

Senate Study Bill 3001 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ECONOMIC
DEVELOPMENT AUTHORITY BILL)

A BILL FOR

1 An Act relating to the administration of programs by the
2 economic development authority by creating a renewable
3 chemical production tax credit program, modifying the high
4 quality jobs program, and including effective date and other
5 applicability provisions.

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

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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 This subparagraph (2) is repealed July 1, 2021.

DIVISION II

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

Sec. 2. 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 15.320. In allocating tax credits pursuant to this subsection, the authority shall not allocate more than ten million dollars for purposes of this paragraph.

Sec. 3. NEW SECTION. 15.315 **Short title.**

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

Sec. 4. 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, 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

1 process.

2 3. "*Building block chemical*" means a molecule converted
3 from biomass feedstock as a first product or a secondarily
4 derived product that can be further refined into a higher-value
5 chemical, material, or consumer product. "*Building block*
6 *chemical*" includes but is not limited to glycerol, methanoic
7 or formic acid, arabonic acid, erythronic acid, glyceric acid,
8 glycolic acid, lactic acid, 3-hydroxypropionate, propionic
9 acid, malonic acid, serine, succinic acid, fumaric acid,
10 malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin,
11 threonine, itaconic acid, furfural, levulinic acid, glutamic
12 acid, xylonic acid, xylaric acid, xylitol, arabitol, citric
13 acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic
14 acid, glucaric acid, sorbitol, gallic acid, ferulic acid,
15 nonfuel butanol, nonfuel ethanol, a polymer or gum that can be
16 produced directly from a protein-based biomass feedstock, or
17 such additional molecules as may be included by the authority
18 by rule.

19 4. "*Eligible business*" means a business meeting the
20 requirements of section 15.317.

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

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

29 7. "*Renewable chemical*" means a building block chemical
30 with a biobased content percentage of at least fifty percent.
31 "*Renewable chemical*" does not include a chemical sold or used
32 for the production of food, feed, or fuel. "*Renewable chemical*"
33 includes cellulosic ethanol, starch ethanol, or other ethanol
34 derived from biomass feedstock, fatty acid methyl esters,
35 or butanol, but only to the extent that such molecules are

1 produced and sold for uses other than food, feed, or fuel.
2 *“Renewable chemical”* also includes a building block chemical
3 that can be a food additive as long as the building block
4 chemical is not primarily consumed as food and is also sold
5 for uses other than food. *“Renewable chemical”* also includes
6 supplements, vitamins, nutraceuticals, and pharmaceuticals, but
7 only to the extent that such molecules do not provide caloric
8 value so as to be considered sustenance as food or feed.

9 8. *“Sugar”* means the organic compound glucose, fructose,
10 xylose, arabinose, lactose, sucrose, starch, cellulose, or
11 hemicellulose.

12 Sec. 5. NEW SECTION. 15.317 **Eligibility requirements.**

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

16 1. The business is physically located in this state.

17 2. The business is operated for profit and under single
18 management.

19 3. The business is not an entity providing professional
20 services, health care services, or medical treatments or an
21 entity engaged primarily in retail operations.

22 4. The business organized, expanded, or located in the state
23 on or after the effective date of this division of this Act.

24 5. The business shall not be relocating or reducing
25 operations as described in section 15.329, subsection 1,
26 paragraph *“b”*, and as determined under the discretion of the
27 authority.

28 6. The business is in compliance with all agreements entered
29 into under this program or other programs administered by the
30 authority.

31 Sec. 6. NEW SECTION. 15.318 **Eligible business application**
32 **and agreement — maximum tax credits.**

33 1. *Application.*

34 a. An eligible business that produces a renewable chemical
35 in this state from biomass feedstock during a calendar year may

1 apply to the authority for the renewable chemical production
2 tax credit provided in section 15.319.

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

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

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

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

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

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

19 2. *Agreement and fees.*

20 *a.* Before being issued a tax credit under section 15.319,
21 an eligible business shall enter into an agreement with the
22 authority for the successful completion of all requirements of
23 the program.

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

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

35 *d.* Upon establishing that all requirements of the program

1 and the agreement have been fulfilled, the authority shall
2 issue a tax credit and related tax credit certificate to the
3 eligible business stating the amount of renewable chemical
4 production tax credit the eligible business may claim.

5 3. *Maximum tax credit amount.*

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

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

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

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

19 c. An eligible business shall not receive more than five tax
20 credits under the program.

21 d. The authority shall issue tax credits under the program
22 on a first-come, first-served basis until the maximum amount of
23 tax credits allocated pursuant to section 15.119, subsection
24 2, paragraph "h", is reached. The authority shall maintain
25 a list of successful applicants under the program, so that
26 if the maximum aggregate amount of tax credits is reached in
27 a given fiscal year, eligible businesses that successfully
28 applied but for which tax credits were not issued shall be
29 placed on a wait list in the order the eligible businesses
30 applied and shall be given priority for receiving tax credits
31 in succeeding fiscal years. Placement on a wait list pursuant
32 to this paragraph shall not constitute a promise binding the
33 state. The availability of a tax credit and issuance of a tax
34 credit certificate pursuant to this subsection in a future
35 fiscal year is contingent upon the availability of tax credits

1 in that particular fiscal year.

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

11 5. *Confidentiality.*

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

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

21 Sec. 7. NEW SECTION. 15.319 **Renewable chemical production**
22 **tax credit.**

23 1. An eligible business that has entered into an agreement
24 pursuant to section 15.318 may claim a tax credit in an amount
25 equal to the product of five cents multiplied by the number
26 of pounds of renewable chemicals produced in this state from
27 biomass feedstock by the eligible business during the calendar
28 year. However, an eligible business shall not receive a tax
29 credit for the production of a secondarily derived building
30 block chemical if that chemical is also the subject of a credit
31 at the time of production as a first product. The renewable
32 chemical production tax credit shall not be available for any
33 renewable chemical produced before the 2017 calendar year or
34 after the 2027 calendar year.

35 2. The tax credit shall be allowed against taxes imposed

1 under chapter 422, division II or III.

2 3. The tax credit shall be claimed for the tax year during
3 which the eligible business was issued the tax credit.

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

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

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

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

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

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

33 **Sec. 8. NEW SECTION. 15.320 Rules.**

34 The authority and the department of revenue shall each adopt
35 rules as necessary for the implementation and administration

1 of this part.

2 Sec. 9. NEW SECTION. 422.10A Renewable chemical production
3 tax credit.

4 The taxes imposed under this division, less the credits
5 allowed under section 422.12, shall be reduced by a renewable
6 chemical production tax credit allowed under section 15.319.

7 Sec. 10. Section 422.33, Code 2016, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 22. The taxes imposed under this division
10 shall be reduced by a renewable chemical production tax credit
11 allowed under section 15.319.

12 Sec. 11. TAX CREDIT CLAIMS. Renewable chemical production
13 tax credits issued pursuant to the renewable chemical
14 production tax credit program enacted in this division of this
15 Act shall not be issued by the economic development authority
16 prior to July 1, 2018, and shall not be claimed by a taxpayer
17 prior to September 1, 2018.

18 Sec. 12. EFFECTIVE UPON ENACTMENT. This division of this
19 Act, being deemed of immediate importance, takes effect upon
20 enactment.

21 Sec. 13. APPLICABILITY. This division of this Act applies
22 to renewable chemicals produced in the state from biomass
23 feedstock on or after January 1, 2017.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to the administration of programs by
28 the economic development authority (EDA) by modifying the
29 high quality jobs program and creating a renewable chemical
30 production tax credit program.

31 DIVISION I — HIGH QUALITY JOBS PROGRAM. Division I limits
32 for a period of five fiscal years the amount of tax credits
33 that may be allocated to the high quality jobs program, which
34 under current law is subject to EDA's maximum aggregate tax
35 credit cap of \$170 million per fiscal year in Code section

1 15.119. The bill provides that for each of the five fiscal
2 years beginning on July 1, 2016, and ending on June 30, 2021,
3 the authority shall not allocate more than \$105 million of
4 that \$170 million cap to the high quality jobs program. This
5 provision is repealed July 1, 2021.

6 DIVISION II — RENEWABLE CHEMICAL PRODUCTION TAX CREDIT.
7 Division II creates a renewable chemical production tax credit
8 program (program) that will be administered by the EDA and that
9 will provide tax credits to eligible businesses that produce
10 renewable chemicals in Iowa from biomass feedstock. "Renewable
11 chemical", "biomass feedstock", and other related terms are
12 defined in the division.

13 In order to qualify for the tax credit, a business must
14 meet several requirements. First, the business must be
15 physically located in Iowa and operated for profit under
16 single management. Second, the business must not be an
17 entity providing professional services, health care services,
18 or medical treatments, or be engaged primarily in retail
19 operations. Third, the business must have organized, expanded,
20 or located in Iowa on or after the effective date of the
21 division. Fourth, the business must not be, in the discretion
22 of the EDA, ineligible under certain provisions relating to the
23 relocation or reduction of business operations within Iowa.
24 Fifth, the business must be in compliance with all agreements
25 entered into under the program or other programs administered
26 by the EDA.

27 An eligible business seeking a tax credit is required to
28 submit an application to the EDA containing various information
29 during the calendar year following the calendar year in which
30 the renewable chemicals are produced. The EDA may accept
31 applications on a continuous basis or may establish an annual
32 application deadline.

33 Before being issued a tax credit, an eligible business
34 is required to enter into an agreement with the EDA for the
35 successful completion of all requirements of the program. The

1 EDA is authorized to impose two compliance cost fees under the
2 program. The first fee equals \$500 per agreement. The second
3 fee equals 0.5 percent of the value of the tax credit claimed
4 pursuant to the agreement if the agreement has an aggregate tax
5 credit value of \$100,000 or greater.

6 An eligible business that fails to comply with the
7 requirements of the program or the terms of an agreement with
8 the EDA may have its tax credits reduced, terminated, or
9 rescinded, and may be subject to the repayment or recapture of
10 claimed tax credits.

11 The tax credit equals the product of \$.05 multiplied by the
12 number of pounds of renewable chemicals produced in Iowa from
13 biomass feedstock by the eligible business during the calendar
14 year. Renewable chemicals produced by an eligible business
15 either prior to calendar year 2017 or prior to the date the
16 business first qualifies as an eligible business, or after
17 calendar year 2027, shall not qualify for the tax credit.

18 The tax credit shall be claimed for the tax year during which
19 the eligible business was issued the tax credit. However, tax
20 credits shall not be issued by EDA prior to July 1, 2018, or
21 claimed by the taxpayer prior to September 1, 2018. The tax
22 credit may be claimed against the individual income tax and the
23 corporate income tax. The credit is refundable or may, at the
24 election of the taxpayer, be carried forward for up to one tax
25 year. The tax credit shall not be transferred to any person.

26 The division provides that the program is subject to EDA's
27 maximum aggregate tax credit cap of \$170 million per fiscal
28 year in Code section 15.119, and not more than \$10 million
29 per fiscal year may be issued by the EDA under the program.
30 In addition, the maximum amount of tax credit that may be
31 issued to an eligible business for the production of renewable
32 chemicals in any one calendar year shall not exceed \$1 million
33 or \$500,000, depending on whether the eligible business has
34 been operating in Iowa at the time of application for five
35 or fewer years, or more than five years, respectively. An

1 eligible business shall not receive more than five tax credits
2 under the program. The EDA is required to issue tax credits
3 on a first-come, first-served basis until the maximum amount
4 of \$10 million per fiscal year is reached. If the amount of
5 tax credits exceeds this amount in a fiscal year, the EDA
6 is required to establish a wait list and give priority in
7 subsequent years to the eligible businesses on the wait list.

8 The division provides for the confidentiality of certain
9 information under the program. The identity of a tax credit
10 recipient and the amount of the tax credit shall be considered
11 public information under Code chapter 22 (examination of public
12 records), but any other information or record in the possession
13 of the EDA with respect to the program shall be presumed by
14 the EDA to be a trade secret protected under Code chapter 550
15 or common law and shall be kept confidential by the EDA unless
16 otherwise ordered by a court.

17 The division takes effect upon enactment and applies to
18 renewable chemicals produced in Iowa from biomass feedstock on
19 or after January 1, 2017.