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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1595

02/21/2019 Authored by Sundin, Poppe, Ecklund, Anderson, Hamilton and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to agriculture; modifying bioincentive program; creating an account;
1.3 appropriating money; amending Minnesota Statutes 2018, sections 41A.15,
1.4 subdivision 10, by adding a subdivision; 41A.16, subdivisions 1, 2, 4; 41A.17,
1.5 subdivisions 1, 2, 3; 41A.18, subdivisions 1, 2, 3; proposing coding for new law
1.6 in Minnesota Statutes, chapter 41A.

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

1.8 Section 1. Minnesota Statutes 2018, section 41A.15, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 2e. Biomass. "Biomass" means any organic matter that is available on a renewable
1.11 or recurring basis, including agricultural crops and trees; wood and wood waste and residues;
1.12 plants including aquatic plants, grasses, residues, and fibers; animal waste; and the organic
1.13 portion of solid wastes.

1.14 Sec. 2. Minnesota Statutes 2018, section 41A.15, subdivision 10, is amended to read:

1.15 Subd. 10. Renewable chemical. "Renewable chemical" means a chemical with biobased
1.16 content, polymer, monomer, plastic, or composite material that is entirely produced from
1.17 biomass.

1.18 Sec. 3. Minnesota Statutes 2018, section 41A.16, subdivision 1, is amended to read:

1.19 Subdivision 1. Eligibility. (a) A facility eligible for payment under this section must
1.20 source from Minnesota at least 80 percent raw materials from Minnesota. of the biomass
1.21 used to produce an advanced biofuel, except that, if a facility is sited 50 miles or less from
1.22 the state border, raw materials biomass used to produce an advanced biofuel may be sourced

2.1 from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from
 2.2 within a 100-mile radius of the facility or from within Minnesota. ~~Raw materials must be~~
 2.3 ~~from agricultural or forestry sources or from solid waste.~~ The facility must be located in
 2.4 Minnesota, must begin production at a specific location by June 30, 2025, and must not
 2.5 begin operating above 23,750 MMbtu of quarterly advanced biofuel production before July
 2.6 1, 2015. Eligible facilities include existing companies and facilities that are adding advanced
 2.7 biofuel production capacity, or retrofitting existing capacity, as well as new companies and
 2.8 facilities. Production of conventional corn ethanol and conventional biodiesel is not eligible.
 2.9 Eligible advanced biofuel facilities must produce at least ~~23,750~~ 1,500 MMbtu of advanced
 2.10 biofuel quarterly.

2.11 (b) No payments shall be made for advanced biofuel production that occurs after June
 2.12 30, 2035, for those eligible biofuel producers under paragraph (a).

2.13 (c) An eligible producer of advanced biofuel shall not transfer the producer's eligibility
 2.14 for payments under this section to an advanced biofuel facility at a different location.

2.15 (d) A producer that ceases production for any reason is ineligible to receive payments
 2.16 under this section until the producer resumes production.

2.17 (e) Renewable chemical production for which payment has been received under section
 2.18 41A.17, and biomass thermal production for which payment has been received under section
 2.19 41A.18, are not eligible for payment under this section.

2.20 (f) Biobutanol is eligible under this section.

2.21 Sec. 4. Minnesota Statutes 2018, section 41A.16, subdivision 2, is amended to read:

2.22 Subd. 2. **Payment amounts; limits.** (a) The commissioner shall make payments to
 2.23 eligible producers of advanced biofuel. The amount of the payment for each eligible
 2.24 producer's annual production is \$2.1053 per MMbtu for advanced biofuel production from
 2.25 cellulosic biomass, and \$1.053 per MMbtu for advanced biofuel production from sugar ~~or~~
 2.26 starch, oil, or animal fat at a specific location for ten years after the start of production.

2.27 (b) Total payments under this section to an eligible biofuel producer in a fiscal year may
 2.28 not exceed the amount necessary for 2,850,000 MMbtu of biofuel production. Total payments
 2.29 under this section to all eligible biofuel producers in a fiscal year may not exceed the amount
 2.30 necessary for 17,100,000 MMbtu of biofuel production. ~~The commissioner shall award~~
 2.31 ~~payments on a first-come, first-served basis within the limits of available funding.~~

2.32 (c) For purposes of this section, an entity that holds a controlling interest in more than
 2.33 one advanced biofuel facility is considered a single eligible producer.

3.1 Sec. 5. Minnesota Statutes 2018, section 41A.16, subdivision 4, is amended to read:

3.2 Subd. 4. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
 3.3 biomass used for advanced biofuel production must be produced using Minnesota ~~state~~
 3.4 forest biomass harvesting guidelines or the equivalent. All cellulosic biomass from brushlands
 3.5 must be produced using Minnesota brushland ~~harvesting~~ biomass ~~harvest~~ harvesting
 3.6 guidelines or the equivalent. Forestry-derived cellulosic biomass that comes from land
 3.7 parcels greater than 160 acres must be certified by the Forest Stewardship Council, the
 3.8 Sustainable Forestry Initiative, or the American Tree Farm System. Uncertified land from
 3.9 parcels of 160 acres or less and federal land must be harvested by a logger who has completed
 3.10 training for biomass harvesting from the Minnesota logger education program or the
 3.11 equivalent and have a forest ~~stewardship~~ management plan, as defined in section 290C.02,
 3.12 subdivision 7, or its equivalent.

3.13 Sec. 6. Minnesota Statutes 2018, section 41A.17, subdivision 1, is amended to read:

3.14 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this ~~program~~ section
 3.15 must source from Minnesota at least 80 percent ~~biobased content from Minnesota.~~ of the
 3.16 biomass used to produce a renewable chemical, except that, if a facility is sited 50 miles or
 3.17 less from the state border, ~~biobased content must~~ biomass used to produce a renewable
 3.18 chemical may be sourced from outside of Minnesota, but only if at least 80 percent of the
 3.19 biomass is sourced from within a 100-mile radius of the facility or from within Minnesota.
 3.20 ~~Biobased content must be from agricultural or forestry sources or from solid waste.~~ The
 3.21 facility must be located in Minnesota, must begin production at a specific location by June
 3.22 30, 2025, and must not begin production of ~~750,000~~ 250,000 pounds of chemicals quarterly
 3.23 before January 1, 2015. Eligible facilities include existing companies and facilities that are
 3.24 adding production capacity, or retrofitting existing capacity, as well as new companies and
 3.25 facilities. Eligible renewable chemical facilities must produce at least ~~750,000~~ 250,000
 3.26 pounds of renewable chemicals quarterly. Renewable chemicals produced through processes
 3.27 that are fully commercial before January 1, 2000, are not eligible.

3.28 (b) No payments shall be made for renewable chemical production that occurs after June
 3.29 30, 2035, for those eligible renewable chemical producers under paragraph (a).

3.30 (c) An eligible producer of renewable chemicals shall not transfer the producer's eligibility
 3.31 for payments under this section to a renewable chemical facility at a different location.

3.32 (d) A producer that ceases production for any reason is ineligible to receive payments
 3.33 under this section until the producer resumes production.

4.1 (e) Advanced biofuel production for which payment has been received under section
 4.2 41A.16, and biomass thermal production for which payment has been received under section
 4.3 41A.18, are not eligible for payment under this section.

4.4 Sec. 7. Minnesota Statutes 2018, section 41A.17, subdivision 2, is amended to read:

4.5 Subd. 2. **Payment amounts; bonus; limits.** (a) The commissioner shall make payments
 4.6 to eligible producers of renewable chemicals located in the state. The amount of the payment
 4.7 for each producer's annual production is \$0.03 per pound of sugar-derived renewable
 4.8 chemical, \$0.03 per pound of cellulosic sugar, and \$0.06 per pound of cellulosic-derived
 4.9 renewable chemical produced at a specific location for ten years after the start of production.

4.10 (b) An eligible facility producing renewable chemicals using agricultural cellulosic
 4.11 biomass is eligible for a 20 percent bonus payment for each pound produced from agricultural
 4.12 biomass that is derived from perennial crop or cover crop biomass.

4.13 (c) Total payments under this section to an eligible renewable chemical producer in a
 4.14 fiscal year may not exceed the amount necessary for 99,999,999 pounds of renewable
 4.15 chemical production. Total payments under this section to all eligible renewable chemical
 4.16 producers in a fiscal year may not exceed the amount necessary for 599,999,999 pounds of
 4.17 renewable chemical production. ~~The commissioner shall award payments on a first-come,
 4.18 first-served basis within the limits of available funding.~~

4.19 (d) An eligible facility may blend renewable chemicals with other chemicals that are
 4.20 not renewable chemicals, but only the percentage attributable to renewable chemicals in
 4.21 the blended product is eligible to receive payment.

4.22 ~~(d)~~ (e) For purposes of this section, an entity that holds a controlling interest in more
 4.23 than one renewable chemical production facility is considered a single eligible producer.

4.24 Sec. 8. Minnesota Statutes 2018, section 41A.17, subdivision 3, is amended to read:

4.25 Subd. 3. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
 4.26 biomass used for renewable chemical production must be produced using Minnesota ~~state~~
 4.27 forest biomass harvesting guidelines or the equivalent. All cellulosic biomass from brushlands
 4.28 must be produced using Minnesota brushland ~~harvesting~~ biomass ~~harvest~~ harvesting
 4.29 guidelines or the equivalent. Forestry-derived cellulosic biomass that comes from land
 4.30 parcels greater than 160 acres must be certified by the Forest Stewardship Council, the
 4.31 Sustainable Forestry Initiative, or the American Tree Farm System. Uncertified land from
 4.32 parcels of 160 acres or less and federal land must be harvested by a logger who has completed

5.1 training for biomass harvesting from the Minnesota logger education program or the
5.2 equivalent and have a forest ~~stewardship~~ management plan, as defined in section 290C.02,
5.3 subdivision 7, or its equivalent.

5.4 Sec. 9. Minnesota Statutes 2018, section 41A.18, subdivision 1, is amended to read:

5.5 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
5.6 source from Minnesota at least 80 percent ~~raw materials from Minnesota.~~ of the biomass
5.7 used for biomass thermal production, except that, if a facility is sited 50 miles or less from
5.8 the state border, ~~raw materials should~~ biomass used for biomass thermal production may
5.9 be sourced from outside of Minnesota, but only if at least 80 percent of the biomass is
5.10 sourced from within a 100-mile radius of the facility, or from within Minnesota. ~~Raw~~
5.11 ~~materials~~ Biomass must be from agricultural or forestry sources. The facility must be located
5.12 in Minnesota, must have begun production at a specific location by June 30, 2025, and must
5.13 not begin before July 1, 2015. Eligible facilities include existing companies and facilities
5.14 that are adding production capacity, or retrofitting existing capacity, as well as new
5.15 companies and facilities. Eligible biomass thermal production facilities must produce at
5.16 least 250 MMbtu of biomass thermal quarterly.

5.17 (b) No payments shall be made for biomass thermal production that occurs after June
5.18 30, 2035, for those eligible biomass thermal producers under paragraph (a).

5.19 (c) An eligible producer of biomass thermal production shall not transfer the producer's
5.20 eligibility for payments under this section to a biomass thermal production facility at a
5.21 different location.

5.22 (d) A producer that ceases production for any reason is ineligible to receive payments
5.23 under this section until the producer resumes production.

5.24 (e) Biofuel production for which payment has been received under section 41A.16, and
5.25 renewable chemical production for which payment has been received under section 41A.17,
5.26 are not eligible for payment under this section.

5.27 Sec. 10. Minnesota Statutes 2018, section 41A.18, subdivision 2, is amended to read:

5.28 Subd. 2. **Payment amounts; bonus; limits; blending.** (a) The commissioner shall make
5.29 payments to eligible producers of biomass thermal located in the state. The amount of the
5.30 payment for each producer's annual production is \$5.00 per MMbtu of biomass thermal
5.31 production produced at a specific location for ten years after the start of production.

6.1 (b) An eligible facility producing biomass thermal using agricultural cellulosic biomass
 6.2 is eligible for a 20 percent bonus payment for each MMbtu produced from agricultural
 6.3 biomass that is derived from perennial crop or cover crop biomass.

6.4 (c) Total payments under this section to an eligible thermal producer in a fiscal year
 6.5 may not exceed the amount necessary for 30,000 MMbtu of thermal production. Total
 6.6 payments under this section to all eligible thermal producers in a fiscal year may not exceed
 6.7 the amount necessary for 150,000 MMbtu of total thermal production. ~~The commissioner
 6.8 shall award payments on a first-come, first-served basis within the limits of available funding.~~

6.9 (d) An eligible facility may blend a cellulosic feedstock with other fuels in the biomass
 6.10 thermal production facility, but only the percentage attributable to cellulosic material is
 6.11 eligible to receive payment.

6.12 (e) For purposes of this section, an entity that holds a controlling interest in more than
 6.13 one biomass thermal production facility is considered a single eligible producer.

6.14 Sec. 11. Minnesota Statutes 2018, section 41A.18, subdivision 3, is amended to read:

6.15 Subd. 3. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
 6.16 biomass used for biomass thermal production must be produced using Minnesota ~~state~~ forest
 6.17 biomass harvesting guidelines or the equivalent. All cellulosic biomass from ~~brushland~~
 6.18 brushlands must be produced using Minnesota brushland ~~harvesting~~ biomass harvesting
 6.19 guidelines or the equivalent. Forestry-derived cellulosic biomass that comes from land
 6.20 parcels greater than 160 acres must be certified by the Forest Stewardship Council, the
 6.21 Sustainable Forestry Initiative, or the American Tree Farm System. Uncertified land from
 6.22 parcels of 160 acres or less and federal land must be harvested by a logger who has completed
 6.23 training for biomass harvesting from the Minnesota logger education program or the
 6.24 equivalent and have a forest ~~stewardship~~ management plan, as defined in section 290C.02,
 6.25 subdivision 7, or its equivalent.

6.26 Sec. 12. **[41A.195] BIOINCENTIVE ACCOUNT.**

6.27 A bioincentive account is established in the agricultural fund. The account consists of
 6.28 money transferred by law to the account and any other money donated, allotted, or otherwise
 6.29 provided to the account. Money in the account, including interest, is annually appropriated
 6.30 to the commissioner for the purposes of making incentive payments under sections 41A.16,
 6.31 41A.17, and 41A.18.

7.1 Sec. 13. APPROPRIATION.

7.2 \$15,000,000 in fiscal year 2020 and \$15,000,000 in fiscal year 2021 are transferred from
7.3 the general fund to the commissioner of agriculture for deposit in the bioincentive account
7.4 in the agricultural fund.