

Senate File 2300 - Enrolled

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AN ACT

RELATING TO THE ADMINISTRATION OF PROGRAMS BY THE ECONOMIC DEVELOPMENT AUTHORITY BY CREATING A RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM, MODIFYING THE HIGH QUALITY JOBS PROGRAM, AND INCLUDING EFFECTIVE DATE AND OTHER APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

HIGH QUALITY JOBS PROGRAM

Section 1. Section 15.119, subsection 2, paragraph a, Code 2016, is amended to read as follows:

a. (1) The high quality ~~job creation~~ jobs program administered pursuant to sections 15.326 through 15.336.

(2) In allocating tax credits pursuant to this subsection for each fiscal year of the fiscal period beginning July 1, 2016, and ending June 30, 2021, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph. This subparagraph (2) is repealed July 1, 2021.

(3) (a) In allocating tax credits pursuant to this subsection for the fiscal year beginning July 1, 2021, and ending June 30, 2022, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph if the aggregate amount of renewable chemical production tax credits under section 15.319 that were awarded on or after July 1, 2018, but before July 1, 2021, equals or

exceeds twenty-seven million dollars.

(b) As soon as practicable after June 30, 2021, the authority shall notify the general assembly of the aggregate amount of renewable chemical production tax credits awarded under section 15.319 on or after July 1, 2018, but before July 1, 2021, and whether or not the tax credit allocation limitation described in subparagraph division (a) is applicable.

(c) This subparagraph (3) is repealed July 1, 2022.

DIVISION II

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

Sec. 2. Section 2.48, subsection 3, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In 2022, the renewable chemical production tax credit program available under sections 15.315 through 15.322.

Sec. 3. Section 15.119, subsection 2, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The renewable chemical production tax credit program administered pursuant to sections 15.315 through 15.322. In allocating tax credits pursuant to this subsection, the authority shall not allocate more than ten million dollars for purposes of this paragraph. This paragraph is repealed July 1, 2030.

Sec. 4. NEW SECTION. 15.315 Short title.

This part shall be known and may be cited as the "*Renewable Chemical Production Tax Credit Program*".

Sec. 5. NEW SECTION. 15.316 Definitions.

As used in this part, unless the context otherwise requires:

1. "*Biobased content percentage*" means, with respect to any renewable chemical, the amount, expressed as a percentage, of renewable organic material present as determined by testing representative samples using the American society for testing and materials standard D6866.

2. "*Biomass feedstock*" means sugar, polysaccharide, crude glycerin, lignin, fat, grease, or oil derived from a plant or animal, or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process.

3. *"Building block chemical"* means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product. *"Building block chemical"* includes but is not limited to high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural, levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel ethanol, or such additional molecules as may be included by the authority by rule after consultation with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals.

4. *"Crude glycerin"* means glycerin with a purity level below ninety-five percent.

5. *"Eligible business"* means a business meeting the requirements of section 15.317.

6. *"Food additive"* means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, or nutritional content of food. The authority, in its discretion, shall determine whether or not a building block chemical is primarily consumed as food.

7. *"High-purity glycerol"* means glycerol with a purity level of ninety-five percent or higher.

8. *"Pre-eligibility production threshold"* means, with respect to each eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to section 15.317.

9. *"Program"* means the renewable chemical production tax credit program administered pursuant to this part.

10. *"Renewable chemical"* means a building block chemical

with a biobased content percentage of at least fifty percent. "Renewable chemical" does not include a chemical sold or used for the production of food, feed, or fuel. "Renewable chemical" includes cellulosic ethanol, starch ethanol, or other ethanol derived from biomass feedstock, fatty acid methyl esters, or butanol, but only to the extent that such molecules are produced and sold for uses other than food, feed, or fuel. "Renewable chemical" also includes a building block chemical that can be a food additive as long as the building block chemical is not primarily consumed as food and is also sold for uses other than food. "Renewable chemical" also includes supplements, vitamins, nutraceuticals, and pharmaceuticals, but only to the extent that such molecules do not provide caloric value so as to be considered sustenance as food or feed.

11. "Sugar" means the organic compound glucose, fructose, xylose, arabinose, lactose, sucrose, starch, cellulose, or hemicellulose.

Sec. 6. NEW SECTION. 15.317 Eligibility requirements.

To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the following requirements:

1. The business is physically located in this state.
2. The business is operated for profit and under single management.
3. The business is not an entity providing professional services, health care services, or medical treatments or an entity engaged primarily in retail operations.
4. The business organized, expanded, or located in the state on or after the effective date of this division of this Act.
5. The business shall not be relocating or reducing operations as described in section 15.329, subsection 1, paragraph "b", and as determined under the discretion of the authority.
6. The business is in compliance with all agreements entered into under this program or other programs administered by the authority.

Sec. 7. NEW SECTION. 15.318 Eligible business application and agreement — maximum tax credits.

1. *Application.*

a. An eligible business that produces a renewable chemical in this state from biomass feedstock during a calendar year may apply to the authority for the renewable chemical production tax credit provided in section 15.319.

b. The application shall be made to the authority in the manner prescribed by the authority.

c. The application shall be made during the calendar year following the calendar year in which the renewable chemicals are produced.

d. The authority may accept applications on a continuous basis or may establish, by rule, an annual application deadline.

e. The application shall include all of the following information:

(1) The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year, measured in pounds.

(2) Any other information reasonably required by the authority in order to establish and verify eligibility under the program.

2. *Agreement and fees.*

a. Before being issued a tax credit under section 15.319, an eligible business shall enter into an agreement with the authority for the successful completion of all requirements of the program. As part of the agreement, the eligible business shall agree to collect and provide any information reasonably required by the authority in order to allow the board to fulfill its reporting obligation under section 15.320.

b. The compliance cost fees authorized in section 15.330, subsection 12, shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that subsection.

c. An eligible business shall fulfill all the requirements of the program and the agreement before receiving a tax credit or entering into a subsequent agreement under this section. The authority may decline to enter into a subsequent agreement under this section or issue a tax credit if an agreement is not successfully fulfilled.

d. Upon establishing that all requirements of the program and the agreement have been fulfilled, the authority shall issue a tax credit and related tax credit certificate to the eligible business stating the amount of renewable chemical production tax credit the eligible business may claim.

3. *Maximum tax credit amount.*

a. The maximum amount of tax credit that may be issued under section 15.319 to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the following:

(1) In the case of an eligible business that has been in operation in the state for five years or less at the time of application, one million dollars.

(2) In the case of an eligible business that has been in operation in the state for more than five years at the time of application, five hundred thousand dollars.

b. An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to section 15.317.

c. An eligible business shall only receive a tax credit for renewable chemicals produced in a calendar year to the extent such production exceeds the eligible business's pre-eligibility production threshold.

d. An eligible business shall not receive more than five tax credits under the program.

e. The authority shall issue tax credits under the program on a first-come, first-served basis until the maximum amount of tax credits allocated pursuant to section 15.119, subsection 2, paragraph "h", is reached. The authority shall maintain a list of successful applicants under the program, so that if the maximum aggregate amount of tax credits is reached in a given fiscal year, eligible businesses that successfully applied but for which tax credits were not issued shall be placed on a wait list in the order the eligible businesses applied and shall be given priority for receiving tax credits in succeeding fiscal years. Placement on a wait list pursuant to this paragraph shall not constitute a promise binding the state. The availability of a tax credit and issuance of a tax credit certificate pursuant to this subsection in a future

fiscal year is contingent upon the availability of tax credits in that particular fiscal year.

4. *Termination and repayment.* The failure by an eligible business in fulfilling any requirement of the program or any of the terms and obligations of an agreement entered into pursuant to this section may result in the reduction, termination, or rescission of the tax credits under section 15.319 and may subject the eligible business to the repayment or recapture of tax credits claimed. The repayment or recapture of tax credits pursuant to this subsection shall be accomplished in the same manner as provided in section 15.330, subsection 2.

5. *Confidentiality.*

a. Except as provided in paragraph "b", any information or record in the possession of the authority with respect to the program shall be presumed by the authority to be a trade secret protected under chapter 550 or common law and shall be kept confidential by the authority unless otherwise ordered by a court.

b. The identity of a tax credit recipient and the amount of the tax credit shall be considered public information under chapter 22.

Sec. 8. NEW SECTION. 15.319 Renewable chemical production tax credit.

1. An eligible business that has entered into an agreement pursuant to section 15.318 may claim a tax credit in an amount equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in this state from biomass feedstock by the eligible business during the calendar year in excess of the eligible business's pre-eligibility production threshold. However, an eligible business shall not receive a tax credit for the production of a secondarily derived building block chemical if that chemical is also the subject of a credit at the time of production as a first product. The renewable chemical production tax credit shall not be available for any renewable chemical produced before the 2017 calendar year or after the 2026 calendar year.

2. The tax credit shall be allowed against taxes imposed under chapter 422, division II or III.

3. The tax credit shall be claimed for the tax year during

which the eligible business was issued the tax credit.

4. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

5. Any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

6. *a.* To claim a tax credit under this section, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

b. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

c. The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to chapter 422, divisions II and III, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of the program.

d. Tax credit certificates issued pursuant to this section shall not be transferred to any other person.

Sec. 9. NEW SECTION. 15.320 Reports to general assembly.

1. For purposes of this section, "*successful tax credit applicant*" includes, with respect to each calendar year, an eligible business that was issued a tax credit for production of renewable chemicals during that calendar year, and an eligible business that successfully applied for a tax credit for the production of renewable chemicals during that calendar year, but was not issued a tax credit and was instead placed on a wait list pursuant to section 15.318, subsection 3, paragraph

“e”.

2. By January 31, 2019, and by the same date each year thereafter, the board, in cooperation with the department of revenue, shall submit to the general assembly and the governor a report describing the activities of the program for the most recent calendar year for which the tax credit application period has ended pursuant to section 15.318, subsection 1, paragraph “c”. The report shall at a minimum include the following information:

a. The aggregate number of pounds, and a list of each type, of renewable chemicals produced in Iowa by all successful tax credit applicants during the calendar year prior to the calendar year for which the successful applicants first applied for a tax credit under the program.

b. The aggregate number of pounds, and a list of each type, of renewable chemicals produced in Iowa by all successful tax credit applicants during each calendar year.

c. The aggregate sales of all renewable chemicals produced by all successful tax credit applicants in each calendar year for which there are at least five successful tax credit applicants.

d. The aggregate number of pounds, and a list of each type, of biomass feedstock used in the production of renewable chemicals in Iowa by all successful tax credit applicants during the calendar year prior to the calendar year for which the successful applicants first applied for a tax credit under the program.

e. The aggregate number of pounds, and a list of each type, of biomass feedstock used in the production of renewable chemicals in Iowa by all successful tax credit applicants during each calendar year.

f. The number of employees located in Iowa of all successful tax credit applicants during the calendar year prior to the calendar year for which the successful applicants first applied for a tax credit under the program.

g. The number of employees located in Iowa of all successful tax credit applicants during each calendar year.

h. The number and aggregate amount of tax credits issued under the program for each calendar year.

i. The number of eligible businesses placed on the wait list for each calendar year, and the total number of eligible businesses remaining on the wait list at the end of that calendar year.

j. The dollar amount of tax credit claims placed on the wait list for each calendar year, and the total dollar amount of tax credit claims remaining on the wait list at the end of that calendar year.

k. For each eligible business issued a renewable chemical production tax credit during each calendar year:

- (1) The identity of the eligible business.
- (2) The amount of the tax credit.
- (3) The manner in which the eligible business first qualified as an eligible business under section 15.317, subsection 4, whether by organizing, expanding, or locating in the state.

l. The total amount of all renewable chemical production tax credits claimed during each calendar year, and the portion of the claims issued as refunds.

3. To protect the presumption of confidentiality established in section 15.318, subsection 5, the board shall report all information in an aggregate form to prevent, as much as possible, information being attributable to any particular eligible business, except as provided in subsection 2, paragraph "k".

Sec. 10. NEW SECTION. 15.321 Rules.

The authority and the department of revenue shall each adopt rules as necessary for the implementation and administration of this part.

Sec. 11. NEW SECTION. 15.322 Future repeal.

Section 15.315, 15.316, 15.317, 15.318, 15.319, 15.320, 15.321, and this section, are repealed July 1, 2030.

Sec. 12. NEW SECTION. 422.10A Renewable chemical production tax credit.

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a renewable chemical production tax credit allowed under section 15.319. This section is repealed January 1, 2033.

Sec. 13. Section 422.33, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The taxes imposed under this division shall be reduced by a renewable chemical production tax credit allowed under section 15.319. This subsection is repealed January 1, 2033.

Sec. 14. TAX CREDIT CLAIMS. Renewable chemical production tax credits issued pursuant to the renewable chemical production tax credit program enacted in this division of this Act shall not be issued by the economic development authority prior to July 1, 2018, and shall not be claimed by a taxpayer prior to September 1, 2018.

Sec. 15. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 16. APPLICABILITY. This division of this Act applies to renewable chemicals produced in the state from biomass feedstock on or after January 1, 2017.

PAM JOCHUM
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2300, Eighty-sixth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2016

TERRY E. BRANSTAD
Governor