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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1348**

February 26, 2007

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

A bill for an act

relating to agriculture; replacing the ethanol producer payment program with a need-based, market-driven subsidy; amending Minnesota Statutes 2006, section 41A.09, subdivision 2a, by adding subdivisions; repealing Minnesota Statutes 2006, section 41A.09, subdivision 3a.

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

Section 1. Minnesota Statutes 2006, section 41A.09, subdivision 2a, is amended to read:

Subd. 2a. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources, that:

(1) meets all of the specifications in ASTM specification D4806-04a; and

(2) is denatured as specified in Code of Federal Regulations, title 27, parts 20 and 21.

(b) "Ethanol plant" means a plant at which ethanol is produced.

(c) "Commissioner" means the commissioner of agriculture.

(d) "Rural economic infrastructure" means the development of activities that will enhance the value of cellulosic biomass, agricultural crop<sub>2</sub> or livestock commodities or by-products or waste from farming operations through new and improved value-added conversion processes and technologies, the development and demonstration of promising bioenergy technology, the development of more timely and efficient infrastructure delivery systems, and the enhancement of marketing opportunities. "Rural economic infrastructure" also means land, buildings, structures, fixtures, and improvements located

2.1 or to be located in Minnesota and used or operated primarily for the processing or the  
2.2 support of production of marketable products from agricultural commodities or wind  
2.3 energy produced in Minnesota.

2.4 Sec. 2. Minnesota Statutes 2006, section 41A.09, is amended by adding a subdivision  
2.5 to read:

2.6 Subd. 3b. **Market-based ethanol producer payments; deficiency payments.**

2.7 (a) The commissioner shall replace the state's remaining obligations under the ethanol  
2.8 producer payment program with a safety net subsidy, providing support for eligible  
2.9 ethanol producers only when market forces put the state's ethanol industry in jeopardy.

2.10 (b) The commissioner may make quarterly payments to producers eligible under the  
2.11 provisions of subdivision 3c. The commissioner shall use the formula in paragraph (c)  
2.12 to estimate the average per gallon margin for eligible producers in the preceding three  
2.13 months. If the commissioner estimates per gallon margins were positive, no market-based  
2.14 ethanol producer payments or deficiency payments may be paid. If the commissioner  
2.15 estimates per gallon profits were negative, market-based ethanol producer payments  
2.16 must be paid at a rate equal to the absolute value of the estimated per gallon loss, up  
2.17 to a maximum of 20 cents per eligible gallon produced. The commissioner may make  
2.18 market-based payments to eligible producers until June 30, 2010. If the estimated  
2.19 per gallon loss for the preceding three months is greater than 20 cents per gallon, the  
2.20 commissioner may also pay deficiency payments according to paragraph (d).

2.21 (c) The per gallon margin for eligible producers is presumed to equal the per gallon  
2.22 wholesale ethanol price, minus 38 cents, minus the product of 35 cents and the per  
2.23 bushel corn price. The source for the per gallon wholesale ethanol price is the average  
2.24 Minneapolis/St. Paul rack price for denatured ethanol in the preceding three months, as  
2.25 determined by the commissioner, minus ten cents per gallon. The source for the per bushel  
2.26 market corn price is the average price received by Minnesota farmers in the preceding  
2.27 three months as compiled by the Minnesota field office of the United States Department  
2.28 of Agriculture's National Agricultural Statistics Service.

2.29 (d) Deficiency payments must be paid at a rate equal to the lesser of:

2.30 (1) the per gallon rate that, when added to any market-based producer payments  
2.31 payable during the period, equals the per gallon loss estimated in paragraph (c); or

2.32 (2) seven cents per gallon.

2.33 Deficiency payments may be paid to eligible producers until June 30, 2013, or until  
2.34 accrued deficiency obligations under the ethanol producer payment program in effect prior  
2.35 to August 1, 2007, are paid in full, whichever comes first.

3.1 (e) An eligible producer who complies with the provisions of subdivision 3c is  
3.2 eligible to receive market-based payments for the first 15,000,000 gallons of ethanol  
3.3 produced annually. The commissioner shall make any required payments on February  
3.4 15, May 15, August 15, and November 15, according to the provisions in paragraph (b).  
3.5 A separate payment must be made for each claim filed. Notwithstanding paragraph (b),  
3.6 producer and deficiency payments made on August 15, 2007, must be paid according to  
3.7 the ethanol producer payment program in effect as of July 31, 2007.

3.8 (f) The commissioner may make direct payments to producers of rural economic  
3.9 infrastructure with up to \$5,000,000 of the amount of the annual appropriation for  
3.10 market-based ethanol producer payments and rural economic infrastructure that is in  
3.11 excess of the amount required to make market-based ethanol producer payments and  
3.12 deficiency payments under this subdivision. If an excess appropriation exists in any year  
3.13 after these rural economic infrastructure payments are made, the commissioner must remit  
3.14 the excess to the commissioner of finance for deposit in the state general fund.

3.15 Sec. 3. Minnesota Statutes 2006, section 41A.09, is amended by adding a subdivision  
3.16 to read:

3.17 Subd. 3c. **Eligible producers; reporting requirements.** (a) The commissioner may  
3.18 make quarterly market-based ethanol producer payments to producers of ethanol enrolled  
3.19 in the ethanol producer payment program as of July 31, 2007, and eligible under the  
3.20 provisions of that program to receive additional producer payments or deficiency payments  
3.21 accrued in previous fiscal years. Not including deficiency payments accrued in previous  
3.22 years, no producer is eligible for more than ten years of payments, including any ethanol  
3.23 producer payments and deficiency payments received before September 1, 2007, and any  
3.24 market-based ethanol producer payments and deficiency payments received after that date.

3.25 (b) Annually, within 90 days of the end of its fiscal year, an ethanol producer  
3.26 receiving payments under subdivision 3b must file a disclosure statement on a form  
3.27 provided by the commissioner. This disclosure statement must reflect noncumulative  
3.28 changes in ownership of ten percent or more of the entity during the preceding year and  
3.29 include both a summary description of the organization of the business structure of the  
3.30 claimant and a copy of its annual audited financial statements, including the auditor's  
3.31 report and footnotes. The report need not disclose the identity of the persons or entities  
3.32 eligible to farm or own agricultural land with ownership interests, individuals residing  
3.33 within 30 miles of the plant, or of any other entity with less than ten percent ownership  
3.34 interest, but the claimant must retain information within its files confirming the accuracy  
3.35 of the data provided. This data must be made available to the commissioner upon

4.1 request. By February 15 of each year the commissioner shall deliver to the chairs of the  
4.2 standing committees of the senate and the house of representatives with jurisdiction over  
4.3 agricultural policy and agricultural finance a report summarizing aggregated data from  
4.4 plants receiving payments under this section during the preceding calendar year. Audited  
4.5 financial statements and notes and disclosure statements submitted to the commissioner  
4.6 are nonpublic data under section 13.02, subdivision 9. Notwithstanding the provisions of  
4.7 chapter 13 relating to nonpublic data, summaries of the submitted audited financial reports  
4.8 and notes and disclosure statements must be contained in the report to the committee  
4.9 chairs and is public data.

4.10 Sec. 4. **REPEALER.**

4.11 Minnesota Statutes 2006, section 41A.09, subdivision 3a, is repealed.