

**SUBSTITUTE FOR  
SENATE BILL NO. 1567**

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 437 (MCL 208.1437), as amended by 2008 PA 89.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 437. (1) Subject to the criteria under this section, a  
2 qualified taxpayer that has unused credits or has a preapproval  
3 letter issued after December 31, 2007 and before January 1, 2013,  
4 or a taxpayer that received a preapproval letter prior to January  
5 1, 2008 under section 38g of former 1975 PA 228 and has not  
6 received a certificate of completion prior to the taxpayer's last  
7 tax year, provided that the project is completed not more than 5  
8 years after the preapproval letter for the project is issued unless  
9 extended under subsection (9) or if it is a multiphase project not  
10 more than 10 years after the preapproval letter, as amended, if

1 applicable, for the project is issued, or an assignee under  
2 subsection (20), (21), or (22) may claim a credit that has been  
3 approved under section 38g of former 1975 PA 228 or under  
4 subsection (2), (3), or (4) against the tax imposed by this act  
5 equal to either of the following:

6 (a) For projects approved before ~~the effective date of the~~  
7 ~~amendatory act that added subsection (33)~~ **APRIL 8, 2008**, if the  
8 total of all credits for a project is \$1,000,000.00 or less, 10% of  
9 the 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 on and after  
13 ~~the effective date of the amendatory act that added subsection (33)~~  
14 **APRIL 8, 2008**, if the total of all eligible investments for a  
15 project are \$10,000,000.00 or less, up to 12.5% of the costs of the  
16 qualified taxpayer's eligible investment paid or accrued by the  
17 qualified taxpayer on an eligible property or up to 15% of the  
18 costs of the qualified taxpayer's eligible investment paid or  
19 accrued by the qualified taxpayer on an eligible property if the  
20 project is designated as an urban development area project by the  
21 Michigan economic growth authority to the extent that the project  
22 does not exceed the amount stated in the preapproval letter, as  
23 amended, or, until December 31, 2010, up to 20% of the costs of the  
24 qualified taxpayer's eligible investment paid or accrued by the  
25 qualified taxpayer on an eligible property if the project is  
26 designated as an urban development area project by the Michigan  
27 economic growth authority. If eligible investment exceeds the

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

5 (b) For projects approved before ~~the effective date of the~~  
6 ~~amendatory act that added subsection (33) APRIL 8, 2008~~, if the  
7 total of all credits for a project is more than \$1,000,000.00 but  
8 \$30,000,000.00 or less and, except as provided in subsection  
9 (6)(b), the project is located in a qualified local governmental  
10 unit, a percentage as determined by the Michigan economic growth  
11 authority not to exceed 10% of the cost of the qualified taxpayer's  
12 eligible investment as determined under subsection (11) paid or  
13 accrued by the qualified taxpayer on an eligible property. For  
14 projects approved on and after ~~the effective date of the amendatory~~  
15 ~~act that added subsection (33) APRIL 8, 2008~~, if the total of all  
16 eligible investments for a project is more than \$10,000,000.00 but  
17 \$300,000,000.00 or less, up to 12.5% of the costs of the qualified  
18 taxpayer's eligible investment as determined under subsection (11)  
19 paid or accrued by the qualified taxpayer on an eligible property  
20 that, except as provided in subsection (6)(b), is located in a  
21 qualified local governmental unit, up to 15% of the cost of the  
22 qualified taxpayer's eligible investment as determined under  
23 subsection (11) paid or accrued by the qualified taxpayer on an  
24 eligible property if the project is designated as an urban  
25 development area project by the Michigan economic growth authority,  
26 or, until December 31, 2010, up to 20% of the costs of the  
27 qualified taxpayer's eligible investment as determined under

1 subsection (11) paid or accrued by the qualified taxpayer on an  
2 eligible property if the project is designated as an urban  
3 development area project by the Michigan economic growth authority.  
4 If eligible investment exceeds the amount of eligible investment in  
5 the preapproval letter, as amended, for that project, the total of  
6 all credits for the project shall not exceed the total of all  
7 credits on the certificate of completion.

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

1 total eligible investment for the project on which credits may be  
2 claimed and the maximum total of all credits for the project when  
3 the project is completed and a certificate of completion is issued;  
4 and the project number assigned by the Michigan economic growth  
5 authority. If a project is denied under this subsection, a taxpayer  
6 is not prohibited from subsequently applying under this subsection  
7 for the same project or for another project. The Michigan economic  
8 growth authority shall develop and implement the use of the  
9 application form to be used for projects under this subsection.

10 (3) If the cost of a project will be for more than  
11 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer  
12 shall apply to the Michigan economic growth authority for approval  
13 of the project under this subsection. An application under this  
14 subsection shall state whether the project is a multiphase project.  
15 Subject to the limitation provided under subsection (31), the  
16 chairperson of the Michigan economic growth authority or his or her  
17 designee is authorized to approve an application or project under  
18 this subsection. Only the chairperson of the Michigan economic  
19 growth authority is authorized to deny an application or project  
20 under this subsection. A project shall be approved or denied not  
21 more than 45 days after receipt of the application. If the  
22 chairperson of the Michigan economic growth authority or his or her  
23 designee does not approve or deny an application within 45 days  
24 after the application is received by the Michigan economic growth  
25 authority, the application is considered approved as written. The  
26 criteria in subsection (7) shall be used when approving projects  
27 under this subsection. When approving projects under this

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

20 (4) If the cost of a project will be for more than  
21 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
22 project is located in a qualified local governmental unit, a  
23 qualified taxpayer shall apply to the Michigan economic growth  
24 authority for approval of the project. An application under this  
25 subsection shall state whether the project is a multiphase project.  
26 The Michigan economic growth authority shall approve or deny the  
27 project not more than 65 days after receipt of the application. A

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

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1 completion is issued; and the project number assigned by the  
 2 Michigan economic growth authority. The Michigan economic growth  
 3 authority shall send a copy of the preapproval letter to the  
 4 department. If a project is denied under this subsection, a  
 5 taxpayer is not prohibited from subsequently applying under this  
 6 subsection or subsection (3) for the same project or for another  
 7 project.

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

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

16 (a) Of the 20 projects allowed under this subsection, the  
 17 total of all credits for each project may be more than  
 18 \$10,000,000.00 but \$30,000,000.00 or less for only 1 project.

19 (b) Of the 20 projects allowed under this subsection, up to 3  
 20 projects may be approved for projects that are not in a qualified  
 21 local governmental unit if the property is a facility for which  
 22 eligible activities are identified in a brownfield plan, ~~or, for 1~~  
 23 ~~of the 3 projects,~~ if the property is not a facility but is  
 24 functionally obsolete or blighted, property identified in a  
 25 brownfield plan, **OR, << >> IF THE PROPERTY IS**  
 26 **FUNCTIONALLY OBSOLETE OR BLIGHTED, PROPERTY IDENTIFIED IN A**  
 27 **BROWNFIELD PLAN AND IS LOCATED IN A CITY WITH A POPULATION OF**



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1 70,000 OR MORE AND WITHIN 10 MILES OF ANOTHER CITY IN THIS STATE  
2 WITH A POPULATION OF 500,000 OR MORE AS DESIGNATED BY THE UNITED  
3 STATES BUREAU OF THE CENSUS IN THE 2000 CENSUS, <<IF DEMOLITION AND  
4 CONSTRUCTION ON THE PROJECT BEGINS NOT LATER THAN DECEMBER 31, 2010.>>  
For purposes

5 of this subdivision, a facility includes a building or complex of  
6 buildings that was used by a state or federal agency and that is no  
7 longer being used for the purpose for which it was used by the  
8 state or federal agency. FOR PURPOSES OF THIS SUBDIVISION, THE  
9 MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL GIVE PREFERENCE TO MIXED  
10 USE PROJECTS THAT SATISFY EACH OF THE FOLLOWING:

11 (i) THE AMOUNT OF NEW CONSTRUCTION INVESTMENT IS \$50,000,000.00  
12 OR MORE.

13 (ii) THE PROJECT INCLUDES AT LEAST 1 ABOVEGROUND MULTILEVEL  
14 PARKING FACILITY OR UNDERGROUND PARKING FACILITY.

15 (iii) THE PROJECT INCLUDES AT LEAST ONE 2-STORY OR GREATER  
16 STRUCTURE OTHER THAN A PARKING FACILITY.

17 (iv) THIS STATE AND REGION WILL BENEFIT FROM THE PROJECT.

18 (v) THE PROJECT ADDRESSES A MAJOR REDEVELOPMENT NEED IN THE  
19 COMMUNITY.

20 (vi) THE PROJECT'S REQUIREMENTS REQUIRE A STRONG SUBSIDY.

21 (c) The project allowed under subdivision (a) may also qualify  
22 under subdivision (b).

23 (7) The Michigan economic growth authority shall review all  
24 applications for projects under subsection (4) and, if an  
25 application is approved, shall determine the maximum total of all  
26 credits for that project. Before approving a project for which the  
27 total of all credits will be more than \$10,000,000.00 but

1 \$30,000,000.00 or less only, the Michigan economic growth authority  
2 shall determine that the project would not occur in this state  
3 without the tax credit offered under subsection (4). The Michigan  
4 economic growth authority shall consider the following criteria to  
5 the extent reasonably applicable to the type of project proposed  
6 when approving a project under subsection (4), and the chairperson  
7 of the Michigan economic growth authority or his or her designee  
8 shall consider the following criteria to the extent reasonably  
9 applicable to the type of project proposed when approving a project  
10 under subsection (2) or (3) or when considering an amendment to a  
11 project under subsection (9):

12 (a) The overall benefit to the public.

13 (b) The extent of reuse of vacant buildings and redevelopment  
14 of blighted property.

15 (c) Creation of jobs.

16 (d) Whether the eligible property is in an area of high  
17 unemployment.

18 (e) The level and extent of contamination alleviated by the  
19 qualified taxpayer's eligible activities to the extent known to the  
20 qualified taxpayer.

21 (f) The level of private sector contribution.

22 (g) The cost gap that exists between the site and a similar  
23 greenfield site as determined by the Michigan economic growth  
24 authority.

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

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

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

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

10 (9) If, after a taxpayer's project has been approved and the  
11 taxpayer has received a preapproval letter but before the taxpayer  
12 has made an eligible investment, other than soft costs, at the  
13 property, the taxpayer determines that the project cannot be  
14 completed as preapproved, the taxpayer may petition the Michigan  
15 economic growth authority to amend the project and the preapproval  
16 letter to increase the maximum total eligible investment for the  
17 project on which credits may be claimed and the maximum total of  
18 all credits for the project. A taxpayer may petition the Michigan  
19 economic growth authority to make any other amendments to the  
20 project or preapproval letter at any time before a certificate of  
21 completion is issued. Amendments to the project or preapproval  
22 letter may include, but are not limited to, extending the duration  
23 of time provided to complete the project, as long as that extension  
24 does not exceed 10 years from the date of the preapproval letter.

25 (10) A project may be a multiphase project. If a project is a  
26 multiphase project, when each component of the multiphase project  
27 is completed, the taxpayer shall submit documentation that the

1 component is complete, an accounting of the cost of the component,  
2 and the eligible investment for the component of each taxpayer  
3 eligible for a credit for the project of which the component is a  
4 part to the Michigan economic growth authority or the designee of  
5 the Michigan economic growth authority, who shall verify that the  
6 component is complete. When the completion of the component is  
7 verified, a component completion certificate shall be issued to the  
8 qualified taxpayer which shall state that the taxpayer is a  
9 qualified taxpayer, the credit amount for the component, the  
10 qualified taxpayer's federal employer identification number or the  
11 Michigan treasury number assigned to the taxpayer, and the project  
12 number. The taxpayer may assign all or part of the credit for a  
13 multiphase project as provided in this section after a component  
14 completion certificate for a component is issued. The qualified  
15 taxpayer may transfer ownership of or lease the completed component  
16 and assign a proportionate share of the credit for the entire  
17 project to the qualified taxpayer that is the new owner or lessee.  
18 A multiphase project shall not be divided into more than 10  
19 components. A component is considered to be completed when a  
20 certificate of occupancy has been issued by the local municipality  
21 in which the project is located for all of the buildings or  
22 facilities that comprise the completed component and a component  
23 completion certificate is issued or the chairperson of the Michigan  
24 economic growth authority or his or her designee, for projects  
25 approved under subsection (2) or (3), or the Michigan economic  
26 growth authority, for projects approved under subsection (4),  
27 verifies that the component is complete. A credit assigned based on

1 a multiphase project shall be claimed by the assignee in the tax  
2 year in which the assignment is made. The total of all credits for  
3 a multiphase project shall not exceed the amount stated in the  
4 preapproval letter, as amended, for the project under subsection  
5 (1). If all components of a multiphase project are not completed by  
6 10 years after the date on which the preapproval letter, as  
7 amended, if applicable, for the project was issued, the qualified  
8 taxpayer that received the preapproval letter for the project shall  
9 pay to the state treasurer, as a penalty, an amount equal to the  
10 sum of all credits claimed and assigned for all components of the  
11 multiphase project and no credits based on that multiphase project  
12 shall be claimed after that date by the qualified taxpayer or any  
13 assignee of the qualified taxpayer. The penalty under this  
14 subsection is subject to interest on the amount of the credit  
15 claimed or assigned determined individually for each component at  
16 the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on  
17 the date that the credit for that component was claimed or  
18 assigned. As used in this subsection, "proportionate share" means  
19 the same percentage of the total of all credits for the project  
20 that the qualified investment for the completed component is of the  
21 total qualified investment stated in the preapproval letter, as  
22 amended, for the entire project.

23 (11) When a project under this section is completed, the  
24 taxpayer shall submit documentation that the project is completed,  
25 an accounting of the cost of the project, the eligible investment  
26 of each taxpayer if there is more than 1 taxpayer eligible for a  
27 credit for the project, and, if the taxpayer is not the owner or

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

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

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

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

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

27 (e) The project number.

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

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

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

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

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

27 (15) Each qualified taxpayer and assignee under subsection

1 (20), (21), or (22) that claims a credit under this section shall  
2 attach a copy of the certificate of completion and, if the credit  
3 was assigned, a copy of the assignment form provided for under this  
4 section to the annual return filed under this act on which the  
5 credit under this section is claimed. An assignee of a credit based  
6 on a multiphase project shall attach a copy of the assignment form  
7 provided for under this section and the component completion  
8 certificate provided for in subsection (10) to the annual return  
9 filed under this act on which the credit is claimed but is not  
10 required to file a copy of a certificate of completion.

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

20 (17) Except as otherwise provided under this subsection, the  
21 credits approved under this section shall be calculated after  
22 application of all other credits allowed under this act. The  
23 credits under this section shall be calculated before the  
24 calculation of the credits under sections 413, 423, 431, and 450.

25 (18) Except as otherwise provided under this subsection, if  
26 the credit allowed under this section for the tax year and any  
27 unused carryforward of the credit allowed under this section exceed



1 the qualified taxpayer's or assignee's tax liability for the tax  
2 year, that portion that exceeds the tax liability for the tax year  
3 shall not be refunded but may be carried forward to offset tax  
4 liability in subsequent tax years for 10 years or until used up,  
5 whichever occurs first. Except as otherwise provided in this  
6 subsection, the maximum time allowed under the carryforward  
7 provisions under this subsection begins with the tax year in which  
8 the certificate of completion is issued to the qualified taxpayer.  
9 If the qualified taxpayer assigns all or any portion of its credit  
10 approved under this section, the maximum time allowed under the  
11 carryforward provisions for an assignee begins to run with the tax  
12 year in which the assignment is made and the assignee first claims  
13 a credit, which shall be the same tax year. The maximum time  
14 allowed under the carryforward provisions for an annual credit  
15 amount for a credit allowed under subsection (4) begins to run in  
16 the tax year for which the annual credit amount is designated on  
17 the certificate of completion issued under this section. A credit  
18 carryforward available under section 38g of former 1975 PA 228 that  
19 is unused at the end of the last tax year may be claimed against  
20 the tax imposed under act for the years the carryforward would have  
21 been available under former 1975 PA 228. Beginning on and after ~~the~~  
22 ~~effective date of the amendatory act that added subsection (33)~~  
23 **APRIL 8, 2008**, if the credit allowed under this section for the tax  
24 year exceeds the qualified taxpayer's tax liability for the tax  
25 year, the qualified taxpayer may elect to have the excess refunded  
26 at a rate equal to 85% of that portion of the credit that exceeds  
27 the tax liability of the qualified taxpayer for the tax year and

1 forgo the remaining 15% of the credit and any carryforward.  
2 **HOWEVER, FOR A PROJECT APPROVED UNDER SUBSECTION (6) (B), FOR**  
3 **PROPERTY THAT IS FUNCTIONALLY OBSOLETE OR BLIGHTED, PROPERTY**  
4 **LOCATED IN A CITY WITH A POPULATION OF 70,000 OR MORE AND WITHIN 10**  
5 **MILES OF ANOTHER CITY IN THIS STATE WITH A POPULATION OF 500,000 OR**  
6 **MORE AS DESIGNATED BY THE UNITED STATES BUREAU OF THE CENSUS IN THE**  
7 **2000 CENSUS, THE CREDIT ALLOWED UNDER THIS SECTION SHALL NOT BE**  
8 **REFUNDED.**

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

25 (20) For credits under this section for projects for which a  
26 certificate of completion is issued before January 1, 2006 and  
27 except as otherwise provided in this subsection, if a qualified

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

1 credit assigned to each lessee. A lessee shall not subsequently  
2 assign a credit or any portion of a credit assigned under this  
3 subsection. A purchaser may subsequently assign a credit or any  
4 portion of a credit assigned to the purchaser under this subsection  
5 to a lessee of the eligible property. The credit assignment under  
6 this subsection shall be made on a form prescribed by the Michigan  
7 economic growth authority. The qualified taxpayer shall send a copy  
8 of the completed assignment form to the Michigan economic growth  
9 authority in the tax year in which the assignment is made. The  
10 assignee shall attach a copy of the completed assignment form to  
11 its annual return required to be filed under this act, for the tax  
12 year in which the assignment is made and the assignee first claims  
13 a credit, which shall be the same tax year. 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 (21) Except as otherwise provided in this subsection, for

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

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

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

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

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

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

21 (22) For projects approved under this section or section 38g  
22 of former 1975 PA 228 for which a certificate of completion is  
23 issued on and after January 1, 2006, a qualified taxpayer may  
24 assign all or a portion of a credit allowed under this section or  
25 section 38g(2), (3), or (33) of former 1975 PA 228 under this  
26 subsection. <<HOWEVER, A CREDIT FOR A PROJECT APPROVED UNDER SUBSECTION  
(6)(B), FOR PROPERTY THAT IS FUNCTIONALLY OBSOLETE OR BLIGHTED, PROPERTY  
IDENTIFIED IN A BROWNFIELD PLAN AND IS LOCATED IN A CITY WITH A  
POPULATION OF 70,000 OR MORE AND WITHIN 10 MILES OF ANOTHER CITY IN THIS  
STATE WITH A POPULATION OF 500,000 OR MORE AS DESIGNATED BY THE UNITED  
STATES BUREAU OF THE CENSUS IN THE 2000 CENSUS SHALL NOT BE ASSIGNED  
UNDER THIS SUBSECTION.>> A credit assignment under this subsection is  
27 irrevocable and, except for a credit assignment based on a

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

1 multiphase project that is completed on or after January 1, 2006  
2 may be made under this section. In addition to all other procedures  
3 and requirements under this section, the following apply if the  
4 total of all credits for a project is more than \$10,000,000.00 but  
5 \$30,000,000.00 or less:

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

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

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

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

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

24 (a) If the project increases the density of the area by  
25 promoting multistory development.

26 (b) If the project promotes mixed-use development and walkable  
27 communities.



1 (c) If the project promotes sustainable redevelopment.

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

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

5 (f) Any other criteria determined by the Michigan economic  
6 growth authority or the chairperson of the Michigan economic growth  
7 authority.

8 (25) An eligible taxpayer that claims a credit under this  
9 section is not prohibited from claiming a credit under section 431.  
10 However, the eligible taxpayer shall not claim a credit under this  
11 section and section 431 based on the same costs.

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

22 (27) Eligible investment attributable or related to the  
23 operation of a casino, and eligible investment that is associated  
24 or affiliated with the operation of a casino, including, but not  
25 limited to, the operation of a parking lot, hotel, motel, or retail  
26 store, shall not be used as a basis for a credit under this  
27 section. As used in this subsection, "casino" means a casino

1 regulated by this state pursuant to the Michigan gaming control and  
2 revenue act, 1996 IL 1, MCL 432.201 to 432.226.

3 (28) Eligible investment attributable or related to the  
4 construction of a new landfill or the expansion of an existing  
5 landfill regulated under part 115 of the natural resources and  
6 environmental protection act, 1994 PA 451, MCL 324.11501 to  
7 324.11550, shall not be used as a basis for a credit under this  
8 section.

9 (29) The Michigan economic growth authority annually shall  
10 prepare and submit to the house of representatives and senate  
11 committees responsible for tax policy and economic development  
12 issues a report on the credits under subsections (2), (3), and (4).  
13 The report shall include, but is not limited to, all of the  
14 following:

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

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

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

21 (31) For the 2008 calendar year, the total of all credits for  
22 all projects approved under subsection (2) or (3) shall not exceed  
23 \$63,000,000.00. For each calendar year after 2008, the total of all  
24 credits for all projects approved under subsection (2) or (3) shall  
25 not exceed \$40,000,000.00. If the Michigan economic growth  
26 authority approves a total of all credits for all projects under  
27 subsection (2) or (3) of less than \$40,000,000.00 in a calendar

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1 year, the Michigan economic growth authority may carry forward for  
2 1 year only the difference between \$40,000,000.00 and the total of  
3 all credits for all projects under this subsection approved in the  
4 immediately preceding calendar year.

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25 (32) >> As used in this section:

26 (a) "Annual credit amount" means the maximum amount that a  
27 qualified taxpayer is eligible to claim each tax year for a project

1 for which the total of all credits is more than \$10,000,000.00 but  
2 \$30,000,000.00 or less, as approved under subsection (4).

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

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

11 (d) "Eligible investment" or "eligible investments" means,  
12 when made after the approval date of the brownfield plan but in any  
13 event no earlier than 90 days prior to the date of the preapproval  
14 letter, any demolition, construction, restoration, alteration,  
15 renovation, or improvement of buildings or site improvements on  
16 eligible property and the addition of machinery, equipment, and  
17 fixtures to eligible property after the date that eligible  
18 activities on that eligible property have started pursuant to a  
19 brownfield plan under the brownfield redevelopment financing act,  
20 1996 PA 381, MCL 125.2651 to 125.2672, if the costs of the eligible  
21 investment are not otherwise reimbursed to the taxpayer or paid for  
22 on behalf of the taxpayer from any source other than the taxpayer.  
23 The addition of leased machinery, equipment, or fixtures to  
24 eligible property by a lessee of the machinery, equipment, or  
25 fixtures is eligible investment if the lease of the machinery,  
26 equipment, or fixtures has a minimum term of 10 years or is for the  
27 expected useful life of the machinery, equipment, or fixtures, and

1 if the owner of the machinery, equipment, or fixtures is not the  
2 qualified taxpayer with regard to that machinery, equipment, or  
3 fixtures. For projects approved after ~~the effective date of the~~  
4 ~~amendatory act that added subsection (33)~~ **APRIL 8, 2008**, eligible  
5 investment does not include certain soft costs of the eligible  
6 investment as determined by the Michigan economic growth authority,  
7 including, but not limited to, developer fees, appraisals,  
8 performance bonds, closing costs, bank fees, loan fees, risk  
9 contingencies, financing costs, permanent or construction period  
10 interest, legal expenses, leasing or sales commissions, marketing  
11 costs, professional fees, shared savings, taxes, title insurance,  
12 bank inspection fees, insurance, and project management fees.  
13 Notwithstanding the foregoing, eligible investment does include  
14 architectural, engineering, surveying, and similar professional  
15 fees.

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

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

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

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

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

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

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

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

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

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

27           (i) All eligible investment on property not in a qualified

1 local governmental unit that is a facility.

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

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

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

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

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

26 (m) "Urban development area project" means a project located  
27 on eligible property in the downtown or traditional central

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

6 <<(33)>> For purposes of ~~subsection~~**SUBSECTIONS (2), (3), AND**  
7 **(4)**, eligible property means that term as defined under subsection  
8 <<(32) (e)>> except that all of the following apply:

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

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

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

21 (A) Infrastructure improvements that directly benefit the  
22 eligible property.

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

26 (C) Lead or asbestos abatement.

27 (D) Site preparation that is not response activity under



1 section 20101 of the natural resources and environmental protection  
2 act, 1994 PA 451, MCL 324.20101.

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

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

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

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