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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 2200

March 19, 2007
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The bill was read for the first time and referred to the Committee on Finance

A bill for an act

relating to energy; promoting use of hydrogen as energy resource using an innovative commercial demonstration of integrated biorefinery system for production of liquid transportation biofuels, biobased chemicals, and substitutes for petroleum-based feedstocks and products that will cause a net reduction of emissions of greenhouse gases; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[216B.8182] DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in sections 216B.8182 to 216B.8188 have the meanings given them in this section.

Subd. 2. **Biomass.** "Biomass" means:

(1) any organic by-product of agriculture including waste from food production and processing that can be converted to energy;

(2) any organic material grown for the purpose of being converted to energy; and

(3) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from:

(i) any forest-related resources, mill residues, trimmings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pellets, crates, damaged wood, manufacturing and construction wood wastes (not including pressure-treated, chemical-treated, or painted wood wastes), but not including municipal solid waste, or paper that is commonly recycled.

Subd. 3. **Carbon reduction.** "Carbon reduction" refers to the use of the materials producing carbon dioxide before they become emissions.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 5. **Countercyclical payment.** "Countercyclical payment" means a payment made for protection against low biofuels prices and inconsistent yield during startup, as determined by the commissioner.

Subd. 6. **Hydrogen.** "Hydrogen" refers to hydrogen produced using native energy sources and methods that are renewable or carbon reducing.

Subd. 7. **Innovative commercial demonstration or project.** "Innovative commercial demonstration" or "project" means an activity that uses biomass lignocellulosic feedstock or water, or both, for the production of hydrogen or carbon monoxide, or both, to be reacted into transportation fuels, heating fuels, and chemicals.

Subd. 8. **Lignocellulosic feedstock.** "Lignocellulosic feedstock" means any portion of a plant or coproduct from conversion, including crops, trees, forest residues, and agricultural residues not specifically grown for food.

Sec. 2. **[216B.8184] FOSTERING TRANSITION AWAY FROM FOSSIL FUELS.**

To meet the goal of section 216B.8109, this project has the following objectives for the state of Minnesota:

(a) Make the state the nation's leader in thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel-cell-powered vehicles.

(b) Advance thermochemical processes capable of increasing energy production form lignocellulosic feedstocks, with emphasis on reducing the dependence of the industry on fossil fuels in energy manufacturing facilities.

(c) Advance other processes that will enable the development of cost-effective bioproducts including biofuels.

(d) Foster economic development and job creation in the state.

(e) Accelerate the commercialization of hydrogen using the present infrastructure of fuel distribution.

(f) Give the on-board fuel cell technology and the biofuels industry the choice of using ethanol, methanol, propanol, or butanol.

(g) Reduce emissions of carbon dioxide and other pollutants during the process.

(h) Reduce the cost and improve the efficiency of hydrogen from renewable energy sources.

(i) Advance energy security.

(j) Capitalize on the state's native resources for carbon reduction.

(k) Use the funded project as a teaching and research facility for future plants using the technology.

(l) Allow scalability for response to changing circumstances and market demands.

(m) Be economically, environmentally, and socially acceptable for the state.

(n) Draw on firms and expertise within the state when possible.

Sec. 3. **[216B.8186] PROJECT ELIGIBILITY REQUIREMENTS.**

Subdivision 1. **Selection.** In selecting a project under the program, the commissioner shall require projects that:

(1) have 51 percent Minnesota ownership for a duration of at least ten years after the last payment is received;

(2) demonstrate outstanding potential for local economic development;

(3) include agricultural producers or cooperatives of agricultural producers as equity partners in the venture;

(4) have a strategic agreement in place to fairly reward feedstock suppliers;

(5) ensure that small biomass feedstock producers and small rural businesses are full participants in the development of projects; and

(6) give feedstock providers the first opportunity to be investors in projects.

Subd. 2. **Restrictions.** (a) If a project's majority ownership changes to other than 51 percent ownership by Minnesota residents, the project must refund the grant amount and the refund must be returned to the general fund.

(b) The project must have a proportion of biomass feedstock suppliers practicing carbon sequestration on some of the land on which the biomass will be removed resulting in carbon reduction.

Sec. 4. **[216B.8188] CELLULOSE BIOFUEL AND CHEMICAL DEVELOPMENT.**

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

Subd. 2. **Renewable energy project loans.** The Rural Finance Authority (RFA) shall partner with lenders to provide a 20 percent loan guarantee for projects. The project must use biomass or wind, or both, as feedstock to produce biofuels, heating fuels, and chemicals. The limit of the exposure to the state is $5,000,000 per project.

Subd. 3. **Capitalization.** (a) Subject to subdivision 2, financing for any single project may not exceed $10,000,000, which becomes available when the project begins construction.

(b) For full funding, the project must produce 10,000,000 gallons per year of biofuels or chemicals derived from on-site production of hydrogen or, if not, funding must be prorated.

(c) The state shall fund one grant per year over the next ten years for ten different projects.

(d) The commissioner shall determine the amount of the countercyclical payment on a per-gallon basis to sustain the project's interest payments, payment needed on principal payments, and a fair return to investors.

(e) The countercyclical payments per project must range from $0 to 30 cents per gallon, as determined on a quarterly basis, with no quarterly payment exceeding $300,000 with a maximum of $10,000,000 per project over the ten-year duration.

(f) Payments under paragraphs (a) and (e) to eligible biofuel producers may not exceed $20,000,000 in a fiscal year. Total payments under paragraph (e) to an eligible biofuel producer in a fiscal year may not exceed the amount necessary for 10,000,000 gallons of biofuel production, or the production of the equivalent in heating fuels, or chemicals.

(g) By the last day of October, January, April, and July, each eligible biofuel producer shall file a claim for payment for cellulosic biofuel production during the preceding three calendar months. An eligible biofuel producer that files a claim under this paragraph shall include a statement of the eligible biofuel producer's total cellulosic biofuel production in Minnesota during the quarter covered by the claim. For each claim and statement of total cellulosic biofuel production filed under this paragraph, the volume of cellulosic biofuel production must be examined by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants.

(h) Payments must be made by the 15th of the month following the date the claim is due under paragraph (g). A separate payment must be made for each claim filed. The total quarterly payment to an eligible producer under this paragraph may not exceed the amount necessary for 2,500,000 gallons of biofuel production.

(i) If an eligible biofuel producer becomes ineligible within ten years after the last payment has been received under this section, all payments received for biofuel production must be refunded to the commissioner. Refunded payments received under this paragraph must be deposited in the general fund.

(j) Annually by October 1, a cellulosic biofuel producer receiving payments under this subdivision must file a disclosure statement on a form provided by the commissioner. The initial disclosure statement must include a summary description of the organization of the business structure of the claimant, a listing of the percentages of ownership and governance by any person or other entity with an ownership interest or governance rights of five percent or greater, and a copy of the person's or entity's annual audited financial statements, including the auditor's report and footnotes. The disclosure statement must include information demonstrating what percentage of the entity receiving payments under this section is owned and governed by farmers or other entities that reside within the county where the cellulosic biofuel facility is located. Subsequent annual reports must reflect noncumulative changes in ownership of ten percent or more of the entity. The report need not disclose the identity of the persons or entities, but the claimant shall retain information within the claimant's files confirming the accuracy of the data provided. This data must be made available to the commissioner upon request. Not later than February 15, annually, the commissioner shall deliver to the chairs of the legislative committees for agricultural policy and agricultural finance an annual report summarizing aggregated data from plants receiving payments under this section during the preceding calendar year. Audited financial statements and notes and disclosure statements submitted to the commissioner are nonpublic data under section 13.02, subdivision 9. Notwithstanding the provisions of chapter 13 relating to nonpublic data, summaries of the submitted audited financial reports and notes and disclosure statements must be contained in the report to the committee chairs and are considered public data.