

SENATE BILL No. 1264

April 15, 2010, Introduced by Senator CASSIS and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 113, 281, 409, 413, 417, 423, 429, 430, 431,
431a, 431b, 431c, 434, 435, 437, 441, 450, and 455 (MCL 208.1113,
208.1281, 208.1409, 208.1413, 208.1417, 208.1423, 208.1429,
208.1430, 208.1431, 208.1431a, 208.1431b, 208.1431c, 208.1434,
208.1435, 208.1437, 208.1441, 208.1450, and 208.1455), section 113
as amended by 2008 PA 472, section 281 as added and section 413 as
amended by 2007 PA 145, section 409 as amended by 2008 PA 572,
section 429 as amended by 2009 PA 184, section 430 as amended by
2009 PA 90, section 431 as amended by 2009 PA 126, section 431a as
amended by 2009 PA 159, section 431b as added by 2008 PA 109,
section 431c as amended by 2009 PA 160, section 434 as amended by
2009 PA 240, section 435 as amended by 2009 PA 192, section 437 as

amended by 2009 PA 241, section 450 as added by 2007 PA 214, and section 455 as added by 2008 PA 77.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (1) "Partner" means a partner or member of a
2 partnership.

3 (2) "Partnership" means a taxpayer that is required to or has
4 elected to file as a partnership for federal income tax purposes.

5 (3) "Person" means an individual, firm, bank, financial
6 institution, insurance company, limited partnership, limited
7 liability partnership, copartnership, partnership, joint venture,
8 association, corporation, subchapter S corporation, limited
9 liability company, receiver, estate, trust, or any other group or
10 combination of groups acting as a unit.

11 (4) "Professional employer organization" means an organization
12 that provides the management and administration of the human
13 resources of another entity by contractually assuming substantial
14 employer rights and responsibilities through a professional
15 employer agreement that establishes an employer relationship with
16 the leased officers or employees assigned to the other entity by
17 doing all of the following:

18 (a) Maintaining a right of direction and control of employees'
19 work, although this responsibility may be shared with the other
20 entity.

21 (b) Paying wages and employment taxes of the employees out of
22 its own accounts.

23 (c) Reporting, collecting, and depositing state and federal
24 employment taxes for the employees.

1 (d) Retaining a right to hire and fire employees.

2 (5) Professional employer organization is not a staffing
3 company as that term is defined in subsection (6).

4 (6) "Purchases from other firms" means all of the following:

5 (a) Inventory acquired during the tax year, including freight,
6 shipping, delivery, or engineering charges included in the original
7 contract price for that inventory.

8 (b) Assets, including the costs of fabrication and
9 installation, acquired during the tax year of a type that are, or
10 under the internal revenue code will become, eligible for
11 depreciation, amortization, or accelerated capital cost recovery
12 for federal income tax purposes.

13 (c) To the extent not included in inventory or depreciable
14 property, materials and supplies, including repair parts and fuel.

15 (d) For a staffing company, compensation of personnel supplied
16 to customers of staffing companies. As used in this subdivision:

17 (i) "Compensation" means that term as defined under section 107
18 plus all payroll tax and worker's compensation costs.

19 (ii) "Staffing company" means a taxpayer whose business
20 activities are included in industry group 736 under the standard
21 industrial classification code as compiled by the United States
22 department of labor.

23 (e) For a person included in major group 15, 16, or 17 under
24 the standard industrial classification code as compiled by the
25 United States department of labor that does not qualify for a
26 credit under section 417, both of the following:

27 (i) Payments to subcontractors for a construction project under

1 a contract specific to that project.

2 (ii) To the extent not deducted under subdivisions (a) and (c),
3 payments for materials deducted as purchases in determining the
4 cost of goods sold for the purpose of calculating total income on
5 the taxpayer's federal income tax return.

6 (f) For the 2008 tax year and each tax year after 2008, all
7 film rental or royalty payments paid by a theater owner to a film
8 distributor, a film producer, or a film distributor and producer.

9 (g) For a taxpayer licensed under article 25 or 26 of the
10 occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and
11 339.2601 to 339.2637, payments to an independent contractor
12 licensed under article 25 or 26 of the occupational code, 1980 PA
13 299, MCL 339.2501 to 339.2518 and 339.2601 to 339.2637.

14 **(H) ON AND AFTER OCTOBER 1, 2010, 1/3 OF THE SERVICES**
15 **PURCHASED FROM ANOTHER TAXPAYER DURING THE TAX YEAR THAT ARE**
16 **DIRECTLY RELATED TO BUSINESS ACTIVITY, EXCLUDING SERVICES PERFORMED**
17 **BY AN EMPLOYEE FOR AN EMPLOYER, SERVICES PERFORMED BY A**
18 **SUBCONTRACTOR THAT ARE INCLUDED IN A CONSTRUCTION PROJECT FOR WHICH**
19 **THOSE PAYMENTS HAVE BEEN EXCLUDED FROM GROSS RECEIPTS UNDER**
20 **SUBDIVISION (E), AND GOODS THAT HAVE BEEN EXCLUDED FROM GROSS**
21 **RECEIPTS UNDER SUBDIVISION (A), (B), OR (C).**

22 (7) "Revenue mile" means the transportation for a
23 consideration of 1 net ton in weight or 1 passenger the distance of
24 1 mile.

25 Sec. 281. (1) In addition to the taxes imposed and levied
26 under this act and subject to subsections (2), (3), and (4), to
27 meet deficiencies in state funds an annual surcharge is imposed and

1 levied on each taxpayer equal to the following percentage of the
2 taxpayer's tax liability under this act after allocation or
3 apportionment to this state under this act but before calculation
4 of the various credits available under this act:

5 (a) For each taxpayer other than a person subject to the tax
6 imposed and levied under chapter 2B: τ

7 (i) **FOR TAX YEARS ENDING AFTER DECEMBER 31, 2007 AND BEFORE**
8 **OCTOBER 1, 2010, 21.99%.**

9 (ii) **ON AND AFTER OCTOBER 1, 2010, 17.60%.**

10 (b) For a person subject to the tax imposed and levied under
11 chapter 2B:

12 (i) For tax years ending after December 31, 2007 and before
13 January 1, 2009, 27.7%.

14 (ii) For tax years ending after December 31, 2008 **AND BEFORE**
15 **OCTOBER 1, 2010, 23.4%.**

16 (iii) **ON AND AFTER OCTOBER 1, 2010, 18.72%.**

17 (2) If the Michigan personal income growth exceeds 0% in any 1
18 of the 3 calendar years immediately preceding the 2017 calendar
19 year, then the surcharge under subsection (1) shall not be levied
20 and imposed on or after January 1, 2017. For purposes of this
21 subsection, "Michigan personal income" means personal income for
22 this state as defined by the bureau of economic analysis of the
23 United States department of commerce or its successor.

24 (3) The amount of the surcharge imposed and levied on any
25 taxpayer under subsection (1)(a) shall not exceed \$6,000,000.00 for
26 any single tax year **ENDING BEFORE OCTOBER 1, 2010 AND \$4,800,000.00**
27 **FOR ANY SINGLE TAX YEAR BEGINNING ON AND AFTER OCTOBER 1, 2010.**

1 (4) The surcharge imposed and levied under this section does
2 not apply to either of the following:

3 (a) A person subject to the tax imposed and levied under
4 chapter 2A.

5 (b) A person subject to the tax imposed and levied under
6 chapter 2B that is authorized to exercise only trust powers.

7 (5) The surcharge imposed and levied under this section shall
8 constitute a part of the tax imposed under this act and shall be
9 administered, collected, and enforced as provided under this act.

10 Sec. 409. (1) For tax years that begin on or after January 1,
11 2008 and end before January 1, 2013, an eligible taxpayer may claim
12 a credit against the tax imposed by this act equal to the amount of
13 capital expenditures in this state on infield renovation,
14 grandstand and infrastructure upgrades, and any other construction
15 and upgrades, subject to the following:

16 (a) For the 2008 through 2010 tax years, the credit shall not
17 exceed \$2,100,000.00 or the taxpayer's tax liability under this
18 act, whichever is less.

19 (b) For the 2011 tax year, the credit shall not exceed
20 \$1,580,000.00 or the taxpayer's tax liability under this act,
21 whichever is less.

22 (c) For the 2012 tax year, the credit shall not exceed
23 \$1,050,000.00 or the taxpayer's tax liability under this act,
24 whichever is less.

25 (2) In addition to the credit allowed under subsection (1),
26 for the 2009 tax year an eligible taxpayer may claim a credit
27 against the tax imposed by this act equal to 50% of the amount of

1 necessary expenditures in this state incurred including any
2 professional fees, additional police officers, and any traffic
3 management devices, to ensure traffic and pedestrian safety while
4 hosting the requisite motorsports events each calendar year. For
5 the 2010 tax year and each tax year after 2010, an eligible
6 taxpayer may claim a credit against the tax imposed by this act
7 equal to all of the necessary expenditures in this state incurred
8 including any professional fees, additional police officers, and
9 any traffic management devices, to ensure traffic and pedestrian
10 safety while hosting the requisite motorsports events each calendar
11 year. ~~If~~**FOR NECESSARY EXPENDITURES INCURRED ON AND AFTER OCTOBER**
12 **1, 2010, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION**
13 **EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT**
14 **EXCESS SHALL NOT BE REFUNDED. FOR NECESSARY EXPENDITURES INCURRED**
15 **ON AND AFTER DECEMBER 31, 2008 AND BEFORE OCTOBER 1, 2010, IF the**
16 amount of the credit allowed under this subsection exceeds the tax
17 liability of the taxpayer for the tax year that excess shall be
18 refunded.

19 (3) An eligible taxpayer shall expend at least \$30,000,000.00
20 on capital expenditures before January 1, 2011.

21 (4) As used in this section:

22 (a) "Eligible taxpayer" means any of the following:

23 (i) A person who owns and operates a motorsports entertainment
24 complex and has at least 2 days of motorsports events each calendar
25 year which shall be comparable to NASCAR Nextel cup events held in
26 2007 or their successor events.

27 (ii) A person who is the lessee and operator of a motorsports

1 entertainment complex or the lessee of the land on which a
2 motorsports entertainment complex is located and operates that
3 motorsports entertainment complex.

4 (iii) A person who operates and maintains a motorsports
5 entertainment complex under an operation and management agreement.

6 (b) "Motorsports entertainment complex" means a closed-course
7 motorsports facility, and its ancillary grounds and facilities,
8 that satisfies all of the following:

9 (i) Has at least 70,000 fixed seats for race patrons.

10 (ii) Has at least 6 scheduled days of motorsports events each
11 calendar year.

12 (iii) Serves food and beverages at the motorsports entertainment
13 complex during motorsports events each calendar year through
14 concession outlets, which are staffed by individuals who represent
15 or are members of 1 or more nonprofit civic or charitable
16 organizations that directly benefit from the concession outlets'
17 sales.

18 (iv) Engages in tourism promotion.

19 (v) Has permanent exhibitions of motorsports history, events,
20 or vehicles within the motorsports entertainment complex.

21 (c) "Motorsports event" means a motorsports race and its
22 ancillary activities that have been sanctioned by a sanctioning
23 body.

24 (d) "Sanctioning body" means the American motorcycle
25 association (AMA); auto racing club of America (ARCA); championship
26 auto racing teams (CART); grand American road racing association
27 (GRAND AM); Indy racing league (IRL); national association for

1 stock car auto racing (NASCAR); national hot rod association
2 (NHRA); professional sports car racing (PSR); sports car club of
3 America (SCCA); United States auto club (USAC); Michigan state
4 promoters association; or any successor organization or any other
5 nationally or internationally recognized governing body of
6 motorsports that establishes an annual schedule of motorsports
7 events and grants rights to conduct the events, that has
8 established and administers rules and regulations governing all
9 participants involved in the events and all persons conducting the
10 events, and that requires certain liability assurances, including
11 insurance.

12 Sec. 413. (1) Subject to subsection (2), a taxpayer may claim
13 a credit against the tax imposed by this act equal to the
14 following:

15 (a) For property taxes levied after December 31, 2007, 35% of
16 the amount paid for property taxes on eligible personal property in
17 the tax year.

18 (b) Twenty-three percent of the amount paid for property taxes
19 levied on eligible telephone personal property in the 2008 tax year
20 and 13.5% of the amount paid for property taxes levied on eligible
21 telephone personal property in subsequent tax years.

22 (c) For property taxes levied after December 31, 2007, 10% of
23 the amount paid for property taxes on eligible natural gas pipeline
24 property in the tax year.

25 (2) To qualify for the credit under subsection (1), the
26 taxpayer shall file, if applicable, within the time prescribed each
27 of the following:

1 (a) The statement of assessable personal property prepared
2 pursuant to section 19 of the general property tax act, 1893 PA
3 206, MCL 211.19, identifying the eligible personal property or
4 eligible natural gas pipeline property, or both, for which the
5 credit under subsection (1) is claimed.

6 (b) The annual report filed under section 6 of 1905 PA 282,
7 MCL 207.6, identifying the eligible telephone personal property for
8 which the credit under subsection (1) is claimed.

9 (c) The assessment or bill issued to and paid by the taxpayer
10 for the eligible personal property, eligible natural gas pipeline
11 property, or eligible telephone property for which the credit under
12 subsection (1) is claimed.

13 (3) ~~IF~~ **FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2008**
14 **AND BEFORE OCTOBER 1, 2010, IF** the amount of the credit allowed
15 under this section exceeds the tax liability of the taxpayer for
16 the tax year, that excess shall be refunded. **FOR TAX YEARS THAT**
17 **BEGIN ON OR AFTER OCTOBER 1, 2010, IF THE AMOUNT OF THE CREDIT**
18 **ALLOWED UNDER THIS SECTION EXCEEDS THE TAX LIABILITY OF THE**
19 **TAXPAYER FOR THE TAX YEAR, THAT EXCESS SHALL NOT BE REFUNDED.**

20 (4) As used in this section:

21 (a) "Eligible natural gas pipeline property" means natural gas
22 pipelines that are classified as utility personal property under
23 section 34c of the general property tax act, 1893 PA 206, MCL
24 211.34c, and are subject to regulation under the natural gas act,
25 15 USC 717 to 717z.

26 (b) "Eligible personal property" means personal property that
27 is classified as industrial personal property under section 34c of

1 the general property tax act, 1893 PA 206, MCL 211.34c, or in the
2 case of personal property that is subject to 1974 PA 198, MCL
3 207.551 to 207.572, is situated on land classified as industrial
4 real property under section 34c of the general property tax act,
5 1893 PA 206, MCL 211.34c.

6 (c) "Eligible telephone personal property" means personal
7 property of a telephone company subject to the tax levied under
8 1905 PA 282, MCL 207.1 to 207.21.

9 (d) "Property taxes" means any of the following:

10 (i) Taxes collected under the general property tax act, 1893 PA
11 206, MCL 211.1 to 211.155.

12 (ii) Taxes levied under 1974 PA 198, MCL 207.551 to 207.572.

13 (iii) Taxes levied under the obsolete property rehabilitation
14 act, 2000 PA 146, MCL 125.2781 to 125.2797.

15 (iv) Taxes levied under 1905 PA 282, MCL 207.1 to 207.21.

16 Sec. 417. (1) The credit provided in this section shall be
17 taken after the credits under sections 403 and 405 and before any
18 other credit under this act and is available to any taxpayer with
19 gross receipts that do not exceed \$20,000,000.00 and with adjusted
20 business income minus the loss adjustment that does not exceed
21 ~~\$1,300,000.00~~ **\$1,500,000.00** as adjusted annually for inflation
22 using the Detroit consumer price index and subject to the
23 following:

24 (a) An individual, a partnership, a limited liability company,
25 or a subchapter S corporation is disqualified if the individual,
26 any 1 partner of the partnership, any 1 member of the limited
27 liability company, or any 1 shareholder of the subchapter S

1 corporation receives more than ~~\$180,000.00~~ **\$210,000.00 AS ADJUSTED**
2 **ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX** as a
3 distributive share of the adjusted business income minus the loss
4 adjustment of the individual, the partnership, the limited
5 liability company, or the subchapter S corporation.

6 (b) A corporation other than a subchapter S corporation is
7 disqualified if either of the following occur for the respective
8 tax year:

9 (i) Compensation and directors' fees of a shareholder or
10 officer exceed ~~\$180,000.00~~ **\$210,000.00 AS ADJUSTED ANNUALLY FOR**
11 **INFLATION USING THE DETROIT CONSUMER PRICE INDEX.**

12 (ii) The sum of the following amounts exceeds ~~\$180,000.00~~
13 **\$210,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT**
14 **CONSUMER PRICE INDEX:**

15 (A) Compensation and directors' fees of a shareholder.

16 (B) The product of the percentage of outstanding ownership or
17 of outstanding stock owned by that shareholder multiplied by the
18 difference between the sum of business income and, to the extent
19 deducted in determining federal taxable income, a carryback or a
20 carryover of a net operating loss or capital loss, minus the loss
21 adjustment.

22 (c) Subject to the reduction percentage determined under
23 subsection (3), the credit determined under this subsection shall
24 be reduced by the following percentages in the following
25 circumstances:

26 (i) If an individual, any 1 partner of the partnership, any 1
27 member of the limited liability company, or any 1 shareholder of

the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B) is more than ~~\$160,000.00~~ **\$165,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX** but less than ~~\$165,000.00~~ **\$170,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX**, the credit is reduced by ~~20%~~ **10%**.

(ii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B) is ~~\$165,000.00~~ **\$170,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX** or more but less than ~~\$170,000.00~~ **\$175,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX**, the credit is reduced by ~~40%~~ **20%**.

(iii) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S

corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B) is ~~\$170,000.00~~ **\$175,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX** or more but less than ~~\$175,000.00~~ **\$180,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX**, the credit is reduced by ~~60%~~ **30%**.

(iv) If an individual, any 1 partner of the partnership, any 1 member of the limited liability company, or any 1 shareholder of the subchapter S corporation receives as a distributive share of adjusted business income minus the loss adjustment of the individual, partnership, limited liability company, or subchapter S corporation; if compensation and directors' fees of a shareholder or officer of a corporation other than a subchapter S corporation are; or if the sum of the amounts in subdivision (b) (ii) (A) and (B) is ~~\$175,000.00~~ **\$180,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX** or more but ~~not in excess of~~ **\$180,000.00 LESS THAN \$185,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX**, the credit is reduced by ~~80%~~ **40%**.

(v) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1 MEMBER OF THE LIMITED LIABILITY COMPANY, OR ANY 1 SHAREHOLDER OF THE SUBCHAPTER S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF ADJUSTED BUSINESS INCOME MINUS THE LOSS ADJUSTMENT OF THE INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SUBCHAPTER S CORPORATION; IF COMPENSATION AND DIRECTORS' FEES OF A SHAREHOLDER OR OFFICER OF A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION

1 ARE; OR IF THE SUM OF THE AMOUNTS IN SUBDIVISION (B) (ii) (A) AND (B)
2 IS \$185,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT
3 CONSUMER PRICE INDEX OR MORE BUT LESS THAN \$190,000.00 AS ADJUSTED
4 ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX, THE
5 CREDIT IS REDUCED BY 50%.

6 (vi) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
7 MEMBER OF THE LIMITED LIABILITY COMPANY, OR ANY 1 SHAREHOLDER OF
8 THE SUBCHAPTER S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF
9 ADJUSTED BUSINESS INCOME MINUS THE LOSS ADJUSTMENT OF THE
10 INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SUBCHAPTER S
11 CORPORATION; IF COMPENSATION AND DIRECTORS' FEES OF A SHAREHOLDER
12 OR OFFICER OF A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION
13 ARE; OR IF THE SUM OF THE AMOUNTS IN SUBDIVISION (B) (ii) (A) AND (B)
14 IS \$190,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT
15 CONSUMER PRICE INDEX OR MORE BUT LESS THAN \$195,000.00 AS ADJUSTED
16 ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX, THE
17 CREDIT IS REDUCED BY 60%.

18 (vii) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
19 MEMBER OF THE LIMITED LIABILITY COMPANY, OR ANY 1 SHAREHOLDER OF
20 THE SUBCHAPTER S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF
21 ADJUSTED BUSINESS INCOME MINUS THE LOSS ADJUSTMENT OF THE
22 INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SUBCHAPTER S
23 CORPORATION; IF COMPENSATION AND DIRECTORS' FEES OF A SHAREHOLDER
24 OR OFFICER OF A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION
25 ARE; OR IF THE SUM OF THE AMOUNTS IN SUBDIVISION (B) (ii) (A) AND (B)
26 IS \$195,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT
27 CONSUMER PRICE INDEX OR MORE BUT LESS THAN \$200,000.00 AS ADJUSTED

1 ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX, THE
2 CREDIT IS REDUCED BY 70%.

3 (viii) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
4 MEMBER OF THE LIMITED LIABILITY COMPANY, OR ANY 1 SHAREHOLDER OF
5 THE SUBCHAPTER S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF
6 ADJUSTED BUSINESS INCOME MINUS THE LOSS ADJUSTMENT OF THE
7 INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SUBCHAPTER S
8 CORPORATION; IF COMPENSATION AND DIRECTORS' FEES OF A SHAREHOLDER
9 OR OFFICER OF A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION
10 ARE; OR IF THE SUM OF THE AMOUNTS IN SUBDIVISION (B) (ii) (A) AND (B)
11 IS \$200,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT
12 CONSUMER PRICE INDEX OR MORE BUT LESS THAN \$205,000.00 AS ADJUSTED
13 ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX, THE
14 CREDIT IS REDUCED BY 80%.

15 (ix) IF AN INDIVIDUAL, ANY 1 PARTNER OF THE PARTNERSHIP, ANY 1
16 MEMBER OF THE LIMITED LIABILITY COMPANY, OR ANY 1 SHAREHOLDER OF
17 THE SUBCHAPTER S CORPORATION RECEIVES AS A DISTRIBUTIVE SHARE OF
18 ADJUSTED BUSINESS INCOME MINUS THE LOSS ADJUSTMENT OF THE
19 INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SUBCHAPTER S
20 CORPORATION; IF COMPENSATION AND DIRECTORS' FEES OF A SHAREHOLDER
21 OR OFFICER OF A CORPORATION OTHER THAN A SUBCHAPTER S CORPORATION
22 ARE; OR IF THE SUM OF THE AMOUNTS IN SUBDIVISION (B) (ii) (A) AND (B)
23 IS \$205,000.00 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT
24 CONSUMER PRICE INDEX OR MORE BUT LESS THAN OR EQUAL TO \$210,000.00
25 AS ADJUSTED ANNUALLY FOR INFLATION USING THE DETROIT CONSUMER PRICE
26 INDEX, THE CREDIT IS REDUCED BY 90%.

27 (2) For the purposes of determining disqualification under

1 subsection (1), an active shareholder's share of business income
2 shall not be attributed to another active shareholder.

3 (3) To determine the reduction percentage under subsection
4 (1)(c), the following apply:

5 (a) The reduction percentage for a partnership, limited
6 liability company, or subchapter S corporation is based on the
7 distributive share of adjusted business income minus loss
8 adjustment of the partner, member, or shareholder with the greatest
9 distributive share of adjusted business income minus loss
10 adjustment.

11 (b) The reduction percentage for a corporation other than a
12 subchapter S corporation is the greater of the following:

13 (i) The reduction percentage based on the compensation and
14 directors' fees of the shareholder or officer with the greatest
15 amount of compensation and directors' fees.

16 (ii) The reduction percentage based on the sum of the amounts
17 in subsection (1)(b)(ii)(A) and (B) for the shareholder or officer
18 with the greatest sum of the amounts in subsection (1)(b)(ii)(A) and
19 (B).

20 (4) A taxpayer that qualifies under subsection (1) is allowed
21 a credit against the tax imposed under this act. The credit under
22 this subsection is the amount by which the tax imposed under this
23 act exceeds 1.8% of adjusted business income.

24 (5) If gross receipts exceed \$19,000,000.00, the credit shall
25 be reduced by a fraction, the numerator of which is the amount of
26 gross receipts over \$19,000,000.00 and the denominator of which is
27 \$1,000,000.00. The credit shall not exceed 100% of the tax

1 liability imposed under this act.

2 (6) For a taxpayer that reports for a tax year less than 12
3 months, the amounts specified in this section for gross receipts,
4 adjusted business income, and share of business income shall be
5 multiplied by a fraction, the numerator of which is the number of
6 months in the tax year and the denominator of which is 12.

7 (7) The department shall permit a taxpayer that elects to
8 claim the credit allowed under this section based on the amount by
9 which the tax imposed under this act exceeds the percentage of
10 adjusted business income for the tax year as determined under
11 subsection (4), and that is not required to reduce the credit
12 pursuant to subsection (1) or (5), to file and pay the tax imposed
13 by this act without computing the tax imposed under sections 201
14 and 203.

15 (8) Compensation paid by the professional employer
16 organization to the officers of the client and to employees of the
17 professional employer organization who are assigned or leased to
18 and perform services for the client shall be included in
19 determining eligibility of the client under this section.

20 (9) As used in this section:

21 (a) "Active shareholder" means a shareholder who receives at
22 least \$10,000.00 in compensation, directors' fees, or dividends
23 from the business, and who owns at least 5% of the outstanding
24 stock or other ownership interest.

25 (b) "Adjusted business income" means business income as
26 defined in section 105 with all of the following adjustments:

27 (i) Add compensation and directors' fees of active shareholders

1 of a corporation.

2 (ii) Add, to the extent deducted in determining federal taxable
3 income, a carryback or a carryover of a net operating loss.

4 (iii) Add, to the extent deducted in determining federal taxable
5 income, a capital loss.

6 (iv) Add compensation and directors' fees of officers of a
7 corporation.

8 (c) "Detroit consumer price index" means the most
9 comprehensive index of consumer prices available for the Detroit
10 area from the United States department of labor, bureau of labor
11 statistics.

12 (d) "Loss adjustment" means the amount by which adjusted
13 business income was less than zero in any of the 5 tax years
14 immediately preceding the tax year for which eligibility for the
15 credit under this section is being determined. In determining the
16 loss adjustment for a tax year, a taxpayer is not required to use
17 more of the taxpayer's total negative adjusted business income than
18 the amount needed to qualify the taxpayer for the credit under this
19 section. A taxpayer shall not be considered to have used any
20 portion of the taxpayer's negative adjusted business income amount
21 unless the portion used is necessary to qualify for the credit
22 under this section. A taxpayer shall not reuse a negative adjusted
23 business income amount used as a loss adjustment in a previous tax
24 year or use a negative adjusted business income amount from a year
25 in which the taxpayer did not receive the credit under this
26 section.

27 Sec. 423. (1) A taxpayer that is an employer that is subject

1 to the worker's disability compensation act of 1969, 1969 PA 317,
2 MCL 418.101 to 418.941, may claim a credit against the tax imposed
3 by this act an amount equal to the amount paid during that tax year
4 by the taxpayer pursuant to section 352 of the worker's disability
5 compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by
6 the director of the bureau of worker's disability compensation
7 pursuant to section 391(6) of the worker's disability compensation
8 act of 1969, 1969 PA 317, MCL 418.391.

9 (2) A taxpayer that claims a credit under this section shall
10 claim a portion of the credit allowed by this section equal to the
11 payments made during a calendar quarter pursuant to section 352 of
12 the worker's disability compensation act of 1969, 1969 PA 317, MCL
13 418.352, against the estimated tax payments made under section 501.
14 Any subsequent increase or decrease in the amount claimed for
15 payments made by the insurer or self-insurer shall be reflected in
16 the amount of the credit taken for the calendar quarter in which
17 the amount of the adjustment is finalized.

18 (3) The credit under this section is in addition to any other
19 credits the taxpayer is eligible for under this act.

20 (4) ~~If~~ **FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2008**
21 **AND BEFORE OCTOBER 1, 2010, IF** the amount of the credit allowed
22 under this section exceeds the tax liability of the taxpayer for
23 the tax year, that portion of the credit that exceeds the tax
24 liability shall be refunded. **FOR TAX YEARS THAT BEGIN ON OR AFTER**
25 **OCTOBER 1, 2010, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS**
26 **SECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,**
27 **THAT PORTION OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY SHALL NOT**

1 **BE REFUNDED.**

2 Sec. 429. (1) A taxpayer may claim a credit against the tax
3 imposed by this act for 1 or more of the following as applicable:

4 (a) The credit allowed under subsection (2).

5 (b) The credit allowed under subsection (5).

6 (2) A taxpayer that is certified under the Michigan next
7 energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an
8 eligible taxpayer may claim a nonrefundable credit for the tax year
9 equal to the amount determined under subdivision (a) or (b),
10 whichever is less:

11 (a) The amount by which the taxpayer's tax liability
12 attributable to qualified business activity for the tax year
13 exceeds the taxpayer's baseline tax liability attributable to
14 qualified business activity.

15 (b) Ten percent of the amount by which the taxpayer's adjusted
16 qualified business activity performed in this state outside of a
17 renaissance zone for the tax year exceeds the taxpayer's adjusted
18 qualified business activity performed in this state outside of a
19 renaissance zone for the 2001 tax year under section 39e of former
20 1975 PA 228.

21 (3) For any tax year in which the eligible taxpayer's tax
22 liability attributable to qualified business activity for the tax
23 year does not exceed the taxpayer's baseline tax liability
24 attributable to qualified business activity, the eligible taxpayer
25 shall not claim the credit allowed under subsection (2).

26 (4) A taxpayer that claims a credit under subsection (2) shall
27 attach a copy of each of the following as issued pursuant to the

1 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
2 207.827, to the annual return required under this act for each tax
3 year in which the taxpayer claims the credit allowed under
4 subsection (2):

5 (a) The proof of certification that the taxpayer is an
6 eligible taxpayer for the tax year.

7 (b) The proof of certification of the taxpayer's tax liability
8 attributable to qualified business activity for the tax year.

9 (c) The proof of certification of the taxpayer's baseline tax
10 liability attributable to qualified business activity.

11 (5) A taxpayer that is a qualified alternative energy entity
12 may claim a credit for the taxpayer's qualified payroll amount. A
13 taxpayer shall claim the credit under this subsection after all
14 allowable nonrefundable credits under this act.

15 (6) ~~IF~~ **FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2008**
16 **AND BEFORE OCTOBER 1, 2010, IF** the credit allowed under subsection
17 (5) exceeds the tax liability of the taxpayer for the tax year,
18 that portion of the credit that exceeds the tax liability shall be
19 refunded. **FOR TAX YEARS THAT BEGIN ON OR AFTER OCTOBER 1, 2010, IF**
20 **THE CREDIT ALLOWED UNDER SUBSECTION (5) EXCEEDS THE TAX LIABILITY**
21 **OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION OF THE CREDIT THAT**
22 **EXCEEDS THE TAX LIABILITY SHALL NOT BE REFUNDED.**

23 (7) As used in this section:

24 (a) "Adjusted qualified business activity performed in this
25 state outside of a renaissance zone" means either of the following:

26 (i) Except as provided in subparagraph (ii), the taxpayer's
27 payroll for qualified business activity performed in this state

1 outside of a renaissance zone.

2 (ii) For a partnership, limited liability company, **SUBCHAPTER S**
3 corporation, or individual, the amount determined under
4 subparagraph (i) plus the product of the following as related to the
5 taxpayer:

6 (A) Business income.

7 (B) The apportionment factor as determined under chapter 3.

8 (C) The alternative energy business activity factor.

9 (b) "Alternative energy business activity factor" means a
10 fraction, the numerator of which is the ratio of the value of the
11 taxpayer's property used for qualified business activity and
12 located in this state outside of a renaissance zone for the year
13 for which the factor is being calculated to the value of all of the
14 taxpayer's property located in this state for that year plus the
15 ratio of the taxpayer's payroll for qualified business activity
16 performed in this state outside of a renaissance zone for that year
17 to all of the taxpayer's payroll in this state for that year and
18 the denominator of which is 2.

19 (c) "Alternative energy marine propulsion system",
20 "alternative energy system", "alternative energy vehicle", and
21 "alternative energy technology" mean those terms as defined in the
22 Michigan next energy authority act, 2002 PA 593, MCL 207.821 to
23 207.827.

24 (d) "Alternative energy zone" means a renaissance zone
25 designated as an alternative energy zone by the board of the
26 Michigan strategic fund under section 8a of the Michigan
27 renaissance zone act, 1996 PA 376, MCL 125.2688a.

1 (e) "Baseline tax liability attributable to qualified business
2 activity" means the taxpayer's tax liability for the 2001 tax year
3 under former 1975 PA 228 multiplied by the taxpayer's alternative
4 energy business activity factor for the 2001 tax year under former
5 1975 PA 228. A taxpayer with a 2001 tax year of less than 12 months
6 under former 1975 PA 228 shall annualize the amount calculated
7 under this subdivision as necessary to determine baseline tax
8 liability attributable to qualified business activity that reflects
9 a 12-month period.

10 (f) "Eligible taxpayer" means a taxpayer that has proof of
11 certification of qualified business activity under the Michigan
12 next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

13 (g) "Payroll" means total salaries and wages before deducting
14 any personal or dependency exemptions.

15 (h) "Qualified alternative energy entity" means a taxpayer
16 located in an alternative energy zone.

17 (i) "Qualified business activity" means research, development,
18 or manufacturing of an alternative energy marine propulsion system,
19 an alternative energy system, an alternative energy vehicle,
20 alternative energy technology, or renewable fuel.

21 (j) "Qualified employee" means an individual who is employed
22 by a qualified alternative energy entity, whose job
23 responsibilities are related to the research, development, or
24 manufacturing activities of the qualified alternative energy
25 entity, and whose regular place of employment is within an
26 alternative energy zone.

27 (k) "Qualified payroll amount" means an amount equal to

1 payroll of the qualified alternative energy entity attributable to
2 all qualified employees in the tax year of the qualified
3 alternative energy entity for which the credit under subsection (6)
4 is being claimed, multiplied by the tax rate for that tax year.

5 (l) "Renaissance zone" means a renaissance zone designated
6 under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681
7 to 125.2696.

8 (m) "Renewable fuel" means 1 or more of the following:

9 (i) Biodiesel or biodiesel blends containing at least 20%
10 biodiesel. As used in this subparagraph, "biodiesel" means a diesel
11 fuel substitute consisting of methyl or ethyl esters produced from
12 the transesterification of animal or vegetable fats with methanol
13 or ethanol.

14 (ii) Biomass. As used in this subparagraph, "biomass" means
15 residues from the wood and paper products industries, residues from
16 food production and processing, trees and grasses grown
17 specifically to be used as energy crops, and gaseous fuels produced
18 from solid biomass, animal wastes, municipal waste, or landfills.

19 (n) "Tax liability attributable to qualified business
20 activity" means the taxpayer's tax liability multiplied by the
21 taxpayer's alternative energy business activity factor for the tax
22 year.

23 (o) "Tax rate" means the rate imposed under section 51 of the
24 income tax act of 1967, 1967 PA 281, MCL 206.51, annualized as
25 necessary, for the tax year in which the qualified alternative
26 energy entity claims a credit under subsection (5).

27 Sec. 430. (1) Except as otherwise provided under subsection

1 (3) and subject to the limitations under subsection (2), for tax
2 years that begin on or after January 1, 2009, a qualified taxpayer
3 and an eligible taxpayer that has entered into an agreement with
4 the Michigan economic growth authority that provides that the
5 taxpayer will construct and operate in this state a new facility
6 for development and manufacturing of photovoltaic energy,
7 photovoltaic systems, or other photovoltaic technology may claim a
8 credit against the tax imposed by this act equal to 25% of the
9 capital investments made by the taxpayer in that new facility
10 during the tax year but not to exceed \$15,000,000.00.

11 (2) The Michigan economic growth authority shall not enter
12 into an agreement under this section after December 31, 2011. The
13 total amount of credits allowed under this section for all tax
14 years shall not exceed \$75,000,000.00. An agreement shall specify
15 all of the following:

16 (a) The amount of capital investment that will be made in a
17 new facility engaged in the development and manufacturing of
18 photovoltaic energy, photovoltaic systems, and other photovoltaic
19 technology.

20 (b) The number of qualified new jobs at the facility at which
21 the investment will be made.

22 (c) The total credit that may be claimed under this section.

23 (3) The Michigan economic growth authority may enter into 1
24 agreement with an eligible taxpayer for a credit under this section
25 of more than \$15,000,000.00 but not more than \$25,000,000.00.

26 (4) Except as otherwise provided under this subsection, the
27 credit allowed under this section shall be taken by a taxpayer in

1 equal installments over 2 years beginning with the tax year in
2 which the certification was issued. The Michigan economic growth
3 authority may allow only 1 taxpayer with whom it has entered into
4 an agreement for a credit under this section of \$15,000,000.00 or
5 less to claim the total amount of the credit allowed in the same
6 tax year in which the certification was issued. ~~If~~**FOR ANY**
7 **AGREEMENTS ENTERED BEFORE OCTOBER 1, 2010, IF** in any of those years
8 the credit allowed under this section for the tax year exceeds the
9 taxpayer's or assignee's tax liability for the tax year, that
10 portion that exceeds the tax liability for the tax year shall be
11 refunded. **FOR AN AGREEMENT ENTERED ON OR AFTER OCTOBER 1, 2010, IF**
12 **IN ANY OF THOSE TAX YEARS THE CREDIT ALLOWED UNDER THIS SECTION FOR**
13 **THE TAX YEAR EXCEEDS THE TAXPAYER'S OR ASSIGNEE'S TAX LIABILITY FOR**
14 **THE TAX YEAR, THAT PORTION THAT EXCEEDS THE TAX LIABILITY FOR THE**
15 **TAX YEAR SHALL NOT BE REFUNDED.**

16 (5) A taxpayer shall not claim a credit under this section
17 unless the Michigan economic growth authority has issued a
18 certificate to the taxpayer. The taxpayer shall attach the
19 certificate to the annual return filed under this act on which a
20 credit under this section is claimed. The certificate required
21 under this subsection shall state all of the following:

22 (a) The taxpayer is located in this state and engaged in the
23 development and manufacturing of photovoltaic energy, photovoltaic
24 systems, or other photovoltaic technology and qualifies for the
25 credit under this section.

26 (b) The taxpayer's federal employer identification number or
27 the Michigan department of treasury number assigned to the taxpayer

1 and, for a taxpayer that is a unitary business group, the federal
2 employer identification number or Michigan department of treasury
3 number assigned to the member of the group engaged in this state in
4 the development and manufacturing of photovoltaic energy,
5 photovoltaic systems, or other photovoltaic technology.

6 (c) The total amount of capital investments made during the
7 tax year and the amount of the credit under this section for which
8 the taxpayer is allowed to claim for the designated tax year.

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

20 (7) ~~A—~~**FOR A CREDIT BASED ON AN AGREEMENT ENTERED INTO BEFORE**
21 **OCTOBER 1, 2010, A** taxpayer may assign all or a portion of a credit
22 allowed under this section. A credit assignment under this
23 subsection is irrevocable and shall be made in the tax year in
24 which a certificate is issued. However, a taxpayer may also convey
25 the right to obtain an assignment of the credit under this section
26 after an agreement has been approved by the Michigan economic
27 growth authority and before a certificate has been issued. A

1 taxpayer may claim a portion of a credit and assign the remaining
2 credit amount. The credit assignment under this subsection shall be
3 made on a form prescribed by the Michigan economic growth
4 authority. The Michigan economic growth authority or its designee
5 shall review and issue a completed assignment certificate to the
6 assignee. An assignee shall attach a copy of the completed
7 assignment certificate to its annual return required under this
8 act, for the tax year in which the assignment is made and the
9 assignee first claims a credit, which shall be the same tax year.

10 In addition to all other procedures and requirements under this
11 section, the following apply:

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

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

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

20 (8) A taxpayer that has entered into an agreement with the
21 Michigan economic growth authority for a credit under sections 432
22 through 432d is not eligible for the credit under this section.

23 (9) As used in this section:

24 (a) "Capital investment" means the cost, including fabrication
25 and installation, paid or accrued in the tax year of property of a
26 type that is, or under the internal revenue code will become,
27 eligible for depreciation, amortization, or accelerated capital

1 cost recovery for federal income tax purposes, provided that the
2 property is physically located in this state for use in a business
3 activity in this state.

4 (b) "Eligible taxpayer" means a taxpayer that has entered an
5 agreement to create at least 250 qualified new jobs and to make at
6 least \$100,000,000.00 in a qualified capital investment of which
7 \$25,000,000.00 shall be made prior to the issuance of a certificate
8 under this section.

9 (c) "Full-time job" means a job performed by an individual for
10 35 hours or more each week and whose income and social security
11 taxes are withheld by 1 or more of the following:

12 (i) A qualified taxpayer or an eligible taxpayer.

13 (ii) An employee leasing company on behalf of a qualified
14 taxpayer or an eligible taxpayer.

15 (iii) A professional employer organization on behalf of a
16 qualified taxpayer or an eligible taxpayer.

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

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

26 (f) "Qualified taxpayer" means a taxpayer that has entered an
27 agreement to create at least 500 qualified new jobs and to make at

1 least \$50,000,000.00 in a qualified capital investment of which
2 \$25,000,000.00 shall be made prior to the issuance of a certificate
3 under this section.

4 (g) "Photovoltaic cells" means an integrated device consisting
5 of layers of semiconductor materials and electric constructs
6 capable of converting incident light directly into electricity.

7 (h) "Photovoltaic energy" means solar energy.

8 (i) "Photovoltaic modules" means an assembly of interconnected
9 photovoltaic cells.

10 (j) "Photovoltaic systems" means solar energy devices composed
11 of 1 or more photovoltaic cells or photovoltaic modules, and
12 inverter or other power conditioning unit or photovoltaic
13 technology designed to deliver power of a selected current and
14 voltage, wires, and other electrical connectors in order to
15 generate electricity, heat or cool a residential structure, provide
16 hot water for use in a residential structure, or provide solar
17 process heat. Batteries for power storage may also be included in
18 photovoltaic systems.

19 (k) "Photovoltaic technology" means solar power technology
20 that uses photovoltaic cells and modules to convert light from the
21 sun directly into electricity. Photovoltaic technology includes
22 equipment, component parts, materials, electronic devices, testing
23 equipment, and other related systems that are specifically designed
24 or fabricated and used primarily for 1 or more of the following:

25 (i) The storage, generation, reformation, or distribution of
26 clean fuels integrated within a photovoltaic system.

27 (ii) The process of utilizing photovoltaic energy to generate

1 electricity for use by consumers.

2 (l) "Property" means section 1245 property and section 1250
3 property as those terms are defined in sections 1245 and 1250 of
4 the internal revenue code.

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

11 (a) Except as otherwise provided under this subdivision, for
12 an authorized business for the tax year, an amount not to exceed
13 the payroll of the authorized business attributable to employees
14 who perform qualified new jobs as determined under the Michigan
15 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,
16 multiplied by the tax rate; beginning after April 28, 2008, for an
17 authorized business for the tax year, an amount not to exceed the
18 sum of the payroll and health care benefits of the authorized
19 business attributable to employees who perform qualified new jobs
20 as determined under the Michigan economic growth authority act,
21 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

22 (b) For an eligible business as determined under section
23 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,
24 MCL 207.808, an amount not to exceed 50% of the payroll of the
25 authorized business attributable to employees who perform retained
26 jobs as determined under the Michigan economic growth authority
27 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate

1 for the tax year.

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

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

23 (e) For an authorized business as determined under section
24 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL
25 207.808, an amount up to, but not to exceed 100% of, the sum of the
26 payroll and health care benefits of the authorized business
27 attributable to employees who perform retained jobs multiplied by a

1 fraction, the numerator of which is the amount of new capital
2 investment made at the facility and the denominator of which is the
3 product of the number of retained jobs multiplied by \$100,000.00,
4 and then multiplied by the tax rate for the tax year.

5 (f) For an authorized business as determined under section
6 8(11) of the Michigan economic growth authority act, 1995 PA 24,
7 MCL 207.808, an amount not to exceed 100% of the sum of the payroll
8 and health care benefits of the authorized business attributable to
9 employees who perform new full-time jobs and retained jobs as
10 determined under the Michigan economic growth authority act, 1995
11 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the
12 tax year.

13 (2) A taxpayer shall not claim a credit under this section
14 unless the Michigan economic growth authority has issued a
15 certificate to the taxpayer. The taxpayer shall attach the
16 certificate to the annual return filed under this act on which a
17 credit under this section is claimed.

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

20 (a) The taxpayer is an authorized business.

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

23 (c) The taxpayer's federal employer identification number or
24 the Michigan department of treasury number assigned to the
25 taxpayer.

26 (4) The Michigan economic growth authority may certify a
27 credit under this section based on an agreement entered into prior

1 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.
2 The number of years for which the credit may be claimed under this
3 section shall equal the maximum number of years designated in the
4 resolution reduced by the number of years for which a credit has
5 been claimed or could have been claimed under section 37c of former
6 1975 PA 228.

7 (5) ~~If the~~ **FOR A CREDIT CERTIFIED UNDER THIS SECTION BASED ON**
8 **AN AGREEMENT ENTERED INTO BEFORE OCTOBER 1, 2010, IF THAT** credit
9 allowed under this section exceeds the tax liability of the
10 taxpayer for the tax year, that portion of the credit that exceeds
11 the tax liability of the taxpayer shall be refunded. **FOR A CREDIT**
12 **CERTIFIED UNDER THIS SECTION BASED ON AN AGREEMENT ENTERED INTO ON**
13 **OR AFTER OCTOBER 1, 2010, IF THAT CREDIT ALLOWED UNDER THIS SECTION**
14 **EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT**
15 **PORTION THAT EXCEEDS THE TAX LIABILITY OF THE TAXPAYER SHALL NOT BE**
16 **REFUNDED.**

17 (6) Except as otherwise provided under this subsection, a
18 taxpayer that claims a credit under subsection (1) or section 37c
19 or 37d of former 1975 PA 228, that has an agreement with the
20 Michigan economic growth authority based on qualified new jobs as
21 defined in section 3(q)(ii) of the Michigan economic growth
22 authority act, 1995 PA 24, MCL 207.803, and that removes from this
23 state 51% or more of those qualified new jobs within 3 years after
24 the first year in which the taxpayer claims a credit described in
25 this subsection shall pay to the department no later than 12 months
26 after those qualified new jobs are removed from the state an amount
27 equal to the total of all credits described in this subsection that

1 were claimed by the taxpayer. Beginning after April 28, 2008, a
2 taxpayer that claims a credit under subsection (1) and subsequently
3 fails to meet the requirements of this section or any other
4 conditions included in an agreement entered into with the Michigan
5 economic growth authority in order to obtain a certificate for the
6 credit claimed under this section or removes any of the qualified
7 new jobs from this state during the term of the written agreement
8 and for a period of years after the term of the written agreement,
9 as determined by the Michigan economic growth authority, may have
10 its credit reduced or terminated or have a percentage of the credit
11 amount previously claimed under this section added back to the tax
12 liability of the taxpayer in the tax year that the taxpayer fails
13 to comply with this section or the agreement.

14 (7) If the Michigan economic growth authority or a designee of
15 the Michigan economic growth authority requests that a taxpayer
16 that claims the credit under this section get a statement prepared
17 by a certified public accountant verifying that the actual number
18 of new jobs created is the same number of new jobs used to
19 calculate the credit under this section, the taxpayer shall get the
20 statement and attach that statement to its annual return under this
21 act on which the credit under this section is claimed.

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

25 (9) For the 2010 calendar year, ~~and each calendar year after~~
26 ~~2010,~~ the total amount of all credits allowed to be claimed in the
27 first year of all new written agreements approved in that calendar

1 year under this section shall not exceed \$95,000,000.00. **FOR THE**
2 **2011 CALENDAR YEAR AND EACH CALENDAR YEAR AFTER 2011, THE TOTAL**
3 **AMOUNT OF ALL CREDITS ALLOWED TO BE CLAIMED IN THE FIRST YEAR OF**
4 **ALL NEW WRITTEN AGREEMENTS APPROVED IN THAT CALENDAR YEAR UNDER**
5 **THIS SECTION SHALL NOT EXCEED \$19,000,000.00, DISTRIBUTED AS**
6 **FOLLOWS:**

7 (A) NOT MORE THAN 3 CREDITS OF NOT MORE THAN \$3,000,000.00
8 EACH.

9 (B) NOT MORE THAN 10 CREDITS OF NOT MORE THAN \$1,000,000.00
10 EACH.

11 (10) For purposes of this section, taxpayer includes a person
12 subject to the tax imposed under chapter 2A and a person subject to
13 the tax imposed under chapter 2B.

14 (11) As used in this section:

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

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

1 medical payment insurance.

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

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

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

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

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

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

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

1 Michigan economic growth authority, multiplied by the tax rate for
2 the tax year and that credit may include each of the qualified
3 supplier's and qualified customer's payroll described above for a
4 period of up to 5 years as determined by the Michigan economic
5 growth authority. ~~If~~**FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY**
6 **1, 2008 AND BEFORE OCTOBER 1, 2010, IF** the credit allowed under
7 this subsection exceeds the liability of the taxpayer for the tax
8 year, the taxpayer may elect to have that portion that exceeds the
9 tax liability of the taxpayer refunded or to have the excess
10 carried forward to offset tax liability in subsequent years for 10
11 years or until it is used up, whichever occurs first. **FOR TAX YEARS**
12 **THAT BEGIN ON OR AFTER OCTOBER 1, 2010, IF THE CREDIT ALLOWED UNDER**
13 **THIS SUBSECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE**
14 **TAX YEAR, THAT PORTION THAT EXCEEDS THE TAX LIABILITY OF THE**
15 **TAXPAYER SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET**
16 **TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 10 YEARS OR UNTIL IT IS**
17 **USED UP, WHICHEVER OCCURS FIRST.** The Michigan economic growth
18 authority shall not designate more than 5 new anchor companies in
19 each calendar year and shall not approve more than 5 new credits in
20 each calendar year under this subsection. An anchor company has 5
21 years from the date on which the anchor company is designated as an
22 anchor company to seek certification from the Michigan economic
23 growth authority as a qualified taxpayer for each qualified
24 supplier and qualified customer that is included in the credit
25 which that anchor company is seeking under this section. However, a
26 credit shall not be provided for a tax year prior to the tax year
27 during which the designation as an anchor company is made.

1 (2) The Michigan economic growth authority may also provide
2 that qualified sales to a qualified customer shall not be
3 considered in calculating the sales factor under this act for the
4 tax year for which a credit is provided under this section. Not
5 later than July 1 of each year, the Michigan economic growth
6 authority shall disclose to the senate majority leader or his or
7 her designee, the speaker of the house of representatives or his or
8 her designee, and the chairperson of each standing committee of the
9 house of representatives and the senate that primarily addresses
10 and has jurisdiction over issues pertaining to taxation, finance,
11 and economic development the name and address of each qualified
12 customer whose sales are not considered in the sales factor
13 pursuant to this subsection.

14 (3) A taxpayer shall not claim a credit under this section
15 unless the Michigan economic growth authority has issued a
16 certificate to the taxpayer. The taxpayer shall attach the
17 certificate to the annual return filed under this act on which the
18 credit under this section is claimed. The certificate required by
19 this subsection shall state all of the following:

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

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

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

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

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

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

13 (6) As used in this section:

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

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

22 (c) "Full-time job" means a job performed by an individual for
23 35 hours or more each week and whose income and social security
24 taxes are withheld by 1 or more of the following:

25 (i) A qualified supplier or qualified customer.

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

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

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

6 (e) "Qualified new job" means a full-time job created by a
7 qualified supplier or qualified customer at a facility or
8 facilities that is in excess of the number of full-time jobs a
9 qualified supplier or qualified customer maintained in this state
10 or at a facility prior to the expansion or location, as determined
11 by the authority.

12 (f) "Qualified sales to a qualified customer" means sales to a
13 qualified customer that are in excess of the Michigan sales to the
14 customer prior to the year of expansion or location within this
15 state as determined by the Michigan economic growth authority and
16 that would otherwise be included in the calculation of the sales
17 factor under this act.

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

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

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

1 necessary for the anchor company to market a finished product as
2 the result of a commercial relationship with the anchor company or
3 buys a critical or unique component from the anchor company.

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

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

7 (h) "Qualified taxpayer" means a taxpayer that was designated
8 by the Michigan economic growth authority as an anchor company
9 within the last 5 years and that has influenced a qualified
10 supplier or qualified customer to open, locate, or expand in this
11 state.

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

16 Sec. 431b. (1) Upon application, a person or group of persons
17 acting collectively may enter into an agreement with the Michigan
18 economic growth authority for a credit under this section. In
19 determining whether to enter into an agreement with a person or
20 group of persons, the authority shall consider the following
21 factors:

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

26 (b) The potential impact of the expansion, retention, or
27 location on the economy of Michigan if the person or group of

1 persons acting collectively is awarded the federal contract
2 described under subdivision (a).

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

6 (d) The total capital investment or new capital investment the
7 person or group of persons acting collectively will make to win and
8 maintain the federal contract described under subdivision (a).

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

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

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

16 (c) Conditions upon which the person or group of persons
17 acting collectively is designated a qualified taxpayer under this
18 section.

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

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

27 (f) A method for measuring qualified new jobs before and after

1 the award of a federal contract and the expansion, retention, or
2 location of the person or group of persons acting collectively in
3 this state as a result of winning the federal contract.

4 (3) A qualified taxpayer may claim a credit against the tax
5 imposed by this act in an amount up to 100% of the qualified
6 taxpayer's payroll attributable to employees who perform qualified
7 new jobs created as a result of the person or group of persons
8 acting collectively being awarded a federal procurement contract by
9 the United States department of defense, department of energy, or
10 department of homeland security as determined by the Michigan
11 economic growth authority, multiplied by the tax rate for the tax
12 year for a period of up to 7 years or the term of the contract,
13 whichever is less, as determined by the Michigan economic growth
14 authority. If the qualified taxpayer is a group of persons acting
15 collectively, the Michigan economic growth authority shall
16 determine the amount of the credit which each person included in
17 the group is allowed to claim by multiplying the amount of the
18 credit allowed collectively by the qualified taxpayer by a
19 fraction, the numerator of which is the person's payroll
20 attributable to employees who perform qualified new jobs and the
21 denominator of which is 100% of the qualified taxpayer's payroll
22 attributable to employees who perform qualified new jobs, and then
23 certifying the amount of the credit that each person is allowed to
24 claim respectively. ~~If~~**FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY**
25 **1, 2008 AND BEFORE OCTOBER 1, 2010, IF** the credit allowed under
26 this subsection exceeds the liability of the taxpayer for the tax
27 year, the taxpayer may elect to have that portion that exceeds the

1 tax liability of the taxpayer refunded or to have the excess
2 carried forward to offset tax liability in subsequent years for 10
3 years or until it is used up, whichever occurs first. **FOR TAX YEARS**
4 **THAT BEGIN ON OR AFTER OCTOBER 1, 2010, IF THE CREDIT ALLOWED UNDER**
5 **THIS SUBSECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE**
6 **TAX YEAR, THAT PORTION THAT EXCEEDS THE TAX LIABILITY OF THE**
7 **TAXPAYER SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD TO OFFSET**
8 **TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 10 YEARS OR UNTIL USED**
9 **UP, WHICHEVER OCCURS FIRST.** The Michigan economic growth authority
10 shall not execute more than 10 new written agreements each year. If
11 a qualified taxpayer is awarded a credit under this section, any
12 subsequent credits awarded to that qualified taxpayer shall not be
13 included in determining the yearly limit of 10 new agreements under
14 this subsection.

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

23 (a) The taxpayer is a qualified taxpayer.

24 (b) The amount of the credit under this section for the
25 qualified taxpayer for the designated tax year or, if the qualified
26 taxpayer is a group of persons, the percentage of the amount of the
27 credit that the taxpayer is allowed to claim for the designated tax

1 year.

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

5 (5) As used in this section:

6 (a) "Full-time job" means a job performed by an individual for
7 35 hours or more each week and whose income and social security
8 taxes are withheld by 1 or more of the following:

9 (i) A taxpayer.

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

11 (iii) A professional employer organization on behalf of a
12 taxpayer.

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

16 (c) "Qualified new job" means a full-time job created by a
17 qualified taxpayer at a facility or facilities that is in excess of
18 the number of full-time jobs the qualified taxpayer maintained in
19 this state or at a facility prior to being awarded the federal
20 procurement contract and the expansion or location, as determined
21 by the authority.

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

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

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

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

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

8 Sec. 431c. (1) Except as otherwise provided under this
9 section, a qualified taxpayer may claim a credit against the tax
10 imposed by this act equal to the sum of up to 5.0% of the taxable
11 value of each qualified supplier's or qualified customer's taxable
12 property that is located within the 10-mile radius of the qualified
13 taxpayer or is located in the same county or a county adjacent to
14 the qualified taxpayer and within an existing industrial site that
15 is approved by the Michigan economic growth authority and that is
16 subject to collection of general ad valorem taxes under the general
17 property tax act, 1893 PA 206, MCL 211.1 to 211.155, and that
18 credit may be based upon each of the qualified supplier's and
19 qualified customer's taxable value described above in this
20 subsection for a period of up to 5 years, as determined by the
21 Michigan economic growth authority. If a qualified supplier's or
22 qualified customer's taxable property that is located within the
23 10-mile radius of the qualified taxpayer or is located in the same
24 county or a county adjacent to the qualified taxpayer and within an
25 existing industrial site that is approved by the Michigan economic
26 growth authority is subject to the specific tax levied under 1974
27 PA 198, MCL 207.551 to 207.572, the qualified taxpayer may only

1 include up to 2.5% of the taxable value of that property in the
2 calculation of the amount of the credit allowed under this section.

3 (2) The Michigan economic growth authority shall not designate
4 more than 5 new anchor companies in each calendar year and shall
5 not approve more than 5 new credits in each calendar year under
6 this subsection. An anchor company has 5 years from the date on
7 which the anchor company designation occurs to seek certification
8 from the Michigan economic growth authority as a qualified taxpayer
9 for each qualified supplier or qualified customer that is included
10 in the credit which that anchor company is seeking under this
11 section. However, a credit shall not be provided for a tax year
12 prior to the tax year during which the designation as an anchor
13 company is made.

14 (3) The Michigan economic growth authority may provide that
15 qualified sales to a qualified customer shall not be considered in
16 calculating the sales factor under this act for the tax year for
17 which a credit is provided under this section. Not later than July
18 1 of each year, the Michigan economic growth authority shall
19 disclose to the senate majority leader or his or her designee, the
20 speaker of the house of representatives or his or her designee, and
21 the chairperson of each standing committee of the house of
22 representatives and the senate that primarily addresses and has
23 jurisdiction over issues pertaining to taxation, finance, and
24 economic development the name and address of each qualified
25 customer whose sales are not considered in the sales factor
26 pursuant to this subsection.

27 (4) A taxpayer shall not claim a credit under this section

1 unless the Michigan economic growth authority has issued a
2 certificate to the taxpayer. The qualified taxpayer shall attach
3 the certificate to the annual return filed under this act on which
4 the credit under this section is claimed. The certificate required
5 by this subsection shall state all of the following:

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

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

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

13 (d) Subject to subsection (3), the amount of the qualified
14 sales to a qualified customer.

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

26 (6) ~~If~~ **FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2008**
27 **AND BEFORE OCTOBER 1, 2010, IF** the credit allowed under this

1 subsection exceeds the liability of the qualified taxpayer for the
2 tax year, the qualified taxpayer may elect to have that portion
3 that exceeds the tax liability of the qualified taxpayer refunded
4 or to have the excess carried forward to offset tax liability in
5 subsequent years for 5 years or until it is used up, whichever
6 occurs first. **FOR TAX YEARS THAT BEGIN ON OR AFTER OCTOBER 1, 2010,**
7 **IF THE CREDIT ALLOWED UNDER THIS SUBSECTION EXCEEDS THE TAX**
8 **LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT PORTION THAT**
9 **EXCEEDS THE TAX LIABILITY OF THE TAXPAYER SHALL NOT BE REFUNDED BUT**
10 **MAY BE CARRIED FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX**
11 **YEARS FOR 5 YEARS OR UNTIL IT IS USED UP, WHICHEVER OCCURS FIRST.**

12 (7) A credit under this section may be taken after all other
13 allowable nonrefundable credits under this act.

14 (8) As used in this section:

15 (a) "Anchor company" means a qualified high-technology
16 business that is an integral part of a high-technology activity and
17 that has the ability or potential ability to influence business
18 decisions and site location of qualified suppliers and qualified
19 customers.

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

24 (c) "Full-time job" means a job performed by an individual for
25 35 hours or more each week and whose income and social security
26 taxes are withheld by 1 or more of the following:

27 (i) A qualified supplier or qualified customer.

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

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

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

8 (e) "Qualified new job" means a full-time job created by a
9 qualified supplier or qualified customer at a facility or
10 facilities that is in excess of the number of full-time jobs a
11 qualified supplier or qualified customer maintained in this state
12 or facility prior to the expansion or location, as determined by
13 the authority.

14 (f) "Qualified sales to a qualified customer" means sales to a
15 qualified customer that are in excess of the Michigan sales to the
16 customer prior to the year of expansion or location within this
17 state as determined by the Michigan economic growth authority and
18 that would otherwise be included in the calculation of the sales
19 factor under this act.

20 (g) "Qualified supplier" and "qualified customer" mean a
21 business that opens a new location in this state, a business that
22 locates in this state, or an existing business located in this
23 state that expands its business as a result of an anchor company
24 and satisfies prior to the issuance of a certificate and at the
25 time specified in the agreement with the qualified taxpayer, as
26 certified by the Michigan economic growth authority, each of the
27 following:

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

2 (ii) Sells a critical or unique component or technology
3 necessary for the anchor company to market a finished product as
4 the result of a commercial relationship with the anchor company or
5 buys a critical or unique component from the anchor company.

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

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

9 (h) "Qualified taxpayer" means a taxpayer that was designated
10 by the Michigan economic growth authority as an anchor company
11 within the last 5 years and that has influenced a qualified
12 supplier or qualified customer to open, locate, or expand in this
13 state and conduct business activity within a 10-mile radius of the
14 anchor company or within the same county or a county adjacent to
15 the taxpayer and within an existing industrial site that is
16 approved by the Michigan economic growth authority.

17 Sec. 434. (1) The Michigan economic growth authority is
18 authorized to enter into agreements to provide tax credits
19 available under this section to stimulate the domestic
20 commercialization and affordability of high-power energy batteries,
21 the lack of which today is limiting hybrid, plug-in hybrid battery-
22 electric, and fuel cell vehicle applications, and to help insure
23 that job growth from battery technology and commercial production
24 develops alongside advanced vehicle technology development and
25 renewable power generation initiatives both within and outside the
26 transportation sector.

27 (2) Subject to the limitations provided under this section,

1 for tax years that begin on or after January 1, 2010 and end before
2 January 1, 2015, a taxpayer that has entered into an agreement with
3 the Michigan economic growth authority that provides that the
4 taxpayer will manufacture plug-in traction battery packs in this
5 state may claim a credit against the tax imposed by this act for
6 the manufacture of those plug-in traction battery packs as provided
7 in this section. The Michigan economic growth authority may enter
8 into more than 1 agreement under this section. However, the total
9 number of plug-in traction battery packs eligible for all credits
10 under all agreements allowed under this section shall not exceed
11 the number of plug-in traction battery packs eligible for a credit
12 as provided in this section and at least 1 agreement shall make
13 capital investments of not less than \$200,000,000.00 not later than
14 December 31, 2012. A taxpayer shall not claim a credit under this
15 section for more than 3 years. The total of all credits allowed
16 under this section shall be as follows:

17 (a) For tax years beginning after December 31, 2010 and ending
18 before January 1, 2012, \$500.00 for an equivalent of 4 kilowatt
19 hours of battery capacity plus \$125.00 for each kilowatt hour of
20 battery capacity in excess of 4 kilowatt hours of battery capacity
21 not to exceed \$2,000.00 for each plug-in traction battery pack. The
22 total number of traction battery packs shall not exceed 20,000
23 plug-in traction battery pack units under this subdivision, and the
24 total amount of credits allowed under this subdivision shall not
25 exceed \$40,000,000.00.

26 (b) For tax years beginning after December 31, 2011 and ending
27 before January 1, 2013, \$375.00 for an equivalent of 4 kilowatt

1 hours of battery capacity plus \$93.75 for each kilowatt hour of
2 battery capacity in excess of 4 kilowatt hours of battery capacity
3 not to exceed \$1,500.00 for each plug-in traction battery pack. The
4 total number of traction battery packs shall not exceed 40,000
5 plug-in traction battery pack units under this subdivision, and the
6 total amount of credits allowed under this subdivision shall not
7 exceed \$43,000,000.00. A single taxpayer shall not claim a credit
8 for more than 25,000 plug-in traction battery pack units under this
9 subdivision. The number of battery pack units not used for credits
10 under subdivision (a) may be added to the total number of battery
11 pack units for which a credit is available under this subdivision,
12 and the credits for those units shall be calculated as described in
13 subdivision (a) and shall be in addition to the maximums allowed
14 for any 1 taxpayer under this subdivision or the total limits
15 allowed under this subdivision.

16 (c) For tax years beginning after December 31, 2012 and ending
17 before January 1, 2014, \$375.00 for an equivalent of 4 kilowatt
18 hours of battery capacity plus \$93.75 for each kilowatt hour of
19 battery capacity in excess of 4 kilowatt hours not to exceed
20 \$1,500.00 for each plug-in traction battery pack. The total number
21 of traction battery packs shall not exceed 40,000 plug-in traction
22 battery pack units under this subdivision, and the total amount of
23 credits allowed under this subdivision shall not exceed
24 \$43,000,000.00. A single taxpayer shall not claim a credit for more
25 than 25,000 plug-in traction battery pack units under this
26 subdivision.

27 (d) For tax years beginning after December 31, 2013 and ending

1 before January 1, 2015, \$375.00 for an equivalent of 4 kilowatt
2 hours of battery capacity plus \$93.75 for each kilowatt hour of
3 battery capacity in excess of 4 kilowatt hours not to exceed
4 \$1,500.00 for each plug-in traction battery pack. The total number
5 of traction battery packs shall not exceed 25,000 plug-in traction
6 battery pack units under this subdivision, and the total amount of
7 credits allowed under this subdivision shall not exceed
8 \$9,000,000.00.

9 (3) For tax years that begin on or after January 1, 2012 and
10 subject to the limitations of this subsection, a taxpayer may claim
11 a credit of up to 75% of the qualified expenses for vehicle
12 engineering in this state to support battery integration,
13 prototyping, and launch expenses incurred for tax years that begin
14 on or after January 1, 2009 and end before January 1, 2014. This
15 credit shall not exceed \$15,000,000.00 per year as agreed to and
16 certified by the Michigan economic growth authority. Any expenses
17 for which a credit is claimed under this subsection shall not be
18 included in costs and expenses used for credits available under
19 sections 403 and 405. The Michigan economic growth authority may
20 not authorize more than \$135,000,000.00 in total credits to all
21 taxpayers under this subsection. To claim the credit under this
22 subsection, a taxpayer must manufacture a cumulative total of at
23 least 1,000 motor vehicles that would qualify for the credit under
24 section 30D of the internal revenue code and the credit shall be
25 available to the taxpayer only for the following percentages of the
26 total authorized annual expenses:

27 (a) In a tax year in which the taxpayer has manufactured a

1 cumulative total of at least 1,000 motor vehicles and fewer than
2 2,000 motor vehicles that qualify for the credit under section 30D
3 of the internal revenue code, 20%.

4 (b) In a tax year in which the taxpayer has manufactured a
5 cumulative total of at least 2,000 motor vehicles but fewer than
6 3,000 motor vehicles that qualify for the credit under section 30D
7 of the internal revenue code, 40%.

8 (c) In a tax year in which the taxpayer has manufactured a
9 cumulative total of at least 3,000 motor vehicles but fewer than
10 4,000 motor vehicles that qualify for the credit under section 30D
11 of the internal revenue code, 60%.

12 (d) In a tax year in which the taxpayer has manufactured a
13 cumulative total of at least 4,000 motor vehicles but fewer than
14 5,000 motor vehicles that qualify for the credit under section 30D
15 of the internal revenue code, 80%.

16 (e) In a tax year in which the taxpayer has manufactured a
17 cumulative total of at least 5,000 motor vehicles that qualify for
18 the credit under section 30D of the internal revenue code, 100%.

19 (4) For tax years that begin on or after January 1, 2012 and
20 end before January 1, 2015, a taxpayer that has entered into an
21 agreement with the Michigan economic growth authority that provides
22 that the taxpayer will increase its engineering activities in this
23 state for advanced automotive battery technologies may claim a
24 credit under this subsection. A taxpayer's qualified advanced
25 battery engineering expenses for advanced automotive battery
26 technologies shall exceed those expenses for the taxpayer's 2008
27 fiscal year to qualify for the credit under this subsection. The

1 Michigan economic growth authority may enter into not more than 1
2 agreement for advanced battery engineering credits, and the total
3 value of credits available under this subsection is limited to
4 \$30,000,000.00. The credits under this subsection shall be allowed
5 as follows:

6 (a) Up to 75% of the total dollar amount of the qualified
7 advanced battery engineering expenses of an authorized business
8 incurred during tax years beginning on or after January 1, 2009 and
9 ending before January 1, 2014. The taxpayer must submit to the
10 Michigan economic growth authority an affidavit certifying the
11 amount of qualified advanced battery engineering expenses for each
12 year.

13 (b) Notwithstanding any other provision of this section, a
14 taxpayer may claim no more than \$10,000,000.00 in credits under
15 this subsection in any tax year.

16 (c) The credits available under this subsection shall not be
17 allowed if the taxpayer claims credits under subsection (2) for
18 battery pack assembly for the tax year. Notwithstanding this
19 limitation, the credits available under this subsection are in
20 addition to any other incentives which may be authorized under the
21 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
22 207.810, for other related or unrelated projects including the
23 vehicle research and development expenses authorized under
24 subsection (3). Any expenses for which a credit is claimed under
25 this subsection shall not be included in costs and expenses used
26 for credits available under sections 403 and 405.

27 (5) A taxpayer that has entered into an agreement with the

1 Michigan economic growth authority may claim a credit equal to 50%
2 of the capital investment expenses for any tax year for the
3 construction of an integrative cell manufacturing facility that
4 includes anode and cathode manufacturing and cell assembly if the
5 taxpayer will create not less than 300 new jobs in this state. Not
6 more than 5 agreements may be entered into under this section, and
7 the maximum allowable credit under each agreement shall not exceed
8 \$25,000,000.00 per year for no more than 4 years. No credit shall
9 be claimed in a tax year beginning before 2012. However, tax
10 credits may be based on expenses incurred in this state in prior
11 years. The Michigan economic growth authority shall not adopt a
12 resolution authorizing an agreement to provide credits under this
13 subsection after March 31, 2010.

14 (6) A taxpayer that has entered into an agreement with the
15 Michigan economic growth authority may claim a credit equal to 25%
16 of the capital investment expenses for any tax year for the
17 construction of a facility that will produce large scale batteries
18 and manufacture integrated power management, smart control, and
19 storage systems from 500 kilowatts to 100 megawatts if the taxpayer
20 will create not fewer than 500 new jobs in this state and the
21 taxpayer has received federal loan guarantees for a project that
22 employs innovative energy efficiency, renewable energy, and
23 advanced transmission and distribution technologies from the United
24 States department of energy under section 1703 of title XVII of the
25 energy policy act of 2005, 42 USC 16513. Not more than 1 agreement
26 may be entered into under this subsection, and the maximum
27 allowable credit under the agreement shall not exceed

1 \$25,000,000.00 per year for no more than 4 years. No credit shall
2 be claimed in a tax year beginning before 2012. The Michigan
3 economic growth authority shall not adopt a resolution authorizing
4 an agreement to provide a credit under this subsection after March
5 1, 2010.

6 (7) Subject to the limitations under subsection (8), for tax
7 years that begin on or after January 1, 2012 and end before January
8 1, 2017, a taxpayer that has entered into an agreement with the
9 Michigan economic growth authority that provides that the taxpayer
10 will manufacture advanced lithium ion battery packs in this state
11 may claim a credit against the tax imposed by this act for the
12 manufacture of those advanced lithium ion battery packs as follows:

13 (a) For a taxpayer that agrees to make capital investments in
14 this state of not less than \$250,000,000.00, to create at least
15 1,000 new jobs that shall include jobs that are transferred to this
16 state from a foreign country, and to manufacture not less than
17 225,000 advanced lithium ion battery packs in this state, a total
18 credit of not more than \$26,000,000.00 per tax year for no more
19 than 3 tax years. The Michigan economic growth authority shall not
20 adopt a resolution authorizing an agreement under this subdivision
21 after March 1, 2010.

22 (b) For a taxpayer that agrees to make capital investments in
23 this state of not less than \$200,000,000.00 and to create at least
24 300 new jobs, a total credit of not more than \$42,000,000.00 over 4
25 consecutive tax years unless otherwise provided under subsection
26 (10). Unless the Michigan economic growth authority determines that
27 there are previously issued credits authorized under subsection (6)

1 available or that there are credits available under subsection
2 (7)(a) for additional credits under this subdivision, the Michigan
3 economic growth authority shall not adopt a resolution authorizing
4 an agreement under this subdivision after March 1, 2010.

5 (8) Any capital investments made, jobs created, or expenses
6 incurred pursuant to an agreement entered for a credit under
7 subsection (7) or (9) shall be in addition to any other capital
8 investments, jobs, or expenses used for any other credit available
9 under this section and shall not be included or used for a credit
10 available under any subsection other than subsection (7) or (9),
11 respectively. A taxpayer that claims a credit under subsection
12 (7)(a) shall not claim an additional credit under subsection
13 (7)(b). For purposes of subsection (7), "new job" means a full-time
14 job created by a taxpayer related to its advanced lithium ion
15 battery activities, including its battery pack assembly facility, a
16 cell manufacturing facility, and a motor vehicle assembly facility
17 at which the battery pack is installed in a motor vehicle, or
18 related battery engineering, that is in excess of the number of
19 active full-time jobs the taxpayer maintained in this state prior
20 to ~~the effective date of the amendatory act that added this~~
21 ~~subsection~~ **JANUARY 8, 2010** as determined by the Michigan economic
22 growth authority.

23 (9) Subject to the limitations of this subsection, if the
24 Michigan economic growth authority determines that there are
25 previously issued credits authorized under subsection (6)
26 available, then for tax years that begin on or after January 1,
27 2015 and end before January 1, 2017 a taxpayer may claim a credit

1 of up to 75% of the costs incurred during each tax year that begins
2 on or after January 1, 2013 and ends before January 1, 2016 to
3 implement a sourcing program to utilize battery cells from a
4 business that has entered into an agreement under subsection (5)
5 for the construction of an integrative cell manufacturing facility.
6 Costs eligible for the credit under this subsection shall include
7 payments for battery pack and vehicle engineering and associated
8 design or integration including prototyping, facility, equipment or
9 component retooling, and vehicle regulatory certification and shall
10 include costs such as direct labor, purchases of capital equipment
11 at cost, expensed supplies, intellectual property licensing,
12 services, and financing, as determined and certified by the
13 Michigan economic growth authority. Any costs for which a credit is
14 claimed under this subsection shall not be included in costs and
15 expenses used for credits available under sections 403 and 405. The
16 Michigan economic growth authority may enter into more than 1
17 agreement under this subsection. The Michigan economic growth
18 authority shall not authorize more than an amount equal to 25% of
19 the previously issued credits available under subsection (6) as
20 determined under subsection (10) in total credits to all taxpayers
21 under this subsection. A single taxpayer shall not claim a credit
22 of more than \$12,500,000.00 per year for no more than 2 years. To
23 claim the credit under this subsection, a taxpayer must manufacture
24 at least 10,000 motor vehicles in each year a credit is claimed at
25 a facility in this state at which some of the costs eligible for a
26 credit under this subsection are or were incurred. An agreement
27 entered into under this subsection shall contain a repayment

1 provision that if the taxpayer relocates its battery pack assembly
2 facility for which credits are taken under subsection (7) outside
3 of this state during the term of the agreement or subsequently
4 substantially fails to meet the requirements of the agreement, as
5 determined by the Michigan economic growth authority, the taxpayer
6 shall have its credit reduced or terminated or have a percentage of
7 the amount previously claimed under this subsection added back to
8 the tax liability of the taxpayer in the year that the taxpayer
9 fails to comply with the agreement.

10 (10) If the Michigan economic growth authority determines that
11 there are previously issued credits authorized under subsection (6)
12 available, an amount equal to 25% of those previously issued
13 credits may be used by the authority to enter into agreements for
14 which a credit may be claimed under subsection (9) and an amount
15 equal to 25% of those previously issued credits may be used by the
16 authority to enter into additional agreements for which a credit
17 may be claimed under subsection (7)(b). If the Michigan economic
18 growth authority approves a total of less than \$78,000,000.00 in
19 credits under subsection (7)(a), the Michigan economic growth
20 authority may use the difference between \$78,000,000.00 and the
21 total amount of credits approved under subsection (7)(a) to approve
22 additional credits under subsection (7)(b). As used in this
23 subsection and subsections (7) and (9), "previously issued credits"
24 means the total amount of credits authorized by the authority for a
25 taxpayer under subsection (6) that meets all of the following:

26 (a) The taxpayer did not use any or a portion of the credits
27 authorized under the written agreement under subsection (6).

1 (b) The authority determined at a meeting upon a vote of the
2 majority of the members present that the credits previously
3 authorized satisfy subdivision (a).

4 (11) The Michigan economic growth authority shall appoint a
5 review board to advise it about decisions concerning credits under
6 subsection (5). The review board shall be composed of not fewer
7 than 2 independent scientists. Additional experts may be sought on
8 an ad hoc basis to review business plans and addressable markets.
9 In making its recommendations, the review board shall give
10 preference to technologies presenting novel materials,
11 manufacturing, and performance qualities. The review board shall
12 also consider all of the following:

13 (a) Business activities related to advanced battery technology
14 occurring exclusively in Michigan.

15 (b) Activities directly related to whole cell production, from
16 materials to large format cells, in Michigan.

17 (c) Scalability of manufacturing processes that are
18 established, are robust, and address strategic global automotive
19 market requirements.

20 (12) Credits under this section shall be taken after
21 nonrefundable credits available under this act. ~~If a~~ **FOR A CREDIT**
22 **UNDER THIS SECTION BASED ON AN AGREEMENT ENTERED INTO BEFORE**
23 **OCTOBER 1, 2010, IF THAT** credit or the sum of **THOSE** credits allowed
24 under this section exceeds the tax liability of the taxpayer for
25 the tax year, the taxpayer may elect to have that portion that
26 exceeds the tax liability of the taxpayer refunded or to have the
27 excess carried forward to offset tax liability in subsequent tax

1 years for 10 years or until used up, whichever occurs first.
2 Amounts carried forward shall not affect the maximum amount of
3 credits that may be claimed in subsequent years. **FOR A CREDIT UNDER**
4 **THIS SECTION BASED ON AN AGREEMENT ENTERED INTO ON OR AFTER OCTOBER**
5 **1, 2010, IF THAT CREDIT OR THE SUM OF THOSE CREDITS ALLOWED UNDER**
6 **THIS SECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX**
7 **YEAR, THAT EXCESS SHALL NOT BE REFUNDED BUT MAY BE CARRIED FORWARD**
8 **TO OFFSET TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 10 YEARS OR**
9 **UNTIL IT IS USED UP, WHICHEVER OCCURS FIRST.**

10 (13) An agreement entered into for tax credits under this
11 section shall specify all of the following:

12 (a) For credits provided under subsection (2), the number of
13 plug-in traction battery packs eligible for a credit for each tax
14 year covered by the period of the agreement and the maximum amount
15 of the credit that may be claimed by the taxpayer in each tax year.

16 (b) If the taxpayer claims a credit under subsection (3), the
17 qualified expenses for vehicle engineering, prototype, and launch
18 costs and the annual and total dollar amount of the credits that
19 may be claimed under subsection (3).

20 (c) If the taxpayer claims a credit under subsection (4), the
21 total dollar amount of the credits that may be claimed under
22 subsection (4).

23 (d) If a taxpayer claims a credit under subsection (5), all of
24 the following:

25 (i) The location of the facility.

26 (ii) The estimated total cost of the facility.

27 (iii) The capital investment expenses that qualify for the

1 credit under subsection (5).

2 (iv) The annual and total dollar amount of the credits that may
3 be claimed under subsection (5).

4 (v) A repayment provision that if the taxpayer subsequently
5 substantially fails to meet certain requirements of the agreement,
6 as determined by the Michigan economic growth authority, the
7 taxpayer may have its credit reduced or terminated or have a
8 percentage of the amount previously claimed under subsection (5)
9 added back to the tax liability of the taxpayer in the year that
10 the taxpayer fails to comply with the agreement.

11 (e) If a taxpayer claims a credit under subsection (6), all of
12 the following:

13 (i) The location of the facility.

14 (ii) The estimated total cost of the facility.

15 (iii) The capital investment expenses that qualify for the
16 credit under subsection (6).

17 (iv) The annual and total dollar amount of the credits that may
18 be claimed under subsection (6).

19 (v) The minimum number of new jobs to be created in this state
20 each year to qualify for the credit under subsection (6).

21 (vi) A repayment provision that if the taxpayer subsequently
22 substantially fails to meet certain requirements of the agreement,
23 as determined by the Michigan economic growth authority, the
24 taxpayer may have its credit reduced or terminated or have a
25 percentage of the amount previously claimed under subsection (6)
26 added back to the tax liability of the taxpayer in the year that
27 the taxpayer fails to comply with the agreement.

1 (f) If a taxpayer claims a credit under subsection (7), all of
2 the following:

3 (i) A provision that the taxpayer agrees to make a good faith
4 effort to utilize Michigan suppliers and vendors when purchasing
5 components and services related to the production of advanced
6 lithium ion battery packs for which a credit is claimed in the
7 2012, 2013, and 2014 tax years. For a credit during the 2015 and
8 2016 tax years, a provision that the taxpayer shall utilize cells
9 from a business that has entered into an agreement under subsection
10 (5) for the construction of an integrative cell manufacturing
11 facility.

12 (ii) A repayment provision that if the taxpayer relocates its
13 advanced lithium ion battery pack assembly facility that produces
14 the battery pack units for which the credit is claimed under
15 subsection (7) outside of this state during the term of the
16 agreement or subsequently fails to meet the capital investment or
17 new jobs requirements of the agreement entered into for a credit
18 under subsection (7), as determined by the Michigan economic growth
19 authority, the taxpayer shall have a percentage of the amount
20 previously claimed under subsection (7) added back to the tax
21 liability of the taxpayer in the year that the taxpayer fails to
22 comply with the agreement entered into for a credit under
23 subsection (7) and shall have its credit terminated or reduced
24 prospectively.

25 (iii) The minimum number of advanced lithium ion battery packs
26 to be manufactured to be eligible for a credit for each tax year
27 covered by the period of the agreement and the maximum amount of

1 the credit that may be claimed by the taxpayer in each tax year.

2 (iv) The capital investment that qualifies for the credit under
3 subsection (7).

4 (v) The minimum number of new jobs to be created in this state
5 to qualify for the credit under subsection (7).

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

12 (a) The taxpayer is located in this state and engaged in
13 activity that qualifies for the credit under this section.

14 (b) The taxpayer's federal employer identification number or
15 the Michigan department of treasury number assigned to the taxpayer
16 and, for a taxpayer that is a unitary business group, the federal
17 employer identification number or Michigan department of treasury
18 number assigned to the member of the group engaged in this state in
19 activity that qualifies for a credit under this section.

20 (c) If applicable, the number of plug-in traction battery pack
21 units or advanced lithium ion battery pack units manufactured by
22 the taxpayer during the designated tax year and the amount of the
23 credit under this section for which the taxpayer is allowed to
24 claim for the designated tax year.

25 (d) For credits available under subsections (3), (4), (5),
26 (6), (7), and (9), the amount of the credit available for the tax
27 year and such other information as may be required by the

1 department.

2 (15) As used in this section:

3 (a) "Advanced automotive battery technology" means a
4 rechargeable lithium battery that supports vehicle propulsion or
5 other advanced technologies as may be further defined by the
6 Michigan economic growth authority.

7 (b) "Advanced lithium ion battery pack" means an assembled
8 unit of battery cells containing rechargeable lithium ion chemistry
9 designed and mass-produced for the purpose of transportation,
10 including defense and commercial applications.

11 (c) "Battery cell" means the basic electrochemical unit that
12 provides a source of electrical energy by direct conversion of
13 chemical energy and consists of an assembly of electrodes,
14 separators, electrolyte, container, and terminals.

15 (d) "Capital investment" means expenses incurred during the
16 tax year and included in an agreement under this section that are
17 associated with facilities, equipment, tooling and engineering, and
18 manufacturing, including salaries, contract services, taxes,
19 utilities, raw materials, and supplies.

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

23 (f) "Plug-in traction battery pack" means an electrochemical
24 energy storage device that meets the following requirements:

25 (i) Has a traction battery capacity of not less than 4.0
26 kilowatt hours.

27 (ii) Is equipped with an electrical plug by means of which it

1 can be energized and recharged when plugged into an external source
2 of power.

3 (iii) Consists of standardized configuration and is mass-
4 produced.

5 (iv) Has been tested and approved by the national highway
6 transportation safety administration as compliant with applicable
7 motor vehicle and motor vehicle equipment safety standards when
8 installed by a mechanic with standardized training in protocols
9 established by the manufacturer as part of a nationwide
10 distribution program.

11 (v) Is installed in a new qualified plug-in electric drive
12 motor vehicle that qualifies for the credit under section 30D of
13 the internal revenue code.

14 (g) "Qualified advanced battery engineering expenses" means
15 that part of a taxpayer's qualified research expenses as defined
16 under section 41(b) of the internal revenue code related to
17 engineering research and development related to advanced automotive
18 battery technology.

19 (h) "Qualified expenses for vehicle engineering" means that
20 part of a taxpayer's expenses for activities within this state
21 related to integrating batteries into a motor vehicle that would
22 qualify for the credit under section 30D of the internal revenue
23 code including such qualified research expenses as defined under
24 section 41(b) of the internal revenue code.

25 (i) "Traction battery capacity" is the number of kilowatt
26 hours measured from a 100% state of charge to a 0% state of charge.

27 Sec. 435. (1) A qualified taxpayer with a rehabilitation plan

1 certified after December 31, 2007 or a qualified taxpayer that has
2 a rehabilitation plan certified before January 1, 2008 under
3 section 39c of former 1975 PA 228 for the rehabilitation of an
4 historic resource for which a certification of completed
5 rehabilitation has been issued after the end of the taxpayer's last
6 tax year may credit against the tax imposed by this act the amount
7 determined pursuant to subsection (2) for the qualified
8 expenditures for the rehabilitation of an historic resource
9 pursuant to the rehabilitation plan in the year in which the
10 certification of completed rehabilitation of the historic resource
11 is issued. Only those expenditures that are paid or incurred during
12 the time periods prescribed for the credit under section 47(a)(2)
13 of the internal revenue code and any related treasury regulations
14 shall be considered qualified expenditures.

15 (2) The credit allowed under this subsection shall be 25% of
16 the qualified expenditures that are eligible, or would have been
17 eligible except that the taxpayer entered into an agreement under
18 subsection (13), for the credit under section 47(a)(2) of the
19 internal revenue code if the taxpayer is eligible for the credit
20 under section 47(a)(2) of the internal revenue code or, if the
21 taxpayer is not eligible for the credit under section 47(a)(2) of
22 the internal revenue code, 25% of the qualified expenditures that
23 would qualify under section 47(a)(2) of the internal revenue code
24 except that the expenditures are made to an historic resource that
25 is not eligible for the credit under section 47(a)(2) of the
26 internal revenue code, subject to both of the following:

27 (a) A taxpayer with qualified expenditures that are eligible

1 for the credit under section 47(a)(2) of the internal revenue code
2 may not claim a credit under this section for those qualified
3 expenditures unless the taxpayer has claimed and received a credit
4 for those qualified expenditures under section 47(a)(2) of the
5 internal revenue code or the taxpayer has entered into an agreement
6 under subsection (13).

7 (b) A credit under this subsection shall be reduced by the
8 amount of a credit received by the taxpayer for the same qualified
9 expenditures under section 47(a)(2) of the internal revenue code.

10 (3) To be eligible for the credit under subsection (2), the
11 taxpayer shall apply to and receive from the Michigan state housing
12 development authority that the historic significance, the
13 rehabilitation plan, and the completed rehabilitation of the
14 historic resource meet the criteria under subsection (6) and either
15 of the following:

16 (a) All of the following criteria:

17 (i) The historic resource contributes to the significance of
18 the historic district in which it is located.

19 (ii) Both the rehabilitation plan and completed rehabilitation
20 of the historic resource meet the federal secretary of the
21 interior's standards for rehabilitation and guidelines for
22 rehabilitating historic buildings, 36 CFR part 67.

23 (iii) All rehabilitation work has been done to or within the
24 walls, boundaries, or structures of the historic resource or to
25 historic resources located within the property boundaries of the
26 property.

27 (b) The taxpayer has received certification from the national

1 park service that the historic resource's significance, the
2 rehabilitation plan, and the completed rehabilitation qualify for
3 the credit allowed under section 47(a)(2) of the internal revenue
4 code.

5 (4) If a qualified taxpayer is eligible for the credit allowed
6 under section 47(a)(2) of the internal revenue code, the qualified
7 taxpayer shall file for certification with the authority to qualify
8 for the credit allowed under section 47(a)(2) of the internal
9 revenue code. If the qualified taxpayer has previously filed for
10 certification with the authority to qualify for the credit allowed
11 under section 47(a)(2) of the internal revenue code, additional
12 filing for the credit allowed under this section is not required.

13 (5) The authority may inspect an historic resource at any time
14 during the rehabilitation process and may revoke certification of
15 completed rehabilitation if the rehabilitation was not undertaken
16 as represented in the rehabilitation plan or if unapproved
17 alterations to the completed rehabilitation are made during the 5
18 years after the tax year in which the credit was claimed. The
19 authority shall promptly notify the department of a revocation.

20 (6) Qualified expenditures for the rehabilitation of an
21 historic resource may be used to calculate the credit under this
22 section if the historic resource meets 1 of the criteria listed in
23 subdivision (a) and 1 of the criteria listed in subdivision (b):

24 (a) The resource is 1 of the following during the tax year in
25 which a credit under this section is claimed for those qualified
26 expenditures:

27 (i) Individually listed on the national register of historic

1 places or state register of historic sites.

2 (ii) A contributing resource located within an historic
3 district listed on the national register of historic places or the
4 state register of historic sites.

5 (iii) A contributing resource located within an historic
6 district designated by a local unit pursuant to an ordinance
7 adopted under the local historic districts act, 1970 PA 169, MCL
8 399.201 to 399.215.

9 (b) The resource meets 1 of the following criteria during the
10 tax year in which a credit under this section is claimed for those
11 qualified expenditures:

12 (i) The historic resource is located in a designated historic
13 district in a local unit of government with an existing ordinance
14 under the local historic districts act, 1970 PA 169, MCL 399.201 to
15 399.215.

16 (ii) The historic resource is located in an incorporated local
17 unit of government that does not have an ordinance under the local
18 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and
19 has a population of less than 5,000.

20 (iii) The historic resource is located in an unincorporated
21 local unit of government.

22 (iv) The historic resource is located in an incorporated local
23 unit of government that does not have an ordinance under the local
24 historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is
25 located within the boundaries of an association that has been
26 chartered under 1889 PA 39, MCL 455.51 to 455.72.

27 (v) The historic resource is subject to a historic

1 preservation easement.

2 (7) For projects for which a certificate of completed
3 rehabilitation is issued for a tax year beginning before January 1,
4 2009, if a qualified taxpayer is a partnership, limited liability
5 company, or subchapter S corporation, the qualified taxpayer may
6 assign all or any portion of a credit allowed under this section to
7 its partners, members, or shareholders, based on the partner's,
8 member's, or shareholder's proportionate share of ownership or
9 based on an alternative method approved by the department. A credit
10 assignment under this subsection is irrevocable and shall be made
11 in the tax year in which a certificate of completed rehabilitation
12 is issued. A qualified taxpayer may claim a portion of a credit and
13 assign the remaining credit amount. A partner, member, or
14 shareholder that is an assignee shall not subsequently assign a
15 credit or any portion of a credit assigned to the partner, member,
16 or shareholder under this subsection. A credit amount assigned
17 under this subsection may be claimed against the partner's,
18 member's, or shareholder's tax liability under this act or under
19 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A
20 credit assignment under this subsection shall be made on a form
21 prescribed by the department. The qualified taxpayer and assignees
22 shall attach a copy of the completed assignment form to the
23 department in the tax year in which the assignment is made and
24 attach a copy of the completed assignment form to the annual return
25 required to be filed under this act for that tax year.

26 (8) For projects for which a certificate of completed
27 rehabilitation is issued for a tax year beginning after December

1 31, 2008 **AND BEFORE OCTOBER 1, 2010**, a qualified taxpayer may
2 assign all or any portion of the credit allowed under this section.
3 A credit assignment under this subsection is irrevocable and shall
4 be made in the tax year in which a certificate of completed
5 rehabilitation is issued. A qualified taxpayer may claim a portion
6 of a credit and assign the remaining amount. If the qualified
7 taxpayer both claims and assigns portions of the credit, the
8 qualified taxpayer shall claim the portion it claims in the tax
9 year in which a certificate of completed rehabilitation is issued
10 pursuant to this section. An assignee may subsequently assign the
11 credit or any portion of the credit assigned under this subsection
12 to 1 or more assignees. An assignment or subsequent reassignment of
13 a credit can be made in the year the certificate of completed
14 rehabilitation is issued. A credit assignment or subsequent
15 reassignment under this section shall be made on a form prescribed
16 by the department. The department or its designee shall review and
17 issue a completed assignment or reassignment certificate to the
18 assignee or reassignee. A credit amount assigned under this
19 subsection may be claimed against the assignees' tax under this act
20 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
21 206.532. An assignee or subsequent reassignee shall attach a copy
22 of the completed assignment certificate to the annual return
23 required to be filed under this act or under the income tax act of
24 1967, 1967 PA 281, MCL 206.1 to 206.532, for the tax year in which
25 the assignment or reassignment is made and the assignee or
26 reassignee first claims the credit, which shall be the same tax
27 year.

1 (9) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IF**
2 the credit allowed under this section for the tax year and any
3 unused carryforward of the credit allowed by this section exceed
4 the taxpayer's tax liability for the tax year, that portion that
5 exceeds the tax liability for the tax year shall not be refunded
6 but may be carried forward to offset tax liability in subsequent
7 tax years for 10 years or until used up, whichever occurs first. If
8 a qualified taxpayer has an unused carryforward of a credit under
9 this section, the amount otherwise added under subsection (10),
10 (11), or (12) to the qualified taxpayer's tax liability may instead
11 be used to reduce the qualified taxpayer's carryforward under this
12 section. An unused carryforward of a credit under section 39c of
13 former 1975 PA 228 that was unused at the end of the last tax year
14 for which former 1975 PA 228 was in effect may be claimed against
15 the tax imposed under this act for the years the carryforward would
16 have been available under section 39c of former 1975 PA 228. For
17 projects for which a certificate of completed rehabilitation is
18 issued for a tax year beginning after December 31, 2008 **AND BEFORE**
19 **OCTOBER 1, 2010** and for which the credit amount allowed is less
20 than \$250,000.00, a qualified taxpayer may elect to forgo the
21 carryover period and receive a refund of the amount of the credit
22 that exceeds the qualified taxpayer's tax liability. The amount of
23 the refund shall be equal to 90% of the amount of the credit that
24 exceeds the qualified taxpayer's tax liability. An election under
25 this subsection shall be made in the year that a certificate of
26 completed rehabilitation is issued and shall be irrevocable.

27 (10) For tax years beginning before January 1, 2009, if the

1 taxpayer sells an historic resource for which a credit was claimed
2 under this section or under section 39c of former 1975 PA 228 less
3 than 5 years after the year in which the credit was claimed, the
4 following percentage of the credit amount previously claimed
5 relative to that historic resource shall be added back to the tax
6 liability of the taxpayer in the year of the sale:

7 (a) If the sale is less than 1 year after the year in which
8 the credit was claimed, 100%.

9 (b) If the sale is at least 1 year but less than 2 years after
10 the year in which the credit was claimed, 80%.

11 (c) If the sale is at least 2 years but less than 3 years
12 after the year in which the credit was claimed, 60%.

13 (d) If the sale is at least 3 years but less than 4 years
14 after the year in which the credit was claimed, 40%.

15 (e) If the sale is at least 4 years but less than 5 years
16 after the year in which the credit was claimed, 20%.

17 (f) If the sale is 5 years or more after the year in which the
18 credit was claimed, an addback to the taxpayer's tax liability
19 shall not be made.

20 (11) For tax years beginning before January 1, 2009, if a
21 certification of completed rehabilitation is revoked under
22 subsection (5) less than 5 years after the year in which a credit
23 was claimed under this section or under section 39c of former 1975
24 PA 228, the following percentage of the credit amount previously
25 claimed relative to that historic resource shall be added back to
26 the tax liability of the taxpayer in the year of the revocation:

27 (a) If the revocation is less than 1 year after the year in

1 which the credit was claimed, 100%.

2 (b) If the revocation is at least 1 year but less than 2 years
3 after the year in which the credit was claimed, 80%.

4 (c) If the revocation is at least 2 years but less than 3
5 years after the year in which the credit was claimed, 60%.

6 (d) If the revocation is at least 3 years but less than 4
7 years after the year in which the credit was claimed, 40%.

8 (e) If the revocation is at least 4 years but less than 5
9 years after the year in which the credit was claimed, 20%.

10 (f) If the revocation is 5 years or more after the year in
11 which the credit was claimed, an addback to the taxpayer's tax
12 liability shall not be made.

13 (12) Except as otherwise provided under subsection (13), for
14 tax years beginning after December 31, 2008, if a certificate of
15 completed rehabilitation is revoked under subsection (5), a
16 preapproval letter is revoked under subsection (23)(b), or an
17 historic resource is sold or disposed of less than 5 years after
18 the historic resource is placed in service as defined in section
19 47(b)(1) of the internal revenue code and related treasury
20 regulations or if a certificate of completed rehabilitation issued
21 after December 1, 2008 is revoked under subsection (5) during a tax
22 year beginning after December 31, 2008, a preapproval letter issued
23 after December 1, 2008 is revoked under subsection (23)(b) during a
24 tax year beginning after December 31, 2008, or an historic resource
25 is sold or disposed of less than 5 years after the historic
26 resource is placed in service during a tax year beginning after
27 December 31, 2008, the following percentage of the credit amount

1 previously claimed relative to that historic resource shall be
2 added back to the tax liability of the qualified taxpayer that
3 received the certificate of completed rehabilitation and not the
4 assignee in the year of the revocation:

5 (a) If the revocation is less than 1 year after the historic
6 resource is placed in service, 100%.

7 (b) If the revocation is at least 1 year but less than 2 years
8 after the historic resource is placed in service, 80%.

9 (c) If the revocation is at least 2 years but less than 3
10 years after the historic resource is placed in service, 60%.

11 (d) If the revocation is at least 3 years but less than 4
12 years after the historic resource is placed in service, 40%.

13 (e) If the revocation is at least 4 years but less than 5
14 years after the historic resource is placed in service, 20%.

15 (f) If the revocation is at least 5 years or more after the
16 historic resource is placed in service, an addback to the qualified
17 taxpayer tax liability shall not be required.

18 (13) Subsection (12) shall not apply if the qualified taxpayer
19 enters into a written agreement with the authority that will allow
20 for the transfer or sale of the historic resource and provides the
21 following:

22 (a) Reasonable assurance that subsequent to the transfer the
23 property will remain a historic resource during the 5-year period
24 after the historic resource is placed in service.

25 (b) A method that the department can recover an amount from
26 the taxpayer equal to the appropriate percentage of credit added
27 back as described under subsection (12).

1 (c) An encumbrance on the title to the historic resource being
2 sold or transferred, stating that the property must remain a
3 historic resource throughout the 5-year period after the historic
4 resource is placed in service.

5 (d) A provision for the payment by the taxpayer of all legal
6 and professional fees associated with the drafting, review, and
7 recording of the written agreement required under this subsection.

8 (14) The authority may impose a fee to cover the
9 administrative cost of implementing the program under this section.

10 (15) The qualified taxpayer shall attach all of the following
11 to the qualified taxpayer's annual return required under this act
12 or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to
13 206.532, if applicable, on which the credit is claimed:

14 (a) Certification of completed rehabilitation.

15 (b) Certification of historic significance related to the
16 historic resource and the qualified expenditures used to claim a
17 credit under this section.

18 (c) A completed assignment form if the qualified taxpayer or
19 assignee has assigned any portion of a credit allowed under this
20 section or if the taxpayer is an assignee of any portion of a
21 credit allowed under this section.

22 (16) The authority may promulgate rules to implement this
23 section pursuant to the administrative procedures act of 1969, 1969
24 PA 306, MCL 24.201 to 24.328.

25 (17) The total of the credits claimed under subsection (2) and
26 section 266 of the income tax act of 1967, 1967 PA 281, MCL
27 206.266, for a rehabilitation project shall not exceed 25% of the

1 total qualified expenditures eligible for the credit under
2 subsection (2) for that rehabilitation project.

3 (18) The authority shall report all of the following to the
4 legislature annually for the immediately preceding state fiscal
5 year:

6 (a) The fee schedule used by the authority and the total
7 amount of fees collected.

8 (b) A description of each rehabilitation project certified.

9 (c) The location of each new and ongoing rehabilitation
10 project.

11 (19) In addition to the credit allowed under subsection (2)
12 and subject to the criteria under this subsection and subsections
13 (21), (22), and (23), for tax years that begin on and after January
14 1, 2009 a qualified taxpayer that has a preapproval letter issued
15 on or before December 31, 2013 may claim an additional credit that
16 has been approved under this subsection or subsection (20) against
17 the tax imposed by this act equal to a percentage established in
18 the taxpayer's preapproval letter of the qualified taxpayer's
19 qualified expenditures for the rehabilitation of an historic
20 resource or the actual amount of the qualified taxpayer's qualified
21 expenditures incurred during the completion of the rehabilitation
22 of an historic resource, whichever is less. The authority may
23 approve 1 credit under this subsection for a qualified taxpayer
24 that receives a certificate of completed rehabilitation for a
25 credit under subsection (2) on or after January 1, 2009 and before
26 November 15, 2009 notwithstanding that the qualified taxpayer has
27 not received a preapproval letter for a credit under this

1 subsection. The qualified taxpayer must apply for the additional
2 credit under this subsection before January 1, 2010. If the
3 additional credit approved under this subsection for a qualified
4 taxpayer that has not received a preapproval letter on or before
5 December 31, 2009 exceeds the allotted amount available for
6 additional credits approved under this subsection in the calendar
7 year ending December 31, 2009, then \$2,800,000.00 of the allotted
8 amount available in the calendar year ending December 31, 2010 may
9 be allocated to that 1 credit. The total amount of all additional
10 credits approved under this subsection shall not exceed
11 \$8,000,000.00 in calendar year ending December 31, 2009;
12 \$9,000,000.00 in calendar year ending December 31, 2010;
13 \$10,000,000.00 in calendar year ending December 31, 2011;
14 \$11,000,000.00 in calendar year ending December 31, 2012; and
15 \$12,000,000.00 in calendar year ending December 31, 2013 and,
16 except as otherwise provided under this subsection, at least, 25%
17 of the allotted amount for additional credits approved under this
18 subsection during each calendar year shall be allocated to
19 rehabilitation plans that have \$1,000,000.00 or less in qualified
20 expenditures. On October 1 of each calendar year, if the total of
21 all credits approved under subdivision (a) for the calendar year is
22 less than the minimum allotted amount, the authority may use the
23 remainder of that allotted amount to approve applications for
24 additional credits submitted under subdivision (b) for that
25 calendar year. To be eligible for the additional credit under this
26 subsection, the taxpayer shall apply to and receive a preapproval
27 letter and comply with the following:

1 (a) For a rehabilitation plan that has \$1,000,000.00 or less
2 in qualified expenditures, the taxpayer shall apply to the
3 authority for approval of the additional credit under this
4 subsection. Subject to the limitation provided under this
5 subsection, the authority is authorized to approve an application
6 under this subdivision and determine the percentage of at least 10%
7 but not more than 15% of the taxpayer's qualified expenditures for
8 which he or she may claim an additional credit. If the authority
9 approves the application under this subdivision, then the authority
10 shall issue a preapproval letter to the taxpayer that states that
11 the taxpayer is a qualified taxpayer and the maximum percentage of
12 the qualified expenditures on which a credit may be claimed for the
13 rehabilitation plan when it is complete and a certification of
14 completed rehabilitation is issued.

15 (b) For a rehabilitation plan that has more than \$1,000,000.00
16 in qualified expenditures, the taxpayer shall apply to the
17 authority for approval of the additional credit under this
18 subsection. The authority, subject to the approval of the president
19 of the Michigan strategic fund or his or her designee, is
20 authorized to approve an application under this subdivision and
21 determine the percentage of up to 15% of the taxpayer's qualified
22 expenditures for which he or she may claim an additional credit. An
23 application shall be approved or denied not more than 15 business
24 days after the authority has reviewed the application, determined
25 the percentage amount of the credit for that applicant, and
26 submitted the same to the president of the Michigan strategic fund
27 or his or her designee. If the president of the Michigan strategic

1 fund or his or her designee does not approve or deny the
2 application within 15 business days after the application is
3 received from the authority, the application is considered approved
4 and the credit awarded in the amount as determined by the
5 authority. If the president of the Michigan strategic fund or his
6 or her designee approves the application under this subdivision,
7 the director of the authority shall issue a preapproval letter to
8 the taxpayer that states that the taxpayer is a qualified taxpayer
9 and the maximum percentage of the qualified expenditures on which a
10 credit may be claimed for the rehabilitation plan when it is
11 complete and a certification of completed rehabilitation is issued.

12 (20) Except as otherwise provided under this subsection, the
13 authority, subject to the approval of the president of the Michigan
14 strategic fund and the state treasurer, may approve 3 additional
15 credits during the 2009 calendar year of up to 15% of the qualified
16 taxpayer's qualified expenditures, and 2 additional credits during
17 the 2010, 2011, 2012, and 2013 calendar years of up to 15% of the
18 qualified taxpayer's qualified expenditures, for certain
19 rehabilitation plans that the authority determines is a high
20 community impact rehabilitation plan that will have a significantly
21 greater historic, social, and economic impact than those plans
22 described under subsection (19)(a) and (b). The authority, subject
23 to the approval of the president of the Michigan strategic fund and
24 the state treasurer, may use 1 of the 2 additional credits
25 available during the 2010 calendar year to approve an additional
26 credit during the 2009 calendar year of up to 15% of the qualified
27 taxpayer's qualified expenditures and 1 of the 2 additional credits

1 available during the 2011 calendar year to approve an additional
2 credit during the 2010 calendar year of up to 15% of the qualified
3 taxpayer's qualified expenditures. To be eligible for the
4 additional credit under this subsection, the taxpayer shall apply
5 to and receive a preapproval letter from the authority. An
6 application shall be approved or denied not more than 15 business
7 days after the authority has reviewed the application, determined
8 the percentage amount of the credit for that applicant, and
9 submitted the same to the president of the Michigan strategic fund
10 and the state treasurer. If the president of the Michigan strategic
11 fund and the state treasurer do not approve or deny the application
12 within 15 business days after the application is received from the
13 authority, the application is considered approved and the credit
14 awarded in the amount as determined by the authority. If the
15 president of the Michigan strategic fund and the state treasurer
16 approve the application under this subdivision, the authority shall
17 issue a preapproval letter to the taxpayer that states that the
18 taxpayer is a qualified taxpayer and the maximum percentage of the
19 qualified expenditures on which a credit may be claimed for the
20 high community impact rehabilitation plan when it is complete and a
21 certification of completed rehabilitation is issued. Before
22 approving a credit under this subsection, the authority shall
23 consider all of the following criteria to the extent reasonably
24 applicable:

25 (a) The importance of the historic resource to the community
26 in which it is located.

27 (b) If the rehabilitation of the historic resource will act as

1 a catalyst for additional rehabilitation or revitalization of the
2 community in which it is located.

3 (c) The potential that the rehabilitation of the historic
4 resource will have for creating or preserving jobs and employment
5 in the community in which it is located.

6 (d) Other social benefits the rehabilitation of the historic
7 resource will bring to the community in which it is located.

8 (e) The amount of local community and financial support for
9 the rehabilitation of the historic resource.

10 (f) The taxpayer's financial need of the additional credit.

11 (g) Whether the taxpayer is eligible for the credit allowed
12 under section 47(a)(2) of the internal revenue code.

13 (h) Any other criteria that the authority, the president of
14 the Michigan strategic fund, and the state treasurer consider
15 appropriate for the determination of approval under this
16 subsection.

17 (21) The maximum amount of credit that a taxpayer or an
18 assignee may claim under subsection (20) during a tax year is
19 \$3,000,000.00. If the amount of the credit approved in the
20 taxpayer's certificate of completed renovation is greater than
21 \$3,000,000.00 that portion that exceeds the cap shall be carried
22 forward to offset tax liability in subsequent tax years until used
23 up.

24 (22) Before approving a credit, determining the amount of such
25 credit, and issuing a preapproval letter for such credit under
26 subsection (19) or before considering an amendment to the
27 preapproval letter, the authority shall consider the following

1 criteria to the extent reasonably applicable:

2 (a) The importance of the historic resource to the community.

3 (b) The physical condition of the historic resource.

4 (c) The taxpayer's financial need of the additional credit.

5 (d) The overall economic impact the renovation will have on
6 the community.

7 (e) Any other criteria that the authority and the president of
8 the Michigan strategic fund, as applicable, consider appropriate
9 for the determination of approval under subsection (19).

10 (23) The authority may at any time before a certification of
11 completed rehabilitation is issued for a credit for which a
12 preapproval letter was issued pursuant to subsection (19) do the
13 following:

14 (a) Subject to the limitations and parameters under subsection
15 (19), make amendments to the preapproval letter, which may include
16 revising the amount of qualified expenditures for which the
17 taxpayer may claim the additional credit under subsection (19).

18 (b) Revoke the preapproval letter if the authority determines
19 that there has not been substantial progress toward completion of
20 the rehabilitation plan or that the rehabilitation plan cannot be
21 completed. The authority shall provide the qualified taxpayer with
22 a notice of his or her intent to revoke the preapproval letter 45
23 days prior to the proposed date of revocation.

24 (24) If a preapproval letter is revoked under subsection
25 (23)(b), the amount of the credit approved under that preapproval
26 letter shall be added to the annual cap in the calendar year that
27 the preapproval letter is revoked. After a certification of

1 completed rehabilitation is issued for a rehabilitation plan
2 approved under subsection (19), if the authority determines that
3 the actual amount of the additional credit to be claimed by the
4 taxpayer for the calendar year is less than the amount approved
5 under the preapproval letter, the difference shall be added to the
6 annual cap in the calendar year that the certification of completed
7 rehabilitation is issued.

8 (25) Unless otherwise specifically provided under subsections
9 (19) through (24), all other provisions under this section such as
10 the recapture of credits, assignment of credits, and refundability
11 of credits in excess of a qualified taxpayer's tax liability apply
12 to the additional credits issued under subsections (19) and (20).

13 (26) In addition to meeting the criteria in subsection (20)(a)
14 through (h), 3 of the credits available under subsection (20),
15 including the credit used from the 2010 calendar year, and approved
16 during the 2009 calendar year for a high community impact
17 rehabilitation plan shall be for an application meeting 1 of the
18 following criteria:

19 (a) All of the following:

20 (i) The historic resource must be at least 70 years old.

21 (ii) The historic resource must comprise at least 500,000 total
22 square feet.

23 (iii) The historic resource must be located in a county with a
24 population of more than 1,500,000.

25 (iv) The historic resource must be located in a city with an
26 unemployment rate that is at least 2% higher than the current state
27 average unemployment rate at the time of the application.

1 (b) All of the following:

2 (i) The historic resource must be at least 85 years old.

3 (ii) The historic resource must comprise at least 120,000 total
4 square feet.

5 (iii) The historic resource must be located in a county with a
6 population of more than 400,000 and less than 500,000.

7 (iv) The historic resource must be located in a city with a
8 population of more than 100,000 and less than 125,000.

9 (v) The historic resource must be located in a city with an
10 unemployment rate that is at least 2% higher than the current state
11 average unemployment rate at the time of the application.

12 (c) All of the following:

13 (i) The historic resource must be at least 70 years old.

14 (ii) The historic resource must comprise at least 180,000 total
15 square feet but not more than 250,000 square feet and must exceed
16 30 stories in height.

17 (iii) The historic resource must be located in a county with a
18 population of more than 1,500,000.

19 (iv) The historic resource must be located in a city with an
20 unemployment rate that is at least 2% higher than the current state
21 average unemployment rate at the time of the application.

22 (v) The historic resource must be located in a historic
23 district that contains a park bifurcated by an all-American road
24 designated by the federal highway administration in a city with a
25 population of more than 750,000.

26 (vi) The historic resource must have been included in a
27 rehabilitation plan for which an application was submitted by the

1 application deadline for consideration of an additional credit for
2 the 2009 calendar year for a high community impact rehabilitation
3 plan.

4 (27) In addition to meeting the criteria in subsection (20) (a)
5 through (h), 1 of the credits available under subsection (20),
6 including the credit used from the 2011 calendar year, and approved
7 during the 2010 calendar year for a high community impact
8 rehabilitation plan shall be for an application that meets all of
9 the following criteria:

10 (a) The historic resource must be at least 85 years old.

11 (b) The historic resource must comprise at least 85,000 total
12 square feet.

13 (c) The historic resource must be located in a county with a
14 population of more than 500,000 but less than 600,000 according to
15 the official 2000 federal decennial census.

16 (d) The historic resource must be located in a city with a
17 population of more than 180,000 but less than 200,000 according to
18 the official 2000 federal decennial census.

19 (e) The historic resource is or was formerly owned by the
20 United States government or formerly housed agencies of the United
21 States government, or both.

22 (f) The historic resource houses facilities operated in
23 conjunction with a public university.

24 (28) For purposes of this section, taxpayer includes a person
25 subject to the tax imposed under chapter 2A or 2B.

26 (29) As used in this section:

27 (a) "Contributing resource" means an historic resource that

1 contributes to the significance of the historic district in which
2 it is located.

3 (b) "Historic district" means an area, or group of areas not
4 necessarily having contiguous boundaries, that contains 1 resource
5 or a group of resources that are related by history, architecture,
6 archaeology, engineering, or culture.

7 (c) "Historic resource" means a publicly or privately owned
8 historic building, structure, site, object, feature, or open space
9 located within an historic district designated by the national
10 register of historic places, the state register of historic sites,
11 or a local unit acting under the local historic districts act, 1970
12 PA 169, MCL 399.201 to 399.215, or that is individually listed on
13 the state register of historic sites or national register of
14 historic places, and includes all of the following:

15 (i) An owner-occupied personal residence or a historic resource
16 located within the property boundaries of that personal residence.

17 (ii) An income-producing commercial, industrial, or residential
18 resource or an historic resource located within the property
19 boundaries of that resource.

20 (iii) A resource owned by a governmental body, nonprofit
21 organization, or tax-exempt entity that is used primarily by a
22 taxpayer lessee in a trade or business unrelated to the
23 governmental body, nonprofit organization, or tax-exempt entity and
24 that is subject to tax under this act.

25 (iv) A resource that is occupied or utilized by a governmental
26 body, nonprofit organization, or tax-exempt entity pursuant to a
27 long-term lease or lease with option to buy agreement.

1 (v) Any other resource that could benefit from rehabilitation.

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

5 (e) "Local unit" means a county, city, village, or township.

6 (f) "Long-term lease" means a lease term of at least 27.5
7 years for a residential resource or at least 31.5 years for a
8 nonresidential resource.

9 (g) "Michigan state housing development authority" or
10 "authority" means the public body corporate and politic created by
11 section 21 of the state housing development authority act of 1966,
12 1966 PA 346, MCL 125.1421.

13 (h) "Michigan strategic fund" means the Michigan strategic
14 fund created under the Michigan strategic fund act, 1984 PA 270,
15 MCL 125.2001 to 125.2094.

16 (i) "Open space" means undeveloped land, a naturally
17 landscaped area, or a formal or man-made landscaped area that
18 provides a connective link or a buffer between other resources.

19 (j) "Person" means an individual, partnership, corporation,
20 association, governmental entity, or other legal entity.

21 (k) "Preapproval letter" means a letter issued by the
22 authority that indicates the date that the complete part 2
23 application was received and the amount of the credit allocated to
24 the project based on the estimated rehabilitation cost included in
25 the application.

26 (l) "Qualified expenditures" means capital expenditures that
27 qualify, or would qualify except that the taxpayer entered into an

1 agreement under subsection (13), for a rehabilitation credit under
2 section 47(a)(2) of the internal revenue code if the taxpayer is
3 eligible for the credit under section 47(a)(2) of the internal
4 revenue code or, if the taxpayer is not eligible for the credit
5 under section 47(a)(2) of the internal revenue code, the qualified
6 expenditures that would qualify under section 47(a)(2) of the
7 internal revenue code except that the expenditures are made to an
8 historic resource that is not eligible for the credit under section
9 47(a)(2) of the internal revenue code that were paid. Qualified
10 expenditures do not include capital expenditures for nonhistoric
11 additions to an historic resource except an addition that is
12 required by state or federal regulations that relate to historic
13 preservation, safety, or accessibility.

14 (m) "Qualified taxpayer" means a person that either owns the
15 resource to be rehabilitated or has a long-term lease agreement
16 with the owner of the historic resource and that has qualified
17 expenditures for the rehabilitation of the historic resource equal
18 to or greater than 10% of the state equalized valuation of the
19 property. If the historic resource to be rehabilitated is a portion
20 of an historic or nonhistoric resource, the state equalized
21 valuation of only that portion of the property shall be used for
22 purposes of this subdivision. If the assessor for the local tax
23 collecting unit in which the historic resource is located
24 determines the state equalized valuation of that portion, that
25 assessor's determination shall be used for purposes of this
26 subdivision. If the assessor does not determine that state
27 equalized valuation of that portion, qualified expenditures, for

1 purposes of this subdivision, shall be equal to or greater than 5%
2 of the appraised value as determined by a certified appraiser. If
3 the historic resource to be rehabilitated does not have a state
4 equalized valuation, qualified expenditures for purposes of this
5 subdivision shall be equal to or greater than 5% of the appraised
6 value of the resource as determined by a certified appraiser.

7 (n) "Rehabilitation plan" means a plan for the rehabilitation
8 of an historic resource that meets the federal secretary of the
9 interior's standards for rehabilitation and guidelines for
10 rehabilitation of historic buildings under 36 CFR part 67.

11 Sec. 437. (1) Subject to the criteria under this section, a
12 qualified taxpayer that has unused credits or has a preapproval
13 letter issued after December 31, 2007 and before January 1, 2014,
14 or a taxpayer that received a preapproval letter prior to January
15 1, 2008 under section 38g of former 1975 PA 228 and has not
16 received a certificate of completion prior to the taxpayer's last
17 tax year, provided that the project is completed not more than 5
18 years after the preapproval letter for the project is issued unless
19 extended under subsection (9) or if it is a multiphase project not
20 more than 10 years after the preapproval letter, as amended, if
21 applicable, for the project is issued, or an assignee under
22 subsection (20), (21), or (22) may claim a credit that has been
23 approved under section 38g of former 1975 PA 228 or under
24 subsection (2), (3), or (4) against the tax imposed by this act
25 equal to either of the following:

26 (a) For projects approved before April 8, 2008, if the total
27 of all credits for a project is \$1,000,000.00 or less, 10% of the

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

23 (b) For projects approved before April 8, 2008, if the total
24 of all credits for a project is more than \$1,000,000.00 but
25 \$30,000,000.00 or less and, except as provided in subsection
26 (6)(b), the project is located in a qualified local governmental
27 unit, a percentage as determined by the Michigan economic growth

1 authority not to exceed 10% of the cost of the qualified taxpayer's
2 eligible investment as determined under subsection (11) paid or
3 accrued by the qualified taxpayer on an eligible property. For
4 projects approved, or amended, on and after April 8, 2008 and
5 before January 1, 2010, if the total of all eligible investments
6 for a project is more than \$10,000,000.00 but \$300,000,000.00 or
7 less, up to 12.5% of the costs of the qualified taxpayer's eligible
8 investment as determined under subsection (11) paid or accrued by
9 the qualified taxpayer on an eligible property that, except as
10 provided in subsection (6)(b), is located in a qualified local
11 governmental unit, up to 15% of the cost of the qualified
12 taxpayer's eligible investment as determined under subsection (11)
13 paid or accrued by the qualified taxpayer on an eligible property
14 if the project is designated as an urban development area project
15 by the Michigan economic growth authority, or, until December 31,
16 2010, up to 20% 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 if the project is
19 designated as an urban development area project by the Michigan
20 economic growth authority. For projects approved, or amended, on
21 and after January 1, 2010, if the total of all eligible investments
22 for a project is more than \$10,000,000.00 but \$100,000,000.00 or
23 less, up to 12.5% of the costs of the qualified taxpayer's eligible
24 investment as determined under subsection (11) paid or accrued by
25 the qualified taxpayer on an eligible property that, except as
26 provided in subsection (6)(b), is located in a qualified local
27 governmental unit, up to 15% of the cost of the qualified

1 taxpayer's eligible investment as determined under subsection (11)
2 paid or accrued by the qualified taxpayer on an eligible property
3 if the project is designated as an urban development area project
4 by the Michigan economic growth authority, or, until December 31,
5 2010, up to 20% of the costs of the qualified taxpayer's eligible
6 investment as determined under subsection (11) paid or accrued by
7 the qualified taxpayer on an eligible property if the project is
8 designated as an urban development area project by the Michigan
9 economic growth authority. If eligible investment exceeds the
10 amount of eligible investment in the preapproval letter, as
11 amended, for that project, the total of all credits for the project
12 shall not exceed the total of all credits on the certificate of
13 completion.

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

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

16 (3) If the cost of a project will be for more than
17 \$2,000,000.00 but \$10,000,000.00 or less, a qualified taxpayer
18 shall apply to the Michigan economic growth authority for approval
19 of the project under this subsection. An application under this
20 subsection shall state whether the project is a multiphase project.
21 Subject to the limitation provided under subsection (31), the
22 chairperson of the Michigan economic growth authority or his or her
23 designee is authorized to approve an application or project under
24 this subsection. Only the chairperson of the Michigan economic
25 growth authority is authorized to deny an application or project
26 under this subsection. A project shall be approved or denied not
27 more than 45 days after receipt of the application. If the

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

26 (4) If the cost of a project will be for more than
27 \$10,000,000.00 and, except as provided in subsection (6)(b), the

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

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

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

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

25 (a) Of the projects allowed under this subsection, the total
26 of all credits for each project may be more than \$10,000,000.00 but
27 \$30,000,000.00 or less for only 1 project before December 31, 2009.

1 (b) Of the projects allowed under this subsection, up to 3
2 projects may be approved for projects that are not in a qualified
3 local governmental unit if the property is a facility for which
4 eligible activities are identified in a brownfield plan or, for 1
5 of the 3 projects, if the property is not a facility but is
6 functionally obsolete or blighted, property identified in a
7 brownfield plan. For purposes of this subdivision, a facility
8 includes a building or complex of buildings that was used by a
9 state or federal agency and that is no longer being used for the
10 purpose for which it was used by the state or federal agency.

11 (c) The project allowed under subdivision (a) may also qualify
12 under subdivision (b).

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

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

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

26 (7) The Michigan economic growth authority shall review all
27 applications for projects under subsection (4) and, if an

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

15 (a) The overall benefit to the public.

16 (b) The extent of reuse of vacant buildings and redevelopment
17 of blighted property.

18 (c) Creation of jobs.

19 (d) Whether the eligible property is in an area of high
20 unemployment.

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

24 (f) The level of private sector contribution.

25 (g) The cost gap that exists between the site and a similar
26 greenfield site as determined by the Michigan economic growth
27 authority.

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

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

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

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

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

1 (10) A project may be a multiphase project. If a project is a
2 multiphase project, when each component of the multiphase project
3 is completed, the taxpayer shall submit documentation that the
4 component is complete, an accounting of the cost of the component,
5 and the eligible investment for the component of each taxpayer
6 eligible for a credit for the project of which the component is a
7 part to the Michigan economic growth authority or the designee of
8 the Michigan economic growth authority, who shall verify that the
9 component is complete. When the completion of the component is
10 verified, a component completion certificate shall be issued to the
11 qualified taxpayer which shall state that the taxpayer is a
12 qualified taxpayer, the credit amount for the component, the
13 qualified taxpayer's federal employer identification number or the
14 Michigan treasury number assigned to the taxpayer, and the project
15 number. ~~The~~ **BEFORE OCTOBER 1, 2010, THE** taxpayer may assign all or
16 part of the credit for a multiphase project as provided in this
17 section after a component completion certificate for a component is
18 issued. The qualified taxpayer may transfer ownership of or lease
19 the completed component and assign a proportionate share of the
20 credit for the entire project to the qualified taxpayer that is the
21 new owner or lessee. A multiphase project shall not be divided into
22 more than 10 components. A component is considered to be completed
23 when a certificate of occupancy has been issued by the local
24 municipality in which the project is located for all of the
25 buildings or facilities that comprise the completed component and a
26 component completion certificate is issued or the chairperson of
27 the Michigan economic growth authority or his or her designee, for

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

26 (11) When a project under this section is completed, the
27 taxpayer shall submit documentation that the project is completed,

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

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

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

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

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

3 (e) The project number.

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

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

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

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

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

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

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

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

1 (18) Except as otherwise provided under this subsection, if
2 the credit allowed under this section for the tax year and any
3 unused carryforward of the credit allowed under this section exceed
4 the qualified taxpayer's or assignee's tax liability for the tax
5 year, that portion that exceeds the tax liability for the tax year
6 shall not be refunded but may be carried forward to offset tax
7 liability in subsequent tax years for 10 years or until used up,
8 whichever occurs first. Except as otherwise provided in this
9 subsection, the maximum time allowed under the carryforward
10 provisions under this subsection begins with the tax year in which
11 the certificate of completion is issued to the qualified taxpayer.
12 If the qualified taxpayer assigns all or any portion of its credit
13 approved under this section, the maximum time allowed under the
14 carryforward provisions for an assignee begins to run with the tax
15 year in which the assignment is made and the assignee first claims
16 a credit, which shall be the same tax year. The maximum time
17 allowed under the carryforward provisions for an annual credit
18 amount for a credit allowed under subsection (4) begins to run in
19 the tax year for which the annual credit amount is designated on
20 the certificate of completion issued under this section. A credit
21 carryforward available under section 38g of former 1975 PA 228 that
22 is unused at the end of the last tax year may be claimed against
23 the tax imposed under this act for the years the carryforward would
24 have been available under former 1975 PA 228. Beginning on and
25 after April 8, 2008 **AND BEFORE OCTOBER 1, 2010**, if the credit
26 allowed under this section for the tax year exceeds the qualified
27 taxpayer's tax liability for the tax year, the qualified taxpayer

1 may elect to have the excess refunded at a rate equal to 85% of
2 that portion of the credit that exceeds the tax liability of the
3 qualified taxpayer for the tax year and forgo the remaining 15% of
4 the credit and any carryforward.

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

21 (20) For credits under this section for projects for which a
22 certificate of completion is issued before January 1, 2006 and
23 except as otherwise provided in this subsection, if a qualified
24 taxpayer pays or accrues eligible investment on or to an eligible
25 property that is leased for a minimum term of 10 years or sold to
26 another taxpayer for use in a business activity, the qualified
27 taxpayer may assign all or a portion of the credit under this

1 section based on that eligible investment to the lessee or
2 purchaser of that eligible property. A credit assignment under this
3 subsection shall only be made to a taxpayer that when the
4 assignment is complete will be a qualified taxpayer. All credit
5 assignments under this subsection are irrevocable and, except for a
6 credit based on a multiphase project, shall be made in the tax year
7 in which the certificate of completion is issued, unless the
8 assignee is an unknown lessee. If a qualified taxpayer wishes to
9 assign all or a portion of its credit to a lessee but the lessee is
10 unknown in the tax year in which the certificate of completion is
11 issued, the qualified taxpayer may delay claiming and assigning the
12 credit until the first tax year in which the lessee is known. A
13 qualified taxpayer may claim a portion of a credit and assign the
14 remaining credit amount. Except as otherwise provided in this
15 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 the certificate of
18 completion is issued or, for a credit assigned and claimed for a
19 multiphase project before a certificate of completion is issued,
20 the taxpayer shall claim the credit in the year in which the credit
21 is assigned. If a qualified taxpayer assigns all or a portion of
22 the credit and the eligible property is leased to more than 1
23 taxpayer, the qualified taxpayer shall determine the amount of
24 credit assigned to each lessee. A lessee shall not subsequently
25 assign a credit or any portion of a credit assigned under this
26 subsection. A purchaser may subsequently assign a credit or any
27 portion of a credit assigned to the purchaser under this subsection

1 to a lessee of the eligible property. The credit assignment under
2 this subsection shall be made on a form prescribed by the Michigan
3 economic growth authority. The qualified taxpayer shall send a copy
4 of the completed assignment form to the Michigan economic growth
5 authority in the tax year in which the assignment is made. The
6 assignee shall attach a copy of the completed assignment form to
7 its annual return required to be filed under this act, for the tax
8 year in which the assignment is made and the assignee first claims
9 a credit, which shall be the same tax year. In addition to all
10 other procedures under this subsection, the following apply if the
11 total of all credits for a project is more than \$10,000,000.00 but
12 \$30,000,000.00 or less:

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

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

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

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

23 (21) Except as otherwise provided in this subsection, for
24 projects for which a certificate of completion is issued before
25 January 1, 2006, and except as otherwise provided in this
26 subsection, if a qualified taxpayer is a partnership, limited
27 liability company, or subchapter S corporation, the qualified

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

1 same tax year. A credit assignment based on a credit for a
2 component of a multiphase project that is completed before January
3 1, 2006 shall be made under this subsection. In addition to all
4 other procedures under this subsection, the following apply if the
5 total of all credits for a project is more than \$10,000,000.00 but
6 \$30,000,000.00 or less:

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

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

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

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

17 (22) For projects approved under this section or section 38g
18 of former 1975 PA 228 for which a certificate of completion is
19 issued on and after January 1, 2006, a qualified taxpayer may,
20 **BEFORE OCTOBER 1, 2010**, assign all or a portion of a credit allowed
21 under this section or section 38g(2), (3), or (33) of former 1975
22 PA 228 under this subsection. A credit assignment under this
23 subsection is irrevocable and, except for a credit assignment based
24 on a multiphase project, shall be made in the tax year in which a
25 certificate of completion is issued unless the assignee is an
26 unknown lessee. If a qualified taxpayer wishes to assign all or a
27 portion of its credit to a lessee but the lessee is unknown in the

1 tax year in which the certificate of completion is issued, the
2 qualified taxpayer may delay claiming and assigning the credit
3 until the first tax year in which the lessee is known. A qualified
4 taxpayer may claim a portion of a credit and assign the remaining
5 credit amount. If the qualified taxpayer both claims and assigns
6 portions of the credit, the qualified taxpayer shall claim the
7 portion it claims in the tax year in which a certificate of
8 completion is issued pursuant to this section or section 38g of
9 former 1975 PA 228. An assignee may subsequently assign a credit or
10 any portion of a credit assigned under this subsection to 1 or more
11 assignees. The credit assignment or a subsequent reassignment under
12 this subsection shall be made on a form prescribed by the Michigan
13 economic growth authority. The Michigan economic growth authority
14 or its designee shall review and issue a completed assignment or
15 reassignment certificate to the assignee or reassignee. An assignee
16 or subsequent reassignee shall attach a copy of the completed
17 assignment certificate to its annual return required under this
18 act, for the tax year in which the assignment or reassignment is
19 made and the assignee or reassignee first claims a credit, which
20 shall be the same tax year. A credit assignment based on a credit
21 for a component of a multiphase project that is completed before
22 January 1, 2006 shall be made under section 38g(18) of former 1975
23 PA 228. A credit assignment based on a credit for a component of a
24 multiphase project that is completed on or after January 1, 2006
25 may be made under this section. In addition to all other procedures
26 and requirements under this section, the following apply if the
27 total of all credits for a project is more than \$10,000,000.00 but

1 \$30,000,000.00 or less:

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

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

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

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

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

20 (a) If the project increases the density of the area by
21 promoting multistory development.

22 (b) If the project promotes mixed-use development and walkable
23 communities.

24 (c) If the project promotes sustainable redevelopment.

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

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

1 (f) Any other criteria determined by the Michigan economic
2 growth authority or the chairperson of the Michigan economic growth
3 authority.

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

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

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

26 (28) Eligible investment attributable or related to the
27 construction of a new landfill or the expansion of an existing

1 landfill regulated under part 115 of the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.11501 to
3 324.11550, shall not be used as a basis for a credit under this
4 section.

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

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

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

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

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

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

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

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

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

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

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

10 (f) "Last tax year" means the taxpayer's tax year under former
11 1975 PA 228 that begins after December 31, 2006 and before January
12 1, 2008.

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

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

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

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

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

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

1 following:

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

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

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

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

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

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

1 meets the criteria under this subparagraph.

2 (m) "Urban development area project" means a project located
3 on eligible property in the downtown or traditional central
4 business district of a qualified local governmental unit or county
5 seat or along a traditional commercial corridor of a qualified
6 local governmental unit or county seat as determined by the
7 Michigan economic growth authority or the chairperson of the
8 Michigan economic growth authority or his or her designee.

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

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

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

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

24 (A) Infrastructure improvements that directly benefit the
25 eligible property.

26 (B) Demolition of structures that is not response activity
27 under section 20101 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.20101.

2 (C) Lead or asbestos abatement.

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

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

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

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

19 (d) Eligible property does not include qualified agricultural
20 property exempt under section 7ee of the general property tax act,
21 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
22 district for school operating purposes to the extent provided under
23 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

24 Sec. 441. (1) For the 2008, 2009, ~~and 2010~~, **2011, 2012, AND**
25 **2013** tax years, except as otherwise provided under subsection (2),
26 a taxpayer may claim the Michigan entrepreneurial credit equal to
27 100% of the eligible taxpayer's tax liability imposed by this act

1 attributable to increased employment under subdivision (b) for 3
2 ~~years~~**EACH YEAR** if the taxpayer meets all of the following
3 conditions:

4 (a) Had less than \$25,000,000.00 in gross receipts in the
5 immediately preceding tax year. The \$25,000,000.00 amount shall be
6 annually adjusted for inflation using the Detroit consumer price
7 index.

8 (b) ~~Has~~**FOR THE 2008 TAX YEAR, HAS** created in this state or
9 transferred into this state not fewer than 20 new jobs in the
10 immediately preceding tax year ~~—OR, FOR EACH TAX YEAR AFTER 2008~~
11 **THAT THE CREDIT IS AVAILABLE, HAS CREATED IN THIS STATE OR**
12 **TRANSFERRED INTO THIS STATE NOT FEWER THAN 8 NEW JOBS IN THE**
13 **IMMEDIATELY PRECEDING TAX YEAR.**

14 (c) ~~Has~~**FOR THE 2008 TAX YEAR, HAS** made a capital investment
15 in this state of not less than \$1,250,000.00 in the immediately
16 preceding tax year ~~—OR, FOR EACH TAX YEAR AFTER 2008 THAT THE~~
17 **CREDIT IS AVAILABLE, HAS MADE A CAPITAL INVESTMENT IN THIS STATE OF**
18 **NOT LESS THAN \$500,000.00 IN THE IMMEDIATELY PRECEDING TAX YEAR.**
19 For purposes of determining eligibility under this subdivision, the
20 capital investment shall not include the purchase of an existing
21 plant or the purchase of existing equipment.

22 (d) Is not a retail establishment as described in major groups
23 52 through 59 and 70 under the standard industrial classification
24 code as compiled by the United States department of labor. However,
25 a restaurant that did not exist, as determined by the treasurer, in
26 this state in the immediately preceding year before which the
27 credit is claimed and that is not a franchise or a part of a

1 unitary business group may qualify for the credit under this
2 section.

3 (2) A taxpayer that is an eligible business as defined in
4 section 407 and that received an eligible contribution as defined
5 in section 407 for which a credit was claimed by another taxpayer
6 may claim the Michigan entrepreneurial credit equal to 100% of the
7 taxpayer's tax liability imposed by this act attributable to the
8 increased employment under subdivision (b) for ~~3 years~~ **EACH YEAR** if
9 the taxpayer meets all of the following conditions:

10 (a) Had less than \$25,000,000.00 in gross receipts in the
11 immediately preceding tax year.

12 (b) Has increased the number of new jobs in this state by at
13 least 20% from the immediately preceding tax year.

14 (3) An eligible taxpayer may claim the credit under this
15 section on a form prescribed by the department.

16 (4) If the new jobs for which the taxpayer qualifies for this
17 credit are relocated outside of this state within 5 years after
18 claiming the credit under this section or if the taxpayer reduces
19 the employment levels by more than 10% of the jobs for which the
20 taxpayer qualifies for the credit under this section, that taxpayer
21 is liable in an amount equal to the total of all credits received
22 under this section. Any liability under this subsection shall be
23 collected under 1941 PA 122, MCL 205.1 to 205.31.

24 (5) A taxpayer's liability attributable to the increased
25 employment is the total liability of the taxpayer multiplied by a
26 fraction the numerator of which is the payroll of the increased
27 jobs of the facility meeting the requirements of this section and

1 the denominator of which is the taxpayer's total payroll in this
2 state.

3 (6) As used in this section:

4 (a) "Detroit consumer price index" means the most
5 comprehensive index of consumer prices available for the Detroit
6 area from the United States department of labor, bureau of labor
7 statistics.

8 (b) "New jobs" means jobs that meet all of the following
9 criteria:

10 (i) Did not exist in this state in the immediately preceding
11 tax year.

12 (ii) Represent an overall increase in full-time equivalent jobs
13 of the taxpayer in this state in the immediately preceding tax
14 year.

15 (iii) Are not jobs into which employees transfer if the
16 employees worked in this state for the taxpayer in other jobs prior
17 to beginning the new jobs.

18 (c) "Payroll" means total salaries and wages before deducting
19 any personal or dependency exemptions.

20 Sec. 450. (1) Subject to section 450a, for tax years that
21 begin on or after January 1, 2008 and end before January 1, 2016, a
22 taxpayer that is engaged in research and development of a qualified
23 technology may claim a credit against the tax imposed by this act
24 equal to 3.9% of the compensation as defined in section 107 for
25 services performed in a qualified facility, paid to the employees
26 at the qualified facility in the tax year, if the taxpayer has
27 entered into an agreement before April 1, 2007 with the Michigan

1 economic growth authority that provides all of the following:

2 (a) The type and number of jobs at the qualified facility to
3 which the agreement applies.

4 (b) The type of work to be performed by the employees
5 performing the jobs provided under subdivision (a) by the taxpayer.

6 (c) Any other terms and conditions that the Michigan economic
7 growth authority considers to be in the public interest.

8 (2) ~~If~~ **FOR A CREDIT UNDER THIS SECTION BASED ON AN AGREEMENT**
9 **ENTERED INTO BEFORE OCTOBER 1, 2010, IF** the credit allowed under
10 this section exceeds the tax liability of the taxpayer for the tax
11 year, that portion that exceeds the tax liability shall be
12 refundable. **FOR A CREDIT UNDER THIS SECTION BASED ON AN AGREEMENT**
13 **ENTERED INTO ON OR AFTER OCTOBER 1, 2010, IF THAT CREDIT ALLOWED**
14 **UNDER THIS SECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR**
15 **THE TAX YEAR, THAT EXCESS SHALL NOT BE REFUNDED.**

16 (3) The maximum amount of the credit allowed under this
17 section that any 1 taxpayer may claim shall not exceed
18 \$2,000,000.00 in a single tax year.

19 (4) As used in this section:

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

23 (b) "Motor vehicle" means a motor vehicle as defined in
24 section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33,
25 that is designed as a passenger vehicle, or sport utility vehicle,
26 but does not include a motor home, bus, truck other than a pickup
27 truck or van, or a vehicle designed to travel on less than 4

1 wheels.

2 (c) "Qualified city" means a city that meets both of the
3 following criteria:

4 (i) Has a population of not less than 80,000 and not more than
5 82,000 as designated by the United States bureau of the census in
6 the 2000 census.

7 (ii) Is located in a county that has a population of not less
8 than 1,000,000 and not more than 1,300,000 as designated by the
9 United States bureau of the census in the 2000 census.

10 (d) "Qualified facility" means a leased facility in a
11 qualified city used for the research and development of a qualified
12 technology.

13 (e) "Qualified technology" means a hybrid system the primary
14 purpose of which is the propulsion of a motor vehicle.

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

17 Sec. 455. (1) The Michigan film office, with the concurrence
18 of the state treasurer, may enter into an agreement with an
19 eligible production company providing the company with a credit
20 against the tax imposed by this act or against taxes withheld under
21 chapter 7 of the income tax act of 1967, 1967 PA 281, MCL 206.351
22 to 206.367, as provided under this section and section 367 of the
23 income tax act of 1967, 1967 PA 281, MCL 206.367. To qualify for
24 the credit under this section, a company shall meet all of the
25 following requirements:

26 (a) Spend at least \$50,000.00 in this state for the
27 development, preproduction, production, or postproduction costs of

1 a state certified qualified production.

2 (b) Enter into an agreement as provided in this section.

3 (c) Receive a postproduction certificate of completion from
4 the office under subsection (5).

5 (d) Submit the postproduction certificate of completion issued
6 by the office under subsection (5) to the department under
7 subsection (7).

8 (e) Shall not be delinquent in a tax or other obligation owed
9 to this state or be owned or under common control of an entity that
10 is delinquent in a tax or other obligation owed to this state.

11 (2) For direct production expenditures or qualified personnel
12 expenditures made after February 29, 2008, an agreement under this
13 section may provide for an eligible production company to claim a
14 tax credit equal to 42% of direct production expenditures for a
15 state certified qualified production in a core community, 40% of
16 direct production expenditures for a state certified qualified
17 production in part of this state other than a core community, and
18 30% for qualified personnel expenditures. A taxpayer shall not
19 claim a credit under this section for any of the following:

20 (a) A direct expenditure, or qualified personnel expenditure,
21 for which the company claims a credit under section 459.

22 (b) A direct expenditure, or qualified personnel expenditure,
23 for which the company claims a credit under section 367 of the
24 income tax act of 1967, 1967 PA 281, MCL 206.367.

25 (c) A direct expenditure, or qualified personnel expenditure,
26 for which another taxpayer claims a credit under this section, a
27 credit under section 459, or a credit under section 367 of the

1 income tax act of 1967, 1967 PA 281, MCL 206.367.

2 (3) An eligible production company intending to produce a
3 qualified production in this state, or that initiated production of
4 a qualified production after February 29, 2008 and before ~~the~~
5 ~~effective date of the amendatory act that added this section~~ **APRIL**
6 **8, 2008**, may submit an application to enter into an agreement under
7 this section to the Michigan film office. Except for a qualified
8 production for which production was initiated after February 29,
9 2008 and before ~~the effective date of the amendatory act that added~~
10 ~~this section~~ **APRIL 8, 2008**, direct production expenditures and
11 qualified personnel expenditures incurred prior to approval of an
12 agreement under this section are not eligible for the credit under
13 this section. The request shall be submitted in a form prescribed
14 by the Michigan film office and shall be accompanied by a \$100.00
15 application fee and all of the information and records requested by
16 the office. An application fee received by the office under this
17 subsection shall be deposited in the Michigan film promotion fund.
18 The office shall not process the application until it is complete.
19 As part of the application, the company shall estimate direct
20 production expenditures and qualified personnel expenditures for an
21 identified qualified production. If the office, with the
22 concurrence of the state treasurer, determines to enter into an
23 agreement under this section, the agreement shall provide for all
24 of the following:

25 (a) A requirement that the eligible production company
26 commence work in this state on the identified qualified production
27 within 90 days of the date of the agreement or else the agreement

1 shall expire. However, upon request submitted by the company based
2 on good cause, the office may extend the period for commencement of
3 work in this state for up to an additional 90 days.

4 (b) A statement identifying the company and the qualified
5 production that the company intends to produce in whole or in part
6 in this state.

7 (c) A unique number assigned to the qualified production by
8 the office.

9 (d) A requirement that the qualified production not depict
10 obscene matter or an obscene performance.

11 (e) If the qualified production is a long-form narrative film
12 production, a requirement that the qualified production include an
13 acknowledgement that the qualified production was filmed in this
14 state.

15 (f) A requirement that the company provide the office with the
16 information and independent certification the office and the
17 department deem necessary to verify direct production expenditures,
18 qualified personnel expenditures, and eligibility for the credit
19 under this section.

20 (g) If determined to be necessary by the office and the state
21 treasurer, a provision for addressing expenditures in excess of
22 those identified in the agreement.

23 (4) In determining whether to enter into an agreement under
24 this section, the Michigan film office and the state treasurer
25 shall consider all of the following:

26 (a) The potential that in the absence of the credit the
27 qualified production will be produced in a location other than this

1 state.

2 (b) The extent to which the qualified production may have the
3 effect of promoting this state as a tourist destination.

4 (c) The extent to which the qualified production may have the
5 effect of promoting economic development or job creation in this
6 state.

7 (d) The extent to which the credit will attract private
8 investment for the production of qualified productions in this
9 state.

10 (e) The record of the eligible production company in
11 completing commitments to engage in a qualified production.

12 (5) If the Michigan film office determines that an eligible
13 production company has complied with the terms of an agreement
14 entered into under this section, the office shall issue a
15 postproduction certificate to the company. The company shall submit
16 a request to the office for a postproduction certificate on a form
17 prescribed by the office, along with any information or independent
18 certification the office or the department deems necessary. The
19 office shall process each request within 60 days after the request
20 is complete. However, the office may request additional information
21 or independent certification before issuing a postproduction
22 certificate of completion and need not issue the postproduction
23 certificate until satisfied that direct production expenditures,
24 qualified personnel expenditures, and eligibility are adequately
25 established. The additional information requested may include a
26 report of direct production expenditures and qualified personnel
27 expenditures for the qualified production audited and certified by

1 an independent certified public accountant. Each postproduction
2 certificate of completion shall be signed by the Michigan film
3 commissioner and shall include the following information:

4 (a) The name of the eligible production company.

5 (b) The name of the certified production produced in whole or
6 in part in this state.

7 (c) The eligible production company's direct production
8 expenditures and qualified personnel expenditures for the qualified
9 production.

10 (d) The date of completion for the qualified production in
11 this state.

12 (e) The unique number assigned to the qualified production
13 project by the Michigan film office under subsection (3).

14 (f) The eligible production company's federal employer
15 identification number or Michigan treasury number.

16 (g) Any independent certification required by the department
17 or the Michigan film office.

18 (6) Information, records, or other data received, prepared,
19 used, or retained by the Michigan film office under this section
20 that are submitted by an eligible production company and considered
21 by the taxpayer and acknowledged by the office as confidential
22 shall not be subject to the disclosure requirements of the freedom
23 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
24 records, or other data shall only be considered confidential to the
25 extent that the information or records describe the commercial and
26 financial operations or intellectual property of the company, the
27 information or records have not been publicly disseminated at any

1 time, and disclosure of the information or records may put the
2 company at a competitive disadvantage.

3 (7) An eligible production company shall submit a
4 postproduction certificate of completion issued under subsection
5 (5) to the department. ~~If~~**FOR A CREDIT UNDER THIS SECTION BASED ON**
6 **AN AGREEMENT ENTERED INTO BEFORE APRIL 16, 2010, IF** the credit
7 allowed under this section exceeds the tax liability of the company
8 for the tax year or if the company claiming the credit does not
9 have a tax liability under this act for the tax year, the
10 department shall refund the excess or pay the amount of the credit
11 to the company. **FOR A CREDIT UNDER THIS SECTION BASED ON AN**
12 **AGREEMENT ENTERED INTO ON OR AFTER APRIL 16, 2010, IF THAT CREDIT**
13 **ALLOWED UNDER THIS SECTION EXCEEDS THE TAX LIABILITY OF THE COMPANY**
14 **FOR THE TAX YEAR OR IF THE COMPANY CLAIMING THE CREDIT DOES NOT**
15 **HAVE A TAX LIABILITY UNDER THIS ACT FOR THE TAX YEAR, THAT EXCESS**
16 **SHALL NOT BE REFUNDED.** The credit under this section shall be
17 claimed after all other credits under this act.

18 (8) An eligible production company may assign all or a portion
19 of a credit **THAT IS BASED ON AN AGREEMENT ENTERED INTO BEFORE APRIL**
20 **16, 2010** under this section to any assignee. An assignee may
21 subsequently assign a credit or any portion of a credit assigned
22 under this subsection to 1 or more assignees. A company may claim a
23 portion of a credit and assign the remaining credit amount. A
24 credit assignment under this subsection is irrevocable. The credit
25 assignment under this subsection shall be made on a form prescribed
26 by the department. The qualified taxpayer shall send a copy of the
27 completed assignment form to the department in the tax year in

1 which the assignment is made and shall attach a copy of the form to
2 the return on which the credit is claimed.

3 (9) The amount of the credit under this section shall be
4 reduced by a credit application and redemption fee equal to 0.5% of
5 the credit claimed, which shall be deducted from the credit
6 otherwise payable to the taxpayer claiming the credit and be
7 deposited by the department in the Michigan film promotion fund.

8 (10) A taxpayer that willfully submits information under this
9 section that the taxpayer knows to be fraudulent or false shall, in
10 addition to any other penalties provided by law, be liable for a
11 civil penalty equal to the amount of the taxpayer's credit under
12 this section. A penalty collected under this section shall be
13 deposited in the Michigan film promotion fund.

14 (11) Not later than March 1 of each year after 2008, the
15 Michigan film office shall submit to the governor, the president of
16 the Michigan strategic fund, the chairperson of the senate finance
17 committee, and the house tax policy committee an annual report
18 concerning the operation and effectiveness of the credit under this
19 section. The requirements of section 28(1)(f) of 1941 PA 122, MCL
20 205.28, do not apply to disclosure of tax information required by
21 this subsection. The report shall include all of the following:

22 (a) A brief assessment of the overall effectiveness of the
23 credit under this section at attracting qualified productions to
24 this state during the immediately preceding calendar year.

25 (b) The number of qualified productions for which the eligible
26 production company applied for a tax credit under this section
27 during the immediately preceding year, the names of the qualified

1 productions produced in this state for which credits were begun or
2 completed in the immediately preceding year, and the locations in
3 this state that were used in the production of qualified
4 productions in the immediately preceding calendar year.

5 (c) The amount of money spent by each eligible production
6 company identified in subdivision (b) to produce each qualified
7 production in this state and a breakdown of all production spending
8 by all companies classified as goods, services, or salaries and
9 wages in the immediately preceding calendar year.

10 (d) An estimate of the number of persons employed in this
11 state by eligible production companies that qualified for the
12 credit under this section in the immediately preceding calendar
13 year.

14 (e) The value of all tax credit certificates of completion
15 issued under this section in the immediately preceding calendar
16 year.

17 (12) As used in this section:

18 (a) "Below the line crew" means that term as defined under
19 section 459.

20 (b) "Core community" means a qualified local governmental unit
21 as defined under section 2 of the obsolete property rehabilitation
22 act, 2000 PA 146, MCL 125.2782.

23 (c) "Direct production expenditure" means a development,
24 preproduction, production, or postproduction expenditure made in
25 this state that is not a qualified personnel expenditure directly
26 attributable to the production or distribution of a qualified
27 production that is a transaction subject to taxation in this state,

1 including, but not limited to, all of the following:

2 (i) Payments to vendors doing business in this state to
3 purchase or use tangible personal property in producing or
4 distributing the qualified production or to purchase services
5 relating to the production or distribution of the qualified
6 production, including all of the following:

7 (A) Expenditures for optioning or purchasing intellectual
8 property including, but not limited to, books, scripts, music, or
9 trademarks relating to the development or purchase of a script,
10 story, scenario, screenplay, or format, including all expenditures
11 generally associated with the optioning or purchase of intellectual
12 property, including option money, agent fees, and attorney fees
13 relating to the transaction, but not including deferrals,
14 deferments, royalties, profit participation, or recourse or
15 nonrecourse loans negotiated by the eligible production company to
16 obtain the rights to the intellectual property.

17 (B) Production work, production equipment, production
18 software, development work, postproduction work, postproduction
19 equipment, postproduction software, set design, set construction,
20 set operations, props, lighting, wardrobe, makeup, makeup
21 accessories, photography, sound synchronization, special effects,
22 visual effects, audio effects, film processing, music, sound
23 mixing, editing, and related services and materials.

24 (C) Use of facilities or equipment, use of soundstages or
25 studios, location fees, and related services and materials.

26 (D) Catering, food, lodging, and related services and
27 materials.

1 (E) Use of vehicles, which may include chartered aircraft
2 based in this state used for transportation in this state directly
3 attributable to production of a qualified production, but may not
4 include the chartering of aircraft for transportation outside of
5 this state.

6 (F) Commercial airfare if purchased through a travel agency or
7 travel company based in this state for travel to and from this
8 state or within this state directly attributable to production or
9 distribution of a qualified production.

10 (G) Insurance coverage or bonding if purchased from an
11 insurance agent based in this state.

12 (H) Expenditures for distribution, including, but not limited
13 to, both of the following:

14 (I) Preproduction, production, or postproduction costs
15 relating to the creation of trailers, marketing videos,
16 commercials, point-of-purchase videos, and content created on film
17 or digital media, including, but not limited to, the duplication of
18 films, videos, compact discs, digital video discs, and digital
19 files or other digital media created for consumer consumption.

20 (II) Purchase of equipment relating to the duplication or
21 market distribution of any content created or produced in this
22 state.

23 (I) Other expenditures for production of a qualified
24 production in accordance with generally accepted entertainment
25 industry practices.

26 (ii) Payments and compensation, not to exceed \$2,000,000.00 for
27 any 1 employee or contractual or salaried employee who performs

1 services in this state for the production or distribution of a
2 qualified production, including all of the following:

3 (A) Payment of wages, benefits, or fees for talent,
4 management, or labor.

5 (B) Payment to a personal services corporation or professional
6 employer organization for the services of a performing artist or
7 crew member if the personal services corporation or professional
8 employer organization is subject to the tax levied under this act
9 on the portion of the payment qualifying for the tax credit under
10 this section and the payments received by the performing artist or
11 crew member that are subject to taxation under the income tax act
12 of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and
13 paid to this state in the amount provided under section 351 of the
14 income tax act of 1967, 1967 PA 281, MCL 206.351.

15 (d) "Eligible production company" or "company" means an entity
16 in the business of producing qualified productions, but does not
17 include an entity that is more than 30% owned, affiliated, or
18 controlled by an entity or individual who is in default on a loan
19 made by this state, a loan guaranteed by this state, or a loan made
20 or guaranteed by any other state.

21 (e) "Interactive website" means a website, the production
22 costs of which exceed \$500,000.00 in an annual period and primarily
23 includes interactive games, end user applications, animation,
24 simulation, sound, graphics, story lines, or video created or
25 repurposed for distribution over the internet. Interactive website
26 does not include a website primarily used for institutional,
27 private, industrial, retail, or wholesale marketing or promotional

1 purposes, or which contains obscene matter or an obscene
2 performance.

3 (f) "Michigan film office" or "office" means the Michigan film
4 office created under chapter 2A of the Michigan strategic fund act,
5 1984 PA 270, MCL 125.2029 to 125.2029g.

6 (g) "Michigan film promotion fund" means the fund created
7 under chapter 2A of the Michigan strategic fund act, 1984 PA 270,
8 MCL 125.2029 to 125.2029g.

9 (h) "Obscene matter or an obscene performance" means matter
10 described in 1984 PA 343, MCL 752.361 to 752.374.

11 (i) "Postproduction expenditure" means a direct expenditure
12 for editing, Foley recording, automatic dialogue replacement, sound
13 editing, special or visual effects including computer-generated
14 imagery or other effects, scoring and music editing, beginning and
15 end credits, negative cutting, soundtrack production, dubbing,
16 subtitling, or addition of sound or visual effects. Postproduction
17 expenditure includes direct expenditures for advertising,
18 marketing, distribution, or related expenses.

19 (j) "Qualified personnel expenditure" means an expenditure
20 made in this state directly attributable to the production or
21 distribution of a qualified production that is a transaction
22 subject to taxation in this state and is a payment or compensation
23 payable to below the line crew for below the line crew members who
24 were not residents of this state for at least 60 days before
25 approval of the agreement for the qualified production under
26 subsection (3), not to exceed \$2,000,000.00 for any 1 employee or
27 contractual or salaried employee who performs service in this state

1 for the production of a qualified production, including both of the
2 following:

3 (i) Payment of wages, benefits, or fees.

4 (ii) Payment to a personal services corporation or professional
5 employer organization for the services of a performing artist or
6 crew member if the personal services corporation or professional
7 employer organization is subject to the tax levied under this act
8 on the portion of the payment qualifying for the tax credit under
9 this section and the payments received by the performing artist or
10 crew member that are subject to taxation under the income tax act
11 of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and
12 paid to this state in the amount provided under section 351 of the
13 income tax act of 1967, 1967 PA 281, MCL 206.351.

14 (k) "State certified qualified production" or "qualified
15 production" means single media or multimedia entertainment content
16 created in whole or in part in this state for distribution or
17 exhibition to the general public in 2 or more states by any means
18 and media in any digital media format, film, or video tape,
19 including, but not limited to, a motion picture, a documentary, a
20 television series, a television miniseries, a television special,
21 interstitial television programming, long-form television,
22 interactive television, music videos, interactive games, video
23 games, commercials, internet programming, an internet video, a
24 sound recording, a video, digital animation, or an interactive
25 website. Qualified production also includes any trailer, pilot,
26 video teaser, or demo created primarily to stimulate the sale,
27 marketing, promotion, or exploitation of future investment in a

1 production. Qualified production does not include any of the
2 following:

3 (i) A production for which records are required to be
4 maintained with respect to any performer in the production under 18
5 USC 2257.

6 (ii) A production that includes obscene matter or an obscene
7 performance.

8 (iii) A production that primarily consists of televised news or
9 current events.

10 (iv) A production that primarily consists of a live sporting
11 event.

12 (v) A production that primarily consists of political
13 advertising.

14 (vi) A radio program.

15 (vii) A weather show.

16 (viii) A financial market report.

17 (ix) A talk show.

18 (x) A game show.

19 (xi) A production that primarily markets a product or service
20 other than a state certified qualified production.

21 (xii) An awards show or other gala event production.

22 (xiii) A production with the primary purpose of fund-raising.

23 (xiv) A production that primarily is for employee training or
24 in-house corporate advertising or other similar production.

25 (l) "Sound recording" means a recording of music, poetry, or
26 spoken-word performance, but does not include the audio portions
27 spoken and recorded as part of a motion picture, video, theatrical

1 production, television news coverage, or athletic event.

2 (m) "State certified qualified production" means a qualified
3 production for which a postproduction certificate has been issued
4 by the office under subsection (5).

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

8 (a) Senate Bill No. 1.

9 (b) Senate Bill No. 69.