

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 563

(SENATE AUTHORS: SAXHAUG, Tomassoni and Bakk)

DATE	D-PG	OFFICIAL STATUS
02/18/2013	281	Introduction and first reading Referred to Environment and Energy
03/11/2013	742a	Comm report: To pass as amended and re-refer to Finance
03/14/2013	782	Withdrawn and re-referred to State and Local Government
03/18/2013	1007	Comm report: To pass and re-referred to Judiciary
		Comm report: To pass and re-referred to Finance

A bill for an act

1.1 relating to natural resources; providing for exchange of road easements;
 1.2 modifying forest management investment account; modifying State Timber
 1.3 Act; appropriating money; amending Minnesota Statutes 2012, sections
 1.4 89.0385; 90.01, subdivisions 4, 5, 6, 8, 11; 90.031, subdivision 4; 90.041,
 1.5 subdivisions 2, 5, 6, 9, by adding subdivisions; 90.045; 90.061, subdivision
 1.6 8; 90.101, subdivision 1; 90.121; 90.145; 90.151, subdivisions 1, 2, 3, 4, 6,
 1.7 7, 8, 9; 90.161; 90.162; 90.171; 90.181, subdivision 2; 90.191, subdivision 1;
 1.8 90.193; 90.195; 90.201, subdivision 2a; 90.211; 90.221; 90.252, subdivision 1;
 1.9 90.301, subdivisions 2, 4; 90.41, subdivision 1; proposing coding for new law in
 1.10 Minnesota Statutes, chapters 84; 90; repealing Minnesota Statutes 2012, sections
 1.11 90.163; 90.173; 90.41, subdivision 2.
 1.12

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

1.14 Section 1. **[84.633] EXCHANGE OF ROAD EASEMENTS.**

1.15 Subdivision 1. **Authority.** The commissioner of natural resources, on behalf of
 1.16 the state, may convey a road easement according to this section for access across state
 1.17 land under the commissioner's jurisdiction in exchange for a road easement for access to
 1.18 property owned by the United States, the state of Minnesota or any of its subdivisions, or a
 1.19 private party. The exercise of the easement across state land must not cause significant
 1.20 adverse environmental or natural resources management impacts.

1.21 Subd. 2. **Substantially equal acres.** The acres covered by the state easement
 1.22 conveyed by the commissioner must be substantially equal to the acres covered by the
 1.23 easement being received by the commissioner. For purposes of this section, "substantially
 1.24 equal" means that the acres do not differ by more than 20 percent. The commissioner's
 1.25 finding of substantially equal acres is in lieu of an appraisal or other determination of
 1.26 value of the lands.

2.1 Subd. 3. **School trust lands.** If the commissioner conveys a road easement over
2.2 school trust land to a nongovernmental entity, the term of the road easement is limited
2.3 to 50 years. The easement exchanged with the state may be limited to 50 years or may
2.4 be perpetual.

2.5 Subd. 4. **Terms and conditions.** The easement conveyed by the commissioner must
2.6 provide that the easement reverts to the state in the event of nonuse. The commissioner
2.7 may impose other terms and conditions of use as necessary and appropriate under the
2.8 circumstances. The state may accept an easement with similar terms and conditions as
2.9 the state easement.

2.10 Subd. 5. **Survey.** If the commissioner determines that a survey is required, the
2.11 governmental unit or private landowner shall pay to the commissioner a survey fee of not
2.12 less than one half of the cost of the survey as determined by the commissioner.

2.13 Subd. 6. **Application fee.** When a private landowner or governmental unit, except
2.14 the state, presents to the commissioner an offer to exchange road easements, the private
2.15 landowner or governmental unit shall pay an application fee as provided under section
2.16 84.63 to cover reasonable costs for reviewing the application and preparing the easements.

2.17 Subd. 7. **Title.** If the commissioner determines it is necessary to obtain an opinion
2.18 as to the title of the land being encumbered by the easement that will be received by the
2.19 commissioner, the governmental unit or private landowner shall submit an abstract of title
2.20 or other title information sufficient to determine possession of the land, improvements,
2.21 liens, encumbrances, and other matters affecting title.

2.22 Subd. 8. **Disposition of fees.** (a) Any fee paid under subdivision 5 must be credited
2.23 to the account from which expenses are or will be paid and the fee is appropriated for the
2.24 expenditures in the same manner as other money in the account.

2.25 (b) Any fee paid under subdivision 6 must be deposited in the land management
2.26 account in the natural resources fund and is appropriated to the commissioner to cover the
2.27 reasonable costs incurred for preparing and issuing the state road easement and accepting
2.28 the road easement from the private landowner or governmental entity.

2.29 Sec. 2. Minnesota Statutes 2012, section 89.0385, is amended to read:

2.30 **89.0385 FOREST MANAGEMENT INVESTMENT ACCOUNT; COST**
2.31 **CERTIFICATION.**

2.32 (a) ~~After each fiscal year,~~ The commissioner shall certify the total costs incurred for
2.33 forest management, forest improvement, and road improvement on state-managed lands
2.34 during ~~that~~ a fiscal year. The commissioner shall distribute forest management receipts
2.35 credited to various accounts according to this section.

3.1 (b) The amount of the certified costs incurred for forest management activities on
3.2 state lands shall be transferred from the account where receipts are deposited to the forest
3.3 management investment account in the natural resources fund, except for those costs
3.4 certified under section 16A.125. Transfers may occur quarterly, based on quarterly cost and
3.5 revenue reports, throughout the fiscal year, with final certification and reconciliation after
3.6 each fiscal year. Transfers in a fiscal year cannot exceed receipts credited to the account.

3.7 Sec. 3. Minnesota Statutes 2012, section 90.01, subdivision 4, is amended to read:

3.8 Subd. 4. **Scaler.** "Scaler" means a qualified bonded person designated by the
3.9 commissioner to measure timber and cut forest products.

3.10 Sec. 4. Minnesota Statutes 2012, section 90.01, subdivision 5, is amended to read:

3.11 Subd. 5. **State appraiser.** "State appraiser" means an employee of the department
3.12 designated by the commissioner to appraise state lands, which includes, but is not limited
3.13 to, timber and other forest resource products, for volume, quality, and value.

3.14 Sec. 5. Minnesota Statutes 2012, section 90.01, subdivision 6, is amended to read:

3.15 Subd. 6. **Timber.** "Timber" means trees, shrubs, or woody plants, that will produce
3.16 forest products of value whether standing or down, and including but not limited to logs,
3.17 sawlogs, posts, poles, bolts, pulpwood, cordwood, fuelwood, woody biomass, lumber,
3.18 and woody decorative material.

3.19 Sec. 6. Minnesota Statutes 2012, section 90.01, subdivision 8, is amended to read:

3.20 Subd. 8. **Permit holder.** "Permit holder" means the person holding who is the
3.21 signatory of a permit to cut timber on state lands.

3.22 Sec. 7. Minnesota Statutes 2012, section 90.01, subdivision 11, is amended to read:

3.23 Subd. 11. **Effective permit.** "Effective permit" means a permit for which the
3.24 commissioner has on file full or partial surety security as required by section 90.161; or
3.25 90.162, 90.163, or 90.173 or, in the case of permits issued according to section 90.191 or
3.26 90.195, the commissioner has received a down payment equal to the full appraised value.

3.27 Sec. 8. Minnesota Statutes 2012, section 90.031, subdivision 4, is amended to read:

3.28 Subd. 4. **Timber rules.** The Executive Council may formulate and establish, from
3.29 time to time, rules it deems advisable for the transaction of timber business of the state,
3.30 including approval of the sale of timber on any tract in a lot exceeding ~~6,000~~ 12,000 cords

4.1 in volume when the sale is in the best interests of the state, and may abrogate, modify,
4.2 or suspend rules at its pleasure.

4.3 Sec. 9. Minnesota Statutes 2012, section 90.041, subdivision 2, is amended to read:

4.4 Subd. 2. **Trespass on state lands.** The commissioner may compromise and settle,
4.5 with ~~the approval of~~ notification to the attorney general, upon terms the commissioner
4.6 deems just, any claim of the state for casual and involuntary trespass upon state lands or
4.7 timber; provided that no claim shall be settled for less than the full value of all timber
4.8 or other materials taken in casual trespass or the full amount of all actual damage or
4.9 loss suffered by the state as a result. Upon request, the commissioner shall advise the
4.10 Executive Council of any information acquired by the commissioner concerning any
4.11 trespass on state lands, giving all details and names of witnesses and all compromises and
4.12 settlements made under this subdivision.

4.13 Sec. 10. Minnesota Statutes 2012, section 90.041, subdivision 5, is amended to read:

4.14 Subd. 5. **Forest improvement contracts.** The commissioner may contract as part
4.15 of the timber sale with the purchaser of state timber at either informal or auction sale
4.16 for ~~the following~~ forest improvement work to be done on the land included within the
4.17 sale area: Forest improvement work may include activities relating to preparation of
4.18 the site for seeding or planting of seedlings or trees, seeding or planting of seedlings or
4.19 trees, and other activities relating related to forest regeneration or deemed necessary by
4.20 the commissioner to accomplish forest management objectives, including those related
4.21 to water quality protection, trail development, and wildlife habitat enhancement. A
4.22 contract issued under this subdivision is not subject to the competitive bidding provisions
4.23 of chapter 16C and is exempt from the contract approval provisions of section 16C.05,
4.24 subdivision 2. The bid value received in the sale of the timber and the contract bid
4.25 cost of the improvement work may be combined and the total value may be considered
4.26 by the commissioner in awarding forest improvement contracts under this section.
4.27 The commissioner may refuse to accept any and all bids received and cancel a forest
4.28 improvement contract sale for good and sufficient reasons.

4.29 Sec. 11. Minnesota Statutes 2012, section 90.041, subdivision 6, is amended to read:

4.30 Subd. 6. **Sale of damaged timber.** The commissioner may sell at public auction
4.31 timber that has been damaged by fire, windstorm, flood, insect, disease, or other natural
4.32 cause on notice that the commissioner considers reasonable when there is a high risk that
4.33 the salvage value of the timber would be lost.

5.1 Sec. 12. Minnesota Statutes 2012, section 90.041, subdivision 9, is amended to read:

5.2 Subd. 9. **Reoffering unsold timber.** ~~To maintain and enhance forest ecosystems on~~
5.3 ~~state forest lands,~~ The commissioner may reoffer timber tracts remaining unsold under the
5.4 provisions of section 90.101 below appraised value at public auction with the required
5.5 30-day notice under section 90.101, subdivision 2.

5.6 Sec. 13. Minnesota Statutes 2012, section 90.041, is amended by adding a subdivision
5.7 to read:

5.8 Subd. 10. **Fees.** (a) The commissioner may establish a fee schedule that covers the
5.9 commissioner's cost of issuing, administering, and processing various permits, permit
5.10 modifications, transfers, assignments, amendments, and other transactions necessary to the
5.11 administration of activities under this chapter.

5.12 (b) A fee established under this subdivision is not subject to the rulemaking
5.13 provisions of chapter 14 and section 14.386 does not apply. The commissioner may
5.14 establish fees under this subdivision notwithstanding section 16A.1283.

5.15 Sec. 14. Minnesota Statutes 2012, section 90.041, is amended by adding a subdivision
5.16 to read:

5.17 Subd. 11. **Debarment.** The commissioner may debar a permit holder if the holder
5.18 is successfully prosecuted in Minnesota at the gross misdemeanor or felony level of
5.19 criminal willful trespass, theft, fraud, or antitrust violation involving state, federal, county,
5.20 or privately owned timber in Minnesota or successfully prosecuted in any other state
5.21 involving similar offenses and penalties for timber owned in that state. The commissioner
5.22 shall cancel and repossess the permit directly involved in the prosecution of the crime. The
5.23 commissioner shall cancel and repossess all other state timber permits held by the permit
5.24 holder after taking from all security deposits money to which the state is entitled. The
5.25 commissioner shall return the remainder of the security deposits, if any, to the permit holder.
5.26 The debarred permit holder is prohibited from bidding, possessing, or being employed
5.27 on any state timber permit during the period of debarment. The period of debarment is
5.28 not less than one year or greater than three years. The duration of the debarment is based
5.29 on the severity of the violation, past history of compliance with timber permits, and the
5.30 amount of loss incurred by the state arising from violations of timber permits.

5.31 Sec. 15. Minnesota Statutes 2012, section 90.045, is amended to read:

5.32 **90.045 APPRAISAL STANDARDS.**

6.1 By July 1, 1983, the commissioner shall establish specific timber appraisal standards
6.2 according to which all timber appraisals will be conducted under this chapter. The
6.3 standards shall include a specification of the maximum allowable appraisal sampling error,
6.4 ~~and~~ including the procedures for tree defect allowance, tract area estimation, product
6.5 volume estimation, and product value determination. The timber appraisal standards shall
6.6 be included in each edition of the timber sales manual published by the commissioner. In
6.7 addition to the duties pursuant to section 90.061, every state appraiser shall work within
6.8 the guidelines of the timber appraisal standards. The standards shall not be subject to
6.9 the rulemaking provisions of chapter 14.

6.10 Sec. 16. Minnesota Statutes 2012, section 90.061, subdivision 8, is amended to read:

6.11 Subd. 8. **Appraiser authority; form of documents.** State appraisers are
6.12 empowered, with the consent of the commissioner, to perform any scaling, and generally
6.13 to supervise the cutting and removal of timber and forest products on or from state lands
6.14 so far as may be reasonably necessary to insure compliance with the terms of the permits
6.15 or other contracts governing the same and protect the state from loss.

6.16 The form of appraisal reports, records, and notes to be kept by state appraisers
6.17 shall be as the commissioner prescribes.

6.18 Sec. 17. Minnesota Statutes 2012, section 90.101, subdivision 1, is amended to read:

6.19 Subdivision 1. **Sale requirements.** The commissioner may sell the timber on any
6.20 tract of state land and may determine the number of sections or fractional sections of land
6.21 to be included in the permit area covered by any one permit issued to the purchaser of
6.22 timber on state lands, or in any one contract or other instrument relating thereto. No
6.23 timber shall be sold, except (1) to the highest responsible bidder at public auction, or
6.24 (2) if unsold at public auction, the commissioner may offer the timber for private sale
6.25 for a period of no more than ~~six months~~ one year after the public auction to any ~~person~~
6.26 responsible bidder who pays the appraised value for the timber. The minimum price shall
6.27 be the appraised value as fixed by the report of the state appraiser. Sales may include tracts
6.28 in more than one contiguous county or forestry administrative area and shall be held either
6.29 in the county or forestry administrative area in which the tract is located or in an adjacent
6.30 county or forestry administrative area that is nearest the tract offered for sale or that is
6.31 most accessible to potential bidders. In adjoining counties or forestry administrative areas,
6.32 sales may not be held less than two hours apart.

7.1 Sec. 18. Minnesota Statutes 2012, section 90.121, is amended to read:

7.2 **90.121 INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF 3,000**
7.3 **CORDS.**

7.4 (a) The commissioner may sell the timber on any tract of state land in lots not
7.5 exceeding 3,000 cords in volume, in the same manner as timber sold at public auction under
7.6 section 90.101, and related laws, subject to the following special exceptions and limitations:

7.7 (1) the commissioner shall offer all tracts authorized for sale by this section
7.8 separately from the sale of tracts of state timber made pursuant to section 90.101;

7.9 (2) no bidder may be awarded more than 25 percent of the total tracts offered at the
7.10 first round of bidding unless fewer than four tracts are offered, in which case not more than
7.11 one tract shall be awarded to one bidder. Any tract not sold at public auction may be offered
7.12 for private sale as authorized by section 90.101, subdivision 1, 30 days after the auction to
7.13 persons responsible bidders eligible under this section at the appraised value; and

7.14 (3) no sale may be made to a ~~person~~ responsible bidder having more than 30
7.15 employees. For the purposes of this clause, "employee" means an individual working in
7.16 the timber or wood products industry for salary or wages on a full-time or part-time basis.

7.17 (b) The auction sale procedure set forth in this section constitutes an additional
7.18 alternative timber sale procedure available to the commissioner and is not intended to
7.19 replace other authority possessed by the commissioner to sell timber in lots of 3,000
7.20 cords or less.

7.21 (c) Another bidder or the commissioner may request that the number of employees a
7.22 bidder has pursuant to paragraph (a), clause (3), be confirmed by signed affidavit if there is
7.23 evidence that the bidder may be ineligible due to exceeding the employee threshold. The
7.24 commissioner shall request information from the commissioners of labor and industry and
7.25 employment and economic development including the premiums paid by the bidder in
7.26 question for workers' compensation insurance coverage for all employees of the bidder.
7.27 The commissioner shall review the information submitted by the commissioners of labor
7.28 and industry and employment and economic development and make a determination based
7.29 on that information as to whether the bidder is eligible. A bidder is considered eligible and
7.30 may participate in intermediate auctions until determined ineligible under this paragraph.

7.31 Sec. 19. Minnesota Statutes 2012, section 90.145, is amended to read:

7.32 **90.145 PURCHASER QUALIFICATIONS ~~AND~~, REGISTRATION, AND**
7.33 **REQUIREMENTS.**

8.1 Subdivision 1. **Purchaser ~~qualifications~~ requirements.** (a) In addition to any other
8.2 requirements imposed by this chapter, the purchaser of a state timber permit issued under
8.3 section 90.151 must meet the requirements in paragraphs (b) to ~~(d)~~ (e).

8.4 (b) The purchaser ~~and~~ or the purchaser's agents, employees, subcontractors, and
8.5 assigns conducting logging operations on the timber permit must comply with general
8.6 industry safety standards for logging adopted by the commissioner of labor and industry
8.7 under chapter 182. The commissioner of natural resources ~~shall~~ may require a purchaser
8.8 to provide proof of compliance with the general industry safety standards.

8.9 (c) The purchaser ~~and~~ or the purchaser's agents, subcontractors, and assigns
8.10 conducting logging operations on the timber permit must comply with the mandatory
8.11 insurance requirements of chapter 176. The commissioner ~~shall~~ may require a purchaser
8.12 to provide a copy of the proof of insurance required by section 176.130 before the start of
8.13 harvesting operations on any permit.

8.14 (d) Before the start of harvesting operations on any permit, the purchaser must certify
8.15 that a foreperson or other designated employee who has a current certificate of completion,
8.16 which includes instruction in site-level forest management guidelines or best management
8.17 practices, from the Minnesota Logger Education Program (MLEP), the Wisconsin Forest
8.18 Industry Safety and Training Alliance (FISTA), or any similar continuous education
8.19 program acceptable to the commissioner, is supervising active logging operations.

8.20 (e) The purchaser and the purchaser's agents, employees, subcontractors, and assigns
8.21 who will be involved with logging, hauling, or scaling state timber must be in compliance
8.22 with this chapter.

8.23 Subd. 2. **Purchaser ~~preregistration~~ registration.** To facilitate the sale of permits
8.24 issued under section 90.151, the commissioner may establish a ~~purchaser preregistration~~
8.25 registration system to verify the qualifications of a person as a responsible bidder to
8.26 purchase a timber permit. Any system implemented by the commissioner shall be limited
8.27 in scope to only that information that is required for the efficient administration of the
8.28 purchaser qualification ~~provisions~~ requirements of this chapter ~~and shall conform with the~~
8.29 ~~requirements of chapter 13.~~ The registration system established under this subdivision is
8.30 not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

8.31 Sec. 20. Minnesota Statutes 2012, section 90.151, subdivision 1, is amended to read:

8.32 Subdivision 1. **Issuance; expiration.** (a) Following receipt of the down payment
8.33 for state timber required under section 90.14 or 90.191, the commissioner shall issue a
8.34 numbered permit to the purchaser, in a form approved by the attorney general, by the
8.35 terms of which the purchaser shall be authorized to enter upon the land, and to cut and

9.1 remove the timber therein described as designated for cutting in the report of the state
 9.2 appraiser, according to the provisions of this chapter. The permit shall be correctly
 9.3 dated and executed by the commissioner and signed by the purchaser. If a permit is not
 9.4 signed by the purchaser within ~~60~~ 45 days from the date of purchase, the permit cancels
 9.5 and the down payment for timber required under section 90.14 forfeits to the state. The
 9.6 commissioner may grant an additional period for the purchaser to sign the permit, not to
 9.7 exceed ~~five~~ ten business days, provided the purchaser pays a ~~\$125~~ \$200 penalty fee.

9.8 (b) The permit shall expire no later than five years after the date of sale as the
 9.9 commissioner shall specify or as specified under section 90.191, and the timber shall
 9.10 be cut and removed within the time specified therein. ~~All cut timber, equipment, and~~
 9.11 ~~buildings not removed from the land within 90 days after expiration of the permit shall~~
 9.12 ~~become the property of the state.~~ If additional time is needed, the permit holder must
 9.13 request, prior to the expiration date, and may be granted, for good and sufficient reasons,
 9.14 up to 90 additional days for the completion of skidding, hauling, and removing all
 9.15 equipment and buildings. All cut timber, equipment, and buildings not removed from the
 9.16 land after expiration of the permit becomes the property of the state.

9.17 (c) The commissioner may grant an additional period of time not to exceed ~~120~~ 240
 9.18 days for the removal of cut timber, equipment, and buildings upon receipt of such a written
 9.19 request by the permit holder for good and sufficient reasons. ~~The commissioner may grant~~
 9.20 ~~a second period of time not to exceed 120 days for the removal of cut timber, equipment,~~
 9.21 ~~and buildings upon receipt of a request by the permit holder for hardship reasons only.~~
 9.22 The permit holder may combine in the written request under this paragraph the request
 9.23 for additional time under paragraph (b).

9.24 Sec. 21. Minnesota Statutes 2012, section 90.151, subdivision 2, is amended to read:

9.25 Subd. 2. **Permit requirements.** The permit shall state the amount of timber
 9.26 estimated for cutting on the land, the estimated value thereof, and the price at which it is
 9.27 sold in units of per thousand feet, per cord, per piece, per ton, or by whatever description
 9.28 sold, and shall specify that all landings of cut products shall be legibly marked with the
 9.29 assigned permit number. The permit shall provide for the continuous identification
 9.30 and control of the cut timber from the time of cutting until delivery to the consumer.
 9.31 The permit shall provide that failure to continuously identify the timber as specified in
 9.32 the permit constitutes trespass.

9.33 Sec. 22. Minnesota Statutes 2012, section 90.151, subdivision 3, is amended to read:

10.1 Subd. 3. **Security provisions.** The permit shall contain such provisions as may be
 10.2 necessary to secure to the state the title of all timber cut thereunder wherever found until
 10.3 full payment therefor and until all provisions of the permit have been fully complied
 10.4 with. The permit shall provide that from the date ~~the same becomes effective~~ cutting
 10.5 commences until the expiration ~~thereof~~ of the permit, including all extensions, the
 10.6 purchaser and successors in interest shall be liable to the state for the full permit price of
 10.7 all timber covered thereby, notwithstanding any subsequent damage or injury thereto or
 10.8 trespass thereon or theft thereof, and without prejudice to the right of the state to pursue
 10.9 such timber and recover the value thereof anywhere prior to the payment therefor in full to
 10.10 the state. If an effective permit is forfeited prior to any cutting activity, the purchaser is
 10.11 liable to the state for a sum equal to the down payment and bid guarantee. Upon recovery
 10.12 from any person other than the permit holder, the permit holder shall be deemed released
 10.13 to the extent of the net amount, after deducting all expenses of collecting same, recovered
 10.14 by the state from such other person.

10.15 Sec. 23. Minnesota Statutes 2012, section 90.151, subdivision 4, is amended to read:

10.16 Subd. 4. **Permit terms.** Once a permit becomes effective and cutting commences,
 10.17 the permit holder is liable to the state for the permit price for all timber authorized to be
 10.18 cut, including timber not cut. The permit shall provide that all timber sold or designated
 10.19 for cutting shall be cut ~~without~~ in such a manner so as not to cause damage to other timber;
 10.20 that the permit holder shall remove all timber authorized and designated to be cut under
 10.21 the permit; that timber sold by ~~board~~ measure identified in the permit, but later determined
 10.22 by the commissioner not to be convertible into ~~board~~ the permit's measure, shall be paid
 10.23 for by the piece or cord or other unit of measure according to the size, species, or value, as
 10.24 may be determined by the commissioner; and that all timber products, except as specified
 10.25 by the commissioner, shall be scaled and the final settlement for the timber cut shall be
 10.26 made on this scale; ~~and that the permit holder shall pay to the state the permit price for~~
 10.27 ~~all timber authorized to be cut, including timber not cut.~~

10.28 Sec. 24. Minnesota Statutes 2012, section 90.151, subdivision 6, is amended to read:

10.29 Subd. 6. **Notice and approval required.** The permit shall provide that the permit
 10.30 holder shall not start cutting any state timber nor clear ~~building sites~~ landings nor logging
 10.31 roads until the commissioner has been notified and has given prior approval to such
 10.32 cutting operations. Approval shall not be granted until the permit holder has completed
 10.33 a presale conference with the state appraiser designated to supervise the cutting. The
 10.34 permit holder shall also give prior notice whenever permit operations are to be temporarily

11.1 halted, whenever permit operations are to be resumed, and when permit operations are to
 11.2 be completed.

11.3 Sec. 25. Minnesota Statutes 2012, section 90.151, subdivision 7, is amended to read:

11.4 Subd. 7. **Liability for timber cut in trespass.** The permit shall provide that the
 11.5 permit holder shall pay the permit price value for any timber sold which is negligently
 11.6 destroyed or damaged by the permit holder in cutting or removing other timber sold. If the
 11.7 permit holder shall cut or remove or negligently destroy or damage any timber upon the
 11.8 land described, not sold under the permit, except such timber as it may be necessary to cut
 11.9 and remove in the construction of necessary logging roads and landings approved as to
 11.10 location and route by the commissioner, such timber shall be deemed to have been cut in
 11.11 trespass. The permit holder shall be liable for any such timber and recourse may be had
 11.12 upon the ~~bond~~ security deposit.

11.13 Sec. 26. Minnesota Statutes 2012, section 90.151, subdivision 8, is amended to read:

11.14 Subd. 8. **Suspension; cancellation.** The permit shall provide that the commissioner
 11.15 shall have the power to order suspension of all operations under the permit when ~~in the~~
 11.16 ~~commissioner's judgment~~ the conditions thereof have not been complied with and any
 11.17 timber cut or removed during such suspension shall be deemed to have been cut in trespass;
 11.18 that the commissioner may cancel the permit at any time ~~when in the commissioner's~~
 11.19 ~~judgment the conditions thereof have not been complied with~~ due to a breach of the permit
 11.20 conditions and such cancellation shall constitute repossession of the timber by the state;
 11.21 that the permit holder shall remove equipment and buildings from such land within 90 days
 11.22 after such cancellation; that, if the purchaser at any time fails to pay any obligations to the
 11.23 state under any other permits, any or all permits may be canceled; and that any timber cut
 11.24 or removed in violation of the terms of the permit or of any law shall constitute trespass.

11.25 Sec. 27. Minnesota Statutes 2012, section 90.151, subdivision 9, is amended to read:

11.26 Subd. 9. **Slashings disposal.** The permit shall provide that the permit holder shall
 11.27 ~~burn or otherwise~~ dispose of or treat all slashings or other refuse resulting from cutting
 11.28 operations, as specified in the permit, in the manner now or hereafter provided by law.

11.29 Sec. 28. Minnesota Statutes 2012, section 90.161, is amended to read:

11.30 **90.161 SURETY BONDS FOR AUCTION SECURITY DEPOSITS**
 11.31 **REQUIRED FOR EFFECTIVE TIMBER PERMITS.**

12.1 Subdivision 1. **Bond Security deposit required.** (a) Except as otherwise provided
12.2 by law, the purchaser of any state timber, before any timber permit becomes effective for
12.3 any purpose, shall give a good and valid bond security in the form of cash; a certified
12.4 check; a cashier's check; a postal, bank, or express money order; a corporate surety bond;
12.5 or an irrevocable bank letter of credit to the state of Minnesota equal to the value of all
12.6 timber covered or to be covered by the permit, as shown by the sale price bid and the
12.7 appraisal report as to quantity, less the amount of any payments pursuant to sections
12.8 section 90.14 and 90.163.

12.9 (b) The bond security deposit shall be conditioned upon the faithful performance
12.10 by the purchaser and successors in interest of all terms and conditions of the permit and
12.11 all requirements of law in respect to timber sales. The bond security deposit shall be
12.12 approved in writing by the commissioner and filed for record in the commissioner's office.

12.13 (c) ~~In the alternative to cash and bond requirements, but upon the same conditions,~~
12.14 A purchaser may post bond for 100 percent of the purchase price and request refund of the
12.15 amount of any payments pursuant to ~~sections~~ section 90.14 and 90.163. The commissioner
12.16 may credit the refund to any other permit held by the same permit holder if the permit is
12.17 delinquent as provided in section 90.181, subdivision 2, or may credit the refund to any
12.18 other permit to which the permit holder requests that it be credited.

12.19 (d) In the event of a default, the commissioner may take from the deposit the sum of
12.20 money to which the state is entitled. The commissioner shall return the remainder of the
12.21 deposit, if any, to the person making the deposit. When cash is deposited as security, it
12.22 shall be applied to the amount due when a statement is prepared and transmitted to the
12.23 permit holder according to section 90.181. Any balance due to the state shall be shown on
12.24 the statement and shall be paid as provided in section 90.181. Any amount of the deposit
12.25 in excess of the amount determined to be due according to section 90.181 shall be returned
12.26 to the permit holder when a final statement is transmitted under section 90.181. All or
12.27 part of a cash deposit may be withheld from application to an amount due on a nonfinal
12.28 statement if it appears that the total amount due on the permit will exceed the bid price.

12.29 (e) If an irrevocable bank letter of credit is provided as security under paragraph
12.30 (a), at the written request of the permittee, the commissioner shall annually allow the
12.31 amount of the bank letter of credit to be reduced by an amount proportionate to the value
12.32 of timber that has been harvested and for which the state has received payment under the
12.33 timber permit. The remaining amount of the bank letter of credit after a reduction under
12.34 this paragraph must not be less than the value of the timber remaining to be harvested
12.35 under the timber permit.

13.1 (f) If cash; a certified check; a cashier's check; a personal check; or a postal, bank, or
 13.2 express money order is provided as security under paragraph (a) and no cutting of state
 13.3 timber has taken place on the permit, the commissioner may credit the security provided,
 13.4 less any deposit required under section 90.14, to any other permit to which the permit
 13.5 holder requests in writing that it be credited.

13.6 Subd. 2. **Failure to ~~bond~~ provide security deposit.** ~~If ~~bond~~ the security deposit is~~
 13.7 ~~not furnished, no harvesting may occur and the down payment for timber~~ 15 percent of the
 13.8 permit's purchase price shall forfeit to the state when the permit expires.

13.9 Subd. 3. **Subrogation.** ~~In case of default~~ When security is provided by surety
 13.10 bond and the permit holder defaults in payment by the permit holder, the surety upon the
 13.11 bond shall make payment in full to the state of all sums of money due under such permit;
 13.12 and thereupon such surety shall be deemed immediately subrogated to all the rights of
 13.13 the state in the timber so paid for; and such subrogated party may pursue the timber and
 13.14 recover therefor, or have any other appropriate relief in relation thereto which the state
 13.15 might or could have had if such surety had not made such payment. No assignment or
 13.16 other writing on the part of the state shall be necessary to make such subrogation effective,
 13.17 but the certificate signed by and bearing the official seal of the commissioner, showing the
 13.18 amount of such timber, the lands from which it was cut or upon which it stood, and the
 13.19 amount paid therefor, shall be prima facie evidence of such facts.

13.20 Subd. 4. **Change of security.** Prior to any ~~harvest~~ cutting activity, or activities
 13.21 incidental to the preparation for harvest, a purchaser having posted a ~~bond~~ security deposit
 13.22 for 100 percent of the purchase price of a sale may request the release of the ~~bond~~ security
 13.23 and the commissioner shall grant the release ~~upon cash payment to the commissioner of~~
 13.24 ~~15 percent of the appraised value of the sale, plus eight percent interest on the appraised~~
 13.25 ~~value of the sale from the date of purchase to the date of release~~ while retaining, or upon
 13.26 repayment of, the permit's down payment and bid guarantee deposit requirement.

13.27 Sec. 29. Minnesota Statutes 2012, section 90.162, is amended to read:

13.28 **90.162 ALTERNATIVE TO BOND OR DEPOSIT REQUIREMENTS**
 13.29 **SECURING TIMBER PERMITS WITH CUTTING BLOCKS.**

13.30 In lieu of the ~~bond or cash~~ security deposit equal to the value of all timber covered
 13.31 by the permit required by section 90.161 ~~or 90.173~~, a purchaser of state timber may elect
 13.32 in writing on a form prescribed by the attorney general to give good and valid surety to the
 13.33 state of Minnesota equal to the purchase price for any designated cutting block identified
 13.34 on the permit before the date the purchaser enters upon the land to begin harvesting the
 13.35 timber on the designated cutting block.

14.1 Sec. 30. **[90.164] TIMBER PERMIT DEVELOPMENT OPTION.**

14.2 With the completion of the presale conference requirement under section 90.151,
 14.3 subdivision 6, a permit holder may access the permit area in advance of the permit being
 14.4 fully secured as required by section 90.161, for the express purpose of clearing approved
 14.5 landings and logging roads. No cutting of state timber except that incidental to the clearing
 14.6 of approved landings and logging roads is allowed under this section.

14.7 Sec. 31. Minnesota Statutes 2012, section 90.171, is amended to read:

14.8 **90.171 ASSIGNMENT OF AUCTION TIMBER PERMITS.**

14.9 Any permit sold at public auction may be assigned upon written approval of the
 14.10 commissioner. The assignment of any permit shall be signed and acknowledged by the
 14.11 permit holder. The commissioner shall not approve any assignment until the assignee has
 14.12 been determined to meet the qualifications of a responsible bidder and has given to the state
 14.13 a ~~bond~~ security deposit which shall be substantially in the form of, and shall be deemed
 14.14 of the same effect as, the ~~bond~~ security deposit required of the original purchaser. The
 14.15 commissioner may accept ~~the~~ an agreement of the assignee and any corporate surety upon
 14.16 ~~such~~ an original bond, substituting the assignee in the place of ~~such~~ the original purchaser
 14.17 and continuing ~~such~~ the original bond in full force and effect, as to the assignee. Thereupon
 14.18 but not otherwise the permit holder making the assignment shall be released from all
 14.19 liability arising or accruing from actions taken after the assignment became effective.

14.20 Sec. 32. Minnesota Statutes 2012, section 90.181, subdivision 2, is amended to read:

14.21 Subd. 2. **Deferred payments.** (a) If the amount of the statement is not paid within
 14.22 30 days of the date thereof, it shall bear interest at the rate determined pursuant to section
 14.23 16A.124, except that the purchaser shall not be required to pay interest that totals \$1 or
 14.24 less. If the amount is not paid within 60 days, the commissioner shall place the account in
 14.25 the hands of the commissioner of revenue according to chapter 16D, who shall proceed to
 14.26 collect the same. When deemed in the best interests of the state, the commissioner shall
 14.27 take possession of the timber for which an amount is due wherever it may be found and
 14.28 sell the same informally or at public auction after giving reasonable notice.

14.29 (b) The proceeds of the sale shall be applied, first, to the payment of the expenses
 14.30 of seizure and sale; and, second, to the payment of the amount due for the timber, with
 14.31 interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is
 14.32 not realized to pay these amounts in full, the balance shall be collected by the attorney
 14.33 general. Neither payment of the amount, nor the recovery of judgment therefor, nor
 14.34 satisfaction of the judgment, nor the seizure and sale of timber, shall release the sureties

15.1 on any ~~bond~~ security deposit given pursuant to this chapter, or preclude the state from
 15.2 afterwards claiming that the timber was cut or removed contrary to law and recovering
 15.3 damages for the trespass thereby committed, or from prosecuting the offender criminally.

15.4 Sec. 33. Minnesota Statutes 2012, section 90.191, subdivision 1, is amended to read:

15.5 Subdivision 1. **Sale requirements.** The commissioner may sell the timber on any
 15.6 tract of state land in lots not exceeding 500 cords in volume, without formalities but for
 15.7 not less than the full appraised value thereof, to any person. No sale shall be made under
 15.8 this section to any person holding two more than four permits issued hereunder which are
 15.9 still in effect; ~~except that (1) a partnership as defined in chapter 323, which may include~~
 15.10 ~~spouses but which shall provide evidence that a partnership exists, may be holding two~~
 15.11 ~~permits for each of not more than three partners who are actively engaged in the business~~
 15.12 ~~of logging or who are the spouses of persons who are actively engaged in the business of~~
 15.13 ~~logging with that partnership; and (2) a corporation, a majority of whose shares and voting~~
 15.14 ~~power are owned by natural persons related to each other within the fourth degree of~~
 15.15 ~~kindred according to the rules of the civil law or their spouses or estates, may be holding~~
 15.16 ~~two permits for each of not more than three shareholders who are actively engaged in the~~
 15.17 ~~business of logging or who are the spouses of persons who are actively engaged in the~~
 15.18 ~~business of logging with that corporation.~~

15.19 Sec. 34. Minnesota Statutes 2012, section 90.193, is amended to read:

15.20 **90.193 EXTENSION OF TIMBER PERMITS.**

15.21 The commissioner may, in the case of an exceptional circumstance beyond the
 15.22 control of the timber permit holder which makes it unreasonable, impractical, and not
 15.23 feasible to complete cutting and removal under the permit within the time allowed, grant
 15.24 ~~an~~ one regular extension ~~of~~ for one year. A written request for the regular extension must
 15.25 be received by the commissioner before the permit expires. The request must state the
 15.26 reason the extension is necessary and be signed by the permit holder. An interest rate of
 15.27 eight percent may be charged for the period of extension.

15.28 Sec. 35. Minnesota Statutes 2012, section 90.195, is amended to read:

15.29 **90.195 SPECIAL USE AND PRODUCT PERMIT.**

15.30 (a) The commissioner may issue a permit to salvage or cut not to exceed 12 cords of
 15.31 fuelwood per year for personal use from either or both of the following sources: (1) dead,
 15.32 down, and ~~diseased~~ damaged trees; (2) other trees that are of negative value under good
 15.33 forest management practices. The permits may be issued for a period not to exceed one

16.1 year. The commissioner shall charge a fee for the permit ~~that shall cover the commissioner's~~
 16.2 ~~cost of issuing the permit and~~ as provided under section 90.041, subdivision 10. The fee
 16.3 shall not exceed the current market value of fuelwood of similar species, grade, and volume
 16.4 that is being sold in the area where the salvage or cutting is authorized under the permit.

16.5 (b) The commissioner may issue a special product permit under section 89.42 for
 16.6 commercial use, which may include incidental volumes of boughs, gravel, hay, biomass,
 16.7 and other products derived from forest management activities. The value of the products
 16.8 is the current market value of the products that are being sold in the area. The permit may
 16.9 be issued for a period not to exceed one year and the commissioner shall charge a fee for
 16.10 the permit as provided under section 90.041, subdivision 10.

16.11 (c) The commissioner may issue a special use permit for incidental volumes of
 16.12 timber from approved right-of-way road clearing across state land for the purpose of
 16.13 accessing a state timber permit. The permit shall include the volume and value of timber
 16.14 to be cleared and may be issued for a period not to exceed one year. A presale conference
 16.15 as required under section 90.151, subdivision 6, must be completed before the start of
 16.16 any activities under the permit.

16.17 Sec. 36. Minnesota Statutes 2012, section 90.201, subdivision 2a, is amended to read:

16.18 Subd. 2a. **Prompt payment of refunds.** Any refund of cash that is due to a permit
 16.19 holder as determined on a final statement transmitted pursuant to section 90.181 or a
 16.20 refund of cash made pursuant to section 90.161, subdivision 1, ~~or 90.173, paragraph~~
 16.21 ~~(a)~~, shall be paid to the permit holder according to section 16A.124 unless the refund is
 16.22 credited on another permit as provided in this chapter.

16.23 Sec. 37. Minnesota Statutes 2012, section 90.211, is amended to read:

16.24 **90.211 PURCHASE MONEY, WHEN FORFEITED.**

16.25 If the holder of an effective permit begins to cut and then fails to cut complete any
 16.26 part thereof of the permit before the expiration of the permit, the permit holder shall
 16.27 nevertheless pay the price therefor; but under no circumstances shall timber be cut after
 16.28 the expiration of the permit or extension thereof.

16.29 Sec. 38. Minnesota Statutes 2012, section 90.221, is amended to read:

16.30 **90.221 TIMBER SALES RECORDS.**

16.31 The commissioner shall keep timber sales records, including the description of each
 16.32 tract of land from which any timber is sold; the date of the report of the state appraisers;
 16.33 the kind, amount, and value of the timber as shown by such report; the date of the sale;

17.1 the price for which the timber was sold; the name of the purchaser; the number, date
17.2 of issuance and date of expiration of each permit; the date of any assignment of the
17.3 permit; the name of the assignee; the dates of the filing and the amounts of the respective
17.4 ~~bonds~~ security deposits by the purchaser and assignee; the names of the sureties thereon;
17.5 the amount of timber taken from the land; the date of the report of the scaler and state
17.6 appraiser; the names of the scaler and the state appraiser who scaled the timber; and the
17.7 amount paid for such timber and the date of payment.

17.8 Sec. 39. Minnesota Statutes 2012, section 90.252, subdivision 1, is amended to read:

17.9 Subdivision 1. **Consumer scaling.** The commissioner may enter into an agreement
17.10 with either a timber sale permittee, or the purchaser of the cut products, or both, so
17.11 that the scaling of the cut timber and the collection of the payment for the same can be
17.12 consummated by the ~~consumer~~ state. Such an agreement shall be approved as to form and
17.13 content by the attorney general and shall provide for a bond or cash in lieu of a bond and
17.14 such other safeguards as are necessary to protect the interests of the state. The scaling
17.15 and payment collection procedure may be used for any state timber sale, except that no
17.16 permittee who is also the consumer shall both cut and scale the timber sold unless such
17.17 scaling is supervised by a state scaler.

17.18 Sec. 40. Minnesota Statutes 2012, section 90.301, subdivision 2, is amended to read:

17.19 Subd. 2. **Seizure of unlawfully cut timber.** The commissioner may take possession
17.20 of any timber hereafter unlawfully cut upon or taken from any land owned by the state
17.21 wherever found and may sell the same informally or at public auction after giving such
17.22 notice as the commissioner deems reasonable and after deducting all the expenses of such
17.23 sale the proceeds thereof shall be paid into the state treasury to the credit of the proper
17.24 fund; and when any timber so unlawfully cut has been intermingled with any other timber
17.25 or property so that it cannot be identified or plainly separated therefrom the commissioner
17.26 may so seize and sell the whole quantity so intermingled and, in such case, the whole
17.27 quantity of such timber shall be conclusively presumed to have been unlawfully taken
17.28 from state land. When the timber unlawfully cut or removed from state land is so seized
17.29 and sold, the seizure shall not in any manner relieve the trespasser who cut or removed, or
17.30 caused the cutting or removal of, any such timber from the full liability imposed by this
17.31 chapter for the trespass so committed, but the net amount realized from such sale shall
17.32 be credited on whatever judgment is recovered against such trespasser, if the trespass
17.33 was deemed to be casual and involuntary.

18.1 Sec. 41. Minnesota Statutes 2012, section 90.301, subdivision 4, is amended to read:

18.2 Subd. 4. **Apprehension of trespassers; reward.** The commissioner may offer a
18.3 reward to be paid to a person giving to the proper authorities any information that leads to
18.4 the conviction of a person violating this chapter. The reward is limited to the greater of
18.5 \$100 or ten percent of the single stumpage value of any timber unlawfully cut or removed.
18.6 The commissioner shall pay the reward from funds appropriated for that purpose or from
18.7 receipts from the sale of state timber. A reward shall not be paid to salaried forest officers,
18.8 state appraisers, scalers, conservation officers, or licensed peace officers.

18.9 Sec. 42. Minnesota Statutes 2012, section 90.41, subdivision 1, is amended to read:

18.10 Subdivision 1. **Violations and penalty.** (a) Any state scaler or state appraiser who
18.11 shall accept any compensation or gratuity for services as such from any other source
18.12 except the state of Minnesota, or any state scaler, or other person authorized to scale state
18.13 timber, or state appraiser, who shall make any false report, or insert in any such report any
18.14 false statement, or shall make any such report without having examined the land embraced
18.15 therein or without having actually been upon the land, or omit from any such report any
18.16 statement required by law to be made therein, or who shall fail to report any known trespass
18.17 committed upon state lands, or who shall conspire with any other person in any manner, by
18.18 act or omission or otherwise, to defraud or unlawfully deprive the state of Minnesota of any
18.19 land or timber, or the value thereof, shall be guilty of a felony. Any material discrepancy
18.20 between the facts and the scale returned by any such person scaling timber for the state
18.21 shall be considered prima facie evidence that such person is guilty of violating this statute.

18.22 (b) No such appraiser or scaler who has been once discharged for cause shall ever
18.23 again be appointed. This provision shall not apply to resignations voluntarily made by and
18.24 accepted from such employees.

18.25 Sec. 43. **REPEALER.**

18.26 Minnesota Statutes 2012, sections 90.163; 90.173; and 90.41, subdivision 2, are
18.27 repealed.

90.163 PERFORMANCE DEPOSIT OPTION.

In lieu of the bond or cash deposit equal to the value of all timber covered by the permit as required by section 90.161 or 90.173, a purchaser of any state timber may pay to the commissioner a performance deposit of ten percent of the appraised value of the permit for the express purpose of entering on the land to clear building sites or logging roads in advance of cutting state timber. No cutting of state timber, except that incidental to the clearing of building sites or logging roads, is allowed until the purchaser has met all of the requirements of section 90.161 or 90.173.

90.173 PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF BOND.

(a) In lieu of filing the bond required by section 90.161 or 90.171, as security for the issuance or assignment of a timber permit, the person required to file the bond may deposit with the commissioner cash; a certified check; a cashier's check; a personal check; a postal, bank, or express money order; or an irrevocable bank letter of credit in the same amount as would be required for a bond. All of the conditions of the timber sale bond shall equally apply to the alternatives in lieu of bond. In the event of a default the state may take from the deposit the sum of money to which it is entitled; the remainder, if any, shall be returned to the person making the deposit. When cash is deposited for a bond, it shall be applied to the amount due when a statement is prepared and transmitted to the permit holder pursuant to section 90.181. Any balance due to the state shall be shown on the statement and shall be paid as provided in section 90.181. Any amount of the deposit in excess of the amount determined to be due pursuant to section 90.181 shall be returned to the permit holder when a final statement is transmitted pursuant to that section. All or part of a cash bond may be withheld from application to an amount due on a nonfinal statement if it appears that the total amount due on the permit will exceed the bid price.

(b) If an irrevocable bank letter of credit is provided as security under paragraph (a), at the written request of the permittee the state shall annually allow the amount of the bank letter of credit to be reduced by an amount proportionate to the value of timber that has been harvested and for which the state has received payment under the timber permit. The remaining amount of the bank letter of credit after a reduction under this paragraph must not be less than the value of the timber remaining to be harvested under the timber permit.

(c) If cash; a certified check; a cashier's check; a personal check; or a postal, bank, or express money order is provided as security under paragraph (a) and no cutting of state timber has taken place on the permit, the commissioner may credit the security provided, less any deposit required by sections 90.14 and 90.163, to any other permit to which the permit holder requests in writing that it be credited.

90.41 STATE APPRAISER AND SCALER; VIOLATIONS, PENALTIES.

Subd. 2. **Penalty.** Every person who shall cut timber on state lands and fail to mark the same, as provided by law, and the permit under which the same was cut, shall be guilty of a gross misdemeanor.