

A bill for an act
relating to agriculture; ethanol development; establishing a producer payment
program for cellulosic ethanol production; proposing coding for new law in
Minnesota Statutes, chapter 41A.

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

Section 1. **[41A.10] CELLULOSIC ETHANOL 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 of
agriculture and all money so appropriated is available until expended.

Subd. 2. Definitions. For the purposes of this section, the terms defined in this
subdivision have the meanings given them.

(a) "Cellulosic ethanol" means fermentation ethyl alcohol derived from cellulosic
materials, such as grasses, corn stover, cereal straws, sawdust, paper pulp, or small
diameter trees, that:

(1) meet all of the specifications in ASTM specification D4806-04a; and
(2) are denatured as specified in Code of Federal Regulations, title 27, parts 20
and 21.

(b) "Cellulosic ethanol plant" means a plant at which cellulosic ethanol is produced.

(c) "Commissioner" means the commissioner of agriculture.

(d) "Eligible producer" means an ethanol producer that is at least 51 percent owned
by farmers or other entities eligible to farm or own agricultural land in Minnesota under
section 500.24.

Subd. 3. Cellulosic ethanol producer payments. (a) The commissioner shall
make cash payments to eligible producers of cellulosic ethanol located in the state that

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have begun production at a specific location by June 30, 2010. For the purpose of this subdivision, an entity that holds a controlling interest in more than one cellulosic ethanol plant is considered a single eligible producer. The amount of the payment for each eligible producer's annual production, except as provided in paragraph (c), is 20 cents per gallon for each gallon of cellulosic ethanol produced at a specific location for ten years after the start of production.

(b) Payments must not be made for cellulosic ethanol production that occurs after June 30, 2020. An eligible producer of cellulosic ethanol must not transfer the eligible producer's eligibility for payments under this section to a cellulosic ethanol plant at a different location.

(c) If the level of production at a cellulosic ethanol plant increases due to an increase in the production capacity of the plant, the payment under paragraph (a) applies to the additional increment of production until ten years after the increased production began. Once a plant's production capacity reaches 15,000,000 gallons per year, no additional increment qualifies for the payment.

(d) Payments under paragraph (a) to all eligible producers may not exceed \$6,000,000 in a fiscal year. Total payments under paragraph (a) to an eligible producer in a fiscal year may not exceed \$3,000,000.

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

(f) Payments must be made November 15, February 15, May 15, and August 15. A separate payment must be made for each claim filed. Except as provided in paragraph (g), the total quarterly payment to an eligible producer under this paragraph may not exceed \$750,000.

(g) Annually, within 90 days of the end of its fiscal year, an eligible 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 by any person or other entity with an ownership interest of five percent or greater, and a copy of its annual audited financial statements, including

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3.1 the auditor's report and footnotes. The disclosure statement must include information
3.2 demonstrating what percentage of the entity receiving payments under this section is
3.3 owned by farmers or other entities eligible to farm or own agricultural land in Minnesota
3.4 under section 500.24. Subsequent annual reports must reflect noncumulative changes in
3.5 ownership of ten percent or more of the entity. The report need not disclose the identity of
3.6 the persons or entities eligible to farm or own agricultural land with ownership interest,
3.7 individuals residing within 30 miles of the plant, or of any other entity with less than
3.8 ten percent ownership interest, but the claimant must retain information confirming the
3.9 accuracy of the data provided. The data must be made available to the commissioner
3.10 upon request. Not later than the 15th day of February in each year, the commissioner
3.11 shall deliver to the chairs of the standing committees of the senate and the house of
3.12 representatives with jurisdiction over agricultural policy and agricultural finance an annual
3.13 report summarizing aggregated data from plants receiving payments under this section
3.14 during the preceding calendar year. Audited financial statements and notes and disclosure
3.15 statements submitted to the commissioner are nonpublic data under section 13.02,
3.16 subdivision 9. Notwithstanding the provisions of chapter 13 relating to nonpublic data,
3.17 summaries of the submitted audited financial reports and notes and disclosure statements
3.18 must be contained in the report to the committee chairs and are public data.