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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2456

02/27/2014 Authored by Poppe, Hamilton, Anzelc, Gunther and Murphy, E., The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to agriculture; creating a renewable chemical and advanced biofuel
1.3 capital equipment loan program; creating an advanced biofuel production
1.4 incentive program; establishing a renewable chemical production incentive
1.5 program; establishing a biomass production incentive program; appropriating
1.6 money; proposing coding for new law in Minnesota Statutes, chapter 41A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. [41A.107] RENEWABLE CHEMICAL AND ADVANCED BIOFUEL
1.9 CAPITAL EQUIPMENT LOANS.

1.10 (a) There is established a renewable chemical and advanced biofuel revolving loan
1.11 fund that is eligible to receive appropriations and make loans under this section. The
1.12 commissioner shall establish a renewable chemical and advanced biofuel loan program
1.13 to make loans for capital equipment to persons participating in advanced biofuel and
1.14 renewable chemical production facilities. The commissioner, in consultation with the
1.15 board established in section 41A.105, subdivision 2, shall establish guidelines for loans
1.16 made under this section. All repayments of loans granted from this fund, including
1.17 principal and interest, must be deposited into this fund. Interest earned on money in the
1.18 fund accrues to the fund, and the money in the fund is appropriated to the commissioner to
1.19 make renewable chemical and advanced biofuel capital equipment loans under this section.

1.20 (b) The definitions in sections 41A.13, subdivision 2, and 41A.14, subdivision
1.21 2, apply to this section.

1.22 Sec. 2. [41A.13] ADVANCED BIOFUEL DEVELOPMENT.

2.1 Subdivision 1. **Appropriation.** A sum sufficient to make the payments required by  
2.2 this section is annually appropriated from the general fund to the commissioner, and all  
2.3 money so appropriated is available until expended.

2.4 Subd. 2. **Definitions.** (a) For the purposes of this section and sections 41A.107,  
2.5 41A.14, and 41A.15, the terms defined in this subdivision have the meanings given them.

2.6 (b) "Advanced biofuels" has the meaning given in section 239.051, subdivision 1a.

2.7 (c) "Cellulosic biomass" means material primarily made up of cellulose,  
2.8 hemicellulose, or lignin, or a combination of those ingredients.

2.9 (d) "Commissioner" means the commissioner of agriculture.

2.10 (e) "MMBtu" means one million British thermal units.

2.11 (f) "Qualifying facility" or "facility" means that a facility eligible for payment under  
2.12 this program must source at least 80 percent raw materials from Minnesota, and that  
2.13 raw materials must be from agricultural or forestry sources or from organic content of  
2.14 municipal solid waste. The production facility must be located in Minnesota and must not  
2.15 begin operation before January 1, 2015. Eligible facilities include existing companies and  
2.16 facilities that are adding additional production capacity, as well as new companies and  
2.17 facilities. For facilities that have previously received ethanol producer payments, only  
2.18 production capacity above and beyond their capacity at the end of calendar year 2013,  
2.19 and otherwise eligible, will be able to receive an incentive under this program. Advanced  
2.20 biofuel facilities must produce at least 950,000 MMBtu per year to be eligible for the  
2.21 program. Renewable chemical facilities must produce at least 30,000,000 pounds per year  
2.22 to be eligible for the program. Biomass thermal energy projects must produce at least  
2.23 7,500 MMBtu per year to be eligible for the program.

2.24 Subd. 3. **Advanced biofuel producer payments.** (a) The commissioner shall  
2.25 make cash payments to eligible producers of advanced biofuel for a qualifying facility  
2.26 located in the state that has begun production at a specific location by June 30, 2020. For  
2.27 the purpose of this subdivision, an entity that holds a controlling interest in more than  
2.28 one advanced biofuel facility is considered a single eligible producer. The amount of  
2.29 the payment for each eligible producer's annual production is \$2.1053 per MMBtu for  
2.30 advanced biofuel production from cellulosic biomass and \$1.053 per MMBtu for advanced  
2.31 biofuel production from sugar or starch at a specific location for ten years after the start  
2.32 of production. Agriculturally derived cellulosic biomass must be produced in a way that  
2.33 is consistent with recommendations from the United States Department of Agriculture,  
2.34 Natural Resources Conservation Service. All forestry-derived cellulosic biomass must  
2.35 be produced using Minnesota state biomass harvesting guidelines. Forestry-derived  
2.36 cellulosic biomass that comes from land parcels that are greater than 160 acres must be

3.1 certified by the Forest Stewardship Council, Sustainable Forestry Initiative, or American  
3.2 Tree Farmer. Uncertified land from parcels that are 160 acres or less must participate in  
3.3 the master logger education program and have a forest stewardship plan.

3.4 (b) No payments shall be made for advanced biofuel production that occurs after  
3.5 June 30, 2030, for those eligible biofuel producers under paragraph (a). An eligible  
3.6 producer of advanced biofuel shall not transfer the producer's eligibility for payments  
3.7 under this section to an advanced biofuel facility at a different location.

3.8 (c) Payments under paragraphs (a) and (b) to all eligible biofuel producers may  
3.9 not exceed \$30,000,000 in a fiscal year. Total payments under paragraphs (a) and (b) to  
3.10 an eligible biofuel producer in a fiscal year may not exceed the amount necessary for  
3.11 2,850,000 MMBtu of biofuel production.

3.12 (d) By the last day of October, January, April, and July, each eligible biofuel producer  
3.13 shall file a claim for payment for advanced biofuel production during the preceding three  
3.14 calendar months. An eligible biofuel producer that files a claim under this subdivision shall  
3.15 include a statement of the eligible biofuel producer's total advanced biofuel production in  
3.16 Minnesota during the quarter covered by the claim. For each claim and statement of total  
3.17 advanced biofuel production filed under this subdivision, the volume of advanced biofuel  
3.18 production must be examined by an independent certified public accountant in accordance  
3.19 with standards established by the American Institute of Certified Public Accountants.

3.20 (e) Payments must be made November 15, February 15, May 15, and August 15. A  
3.21 separate payment must be made for each claim filed. The total quarterly payment to an  
3.22 eligible producer under this paragraph may not exceed the amount necessary for 712,500  
3.23 MMBtu of biofuel production.

3.24 (f) If an eligible biofuel producer becomes ineligible within five years after the  
3.25 last payment has been received under paragraph (a), all payments received for biofuel  
3.26 production must be refunded to the commissioner. Refunded payments received under this  
3.27 paragraph shall be deposited in the general fund.

3.28 (g) Annually, within 90 days of the end of its fiscal year, an advanced biofuel  
3.29 producer receiving payments under this subdivision must file a disclosure statement on  
3.30 a form provided by the commissioner. The initial disclosure statement must include a  
3.31 summary description of the organization of the business structure of the claimant, a listing  
3.32 of the percentages of ownership and governance by any person or other entity with an  
3.33 ownership interest or governance rights of five percent or greater, and a copy of its  
3.34 annual audited financial statements, including the auditor's report and footnotes. This  
3.35 data must be made available to the commissioner upon request. No later than February  
3.36 15 of each year, the commissioner shall deliver to the chairs of the standing committees

4.1 of the senate and the house of representatives with jurisdiction over agricultural policy  
4.2 and agricultural finance an annual report summarizing aggregated and facility data  
4.3 from facilities receiving payments under this section during the preceding calendar  
4.4 year. Audited financial statements and notes and disclosure statements submitted to the  
4.5 commissioner are nonpublic data under section 13.02, subdivision 9. Notwithstanding the  
4.6 provisions of chapter 13 relating to nonpublic data, summaries of the submitted audited  
4.7 financial reports and notes and disclosure statements must be contained in the report to  
4.8 the committee chairs and are public data.

4.9 (h) Renewable chemical production for which payment has been received under  
4.10 section 41A.14, and biomass thermal production for which payment has been received  
4.11 under section 41A.15, are not eligible for payment under this section.

4.12 **Sec. 3. [41A.14] RENEWABLE CHEMICAL PRODUCTION INCENTIVE.**

4.13 Subdivision 1. **Appropriation.** A sum sufficient to make the payments required by  
4.14 this section is annually appropriated from the general fund to the commissioner, and all  
4.15 money so appropriated is available until expended.

4.16 Subd. 2. **Definitions.** (a) The definitions this subdivision and section 41A.13,  
4.17 subdivision 2, apply to this section.

4.18 (b) "Cellulosic sugar" means sugar derived from lignocellulosic materials from  
4.19 agricultural or forestry resources.

4.20 (c) "Qualifying facility" or "facility" means that a facility eligible for payment under  
4.21 this program must source at least 80 percent raw materials from Minnesota, and that  
4.22 raw materials must be from agricultural or forestry sources or from organic content of  
4.23 municipal solid waste. The production facility must be located in Minnesota and must not  
4.24 begin operation before January 1, 2015. Eligible facilities include existing companies and  
4.25 facilities that are adding additional production capacity, as well as new companies and  
4.26 facilities. For facilities that have previously received ethanol producer payments, only  
4.27 production capacity above and beyond their capacity at the end of calendar year 2013, and  
4.28 otherwise eligible, will be able to receive an incentive under this program.

4.29 (d) "Renewable chemical" means a chemical with biobased content as defined in  
4.30 section 41A.105, subdivision 1a.

4.31 Subd. 3. **Renewable chemical producer payments.** (a) The commissioner shall  
4.32 make cash payments to eligible producers of renewable chemicals for a qualifying facility  
4.33 located in the state that has begun production at a specific location by June 30, 2020.  
4.34 For the purpose of this subdivision, an entity that holds a controlling interest in more  
4.35 than one renewable chemical production facility is considered a single eligible producer.

5.1 The amount of the payment for each producer's annual production is \$0.03 per pound  
5.2 of sugar-derived renewable chemical, \$0.03 per pound of cellulosic sugar, and \$0.06  
5.3 per pound of cellulosic-derived renewable chemical produced at a specific location for  
5.4 ten years after the start of production. Agriculturally derived cellulosic biomass must  
5.5 be produced in a way that is consistent with recommendations from the United States  
5.6 Department of Agriculture, Natural Resources Conservation Service. All forestry-derived  
5.7 cellulosic biomass must be produced using Minnesota state biomass harvesting guidelines.  
5.8 Forestry-derived cellulosic biomass that comes from land parcels that are greater than 160  
5.9 acres must be certified by the Forest Stewardship Council, Sustainable Forestry Initiative,  
5.10 or American Tree Farmer. Uncertified land from parcels that are 160 acres or less must  
5.11 participate in the master logger education program and have a forest stewardship plan.

5.12 (b) No payments shall be made for renewable chemical production that occurs after  
5.13 June 30, 2030, for those eligible renewable chemical producers under paragraph (a). An  
5.14 eligible producer of renewable chemicals shall not transfer the producer's eligibility for  
5.15 payments under this section to a renewable chemical facility at a different location.

5.16 (c) Payments under paragraphs (a) and (b) to all eligible renewable chemical  
5.17 producers may not exceed \$30,000,000 in a fiscal year. Total payments under paragraphs  
5.18 (a) and (b) to an eligible renewable chemical producer in a fiscal year may not exceed the  
5.19 amount necessary for 99,999,999 pounds of renewable chemicals.

5.20 (d) By the last day of October, January, April, and July, each eligible renewable  
5.21 chemical producer shall file a claim for payment for renewable chemical production  
5.22 during the preceding three calendar months. An eligible renewable chemical producer  
5.23 that files a claim under this subdivision shall include a statement of the eligible producer's  
5.24 total renewable chemical production in Minnesota during the quarter covered by the  
5.25 claim. For each claim and statement of total renewable chemical production filed under  
5.26 this subdivision, the volume of renewable chemical production must be examined by an  
5.27 independent certified public accountant in accordance with standards established by the  
5.28 American Institute of Certified Public Accountants.

5.29 (e) Payments must be made November 15, February 15, May 15, and August 15.  
5.30 A separate payment must be made for each claim filed. The total quarterly payment  
5.31 to an eligible producer under this paragraph may not exceed the amount necessary for  
5.32 25,000,000 pounds of production.

5.33 (f) If an eligible renewable chemical producer becomes ineligible within five years  
5.34 after the last payment has been received under paragraph (a), all payments received  
5.35 for renewable chemical production must be refunded to the commissioner. Refunded  
5.36 payments received under this paragraph shall be deposited in the general fund.

6.1 (g) Annually, within 90 days of the end of its fiscal year, a renewable chemical  
6.2 producer receiving payments under this subdivision must file a disclosure statement on  
6.3 a form provided by the commissioner. The initial disclosure statement must include a  
6.4 summary description of the organization of the business structure of the claimant, a listing  
6.5 of the percentages of ownership and governance by any person or other entity with an  
6.6 ownership interest or governance rights of five percent or greater, and a copy of its  
6.7 annual audited financial statements, including the auditor's report and footnotes. This  
6.8 data must be made available to the commissioner upon request. No later than February  
6.9 15 of each year, the commissioner shall deliver to the chairs of the standing committees  
6.10 of the senate and the house of representatives with jurisdiction over agricultural policy  
6.11 and agricultural finance an annual report summarizing aggregated and facility data  
6.12 from facilities receiving payments under this section during the preceding calendar  
6.13 year. Audited financial statements and notes and disclosure statements submitted to the  
6.14 commissioner are nonpublic data under section 13.02, subdivision 9. Notwithstanding the  
6.15 provisions of chapter 13 relating to nonpublic data, summaries of the submitted audited  
6.16 financial reports and notes and disclosure statements must be contained in the report to  
6.17 the committee chairs and are public data.

6.18 (h) Advanced biofuel production for which payment has been received under section  
6.19 41A.13, and biomass thermal production for which payment has been received under  
6.20 section 41A.15, are not eligible for payment under this section.

6.21 **Sec. 4. [41A.15] BIOMASS THERMAL PRODUCTION INCENTIVE.**

6.22 Subdivision 1. **Appropriation.** A sum sufficient to make the payments required by  
6.23 this section is annually appropriated from the general fund to the commissioner, and all  
6.24 money so appropriated is available until expended.

6.25 Subd. 2. **Definitions.** (a) The definitions in this subdivision and section 41A.13,  
6.26 subdivision 2, apply to this section.

6.27 (b) "Biomass thermal production" means the generation of energy for commercial  
6.28 heat or industrial process heat from a cellulosic material or other material composed of  
6.29 forestry or agricultural feedstocks for a new or expanding capacity facility or a facility that  
6.30 is displacing existing use of fossil fuel after the effective date of this section.

6.31 (c) "Qualifying facility" or "facility" means that a facility eligible for payment under  
6.32 this program must source at least 80 percent raw materials from Minnesota, and that  
6.33 raw materials must be from agricultural or forestry sources or from organic content of  
6.34 municipal solid waste. The production facility must be located in Minnesota and must not  
6.35 begin operation before January 1, 2015. Eligible facilities include existing companies and

7.1 facilities that are adding additional production capacity, as well as new companies and  
7.2 facilities. For facilities that have previously received ethanol producer payments, only  
7.3 production capacity above and beyond their capacity at the end of calendar year 2013, and  
7.4 otherwise eligible, will be able to receive an incentive under this program.

7.5 Subd. 3. **Biomass thermal producer payments.** (a) The commissioner shall  
7.6 make cash payments to eligible producers of biomass thermal for a qualifying facility  
7.7 located in the state that has begun production at a specific location by June 30, 2020.  
7.8 For the purpose of this subdivision, an entity that holds a controlling interest in more  
7.9 than one biomass thermal production facility is considered a single eligible producer.  
7.10 The amount of the payment for each producer's annual production is \$5 per MMBtu of  
7.11 biomass thermal production produced at a specific location for three years after the start of  
7.12 production. Agriculturally derived cellulosic materials must be produced in a way that  
7.13 is consistent with recommendations from the United States Department of Agriculture,  
7.14 Natural Resources Conservation Service. All forestry-derived cellulosic biomass must  
7.15 be produced using Minnesota state biomass harvesting guidelines. Forestry-derived  
7.16 cellulosic biomass that comes from land parcels that are greater than 160 acres must  
7.17 be certified by the Forest Stewardship Council or the Sustainable Forestry Initiative.  
7.18 Uncertified land from parcels that are 160 acres or less must participate in the master  
7.19 logger education program and have a forest stewardship plan.

7.20 (b) No payments shall be made for biomass thermal production that occurs after June  
7.21 30, 2030, for those eligible biomass thermal producers under paragraph (a). A producer of  
7.22 biomass thermal production shall not transfer the producer's eligibility for payments under  
7.23 this section to a biomass thermal production facility at a different location.

7.24 (c) Total payments under paragraphs (a) and (b) to all producers may not exceed  
7.25 \$1,000,000 in a fiscal year. Total payments under paragraphs (a) and (b) to a producer  
7.26 in a fiscal year may not exceed \$100,000.

7.27 (d) A qualifying facility may blend a cellulosic biomass with other fuels in the  
7.28 biomass thermal production facility, but only the percentage attributable to cellulosic  
7.29 material listed is eligible to receive the producer payment.

7.30 (e) By the last day of October, January, April, and July, each producer shall file a  
7.31 claim for payment for biomass thermal production during the preceding three calendar  
7.32 months. A producer that files a claim under this subdivision shall include a statement of  
7.33 the producer's total biomass thermal production in Minnesota during the quarter covered  
7.34 by the claim. For each claim and statement of total biomass thermal production filed  
7.35 under this subdivision, the volume of biomass thermal production must be examined by

8.1 an independent certified public accountant in accordance with standards established by  
8.2 the American Institute of Certified Public Accountants.

8.3 (f) Payments shall be made November 15, February 15, May 15, and August 15. A  
8.4 separate payment shall be made for each claim filed.

8.5 (g) Advanced biofuel production for which payment has been received under section  
8.6 41A.13, and renewable chemical production for which payment has been received under  
8.7 section 41A.14, are not eligible for payment under this section.