

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3230

04/17/2023 Authored by Koegel
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to transportation; establishing a refundable sustainable aviation fuel tax
1.3 credit and related sales tax exemption; amending Minnesota Statutes 2022, sections
1.4 239.761, by adding a subdivision; 296A.01, by adding a subdivision; 296A.09,
1.5 subdivision 6; 297A.68, subdivision 19; 297A.71, by adding a subdivision;
1.6 297A.75, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes,
1.7 chapter 290.

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

1.9 Section 1. Minnesota Statutes 2022, section 239.761, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 10a. Sustainable aviation fuel. Sustainable aviation fuel, as defined under section
1.12 296A.01, subdivision 47a, must comply with either: (1) American Society for Testing and
1.13 Materials International Standard Specification D7566; or (2) the Fischer-Tropsch provisions
1.14 of American Society for Testing and Materials International Standard Specification D1655,
1.15 Annex A1.

1.16 EFFECTIVE DATE. This section is effective the day following final enactment.

1.17 Sec. 2. [290.0687] SUSTAINABLE AVIATION FUEL CREDIT.

1.18 Subdivision 1. Credit allowed; definitions. (a) A qualifying taxpayer is allowed a credit
1.19 against the tax imposed by this chapter equal to \$1.50 for each gallon of sustainable aviation
1.20 fuel, up to \$..... in a taxable year, that is:

1.21 (1) produced in Minnesota or blended with aviation gasoline or jet fuel in Minnesota;
1.22 and

2.1 (2) sold in Minnesota to a purchaser who certifies that the sustainable aviation fuel is
 2.2 for use as fuel in an aircraft departing from an airport in Minnesota.

2.3 (b) For purposes of this section, the following terms have the meanings given:

2.4 (1) "aircraft" has the meaning given in section 296A.01, subdivision 3;

2.5 (2) "aviation gasoline" has the meaning given in section 296A.01, subdivision 7;

2.6 (3) "jet fuel" has the meaning given in section 296A.01, subdivision 8;

2.7 (4) "qualifying taxpayer" means a taxpayer that is engaged in the business of:

2.8 (i) producing sustainable aviation fuel; or

2.9 (ii) blending sustainable aviation fuel with aviation gasoline or jet fuel; and

2.10 (5) "sustainable aviation fuel" has the meaning given in section 296A.01, subdivision
 2.11 47a.

2.12 (c) A qualifying taxpayer may claim a credit for blending or producing sustainable
 2.13 aviation fuel, but not both. If sustainable aviation fuel is blended with aviation gasoline or
 2.14 jet fuel, the credit is allowed only for the portion of sustainable aviation fuel that is included
 2.15 in the blended fuel.

2.16 Subd. 2. **Credit refundable.** If the amount of credit that an eligible taxpayer is allowed
 2.17 under this section exceeds the eligible taxpayer's tax liability under this chapter, the
 2.18 commissioner shall refund the excess to the eligible taxpayer.

2.19 Subd. 3. **Partnerships; multiple owners.** Credits granted to a partnership, a limited
 2.20 liability company taxed as a partnership, an S corporation, or multiple owners of property
 2.21 are passed through to the partners, members, shareholders, or owners, respectively, pro rata
 2.22 to each partner, member, shareholder, or owner based on their share of the entity's assets
 2.23 or as specially allocated in their organizational documents or any other executed agreement,
 2.24 as of the last day of the taxable year.

2.25 Subd. 4. **Application; manner of claiming.** The commissioner, in consultation with
 2.26 the commissioner of agriculture, shall prescribe the manner in which the credit may be
 2.27 claimed.

2.28 Subd. 5. **Appropriation.** An amount sufficient to pay the refunds required by this section
 2.29 is appropriated to the commissioner from the general fund.

2.30 Subd. 6. **Expiration.** This section expires January 1, 2035, for taxable years beginning
 2.31 after December 31, 2034.

3.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
3.2 31, 2023, and before January 1, 2035.

3.3 Sec. 3. Minnesota Statutes 2022, section 296A.01, is amended by adding a subdivision to
3.4 read:

3.5 Subd. 47a. **Sustainable aviation fuel.** "Sustainable aviation fuel" means liquid fuel that:

3.6 (1) meets the requirements of:

3.7 (i) the American Society for Testing and Materials International Standard Specification
3.8 D7566; or

3.9 (ii) the Fischer-Tropsch provisions of American Society for Testing and Materials
3.10 International Standard Specification D1655, Annex A1;

3.11 (2) is derived from biomass as defined in section 41A.15, subdivision 2e;

3.12 (3) is not derived from palm fatty acid distillates; and

3.13 (4) achieves at least a 50 percent life cycle greenhouse gas emissions reduction in
3.14 comparison with petroleum-based aviation gasoline, aviation turbine fuel, and jet fuel as
3.15 determined by a test that shows:

3.16 (i) that the fuel production pathway achieves at least a 50 percent life cycle greenhouse
3.17 gas emissions reduction in comparison with petroleum-based aviation gasoline, aviation
3.18 turbine fuel, and jet fuel utilizing the most recent version of Argonne National Laboratory's
3.19 REET model that accounts for reduced emissions throughout the fuel production process,
3.20 including carbon reductions in feedstock production to fuel combustion and practices such
3.21 as carbon capture and storage, renewable energy use, biomass combustion for fuel, and
3.22 others; or

3.23 (ii) that the fuel production pathway achieves at least a 50 percent reduction of the
3.24 aggregate attributional core life cycle emissions and the positive induced land use change
3.25 values under the life cycle methodology for sustainable aviation fuels adopted by the
3.26 International Civil Aviation Organization with the agreement of the United States.

3.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.28 Sec. 4. Minnesota Statutes 2022, section 296A.09, subdivision 6, is amended to read:

3.29 Subd. 6. **Exemptions.** (a) The provisions of subdivisions 1 and 2 do not apply to aviation
3.30 gasoline or jet fuel purchased by an ambulance service licensed under chapter 144E.

4.1 (b) The provisions of subdivisions 1 and 2 do not apply to sustainable aviation fuel.

4.2 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.3 Sec. 5. Minnesota Statutes 2022, section 297A.68, subdivision 19, is amended to read:

4.4 Subd. 19. **Petroleum products.** The following petroleum products are exempt:

4.5 (1) products upon which a tax has been imposed and paid under chapter 296A, and for
4.6 which no refund has been or will be allowed because the buyer used the fuel for nonhighway
4.7 use;

4.8 (2) products that are used in the improvement of agricultural land by constructing,
4.9 maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water
4.10 impoundment, and other erosion control structures;

4.11 (3) products purchased by a transit system receiving financial assistance under section
4.12 174.24, 256B.0625, subdivision 17, or 473.384;

4.13 (4) products purchased by an ambulance service licensed under chapter 144E;

4.14 (5) products used in a passenger snowmobile, as defined in section 296A.01, subdivision
4.15 39, for off-highway business use as part of the operations of a resort as provided under
4.16 section 296A.16, subdivision 2, clause (2);

4.17 (6) products purchased by a state or a political subdivision of a state for use in motor
4.18 vehicles exempt from registration under section 168.012, subdivision 1, paragraph (b);

4.19 (7) products purchased by providers of transportation to recipients of medical assistance
4.20 home and community-based services waivers enrolled in day programs, including adult day
4.21 care, family adult day care, day treatment and habilitation, prevocational services, and
4.22 structured day services;

4.23 (8) products used in a motor vehicle used exclusively as a mobile medical unit for the
4.24 provision of medical or dental services by a federally qualified health center, as defined
4.25 under title 19 of the federal Social Security Act, as amended by section 4161 of the Omnibus
4.26 Budget Reconciliation Act of 1990; ~~or~~

4.27 (9) special fuel used for one of the following purposes:

4.28 (i) to power a refrigeration unit mounted on a licensed motor vehicle, provided that the
4.29 unit has an engine separate from the one used to propel the vehicle and the fuel is used
4.30 exclusively for the unit;

5.1 (ii) to power an unlicensed motor vehicle that is used solely or primarily to move
5.2 semitrailers within a cargo yard, warehouse facility, or intermodal facility; or

5.3 (iii) to operate a power take-off unit or auxiliary engine in or on a licensed motor vehicle,
5.4 whether or not the unit or engine is fueled from the same or a different fuel tank as that
5.5 from which the motor vehicle is fueled; or

5.6 (10) sustainable aviation fuel, as defined under section 296A.01, subdivision 47a, for
5.7 sales and purchases made after June 30, 2024, and before July 1, 2034.

5.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.9 Sec. 6. Minnesota Statutes 2022, section 297A.71, is amended by adding a subdivision to
5.10 read:

5.11 **Subd. 54. Sustainable aviation fuel facilities.** (a) Materials and supplies used or
5.12 consumed in and equipment incorporated into the construction, reconstruction, or
5.13 improvement of a facility located in Minnesota that produces or blends sustainable aviation
5.14 fuel, as defined under section 296A.01, subdivision 47a, is exempt.

5.15 (b) The tax must be imposed and collected as if the rate under section 297A.62,
5.16 subdivision 1, applied and then refunded in the manner provided in section 297A.75.

5.17 (c) This subdivision expires July 1, 2034. The expiration does not affect refunds due for
5.18 sales and purchases made prior to July 1, 2034.

5.19 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
5.20 30, 2024, and before July 1, 2034.

5.21 Sec. 7. Minnesota Statutes 2022, section 297A.75, subdivision 1, is amended to read:

5.22 Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following
5.23 exempt items must be imposed and collected as if the sale were taxable and the rate under
5.24 section 297A.62, subdivision 1, applied. The exempt items include:

5.25 (1) building materials for an agricultural processing facility exempt under section
5.26 297A.71, subdivision 13;

5.27 (2) building materials for mineral production facilities exempt under section 297A.71,
5.28 subdivision 14;

5.29 (3) building materials for correctional facilities under section 297A.71, subdivision 3;

6.1 (4) building materials used in a residence for veterans with a disability exempt under
6.2 section 297A.71, subdivision 11;

6.3 (5) elevators and building materials exempt under section 297A.71, subdivision 12;

6.4 (6) materials and supplies for qualified low-income housing under section 297A.71,
6.5 subdivision 23;

6.6 (7) materials, supplies, and equipment for municipal electric utility facilities under
6.7 section 297A.71, subdivision 35;

6.8 (8) equipment and materials used for the generation, transmission, and distribution of
6.9 electrical energy and an aerial camera package exempt under section 297A.68, subdivision
6.10 37;

6.11 (9) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, paragraph
6.12 (a), clause (10);

6.13 (10) materials, supplies, and equipment for construction or improvement of projects and
6.14 facilities under section 297A.71, subdivision 40;

6.15 (11) materials, supplies, and equipment for construction, improvement, or expansion of
6.16 a biopharmaceutical manufacturing facility exempt under section 297A.71, subdivision 45;

6.17 (12) enterprise information technology equipment and computer software for use in a
6.18 qualified data center exempt under section 297A.68, subdivision 42;

6.19 (13) materials, supplies, and equipment for qualifying capital projects under section
6.20 297A.71, subdivision 44, paragraph (a), clause (1), and paragraph (b);

6.21 (14) items purchased for use in providing critical access dental services exempt under
6.22 section 297A.70, subdivision 7, paragraph (c);

6.23 (15) items and services purchased under a business subsidy agreement for use or
6.24 consumption primarily in greater Minnesota exempt under section 297A.68, subdivision
6.25 44;

6.26 (16) building materials, equipment, and supplies for constructing or replacing real
6.27 property exempt under section 297A.71, subdivisions 49; 50, paragraph (b); and 51;

6.28 (17) building materials, equipment, and supplies for qualifying capital projects under
6.29 section 297A.71, subdivision 52; ~~and~~

7.1 (18) building materials, equipment, and supplies for constructing, remodeling, expanding,
 7.2 or improving a fire station, police station, or related facilities exempt under section 297A.71,
 7.3 subdivision 53; and

7.4 (19) materials, supplies, and equipment used in the construction, reconstruction, or
 7.5 improvement of a facility producing or blending sustainable aviation fuel exempt under
 7.6 section 297A.71, subdivision 54.

7.7 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
 7.8 30, 2024.

7.9 Sec. 8. Minnesota Statutes 2022, section 297A.75, subdivision 2, is amended to read:

7.10 Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the
 7.11 commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must
 7.12 be paid to the applicant. Only the following persons may apply for the refund:

7.13 (1) for subdivision 1, clauses (1), (2), ~~and (14)~~, and (19), the applicant must be the
 7.14 purchaser;

7.15 (2) for subdivision 1, clause (3), the applicant must be the governmental subdivision;

7.16 (3) for subdivision 1, clause (4), the applicant must be the recipient of the benefits
 7.17 provided in United States Code, title 38, chapter 21;

7.18 (4) for subdivision 1, clause (5), the applicant must be the owner of the homestead
 7.19 property;

7.20 (5) for subdivision 1, clause (6), the owner of the qualified low-income housing project;

7.21 (6) for subdivision 1, clause (7), the applicant must be a municipal electric utility or a
 7.22 joint venture of municipal electric utilities;

7.23 (7) for subdivision 1, clauses (8), (11), (12), and (15), the owner of the qualifying
 7.24 business;

7.25 (8) for subdivision 1, clauses (9), (10), (13), (17), and (18), the applicant must be the
 7.26 governmental entity that owns or contracts for the project or facility; and

7.27 (9) for subdivision 1, clause (16), the applicant must be the owner or developer of the
 7.28 building or project.

7.29 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
 7.30 30, 2024.