Bill Summary

S.F. 958

First Unofficial Engrossment

Subject	State Government
Authors	Sundin, Ecklund, and others
Analyst	Colbey Sullivan
Date	April 22, 2021

Overview

This is the 2021 omnibus agriculture and broadband finance bill, as amended by the House of Representatives. It would appropriate funding in state fiscal years 2022 and 2023 to the Minnesota Department of Agriculture (MDA), the Board of Animal Health (BAH), the Agricultural Utilization Research Institute, and the Broadband Development Office at the Department of Employment and Economic Development.

Among other things, the bill would also increase pesticide gross sales fees, dedicate certain food safety revenues, modify and extend the Farmer-Lender Mediation Act, modify the Rural Finance Authority's Agroforestry Loan Program, and establish a program to upgrade fuel storage tanks and accessories for compatibility with certain ethanol- and biodiesel-blended fuels.

Article 1: Agriculture Appropriations

This article appropriates money to MDA, BAH, and the Agricultural Utilization Research Institute in state fiscal years 2022 and 2023. It also cancels a portion of MDA's previously-enacted fiscal year 2021 appropriations.

Section	Description – Article 1: Agriculture Appropriations
1	**Agriculture appropriations.** Provides boilerplate language regarding interpretation of the appropriation format used in this article.
2	**Department of Agriculture.** Appropriates general fund and remediation fund dollars to MDA for specified purposes. **Subd. 1. Total appropriation.** Denotes the total amount of money, by fund, appropriated to MDA in this bill.

Section	Description – Article 1: Agriculture Appropriations
	Subd. 2. Protection services. Appropriates general fund and remediation fund dollars for MDA's regulatory programs. Specifically, this subdivision provides funding for the following MDA divisions: Pesticide and Fertilizer Management, Laboratory Services, Plant Protection, Dairy and Meat Inspection, and Food and Feed Safety. **Subd. 3. Agricultural marketing and development.** Appropriates general fund dollars for MDA's Agricultural Marketing and Development Division. **Subd. 4. Agriculture, bioenergy, and bioproduct advancement.** Appropriates general fund dollars for specific programs and purposes within this budget category. **Subd. 5. Administration and financial assistance.** Appropriates general fund dollars for specified pass-through grants and agency administration.
3	**Board of Animal Health.** Appropriates general fund dollars to BAH.
4	**Agricultural Utilization Research Institute.** Appropriates general fund dollars to the Agricultural Utilization Research Institute.
5	**Cancellations.** Cancels a portion of previously-enacted fiscal year 2021 general fund appropriations to each of MDA's four budgetary program areas.
6	**Federal funds replacement; appropriation.** Requires Minnesota Management and Budget (MMB) to determine if the various programs and activities funded with state general fund dollars in this article are eligible uses of federal COVID-19 aid received by the state under the American Rescue Plan Act of 2021. If MMB determines that a program or activity is eligible, federal dollars would pay for that program or activity, rather than the state general fund. Requires MDA to report all cancellations, appropriations, and expenditures under this section no later than February 1, 2022.

Article 2: Agriculture Statutory Changes

This article makes various changes to the state's agriculture statutes, including establishing a dedicated account for the Emerging Farmer Working Group, modifying eligibility for the Good Food Access Program, increasing pesticide gross sales fees, dedicating certain food license revenues, modifying a license exemption for sellers of homemade cottage foods, extending and

modifying the Farmer-Lender Mediation Act, modifying the Rural Finance Authority's Agroforestry Loan Program, and creating a program to provide financial and technical assistance to upgrade below- and above-ground fuel storage tanks and accessories for compatibility with gasoline-ethanol blends containing more than 10 percent ethanol and diesel-biodiesel blends containing more than 20 percent biodiesel.

Section	Description – Article 2: Agriculture Statutory Changes
1	**Publicity representatives.** Adds MDA to a list of state agencies that may hire and compensate a publicist.
2	**Emerging farmer working group.** Authorizes MDA to accept money, services, gifts, or other assistance donated to the state to support the objectives of the Emerging Farmer Working Group. MDA would deposit monetary donations in the dedicated account created in the next section.
3	**Emerging farmer account.** Establishes a dedicated Emerging Farmer Account in the agricultural fund. Appropriates money in the account to MDA to further the objectives of the Emerging Farmer Working Group.
4	**Cooperative grants.** Requires MDA to establish and implement a grant program to provide up to $50,000 to eligible farmers for new cooperatives that process or market the farmers' agricultural products or market agricultural services. Establishes eligibility criteria, including that the agricultural commodities processed and/or marketed by the cooperative are produced primarily by the cooperative's own farmer-members.
5	**Eligible projects.** Modifies eligibility for MDA's Good Food Access Program. Eliminates a requirement that eligible food projects must be located in an underserved community or must serve primarily underserved communities in low-income and moderate-income areas, as defined in Minnesota Statutes, section 17.1017, subdivision 1.
6	**Qualifications for receipt of financing and other financial or technical assistance.** Modifies eligibility for MDA's Good Food Access Program. Eliminates the requirement that grocers and other Good Food Access Program applicants must agree to apply for the ability to accept Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits and, if approved, to accept WIC benefits.

Section	Description – Article 2: Agriculture Statutory Changes

7 **Eligibility.**

Modifies eligibility criteria for MDA's Sustainable Agriculture Demonstration Grant Program so that eligible projects would be those that satisfy one or more of the existing criteria in this section of statute.

8 **Registration application and gross sales fee.**

Increases the gross sales fee for agricultural (0.35 percentage point increase) and nonagricultural (0.4 percentage point increase) pesticides that pesticide product registrants and dealers pay to MDA annually. Under current law and this bill, MDA deposits these fees in the agricultural fund.

9 **Treated seed.**

Requires those who label and sell agricultural, vegetable, flower, or wildflower seed treated with a neonicotinoid pesticide to include a caution statement on the product label that includes specified text and an MDA-approved bee icon.

10 **Miscellaneous violations.**

Prohibits using or selling seed that is coated or treated with a neonicotinoid pesticide for food, feed, oil, or ethanol production.

11 **Prohibited disposal methods.**

Prohibits disposing of seed treated or coated with a neonicotinoid pesticide in a manner that is inconsistent with any directions or warnings provided on the seed label, or by burying near water, composting, or burning in a home or other dwelling.

12 **Food handler license account; appropriation.**

Creates a new dedicated account in the agricultural fund. Requires MDA to deposit food handler license fees in this new account and appropriates this revenue to MDA to pay for the agency's food handler licensing and inspection activities. Licensed food handlers include businesses such as grocery stores, convenience stores, bakeries, and food and beverage manufacturers. Under current law, MDA deposits this fee revenue in the general fund.

13 **Vending machine inspection account; appropriation.**

Creates a new dedicated account in the agricultural fund. Requires MDA to deposit vending machine inspection fee revenue in this new account and appropriates the money to MDA for vending machine identification and inspection activities. Under current law, MDA deposits this fee revenue in the general fund.

14 **Licensing provisions applicability.**

Authorizes a cottage food seller to include either their address or state registration number on the label that must be placed on their eligible homemade foods. Provides

Section	Description – Article 2: Agriculture Statutory Changes

that eligible home-processed pickles, vegetables, and fruits may have either a pH value of 4.6 or less or a water activity value of up to .85. Authorizes individuals who participate in the program to organize their cottage foods business entity in any manner recognized by state law (e.g., sole proprietorship, partnership, corporation, Limited Liability Company, etc.).

Under current law and this bill, most individuals and companies that sell food must obtain a state food handler license and be inspected by MDA or a delegated local health board. Eligible cottage food producers—i.e., individuals who sell homemade baked goods, canned goods, or other foods that pose a low risk of foodborne illness—are not required to obtain a food handler license but must register with MDA and satisfy certain labeling and training requirements

15 **Limitation on sales.**

Increases the annual gross sales limit for the cottage-foods license exemption from $18,000 to $78,000.

16 **Registration.**

Requires MDA to register cottage food sellers within 30 days of receiving a complete registration application and provides that after 30 days a completed registration is deemed to be accepted by MDA. Lowers the annual registration fee from $50 to $25. Provides that on January 1, 2022, and every five years thereafter MDA must adjust for inflation the existing registration fee exemption for those who sell less than $5,000 of cottage foods in a year.

17 **Training.**

Requires all individuals participating in the cottage foods program to complete an MDA-approved safe food handling course every three years and eliminates an existing provision allowing those with sales of $5,000 or less to complete a free online course and exam instead.

18 **Wild-game processor exemption.**

Exempts from state food handler license and permit requirements certain individuals who process wild game and fowl for the animal's owner. Eligible individuals would be required to meet certain criteria, including labeling the game or fowl products as "Not for Sale," registering annually with MDA, forgoing additional ingredients (e.g., spices, cheese, fat from other species), and selling no more than $20,000 of such wild game or fowl products each year. Although exempt from certain state food safety licenses and permits, these individuals would remain subject to local ordinances where applicable. Requires individuals who process deer harvested from a Chronic Wasting Disease (CWD) management zone to ensure the deer is tested for CWD and disposed of under the CWD adopt-a-dumpster program.

Section	Description – Article 2: Agriculture Statutory Changes
19	**Members; officers.** Adds two members to the Board of Animal Health, one veterinarian and one person who has knowledge of animal health and is a member of a federally recognized Tribe located in Minnesota. Specifies that at least one of the three veterinarians on the Board must be a small-animal veterinarian. Eliminates the requirement that Board members must be confirmed by the Minnesota Senate. Provides that the governor, not the Board, appoints the Board's executive director. Effective date: Specifies that this section takes effect on July 1, 2021, and the governor's duty to appoint the BAH executive director begins in 2022 with the appointment for state fiscal year 2023.
20	**Payment amounts; limits.** Authorizes advanced biofuel producers to reapply to MDA for additional funding under the Bioincentive Program if MDA previously awarded the producer less than the full statutory payment amount because program funding was insufficient to fully pay all eligible producers. Effective date: Effective retroactive to January 1, 2020, and applicable to claims filed with MDA after that date.
21	**Agricultural cellulosic biomass sourcing plan.** Modifies the Bioincentive Program to provide that companies producing advanced biofuel from corn kernel fiber or biogas are not required to submit a responsible biomass sourcing plan to MDA.
22	**Claims.** Requires advanced biofuel producers to certify to MDA that they will not use their Bioincentive payments to compensate a lobbyist.
23	**Payment amounts; bonus; limits.** Authorizes renewable chemical producers to reapply to MDA for additional funding under the Bioincentive Program if MDA previously awarded the producer less than the full statutory payment amount because program funding was insufficient to fully pay all eligible producers. Effective date: Effective retroactive to January 1, 2020, and applicable to claims filed with MDA after that date.

Section	Description – Article 2: Agriculture Statutory Changes

24 **Agricultural cellulosic biomass sourcing plan.**

Modifies the Bioincentive program to provide that companies producing renewable chemicals from corn kernel fiber or biogas are not required to submit a responsible biomass sourcing plan to MDA.

25 **Claims.**

Requires renewable chemical producers to certify to MDA that they will not use their Bioincentive payments to compensate a lobbyist.

26 **Payment amounts; bonus; limits; blending.**

Authorizes biomass thermal energy producers to reapply to MDA for additional funding under the Bioincentive program if MDA previously awarded the producer less than the full statutory payment amount because program funding was insufficient to fully pay all eligible producers.

Effective date: Effective retroactive to January 1, 2020, and applicable to claims filed with MDA after that date.

27 **Claims.**

Requires biomass thermal energy producers to certify to MDA that they will not use their Bioincentive payments to compensate a lobbyist.

28 **Report; incentive programs.**

Requires MDA to collect and report specified information for each producer of advanced biofuel, renewable chemical, or biomass thermal that receives a Bioincentive payment from MDA during the annual reporting period.

29 **Biofuels infrastructure financial assistance program.**

Establishes a new MDA program to, in cooperation with public and private partners, provide grants, loans, or other types of financial and technical assistance to fuel distributors to upgrade underground or above-ground storage tanks and related equipment for compatibility with gasoline-biofuel blends that contain more than 10 percent conventional biofuel (i.e., corn ethanol) or advanced biofuel, and diesel-biodiesel blends containing more than 20 percent biodiesel.

Subd. 1. Definitions. Defines key terms, including “biofuel,” “biodiesel fuel,” “financing,” “technical assistance,” and “transportation fuel storage and dispensing infrastructure.”

Subd. 2. Program established. Establishes the program and exempts MDA’s program actions from the rulemaking requirements of the Administrative Procedure Act.

Section	Description – Article 2: Agriculture Statutory Changes

Subd. 3. Biofuels infrastructure financial assistance account. Creates a new dedicated account for the program in the agricultural fund. Appropriates account dollars, regardless of source, to MDA for purposes of the program and requires MDA to leverage other forms of public and private assistance.

Subd. 4. Program administration. Requires MDA to administer the dedicated account for auditing purpose. Requires MDA to establish program requirements and a competitive process for awarding financial and technical assistance. Authorizes MDA to contract with qualified organizations to manage the financing and technical assistance aspects of the program. Requires MDA to determine each biennium what proportion of program funding will be allocated to loans, grants, technical assistance, and other forms of assistance. Requires MDA to convene and maintain a Biofuels Infrastructure Financial Assistance Program Advisory Committee to encourage public-private, cross-sector collaboration and investment and to ensure the program is implemented consistent with legislative intent. Requires MDA, in consultation with the Advisory Committee, to establish annual program monitoring and accountability mechanisms.

Subd. 5. Eligible projects. Requires MDA, in cooperation with the Biofuels Infrastructure Financial Assistance Program Advisory Committee, to establish project eligibility guidelines and application processes.

Subd. 6. Legislative report. Requires MDA to report to the legislature by January 15th each year and specifies metrics that MDA must include in the report.

30 **Biofuels Infrastructure Financial Assistance Program Advisory Committee.**

Establishes a Biofuels Infrastructure Financial Assistance Program Advisory Committee to advise MDA regarding the program established in the previous section.

Subd. 1. Definitions. Defines terms.

Subd. 2. Creation. Establishes the Committee consisting of up to 15 members appointed by the commissioner of agriculture and including agriculture, biofuel industry, and fuel retailer representatives.

Subd. 3. Duties. Requires the Committee to advise MDA regarding specified aspects of the Biofuels Infrastructure Financial Assistance Program.

Subd. 4. Meetings. Requires MDA to convene the Committee at least twice each year.

Subd. 5. Administrative support. Requires MDA to provide staffing, meeting space, and administrative services.

Section	Description – Article 2: Agriculture Statutory Changes

Subd. 6. Chair. Specifies that the commissioner of agriculture or the commissioner's designee will serve as the Committee's chair.

Subd. 7. Compensation. Requires public members of the Committee to serve without compensation or payment of expenses.

31 **Establishment.**

Modifies the Agroforestry Loan Program administered by the Rural Finance Authority (RFA). Eliminates RFA's authority to contract with a fiscal agent for program delivery.

32 **Definitions.**

Eliminates the definition of "fiscal agent" for the Agroforestry Loan Program.

33 **Loans.**

Authorizes RFA to work with participating private lenders, rather than a fiscal agent, to distribute agroforestry loans to eligible borrowers and limits RFA's share of the loan to 45 percent of the total principal. Authorizes RFA to require different interest rates and repayment terms for RFA's share of an agroforestry loan. Modifies security requirements so that borrowers are not required to pledge an interest in their land and pay corresponding recording fees. Eliminates language regarding RFA's ability to sell revenue bonds to raise funding for agroforestry loans. Funding for agroforestry loans would instead come from RFA's existing revolving loan account.

34 **Expiration.**

Extends the Farmer-Lender Mediation Act until June 30, 2027. Under current law the Act will expire on June 30, 2022.

Background: First enacted in 1986 in response to a farm credit crisis, the Farmer-Lender Mediation Act requires a bank or other creditor to offer mediation to an eligible farmer before enforcing a debt against agricultural property such as land, livestock, or crops. Specifically, the Act applies to foreclosure, repossession, cancellation of a contract for deed, and execution of a court order or judgment.

Effective date: Provides that this section takes effect the day following final enactment.

35 **Mediation proceeding notice.**

Increases by 30 days (from 90 to 120) the period of time that creditors are prohibited from enforcing debts subject to the Farmer-Lender Mediation Act.

Section	Description – Article 2: Agriculture Statutory Changes

Effective date: Provides that this section takes effect the day following final enactment and applies both to farmer-lender mediations in progress at that time and those that begin after that date.

36 **Effect of mediation proceeding notice.**

Increases by 30 days (from 90 to 120) the period of time that creditors are prohibited from enforcing debts subject to the Farmer-Lender Mediation Act.

Effective date: Provides that this section takes effect the day following final enactment and applies both to farmer-lender mediations in progress at that time and those that begin after that date.

37 **Mediation period.**

Increases the Farmer-Lender Mediation Act's mediation period limit from 60 to 90 days.

Effective date: Provides that this section takes effect the day following final enactment and applies both to farmer-lender mediations in progress at that time and those that begin after that date.

38 **Creditor's bad faith; court supervision.**

Extends by 30 days (from 60 to 90) the maximum period of time that a court may order a farmer and bad-faith creditor to participate in court-supervised mediation.

Effective date: Provides that this section takes effect the day following final enactment and applies both to farmer-lender mediations in progress at that time and those that begin after that date.

39 **Uses of general-use sanitizers and disinfectants for treatment of COVID-19.**

Extends a temporary license exemption for those hired to use general sanitizers or disinfectants in response to the infectious disease known as COVID-19. Without this exemption, persons who apply sanitizers and disinfectants for-hire require a state commercial pesticide applicator license issued by MDA. The 2020 Legislature enacted this temporary license exemption as part of a larger COVID-19 package.

Effective date: Provides that this extension would be retroactive to March 31 of this year (under current law, the exemption expired on April 1).

40 **Repealer.**

Eliminates the RFA's authority to issue revenue bonds to finance the Agroforestry Loan Program. Under current law and the bill, these loans are funded by the RFA's revolving loan account.

Article 3: Broadband Development Appropriations

This article provides funding to the Department of Employment and Economic Development for the Border-to-Border Broadband Development Grant Program, which funds up to $5 million or 50 percent of an eligible broadband Internet project's infrastructure costs.

MN HOUSE RESEARCH

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155