigan economic growth authority act, 1995 PA 24, MCL 207.801  
2 to 207.810.

3 (c) "Full-time job" means a job performed by an individual for  
4 35 hours or more each week and whose income and social security  
5 taxes are withheld by 1 or more of the following:

6 (i) A qualified supplier or customer.

7 (ii) An employee leasing company on behalf of a qualified  
8 supplier or customer.

9 (iii) A professional employer organization on behalf of a  
10 qualified supplier or customer.

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

14 (e) "Qualified new job" means a full-time job created by a  
15 qualified supplier or customer at a facility or facilities that is  
16 in excess of the number of full-time jobs a qualified supplier or  
17 customer maintained in this state or facility prior to the  
18 expansion or location, as determined by the authority.

19 (f) "Qualified supplier or customer" means a business that  
20 opens a new location in this state, a business that locates in this  
21 state, or an existing business located in this state that expands  
22 its business within the last year as a result of an anchor company  
23 and satisfies, as certified by the Michigan economic growth  
24 authority, each of the following:

25 (i) Has financial transactions with the anchor company.

26 (ii) Sells a critical or unique component or technology  
27 necessary for the anchor company to market a finished product or

1 buys a critical or unique component from the anchor company.

2 (iii) Has created more than 10 qualified new jobs.

3 (iv) Has made an investment of at least \$1,000,000.00 as  
4 certified by the Michigan economic growth authority.

5 (g) "Qualified taxpayer" means a taxpayer that was designated  
6 by the Michigan economic growth authority as an anchor company  
7 within the last 5 years and that has influenced 1 or more qualified  
8 suppliers or customers to open, locate, or expand their business  
9 and conduct business activity within a 10-mile radius of the anchor  
10 company.

11 Enacting section 1. This amendatory act does not take effect  
12 unless all of the following bills of the 95th Legislature are  
13 enacted into law:

14 (a) House Bill No. 5249.

15 (b) Senate Bill No.\_\_\_\_ or House Bill No. 6104(request no.  
16 04275'09).

17 (c) Senate Bill No.\_\_\_\_ or House Bill No. 6103(request no.  
18 05669'09).

19 (d) Senate Bill No.\_\_\_\_ or House Bill No. 6105(request no.  
20 05670'09).

21 (e) Senate Bill No.\_\_\_\_ or House Bill No. 6106(request no.  
22 05671'09).

23 (f) Senate Bill No.\_\_\_\_ or House Bill No. 6107(request no.  
24 05672'09).

25 (g) Senate Bill No.\_\_\_\_ or House Bill No. 6112(request no.  
26 05673'09).

27 (h) Senate Bill No.\_\_\_\_ or House Bill No. 6109(request no.

1 05676'09).

2 (i) Senate Bill No.\_\_\_\_ or House Bill No. 6110(request no.

3 05677'09).

4 (j) Senate Bill No.\_\_\_\_ or House Bill No. 6116(request no.

5 05678'09).

6 (k) Senate Bill No.\_\_\_\_ or House Bill No. 6114(request no.

7 05679'09).

8 (l) Senate Bill No.\_\_\_\_ or House Bill No. 6117(request no.

9 05680'09).

10 (m) Senate Bill No.\_\_\_\_ or House Bill No. 6108(request no.

11 05681'09).

12 (n) Senate Bill No.\_\_\_\_ or House Bill No. 6119(request no.

13 05930'10).

14 (o) Senate Bill No.\_\_\_\_ or House Bill No. 6111(request no.

15 05931'10).

16 (p) Senate Bill No.\_\_\_\_ or House Bill No. 6115(request no.

17 05932'10).

18 (q) Senate Bill No.\_\_\_\_ or House Bill No. 6118(request no.

19 05933'10).