

## CHAPTER 41A

AGRICULTURAL RESOURCE LOAN GUARANTY  
PROGRAM

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**41A.01 PURPOSE.**

Sections 41A.01 to 41A.06 provide a framework for an agricultural resource loan guaranty program, the purposes of which are to further the development of the state's agricultural resources and improve the market for its agricultural products. All credit advanced pursuant to loan guaranty commitments is to be secured by subrogation of the state to mortgage security and other security interests granted to the private lender, in proportion to the amount advanced by the state. A loan guaranty board is established to investigate the feasibility of each project, its conformity to public policy and to environmental standards, the qualifications of the owners, operators, and lenders, and the nature and extent of the security, prior to commitment. The board shall also seek to secure financial participation by private persons not supported by the guaranty, to assure that in these respects each project satisfies and will continue to satisfy criteria which are adequate in the judgment of the board.

**History:** 1984 c 502 art 10 s 1; 1Sp1985 c 13 s 145

**41A.02 DEFINITIONS; ACTIONS BY THE STATE.**

Subdivision 1. **Scope.** The definition of each term given in this section applies whenever the term is used in sections 41A.01 to 41A.07.

Subd. 2. **Agricultural resource.** "Agricultural resource" means any organic matter which is available on a renewable basis from agricultural processes, including agricultural crop, animal, and wood production, waste, and residues.

Subd. 3. **Agricultural resource loan guaranty board; board.** "Agricultural resource loan guaranty board" or "board" means the commissioner of finance as chair, the commissioner of agriculture, the commissioner of commerce, the commissioner of energy and economic development, and the director of the pollution control agency.

Subd. 4. **Agricultural resource loan guaranty fund; guaranty fund.** "Agricultural resource loan guaranty fund" or "guaranty fund" means the fund created by section 41A.05.

Subd. 5. **Agricultural resource loan guaranty program; program.** "Agricultural resource loan guaranty program" or "program" includes all projects, loan guaranties and bonds approved or issued pursuant to this chapter.

Subd. 6. **Agricultural resource project; project.** "Agricultural resource project" or "project" means any facility, or portion of a facility, located in the state which is operated or to be operated primarily for the production from agricultural resources of marketable products. A project includes a facility or portion of a facility for mixing or producing substances to be mixed with other substances for use as a fuel or as a substitute for petroleum or petrochemical feedstocks.

Subd. 7. **Applicant.** "Applicant" means any borrower or lender acting on behalf of a borrower or any rural development finance authority organized, or any county exercising the powers of such an authority, pursuant to chapter 362A, which applies to the state for approval of a guaranty of a loan to a borrower or issuance of bonds for a project.

Subd. 7a. **Bonds.** "Bonds" means bonds, notes, or other obligations issued by the board pursuant to this chapter.

Subd. 8. **Borrower.** "Borrower" means any private individual, company, cooperative, partnership, corporation, association, consortium, or other entity organized for a common business purpose, which is obligated or to be obligated to pay a guaranteed loan or receives a loan of bond proceeds.

Subd. 9. **Construction.** "Construction" means construction of a new agricultural resource project, or conversion of a facility to such a project, or expansion or improvement of a project to increase its capacity or efficiency. "Construction" includes acquisition of land, easements, buildings, structures, improvements, and equipment and machinery for use in or at the site of a project or on easements adjacent to the project site.

Subd. 10. **Cost.** "Cost" of a project means the sum of all obligations paid or to be paid or incurred by the borrower which are reasonably required for the construction and completion of the project, including but not limited to (i) surveys, estimates, plans, specifications, supervision of construction, and other engineering and architectural service; (ii) payments under construction contracts and for payment and performance bonds; (iii) purchase and installation of equipment and machinery; (iv) recording, filing, permit, legal, financial, underwriting, placement, commitment, publication, advertising, and other charges, fees, and expenses incurred for establishing title, mortgage liens, and security interests with respect to the project, for securing permits for construction and approval of the loan guaranty, for establishing the terms of the loan and underlying security agreements, and for offering, selling, or placing with investors and printing and delivering the obligations evidencing the loan; and (v) interest, discount, fees, and expenses accruing with respect to the loan, and taxes and other government charges payable with respect to the project, during construction.

Subd. 11. **Lender.** "Lender" means any investment or commercial banking institution, savings and loan institution, insurance company, investment company, or other financial institution or institutional investor making, purchasing, or participating in a loan or any part of a loan.

Subd. 12. **Loan.** "Loan" means any obligation to repay money borrowed to finance the construction of a project or to refund or refinance such an obligation.

Subd. 13. **Loan agreement.** "Loan agreement" means a written agreement or agreements setting forth the terms and conditions of the obligation of the borrower to the lender and the pledges and covenants made and mortgage lien and other security interests granted for the security of the obligations, including a mortgage, note, indenture, or other agreement however designated.

Subd. 14. **Loan guaranty.** "Loan guaranty" means a written agreement executed on behalf of the state that guarantees, in accordance with the terms and conditions contained in the agreement or in a loan agreement, the payment of sums of money owing by a borrower to a lender.

Subd. 15. **State.** "State" actions contemplated in sections 41A.01 to 41A.06 may be taken on behalf of the state by resolutions of the agricultural resource loan guaranty board, subject to approval by the governor if required by the governor, or by a member of the board or another state officer in the department headed by the member, pursuant to authority delegated by resolution of the board. Resolutions of the board are effective when approved by the vote of a majority of its members.

**History:** 1984 c 502 art 10 s 2; 1Sp1985 c 13 s 146-150; 1986 c 444

#### 41A.03 LOAN GUARANTIES.

Subdivision 1. **Authority for and limitation of guaranty.** Subject to the provisions of sections 41A.01 to 41A.06 and upon determination that a loan will serve the public purposes and satisfy the conditions set forth in sections 41A.01 to 41A.06, the state may guarantee and commit to guarantee against loss an amount not exceeding 90 percent, exclusive of accrued interest, of a loan for the cost of an agricultural resource project

or the refunding or refinancing of a loan. The loan must be secured by the best available collateral including but not limited to a mortgage on and security interest in all real and personal property comprising the project and other collateral as provided in the loan agreement.

Subd. 2. **Limitation of loan amount.** The total principal amount of any guaranteed loan may not exceed 80 percent of the total cost of the related project as estimated by the state at the time the commitment to guarantee is made or, in the case of a refunding or refinancing loan, 80 percent of the aggregate amount of principal and interest refunded or refinanced. If the actual cost exceeds the estimate the state may, upon request of the borrower and the lender, consent to an increase of the loan by a principal amount not greater than 80 percent of the excess cost, and may increase the guaranteed amount by not more than 90 percent of the increase in the principal amount, and accrued interest on that amount.

Subd. 3. **Required provisions.** A loan guaranty or loan agreement pertaining to any loan guaranteed by the state may provide that:

(a) Payments of principal and interest made by the borrower under the loan shall be applied by the lender to reduce the guaranteed and nonguaranteed portion of the loan on a proportionate basis, and the nonguaranteed portion shall not in any event receive preferential treatment over the guaranteed portion.

(b) A period of grace shall be allowed of not less than 60 days from a date a principal or interest payment is due, prior to the making of demand for payment pursuant to the loan guaranty, to permit adequate time for a decision on behalf of the state regarding principal and interest assistance in accordance with subdivision 4. Payment as required by the loan guaranty shall be made within 60 days after receipt by the state of written demand complying with the terms and conditions of the guaranty.

(c) The lender may not accelerate repayment of the loan or exercise other remedies available to the lender if the borrower defaults, unless (i) the borrower fails to pay a required payment of principal or interest, or (ii) the state consents in writing, or (iii) as otherwise permitted in the loan guaranty. In the event of a default, the lender may not make demand for payment pursuant to the guaranty unless the state agrees in writing that such default has materially affected the rights or security of the parties, and finds that the lender should be entitled to receive payment pursuant to the loan guaranty.

(d) If a payment of principal or interest is made by the state upon default of the borrower, the state shall be subrogated to the rights of the lender with respect to the payment.

(e) The borrower shall have promptly prepared and delivered to the state annual audited or reviewed financial statements of the project prepared by a certified public accountant according to generally accepted accounting principles.

(f) Duly authorized representatives of the state shall have access to the project site at reasonable times during construction and operation of the project.

(g) The borrower shall maintain adequate records and documents concerning the construction and operation of the project in order that representatives of the state may determine its technical and financial conditions and its compliance with environmental requirements. The records shall include the amounts of all sales and use taxes paid on personal property and services purchased for the construction and operation of the project, with tax receipts furnished by the sellers or other supporting documentation determined by the board to be satisfactory. The amounts of those taxes shall be reported to the board in the manner and at the times required by the board.

(h) The borrower shall protect and preserve at all times the project assets and other collateral securing the loan and shall assist in liquidation of collateral to minimize loss in the event of default.

(i) Orderly liquidation of assets of the project shall be provided for in the event of default, with an option on the part of the state to acquire from the lender the lender's interest in the assets pursuant to the nonguaranteed portion of the loan.

(j) The state shall be paid at or prior to the closing of the guaranteed loan a fee or fees for the loan guaranty or the commitment to guarantee the loan. The aggregate fee may not exceed one percent of the total principal amount of the guaranteed portion of the loan.

(k) The lender shall perfect and maintain the mortgage lien on the real estate and the security interest in personal property and collateral granted as security for the loan, and shall cause all other loan servicing functions to be performed which are normally required or performed by a reasonable and prudent lender with respect to a loan without a guaranty.

(l) The state shall be notified in writing without delay of (i) the date and amount of and basis for each disbursement of loan proceeds; (ii) any nonpayment of principal or interest due; (iii) any failure to honor a commitment by any person of an intended source of capital for the project; and (iv) any significant adverse changes from original cash flow projections as evidenced by reports from the borrower, or any other known evidence that the borrower might be unable to meet a future scheduled payment of principal or interest.

(m) The loan agreement shall require the borrower to establish a reserve, from the proceeds of the loan or otherwise, to be maintained with the lender or with a trustee for the holders of the borrower's obligations in cash or securities of a specified market value not less than one-half of the annual amount which would be required to amortize the entire amount of the loan over the term and at the interest rate (or at the rate of yield resulting from the interest rates) provided in the loan agreement.

(n) The agreement shall contain other terms and conditions that the board in its sole discretion determines necessary and appropriate to carry out the purposes of this chapter.

**Subd. 4. Principal and interest assistance.** The state may at any time enter into a written contract with the borrower to pay the lender, on behalf of the borrower, an amount not greater than the amount of principal and interest to become due on one or more subsequent dates, without acceleration, if the state determines that (i) the borrower is not in default in payment of principal or interest due more than 60 days prior to the date of the contract; (ii) the borrower is or may become unable to meet in full principal or interest payments, or both, which are due or to become due within a specified period; (iii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; (iv) the probable net financial loss to the state will be less than that which would result in the event of a default; (v) the borrower is obligated by the contract to reimburse the state for all principal or interest advanced, with interest on those amounts, upon terms and conditions satisfactory to the state; and (vi) funds are available for allocation to the account established for the project in the guaranty fund, and are continuously allocated to the account in accordance with the provisions of section 4, subdivision 3, in an amount equal to the amount of interest on the advances until actually reimbursed to the state by the borrower. All sums so advanced and interest on those amounts shall be secured by the mortgage lien and security interest granted by the loan agreement, but none of the advances shall thereafter be repaid to the state until and unless all principal and interest currently due on the loan has been fully paid. In the event of subsequent default by the borrower, acceleration by the lender, and payment by the state of the full amount due under the loan guaranty, the state shall be subrogated to the rights of the lender with respect to the principal paid by it under the contract. Upon payment of the loan in full, with accrued interest, the remaining amount of the advances and interest on the advances may be paid to the state.

**Subd. 5. Limitation on liability.** The liability of the state for loan guaranties or bonds authorized under this chapter is limited to the amount of funds appropriated to the guaranty fund pursuant to section 41A.06. The loan guaranties or bonds are not a general obligation or debt of the state.

**History:** 1984 c 502 art 10 s 3; 1Sp1985 c 13 s 151-153

**41A.04 APPLICATION AND APPROVAL.**

**Subdivision 1. Requirements.** (a) Any applicant may file a written application with the state commissioner of energy and economic development on behalf of the board, to be considered by the agricultural resource loan guaranty board, for a guaranty by the state of a portion of a loan or for issuance of bonds for an agricultural resource project. In general, the application must provide information similar to that required by an investment banking or other financial institution considering such a project for debt financing. Specifically, each application must include in brief but precise form the following information, as supplied by the applicant, the borrower, or the lender:

(1) a description of the scope, nature, extent, and location of the proposed project, including the identity of the borrower and a preliminary or conceptual design of the project;

(2) a description of the technology to be used in the project and the prior construction and operating experience of the borrower with such projects;

(3) a detailed estimate of the items comprising the total cost of the project, including escalation and contingencies, with explanation of the assumptions underlying the estimate;

(4) a general description of the financial plan for the project, including the mortgage and security interests to be granted for the security of the guaranteed loan or the bonds, and all sources of equity, grants, or contributions or of borrowing the repayment of which is not to be secured by the mortgage and security interests, or, if so secured, is expressly subordinated to the guaranteed loan;

(5) an environmental report analyzing potential environmental effects of the project, any necessary or proposed mitigation measures, and other relevant data available to the applicant to enable the board to make an environmental assessment;

(6) a list of applications to be filed and estimated dates of approvals of permits required by federal, state, and local government agencies as conditions for construction and commencement of operation of the project;

(7) an estimated construction schedule;

(8) an analysis of the estimated cost of production of and market for the product, including economic factors justifying the analysis and proposed and actual marketing contracts, letters of intent, and contracts for the supply of feedstock;

(9) a description of the management experience of the borrower in organizing and undertaking similar projects;

(10) pro forma cash flow statements for the first five years of project operation including income statements and balance sheets;

(11) a description of the borrower's organization and, where applicable, a copy of its articles of incorporation or partnership agreement and bylaws;

(12) the estimated amount of the loan or bonds and percentage of the guaranty requested, the proposed repayment schedule, and other terms and conditions and security provisions of the loan;

(13) an estimate of the amounts and times of receipt of guaranty fees, sales and use taxes, property tax increments, and any other governmental charges which may be available for the support of the state guaranty fund as a result of the construction of the project, with an analysis of the assumptions on which the estimate is based;

(14) a copy of any lending commitment issued by a lender to the borrower;

(15) a statement from the lender, if identified, as to its general experience in financing and servicing debt incurred for projects of the size and general type of the project, and its proposed servicing and monitoring plan; and

(16) additional information required by the board.

(b) The applicant shall pay upon filing of the application a fee equal to .25 percent of the amount of the loan guaranty or bond requested. The fee shall be paid to the commissioner of finance and deposited in the general fund. If the board determines not to issue a commitment for the project, the fee shall be refunded to the applicant,

less the board's cost of processing, reviewing, and evaluating the application. If the board issues a commitment for the project and the application fee exceeds the board's cost of processing, reviewing, and evaluating the application, the balance shall be transferred from the general fund to the project account in the guaranty fund and credited against the amount of the commitment fee required in section 41A.03, subdivision 3, clause (j). The county or rural development finance authority may require the proposed borrower under the project to pay the application fee.

(c) If the application is made by an applicant other than the county or rural development finance authority and tax increment financing is to be used for the project, the application must include a copy of a resolution adopted by the governing body of the county or rural development finance authority in which the project is located. The resolution must authorize the use of tax increment financing for the project as required by section 41A.06, subdivision 5.

**Subd. 2. Environmental assessment.** Notwithstanding any other law or rule, no environmental impact statement must be completed prior to the approval of an application and the issuance of a conditional commitment for the guaranty of a loan for an agricultural resource project, or the taking of any other action permitted by sections 41A.01 to 41A.07, including the issuance of bonds, which is considered necessary or desirable by the board to prepare for a final commitment and to make it effective. Environmental review, to the extent required by law, shall be made in conjunction with the issuance by state agencies of environmental permits for the project. Permits may be applied for prior to the issuance of a conditional commitment. Action shall be taken as expeditiously as possible on environmental review and all permits required. Environmental review shall be completed within 180 days after the initial filing of an application to the pollution control agency for the first permit. Final action shall be taken on permits within 90 days after completion of environmental review or, as to any permit requiring a public hearing, within 90 days after the receipt of the administrative law judge's report.

**Subd. 3. Commitment.** The commissioner of energy and economic development on behalf of the board shall determine as to each project for which an application is submitted whether it appears in the commissioner's judgment to conform to the requirements of this chapter. The board may waive any of the application requirements in subdivision 1 if it determines in its sole discretion that the waiver of the requirements is necessary or appropriate to carry out the purposes of this chapter. The board may not waive the requirements of subdivision 1, paragraph (c). In evaluating applications the board shall consider the extent to which the public subsidies sought by the applicant under the program would provide the project with an unfair advantage in competing with other products produced or processed in Minnesota. It may but need not adopt rules setting forth criteria for evaluating applications for loan guaranties. Upon determination by the board that a project conforms to the requirements of this chapter, it may by resolution make on behalf of the state a conditional commitment to guarantee a portion of the proposed loan or to issue bonds as it determines, not exceeding the limitations set forth in section 41A.03. No action is allowable under section 116B.03, subdivision 1, with respect to acts of any person authorized or required in order to execute the resolution. The commitment is not binding upon the state unless the board has executed on behalf of the state a final loan guaranty instrument in conformity with section 41A.03 or has issued bonds.

**Subd. 4. Rulemaking authority.** In order to effectuate the purposes of sections 41A.01 to 41A.07, the board shall adopt rules which are subject to the provisions of chapter 14. The board may adopt emergency rules and permanent rules.

**History:** 1984 c 502 art 10 s 4; 1984 c 640 s 32; 1Sp1985 c 13 s 154-156

#### **41A.05 MINNESOTA AGRICULTURAL RESOURCE LOAN GUARANTY FUND AND BONDS.**

**Subdivision 1. Establishment of fund.** For the purpose of developing the state's agricultural resources by extending credit on real estate security, the agricultural

resource loan guaranty fund is established as a special and dedicated fund to be held and invested separately from all other funds of the state. All money appropriated to the fund, and all guaranty fees, retail sales taxes, property tax increments, and other money from any source which may be credited to the fund pursuant to law or pursuant to the terms of grants, contributions, or contracts are appropriated and shall remain available for the purposes of the fund until those purposes have been fully accomplished. The board may establish within the guaranty fund reserve funds, project accounts, or other restrictions it determines necessary or appropriate to carry out the purposes of this chapter. Except as otherwise provided in this section, the fund may be used only for paying amounts due under loan guaranties and principal and interest assistance contracts entered into by the state, pursuant to the agricultural resource loan guaranty program.

**Subd. 2. Issuance of bonds.** (a) Subject to section 16A.80, upon application pursuant to section 41A.04, the board by resolution may exercise the powers of a rural development authority under sections 362A.01 to 362A.05 and the powers of a municipality under chapter 474 for the purposes of providing money to pay the costs of a project, including the issuance of bonds and the loan of the bond proceeds pursuant to a lease or other agreement. The bonds must be issued, sold, and secured on the terms and conditions and in the manner determined by resolution of the board. Sections 16A.80 and 474.23 do not apply to the bonds. Notwithstanding subdivision 1, a reserve established for the bonds provided by the borrower, including out of bond proceeds, may be deposited and held in a separate account in the guaranty fund and applied to the last installments of principal or interest on the bonds, subject to the reserves being withdrawn for any purpose permitted by subdivision 1. The board may, by resolution or indenture pledge any or all amounts in the guaranty fund, including any reserves and investment income on amounts in the fund, to secure the payment of principal and interest on any or all series of bonds, upon the terms and conditions as provided in the resolution or indenture. To the extent the board deems necessary or desirable to prevent interest on bonds from becoming subject to federal income taxation, (1) the amounts in the guaranty fund shall be invested in obligations or securities with restricted yields and (2) the investment income on the amounts are released from the pledge securing the bonds or loan guaranty and appropriately applied to prevent taxation.

(b) Bonds issued pursuant to this chapter are not general obligations of the state or the board. The full faith and credit and taxing powers of the state and the board are not and may not be pledged for the payment of the bonds. No person may compel the levy of a tax for the payment or compel the appropriation of money of the state or the board for the payment of the bonds, except as specifically provided in this chapter.

(c) The issuance of bonds pursuant to this subdivision is subject to sections 474.18 to 474.25. For purposes of sections 474.16 to 474.20, the board is a local issuer and may apply for allocations of authority to issue private activity obligations and may enter into an agreement for the issuance of obligations by another issuer.

**Subd. 3. Covenant.** In fulfillment of the state's covenant with the beneficiary of each loan guaranty executed by the board on behalf of the state pursuant to the agricultural resource loan guaranty program, in accordance with section 41A.04, subdivision 3, the state will not limit or alter the rights vested in the board to comply with the terms of the loan guaranties.

**Subd. 4. Income tax exemption.** In the issuance of state bonds and the making of loan guaranties for the purposes of the program, the commissioner of finance and the board may and shall make all provisions and do or cause to be done all acts and things, consistent with sections 41A.01 to 41A.06, which are or may be effective under federal laws and regulations to comply with conditions for the exemption of interest on such bonds from federal income taxation. However, if for any reason, whether existing at the date of issue of any bonds or the date of execution of any loan guaranty or thereafter, the interest on any such bonds shall be or become subject to federal income taxes, this shall not impair or affect the validity of the bonds or of any loan

guaranty or the provisions made for the security thereof, and shall not impair or affect the covenant made by the state in subdivision 3. Nothing herein affects the federal or state income tax treatment of interest on obligations of a borrower other than the state, whether or not guaranteed by the state.

**Subd. 5. Guaranty fund; reduction.** Amounts in the guaranty fund may be transferred to the general fund if the remaining amount in the fund exceeds the principal amount and one year's interest on the outstanding bonds and the guaranteed portion of outstanding guaranteed loans.

*History: 1984 c 502 art 10 s 5; 1Sp1985 c 13 s 157-160*

#### **41A.06 PROJECT TAXES AND OTHER CHARGES.**

**Subdivision 1. Appropriation.** The payments, taxes, and governmental charges described in this section which are received as a consequence of the undertaking, completion, and operation of each agricultural resource loan project for which a loan guaranty is made by the state are appropriated to the loan guaranty fund. This appropriation shall not lapse at the close of any fiscal year under the provisions of section 16A.28, and the receipts from the appropriation shall remain available as provided in section 41A.05, subdivision 1. The state is not obligated, however, to continue the appropriation with respect to charges not yet collected, except to the extent determined to be necessary for compliance with the terms of the loan guaranty agreement.

**Subd. 2. Allocation to project accounts.** Receipts of charges related to a particular project shall be deposited and recorded in its project account in the guaranty fund; but the board may reallocate receipts in any project account which cause the amount held in the account to exceed the minimum balance established initially pursuant to section 41A.04, subdivision 3, clause (2). The reallocation may be made to another project account for the purpose of maintaining the minimum balance in the account.

**Subd. 3. Payments by borrowers.** Guaranty and commitment fees paid by borrowers pursuant to the loan guaranty provision required by section 41A.03, subdivision 3, clause (j), and repayments by borrowers of amounts advanced by the state under contracts referred to in section 41A.03, subdivision 4, shall be deposited in the project account for the borrower's project and shall not be disbursed or transferred for any purpose other than the fulfillment of the state's obligations under the loan guaranty for that project. Funds may be transferred out of the account if the minimum required balance in the project account is maintained and exceeds the aggregate amount of fees and payments previously received from the borrower plus interest received from the investment thereof.

**Subd. 4. Sales and use taxes.** All collections of the excise taxes imposed by chapter 297A upon retail sales, and upon the privilege of use, storage, or consumption in Minnesota, of personal property and services purchased for the construction or operation of any project for which a loan guaranty has been made or conditionally committed, less any refunds required by law and a proportionate share of the cost of administration and enforcement of the assessment and collection of the taxes, are appropriated and shall be deposited from the general fund into the project account in the guaranty fund at least once each year from and after the date of the conditional commitment. The commissioner of finance shall secure from each borrower the amount of taxes so imposed and from the commissioner of revenue the amount of refunds or costs to be deducted from them.

**Subd. 5. Property tax increments.** If tax increment financing is to be used for the project, the applicant for a loan guaranty or bonds for any project, and the county in which the project is situated, shall do all acts and things necessary for the computation and segregation of property tax increments resulting from the construction of the project in accordance with the provisions of section 362A.05, and for the remittance to the commissioner of finance, for deposit in the loan guaranty fund, of all tax increments received from and after the date of the conditional commitment for the loan guaranty. If the project account contains an amount equal to the average annual



payment of principal and interest on the bonds or for the guaranteed portion of a guaranteed loan, the board must annually return the excess tax increment to be distributed as provided by section 273.75, subdivision 2, clause (d), until the increment has been discharged under the agreement or section 362A.05.

**History:** 1984 c 502 art 10 s 6; 1Sp1985 c 13 s 161,162

#### 41A.07 ADVISORY COMMISSION.

The board may appoint an advisory commission, consisting of at least five members. The members of the commission shall include individuals with expertise in agricultural processing, commercial lending and financing of similar or related projects, agricultural economics, and engineering, chemistry, and other natural sciences related to the projects. The commission shall advise the board on establishing a workable program pursuant to sections 41A.01 to 41A.06 and may provide assistance in evaluating applications for loan guarantees. The terms and compensation of commission members shall be governed by section 15.059, except that subdivision 5 shall not apply.

**History:** 1984 c 502 art 10 s 7

#### 41A.08 STAFF.

Subject to all other applicable laws governing employees of or employment by a department or agency of the state, the commissioner of energy and economic development, on behalf of the board, may retain or employ the officers, employees, agents, contractors, and consultants the commissioner determines necessary or appropriate to discharge the functions of the board in respect to the agricultural resource loan program. The commissioner shall define their duties and responsibilities.

**History:** 1Sp1985 c 13 s 163

#### 41A.09 ETHANOL DEVELOPMENT FUND.

**Subdivision 1. Fund created.** An ethanol development fund is created as a separate fund in the state treasury. The department of revenue shall administer the fund. The fund is annually appropriated from the general fund to the commissioner of revenue for the purposes of this section and all money so appropriated is available until expended.

**Subd. 2. Definition.** For purposes of this section "ethanol" means agriculturally derived fermentation ethyl alcohol of a purity of at least 99 percent, determined without regard to any added denaturants, denatured in conformity with one of the approved methods set forth by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, and derived from the following agricultural products: potatoes, cereal, grains, cheese whey, or sugar beets.

**Subd. 3. Payments from fund.** The commissioner of revenue shall make cash payments from the development fund to producers of ethanol or agricultural grade alcohol, for use as a motor fuel, located in the state. The amount of the payment for each producer's annual production shall be as follows:

(a) For each gallon of ethanol produced:

(1) For the period beginning July 1, 1986 and ending June 30, 1987, 15 cents per gallon;

(2) For the period beginning July 1, 1987 and ending June 30, 1992, 20 cents per gallon.

(b) For each gallon produced of agricultural grade alcohol of a purity of at least 50 percent but not more than 90 percent and designed to be used in conjunction with diesel fuel in an engine's internal combustion process, for the period beginning July 1, 1987 and ending June 30, 1992, 11 cents per gallon.

The total payments from the fund to all producers may not exceed \$200,000 during the period beginning July 1, 1986 and ending June 30, 1987, and may not exceed \$10,000,000 in any fiscal year during the period beginning July 1, 1987 and ending June

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30, 1992. Total payments to any producer from the fund in any fiscal year may not exceed \$3,000,000.

By the last day of October, January, April, and July, each producer shall file a claim for payment for production during the preceding three calendar months. The volume of production must be verified by a certified financial audit performed by an independent certified public accountant using generally accepted accounting procedures.

Payments shall be made November 15, February 15, May 15, and August 15.

Subd. 4. **Rulemaking authority.** The commissioner shall adopt emergency and permanent rules to implement this section.

Subd. 5. **Expiration.** This section expires July 1, 1992 and all money in the fund on that date reverts to the general fund.

**History:** *1Sp1986 c 1 art 8 s 1*