

SB1656



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1656

Introduced 2/9/2017, by Sen. Andy Manar - Chapin Rose

SYNOPSIS AS INTRODUCED:

New Act

Creates the Renewable Chemical Production Tax Credit Program Act. Provides a credit against taxes imposed under the Illinois Income Tax Act for eligible businesses that produces a renewable chemical in this State from biomass feedstock. Provides eligibility requirements and for the amount and applicability of the credit. Defines terms. Effective immediately.

LRB100 08447 HLH 18565 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Renewable Chemical Production Tax Credit Program Act.

6 Section 5. Definitions. As used in this Act:

7 "Biobased content percentage" means, with respect to any
8 renewable chemical, the amount, expressed as a percentage, of
9 renewable organic material present as determined by testing
10 representative samples using the ASTM International Standard
11 D6866, or its successor standard.

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

17 "Building block chemical" means a molecule converted from
18 biomass feedstock as a first product or a secondarily derived
19 product that can be further refined into a higher-value
20 chemical, material, or consumer product. "Building block
21 chemical" includes but is not limited to high-purity glycerol,
22 oleic acid, lauric acid, methanoic or formic acid, arabonic
23 acid, erythronic acid, glyceric acid, glycolic acid, lactic

1 acid, 3-hydroxypropionate, propionic acid, malonic acid,
2 serine, succinic acid, fumaric acid, malic acid, aspartic acid,
3 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid,
4 furfural, levulinic acid, glutamic acid, xylonic acid, xylaric
5 acid, xylitol, arabitol, citric acid, aconitic acid,
6 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid,
7 sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel
8 ethanol, or such additional molecules as may be included by the
9 Department by rule after consultation with appropriate experts
10 from the Department of Agricultural and Biological
11 Engineering, or its successor department, of the College of
12 Agricultural, Consumer, and Environmental Sciences, of the
13 University of Illinois.

14 "Crude glycerin" means glycerin with a purity level below
15 95%.

16 "Department" means the Department of Commerce and Economic
17 Opportunity.

18 "Eligible business" means a business meeting the
19 requirements of Section 10.

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

26 "High-purity glycerol" means glycerol with a purity level

1 of 95%.

2 "Pre-eligibility production threshold" means, with respect
3 to each eligible business, the number of pounds of renewable
4 chemicals produced, if any, by an eligible business during the
5 calendar year prior to the calendar year in which the business
6 first qualified as an eligible business pursuant to Section 10.

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

9 "Renewable chemical" means a building block chemical with a
10 biobased content percentage of at least fifty percent.

11 "Renewable chemical" does not include a chemical sold or used
12 for the production of food, feed, or fuel. "Renewable chemical"
13 includes cellulosic ethanol, starch ethanol, or other ethanol
14 derived from biomass feedstock, fatty acid methyl esters, or
15 butanol, but only to the extent that such molecules are
16 produced and sold for uses other than food, feed, or fuel.

17 "Renewable chemical" also includes a building block chemical
18 that can be a food additive as long as the building block
19 chemical is not primarily consumed as food and is also sold for
20 uses other than food. "Renewable chemical" also includes
21 supplements, vitamins, nutraceuticals, and pharmaceuticals,
22 but only to the extent that such molecules do not provide
23 caloric value so as to be considered sustenance as food or
24 feed.

25 "Sugar" means the organic compound glucose, fructose,
26 xylose, arabinose, lactose, sucrose, starch, cellulose, or

1 hemicellulose.

2 Section 10. Eligibility requirements. To be eligible to
3 receive the renewable chemical production tax credit pursuant
4 to the program, a business shall meet all of the following
5 requirements:

6 (1) The business is physically located in this State.

7 (2) The business is operated for profit and under
8 single management.

9 (3) The business is not an entity providing
10 professional services, health care services, or medical
11 treatments or an entity engaged primarily in retail
12 operations.

13 (4) The business organized, expanded, or located in the
14 State on or after the effective date of this Act.

15 (5) The business shall not be relocating or reducing
16 operations within the State.

17 (6) The business is in compliance with all agreements
18 entered into under this program or other programs
19 administered by the Department.

20 Section 15. Eligible business application and agreement;
21 maximum tax credits.

22 (a) An eligible business that produces a renewable chemical
23 in this State from biomass feedstock during a calendar year may
24 apply to the Department for the renewable chemical production

1 tax credit provided in Section 20. The application shall be
2 made to the Department in the manner prescribed by the
3 Department. The application shall be made during the calendar
4 year following the calendar year in which the renewable
5 chemicals are produced. The Department may accept applications
6 on a continuous basis or may establish, by rule, an annual
7 application deadline.

8 (b) The application shall include all of the following
9 information:

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

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

16 (c) Before being issued a tax credit under Section 20, an
17 eligible business shall enter into an agreement with the
18 Department for the successful completion of all requirements of
19 the program. As part of the agreement, the eligible business
20 shall agree to collect and provide any information reasonably
21 required by the Department in order to allow the Department to
22 fulfill its reporting obligation under Section 25.

23 (1) An eligible business shall fulfill all the
24 requirements of the program and the agreement before
25 receiving a tax credit or entering into a subsequent
26 agreement under this Section. The Department may decline to

1 enter into a subsequent agreement under this Section or
2 issue a tax credit if an agreement is not successfully
3 fulfilled.

4 (2) Upon establishing that all requirements of the
5 program and the agreement have been fulfilled, the
6 Department shall issue a tax credit and related tax credit
7 certificate to the eligible business stating the amount of
8 renewable chemical production tax credit the eligible
9 business may claim.

10 (d) The maximum amount of tax credit that may be issued
11 under Section 20 to an eligible business for the production of
12 renewable chemicals in a calendar year shall not exceed the
13 following:

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

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

20 An eligible business shall not receive a tax credit for
21 renewable chemicals produced before the date the business first
22 qualified as an eligible business pursuant to Section 10. An
23 eligible business shall only receive a tax credit for renewable
24 chemicals produced in a calendar year to the extent such
25 production exceeds the eligible business's pre-eligibility
26 production threshold. An eligible business shall not receive

1 more than 5 tax credits under the program.

2 The Department shall issue tax credits under the program on
3 a first-come, first-served basis until the maximum amount of
4 \$25,000,000 of tax credits are allocated in any given calendar
5 year. The Department shall maintain a list of successful
6 applicants under the program, so that if the maximum aggregate
7 amount of tax credits is reached in a given year, eligible
8 businesses that successfully applied but for which tax credits
9 were not issued shall be placed on a wait list in the order the
10 eligible businesses applied and shall be given priority for
11 receiving tax credits in succeeding years. Placement on a wait
12 list pursuant to this subsection (d) shall not constitute a
13 promise binding the State. The availability of a tax credit and
14 issuance of a tax credit certificate pursuant to this
15 subsection (d) in a future year is contingent upon the
16 availability of tax credits in that particular year.

17 (e) The failure by an eligible business in fulfilling any
18 requirement of the program or any of the terms and obligations
19 of an agreement entered into pursuant to this Section may
20 result in the reduction, termination, or rescission of the tax
21 credits under Section 20 and may subject the eligible business
22 to the repayment or recapture of tax credits claimed.

23 (f) Except as provided in this subsection (f), any
24 information or record in the possession of the Department with
25 respect to the program shall be presumed by the Department to
26 be a protected trade secret protected and shall be kept

1 confidential by the Department unless otherwise ordered by a
2 court. The identity of a tax credit recipient and the amount of
3 the tax credit shall be considered public information.

4 Section 20. Renewable chemical production tax credit.

5 (a) An eligible business that has entered into an agreement
6 pursuant to Section 15 may claim a tax credit in an amount
7 equal to the product of five cents multiplied by the number of
8 pounds of renewable chemicals produced in this State from
9 biomass feedstock by the eligible business during the calendar
10 year in excess of the eligible business's pre-eligibility
11 production threshold. However, an eligible business shall not
12 receive a tax credit for the production of a secondarily
13 derived building block chemical if that chemical is also the
14 subject of a credit at the time of production as a first
15 product. The renewable chemical production tax credit shall not
16 be available for any renewable chemical produced before the
17 2018 calendar year.

18 (b) The tax credit shall be allowed against taxes imposed
19 on corporations under the Illinois Income Tax Act.

20 (c) The tax credit shall be claimed for the tax year during
21 which the eligible business was issued the tax credit.

22 (d) An individual may claim a tax credit under this Section
23 of a partnership, limited liability company, S corporation,
24 cooperative organized under chapter 501 and filing as a
25 partnership for federal tax purposes, estate, or trust electing

1 to have income taxed directly to the individual. The amount
2 claimed by the individual shall be based upon the pro rata
3 share of the individual's earnings from the partnership,
4 limited liability company, S corporation, cooperative, estate,
5 or trust.

6 (e) For any tax credit in excess of the tax liability, the
7 taxpayer may elect to have the overpayment shown on the
8 taxpayer's final, completed return credited to the tax
9 liability for the following tax year.

10 (f) To claim a tax credit under this Section, a taxpayer
11 shall include one or more tax credit certificates with the
12 taxpayer's tax return. The tax credit certificate shall contain
13 the taxpayer 's name, address, tax identification number, the
14 amount of the credit, the name of the eligible business, and
15 any other information required by the Department of Revenue.
16 The tax credit certificate, unless rescinded by the Department,
17 shall be accepted by the Department of Revenue as payment for
18 taxes imposed pursuant to the Illinois Income Tax Act, subject
19 to any conditions or restrictions placed by the Department upon
20 the face of the tax credit certificate and subject to the
21 limitations of the program. Tax credit certificates issued
22 pursuant to this Section shall not be transferred to any other
23 person.

24 Section 25. Reports to General Assembly.

25 (a) For purposes of this Section, "successful tax credit

1 applicant" includes, with respect to each calendar year, an
2 eligible business that was issued a tax credit for production
3 of renewable chemicals during that calendar year, and an
4 eligible business that successfully applied for a tax credit
5 for the production of renewable chemicals during that calendar
6 year, but was not issued a tax credit and was instead placed on
7 the wait list provided under subsection (d) of Section 15.

8 (b) By January 31, 2019, and by January 31 of each year
9 thereafter, the Department, in cooperation with the Department
10 of Revenue, shall submit to the General Assembly and the
11 Governor a report describing the activities of the program for
12 the most recent calendar year for which the tax credit
13 application period has ended pursuant to subsection (a) of
14 Section 15. The report shall at a minimum include the following
15 information:

16 (1) The aggregate number of pounds, and a list of each
17 type, of renewable chemicals produced in Illinois by all
18 successful tax credit applicants during the calendar year
19 prior to the calendar year for which the successful
20 applicants first applied for a tax credit under the
21 program.

22 (2) The aggregate number of pounds, and a list of each
23 type, of renewable chemicals produced in Illinois by all
24 successful tax credit applicants during each calendar
25 year.

26 (3) The aggregate sales of all renewable chemicals

1 produced by all successful tax credit applicants in each
2 calendar year for which there are at least five successful
3 tax credit applicants.

4 (4) The aggregate number of pounds, and a list of each
5 type, of biomass feedstock used in the production of
6 renewable chemicals in Illinois by all successful tax
7 credit applicants during the calendar year prior to the
8 calendar year for which the successful applicants first
9 applied for a tax credit under the program.

10 (5) The aggregate number of pounds, and a list of each
11 type, of biomass feedstock used in the production of
12 renewable chemicals in Illinois by all successful tax
13 credit applicants during each calendar year.

14 (6) The number of employees located in Illinois of all
15 successful tax credit applicants during the calendar year
16 prior to the calendar year for which the successful
17 applicants first applied for a tax credit under the
18 program.

19 (7) The number of employees located in Illinois of all
20 successful tax credit applicants during each calendar
21 year.

22 (8) The number and aggregate amount of tax credits
23 issued under the program for each calendar year.

24 (9) The number of eligible businesses placed on the
25 wait list for each calendar year, and the total number of
26 eligible businesses remaining on the wait list at the end

1 of that calendar year.

2 (10) The dollar amount of tax credit claims placed on
3 the wait list for each calendar year, and the total dollar
4 amount of tax credit claims remaining on the wait list at
5 the end of that calendar year.

6 (11) For each eligible business issued a renewable
7 chemical production tax credit during each calendar year:

8 (A) The identity of the eligible business.

9 (B) The amount of the tax credit.

10 (C) The manner in which the eligible business first
11 qualified as an eligible business under paragraph (4)
12 of Section 10, whether by organizing, expanding, or
13 locating in the State.

14 (12) The total amount of all renewable chemical
15 production tax credits claimed during each calendar year,
16 and the portion of the claims issued as refunds.

17 (c) To protect the presumption of confidentiality
18 established in subsection (f) of Section 15, the Department
19 shall report all information in an aggregate form to prevent,
20 as much as possible, information being attributable to any
21 particular eligible business, except as provided in paragraph
22 (11) of subsection (b) of this Section.

23 Section 30. Rules. The Department and the Illinois
24 Department of Revenue shall each adopt rules as necessary for
25 the implementation and administration of this Act.

1 Section 35. Repeal. This Act is repealed on January 1,
2 2024.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.