

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5469**

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 434 (MCL 208.1434), as amended by 2009 PA 110.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 434. (1) The Michigan economic growth authority is
2 authorized to enter into agreements to provide tax credits
3 available under this section to stimulate the domestic
4 commercialization and affordability of high-power energy batteries,
5 the lack of which today is limiting hybrid, plug-in hybrid battery-
6 electric, and fuel cell vehicle applications, and to help insure

1 that job growth from battery technology and commercial production
2 develops alongside advanced vehicle technology development and
3 renewable power generation initiatives both within and outside the
4 transportation sector.

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

22 (a) For tax years beginning after December 31, 2010 and ending
23 before January 1, 2012, \$500.00 for an equivalent of 4 kilowatt
24 hours of battery capacity plus \$125.00 for each kilowatt hour of
25 battery capacity in excess of 4 kilowatt hours of battery capacity
26 not to exceed \$2,000.00 for each plug-in traction battery pack. The
27 total number of traction battery packs shall not exceed 20,000

1 plug-in traction battery pack units under this subdivision, and the
2 total amount of credits allowed under this subdivision shall not
3 exceed \$40,000,000.00.

4 (b) For tax years beginning after December 31, 2011 and ending
5 before January 1, 2013, \$375.00 for an equivalent of 4 kilowatt
6 hours of battery capacity plus \$93.75 for each kilowatt hour of
7 battery capacity in excess of 4 kilowatt hours of battery capacity
8 not to exceed \$1,500.00 for each plug-in traction battery pack. The
9 total number of traction battery packs shall not exceed 40,000
10 plug-in traction battery pack units under this subdivision, and the
11 total amount of credits allowed under this subdivision shall not
12 exceed \$43,000,000.00. A single taxpayer shall not claim a credit
13 for more than 25,000 plug-in traction battery pack units under this
14 subdivision. The number of battery pack units not used for credits
15 under subdivision (a) may be added to the total number of battery
16 pack units for which a credit is available under this subdivision,
17 and the credits for those units shall be calculated as described in
18 subdivision (a) and shall be in addition to the maximums allowed
19 for any 1 taxpayer under this subdivision or the total limits
20 allowed under this subdivision.

21 (c) For tax years beginning after December 31, 2012 and ending
22 before January 1, 2014, \$375.00 for an equivalent of 4 kilowatt
23 hours of battery capacity plus \$93.75 for each kilowatt hour of
24 battery capacity in excess of 4 kilowatt hours not to exceed
25 \$1,500.00 for each plug-in traction battery pack. The total number
26 of traction battery packs shall not exceed 40,000 plug-in traction
27 battery pack units under this subdivision, and the total amount of

1 credits allowed under this subdivision shall not exceed
2 \$43,000,000.00. A single taxpayer shall not claim a credit for more
3 than 25,000 plug-in traction battery pack units under this
4 subdivision.

5 (d) For tax years beginning after December 31, 2013 and ending
6 before January 1, 2015, \$375.00 for an equivalent of 4 kilowatt
7 hours of battery capacity plus \$93.75 for each kilowatt hour of
8 battery capacity in excess of 4 kilowatt hours not to exceed
9 \$1,500.00 for each plug-in traction battery pack. The total number
10 of traction battery packs shall not exceed 25,000 plug-in traction
11 battery pack units under this subdivision, and the total amount of
12 credits allowed under this subdivision shall not exceed
13 \$9,000,000.00.

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

1 least 1,000 motor vehicles that would qualify for the credit under
2 section 30D of the internal revenue code and the credit shall be
3 available to the taxpayer only for the following percentages of the
4 total authorized annual expenses:

5 (a) In a tax year in which the taxpayer has manufactured a
6 cumulative total of at least 1,000 motor vehicles and fewer than
7 2,000 motor vehicles that qualify for the credit under section 30D
8 of the internal revenue code, 20%.

9 (b) In a tax year in which the taxpayer has manufactured a
10 cumulative total of at least 2,000 motor vehicles but fewer than
11 3,000 motor vehicles that qualify for the credit under section 30D
12 of the internal revenue code, 40%.

13 (c) In a tax year in which the taxpayer has manufactured a
14 cumulative total of at least 3,000 motor vehicles but fewer than
15 4,000 motor vehicles that qualify for the credit under section 30D
16 of the internal revenue code, 60%.

17 (d) In a tax year in which the taxpayer has manufactured a
18 cumulative total of at least 4,000 motor vehicles but fewer than
19 5,000 motor vehicles that qualify for the credit under section 30D
20 of the internal revenue code, 80%.

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

24 (4) For tax years that begin on or after January 1, 2012 and
25 end before January 1, 2015, a taxpayer that has entered into an
26 agreement with the Michigan economic growth authority that provides
27 that the taxpayer will increase its engineering activities in this

1 state for advanced automotive battery technologies may claim a
2 credit under this subsection. A taxpayer's qualified advanced
3 battery engineering expenses for advanced automotive battery
4 technologies shall exceed those expenses for the taxpayer's 2008
5 fiscal year to qualify for the credit under this subsection. The
6 Michigan economic growth authority may enter into not more than 1
7 agreement for advanced battery engineering credits, and the total
8 value of credits available under this subsection is limited to
9 \$30,000,000.00. The credits under this subsection shall be allowed
10 as follows:

11 (a) Up to 75% of the total dollar amount of the qualified
12 ~~advance~~**ADVANCED** battery engineering expenses of an authorized
13 business incurred during tax years beginning on or after January 1,
14 2009 and ending before January 1, 2014. The taxpayer must submit to
15 the Michigan economic growth authority an affidavit certifying the
16 amount of qualified advanced battery engineering expenses for each
17 year.

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

21 (c) The credits available under this subsection shall not be
22 allowed if the taxpayer claims credits under subsection (2) for
23 battery pack assembly for the tax year. Notwithstanding this
24 limitation, the credits available under this subsection are in
25 addition to any other incentives which may be authorized under the
26 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
27 207.810, for other related or unrelated projects including the

1 vehicle research and development expenses authorized under
2 subsection (3). Any expenses for which a credit is claimed under
3 this subsection shall not be included in costs and expenses used
4 for credits available under sections 403 and 405.

5 (5) A taxpayer that has entered into an agreement with the
6 Michigan economic growth authority may claim a credit equal to 50%
7 of the capital investment expenses for any tax year for the
8 construction of an integrative cell manufacturing facility that
9 includes anode and cathode manufacturing and cell assembly if the
10 taxpayer will create not less than 300 new jobs in this state. Not
11 more than ~~4~~5 agreements may be entered into under this section,
12 and the maximum allowable credit under each agreement shall not
13 exceed \$25,000,000.00 per year for no more than 4 years. No credit
14 shall be claimed in a tax year beginning before 2012. However, tax
15 credits may be based on expenses incurred in this state in prior
16 years. The Michigan economic growth authority shall not adopt a
17 resolution authorizing an agreement to provide credits under this
18 subsection after ~~October 1, 2009~~ **MARCH 31, 2010**.

19 (6) A taxpayer that has entered into an agreement with the
20 Michigan economic growth authority may claim a credit equal to 25%
21 of the capital investment expenses for any tax year for the
22 construction of a facility that will produce large scale batteries
23 and manufacture integrated power management, smart control, and
24 storage systems from 500 kilowatts to 100 megawatts if the taxpayer
25 will create not fewer than 500 new jobs in this state and the
26 taxpayer has received federal loan guarantees for a project that
27 employs innovative energy efficiency, renewable energy, and

1 advanced transmission and distribution technologies from the United
2 States department of energy under section 1703 of title XVII of the
3 energy policy act of 2005, 42 USC 16513. Not more than 1 agreement
4 may be entered into under this subsection, and the maximum
5 allowable credit under the agreement shall not exceed
6 \$25,000,000.00 per year for no more than 4 years. No credit shall
7 be claimed in a tax year beginning before 2012. The Michigan
8 economic growth authority shall not adopt a resolution authorizing
9 an agreement to provide a credit under this subsection after March
10 1, 2010.

11 (7) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (8), FOR TAX
12 YEARS THAT BEGIN ON OR AFTER JANUARY 1, 2012 AND END BEFORE JANUARY
13 1, 2017, A TAXPAYER THAT HAS ENTERED INTO AN AGREEMENT WITH THE
14 MICHIGAN ECONOMIC GROWTH AUTHORITY THAT PROVIDES THAT THE TAXPAYER
15 WILL MANUFACTURE ADVANCED LITHIUM ION BATTERY PACKS IN THIS STATE
16 MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR THE
17 MANUFACTURE OF THOSE ADVANCED LITHIUM ION BATTERY PACKS AS FOLLOWS:

18 (A) FOR A TAXPAYER THAT AGREES TO MAKE CAPITAL INVESTMENTS IN
19 THIS STATE OF NOT LESS THAN \$250,000,000.00, TO CREATE AT LEAST
20 1,000 NEW JOBS THAT SHALL INCLUDE JOBS THAT ARE TRANSFERRED TO THIS
21 STATE FROM A FOREIGN COUNTRY, AND TO MANUFACTURE NOT LESS THAN
22 225,000 ADVANCED LITHIUM ION BATTERY PACKS IN THIS STATE, A TOTAL
23 CREDIT OF NOT MORE THAN \$26,000,000.00 PER TAX YEAR FOR NO MORE
24 THAN 3 TAX YEARS. THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL NOT
25 ADOPT A RESOLUTION AUTHORIZING AN AGREEMENT UNDER THIS SUBDIVISION
26 AFTER MARCH 1, 2010.

27 (B) FOR A TAXPAYER THAT AGREES TO MAKE CAPITAL INVESTMENTS IN

1 THIS STATE OF NOT LESS THAN \$200,000,000.00 AND TO CREATE AT LEAST
2 300 NEW JOBS, A TOTAL CREDIT OF NOT MORE THAN \$42,000,000.00 OVER 4
3 CONSECUTIVE TAX YEARS UNLESS OTHERWISE PROVIDED UNDER SUBSECTION
4 (10). UNLESS THE MICHIGAN ECONOMIC GROWTH AUTHORITY DETERMINES THAT
5 THERE ARE PREVIOUSLY ISSUED CREDITS AUTHORIZED UNDER SUBSECTION (6)
6 AVAILABLE OR THAT THERE ARE CREDITS AVAILABLE UNDER SUBSECTION
7 (7) (A) FOR ADDITIONAL CREDITS UNDER THIS SUBDIVISION, THE MICHIGAN
8 ECONOMIC GROWTH AUTHORITY SHALL NOT ADOPT A RESOLUTION AUTHORIZING
9 AN AGREEMENT UNDER THIS SUBDIVISION AFTER MARCH 1, 2010.

10 (8) ANY CAPITAL INVESTMENTS MADE, JOBS CREATED, OR EXPENSES
11 INCURRED PURSUANT TO AN AGREEMENT ENTERED FOR A CREDIT UNDER
12 SUBSECTION (7) OR (9) SHALL BE IN ADDITION TO ANY OTHER CAPITAL
13 INVESTMENTS, JOBS, OR EXPENSES USED FOR ANY OTHER CREDIT AVAILABLE
14 UNDER THIS SECTION AND SHALL NOT BE INCLUDED OR USED FOR A CREDIT
15 AVAILABLE UNDER ANY SUBSECTION OTHER THAN SUBSECTION (7) OR (9),
16 RESPECTIVELY. A TAXPAYER THAT CLAIMS A CREDIT UNDER SUBSECTION
17 (7) (A) SHALL NOT CLAIM AN ADDITIONAL CREDIT UNDER SUBSECTION
18 (7) (B). FOR PURPOSES OF SUBSECTION (7), "NEW JOB" MEANS A FULL-TIME
19 JOB CREATED BY A TAXPAYER RELATED TO ITS ADVANCED LITHIUM ION
20 BATTERY ACTIVITIES, INCLUDING ITS BATTERY PACK ASSEMBLY FACILITY, A
21 CELL MANUFACTURING FACILITY, AND A MOTOR VEHICLE ASSEMBLY FACILITY
22 AT WHICH THE BATTERY PACK IS INSTALLED IN A MOTOR VEHICLE, OR
23 RELATED BATTERY ENGINEERING, THAT IS IN EXCESS OF THE NUMBER OF
24 ACTIVE FULL-TIME JOBS THE TAXPAYER MAINTAINED IN THIS STATE PRIOR
25 TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
26 SUBSECTION AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY.

27 (9) SUBJECT TO THE LIMITATIONS OF THIS SUBSECTION, IF THE

1 MICHIGAN ECONOMIC GROWTH AUTHORITY DETERMINES THAT THERE ARE
2 PREVIOUSLY ISSUED CREDITS AUTHORIZED UNDER SUBSECTION (6)
3 AVAILABLE, THEN FOR TAX YEARS THAT BEGIN ON OR AFTER JANUARY 1,
4 2015 AND END BEFORE JANUARY 1, 2017 A TAXPAYER MAY CLAIM A CREDIT
5 OF UP TO 75% OF THE COSTS INCURRED DURING EACH TAX YEAR THAT BEGINS
6 ON OR AFTER JANUARY 1, 2013 AND ENDS BEFORE JANUARY 1, 2016 TO
7 IMPLEMENT A SOURCING PROGRAM TO UTILIZE BATTERY CELLS FROM A
8 BUSINESS THAT HAS ENTERED INTO AN AGREEMENT UNDER SUBSECTION (5)
9 FOR THE CONSTRUCTION OF AN INTEGRATIVE CELL MANUFACTURING FACILITY.
10 COSTS ELIGIBLE FOR THE CREDIT UNDER THIS SUBSECTION SHALL INCLUDE
11 PAYMENTS FOR BATTERY PACK AND VEHICLE ENGINEERING AND ASSOCIATED
12 DESIGN OR INTEGRATION INCLUDING PROTOTYPING, FACILITY, EQUIPMENT OR
13 COMPONENT RETOOLING, AND VEHICLE REGULATORY CERTIFICATION AND SHALL
14 INCLUDE COSTS SUCH AS DIRECT LABOR, PURCHASES OF CAPITAL EQUIPMENT
15 AT COST, EXPENSED SUPPLIES, INTELLECTUAL PROPERTY LICENSING,
16 SERVICES, AND FINANCING, AS DETERMINED AND CERTIFIED BY THE
17 MICHIGAN ECONOMIC GROWTH AUTHORITY. ANY COSTS FOR WHICH A CREDIT IS
18 CLAIMED UNDER THIS SUBSECTION SHALL NOT BE INCLUDED IN COSTS AND
19 EXPENSES USED FOR CREDITS AVAILABLE UNDER SECTIONS 403 AND 405. THE
20 MICHIGAN ECONOMIC GROWTH AUTHORITY MAY ENTER INTO MORE THAN 1
21 AGREEMENT UNDER THIS SUBSECTION. THE MICHIGAN ECONOMIC GROWTH
22 AUTHORITY SHALL NOT AUTHORIZE MORE THAN AN AMOUNT EQUAL TO 25% OF
23 THE PREVIOUSLY ISSUED CREDITS AVAILABLE UNDER SUBSECTION (6) AS
24 DETERMINED UNDER SUBSECTION (10) IN TOTAL CREDITS TO ALL TAXPAYERS
25 UNDER THIS SUBSECTION. A SINGLE TAXPAYER SHALL NOT CLAIM A CREDIT
26 OF MORE THAN \$12,500,000.00 PER YEAR FOR NO MORE THAN 2 YEARS. TO
27 CLAIM THE CREDIT UNDER THIS SUBSECTION, A TAXPAYER MUST MANUFACTURE

1 AT LEAST 10,000 MOTOR VEHICLES IN EACH YEAR A CREDIT IS CLAIMED AT
2 A FACILITY IN THIS STATE AT WHICH SOME OF THE COSTS ELIGIBLE FOR A
3 CREDIT UNDER THIS SUBSECTION ARE OR WERE INCURRED. AN AGREEMENT
4 ENTERED INTO UNDER THIS SUBSECTION SHALL CONTAIN A REPAYMENT
5 PROVISION THAT IF THE TAXPAYER RELOCATES ITS BATTERY PACK ASSEMBLY
6 FACILITY FOR WHICH CREDITS ARE TAKEN UNDER SUBSECTION (7) OUTSIDE
7 OF THIS STATE DURING THE TERM OF THE AGREEMENT OR SUBSEQUENTLY
8 SUBSTANTIALLY FAILS TO MEET THE REQUIREMENTS OF THE AGREEMENT, AS
9 DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, THE TAXPAYER
10 SHALL HAVE ITS CREDIT REDUCED OR TERMINATED OR HAVE A PERCENTAGE OF
11 THE AMOUNT PREVIOUSLY CLAIMED UNDER THIS SUBSECTION ADDED BACK TO
12 THE TAX LIABILITY OF THE TAXPAYER IN THE YEAR THAT THE TAXPAYER
13 FAILS TO COMPLY WITH THE AGREEMENT.

14 (10) IF THE MICHIGAN ECONOMIC GROWTH AUTHORITY DETERMINES THAT
15 THERE ARE PREVIOUSLY ISSUED CREDITS AUTHORIZED UNDER SUBSECTION (6)
16 AVAILABLE, AN AMOUNT EQUAL TO 25% OF THOSE PREVIOUSLY ISSUED
17 CREDITS MAY BE USED BY THE AUTHORITY TO ENTER INTO AGREEMENTS FOR
18 WHICH A CREDIT MAY BE CLAIMED UNDER SUBSECTION (9) AND AN AMOUNT
19 EQUAL TO 25% OF THOSE PREVIOUSLY ISSUED CREDITS MAY BE USED BY THE
20 AUTHORITY TO ENTER INTO ADDITIONAL AGREEMENTS FOR WHICH A CREDIT
21 MAY BE CLAIMED UNDER SUBSECTION (7) (B). IF THE MICHIGAN ECONOMIC
22 GROWTH AUTHORITY APPROVES A TOTAL OF LESS THAN \$78,000,000.00 IN
23 CREDITS UNDER SUBSECTION (7) (A), THE MICHIGAN ECONOMIC GROWTH
24 AUTHORITY MAY USE THE DIFFERENCE BETWEEN \$78,000,000.00 AND THE
25 TOTAL AMOUNT OF CREDITS APPROVED UNDER SUBSECTION (7) (A) TO APPROVE
26 ADDITIONAL CREDITS UNDER SUBSECTION (7) (B). AS USED IN THIS
27 SUBSECTION AND SUBSECTIONS (7) AND (9), "PREVIOUSLY ISSUED CREDITS"

1 MEANS THE TOTAL AMOUNT OF CREDITS AUTHORIZED BY THE AUTHORITY FOR A
2 TAXPAYER UNDER SUBSECTION (6) THAT MEETS ALL OF THE FOLLOWING:

3 (A) THE TAXPAYER DID NOT USE ANY OR A PORTION OF THE CREDITS
4 AUTHORIZED UNDER THE WRITTEN AGREEMENT UNDER SUBSECTION (6).

5 (B) THE AUTHORITY DETERMINED AT A MEETING UPON A VOTE OF THE
6 MAJORITY OF THE MEMBERS PRESENT THAT THE CREDITS PREVIOUSLY
7 AUTHORIZED SATISFY SUBDIVISION (A).

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

17 (a) Business activities related to advanced battery technology
18 occurring exclusively in Michigan.

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

21 (c) Scalability of manufacturing processes that are
22 established, are robust, and address strategic global automotive
23 market requirements.

24 (12) ~~(8)~~—Credits under this section shall be taken after
25 nonrefundable credits available under this act. If a credit or the
26 sum of credits allowed under this section exceeds the tax liability
27 of the taxpayer for the tax year, the taxpayer may elect to have

1 that portion that exceeds the tax liability of the taxpayer
2 refunded or to have the excess carried forward to offset tax
3 liability in subsequent tax years for 10 years or until used up,
4 whichever occurs first. Amounts carried forward shall not affect
5 the maximum amount of credits that may be claimed in subsequent
6 years.

7 (13) ~~(9)~~—An agreement entered into for tax credits under this
8 section shall specify all of the following:

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

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

17 (c) If the taxpayer claims a credit under subsection (4), the
18 total dollar amount of the credits that may be claimed under
19 subsection (4).

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

22 (i) The location of the facility.

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

24 (iii) The capital investment expenses that qualify for the
25 credit under subsection (5).

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

1 (v) A REPAYMENT PROVISION THAT IF THE TAXPAYER SUBSEQUENTLY
2 SUBSTANTIALLY FAILS TO MEET CERTAIN REQUIREMENTS OF THE AGREEMENT,
3 AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, THE
4 TAXPAYER MAY HAVE ITS CREDIT REDUCED OR TERMINATED OR HAVE A
5 PERCENTAGE OF THE AMOUNT PREVIOUSLY CLAIMED UNDER SUBSECTION (5)
6 ADDED BACK TO THE TAX LIABILITY OF THE TAXPAYER IN THE YEAR THAT
7 THE TAXPAYER FAILS TO COMPLY WITH THE AGREEMENT.

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

10 (i) The location of the facility.

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

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

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

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

18 (vi) A repayment provision that if the taxpayer subsequently
19 SUBSTANTIALLY fails to meet ~~the~~ CERTAIN requirements of the
20 agreement, AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY,
21 the taxpayer may ~~, as determined by the Michigan economic growth~~
22 ~~authority,~~ have its credit reduced or terminated or have a
23 percentage of the amount previously claimed under subsection (6)
24 added back to the tax liability of the taxpayer in the year that
25 the taxpayer fails to comply with the agreement.

26 (F) IF A TAXPAYER CLAIMS A CREDIT UNDER SUBSECTION (7), ALL OF
27 THE FOLLOWING:

1 (i) A PROVISION THAT THE TAXPAYER AGREES TO MAKE A GOOD FAITH
2 EFFORT TO UTILIZE MICHIGAN SUPPLIERS AND VENDORS WHEN PURCHASING
3 COMPONENTS AND SERVICES RELATED TO THE PRODUCTION OF ADVANCED
4 LITHIUM ION BATTERY PACKS FOR WHICH A CREDIT IS CLAIMED IN THE
5 2012, 2013, AND 2014 TAX YEARS. FOR A CREDIT DURING THE 2015 AND
6 2016 TAX YEARS, A PROVISION THAT THE TAXPAYER SHALL UTILIZE CELLS
7 FROM A BUSINESS THAT HAS ENTERED INTO AN AGREEMENT UNDER SUBSECTION
8 (5) FOR THE CONSTRUCTION OF AN INTEGRATIVE CELL MANUFACTURING
9 FACILITY.

10 (ii) A REPAYMENT PROVISION THAT IF THE TAXPAYER RELOCATES ITS
11 ADVANCED LITHIUM ION BATTERY PACK ASSEMBLY FACILITY THAT PRODUCES
12 THE BATTERY PACK UNITS FOR WHICH THE CREDIT IS CLAIMED UNDER
13 SUBSECTION (7) OUTSIDE OF THIS STATE DURING THE TERM OF THE
14 AGREEMENT OR SUBSEQUENTLY FAILS TO MEET THE CAPITAL INVESTMENT OR
15 NEW JOBS REQUIREMENTS OF THE AGREEMENT ENTERED INTO FOR A CREDIT
16 UNDER SUBSECTION (7), AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH
17 AUTHORITY, THE TAXPAYER SHALL HAVE A PERCENTAGE OF THE AMOUNT
18 PREVIOUSLY CLAIMED UNDER SUBSECTION (7) ADDED BACK TO THE TAX
19 LIABILITY OF THE TAXPAYER IN THE YEAR THAT THE TAXPAYER FAILS TO
20 COMPLY WITH THE AGREEMENT ENTERED INTO FOR A CREDIT UNDER
21 SUBSECTION (7) AND SHALL HAVE ITS CREDIT TERMINATED OR REDUCED
22 PROSPECTIVELY.

23 (iii) THE MINIMUM NUMBER OF ADVANCED LITHIUM ION BATTERY PACKS
24 TO BE MANUFACTURED TO BE ELIGIBLE FOR A CREDIT FOR EACH TAX YEAR
25 COVERED BY THE PERIOD OF THE AGREEMENT AND THE MAXIMUM AMOUNT OF
26 THE CREDIT THAT MAY BE CLAIMED BY THE TAXPAYER IN EACH TAX YEAR.

27 (iv) THE CAPITAL INVESTMENT THAT QUALIFIES FOR THE CREDIT UNDER

1 **SUBSECTION (7).**

2 **(v) THE MINIMUM NUMBER OF NEW JOBS TO BE CREATED IN THIS STATE**
 3 **TO QUALIFY FOR THE CREDIT UNDER SUBSECTION (7).**

4 **(14) ~~(10)~~**—A taxpayer shall not claim a credit under this
 5 section unless the Michigan economic growth authority has issued a
 6 certificate to the taxpayer. The taxpayer shall attach the
 7 certificate to the annual return filed under this act on which a
 8 credit under this section is claimed. The certificate required
 9 under this subsection shall state all of the following:

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

12 (b) The taxpayer's federal employer identification number or
 13 the Michigan department of treasury number assigned to the taxpayer
 14 and, for a taxpayer that is a unitary business group, the federal
 15 employer identification number or Michigan department of treasury
 16 number assigned to the member of the group engaged in this state in
 17 ~~the manufacturing of plug-in traction battery packs~~ **ACTIVITY THAT**
 18 **QUALIFIES FOR A CREDIT UNDER THIS SECTION.**

19 (c) If applicable, the number of plug-in traction battery
 20 ~~packs~~ **PACK UNITS OR ADVANCED LITHIUM ION BATTERY PACK UNITS**
 21 manufactured by the taxpayer during the designated tax year and the
 22 amount of the credit under this section for which the taxpayer is
 23 allowed to claim for the designated tax year.

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

1 (15) ~~(11)~~—As used in this section:

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

6 **(B) "ADVANCED LITHIUM ION BATTERY PACK" MEANS AN ASSEMBLED**
7 **UNIT OF BATTERY CELLS CONTAINING RECHARGEABLE LITHIUM ION CHEMISTRY**
8 **DESIGNED AND MASS-PRODUCED FOR THE PURPOSE OF TRANSPORTATION,**
9 **INCLUDING DEFENSE AND COMMERCIAL APPLICATIONS.**

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

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

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

22 (F) ~~(e)~~—"Plug-in traction battery pack" means an
23 electrochemical energy storage device that meets the following
24 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) ~~(f)~~—"Qualified advanced battery engineering expenses"
15 means that part of a taxpayer's qualified research expenses as
16 defined 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) ~~(g)~~—"Qualified expenses for vehicle engineering" means
20 that 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) ~~(h)~~—"Traction battery capacity" is the number of kilowatt
26 hours measured from a 100% state of charge to a 0% state of charge.

27 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 818 of the 95th Legislature is enacted into
2 law.