

SENATE BILL No. 855

November 29, 2011, Introduced by Senator KOWALL and referred to the Committee on Economic Development.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 107 and 434 (MCL 208.1107 and 208.1434),
section 107 as amended by 2011 PA 209 and section 434 as amended by
2010 PA 114.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 107. (1) "Certificated credit" means any of the
2 following:

3 (a) A tax voucher certificate that has been issued to a
4 taxpayer under an agreement entered into before January 1, 2012
5 under section 419 or section 23 of the Michigan early stage venture
6 investment act of 2003, 2003 PA 296, MCL 125.2253.

7 (b) A credit for which a preapproval letter has been issued to
8 a qualified taxpayer under section 437 before January 1, 2012 to
9 the extent the credit has not been fully claimed or paid prior to

1 January 1, 2012.

2 (c) ~~A~~**EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (I), A**
3 credit for which a taxpayer or a qualified taxpayer has entered
4 into an agreement with the Michigan economic growth authority under
5 sections 430, 431, 431a, 431b, 431c, 432, 434, or 450 before
6 January 1, 2012 to the extent the credit has not been fully claimed
7 or paid prior to January 1, 2012.

8 (d) A credit for which a taxpayer or eligible production
9 company has entered into an agreement with the Michigan film office
10 with the concurrence of the state treasurer under section 455 or
11 457 before January 1, 2012 to the extent the credit has not been
12 fully claimed or paid before January 1, 2012.

13 (e) A credit for which a qualified taxpayer has received a
14 part 2 approval, approved rehabilitation plan, approved high
15 community impact rehabilitation plan, or preapproval letter from
16 the state historic preservation office under section 435 before
17 January 1, 2012 to the extent the credit has not been fully claimed
18 or paid before January 1, 2012.

19 (f) A credit under section 433 but only for a taxpayer that
20 has a development agreement executed between a taxpayer and the
21 Michigan strategic fund before January 1, 2012 or for a taxpayer
22 that has entered into a qualified collaborative agreement under the
23 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
24 125.2696, before January 1, 2012. As used in this subsection,
25 "qualified collaborative agreement" means that term as defined in
26 section 8d of the Michigan renaissance zone act, 1996 PA 376, MCL
27 125.2688d.

1 (g) A credit applicable to this act granted under section
2 36109 of the natural resources and environmental protection act,
3 1994 PA 451, MCL 324.36109.

4 (h) A credit allowed a taxpayer under section 409 if the
5 taxpayer has met the capital expenditure requirements under section
6 409(4).

7 **(I) A CREDIT FOR WHICH A TAXPAYER OR A QUALIFIED TAXPAYER HAS**
8 **ENTERED INTO AN AGREEMENT WITH THE MICHIGAN ECONOMIC GROWTH**
9 **AUTHORITY UNDER SECTION 434(6) BEFORE JULY 1, 2012.**

10 (2) "Client" means an entity whose employment operations are
11 managed by a professional employer organization.

12 (3) "Compensation" means all wages, salaries, fees, bonuses,
13 commissions, other payments made in the tax year on behalf of or
14 for the benefit of employees, officers, or directors of the
15 taxpayers, and any earnings that are net earnings from self-
16 employment as defined under section 1402 of the internal revenue
17 code of the taxpayer or a partner or limited liability company
18 member of the taxpayer. Compensation includes, but is not limited
19 to, payments that are subject to or specifically exempt or excepted
20 from withholding under sections 3401 to 3406 of the internal
21 revenue code. Compensation also includes, on a cash or accrual
22 basis consistent with the taxpayer's method of accounting for
23 federal income tax purposes, payments to a pension, retirement, or
24 profit sharing plan other than those payments attributable to
25 unfunded accrued actuarial liabilities, and payments for insurance
26 for which employees are the beneficiaries, including payments under
27 health and welfare and noninsured benefit plans and payment of fees

1 for the administration of health and welfare and noninsured benefit
2 plans. Compensation for a taxpayer licensed under article 25 or 26
3 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518 and
4 339.2601 to 339.2637, includes payments to an independent
5 contractor licensed under article 25 or 26 of the occupational
6 code, 1980 PA 299, MCL 339.2501 to 339.2518 and 339.2601 to
7 339.2637. Compensation does not include any of the following:

8 (a) Discounts on the price of the taxpayer's merchandise or
9 services sold to the taxpayer's employees, officers, or directors
10 that are not available to other customers.

11 (b) Except as otherwise provided in this subsection, payments
12 to an independent contractor.

13 (c) Payments to state and federal unemployment compensation
14 funds.

15 (d) The employer's portion of payments under the federal
16 insurance contributions act, chapter 21 of subtitle C of the
17 internal revenue code, 26 USC 3101 to 3128, the railroad retirement
18 tax act, chapter 22 of subtitle C of the internal revenue code, 26
19 USC 3201 to 3233, and similar social insurance programs.

20 (e) Payments, including self-insurance payments, for worker's
21 compensation insurance or federal employers' liability act
22 insurance pursuant to 45 USC 51 to 60.

23 (4) "Corporation" means a taxpayer that is required or has
24 elected to file as a corporation under the internal revenue code.

25 (5) "Department" means the department of treasury.

26 Sec. 434. (1) The Michigan economic growth authority is
27 authorized to enter into agreements to provide tax credits

1 available under this section to stimulate the domestic
2 commercialization and affordability of high-power energy batteries,
3 the lack of which today is limiting hybrid, plug-in hybrid battery-
4 electric, and fuel cell vehicle applications, and to help insure
5 that job growth from battery technology and commercial production
6 develops alongside advanced vehicle technology development and
7 renewable power generation initiatives both within and outside the
8 transportation sector.

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

26 (a) For tax years beginning after December 31, 2010 and ending
27 before January 1, 2012, \$500.00 for an equivalent of 4 kilowatt

1 hours of battery capacity plus \$125.00 for each kilowatt hour of
2 battery capacity in excess of 4 kilowatt hours of battery capacity
3 not to exceed \$2,000.00 for each plug-in traction battery pack. The
4 total number of traction battery packs shall not exceed 20,000
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 \$40,000,000.00.

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

25 (c) For tax years beginning after December 31, 2012 and ending
26 before January 1, 2014, \$375.00 for an equivalent of 4 kilowatt
27 hours of battery capacity plus \$93.75 for each kilowatt hour of

1 battery capacity in excess of 4 kilowatt hours not to exceed
2 \$1,500.00 for each plug-in traction battery pack. The total number
3 of traction battery packs shall not exceed 40,000 plug-in traction
4 battery pack units under this subdivision, and the total amount of
5 credits allowed under this subdivision shall not exceed
6 \$43,000,000.00. A single taxpayer shall not claim a credit for more
7 than 25,000 plug-in traction battery pack units under this
8 subdivision.

9 (d) For tax years beginning after December 31, 2013 and ending
10 before January 1, 2015, \$375.00 for an equivalent of 4 kilowatt
11 hours of battery capacity plus \$93.75 for each kilowatt hour of
12 battery capacity in excess of 4 kilowatt hours not to exceed
13 \$1,500.00 for each plug-in traction battery pack. The total number
14 of traction battery packs shall not exceed 25,000 plug-in traction
15 battery pack units under this subdivision, and the total amount of
16 credits allowed under this subdivision shall not exceed
17 \$9,000,000.00.

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

1 sections 403 and 405. The Michigan economic growth authority may
2 not authorize more than \$135,000,000.00 in total credits to all
3 taxpayers under this subsection. To claim the credit under this
4 subsection, a taxpayer must manufacture a cumulative total of at
5 least 1,000 motor vehicles that would qualify for the credit under
6 section 30D of the internal revenue code and the credit shall be
7 available to the taxpayer only for the following percentages of the
8 total authorized annual expenses:

9 (a) In a tax year in which the taxpayer has manufactured a
10 cumulative total of at least 1,000 motor vehicles and fewer than
11 2,000 motor vehicles that qualify for the credit under section 30D
12 of the internal revenue code, 20%.

13 (b) In a tax year in which the taxpayer has manufactured a
14 cumulative total of at least 2,000 motor vehicles but fewer than
15 3,000 motor vehicles that qualify for the credit under section 30D
16 of the internal revenue code, 40%.

17 (c) In a tax year in which the taxpayer has manufactured a
18 cumulative total of at least 3,000 motor vehicles but fewer than
19 4,000 motor vehicles that qualify for the credit under section 30D
20 of the internal revenue code, 60%.

21 (d) In a tax year in which the taxpayer has manufactured a
22 cumulative total of at least 4,000 motor vehicles but fewer than
23 5,000 motor vehicles that qualify for the credit under section 30D
24 of the internal revenue code, 80%.

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

1 (4) For tax years that begin on or after January 1, 2012 and
2 end before January 1, 2015, a taxpayer that has entered into an
3 agreement with the Michigan economic growth authority that provides
4 that the taxpayer will increase its engineering activities in this
5 state for advanced automotive battery technologies may claim a
6 credit under this subsection. A taxpayer's qualified advanced
7 battery engineering expenses for advanced automotive battery
8 technologies shall exceed those expenses for the taxpayer's 2008
9 fiscal year to qualify for the credit under this subsection. The
10 Michigan economic growth authority may enter into not more than 1
11 agreement for advanced battery engineering credits, and the total
12 value of credits available under this subsection is limited to
13 \$30,000,000.00. The credits under this subsection shall be allowed
14 as follows:

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

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

25 (c) The credits available under this subsection shall not be
26 allowed if the taxpayer claims credits under subsection (2) for
27 battery pack assembly for the tax year. Notwithstanding this

1 limitation, the credits available under this subsection are in
2 addition to any other incentives which may be authorized under the
3 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
4 207.810, for other related or unrelated projects including the
5 vehicle research and development expenses authorized under
6 subsection (3). Any expenses for which a credit is claimed under
7 this subsection shall not be included in costs and expenses used
8 for credits available under sections 403 and 405.

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

23 (6) ~~A~~ **SUBJECT TO THE LIMITATIONS UNDER THIS SUBSECTION, A**
24 taxpayer that has entered into an agreement with the Michigan
25 economic growth authority may claim a credit equal to 25% of the
26 capital investment expenses for any tax year for the construction
27 of a facility that will produce ~~large scale batteries and~~

~~manufacture integrated power management, smart control, and storage~~
~~systems from 500 kilowatts to 100 megawatts~~ **AT LEAST 1 OR MORE OF**
THE FOLLOWING: BATTERIES, BATTERY COMPONENTS, STORAGE SYSTEMS,
BATTERY THERMAL AND MANAGEMENT COMPONENTS OR SYSTEMS, AC OR DC
POWER SUPPLIES, POWER ELECTRONICS, BATTERY FORMATION AND TEST
EQUIPMENT, OR ENERGY CONVERSION DEVICES INCLUDING COMPONENTS
RELATED TO SUCH PRODUCTS OF VARIOUS SIZES AND CAPACITIES if the
taxpayer ~~will~~ **AGREES TO** create not fewer than ~~500~~ **750** new jobs in
this state and the taxpayer ~~has received conventional financing,~~
~~recovery zone facility bonds, or federal loan guarantees for a~~
~~project that employs innovative energy efficiency, renewable~~
~~energy, and advanced transmission and distribution technologies~~
~~from the United States department of energy under section 1703 of~~
~~title XVII of the energy policy act of 2005, 42 USC 16513.~~ **IS**
LOCATED WITHIN A RENAISSANCE ZONE THAT IS ESTABLISHED UNDER SECTION
8A OF THE MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376, MCL
125.2688A, NO LATER THAN DECEMBER 31, 2012. Not more than 1
agreement may be entered into under this subsection **FOR A TOTAL**
CREDIT OF NOT MORE THAN \$50,000,000.00 OVER 4 YEARS, and the
maximum allowable credit under the agreement shall not exceed
\$25,000,000.00 per year. ~~for no more than 4 years.~~ No credit shall
be claimed in a tax year beginning before 2012. The Michigan
economic growth authority shall not adopt a resolution authorizing
an agreement to provide a credit under this subsection after ~~March~~
~~1, 2010.~~ **JUNE 30, 2012.**

(7) Subject to the limitations under subsection (8), for tax
years that begin on or after January 1, 2012 and end before January

1 1, 2017, a taxpayer that has entered into an agreement with the
2 Michigan economic growth authority that provides that the taxpayer
3 will manufacture advanced lithium ion battery packs in this state
4 may claim a credit against the tax imposed by this act for the
5 manufacture of those advanced lithium ion battery packs as follows:

6 (a) For a taxpayer that agrees to make capital investments in
7 this state of not less than \$250,000,000.00, to create at least
8 1,000 new jobs that shall include jobs that are transferred to this
9 state from a foreign country, and to manufacture not less than
10 225,000 advanced lithium ion battery packs in this state, a total
11 credit of not more than \$26,000,000.00 per tax year for no more
12 than 3 tax years. The Michigan economic growth authority shall not
13 adopt a resolution authorizing an agreement under this subdivision
14 after March 1, 2010.

15 (b) For a taxpayer that agrees to make capital investments in
16 this state of not less than \$200,000,000.00 and to create at least
17 300 new jobs, a total credit of not more than \$42,000,000.00 over 4
18 consecutive tax years unless otherwise provided under subsection
19 (10). Unless the Michigan economic growth authority determines that
20 there are previously issued credits authorized under subsection (6)
21 available or that there are credits available under subsection
22 (7)(a) for additional credits under this subdivision, the Michigan
23 economic growth authority shall not adopt a resolution authorizing
24 an agreement under this subdivision after March 1, 2010.

25 (8) Any capital investments made, jobs created, or expenses
26 incurred pursuant to an agreement entered for a credit under
27 subsection (7) or (9) shall be in addition to any other capital

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

15 (9) Subject to the limitations of this subsection, if the
16 Michigan economic growth authority determines that there are
17 previously issued credits authorized under subsection (6)
18 available, then for tax years that begin on or after January 1,
19 2015 and end before January 1, 2017 a taxpayer may claim a credit
20 of up to 75% of the costs incurred during each tax year that begins
21 on or after January 1, 2013 and ends before January 1, 2016 to
22 implement a sourcing program to utilize battery cells from a
23 business that has entered into an agreement under subsection (5)
24 for the construction of an integrative cell manufacturing facility.
25 Costs eligible for the credit under this subsection shall include
26 payments for battery pack and vehicle engineering and associated
27 design or integration including prototyping, facility, equipment or

1 component retooling, and vehicle regulatory certification and shall
2 include costs such as direct labor, purchases of capital equipment
3 at cost, expensed supplies, intellectual property licensing,
4 services, and financing, as determined and certified by the
5 Michigan economic growth authority. Any costs for which a credit is
6 claimed under this subsection shall not be included in costs and
7 expenses used for credits available under sections 403 and 405. The
8 Michigan economic growth authority may enter into more than 1
9 agreement under this subsection. The Michigan economic growth
10 authority shall not authorize more than an amount equal to 25% of
11 the previously issued credits available under subsection (6) as
12 determined under subsection (10) in total credits to all taxpayers
13 under this subsection. A single taxpayer shall not claim a credit
14 of more than \$12,500,000.00 per year for no more than 2 years. To
15 claim the credit under this subsection, a taxpayer must manufacture
16 at least 10,000 motor vehicles in each year a credit is claimed at
17 a facility in this state at which some of the costs eligible for a
18 credit under this subsection are or were incurred. An agreement
19 entered into under this subsection shall contain a repayment
20 provision that if the taxpayer relocates its battery pack assembly
21 facility for which credits are taken under subsection (7) outside
22 of this state during the term of the agreement or subsequently
23 substantially fails to meet the requirements of the agreement, as
24 determined by the Michigan economic growth authority, the taxpayer
25 shall have its credit reduced or terminated or have a percentage of
26 the amount previously claimed under this subsection added back to
27 the tax liability of the taxpayer in the year that the taxpayer

1 fails to comply with the agreement.

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

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

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

23 (11) The Michigan economic growth authority shall appoint a
24 review board to advise it about decisions concerning credits under
25 subsection (5). The review board shall be composed of not fewer
26 than 2 independent scientists. Additional experts may be sought on
27 an ad hoc basis to review business plans and addressable markets.

1 In making its recommendations, the review board shall give
2 preference to technologies presenting novel materials,
3 manufacturing, and performance qualities. The review board shall
4 also consider all of the following:

5 (a) Business activities related to advanced battery technology
6 occurring exclusively in Michigan.

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

9 (c) Scalability of manufacturing processes that are
10 established, are robust, and address strategic global automotive
11 market requirements.

12 (12) Credits under this section shall be taken after
13 nonrefundable credits available under this act. If a credit or the
14 sum of credits allowed under this section exceeds the tax liability
15 of the taxpayer for the tax year, the taxpayer may elect to have
16 that portion that exceeds the tax liability of the taxpayer
17 refunded or to have the excess carried forward to offset tax
18 liability in subsequent tax years for 10 years or until used up,
19 whichever occurs first. Amounts carried forward shall not affect
20 the maximum amount of credits that may be claimed in subsequent
21 years.

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

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

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

5 (c) If the taxpayer claims a credit under subsection (4), the
6 total dollar amount of the credits that may be claimed under
7 subsection (4).

8 (d) If a taxpayer claims a credit under subsection (5), 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 (5).

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

16 (v) A repayment provision that if the taxpayer subsequently
17 substantially fails to meet certain requirements of the agreement,
18 as determined by the Michigan economic growth authority, the
19 taxpayer may have its credit reduced or terminated or have a
20 percentage of the amount previously claimed under subsection (5)
21 added back to the tax liability of the taxpayer in the year that
22 the taxpayer fails to comply with the agreement.

23 (e) If a taxpayer claims a credit under subsection (6), 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 (6).

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

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

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

13 **(vii) A PROVISION THAT IF THE TAXPAYER FAILS TO CREATE 750 NEW**
14 **JOBS THE TAXPAYER SHALL HAVE ITS CREDIT REDUCED BY \$65,000.00 FOR**
15 **EACH JOB LESS THAN 750 THAT WAS NOT CREATED AND THAT IF THE**
16 **TAXPAYER FAILS TO CREATE AT LEAST 500 NEW JOBS A PROVISION**
17 **REGARDING AN ADDITIONAL CLAWBACK OF ANY CREDIT OR BENEFIT RECEIVED**
18 **PURSUANT TO THE AGREEMENT.**

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

21 (i) A provision that the taxpayer agrees to make a good faith
22 effort to utilize Michigan suppliers and vendors when purchasing
23 components and services related to the production of advanced
24 lithium ion battery packs for which a credit is claimed in the
25 2012, 2013, and 2014 tax years. For a credit during the 2015 and
26 2016 tax years, a provision that the taxpayer shall utilize cells
27 from a business that has entered into an agreement under subsection

1 (5) for the construction of an integrative cell manufacturing
2 facility.

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

16 (iii) The minimum number of advanced lithium ion battery packs
17 to be manufactured to be eligible for a credit for each tax year
18 covered by the period of the agreement and the maximum amount of
19 the credit that may be claimed by the taxpayer in each tax year.

20 (iv) The capital investment that qualifies for the credit under
21 subsection (7).

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

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

1 credit under this section is claimed. The certificate required
2 under this subsection shall state all of the following:

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

5 (b) The taxpayer's federal employer identification number or
6 the Michigan department of treasury number assigned to the taxpayer
7 and, for a taxpayer that is a unitary business group, the federal
8 employer identification number or Michigan department of treasury
9 number assigned to the member of the group engaged in this state in
10 activity that qualifies for a credit under this section.

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

16 (d) For credits available under subsections (3), (4), (5),
17 (6), (7), and (9), the amount of the credit available for the tax
18 year and such other information as may be required by the
19 department.

20 (15) As used in this section:

21 (a) "Advanced automotive battery technology" means a
22 rechargeable lithium battery that supports vehicle propulsion or
23 other advanced technologies as may be further defined by the
24 Michigan economic growth authority.

25 (b) "Advanced lithium ion battery pack" means an assembled
26 unit of battery cells containing rechargeable lithium ion chemistry
27 designed and mass-produced for the purpose of transportation,

1 including defense and commercial applications.

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

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

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

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

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

18 (ii) Is equipped with an electrical plug by means of which it
19 can be energized and recharged when plugged into an external source
20 of power.

21 (iii) Consists of standardized configuration and is mass-
22 produced.

23 (iv) Has been tested and approved by the national highway
24 transportation safety administration as compliant with applicable
25 motor vehicle and motor vehicle equipment safety standards when
26 installed by a mechanic with standardized training in protocols
27 established by the manufacturer as part of a nationwide

1 distribution program.

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

5 (g) "Qualified advanced battery engineering expenses" means
6 that part of a taxpayer's qualified research expenses as defined
7 under section 41(b) of the internal revenue code related to
8 engineering research and development related to advanced automotive
9 battery technology.

10 (h) "Qualified expenses for vehicle engineering" means that
11 part of a taxpayer's expenses for activities within this state
12 related to integrating batteries into a motor vehicle that would
13 qualify for the credit under section 30D of the internal revenue
14 code including such qualified research expenses as defined under
15 section 41(b) of the internal revenue code.

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