A bill for an act

relating to agriculture; changing certain programs, requirements, fees, and duties; amending Minnesota Statutes 2010, sections 18B.03, subdivision 1, as amended; 18B.065, by adding a subdivision; 18B.316, subdivision 6; 18G.07, subdivision 1; 18G.10, subdivisions 5, 7, by adding a subdivision; 18H.07, subdivisions 2, 3; 18H.10; 18H.14; 21.82, subdivisions 7, 8; 35.0661, subdivisions 2, 3; 41A.105, by adding a subdivision; 41A.12, subdivisions 2, 4; 115.03, by adding a subdivision; 116.07, subdivision 7d; 223.17, subdivision 6; 232.22, subdivisions 3, 4, 5; 232.23, subdivision 10; 232.24, subdivisions 1, 2; 236.02, subdivision 5, by adding a subdivision; Laws 2011, chapter 14, section 6; proposing coding for new law as Minnesota Statutes, chapter 32C; repealing Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1, 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1, 2; 17B.28; 17B.29; 232.24, subdivision 3; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; 395.24; Minnesota Rules, parts 1505.0780; 1505.0810; 1562.0100, subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25; 1562.0200; 1562.0700, subparts 1b, 3; 1562.0900; 1562.1300.

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

Section 1. Minnesota Statutes 2010, section 18B.03, subdivision 1, as amended by Laws 2011, chapter 14, section 7, is amended to read:

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the Department of Agriculture is the lead state agency for the regulation of pesticides. The commissioner has the sole regulatory authority over the terrestrial application of pesticides, including, but not limited to, the application of pesticides to agricultural crops, structures, and other nonaquatic environments. Except as provided in subdivision 3, a state agency other than the Department of Agriculture shall not regulate or require permits for the terrestrial or nonaquatic application of pesticides.

Sec. 2. Minnesota Statutes 2010, section 18B.065, is amended by adding a subdivision to read:

Subd. 10. **Indemnification.** (a) A local unit of government, when operating or participating in a waste pesticide collection program pursuant to a cooperative agreement with the commissioner under this section, is an employee of the state, certified to be acting within the scope of employment, for purposes of the indemnification provisions of section 3.736, subdivision 9, for claims that arise out of the transportation, management, or disposal of any waste pesticide covered by the agreement:

(1) from and after the time the waste permanently leaves the local unit of government's possession and comes into the possession of the state's authorized transporter; and

(2) during the time the waste is transported between the local unit of government facilities by the state's authorized transporter.

(b) The state is not obligated to defend or indemnify a local unit of government under this subdivision to the extent of the local unit of government's liability insurance. The local unit of government's right to indemnify is not a waiver of the limitation, defenses, and immunities available to either the local unit of government or the state by law.

Sec. 3. Minnesota Statutes 2010, section 18B.316, subdivision 6, is amended to read:

Subd. 6. **Agricultural pesticide sales invoices.** (a) Sales invoices for agricultural pesticides sold in or into this state by a licensed agricultural pesticide dealer or a pesticide dealer under this section must show the percent of gross sales fee rate assessed and the gross sales fee paid under section 18B.26, subdivision 3, paragraph (c).

(b) A licensed agricultural pesticide dealer or a pesticide dealer may request an exemption from paragraph (a). The request for exemption must be in writing to the commissioner and must include verifiable information to justify that compliance with paragraph (a) is an extreme business hardship for the licensed agricultural pesticide dealer or pesticide dealer. The commissioner may approve or reject a request for exemption based upon review of the submitted information. An approved exemption under this paragraph is valid for one calendar year. The commissioner must maintain a list of those licensed agricultural pesticide dealers or pesticide dealers that have been granted an exemption on the department's Web site.

(c) A licensed agricultural pesticide dealer or a pesticide dealer issued an exemption under paragraph (b) must include the following statement on each sales invoice for any sale of an agricultural pesticide: "Minnesota Department of Agriculture Annual Gross Sales Fees of 0.55% have been Assessed and Paid on the Sale of an Agricultural Pesticide."

(d) Only the person who actually will pay the gross sales fee may show the rate or the amount of the fee as a line item on the sales invoice.

Sec. 4. Minnesota Statutes 2010, section 18G.07, subdivision 1, is amended to read:

Subdivision 1. **Creation of registry.** (a) The commissioner shall maintain a list of all persons, businesses, and companies that employ persons who provide tree care or tree trimming services in Minnesota. All commercial tree care providers, tree trimmers, and ~~persons who~~ employers that direct employees to remove trees, limbs, branches, brush, or shrubs for hire must be registered ~~by~~ with the commissioner.

(b) Persons or companies who are required to be registered under paragraph (a) must register annually by providing the following to the commissioner:

(1) accurate and up-to-date business name, address, and telephone number;

(2) a complete list of all Minnesota counties in which they work; and

(3) a nonrefundable fee of $25 for initial application or renewing the registration.

(c) All persons and companies required to be registered under paragraph (a) must register before conducting the activities specified in paragraph (a). Annual registration expires December 31, must be renewed annually, and the renewal fee remitted by January ~~7~~ 1 of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Sec. 5. Minnesota Statutes 2010, section 18G.10, subdivision 5, is amended to read:

Subd. 5. **Certificate fees.** (a) The commissioner shall assess the fees in paragraphs (b) to (f) for the inspection, service, and work performed in carrying out the issuance of a phytosanitary certificate or export certificate. The inspection fee must be based on mileage and inspection time.

(b) Mileage charge: current United States Internal Revenue Service mileage rate.

(c) Inspection time: $50 per hour minimum or fee necessary to cover department costs. Inspection time includes the driving time to and from the location in addition to the time spent conducting the inspection.

(d) If laboratory analysis or other technical analysis is required to issue a certificate, the commissioner must set and collect the fee to recover this additional cost.

(e) Certificate fee for product value greater than $250: $75 minimum or fee necessary to cover department costs, including research and processing costs, for each phytosanitary or export certificate issued for any single shipment valued at more than $250 in addition to any mileage or inspection time charges that are assessed.

(f) Certificate fee for product value less than $250: $25 minimum or fee necessary to cover department costs, including research and processing costs, for each phytosanitary or export certificate issued for any single shipment valued at less than $250 in addition to any mileage or inspection time charges that are assessed.

(g) For services provided for in subdivision 7 that are goods and services provided for the direct and primary use of a private individual, business, or other entity, the commissioner must set and collect the fees to cover the cost of the services provided.

Sec. 6. Minnesota Statutes 2010, section 18G.10, subdivision 7, is amended to read:

Subd. 7. **Supplemental, additional, or other certificates and permits.** (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant treatment processes, plant products, or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural plant treatment processes, products, or commodities meet specified plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner.

Sec. 7. Minnesota Statutes 2010, section 18G.10, is amended by adding a subdivision to read:

Subd. 8. **Misuse of a certificate or permit.** Certificates, permits, and official letters issued to support certification or permit processes are not transferable to another location or another person.

Sec. 8. Minnesota Statutes 2010, section 18H.07, subdivision 2, is amended to read:

Subd. 2. **Nursery stock grower certificate.** (a) A nursery stock grower must pay an annual fee based on the area of all acreage on which nursery stock is grown for certification as follows:

(1) less than one-half acre, $150;

(2) from one-half acre to two acres, $200;

(3) over two acres up to five acres, $300;

(4) over five acres up to ten acres, $350;

(5) over ten acres up to 20 acres, $500;

(6) over 20 acres up to 40 acres, $650;

(7) over 40 acres up to 50 acres, $800;

(8) over 50 acres up to 200 acres, $1,100;

(9) over 200 acres up to 500 acres, $1,500; and

(10) over 500 acres, $1,500 plus $2 for each additional acre.

(b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must be charged for each month, or portion thereof, that the fee is delinquent up to a maximum of 30 percent for any application for renewal not postmarked by December 31 of the current year.

Beginning April 1, a firm found operating without a nursery stock growers certificate must pay the required nursery stock growers certificate fee.

Sec. 9. Minnesota Statutes 2010, section 18H.07, subdivision 3, is amended to read:

Subd. 3. **Nursery stock dealer certificate.** (a) A nursery stock dealer must pay an annual fee based on the dealer's gross sales of certified nursery stock per location during the most recent certificate year. A certificate applicant operating for the first time must pay the minimum fee. The fees per sales location are:

(1) gross sales up to $5,000, $150;

(2) gross sales over $5,000 up to $20,000, $175;

(3) gross sales over $20,000 up to $50,000, $300;

(4) gross sales over $50,000 up to $75,000, $425;

(5) gross sales over $75,000 up to $100,000, $550;

(6) gross sales over $100,000 up to $200,000, $675; and

(7) gross sales over $200,000, $800.

(b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must be charged for each month, or portion thereof, that the fee is delinquent up to a maximum of 30 percent for any application for renewal not postmarked by December 31 of the current year.

Beginning April 1, a firm found operating without a nursery stock dealer certificate must pay the required nursery stock dealer certificate fee.

Sec. 10. Minnesota Statutes 2010, section 18H.10, is amended to read:

18H.10 STORAGE OF NURSERY STOCK.

(a) All nursery stock must be kept and displayed under conditions of temperature, light, and moisture sufficient to maintain the viability and vigor of the nursery stock.

(b) Packaged dormant nursery stock must be stored under conditions that retard growth, prevent etiolated growth, and protect its viability.

(c) Balled and burlapped nursery stock being held for sale to the public must be kept in a moisture-holding material approved by the commissioner and not toxic to plants.

The moisture-holding material must adequately cover and protect the ball of earth and must be kept moist at all times.

Sec. 11. Minnesota Statutes 2010, section 18H.14, is amended to read:

18H.14 LABELING AND ADVERTISING OF NURSERY STOCK.

(a) Plants, plant materials, or nursery stock must not be labeled or advertised with false or misleading information including, but not limited to, scientific name, variety, place of origin, hardiness zone as defined by the United States Department of Agriculture, and growth habit.

(b) A person may not offer for distribution plants, plant materials, or nursery stock, represented by some specific or special form of notation, including, but not limited to, "free from" or "grown free of," unless the plants are produced under a specific program approved by the commissioner to address the specific plant properties addressed in the special notation claim.

(c) Nursery stock collected from the wild state must be inspected and certified prior to sale and at the time of sale must be labeled "Collected from the Wild." The label must remain on each plant or clump of plants while it is offered for sale and during the distribution process. The collected stock may be grown in nursery rows at least two years, after which the plants may be sold without the labeling required by this paragraph.

Sec. 12. Minnesota Statutes 2010, section 21.82, subdivision 7, is amended to read:

Subd. 7. **Vegetable seeds.** For vegetable seeds prepared for use in home gardens or household plantings the requirements in paragraphs (a) to (p) apply. Vegetable seeds packed for sale in commercial quantities to farmers, conservation groups, and other similar entities are considered agricultural seeds and must be labeled accordingly.

(a) The label must contain the name of the kind or kind and variety for each seed component in excess of five percent of the whole and the percentage by weight of each in order of its predominance. If the variety of those kinds generally labeled as to variety is not stated and it is not required to be stated, the label must show the name of the kind and the words "variety not stated."

(b) The percentage that is hybrid must be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds of varieties are present in excess of five percent and are named on the label, each that is hybrid must be designated as hybrid on the label. Any one kind or kind and variety that has pure seed that is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination in a cross must be labeled to show the percentage of pure seed that is hybrid seed or a statement such as "contains from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid" must be shown on the label in conjunction with the kind.

(c) Blends must be listed on the label using the term "blend" in conjunction with the kind.

(d) Mixtures shall be listed on the label using the term "mixture," "mix," or "mixed."

(e) The label must show a lot number or other lot identification.

(f) The origin may be omitted from the label.

(g) The label must show the year for which the seed was packed for sale listed as "packed for (year)" for seed with a percentage of germination that exceeds the standard last established by the commissioner, the percentage of germination and the calendar month and year that the percentages were determined by test, or the calendar month and year the germination test was completed and the statement "sell by (month and year listed here)," which may be no more than 12 months from the date of test, exclusive of the month of test.

(h) For vegetable seeds which germinate less than the standard last established by the commissioner, the label must show:

(1) a percentage of germination, exclusive of hard or dormant seed or both;

(2) a percentage of hard or dormant seed or both, if present; and

(3) the words "below standard" in not less than eight point type and the month and year the percentages were determined by test.

(i) The net weight of the contents or a statement indicating the number of seeds in the container or both, must appear on either the container or the label~~, except that for containers with contents of 200 seeds or less a statement indicating the number of seeds in the container may be listed along with or in lieu of the net weight of contents~~.

(j) The heading for and percentage by weight of pure seed may be omitted from a label if the total is more than 90 percent.

(k) The heading for and percentage by weight of weed seed may be omitted from a label if they are not present in the seed.

(l) The heading "noxious weed seeds" may be omitted from a label if they are not present in the seed.

(m) The heading for and percentage by weight of other crop seed may be omitted from a label if it is less than five percent.

(n) The heading for and percentage by weight of inert matter may be omitted from a label if it is less than ten percent.

(o) The label must contain the name and address of the person who labeled the seed or who sells the seed in this state or a code number that has been registered with the commissioner.

(p) The labeling requirements for vegetable seeds prepared for use in home gardens or household plantings when sold outside their original containers are met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Sec. 13. Minnesota Statutes 2010, section 21.82, subdivision 8, is amended to read:

Subd. 8. **Flower seeds.** For flower and wildflower seeds prepared for use in home gardens or household plantings, the requirements in paragraphs (a) to (l) apply. Flower and wildflower seeds packed for sale in commercial quantities to farmers, conservation groups, and other similar entities are considered agricultural seeds and must be labeled accordingly.

(a) The label must contain the name of the kind and variety or a statement of type and performance characteristics as prescribed by rule.

(b) The percentage that is hybrid must be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds of varieties are present in excess of five percent and are named on the label, each that is hybrid must be designated as hybrid on the label. Any one kind or kind and variety that has pure seed that is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination in a cross must be labeled to show the percentage of pure seed that is hybrid seed or a statement such as "contains from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid" must be shown on the label in conjunction with the kind.

(c) Blends must be listed on the label using the term "blend" in conjunction with the kind.

(d) Mixtures must be listed on the label using the term "mixture," "mix," or "mixed."

(e) The label must contain the lot number or other lot identification.

(f) The origin may be omitted from the label.

(g) The label must contain the year for which the seed was packed for sale listed as "packed for (year)" for seed with a percentage of germination that exceeds the standard last established by the commissioner, the percentage of germination and the calendar month and year that the percentages were determined by test, or the calendar month and year the germination test was completed and the statement "sell by (month and year listed here)," which may be no more than 12 months from the date of test, exclusive of the month of test.

(h) For flower seeds which germinate less than the standard last established by the commissioner, the label must show:

(1) percentage of germination exclusive of hard or dormant seed or both;

(2) percentage of hard or dormant seed or both, if present; and

(3) the words "below standard" in not less than eight point type and the month and year this percentage was determined by test.

(i) The label must show the net weight of contents or a statement indicating the number of seeds in the container, or both, on either the container or the label~~, except that for containers with contents of 200 seeds or less a statement indicating the number of seeds in the container may be listed along with or in lieu of the net weight of contents~~.

(j) The heading for and percentage by weight of pure seed may be omitted from a label if the total is more than 90 percent.

(k) The heading for and percentage by weight of weed seed may be omitted from a label if they are not present in the seed.

(l) The heading "noxious weed seeds" may be omitted from a label if they are not present in the seed.

(m) The heading for and percentage by weight of other crop seed may be omitted from a label if it is less than five percent.

(n) The heading for and percentage by weight of inert matter may be omitted from a label if it is less than ten percent.

(o) The label must show the name and address of the person who labeled the seed or who sells the seed within this state, or a code number which has been registered with the commissioner.

Sec. 14. **[32C.01] ORGANIZATION.**

Subdivision 1. **Establishment.** The Dairy Research, Teaching, and Consumer Education Authority is established as a public corporation. The business of the authority must be conducted under the name "Dairy Research, Teaching, and Consumer Education Authority."

Subd. 2. **Board of directors.** The authority is governed by a board of nine directors. The term of a director, except as otherwise provided in this subdivision, is four years. The commissioner of agriculture is a member of the board. The governor shall appoint four members of the board. Two of the members appointed by the governor must be currently engaged in the business of operating a dairy. Two of the members appointed by the governor must be representatives of Minnesota-based businesses actively engaged in working with or serving Minnesota's dairy industry. The dean of the University of

Minnesota College of Food, Agriculture and Natural Resource Sciences, or the dean's designee, is a member of the board. One member of the board must be a representative of a state trade association that represents the interests of milk producers. One member of the board must be a representative of the Minnesota Division of the Midwest Dairy Council. One member of the board must be a member of the agricultural education faculty of the Minnesota State Colleges and Universities System. The four members of the initial board of directors who are appointed by the governor must be appointed for terms of four years, and the other four members must be appointed for an initial term of two years. Vacancies for the governor's appointed positions on the board must be filled by appointment of the governor. Vacancies for other positions on the board must be filled by the named represented entities. Board members must not be compensated for their services other than to be reimbursed for reasonable expenses incurred in connection with their duties as board members. This reimbursement must be reviewed annually by the commissioner of management and budget.

Subd. 3. **Bylaws.** The board must adopt bylaws necessary for the conduct of the business of the authority, consistent with this chapter.

Subd. 4. **Place of business.** The board must locate and maintain the authority's place of business within the state.

Subd. 5. **Chair.** The board must annually elect from among its members a chair and other officers necessary for the performance of its duties.

Subd. 6. **Meetings.** The board must meet at least four times each year and may hold additional meetings upon giving notice in accordance with the bylaws of the authority. Board meetings are subject to chapter 13D.

Subd. 7. **Conflict of interest.** A director, employee, or officer of the authority may not participate in or vote on a decision of the board relating to an organization in which the director has either a direct or indirect financial interest.

Subd. 8. **Economic interest statements.** Directors and officers of the authority are public officials for the purpose of section 10A.09, and must file statements of economic interest with the Campaign Finance and Public Disclosure Board.

Sec. 15. **[32C.02] POWERS.**

Subdivision 1. **General corporate powers.** (a) The authority has the powers granted to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13, except that the authority may not act as a general partner in any partnership; 14; 15; 16; 17; 18; and 22, and the powers necessary or convenient to exercise the enumerated powers.

(b) Section 302A.041 applies to this chapter and the authority in the same manner that it applies to business corporations established under chapter 302A.

Subd. 2. **Facility design; development and operation.** The authority may enter into management contracts, lease agreements, or both, with a Minnesota nonprofit corporation to design, develop, and operate a facility to further the purposes of this chapter at the site determined by the board and on the terms that the board finds desirable. The board must identify and acquire a site that will accommodate the following facilities and activities:

(1) housing for bred and lactating animals;

(2) milking parlor;

(3) automatic milking systems;

(4) cross-ventilated and natural-ventilated housing;

(5) transition cow housing;

(6) special needs and hospital housing;

(7) classrooms and a conference room;

(8) dairy processing facility with retail;

(9) visitors' center;

(10) student housing;

(11) laboratory facilities;

(12) space to accommodate installation of an anaerobic digester system to research energy production from feedstock produced on-site or from off-site sources; and

(13) space for feed storage to allow for research capabilities at the facility.

Notwithstanding the provisions of section 32C.01, subdivision 7, relating to conflict of interest, a director or officer of the authority who is also a director, officer, or member of a nonprofit corporation with which the authority enters into management contracts or lease agreements may participate in and vote on the decision of the board as to the terms and conditions of management contracts or lease agreements between the Minnesota nonprofit corporation and the authority.

Subd. 3. **Funds.** The authority may accept and use gifts, grants, or contributions from any source to support operation of the facility. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of, and invest or reinvest the money, securities, or other property given or bequeathed to it. The principal of these funds, the income from them, and all other revenues received by the authority from any nonstate source must be placed in depositories chosen by the board and are subject to expenditure for the board's purposes. Expenditures of $25,000 or more must be approved by the full board.

Subd. 4. **Animals; regulation.** The authority must comply with all applicable laws and rules relating to quarantine, transportation, examination, habitation, care, and treatment of animals.

Sec. 16. **[32C.03] EMPLOYEES.**

(a) The board may hire an executive director of the authority and other employees the board considers necessary to carry out the program, conduct research, and operate and maintain facilities of the authority.

(b) Persons employed by contractors or lessees are not state employees and may not participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are not subject to regulation by the Campaign Finance and Public Disclosure Board, provided, however, that any employee of the state or any employee or faculty member of the University of Minnesota or Minnesota State Colleges and Universities System who teaches or conducts research at the authority does not have their status as employees of the state, the University of Minnesota, or Minnesota State Colleges and Universities System interrupted by virtue of having their employment activity take place at facilities owned by the authority.

Sec. 17. **[32C.04] ACCOUNTS; AUDITS.**

The authority may establish funds and accounts that it determines to be reasonable and necessary to conduct the business of the authority. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the state auditor. A copy of this audit must be filed with the secretary of state.

Sec. 18. **[32C.05] ANNUAL REPORT.**

The board shall submit a report to the chairs of the senate and house of representatives agriculture committees and the governor on the activities of the authority and its contractors and lessees by February 1 of each year. The report must include at least the following:

(1) a description of each of the programs that the authority has provided or undertaken at some time during the previous year;

(2) an identification of the sources of funding in the previous year for the authority's programs including federal, state, and local government, foundations, gifts, donations, fees, and all other sources;

(3) a description of the administrative expenses of the authority during the previous year;

(4) a listing of the assets and liabilities of the authority at the end of the previous fiscal year;

(5) a description of any changes made to the operational plan during the previous year; and

(6) a description of any newly adopted or significant changes to bylaws, policies, rules, or programs created or administered by the authority during the previous year.

Reports must be made to the legislature as required by section 3.195.

Sec. 19. Minnesota Statutes 2010, section 35.0661, subdivision 2, is amended to read:

Subd. 2. **Quarantine zones.** Upon an emergency declaration by the governor under subdivision 1, the board or any licensed veterinarian designated by the board may establish quarantine zones of control in any area where a specific animal is deemed by a licensed veterinarian as likely to be infected with the disease based on an actual veterinary examination or laboratory testing. Quarantine zones of control to restrict the movement of livestock must be the smallest size practicable to prevent the spread of disease and must exist for the shortest duration consistent with effective disease control. ~~A quarantine zone of control must not extend beyond a radius of three miles from an animal deemed as likely to be infected with the disease, unless the board has adopted a rule regarding a specific disease requiring a larger quarantine zone of control.~~

Sec. 20. Minnesota Statutes 2010, section 35.0661, subdivision 3, is amended to read:

Subd. 3. **Restrictions on movement out of quarantine zones.** (a) The board may issue orders restricting the movement of persons, ~~livestock,~~ machinery, and personal property ~~out of zones~~ off infected premises designated by the board as quarantined under subdivision 2. The executive director of the board or any licensed veterinarian designated by the board may issue the orders. An order may be issued upon a determination that reasonable cause exists to believe that the movement of persons or personal property out of a quarantine zone will reasonably threaten to transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

(b) The order must be served upon any person subject to the order. The restrictions sought by the board on movement out of a quarantine zone must be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the board. An order under this section may be served on any day at any time. The order must include a notice of the person's rights under this section, including the ability to enter into an agreement to abide by disease control measures under paragraph (c) and the right to request a court hearing under paragraph (d).

(c) No person may be restricted by an order under this subdivision for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, so long as the person agrees to abide by the disease control measures established by the board. The person shall sign an acknowledgment form prepared by the board evidencing the person's agreement to abide by the disease control measures established by the board.

(d) A person whose movements are restricted by an order under this subdivision may seek a district court hearing on the order at any time after it is served on the person. The hearing may be held by electronic means as soon as possible. The subject of the order may:

(1) contest imposition of the order on grounds that it is an abuse of the board's discretion under this section; or

(2) seek a variance from it to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

Sec. 21. Minnesota Statutes 2010, section 41A.105, is amended by adding a subdivision to read:

Subd. 1a. **Definitions.** For the purpose of this section:

(1) "biobutanol facility" means a facility at which biobutanol is produced; and

(2) "biobutanol" means fermentation isobutyl alcohol that is derived from agricultural products, including potatoes, cereal grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources.

Sec. 22. Minnesota Statutes 2010, section 41A.12, subdivision 2, is amended to read:

Subd. 2. **Activities authorized.** For the purposes of this program, the commissioner may issue grants, loans, or other forms of financial assistance. Eligible activities include, but are not limited to, grants to livestock producers under the livestock investment grant program under section 17.118, bioenergy awards made by the NextGen Energy Board under section 41A.105, cost-share grants for the installation of biofuel blender pumps, and financial assistance to support other rural economic infrastructure activities.

Sec. 23. Minnesota Statutes 2010, section 41A.12, subdivision 4, is amended to read:

Subd. 4. **Sunset.** This section expires on June 30, ~~2013~~ 2015.

Sec. 24. Minnesota Statutes 2010, section 115.03, is amended by adding a subdivision to read:

Subd. 11. **Aquatic application of pesticides.** (a) The agency may issue National Pollutant Discharge Elimination System permits for pesticide applications to waters of the United States that are required by federal law or rule. The agency shall not require permits for aquatic pesticide applications beyond what is required by federal law or rule.

(b) The agency shall not regulate or require permits for the terrestrial application of pesticides.

Sec. 25. Minnesota Statutes 2010, section 116.07, subdivision 7d, is amended to read:

Subd. 7d. **Exemption.** (a) Notwithstanding subdivision 7 or Minnesota Rules, chapter 7020, to the contrary, and notwithstanding the proximity to public or private waters, an owner or resident of agricultural land on which livestock have been allowed to pasture ~~as defined by Minnesota Rules, chapter 7020,~~ at any time during the ten-year period beginning January 1, ~~1990~~ 2010, is permanently exempt from requirements related to feedlot or manure management on that land for so long as the property remains in pasture.

(b) For the purposes of this subdivision, "pasture" means areas where livestock graze on grass or other growing plants. Pasture also means agricultural land where livestock are allowed to forage during the winter time and which land is used for cropping purposes in the growing season. In either case, the concentration of animals must be such that a vegetative cover, whether of grass, growing plants, or crops, is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Sec. 26. Minnesota Statutes 2010, section 223.17, subdivision 6, is amended to read:

Subd. 6. **Financial statements.** ~~For the purpose of fixing or changing the amount of a required bond or for any other proper reason,~~ The commissioner ~~shall~~ may require an annual financial statement from a licensee which has been prepared in accordance with generally accepted accounting principles and which meets the following requirements:

(a) The financial statement shall include, but not be limited to the following: (1) a balance sheet; (2) a statement of income (profit and loss); (3) a statement of retained earnings; (4) a statement of changes in financial position; and (5) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer.

(b) The financial statement shall be accompanied by a compilation report of the financial statement that is prepared by a grain commission firm or a management firm approved by the commissioner or by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants. Grain buyers purchasing less than 150,000 bushels of grain per calendar year may submit a financial statement prepared by a public accountant who is not an employee or a relative within the third degree of kindred according to civil law.

(c) The financial statement shall be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. Any grain buyer having a net worth in excess of $500,000,000 need not file the financial statement required by this subdivision but must provide the commissioner with a certified net worth statement. All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02.

Sec. 27. Minnesota Statutes 2010, section 232.22, subdivision 3, is amended to read:

Subd. 3. **Fees; grain buyers and storage account.** There is created in the agricultural fund an account known as the grain buyers and storage account. The commissioner shall set the fees for ~~inspections~~ examinations, certifications, and licenses under sections 232.20 to 232.25 at levels necessary to pay the costs of administering and enforcing sections 232.20 to 232.25. All money collected pursuant to sections 232.20 to 232.25 and chapters 233 and 236 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of sections 232.20 to 232.25 and chapters 233 and 236. All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of chapter 231.

The fees for a license to store grain are as follows:

(a) For a license to store grain, $110 for each home rule charter or statutory city or town in which a public grain warehouse is operated.

(b) A person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, based on the following schedule for one examination:

Bushel Capacity	Examination Fee
Less than 150,001	$ 300
150,001 to 250,000	$ 425
250,001 to 500,000	$ 545
500,001 to 750,000	$ 700

750,001 to 1,000,000	$ 865
1,000,001 to 1,200,000	$ 1,040
1,200,001 to 1,500,000	$ 1,205
1,500,001 to 2,000,000	$ 1,380
More than 2,000,000	$ 1,555

(c) The fee for the second examination is $55 per hour per examiner for warehouse operators who choose to have it performed by the commissioner.

(d) A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent.

Sec. 28. Minnesota Statutes 2010, section 232.22, subdivision 4, is amended to read:

Subd. 4. **Bonding.** (a) Before a license is issued, the applicant for a public grain warehouse operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner~~. The penal sum on a condition one bond shall be established by rule by the commissioner pursuant to the requirements of chapter 14 for all grain outstanding on grain warehouse receipts. The penal sum on a condition two bond shall not be less than $10,000 for each location up to a maximum of five locations.~~ based on the annual average liability as stated on the statement of grain in storage report and applying the following amounts:

(1) $10,000 for storages with annual average storage liability of more than $0 but not more than $25,000;

(2) $20,000 for storages with annual average storage liability of more than $25,001 but not more than $50,000;

(3) $30,000 for storages with annual average storage liability of more than $50,001 but not more than $75,000;

(4) $50,000 for storages with annual average storage liability of more than $75,001 but not more than $100,000;

(5) $75,000 for storages with annual average storage liability of more than $100,001 but not more than $200,000;

(6) $125,000 for storages with annual average storage liability of more than $200,001 but not more than $300,000;

(7) $175,000 for storages with annual average storage liability of more than $300,001 but not more than $400,000;

(8) $225,000 for storages with annual average storage liability of more than $400,001 but not more than $500,000;

(9) $275,000 for storages with annual average storage liability of more than $500,001 but not more than $600,000;

(10) $325,000 for storages with annual average storage liability of more than $600,001 but not more than $700,000;

(11) $425,000 for storages with annual average storage liability of more than $800,001 but not more than $900,000;

(12) $475,000 for storages with annual average storage liability of more than $900,001 but not more than $1,000,000; and

(13) $500,000 for storages with annual average storage liability of more than $1,000,000.

(b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

Sec. 29. Minnesota Statutes 2010, section 232.22, subdivision 5, is amended to read:

Subd. 5. **Statement of grain in storage; reports.** (a) All public grain warehouse operators must by ~~the tenth day of each month~~ February 15 of each year file with the commissioner on ~~forms~~ a form approved by the commissioner a report showing the highest monthly net liability of all grain outstanding on grain warehouse receipts ~~as of the close of business on the last day of~~ that occurred during the preceding ~~month~~ calendar year. This report shall be used for the purpose of establishing the penal sum of the bond.

(b) Warehouse operators that are at a maximum bond and want to continue at maximum bond do not need to file this report.

~~(b) If~~ (c) It is a violation of this chapter for any public grain warehouse operator ~~willfully neglects or refuses~~ to fail to file the report required in clause (a) ~~for two consecutive months, the commissioner may immediately suspend the person's license and the licensee must surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to chapter 14 to determine if the license should be revoked. If no request is made within 15 days the commissioner shall revoke the license~~.

~~(c)~~ (d) Every public grain warehouse operator shall keep in a place of safety complete and accurate records and accounts relating to any grain warehouse operated. The records shall reflect each commodity received and shipped daily, the balance remaining in the grain warehouse at the close of each business day, a listing of all unissued grain warehouse receipts in the operator's possession, a record of all grain warehouse receipts issued which remain outstanding and a record of all grain warehouse receipts which have been returned for cancellation. Copies of grain warehouse receipts or other documents evidencing ownership of grain by a depositor, or other liability of the grain warehouse operator, shall be retained as long as the liability exists but must be kept for a minimum of three years.

~~(d)~~ (e) Every public grain warehouse operator must maintain in the grain warehouse at all times grain of proper grade and sufficient quantity to meet delivery obligations on all outstanding grain warehouse receipts.

Sec. 30. Minnesota Statutes 2010, section 232.23, subdivision 10, is amended to read:

Subd. 10. **Delivery of grain.** ~~(a)~~ On the redemption of a grain warehouse receipt and payment of all lawful charges, the grain represented by the receipt is immediately deliverable to the depositor or the depositor's order, and is not subject to any further charge for storage after demand for delivery has been made and proper facilities for receiving and shipping the grain have been provided. If delivery has not commenced within 48 hours after demand has been made and proper facilities have been provided, the public grain warehouse operator issuing the grain warehouse receipt is liable to the owner in damages not exceeding two cents per bushel for each day's delay, unless the public grain warehouse operator makes delivery to different owners in the order demanded as rapidly as it can be done through ordinary diligence, or unless insolvency has occurred.

~~(b) If a disagreement arises between the person receiving and the person delivering the grain at a public grain warehouse in this state as to the proper grade or dockage of any grain, an average sample of at least three quarts of the grain in dispute may be taken by either or both of the persons interested. The sample shall be certified by both the owner and the public grain warehouse operator as being true samples of the grain in dispute on the delivery day. The samples shall be forwarded in a suitable airtight container by parcel post or express, prepaid, with the name and address of both parties, to the head of the grain inspection program of the Department of Agriculture, who shall, upon request, examine the grain, and determine what grade or dockage the samples of grain are entitled to under the inspection rules. Before the results of the inspection are released to the person requesting the inspection, the person shall pay the required fee. The fee shall be the same as that required for similar services rendered by the grain inspection program.~~

Sec. 31. Minnesota Statutes 2010, section 232.24, subdivision 1, is amended to read:

Subdivision 1. **Schedule of ~~inspection~~ examination.** A licensee under sections 232.20 to 232.25 is subject to two ~~audits~~ examinations annually conducted by the commissioner or the agricultural marketing service of the United States Department of Agriculture. The commissioner may, by rule, authorize one ~~audit~~ examination to be conducted by a qualified nongovernmental unit.

Sec. 32. Minnesota Statutes 2010, section 232.24, subdivision 2, is amended to read:

Subd. 2. **Financial reports.** A licensee under sections 232.20 to 232.25 upon request must provide to the commissioner a copy of the financial reports of an audit conducted by a qualified nongovernmental unit containing information the commissioner requires.

Sec. 33. Minnesota Statutes 2010, section 236.02, is amended by adding a subdivision to read:

Subd. 4a. **Statement of grain in storage; reports.** (a) Annually by February 15 each grain bank operator must file with the commissioner on a form approved by the commissioner a report showing the highest monthly net liability of all grain outstanding on grain bank receipts that occurred during the preceding calendar year. This report must be used for the purpose of establishing the sum of the bond.

(b) Grain bank operators that are at maximum bond and want to continue at maximum bond do not need to file this report.

(c) It is a violation of this chapter for a public grain bank operator to fail to file the report required in clause (a).

Sec. 34. Minnesota Statutes 2010, section 236.02, subdivision 5, is amended to read:

Subd. 5. ~~**Bond**~~ **Bonding.** ~~A license may not be issued for the operation of a grain bank until the applicant has filed with the department a bond in a sum set by the department. The bond may not be less than $1,500 for each license and must at all times be large enough to protect the holders of outstanding grain bank receipts. Bonds must be filed annually and cover the period of the grain bank license.~~ (a) Before a license is issued, the applicant for a grain bank operator's license shall file with the commissioner a bond in a penal sum prescribed by the commissioner based on the annual average liability as stated on the statement of grain in storage report and applying the following amounts:

(1) $1,500 for storages with annual average storage liability of more than $0 but not more than $5,000;

(2) $3,000 for storages with annual average storage liability of more than $5,001 but not more than $10,000;

(3) $8,000 for storages with annual average storage liability of more than $10,001 but not more than $25,000;

(4) $15,000 for storages with annual average storage liability of more than $25,001 but not more than $50,000;

(5) $35,000 for storages with annual average storage liability of more than $50,001 but not more than $100,000;

(6) $75,000 for storages with annual average storage liability of more than $100,001 but not more than $200,000;

(7) $125,000 for storages with annual average storage liability of more than $200,001 but not more than $300,000; and

(8) $150,000 for storages with annual average storage liability of more than $300,001.

(b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

Bonds must run to the state of Minnesota and be for the benefit of all persons storing grain in a grain bank. They must be conditioned upon the faithful performance by the grain bank operator of the law relating to the operation of grain banks by the grain bank operator and related rules of the department. ~~The department may require increases in the amounts of bonds as it considers necessary for the protection of grain bank receipt holders.~~ The surety of grain bank bonds must be a corporate surety company authorized to transact business in Minnesota.

Sec. 35. Laws 2011, chapter 14, section 6, is amended by adding an effective date to read:

EFFECTIVE DATE. This section is effective retroactively from April 16, 2011.

Sec. 36. **REPEALER.**

(a) Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1 and 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1 and 2; 17B.28; 17B.29; 232.24, subdivision 3; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; and 395.24, are repealed.

(b) Minnesota Rules, parts 1505.0780; 1505.0810; 1562.0100, subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25; 1562.0200; 1562.0700, subparts 1b and 3; 1562.0900; and 1562.1300, are repealed.