

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1178

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DATE	D-PG	OFFICIAL STATUS
02/02/2023	601	Introduction and first reading Referred to Agriculture, Broadband, and Rural Development

1.1 A bill for an act

1.2 relating to agriculture; modifying provisions pertaining to incentives for advanced

1.3 biofuel, renewable chemical, and biomass thermal production; appropriating money;

1.4 amending Minnesota Statutes 2022, sections 41A.16, subdivisions 1, 2; 41A.17,

1.5 subdivisions 1, 2; 41A.18, subdivisions 1, 2; proposing coding for new law in

1.6 Minnesota Statutes, chapter 41A; repealing Minnesota Statutes 2022, sections

1.7 41A.16, subdivision 7; 41A.17, subdivision 6; 41A.18, subdivision 6.

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

1.9 Section 1. Minnesota Statutes 2022, section 41A.16, subdivision 1, is amended to read:

1.10 Subdivision 1. ~~Eligibility for participants on or before April 1, 2023.~~ (a) A facility

1.11 eligible for payment under this section must source from Minnesota at least 80 percent of

1.12 the biomass used to produce an advanced biofuel, except that, if a facility is sited 50 miles

1.13 or less from the state border, biomass used to produce an advanced biofuel may be sourced

1.14 from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from

1.15 within a 100-mile radius of the facility or from within Minnesota. The facility must be

1.16 located in Minnesota, must begin production at a specific location on or before ~~April 1~~ June

1.17 30, 2023, and must not begin operating above 23,750 MMbtu of quarterly advanced biofuel

1.18 production before July 1, 2015. Eligible facilities include existing companies and facilities

1.19 that are adding advanced biofuel production capacity, or retrofitting existing capacity, as

1.20 well as new companies and facilities. Production of conventional corn ethanol and

1.21 conventional biodiesel is not eligible. Eligible advanced biofuel facilities must produce at

1.22 least 1,500 MMbtu of advanced biofuel quarterly.

1.23 (b) No payments shall be made for advanced biofuel production that occurs after June

1.24 30, 2035, for those eligible biofuel producers under paragraph (a).

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

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

2.5 (e) Renewable chemical production for which payment has been received under section
2.6 41A.17, and biomass thermal production for which payment has been received under section
2.7 41A.18, are not eligible for payment under this section.

2.8 (f) Biobutanol is eligible under this section.

2.9 **EFFECTIVE DATE.** This section is effective retroactively from March 31, 2023.

2.10 Sec. 2. Minnesota Statutes 2022, section 41A.16, subdivision 2, is amended to read:

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

2.16 (b) Total payments under this section to an eligible biofuel producer in a fiscal year may
2.17 not exceed the amount necessary for 2,850,000 MMBtu of biofuel production. Total payments
2.18 under this section to all eligible biofuel producers in a fiscal year may not exceed the amount
2.19 necessary for 17,100,000 MMBtu of biofuel production. If the total amount for which all
2.20 producers are eligible in a quarter exceeds the amount available for payments, the
2.21 commissioner shall make the payments on a pro rata basis. An eligible producer may reapply
2.22 for payment, and the commissioner must pay, the difference between a claim for payment
2.23 filed under subdivision 6 and the pro rata amount received:

2.24 (1) until the full amount of the original claim is paid; and

2.25 (2) subject to available money appropriated for the express purpose of paying claims
2.26 not otherwise paid.

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

2.29 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2020, and
2.30 applies to claims filed after January 1, 2020.

3.1 Sec. 3. Minnesota Statutes 2022, section 41A.17, subdivision 1, is amended to read:

3.2 Subdivision 1. ~~Eligibility for participants on or before April 1, 2023.~~ (a) A facility
3.3 eligible for payment under this section must source from Minnesota at least 80 percent of
3.4 the biomass used to produce a renewable chemical, except that, if a facility is sited 50 miles
3.5 or less from the state border, biomass used to produce a renewable chemical may be sourced
3.6 from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from
3.7 within a 100-mile radius of the facility or from within Minnesota. The facility must be
3.8 located in Minnesota, must begin production at a specific location on or before ~~April 1~~ June
3.9 30, 2023, and must not begin production of 250,000 pounds of chemicals quarterly before
3.10 January 1, 2015. Eligible facilities include existing companies and facilities that are adding
3.11 production capacity, or retrofitting existing capacity, as well as new companies and facilities.
3.12 Eligible renewable chemical facilities must produce at least 250,000 pounds of renewable
3.13 chemicals quarterly. Renewable chemicals produced through processes that are fully
3.14 commercial before January 1, 2000, are not eligible.

3.15 (b) No payments shall be made for renewable chemical production that occurs after June
3.16 30, 2035, for those eligible renewable chemical producers under paragraph (a).

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

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

3.21 (e) Advanced biofuel production for which payment has been received under section
3.22 41A.16, and biomass thermal production for which payment has been received under section
3.23 41A.18, are not eligible for payment under this section.

3.24 **EFFECTIVE DATE.** This section is effective retroactively from March 31, 2023.

3.25 Sec. 4. Minnesota Statutes 2022, section 41A.17, subdivision 2, is amended to read:

3.26 Subd. 2. **Payment amounts; bonus; limits.** (a) The commissioner shall make payments
3.27 to eligible producers of renewable chemicals located in the state. The amount of the payment
3.28 for each producer's annual production is \$0.03 per pound of sugar-derived renewable
3.29 chemical, \$0.03 per pound of cellulosic sugar, starch, oil, or animal fat, and \$0.06 per pound
3.30 of cellulosic-derived renewable chemical produced at a specific location for ten years after
3.31 the start of production.

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

4.4 (c) Total payments under this section to an eligible renewable chemical producer in a
 4.5 fiscal year may not exceed the amount necessary for 99,999,999 pounds of renewable
 4.6 chemical production. Total payments under this section to all eligible renewable chemical
 4.7 producers in a fiscal year may not exceed the amount necessary for 599,999,999 pounds of
 4.8 renewable chemical production. If the total amount for which all producers are eligible in
 4.9 a quarter exceeds the amount available for payments, the commissioner shall make the
 4.10 payments on a pro rata basis. An eligible producer may reapply for payment, and the
 4.11 commissioner must pay, the difference between a claim for payment filed under subdivision
 4.12 5 and the pro rata amount received:

4.13 (1) until the full amount of the original claim is paid; and

4.14 (2) subject to available money appropriated for the express purpose of paying claims
 4.15 not otherwise paid.

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

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

4.21 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2020, and
 4.22 applies to claims filed after January 1, 2020.

4.23 Sec. 5. Minnesota Statutes 2022, section 41A.18, subdivision 1, is amended to read:

4.24 Subdivision 1. ~~Eligibility for participants on or before April 1, 2023.~~ (a) A facility
 4.25 eligible for payment under this section must source from Minnesota at least 80 percent of
 4.26 the biomass used for biomass thermal production, except that, if a facility is sited 50 miles
 4.27 or less from the state border, biomass used for biomass thermal production may be sourced
 4.28 from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from
 4.29 within a 100-mile radius of the facility, or from within Minnesota. Biomass must be from
 4.30 agricultural or forestry sources. The facility must be located in Minnesota, must have begun
 4.31 production at a specific location on or before ~~April 1~~ June 30, 2023, and must not begin
 4.32 before July 1, 2015. Eligible facilities include existing companies and facilities that are
 4.33 adding production capacity, or retrofitting existing capacity, as well as new companies and

5.1 facilities. Eligible biomass thermal production facilities must produce at least 250 MMbtu
5.2 of biomass thermal quarterly.

5.3 (b) No payments shall be made for biomass thermal production that occurs after June
5.4 30, 2035, for those eligible biomass thermal producers under paragraph (a).

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

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

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

5.13 **EFFECTIVE DATE.** This section is effective retroactively from March 31, 2023.

5.14 Sec. 6. Minnesota Statutes 2022, section 41A.18, subdivision 2, is amended to read:

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

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

5.22 (c) Total payments under this section to an eligible thermal producer in a fiscal year
5.23 may not exceed the amount necessary for 30,000 MMbtu of thermal production. Total
5.24 payments under this section to all eligible thermal producers in a fiscal year may not exceed
5.25 the amount necessary for 150,000 MMbtu of total thermal production. If the total amount
5.26 for which all producers are eligible in a quarter exceeds the amount available for payments,
5.27 the commissioner shall make the payments on a pro rata basis. An eligible producer may
5.28 reapply for payment, and the commissioner must pay, the difference between a claim for
5.29 payment filed under subdivision 5 and the pro rata amount received:

5.30 (1) until the full amount of the original claim is paid; and

5.31 (2) subject to available money appropriated for the express purpose of paying claims
5.32 not otherwise paid.

6.1 (d) An eligible facility may blend a cellulosic feedstock with other fuels in the biomass
6.2 thermal production facility, but only the percentage attributable to biomass meeting the
6.3 cellulosic forestry biomass requirements or agricultural cellulosic biomass sourcing plan is
6.4 eligible to receive payment.

6.5 (e) When a facility is eligible due to adding production capacity or retrofitting existing
6.6 capacity, the entire amount of biomass meeting the cellulosic forestry biomass requirements
6.7 or agricultural cellulosic biomass sourcing plan is assumed to have been used for the biomass
6.8 thermal production from the added or retrofitted production capacity.

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

6.11 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2020, and
6.12 applies to claims filed after January 1, 2020.

6.13 Sec. 7. **[41A.185] APPROPRIATION; INCENTIVE PAYMENTS.**

6.14 (a) In fiscal year 2023 through fiscal year 2036, a sum sufficient to make the payments
6.15 required under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18, not to exceed
6.16 \$15,000,000 in a fiscal year, is annually appropriated from the general fund to the
6.17 commissioner of agriculture.

6.18 (b) This section expires June 30, 2036.

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

6.20 Sec. 8. **APPROPRIATION; UNPAID CLAIMS.**

6.21 \$10,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner
6.22 of agriculture for the express purpose of paying claims not previously paid under Minnesota
6.23 Statutes, sections 41A.16, 41A.17, and 41A.18. This is a onetime appropriation. The
6.24 commissioner must pay all claims no later than June 30, 2023.

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

6.26 Sec. 9. **REPEALER.**

6.27 Minnesota Statutes 2022, sections 41A.16, subdivision 7; 41A.17, subdivision 6; and
6.28 41A.18, subdivision 6, are repealed.

41A.16 ADVANCED BIOFUEL PRODUCTION INCENTIVE.

Subd. 7. **Eligibility for participants after April 1, 2023.** (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 agricultural or forestry sources or from solid waste. The facility must be located in Minnesota, must begin production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin operating above 23,750 MMbtu of quarterly biofuel production before July 1, 2015. Eligible facilities include existing companies and facilities that are adding advanced biofuel production capacity, or retrofitting existing capacity, as well as new companies and facilities. Production of conventional corn ethanol and conventional biodiesel is not eligible. Eligible advanced biofuel facilities must produce at least 23,750 MMbtu of biofuel quarterly.

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

(c) An eligible producer of advanced biofuel shall not transfer the producer's eligibility for payments under this section to an advanced biofuel 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.

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

(f) Biobutanol is eligible under this section.

41A.17 RENEWABLE CHEMICAL PRODUCTION INCENTIVE.

Subd. 6. **Eligibility for participants after April 1, 2023.** (a) A facility eligible for payment under this program must source at least 80 percent biobased content from Minnesota. For the purposes of this subdivision, "biobased content" means a chemical, polymer, monomer, or plastic that is not sold primarily for use as food, feed, or fuel and that has a biobased percentage of at least 51 percent as determined by testing representative samples using American Society for Testing and Materials specification D6866. If a facility is sited 50 miles or less from the state border, biobased content must be sourced from within a 100-mile radius. Biobased content must be from agricultural or forestry sources or from solid waste. The facility must be located in Minnesota, must begin production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin production of 750,000 pounds or more of chemicals quarterly before January 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible renewable chemical facilities must produce at least 750,000 pounds of renewable chemicals quarterly. Renewable chemicals produced through processes that are fully commercial before January 1, 2000, are not eligible.

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

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

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

41A.18 BIOMASS THERMAL PRODUCTION INCENTIVE.

Subd. 6. **Eligibility for participants after April 1, 2023.** (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 should be sourced from within a 100-mile radius. Raw materials must be from agricultural or forestry sources. The facility must be located in Minnesota, must have begun production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin before July 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible biomass thermal production facilities must produce at least 250 MMbtu of biomass thermal quarterly.

APPENDIX
Repealed Minnesota Statutes: 23-02619

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

(c) An eligible producer of biomass thermal production shall not transfer the producer's eligibility for payments under this section to a biomass thermal production 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.

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