

# SENATE BILL NO. 1181

October 08, 2020, Introduced by Senators BULLOCK, WOJNO, POLEHANKI, GEISS, BRINKS, MCCANN, HERTEL and IRWIN and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 437 (MCL 208.1437), as amended by 2017 PA 217.

## **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, 2014,  
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

1 tax year, provided that the project is completed not more than 5  
2 years after the preapproval letter for the project is issued unless  
3 extended under subsection (9) or if it is a multiphase project not  
4 more than ~~10~~15 years after the preapproval letter, as amended, if  
5 applicable, for the project is issued, or an assignee under  
6 subsection (20), (21), or (22) may claim a credit that has been  
7 approved under section 38g of former 1975 PA 228 or under  
8 subsection (2), (3), or (4) against the tax imposed by this act  
9 equal to either of the following:

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

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

1 and after January 1, 2010, if the total of all eligible investments  
2 for a project is more than \$10,000,000.00 but \$100,000,000.00 or  
3 less, up to 12.5% of the costs of the qualified taxpayer's eligible  
4 investment as determined under subsection (11) paid or accrued by  
5 the qualified taxpayer on an eligible property that, except as  
6 provided in subsection (6) (b), is located in a qualified local  
7 governmental unit, up to 15% of the cost of the qualified  
8 taxpayer's eligible investment as determined under subsection (11)  
9 paid or accrued by the qualified taxpayer on an eligible property  
10 if the project is designated as an urban development area project  
11 by the Michigan economic growth authority, or, until December 31,  
12 2010, up to 20% of the costs of the qualified taxpayer's eligible  
13 investment as determined under subsection (11) paid or accrued by  
14 the qualified taxpayer on an eligible property if the project is  
15 designated as an urban development area project by the Michigan  
16 economic growth authority. If eligible investment exceeds the  
17 amount of eligible investment in the preapproval letter, as  
18 amended, for that project, the total of all credits for the project  
19 shall not exceed the total of all credits on the certificate of  
20 completion.

21 (2) If the cost of a project will be \$2,000,000.00 or less, a  
22 qualified taxpayer shall apply to the Michigan economic growth  
23 authority for approval of the project under this subsection. An  
24 application under this subsection shall state whether the project  
25 is a multiphase project. Subject to the limitation provided under  
26 subsection (31), the chairperson of the Michigan economic growth  
27 authority or his or her designee is authorized to approve an  
28 application or project under this subsection. Only the chairperson  
29 of the Michigan economic growth authority is authorized to deny an

1 application or project under this subsection. A project shall be  
2 approved or denied not more than 45 days after receipt of the  
3 application. If the chairperson of the Michigan economic growth  
4 authority or his or her designee does not approve or deny the  
5 application within 45 days after the application is received by the  
6 Michigan economic growth authority, the application is considered  
7 approved as written. If the chairperson of the Michigan economic  
8 growth authority or his or her designee approves a project under  
9 this subsection, the chairperson of the Michigan economic growth  
10 authority or his or her designee shall issue a preapproval letter  
11 that states that the taxpayer is a qualified taxpayer; the maximum  
12 total eligible investment for the project on which credits may be  
13 claimed and the maximum total of all credits for the project when  
14 the project is completed and a certificate of completion is issued;  
15 and the project number assigned by the Michigan economic growth  
16 authority. If a project is denied under this subsection, a taxpayer  
17 is not prohibited from subsequently applying under this subsection  
18 for the same project or for another project. The Michigan economic  
19 growth authority shall develop and implement the use of the  
20 application form to be used for projects under this subsection.

21 (3) If the cost of a project will be for more than  
22 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer  
23 shall apply to the Michigan economic growth authority for approval  
24 of the project under this subsection. An application under this  
25 subsection shall state whether the project is a multiphase project.  
26 Subject to the limitation provided under subsection (31), the  
27 chairperson of the Michigan economic growth authority or his or her  
28 designee is authorized to approve an application or project under  
29 this subsection. Only the chairperson of the Michigan economic

1 growth authority is authorized to deny an application or project  
2 under this subsection. A project shall be approved or denied not  
3 more than 45 days after receipt of the application. If the  
4 chairperson of the Michigan economic growth authority or his or her  
5 designee does not approve or deny an application within 45 days  
6 after the application is received by the Michigan economic growth  
7 authority, the application is considered approved as written. The  
8 criteria in subsection (7) shall be used when approving projects  
9 under this subsection. When approving projects under this  
10 subsection, priority shall be given to projects on a facility. The  
11 total of all credits for an approved project under this subsection  
12 shall not exceed the amounts authorized under subsection (1)(a). A  
13 taxpayer may apply under this subsection instead of subsection (4)  
14 for approval of a project that will be for more than  
15 \$10,000,000.00, but the total of all credits for that project shall  
16 not exceed the amounts authorized under subsection (1)(a). If the  
17 chairperson of the Michigan economic growth authority or his or her  
18 designee approves a project under this subsection, the chairperson  
19 of the Michigan economic growth authority or his or her designee  
20 shall issue a preapproval letter that states that the taxpayer is a  
21 qualified taxpayer; the maximum total eligible investment for the  
22 project on which credits may be claimed and the maximum total of  
23 all credits for the project when the project is completed and a  
24 certificate of completion is issued; and the project number  
25 assigned by the Michigan economic growth authority. If a project is  
26 denied under this subsection, a taxpayer is not prohibited from  
27 subsequently applying under this subsection or subsection (4) for  
28 the same project or for another project.

29 (4) If the cost of a project will be for more than

1 \$10,000,000.00 and, except as provided in subsection (6)(b), the  
2 project is located in a qualified local governmental unit, a  
3 qualified taxpayer shall apply to the Michigan economic growth  
4 authority for approval of the project. An application under this  
5 subsection shall state whether the project is a multiphase project.  
6 The Michigan economic growth authority shall approve or deny the  
7 project not more than 65 days after receipt of the application. A  
8 project under this subsection shall not be approved without the  
9 concurrence of the state treasurer. If the Michigan economic growth  
10 authority does not approve or deny the application within 65 days  
11 after it receives the application, the Michigan economic growth  
12 authority shall send the application to the state treasurer. The  
13 state treasurer shall approve or deny the application within 5 days  
14 after receipt of the application. If the state treasurer does not  
15 deny the application within 5 days after receipt of the  
16 application, the application is considered approved. The Michigan  
17 economic growth authority shall approve a limited number of  
18 projects under this subsection during each calendar year as  
19 provided in subsection (6). The Michigan economic growth authority  
20 shall use the criteria in subsection (7) when approving projects  
21 under this subsection, when determining the total amount of  
22 eligible investment, and when determining the percentage of  
23 eligible investment for the project to be used to calculate a  
24 credit. The total of all credits for an approved project under this  
25 subsection shall not exceed the amount designated in the  
26 preapproval letter, as amended, for that project. If the Michigan  
27 economic growth authority approves a project under this subsection,  
28 the Michigan economic growth authority shall issue a preapproval  
29 letter that states that the taxpayer is a qualified taxpayer; the

percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

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

(6) The Michigan economic growth authority may approve not more than 20 projects each calendar year through December 31, 2009, not more than 19 projects for the 2010 calendar year, and, except as otherwise provided under subdivision (d), not more than 17 projects for each calendar year after December 31, 2010 under subsection (4), and the following limitations apply:

(a) Of the projects allowed under this subsection, the total of all credits for each project may be more than \$10,000,000.00 but \$30,000,000.00 or less for only 1 project before December 31, 2009.

(b) Of the projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which



1 eligible activities are identified in a brownfield plan or, for 1  
2 of the 3 projects, if the property is not a facility but is  
3 functionally obsolete or blighted, property identified in a  
4 brownfield plan. For purposes of this subdivision, a facility  
5 includes a building or complex of buildings that was used by a  
6 state or federal agency and that is no longer being used for the  
7 purpose for which it was used by the state or federal agency.

8 (c) The project allowed under subdivision (a) may also qualify  
9 under subdivision (b).

10 (d) If the Michigan economic growth authority determines that  
11 there are previously issued credits authorized under section 434(6)  
12 available, the Michigan economic growth authority may approve 2  
13 additional projects for each calendar year after December 31, 2010.  
14 As used in this subdivision, "previously issued credits" means the  
15 total amount of credits authorized by the Michigan economic growth  
16 authority for a taxpayer under section 434(6) that meets all of the  
17 following:

18 (i) The taxpayer did not use any or a portion of the credits  
19 authorized under the written agreement under section 434(6).

20 (ii) The authority determined at a meeting upon a vote of the  
21 majority of the members present that the credits previously  
22 authorized satisfy subparagraph (i).

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  
28 \$30,000,000.00 or less only, the Michigan economic growth authority  
29 shall determine that the project would not occur in this state

1 without the tax credit offered under subsection (4). The Michigan  
2 economic growth authority shall consider the following criteria to  
3 the extent reasonably applicable to the type of project proposed  
4 when approving a project under subsection (4), and the chairperson  
5 of the Michigan economic growth authority or his or her designee  
6 shall consider the following criteria to the extent reasonably  
7 applicable to the type of project proposed when approving a project  
8 under subsection (2) or (3) or when considering an amendment to a  
9 project under subsection (9):

10 (a) The overall benefit to the public.

11 (b) The extent of reuse of vacant buildings and redevelopment  
12 of blighted property.

13 (c) Creation of jobs.

14 (d) Whether the eligible property is in an area of high  
15 unemployment.

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

19 (f) The level of private sector contribution.

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

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

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

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

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

6 (9) If, after a taxpayer's project has been approved and the  
7 taxpayer has received a preapproval letter but before the taxpayer  
8 has made an eligible investment, other than soft costs, at the  
9 property, the taxpayer determines that the project cannot be  
10 completed as preapproved, the taxpayer may petition the Michigan  
11 economic growth authority to amend the project and the preapproval  
12 letter to increase 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. A taxpayer may petition the Michigan  
15 economic growth authority to make any other amendments to the  
16 project or preapproval letter at any time before a certificate of  
17 completion is issued. Amendments to the project or preapproval  
18 letter may include, but are not limited to, extending the duration  
19 of time provided to complete the project, as long as that extension  
20 does not exceed 10 years from the date of the preapproval letter.  
21 However, if a project was approved prior to December 31, 2008 for  
22 20% of the qualified taxpayer's eligible investment and a total of  
23 less than \$2,000,000.00 for all credits for that project and that  
24 project has received a funding reservation for an allocation of the  
25 federal low-income housing tax credit administered by the Michigan  
26 state housing development authority of more than \$1,100,000.00,  
27 then that project may be amended to extend the duration of time  
28 provided to complete the project to the placed-in-service date of  
29 the carryover allocation agreement for the federal low-income

1 housing tax credit.

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

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

25 (11) When a project under this section is completed, the  
26 taxpayer shall submit documentation that the project is completed,  
27 an accounting of the cost of the project, the eligible investment  
28 of each taxpayer if there is more than 1 taxpayer eligible for a  
29 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.

28 (f) For a project approved under subsection (4) for which the  
29 total of all credits is more than \$10,000,000.00 but \$30,000,000.00

1 or less, the total of all credits and the schedule on which the  
2 annual credit amount shall be claimed by the qualified taxpayer.

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

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

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

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

25 (15) Each qualified taxpayer and assignee under subsection  
26 (20), (21), or (22) that claims a credit under this section shall  
27 attach a copy of the certificate of completion and, if the credit  
28 was assigned, a copy of the assignment form provided for under this  
29 section to the annual return filed under this act on which the

1 credit under this section is claimed. An assignee of a credit based  
2 on a multiphase project shall attach a copy of the assignment form  
3 provided for under this section and the component completion  
4 certificate provided for in subsection (10) to the annual return  
5 filed under this act on which the credit is claimed but is not  
6 required to file a copy of a certificate of completion.

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

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

21 (18) Except as otherwise provided under this subsection, if  
22 the credit allowed under this section for the tax year and any  
23 unused carryforward of the credit allowed under this section exceed  
24 the qualified taxpayer's or assignee's tax liability for the tax  
25 year, that portion that exceeds the tax liability for the tax year  
26 shall not be refunded but may be carried forward to offset tax  
27 liability in subsequent tax years for 10 years or until used up,  
28 whichever occurs first. Except as otherwise provided in this  
29 subsection, the maximum time allowed under the carryforward



provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under this section, the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (4) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section. A credit carryforward available under section 38g of former 1975 PA 228 that is unused at the end of the last tax year may be claimed against the tax imposed under this act for the years the carryforward would have been available under former 1975 PA 228. Beginning on and after April 8, 2008, if the credit allowed under this section for the tax year exceeds the qualified taxpayer's tax liability for the tax year, the qualified taxpayer may elect to have the excess refunded at a rate equal to 85% of that portion of the credit that exceeds the tax liability of the qualified taxpayer for the tax year and forgo the remaining 15% of the credit and any carryforward.

(19) If a project or credit under this section is for the addition of personal property, if the cost of that personal property is used to calculate a credit under this section, and if the personal property is disposed of or transferred from the eligible property to any other location, the qualified taxpayer that disposed of that property, or transferred the personal property shall add the same percentage as determined under

1 subsection (1) of the federal basis of the personal property used  
2 for determining gain or loss as of the date of the disposition or  
3 transfer to the qualified taxpayer's tax liability under this act  
4 after application of all credits under this act for the tax year in  
5 which the disposition or transfer occurs. If a qualified taxpayer  
6 has an unused carryforward of a credit under this section, the  
7 amount otherwise added under this subsection to the qualified  
8 taxpayer's tax liability may instead be used to reduce the  
9 qualified taxpayer's carryforward under subsection (18).

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

1 remaining credit amount. Except as otherwise provided in this  
2 subsection, if the qualified taxpayer both claims and assigns  
3 portions of the credit, the qualified taxpayer shall claim the  
4 portion it claims in the tax year in which the certificate of  
5 completion is issued or, for a credit assigned and claimed for a  
6 multiphase project before a certificate of completion is issued,  
7 the taxpayer shall claim the credit in the year in which the credit  
8 is assigned. If a qualified taxpayer assigns all or a portion of  
9 the credit and the eligible property is leased to more than 1  
10 taxpayer, the qualified taxpayer shall determine the amount of  
11 credit assigned to each lessee. A lessee shall not subsequently  
12 assign a credit or any portion of a credit assigned under this  
13 subsection. A purchaser may subsequently assign a credit or any  
14 portion of a credit assigned to the purchaser under this subsection  
15 to a lessee of the eligible property. The credit assignment under  
16 this subsection shall be made on a form prescribed by the Michigan  
17 economic growth authority. The qualified taxpayer shall send a copy  
18 of the completed assignment form to the Michigan economic growth  
19 authority in the tax year in which the assignment is made. The  
20 assignee shall attach a copy of the completed assignment form to  
21 its annual return required to be filed under this act, for the tax  
22 year in which the assignment is made and the assignee first claims  
23 a credit, which shall be the same tax year. In addition to all  
24 other procedures under this subsection, the following apply if the  
25 total of all credits for a project is more than \$10,000,000.00 but  
26 \$30,000,000.00 or less:

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

29 (b) If the qualified taxpayer assigns all or a portion of the

1 credit amount, the qualified taxpayer shall assign the annual  
2 credit amount for each tax year separately.

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

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

8 (21) Except as otherwise provided in this subsection, for  
9 projects for which a certificate of completion is issued before  
10 January 1, 2006, and except as otherwise provided in this  
11 subsection, if a qualified taxpayer is a partnership, limited  
12 liability company, or subchapter S corporation, the qualified  
13 taxpayer may assign all or a portion of a credit under this section  
14 to its partners, members, or shareholders, based on their  
15 proportionate share of ownership of the partnership, limited  
16 liability company, or subchapter S corporation or based on an  
17 alternative method approved by the Michigan economic growth  
18 authority. A credit assignment under this subsection is irrevocable  
19 and, except for a credit assignment based on a multiphase project,  
20 shall be made in the tax year in which a certificate of completion  
21 is issued. A qualified taxpayer may claim a portion of a credit and  
22 assign the remaining credit amount. Except as otherwise provided in  
23 this subsection, if the qualified taxpayer both claims and assigns  
24 portions of the credit, the qualified taxpayer shall claim the  
25 portion it claims in the tax year in which a certificate of  
26 completion is issued or for a credit assigned and claimed for a  
27 multiphase project, before the component completion certificate is  
28 issued, the taxpayer shall claim the credit in the year in which  
29 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  
28 of former 1975 PA 228 for which a certificate of completion is  
29 issued on and after January 1, 2006, a qualified taxpayer may

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

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

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

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

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

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

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

26 (a) If the project increases the density of the area by  
27 promoting multistory development.

28 (b) If the project promotes mixed-use development and walkable  
29 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  
28 regulated by this state pursuant to the Michigan gaming control and  
29 revenue act, 1996 IL 1, MCL 432.201 to 432.226.



1 (28) Eligible investment attributable or related to the  
2 construction of a new landfill or the expansion of an existing  
3 landfill regulated under part 115 of the natural resources and  
4 environmental protection act, 1994 PA 451, MCL 324.11501 to  
5 324.11554, shall not be used as a basis for a credit under this  
6 section.

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

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

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

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

19 (31) For the 2008 calendar year, the total of all credits for  
20 all projects approved under subsection (2) or (3) shall not exceed  
21 \$63,000,000.00. For each calendar year after 2008, the total of all  
22 credits for all projects approved under subsection (2) or (3) shall  
23 not exceed \$40,000,000.00. If the Michigan economic growth  
24 authority approves a total of all credits for all projects under  
25 subsection (2) or (3) of less than \$40,000,000.00 in a calendar  
26 year, the Michigan economic growth authority may carry forward for  
27 1 year only the difference between \$40,000,000.00 and the total of  
28 all credits for all projects under this subsection approved in the  
29 immediately preceding calendar year.

1 (32) As used in this section:

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

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

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

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

1 expected useful life of the machinery, equipment, or fixtures, and  
2 if the owner of the machinery, equipment, or fixtures is not the  
3 qualified taxpayer with regard to that machinery, equipment, or  
4 fixtures. For projects approved after 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.

28 (ii) Is not in a qualified local governmental unit and is a  
29 facility, and includes parcels that are adjacent or contiguous to

1 that property if the development of the adjacent and contiguous  
2 parcels is estimated to increase the captured taxable value of that  
3 property.

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

6 (f) "Last tax year" means the taxpayer's tax year under former  
7 1975 PA 228 that begins after December 31, 2006 and before January  
8 1, 2008.

9 (g) "Michigan economic growth authority" means the Michigan  
10 economic growth authority created in the Michigan economic growth  
11 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

15 (i) "Personal property" means that term as defined in section  
16 8 of the general property tax act, 1893 PA 206, MCL 211.8, except  
17 that personal property does not include either of the following:

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

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

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

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

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

29 (k) "Qualified local governmental unit" means that term as

1 defined in the obsolete property rehabilitation act, 2000 PA 146,  
2 MCL 125.2781 to 125.2797.

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

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

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

23 (m) "Urban development area project" means a project located  
24 on eligible property in the downtown or traditional central  
25 business district of a qualified local governmental unit or county  
26 seat or along a traditional commercial corridor of a qualified  
27 local governmental unit or county seat as determined by the  
28 Michigan economic growth authority or the chairperson of the  
29 Michigan economic growth authority or his or her designee.

1 (33) For purposes of subsection (2), eligible property means  
2 that term as defined under subsection (32)(e) except that all of  
3 the following apply:

4 (a) Eligible property means property identified under a  
5 brownfield plan that was used or is currently used for commercial,  
6 industrial, public, or residential purposes and that is 1 of the  
7 following:

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

11 (ii) Property that is not in a qualified local governmental  
12 unit but is within a downtown development district established  
13 under ~~1975 PA 197, MCL 125.1651 to 125.1681,~~ **part 2 of the**  
14 **recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to**  
15 **125.4230,** and is functionally obsolete or blighted, and a component  
16 of the project on that eligible property is 1 or more of the  
17 following:

18 (A) Infrastructure improvements that directly benefit the  
19 eligible property.

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

23 (C) Lead or asbestos abatement.

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

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

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

8 (c) Eligible property includes, to the extent included in the  
9 brownfield plan, personal property located on the eligible  
10 property.

11 (d) Eligible property does not include qualified agricultural  
12 property exempt under section 7ee of the general property tax act,  
13 1893 PA 206, MCL 211.7ee, from the tax levied by a local school  
14 district for school operating purposes to the extent provided under  
15 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.