

CHAPTER 88--H.F.No. 1545

An act relating to agriculture; establishing a budget for the Department of Agriculture, the Board of Animal Health, and the Agricultural Utilization Research Institute; making policy, technical, and conforming changes to various agriculture-related provisions including provisions related to pesticides, noxious weeds, nursery law, inspections, commercial feed, grain, food, and agricultural development; reorganizing dairy law; establishing and modifying agriculture-related programs; modifying partition fence law; modifying certain fees; modifying the Farmer-Lender Mediation Act; requiring reports; appropriating money; amending Minnesota Statutes 2016, sections 3.7371; 13.6435, subdivision 8; 15.985; 17.119, subdivisions 1, 2; 17.53, subdivisions 2, 8, 13; 17.983, subdivision 1; 17.984, subdivision 1; 18.79, subdivision 18; 18B.01, by adding subdivisions; 18B.065, subdivision 8; 18B.26, subdivision 1; 18B.28, subdivisions 1, 3; 18B.305; 18B.33, subdivision 1; 18B.34, subdivision 1; 18B.36, subdivision 1; 18B.37, subdivision 3; 18C.70, subdivision 5; 18C.71, subdivision 4; 18H.06, subdivision 2; 18H.07, subdivisions 2, 3; 21.111, subdivisions 2, 3; 21.113; 21.117; 25.32; 25.33, subdivisions 5, 10, 21; 25.341, subdivisions 1, 2; 25.35; 25.371, subdivision 2; 25.38; 25.39, subdivisions 1, 1a, 2, 3; 25.40, subdivision 2; 25.41, subdivisions 1, 2, 3, 5, 7a; 25.42; 27.04; 28A.03, by adding a subdivision; 28A.05; 28A.081; 28A.085, subdivision 1; 28A.152, subdivision 2; 28A.21, subdivision 6; 31A.02, subdivision 4; 32C.02, subdivision 2; 32C.06; 34A.01, subdivision 1; 41A.12, subdivision 3; 41A.20, subdivision 2; 41B.03, subdivisions 2, 3; 41B.043, subdivision 5; 41B.045, subdivision 2; 41C.02, subdivision 12; 116V.01, subdivisions 1, 2, 3, 4, 7, 10, 11, 13, 14; 223.17, subdivision 8; 232.22, subdivision 7; 336.9-601; 344.03, subdivision 1; 550.365, subdivision 1; 559.209, subdivision 1; 582.039, subdivision 1; 583.215; 583.24, subdivision 4, by adding a subdivision; 583.26, subdivisions 2, 3, 3a, 4, 10; 583.27, subdivision 1; Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 18B; proposing coding for new law as Minnesota Statutes, chapter 32D; repealing Minnesota Statutes 2016, sections 18B.01, subdivisions 10a, 10b, 22a; 18B.285; 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, 12; 32.021; 32.071; 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105; 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, 3; 32.392; 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11, 12; 32.395; 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, 5; 32.415; 32.416; 32.475; 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55, subdivisions 1, 2, 3, 4, 5, 12, 13, 14; 32.555; 32.56; 32.61; 32.62; 32.63; 32.64; 32.645; 32.70; 32.71; 32.72; 32.74; 32.745; 32.75; 32.90; 41A.20, subdivision 6; 41D.01, subdivision 4; 383C.809; 583.22, subdivision 7b.

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

ARTICLE 1**AGRICULTURE APPROPRIATIONS****Section 1. AGRICULTURE APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2018" and "2019" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2018, or June 30, 2019, respectively. "The first year" is fiscal year 2018. "The second year" is fiscal year 2019. "The biennium" is fiscal years 2018 and 2019.

APPROPRIATIONS
Available for the Year
Ending June 30
2018 **2019**

Sec. 2. DEPARTMENT OF AGRICULTURE

Subdivision 1. Total Appropriation **\$** **53,096,000** **\$** **53,148,000**

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>52,703,000</u>	<u>52,751,000</u>
<u>Remediation</u>	<u>393,000</u>	<u>397,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Protection Services 17,821,000 17,825,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>17,428,000</u>	<u>17,428,000</u>
<u>Remediation</u>	<u>393,000</u>	<u>397,000</u>

(a) \$25,000 the first year and \$25,000 the second year are to develop and maintain cottage food license exemption outreach and training materials.

(b) \$75,000 the first year and \$75,000 the second year are to coordinate the correctional facility vocational training program and to assist entities that have explored the feasibility of establishing a USDA-certified or state "equal to" food processing facility within 30 miles of the Northeast Regional Corrections Center.

(c) \$125,000 the first year and \$125,000 the second year are for additional funding for the

noxious weed and invasive plant program. These are onetime appropriations.

(d) \$250,000 the first year and \$250,000 the second year are for transfer to the pollinator habitat and research account in the agricultural fund. These are onetime transfers.

(e) \$393,000 the first year and \$397,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

(f) \$200,000 the first year and \$200,000 the second year are for the industrial hemp pilot program under Minnesota Statutes, section 18K.09. These are onetime appropriations.

(g) \$175,000 the first year and \$175,000 the second year are for compensation for destroyed or crippled livestock under Minnesota Statutes, section 3.737. This appropriation may be spent to compensate for livestock that were destroyed or crippled during fiscal year 2017. If the amount in the first year is insufficient, the amount in the second year is available in the first year.

(h) \$155,000 the first year and \$155,000 the second year are for compensation for crop damage under Minnesota Statutes, section 3.7371. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$30,000 of the appropriation each year to reimburse expenses incurred by the commissioner or the commissioner's approved agent to investigate and resolve claims.

If the commissioner determines that claims made under Minnesota Statutes, section 3.737 or 3.7371, are unusually high, amounts appropriated for either program may be transferred to the appropriation for the other program.

(i) \$250,000 the first year and \$250,000 the second year are to expand current capabilities for rapid detection, identification, containment, control, and management of high priority plant pests and pathogens. These are onetime appropriations.

(j) \$300,000 the first year and \$300,000 the second year are for transfer to the noxious weed and invasive plant species assistance account in the agricultural fund to award grants to local units of government under Minnesota Statutes, section 18.90, with preference given to local units of government responding to Palmer amaranth or other weeds on the eradicate list. These are onetime transfers.

(k) \$120,000 the first year and \$120,000 the second year are for wolf-livestock conflict prevention grants under article 2, section 89. The commissioner must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance by January 15, 2020, on the outcomes of the wolf-livestock conflict prevention grants and whether livestock compensation claims were reduced in the areas that grants were awarded. These are onetime appropriations.

Subd. 3. Agricultural Marketing and Development

3,996,000

3,996,000

(a) The commissioner must provide outreach to urban farmers regarding the department's financial and technical assistance programs and must assist urban farmers in applying for assistance.

(b) \$186,000 the first year and \$186,000 the second year are for transfer to the Minnesota grown account and may be used as grants for Minnesota grown promotion under Minnesota Statutes, section 17.102. Grants may be made for one year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2019, for Minnesota grown grants in this paragraph are available until June 30, 2021.

(c) \$634,000 the first year and \$634,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state,

in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a detailed accomplishment report and a work plan detailing future plans for, and anticipated accomplishments from, expenditures under this program to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs and ranking minority members.

(d) The commissioner may use funds appropriated in this subdivision for annual cost-share payments to resident farmers or entities that sell, process, or package agricultural products in this state for the costs of organic certification. The commissioner may allocate these funds for assistance for persons transitioning from conventional to organic agriculture.

Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement

22,581,000

22,636,000

(a) \$9,300,000 the first year and \$9,300,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. Of these amounts: at least \$600,000 the first year and \$600,000 the second year are for the Minnesota Agricultural Experiment Station's agriculture rapid response fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2); \$2,000,000 the first year and \$2,000,000 the second year are for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants; \$350,000 the first year and \$350,000 the second year are for potato breeding; and \$450,000 the first year and \$450,000 the second year are for the cultivated wild rice breeding project at the North Central Research and Outreach Center to include a tenure track/research associate plant breeder. The commissioner shall transfer the remaining funds in this appropriation each year to the Board of

Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14. Of the amount transferred to the Board of Regents, up to \$1,000,000 each year is for research on avian influenza, including prevention measures that can be taken.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to one percent of this appropriation for costs incurred to administer the program.

(b) \$13,256,000 the first year and \$13,311,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Except as provided below, the commissioner may allocate the appropriation each year among the following areas: facilitating the start-up, modernization, or expansion of livestock operations including beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify; providing funding not to exceed \$250,000 each year for urban youth agricultural education or urban agriculture community development; providing funding not to exceed \$250,000 each year for the good food access program under Minnesota Statutes, section 17.1017; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including by providing loans under Minnesota Statutes, section 41B.056; sustainable agriculture on-farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; enhancing renewable energy infrastructure and use; crop research; Farm Business Management tuition assistance; good agricultural practices/good handling practices certification assistance; establishing and supporting farmer-led water management councils; and implementing farmer-led water quality improvement practices. The commissioner may

use up to 6.5 percent of this appropriation for costs incurred to administer the program.

Of the amount appropriated for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12:

(1) \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture; and

(2) \$1,500,000 the first year and \$1,500,000 the second year are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2019, and the second year appropriation is available until June 30, 2020. If this appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available for the agricultural growth, research, and innovation program.

The commissioner may use funds appropriated under this subdivision to award up to two value-added agriculture grants per year of up to \$1,000,000 per grant for new or expanding agricultural production or processing facilities that provide significant economic impact to the region. The commissioner may use funds appropriated under this subdivision for additional value-added agriculture grants for awards between \$1,000 and \$200,000 per grant.

Appropriations in clauses (1) and (2) are onetime. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, appropriations encumbered under contract on or before June 30, 2019, for agricultural growth, research, and innovation grants are available until June 30, 2021.

The base budget for the agricultural growth, research, and innovation program is \$14,275,000 for fiscal years 2020 and 2021 and includes funding for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, 41A.18, and 41A.20.

The commissioner must develop additional innovative production incentive programs to be funded by the agricultural growth, research, and innovation program.

The commissioner must consult with the commissioner of transportation, the commissioner of administration, and local units of government to identify parcels of publicly owned land that are suitable for urban agriculture.

(c) \$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

Subd. 5. Administration and Financial Assistance

8,698,000

8,691,000

(a) \$474,000 the first year and \$474,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed no later than July 15 of each year. These payments are the amount of aid from the state for an annual fair held in the previous calendar year.

(b) \$1,000 the first year and \$1,000 the second year are for grants to the Minnesota State Poultry Association.

(c) \$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Livestock Breeders Association.

(d) \$47,000 the first year and \$47,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

(e) \$220,000 the first year and \$220,000 the second year are for farm advocate services.

(f) \$17,000 the first year and \$17,000 the second year are for grants to the Minnesota Horticultural Society.

(g) \$108,000 the first year and \$108,000 the second year are for annual grants to the Minnesota

Turf Seed Council for basic and applied research on: (1) the improved production of forage and turf seed related to new and improved varieties; and (2) native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. These are onetime appropriations.

(h) \$113,000 the first year and \$113,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for statewide mental health counseling support to farm families and business operators. South Central College shall serve as the fiscal agent.

(i) \$550,000 the first year and \$550,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Feeding America food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Feeding America food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses. Any unencumbered balance does not cancel at the end

of the first year and is available for the second year.

(j) \$1,100,000 the first year and \$1,100,000 the second year are for grants to Second Harvest Heartland on behalf of the six Feeding America food banks that serve Minnesota to compensate agricultural producers and processors for costs incurred to harvest and package for transfer surplus fruits, vegetables, and other agricultural commodities that would otherwise go unharvested, be discarded, or sold in a secondary market. Surplus commodities must be distributed statewide to food shelves and other charitable organizations that are eligible to receive food from the food banks. Surplus food acquired under this appropriation must be from Minnesota producers and processors. Second Harvest Heartland must report in the form prescribed by the commissioner. Second Harvest Heartland may use up to 15 percent of each grant for matching administrative and transportation expenses. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(k) \$150,000 the first year and \$150,000 the second year are for grants to the Center for Rural Policy and Development.

(l) \$235,000 the first year and \$235,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

(m) \$600,000 the first year and \$600,000 the second year are for grants to the Board of Regents of the University of Minnesota to develop, in consultation with the commissioner of agriculture and the Board of Animal Health, a software tool or application through the Veterinary Diagnostic Laboratory that empowers veterinarians and producers to understand the movement of unique pathogen strains in livestock and poultry production systems, monitor antibiotic resistance, and implement effective biosecurity measures that promote animal health and limit production losses. These are onetime appropriations.

(n) \$150,000 the first year is for the tractor rollover protection pilot program under Minnesota Statutes, section 17.119. This is a onetime appropriation and is available until June 30, 2019.

(o) \$400,000 the first year is for a grant to the Board of Trustees of the Minnesota State Colleges and Universities to expand and renovate the GROW-IT Center at Metropolitan State University. This is a onetime appropriation.

By January 15, 2018, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over agricultural policy and finance with a list of inspections the department conducts at more frequent intervals than federal law requires, an explanation of why the additional inspections are necessary, and provide recommendations for eliminating any unnecessary inspections.

Sec. 3. <u>BOARD OF ANIMAL HEALTH</u>	<u>\$</u>	<u>5,420,000</u>	<u>\$</u>	<u>5,456,000</u>
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Sec. 4. <u>AGRICULTURAL UTILIZATION RESEARCH INSTITUTE</u>	<u>\$</u>	<u>3,793,000</u>	<u>\$</u>	<u>3,793,000</u>
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Sec. 5. Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended by Laws 2016, chapter 184, section 11, and Laws 2016, chapter 189, article 2, section 26, is amended to read:

Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement				19,010,000
		14,993,000		<u>18,316,000</u>

\$4,483,000 the first year and \$8,500,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. The transfer in this paragraph includes money for plant breeders at the University of Minnesota for wild rice, potatoes, and grapes. Of these amounts, at least \$600,000 each year is for the Minnesota Agricultural Experiment Station's Agriculture Rapid Response Fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2). Of the amount appropriated in this paragraph, \$1,000,000

each year is for transfer to the Board of Regents of the University of Minnesota for research to determine (1) what is causing avian influenza, (2) why some fowl are more susceptible, and (3) prevention measures that can be taken. Of the amount appropriated in this paragraph, \$2,000,000 each year is for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants. The commissioner shall transfer the remaining grant funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

\$10,235,000 the first year and \$10,235,000 \$9,541,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. No later than February 1, 2016, and February 1, 2017, the commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance regarding the commissioner's accomplishments and anticipated accomplishments in the following areas: facilitating the start-up, modernization, or expansion of livestock operations including beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify products; developing urban agriculture; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including loans under Minnesota Statutes, section 41B.056; sustainable agriculture on farm research and demonstration; development or

expansion of food hubs and other alternative community-based food distribution systems; incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18; and research on bioenergy, biobased content, or biobased formulated products and other renewable energy development. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2017, for agricultural growth, research, and innovation grants are available until June 30, 2019.

The commissioner may use funds appropriated for the agricultural growth, research, and innovation program as provided in this paragraph. The commissioner may award grants to owners of Minnesota facilities producing bioenergy, biobased content, or a biobased formulated product; to organizations that provide for on-station, on-farm field scale research and outreach to develop and test the agronomic and economic requirements of diverse strands of prairie plants and other perennials for bioenergy systems; or to certain nongovernmental entities. For the purposes of this paragraph, "bioenergy" includes transportation fuels derived from cellulosic material, as well as the generation of energy for commercial heat, industrial process heat, or electrical power from cellulosic materials via gasification or other processes. Grants are limited to 50 percent of the cost of research, technical assistance, or equipment related to bioenergy, biobased content, or biobased formulated product production or \$500,000, whichever is less. Grants to nongovernmental entities for the development of business plans and structures related to community ownership of eligible bioenergy facilities together may not exceed \$150,000. The commissioner shall make a good-faith effort to select projects that have merit and, when taken together, represent a variety of bioenergy technologies, biomass feedstocks, and geographic regions of the state. Projects must

have a qualified engineer provide certification on the technology and fuel source. Grantees must provide reports at the request of the commissioner.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$500,000 in fiscal year 2016 and ~~\$1,500,000~~ \$806,000 in fiscal year 2017 are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. If the appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available to the commissioner for the agricultural growth, research, and innovation program. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2017, and the second year appropriation is available until June 30, 2018. The commissioner may use up to 4.5 percent of the appropriation for administration of the incentive payment programs.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$250,000 the first year is for grants to communities to develop or expand food hubs and other alternative community-based food distribution systems. Of this amount, \$50,000 is for the commissioner to consult with existing food hubs, alternative community-based food distribution systems, and University of Minnesota Extension to identify best practices for use by other Minnesota communities. No later than December 15, 2015, the commissioner must report to the legislative committees with jurisdiction over agriculture and health regarding the status of emerging alternative community-based food distribution systems in the state along with recommendations to eliminate any barriers to success. Any unencumbered balance does not cancel at the end of the first year and is available

for the second year. This is a onetime appropriation.

\$250,000 the first year and \$250,000 the second year are for grants that enable retail petroleum dispensers to dispense biofuels to the public in accordance with the biofuel replacement goals established under Minnesota Statutes, section 239.7911. A retail petroleum dispenser selling petroleum for use in spark ignition engines for vehicle model years after 2000 is eligible for grant money under this paragraph if the retail petroleum dispenser has no more than 15 retail petroleum dispensing sites and each site is located in Minnesota. The grant money received under this paragraph must be used for the installation of appropriate technology that uses fuel dispensing equipment appropriate for at least one fuel dispensing site to dispense gasoline that is blended with 15 percent of agriculturally derived, denatured ethanol, by volume, and appropriate technical assistance related to the installation. A grant award must not exceed 85 percent of the cost of the technical assistance and appropriate technology, including remetering of and retrofits for retail petroleum dispensers and replacement of petroleum dispenser projects. The commissioner may use up to \$35,000 of this appropriation for administrative expenses. The commissioner shall cooperate with biofuel stakeholders in the implementation of the grant program. The commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance by February 1 each year, detailing the number of grants awarded under this paragraph and the projected effect of the grant program on meeting the biofuel replacement goals under Minnesota Statutes, section 239.7911. These are onetime appropriations.

\$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

Sec. 6. APPROPRIATION CANCELLATION.

All unspent funds, estimated to be \$694,000, appropriated for the agricultural growth, research, and innovation program and designated for bioeconomy incentive payments under Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended by Laws 2016, chapter 184, section 11, and Laws 2016, chapter 189, article 2, section 26, are canceled to the general fund.

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

ARTICLE 2**AGRICULTURAL POLICY**

Section 1. Minnesota Statutes 2016, section 3.7371, is amended to read:

3.7371 COMPENSATION FOR CROP OR FENCE DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop or pasture shall be compensated by the commissioner of agriculture for an agricultural crop, or fence surrounding the crop or pasture, that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** ~~The crop or pasture owner must prepare a claim on forms provided by the commissioner and available at on the county extension agent's office~~ The Department of Agriculture's Web site or by request from the commissioner. The claim form must be filed with the commissioner.

Subd. 3. **Compensation.** (a) The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the ~~county extension commissioner's approved agent~~ for the owner's county. Verification of fence damage or destruction by elk may be provided by submitting photographs or other evidence and documentation together with a statement from an independent witness using forms prescribed by the commissioner. The commissioner, upon recommendation of the commissioner's approved agent, shall determine whether the crop damage or destruction or damage to or destruction of a fence surrounding a crop or pasture is caused by elk and, if so, the amount of the crop or fence that is damaged or destroyed. In any fiscal year, an owner may not be compensated for a damaged or destroyed crop or fence surrounding a crop or pasture that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed.

(b) In any fiscal year, the commissioner may provide compensation for claims filed under this section up to the amount expressly appropriated for this purpose.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses or damage to or destruction of a fence surrounding a crop or pasture, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the ~~crop or pasture~~ owner has shown that the damage or destruction of the owner's crop or damage to or destruction of a fence surrounding a crop or pasture was caused more probably than not by elk, the

commissioner shall pay compensation as provided in this section and the rules of the commissioner. ~~A crop~~ An owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a ~~crop or pasture~~ an owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the ~~crop or pasture~~ owner.

(b) A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but ~~a crop or pasture~~ an owner may have the claim reviewed in a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days after the filing.

Subd. 7. **Rules.** The commissioner shall adopt rules and may amend rules to carry out this section. The commissioner may use the expedited rulemaking process in section 14.389 to adopt and amend rules authorized in this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop;
- (4) compensation rates for fence damage or destruction that ~~shall include a minimum claim of \$75.00 per incident and a maximum of~~ must not exceed \$1,800 per claimant per fiscal year; and
- (5) any other matters determined necessary by the commissioner to carry out this section.

Subd. 8. **Report.** The commissioner must submit a report to the chairs of the house of representatives and senate committees and divisions with jurisdiction over agriculture and environment and natural resources by December 15 each year that details the total amount of damages paid, by elk herd, in the previous two fiscal years.

Sec. 2. Minnesota Statutes 2016, section 15.985, is amended to read:

15.985 ADVISORY INSPECTIONS.

(a) Upon the voluntary request of a person to a state agency for an advisory inspection for the purpose of complying with state law, the agency must, except as provided in paragraphs (f) and (g), conduct an advisory inspection. An agency is not required to conduct an advisory inspection if the agency has a regularly scheduled inspection that would occur within 90 days after the request for the advisory inspection, or if before an advisory inspection is requested, the agency has notified the person that it will be conducting an inspection within 45 days. If an advisory inspection results in findings that potentially could make a person subject to a fine or other penalty imposed by the agency, the agency must notify the person in writing of those findings within ten days of the inspection.

(1) Except as provided in clause (2), if within 60 days of receiving notice, the person notifies the agency that it has corrected the situation that made the person potentially subject to the fine or penalty, and the agency later determines that the situation is corrected, the agency may not impose a fine or penalty as a result of the findings in the advisory inspection.

(2) For violations of chapter 177, if the person notifies the agency within the time period for remedying violations required under the applicable section of chapter 177 that it has corrected the situation that made the person potentially subject to the fine or penalty, and the agency later determines that the situation is corrected, the agency may not impose a fine or penalty as a result of the finding in the advisory inspection.

(3) A person may not request more than one advisory inspection from the same agency in a calendar year. A person may not request an advisory inspection after an inspection resulting in a fine or other penalty has been determined and the violator notified of the amount to be paid, until fines or penalties have been paid or settled.

(b) For purposes of this section:

(1) "inspection" includes an examination of real or personal property or an audit or other examination of financial or other documents;

(2) "penalty" includes a civil or administrative fine or other financial sanction;

(3) "person" includes a real person and businesses, including corporations, partnerships, limited liability companies, and unincorporated associations; and

(4) "state agency" means a department, agency, board, commission, constitutional office, or other group in the executive branch of state government.

(c) If an agency revises, amends, extends, or adds additional violations to a notice, the person has 60 days from the date of those changes to correct the situation without fine or penalty. For violations of chapter 177, the person has the time period for remedying violations under the applicable section of chapter 177 to correct the situation without fine or penalty.

(d) An agency conducting an inspection under this section may impose and collect from the person requesting the inspection a fee equal to the costs incurred by the agency related to the inspection. Fees under this section shall be considered charges for goods and services provided for the direct and primary use of a private individual, business, or other entity under section 16A.1283, paragraph (b), clause (3). Fee revenue collected under this section must be deposited in an appropriate fund other than the general fund and is appropriated from that fund to the agency collecting the fee for the purpose of conducting inspections under this section.

(e) Nothing in this section shall prohibit or interfere with an agency offering similar programs that allow independent audits or inspections, including the environmental improvement program under chapter 114C. If a person conducts a self-audit under chapter 114C, the terms and conditions of this section do not apply. For advisory inspections conducted by the Pollution Control Agency, terms and conditions of sections 114C.20 to 114C.28 shall be used instead of those in paragraphs (a) to (c) and (g).

(f) If agency staff resources are limited, an agency must give higher priority to the agency's regular inspections over advisory inspections under this section. Insofar as conducting advisory inspections reduces an agency's costs, the savings must be reflected in the charges for advisory inspections. Before hiring additional staff complement for purposes of this section, an agency must

report to the chairs and ranking minority members of the legislative budget committees with jurisdiction over the agency documenting: (1) the demand for advisory inspections and why additional staff complement is needed to meet the demand; and (2) that the revenue generated by advisory inspections will cover the expenses of the additional staff complement. If a person requests an advisory inspection, but the agency does not have staff resources necessary to conduct the advisory inspection before a regular inspection is conducted, and the regular inspection results in findings that could make a person subject to a fine or penalty, the agency must take into account the person's request for an advisory inspection and the person's desire to take corrective action before taking any enforcement action against the person.

(g) This section does not apply to:

(1) criminal penalties;

(2) situations in which implementation of this section is prohibited by federal law or would result in loss of federal funding or in other federal sanctions or in which implementation would interfere with multistate agreements, international agreements, or agreements between state and federal regulatory agencies;

(3) conduct constituting fraud;

(4) violations in a manner that endangers human life or presents significant risk of major injury or severe emotional harm to humans;

(5) violations that are part of a pattern that has occurred repeatedly and shows willful intent;

(6) violations for which it may be demonstrated that the alternative inspections process is being used to avoid enforcement;

(7) violations that occur within three years of violating an applicable law;

(8) the Department of Revenue;

(9) the Workers' Compensation Division at the Department of Labor and Industry;

(10) violations of vehicle size weight limits under sections 169.80 to 169.88;

(11) commercial motor vehicle inspections under section 169.781 and motor carrier regulations under chapter 221;

~~(12) the Dairy and Food Inspection Division of the Department of Agriculture, if the division provides free inspections similar to those under this section;~~

~~(13)~~ (12) state inspections or surveys of hospitals, nursing homes, outpatient surgical centers, supervised living facilities, board and lodging with special services, home care, housing with services and assisted living settings, hospice, and supplemental nursing services agencies;

~~(14)~~ (13) examinations of health maintenance organizations or county-based purchasing entities regulated under chapter 62D;

~~(15)~~ (14) special transportation services under section 174.30; and

~~(16)~~ (15) entities regulated by the Department of Commerce's Financial Institutions and Insurance Divisions for purposes of regulatory requirements of those divisions.

If an agency determines that this section does not apply due to situations specified in clause (2), the agency must report the basis for that determination to the chairs and ranking minority members of the legislative committees with jurisdiction over the agency.

(h) An agency may terminate an advisory inspection and proceed as if an inspection were a regular inspection if, in the process of conducting an advisory inspection, the agency finds a situation that the agency determines: could lead to criminal penalties; endangers human life or presents significant risk of major injury or severe emotional harm to humans; presents a severe and imminent threat to animals, food, feed, crops, commodities, or the environment; or evidences a pattern of willful violations.

Sec. 3. Minnesota Statutes 2016, section 17.119, subdivision 1, is amended to read:

Subdivision 1. **Grants; eligibility.** (a) The commissioner must award ~~cost-share~~ grants to Minnesota farmers who retrofit eligible tractors and Minnesota schools that retrofit eligible tractors with eligible rollover protective structures.

(b) Grants for farmers are limited to 70 percent of the farmer's ~~or school's~~ documented cost to purchase, ship, and install an eligible rollover protective structure. The commissioner must increase ~~the a farmer's~~ grant award amount over the 70 percent grant limitation requirement if necessary to limit a farmer's ~~or school's~~ cost per tractor to no more than \$500.

(c) Schools are eligible for grants that cover the full amount of a school's documented cost to purchase, ship, and install an eligible rollover protective structure.

~~(b)~~ (d) A rollover protective structure is eligible if it meets or exceeds SAE International standard J2194 is certified to appropriate national or international rollover protection structure standards with a seat belt.

~~(e)~~ (e) A tractor is eligible if the tractor was built before 1987.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2016.

Sec. 4. Minnesota Statutes 2016, section 17.119, subdivision 2, is amended to read:

Subd. 2. **Promotion; administration.** The commissioner may spend up to ~~20~~ six percent of total program dollars each fiscal year to promote and administer the program to Minnesota farmers and schools.

Sec. 5. Minnesota Statutes 2016, section 17.53, subdivision 2, is amended to read:

Subd. 2. **Agricultural commodity.** (a) Except as provided in paragraph (b), "agricultural commodity" means any agricultural product, including, without limitation, animals and animal products, grown, raised, produced, or fed within Minnesota for use as food, feed, seed, or any industrial or chemurgic purpose.

(b) For wheat, barley, corn, and cultivated wild rice, "agricultural commodity" means wheat, barley, corn and cultivated wild rice including, without limitation, wheat, barley, corn and cultivated wild rice grown or produced within or outside Minnesota, for use as food, feed, seed, or any industrial or chemurgic purpose.

Sec. 6. Minnesota Statutes 2016, section 17.53, subdivision 8, is amended to read:

Subd. 8. **First purchaser.** (a) Except as provided in paragraph (b), "first purchaser" means any person that buys agricultural commodities for movement into commercial channels from the producer; or any lienholder, secured party or pledgee, public or private, or assignee of said lienholder, secured party or pledgee, who gains title to the agricultural commodity from the producer as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge was created and regardless of whether the first purchaser is domiciled within the state or without. "First purchaser" does not mean the Commodity Credit Corporation when a commodity is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

(b) For wheat, barley, corn, and cultivated wild rice, "first purchaser" means a person who buys, receives delivery of, or provides storage for the agricultural commodity from a producer for movement into commercial channels; or a lienholder, secured party, or pledgee, who gains title to the agricultural commodity from the producers as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee, regardless of when the lien, security interest, or pledge was created and regardless of whether or not the first purchaser is domiciled in the state. "First purchaser" does not mean the Commodity Credit Corporation when the wheat, barley, corn or cultivated wild rice is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

Sec. 7. Minnesota Statutes 2016, section 17.53, subdivision 13, is amended to read:

Subd. 13. **Producer.** (a) Except as provided in paragraph (b), "producer" means any person who owns or operates an agricultural producing or growing facility for an agricultural commodity and shares in the profits and risk of loss from such operation, and who grows, raises, feeds or produces the agricultural commodity in Minnesota during the current or preceding marketing year.

(b) For wheat, barley, corn, and cultivated wild rice, "producer" means in addition to the meaning in paragraph (a) and for the purpose of the payment or the refund of the checkoff fee paid pursuant to sections 17.51 to 17.69 only, a person who delivers into, stores within, or makes the first sale of the agricultural commodity in Minnesota.

Sec. 8. Minnesota Statutes 2016, section 18.79, subdivision 18, is amended to read:

Subd. 18. **Noxious weed education and notification.** (a) The commissioner shall disseminate information and conduct educational campaigns with respect to control of noxious weeds or invasive plants to enhance regulatory compliance and voluntary efforts to eliminate or manage these plants. The commissioner shall call and attend meetings and conferences dealing with the subject of noxious weeds. The commissioner shall maintain on the department's Web site noxious weed management information including but not limited to the roles and responsibilities of citizens and government entities under sections 18.76 to 18.91 and specific guidance as to whom a person should contact to report a noxious weed issue.

(b) The commissioner shall post notice on the department's Web site and alert appropriate media outlets when a weed on the eradicate list is confirmed for the first time in a county.

Sec. 9. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to read:

Subd. 9b. **Experimental use permit.** "Experimental use permit" means a permit issued by the United States Environmental Protection Agency as authorized in Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act.

Sec. 10. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to read:

Subd. 9c. **Experimental use pesticide product.** "Experimental use pesticide product" means any federally registered or unregistered pesticide whose use is authorized by an experimental use permit issued by the United States Environmental Protection Agency.

Sec. 11. **[18B.051] POLLINATOR HABITAT AND RESEARCH ACCOUNT.**

Subdivision 1. **Account established.** A pollinator habitat and research account is established in the agricultural fund. Money in the account, including interest, is appropriated to the Board of Regents of the University of Minnesota for pollinator research and outreach including, but not limited to, science-based best practices and the identification and establishment of habitat beneficial to pollinators.

Subd. 2. **Expiration.** This section expires July 1, 2022.

Sec. 12. Minnesota Statutes 2016, section 18B.065, subdivision 8, is amended to read:

Subd. 8. **Waste pesticide program surcharge.** The commissioner shall annually collect a waste pesticide program surcharge of \$50 on each agricultural waste pesticide product and \$125 on each nonagricultural waste pesticide product registered in the state as part of a pesticide product registration application under section 18B.26, subdivision 3.

Sec. 13. Minnesota Statutes 2016, section 18B.26, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except as provided in paragraphs (b) to ~~(d)~~ (e), a person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

(b) Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

(c) An unregistered pesticide that was previously registered with the commissioner may be used for a period of two years following the cancellation of the registration of the pesticide, unless the commissioner determines that the continued use of the pesticide would cause unreasonable adverse effects on the environment, or with the written permission of the commissioner. To use the unregistered pesticide at any time after the two-year period, the pesticide end user must demonstrate to the satisfaction of the commissioner, if requested, that the pesticide has been continuously registered under a different brand name or by a different manufacturer and has similar composition, or, the pesticide end user obtains the written permission of the commissioner.

(d) The commissioner may allow specific pesticide products that are not registered with the commissioner to be distributed in this state for use in another state.

(e) A substance or mixture of substances being tested only to determine its potential efficacy as a pesticide, or to determine its toxicity or other properties, and not requiring the issuance of an experimental use permit under United States Environmental Protection Agency criteria specified in federal regulations, is not required to be registered.

~~(e)~~ (f) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.

~~(f)~~ (g) It is unlawful for a person to distribute or use a pesticide in the state, or to sell into the state for use in the state, any pesticide product that has not been registered by the commissioner and for which the applicable pesticide registration application fee, gross sales fee, or waste pesticide program surcharge is not paid pursuant to subdivisions 3 and 4.

~~(g)~~ (h) Every person who sells for use in the state a pesticide product that has been registered by the commissioner shall pay to the commissioner the applicable registration application fees, sales fees, and waste pesticide program surcharges. These sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in the state. There is a rebuttable presumption that pesticide products that are sold or distributed in or into the state by any person are sold or distributed for use in the state.

Sec. 14. Minnesota Statutes 2016, section 18B.28, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** A person may not use or distribute an experimental use pesticide product in the state until it is registered with the commissioner. Experimental use pesticide product registrations expire on December 31 of each year and may be renewed on or before that date. A substance or mixture of substances being tested only to determine its potential efficacy as a pesticide, or to determine its toxicity or other properties, and not requiring the issuance of an experimental use permit under United States Environmental Protection Agency criteria specified in federal regulations, is not required to be registered.

Sec. 15. Minnesota Statutes 2016, section 18B.28, subdivision 3, is amended to read:

Subd. 3. **Application.** A person must file an application for experimental use pesticide product registration with the commissioner. An application to register an experimental use pesticide product must include:

- (1) the name and address of the applicant;
- (2) a federal copy of the United States Environmental Protection Agency approval document permit;
- (3) a description of the purpose or objectives of the experimental use product;
- (4) an a copy of the experimental use pesticide labeling accepted experimental use pesticide product label by the United States Environmental Protection Agency;
- (5) the name, address, and telephone number of cooperators or participants in this state;
- (6) the amount of material to be shipped or used in this state; and

(7) other information requested by the commissioner.

Sec. 16. Minnesota Statutes 2016, section 18B.305, is amended to read:

18B.305 PESTICIDE EDUCATION AND TRAINING.

Subdivision 1. **Education and training.** (a) The commissioner, as the lead agency, shall develop, implement or approve, and evaluate, in consultation with University of Minnesota Extension, the Minnesota State Colleges and Universities system, and other educational institutions, innovative educational and training programs addressing pesticide concerns including:

- (1) water quality protection;
- (2) endangered species protection;
- (3) minimizing pesticide residues in food and water;
- (4) worker protection and applicator safety;
- (5) chronic toxicity;
- (6) integrated pest management and pest resistance;
- (7) pesticide disposal;
- (8) pesticide drift;
- (9) relevant laws including pesticide labels and labeling and state and federal rules and regulations; ~~and~~
- (10) current science and technology updates; and
- (11) thresholds and guidance to reduce the impacts of insecticide on pollinators.

(b) The commissioner shall appoint educational planning committees which must include representatives of industry and applicators.

(c) Specific current regulatory concerns must be discussed and, if appropriate, incorporated into each training session. Relevant changes to pesticide product labels or labeling or state and federal rules and regulations may be included.

(d) The commissioner may approve programs from private industry, higher education institutions, and nonprofit organizations that meet minimum requirements for education, training, and certification.

Subd. 2. **Training manual and examination development.** The commissioner, in consultation with University of Minnesota Extension and other higher education institutions, shall continually revise and update pesticide applicator training manuals and examinations. The manuals and examinations must be written to meet or exceed the minimum standards required by the United States Environmental Protection Agency and pertinent state specific information. Questions in the examinations must be determined by the commissioner in consultation with other responsible agencies. Manuals and examinations must include pesticide management practices that discuss prevention of pesticide occurrence in groundwater and surface water of the state, and economic thresholds and guidance for insecticide use.

Sec. 17. Minnesota Statutes 2016, section 18B.33, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories or a structural pest control license.

(b) A commercial applicator licensee must have a valid license identification card to purchase a restricted use pesticide or apply pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

(c) A person licensed under this section is considered qualified and is not required to verify, document, or otherwise prove a particular need prior to use, except as required by the federal label.

Sec. 18. Minnesota Statutes 2016, section 18B.34, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except for a licensed commercial applicator, certified private applicator, or licensed structural pest control applicator, a person, including a government employee, may not purchase or use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

(c) A person licensed under this section is considered qualified and is not required to verify, document, or otherwise prove a particular need prior to use, except as required by the federal label.

Sec. 19. Minnesota Statutes 2016, section 18B.36, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except for a licensed commercial or noncommercial applicator, only a certified private applicator may use a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation;

(2) on a site owned, rented, or managed by the person or the person's employees; or

(3) when the private applicator is one of two or fewer employees and the owner or operator is a certified private applicator or is licensed as a noncommercial applicator.

(b) A person may not purchase a restricted use pesticide without presenting a license card, certified private applicator card, or the card number.

(c) A person certified under this section is considered qualified and is not required to verify, document, or otherwise prove a particular need prior to use, except as required by the federal label.

Sec. 20. Minnesota Statutes 2016, section 18B.37, subdivision 3, is amended to read:

Subd. 3. **Structural pest control applicators.** (a) A structural pest control applicator must maintain a record of each structural pest control application conducted by that person or by the person's employees. The record must include the:

(1) date of structural pest control application;

- (2) target pest;
 - (3) brand name of the pesticide, United States Environmental Protection Agency registration number, and amount used;
 - (4) for fumigation, the temperature and exposure time;
 - (5) time the pesticide application was completed;
 - (6) name and address of the customer;
 - (7) name of structural pest control applicator, name of company and address of applicator or company, and license number of applicator; and
 - (8) any other information required by the commissioner.
- (b) All information for this record requirement must be contained in a document for each pesticide application. An invoice containing the required information may constitute the record.
- (c) The record must be completed no later than five days after the application of the pesticide.
- (d) Records must be retained for five years after the date of treatment.
- (e) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site. The commissioner must make sample forms available that meet the requirements of this subdivision.
- (f) A structural applicator must post in a conspicuous place inside a renter's apartment where a pesticide application has occurred a list of postapplication precautions contained on the label of the pesticide that was applied in the apartment and any other information required by the commissioner.

Sec. 21. Minnesota Statutes 2016, section 18C.70, subdivision 5, is amended to read:

Subd. 5. **Expiration.** This section expires ~~January 8, 2017~~ June 30, 2020.

EFFECTIVE DATE. This section is effective retroactively from January 7, 2017.

Sec. 22. Minnesota Statutes 2016, section 18C.71, subdivision 4, is amended to read:

Subd. 4. **Expiration.** This section expires ~~January 8, 2017~~ June 30, 2020.

EFFECTIVE DATE. This section is effective retroactively from January 7, 2017.

Sec. 23. Minnesota Statutes 2016, section 18H.06, subdivision 2, is amended to read:

Subd. 2. **Occasional sales.** (a) An individual may offer nursery stock for sale and be exempt from the requirement to obtain a nursery stock certificate if:

- (1) the gross sales of all nursery stock in a calendar year do not exceed \$2,000;
- (2) all nursery stock sold or distributed by the individual is intended for planting in Minnesota;

(3) all nursery stock purchased or procured for resale or distribution was grown in Minnesota and has been certified by the commissioner; and

(4) the individual conducts sales or distributions of nursery stock on ten or fewer days in a calendar year.

(b) A municipality may offer certified nursery stock for sale and be exempt from the requirement to obtain a nursery stock certificate if:

(1) all nursery stock offered for sale or distributed is intended for planting by residents of the municipality on public property or public easements within the municipal boundary;

(2) all nursery stock purchased or procured for resale or distribution is grown in Minnesota and has been certified by the commissioner; and

(3) the municipality submits to the commissioner before any sale or distribution of nursery stock a list of all suppliers who provide the municipality with nursery stock.

~~(b)~~ (c) The commissioner may prescribe the conditions of the exempt nursery sales under this subdivision and may conduct routine inspections of the nursery stock offered for sale.

Sec. 24. Minnesota Statutes 2016, 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 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 or electronically date stamped by December 31 of the current year.

(c) A nursery stock grower found operating without a valid nursery stock grower certificate cannot offer for sale or sell nursery stock until: (1) payment is received by the commissioner for (i) the certificate fee due, and (ii) a penalty equal to the certificate fee owed; and (2) a new certificate is issued to the nursery stock grower by the commissioner.

Sec. 25. Minnesota Statutes 2016, 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 or electronically date stamped by December 31 of the current year.

(c) A nursery stock dealer found operating without a valid nursery stock dealer certificate cannot offer for sale or sell nursery stock until: (1) payment is received by the commissioner for (i) the certificate fee due, and (ii) a penalty equal to the certificate fee owed; and (2) a new certificate is issued to the nursery stock dealer by the commissioner.

Sec. 26. Minnesota Statutes 2016, section 21.111, subdivision 2, is amended to read:

Subd. 2. **Inspected.** "Inspected" means that the potato plants are examined in the field and that the harvested potatoes produced by ~~such~~ the potato plants are examined by or under the authority of the commissioner. For seed potatoes produced in a lab, inspected means that the lab's records, including records related to the lab's procedures and protocols, as well as the seed potatoes, have been examined under the authority of the commissioner.

Sec. 27. Minnesota Statutes 2016, section 21.111, subdivision 3, is amended to read:

Subd. 3. **Certified.** "Certified" means that the potatoes were inspected while growing in the field and again after being harvested, and were thereafter duly certified by or under the authority of the commissioner, as provided in sections 21.111 to 21.122, and as provided by rules adopted and published by the commissioner. For seed potatoes produced in a lab, certified means that:

(1) the seed potato lab facilities and the lab's procedures and protocols have been examined under the authority of the commissioner; and

(2) the seed potatoes have been inspected after they have been harvested, removed, or released from the lab, and were duly certified by or under the authority of the commissioner, as provided in sections 21.111 to 21.122.

Sec. 28. Minnesota Statutes 2016, section 21.113, is amended to read:

21.113 CERTIFICATES OF INSPECTION.

(a) The commissioner shall ~~cause~~ issue certificates of inspection ~~to be issued~~ only when seed potatoes have been inspected while growing in the field and again after being harvested.

(b) For seed potatoes produced in a lab, the commissioner shall issue certificates of inspection only after:

(1) the seed potato lab facility and the lab's records have been inspected; and

(2) the seed potatoes have been inspected after they have been harvested, removed, or released from the lab.

~~Such~~ (c) Certificates of inspection under this section shall show the varietal purity and the freedom from disease and physical injury of such potatoes and ~~shall contain such~~ any other information as may be prescribed by rules adopted and published under sections 21.111 to 21.122.

Sec. 29. Minnesota Statutes 2016, section 21.117, is amended to read:

21.117 APPLICATIONS FOR INSPECTIONS; WITHDRAWALS.

(a) Any person may make application to the commissioner for inspection or certification of seed potatoes growing or to be grown. Upon receiving such application and the required fee and such other information as may be required, the commissioner shall cause such potatoes to be inspected or certified in accordance with the provisions of sections 21.111 to 21.122 and the rules adopted and published thereunder.

(b) If a grower wishes to withdraw a field or lab after having made application for inspection and such withdrawal is requested before the field or lab inspection has been made, the fee paid shall be refunded to said grower.

Sec. 30. Minnesota Statutes 2016, section 25.32, is amended to read:

25.32 COMMISSIONER'S DUTIES.

The commissioner shall administer sections 25.31 to 25.43 ~~shall be administered by the commissioner.~~

Sec. 31. Minnesota Statutes 2016, section 25.33, subdivision 5, is amended to read:

Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in feed, including feed for aquatic animals, unless the materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, as identified in the United States grain standards, if the whole or physically altered seeds are not chemically changed, are not labeled as a feed or for use as feed, or are not adulterated within the meaning of section 25.37, paragraph (a), are exempt. The commissioner by rule may exempt from this definition, or from specific provisions of sections 25.31 to 25.43, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if those commodities, compounds, or substances are not

intermixed with other materials, are not labeled as a feed or for use as feed, and are not adulterated within the meaning of section 25.37, paragraph (a).

Sec. 32. Minnesota Statutes 2016, section 25.33, subdivision 10, is amended to read:

Subd. 10. **Manufacture.** "Manufacture" means to grind, mix ~~or~~₂ blend, ~~or further process,~~
package, or label a commercial feed for distribution.

Sec. 33. Minnesota Statutes 2016, section 25.33, subdivision 21, is amended to read:

Subd. 21. **Commissioner.** "Commissioner" means the commissioner of agriculture or a ~~designated representative~~ the commissioner's agent.

Sec. 34. Minnesota Statutes 2016, section 25.341, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** Before a person may: (1) manufacture a commercial feed in the state; (2) distribute a commercial feed in or into the state; or (3) have the person's name appear on the label of a commercial feed as guarantor, the person must have a commercial feed license for each guarantor, or manufacturing or distributing facility. A person who makes only retail sales of commercial feed, guaranteed by another, is not required to obtain a license.

Sec. 35. Minnesota Statutes 2016, section 25.341, subdivision 2, is amended to read:

Subd. 2. **Application; fee; term.** A person who is required to have a commercial feed license ~~shall~~ must submit an application on a form provided or approved by the commissioner accompanied by ~~a~~ an application fee of \$75 paid to the commissioner for each location. A license is not transferable from one person to another, from one ownership to another, or from one location to another. The license year is the calendar year. A license expires on December 31 of the year for which it is issued, except that a license is valid ~~through January 31 of the next year or until the issuance of the renewal license, whichever comes first,~~ if the licensee has filed a renewal application ~~with the commissioner~~ that has been received by the commissioner on or before December 31 of the year for which the current license was issued, or postmarked on or before December 31 of the year for which the current license was issued. Any person who is required to have, but fails to obtain a license or a licensee who fails to comply with license renewal requirements, ~~shall~~ must pay a \$100 late fee in addition to the license fee.

Sec. 36. Minnesota Statutes 2016, section 25.35, is amended to read:

25.35 LABELING.

(a) A commercial feed, except a customer formula feed, must be accompanied by a label bearing the following information:

(1) the product name and the brand name, if any, under which the commercial feed is distributed;

(2) the guaranteed analysis, stated in terms the commissioner requires by rule, to advise the user of the composition of the feed or to support claims made in the labeling. The substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International or other generally recognized methods;

(3) the common or usual name of each ingredient used in the manufacture of the commercial feed. The commissioner may by rule permit the use of a collective term for a group of ingredients which perform a similar function, or may exempt commercial feeds or any group of commercial feeds from this requirement on finding that an ingredient statement is not required in the interest of consumers;

(4) the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed;

(5) adequate directions for use for all commercial feeds containing drugs and for such other feeds as the commissioner may require by rule as necessary for their safe and effective use;

(6) precautionary statements which the commissioner determines by rule are necessary for the safe and effective use of the commercial feed; and

(7) a quantity statement.

(b) A customer formula feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) name and address of the manufacturer;

(2) name and address of the purchaser;

(3) date of delivery;

(4) the product name and either (i) the quantity of each commercial feed and each other ingredient used in the mixture, or (ii) a guaranteed analysis and list of ingredients in paragraph (a), clauses (2) and (3);

(5) adequate directions for use for all customer formula feeds containing drugs and for other feeds the commissioner requires by rule as necessary for their safe and effective use;

(6) precautionary statements the commissioner determines by rule are necessary for the safe and effective use of the customer formula feed;

(7) if a product containing a drug is used:

(i) the purpose of the medication (claim statement); and

(ii) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in a manner required by the commissioner by rule; ~~and~~

(8) for a customer formula feed for which the formula is developed by someone other than the manufacturer, a disclaimer may be included on the label stating "THIS FEED IS A CUSTOMER FORMULA FEED DEVELOPED BY SOMEONE OTHER THAN THE MANUFACTURER. THE MANUFACTURER DOES NOT CLAIM, REPRESENT, WARRANT, OR GUARANTEE, AND IS NOT RESPONSIBLE FOR THE NUTRITIONAL ADEQUACY OF THIS FEED OR THE NUTRITIONAL SUITABILITY OF THIS FEED FOR ITS INTENDED PURPOSE."; and

(9) a quantity statement.

(c) The manufacturer of a customer formula feed the formula of which is developed by someone other than the manufacturer is not responsible or liable for the nutritional adequacy or the nutritional suitability of the feed for its intended purpose if: (1) the manufacturer does not make a claim of

nutritional adequacy for the customer formula feed and does not make a claim for nutritional suitability of the feed for its intended purpose; and (2) the manufacturer includes the disclaimer in paragraph (b), clause (8). A person other than the manufacturer who develops or recommends a formula for a customer formula feed is responsible for providing to the manufacturer of the feed the appropriate labeling information and for providing the appropriate use information to the feed manufacturer.

Sec. 37. Minnesota Statutes 2016, section 25.371, subdivision 2, is amended to read:

Subd. 2. **Certificate application.** (a) A person may apply to the commissioner for a good manufacturing practices certificate for commercial feed and feed ingredients. Application for good manufacturing practices certificates must be made on forms provided or approved by the commissioner. The commissioner shall conduct inspections of facilities for persons that have applied for or intend to apply for a good manufacturing practices certificate for commercial feed and feed ingredients from the commissioner. The commissioner shall not conduct an inspection under this ~~section~~ subdivision if the applicant has not paid in full the inspection fee for previous inspections. Certificate issuance shall be based on ~~compliance with subdivisions 3 to 14, or~~ United States Food and Drug Administration rules regarding preventive controls for animal feed.

(b) The commissioner may assess a fee for the inspection, service, and work performed in carrying out the issuance of a good manufacturing practices certificate for commercial feed and feed ingredients. The inspection fee must be based on mileage and the cost of inspection.

Sec. 38. Minnesota Statutes 2016, section 25.38, is amended to read:

25.38 PROHIBITED ACTS.

The following acts and causing the following acts in Minnesota are prohibited:

- (1) manufacture or distribution of any commercial feed that is adulterated or misbranded;
- (2) adulteration or misbranding of any commercial feed;
- (3) distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of section 25.37, paragraph (a);
- (4) removal or disposal of a commercial feed in violation of an order under section 25.42;
- (5) failure or refusal to obtain a commercial feed license under section 25.341 ~~or to provide a small package listing under section 25.39; or~~
- (6) failure to pay inspection fees, to register a small package under section 25.39, or to file reports as required by section 25.39.

Sec. 39. Minnesota Statutes 2016, section 25.39, subdivision 1, is amended to read:

Subdivision 1. **Amount of fee.** (a) An inspection fee at the rate of 16 cents per ton must be paid to the commissioner on commercial feeds distributed in this state by the person who first distributes the commercial feed, except that:

- (1) no fee need be paid on:

~~(i) a commercial feed if the payment has been made by a previous distributor; or~~

~~(ii) any feed ingredient in a customer formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients feed that has been directly furnished by the customer; or~~

~~(2) a Minnesota feed distributor who can substantiate that greater than 50 percent of the distribution of commercial feed is to purchasers outside the state may purchase commercial feeds without payment of the inspection fee under a tonnage fee exemption permit issued by the commissioner no fee need be paid on a first distribution if made to a qualified buyer who, with approval from the commissioner, is responsible for the fee. Such ~~location-specific~~ license-specific tonnage-fee-exemption permits shall be issued on a calendar year basis to commercial feed distributors licensees who distribute feed or feed ingredients outside the state, and who submit a \$100 nonrefundable application fee and comply with rules adopted by the commissioner relative to record keeping, tonnage of commercial feed distributed in Minnesota, total of all commercial feed tonnage distributed, and all other information which the commissioner may require so as to ensure that proper inspection fee payment has been made.~~

(b) In the case of pet food or specialty pet food distributed in the state only in packages of ten pounds or less, a listing of distributor must register each product and submit a current label for each product must be submitted annually on forms provided by the commissioner and, accompanied by an annual application fee of \$100 for each product in lieu of the inspection fee. This annual fee is due by July 1 must be received by the commissioner on or before June 30 or postmarked on or before June 30. The inspection fee required by paragraph (a) applies to pet food or specialty pet food distributed in packages exceeding ten pounds.

~~(e) In the case of specialty pet food distributed in the state only in packages of ten pounds or less, a listing of each product and a current label for each product must be submitted annually on forms provided by the commissioner and accompanied by an annual fee of \$100 for each product in lieu of the inspection fee. This annual fee is due by July 1. The inspection fee required by paragraph (a) applies to specialty pet food distributed in packages exceeding ten pounds.~~

~~(d)~~ (c) The minimum inspection fee is \$75 per annual reporting period.

Sec. 40. Minnesota Statutes 2016, section 25.39, subdivision 1a, is amended to read:

Subd. 1a. **Containers of ten pounds or less.** A distributor who is subject to the annual fee specified in subdivision 1, paragraph (b) ~~or (e)~~, shall must do the following:

(1) before beginning distribution, file register with the commissioner ~~a listing of the pet and specialty pet foods to be distributed in the state only in containers of ten pounds or less, on forms provided by the commissioner. The listing registration under this clause must be renewed annually on or before July 1 June 30 and is the basis for the payment of the annual fee. New products added during the year must be submitted to the commissioner as a supplement to the annual listing registration before distribution; and~~

(2) if the annual renewal of the listing registration is not received or postmarked on or before July 1 June 30 or if an ~~unlisted~~ unregistered product is distributed, pay a late filing fee of \$100 per product in addition to the normal charge for the listing registration. The late filing fee under this clause is in addition to any other penalty under this chapter.

Sec. 41. Minnesota Statutes 2016, section 25.39, subdivision 2, is amended to read:

Subd. 2. **Annual statement.** A person who is liable for the payment of a fee under this section ~~shall~~ must file with the commissioner on forms furnished by the commissioner an annual statement setting forth the number of net tons of commercial feeds distributed in this state during the calendar year. The report is due ~~by~~ on or before the 31st of each January following the year of distribution. The inspection fee at the rate specified in subdivision 1 must accompany the statement. For each tonnage report not filed with the commissioner or payment of inspection fees not ~~made on time~~ received by the commissioner on or before January 31 or postmarked on or before January 31, a penalty of ten percent of the amount due, with a minimum penalty of \$10, must be assessed against the license holder, and the amount of fees due, plus penalty, is a debt and may be recovered in a civil action against the license holder. The assessment of this penalty does not prevent the department from taking other actions as provided in this chapter.

Sec. 42. Minnesota Statutes 2016, section 25.39, subdivision 3, is amended to read:

Subd. 3. **Records.** Each person required to pay an inspection fee or to report in accordance with this section ~~shall~~ must keep records, as determined by the commissioner, accurately detailing the tonnage of commercial feed distributed in this state. Records upon which the tonnage is based must be maintained for six years and made available to the commissioner for inspection, copying, and audit. A person who is located outside of this state must maintain and make available records required by this section in this state or pay all costs incurred in auditing of the records at another location. Unless required for the enforcement of this chapter, the information in the records required by this subdivision is private or nonpublic.

Sec. 43. Minnesota Statutes 2016, section 25.40, subdivision 2, is amended to read:

Subd. 2. **Notice; public comment.** Before the issuance, amendment, or repeal of any rule authorized by sections 25.31 to 25.43, the commissioner shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current license holders, adequate notice and shall afford all interested persons an opportunity to present their views orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. The provisions of this subdivision notwithstanding, if the commissioner, pursuant to the authority of sections 25.31 to 25.43, adopts the official definitions of feed ingredients ~~or~~ and official feed terms as adopted by the Association of American Feed Control Officials, any amendment or modification adopted by the association ~~shall be~~ is adopted automatically under sections 25.31 to 25.43 without regard to the publication of the notice required by this subdivision unless the commissioner, by order specifically determines that the amendment or modification shall not be adopted.

Sec. 44. Minnesota Statutes 2016, section 25.41, subdivision 1, is amended to read:

Subdivision 1. **Authorization; limitation.** For the purpose of enforcement of sections 25.31 to 25.43, and associated rules, in order to determine whether the provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner or the commissioner's agent, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized:

(1) to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and

(2) to inspect at reasonable times, within reasonable limits, and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of records and production and control procedures related to the manufacture, distribution, storage, handling, or disposal of commercial feed as may be necessary to determine compliance with this chapter.

Sec. 45. Minnesota Statutes 2016, section 25.41, subdivision 2, is amended to read:

Subd. 2. **Notification; promptness.** A separate notice ~~shall~~ must be given for each inspection, but a notice ~~shall~~ is not be required for each entry made during the period covered by the inspection. Each inspection ~~shall be commenced~~ must begin and be completed with reasonable promptness. Upon completion of the inspection, the owner, operator, or agent in charge of the facility or vehicle ~~shall~~ must be so notified.

Sec. 46. Minnesota Statutes 2016, section 25.41, subdivision 3, is amended to read:

Subd. 3. **Receipt for samples.** If the ~~officer or employee~~ commissioner or the commissioner's agent making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the ~~officer or employee~~ commissioner or the commissioner's agent shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

Sec. 47. Minnesota Statutes 2016, section 25.41, subdivision 5, is amended to read:

Subd. 5. **Entry of premises.** For the purpose of the enforcement of sections 25.31 to 25.43, the commissioner or the commissioner's ~~duly designated~~ agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and copy records relating to distribution of commercial feeds.

Sec. 48. Minnesota Statutes 2016, section 25.41, subdivision 7a, is amended to read:

Subd. 7a. **Manufacturer's report of investigation.** If the inspection and analysis of an official sample indicates that a commercial feed has been adulterated or misbranded, the person whose name appears on the label of the indicated commercial feed as guarantor ~~shall~~ must provide a manufacturer's report of investigation to the commissioner within 30 days following the receipt of the official analysis.

Sec. 49. Minnesota Statutes 2016, section 25.42, is amended to read:

25.42 DETAINED COMMERCIAL FEEDS.

Subdivision 1. **Withdrawal from distribution order.** When the commissioner or the commissioner's ~~authorized~~ agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of sections 25.31 to 25.43 or of any of the

prescribed rules under sections 25.31 to 25.43, the commissioner or the commissioner's agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of withdrawn commercial feed ~~so withdrawn~~ when ~~said provisions and~~ sections 25.31 to 25.43 and associated rules have been complied with. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor or license holder shall begin, proceedings for condemnation.

Subd. 2. **Seizure; disposition.** Any lot of commercial feed not in compliance with ~~said provisions and~~ sections 25.31 to 25.43 and associated rules ~~shall be~~ is subject to seizure on complaint of the commissioner to the district court of the county in which ~~said the~~ commercial feed is located. In the event the court finds the commercial feed to be in violation of sections 25.31 to 25.43 and orders the condemnation of ~~said the~~ commercial feed, ~~it shall~~ the commercial feed must be disposed of in ~~any~~ a manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance, shall the disposition of ~~said the~~ commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of ~~said the~~ commercial feed or for permission to process or relabel ~~said the~~ commercial feed to bring it into compliance with sections 25.31 to 25.43.

Sec. 50. Minnesota Statutes 2016, section 27.04, is amended to read:

27.04 APPLICATION FOR LICENSE.

Subdivision 1. **Issuance.** The commissioner shall issue a wholesale produce dealer's license to engage in the business of a dealer at wholesale to persons submitting an application, paying the prescribed fee, and complying with the conditions in this section.

Subd. 2. **Application contents.** (a) The application must be in writing, accompanied by the prescribed fee, and state:

(1) the place or places where the applicant intends to carry on the business for which the license is desired;

(2) the estimated amount of business to be done monthly;

(3) the amount of business done during the preceding year, if any;

(4) the full names of the persons constituting the firm for a partnership, and for a corporation the names of the officers of the corporation and where incorporated; and

~~(5) a financial statement showing the value and character of the assets and the amount of liabilities of the applicant;~~

~~(6) the income and expenses for the most recent year;~~

~~(7) the names and addresses of all shareholders who own at least five percent of a corporate applicant's shares of stock;~~

~~(8) whether the applicant or any of its officers, partners, or agents have been involved in any litigation relating to the business of a wholesale produce dealer in the previous five years; and~~

~~(9)~~ (5) any other information relevant to the conduct of its business as a wholesale produce dealer in the previous five years, as the commissioner may require.

(b) If a contract is used in a transaction, a copy of the contract must also be filed with the commissioner.

(c) Financial data required of an applicant under this section is classified as private data with regard to data on individuals and as nonpublic data with regard to data not on individuals under section 13.02.

Subd. 3. **Filing.** Applications shall be filed annually.

Sec. 51. Minnesota Statutes 2016, section 28A.03, is amended by adding a subdivision to read:

Subd. 11. **Regularly engaged.** "Regularly engaged" means any person who operates a food business over a period of time at uniform, consistent intervals.

Sec. 52. Minnesota Statutes 2016, section 28A.081, is amended to read:

28A.081 CERTIFICATE FEES.

Subdivision 1. **Fee.** A fee of ~~\$75~~ \$125 for each certificate shall be charged to ~~all food establishments that request certificates~~ any person who requests a certificate issued by the Minnesota Department of Agriculture to facilitate the movement of Minnesota processed and manufactured foods destined for export from the state of Minnesota. Certificates include, but are not limited to, a certificate of free sale, certificate of export, certificate of sanitation, sanitary certificate, certificate of origin and/or free sale, certificate of health and/or free sale, sanitation, and purity, certificate of free trade, certificate of free sale, sanitation, purity, and origin, certificate of health, sanitation, purity, and free sale, and letter of plant certification.

The commissioner shall bill a food establishment the requesting person within seven days after issuing a certificate to the establishment person. The operator of the food establishment requesting person must submit payment for a certificate within ten days of the billing date. If a certificate fee payment is not received within 15 days of the billing date, the commissioner may not issue any future certificates to the requesting person until previous fees due are paid in full. Fees paid under this section must be deposited in the food certificate account established under subdivision 2 or another account in the agricultural fund if the expenses for the certificate will be paid from that other account.

Subd. 2. **Food certificate account; appropriation.** A food certificate account is established in the agricultural fund. Money in the account, including interest, is appropriated to the commissioner for expenses relating to certifying Minnesota processed and manufactured foods under chapters 28 to 34A or rules adopted under one of those chapters.

Sec. 53. Minnesota Statutes 2016, section 28A.152, subdivision 2, is amended to read:

Subd. 2. **Direct sales to consumers.** (a) An individual qualifying for an exemption under subdivision 1 may sell the exempt food:

(1) directly to the ultimate consumer at a community event or farmers' market;

~~(2) at a community event or farmers' market; or~~

~~(3)~~ (2) directly from the individual's home to the ultimate consumer, to the extent allowed by local ordinance; or

(3) through donation to a community event with the purpose of fund-raising for an individual, or fund-raising for an educational, charitable, or religious organization.

(b) If an exempt food product will be delivered to the ultimate consumer upon sale of the food product, the individual who prepared the food product must be the person who delivers the food product to the ultimate consumer.

(c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be sold outside of Minnesota.

(d) Food products exempt under subdivision 1 may be sold over the Internet but must be delivered directly to the ultimate consumer by the individual who prepared the food product. The statement "These products are homemade and not subject to state inspection." must be displayed on the Web site that offers the exempt foods for purchase.

Sec. 54. Minnesota Statutes 2016, section 28A.21, subdivision 6, is amended to read:

Subd. 6. **Expiration.** This section expires June 30, ~~2017~~ 2027.

Sec. 55. Minnesota Statutes 2016, section 31A.02, subdivision 4, is amended to read:

Subd. 4. **Animals.** "Animals" means cattle, swine, sheep, goats, poultry, farmed Cervidae, as defined in section 35.153, subdivision 3, llamas, as defined in section 17.455, subdivision 2, Ratitae, as defined in section 17.453, subdivision 3, horses, equines, and other ~~large~~ domesticated animals.

Sec. 56. Minnesota Statutes 2016, section 32C.02, subdivision 2, is amended to read:

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, where practicable, 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.

Sec. 57. Minnesota Statutes 2016, section 32C.06, is amended to read:

32C.06 EXPIRATION.

If by August 1, ~~2017~~ 2020, the authority board has not identified ~~and acquired~~ a site for a facility, as provided in section 32C.02, subdivision 2, sections 32C.01 to 32C.05 and this section are repealed on that date. The Department of Agriculture shall notify the revisor of statutes if the repealer under this section becomes effective.

Sec. 58. Minnesota Statutes 2016, section 41A.12, subdivision 3, is amended to read:

Subd. 3. **Oversight.** ~~The commissioner, in consultation with the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over agriculture finance, must allocate available~~ appropriated funds ~~among eligible uses as provided by law,~~ develop competitive eligibility criteria, and award funds on a needs basis. By February 1 each year, the commissioner shall report to the legislature ~~on the allocation among eligible uses and any financial assistance provided~~ the outcomes achieved under this section.

Sec. 59. Minnesota Statutes 2016, section 41A.20, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) A facility eligible for payment under this section must source at least 80 percent raw materials from Minnesota. If a facility is sited 50 miles or less from the state border, raw materials may be sourced from within a 100-mile radius. Raw materials must be from forest resources. The facility must be located in Minnesota, must begin production at a specific location by June 30, 2025, and must not begin operating before July 1, ~~2017~~ 2019. Eligible facilities include existing companies and facilities that are adding siding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible siding production facilities must produce at least 200,000,000 siding square feet on a 3/8 inch nominal basis of siding each year.

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

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

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

Sec. 60. Minnesota Statutes 2016, section 41B.03, subdivision 2, is amended to read:

Subd. 2. **Eligibility for restructured loan.** In addition to the eligibility requirements of subdivision 1, a prospective borrower for a restructured loan must:

(1) have received at least 50 percent of average annual gross income from farming for the past three years or, for homesteaded property, received at least 40 percent of average gross income from farming in the past three years, and farming must be the principal occupation of the borrower;

(2) have projected annual expenses, including operating expenses, family living, and interest expenses after the restructuring, that do not exceed 95 percent of the borrower's projected annual income considering prior production history and projected prices for farm production, except that the authority may reduce the 95 percent requirement if it finds that other significant factors in the loan application support the making of the loan;

(3) demonstrate substantial difficulty in meeting projected annual expenses without restructuring the loan; and

(4) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~\$660,000 in 2004~~ \$1,700,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.

Sec. 61. Minnesota Statutes 2016, section 41B.03, subdivision 3, is amended to read:

Subd. 3. **Eligibility for beginning farmer loans.** (a) In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~\$350,000 in 2004~~ \$800,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first three years of the loan, if an approved program is available within 45 miles from the borrower's residence. The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has either a

four-year degree in an agricultural program or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the Natural Resources Conservation Service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 62. Minnesota Statutes 2016, section 41B.043, subdivision 5, is amended to read:

Subd. 5. **Total net worth limit.** A prospective borrower for an agricultural improvement loan in which the authority holds an interest must have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~\$350,000 in 2004~~ \$800,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.

Sec. 63. Minnesota Statutes 2016, section 41B.045, subdivision 2, is amended to read:

Subd. 2. **Loan participation.** The authority may participate in a livestock expansion loan with an eligible lender to a livestock farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in a livestock operation. A prospective borrower must have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than ~~\$660,000 in 2004~~ \$1,700,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.

Participation is limited to 45 percent of the principal amount of the loan or \$525,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different from the interest rates and repayment terms of the lender's retained portion of the loan.

Sec. 64. Minnesota Statutes 2016, section 41C.02, subdivision 12, is amended to read:

Subd. 12. **Low or moderate net worth.** "Low or moderate net worth" means:

(1) for an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than ~~\$350,000 in 2004~~ \$800,000 in 2017 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index; or

(2) for a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than twice the amount set for an individual in clause (1). However, the aggregate net worth of each partner and that partner's spouse and minor children may not exceed the amount set for an individual in clause (1).

Sec. 65. Minnesota Statutes 2016, section 116V.01, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The Agricultural Utilization Research Institute is established as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The Agricultural Utilization Research Institute shall conduct onsite and applied research, promote

the establishment of new products and product uses and the expansion of existing markets for the state's agricultural commodities and products, including direct financial and technical assistance for Minnesota entrepreneurs in Minnesota and bordering states. The institute must establish or maintain facilities and work with private and public entities to leverage the resources available to achieve maximum results for Minnesota agriculture.

Sec. 66. Minnesota Statutes 2016, section 116V.01, subdivision 2, is amended to read:

Subd. 2. **Board of directors.** The board of directors of the Agricultural Utilization Research Institute is comprised of:

- (1) the chairs of the senate and the house of representatives standing committees with jurisdiction over agriculture finance or the chair's designee;
- (2) two representatives of statewide farm organizations;
- (3) two representatives of agribusiness; ~~and~~
- (4) three representatives of the commodity promotion councils; and
- (5) two at-large representatives.

Sec. 67. Minnesota Statutes 2016, section 116V.01, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The Agricultural Utilization Research Institute shall:

- (1) identify development opportunities for agricultural products;
- (2) implement a program that identifies techniques to meet those opportunities;
- (3) monitor and coordinate research among the public and private organizations and individuals specifically addressing procedures to transfer new technology to businesses, farmers, and individuals;
- ~~(4) provide research grants to public and private educational institutions and other organizations that are undertaking basic and applied research to promote the development of emerging agricultural industries;~~
- ~~(5)~~ assist organizations and individuals with market analysis and product marketing implementations;
- ~~(6)~~ (5) to the extent possible earn and receive revenue from contracts, patents, licenses, royalties, grants, fees-for-service, and memberships;
- ~~(7)~~ (6) work with the Department of Agriculture, the United States Department of Agriculture, the Department of Employment and Economic Development, and other agencies to maximize marketing opportunities locally, nationally, and internationally; and
- ~~(8)~~ (7) leverage available funds from federal, state, and private sources to develop new markets and value added opportunities for Minnesota agricultural products.

(b) The Agricultural Utilization Research Institute board of directors shall have the sole approval authority for establishing agricultural utilization research priorities, requests for proposals to meet those priorities, awarding of grants, hiring and direction of personnel, and other expenditures of funds consistent with the adopted and approved mission and goals of the Agricultural Utilization

Research Institute. The actions and expenditures of the Agricultural Utilization Research Institute are subject to audit. The institute shall annually report by February 1 to the senate and house of representatives standing committees with jurisdiction over agricultural policy and funding. The report must list projects initiated, progress on projects, and financial information relating to expenditures, income from other sources, and other information to allow the committees to evaluate the effectiveness of the institute's activities.

(c) The Agricultural Utilization Research Institute shall convene a Renewable Energy Roundtable, the purpose of which shall be to further the state's leadership on bioenergy issues.

(i) The Renewable Energy Roundtable shall consist of one representative appointed by the commissioner of the Minnesota Department of Agriculture, one appointed by the commissioner of the Minnesota Department of Commerce, one appointed by the chancellor of the Minnesota State Colleges and Universities, and one appointed by the president of the University of Minnesota. The appointees must have expertise relevant to bioenergy.

(ii) The board shall oversee the activities and shall provide staff to assist the Renewable Energy Roundtable.

(iii) The Renewable Energy Roundtable will engage professionals and experts from private, government, academic, and nonprofit entities across the state to identify bioenergy opportunities and collaborate with a broad group of interested parties to identify future alternative courses of action the state can take to sustain a long-term competitive position in renewable energy through the year 2025. The Renewable Energy Roundtable will consult, advise, and review projects and initiatives funded by the state as directed by the administration and the legislature.

Sec. 68. Minnesota Statutes 2016, section 116V.01, subdivision 4, is amended to read:

Subd. 4. **Staff.** The board of directors shall hire ~~staff~~ an executive director for the Agricultural Utilization Research Institute. Persons employed by the Agricultural Utilization Research Institute are not state employees and may participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are subject to regulation by the state Campaign Finance and Public Disclosure Board.

Sec. 69. Minnesota Statutes 2016, section 116V.01, subdivision 7, is amended to read:

Subd. 7. **Bylaws.** The board of directors shall adopt bylaws necessary for the conduct of the business of the institute consistent with this section. The corporation must publish bylaws and amendments to the bylaws ~~in the State Register~~ on the board's Web site.

Sec. 70. Minnesota Statutes 2016, section 116V.01, subdivision 10, is amended to read:

Subd. 10. **Meetings.** The board of directors shall meet at least twice each year and may hold additional meetings upon giving notice in accordance with the bylaws of the institute. Board meetings are subject to chapter 13D, except section 13D.01, subdivision 6, as it pertains to financial information, business plans, income and expense projections, customer lists, market and feasibility studies, and trade secret information as defined by section 13.37, subdivision 1, paragraph (b). For the purposes of section 13D.015, the board of directors is a state board.

Sec. 71. Minnesota Statutes 2016, section 116V.01, subdivision 11, is amended to read:

Subd. 11. **Conflict of interest.** A director, employee, or officer of the institute may not ~~participate in~~ advocate for or vote on a decision of the board relating to an organization in which the director, employee, or officer has either a direct or indirect financial interest.

Sec. 72. Minnesota Statutes 2016, section 116V.01, subdivision 13, is amended to read:

Subd. 13. **Funds.** The institute may accept and use gifts, grants, or contributions from any source. 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 bequested to it. The principal of these funds, the income from them, and all other revenues received by it from any nonstate source ~~must be placed in the depositories the board determines and is~~ subject to expenditure for the board's purposes. Receipts and expenditures of more than ~~\$25,000~~ \$50,000 must be approved by the ~~full~~ board.

Sec. 73. Minnesota Statutes 2016, section 116V.01, subdivision 14, is amended to read:

Subd. 14. **Accounts; audits.** The institute may establish funds and accounts that it finds convenient. The board shall provide for and pay the cost of an ~~independent annual~~ audit of its official books and records by the legislative auditor subject to sections 3.971 and 3.972. In addition, the board shall provide and pay for the cost of an annual financial audit of its official books and records by a CPA firm licensed under chapter 326A. A copy of this the annual financial audit shall be filed with the secretary of state Office of the Attorney General, Charities Division.

For purposes of this section, "institute" means the Agricultural Utilization Research Institute established under this section and "board of directors" means the board of directors of the Agricultural Utilization Research Institute.

Sec. 74. Minnesota Statutes 2016, section 223.17, subdivision 8, is amended to read:

Subd. 8. **Bond disbursement.** (a) The bond required under subdivision 4 shall provide for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the grain buyer in the manner provided by subdivision 5, including loss caused by failure to pay within the time required. The bond shall be conditioned upon the grain buyer being duly licensed as provided herein.

(b) The commissioner shall promptly determine the validity of all claims filed and notify the claimants of the determination. An aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment promptly to those claimants entitled to payment. The commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain buyer in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) If a grain buyer has become liable to more than one producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all producers entitled to the protection of the bond, the proceeds of the bond shall be apportioned among the bona fide claimants.

(d) The bond shall not be cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

(e) The bond disbursement shall occur 200 days from the date the commissioner publishes a public notice of a claim. At the end of this time period, the commissioner shall initiate bond payments on all valid claims received by the commissioner.

Sec. 75. Minnesota Statutes 2016, section 232.22, subdivision 7, is amended to read:

Subd. 7. **Bond disbursement.** (a) The bond of a public grain warehouse operator must be conditioned that the public grain warehouse operator issuing a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and net quantity of grain called for by the receipt.

(b) Upon notification of default, the commissioner shall determine the validity of all claims and notify all parties having filed claims. Any aggrieved party may appeal the commissioner's determination by requesting, within 15 days, that the commissioner initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment to those claimants entitled to payment. If the commissioner determines it is necessary, the commissioner may apply to the district court for an order appointing a trustee or receiver to manage and supervise the operations of the grain warehouse operator in default. The commissioner may participate in any resulting court proceeding as an interested party.

(c) For the purpose of determining the amount of bond disbursement against all valid claims under a condition one bond, all grain owned or stored in the public grain warehouse shall be sold and the combined proceeds deposited in a special fund. Payment shall be made from the special fund satisfying the valid claims of grain warehouse receipt holders.

(d) If a public grain warehouse operator has become liable to more than one depositor or producer by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid claimants, the proceeds of the bond and special fund shall be apportioned among the valid claimants on a pro rata basis.

(e) A bond is not cumulative from one licensing period to the next. The maximum liability of the bond shall be its face value for the licensing period.

(f) The bond disbursement shall occur 200 days from the date the commissioner publishes a public notice of a claim. At the end of this time period, the commissioner shall initiate bond payments on all valid claims received by the department.

Sec. 76. Minnesota Statutes 2016, section 336.9-601, is amended to read:

336.9-601 RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES.

(a) **Rights of secured party after default.** After default, a secured party has the rights provided in this part and, except as otherwise provided in section 336.9-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under section 336.7-106, 336.9-104, 336.9-105, 336.9-106, or 336.9-107 has the rights and duties provided in section 336.9-207.

(c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) and section 336.9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

- (1) the date of perfection of the security interest or agricultural lien in the collateral;
- (2) the date of filing a financing statement covering the collateral; or
- (3) any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in section 336.9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(h) **Security interest in collateral that is agricultural property; enforcement.** A person may not begin to enforce a security interest in collateral that is agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more than ~~\$5,000~~ the amount provided in section 583.24, subdivision 5, unless: a mediation notice under subsection (i) is served on the debtor after a condition of default has occurred in the security agreement and a copy served on the director of the agricultural extension service; and the debtor and creditor have completed mediation under sections 583.20 to 583.32; or as otherwise allowed under sections 583.20 to 583.32.

(i) **Mediation notice.** A mediation notice under subsection (h) must contain the following notice with the blanks properly filled in.

"TO: ...(Name of Debtor)...

YOU HAVE DEFAULTED ON THE ...(Debt in Default)... SECURED BY AGRICULTURAL PROPERTY DESCRIBED AS ...(Reasonable Description of Agricultural Property Collateral). THE AMOUNT OF THE OUTSTANDING DEBT IS ...(Amount of Debt)...

AS A SECURED PARTY, ...(Name of Secured Party)... INTENDS TO ENFORCE THE SECURITY AGREEMENT AGAINST THE AGRICULTURAL PROPERTY DESCRIBED

ABOVE BY REPOSSESSING, FORECLOSING ON, OR OBTAINING A COURT JUDGMENT AGAINST THE PROPERTY.

YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY ENFORCES THE DEBT.

IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE AGRICULTURAL EXTENSION SERVICE WILL PROVIDE AN ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU TO PREPARE FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE AT ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE.

FROM: ...(Name and Address of Secured Party)..."

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 77. Minnesota Statutes 2016, section 344.03, subdivision 1, is amended to read:

Subdivision 1. **Adjoining owners.** ~~If all or a part of adjoining Minnesota land is improved and used,~~ (a) Except as provided in paragraph (b), if two adjoining lands are both used in whole or in part to produce or maintain livestock for agricultural or commercial purposes and one or both of the owners of the land desires the land to be partly or totally fenced, the land owners or occupants shall build and maintain a partition fence between their lands in equal shares.

(b) The requirement in this section and the procedures in this chapter apply to the Department of Natural Resources when it owns land adjoining privately owned land subject to this section and chapter and the landowner desires the land permanently fenced for the purpose of restraining livestock.

(c) For purposes of this section, "livestock" means beef cattle, dairy cattle, swine, poultry, goats, donkeys, hinnies, mules, farmed Cervidae, Ratitae, bison, sheep, horses, alpacas, and llamas.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to partition fences built pursuant to Minnesota Statutes, chapter 344, on or after that date.

Sec. 78. Minnesota Statutes 2016, section 550.365, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** A person may not attach, execute on, levy on, or seize agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more than ~~\$5,000~~ the amount provided in section 583.24, subdivision 5, unless: (1) a mediation notice is served on the judgment

debtor and a copy served on the director and the debtor and creditor have completed mediation under sections 583.20 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 79. Minnesota Statutes 2016, section 559.209, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** A person may not begin to terminate a contract for deed under section 559.21 to purchase agricultural property subject to sections 583.20 to 583.32 for a remaining balance on the contract of more than ~~\$5,000~~ the amount provided in section 583.24, subdivision 5, unless: (1) a mediation notice is served on the contract for deed purchaser after a default has occurred under the contract and a copy served on the director and the contract for deed vendor and purchaser have completed mediation under sections 583.20 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 80. Minnesota Statutes 2016, section 582.039, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** A person may not begin a proceeding under this chapter or chapter 580 to foreclose a mortgage on agricultural property subject to sections 583.20 to 583.32 that has a secured debt of more than ~~\$5,000~~ the amount provided in section 583.24, subdivision 5, unless: (1) a mediation notice is served on the mortgagor after a default has occurred in the mortgage and a copy is served on the director and the mortgagor and mortgagee have completed mediation under sections 583.20 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 81. Minnesota Statutes 2016, section 583.215, is amended to read:

583.215 EXPIRATION.

Sections 336.9-601, subsections (h) and (i); 550.365; 559.209; 582.039; and 583.20 to 583.32, expire June 30, ~~2018~~ 2022.

Sec. 82. Minnesota Statutes 2016, section 583.24, subdivision 4, is amended to read:

Subd. 4. **Debts.** The Farmer-Lender Mediation Act does not apply to a debt:

(1) for which a proof of claim form has been filed in bankruptcy by a creditor or that was listed as a scheduled debt, of a debtor who has filed a petition in bankruptcy after July 1, 1987, under United States Code, title 11, chapter 7, 11, 12, or 13;

(2) if the debt was in default when the creditor received a mediation proceeding notice under the Farmer-Lender Mediation Act and the creditor filed a claim form, the debt was mediated during the mediation period under section 583.26, subdivision 8, and (i) the mediation was unresolved; or (ii) a mediation agreement with respect to that debt was signed;

(3) for which the creditor has served a mediation notice, the debtor has failed to make a timely request for mediation, and within 60 days after the debtor failed to make a timely request the creditor began a proceeding to enforce the debt against the agricultural property of the debtor;

(4) for which a creditor has received a mediation proceeding notice and the creditor and debtor have restructured the debt and have signed a separate mediation agreement with respect to that debt; ~~or~~

(5) for which there is a lien for rental value of farm machinery under section 514.661; or

(6) that is a new line of credit, loan, or other debt extended by a creditor to the debtor as a result of a mediation conducted pursuant to the Farmer-Lender Mediation Act. However, this new debt becomes subject to the Farmer-Lender Mediation Act two years after the mediation from which the new debt originated ends, as evidenced by the date on the termination statement issued by the mediator under section 583.26, subdivision 10.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 83. Minnesota Statutes 2016, section 583.24, is amended by adding a subdivision to read:

Subd. 5. **Minimum eligible debt amount.** The minimum eligible debt amount is \$15,000. In 2022 and every five years thereafter, the commissioner of agriculture, in consultation with the director, must report to the legislative committees with jurisdiction over agriculture policy what the minimum eligible debt amount under this subdivision would be if adjusted using the United States Department of Agriculture's Index of the Cost of Production.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 84. Minnesota Statutes 2016, section 583.26, subdivision 2, is amended to read:

Subd. 2. **Mediation request.** (a) A debtor must file a mediation request form with the director by 14 days after receiving a mediation notice. The debtor must state all known creditors with debts secured for agricultural property and must authorize the director to obtain the debtor's credit report from one or more credit reporting agencies. The mediation request form must include an instruction that the debtor must state all known creditors with debts secured by agricultural property and unsecured creditors that are necessary for the farm operation of the debtor. It is the debtor's discretion as to which unsecured creditors are necessary for the farm operation but the mediation request form must notify the debtor that omission of a significant unsecured creditor could result in a bad-faith determination pursuant to section 583.27, subdivisions 1, paragraph (a), clause (2), and 2. The mediation request must state the date that the notice was served on the debtor. The director shall make mediation request forms available in the county recorder's and county extension office of each county.

(b) Except as provided in section 583.24, subdivision 4, paragraph (a), clause (3), a debtor who fails to file a timely mediation request waives the right to mediation for that debt under the Farmer-Lender Mediation Act. The director shall notify the creditor who served the mediation notice stating that the creditor may proceed against the agricultural property because the debtor has failed to file a mediation request.

(c) If a debtor has not received a mediation notice and is subject to a proceeding of a creditor enforcing a debt against agricultural property under chapter 580 or 581 or sections 336.9-601 to 336.9-628, terminating a contract for deed to purchase agricultural property under section 559.21, or garnishing, levying on, executing on, seizing, or attaching agricultural property, the debtor may file a mediation request with the director. The mediation request form must indicate that the debtor has not received a mediation notice.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 85. Minnesota Statutes 2016, section 583.26, subdivision 3, is amended to read:

Subd. 3. **Financial analyst and farm advocate.** (a) Within three business days after receiving a mediation request, the director shall provide a financial analyst to meet with the debtor and assure that all information relative to the finances of the debtor is prepared ~~for~~ prior to the initial mediation meeting. The financial analyst must review and, if necessary, prepare the debtor's financial records before the initial mediation meeting.

(b) After receiving the mediation notice, the director shall provide the debtor with a list of farm advocates that may be available without charge to assist the debtor and the financial analyst.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 86. Minnesota Statutes 2016, section 583.26, subdivision 3a, is amended to read:

Subd. 3a. **Orientation session.** The director shall schedule an orientation session to be held at least five days before the first mediation meeting. The debtor, the financial analyst, and a mediator shall participate in the orientation session. The mediator at the session need not be the one assigned to the mediation proceeding under subdivision 4. Creditors participating in the mediation may participate in the orientation session. At the orientation session, the financial analyst shall review the debtor's financial and inventory records to determine if they are adequate for the mediation and inform the debtor of any inadequacies, and the mediator shall inform the debtor of the requirements of the mediation process including but not limited to the requirement to participate in good faith by addressing, prior to the initial mediation meeting, any inadequacies identified by the financial analyst.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 87. Minnesota Statutes 2016, section 583.26, subdivision 4, is amended to read:

Subd. 4. **Mediation proceeding notice.** (a) By ten days after receiving a mediation request, the director shall send: (1) a mediation proceeding notice to the debtor; (2) a mediation proceeding notice to all creditors listed by the debtor in the mediation request and any additional secured creditors identified by the director from the credit report obtained with the debtor's permission under subdivision 2; and (3) a claim form to all secured creditors stated by the debtor or identified by the director.

(b) The mediation proceeding notice must state:

- (1) the name and address of the debtor;
- (2) that the debtor has requested mediation under the Farmer-Lender Mediation Act;
- (3) the time and place for the orientation session;
- (4) the time and place for the initial mediation meeting;

(5) a list of the names of three mediators that may be assigned to the proceeding, along with background information on those mediators including biographical information, a summary of previous mediation experience, and the number of agreements signed by parties to previous mediation;

(6) that the debtor and the initiating creditor may each request the director to exclude one mediator by notifying the director within three days after receiving the notice;

(7) that in lieu of having a mediator assigned by the director, the debtor and any one or more of the creditors may agree to select and pay for a professional mediator that is approved by the director;

(8) that the Farmer-Lender Mediation Act prohibits the creditor from beginning or continuing a proceeding to enforce the debt against agricultural property for 90 days after the debtor files a mediation request with the director unless otherwise allowed; and

(9) that the creditor must provide the debtor by the initial mediation meeting with copies of notes and contracts for debts subject to the Farmer-Lender Mediation Act and provide a statement of interest rates on the debts, delinquent payments, unpaid principal and interest balances, the creditor's value of the collateral, and debt restructuring programs available by the creditor.

(c) An initial mediation meeting must be held within 20 days of the notice.

(d) The initiating creditor and the debtor may each request the director to exclude one mediator from the list by sending the director a notice to exclude the mediator within three days after receiving the mediation proceeding notice.

(e) In lieu of the director assigning a mediator, the debtor and any one or more of the creditors may agree to select and pay for a professional mediator for the mediation proceeding. The director must approve the professional mediator before the professional mediator may be assigned to the mediation proceeding. The professional mediator may not be approved unless the professional mediator prepares and signs an affidavit:

(1) disclosing any biases, relationships, or previous associations with the debtor or creditors subject to the mediation proceedings;

(2) stating certifications, training, or qualifications as a professional mediator;

(3) disclosing fees to be charged or a rate schedule of fees for the mediation proceeding; and

(4) affirming to uphold the Farmer-Lender Mediation Act and faithfully discharge the duties of a mediator.

(f) After receiving a mediation proceeding notice, a secured creditor must return a claim form if the debt is not subject to the Farmer-Lender Mediation Act and specify why the debt is not subject to sections 583.20 to 583.32.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 88. Minnesota Statutes 2016, section 583.26, subdivision 10, is amended to read:

Subd. 10. **End of mediation.** (a) The mediator shall sign and serve to the parties and the director a termination statement by the end of the time period specified in subdivision 5.

(b) The mediator shall prepare a termination statement that:

(1) acknowledges that mediation has ended and specifies the date on which the mediation ended; and

(2) describes or references agreements, if any, reached between a creditor and the debtor, if any, including any new line of credit, loan, or other debt issued by a creditor to the debtor as a result of the mediation; and agreements, if any, reached among creditors, if any.

(c) Mediation agreements may be included as part of the termination statement.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 89. Minnesota Statutes 2016, section 583.27, subdivision 1, is amended to read:

Subdivision 1. **Obligation of good faith.** (a) The parties must engage in mediation in good faith. Prior to the initial mediation meeting, the director must notify all parties in writing of their obligation to participate in good faith, the consequences of failing to participate in good faith, and that not participating in good faith includes: (1) a failure on a regular or continuing basis to attend and participate in mediation sessions without cause; (2) failure to provide full information no later than the initial mediation meeting regarding the financial obligations of the parties and other creditors including the obligation of a creditor to provide information under section 583.26, subdivision 5, paragraph (d); (3) failure of the creditor to designate a representative to participate in the mediation with authority to make binding commitments within one business day to fully settle, compromise, or otherwise mediate the matter; (4) lack of a written statement of debt restructuring alternatives and a statement of reasons why alternatives are unacceptable to one of the parties; (5) failure of a creditor to release funds from the sale of farm products to the debtor for necessary living and farm operating expenses; or (6) other similar behavior which evidences lack of good faith by the party. A failure to agree to reduce, restructure, refinance, or forgive debt does not, in itself, evidence lack of good faith by the creditor.

(b) The amount that the creditor is required to release for necessary living expenses under this section is limited to ~~\$1,600~~ \$3,600 per month less the debtor's off-farm income. In 2022 and every five years thereafter, the commissioner of agriculture, in consultation with the director, must report to the legislative committees with jurisdiction over agriculture policy what the monetary limit under this paragraph would be if adjusted using the United States All-Items Consumer Price Index.

(c) If the debtor and creditor do not agree on the amount of necessary living expenses to be released, the debtor or creditor may petition conciliation court in the county of the debtor's residence to make a determination of the amount to be released. The conciliation court must make the determination within ten days after receiving the petition.

(d) If the debtor and creditors do not agree on the amount of necessary operating expenses or necessary living and operating expenses to be released, the debtor or a creditor requested to release necessary living or operating expenses may petition the district court of the debtor's residence to make a determination of the amount to be released. The court shall hear and make a determination of the amount of living and operating expenses to be released within ten days after receiving the petition. The court shall also add or subtract up to ten days to the time when the creditor can begin to enforce a proceeding to collect the debt against agricultural property of the debtor and assess costs, including any attorney fees, among the parties to the court proceeding. The court shall equitably adjust the time to begin a creditor's proceeding and the assessment of costs based on the parties' good faith claim to the amount of living and operating expenses to be released.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to debt subject to the Farmer-Lender Mediation Act that is initiated on or after that date.

Sec. 90. WOLF-LIVESTOCK CONFLICT PREVENTION PILOT PROGRAM.

(a) The commissioner of agriculture may award grants to livestock producers to prevent wolf-livestock conflicts. Livestock producers located in Minnesota are eligible to apply for reimbursement for the cost of practices to prevent wolf-livestock conflicts. The commissioner may establish a cap on the amount a recipient may receive annually.

(b) To be eligible for the grant under this section, a livestock producer must raise livestock within Minnesota's wolf range or on property determined by the commissioner to be affected by wolf-livestock conflicts.

(c) Eligible wolf-livestock conflict prevention activities include, but are not limited to:

(1) the purchase of guard animals;

(2) veterinary costs for guard animals;

(3) the installation of wolf barriers; wolf barriers may include pens, fladry, and fencing;

(4) the installation of wolf-deterring lights and alarms; and

(5) calving or lambing shelters.

(d) Eligible grant recipients must:

(1) make a good-faith effort to avoid wolf-livestock conflicts;

(2) make a good-faith effort to care for guard animals paid for under this section;

(3) retain proper documentation of expenses;

(4) report annually to the commissioner on the effectiveness of the nonlethal methods employed;
and

(5) allow follow-up evaluation and monitoring by the commissioner.

(e) Grant recipients shall continue to be eligible for depredation payments under Minnesota Statutes, section 3.737.

Sec. 91. **BASE BUDGET REPORT REQUIRED.**

No later than October 15, 2018, the commissioner of agriculture must submit a report detailing the agency's base budget, including any prior appropriation riders, to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture finance.

Sec. 92. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 18B.01, subdivision 9a, to Minnesota Statutes, section 18B.01, subdivision 9d, and correct any cross-references related to the renumbering.

Sec. 93. **REPEALER.**

Minnesota Statutes 2016, sections 18B.01, subdivisions 10a, 10b, and 22a; 18B.285; 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; 41A.20, subdivision 6; 41D.01, subdivision 4; 383C.809; and 583.22, subdivision 7b, are repealed.

ARTICLE 3

DAIRY LAW REORGANIZATION

Section 1. Minnesota Statutes 2016, section 13.6435, subdivision 8, is amended to read:

Subd. 8. **Dairy products.** Financial and production information obtained by the commissioner of agriculture to administer chapter ~~32~~ 32D are classified under section ~~32.71, subdivision 2~~ 32D.25, subdivision 2.

Sec. 2. Minnesota Statutes 2016, section 17.983, subdivision 1, is amended to read:

Subdivision 1. **Administrative penalties; citation.** If a person has violated a provision of chapter 25, 31B, or ~~32~~ 32D, the commissioner may issue a written citation to the person by personal service or by certified mail. The citation must describe the nature of the violation and the statute or rule alleged to have been violated; state the time for correction, if applicable; and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 30 days if the person wishes to appeal the citation. If the person fails to appeal the citation, the citation is the final order and not subject to further review.

Sec. 3. Minnesota Statutes 2016, section 17.984, subdivision 1, is amended to read:

Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties under chapter ~~32~~ 32D, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

Sec. 4. Minnesota Statutes 2016, section 28A.05, is amended to read:

28A.05 CLASSIFICATION.

All persons required to have a license under section 28A.04 shall be classified into one of the following classes of food handlers, according to their principal mode of business.

(a) Retail food handlers are persons who sell or process and sell food directly to the ultimate consumer or who custom process meat or poultry. The term includes a person who sells food directly to the ultimate consumer through the use of vending machines, and a person who sells food for consumption on site or off site if the sale is conducted on the premises that are part of a grocery or convenience store operation.

(b) Wholesale food handlers are persons who sell to others for resale. A person who handles food in job lots (jobbers) is included in this classification.

(c) Wholesale food processors or manufacturers are persons who process or manufacture raw materials and other food ingredients into food items, or who reprocess food items, or who package food for sale to others for resale, or who commercially slaughter animals or poultry. Included herein are persons who can, extract, ferment, distill, pickle, bake, freeze, dry, smoke, grind, mix, stuff, pack, bottle, recondition, or otherwise treat or preserve food for sale to others for resale, cold storage warehouse operators as defined in section 28.01, subdivision 3, salvage food processors as defined in section 31.495, subdivision 1, and dairy plants as defined in section ~~32.01~~ 32D.01, subdivision 6.

(d) A food broker is a person who buys and sells food and who negotiates between a buyer and a seller of food, but who at no time has custody of the food being bought and sold.

Sec. 5. Minnesota Statutes 2016, section 28A.085, subdivision 1, is amended to read:

Subdivision 1. **Violations; prohibited acts.** The commissioner may charge a reinspection fee for each reinspection of a food handler that:

(1) is found with a major violation of requirements in chapter 28, 29, 30, 31, 31A, ~~32~~ 32D, 33, or 34, or rules adopted under one of those chapters; or

(2) fails to correct equipment and facility deficiencies as required in rules adopted under chapter 28, 29, 30, 31, 31A, ~~32~~ 32D, or 34.

The first reinspection of a firm with gross food sales under \$1,000,000 must be assessed at \$150. The fee for a firm with gross food sales over \$1,000,000 is \$200. The fee for a subsequent reinspection of a firm for the same violation is 50 percent of their current license fee or \$300, whichever is greater. The establishment must be issued written notice of violations with a reasonable date for compliance listed on the notice. An initial inspection relating to a complaint is not a reinspection.

Sec. 6. **32D.01 DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Adulterated.** "Adulterated" means an item is covered by section 34A.02.

Subd. 3. **Cheese.** "Cheese" includes all varieties of cheese, cheese spreads, cheese foods, cheese compounds, or processed cheese made or manufactured in whole or in part from milk.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 5. **Dairy farm.** "Dairy farm" means a place or premises where one or more lactating animals, including cows, goats, sheep, water buffalo, camels, or other hooved mammals, are kept, and from which all or a portion of the milk produced at the place or premises is delivered, sold, or offered for sale.

Subd. 6. **Dairy plant.** "Dairy plant" means any place where a dairy product is manufactured, processed, or handled and includes milk-receiving stations, creameries, cheese factories, condenseries, milk plants, transfer stations, and marketing organizations that purchase milk and cream directly from producers for resale and other establishments, as those terms are used in this chapter and chapters 17, 27, and 31; but does not include any place where dairy products are not processed but sold at whole or retail only.

Subd. 7. **Dairy product.** "Dairy product" means milk as defined by Code of Federal Regulations, title 21, cream, any product or by-product of either, or any commodity among the principal constituents or ingredients of which is one or a combination of two or more of them, as determined by standards, grades, or rules adopted by the commissioner.

Subd. 8. **Fluid milk products.** "Fluid milk products" means yogurt, cream, sour cream, half and half, reconstituted half and half, concentrated milk, concentrated milk products, skim milk, nonfat milk, chocolate flavored milk, chocolate flavored dairy drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted dairy drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made by the addition of any substance to milk or to any of the fluid milk products enumerated under this subdivision or by rule adopted by the commissioner.

Subd. 9. **Goat milk.** "Goat milk" means a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy goats.

Subd. 10. **Milk.** "Milk" means the normal lacteal secretion, practically free of colostrum, obtained by the milking of one or more healthy hooved mammals. Hooved mammals include but are not limited to cattle, water buffalo, sheep, goats, yaks, and camels.

Subd. 11. **Milk for manufacturing purposes.** "Milk for manufacturing purposes" means milk produced for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.

Subd. 12. **Milk-receiving station.** "Milk-receiving station" means a dairy plant where raw milk for pasteurization or for manufacture is received, handled, or prepared for processing or for resale as unpasteurized milk or fluid milk products.

Subd. 13. **Minnesota farmstead cheese.** "Minnesota farmstead cheese" means cheese manufactured in Minnesota on the same farm that the milk used in its manufacturing is produced.

Subd. 14. **Misbranded or misbranding.** "Misbranded" or "misbranding" means an item is covered by section 34A.03.

Subd. 15. **Pasteurization or pasteurized.** (a) "Pasteurization," "pasteurized," and similar terms mean:

(1) the process of heating every particle of milk or dairy product in properly operated equipment approved by the commissioner to a temperature of at least 145 degrees Fahrenheit and holding the temperature for at least 30 minutes;

(2) the process of heating every particle of milk or dairy product in properly operated equipment approved by the commissioner to a temperature of at least 161 degrees Fahrenheit and holding the temperature for at least 15 seconds; or

(3) the process of heating every particle of milk or dairy product in properly operated equipment approved by the commissioner to the temperatures and holding for the times as the commissioner may prescribe by rule, containing standards more stringent than those imposed by this subdivision.

(b) Nothing in this subdivision shall be construed as excluding any other process that has been demonstrated to be equally efficient and is approved by the commissioner.

Subd. 16. **Recombinant bovine growth hormone or rBGH.** "Recombinant bovine growth hormone" or "rBGH" means a growth hormone intended for use in bovine animals that has been produced through recombinant DNA techniques, described alternately as recombinant bovine somatotropin or rBST.

Sec. 7. **[32D.02] INSPECTION AUTHORITY AND DUTIES.**

Subdivision 1. **Enforcement.** The commissioner is charged with the enforcement of this chapter.

Subd. 2. **Power and authority.** For the purpose of enforcing this chapter, the commissioner and the commissioner's assistants, agents, and employees have the power and authority granted under sections 31.02 to 31.171.

Subd. 3. **Inspection of dairies.** At times the commissioner determines proper, the commissioner shall inspect all places where dairy products are made, stored, or served as food for purchase, and all places where hoofed mammals are kept by persons engaged in the sale of milk, and shall require the correction of all unsanitary conditions and practices.

Subd. 4. **Refusal of inspection.** A refusal or physical threat that prevents the completion of an inspection or neglect to obey a lawful direction of the commissioner or the commissioner's agent given while carrying out this section may result in the suspension of the offender's permit or certification or other enforcement as deemed appropriate by the commissioner. The offender is required to meet with a representative of the offender's plant or marketing organization and a representative of the commissioner within 48 hours of receiving notice, excluding holidays or weekends, or the suspension or enforcement action shall take effect. A producer may request a hearing before the commissioner or the commissioner's agent if a serious concern exists relative to the retention of the offender's permit or certification to sell milk.

Subd. 5. **Inspection service.** To ensure compliance with the laws and rules governing the production, handling, processing, and sale of milk and dairy products, the commissioner is authorized, through a duly trained and qualified milk inspector, to inspect milk and milk products and the premises and plants where milk and milk products are produced, handled, and processed. Inspection services must acquaint the processor and producers with the requirements for a Grade A or manufacturing grade milk supply for preliminary inspection to determine if a processor has brought

the processor's farms and plants to the state of compliance that qualifies the processor's products for the Grade A or manufacturing grade label, and for continuous inspection to ensure that a farm or plant and all products from a farm or plant are in compliance with this chapter.

Subd. 6. **Field service.** Grade A or manufacturing grade processors shall provide a continuous field service to assist producers who sell their milk to the processor's plant to attain and maintain compliance with this chapter. A person who performs field service must first obtain a permit from the commissioner. A person desiring to secure a permit must apply on a form provided by the commissioner, and before a permit is issued the commissioner shall determine that the applicant is competent and qualified to perform field service. The permit is not transferable to another person and may be revoked for due cause after the holder of the permit has been given the opportunity for a hearing. The permit holder must be given a notice in writing of the time and place of the hearing at least seven days before the date of the hearing.

Subd. 7. **Enforcement standards.** The standards in this chapter and rules adopted under this chapter by the commissioner shall be the only standards for use in Minnesota. No municipality or other subdivision of state government shall provide, by ordinance, more stringent or comprehensive standards than are contained in this chapter and rules adopted by the commissioner under this chapter.

Subd. 8. **Rules.** (a) The commissioner shall by rule adopt identity, production, and processing standards for both Grade A and manufacturing grade milk and dairy products.

(b) In the exercise of the authority to establish requirements for Grade A milk and milk products, the commissioner adopts definitions, standards of identity, and requirements for production and processing contained in the most current version of the Grade A Pasteurized Milk Ordinance, and its associated documents, of the United States Department of Health and Human Services in a manner provided for and not in conflict with law.

(c) Producers of milk, other than Grade A, shall conform to the standards contained in subparts B, C, D, E, and F of the United States Department of Agriculture Agricultural Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and its Production and Processing, except that the commissioner shall develop methods by which producers are able to comply with the standards without violation of religious beliefs.

Subd. 9. **Certified industry inspection.** Industry personnel may be certified to perform any inspection, to the extent allowed by federal law and provided that performance of the inspections is consistent with rules adopted in subdivision 8.

Subd. 10. **Fees; dairy services account; appropriation.** (a) All fees and penalties collected under this chapter must be deposited in the dairy services account in the agricultural fund. Money in the account, including interest, is appropriated to the commissioner for purposes of administering this chapter.

(b) Unless otherwise noted, all fees are payable by a processor or marketing organization and are invoiced on July 1 of each year for Grade A and January 1 of each year for manufacturing grade, and if not paid within 30 days of the due date, inspection service may be discontinued. If a farm discontinues the production of milk within six months of the billing date, a request for a refund based on inspection services not received may be made by the processor or by the marketing organization on behalf of its patrons. This request must be made in writing by June 30 for

manufacturing grade or by December 31 for Grade A. Upon approval by the commissioner, refunds must be made to the processor or marketing organization.

Sec. 8. **[32D.03] BULK MILK HAULER AND SAMPLER LICENSE.**

Subdivision 1. **License requirement.** A person collecting milk from a dairy farm and transporting the milk by bulk pickup and not in individual containers from farm to plant must obtain a bulk milk hauler and sampler license.

Subd. 2. **Application.** A person desiring to secure a bulk milk hauler and sampler license must apply on a form provided by the commissioner. Before the license is issued, the commissioner shall determine that the applicant is competent and qualified.

Subd. 3. **Term of license; transferability.** An initial bulk milk hauler and sampler license issued by the commissioner expires on the following December 31 and is not transferable. A renewal bulk milk hauler and sampler license is not transferable, is valid for two years, and expires on December 31 of the second year.

Subd. 4. **Fees and penalties.** The fee for an initial or renewal bulk milk hauler and sampler license is \$60. The fee shall be paid to the commissioner before the commissioner issues an initial or renewal bulk milk hauler and sampler license. If a bulk milk hauler and sampler license renewal is not applied for on or before January 1, a fee of \$30 shall be imposed. A person who does not renew a bulk milk hauler and sampler license within one year following its December 31 expiration date, except those persons who do not renew the bulk milk hauler and sampler license while engaged in active military service, shall be required to prove competency and qualification under subdivision 2 before a bulk milk hauler and sampler license is issued. The commissioner may require any other person who renews a bulk milk hauler and sampler license to prove competency and qualification in the same manner.

Subd. 5. **Suspension or cancellation.** The commissioner is empowered to conduct enforcement action, suspend, or cancel any bulk milk hauler and sampler license pursuant to section 34A.06.

Sec. 9. **[32D.04] MILK TANK TRUCKS.**

All farm bulk milk pickup tankers, milk transports, and tankers used to transport milk products must be inspected and obtain a permit issued by the commissioner at least once every 12 months. The owner or operator must pay a \$25 permit fee per tanker to the commissioner. The commissioner may appoint a person the commissioner deems qualified to make inspections.

Sec. 10. **[32D.05] GRADE A DAIRY FARM PERMITTING; WATER WELL DISTANCE REQUIREMENT.**

(a) No milk producer may sell or distribute milk from a dairy farm as Grade A milk without a valid Grade A dairy farm permit issued by the commissioner.

(b) A dairy farmer who wishes to be permitted to produce Grade A milk may not be denied the Grade A permit solely because of provisions in rules adopted by the commissioner requiring a minimum distance between a water well and dairy farm. To be eligible for a Grade A permit, the following conditions must be met:

(1) the water well must have been in place prior to January 1, 1974;

(2) the water well must comply with all other rules applicable to the well, other than the distance requirement; and

(3) water from the well must be tested at least once every 12 months. More frequent testing may be required in compliance with guidelines established by the commissioner if water test results fail to meet water quality requirements.

Sec. 11. [32D.06] GRADE A DAIRY FARM INSPECTION; FEES.

(a) As provided in section 32D.02, the commissioner shall provide inspection service to any milk producer who wishes to market Grade A milk and is in compliance with the requirement for the production of Grade A milk. Grade A inspections shall be completed at least once every six months.

(b) The fee for inspections must be no more than \$50 per farm, paid annually by the processor or by the marketing organization on behalf of its patrons.

(c) For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee must be paid by the processor or by the marketing organization on behalf of its patrons. The fee for reinspection of a farm with fewer than 100 hooved milk-producing animals is \$60 per reinspection. The fee for reinspection of a farm with 100 or more hooved milk-producing animals is \$150 per reinspection.

Sec. 12. [32D.07] MANUFACTURING GRADE DAIRY FARM CERTIFICATION.

A producer who wishes to sell milk for manufacturing purposes must obtain from the commissioner an annual Grade B farm certification.

Sec. 13. [32D.08] MANUFACTURING GRADE DAIRY FARM INSPECTION; FEES.

(a) A producer selling milk for manufacturing purposes must be inspected at least once every 12 months.

(b) The fee for the certification inspection must not be more than \$25 per producer, to be paid annually by the processor or the marketing organization on behalf of its patrons.

(c) For a producer requiring more than one inspection for certification, a reinspection fee of \$45 must be paid by the processor or by the marketing organization on behalf of its patrons.

Sec. 14. [32D.09] DAIRY PLANT LICENSING AND PERMITTING.

Subdivision 1. **Licensing.** A dairy plant must obtain a license as required under section 28A.04.

Subd. 2. **Permitting.** No person shall operate a dairy plant in this state unless the dairy plant, equipment, and water supply and plumbing system have been first approved by the commissioner and a permit issued to operate the same. A permit may be revoked by the commissioner for due cause pursuant to section 34A.06.

Subd. 3. **Approval.** At the time of filing the application for a permit, the applicant shall submit to the commissioner duplicate floor plans of the plant that show the placement of equipment, the source of water supply and method of distribution, a detailed pasteurization flow chart, and the location of the plumbing system, including the disposal of wastes. New construction or alteration of an existing dairy plant shall be made only with the approval of the commissioner and duplicate plans for the construction or alteration shall be submitted to the commissioner for approval. The fee for approval services is \$45 per hour of department staff time spent in the approval process.

Subd. 4. **Farmstead cheese.** (a) The commissioner or the commissioner's designee shall issue an additional permit to a dairy plant that desires to use the name "Minnesota farmstead cheese" upon application made by the dairy plant for use of the name, provided the cheese meets the definition in section 32D.01, subdivision 13.

(b) No cheese or packaged cheese that is sold, offered or exposed for sale, or held in possession with intent to sell at either retail or wholesale in this state may be labeled or described as "Minnesota farmstead cheese" unless it meets the criteria in section 32D.01, subdivision 13, and the manufacturer has obtained the designated permit.

Sec. 15. **[32D.10] INSPECTIONS.**

(a) Inspections of Grade A plants must be completed at least once every three months. A pasteurization plant requesting Grade A inspection must pay an annual inspection fee of no more than \$500.

(b) Inspections of manufacturing plants that process milk or milk products other than Grade A must be completed at least once every six months. A manufacturing plant that pasteurizes milk or milk by-products must pay an annual fee based on the number of pasteurization units. The fee must not exceed \$140 per unit.

Sec. 16. **[32D.11] PROCUREMENT FEE.**

A dairy plant operator in this state must pay to the commissioner on or before the 18th of each month a fee of 1.1 cents per hundredweight of milk purchased the previous month. If a milk producer in this state ships milk out of the state for sale, the producer must pay the fee to the commissioner unless the purchaser voluntarily pays the fee. Producers who ship milk out of state and processors must submit to the commissioner monthly reports related to milk purchases along with the appropriate procurement fee. The commissioner shall have access to all relevant purchase or sale records as necessary to verify compliance with this section and may require the producer or purchaser to produce records as necessary to determine compliance.

Sec. 17. **[32D.12] SELECTED PRODUCTS FEE.**

(a) A manufacturer must pay to the commissioner a fee for fluid milk processed and milk used in the manufacture of fluid milk products sold for retail sale in Minnesota in an amount not less than five cents and not more than nine cents per hundredweight as set by the commissioner's order. No change within any 12-month period may be in excess of one cent per hundredweight.

(b) A processor must report quantities of milk processed under paragraph (a) on forms provided by the commissioner. Processor fees must be paid monthly. The commissioner may require the production of records as necessary to determine compliance with this paragraph.

(c) The commissioner may create within the department a dairy consulting program to provide assistance to dairy producers who are experiencing problems meeting the sanitation and quality requirements of the dairy laws and rules. The commissioner may use money appropriated from the dairy services account to pay for the program authorized in this paragraph.

Sec. 18. **[32D.13] MILK QUALITY STANDARDS.**

Subdivision 1. **Visible adulteration or odors.** Milk shall not be visibly adulterated, or have any objectionable odor, or be abnormal in appearance or consistency.

Subd. 2. **Grade A raw milk.** (a) The bacterial count of Grade A raw milk from producers must not exceed 100,000 bacteria per milliliter prior to commingling with other producer milk.

(b) After commingling with other producer milk, the bacteria count must not exceed 300,000 per milliliter prior to pasteurization.

Subd. 3. **Grade A pasteurized milk and fluid milk products.** (a) The bacterial count of Grade A pasteurized milk and fluid milk products, at any time after pasteurization until delivery, must not exceed 20,000 bacteria per milliliter.

(b) The coliform count of Grade A pasteurized milk and fluid milk products must not exceed ten bacteria per milliliter except that bulk tank transport shipments must not exceed 100 per milliliter.

Subd. 4. **Raw milk, other than Grade A.** The bacterial count of raw milk other than Grade A from producers must not exceed 500,000 bacteria per milliliter prior to commingling with other producer milk.

Subd. 5. **Pasteurized milk, other than Grade A.** The bacterial count of pasteurized milk other than Grade A pasteurized milk, at any time after pasteurization until delivery, must not exceed 20,000 bacteria per milliliter.

Subd. 6. **Exceptions.** Bacterial count standards do not apply to sour cream, cultured buttermilk, and other cultured fluid milk products.

Subd. 7. **Rules and standards.** The commissioner may prescribe standards and rules adopted in accordance with law more stringent than those imposed by this section.

Subd. 8. **Somatic cell count.** (a) The somatic cell count, as determined by a direct microscopic somatic cell count or an electronic somatic cell count, must not exceed 750,000 cells per milliliter for Grade A raw milk and raw milk other than Grade A. Notwithstanding any federal standard, the somatic cell count of goat milk must not exceed 1,500,000 cells per milliliter.

(b) The commissioner may prescribe standards and rules adopted in accordance with law more stringent than those imposed by this subdivision.

Subd. 9. **Temperature.** If milk is received or collected from a dairy farm more than two hours after the most recent milking, the temperature of the milk shall not exceed 45 degrees Fahrenheit (7 degrees Celsius). If the milk consists of a blend of milk from two or more milkings, and the milk is received or collected less than two hours after the most recent milking, the blend temperature shall not exceed 50 degrees Fahrenheit (10 degrees Celsius).

Subd. 10. **Industry enforcement.** A dairy plant is not required to reject milk shipments in response to a violation of subdivisions 2 to 9 unless the commissioner suspends or revokes the dairy plant permit or milk producer's Grade A permit or manufacturing grade certification.

Sec. 19. [32D.14] OFFICIAL PRODUCER SAMPLES.

(a) An official producer sample for each producer must be analyzed for bacteria, somatic cell count, temperature, and antibiotic residues at least once per month in four out of every six months. Official producer samples must be collected and analyzed without providing the producer with prior notification of the sampling date.

(b) Official producer sample results must be inclusive of all animals from which milk is collected and sold on the day of sampling.

(c) Official producer sample results must be collected by a licensed sampler.

Sec. 20. [32D.15] MONTHLY REPORTING.

(a) In at least four out of every six months, the dairy plant that procures milk from the producer must report to the commissioner at least one representative test result for bacteria, somatic cell count, temperature, and antibiotic residues. The result shall be reported within seven days after the laboratory obtains the test results.

(b) A laboratory that performs the tests required under this section for a dairy plant may report the test results for the dairy plant.

(c) A dairy plant or laboratory shall report test results under this section in an electronic form approved by the department or using an approved alternative.

Sec. 21. [32D.16] ENFORCEMENT.

The commissioner shall suspend a producer's permit or certification if three of the last five official producer samples exceed the applicable standard. The commissioner shall provide warning of a pending suspension when two of the last four producer samples exceed the applicable standard.

Sec. 22. [32D.17] LABORATORY CERTIFICATION.

(a) A laboratory and its methods are required to be approved or certified prior to testing Grade A milk samples. The results of approved or certified laboratories may be used by official regulatory agencies in enforcement of requirements for milk and milk products. The approval or certification remains valid unless suspended or revoked by the commissioner for failure to comply with the requirements of this chapter.

(b) Certified or approved laboratories must receive a permit from the commissioner. The permit remains valid without renewal unless suspended or revoked by the commissioner for failure to comply with the requirements of this chapter.

(c) Satisfactory analytical procedures and results for split samples, the nature, number, and frequency of which shall be in accordance with rules established by the commissioner, shall be required of a certified laboratory for retention of its certification and permit.

(d) An application for initial certification or biennial recertification, or for recertification following suspension or revocation of a permit, shall be accompanied by an annual fee based on the number of analyses approved and the number of specific tests for which they are approved. The fee must not be less than \$150 nor more than \$200 for each analysis approved and not less than \$35 nor more than \$50 for each test approved. The commissioner may annually adjust assessments within the limits established by this subdivision to meet the cost recovery of the services required by this section.

Sec. 23. **[32D.18] MILK BOUGHT BY WEIGHT; TESTING METHODS.**

Subdivision 1. **Milk fat, protein, and solids not fat bases of payment; tests.** (a) Milk must be purchased from producers using a formula based on one or more of the following:

(1) payment of a standard rate with uniform differentials for milk testing above or below 3.5 percent milk fat;

(2) payment of a standard rate for the pounds of milk fat contained in the milk;

(3) payment of a standard rate for the pounds of protein contained in the milk;

(4) payment of a standard rate for the pounds of nonfat solids contained in the milk; or

(5) payment of standard rates based on other attributes of value in the milk.

(b) In addition, an adjustment may be made on the basis of milk quality and other premiums. Testing procedures for determining the percentages of milk fat, protein, and nonfat solids must comply with the methods approved by the Association of Analytical Chemists or be as adopted by rule.

Subd. 2. **Apparatus to conform to specifications.** Glassware, test bottles, pipettes, acid measures, chemicals, scales, and other apparatus used in the operation of these tests shall conform to the specifications for the particular test method.

Subd. 3. **Penalties for violations.** A person who:

(1) employs any test other than those tests authorized by rule adopted by the commissioner, or any methods other than the standard official methods for determining the milk fat content of milk or cream;

(2) incorrectly samples milk or cream purchased or sold;

(3) incorrectly weighs milk or cream purchased or sold;

(4) incorrectly grades milk or cream purchased or sold;

(5) makes a false entry of the weight, test result, or grade of any milk or cream purchased or sold;

(6) incorrectly samples, weighs, tests, or records or reports weights or tests of skim milk or buttermilk purchased or sold;

(7) underreads the tests;

(8) falsifies the reading of the tests;

(9) manipulates the reading of the tests; or

(10) falsely states, certifies, or uses in the purchase or sale of milk or cream a misreading of such tests, whether the tests or actual reading have been made by the person or by any other person, is guilty of a misdemeanor.

Sec. 24. **[32D.19] ADULTERATED DAIRY PRODUCTS.**

Subdivision 1. **Purchase and sale prohibition.** A person may not sell or knowingly buy adulterated dairy products.

Subd. 2. **Manufacture of food for human consumption from adulterated milk or cream prohibited.** An article of food for human consumption may not be manufactured from adulterated milk or cream, except as provided in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., and related federal regulations.

Subd. 3. **Adulterated milk.** For purposes of this section, milk is adulterated if it:

(1) is drawn in a filthy or unsanitary place;

(2) is drawn from unhealthy or diseased animals;

(3) contains water in excess of that normally found in milk;

(4) contains a substance that is not a normal constituent of the milk except as allowed in this chapter; or

(5) contains drug residues or other chemical or biological substances in amounts above the tolerances or safe levels established by rule.

Subd. 4. **Drug residues.** (a) Before processing milk, all bulk milk pickup tankers must be tested for the presence of beta lactam drug residues and for other residues as determined necessary by the commissioner. Milk received from a producer in other than a bulk milk pickup tanker is also subject to this section.

(b) Bulk milk tankers that confirm positive for beta lactam drug residues or other residues must follow up with producer sample testing of all producers contained on the positive load.

(c) Individual producer samples must be tested for the presence of beta lactam drug residues at least once a month for four out of every six-month period. Results of these tests must be reported to the commissioner as official producer sample results using established electronic reporting procedures.

(d) Drug residue testing methods must be those approved by the Food and Drug Administration (FDA) and the National Conference of Interstate Milk Shipments or listed in the FDA's current version of M-a-85.

(e) All drug residue samples testing positive must be reported to the commissioner or the commissioner's designee within 24 hours. The report must include how and where the milk was disposed of, and the volume, the responsible producer, and the possible cause of the violative residue. All milk sample residue results must be recorded and retained for six months by the receiving plant for examination by the commissioner or the commissioner's designee.

Subd. 5. **Penalties.** (a) The permit or certification of a milk producer identified as having a positive drug residue is immediately suspended. The producer must not ship milk while the permit or certification is suspended.

(b) The producer's permit or certification may be reinstated after being sampled by the commissioner or the commissioner's designee and testing negative on the sample.

(c) A milk producer may not change plants within 30 days, without permission of the commissioner, after receiving notification from the commissioner of a residue violation.

(d) The producer that is identified with the drug residue violation is responsible for the value of all milk on any load that tests positive for drug residues and any costs associated with its disposal. Payment shall be made to the purchaser of the milk.

(e) For the first and second violation within a 12-month period, the dairy producer must, within 30 days of the date of the residue:

(1) meet with the dairy inspector to review potential causes of the adulteration; and

(2) complete the designated drug residue prevention educational program with a licensed veterinarian and submit the signed certificate to the commissioner.

(f) Failure to comply with the requirements for the first and second violation listed in paragraph (e) may result in suspension of the producer's permit or certification until the conditions in paragraph (e) are met.

(g) For the third or subsequent violation within a 12-month period, the commissioner may initiate proceedings for further enforcement action, that may include a penalty of up to a 30-day permit or certification suspension. In lieu of a suspension, the producer may be assessed an administrative penalty of up to \$1,000 or the value of milk sold during the intended suspension period.

Subd. 6. **Other forms of adulteration.** A milk producer who violates subdivision 3 is subject to any of the following penalties:

(1) the permit or certification of a milk producer identified as having adulterated milk is immediately suspended. The producer may not ship milk while the permit or certification is suspended;

(2) the producer that is identified with the adulterated milk violation is responsible for the value of all milk on any load that is contaminated by the adulterant and any costs associated with its disposal. Payment shall be made to the purchaser of the milk;

(3) the producer's permit or certification may be reinstated after the commissioner receives adequate verification that the milk is no longer adulterated; and

(4) the commissioner may, after evaluation of the severity and repetitive nature of the adulteration, initiate additional enforcement action in the form of permit or certification suspension for up to 30 days or in lieu of suspension, an administrative penalty of up to \$1,000, or the value of the milk sold during the intended suspension period for each violation.

Subd. 7. **Civil penalty.** A person other than a milk producer who causes milk to be adulterated is subject to a civil penalty of up to \$1,000.

Subd. 8. **Appeals.** A dairy producer may appeal an adulteration violation by sending written notice to the commissioner within ten days of receipt of the notice of a violation. The appeal must contain a description of why the producer wishes to appeal the violation.

Sec. 25. [32D.20] LIMITATION ON SALE.

Subdivision 1. **Pasteurization.** No milk or fluid milk products shall be sold, offered or exposed for sale, or held in possession for sale for the purpose of human consumption in fluid form in this state unless the milk or fluid milk product has been pasteurized, as defined in section 32D.01, subdivision 15, and cooled, provided that this section shall not apply to milk, cream, or skim milk occasionally secured or purchased for personal use by a consumer at the place or farm where the milk is produced.

Subd. 2. **Labels.** (a) Pasteurized milk or fluid milk products offered or exposed for sale or held in possession for sale shall be labeled or otherwise designated as pasteurized milk or pasteurized fluid milk products, and in the case of fluid milk products the label shall also state the name of the specific product.

(b) Milk and dairy products must be labeled with the plant number where the product was produced, or if produced in a state where official plant numbers are not assigned, the name of the manufacturer and the address of the plant where it was manufactured.

Sec. 26. [32D.21] COOLING AFTER PASTEURIZATION.

Immediately following pasteurization, all milk and fluid milk products shall be cooled in properly operated equipment approved by the commissioner to a temperature of 45 degrees Fahrenheit or lower, and maintained at 45 degrees Fahrenheit or lower until delivered; provided, however, that if the milk or fluid milk product is to be cultured immediately after pasteurization, then cooling may be delayed until after the culturing process is completed; provided further that the commissioner may prescribe by rule standards more stringent than those imposed by this section.

Sec. 27. [32D.22] MANUFACTURE OF CHEESE; REQUIREMENTS IN PROCESS.

No person, firm, or corporation shall manufacture, transport, sell, offer, or expose for sale or have in possession with intent to sell at retail to a consumer any cheese that has not been (1) manufactured from milk or milk products that have been pasteurized; (2) subjected to a heat treatment equivalent to pasteurization during the process of manufacturing or processing; or (3) subjected to an aging process where it has been kept for at least 60 days after manufacture at a temperature no lower than 35 degrees Fahrenheit.

Sec. 28. [32D.23] RECOMBINANT BOVINE GROWTH HORMONE LABELING.

Subdivision 1. **Labeling.** Products offered for wholesale or retail sale in this state that contain milk, cream, or any product or by-product of milk or cream that have been processed and handled pursuant to this section may be labeled with an rBGH statement that is not false or misleading and in accordance with the federal labeling standards. Products offered for wholesale or retail sale in this state need not contain any further label information relative to the use of rBGH in milk production.

Subd. 2. **Affidavit; records.** (a) A dairy plant purchasing milk or cream to be used in products labeled with rBGH claims pursuant to subdivision 1 must provide an affidavit from each producer that states that all cows used in the producer's dairy operations have not and will not be treated with rBGH, without advanced written notice of at least 30 days.

(b) The affidavit must be signed by the producer or authorized representative. Affidavits must be kept on file for not less than two years after receiving written notice that rBGH use status will change.

(c) If a plant chooses to process and handle only milk or milk products sourced from cows who have not been treated with rBGH, the plant, as an alternative to providing individual producer affidavits, may provide one affidavit to certify that the plant has procedures in place to verify that all producers are not using rBGH. A copy of the written procedure that describes this verification process must also be provided with the plant affidavit.

(d) All affidavits and corresponding records must be available for inspection by the commissioner.

(e) Dairy plants supplying milk or cream to a processor or manufacturer of a product to be labeled pursuant to subdivision 1, for use in that product, shall supply a certification to that processor or manufacturer stating that producers of the supplied milk or cream have executed and delivered affidavits pursuant to this subdivision.

Subd. 3. **Separation of nontreated cows and milk.** Milk or cream from non-rBGH-treated cows used in manufacturing or processing of products labeled pursuant to subdivision 1 must be kept fully separate from any other milk or cream through all stages of storage, transportation, and processing until the milk or resulting dairy products are in final packaged form in a properly labeled container. Records of the separation must be kept by the dairy plant and product processor or manufacturer at all stages and made available to the commissioner for inspection.

Sec. 29. **[32D.24] DAIRY TRADE PRACTICES; DEFINITIONS.**

Subdivision 1. **Application.** The definitions in this section apply to sections 32D.24 to 32D.28.

Subd. 2. **Basic cost.** (a) "Basic cost," for a processor, means the actual cost of the raw milk plus 75 percent of the actual processing and handling costs for a selected class I or class II dairy product.

(b) Basic cost, for a wholesaler, means the actual cost of the selected class I or class II dairy product purchased from the processor or another wholesaler.

(c) Basic cost, for a retailer, means the actual cost of the selected class I or class II dairy product purchased from a processor or wholesaler.

Subd. 3. **Bona fide charity.** "Bona fide charity" means a corporation, trust, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Subd. 4. **Processor.** "Processor" means a person engaged in manufacturing or processing selected class I or class II dairy products in the person's own plant for sale in Minnesota.

Subd. 5. **Producer.** "Producer" means a person who operates a dairy herd or herds in Minnesota producing milk or cream commercially and whose milk or cream is sold to, or received or handled

by, a distributor or processor. Producer does not include an incorporated or unincorporated association of producers.

Subd. 6. **Responsible person.** "Responsible person" means the business entity that makes payment to an individual Grade A or Grade B milk producer.

Subd. 7. **Selected class I dairy products.** "Selected class I dairy products" means milk for human consumption in fluid form and all other class I dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1030.40, or successor orders.

Subd. 8. **Selected class II dairy products.** "Selected class II dairy products" means milk for human consumption processed into fluid cream, eggnog, yogurt, and all other class II dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1030.40, or successor orders.

Subd. 9. **Sell at retail; sale at retail; retail sales.** "Sell at retail," "sale at retail," or "retail sales" means a retail sale or offer for retail sale of a selected class I or class II dairy product for ultimate consumption or use.

Subd. 10. **Sell at wholesale; sale at wholesale; wholesale sales.** "Sell at wholesale," "sale at wholesale," or "wholesale sales" means sale or offer for sale of a selected class I dairy product for purposes of resale or further processing or manufacturing but does not include a producer selling or delivering milk to a processor.

Subd. 11. **Wholesaler.** "Wholesaler" means a person including a distributor in the business of making sales of selected class I or class II dairy products at wholesale in Minnesota. In the case of a person making sales at both retail and wholesale, wholesaler applies only to the sales at wholesale.

Sec. 30. **[32D.25] DUTIES AND POWERS OF COMMISSIONER; DATA PRIVACY.**

Subdivision 1. **Duties; rules.** The commissioner shall adopt rules to implement and administer sections 32D.24 to 32D.28.

Subd. 2. **Data privacy.** Financial and production information received by the commissioner on processors, wholesalers, or retailers, including but not limited to financial statements, fee reports, price schedules, cost documentation, books, papers, records, or other documentation for the purpose of administration and enforcement of this chapter is classified private data or nonpublic data pursuant to chapter 13. The classification shall not limit the use of the information in the preparation, institution, or conduct of a legal proceeding by the commissioner in enforcing this chapter.

Sec. 31. **[32D.26] SALES BELOW COST PROHIBITED; EXCEPTIONS.**

Subdivision 1. **Policy; processors; wholesalers; retailers.** (a) It is the intent of the legislature to accomplish partial deregulation of milk marketing with a minimum negative impact on small-volume retailers.

(b) A processor or wholesaler may not sell or offer for sale selected class I or class II dairy products at a price lower than the processor's or wholesaler's basic cost.

(c) A retailer may not sell or offer for sale selected class I or class II dairy products at a retail price lower than (1) 105 percent of the retailer's basic cost until June 30, 1994; and (2) the retailer's

basic cost beginning July 1, 1994, and thereafter. A retailer may not use any method or device in the sale or offer for sale of a selected dairy product that results in a violation of this section.

Subd. 2. **Exceptions.** The minimum processor, wholesaler, and retailer prices of subdivision 1 do not apply:

(1) to a sale complying with section 325D.06;

(2) to a retailer giving away selected class I and class II dairy products for free if the customer is not required to make a purchase; or

(3) to a processor, wholesaler, or retailer giving away selected class I and class II dairy products for free or at a reduced cost to a bona fide charity.

Sec. 32. **[32D.27] REDRESS FOR INJURY OR THREATENED INJURY.**

A person injured by a violation of sections 32D.24 to 32D.28 may commence a legal action based on the violation in a court of competent jurisdiction and may recover economic damages and the costs of the action, including reasonable attorney fees. A person injured or who is threatened with injury or loss by reason of violation of sections 32D.24 to 32D.28 may commence a legal action based on the violation and obtain injunctive relief in a court of competent jurisdiction against persons involved in a violation or threatened violation of sections 32D.24 to 32D.28 to prevent and restrain violations or threatened violations of sections 32D.24 to 32D.28 without alleging or proving actual damages or that an adequate remedy at law does not exist, so that injunctive relief can be obtained promptly and without awaiting evidence of injury or actual damage. The injunctive relief does not abridge and is not in lieu of any other civil remedy provided in sections 32D.24 to 32D.28.

Sec. 33. **[32D.28] ANNUAL SUSPENSION OF DAIRY TRADE PRACTICES ACT.**

The provisions of section 32D.26 are suspended during the month of June each year in honor of "Dairy Month."

Sec. 34. Minnesota Statutes 2016, section 34A.01, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A, 29, 30, 31, 31A, ~~32~~ 32D, and 34 apply to this chapter. The definitions in this section apply to chapter ~~32~~ 32D.

Sec. 35. **REPEALER.**

Minnesota Statutes 2016, sections 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, and 12; 32.021; 32.071; 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105; 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, and 3; 32.392; 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11, and 12; 32.395; 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, and 5; 32.415; 32.416; 32.475; 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55, subdivisions 1, 2, 3, 4, 5, 12, 13, and 14; 32.555; 32.56; 32.61; 32.62; 32.63; 32.64; 32.645; 32.70; 32.71; 32.72; 32.74; 32.745; 32.75; and 32.90, are repealed.

Presented to the governor May 26, 2017

Signed by the governor May 30, 2017, 4:22 p.m.