

# HOUSE BILL No. 4515

March 4, 2009, Introduced by Reps. Slavens, Roberts, Valentine, Nathan, Kandrevas, Corriveau, Smith, Segal, Spade, Gonzales, Gregory, Neumann, Lisa Brown, Roy Schmidt, Ebli, Durhal, Melton, Huckleberry, Barnett, Haase, Kennedy, Tlaib, Switalski, Slezak, Scripps, Constan, Dean, Polidori, Warren, McDowell, Clemente, Nerat, Bauer, Bledsoe, Donigan, Miller, Geiss, Liss, Lipton, Terry Brown and Espinoza and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 434 (MCL 208.1434), as added by 2008 PA 580.

## 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 ~~\$70,000,000.00~~ **\$90,000,000.00** in total  
23 credits to all taxpayers under this subsection. To claim the credit  
24 under this subsection, a taxpayer must manufacture a cumulative  
25 total of at least 1,000 motor vehicles that would qualify for the  
26 credit under section 30D of the internal revenue code and the  
27 credit shall be available to the taxpayer only for the following

percentages of the total authorized annual expenses:

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

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

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

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

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

(4) For tax years that begin on or after January 1, 2012 and end before January 1, 2015, a taxpayer that has entered into an agreement with the Michigan economic growth authority that provides that the taxpayer will increase its engineering activities in this state for advanced automotive battery technologies may claim a credit under this subsection. A taxpayer's qualified advanced 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 battery engineering expenses of an authorized business  
10 incurred during tax years beginning on or after January 1, 2009 and  
11 ending before January 1, 2014. The taxpayer must submit to the  
12 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 **AND**  
8 **WILL MAKE ALL REASONABLE EFFORTS TO USE, WITHIN 3 YEARS OF**  
9 **COMMENCEMENT OF ITS OPERATIONS, SUPPLIERS THAT ARE LOCATED WITHIN**  
10 **THE 50-MILE RADIUS OF THE TAXPAYER. THE AGREEMENT WITH THE MICHIGAN**  
11 **ECONOMIC GROWTH AUTHORITY SHALL INCLUDE A STRATEGY TO ATTRACT THOSE**  
12 **SUPPLIERS AND A PLAN TO IMPLEMENT THAT STRATEGY.** Not more than  $\pm$   
13 ~~agreement~~ **3 AGREEMENTS** may be entered into under this section, and  
14 the maximum allowable credit under ~~that~~ **EACH** agreement shall not  
15 exceed \$25,000,000.00 per year for no more than 4 years. No credit  
16 shall be claimed in a tax year beginning before 2012. However, tax  
17 credits may be based on expenses incurred in this state in prior  
18 years. The Michigan economic growth authority shall not ~~enter into~~  
19 ~~an agreement~~ **ADOPT A RESOLUTION AUTHORIZING AN AGREEMENT TO PROVIDE**  
20 **CREDITS** under this subsection after August 1, 2009.

21 (6) The Michigan economic growth authority shall appoint a  
22 review board to advise it about decisions concerning credits under  
23 subsection (5). The review board shall be composed of not fewer  
24 than 2 representatives from automotive manufacturers and 2  
25 independent scientists. Additional experts may be sought on an ad  
26 hoc basis to review business plans and addressable markets. In  
27 making its recommendations, the review board shall give preference

1 to technologies presenting novel materials, manufacturing, and  
2 performance qualities. The review board shall also consider all of  
3 the following:

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

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

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

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

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

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

27 (b) If the taxpayer claims a credit under subsection (3), the



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

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

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

9 (i) The location of the facility.

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

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

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

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

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

23 (b) The taxpayer's federal employer identification number or  
24 the Michigan department of treasury number assigned to the taxpayer  
25 and, for a taxpayer that is a unitary business group, the federal  
26 employer identification number or Michigan department of treasury  
27 number assigned to the member of the group engaged in this state in

1 the manufacturing of plug-in traction battery packs.

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

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

9 (10) As used in this section:

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

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

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

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

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

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

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

6 (iii) Consists of standardized configuration and is mass-  
7 produced.

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

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

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

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

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