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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 109

06/15/2020 Authored by Sundin, Lislegard, Persell and Ecklund
The bill was read for the first time and referred to the Agriculture and Food Finance and Policy Division

1.1 A bill for an act
1.2 relating to agriculture; allocating future unrestricted general fund surplus dollars;
1.3 modifying the advanced biofuel, renewable chemical, and biomass thermal incentive
1.4 programs; appropriating money; amending Minnesota Statutes 2018, sections
1.5 16A.152, subdivision 2; 41A.16, subdivision 6; 41A.17, subdivision 5; 41A.18,
1.6 subdivision 5; Minnesota Statutes 2019 Supplement, sections 41A.16, subdivision
1.7 1; 41A.17, subdivision 1; 41A.18, subdivision 1.

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

1.9 Section 1. Minnesota Statutes 2018, section 16A.152, subdivision 2, is amended to read:

1.10 Subd. 2. Additional revenues; priority. (a) If on the basis of a forecast of general fund
1.11 revenues and expenditures, the commissioner of management and budget determines that
1.12 there will be a positive unrestricted budgetary general fund balance at the close of the
1.13 biennium, the commissioner of management and budget must allocate money to the following
1.14 accounts and purposes in priority order:

1.15 (1) the cash flow account established in subdivision 1 until that account reaches
1.16 \$350,000,000;

1.17 (2) the budget reserve account established in subdivision 1a until that account reaches
1.18 \$1,596,522,000;

1.19 (3) the amount necessary to increase the aid payment schedule for school district aids
1.20 and credits payments in section 127A.45 to not more than 90 percent rounded to the nearest
1.21 tenth of a percent without exceeding the amount available and with any remaining funds
1.22 deposited in the budget reserve;

2.1 (4) the amount necessary to restore all or a portion of the net aid reductions under section
2.2 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75,
2.3 subdivision 5, by the same amount; and

2.4 (5) ~~the clean water fund established in section 114D.50 until \$22,000,000 has been~~
2.5 ~~transferred into the fund~~ beginning in fiscal year 2025, the renewable development account
2.6 established in section 116C.779 until \$10,000,000 has been transferred into the account.

2.7 (b) The amounts necessary to meet the requirements of this section are appropriated
2.8 from the general fund within two weeks after the forecast is released or, in the case of
2.9 transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations
2.10 schedules otherwise established in statute.

2.11 (c) The commissioner of management and budget shall certify the total dollar amount
2.12 of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education.
2.13 The commissioner of education shall increase the aid payment percentage and reduce the
2.14 property tax shift percentage by these amounts and apply those reductions to the current
2.15 fiscal year and thereafter.

2.16 (d) Paragraph (a), clause (5), expires after the entire amount of the transfer has been
2.17 made.

2.18 Sec. 2. Minnesota Statutes 2019 Supplement, section 41A.16, subdivision 1, is amended
2.19 to read:

2.20 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
2.21 source from Minnesota at least 80 percent of the biomass used to produce an advanced
2.22 biofuel, except that, if a facility is sited 50 miles or less from the state border, biomass used
2.23 to produce an advanced biofuel may be sourced from outside of Minnesota, but only if at
2.24 least 80 percent of the biomass is sourced from within a 100-mile radius of the facility or
2.25 from within Minnesota. The facility must be located in Minnesota, must begin production
2.26 at a specific location by June 30, 2025, and must not begin operating above 23,750 MMbtu
2.27 of quarterly advanced biofuel production before July 1, 2015. Eligible facilities include
2.28 existing companies and facilities that are adding advanced biofuel production capacity, or
2.29 retrofitting existing capacity, as well as new companies and facilities. Production of
2.30 conventional corn ethanol and conventional biodiesel is not eligible. Eligible advanced
2.31 biofuel facilities must produce at least 1,500 MMbtu of advanced biofuel quarterly. Beginning
2.32 September 1, 2021, the commissioner may only accept claims under this section from
2.33 facilities that submitted a claim prior to July 31, 2021.

3.1 (b) No payments shall be made for advanced biofuel production that occurs after June
3.2 30, 2035, for those eligible biofuel producers under paragraph (a).

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

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

3.7 (e) Renewable chemical production for which payment has been received under section
3.8 41A.17, and biomass thermal production for which payment has been received under section
3.9 41A.18, are not eligible for payment under this section.

3.10 (f) Biobutanol is eligible under this section.

3.11 Sec. 3. Minnesota Statutes 2018, section 41A.16, subdivision 6, is amended to read:

3.12 Subd. 6. **Claims.** (a) By the last day of October, January, April, and July, each eligible
3.13 biofuel producer shall file a claim for payment for advanced biofuel production during the
3.14 preceding three calendar months. An eligible biofuel producer that files a claim under this
3.15 subdivision shall include a statement of the eligible biofuel producer's total advanced biofuel
3.16 production in Minnesota during the quarter covered by the claim. For each claim and
3.17 statement of total advanced biofuel production filed under this subdivision, the volume of
3.18 advanced biofuel production must be examined by a CPA firm with a valid permit to practice
3.19 under chapter 326A, in accordance with Statements on Standards for Attestation Engagements
3.20 established by the American Institute of Certified Public Accountants.

3.21 (b) The commissioner must issue payments by November 15, February 15, May 15, and
3.22 August 15. A separate payment must be made for each claim filed.

3.23 (c) An eligible biofuel producer may file a claim with the commissioner for payment of
3.24 the difference between a claim submitted under this section after July 1, 2019, and a lesser,
3.25 pro rata amount paid by the commissioner. The commissioner must issue payments until
3.26 the producer receives the full amount of the original claim.

3.27 Sec. 4. Minnesota Statutes 2019 Supplement, section 41A.17, subdivision 1, is amended
3.28 to read:

3.29 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
3.30 source from Minnesota at least 80 percent of the biomass used to produce a renewable
3.31 chemical, except that, if a facility is sited 50 miles or less from the state border, biomass
3.32 used to produce a renewable chemical may be sourced from outside of Minnesota, but only

4.1 if at least 80 percent of the biomass is sourced from within a 100-mile radius of the facility
4.2 or from within Minnesota. The facility must be located in Minnesota, must begin production
4.3 at a specific location by June 30, 2025, and must not begin production of 250,000 pounds
4.4 of chemicals quarterly before January 1, 2015. Eligible facilities include existing companies
4.5 and facilities that are adding production capacity, or retrofitting existing capacity, as well
4.6 as new companies and facilities. Eligible renewable chemical facilities must produce at least
4.7 250,000 pounds of renewable chemicals quarterly. Renewable chemicals produced through
4.8 processes that are fully commercial before January 1, 2000, are not eligible. Beginning
4.9 September 1, 2021, the commissioner may only accept claims under this section from
4.10 facilities that submitted a claim prior to July 31, 2021.

4.11 (b) No payments shall be made for renewable chemical production that occurs after June
4.12 30, 2035, for those eligible renewable chemical producers under paragraph (a).

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

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

4.17 (e) Advanced biofuel production for which payment has been received under section
4.18 41A.16, and biomass thermal production for which payment has been received under section
4.19 41A.18, are not eligible for payment under this section.

4.20 Sec. 5. Minnesota Statutes 2018, section 41A.17, subdivision 5, is amended to read:

4.21 Subd. 5. **Claims.** (a) By the last day of October, January, April, and July, each eligible
4.22 renewable chemical producer shall file a claim for payment for renewable chemical
4.23 production during the preceding three calendar months. An eligible renewable chemical
4.24 producer that files a claim under this subdivision shall include a statement of the eligible
4.25 producer's total renewable chemical production in Minnesota during the quarter covered by
4.26 the claim. For each claim and statement of total renewable chemical production filed under
4.27 this paragraph, the volume of renewable chemical production must be examined by a CPA
4.28 firm with a valid permit to practice under chapter 326A, in accordance with Statements on
4.29 Standards for Attestation Engagements established by the American Institute of Certified
4.30 Public Accountants.

4.31 (b) The commissioner must issue payments by November 15, February 15, May 15, and
4.32 August 15. A separate payment must be made for each claim filed.

5.1 (c) An eligible renewable chemical producer may file a claim with the commissioner
5.2 for payment of the difference between a claim submitted under this section after July 1,
5.3 2019, and a lesser, pro rata amount paid by the commissioner. The commissioner must issue
5.4 payments until the producer receives the full amount of the original claim.

5.5 Sec. 6. Minnesota Statutes 2019 Supplement, section 41A.18, subdivision 1, is amended
5.6 to read:

5.7 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
5.8 source from Minnesota at least 80 percent of the biomass used for biomass thermal
5.9 production, except that, if a facility is sited 50 miles or less from the state border, biomass
5.10 used for biomass thermal production may be sourced from outside of Minnesota, but only
5.11 if at least 80 percent of the biomass is sourced from within a 100-mile radius of the facility,
5.12 or from within Minnesota. Biomass must be from agricultural or forestry sources. The
5.13 facility must be located in Minnesota, must have begun production at a specific location by
5.14 June 30, 2025, and must not begin before July 1, 2015. Eligible facilities include existing
5.15 companies and facilities that are adding production capacity, or retrofitting existing capacity,
5.16 as well as new companies and facilities. Eligible biomass thermal production facilities must
5.17 produce at least 250 MMbtu of biomass thermal quarterly. Beginning September 1, 2021,
5.18 the commissioner may only accept claims under this section from facilities that submitted
5.19 a claim prior to July 31, 2021.

5.20 (b) No payments shall be made for biomass thermal production that occurs after June
5.21 30, 2035, for those eligible biomass thermal producers under paragraph (a).

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

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

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

5.30 Sec. 7. Minnesota Statutes 2018, section 41A.18, subdivision 5, is amended to read:

5.31 Subd. 5. **Claims.** (a) By the last day of October, January, April, and July, each producer
5.32 shall file a claim for payment for biomass thermal production during the preceding three

6.1 calendar months. A producer that files a claim under this subdivision shall include a statement
6.2 of the producer's total biomass thermal production in Minnesota during the quarter covered
6.3 by the claim. For each claim and statement of total biomass thermal production filed under
6.4 this paragraph, the volume of biomass thermal production must be examined by a CPA firm
6.5 with a valid permit to practice under chapter 326A, in accordance with Statements on
6.6 Standards for Attestation Engagements established by the American Institute of Certified
6.7 Public Accountants.

6.8 (b) The commissioner must issue payments by November 15, February 15, May 15, and
6.9 August 15. A separate payment shall be made for each claim filed.

6.10 (c) An eligible biomass thermal energy producer may file a claim with the commissioner
6.11 for payment of the difference between a claim submitted under this section after July 1,
6.12 2019, and a lesser, pro rata amount paid by the commissioner. The commissioner must issue
6.13 payments until the producer receives the full amount of the original claim.

6.14 Sec. 8. **APPROPRIATION; BIOINCENTIVE PROGRAMS.**

6.15 Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j),
6.16 \$5,000,000 in fiscal year 2020 and \$5,000,000 in fiscal year 2021 are appropriated from
6.17 the renewable development account in the special revenue fund to the commissioner of
6.18 agriculture to issue payments to producers of advanced biofuels, renewable chemicals, and
6.19 biomass thermal energy under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18.
6.20 These appropriations are onetime and are available until June 30, 2022.

6.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.