

HOUSE BILL No. 5275

August 19, 2009, Introduced by Rep. Lisa Brown and referred to the Committee on New Economy and Quality of Life.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 434 (MCL 208.1434), as amended by 2009 PA 26.

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
7 that job growth from battery technology and commercial production
8 develops alongside advanced vehicle technology development and

1 renewable power generation initiatives both within and outside the
2 transportation sector.

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

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

1 exceed \$40,000,000.00.

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

19 (c) For tax years beginning after December 31, 2012 and ending
20 before January 1, 2014, \$375.00 for an equivalent of 4 kilowatt
21 hours of battery capacity plus \$93.75 for each kilowatt hour of
22 battery capacity in excess of 4 kilowatt hours not to exceed
23 \$1,500.00 for each plug-in traction battery pack. The total number
24 of traction battery packs shall not exceed 40,000 plug-in traction
25 battery pack units under this subdivision, and the total amount of
26 credits allowed under this subdivision shall not exceed
27 \$43,000,000.00. A single taxpayer shall not claim a credit for more

1 than 25,000 plug-in traction battery pack units under this
2 subdivision.

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

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

1 available to the taxpayer only for the following percentages of the
2 total authorized annual expenses:

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

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

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

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

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

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

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

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

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

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

1 this subsection shall not be included in costs and expenses used
2 for credits available under sections 403 and 405.

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

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

1 (a) Business activities related to advanced battery technology
2 occurring exclusively in Michigan.

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

5 (c) Scalability of manufacturing processes that are
6 established, are robust, and address strategic global automotive
7 market requirements.

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

18 (8) An agreement entered into for tax credits under this
19 section shall specify all of the following:

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

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

1 (c) If the taxpayer claims a credit under subsection (4), the
2 total dollar amount of the credits that may be claimed under
3 subsection (4).

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

6 (i) The location of the facility.

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

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

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

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

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

20 (b) The taxpayer's federal employer identification number or
21 the Michigan department of treasury number assigned to the taxpayer
22 and, for a taxpayer that is a unitary business group, the federal
23 employer identification number or Michigan department of treasury
24 number assigned to the member of the group engaged in this state in
25 the manufacturing of plug-in traction battery packs.

26 (c) If applicable, the number of plug-in traction battery
27 packs manufactured by the taxpayer during the designated tax year

1 and the amount of the credit under this section for which the
2 taxpayer is allowed to claim for the designated tax year.

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

6 (10) As used in this section:

7 (a) "Advanced automotive battery technology" means a
8 rechargeable lithium battery that supports vehicle propulsion or
9 other advanced technologies as may be further defined by the
10 Michigan economic growth authority.

11 (b) "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 (c) "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 (d) "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 (e) "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 (f) "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 (g) "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 (h) "Traction battery capacity" is the number of kilowatt
26 hours measured from a 100% state of charge to a 0% state of charge.