

## SUSTAINABLE AVIATION FUEL TAX CREDITS

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<http://www.house.mi.gov/hfa>

**House Bills 4424 and 4425 (proposed substitute H-1)**

**Sponsor: Rep. Jerry Neyer**

**Committee: Transportation and Infrastructure**

**Complete to 6-2-25**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

**House Bill 4425** would create a new act, the Sustainable Aviation Fuel Incentive Program Act, to require the Department of Environment, Great Lakes, and Energy (EGLE) to create a sustainable aviation fuel incentive program to provide a certification process for corporate income tax credits for the production of *sustainable aviation fuel* in Michigan. EGLE could approve and certify up to \$4.5 million in sustainable aviation fuel tax credits in the 2025-26 fiscal year, and up to \$9.0 million in subsequent fiscal years. (Under House Bill 4424, the credit would be from \$1.50 to \$2 per gallon of qualifying fuel sold.)

*Sustainable aviation fuel* would mean aviation fuel that satisfies all of the following:

- It is derived from *biomass*, waste streams, renewable or zero emissions energy sources, or gaseous carbon oxides. Beginning January 1, 2030, the aviation fuel would have to be derived from domestic feedstock resources and could not be derived from coprocessing an applicable material, or materials derived from an applicable material, with a feedstock that is not biomass.
- It meets the requirements of ASTM International D7566 (“Standard Specification for Aviation Turbine Fuel Containing Synthesized Hydrocarbons”) or D1655 (“Standard Specification for Aviation Turbine Fuels”).<sup>1</sup>
- It achieves at least a 50% life-cycle *greenhouse gas* emissions reduction compared to petroleum-based aviation fuel, as determined by any of the following:
  - The most recent life-cycle methodology for calculating the life-cycle emissions of sustainable aviation fuels adopted by the International Civil Aviation Organization with the agreement of the United States.
  - The most recent version of the Argonne National Laboratory’s Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies (GREET) model, inclusive of climate smart agricultural practices, on-site renewables, and carbon capture and sequestration.
  - Any other model EGLE approves to calculate life-cycle greenhouse gas emissions for sustainable aviation fuel.

*Biomass* would mean any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees; wood and wood waste and residues; plants, including aquatic plants, grasses, residues, and fibers; animal waste; and the organic portion of solid wastes.

*Greenhouse gas* would mean carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

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<sup>1</sup> See <https://afdc.energy.gov/fuels/sustainable-aviation-fuel>

EGLE would have to administer the sustainable aviation fuel incentive program; develop and use an application, approval, and certification process for the approval of sustainable aviation fuel tax credits; and make that process available on its website. The process would have to provide for at least both of the following:

- A digital application portal with status tracking, submission confirmation, and time-stamped updates accessible to applicants.
- A program ombudsperson to oversee applicant communications and ensure timely and equitable processing.

To claim a sustainable aviation fuel tax credit, a person would have to submit an application to EGLE for approval and certification of the number of gallons of sustainable aviation fuel produced or blended in Michigan and sold during the tax year and the amount of the credit allowed to be claimed under House Bill 4424. The application would have to be submitted within two months after the close of the person's tax year in a form and manner as prescribed by EGLE. Both of the following would have to be submitted with the application:

- Evidence that the person is engaged in the business of producing or blending sustainable aviation fuel in Michigan and that the sustainable aviation fuel sold during the applicable tax year was produced or blended in Michigan. EGLE could not deny an application based on meeting this requirement if the applicant provides commercially valid or contractual records that demonstrate either of the following:
  - The crops cultivated by the applicant were processed at an ethanol production facility in Michigan and then shipped to a blending facility in Michigan.
  - The ethanol used for blending sustainable aviation fuel was processed at an ethanol production facility in Michigan and then shipped to a blending facility in Michigan.
- Copies of each purchaser's certification that the sustainable aviation fuel purchased in Michigan from that person was purchased for use as fuel in an aircraft departing from an airport in Michigan. A purchaser that is a wholly owned subsidiary of an airline operator could make the required certification based on information from the airline operator that the sustainable aviation fuel was purchased for use in an aircraft departing from an airport in Michigan.

If a purchaser makes a certification required under the above provisions that it knows or has reason to know is false, any person responsible for preparing or submitting that certification would be guilty of a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. A purchaser that is a wholly owned subsidiary of an airline operator that makes a certification based on information from that airline operator would be considered to have the same knowledge of the accuracy of that information as the airline operator.

EGLE would have to approve or reject an application, or request additional information if needed, no later than 30 days after receiving it. A request for additional information would have to be accompanied by a written justification that refers to specific sections of the application that are incomplete, inconsistent, or noncompliant. An application for which additional information is requested would be considered abandoned and rejected if the applicant does not submit that information no later than 30 days after receiving the request for it. If EGLE rejects an application, it would have to notify the applicant in writing, with a written summary of deficiencies, and allow the applicant to revise and resubmit the application without

prejudice within 15 business days of the rejection.<sup>2</sup> If an application is approved, EGLE would have to issue a certificate to the applicant that states all of the following:

- That the person is a qualified taxpayer (as defined in House Bill 4424).
- The amount of the sustainable aviation fuel tax credit allowed to be claimed by the qualified taxpayer for the designated tax year.
- The taxpayer's federal employer identification number or the Michigan Department of Treasury number assigned to the taxpayer.

EGLE would have to submit a report by January 1 each year to the House and Senate standing committees on energy, the House and Senate appropriations committees, and the House and Senate fiscal agencies that includes the total amount of sustainable aviation fuel tax credits certified under the program and the numbers of applications received and approved during the immediately preceding fiscal year.

In addition, EGLE would have to submit a quarterly report to the House and Senate standing committees on agriculture that includes the following information for the immediately preceding quarter:

- The total number of applications received, approved, rejected, and pending.
- The average time to process, review, and make a determination.
- The common reasons for rejections or delays in processing.
- Any appeals or formal complaints filed by applicants.

The quarterly report described above would have to be made available to the public and published on EGLE's website.

**House Bill 4424** would amend Part 2 of the Income Tax Act to establish a refundable tax credit for a taxpayer engaged in the production or blending of sustainable aviation fuel (as defined in House Bill 4425). A taxpayer engaged in the business of producing or blending sustainable aviation fuel that has been issued a certificate under the Sustainable Aviation Fuel Incentive Program Act (House Bill 4425) could claim a credit against the corporate income tax for sustainable aviation fuel it produced or blended in Michigan during the tax year that was sold in Michigan to a purchaser that certifies it was purchased for use as fuel for flights departing from an airport in Michigan.

The amount of the credit would be \$1.50 per gallon, with an increase of two cents per gallon for each additional 1% reduction in carbon dioxide equivalent emissions above 50% (as described in House Bill 4425), up to a maximum of \$2 per gallon.

To be eligible for a credit, a taxpayer would have to attach the certificate received under the Sustainable Aviation Fuel Incentive Program Act (House Bill 4425) to the annual tax return on which the credit is claimed. If the amount of the allowed credit exceeds the qualified taxpayer's liability for the tax year, that portion exceeding the tax liability for the tax year would have to be refunded.

Proposed MCL 206.678

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<sup>2</sup> This process would not appear to apply to an application that has been automatically rejected because considered abandoned by the applicant as described above.

House Bill 4424 is tie-barred to either House Bill 4425 or Senate Bill 236, and House Bill 4425 is tie-barred to House Bill 4424. A bill cannot take effect unless each bill it is tie-barred to is also enacted.

## **FISCAL IMPACT:**

The bills cap the amount of sustainable fuel tax credits that could be certified at \$4.5 million in FY 2025-26 and \$9.0 million in subsequent fiscal years. If it is assumed that the credits would be redeemed as they are certified, then the general fund revenue loss would be up to \$4.5 million in the first year, and up to \$9.0 million in subsequent fiscal years. However, if credits are redeemed on a more inconsistent basis, the revenue impact in a given year could vary from the credit certification caps implemented under the bills.

House Bill 4425 is likely to increase costs for EGLE by requiring the department to create, administer, and develop a sustainable aviation fuel incentive program. The extent of this cost increase and the number of tax credits issued under this new program are unclear at present. The bill is unlikely to affect departmental revenues as it does not provide an appropriation or fund source for this new program. Program costs are therefore likely to be covered by the department's extant funding of \$1.0 billion Gross (\$260.7 million GF/GP) for FY 2024-25.

In addition, House Bill 4425 would have an indeterminate fiscal impact on local units of government. The bill provides that any person responsible for preparing or submitting a certification that a purchaser knows or has reason to know is false would be guilty of a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. The number of convictions that would result under those provisions is not known. New misdemeanor convictions would result in increased costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.