

**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
7 that job growth from battery technology and commercial production
8 develops alongside advanced vehicle technology development and
9 renewable power generation initiatives both within and outside the

1 transportation sector.

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

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

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

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

1 subdivision.

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

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

1 total authorized annual expenses:

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

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

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

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

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

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

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

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

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

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

1 for credits available under sections 403 and 405.

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

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

1 may be entered into under this subsection, and the maximum
2 allowable credit under the agreement shall not exceed
3 \$25,000,000.00 per year for no more than 4 years. No credit shall
4 be claimed in a tax year beginning before 2012. The Michigan
5 economic growth authority shall not adopt a resolution authorizing
6 an agreement to provide a credit under this subsection after March
7 1, 2010.

8 (7) The Michigan economic growth authority shall appoint a
9 review board to advise it about decisions concerning credits under
10 subsection (5). The review board shall be composed of not fewer
11 than 2 independent scientists. Additional experts may be sought on
12 an ad hoc basis to review business plans and addressable markets.
13 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 (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 (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 FAILS TO MEET CERTAIN REQUIREMENTS OF THE AGREEMENT, AS DETERMINED
3 BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, THE TAXPAYER MAY HAVE
4 ITS CREDIT REDUCED OR TERMINATED OR HAVE A PERCENTAGE OF THE AMOUNT
5 PREVIOUSLY CLAIMED UNDER SUBSECTION (5) ADDED BACK TO THE TAX
6 LIABILITY OF THE TAXPAYER IN THE YEAR THAT THE TAXPAYER FAILS TO
7 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 fails to meet the requirements of the agreement, the taxpayer may,
20 as determined by the Michigan economic growth authority, have its
21 credit reduced or terminated or have a percentage of the amount
22 previously claimed under subsection (6) added back to the tax
23 liability of the taxpayer in the year that the taxpayer fails to
24 comply with the agreement.

25 (10) A taxpayer shall not claim a credit under this section
26 unless the Michigan economic growth authority has issued a
27 certificate to the taxpayer. The taxpayer shall attach the

1 certificate to the annual return filed under this act on which a
2 credit under this section is claimed. The certificate required
3 under this subsection shall state all of the following:

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

6 (b) The taxpayer's federal employer identification number or
7 the Michigan department of treasury number assigned to the taxpayer
8 and, for a taxpayer that is a unitary business group, the federal
9 employer identification number or Michigan department of treasury
10 number assigned to the member of the group engaged in this state in
11 the manufacturing of plug-in traction battery packs.

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

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

19 (11) As used in this section:

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

24 (b) "Battery cell" means the basic electrochemical unit that
25 provides a source of electrical energy by direct conversion of
26 chemical energy and consists of an assembly of electrodes,
27 separators, electrolyte, container, and terminals.

1 (c) "Capital investment" means expenses incurred during the
2 tax year and included in an agreement under this section that are
3 associated with facilities, equipment, tooling and engineering, and
4 manufacturing, including salaries, contract services, taxes,
5 utilities, raw materials, and supplies.

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

9 (e) "Plug-in traction battery pack" means an electrochemical
10 energy storage device that meets the following requirements:

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

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

16 (iii) Consists of standardized configuration and is mass-
17 produced.

18 (iv) Has been tested and approved by the national highway
19 transportation safety administration as compliant with applicable
20 motor vehicle and motor vehicle equipment safety standards when
21 installed by a mechanic with standardized training in protocols
22 established by the manufacturer as part of a nationwide
23 distribution program.

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

27 (f) "Qualified advanced battery engineering expenses" means

1 that part of a taxpayer's qualified research expenses as defined
2 under section 41(b) of the internal revenue code related to
3 engineering research and development related to advanced automotive
4 battery technology.

5 (g) "Qualified expenses for vehicle engineering" means that
6 part of a taxpayer's expenses for activities within this state
7 related to integrating batteries into a motor vehicle that would
8 qualify for the credit under section 30D of the internal revenue
9 code including such qualified research expenses as defined under
10 section 41(b) of the internal revenue code.

11 (h) "Traction battery capacity" is the number of kilowatt
12 hours measured from a 100% state of charge to a 0% state of charge.