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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3186**

03/16/2016 Authored by Swedzinski; Nornes; Anderson, P.; Torkelson; Hamilton and others
The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to agriculture; establishing a grain credit contract indemnity program;
1.3 increasing bond amounts for licensed grain buyers; dedicating a portion of sales
1.4 tax revenue derived from the sale of grain bins; eliminating the sales tax on
1.5 grain bins; establishing a gross receipts tax for grain bins to fund the indemnity
1.6 payments if program funding falls below a threshold amount; appropriating
1.7 money; amending Minnesota Statutes 2014, sections 223.15; 223.16, subdivision
1.8 1; 223.17, subdivision 4; 223.19; 297A.61, subdivision 12; proposing coding for
1.9 new law in Minnesota Statutes, chapters 223; 295.

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

1.11 Section 1. Minnesota Statutes 2014, section 223.15, is amended to read:

1.12 **223.15 CITATION.**

1.13 Sections 223.15 to ~~223.19~~ 223.23 may be cited as the "Grain Buyers Act."

1.14 Sec. 2. Minnesota Statutes 2014, section 223.16, subdivision 1, is amended to read:

1.15 Subdivision 1. **Applicability.** For the purpose of sections 223.15 to ~~223.22~~ 223.23,
1.16 the terms defined in this section have the meanings given them.

1.17 Sec. 3. Minnesota Statutes 2014, section 223.17, subdivision 4, is amended to read:

1.18 Subd. 4. **Bond.** (a) Before a grain buyer's license is issued, the applicant for
1.19 the license must file with the commissioner a bond in a penal sum prescribed by the
1.20 commissioner but not less than the following amounts:

1.21 (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;

1.22 (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000

1.23 but not more than \$750,000;

2.1 (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000
2.2 but not more than \$1,500,000;

2.3 (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000
2.4 but not more than \$3,000,000;

2.5 (5) ~~\$50,000~~ \$300,000 for grain buyers whose gross annual purchases are more than
2.6 \$3,000,000 but not more than \$6,000,000;

2.7 (6) ~~\$70,000~~ \$400,000 for grain buyers whose gross annual purchases are more than
2.8 \$6,000,000 but not more than \$12,000,000;

2.9 (7) ~~\$125,000~~ \$500,000 for grain buyers whose gross annual purchases are more than
2.10 \$12,000,000 but not more than \$24,000,000; and

2.11 (8) ~~\$150,000~~ \$600,000 for grain buyers whose gross annual purchases exceed
2.12 \$24,000,000.

2.13 (b) A grain buyer who has filed a bond with the commissioner prior to July 1, ~~2004~~
2.14 2016, is not required to increase the amount of the bond to comply with this section until
2.15 July 1, ~~2005~~ 2017. The commissioner may postpone an increase in the amount of the bond
2.16 until July 1, ~~2006~~ 2018, if a licensee demonstrates that the increase will impose undue
2.17 financial hardship on the licensee, and that producers will not be harmed as a result of
2.18 the postponement. The commissioner may impose other restrictions on a licensee whose
2.19 bond increase has been postponed. The amount of the bond shall be based on the most
2.20 recent gross annual grain purchase report of the grain buyer.

2.21 (c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with
2.22 the commissioner. This bond shall remain in effect for the first year of the license.
2.23 Thereafter, the licensee shall comply with the applicable bonding requirements contained
2.24 in paragraph (a), clauses (1) to (8).

2.25 (d) In lieu of the bond required by this subdivision the applicant may deposit with
2.26 the commissioner of management and budget cash, a certified check, a cashier's check,
2.27 a postal, bank, or express money order, assignable bonds or notes of the United States,
2.28 or an assignment of a bank savings account or investment certificate or an irrevocable
2.29 bank letter of credit as defined in section 336.5-102, in the same amount as would be
2.30 required for a bond.

2.31 (e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
2.32 90 days' written notice of the bond's termination date to the licensee and the commissioner.

2.33 Sec. 4. Minnesota Statutes 2014, section 223.19, is amended to read:

2.34 **223.19 RULES.**

3.1 The commissioner may make rules pursuant to chapter 14 to carry out the provisions
3.2 of sections 223.15 to ~~223.22~~ 223.23.

3.3 **Sec. 5. [223.23] INDEMNITY PAYMENTS; APPROPRIATION.**

3.4 **Subdivision 1. Establishment.** A grain credit contract indemnity program is
3.5 established. The commissioner must administer the program and award indemnity
3.6 payments to eligible producers.

3.7 **Subd. 2. Eligibility.** A producer is eligible to receive an indemnity payment from
3.8 the commissioner if the producer sold grain by a voluntary extension of credit contract
3.9 to a licensed grain buyer or a person licensed as a public grain warehouse operator
3.10 under chapter 232 and the producer is damaged by the licensee's breach of the voluntary
3.11 extension of credit contract.

3.12 **Subd. 3. Application.** (a) A producer asserting eligibility under subdivision 2 must
3.13 file a completed claim with the commissioner within 180 days of the alleged breach of
3.14 contract. The producer must state the facts constituting the claim and all other information
3.15 required by the commissioner.

3.16 (b) The commissioner shall promptly determine the validity of each filed claim
3.17 and notify the claimant accordingly. An aggrieved party may appeal the commissioner's
3.18 determination by requesting, within 15 days, that the commissioner initiate a contested
3.19 case proceeding under chapter 14.

3.20 **Subd. 4. Court order.** The commissioner may apply to the district court for an
3.21 order appointing a trustee or receiver to manage and supervise the operations of a grain
3.22 buyer or public grain warehouse operator in default. The commissioner may participate
3.23 in any resulting court proceeding as an interested party.

3.24 **Subd. 5. Payment limitation.** (a) For each breach of contract, the commissioner
3.25 must pay the eligible producer an amount equal to the lesser of \$650,000 or 80 percent of
3.26 the amount owed to the producer pursuant to the voluntary extension of credit contract
3.27 in default.

3.28 (b) If valid claims exceed funds available in the grain credit contract indemnity
3.29 account, the commissioner must prorate the claims and pay prorated amounts to each
3.30 eligible producer. When additional funds become available, the commissioner must
3.31 resume issuing indemnity payments to each eligible producer until each producer receives
3.32 the maximum amount payable under paragraph (a).

3.33 **Subd. 6. Debt obligation; subrogated claim.** (a) Money paid by the commissioner
3.34 to satisfy a valid claim constitutes a debt obligation of the grain buyer or public grain
3.35 warehouse operator in default. The commissioner may take action against the grain buyer

4.1 or public grain warehouse operator to recover the amount of any claim payment plus
4.2 reasonable costs, attorney fees, and interest computed at the rate provided in section
4.3 270C.40. The commissioner must deposit any amount recovered under this subdivision in
4.4 the grain credit contract indemnity account.

4.5 (b) As a condition of payment from the commissioner, a producer must subrogate the
4.6 producer's interest in the voluntary extension of credit contract to the commissioner in an
4.7 amount equal to any claim payment or payments the producer received under this section.

4.8 Subd. 7. **Account; appropriation.** A grain credit contract indemnity account
4.9 is established in the agricultural fund. Money in the account, including interest, is
4.10 appropriated to the commissioner to pay valid claims and to administer this section.

4.11 Sec. 6. **[295.80] GRAIN BIN GROSS RECEIPTS TAX.**

4.12 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
4.13 have the meanings given.

4.14 (b) "Commissioner" means the commissioner of revenue.

4.15 (c) "Grain bin" means a storage bin used in the agricultural production process that
4.16 is exempt from sales tax under chapter 297A, as part of exempt farm machinery. Grain bin
4.17 does not include accessories to grain bins such as dryers and sweepers.

4.18 (d) "Grain bin retailer" means a retailer that sells grain bins.

4.19 (e) "Gross receipts" means the total amount received in money, or by barter or
4.20 exchange for all grain bins sold at retail as measured by the sales price.

4.21 (f) "Retail sale" has the meaning given in section 297A.61, subdivision 4.

4.22 Subd. 2. **Gross receipts tax imposed.** Beginning with fiscal year 2019, if the grain
4.23 contract indemnity account in the agricultural fund, established under section 223.23, is
4.24 anticipated by the commissioner to be less than \$2,000,000, as provided under subdivision
4.25 3, a tax is imposed on each grain bin retailer in the state equal to 2.0 percent of gross
4.26 receipts of retail sales of grain bins in Minnesota. The tax remains in effect until such time
4.27 as determined by the commissioner under subdivision 3.

4.28 Subd. 3. **Imposition and expiration of the tax.** (a) By December 1 of 2017,
4.29 and each December 1 thereafter, the commissioner of management and budget, in
4.30 consultation with the commissioner of agriculture, shall determine the projected balance
4.31 in the grain contract indemnity account for the next fiscal year. If the commissioner of
4.32 management and budget determines that the projected balance in the account will be less
4.33 than \$2,000,000 for the fiscal year, the commissioner of management and budget shall
4.34 impose the tax under subdivision 2, beginning with sales and purchases made after the
4.35 last day of the current fiscal year.

5.1 (b) The tax under subdivision 2 shall expire on the first day of a calendar quarter
5.2 after the first calendar quarter in which the revenue raised from the tax is projected to be
5.3 sufficient to raise the amount in the grain contract indemnity account to at least \$6,000,000.
5.4 The commissioner of management and budget shall, in consultation with the commissioner
5.5 of revenue, determine the projected expiration date of the tax at the time that the tax is
5.6 imposed. The tax shall expire on that date unless the commissioner of management and
5.7 budget estimates that the revenue in the grain contract indemnity account at the time of
5.8 the expiration will still be less than \$6,000,000 in which case the commissioner shall
5.9 announce, at least 60 days before the current expiration date, a new expiration date for the
5.10 tax. The new expiration date would be determined by the commissioner of management
5.11 and budget, in consultation with the commissioner of revenue, as the next calendar quarter
5.12 in which the amount in the account would be projected to reach or exceed \$6,000,000.

5.13 Subd. 4. **Use tax imposed; credit for taxes paid.** (a) A person that receives a grain
5.14 bin for use or storage in Minnesota, other than from a grain bin retailer that paid the tax
5.15 under subdivision 2, is subject to tax at the rate imposed under subdivision 2. Liability
5.16 for the tax is incurred when the person has possession of the grain bin in Minnesota.
5.17 The tax must be remitted to the commissioner in the same manner prescribed for taxes
5.18 imposed under chapter 297A.

5.19 (b) A person that has paid taxes to another jurisdiction on the same transaction and
5.20 is subject to tax under this section is entitled to a credit for the tax legally due and paid
5.21 to another jurisdiction to the extent of the lesser of: (1) the tax actually paid to the other
5.22 jurisdiction, or (2) the amount of tax imposed by Minnesota on the transaction subject to
5.23 tax in the other jurisdiction.

5.24 Subd. 5. **Tax collection required.** A grain bin retailer with nexus in Minnesota who
5.25 is not subject to tax under subdivision 2 is required to collect the tax imposed under
5.26 subdivision 4, from the purchaser of the grain bin and to give the purchaser a receipt for
5.27 the tax paid. The tax collected must be remitted to the commissioner in the same manner
5.28 prescribed for the taxes imposed under chapter 297A.

5.29 Subd. 6. **Taxes paid to another jurisdiction; credit.** A grain bin retailer that has
5.30 paid taxes to another jurisdiction measured by gross receipts and is subject to tax under
5.31 this section on the same gross receipts is entitled to a credit for the tax legally due and
5.32 paid to another jurisdiction to the extent of the lesser of: (1) the tax actually paid to the
5.33 other jurisdiction, or (2) the amount of tax imposed by Minnesota on the gross receipts
5.34 subject to tax in the other taxing jurisdictions.

5.35 Subd. 7. **Sourcing of sales.** All of the provisions of section 297A.668 apply to
5.36 the taxes imposed by this section.

6.1 Subd. 8. **Payment; reporting.** A grain bin retailer shall report the tax on a return
 6.2 prescribed by the commissioner and shall remit the tax with the return. The return and
 6.3 the tax must be filed and paid using the filing cycle and due dates provided for taxes
 6.4 imposed under chapter 297A.

6.5 Subd. 9. **Administration.** Unless specifically provided otherwise by this section,
 6.6 the audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal,
 6.7 and administrative provisions of chapters 270C and 289A that are applicable to taxes
 6.8 imposed under chapter 297A apply to taxes imposed under this section.

6.9 Subd. 10. **Interest on overpayments.** Interest must be paid on an overpayment
 6.10 refunded or credited to the taxpayer from the date of payment of the tax until the date the
 6.11 refund is paid or credited. For purposes of this subdivision, the date of payment is the due
 6.12 date of the return or the date of actual payment of the tax, whichever is later.

6.13 Subd. 11. **Deposit of revenues.** The commissioner shall deposit all revenues,
 6.14 including penalties and interest, derived from the tax imposed by this section in the state
 6.15 treasury and credit it to the grain contract indemnity account in the agricultural fund
 6.16 established under section 223.30.

6.17 **EFFECTIVE DATE.** This section is effective the day following final enactment,
 6.18 and the earliest the grain bin gross receipts tax may be imposed is July 1, 2018, for sales
 6.19 and purchases made on or after that date.

6.20 Sec. 7. Minnesota Statutes 2014, section 297A.61, subdivision 12, is amended to read:

6.21 **Subd. 12. **Farm machinery.**** (a) "Farm machinery" means new or used machinery,
 6.22 equipment, implements, accessories, and contrivances used directly and principally in
 6.23 agricultural production of tangible personal property intended to be sold ultimately at
 6.24 retail including, but not limited to:

6.25 (1) machinery for the preparation, seeding, or cultivation of soil for growing
 6.26 agricultural crops;

6.27 (2) barn cleaners, milking systems, grain dryers, grain bins, feeding systems
 6.28 including stationary feed bunks, and similar installations, whether or not the equipment is
 6.29 installed by the seller and becomes part of the real property; and

6.30 (3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe
 6.31 fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation
 6.32 system when sold as part of an irrigation system, whether or not the equipment is installed
 6.33 by the seller and becomes part of the real property.

6.34 (b) Farm machinery does not include:

6.35 (1) repair or replacement parts;

7.1 (2) tools, shop equipment, grain bins, fencing material, communication equipment,
7.2 and other farm supplies;

7.3 (3) motor vehicles taxed under chapter 297B;

7.4 (4) snowmobiles or snow blowers;

7.5 (5) lawn mowers except those used in the production of sod for sale, or garden-type
7.6 tractors or garden tillers; or

7.7 (6) machinery, equipment, implements, accessories, and contrivances used directly in
7.8 the production of horses not raised for slaughter, fur-bearing animals, or research animals.

7.9 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
7.10 June 30, 2018.

7.11 Sec. 8. **DEPOSITS OF REVENUES; GRAIN CONTRACT INDEMNITY**
7.12 **ACCOUNT.**

7.13 In fiscal year 2016, the commissioner shall deposit \$2,500,000 of the revenue
7.14 derived from taxes imposed under Minnesota Statutes, chapter 297A, in the grain contract
7.15 indemnity account in the agricultural fund, established under Minnesota Statutes, section
7.16 223.23, as a proxy for a portion of sales tax revenues collected on the sales of grain
7.17 bins during that fiscal year. The amount shall be deposited as soon as possible after the
7.18 enactment of this section. For fiscal years 2017 and 2018, if the grain credit contract
7.19 indemnity account in the agricultural fund, established under Minnesota Statutes, section
7.20 223.23, is less than \$6,000,000, the commissioner shall deposit up to \$2,500,000 per fiscal
7.21 year of the revenue, including interest and penalties, derived from the taxes imposed by
7.22 Minnesota Statutes, chapter 297A, on grain bins into that account on a quarterly basis
7.23 until the fund contains \$6,000,000. For purposes of this section, the amount of sales tax
7.24 revenue generated from the sale of grain bins deposited under this paragraph is \$625,000
7.25 per calendar quarter.

7.26 Sec. 9. **EFFECTIVE DATE.**

7.27 Unless otherwise provided, this act is effective the day following final enactment.
7.28 Section 5 applies to voluntary extension of credit contracts in default on or after January 1,
7.29 2015. Notwithstanding section 5, subdivision 3, paragraph (a), for a voluntary extension
7.30 of credit contract in default prior to final enactment of this act, a producer has 90 days
7.31 from the date of final enactment to file a claim with the commissioner.