

Subject Agriculture finance

Authors Poppe and others

Analyst Colbey Sullivan

Date April 2, 2019

## Overview

This bill, as amended by the H2200DE4 amendment, is the 2019 omnibus agriculture finance bill. It would appropriate funding in state fiscal years 2020 and 2021 for the Minnesota Department of Agriculture (MDA), the Board of Animal Health, and the Agricultural Utilization Research Institute. It would also modify statutory provisions pertaining to fertilizer research, pesticides, industrial hemp, farmed Cervidae, and grain buying and storage.

## Article 1: Agriculture

This article appropriates money, modifies existing appropriations, requires reports, and modifies statutes pertaining to pesticide applicators, fertilizer tonnage fees, the Agricultural Fertilizer Research and Education Council, food handlers, industrial hemp, and nursery stock.

## Summary

Section	Description
1	<p><b>Agriculture appropriations.</b></p> <p>Inserts boilerplate language regarding interpretation of the appropriations authorized in subsequent sections.</p>
2	<p><b>Department of Agriculture.</b></p> <p>Appropriates general fund and remediation fund dollars to MDA for specified purposes.</p> <p><b>Subd. 1. Total appropriation.</b> Denotes the total amount of money, by fund, appropriated to MDA in this bill. As is customary, statutory appropriations from the agricultural fund, the federal fund, or other funds are not reflected in these totals or this bill.</p> <p><b>Subd. 2. Protection services.</b> Appropriates general fund and remediation fund dollars for MDA's regulatory programs. 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.</p>

Section	Description
	<p><b>Subd. 3. Agricultural marketing and development.</b> Appropriates general fund dollars for MDA's Agricultural Marketing and Development Division.</p> <p><b>Subd. 4. Agriculture, bioenergy, and bioproduct advancement.</b> Appropriates general fund dollars for specific programs and purposes within this budget category.</p> <p><b>Subd. 5. Administration and financial assistance.</b> Appropriates general fund dollars for specified pass-through grants and agency administration.</p>
3	<p><b>Board of Animal Health.</b> Appropriates money to the Board of Animal Health.</p>
4	<p><b>Agricultural Utilization Research Institute.</b> Appropriates general fund dollars to the Agricultural Utilization Research Institute.</p>
5	<p><b>Prohibited pesticide use.</b> Doubles the monetary penalty assessed by MDA against a person who applies a pesticide in a manner that results in damage to an adjacent state park, state forest, or other parcel in the state outdoor recreation system.</p>
6	<p><b>Fees.</b> Lowers the noncommercial pesticide applicator license fee for a contractor who applies a restricted-use pesticide while performing rest area custodial services for the Minnesota Department of Transportation (MnDOT). According to MDA, if this bill is enacted a contractor providing rest area custodial services for MnDOT who applies only nonrestricted-use pesticides would not require a state pesticide applicator license of any kind.</p>
7	<p><b>Payment of inspection fee.</b> Extends by five years the fertilizer inspection fee surcharge of 40 cents/ton that funds the fertilizer research, education, and technology transfer grants awarded by the Minnesota Agricultural Fertilizer Research and Education Council (AFREC) each year.</p>
8	<p><b>Expiration.</b> Extends AFREC for five additional years.</p>
9	<p><b>Eligible projects.</b> Modifies the agricultural fertilizer research and education program administered by AFREC by requiring dissemination of fertilizer research findings to those who use fertilizer in metropolitan areas.</p>

<b>Section</b>	<b>Description</b>
10	<b>Awarding grants.</b> Authorizes ARREC to award up to ten percent of fertilizer grant dollars to projects that concern fertilizer use in metropolitan areas.
11	<b>Expiration.</b> Extends the expiring fertilizer research grant program administered by AFREC by five additional years.
12	<b>Expiration.</b> Extends by five years the dedicated account that holds proceeds from the 40-cent/ton AFREC surcharge.
13	<b>Enhanced penalties; outdoor recreation lands.</b> In conjunction with section 5, this section doubles the monetary penalty for a person who applies a pesticide in a manner that results in damage to adjacent state outdoor recreation land.
14	<b>Labeling and advertising of nursery stock.</b> Modifies a statute that governs when nursery stock may be labeled or advertised as pollinator-friendly. Applies the promotion restriction to wholesalers and other plant sellers and lowers the threshold to any detectable level of the systemic pesticide in the plant.
15	<b>Industrial hemp.</b> Amends the definition of “industrial hemp” to include hemp seeds, cannabinoids, extracts, and other named hemp derivatives and byproducts. With this change, the state definition of industrial hemp would be similar to the federal definition of hemp established in the federal Agricultural Improvement Act of 2018 (aka the 2018 Farm Bill). This change would effectively authorize the possession, transportation, processing, sale, and purchase of these items in the state.
16	<b>Agricultural crop; possession authorized.</b> Authorizes possession of hemp, as defined above, that was lawfully grown in another state. The Agricultural Improvement Act of 2018 also authorized interstate hemp commerce.
17	<b>Persons selling liquor.</b> Requires MDA to exclude a liquor store’s gross sales of off-sale alcoholic beverages when determining the appropriate food handler license fee.

Section	Description
18	<p><b>Agriculture, bioenergy, and bioproduct advancement.</b></p> <p>Amends Laws 2015 to extend MDA’s access to the fiscal year 2017 general fund appropriation for the Agricultural Growth, Research, and Innovation Program by one year, to June 30, 2020.</p> <p><b>Effective date:</b> This section would be effective the day following final enactment. Unless specified otherwise, sections in this bill would take effect on the first day of state fiscal year 2020, i.e., July 1, 2019.</p>
19	<p><b>Protection services.</b></p> <p>Amends Laws 2017 to authorize MDA to use \$5,000 of the \$175,000 fiscal year 2019 wolf depredation payment appropriation to compensate University of Minnesota Extension educators who determine the fair market value of livestock destroyed or crippled by wolves.</p> <p><b>Effective date:</b> This section would be effective the day following final enactment.</p>
20	<p><b>Agriculture, bioenergy, and bioproduct advancement.</b></p> <p>Amends Laws 2017 to extend MDA’s access to the fiscal year 2019 general fund appropriation for the agricultural growth, research, and innovation program by one year, to June 30, 2022.</p> <p><b>Effective date:</b> This section would be effective the day following final enactment.</p>
21	<p><b>Industrial hemp; report.</b></p> <p>Requires MDA to apply to the United States Department of Agriculture (USDA) for primary regulatory authority over industrial hemp in Minnesota. Under the Agriculture Improvement Act of 2018, a state may submit a plan to USDA and request primary regulatory jurisdiction over hemp within the state’s borders. Requires MDA, in consultation with other named agencies, to develop a framework for regulating the possession and use of THC resulting from the processing of industrial hemp and to report this recommended framework to certain legislative committees no later than February 15, 2020.</p>
22	<p><b>Report required; beginning farmers.</b></p> <p>Requires MDA to examine how best to cultivate and support beginning farmers and to report findings to certain legislative committees by February 1, 2020. As part of this report, MDA would be required to prioritize certain beginning farmers, consult staff at the Department of Employment and Economic Development, and consider development of a next generation farmer internship program.</p>

Section	Description
23	<p><b>Report required; community solar.</b></p> <p>Requires the Center for Rural Policy and Development to study the economic benefits to farmers and local farm economies from community solar gardens and to submit the study and any policy recommendations to certain legislative committees by January 15, 2021.</p>

## Article 2: Farmed Cervidae

This article modifies the annual fee and other requirements that apply to those who raise deer, elk, or other Cervidae. The Board of Animal Health (BAH) enforces the state's farmed Cervidae laws under Minnesota Statutes, section 35.155 and Minnesota Rules, chapter 1721.

Section	Description
1	<p><b>Fencing.</b></p> <p>Modifies fencing requirements for those who raise farmed Cervidae. Requires two or more rows of perimeter fencing or one high-tensile fence. Requires two redundant gates at each entry area. Requires any fence deficiency that allows the imminent entry or exit of animals from the premises to be repaired within a period of time determined by BAH. Requires a facility to be reinspected not less than twice during the following six months if a fence deficiency was discovered during an annual inspection. Authorizes BAH to revoke a facility's registration and order the owner to remove or destroy the animals if cervids escape more than twice in any 12-month period.</p>
2	<p><b>Identification.</b></p> <p>Requires each farmed cervid to be identified by a distinct number that was not in use during the previous three years. Requires newborn cervids to be identified within 24 hours of birth. Authorizes the Minnesota Department of Natural Resources, as coordinated by BAH, to destroy cervids that are improperly identified or not identified.</p>
3	<p><b>Inspection.</b></p> <p>Requires BAH to coordinate farmed Cervidae inspections. Requires annual inspections and directs MDA to assist BAH with inspections upon request. Requires certain inspection elements. Authorizes BAH to revoke an owner's registration and order the animals removed or destroyed if the owner does not repair a fence deficiency or the inspection reveals one or more other instances of noncompliance with this section of statute.</p>
4	<p><b>Fees.</b></p> <p>Increases the annual farmed Cervidae inspection fee, in conjunction with the previous section, from a maximum of \$100/herd to \$500/herd unless: (1) the owner sells the</p>

Section	Description
	ability to shoot the captive cervids, in which case the annual fee is \$1,000/herd; or (2) the herd consists of more than one cervid species, in which case the annual fee is \$650.
5	<b>Contested case hearing.</b> Requires a person officially contesting the board's decision to revoke their farmed Cervidae registration to request a hearing within 30 days of revocation.
6	<b>Mandatory registration.</b> Institutes a lifetime registration ban for a person whose registration is revoked by BAH. Places a three-year moratorium on new registrations to possess farmed white-tailed deer and clarifies that this moratorium does not prohibit certain sales or transfers between family members.
7	<b>Mandatory surveillance for chronic wasting disease; herd depopulation.</b> Decreases from 14 days to 48 hours the amount of time that a person has to notify BAH of any movement of farmed Cervidae from one premises to another. Requires BAH to notify all registered cervid farmers when a farmed cervid tests positive for chronic wasting disease (CWD) and prohibits any off-site movement of farmed Cervidae statewide for at least 72 hours. Requires BAH to examine movement on and off the premises where the infected animal was located and take reasonable action necessary to slow or prevent the further spread of CWD. Requires the destruction and disposal of a cervid herd when one or more animals in the herd test positive for CWD. Requires the owner to maintain required fencing and post the premises where the herd was formerly located for at least the next five years. Requires the owner to disclose these requirements to any potential buyer of the property.
8	<b>Report required.</b> Requires BAH to report to certain legislative committees by February 1, 2020, regarding its progress in implementing recommendations in the Legislative Auditor's 2018 farmed Cervidae program evaluation report (available at: <a href="http://www.auditor.leg.state.mn.us/ped/2018/deerfarms.htm">www.auditor.leg.state.mn.us/ped/2018/deerfarms.htm</a> )

### Article 3: Grain Buyers

This article modifies the Grain Buyers Act by amending the definition of cash sales, requiring grain buyers to pay an annual inspection fee and be inspected at least once a year, specifying the level of attestation required for the financial statements that licensed grain buyers submit to MDA each year, modifying requirements pertaining to voluntary extension of credit contracts, and exempting certain cash buyers from bonding and financial statement requirements.

<b>Section</b>	<b>Description</b>
1	<p><b>Applicability.</b></p> <p>Extends applicability of an existing set of defined terms under the Grain Buyers Act to include a new section created at the end of this article.</p>
2	<p><b>Cash sale.</b></p> <p>Modifies the definition of “cash sale” for purposes of distinguishing between cash sales and voluntary extension of credit sales under the Grain Buyers Act.</p>
3	<p><b>Cash.</b></p> <p>Defines the term “cash” for purposes of interpreting other defined terms such as “cash sale” and “cash buyer.”</p>
4	<p><b>Cash buyer.</b></p> <p>Defines “cash buyer” for purposes of exemptions from certain bonding and financial statement requirements provided in subsequent sections.</p>
5	<p><b>Grain.</b></p> <p>Eliminates a reference to the Minnesota Board of Grain Standards in the definition of “grain.”</p>
6	<p><b>Grain buyers and storage account; fees.</b></p> <p>Establishes an annual examination fee to be paid by licensed grain buyers for each licensed location. The fee schedule would be based on capacity as measured in bushels. Authorizes MDA to charge a fee of \$55 per hour, per examiner, for any supplemental examination required by MDA. Appropriates interest earned on money in the grain buyers and storage account to MDA for purposes of the Grain Buyers Act.</p>
7	<p><b>Bond.</b></p> <p>Eliminates obsolete language. Eliminates a grain buyer’s option to provide certain other forms of financial assurance in place of a surety bond. Retains the option to deposit an equivalent irrevocable bank letter of credit with Minnesota Management and Budget in place of the bond. Exempts cash buyers, as defined in a previous section, from the requirement to maintain a bond or irrevocable letter of credit.</p>
8	<p><b>Cash sales; manner of payment.</b></p> <p>Modifies requirements that pertain to grain buyers who purchase grain with cash, as defined in a previous section. Requires the grain buyer to pay in cash or check, or to wire or mail funds to the seller’s account as rapidly as possible after the sale.</p>
9	<p><b>Financial statements.</b></p> <p>Modifies requirements pertaining to the financial statements that grain buyers must submit to MDA each year. Requires a grain buyer purchasing less than \$2 million of grain annually to have the statements reviewed by a certified public accountant, and to show</p>

Section	Description
	that the statements are free from material misstatement. Requires a grain buyer purchasing \$2 million or more of grain annually to have the statements audited by a certified public accountant, and to submit the certified public accountant's opinion statement to MDA. Exempts cash buyers, as defined above, from financial statement requirements altogether.
10	<b>Oral contracts.</b> Extends the period of time that grain buyers have to provide a written confirmation to the buyer when the buyer and seller enter into an oral voluntary extension of credit contract. Under current law, instead of receiving cash a farmer may enter into a "voluntary extension of credit contract" with the grain buyer and defer payment to a later date. By law, these sales are not covered by the grain buyer's bond.
11	<b>Contracts reduced to writing.</b> Extends the period of time that grain buyers have to reduce voluntary extension of credit contracts to writing.
12	<b>Rules.</b> Extends MDA's existing rulemaking authority under the Grain Buyers Act to include the new examination requirement established in the next section.
13	<b>Annual examination required; supplemental examinations.</b> Subjects grain buyers to an annual inspection conducted by MDA or the United States Department of Agriculture. Qualifying examinations would include a measurement of all grain owned and maintained by the buyer. Authorizes MDA to require additional examinations as the agency deems necessary.

## Article 4: Grain Warehouses

This article modifies the Grain Storage Act. Among other things, this article would reduce from two to one the minimum number of times that a licensed public grain warehouse operator must be inspected each year and allow a licensee to maintain an irrevocable bank letter of credit in lieu of a surety bond.

Under the Grain Storage Act, a public grain warehouse operator is generally a person who accepts grain that belongs to another for storage or purchase.



Section	Description
1	<b>Grain.</b> Eliminates a reference to the Minnesota Board of Grain Standards in the Grain Storage Act's definition of "grain."
2	<b>Grain bank.</b> Defines "grain bank" for purposes of the Grain Storage Act. Specifies that grain assigned to a grain bank is to be considered stored grain, presumably for purposes of determining the size of the surety bond or irrevocable letter of credit that the licensee is required to provide.
3	<b>Fees; grain buyers and storage account.</b> Specifies that any interest accrued on money in the grain buyers and storage account is appropriated to MDA for purposes of administering the Grain Storage Act. Provides that the fee a public grain warehouse operator must pay for a supplemental examination required by the commissioner is \$55 per hour, per examiner.
4	<b>Bonding.</b> Authorizes a licensed public grain warehouse operator to, in lieu of a surety bond, deposit with Minnesota Management and Budget an irrevocable bank letter of credit in the same amount as would otherwise be required for the bond.
5	<b>Schedule of inspection, financial reports.</b> Reduces the annual examination requirement for licensed public grain warehouse operators from twice per year, to once. Eliminates MDA's authority to provide by rule that a qualified nongovernmental unit may perform the examination. Authorizes MDA to require supplemental examinations of a public grain warehouse licensee as MDA deems necessary. Provides that the financial statements that a licensed public grain warehouse operator is required to submit to MDA must include a balance sheet, income statement, statement of retained earnings, and other specified reports, but does not require the licensee to have these financial statements reviewed or audited by a certified public accountant.



*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 | 600 State Office Building | St. Paul, MN 55155