

HOUSE BILL No. 6325

July 1, 2010, Introduced by Reps. McMillin, Amash, Paul Scott, Lund and Genetski and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 407, 415, 431, 431a, 431c, and 437 (MCL
208.1407, 208.1415, 208.1431, 208.1431a, 208.1431c, and 208.1437),
section 431 as amended by 2008 PA 111, section 431a as added by
2008 PA 92, section 431c as added by 2008 PA 88, and section 437 as
amended by 2008 PA 578.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 407. (1) ~~For~~**EXCEPT AS OTHERWISE PROVIDED UNDER**
2 **SUBSECTION (6), FOR** the 2008, 2009, and 2010 tax years, a qualified
3 taxpayer that makes an eligible contribution in an eligible
4 business may claim a credit against the tax imposed by the act
5 equal to 30% of the taxpayer's eligible contribution, not to exceed

1 \$300,000.00.

2 (2) Prior to making an eligible contribution, a qualified
3 taxpayer shall submit an application to the authority for approval
4 of the credit. The application shall include all of the following:

5 (a) An economic impact analysis, including all of the
6 following:

7 (i) The impact on both the qualified taxpayer and eligible
8 business.

9 (ii) The number of jobs created.

10 (b) A project and collaboration structure that includes:

11 (i) The structure of investment between the qualified taxpayer
12 and eligible business.

13 (ii) Technology development roles and responsibilities.

14 (iii) A commercialization plan, including intellectual property
15 structure.

16 (c) A technology summary, including a due diligence review by
17 the qualified taxpayer.

18 (d) A financial summary.

19 (3) The authority shall develop criteria to competitively
20 review applications, including criteria related to both of the
21 following:

22 (a) Total cash investment by the qualified taxpayer.

23 (b) Total in-kind services provided by the qualified taxpayer.

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

1 credit under this section is claimed.

2 (5) The certificate required by subsection (4) shall state all
3 of the following:

4 (a) The taxpayer is an eligible business.

5 (b) The amount of the credit under this section for the
6 eligible business for the designated tax year, which shall be the
7 year in which contribution is made.

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

11 (6) The authority shall not grant more than 20 credits under
12 this section for any 1 year, based on an application and a
13 competitive review criteria. **BEGINNING OCTOBER 1, 2009, THE**
14 **AUTHORITY SHALL NOT APPROVE AND ISSUE A CERTIFICATE FOR A CREDIT**
15 **UNDER THIS SECTION TO AN OTHERWISE QUALIFIED TAXPAYER IF THE**
16 **AUTHORITY DETERMINES THAT THE QUALIFIED TAXPAYER OR ELIGIBLE**
17 **BUSINESS WOULD DIRECTLY COMPETE WITH AN EXISTING MICHIGAN BUSINESS,**
18 **OR SUBSIDIARY OF THAT BUSINESS, THAT FALLS UNDER THE SAME 5-DIGIT**
19 **NAICS INDUSTRY CODE CLASSIFICATION NUMBER UNDER THE MOST RECENT**
20 **VERSION OF THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM**
21 **PUBLISHED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET AND**
22 **A CREDIT UNDER THIS SECTION FOR THAT QUALIFIED TAXPAYER WOULD PUT**
23 **THOSE EXISTING BUSINESSES AT A COMPETITIVE DISADVANTAGE.**

24 (7) A qualified taxpayer that receives a credit under this
25 section and the eligible business to which a contribution is made
26 shall enter into an agreement with the authority that requires the
27 qualified taxpayer and the eligible business to comply with the

1 relevant provisions of the application as determined by the
2 authority for a period of 5 years. If the authority determines that
3 there has not been compliance with the requirements of the terms of
4 the agreement, the qualified taxpayer shall be liable for an amount
5 equal to 125% of the total of all credits received under this
6 section for all tax years.

7 (8) If the amount of the credit allowed under this section
8 exceeds the tax liability of the taxpayer for the tax year, that
9 excess shall be refunded.

10 (9) As used in this section:

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

14 (b) "Eligible contribution" means the transfer of pecuniary
15 interest in the form of cash of not less than \$350,000.00, for the
16 purposes of research and development and technology innovation. An
17 eligible contribution does not include contract research.

18 (c) "Eligible business" means a taxpayer engaged in research
19 and development that together with any affiliates employs fewer
20 than 50 full-time employees or has gross receipts of less than
21 \$10,000,000.00 and has no prior financial interest in the qualified
22 taxpayer and in which the qualified taxpayer has no prior financial
23 interest.

24 (d) "Qualified taxpayer" means a taxpayer that meets all of
25 the following criteria:

26 (i) Proposes to fund, support, and collaborate in the research
27 and development and technology innovation with an eligible business

1 located in this state.

2 (ii) Has not received a credit under this section in the past
3 calendar year.

4 (e) "Research and development" means 1 of the following:

5 (i) Translational research conducted with the objective of
6 attaining a specific benefit or to solve a practical problem.

7 (ii) Activity that seeks to utilize, synthesize, or apply
8 existing knowledge, information, or resources to the resolution of
9 a specified problem, question, or issue, with high potential for
10 commercial application to create jobs in this state.

11 Sec. 415. (1) ~~A~~**EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION**
12 **(6), A** taxpayer that meets the criteria under subsection ~~(4)~~**(5)**
13 and that is a qualified start-up business that does not have
14 business income for 2 consecutive tax years may claim a credit
15 against the tax imposed under this act for the second of those 2
16 consecutive tax years and each immediately following consecutive
17 tax year in which the taxpayer does not have business income equal
18 to the taxpayer's tax liability for the tax year in which the
19 taxpayer has no business income. If the taxpayer has business
20 income in any tax year after the credit under this section is
21 claimed, the taxpayer shall claim the credit under this section for
22 any following tax year only if the taxpayer subsequently has no
23 business income for 2 consecutive tax years. The taxpayer may claim
24 the credit for the second of those 2 consecutive tax years and each
25 immediately following consecutive tax year in which the taxpayer
26 does not have business income.

27 (2) A credit under this section shall not be claimed for more

1 than a total of 5 tax years.

2 (3) A taxpayer that qualified to claim the credit under
3 section 31a of former 1975 PA 228 may claim the credit under this
4 section for a total of 5 years, reduced by the number of years the
5 taxpayer was eligible to claim the credit under section 31a of
6 former 1975 PA 228.

7 (4) If a taxpayer that took the credit under this section or
8 under former 1975 PA 228 has no business activity in this state and
9 has any business activity outside of this state for any of the
10 first 3 tax years after the last tax year for which it took the
11 credit under this section, the taxpayer shall add to its tax
12 liability the following amounts:

13 (a) If the taxpayer has no business activity in this state for
14 the first tax year after the last tax year for which a credit under
15 this section is claimed, 100% of the total of all credits claimed
16 under this section.

17 (b) If the taxpayer has no business activity in this state for
18 the second tax year after the last tax year for which a credit
19 under this section is claimed, 67% of the total of all credits
20 claimed under this section.

21 (c) If the taxpayer has no business activity for the third tax
22 year after the last tax year for which a credit under this section
23 is claimed, 33% of the total of all credits claimed under this
24 section.

25 (5) For the tax year for which a credit under this section is
26 claimed, compensation, directors' fees, or distributive shares paid
27 by the taxpayer to any 1 of the following shall not exceed

1 \$135,000.00:

2 (a) A shareholder or officer of a corporation other than an S
3 corporation.

4 (b) A partner of a partnership or limited liability
5 partnership.

6 (c) A shareholder of an S corporation.

7 (d) A member of a limited liability corporation.

8 (e) An individual who is an owner.

9 (6) BEGINNING OCTOBER 1, 2009, THE AUTHORITY SHALL NOT CERTIFY
10 AN OTHERWISE QUALIFIED START-UP BUSINESS IF THE AUTHORITY
11 DETERMINES THAT THE QUALIFIED START-UP BUSINESS WOULD DIRECTLY
12 COMPETE WITH AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT
13 BUSINESS, THAT FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE
14 CLASSIFICATION NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH
15 AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED
16 STATES OFFICE OF MANAGEMENT AND BUDGET AND A CREDIT UNDER THIS
17 SECTION FOR THAT QUALIFIED START-UP BUSINESS WOULD PUT THOSE
18 EXISTING BUSINESSES AT A COMPETITIVE DISADVANTAGE.

19 (7) ~~(6)~~As used in this section:

20 (a) "Business income" means business income as defined in
21 section 105 excluding funds received from small business innovation
22 research grants and small business technology transfer programs
23 established under the small business innovation development act of
24 1982, Public Law 97-219, reauthorized under the small business
25 research and development enhancement act, Public Law 102-564, and
26 subsequently reauthorized under the small business reauthorization
27 act of 2000, Public Law 106-554.

1 (b) "Michigan economic development corporation" means the
2 public body corporate created under section 28 of article VII of
3 the state constitution of 1963 and the urban cooperation act of
4 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual
5 interlocal agreement effective April 5, 1999, as amended, between
6 local participating economic development corporations formed under
7 the economic development corporations act, 1974 PA 338, MCL
8 125.1601 to 125.1636, and the Michigan strategic fund.

9 (c) "Qualified start-up business" means a business that meets
10 all of the following criteria as certified annually by the Michigan
11 economic development corporation:

12 (i) Has fewer than 25 full-time equivalent employees.

13 (ii) Has sales of less than \$1,000,000.00 in the tax year for
14 which the credit under this section is claimed.

15 (iii) Research and development expenses make up at least 15% of
16 its expenses in the tax year for which the credit under this
17 section is claimed.

18 (iv) Is not publicly traded.

19 (v) Met 1 of the following criteria during 1 of the initial 2
20 consecutive tax years in which the qualified start-up business had
21 no business income:

22 (A) During the immediately preceding 7 years was in 1 of the
23 first 2 years of contribution liability under section 19 of the
24 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.19.

25 (B) During the immediately preceding 7 years would have been
26 in 1 of the first 2 years of contribution liability under section
27 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,

1 MCL 421.19, if the qualified start-up business had employees and
2 was liable under the Michigan employment security act, 1936 (Ex
3 Sess) PA 1, MCL 421.1 to 421.75.

4 (C) During the immediately preceding 7 years would have been
5 in 1 of the first 2 years of contribution liability under section
6 19 of the Michigan employment security act, 1936 (Ex Sess) PA 1,
7 MCL 421.19, if the qualified start-up business had not assumed
8 successor liability under section 15(g) of the Michigan employment
9 security act, 1936 (Ex Sess) PA 1, MCL 421.15.

10 (d) "Research and development" means qualified research as
11 that term is defined in section 41(d) of the internal revenue code.

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

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

1 as determined under the Michigan economic growth authority act,
2 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

3 (b) For an eligible business as determined under section
4 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,
5 MCL 207.808, an amount not to exceed 50% of the payroll of the
6 authorized business attributable to employees who perform retained
7 jobs as determined under the Michigan economic growth authority
8 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate
9 for the tax year.

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

17 (d) For an authorized business that is a qualified high-
18 technology business, for a period of time not to exceed 7 years as
19 determined by the Michigan economic growth authority, an amount not
20 to exceed 200% of the sum of the payroll and health care benefits
21 of the qualified high-technology business attributable to employees
22 who perform qualified new jobs as determined under the Michigan
23 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,
24 for the first 3 tax years of the credit, multiplied by the tax rate
25 and, for each of the remaining tax years of the credit, an amount
26 not to exceed 100% of the sum of the payroll and health care
27 benefits of the qualified high-technology business attributable to

1 employees who perform qualified new jobs as determined under the
2 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
3 207.810, multiplied by the tax rate.

4 (e) For an authorized business as determined under section
5 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL
6 207.808, an amount up to, but not to exceed 100% of, the sum of the
7 payroll and health care benefits of the authorized business
8 attributable to employees who perform retained jobs multiplied by a
9 fraction, the numerator of which is the amount of new capital
10 investment made at the facility and the denominator of which is the
11 product of the number of retained jobs multiplied by \$100,000.00,
12 and then multiplied by the tax rate for the tax year.

13 (f) For an authorized business as determined under section
14 8(11) of the Michigan economic growth authority act, 1995 PA 24,
15 MCL 207.808, an amount not to exceed 100% of the sum of the payroll
16 and health care benefits of the authorized business attributable to
17 employees who perform new full-time jobs and retained jobs as
18 determined under the Michigan economic growth authority act, 1995
19 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the
20 tax year.

21 (2) A taxpayer shall not claim a credit under this section
22 unless the Michigan economic growth authority has issued a
23 certificate to the taxpayer. **BEGINNING OCTOBER 1, 2009, THE**
24 **AUTHORITY SHALL NOT APPROVE AND ISSUE A CERTIFICATE FOR A CREDIT**
25 **UNDER THIS SECTION TO AN OTHERWISE AUTHORIZED BUSINESS IF THE**
26 **AUTHORITY DETERMINES THAT THE AUTHORIZED BUSINESS WOULD DIRECTLY**
27 **COMPETE WITH AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT**

1 BUSINESS, THAT FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE
2 CLASSIFICATION NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH
3 AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED
4 STATES OFFICE OF MANAGEMENT AND BUDGET AND A CREDIT UNDER THIS
5 SECTION FOR THAT AUTHORIZED BUSINESS WOULD PUT THOSE EXISTING
6 BUSINESSES AT A COMPETITIVE DISADVANTAGE. The taxpayer shall attach
7 the certificate to the annual return filed under this act on which
8 a credit under this section is claimed.

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

11 (a) The taxpayer is an authorized business.

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

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

17 (4) The Michigan economic growth authority may certify a
18 credit under this section based on an agreement entered into prior
19 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.
20 The number of years for which the credit may be claimed under this
21 section shall equal the maximum number of years designated in the
22 resolution reduced by the number of years for which a credit has
23 been claimed or could have been claimed under section 37c of former
24 1975 PA 228.

25 (5) If the credit allowed under this section exceeds the tax
26 liability of the taxpayer for the tax year, that portion of the
27 credit that exceeds the tax liability of the taxpayer shall be

1 refunded.

2 (6) Except as otherwise provided under this subsection, a
3 taxpayer that claims a credit under subsection (1) or section 37c
4 or 37d of former 1975 PA 228, that has an agreement with the
5 Michigan economic growth authority based on qualified new jobs as
6 defined in section ~~3 (p) (ii)~~ **3 (Q) (ii)** of the Michigan economic growth
7 authority act, 1995 PA 24, MCL 207.803, and that removes from this
8 state 51% or more of those qualified new jobs within 3 years after
9 the first year in which the taxpayer claims a credit described in
10 this subsection shall pay to the department no later than 12 months
11 after those qualified new jobs are removed from the state an amount
12 equal to the total of all credits described in this subsection that
13 were claimed by the taxpayer. Beginning after ~~the effective date of~~
14 ~~the amendatory act that added subsection (1) (d)~~ **APRIL 28, 2008**, a
15 taxpayer that claims a credit under subsection (1) and subsequently
16 fails to meet the requirements of this section or any other
17 conditions included in an agreement entered into with the Michigan
18 economic growth authority in order to obtain a certificate for the
19 credit claimed under this section or removes any of the qualified
20 new jobs from this state during the term of the written agreement
21 and for a period of years after the term of the written agreement,
22 as determined by the Michigan economic growth authority, may have
23 its credit reduced or terminated or have a percentage of the credit
24 amount previously claimed under this section added back to the tax
25 liability of the taxpayer in the tax year that the taxpayer fails
26 to comply with this section or the agreement.

27 (7) If the Michigan economic growth authority or a designee of

1 the Michigan economic growth authority requests that a taxpayer
2 that claims the credit under this section get a statement prepared
3 by a certified public accountant verifying that the actual number
4 of new jobs created is the same number of new jobs used to
5 calculate the credit under this section, the taxpayer shall get the
6 statement and attach that statement to its annual return under this
7 act on which the credit under this section is claimed.

8 (8) A credit shall not be claimed by a taxpayer under this
9 section if the taxpayer's initial certification as required in
10 subsection (3) is issued after December 31, 2013.

11 (9) For purposes of this section, taxpayer includes a person
12 subject to the tax imposed under ~~chapters~~ **CHAPTER 2A and A PERSON**
13 **SUBJECT TO THE TAX IMPOSED UNDER CHAPTER 2B.**

14 (10) As used in this section:

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

19 (b) "Health care benefits" means all costs paid for a self-
20 funded health care benefit plan or for an expense-incurred
21 hospital, medical, or surgical policy or certificate, nonprofit
22 health care corporation certificate, or health maintenance
23 organization contract. Health care benefit does not include
24 accident-only, credit, dental, or disability income insurance;
25 long-term care insurance; coverage issued as a supplement to
26 liability insurance; coverage only for a specified disease or
27 illness; worker's compensation or similar insurance; or automobile

1 medical payment insurance.

2 (c) "Michigan economic growth authority" means the Michigan
3 economic growth authority created in the Michigan economic growth
4 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

8 (i) The average number of full-time jobs at a facility of an
9 authorized business for a tax year in excess of the average number
10 of full-time jobs the authorized business maintained in this state
11 prior to the expansion or location as that is determined under the
12 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
13 207.810.

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

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

24 Sec. 431a. (1) A qualified taxpayer may claim a credit against
25 the tax imposed by this act in an amount up to 100% of the
26 qualified supplier's or customer's payroll attributable to
27 employees who perform qualified new jobs as determined by the

1 Michigan economic growth authority, multiplied by the tax rate for
2 the tax year for a period of up to 5 years as determined by the
3 Michigan economic growth authority. If the credit allowed under
4 this subsection exceeds the liability of the taxpayer for the tax
5 year, the taxpayer may elect to have that portion that exceeds the
6 tax liability of the taxpayer refunded or to have the excess
7 carried forward to offset tax liability in subsequent years for 10
8 years or until it is used up, whichever occurs first. The Michigan
9 economic growth authority shall not designate more than 5 taxpayers
10 as an anchor company in each calendar year and shall not approve
11 more than 5 new credits in each calendar year under this
12 subsection. A taxpayer has 5 years from the date on which the
13 taxpayer is designated as an anchor company to seek certification
14 from the Michigan economic growth authority as a qualified taxpayer
15 for each qualified supplier or customer for which a credit is
16 sought under this section. However, a credit shall not be provided
17 for a tax year prior to the tax year during which the certification
18 is made. If a qualified taxpayer is awarded a credit under this
19 subsection, any subsequent credits awarded to that qualified
20 taxpayer shall not be included in determining the yearly limit of 5
21 new credits under this subsection.

22 (2) The Michigan economic growth authority may also provide
23 that qualified sales to a qualified supplier or customer are not
24 sales in this state for purposes of calculating the sales factor
25 under this act for the tax year for which a credit is provided
26 under this section. Qualified sales to a qualified supplier or
27 customer are the total sales in this state to a qualified supplier

1 or customer multiplied by a fraction, the numerator of which is the
2 compensation on which the credit in this section is calculated and
3 the denominator of which is the total compensation of the qualified
4 supplier or customer in this state.

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

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

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

15 (c) The amount of the qualified sales calculated in accordance
16 with the fraction described under subsection (2).

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

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

1 liability of the taxpayer in the year that the taxpayer fails to
2 comply with this section or the agreement.

3 (5) As used in this section:

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

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

12 (c) "Full-time job" means a job performed by an individual for
13 35 hours or more each week and whose income and social security
14 taxes are withheld by 1 or more of the following:

15 (i) A qualified supplier or customer.

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

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

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

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

1 (f) "Qualified supplier or customer" means a business that
2 opens a new location in this state, a business that locates in this
3 state, or an existing business located in this state that expands
4 its business within the last year as a result of an anchor company
5 and satisfies, as certified by the Michigan economic growth
6 authority, each of the following:

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

8 (ii) Sells a critical or unique component or technology
9 necessary for the anchor company to market a finished product or
10 buys a critical or unique component from the anchor company.

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

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

14 (v) BEGINNING OCTOBER 1, 2009, DOES NOT DIRECTLY COMPETE WITH
15 AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT BUSINESS, THAT
16 FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE CLASSIFICATION
17 NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH AMERICAN
18 INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED STATES
19 OFFICE OF MANAGEMENT AND BUDGET AND CREATE A COMPETITIVE
20 DISADVANTAGE FOR THOSE EXISTING BUSINESSES.

21 (g) "Qualified taxpayer" means a taxpayer that was designated
22 by the Michigan economic growth authority as an anchor company
23 within the last 5 years and that has influenced a new qualified
24 supplier or customer to open, locate, or expand in this state.

25 Sec. 431c. (1) Except as otherwise provided under this
26 section, a qualified taxpayer may claim a credit against the tax
27 imposed by this act equal to the sum of up to 5.0% of the taxable

1 value of each qualified supplier's or customer's taxable property
2 that is located within the 10-mile radius of the qualified taxpayer
3 and that is subject to collection of general ad valorem taxes under
4 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
5 for a period of up to 5 years, as determined by the Michigan
6 economic growth authority. If a qualified supplier's or customer's
7 taxable property is subject to the specific tax levied under 1974
8 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only
9 include up to 2.5% of the taxable value of that property in the
10 calculation of the amount of the credit allowed under this section.
11 The Michigan economic growth authority shall not designate more
12 than 5 taxpayers as an anchor company in each calendar year and
13 shall not approve more than 5 new credits in each calendar year
14 under this subsection. A taxpayer has 5 years from the date on
15 which the taxpayer is designated as an anchor company to seek
16 certification as a qualified taxpayer for each qualified supplier
17 or customer for which a credit is sought under this section.

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

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

1 (b) The amount of the credit under this section for the
2 taxpayer for the designated tax year.

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

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

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

22 (5) As used in this section:

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

27 (b) "Business", "qualified high-technology activity", and

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

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

7 (i) A qualified supplier or customer.

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

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

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

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

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

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

27 (ii) Sells a critical or unique component or technology

1 necessary for the anchor company to market a finished product or
2 buys a critical or unique component from the anchor company.

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

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

6 (v) BEGINNING OCTOBER 1, 2009, DOES NOT DIRECTLY COMPETE WITH
7 AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT BUSINESS, THAT
8 FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE CLASSIFICATION
9 NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH AMERICAN
10 INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED STATES
11 OFFICE OF MANAGEMENT AND BUDGET AND CREATE A COMPETITIVE
12 DISADVANTAGE FOR THOSE EXISTING BUSINESSES.

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

19 Sec. 437. (1) Subject to the criteria under this section, a
20 qualified taxpayer that has unused credits or has a preapproval
21 letter issued after December 31, 2007 and before January 1, 2013,
22 or a taxpayer that received a preapproval letter prior to January
23 1, 2008 under section 38g of former 1975 PA 228 and has not
24 received a certificate of completion prior to the taxpayer's last
25 tax year, provided that the project is completed not more than 5
26 years after the preapproval letter for the project is issued unless
27 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) For projects approved before April 8, 2008, if the total
8 of all credits for a project is \$1,000,000.00 or less, 10% of the
9 cost of the qualified taxpayer's eligible investment paid or
10 accrued by the qualified taxpayer on an eligible property provided
11 that the project does not exceed the amount stated in the
12 preapproval letter, as amended. For projects approved, or amended,
13 on and after April 8, 2008, if the total of all eligible
14 investments for a project are \$10,000,000.00 or less, up to 12.5%
15 of the costs of the qualified taxpayer's eligible investment paid
16 or accrued by the qualified taxpayer on an eligible property or up
17 to 15% of the costs of the qualified taxpayer's eligible investment
18 paid or accrued by the qualified taxpayer on an eligible property
19 if the project is designated as an urban development area project
20 by the Michigan economic growth authority to the extent that the
21 project does not exceed the amount stated in the preapproval
22 letter, as amended, or, until December 31, 2010, up to 20% of the
23 costs of the qualified taxpayer's eligible investment paid or
24 accrued by the qualified taxpayer on an eligible property if the
25 project is designated as an urban development area project by the
26 Michigan economic growth authority. If eligible investment exceeds
27 the amount of eligible investment in the preapproval letter, as

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

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

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

5 (2) If the cost of a project will be \$2,000,000.00 or less, a
6 qualified taxpayer shall apply to the Michigan economic growth
7 authority for approval of the project under this subsection. An
8 application under this subsection shall state whether the project
9 is a multiphase project. Subject to the limitation provided under
10 subsection (31), the chairperson of the Michigan economic growth
11 authority or his or her designee is authorized to approve an
12 application or project under this subsection. Only the chairperson
13 of the Michigan economic growth authority is authorized to deny an
14 application or project under this subsection. A project shall be
15 approved or denied not more than 45 days after receipt of the
16 application. If the chairperson of the Michigan economic growth
17 authority or his or her designee does not approve or deny the
18 application within 45 days after the application is received by the
19 Michigan economic growth authority, the application is considered
20 approved as written. If the chairperson of the Michigan economic
21 growth authority or his or her designee approves a project under
22 this subsection, the chairperson of the Michigan economic growth
23 authority or his or her designee shall issue a preapproval letter
24 that states that the taxpayer is a qualified taxpayer; the maximum
25 total eligible investment for the project on which credits may be
26 claimed and the maximum total of all credits for the project when
27 the project is completed and a certificate of completion is issued;

1 and the project number assigned by the Michigan economic growth
2 authority. If a project is denied under this subsection, a taxpayer
3 is not prohibited from subsequently applying under this subsection
4 for the same project or for another project. The Michigan economic
5 growth authority shall develop and implement the use of the
6 application form to be used for projects under this subsection.

7 (3) If the cost of a project will be for more than
8 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
9 shall apply to the Michigan economic growth authority for approval
10 of the project under this subsection. An application under this
11 subsection shall state whether the project is a multiphase project.
12 Subject to the limitation provided under subsection (31), 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 an application within 45 days
21 after the application is received by the Michigan economic growth
22 authority, the application is considered approved as written. The
23 criteria in subsection (7) shall be used when approving projects
24 under this subsection. When approving projects under this
25 subsection, priority shall be given to projects on a facility. The
26 total of all credits for an approved project under this subsection
27 shall not exceed the amounts authorized under subsection (1)(a). A

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

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

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

1 department. If a project is denied under this subsection, a
2 taxpayer is not prohibited from subsequently applying under this
3 subsection or subsection (3) for the same project or for another
4 project.

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

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

13 (a) Of the 20 projects allowed under this subsection, the
14 total of all credits for each project may be more than
15 \$10,000,000.00 but \$30,000,000.00 or less for only 1 project.

16 (b) Of the 20 projects allowed under this subsection, up to 3
17 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) The project allowed under subdivision (a) may also qualify
27 under subdivision (b).

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

17 (a) The overall benefit to the public.

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

20 (c) Creation of jobs.

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

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

26 (f) The level of private sector contribution.

27 (g) The cost gap that exists between the site and a similar

1 greenfield site as determined by the Michigan economic growth
2 authority.

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

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

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

10 (K) BEGINNING WITH ALL APPLICATIONS RECEIVED ON AND AFTER
11 OCTOBER 1, 2009, WHETHER THE QUALIFIED TAXPAYER WOULD DIRECTLY
12 COMPETE WITH AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT
13 BUSINESS, THAT FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE
14 CLASSIFICATION NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH
15 AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED
16 STATES OFFICE OF MANAGEMENT AND BUDGET AND WHETHER A CREDIT UNDER
17 THIS SECTION WOULD CREATE A COMPETITIVE DISADVANTAGE FOR THOSE
18 EXISTING BUSINESSES IN THIS STATE.

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

24 (9) If, after a taxpayer's project has been approved and the
25 taxpayer has received a preapproval letter but before the taxpayer
26 has made an eligible investment, other than soft costs, at the
27 property, the taxpayer determines that the project cannot be

1 completed as preapproved, the taxpayer may petition the Michigan
2 economic growth authority to amend the project and the preapproval
3 letter to increase the maximum total eligible investment for the
4 project on which credits may be claimed and the maximum total of
5 all credits for the project. A taxpayer may petition the Michigan
6 economic growth authority to make any other amendments to the
7 project or preapproval letter at any time before a certificate of
8 completion is issued. Amendments to the project or preapproval
9 letter may include, but are not limited to, extending the duration
10 of time provided to complete the project, as long as that extension
11 does not exceed 10 years from the date of the preapproval letter.

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

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

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

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

1 taxpayer that has made eligible investment on that eligible
2 property. The certificate of completion shall state the total
3 amount of all credits for the project and that total shall not
4 exceed the maximum total of all credits listed in the preapproval
5 letter for the project under subsection (2), (3), or (4) as
6 applicable and as amended under subsection (9) and shall state all
7 of the following:

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

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

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

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

14 (e) The project number.

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

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

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

1 years. A credit assigned based on a multiphase project shall be
2 claimed in the year in which the credit is assigned.

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

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

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

25 (16) Except as otherwise provided in this subsection or
26 subsection (10), (18), (20), (21), or (22), a credit under this
27 section shall be claimed in the tax year in which the certificate

1 of completion is issued to the qualified taxpayer. For a project
2 described in subsection (11)(f) for which a schedule for claiming
3 annual credit amounts is designated on the certificate of
4 completion by the Michigan economic growth authority, the annual
5 credit amount shall be claimed in the tax year specified on the
6 certificate of completion.

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

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

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

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

1 amount otherwise added under this subsection to the qualified
2 taxpayer's tax liability may instead be used to reduce the
3 qualified taxpayer's carryforward under subsection (18).

4 (20) For credits under this section for projects for which a
5 certificate of completion is issued before January 1, 2006 and
6 except as otherwise provided in this subsection, if a qualified
7 taxpayer pays or accrues eligible investment on or to an eligible
8 property that is leased for a minimum term of 10 years or sold to
9 another taxpayer for use in a business activity, the qualified
10 taxpayer may assign all or a portion of the credit under this
11 section based on that eligible investment to the lessee or
12 purchaser of that eligible property. A credit assignment under this
13 subsection shall only be made to a taxpayer that when the
14 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 (21) Except as otherwise provided in this subsection, for
7 projects for which a certificate of completion is issued before
8 January 1, 2006, and except as otherwise provided in this
9 subsection, if a qualified taxpayer is a partnership, limited
10 liability company, or subchapter S corporation, the qualified
11 taxpayer may assign all or a portion of a credit under this section
12 to its partners, members, or shareholders, based on their
13 proportionate share of ownership of the partnership, limited
14 liability company, or subchapter S corporation or based on an
15 alternative method approved by the Michigan economic growth
16 authority. A credit assignment under this subsection is irrevocable
17 and, except for a credit assignment based on a multiphase project,
18 shall be made in the tax year in which a certificate of completion
19 is issued. A qualified taxpayer may claim a portion of a credit and
20 assign the remaining credit amount. Except as otherwise provided in
21 this subsection, if the qualified taxpayer both claims and assigns
22 portions of the credit, the qualified taxpayer shall claim the
23 portion it claims in the tax year in which a certificate of
24 completion is issued or for a credit assigned and claimed for a
25 multiphase project, before the component completion certificate is
26 issued, the taxpayer shall claim the credit in the year in which
27 the credit is assigned. A partner, member, or shareholder that is

1 an assignee shall not subsequently assign a credit or any portion
2 of a credit assigned under this subsection. The credit assignment
3 under this subsection shall be made on a form prescribed by the
4 Michigan economic growth authority. The qualified taxpayer shall
5 send a copy of the completed assignment form to the Michigan
6 economic growth authority in the tax year in which the assignment
7 is made. A partner, member, or shareholder who is an assignee shall
8 attach a copy of the completed assignment form to its annual return
9 required under this act, for the tax year in which the assignment
10 is made and the assignee first claims a credit, which shall be the
11 same tax year. A credit assignment based on a credit for a
12 component of a multiphase project that is completed before January
13 1, 2006 shall be made under this subsection. In addition to all
14 other procedures under this subsection, the following apply if the
15 total of all credits for a project is more than \$10,000,000.00 but
16 \$30,000,000.00 or less:

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

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

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

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

27 (22) For projects approved under this section or section 38g

1 of former 1975 PA 228 for which a certificate of completion is
2 issued on and after January 1, 2006, a qualified taxpayer may
3 assign all or a portion of a credit allowed under this section or
4 section 38g(2), (3), or (33) of former 1975 PA 228 under this
5 subsection. A credit assignment under this subsection is
6 irrevocable and, except for a credit assignment based on a
7 multiphase project, shall be made in the tax year in which a
8 certificate of completion is issued unless the assignee is an
9 unknown lessee. If a qualified taxpayer wishes to assign all or a
10 portion of its credit to a lessee but the lessee is unknown in the
11 tax year in which the certificate of completion is issued, the
12 qualified taxpayer may delay claiming and assigning the credit
13 until the first tax year in which the lessee is known. A qualified
14 taxpayer may claim a portion of a credit and assign the remaining
15 credit amount. If the qualified taxpayer both claims and assigns
16 portions of the credit, the qualified taxpayer shall claim the
17 portion it claims in the tax year in which a certificate of
18 completion is issued pursuant to this section or section 38g of
19 former 1975 PA 228. An assignee may subsequently assign a credit or
20 any portion of a credit assigned under this subsection to 1 or more
21 assignees. The credit assignment or a subsequent reassignment under
22 this subsection shall be made on a form prescribed by the Michigan
23 economic growth authority. The Michigan economic growth authority
24 or its designee shall review and issue a completed assignment or
25 reassignment certificate to the assignee or reassignee. An assignee
26 or subsequent reassignee shall attach a copy of the completed
27 assignment certificate to its annual return required under this

1 act, for the tax year in which the assignment or reassignment is
2 made and the assignee or reassignee first claims a credit, which
3 shall be the same tax year. A credit assignment based on a credit
4 for a component of a multiphase project that is completed before
5 January 1, 2006 shall be made under section 38g(18) of former 1975
6 PA 228. A credit assignment based on a credit for a component of a
7 multiphase project that is completed on or after January 1, 2006
8 may be made under this section. In addition to all other procedures
9 and requirements under this section, the following apply if the
10 total of all credits for a project is more than \$10,000,000.00 but
11 \$30,000,000.00 or less:

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

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

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

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

24 (24) When reviewing an application for a project for
25 designation as an urban development area project, the Michigan
26 economic growth authority for projects approved under subsection
27 (4) or the chairperson of the Michigan economic growth authority or

1 his or her designee for projects approved under subsections (2) and
2 (3) shall consider all of the following criteria:

3 (a) If the project increases the density of the area by
4 promoting multistory development.

5 (b) If the project promotes mixed-use development and walkable
6 communities.

7 (c) If the project promotes sustainable redevelopment.

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

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

11 (f) Any other criteria determined by the Michigan economic
12 growth authority or the chairperson of the Michigan economic growth
13 authority.

14 (25) An eligible taxpayer that claims a credit under this
15 section is not prohibited from claiming a credit under section 431.
16 However, the eligible taxpayer shall not claim a credit under this
17 section and section 431 based on the same costs.

18 (26) Eligible investment attributable or related to the
19 operation of a professional sports stadium, and eligible investment
20 that is associated or affiliated with the operation of a
21 professional sports stadium, including, but not limited to, the
22 operation of a parking lot or retail store, shall not be used as a
23 basis for a credit under this section. Professional sports stadium
24 does not include a professional sports stadium that will no longer
25 be used by a professional sports team on and after the date that an
26 application related to that professional sports stadium is filed
27 under this section.

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

9 (28) Eligible investment attributable or related to the
10 construction of a new landfill or the expansion of an existing
11 landfill regulated under part 115 of the natural resources and
12 environmental protection act, 1994 PA 451, MCL 324.11501 to
13 324.11550, shall not be used as a basis for a credit under this
14 section.

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

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

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

25 (30) For purposes of this section, taxpayer includes a person
26 subject to the tax imposed under ~~chapters~~ **CHAPTER 2A** and **A PERSON**
27 **SUBJECT TO THE TAX IMPOSED UNDER CHAPTER 2B.**

1 (31) For the 2008 calendar year, the total of all credits for
2 all projects approved under subsection (2) or (3) shall not exceed
3 \$63,000,000.00. For each calendar year after 2008, the total of all
4 credits for all projects approved under subsection (2) or (3) shall
5 not exceed \$40,000,000.00. If the Michigan economic growth
6 authority approves a total of all credits for all projects under
7 subsection (2) or (3) of less than \$40,000,000.00 in a calendar
8 year, the Michigan economic growth authority may carry forward for
9 1 year only the difference between \$40,000,000.00 and the total of
10 all credits for all projects under this subsection approved in the
11 immediately preceding calendar year.

12 (32) BEGINNING OCTOBER 1, 2009, THE MICHIGAN ECONOMIC GROWTH
13 AUTHORITY SHALL NOT APPROVE ANY PROJECTS FOR AN OTHERWISE QUALIFIED
14 TAXPAYER IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY DETERMINES THAT
15 A CREDIT UNDER THIS SECTION FOR THAT QUALIFIED TAXPAYER WOULD
16 CREATE A COMPETITIVE DISADVANTAGE FOR AN EXISTING MICHIGAN
17 BUSINESS, OR SUBSIDIARY OF THAT BUSINESS, THAT FALLS UNDER THE SAME
18 5-DIGIT NAICS INDUSTRY CODE CLASSIFICATION NUMBER UNDER THE MOST
19 RECENT VERSION OF THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION
20 SYSTEM PUBLISHED BY THE UNITED STATES OFFICE OF MANAGEMENT AND
21 BUDGET OR THAT THE QUALIFIED TAXPAYER WOULD DIRECTLY COMPETE WITH
22 AN EXISTING MICHIGAN BUSINESS, OR SUBSIDIARY OF THAT BUSINESS, THAT
23 FALLS UNDER THE SAME 5-DIGIT NAICS INDUSTRY CODE CLASSIFICATION
24 NUMBER UNDER THE MOST RECENT VERSION OF THE NORTH AMERICAN
25 INDUSTRIAL CLASSIFICATION SYSTEM PUBLISHED BY THE UNITED STATES
26 OFFICE OF MANAGEMENT AND BUDGET.

27 (33) ~~(32)~~—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, as approved under subsection (4).

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

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

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

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

17 (e) "Eligible property", except as otherwise provided under
18 subsection ~~(33)~~ (34), means property for which eligible activities
19 are identified under a brownfield plan that was used or is
20 currently used for commercial, industrial, public, or residential
21 purposes, including personal property located on the property, to
22 the extent included in the brownfield plan, and that is 1 or more
23 of the following:

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

1 captured taxable value of that property.

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

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

9 (f) "Last tax year" means the taxpayer's tax year under former
10 1975 PA 228 that begins after December 31, 2006 and before January
11 1, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

27 (m) "Urban development area project" means a project located

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

7 (34) ~~(33)~~—For purposes of subsection (2), eligible property
8 means that term as defined under subsection ~~(32)(e)~~—(33) (E) except
9 that all of the following apply:

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

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

17 (ii) 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 (A) Infrastructure improvements that directly benefit the
23 eligible property.

24 (B) 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 (C) Lead or asbestos abatement.

1 (D) 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 (iii) 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 (b) 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 act, 2003 PA 258, MCL 124.751
13 to 124.774.

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

17 (d) 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.