

deny their sovereignty as a requirement or condition of a contract with the state or an agency of the state.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Approved April 24, 1988

CHAPTER 628—S.F.No. 2214

An act relating to natural resources; authorizing the commissioner to sell certain surplus lands to local governments for local recreation or natural resource purposes; authorizing the commissioner of natural resources to convey road and flowage easements in certain circumstances; transferring duties and powers of county auditors and treasurers relating to sales of certain classes of state land to the commissioner; transferring the authority to issue state land patents from the governor to the commissioner; specifying the amount above appraised value that the commissioner may pay when acquiring land; authorizing long-term leases of state land for certain purposes; modifying certain provisions of land exchange laws relating to appraisals and fees; implementing exchanges of public land authorized by the constitution; authorizing exchange of school trust land located within a state park; appointing an independent trustee and legal counsel for land exchanges involving school trust land; providing a procedure for exchange of Class B land with Class A or Class C land; authorizing governmental units to exchange land in the same manner as private persons; amending Minnesota Statutes 1986, sections 84.027, by adding a subdivision; 84.631; 85.015, subdivision 1; 92.16, subdivision 1; 92.23; 92.24; 92.26; 92.27; 92.29; 92.50, subdivision 1; 94.342, subdivision 3, and by adding subdivisions; 94.343, subdivision 3; 94.344, subdivisions 1, 3, 7, and 10; 94.348; Minnesota Statutes 1987 Supplement, section 105.392, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 84 and 92; repealing Minnesota Statutes 1986, section 92.25.

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

Section 1. Minnesota Statutes 1986, section 84.027, is amended by adding a subdivision to read:

Subd. 10. SALE OF SURPLUS LANDS TO LOCAL GOVERNMENTS FOR RECREATIONAL OR NATURAL RESOURCES PURPOSES. (a) The commissioner, with the approval of the state executive council, may sell the class of land or interest in land under paragraph (b) to a county, home rule charter or statutory city, town, or other governmental subdivision of the state for public use, including recreational or natural resource purposes.

(b) The commissioner may sell the class of land or interest in land that has been acquired by gift, purchase, or eminent domain and the commissioner has declared surplus. The commissioner shall declare land surplus in writing and state the reasons why the land or interest in land is no longer needed.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The commissioner shall appraise the land or interest in land before the land or interest in land is sold, and may sell the land or interest in land for less than the appraised value if the commissioner determines, in writing, that it is in the public interest.

(d) The commissioner shall convey the state's interest in the name of the state by quitclaim deed in a form approved by the attorney general. The deed must reserve to the state minerals and mineral rights in the manner provided in sections 93.01 and 93.02, and provide that the land or interest in land reverts to the state if the governmental subdivision acquiring the land or interest in land:

(1) fails to provide the public use intended on the property;

(2) allows a public use other than the public use agreed to by the commissioner at the time of conveyance without the written approval of the commissioner; or

(3) abandons the public use of the property.

Sec. 2. Minnesota Statutes 1986, section 84.631, is amended to read:

84.631 ROAD EASEMENTS ACROSS TRAILS ESTABLISHED ON ACQUIRED RAILROAD RIGHTS-OF-WAY STATE LANDS.

The commissioner, on behalf of the state, may convey a road easement across any abandoned railroad right-of-way which has been acquired by the state for trail purposes, and which is state land under the commissioner's jurisdiction other than school trust land, to a private person requesting an easement for access to property owned by the person only if the following requirements are met: (1) alternative methods to obtain access to the property have been sought and exhausted by the person seeking the easement through the establishment of a town or other local government road; and (2) the commissioner determines that the hardship to the person being deprived of access outweighs any adverse effects to the state-owned land caused by encumbering the state-owned land with a road easement. On determining that an easement will be granted under this subdivision, (1) there are no reasonable alternatives to obtain access to the property; and (2) the exercise of the easement will not cause significant adverse environmental or natural resource management impacts. The commissioner shall:

(1) require the applicant to pay the market value of the easement; and shall;

(2) provide in that the easement that it shall revert reverts to the state in the event of nonuse. The commissioner may; and

(3) impose other terms and conditions of use as necessary and appropriate under the circumstances.

Sec. 3. [84.632] CONVEYANCE OF UNNEEDED STATE FLOWAGE EASEMENTS.

New language is indicated by underline, deletions by ~~strikeout~~.

(a) Notwithstanding section 92.45, the commissioner of natural resources may, in the name of the state, release a flowage easement acquired by the state to a landowner whose property is burdened with the flowage easement if the flowage easement is not needed for state purposes.

(b) The entire, or a portion of a, flowage easement may be released by payment of consideration in an amount determined by the commissioner. The conveyance must be by quitclaim deed in a form approved by the attorney general.

(c) Money received for the flowage easement shall be deposited in the account from which money was expended for purchase of the flowage easement.

Sec. 4. Minnesota Statutes 1986, section 85.015, subdivision 1, is amended to read:

Subdivision 1. **ACQUISITION.** (a) The commissioner of natural resources shall establish, develop, maintain, and operate the trails designated in this section. Each trail shall have the purposes assigned to it in this section. The commissioner of natural resources may acquire lands by gift or purchase, in fee or easement, for the trail and facilities related to the trail.

(b) The commissioner of natural resources, in the name of the state, may sell surplus lands not needed for trail purposes to adjoining property owners and leaseholders. The conveyance must be by quitclaim in a form approved by the attorney general for a consideration not less than the appraised value.

Sec. 5. **[92.025] SCHOOL TRUST LAND DEFINITION.**

For purposes of chapters 92 and 94, "school trust land" means land granted by the United States for use of schools within each township, swampland granted to the state, and internal improvement land that are reserved for permanent school fund purposes under the Minnesota Constitution, article XI, section 8, and land exchanged, purchased, or granted to the permanent school fund.

Sec. 6. Minnesota Statutes 1986, section 92.16, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS; DEFAULT, RESALE.** At the time of the sale the commissioner shall execute, acknowledge, and deliver to the purchaser a certificate of sale, numbered and made assignable, certifying the description of the land sold, its quantity, the price per acre, the consideration paid and to be paid, and the time and terms of payment. A certificate must not be delivered until the sum required by law to be paid at the time of the sale is paid ~~to the treasurer of the county where the sale takes place.~~ The sum includes costs determined by the commissioner to be associated with the sale such as survey, appraisal, publication, deed tax, filing fee, and similar costs. If the purchaser fails to pay the sum, the commissioner may immediately reoffer the land for sale, but ~~no~~ a bid may not be received ~~accepted~~ accepted from the person ~~so~~ failing to pay the original offer.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. Minnesota Statutes 1986, section 92.23, is amended to read:

92.23 PAYMENTS; RECEIPTS; LIABILITY OF OFFICIALS.

The holder of a certificate of sale may pay the ~~treasurer of the county containing the land~~ commissioner any amount due on the certificate. The ~~treasurer~~ commissioner shall issue ~~quadruplicate~~ duplicate receipts specifying the date, the name and address of the person making the payment, the amount paid, whether for principal or interest, the fund to which it is applicable, and the number of the certificate. The receipt ~~must be countersigned by the auditor of the county, and~~ has the same effect as if given by the state treasurer. The ~~county treasurer~~ commissioner shall deliver one copy to the holder of the certificate; ~~one to the county auditor, one to the commissioner, and retain one copy.~~

~~The liability under the official bonds of county treasurers and of their deputies and employees includes liability for the faithful performance of their duties under this section.~~

Sec. 8. Minnesota Statutes 1986, section 92.24, is amended to read:

92.24 MONEY PAID TO STATE TREASURER.

The ~~county treasurer must hold~~ commissioner shall pay over all money received on account of certificates of sale ~~subject to the order of the state treasurer for deposit as required by section 92.28 and other applicable laws. On June 30 and December 31 each year and at other times when requested by the state treasurer,~~ the county treasurer shall pay into the state treasury the money received since the last payment.

Sec. 9. Minnesota Statutes 1986, section 92.26, is amended to read:

92.26 STATEMENT OF SALES.

Before May 2 each year the ~~director~~ commissioner shall ~~transmit to each county treasurer who has executed and returned bond~~ prepare a statement showing the lands sold in ~~that~~ each county, the classes to which they belong, the numbers of the certificates of sale, the name of the persons to whom each was issued, and the amount of principal and interest due on each certificate on June 1. The ~~director~~ commissioner shall ~~provide instructions and forms to enable the treasurer to carry out this chapter~~ forward copies of the statement to the governor and to the commissioner of finance.

Sec. 10. Minnesota Statutes 1986, section 92.27, is amended to read:

92.27 COUNTY AUDITORS; DUTIES AND POWERS COMMISSIONER'S REPORT ON CLOSE OF SALE.

At the time required by law to return abstracts of settlement to the ~~commissioner or at any other time requested by the commissioner,~~ the county auditor shall forward to the ~~commissioner~~ all duplicate receipts of principal, interest, or penalties delivered to the auditor, with a certified statement of collections by the county treasurer. The certified statement must specify the

New language is indicated by underline, deletions by ~~strikeout~~.

~~amount of each item. The county auditor commissioner or the commissioner's designated agent shall act as clerk of land sales made by the commissioner and may make sales when authorized by the commissioner, in which case the auditor's deputy shall act as clerk. Immediately after the close of all sales, the county auditor commissioner shall prepare a report to the commissioner the description of describing each tract sold, the amount for which it was sold, and the amount paid. For each day while so engaged the county auditor shall be paid \$3. Payment must be made out of any appropriation for the appraisal and sale of these lands.~~

Sec. 11. Minnesota Statutes 1986, section 92.29, is amended to read:

92.29 LAND PATENTS.

~~The governor commissioner of natural resources shall sign and issue, in the name of the state and under the seal of the state, attested by the commissioner, a patent for the land described in any certificate of sale when it is presented endorsed with the certificate of the commissioner (1) that the principal and interest specified in the certificate of sale and all taxes due on this the land have been paid and (2) that. The patent should issue shall be issued to the named patentee. The patentee shall be the purchaser named in the certificate of sale, or the purchaser's successor in interest by execution, judicial, mortgage or tax sale, or the assignee, vendee, heir or devisee of the purchaser, as shown by a properly certified abstract of title or other evidence if the named patentee purchaser's successor is any a person other than the original purchaser named in the certificate of sale. If the certificate of sale has become lost or destroyed, an affidavit stating that fact must be submitted by the applicant for a patent.~~

Sec. 12. Minnesota Statutes 1986, section 92.50, subdivision 1, is amended to read:

Subdivision 1. **LEASE TERMS.** (a) ~~The commissioner of natural resources may lease, at public or private vendue and at the prices and under the terms and conditions the commissioner may prescribe, any state-owned lands land under the commissioner's jurisdiction and control for the purpose of taking and removing;~~

- (1) to remove sand, gravel, clay, rock, marl, peat, and black dirt; ~~for storing;~~
- (2) to store ore, waste materials from mines, or rock and tailings from ore milling plants;;
- (3) for roads or railroads; or
- (4) for any other uses consistent with the interests of the state. ~~Except as otherwise provided in this subdivision, the term of~~

(b) The commissioner shall offer the lease at public or private sale for an amount and under terms and conditions prescribed by the commissioner. Commercial leases for more than 10 years and leases for removal of peat must be approved by the executive council.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The lease term may not exceed ten years; except:

(1) leases of lands for storage sites for ore, waste materials from mines, or rock and tailings from ore milling plants, or for the removal of peat; ~~or for the use of peat lands for agricultural purposes~~ may not exceed a term of 25 years; Leases for the removal of peat must be approved by the executive council;

(2) leases for the use of peat lands for agricultural purposes may not exceed 21 years; and

(3) leases for commercial purposes, including major resort, convention center, or recreational area purposes, may not exceed a term of 40 years.

All (d) Leases must be subject to sale and leasing of the land for mineral purposes and contain a provision for cancellation for just cause at any time by the commissioner upon six months' written notice. A longer notice period, not exceeding three years, may be provided in leases for storing ore, waste materials from mines or rock or tailings from ore milling plants. The commissioner may determine the terms and conditions, including the notice period, for cancellation of a lease for the removal of peat and commercial leases.

(e) Money received from leases under this section must be credited to the fund to which the land belongs.

Sec. 13. Minnesota Statutes 1986, section 94.342, subdivision 3, is amended to read:

Subd. 3. ~~CLASS C. No land specifically designated by law as a state park shall be given in exchange hereunder unless expressly authorized by the legislature.~~

No Land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law shall is Class C land. Class C land may not be given in exchange unless expressly authorized by the legislature or unless through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public; provided, that any exchange with the United States or any agency thereof may be made free from this limitation upon condition that the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by Minnesota Statutes 1945, section 92.45, and that there shall be reserved by the state such additional rights of public use upon suitable portions of of such state land as the commissioner of natural resources, with the approval of the land exchange board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses.

Sec. 14. Minnesota Statutes 1986, section 94.342, is amended by adding a subdivision to read:

Subd. 4. STATE PARK LAND. Land specifically designated by law as a

New language is indicated by underline, deletions by strikethrough.

state park may not be given in exchange unless the land is school trust land that is exchanged for Class A or Class C land located outside a state park.

Sec. 15. Minnesota Statutes 1986, section 94.342, is amended by adding a subdivision to read:

Subd. 5. SCHOOL TRUST LAND. School trust land may be exchanged with other state land only if the permanent school fund advisory committee is appointed as temporary trustee of the school trust land for purposes of the exchange. The committee shall provide independent legal counsel to review the exchanges.

Sec. 16. Minnesota Statutes 1986, section 94.342, is amended by adding a subdivision to read:

Subd. 6. REUNITING AND SEVERING OF SURFACE AND MINERAL INTERESTS. (a) When making a land exchange, a goal of the land exchange board shall be to reunite the surface interest with the mineral interest whenever possible.

(b) If mineral interests are severed in an exchange, the land exchange board must consider the impact of severed mineral interests on minerals management.

Sec. 17. Minnesota Statutes 1986, section 94.343, subdivision 3, is amended to read:

Subd. 3. Except as otherwise herein provided, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner, with the approval of the board. For the purposes of such determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers as provided in section 92.12 in like manner as state school trust land to be offered for sale; provided, that in exchanges with the United States or any agency thereof the examination and appraisal may be made in such manner as the land exchange board may direct. The appraisers shall determine the fair market value of the lands involved, disregarding any minimum value fixed for state land by the state constitution or by law, and shall make a report thereof, together with such other pertinent information respecting the use and value of the lands to the state as they deem pertinent or as the commissioner or the board may require. Such reports shall be filed and preserved in the same manner as other reports of appraisal of state lands. The appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the board, together with such other matters as they deem material, in determining the values for the purposes of exchange.

Sec. 18. Minnesota Statutes 1986, section 94.344, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise ~~herein~~ provided, ~~any~~ Class B land ~~may~~,

New language is indicated by underline, deletions by ~~strikeout~~.

by resolution of the county board of the county ~~in which~~ where the land is ~~situated~~ located and with the unanimous approval of the land exchange board, may be exchanged for ~~land of the United States~~ any publicly held or privately owned land in the same county ~~in the manner and subject to the conditions herein prescribed.~~

Sec. 19. Minnesota Statutes 1986, section 94.344, subdivision 3, is amended to read:

Subd. 3. Except as otherwise ~~herein~~ provided, Class B land ~~shall~~ may be exchanged only for land of ~~at least~~ substantially equal value or greater value to the state, as determined by the county board, with the approval of the commissioner and the land exchange board. For an exchange involving Class B land for Class A or Class C land, the value of the lands shall be determined by the commissioner, with approval of the land exchange board. For purposes of the determination, the commissioner shall appraise the state and tax-forfeited land proposed to be exchanged in the same manner as school trust land. ~~For the all other purposes of such determination,~~ the county board shall appraise the state land and the land ~~proposed to be exchanged therefor~~ in the proposed exchange in like the same manner as tax-forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

Sec. 20. Minnesota Statutes 1986, section 94.344, subdivision 7, is amended to read:

Subd. 7. (a) Except for land described in paragraph (b), before giving final approval to any exchange of Class B land, the county board shall hold a public hearing thereon. At least two weeks before the hearing the county auditor shall post in the auditor's office a notice thereof, containing a description of the lands affected.

(b) In an exchange of Class B land for Class A or Class C land the commissioner is responsible for holding the public hearing.

Sec. 21. Minnesota Statutes 1986, section 94.344, subdivision 10, is amended to read:

Subd. 10. After approval by the county board, every proposal for the exchange of Class B land shall be transmitted to the commissioner in such form and with such information as the commissioner may prescribe for consideration by the commissioner and by the board. The county attorney's opinion on the title, with the abstract and other evidence of title, if any, shall accompany the proposal. If the proposal be approved by the commissioner and the board and the title be approved by the attorney general, the same shall be certified to the commissioner of revenue, who shall execute a deed in the name of the state conveying the land given in exchange, with a certificate of unanimous approval by the board appended, and transmit the deed to the county auditor to be

New language is indicated by underline, deletions by ~~strikeout~~.

delivered upon receipt of a deed conveying to the state the land received in exchange, approved by the county attorney; provided, that if any amount is due the state under the terms of the exchange, the deed from the state shall not be executed or delivered until such amount is paid in full and a certificate thereof by the county auditor is filed with the commissioner of revenue. The county auditor shall cause all deeds received by the state in such exchanges to be recorded or registered, and thereafter shall file the deeds or the certificates of registered title in the auditor's office. If the land received by the county in the exchange is either Class A or Class C land, the commissioner of revenue shall deliver the deed for the Class B land to the commissioner of natural resources and following the recording of this deed, the commissioner of natural resources shall deliver to the county auditor a deed conveying the Class A or Class C land to the county auditor to be recorded or registered, and afterwards file the deeds or the certificate of registered title in the auditor's office.

Sec. 22. Minnesota Statutes 1986, section 94.348, is amended to read:

94.348 EXCHANGES OF STATE OWNED LAND, APPRAISAL FEE.

Subdivision 1. Whenever a private land owner or governmental unit, except the state, presents to the Minnesota land exchange board, an offer to exchange private or publicly held land for Class A state-owned land as defined in section 94.342, the private land owner shall deposit with or governmental unit shall pay to the board an appraisal and survey fee of not less than \$25 nor more than \$100; the amount to be one-half of the cost of appraisal and survey determined by the board, depending upon the area of land involved in the offer commissioner.

Subd. 2. If the offer of the private land owner is accepted by the board and the land exchange is consummated, or, if the board refuses to accept the offer the appraisal fee shall be refunded, otherwise the appraisal fee shall be retained by the board. APPRAISAL AND SURVEY FEE. (a) Except as provided in paragraph (b), the appraisal and survey fee shall be retained by the board.

(b) The appraisal and survey fee shall be refunded if:

(1) the land exchange offer is withdrawn by a private land owner or a governmental unit before money is spent for the appraisal and survey; or

(2) the board refuses to accept the land exchange offer.

Sec. 23. Minnesota Statutes 1987 Supplement, section 105.392, subdivision 4, is amended to read:

Subd. 4. **PAYMENT AND HELP TO OWNER.** In return for the easement of the owner, the commissioner must provide advice on conservation and development practices on the wetlands and adjacent areas for the purposes of this section as the commissioner determines to be appropriate. The commissioner must make the following payments to the landowner for the easement:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) for a permanent easement, 50 percent of the average equalized estimated market value of cropland in the township as established by the commissioner of revenue for the time period when the application is made;

(2) for an easement of limited duration, a lump sum payment equal to the ~~present value of the annual payments for the term of the easement based on 50 percent of the mean adjusted cash rental for cropland in the county as established by the commissioner of revenue~~ 65 percent of the value of the permanent easement value for the time period when the application is made; or

(3) an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.

Sec. 24. **REPEALER.**

Minnesota Statutes 1986, section 92.25, is repealed.

Sec. 25. **EFFECTIVE DATE.**

Sections 6 to 10 and 24 are effective January 1, 1989.

Approved April 24, 1988

CHAPTER 629—S.F.No. 2226

An act relating to state government; amending certain provisions governing advisory councils, committees, and task forces; amending Minnesota Statutes 1986, sections 3.922, subdivisions 3 and 8; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 6.65; 15.059, subdivision 5; 15.0591, subdivision 1; 16B.27, subdivision 3; 79.51, subdivision 4; 84B.11, subdivision 1; 85A.02, subdivision 4; 115.54; 116C.59, subdivisions 1, 2, and 4; 116C.839; 121.83; 124.48, subdivision 3; 126.56, subdivision 5; 128A.03, subdivision 3; 135A.05; 136A.02, subdivision 7; 138.97, subdivision 3; 162.02, subdivision 2; 162.09, subdivision 2; 174.031, subdivision 2; 175.008; 182.653, subdivision 4e; 214.141; 248.10, subdivision 2; 254A.035, subdivision 2; 256C.28, subdivision 2; 299F.097; 611A.34, subdivision 1; 611A.71, by adding a subdivision; Minnesota Statutes 1987 Supplement, sections 15.059, subdivisions 3 and 6; 16B.20, subdivision 2; 43A.316, subdivision 4; 115A.12, subdivision 1; 116J.971, by adding a subdivision; 120.17, subdivision 11a; 121.934, subdivision 1; 123.935, subdivision 7; 126.665; 129C.10, subdivision 3; 136A.02, subdivision 6; 144.672, subdivision 1; 175.007, subdivision 1; 245.697, subdivision 1; 245.97, subdivision 6; 246.56, subdivision 2; 256.482, subdivision 1; 256.73, subdivision 7; 256B.064, subdivision 1a; 256B.27, subdivision 3; 256B.433, subdivisions 1 and 4; 299A.23, subdivision 2; 299J.06, subdivision 4; repealing Minnesota Statutes 1986, sections 116J.04; 160.80, subdivision 6; 177.28, subdivision 2; 326.66; Minnesota Statutes 1987 Supplement, section 115A.12, subdivision 2.

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

Section 1. Minnesota Statutes 1986, section 3.922, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.