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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, Murphy, E., and others

The bill was read for the first time and referred to the Committee on Agriculture Policy

03/17/2014 Adoption of Report: Amended and re-referred to the Committee on Environment, Natural Resources and Agriculture Finance

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; appropriating money; proposing coding for new law in Minnesota  
1.6 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 Subdivision 1. **Program.** (a) The commissioner shall establish a renewable chemical  
1.11 and advanced biofuel loan program to make loans for capital equipment purchases by  
1.12 persons participating in advanced biofuel, renewable chemical, and anaerobic digestion  
1.13 production facilities. The commissioner, in consultation with the commissioners of natural  
1.14 resources and employment and economic development, shall establish guidelines for  
1.15 loans issued under this section.

1.16 (b) The definitions in sections 41A.13, subdivision 2, and 41A.14, subdivision  
1.17 2, apply to this section.

1.18 Subd. 2. **Fund.** A renewable chemical and advanced biofuel capital equipment  
1.19 revolving loan fund is established in the state treasury. All repayments of loans granted  
1.20 from the fund, including principal and interest, must be deposited into the fund. Interest  
1.21 earned on money in the fund accrues to the fund. Money in the fund is appropriated to  
1.22 the commissioner to make renewable chemical and advanced biofuel capital equipment  
1.23 loans under this section.

1.24 Sec. 2. **[41A.13] ADVANCED BIOFUEL PRODUCTION INCENTIVE.**

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 and  
2.5 41A.14, the terms defined in this subdivision have the meanings given.

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

2.7 (c) "Anaerobic digestion" means a series of biological processes in which  
2.8 microorganisms break down biodegradable material in the absence of oxygen to produce a  
2.9 mixture of methane, carbon dioxide, and other trace gases.

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

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

2.12 (f) "Qualifying facility" or "facility" means a facility that satisfies the eligibility  
2.13 criteria in subdivision 3.

2.14 Subd. 3. **Eligibility.** An eligible facility must source at least 80 percent of its raw  
2.15 materials from Minnesota. Raw materials must be from an agricultural or forestry source  
2.16 or from the organic content of municipal solid waste. The facility must be located in  
2.17 Minnesota, must begin production at a specific location by June 30, 2020, and must not  
2.18 begin operation above 950,000 MMBtu of annual biofuel production before January 1,  
2.19 2015. Eligible facilities include existing facilities that are adding additional production  
2.20 capacity, as well as new facilities. Production of conventional corn ethanol, conventional  
2.21 biodiesel, and other fully commercial technologies is not eligible. An advanced biofuel  
2.22 facility must produce at least 950,000 MMBtu per year.

2.23 Subd. 4. **Advanced biofuel producer payments.** (a) The commissioner shall make  
2.24 cash payments to eligible producers of advanced biofuel at a qualifying facility. For  
2.25 the purpose of this subdivision, an entity that holds a controlling interest in more than  
2.26 one advanced biofuel facility is considered a single eligible producer. The amount of  
2.27 the payment for each eligible producer's annual production is \$2.1053 per MMBtu for  
2.28 advanced biofuel production from cellulosic biomass and \$1.053 per MMBtu for advanced  
2.29 biofuel production from sugar or starch at a specific location for ten years after the start of  
2.30 production. All forestry-derived biomass must be produced using Minnesota state biomass  
2.31 harvesting guidelines. All biomass from brushlands must be produced using Minnesota  
2.32 Brushland Harvesting Biomass Harvest Guidelines. Land that is larger than 160 acres and  
2.33 used to produce forestry-derived biomass must be certified by the Forest Stewardship  
2.34 Council, Sustainable Forestry Initiative, or American Tree Farm System. Uncertified land  
2.35 that is 160 acres or less and used to produce forestry-derived biomass must be harvested  
2.36 by a Minnesota Certified Master Logger and must have a forest stewardship plan.

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

3.5 (c) Total payments under this section to all eligible biofuel producers may not  
3.6 exceed \$15,000,000 in a fiscal year. Total payments under this section to an eligible  
3.7 biofuel producer in a fiscal year may not exceed the amount necessary for 2,850,000  
3.8 MMBtu of biofuel production.

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

3.18 (e) The commissioner must make payments by November 15, February 15, May 15,  
3.19 and August 15. The commissioner must issue a separate payment for each claim filed.  
3.20 The total quarterly payment to an eligible producer under this paragraph may not exceed  
3.21 the amount necessary for 712,500 MMBtu of biofuel production.

3.22 (f) Any producer that ceases production for any reason is ineligible to receive  
3.23 payments under this section until they begin producing again.

3.24 (g) Annually, within 90 days of its fiscal year end, an advanced biofuel producer  
3.25 receiving payments under this section must file a disclosure statement on a form provided  
3.26 by the commissioner. The initial disclosure statement must include a summary description  
3.27 of the business structure of the producer and a listing of the percentages of ownership  
3.28 and governance by any person or other entity with an ownership interest or governance  
3.29 rights of five percent or greater. Annual disclosures must include a copy of the producer's  
3.30 annual audited financial statements, including the auditor's report and footnotes. No later  
3.31 than February 15 each year, the commissioner shall deliver to the chairs of the standing  
3.32 committees of the senate and the house of representatives with jurisdiction over agricultural  
3.33 policy and agricultural finance an annual report summarizing aggregated and facility-level  
3.34 production and financial performance data for all facilities that received payment under  
3.35 this section during the preceding calendar year. Audited financial statements and notes  
3.36 and disclosure statements submitted to the commissioner are nonpublic data under section

4.1 13.02, subdivision 9. Notwithstanding the provisions of chapter 13 relating to nonpublic  
4.2 data, a summary of the submitted audited financial reports and notes and disclosure  
4.3 statements must be contained in the report to the committee chairs and are public data.

4.4 (h) Renewable chemical production for which payment has been received under  
4.5 section 41A.14 is not eligible for payment under this section.

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

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

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

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

4.14 (c) "Qualifying facility" or "facility" means a facility that satisfies the eligibility  
4.15 criteria in subdivision 3.

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

4.18 Subd. 3. **Eligibility.** An eligible facility must source at least 90 percent of its  
4.19 raw materials from Minnesota. Raw materials must be from an agricultural or forestry  
4.20 source or from the organic content of municipal solid waste. The facility must be located  
4.21 in Minnesota, must begin production at a specific location by June 30, 2020, and must  
4.22 not begin production of 30,000,000 pounds of chemicals annually before January 1,  
4.23 2015. Eligible facilities include existing facilities that are adding additional production  
4.24 capacity, as well as new facilities. Renewable chemical facilities must produce at least  
4.25 30,000,000 pounds per year. Renewable chemicals produced through processes that are  
4.26 fully commercial before January 1, 2000, are not eligible.

4.27 Subd. 4. **Renewable chemical producer payments.** (a) The commissioner shall  
4.28 make cash payments to eligible producers of renewable chemicals at a qualifying facility.  
4.29 For the purposes of this subdivision, an entity that holds a controlling interest in more  
4.30 than one renewable chemical production facility is considered a single eligible producer.  
4.31 The amount of the payment for each producer's annual production is \$0.03 per pound  
4.32 of sugar-derived renewable chemical, \$0.03 per pound of cellulosic sugar, and \$0.06  
4.33 per pound of cellulosic-derived renewable chemical produced at a specific location for  
4.34 ten years after the start of production. All forestry-derived cellulosic biomass must  
4.35 be produced using Minnesota state biomass harvesting guidelines. All biomass from

5.1 brushlands must be produced using Minnesota Brushland Harvesting Biomass Harvest  
5.2 Guidelines. Land that is larger than 160 acres and used to produce forestry-derived  
5.3 biomass must be certified by the Forest Stewardship Council, Sustainable Forestry  
5.4 Initiative, or American Tree Farm System. Uncertified land that is 160 acres or less and  
5.5 used to produce forestry-derived biomass must be harvested by a Minnesota Certified  
5.6 Master Logger and must have a forest stewardship plan.

5.7 (b) No payments shall be made for renewable chemical production that occurs  
5.8 after June 30, 2030. An eligible producer of renewable chemicals shall not transfer the  
5.9 producer's eligibility for payments under this section to a renewable chemical facility at a  
5.10 different location.

5.11 (c) Total payments under this section to all eligible renewable chemical producers  
5.12 may not exceed \$15,000,000 in a fiscal year. Total payments under this section to  
5.13 an eligible renewable chemical producer in a fiscal year may not exceed the amount  
5.14 necessary for 99,999,999 pounds of renewable chemicals.

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

5.25 (e) The commissioner must make payments by November 15, February 15, May 15,  
5.26 and August 15. The commissioner must issue a separate payment for each claim filed.  
5.27 The total quarterly payment to an eligible producer under this paragraph may not exceed  
5.28 the amount necessary for 25,000,000 pounds of production.

5.29 (f) Any producer that ceases production for any reason is ineligible to receive  
5.30 payments under the program until they begin producing again.

5.31 (g) Annually, within 90 days of its fiscal year end, a renewable chemical producer  
5.32 receiving payments under this section must file a disclosure statement on a form provided  
5.33 by the commissioner. The initial disclosure statement must include a summary description  
5.34 of the business structure of the producer and a listing of the percentages of ownership  
5.35 and governance by any person or other entity with an ownership interest or governance  
5.36 rights of five percent or greater. Annual disclosures must include a copy of the producer's

6.1 annual audited financial statements, including the auditor's report and footnotes. No later  
6.2 than February 15 each year, the commissioner shall deliver to the chairs of the standing  
6.3 committees of the senate and the house of representatives with jurisdiction over agricultural  
6.4 policy and agricultural finance an annual report summarizing aggregated and facility-level  
6.5 production and financial performance data for all facilities that received payment under  
6.6 this section during the preceding calendar year. Audited financial statements and notes  
6.7 and disclosure statements submitted to the commissioner are nonpublic data under section  
6.8 13.02, subdivision 9. Notwithstanding the provisions of chapter 13 relating to nonpublic  
6.9 data, a summary of the submitted audited financial reports and notes and disclosure  
6.10 statements must be contained in the report to the committee chairs and are public data.

6.11 (h) Advanced biofuel production for which payment has been received under section  
6.12 41A.13 is not eligible for payment under this section.