

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1814

(SENATE AUTHORS: SPARKS, Dahle and Lourey)

| DATE | D-PG | OFFICIAL STATUS |
|------------|------|---|
| 03/16/2015 | 907 | Introduction and first reading Referred to Jobs, Agriculture and Rural Development |

A bill for an act
relating to agriculture; providing tax incentives for value-added on-farm
agricultural processing; providing for a loan program for value-added on-farm
agricultural processing facilities; authorizing rulemaking; amending Minnesota
Statutes 2014, sections 272.02, by adding a subdivision; 297A.69, by adding a
subdivision; proposing coding for new law in Minnesota Statutes, chapters 17;
41B.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[17.119] TAX INCENTIVES; VALUE-ADDED ON-FARM
PROCESSING FACILITIES.**

Subdivision 1. Tax incentives provided. A qualified farm is allowed the tax
exemptions provided under sections 272.02, subdivision 100, and 297A.69, subdivision
8, for a qualified agricultural processing facility certified by the commissioner under
subdivision 3. The tax incentives are available for a 12-year period beginning with the
first calendar year following certification.

Subd. 2. Definitions. (a) For purposes of this section, sections 41B.058; 272.02,
subdivision 100; and 297A.69, subdivision 8, the following terms have the meanings
given them, unless the context clearly indicates otherwise.

(b) "Agricultural commodity" has the meaning given in section 17.90.

(c) "Agricultural processing facility" or "facility" means buildings, structures,
fixtures, and improvements used or operated primarily for the processing or production of
marketable commodities from agricultural commodities.

(d) "Person" means an individual or an entity permitted to engage in farming and to
own agricultural land under section 500.24.

(e) "Qualified agricultural processing facility" means an agricultural processing facility that is certified by the commissioner under subdivision 3.

(f) "Qualified farm" means a person actively engaged in farming that invests in a qualified agricultural processing facility.

Subd. 3. Application and certification. (a) A person that operates a qualified farm may apply to the commissioner for designation of a facility as a qualified agricultural processing facility under this section. The application must be in the form prescribed by the commissioner, contain the information required by the commissioner, and include an agreement and certifications by the applicant that satisfies the requirements of paragraph (b), clauses (2), (3), and (5).

(b) The commissioner shall certify as a qualified agricultural processing facility each facility that the commissioner determines, based on the information provided by the applicant and other reliable information available to the commissioner, that the facility satisfies each of the following requirements:

(1) the facility is located on a qualified farm and ... percent of the agricultural commodities the facility processes are produced by the qualified farm;

(2) the qualified farm's investment in the facility will increase employment on the qualified farm by a minimum of 25 percent of full-time equivalent employees in the first full year of operation. Employees exclude family members, as defined in section 267(c)(4) of the Internal Revenue Code of 1986, as amended;

(3) the qualified farm agrees to make an investment equal to at least ten percent of the previous year's gross revenue from the agricultural processing facility, if any;

(4) the facility is located outside the metropolitan area, as defined in section 473.121, subdivision 2; and

(5) the qualified farm enters into a binding written agreement with the commissioner that:

(i) pledges the agricultural processing facility will meet the requirements of clauses (2) and (3);

(ii) agrees to repay the tax benefits received under sections 272.02, subdivision 100, and 297A.69, subdivision 8, under the procedures in section 469.319, if the requirements of clauses (2) and (3) are not met for the taxable year or for taxes payable during the year in which the requirements are not met; and

(iii) contains any other terms the commissioner deems appropriate.

Subd. 4. Repayment obligation. If a qualified farm and qualified agricultural processing facility fail to satisfy the requirements of subdivision 3, paragraph (b), clause

(2) or (3), the tax incentives received must be repaid under the procedures provided for the JOBZ program under section 469.319.

Subd. 5. **Incentives not a business subsidy.** The provisions of this section and sections 272.02, subdivision 100, and 297A.69, subdivision 8, are not business subsidies for purposes of sections 116J.993 and 116J.994. The provisions of subdivision 3, paragraph (b), clauses (2) and (3), are imposed in lieu of the requirements of those sections.

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

Sec. 2. [41B.058] VALUE-ADDED ON-FARM PROCESSING FACILITY LOAN PROGRAM.

Subdivision 1. **Establishment.** The authority must establish and implement a value-added on-farm processing facility loan program to help eligible borrowers finance the construction or expansion of an agricultural processing facility that is certified by the commissioner of agriculture for up to 12 years of tax abatement.

Subd. 2. **Eligibility.** To be eligible for this program a borrower must:

(1) satisfy the general eligibility criteria under section 41B.03, subdivision 1;

(2) construct or expand an agricultural processing facility for which the borrower has obtained preliminary or full certification for tax abatement under section 17.119;

(3) demonstrate an ability to repay the loan; and

(4) meet any other requirements which the authority may impose by rule.

Subd. 3. **Loans; application fee.** (a) The authority may participate in a loan with an eligible lender to an eligible borrower. The loan must be secured by real estate security. Participation is limited to 45 percent of the principal amount of the loan or \$300,000, whichever is less. The authority's portion of the loan must be protected during the authority's participation by the first mortgage held by the eligible lender to the extent of the authority's participation in the loan.

(b) The interest rates and repayment terms of the authority's participation interest may differ from the interest rates and repayment terms of the lender's retained portion of the loan.

(c) The authority may impose a reasonable nonrefundable application fee for each loan application. The authority may review the fee annually and make adjustments as necessary. The application fee is initially \$50.

Subd. 4. **Rules.** The authority may adopt rules necessary for the administration of the program.

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

Sec. 3. Minnesota Statutes 2014, section 272.02, is amended by adding a subdivision to read:

Subd. 100. **Value-added on-farm agricultural processing facilities.** (a) Improvements to real property and personal property, classified under section 273.13, subdivision 24, and consisting of qualified agricultural processing facilities under section 17.119, are exempt from ad valorem taxes levied under chapter 275.

(b) For property to qualify for exemption under paragraph (a), the facility must be certified by the commissioner of agriculture as a qualified agricultural processing facility under section 17.119.

(c) The exemption applies beginning for the first assessment year after certification of the qualified agricultural processing facility by the commissioner of agriculture. The exemption applies to each of the following 12 assessment years that begin after the certification and notification is provided to the assessor by the commissioner of agriculture. To be exempt, the property must be occupied by July 1 of the assessment year by a qualified farm that has signed an agreement with the commissioner of agriculture, satisfying the requirements of section 17.119, by July 1 of the assessment year.

EFFECTIVE DATE. This section is effective beginning with assessment year 2016.

Sec. 4. Minnesota Statutes 2014, section 297A.69, is amended by adding a subdivision to read:

Subd. 8. **Value-added on-farm agricultural processing facilities.** (a) Purchases of tangible personal property or taxable services by a qualified farm, as defined in section 17.119, are exempt if the property or services are primarily used or consumed in the operation of a qualified agricultural processing facility.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property constituting a qualified agricultural processing facility, as defined in section 17.119, are exempt if the improvements after completion of construction are to be used in the conduct of the qualified agricultural processing facility. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to any local general or special sales and use tax regardless of whether the local tax is imposed on the sales taxable as defined under this chapter.

(d) This subdivision applies to sales, if the purchase was made and delivery received during the 12-year period, under the designation of the facility as a qualified agricultural processing facility.

5.1

EFFECTIVE DATE. This section is effective for sales and purchases made after

5.2

December 31, 2015.