

# SENATE BILL No. 1166

March 4, 2008, Introduced by Senators KUIPERS, KAHN, BROWN, HARDIMAN, BARCIA, PAPPAGEORGE and RICHARDVILLE and referred to the Committee on Energy Policy and Public Utilities.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
(MCL 208.1101 to 208.1601) by adding section 451.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 451. (1) A QUALIFIED TAXPAYER MAY CLAIM A CREDIT AGAINST  
2 THE TAX IMPOSED BY THIS ACT EQUAL TO 1 OR BOTH OF THE FOLLOWING:

3           (A) THE NUMBER OF TONS OF ELIGIBLE REDUCTIONS IN EMISSIONS OF  
4 CARBON DIOXIDE MULTIPLIED BY THE PER TON MARKET PRICE FOR COMMODITY  
5 CARBON DIOXIDE.

6           (B) THE ANNUAL CAPACITY IN TONS OF CRITICAL CARBON DIOXIDE  
7 SEQUESTRATION INFRASTRUCTURE INCLUDING, BUT NOT LIMITED TO, CARBON  
8 DIOXIDE PIPELINES AND OTHER RELATED EQUIPMENT DEVELOPED BY THE  
9 TAXPAYER MULTIPLIED BY THE PER TON MARKET PRICE FOR COMMODITY

1 CARBON DIOXIDE.

2 (2) A QUALIFIED TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A  
3 CREDIT UNDER THIS SUBSECTION. AN APPLICATION UNDER THIS SUBSECTION  
4 SHALL STATE THE AMOUNT OF ELIGIBLE REDUCTIONS THE QUALIFIED  
5 TAXPAYER WILL MAKE IN THE TAX YEAR AND THE CORRESPONDING AMOUNT OF  
6 A CREDIT FOR WHICH THE QUALIFIED TAXPAYER IS APPLYING. THE  
7 DEPARTMENT SHALL APPROVE OR DENY AN APPLICATION UNDER THIS  
8 SUBSECTION NOT MORE THAN 45 DAYS AFTER RECEIPT OF THE APPLICATION.  
9 IF THE DEPARTMENT DOES NOT APPROVE OR DENY AN APPLICATION WITHIN 45  
10 DAYS AFTER THE APPLICATION IS RECEIVED BY THE DEPARTMENT, THE  
11 APPLICATION IS CONSIDERED APPROVED AS WRITTEN. IF THE DEPARTMENT  
12 APPROVES AN APPLICATION FOR A CREDIT UNDER THIS SECTION, THE  
13 DEPARTMENT SHALL ISSUE AN APPROVAL LETTER THAT STATES THAT THE  
14 TAXPAYER IS A QUALIFIED TAXPAYER AND THE MAXIMUM TOTAL CREDIT THE  
15 QUALIFIED TAXPAYER IS ELIGIBLE TO CLAIM IN THE TAX YEAR. IF AN  
16 APPLICATION IS DENIED UNDER THIS SUBSECTION, A TAXPAYER IS NOT  
17 PROHIBITED FROM SUBSEQUENTLY APPLYING FOR A CREDIT UNDER THIS  
18 SECTION FOR ANOTHER TAX YEAR. APPROVAL LETTERS SHALL BE ISSUED TO  
19 QUALIFIED TAXPAYERS IN THE ORDER IN WHICH THE APPLICATIONS ARE  
20 RECEIVED UNTIL THE MAXIMUM TOTAL AMOUNT OF CREDITS FOR THE CALENDAR  
21 YEAR HAS BEEN APPROVED.

22 (3) THE MAXIMUM TOTAL AMOUNT OF A CREDIT FOR ANY 1 TAX YEAR  
23 FOR EACH QUALIFIED TAXPAYER IS \$20,000,000.00 PER QUALIFIED  
24 FACILITY.

25 (4) THE DEPARTMENT SHALL APPROVE A MAXIMUM TOTAL AMOUNT OF ALL  
26 CREDITS UNDER THIS SECTION EQUAL TO \$250,000,000.00 EACH CALENDAR  
27 YEAR. OF THE TOTAL AMOUNT AVAILABLE EACH CALENDAR YEAR, 10% SHALL

1 BE APPROVED FOR CRITICAL CARBON DIOXIDE SEQUESTRATION  
2 INFRASTRUCTURE, INCLUDING, BUT NOT LIMITED TO, CARBON DIOXIDE  
3 PIPELINES AND OTHER RELATED EQUIPMENT.

4 (5) THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE CALCULATED  
5 AFTER THE APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS ACT.

6 (6) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR  
7 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS  
8 SECTION EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,  
9 THE EXCESS SHALL NOT BE REFUNDED, BUT MAY BE CARRIED FORWARD AS AN  
10 OFFSET TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 3 TAX YEARS  
11 OR UNTIL THE EXCESS CREDIT IS USED UP, WHICHEVER OCCURS FIRST.

12 (7) THE DEPARTMENT SHALL DEVELOP POLICIES AND PROCEDURES TO  
13 IMPLEMENT THIS SECTION NOT LATER THAN MARCH 7, 2008. THE POLICIES  
14 AND PROCEDURES SHALL ADDRESS ALL OF THE FOLLOWING:

15 (A) MONITORING, REPORTING, AND INDEPENDENT THIRD PARTY  
16 VERIFICATION OF THE CAPTURE AND GEOLOGIC SEQUESTRATION OF CARBON  
17 DIOXIDE IN THIS STATE.

18 (B) REVIEW AND APPROVAL OF APPLICATION FOR CREDITS UNDER THIS  
19 SECTION INCLUDING, BUT NOT LIMITED TO, CRITERIA FOR ALL OF THE  
20 FOLLOWING:

21 (i) VOLUME OF CARBON DIOXIDE SEQUESTERED.

22 (ii) SEQUESTRATION RESERVOIR AND FORMATION TYPE.

23 (iii) SEQUESTRATION ZONE DEPTH.

24 (iv) SEAL CHARACTERISTICS AND QUALITY.

25 (v) WELL DENSITY.

26 (vi) CARBON DIOXIDE INJECTION RATE PER INJECTION WELL.

27 (C) DEVELOPMENT OF A DATABASE FOR TRACKING EMISSION REDUCTIONS

1 AND GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE IN THIS STATE.

2 (8) THE DEPARTMENT SHALL EVALUATE THE MARKET PRICING STRUCTURE  
3 FOR COMMODITY CARBON DIOXIDE ONCE EVERY 2 YEARS BEGINNING IN 2010  
4 AND MAKE ADJUSTMENTS TO REFLECT FUTURE DEVELOPMENTS IN CARBON  
5 DIOXIDE MARKETS IN THIS STATE, IN THE UNITED STATES, AND  
6 INTERNATIONALLY.

7 (9) THE DEPARTMENT SHALL REPORT TO THE LEGISLATURE ON THE  
8 STATUS OF CARBON DIOXIDE GEOLOGIC SEQUESTRATION IN THIS STATE.

9 (10) AS USED IN THIS SECTION:

10 (A) "DIRECT EMISSION REDUCTIONS" MEANS EMISSION REDUCTIONS  
11 ACHIEVED AT A QUALIFIED FACILITY.

12 (B) "ELIGIBLE REDUCTIONS IN EMISSIONS OF CARBON DIOXIDE" MEANS  
13 THE VOLUNTARY REDUCTIONS IN EMISSIONS OF CARBON DIOXIDE THAT ARE  
14 SEQUESTERED WITHIN THIS STATE IN THE TAX YEAR IF THE DEPARTMENT  
15 DETERMINES THAT THE VOLUNTARY REDUCTIONS IN EMISSIONS OF CARBON  
16 DIOXIDE THAT ARE SEQUESTERED WITHIN THIS STATE ARE REAL,  
17 VERIFIABLE, PERMANENT, AND DOCUMENTED. VOLUNTARY REDUCTIONS IN  
18 EMISSIONS OF CARBON DIOXIDE THAT ARE SEQUESTERED WITHIN THIS STATE  
19 INCLUDE BOTH DIRECT EMISSION REDUCTIONS AND INDIRECT EMISSION  
20 REDUCTIONS.

21 (C) "INDIRECT EMISSION REDUCTIONS" MEANS EMISSION REDUCTIONS  
22 THAT ARE NOT ACHIEVED AT A QUALIFIED FACILITY BUT ARE ACQUIRED BY  
23 THE TAXPAYER BY CONTRACT. INDIRECT EMISSION REDUCTIONS INCLUDE  
24 SEQUESTERED CARBON DIOXIDE EMISSIONS AND REDUCTIONS IN EMISSIONS OF  
25 CARBON DIOXIDE ACHIEVED AT THE QUALIFIED FACILITY OF A QUALIFIED  
26 TAXPAYER THAT IS NOT THE FACILITY OF THE QUALIFIED TAXPAYER THAT IS  
27 USING THE REDUCTION IN EMISSIONS OF CARBON DIOXIDE TO CALCULATE A

1 CREDIT UNDER THIS SECTION.

2 (D) "PER TON MARKET PRICE FOR COMMODITY CARBON DIOXIDE" MEANS,  
3 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE CLOSING PRICE  
4 FOR 1 ALLOWANCE IN THE EUROPEAN UNION EMISSIONS TRADING SYSTEM  
5 EQUIVALENT TO 1 METRIC TON OF CARBON DIOXIDE ON DECEMBER 31 OR  
6 \$50.00 PER METRIC TON OF CARBON DIOXIDE, WHICHEVER IS GREATER. FOR  
7 A QUALIFIED FACILITY THAT HAS A CLASSIFICATION WITH A NORTH  
8 AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) OF 3361 OR 3363,  
9 PER TON MARKET PRICE FOR COMMODITY CARBON DIOXIDE MEANS TWICE THE  
10 CLOSING PRICE FOR 1 ALLOWANCE IN THE EUROPEAN UNION EMISSIONS  
11 TRADING SYSTEM ON DECEMBER 31 OR \$100.00 PER METRIC TON OF CARBON  
12 DIOXIDE, WHICHEVER AMOUNT IS GREATER.

13 (E) "QUALIFIED FACILITY" MEANS A FEE-SUBJECT FACILITY AS THAT  
14 TERM IS DEFINED IN SECTION 5501 OF THE NATURAL RESOURCES AND  
15 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.5501.

16 (F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT MEETS EITHER OF  
17 THE FOLLOWING CRITERIA:

18 (i) OWNS OR OPERATES A QUALIFIED FACILITY THAT ANNUALLY EMITS  
19 AT LEAST 10,000 METRIC TONS OF CARBON DIOXIDE.

20 (ii) OWNS OR OPERATES AN INDUSTRIAL FACILITY THAT VOLUNTARILY  
21 ACHIEVES AT LEAST 10,000 METRIC TONS OF ELIGIBLE REDUCTIONS IN  
22 EMISSIONS OF CARBON DIOXIDE.

23 (G) "SEQUESTERED CARBON DIOXIDE EMISSIONS" MEANS THE INJECTION  
24 OF CARBON DIOXIDE INTO GEOLOGIC FORMATIONS, INCLUDING, BUT NOT  
25 LIMITED TO, OIL RESERVOIRS, COAL SEAMS, NATURAL GAS RESERVOIRS, OR  
26 OTHER FORMATIONS.

27 Enacting section 1. This amendatory act takes effect January

1 1, 2008.