



Department of Natural Resources Fact Sheet



ROAD EASEMENT APPLICATION FEE HF 787/SF 791

Summary

This bill will require the submission of a \$2,000 application fee by a private party requesting a perpetual easement to cross acquired (non-trust) state lands to obtain access to their property. The DNR currently has authority to consider such requests and can grant permanent easements if there is no reasonable alternative and if the roadway will not cause significant environmental or natural resource management impacts. The DNR prefers to issue easements to local units of government rather than individuals, and will not require the \$2,000 fee from a local road authority.

Upon receipt of an easement request, the DNR analyzes the proposal and determines impacts. The \$2,000 application fee from individuals will pay for inspection, analysis, land survey work, easement value determination, and preparation of the easement terms. Based on recent experience, it is estimated about 10 such requests will be made annually.

It is needed because

Requests by individuals for permanent easements to cross state lands predominantly benefits only the private party making the request. The costs of processing a road easement should reasonably be borne by the person making the request, not the taxpayers as a whole.

Financial Implications (if appropriate)

The DNR expects to process about 10 requests from individuals annually. A \$2,000 application fee will generate about \$20,000 per year.

Background

In many parts of Minnesota, the land ownership pattern can best be described as a patchwork. In many cases, access to a parcel is impossible without making arrangements with adjacent landowners to cross their lands to reach the nearest road. If the land to cross is managed by the DNR, the DNR tries to provide access through a local road authority. When this occurs, the

DNR makes every effort to include a local road authority to guarantee that the access roadway is properly constructed, maintained, and will meet future needs of the public in the general vicinity.

When it is not feasible to work with a local road authority, the DNR has the legal authority to deal directly with an individual on all lands except trust lands. Currently, the costs associated with granting an easement, whether to an individual or a local authority, is borne by the DNR using General Fund appropriations. This is appropriate when the easement involves a road authority because public funds are used to benefit the public. When the primary purpose is to benefit a single individual, the cost of processing the easement should be the individual's responsibility.

The DNR has been processing requests for easements to cross state lands from individuals for many years. The DNR has required that \$500 be submitted with the application, and that if the value of the easement exceeds the \$500, an additional amount to equal the easement value must be paid. These revenues go into funds associated with the land's ownership and are not used to pay for processing the easement.

Under this proposal a payment equal to the value of an easement will continue to be required. However, an additional \$2000 will need to be paid for an easement request from a private party. This fee will cover the DNR's costs to inspect, process, conduct land surveys, determine easement value, and prepare the easement agreement documents.

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1 and appropriate under the circumstances.

2 (c) An applicant shall submit a fee of \$2,000 with each
3 application for a road easement across state land. The
4 application fee is nonrefundable, even if the application is
5 withdrawn or denied.

6 (d) Fees collected under paragraph (c) must be deposited in
7 the land management account in the natural resources fund.

8 Sec. 2. [92.685] [LAND MANAGEMENT ACCOUNT]

9 The land management account is created in the natural
10 resources fund. Money credited to the account is appropriated
11 annually to the commissioner of natural resources for the Lands
12 and Minerals Division to administer the road easement program
13 under section 84.631.



Department of Natural Resources Fact Sheet



ELECTRONIC OPEN BURNING PERMITS HF 901/SF 1019

Summary

This bill will allow the DNR to augment the existing burning permit system by providing electronic open burning permits as an alternative via the Internet and through agents who currently issue other DNR permits and licenses through the Electronic Licensing System (ELS). Permits will still be available from the volunteer fire warden system at no charge.

To provide an electronic permit alternative, the DNR proposes to recover costs through fees for electronic permits. The fees would cover system operation and issuing vendor costs. Proposed fees: (a) Five dollars for an annual, noncommercial open burning permit to an individual; (b) Five dollars each, up to a \$50 maximum, for multiple permits to commercial enterprises.

The proposed change will reduce administrative workload, increase customer convenience, bring additional management capability to the current system, provide for system cost reductions, and identify real-time fire permit activity to both DNR and fire protection cooperators (such as fire departments and county sheriffs.)

It is needed because

The DNR is responsible for administering open burning laws statewide. Volunteer fire wardens and forestry field offices issue more than 60,000 burning permits on paper forms each year. This system costs about \$170,000 a year to administer.

Although permits will still be available from the volunteer fire warden system at no charge, the addition of electronic permits benefits the public and improves wildfire protection in the following ways:

- The volunteer fire warden system is becoming more difficult to continue in certain geographic areas because fewer people are home during the day to issue permits, and many people are concerned about admitting strangers into their homes.

- Paper permits cannot be tracked or revoked when extreme fire weather occurs. An electronic system allows improved ability to issue permits when appropriate.
- Nearly one third of the volunteer fire wardens are already ELS vendors.
- Citizens are requesting electronic access to burning permits over the Internet, so they can procure a permit from home at their convenience. An informal survey of customers indicated that approximately 85% would be willing to pay a small fee for the convenience of an annual electronic permit.

Financial implications

Fees from the issuance of electronic burning permits will be deposited to a burning permit account within the Natural Resources Fund and used to operate the burning permit system. The fee structure is intended to cover the costs of this activity. Fees will not over-recover costs or build up excess funds in the account.

Background

Minnesota adopted the first open burning laws in 1918, in the aftermath of several disastrous forest fires. In 1993, the DNR was also given statutory responsibility for open burning in non-forested areas that had previously been regulated by MPCA rules.

Under present laws written burning permits are required statewide, except when the ground is snow covered. Campfires are excluded. Only vegetative materials may be burned.

Electronic permits offer an unprecedented convenience in that they are valid for an entire year and can be activated through an automated 24-hour phone system.

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Senator Saxhaug introduced--**S.F. No. 1019:** Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; providing for
3 electronic issuance of burning permits; providing for
4 electronic burning permit fees; creating an account;
5 appropriating money; amending Minnesota Statutes 2004,
6 section 88.17, subdivision 1, by adding subdivisions.

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

8 Section 1. Minnesota Statutes 2004, section 88.17,
9 subdivision 1, is amended to read:

10 Subdivision 1. [PERMIT REQUIRED.] (a) A permit to start a
11 fire to burn vegetative materials and other materials allowed by
12 Minnesota Statutes or official state rules and regulations may
13 be given by the commissioner or the commissioner's agent. This
14 permission shall be in the form of:

15 (1) a written permit signed issued by a forest officer,
16 fire warden, authorized-Minnesota-pollution-control-agent, or
17 other person authorized by the forest-officer,-or-town-fire
18 warden,-and commissioner; or

19 (2) an electronic permit issued by the commissioner, an
20 agent authorized by the commissioner, or an Internet site
21 authorized by the commissioner.

22 (b) Burning permits shall set the time and conditions by
23 which the fire may be started and burned. The permit shall also
24 specifically list the materials that may be burned. The
25 permittee must have the permit on their person and shall produce
26 the permit for inspection when requested to do so by a forest

1 officer, ~~town-fire-warden~~, conservation officer, or other peace
2 officer. The permittee shall remain with the fire at all times
3 and before leaving the site shall completely extinguish the
4 fire. A person shall not start or cause a fire to be started on
5 any land that is not owned or under their legal control without
6 the written permission of the owner, lessee, or an agent of the
7 owner or lessee of the land. Violating or exceeding the permit
8 conditions shall constitute a misdemeanor and shall be cause for
9 the permit to be revoked.

10 Sec. 2. Minnesota Statutes 2004, section 88.17, is amended
11 by adding a subdivision to read::

12 Subd. 4. [ACCOUNT CREATED.] There is created in the state
13 treasury a burning permit account within the natural resources
14 fund where all fees collected under this section shall be
15 deposited.

16 Sec. 3. Minnesota Statutes 2004, section 88.17, is amended
17 by adding a subdivision to read:

18 Subd. 5. [PERMIT FEES.] (a) The annual fees for an
19 electronic burning permit are:

20 (1) \$5 for a noncommercial burning permit; and

21 (2) for commercial enterprises that obtain multiple
22 permits, \$5 per permit for each burning site, up to a maximum of
23 \$50 per individual business enterprise per year.

24 (b) Except for the issuing fee under paragraph (c), money
25 received from permits issued under this section shall be
26 deposited in the state treasury and credited to the burning
27 permit account and is annually appropriated to the commissioner
28 of natural resources for the costs of operating the burning
29 permit system.

30 (c) Of the fee amount collected under paragraph (a), \$1
31 shall be retained by the permit agent as a commission for
32 issuing electronic permits.

1 Senator moves to amend S.F. No. 1019 as
2 follows:

3 Page 2, line 14, delete everything after "fund" and insert
4 a period

5 Page 2, delete line 15

6 Page 2, line 24, after "fee" insert "for licensing agents"

7 Page 2, line 27, after "and" insert ", except for the
8 electronic licensing system commission established by the
9 commissioner under section 84.027, subdivision 15, and issuing
10 fees collected by the commissioner,"

11 Page 2, line 31, delete "commission" and insert "fee"



Department of Natural Resources Fact Sheet



OMNIBUS LAND POLICY BILL HF 900/SF 897

Summary

This is primarily a technical and housekeeping bill regarding the exchange of state-owned land with other publicly or privately-held land. The bill:

- Clarifies when lands of lesser or greater value may be exchanged.
- Removes obsolete language no longer needed due to the 1984 constitutional amendment that authorized the exchange of public lands for other public lands.
- Changes the valuation of lands to conform with statutory changes made in 2004 as to valuation of lands for acquisition purposes.
- Recognizes that it is the DNR rather than the Land Exchange Board that provides notice and holds a hearing before there is final approval of an exchange of DNR managed lands.
- Updates the fee to the landowner exchanging land with the DNR from "not less than \$25 nor more than one-half of the cost of the appraisal and survey" to "not less than one-half of the determination of value fee and survey fee."
- Authorizes exchanges of county-administered land for DNR managed land (other than school trust land) or for U.S. owned land of greater value, if the county agrees to pay the difference in value.

The bill contains two modifications as to DNR land acquisitions. For nonprofit organizations and governmental entities, the DNR and the other party may mutually agree to waive provisions of the Landowner's Bill of Rights in the same manner as is currently authorized with railroad right-of-ways. The DNR is also authorized to enter and pay for a right of first refusal agreement with landowners.

The bill also modifies the mandate to sell the remaining internal improvement lands to a discretionary act.

It is needed because

Due to the constitutional amendment in 1984, the addition of substantially equal definitions in 1992 and 1993, statutory land valuation changes in 2004, and changes in procedures by the DNR and Land Exchange Board, it is time for an update in the land exchange laws.

For land acquisitions, it is reasonable to allow governmental entities and nonprofit organizations selling to the DNR to waive rights under the Landowner's Bill of Rights (Minn. Stat., sec. 84.0274) to reduce costs and expedite the process. The authority to enter into a right of first refusal agreement will provide a means for the DNR to ensure the opportunity to acquire a few key parcels while the appraisal and market process continues.

Of the 496,482 acres of internal improvement lands granted to Minnesota in 1866, there are 6,629 acres remaining. Almost all the lands were sold under the directives from 1872. Most of the remaining parcels should remain in state ownership and managed for revenue generation to the Permanent School Fund.

Financial implications (if appropriate)

This bill has minimal fiscal impact. Annually, there will be a few thousand dollars increase in costs to entities who propose to exchange land with the DNR.

Background

The land exchange law changes are written to meet the management needs of the DNR and to provide clarity to parties involved in land exchanges. The land acquisition law changes will aid parties selling land to the DNR.

For further information contact:

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S.F. No. 1326: Referred to the Committee on Environment and Natural Resources.

Senator Marty introduced--

1 A bill for an act

2 relating to natural resources; providing for an
3 official map of state forest roads as an alternative
4 recording method; proposing coding for new law in
5 Minnesota Statutes, chapter 89.

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

7 Section 1. [89.715] [ALTERNATIVE RECORDING FOR STATE
8 FOREST ROAD.]

9 Subdivision 1. [AUTHORIZATION.] The commissioner may adopt
10 a recorded state forest road map under this section to record
11 the department's state forest road prescriptive easements. For
12 purposes of this section, "recorded state forest road map" means
13 the official map of state forest roads.

14 Subd. 2. [MAP REQUIREMENTS.] The recorded state forest
15 road map must:

16 (1) show state forest roads at the time the map is adopted;

17 (2) be prepared at a scale of at least four inches equals

18 one mile;

19 (3) include section numbers;

20 (4) include a north point arrow;

21 (5) include the name of the county and state;

22 (6) include a blank and a description under the blank for
23 the date of public hearing and date of adoption; and

24 (7) include blanks for signatures and dates of signatures
25 for the commissioner.

1 Subd. 3. [PROCEDURE TO ADOPT MAP.] (a) The commissioner
2 must prepare an official map for each county or smaller
3 geographic area as determined by the commissioner as provided in
4 subdivision 2, and set a time, place, and date for a public
5 hearing on adopting a recorded state forest road map to record
6 roads.

7 (b) The hearing notice must state that the roads to be
8 recorded will be to the width of the actual use including
9 ditches, backslopes, fills, and maintained rights-of-way, unless
10 otherwise specified in a prior easement of record. The hearing
11 notice must be published once a week for two successive weeks in
12 a qualified newspaper of general circulation that serves the
13 county or smaller geographic areas as determined by the
14 commissioner, the last publication to be made at least ten days
15 before the date of the public hearing. At least 30 days before
16 the hearing, the hearing notice must be sent by mail to the
17 property owners directly affected in the county or smaller
18 geographic areas as determined by the commissioner at the
19 addresses listed on the tax assessment notices. The hearing
20 notice may be sent with the tax assessment, but all additional
21 costs incurred shall be billed to the department.

22 (c) After the public hearing is held, the commissioner may
23 amend and adopt the recorded state forest road map. The
24 recorded state forest road map must be dated and signed by the
25 commissioner and must be recorded with the county recorder
26 within 90 days after the map is adopted.

27 (d) The recorded state forest road map that is recorded
28 with the county recorder must comply with the standards of the
29 county recorder where the state forest roads are located.

30 (e) A recorded state forest road map that was prepared by
31 using aerial photographs to establish road centerlines and that
32 has been duly recorded with the county recorder is an adequate
33 description for purposes of recording road easements and the map
34 is the legally constituted description and prevails when a deed
35 for a parcel abutting a road contains no reference to a road
36 easement. Nothing prevents the commissioner from accepting a

1 more definitive metes and bounds or survey description of a road
2 easement for a road of record if the description of the easement
3 is referenced to equal distance on both sides of the existing
4 road centerline.

5 Subd. 4. [APPEAL.] A person may appeal a decision to
6 record a road under this section to the district court within 60
7 days after the date the commissioner adopts the state forest
8 road map.

9 Subd. 5. [UNRECORDED ROAD OR TRAIL NOT AFFECTED.] This
10 section does not affect the legal status or state obligations of
11 roads and trails not shown on the recorded state forest road map.

12 Subd. 6. [EXEMPTION.] Adoption of a recorded state forest
13 road map under this section is exempt from the rulemaking
requirements of chapter 14 and section 14.386 does not apply.

Open Burning Permit System

- History of the burning permit system
 - [1895] Forest Preservation Act following the Hinckley Fire
 - [1918] First Burning Permit law following the Fires of 1918, relates to open burning in forested areas
 - [1969] MN Pollution Control Agency responsible for air pollution aspects of open burning
 - [1993] Responsibility for all open burning vested solely with DNR, statewide

1

2/28/2005

Minnesota DNR Forestry

Open Burning Permit System

- Permits are required statewide
- Permits are not required for campfires and some recreational fires
- Burn barrels, of approved design, are still allowed in some areas for burning **vegetative materials only**
- Spring restrictions limit burning permit availability

2

2/28/2005

Minnesota DNR Forestry

Open Burning Permit System

A successful fire protection effort requires fire wardens, burning permits, law enforcement and public education

3

2/28/2005

Minnesota DNR Forestry

Open Burning Permit System

- Current system
 - Approx. 3000 commissioned, volunteer Fire Wardens, plus DNR forestry offices, county and city officials
 - Recruitment of volunteers is getting difficult
 - Approx. 60,000 paper permits per year
 - Annual administration costs \$170,000
 - Slow to change burning restrictions, with rapidly changing fire danger – difficult/impossible to shut down permits on high fire danger days
 - Difficult to respond to variable burning conditions across state (e.g. regional drought)

4

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- New system
 - Adds electronic option via Electronic Licensing System (ELS) and Internet
 - Allows emergency response agencies to view locations of active permit fires
 - Requires permit holder to call on the day of the burn to activate permit
 - Allows DNR to modify burning restrictions based on current weather conditions

5

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- The System
 - Applicants obtain burning permits via:
 - Internet (from home)
 - ELS license agent (bait shop, filling station)
 - Government office
 - Volunteer Township Fire Warden (free, limited term paper permit still available, modified call-in activation required)
 - Electronic permits valid for one calendar year, each burning event must be activated by phone

6

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

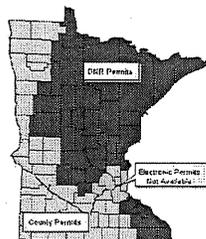
- The System (cont.)
 - Electronic permit form can be modified to address local conditions and local regulations
 - Annual fee (\$5 – non-commercial, \$5 to \$50 commercial)
 - Pays for electronic system operation and maintenance
 - Purchases forms and information materials used in permit issuance

7

2/28/2005

Minnesota DNR Forestry

New Burning Permit System



- State is divided into zones to address different burning conditions
 - Forested Zone – DNR and Township Fire Wardens issue permits, electronic option available
 - Agricultural Zone – County officials issue permits, may use electronic system if desired
 - Metro Zone and Selected cities – City officials issue permits, electronic permits not available

8

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- Types of permits
 1. Individual permit – issued for residential burning at one site, piled material only
 2. Running fire – for prescribed fires 5 acres or larger or very large piles (not available electronically at this time)
- Separate permit required for each county in which applicant plans to burn
 1. Multiple sites can be listed on a single annual permit

9

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- Infra-structure of the new system:
 - Utilizes existing ELS system with over 1700 vendors (many of whom are currently fire wardens)
 - Creates an Internet site that provides home-based access to the permit system
 - Creates a central “800” call-in system for daily activation of electronic permits
 - Prevention message included with call-in system can be adapted to local conditions and regulations
 - Allows fast response to fire danger conditions
 - Fees collected would pay for operating the system

10

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- Managing the “800” Call-in system
 - Division of Forestry will manage the automated system with input from local Sheriffs, Fire Chiefs and other agency fire managers
 - In counties/cities where a local authority manages the permit system, call-in procedure will also be managed by the local authority

11

2/28/2005

Minnesota DNR Forestry

New Burning Permit System

- Anticipated use – 20,000 electronic permits per year
- Use of Fees - \$5 per annual permit
 - \$1 to the permit issuing vendor
 - \$4 to pay for system operation
- System operation includes: computer and call-in system maintenance + fire prevention materials

12

2/28/2005

Minnesota DNR Forestry

Senators Bakk, Olson, Saxhaug, Jungbauer and Frederickson introduced--
S.F. No. 897: Referred to the Committee on Environment and Natural Resources.

A bill for an act

1
2 relating to state lands; modifying landowner's bill of
3 rights for sales to the state; modifying provisions
4 for sale of internal improvement land; modifying land
5 exchange provisions; appropriating money; amending
6 Minnesota Statutes 2004, sections 84.0274, by adding
7 subdivisions; 84.157; 92.03, subdivision 4; 94.342,
8 subdivisions 1, 3, 4, 5; 94.343, subdivisions 1, 3, 7,
9 8, 10, by adding subdivisions; 94.344, subdivisions 1,
10 3, 5, 8, 10, by adding a subdivision; 97A.135,
11 subdivision 2a; 103F.535, subdivision 1; repealing
12 Minnesota Statutes 2004, sections 94.343, subdivision
13 6; 94.344, subdivision 6; 94.348; 94.349.

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

15 Section 1. Minnesota Statutes 2004, section 84.0274, is
16 amended by adding a subdivision to read:

17 Subd. 9. [EXCEPTION FOR NONPROFIT ORGANIZATIONS AND
18 GOVERNMENTAL ENTITIES.] When the commissioner acquires land or
19 interests in land from a nonprofit organization or governmental
20 entity, any or all of the provisions of this section may be
21 waived by mutual agreement of the commissioner and the nonprofit
22 organization or governmental entity.

23 Sec. 2. Minnesota Statutes 2004, section 84.0274, is
24 amended by adding a subdivision to read:

25 Subd. 10. [RIGHT OF FIRST REFUSAL AGREEMENT.] The
26 commissioner may enter into a right of first refusal agreement
27 with a landowner prior to determining the value of the land. No
28 right of first refusal agreement shall be made for a period of
29 greater than two years and payment to the landowner for entry

1 into the agreement shall not exceed \$5,000.

2 Sec. 3. Minnesota Statutes 2004, section 84.157, is
3 amended to read:

4 84.157 [EXCHANGE OF CERTAIN STATE LANDS.]

5 Notwithstanding any ~~provision-of-section-94.3437~~
6 ~~subdivision-27-or-any-other-existing~~ law to the contrary, Class
7 A state lands located within the Red Lake Game Preserve, the
8 conservation areas created under sections 84A.20 and 84A.31, the
9 Beltrami Island Conservation Project, the Beltrami Island State
10 Forest, the Pine Island Conservation Project, the Pine Island
11 State Forest, and all state forests or parts thereof in the area
12 within the proclaimed boundaries of the Superior National Forest
13 and the Chippewa National Forest wherein consent of the state to
14 acquisition of land by the United States has heretofore been
15 given by or pursuant to law may be exchanged for other lands
16 within or without said areas upon compliance with all other
17 provisions of law relating to the exchange of such lands, even
18 though such exchanges may reduce land holdings of the state
19 within the respective areas above specified.

20 Sec. 4. Minnesota Statutes 2004, section 92.03,
21 subdivision 4, is amended to read:

22 Subd. 4. [INTERNAL IMPROVEMENT LANDS.] When lands donated
23 to the state under the eighth section of an act of Congress
24 entitled "An act to appropriate the proceeds of the sales of the
25 public lands, and to grant preemption rights," approved
26 September 4, 1841, ~~must-be~~ are sold ~~and,~~ the money derived from
27 its sale must be invested, as provided by the Minnesota
28 Constitution, article XI, section 8.

29 Sec. 5. Minnesota Statutes 2004, section 94.342,
30 subdivision 1, is amended to read:

31 Subdivision 1. [CLASS A.] All land owned by the state and
32 controlled or administered by the commissioner or by any
33 division ~~or-agency~~ of the Department of Natural Resources shall
34 be known as Class A land for the purposes of sections 94.341 to
35 94.347. Class A land shall include school, swamp, internal
36 improvement, and other land granted to the state by acts of

1 Congress, state forest land, tax-forfeited land held by the
2 state free from any trust in favor of taxing districts, and
3 other land acquired by the state in any manner and controlled or
4 administered as aforesaid; but this enumeration shall not be
5 deemed exclusive.

6 Sec. 6. Minnesota Statutes 2004, section 94.342,
7 subdivision 3, is amended to read:

8 Subd. 3. [~~CLASS-E~~ ADDITIONAL RESTRICTIONS ON RIPARIAN
9 LAND.] Land bordering on or adjacent to any meandered or other
10 public waters and withdrawn from sale by law is ~~Class-E~~ riparian
11 land. ~~Class-E~~ Riparian land may not be given in exchange unless
12 expressly authorized by the legislature or unless through the
13 same exchange the state acquires land on the same or other
14 public waters in the same general vicinity affording at least
15 equal opportunity for access to the waters and other riparian
16 use by the public; provided, that any exchange with the United
17 States or any agency thereof may be made free from this
18 limitation upon condition that the state land given in exchange
19 bordering on public waters shall be subject to reservations by
20 the state for public travel along the shores as provided by
21 section 92.45, unless waived as provided in this subdivision,
22 and that there shall be reserved by the state such additional
23 rights of public use upon suitable portions of such state land
24 as the commissioner of natural resources, with the approval of
25 the Land Exchange Board, may deem necessary or desirable for
26 camping, hunting, fishing, access to the water, and other public
27 uses. In regard to Class B or ~~Class-E~~ riparian land that is
28 contained within that portion of the Superior National Forest
29 that is designated as the Boundary Waters Canoe Area Wilderness,
30 the condition that state land given in exchange bordering on
31 public waters must be subject to the public travel reservations
32 provided in section 92.45, may be waived by the Land Exchange
33 Board upon the recommendation of the commissioner of natural
34 resources and, if the land is Class B land, the additional
35 recommendation of the county board in which the land is located.

36 Sec. 7. Minnesota Statutes 2004, section 94.342,

1 subdivision 4, is amended to read:

2 Subd. 4. [ADDITIONAL RESTRICTIONS ON STATE PARK LAND.]

3 Land specifically designated by law as a state park may not be
4 given in exchange unless the land is school trust land that is
5 exchanged for Class A ~~or Class E~~ land located outside a state
6 park.

7 Sec. 8. Minnesota Statutes 2004, section 94.342,
8 subdivision 5, is amended to read:

9 Subd. 5. [ADDITIONAL RESTRICTIONS ON SCHOOL TRUST LAND.]

10 School trust land may be exchanged with other state Class A land
11 only if the Permanent School Fund Advisory Committee is
12 appointed as temporary trustee of the school trust land for
13 purposes of the exchange. The committee shall provide
14 independent legal counsel to review the exchanges.

15 Sec. 9. Minnesota Statutes 2004, section 94.343,
16 subdivision 1, is amended to read:

17 Subdivision 1. [GENERAL EXCHANGE PROVISIONS.] ~~Except-as~~
18 ~~otherwise-herein-provided,~~ (a) Any Class A land may, with the
19 unanimous approval of the board, be exchanged for any publicly
20 held or privately owned land in the manner and subject to the
21 conditions herein prescribed. Class A land may be exchanged
22 only if it meets the requirements of subdivision 3 or 5.

23 (b) The commissioner, with the approval of the board, shall
24 formulate general programs of exchange of Class A land designed
25 to serve the best interests of the state in the acquisition,
26 development, and use of lands for purposes within the province
27 of the Department of Natural Resources.

28 Sec. 10. Minnesota Statutes 2004, section 94.343, is
29 amended by adding a subdivision to read:

30 Subd. 2a. [VALUATION OF LAND.] The commissioner shall
31 cause the state land and the land proposed to be exchanged
32 therefor to be examined and value determined as provided in
33 section 84.0272; provided, that in exchanges with the United
34 States or any agency thereof the examination and value
35 determination may be made in such manner as the Land Exchange
36 Board may direct. The determined values shall not be

1 conclusive, but shall be taken into consideration by the
 2 commissioner and the board, together with such other matters as
 3 they deem material, in determining the values for the purposes
 4 of exchange.

5 Sec. 11. Minnesota Statutes 2004, section 94.343,
 6 subdivision 3, is amended to read:

7 Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE
 8 REQUIRED OR LOWER VALUE.] (a) Except as otherwise herein
 9 provided, Class A land shall be exchanged only for land of at
 10 least substantially equal value to the state, as determined by
 11 the commissioner, with the approval of the board. ~~For the~~
 12 ~~purposes of such determination, the commissioner shall cause the~~
 13 ~~state land and the land proposed to be exchanged therefor to be~~
 14 ~~examined and appraised by qualified state appraisers as provided~~
 15 ~~in section 84.0272, provided, that in exchanges with the United~~
 16 ~~States or any agency thereof the examination and appraisal may~~
 17 ~~be made in such manner as the Land Exchange Board may direct.~~
 18 ~~The appraisers shall determine the fair market value of the~~
 19 ~~lands involved, disregarding any minimum value fixed for state~~
 20 ~~land by the state Constitution or by law, and shall make a~~
 21 ~~report thereof, together with such other pertinent information~~
 22 ~~respecting the use and value of the lands to the state as they~~
 23 ~~deem pertinent or as the commissioner or the board may require.~~
 24 ~~Such reports shall be filed and preserved in the same manner as~~
 25 ~~other reports of appraisal of state lands. The appraised values~~
 26 ~~shall not be conclusive, but shall be taken into consideration~~
 27 ~~by the commissioner and the board, together with such other~~
 28 ~~matters as they deem material, in determining the values for the~~
 29 ~~purposes of exchange.~~

30 (b) For the purposes of this subdivision, "substantially
 31 equal value" means:

32 (1) where the lands being exchanged are both over 100
 33 acres, their values do not differ by more than ten percent; and

34 (2) in other cases, the values of the exchanged lands do
 35 not differ by more than 20 percent.

36 (c) Other than school trust land, Class A land may be

1 Sec. 17. Minnesota Statutes 2004, section 94.344, is
2 amended by adding a subdivision to read:

3 Subd. 2a. [VALUATION OF LANDS.] For an exchange involving
4 Class B land for Class A land, the value of the lands shall be
5 determined by the commissioner, with approval of the Land
6 Exchange Board. For purposes of the determination, the
7 commissioner shall determine the value of the state and
8 tax-forfeited land proposed to be exchanged in the same manner
9 as Class A land. For all other purposes, the county board shall
10 appraise the state land and the land in the proposed exchange in
11 the same manner as tax-forfeited land to be offered for sale.
12 The determined values shall not be conclusive, but shall be
13 taken into consideration, together with such other matters as
14 may be deemed material, in determining the values for the
15 purposes of exchange.

16 Sec. 18. Minnesota Statutes 2004, section 94.344,
17 subdivision 3, is amended to read:

18 Subd. 3. [EXCHANGING LAND OF SUBSTANTIALLY EQUAL VALUE
19 REQUIRED OR LOWER VALUE.] (a) Except as otherwise provided,
20 Class B land may be exchanged only for land of substantially
21 equal value ~~or greater value~~ to the state, as determined by the
22 county board, with the approval of the commissioner and the Land
23 Exchange Board. ~~For an exchange involving Class B land for~~
24 ~~Class A or Class C land, the value of the lands shall be~~
25 ~~determined by the commissioner, with approval of the Land~~
26 ~~Exchange Board. For purposes of the determination, the~~
27 ~~commissioner shall appraise the state and tax-forfeited land~~
28 ~~proposed to be exchanged in the same manner as Class A land.~~
29 ~~For all other purposes, the county board shall appraise the~~
30 ~~state land and the land in the proposed exchange in the same~~
31 ~~manner as tax-forfeited land to be offered for sale. The~~
32 ~~appraised values shall not be conclusive, but shall be taken~~
33 ~~into consideration, together with such other matters as may be~~
34 ~~deemed material, in determining the values for the purposes of~~
35 ~~exchange.~~

36 (b) For the purposes of this subdivision, "substantially

1 equal value" means:

2 (1) where the lands being exchanged are both over 100
3 acres, their values do not differ by more than ten percent; and

4 (2) in other cases, the values of the exchanged lands do
5 not differ by more than 20 percent.

6 (c) Class B land may be exchanged for land of lesser value
7 if the other party to the exchange pays to the state the amount
8 of the difference in value. Money received by the county
9 treasurer shall be disposed of in like manner as the proceeds of
10 a sale of tax-forfeited land.

11 Sec. 19. Minnesota Statutes 2004, section 94.344,
12 subdivision 5, is amended to read:

13 Subd. 5. [~~OBTAINING~~ EXCHANGING LAND OF GREATER VALUE.] (a)
14 Class B land may be exchanged for land of greater value ~~only-in~~
15 case if the other party to the exchange ~~shall-waive~~ waives
16 payment for the difference.

17 (b) Except for Class A school trust land, Class B land may
18 be exchanged for Class A land of greater value if the county
19 pays to the state the difference in value.

20 (c) Class B land may be exchanged for United States-owned
21 land of greater value if the county agrees to pay the difference
22 in value.

23 Sec. 20. Minnesota Statutes 2004, section 94.344,
24 subdivision 8, is amended to read:

25 Subd. 8. [PROPOSALS FOR EXCHANGE.] By direction of the
26 county board, the county auditor may submit a proposal for
27 exchange of Class B land to any land owner concerned. Any land
28 owner may file with the county auditor a proposal for exchange
29 for consideration by the county board. ~~Forms-for-such-proposals~~
30 ~~shall-be-prescribed-by-the-commissioner.~~

31 Sec. 21. Minnesota Statutes 2004, section 94.344,
32 subdivision 10, is amended to read:

33 Subd. 10. [APPROVAL; CONVEYANCE.] After approval by the
34 county board, every proposal for the exchange of Class B land
35 shall be transmitted to the commissioner in such form and with
36 such information as the commissioner may prescribe for

1 consideration by the commissioner and by the board. The county
 2 attorney's opinion on the title, with the abstract and other
 3 evidence of title, if any, shall accompany the proposal. If the
 4 proposal be is approved by the commissioner and the board and
 5 the title be is approved by the attorney general, the same shall
 6 be certified to the commissioner of revenue, who shall execute a
 7 deed in the name of the state conveying the land given in
 8 exchange~~, with a certificate of unanimous approval by the board~~
 9 appended~~,~~ and transmit the deed to the county auditor to be
 10 delivered upon receipt of a deed conveying to the state the land
 11 received in exchange, approved by the county attorney; provided,
 12 that if any amount is due the state under the terms of the
 13 exchange, the deed from the state shall not be executed or
 14 delivered until such amount is paid in full and a certificate
 15 thereof by the county auditor is filed with the commissioner of
 16 revenue. The county auditor shall cause all deeds received by
 17 the state in such exchanges to be recorded or registered~~, and~~
 18 thereafter shall file the deeds or the certificates of
 19 registered title in the auditor's office. If the land received
 20 by the county in the exchange is either Class A or Class C land,
 21 the commissioner of revenue shall deliver the deed for the Class
 22 B land to the commissioner of natural resources and following
 23 the recording of this deed, the commissioner of natural
 24 resources shall deliver to the county auditor a deed conveying
 25 the Class A or Class C land to the county auditor to be recorded
 26 or registered~~, and afterwards file the deeds or the certificate~~
 27 of registered title in the auditor's office.

28 Sec. 22. Minnesota Statutes 2004, section 97A.135,
 29 subdivision 2a, is amended to read:

30 Subd. 2a. [DISPOSAL OF LAND IN WILDLIFE MANAGEMENT AREAS.]
 31 (a) The commissioner may sell or exchange land in a wildlife
 32 management area authorized by designation under section 86A.07,
 33 subdivision 3, 97A.133, or 97A.145 if the commissioner vacates
 34 the designation before the sale or exchange in accordance with
 35 this subdivision. The designation may be vacated only if the
 36 commissioner finds, after a public hearing, that the disposal of

1 the land is in the public interest.

2 (b) A sale under this subdivision is subject to sections
3 94.09 to 94.16. An exchange under this subdivision is subject
4 to sections 94.341 to ~~94-348~~ 94.347.

5 (c) Revenue received from a sale authorized under paragraph
6 (a) is appropriated to the commissioner for acquisition of
7 replacement wildlife management lands.

8 (d) Land acquired by the commissioner under this
9 subdivision must meet the criteria in section 86A.05,
10 subdivision 8, and as soon as possible after the acquisition
11 must be designated as a wildlife management area under section
12 86A.07, subdivision 3, 97A.133, or 97A.145.

13 (e) In acquiring land under this subdivision, the
14 commissioner must give priority to land within the same
15 geographic region of the state as the land conveyed.

16 Sec. 23. Minnesota Statutes 2004, section 103F.535,
17 subdivision 1, is amended to read:

18 Subdivision 1. [RESERVATION OF MARGINAL LAND AND
19 WETLANDS.] (a) Marginal land and wetlands are withdrawn from
20 sale or exchange unless:

21 (1) notice of the existence of the nonforested marginal
22 land or wetlands, in a form prescribed by the Board of Water and
23 Soil Resources, is provided to prospective purchasers; and

24 (2) the deed contains a restrictive covenant, in a form
25 prescribed by the Board of Water and Soil Resources, that
26 precludes enrollment of the land in a state-funded program
27 providing compensation for conservation of marginal land or
28 wetlands.

29 (b) This section does not apply to transfers of land by the
30 Board of Water and Soil Resources to correct errors in legal
31 descriptions under section 103F.515, subdivision 8, or to
32 transfers by the commissioner of natural resources for:

33 (1) land that is currently in nonagricultural commercial
34 use if a restrictive covenant would interfere with the
35 commercial use;

36 (2) land in platted subdivisions;

1 (3) conveyances of land to correct errors in legal
2 descriptions under section 84.0273;

3 (4) exchanges of nonagricultural land with the federal
4 government, or exchanges of Class A, Class B, and Class-C
5 riparian nonagricultural land with local units of government
6 under sections 94.342, 94.343, and 94.344, ~~and 94.349~~;

7 (5) land transferred to political subdivisions for public
8 purposes under sections 84.027, subdivision 10, and 94.10; and

9 (6) land not needed for trail purposes that is sold to
10 adjacent property owners and lease holders under section 85.015,
11 subdivision 1, paragraph (b).

12 (c) This section does not apply to transfers of land by the
13 commissioner of administration or transportation or by the
14 Minnesota Housing Finance Agency, or to transfers of
15 tax-forfeited land under chapter 282 if:

16 (1) the land is in platted subdivisions; or

17 (2) the conveyance is a transfer to correct errors in legal
18 descriptions.

19 (d) This section does not apply to transfers of land by the
20 commissioner of administration or by the Minnesota Housing
21 Finance Agency for:

22 (1) land that is currently in nonagricultural commercial
23 use if a restrictive covenant would interfere with the
24 commercial use; or

25 (2) land transferred to political subdivisions for public
26 purposes under sections 84.027, subdivision 10, and 94.10.

27 Sec. 24. [REPEALER.]

28 Minnesota Statutes 2004, sections 94.343, subdivision 6;
29 94.344, subdivision 6; 94.348; and 94.349, are repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0185

94.343 CLASS A LAND EXCHANGED; CONDITIONS.

Subd. 6. Obtaining land of less value. Class A land may be exchanged for land of less value in any case where disposal of the state land is not limited by the state Constitution to public sale, provided the other party to the exchange shall pay to the state the amount of the difference in value either upon consummation of the exchange or by deferred payment, as the commissioner, with the approval of the board, may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party as in case of sale of state public land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the commissioner, with the approval of the board, may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be credited to the same fund as in case of sale of the land, if such fund exists, otherwise to the special fund, if any, from which the cost of the land was paid, otherwise to the general fund.

94.344 CLASS B LAND EXCHANGED; CONDITIONS.

Subd. 6. Obtaining land of less value. Class B land may be exchanged for land of less value, provided the other party to the exchange shall pay the amount of the difference to the county treasurer either upon consummation of the exchange or by deferred payment, as the county board may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party in like manner as in the case of sale of tax-forfeited land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the county board may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be disposed of in like manner as the proceeds of sale of tax-forfeited land.

94.348 EXCHANGES OF STATE-OWNED LAND, APPRAISAL FEE.

Subdivision 1. Appraisal and survey fee. 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 or governmental unit shall pay to the board an appraisal and survey fee of not less than \$25 nor more than one-half of the cost of appraisal and survey determined by the commissioner.

Subd. 2. Disposition and appropriation of fee. (a) Except as provided in paragraph (b), the appraisal and survey fee shall be credited to the account from which the expenses of appraisal and survey were paid and is appropriated for expenditure in the same manner as other money in the account.

(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.

APPENDIX
Repealed Minnesota Statutes for 05-0185

94.349 TRANSFERS OF TITLE INVOLVING THE STATE AND GOVERNMENTAL SUBDIVISIONS OF THE STATE.

Subdivision 1. **Proposal submission.** For the purpose of consolidating ownership or for any other public purpose, the state, acting through the commissioner of natural resources, or a local unit of government of the state may submit a proposal involving transfer of titles of land of the state and the local unit of government to the Land Exchange Board, for review and recommendation of the board.

Subd. 2. **Procedures.** The procedures relating to appraisal, title examination, and hearings set forth in sections 94.341 to 94.348 for land exchanges shall be followed, insofar as applicable, in matters relating to transfers of land titles under this section, subject to such further limitations as may be provided in this section.

Subd. 3. **Classes of state land.** The classes of state land which may be involved in a transfer of title are the same as those which may be exchanged under land exchange laws and are subject to the same limitations as are applied to state lands under land exchange laws.

Subd. 4. **Tax-forfeited land.** For the purposes of this section, lands acquired through tax-forfeiture, held subject to a trust in favor of taxing districts, and under the control of county authorities for classification, appraisal and sale may be considered as land of a local unit of government for the purposes of this section. This land is subject to the same limitations as are applied to the same lands under land exchange laws.

Subd. 5. **Recommended legislation.** The land exchange board shall recommend such legislation as may be necessary to complete the transfer of titles under this section.

Subd. 6. **Conveyance.** Upon satisfaction of the requirements of this section, and upon the unanimous approval of the Land Exchange Board, the commissioner of natural resources, as to the state land involved in the transfer of titles, and the governing body of the local unit of government, as to the local government land involved in the transfer of titles, shall execute deeds in the name of the respective government involved in the transfer, which deeds shall be executed and recorded in the same manner as deeds in land exchanges.

Subd. 7. **Land status.** The commissioner of natural resources, with the approval of the board, shall determine the status of each tract of land received by the state in the transfer of titles. The county board, in a situation where the land given in a transfer is that type of land described in subdivision 4, shall proceed as required in section 94.344, subdivision 11.

Subd. 8. **Reservations.** State land involved in a transfer of title shall be subject to the provisions of section 94.343, subdivision 4. Tax-forfeited land under the control of a county involved in a title transfer shall be subject to the provisions of section 94.344, subdivision 4.

Subd. 9. **Relation to other law.** The provisions of this section shall be supplementary to other laws relating to transfer of title of land or interests in land involving the state and local units of government.



Department of Natural Resources Fact Sheet



DNR FORESTRY BILL HF 823/SF 802

Summary

This bill will amend Minn. Stat. Chapter 90 to more efficiently administer the state timber sale program by:

- Consolidating public reporting and involvement provisions.
- Clarifying provisions governing when permits are effective and when uncut timber is billed.
- Eliminating infrequently used surety and optional timber provisions.
- Providing explicit definitions for statutory terms that previously had varying interpretations.
- Facilitating the efficient contracting for forest improvement work accomplished by loggers.
- Raising fuelwood permit fees minimally to cover the costs of issuing those permits.
- Modernizing and streamlining the reward provisions for timber trespass.

This bill will also amend Minn. Stat. Chapter 239.33 to modernize the measurement of pulpwood by:

- Broadening the statute to include a reference for establishing weights for all species of pulpwood.
- Providing flexibility for establishing wood weight between willing buyers and willing sellers.
- Eliminating mandatory weights for aspen pulpwood that have proven inaccurate over time.

It is needed because

The DNR will be able to reduce administrative procedures and costs while improving services to stakeholders by:

- Clarifying when permits are effective and when uncut timber will be billed to avoid unjust enrichment and inconsistent timber sale billing practices.
- Eliminating infrequently used surety and optional timber provisions, consolidating public reporting and involvement provisions, and providing explicit definitions for statutory terms to simplify and clarify program administration.
- Avoiding duplicate review and approval by DNR and Department of Administration for forest

improvement work accomplished by loggers in conjunction with timber sales.

- Streamlining and modernizing timber trespass reward provisions to facilitate law enforcement and accurately reflect current timber values.
- Officially extending current weight measurement practices to all species of wood while eliminating old standards made obsolete by new harvesting and utilization technologies.

Financial implications (if appropriate)

The current average fuelwood permit fee is \$22 while the issuing costs average over \$24 per permit. Raising the minimum fee to \$25 will raise an estimated additional \$6,000 in revenue in FY 2006 and FY 2007. The revenues will be split accordingly: approximately 50 percent to the Permanent School Trust Fund, 30 percent to the Forest Management Investment Account, and 20 percent to the General Fund.

Background

The proposed revisions to Minn. Stat. Chapter 90 are part of a continuous improvement effort to modernize, standardize, and simplify the timber sales program. The proposed revision to Minn. Stat. Chapter 239.33 will more accurately reflect current harvesting and utilization practices in Minnesota. Together, the changes will improve customer satisfaction and economic stability, while enhancing state revenues through cost-reduction measures. The proposed statute changes were recommended, developed, or reviewed by interested parties including forest industry trade associations and independent loggers.

For further information contact:

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Senators Bakk and Saxhaug introduced--**S.F. No. 802:** Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; modifying the State
3 Timber Act; modifying standard measurements for wood;
4 amending Minnesota Statutes 2004, sections 90.01, by
5 adding subdivisions; 90.041, subdivision 5; 90.042;
6 90.101, subdivision 2; 90.121; 90.172; 90.173; 90.195;
7 90.211; 90.301, subdivision 4; 239.33; repealing
8 Minnesota Statutes 2004, sections 90.01, subdivision
9 9; 90.041, subdivisions 3, 4.

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

11 Section 1. Minnesota Statutes 2004, section 90.01, is
12 amended by adding a subdivision to read:

13 Subd. 11. [EFFECTIVE PERMIT.] "Effective permit" means a
14 permit for which the commissioner has on file full or partial
15 surety as required by section 90.161, 90.162, 90.163, or 90.173
16 or, in the case of permits issued according to section 90.191 or
17 90.195, the commissioner has received a down payment equal to
18 the full appraised value.

19 Sec. 2. Minnesota Statutes 2004, section 90.01, is amended
20 by adding a subdivision to read:

21 Subd. 12. [RESPONSIBLE BIDDER.] "Responsible bidder" means
22 a person who is financially responsible; demonstrates the
23 judgment, skill, ability, capacity, and integrity requisite and
24 necessary to perform according to the terms of a permit issued
25 under this chapter; and is not currently debarred by another
26 government entity for any cause.

27 Sec. 3. Minnesota Statutes 2004, section 90.041,

1 subdivision 5, is amended to read:

2 Subd. 5. [FOREST IMPROVEMENT CONTRACTS.] The commissioner
3 may contract as part of the timber sale with the purchaser of
4 state timber at either informal or auction sale for the
5 following forest improvement work to be done on the land
6 included within the sale area: preparation of the site for
7 seeding or planting of seedlings or trees, seeding or planting
8 of seedlings or trees, and other activities relating to forest
9 regeneration. A contract issued under this subdivision is not
10 subject to the competitive bidding provisions of chapter 16C and
11 is exempt from the contract approval provisions of section
12 16C.05, subdivision 2.

13 Sec. 4. Minnesota Statutes 2004, section 90.042, is
14 amended to read:

15 90.042 [PUBLIC INVOLVEMENT PROCESS.]

16 Subdivision 1. [REPORT TO LEGISLATURE.] By July 1 each
17 year, the commissioner must provide a complete description of
18 the public involvement process for timber harvest plans to the
19 chairs of the legislative committees with jurisdiction over
20 natural resources policy and finance. The process must provide
21 public notice and public input in affected areas of proposed
22 annual harvest plans.

23 Subd. 2. [PUBLIC MEETINGS.] By May 1 each year, the
24 commissioner shall hold one or more public meetings in the
25 forested area of the state to inform the public of the manner in
26 which the proposed annual harvest plan for the next fiscal year
27 is proposed to be allocated between informal, intermediate, and
28 regular auction sales. The public shall be afforded an
29 opportunity to provide written and oral comments concerning the
30 proposed allocation.

31 Sec. 5. Minnesota Statutes 2004, section 90.101,
32 subdivision 2, is amended to read:

33 Subd. 2. [SALE LIST AND NOTICE.] At least 30 days before
34 the date of sale, the commissioner shall compile a list
35 containing a description of each tract of land upon which any
36 timber to be offered is situated and a statement of the

1 estimated quantity of timber and of the appraised price of each
2 kind of timber thereon as shown by the report of the state
3 appraiser. ~~The commissioner may also list the estimated~~
4 ~~quantity of timber of doubtful market value and the appraised~~
5 ~~price of each kind of such timber within the permit area that~~
6 ~~may be cut at the discretion of the purchaser. --Optional timber~~
7 ~~will not be considered a part of the sale contract until the~~
8 ~~permit holder has advised the commissioner in writing of an~~
9 ~~intent to cut such timber.~~ No description shall be added after
10 the list is posted and no timber shall be sold from land not
11 described in the list. Copies of the list shall be furnished to
12 all interested applicants. A copy of the list shall be
13 conspicuously posted in the forest office or other public
14 facility most accessible to potential bidders at least 30 days
15 prior to the date of sale. The commissioner shall cause a
16 notice to be published once not less than one week before the
17 date of sale in a legal newspaper in the county or counties
18 where the land is situated. The notice shall state the time and
19 place of the sale and the location at which further information
20 regarding the sale may be obtained. The commissioner may give
21 other published or posted notice as the commissioner deems
22 proper to reach prospective bidders.

23 Sec. 6. Minnesota Statutes 2004, section 90.121, is
24 amended to read:

25 90.121 [INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF 3,000
26 CORDS.]

27 (a) The commissioner may sell the timber on any tract of
28 state land in lots not exceeding 3,000 cords in volume, in the
29 same manner as timber sold at public auction under section
30 90.101, and related laws, subject to the following special
31 exceptions and limitations:

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

35 (2) no bidder may be awarded more than 25 percent of the
36 total tracts offered at the first round of bidding unless fewer

1 than four tracts are offered, in which case not more than one
2 tract shall be awarded to one bidder. Any tract not sold at
3 public auction may be offered for private sale as authorized by
4 section 90.101, subdivision 1, to persons eligible under this
5 section at the appraised value; and

6 (3) no sale may be made to a person having more than 20
7 employees. For the purposes of this subdivision, "employee"
8 means a natural person working for salary or wages on a
9 full-time or part-time basis.

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

15 Sec. 7. Minnesota Statutes 2004, section 90.172, is
16 amended to read:

17 90.172 [ANNUAL REPORT REPORTS.]

18 Subdivision 1. [REPORT TO LEGISLATURE.] The commissioner
19 shall file an annual report on or before September 30 of each
20 year with the Legislative Reference Library providing detailed
21 information on all auctions and informal sales made in the
22 previous fiscal year. The report shall include but not be
23 limited to the names and addresses of all purchasers, volumes of
24 timber purchased, species, appraised value and sale price. The
25 commissioner shall make copies of the report available to the
26 public upon request.

27 Subd. 2. [REPORT TO EXECUTIVE COUNCIL.] The commissioner
28 shall report on or before September 30 of each year or more
29 frequently, as required, to the state Executive Council
30 concerning the status of the state timber sales and timber
31 management program, including any special problems or changes
32 occurring since the previous report.

33 Sec. 8. Minnesota Statutes 2004, section 90.173, is
34 amended to read:

35 90.173 [PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF
36 BOND.]

1 (a) In lieu of filing the bond required by section 90.161
2 or 90.171, as security for the issuance or assignment of a
3 timber permit, the person required to file the bond may deposit
4 with the commissioner of finance cash; a certified check; a
5 cashier's check; a personal check; a postal, bank, or express
6 money order; ~~assignable bonds or notes of the United States, or~~
7 ~~an assignment of a bank savings account or investment~~
8 ~~certificate;~~ or an irrevocable bank letter of credit, in the
9 same amount as would be required for a bond. ~~If securities~~
10 ~~listed in this section are deposited, the par value of the~~
11 ~~securities shall be not less than the amount required for the~~
12 ~~timber sale bond, and the person required to file the timber~~
13 ~~sale bond shall submit an agreement authorizing the commissioner~~
14 ~~to sell or otherwise take possession of the security in the~~
15 ~~event of default under the timber sale.~~ All of the conditions
16 of the timber sale bond shall equally apply to the deposit with
17 the commissioner of finance the alternatives in lieu of bond.
18 In the event of a default the state may take from the deposit
19 the sum of money to which it is entitled; the remainder, if any,
20 shall be returned to the person making the deposit. When cash
21 is deposited for a bond, it shall be applied to the amount due
22 when a statement is prepared and transmitted to the permit
23 holder pursuant to section 90.181. Any balance due to the state
24 shall be shown on the statement and shall be paid as provided in
25 section 90.181. Any amount of the deposit in excess of the
26 amount determined to be due pursuant to section 90.181 shall be
27 returned to the permit holder when a final statement is
28 transmitted pursuant to that section. All or part of a cash
29 bond may be withheld from application to an amount due on a
30 nonfinal statement if it appears that the total amount due on
31 the permit will exceed the bid price.

32 (b) If an irrevocable bank letter of credit is provided as
33 security under paragraph (a), at the written request of the
34 permittee the state shall annually allow the amount of the bank
35 letter of credit to be reduced by an amount proportionate to the
36 value of timber that has been harvested and for which the state

1 has received payment under the timber permit. The remaining
2 amount of the bank letter of credit after a reduction under this
3 paragraph must not be less than the value of the timber
4 remaining to be harvested under the timber permit.

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

12 Sec. 9. Minnesota Statutes 2004, section 90.195, is
13 amended to read:

14 90.195 [SPECIAL USE PERMIT.]

15 The commissioner may issue a permit to salvage or cut not
16 to exceed 12 cords of fuelwood per year for personal use from
17 either or both of the following sources: (1) dead, down, and
18 diseased trees; (2) other trees that are of negative value under
19 good forest management practices. The permits may be issued for
20 a period not to exceed one year. The commissioner shall charge
21 a fee, not less than \$5 \$25, in an amount up to the stumpage
22 current market value of fuelwood of similar species, grade, and
23 volume that is being sold in the area where the salvage or
24 cutting is authorized under the permit.

25 Sec. 10. Minnesota Statutes 2004, section 90.211, is
26 amended to read:

27 90.211 [PURCHASE MONEY, WHEN FORFEITED.]

28 If the ~~purchaser-of-any-timber-or-the-purchaser's~~
29 assignee holder of an effective permit fails to cut any part
30 thereof before the expiration of the permit, the ~~purchaser-or~~
31 assignee permit holder shall nevertheless pay the price
32 therefor; but under no circumstances shall timber be cut after
33 the expiration of the permit or extension thereof.

34 Sec. 11. Minnesota Statutes 2004, section 90.301,
35 subdivision 4, is amended to read:

36 Subd. 4. [APPREHENSION OF TRESPASSERS; REWARD.] The

1 following-rewards-shall commissioner may offer a reward to be
 2 paid to any a person giving to the proper authorities any
 3 information which-shall-lead that leads to the detection-and
 4 conviction of any-persons a person violating any-of-the
 5 provisions-of this chapter:--\$25-reward,--if-the-value-of-the
 6 timber-so-unlawfully-cut-or-removed-shall-not-exceed-the-sum-of
 7 \$25;--\$50-reward,--if-the-value-of-the-timber-shall-not-exceed
 8 \$50;--and-\$100-reward,--if-the-value-of-the-timber-shall-exceed
 9 the-sum-of-\$100;--and-the-court-before-whom-the-person-so
 10 violating-the-provisions-of-this-chapter-shall-have-been-tried,
 11 shall,--upon-application-of-any-person-claiming-to-be-entitled-to
 12 such-reward,--examine-the-claim-in-a-summary-manner-and-determine
 13 whether-or-not-the-person-claiming-the-reward-is-entitled-to-the
 14 same-and,--if-it-should-appear-to-the-satisfaction-of-the-court
 15 that-the-person-claiming-the-reward-is-entitled-to-the-same,--a
 16 certificate-of-such-facts-shall-be-made-by-the-court-and
 17 delivered-to-the-person,--which-shall-be-deemed-evidence-of-a
 18 right-to-the-reward. The reward is limited to the greater of
 19 \$100 or ten percent of the single stumpage value of any timber
 20 unlawfully cut or removed. The Executive-Council commissioner
 21 shall pay the same from any funds appropriated for its-expenses
 22 such purposes or from receipts from the sale of state timber. A
 23 reward shall not be paid to salaried forest officers,
 24 conservation officers, or licensed peace officers.

25 Sec. 12. Minnesota Statutes 2004, section 239.33, is
 26 amended to read:

27 239.33 [STANDARD MEASUREMENTS OF WOOD.]

28 In all contracts for sale of wood the term "cord" shall
 29 mean 128 cubic feet of wood, bark, and air, if cut in four-foot
 30 lengths; and if the sale is of "sawed wood," a cord shall mean
 31 110 cubic feet when ranked, or 160 cubic feet when thrown
 32 irregularly or loosely into a conveyance for delivery to the
 33 purchaser; and if the sale is of "sawed and split wood," a cord
 34 shall mean 120 cubic feet, when ranked, and 175 cubic feet when
 35 thrown irregularly and loosely into a conveyance for delivery.
 36 If a measurement is made by weight, the term "cord" or any other

1 term used to describe freshly cut green-aspen-in-100-inch-or
2 pole-lengths-containing-133-1/3-cubic-feet-of-loosely-or
3 irregularly-piled-wood-for-transportation-constitutes-4,300
4 pounds-during-the-period-of-May-1-through-October-31-and-4,500
5 pounds-during-the-period-of-November-1-through-April-30.
6 Specified-weights-are wood shall be based on 74 79 cubic feet of
7 solid wood content per cord. The weight per cord may vary by
8 species or species group. In case of any dispute when the
9 parties have not otherwise agreed in writing to the weight per
10 cord by species or species group, the weight most recently
11 established by the commissioner of natural resources prevails.

12 In all contracts for sale of wood, the term "board foot"
13 means 144 cubic inches of wood measured in any combination of
14 length, thickness, and width. If a measurement or scale is made
15 of logs, Scribner's decimal C rule is the standard rule for
16 determining board feet log scale. When measuring or scaling
17 logs, each log must be scaled individually by the largest number
18 of even feet in its length above eight and under 24 feet. All
19 logs of 24 feet or more in length must be scaled as two or more
20 logs. This section does not apply to finished lumber measured
21 in nominal dimensions.

22 Sec. 13. [REPEALER.]

23 Minnesota Statutes 2004, sections 90.01, subdivision 9; and
24 90.041, subdivisions 3 and 4, are repealed.

25 Sec. 14. [EFFECTIVE DATE.]

26 Sections 1 to 13 are effective July 1, 2005.

APPENDIX
Repealed Minnesota Statutes for 05-0191

90.01 DEFINITIONS.

Subd. 9. **Person.** "Person" means any natural person acting personally, or in any representative capacity, and any corporation, firm, or association of whatever nature or kind.

90.041 COMMISSIONER POWERS AND DUTIES.

Subd. 3. **Annual reports.** The commissioner shall report annually or more frequently, as required, to the state Executive Council concerning the status of the state timber sales and timber management program, including any special problems or changes occurring since the previous report.

Subd. 4. **Public meetings.** Each year, the commissioner shall hold a public meeting in each forest area to inform the public of the manner in which the cutting list for that area for the next fiscal year is proposed to be allocated between informal, intermediate and regular auction sales. The public shall be afforded an opportunity to provide written and oral comments concerning the proposed allocation.

1 Senator moves to amend S.F. No. 802 as follows:

2 Page 8, after line 21, insert:

3 "Sec. 13. Minnesota Statutes 2004, section 282.04,
4 subdivision 1, is amended to read:

5 Subdivision 1. [TIMBER SALES; LAND LEASES AND USES.] (a)
6 The county auditor may sell timber upon any tract that may be
7 approved by the natural resources commissioner. The sale of
8 timber shall be made for cash at not less than the appraised
9 value determined by the county board to the highest bidder after
10 not less than one week's published notice in an official paper
11 within the county. Any timber offered at the public sale and
12 not sold may thereafter be sold at private sale by the county
13 auditor at not less than the appraised value thereof, until the
14 time as the county board may withdraw the timber from sale. The
15 appraised value of the timber and the forestry practices to be
16 followed in the cutting of said timber shall be approved by the
17 commissioner of natural resources.

18 (b) Payment of the full sale price of all timber sold on
19 tax-forfeited lands shall be made in cash at the time of the
20 timber sale, except in the case of oral or sealed bid auction
21 sales, the down payment shall be no less than 15 percent of the
22 appraised value, and the balance shall be paid prior to entry.
23 In the case of auction sales that are partitioned and sold as a
24 single sale with predetermined cutting blocks, the down payment
25 shall be no less than 15 percent of the appraised price of the
26 entire timber sale which may be held until the satisfactory
27 completion of the sale or applied in whole or in part to the
28 final cutting block. The value of each separate block must be
29 paid in full before any cutting may begin in that block. With
30 the permission of the county contract administrator the
31 purchaser may enter unpaid blocks and cut necessary timber
32 incidental to developing logging roads as may be needed to log
33 other blocks provided that no timber may be removed from an
34 unpaid block until separately scaled and paid for. If payment
35 is provided as specified in this paragraph as security under
36 paragraph (a) and no cutting has taken place on the contract,

1 the county auditor may credit the security provided, less any
2 down payment required for an auction sale under this paragraph,
3 to any other contract issued to the contract holder by the
4 county under this chapter to which the contract holder requests
5 in writing that it be credited, provided the request and
6 transfer is made within the same calendar year as the security
7 was received.

8 (c) The county board may require final settlement on the
9 basis of a scale of cut products. Any parcels of land from
10 which timber is to be sold by scale of cut products shall be so
11 designated in the published notice of sale under paragraph (a),
12 in which case the notice shall contain a description of the
13 parcels, a statement of the estimated quantity of each species
14 of timber, and the appraised price of each species of timber for
15 1,000 feet, per cord or per piece, as the case may be. In those
16 cases any bids offered over and above the appraised prices shall
17 be by percentage, the percent bid to be added to the appraised
18 price of each of the different species of timber advertised on
19 the land. The purchaser of timber from the parcels shall pay in
20 cash at the time of sale at the rate bid for all of the timber
21 shown in the notice of sale as estimated to be standing on the
22 land, and in addition shall pay at the same rate for any
23 additional amounts which the final scale shows to have been cut
24 or was available for cutting on the land at the time of sale
25 under the terms of the sale. Where the final scale of cut
26 products shows that less timber was cut or was available for
27 cutting under terms of the sale than was originally paid for,
28 the excess payment shall be refunded from the forfeited tax sale
29 fund upon the claim of the purchaser, to be audited and allowed
30 by the county board as in case of other claims against the
31 county. No timber, except hardwood pulpwood, may be removed
32 from the parcels of land or other designated landings until
33 scaled by a person or persons designated by the county board and
34 approved by the commissioner of natural resources. Landings
35 other than the parcel of land from which timber is cut may be
36 designated for scaling by the county board by written agreement

1 with the purchaser of the timber. The county board may, by
2 written agreement with the purchaser and with a consumer
3 designated by the purchaser when the timber is sold by the
4 county auditor, and with the approval of the commissioner of
5 natural resources, accept the consumer's scale of cut products
6 delivered at the consumer's landing. No timber shall be removed
7 until fully paid for in cash. Small amounts of timber not
8 exceeding \$3,000 in appraised valuation may be sold for not less
9 than the full appraised value at private sale to individual
10 persons without first publishing notice of sale or calling for
11 bids, provided that in case of a sale involving a total
12 appraised value of more than \$200 the sale shall be made subject
13 to final settlement on the basis of a scale of cut products in
14 the manner above provided and not more than two of the sales,
15 directly or indirectly to any individual shall be in effect at
16 one time.

17 (d) As directed by the county board, the county auditor may
18 lease tax-forfeited land to individuals, corporations or
19 organized subdivisions of the state at public or private sale,
20 and at the prices and under the terms as the county board may
21 prescribe, for use as cottage and camp sites and for
22 agricultural purposes and for the purpose of taking and removing
23 of hay, stumpage, sand, gravel, clay, rock, marl, and black dirt
24 from the land, and for garden sites and other temporary uses
25 provided that no leases shall be for a period to exceed ten
26 years; provided, further that any leases involving a
27 consideration of more than \$12,000 per year, except to an
28 organized subdivision of the state shall first be offered at
29 public sale in the manner provided herein for sale of timber.
30 Upon the sale of any leased land, it shall remain subject to the
31 lease for not to exceed one year from the beginning of the term
32 of the lease. Any rent paid by the lessee for the portion of
33 the term cut off by the cancellation shall be refunded from the
34 forfeited tax sale fund upon the claim of the lessee, to be
35 audited and allowed by the county board as in case of other
36 claims against the county.

1 (e) As directed by the county board, the county auditor may
2 lease tax-forfeited land to individuals, corporations, or
3 organized subdivisions of the state at public or private sale,
4 at the prices and under the terms as the county board may
5 prescribe, for the purpose of taking and removing for use for
6 road construction and other purposes tax-forfeited stockpiled
7 iron-bearing material. The county auditor must determine that
8 the material is needed and suitable for use in the construction
9 or maintenance of a road, tailings basin, settling basin, dike,
10 dam, bank fill, or other works on public or private property,
11 and that the use would be in the best interests of the public.
12 No lease shall exceed ten years. The use of a stockpile for
13 these purposes must first be approved by the commissioner of
14 natural resources. The request shall be deemed approved unless
15 the requesting county is notified to the contrary by the
16 commissioner of natural resources within six months after
17 receipt of a request for approval for use of a stockpile. Once
18 use of a stockpile has been approved, the county may continue to
19 lease it for these purposes until approval is withdrawn by the
20 commissioner of natural resources.

21 (f) The county auditor, with the approval of the county
22 board is authorized to grant permits, licenses, and leases to
23 tax-forfeited lands for the depositing of stripping, lean ores,
24 tailings, or waste products from mines or ore milling plants,
25 upon the conditions and for the consideration and for the period
26 of time, not exceeding 15 years, as the county board may
27 determine. The permits, licenses, or leases are subject to
28 approval by the commissioner of natural resources.

29 (g) Any person who removes any timber from tax-forfeited
30 land before said timber has been scaled and fully paid for as
31 provided in this subdivision is guilty of a misdemeanor.

32 (h) The county auditor may, with the approval of the county
33 board, and without first offering at public sale, grant leases,
34 for a term not exceeding 25 years, for the removal of peat from
35 tax-forfeited lands upon the terms and conditions as the county
36 board may prescribe. Any lease for the removal of peat from

1 tax-forfeited lands must first be reviewed and approved by the
2 commissioner of natural resources if the lease covers 320 or
3 more acres. No lease for the removal of peat shall be made by
4 the county auditor pursuant to this section without first
5 holding a public hearing on the auditor's intention to lease.
6 One printed notice in a legal newspaper in the county at least
7 ten days before the hearing, and posted notice in the courthouse
8 at least 20 days before the hearing shall be given of the
9 hearing.

10 (i) Notwithstanding any provision of paragraph (c) to the
11 contrary, the St. Louis County auditor may, at the discretion of
12 the county board, sell timber to the party who bids the highest
13 price for all the several kinds of timber, as provided for sales
14 by the commissioner of natural resources under section 90.14.
15 Bids offered over and above the appraised price need not be
16 applied proportionately to the appraised price of each of the
17 different species of timber.

18 (j) In lieu of any payment or deposit required in paragraph
19 (b), as directed by the county board and under terms set by the
20 county board, the county auditor may accept an irrevocable bank
21 letter of credit in the amount equal to the amount otherwise
22 determined in paragraph (b) ~~7-exclusive-of-the-down-payment~~
23 ~~required-for-an-auction-sale-in-paragraph-(b)~~. If an
24 irrevocable bank letter of credit is provided under this
25 paragraph, at the written request of the purchaser, the county
26 may periodically allow the bank letter of credit to be reduced
27 by an amount proportionate to the value of timber that has been
28 harvested and for which the county has received payment. The
29 remaining amount of the bank letter of credit after a reduction
30 under this paragraph must not be less than 20 percent of the
31 value of the timber purchased. If an irrevocable bank letter of
32 credit or cash deposit is provided for the down payment required
33 in paragraph (b), and no cutting of timber has taken place on
34 the contract for which a letter of credit has been provided, the
35 county may allow the transfer of the letter of credit to any
36 other contract issued to the contract holder by the county under

1 this chapter to which the contract holder requests in writing
2 that it be credited."

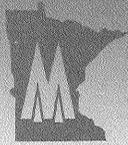
3 Renumber the sections in sequence and correct the internal
4 references

5 Amend the title accordingly

89.71 Forest roads.

Subdivision 1. Designation, inventory, recording.

~~Forest roads, bridges, and other improvements administered under section 89.002, subdivision 3, are designated as state forest roads to the width of the actual use including ditches, backslopes, fills, and maintained right of way, unless otherwise specified in a prior easement of record. The commissioner may must~~ designate forest roads by written order published in the State Register. Designated forest roads, bridges, and other improvements administered under section 89.002, subdivision 3, are designated to the width of the actual use including ditches, backslopes, fills, and maintained right-of-way, unless otherwise specified in a prior easement of record. The commissioner may undesignate, by written order published in the State Register, all or part of a state forest road that is not needed to carry out forest resource management policy. Designations and undesignations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner shall maintain and keep current an inventory listing and describing roads in which the state claims a right or property interest for state forest road purposes. The commissioner may file for record with a county recorder or registrar of titles appropriate documents setting forth the state's interest in all or part of any state forest road.



Department of Natural Resources Fact Sheet



PROPOSAL TO AMEND STATE STATUTES 164.07, 505.14 AND 412.851 PERTAINING TO ROAD VACATIONS ON PUBLIC WATERS, BY TOWNSHIPS AND MUNICIPALITIES

HF 436/SF 929

Summary

This bill will amend State Statutes 164.07, 505.14 and 412.851, pertaining to Road Vacations on Public Waters by Townships and Municipalities by:

- Requiring consultation with the Commissioner of the Department of Natural Resources for any vacations of roads that terminate at, abut upon, or are adjacent to any public water.
- Increasing the time of notification to the commissioner from 30 days prior to the road vacation hearing or public meeting to 60 days, improving the department's ability to review each vacation petition for negative impacts to public access and natural resources.
- Improving the coordination and communication between the department and local units of government pertaining to road vacations.

It is needed because

The amendments to the road vacation statutes will:

- Provide an opportunity for the DNR to collaborate with local units to promote the public benefits of existing access corridors for local residents.
- Improve the DNR's ability to participate in the local decision-making process where statewide public benefits are at risk.
- Improve the delivery of information to help ensure that local decisions are made with enough facts about public access opportunities and natural resource conservation.

Financial implications

The modifications to the Road Vacation Statutes will improve the ability of the Commissioner of Natural Resources to address the statewide loss of existing publicly owned frontage on the state's public waters through the road vacation process.

As a result of escalating waterfront property values statewide, it can be very expensive to replace the public access opportunities and/or habitat provided by these roads after they are vacated. The approval of the Commissioner of Natural Resources for each proposed road vacation that terminates at, abuts upon, or is adjacent to any public water will enable the department to direct available water access funding for acquisition of key shorelands throughout the state, rather than acquiring lands on public waters where access and/or habitat

conservation had been provided previously by vacated road corridors.

Background

Across Minnesota, road corridors provide existing access to public waters. These "roads" may range in width from 10 to 33 feet. Many of these accesses are undeveloped, but still provide opportunities for local residents to walk in with a canoe or ice auger and a fishing line. Others may provide snowmobile access to the lake. In many neighborhoods, there is no other public lake access. The DNR will not normally consider intense development of these sites unless conditions, public demand, and resources warrant access improvements. However, the DNR has an obligation to assert and defend the public interest in existing access to public waters (State Statutes 1.0451).

The statutes providing for notice to be sent to the Commissioner of Natural Resources of all proposed road vacations that terminate at, abut upon, or are adjacent to any public water were passed by the Legislature in 1989 and amended in 1995 in an effort to improve broad public input. The current proposal is part of a continuing effort to:

- Enhance the commissioner's ability to provide information regarding impacts to existing public water access and natural resources, and to provide a statewide perspective while considering the significance of individual lakeshore properties.
- Improve the coordination, cooperation and communication between the department and local units of government pertaining to road vacations.

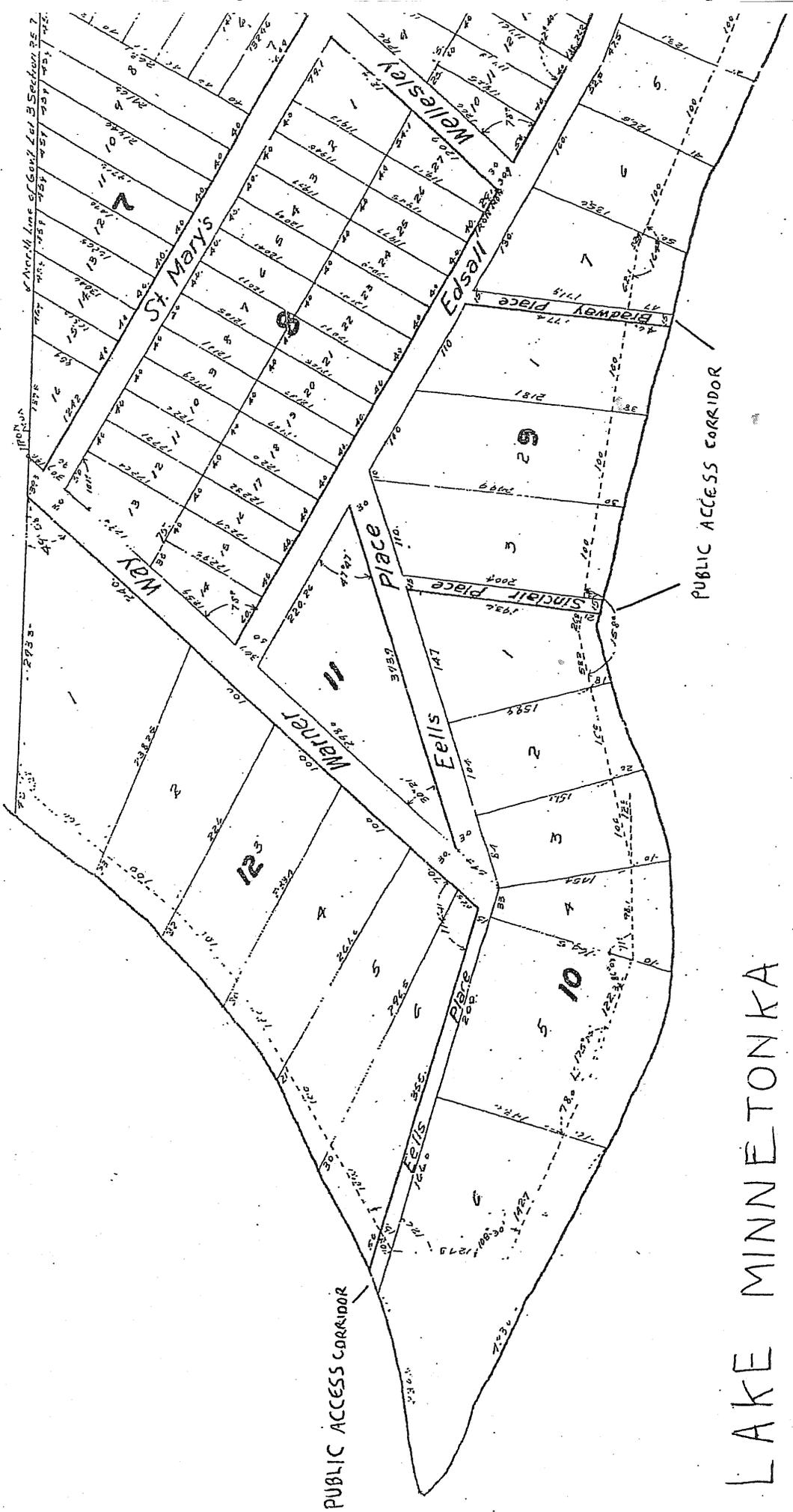
For further information contact

Laurie Martinson, Director
DNR Trails and Waterways Division, (651) 215-6069
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DNR Trails and Waterways Division, (651) 296-6413
mike.markell@dnr.state.mn.us

HENNEPIN CO

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Senators Frederickson, Marty, Olson, Saxhaug and Pariseau introduced--
S.F. No. 929: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; requiring
3 commissioner's approval before vacating certain roads
4 adjacent to public waters; creating right of
5 intervention; amending Minnesota Statutes 2004,
6 sections 164.07, subdivision 2; 412.851; 505.14.

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

8 Section 1. Minnesota Statutes 2004, section 164.07,
9 subdivision 2, is amended to read:

10 Subd. 2. [HEARING; NOTICE.] (a) The petition shall be
11 filed with the town clerk, who shall forthwith present it to the
12 town board. The town board within 30 days thereafter shall make
13 an order describing as nearly as practicable the road proposed
14 to be established, altered, or vacated and the several tracts of
15 land through which it passes, and fixing a time and place when
16 and where it will meet and act upon the petition. The order
17 must also contain a notice to affected landowners that a
18 landowner is entitled to judicial review of damages, need, and
19 purpose under subdivision 7 following a determination to
20 establish or alter a road. The petitioners shall cause personal
21 service of such order and a copy of the petition to be made upon
22 each occupant of such land at least ten days before such meeting
23 and cause ten days' posted notice thereof to be given.

24 (b) In addition, the petitioners shall serve notice of the
25 order by certified mail upon the commissioner of natural
26 resources at least 30 60 days before such the meeting required

1 under paragraph (a), if the road to be vacated terminates at or,
 2 abuts upon, or is adjacent to any public water. ~~The notice~~
 3 ~~under this paragraph is for notification purposes only and does~~
 4 ~~not create a right of intervention by the commissioner of~~
 5 ~~natural resources.~~ No vacation of such a road shall be made
 6 without the prior approval of the commissioner of natural
 7 resources. The commissioner of natural resources shall evaluate
 8 the proposed vacation and the public benefits to do so. The
 9 commissioner of natural resources shall consider the present and
 10 potential use of the land for access to public waters and how
 11 the vacation would impact conservation of natural resources.

12 Sec. 2. Minnesota Statutes 2004, section 412.851, is
 13 amended to read:

14 412.851 [VACATION OF STREETS.]

15 The council may by resolution vacate any street, alley,
 16 public grounds, public way, or any part thereof, on its own
 17 motion or on petition of a majority of the owners of land
 18 abutting on the street, alley, public grounds, public way, or
 19 part thereof to be vacated. When there has been no petition,
 20 the resolution may be adopted only by a vote of four-fifths of
 21 all members of the council. No such vacation shall be made
 22 unless it appears in the interest of the public to do so after a
 23 hearing preceded by two weeks' published and posted notice. The
 24 council shall cause written notice of the hearing to be mailed
 25 to each property owner affected by the proposed vacation at
 26 least ten days before the hearing. The notice must contain, at
 27 minimum, a copy of the petition or proposed resolution as well
 28 as the time, place, and date of the hearing. In addition, if
 29 the street, alley, public grounds, public way, or any part
 30 thereof terminates at or, abuts upon, or is adjacent to any
 31 public water, no vacation shall be made unless without the prior
 32 approval of the commissioner of natural resources. Written
 33 notice of the petition or proposed resolution ~~is~~ must be served
 34 by certified mail upon the commissioner of natural resources at
 35 least 30 60 days before the hearing on the matter. ~~The notice~~
 36 ~~to the commissioner of natural resources is for notification~~

1 ~~purposes-only-and-does-not-create-a-right-of-intervention-by-the~~
2 ~~commissioner.~~ The commissioner of natural resources shall
3 evaluate the proposed vacation and the public benefits to do
4 so. The commissioner of natural resources shall consider the
5 present and potential use of the land for access to public
6 waters and how the vacation would impact conservation of natural
7 resources. After a resolution of vacation is adopted, the clerk
8 shall prepare a notice of completion of the proceedings which
9 shall contain the name of the city, an identification of the
10 vacation, a statement of the time of completion thereof and a
11 description of the real estate and lands affected thereby. The
12 notice shall be presented to the county auditor who shall enter
13 the same in the transfer records and note upon the instrument,
14 over official signature, the words "entered in the transfer
15 record." The notice shall then be filed with the county
16 recorder. Any failure to file the notice shall not invalidate
17 any such vacation proceedings.

18 Sec. 3. Minnesota Statutes 2004, section 505.14, is
19 amended to read:

20 505.14 [VACATION.]

21 Upon the application of the owner of land included in any
22 plat, and upon proof that all taxes assessed against such land
23 have been paid, and the notice hereinafter provided for given,
24 the district court may vacate or alter all, or any part, of such
25 plat, and adjudge the title to all streets, alleys, and public
26 grounds to be in the persons entitled thereto; but streets or
27 alleys connecting separate plats or lying between blocks or lots
28 or providing access for the public to any public water, shall
29 not be vacated between such lots, blocks, or plats as are not
30 also vacated, unless it appears that the street or alley or part
31 thereof sought to be vacated is useless for the purpose for
32 which it was laid out. If any part of a street, alley, or
33 public ground proposed for vacation terminates at or, abuts upon
34 , or is adjacent to any public water, the petitioner shall serve
35 notice of the petition by certified mail upon the commissioner
36 of natural resources at least ~~30~~ 60 days before the term at

1 which it shall be heard. The notice under this subdivision is
2 ~~for-notification-purposes-only-and-does-not-create~~ creates a
3 right of intervention by the commissioner of natural resources.
4 The petitioner shall cause two weeks published and posted notice
5 of such application to be given, the last publication to be at
6 least ten days before the term at which it shall be heard; and
7 the petitioner shall also serve personally, or cause to be
8 served personally, notice of such application, at least ten days
9 before the term at which the application shall be heard, upon
10 the mayor of the city, the president of the statutory city, or
11 the chair of the town board of the town where such land is
12 situated. The court shall hear all persons owning or occupying
13 land that would be affected by the proposed vacation, and if, in
14 the judgment of the court, the same would be damaged, the court
15 may determine the amount of such damage and direct its payment
16 by the applicant before the vacation or alteration shall take
17 effect. A certified copy of the order of the court shall be
18 filed with the county auditor, and recorded by the county
19 recorder. The district court shall not vacate or alter any
20 street, alley, or public ground dedicated to the public use in
21 or by any such plat in any city or town organized under a
22 charter or special law which provides a method of procedure for
23 the vacation of streets and public grounds by the municipal
24 authorities of such city or town.

1 Senator moves to amend S.F. No. 929 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 164.07,
4 subdivision 2, is amended to read:

5 Subd. 2. [HEARING; NOTICE.] (a) The petition shall be
6 filed with the town clerk, who shall forthwith present it to the
7 town board. The town board within 30 days thereafter shall make
8 an order describing as nearly as practicable the road proposed
9 to be established, altered, or vacated and the several tracts of
10 land through which it passes, and fixing a time and place when
11 and where it will meet and act upon the petition. The order
12 must also contain a notice to affected landowners that a
13 landowner is entitled to judicial review of damages, need, and
14 purpose under subdivision 7 following a determination to
15 establish or alter a road. The petitioners shall cause personal
16 service of ~~such~~ the order and a copy of the petition to be made
17 upon each occupant of ~~such~~ the land at least ten days before
18 ~~such~~ the meeting and cause ten days' posted notice thereof to be
19 given.

20 (b) In addition, the petitioners shall serve notice of the
21 order by certified mail upon the commissioner of natural
22 resources at least ~~30~~ 60 days before ~~such~~ the meeting required
23 under paragraph (a), if the road to be vacated terminates at ~~or~~,
24 abuts upon, or is adjacent to any public water. The notice
25 under this paragraph ~~is-for-notification-purposes-only-and~~ does
26 not create a right of intervention by the commissioner of
27 natural resources. At least 15 days prior to convening the
28 meeting required under paragraph (a), the town board or its
29 designee must consult with the commissioner of natural resources
30 to review the proposed vacation. The commissioner must evaluate:

31 (1) the proposed vacation and the public benefits to do so;
32 (2) the present and potential use of the land for access to
33 public waters; and

34 (3) how the vacation would impact conservation of natural
35 resources.

36 The commissioner must advise the town board or its designee

1 accordingly upon the evaluation.

2 Sec. 2. Minnesota Statutes 2004, section 412.851, is
3 amended to read:

4 412.851 [VACATION OF STREETS.]

5 The council may by resolution vacate any street, alley,
6 public grounds, public way, or any part thereof, on its own
7 motion or on petition of a majority of the owners of land
8 abutting on the street, alley, public grounds, public way, or
9 part thereof to be vacated. When there has been no petition,
10 the resolution may be adopted only by a vote of four-fifths of
11 all members of the council. No such vacation shall be made
12 unless it appears in the interest of the public to do so after a
13 hearing preceded by two weeks' published and posted notice. The
14 council shall cause written notice of the hearing to be mailed
15 to each property owner affected by the proposed vacation at
16 least ten days before the hearing. The notice must contain, at
17 minimum, a copy of the petition or proposed resolution as well
18 as the time, place, and date of the hearing. In addition, if
19 the street, alley, public grounds, public way, or any part
20 thereof terminates at ~~or~~, abuts upon, or is adjacent to any
21 public water, ~~no-vacation-shall-be-made-unless~~ written notice of
22 the petition or proposed resolution ~~is~~ must be served by
23 certified mail upon the commissioner of natural resources at
24 least ~~30~~ 60 days before the hearing on the matter. The notice
25 to the commissioner of natural resources ~~is-for-notification~~
26 ~~purposes-only-and~~ does not create a right of intervention by the
27 commissioner. At least 15 days prior to convening the hearing
28 required under this section, the council or its designee must
29 consult with the commissioner of natural resources to review the
30 proposed vacation. The commissioner must evaluate:

31 (1) the proposed vacation and the public benefits to do so;

32 (2) the present and potential use of the land for access to
33 public waters; and

34 (3) how the vacation would impact conservation of natural
35 resources.

36 The commissioner must advise the city council or its designee

1 accordingly upon the evaluation. After a resolution of vacation
2 is adopted, the clerk shall prepare a notice of completion of
3 the proceedings which shall contain the name of the city, an
4 identification of the vacation, a statement of the time of
5 completion thereof and a description of the real estate and
6 lands affected thereby. The notice shall be presented to the
7 county auditor who shall enter the same in the transfer records
8 and note upon the instrument, over official signature, the words
9 "entered in the transfer record." The notice shall then be
10 filed with the county recorder. Any failure to file the notice
11 shall not invalidate any ~~such~~ vacation proceedings.

12 Sec. 3. Minnesota Statutes 2004, section 505.14, is
13 amended to read:

14 505.14 [VACATION.]

15 Upon the application of the owner of land included in any
16 plat, and upon proof that all taxes assessed against ~~such~~ the
17 land have been paid, and the notice hereinafter provided for
18 given, the district court may vacate or alter all, or any part,
19 of ~~such~~ the plat, and adjudge the title to all streets, alleys,
20 and public grounds to be in the persons entitled thereto; but
21 streets or alleys connecting separate plats or lying between
22 blocks or lots or providing access for the public to any public
23 water, shall not be vacated between ~~such~~ the lots, blocks, or
24 plats as are not also vacated, unless it appears that the street
25 or alley or part thereof sought to be vacated is useless for the
26 purpose for which it was laid out. If any part of a street,
27 alley, or public ground proposed for vacation terminates at ~~or,~~
28 abuts upon , or is adjacent to any public water, the petitioner
29 shall serve notice of the petition by certified mail upon the
30 commissioner of natural resources at least ~~30~~ 60 days before the
31 term at which it shall be heard. The notice under this
32 ~~subdivision is-for-notification-purposes-only-and-does-not~~
33 ~~create~~ creates a right of intervention by the commissioner of
34 natural resources. The petitioner shall cause two weeks
35 published and posted notice of such application to be given, the
36 last publication to be at least ten days before the term at

1 which it shall be heard; and the petitioner shall also serve
2 personally, or cause to be served personally, notice of such
3 application, at least ten days before the term at which the
4 application shall be heard, upon the mayor of the city, the
5 president of the statutory city, or the chair of the town board
6 of the town where such land is situated. The court shall hear
7 all persons owning or occupying land that would be affected by
8 the proposed vacation, and if, in the judgment of the court, the
9 same would be damaged, the court may determine the amount
10 of ~~such~~ the damage and direct its payment by the applicant
11 before the vacation or alteration shall take effect. A
12 certified copy of the order of the court shall be filed with the
13 county auditor, and recorded by the county recorder. The
14 district court shall not vacate or alter any street, alley, or
15 public ground dedicated to the public use in or by any ~~such~~ plat
16 in any city or town organized under a charter or special law
17 which provides a method of procedure for the vacation of streets
18 and public grounds by the municipal authorities of ~~such~~ the city
19 or town."

20 Delete the title and insert:

21 "A bill for an act relating to natural resources; requiring
22 commissioner's evaluation before vacating certain roads adjacent
23 to public waters; creating right of intervention; amending
24 Minnesota Statutes 2004, sections 164.07, subdivision 2;
25 412.851; 505.14."



Department of Natural Resources Fact Sheet



CROSS-COUNTRY SKI PASS FEE INCREASE

HF /SF 703

Summary

This bill will increase the cross-country ski pass fees from \$2.00 to \$4.00 daily, \$9.00 to \$14.00 annually, and \$24.00 to \$39.00 for a three-year pass.

It is needed because

The DNR is pursuing this legislation to provide for increased maintenance and grooming on 1,003 miles of Grants-in-Aid (GIA) trails and 789 miles of unit trails, and to meet user expectations for cross-country ski trails. User groups support this fee increase.

Financial implications

This would increase revenues generated from the sale of ski passes by approximately 65%. Current fees generate an average of \$210,000 in revenues annually.

Background

The last fee increase was in 1999 when the fees were raised from \$1.00 to \$2.00 daily, \$5.00 to \$9.00 annually, and \$14.00 to \$24.00 for a three-year pass. During FY 2003, revenues were \$70,000. With a limited enforcement effort during FY 2004, revenues were \$268,000. Annual revenues are variable, based on the amount of snow, public awareness, and enforcement efforts.

The cross-country ski pass program was created in 1983 (Minn. Stat. § 85.40). This program provides funding to local units of government who sponsor cross-country ski trails. In turn, these local units often contract grooming and ski trail operations with clubs.

In addition to the fee for a cross-country ski pass, an issuing fee of \$1 per pass is charged and retained by the seller of the pass, pursuant to Minn. Stat. § 85.41 Subd. 5. Issuing fees for passes issued by the DNR are deposited in the cross-country ski account in the natural resources fund and retained for the operation of the electronic licensing system.

For further information contact:

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February 16, 2005

Senators Ruud and Pariseau introduced--

S.F. No. 703: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; increasing fees for
3 cross-country ski passes; amending Minnesota Statutes
4 2004, section 85.42.

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

6 Section 1. Minnesota Statutes 2004, section 85.42, is
7 amended to read:

8 85.42 [USER FEE; VALIDITY.]

9 (a) The fee for an annual cross-country ski pass is \$9 \$14
10 for an individual age 16 and over. The fee for a three-year
11 pass is ~~\$24~~ \$39 for an individual age 16 and over. This fee
12 shall be collected at the time the pass is purchased.
13 Three-year passes are valid for three years beginning the
14 previous July 1. Annual passes are valid for one year beginning
15 the previous July 1.

16 (b) The cost for a daily cross-country skier pass is \$2 \$4
17 for an individual age 16 and over. This fee shall be collected
18 at the time the pass is purchased. The daily pass is valid only
19 for the date designated on the pass form.

20 (c) A pass must be signed by the skier across the front of
21 the pass to be valid and becomes nontransferable on signing.



Department of Natural Resources Fact Sheet



DNR WATERS BILL HF 894/SF 935

Summary

This bill recommends changes to DNR Waters' regulatory authorities that will:

- Authorize DNR to make needed changes to the lists and maps of public waters in each county. It does not reopen the public waters designation process, but allows for very specific changes to be made.
 - Authorize cease and desist orders to be applied to waters of the state rather than just wetlands and public waters.
 - Clarify the definition of boathouse to eliminate confusion over the difference between a "motorboat" and a "boathouse".
 - Specifically allow commissioner's orders to be recorded as a deed restriction on real property.
 - Provide more flexibility for the collection of permit application and amendment fees. The fee would no longer have to accompany the permit application.
- Boathouses are currently prohibited by statute in most situations. People have been using the confusion about the definition of boathouse to build these structures in public waters where they are not allowed. This bill clarifies the definitions of "boathouse" and "motorboat" to eliminate this confusion.
 - DNR needs specific authority to register a commissioner's order on the deed to a parcel of property because some orders need to apply to the property rather than just the current property owner. If the order is registered to the deed, the order will continue to apply to subsequent property owners and an owner could not sell the property to avoid required restoration.
 - Current statutes require application fees to accompany a permit application or amendment. Because of changes to the way revenue is collected and accounted for, it is necessary to get more flexibility in the way fees are paid so that the DNR can bill a permit applicant. Payment would still be required before the permit could be issued.

It is needed because

The Department needs these changes for the following reasons:

- The DNR needs changes to the Public Waters Inventory statute: to correct mistakes in the original designation process; to add or subtract waters that have been added or eliminated through the public waters permit process or through mitigation requirements; and to reflect changes that are the outcome of lawsuits and court decisions. It is not intended for this legislation to allow major changes to the public waters inventory. It is intended to allow for a more accurate accounting procedure.
- Cease and desist orders are currently only applicable to wetlands and public waters. By changing the definition to waters of the state, the orders will also be applicable to problem situations involving ground water and appropriation of waters of the state.

Financial implications (if appropriate)

These changes will not generate more or less revenue. Costs associated with making the changes will be absorbed by the DNR.

Background

These proposed changes are the result of specific instances where it has been discovered that departmental authorities are difficult to apply or are the result of changes in the way we need to conduct business.

- The public waters inventory maps and lists were completed in 1982 but were not finalized in some cases for many more years due to ongoing hearings and lawsuits. The only change that was authorized by the legislature

in 2001 is the change in terminology from public waters wetlands to public waters. This legislation will allow DNR to correct mistakes and make changes that are authorized by permit or related mitigation activities or court decisions. It is not intended to reopen the process for landowners that are unhappy about the designation of a wetland on their property or to appease some environmental groups that want more wetlands added to the public waters inventory maps and lists. New maps and lists will need to be published periodically to reflect changes in the inventory.

- Cease and desist orders need to be applicable to waters of the state to be able to address violations related to ground water.
- Due to problems with definitions in the statute and the rule, people have been trying to find innovative ways to build boathouses on public waters in areas and under circumstances where they are prohibited. These situations have taken a lot of time to resolve and they frequently end up in court. This legislation clarifies the definition of “boathouse” and “motorboat” to eliminate this confusion in the future. This statutory language will override the 2002 rule language until the rule can be changed to match the statutory language.
- There have been a small number of instances where commissioner’s orders have been issued to stop some illegal activity or to restore some landscape feature only to find that the property has been sold and the condition has not been corrected. By registering the order on the deed, subsequent property owners will be alerted about potential restrictions on the property and it should be easier to achieve the required restoration.
- DNR is changing the way it collects fees so it will be not be possible to accept fees that accompany a permit application. Current statute requires application fees to accompany a permit application, and this change is needed to accommodate the new revenue system.

For further information contact:

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DNR Division of Waters
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February 15, 2005

**Senators Frederickson, Hottinger, Dille, Higgins and Dibble introduced--
S.F. No. 935: Referred to the Committee on Environment and Natural Resources.**

1 A bill for an act

2 relating to waters; modifying authority for public
3 waters inventory; modifying public waters work permit
4 and water use permit provisions; modifying enforcement
5 authority; amending Minnesota Statutes 2004, sections
6 103G.201; 103G.2372, subdivision 1; 103G.245,
7 subdivision 4; 103G.251, subdivision 2; 103G.301,
8 subdivision 2.

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

10 Section 1. Minnesota Statutes 2004, section 103G.201, is
11 amended to read:

12 103G.201 [PUBLIC WATERS INVENTORY.]

13 (a) The commissioner shall prepare a public waters
14 inventory map of each county that shows the waters of this state
15 that are designated as public waters under the public waters
16 inventory and classification procedures prescribed under Laws
17 1979, chapter 199. The public waters inventory map for each
18 county must be filed with the auditor of the county.

19 (b) The commissioner is authorized to revise the list of
20 public waters established under Laws 1979, chapter 199, to
21 reclassify those types 3, 4, and 5 wetlands previously
22 identified as public waters wetlands under Laws 1979, chapter
23 199, as public waters or as wetlands under section 103G.005,
24 subdivision 19. The commissioner may only reclassify public
25 waters wetlands as public waters if:

26 (1) they are assigned a shoreland management classification
27 by the commissioner under sections 103F.201 to 103F.221;

1 (2) they are classified as lacustrine wetlands or deepwater
2 habitats according to Classification of Wetlands and Deepwater
3 Habitats of the United States (Cowardin, et al., 1979 edition);
4 or

5 (3) the state or federal government has become titleholder
6 to any of the beds or shores of the public waters wetlands,
7 subsequent to the preparation of the public waters inventory map
8 filed with the auditor of the county, pursuant to paragraph (a),
9 and the responsible state or federal agency declares that the
10 water is necessary for the purposes of the public ownership.

11 (c) The commissioner must provide notice of the
12 reclassification to the local government unit, the county board,
13 the watershed district, if one exists for the area, and the soil
14 and water conservation district. Within 60 days of receiving
15 notice from the commissioner, a party required to receive the
16 notice may provide a resolution stating objections to the
17 reclassification. If the commissioner receives an objection
18 from a party required to receive the notice, the
19 reclassification is not effective. If the commissioner does not
20 receive an objection from a party required to receive the
21 notice, the reclassification of a wetland under paragraph (b) is
22 effective 60 days after the notice is received by all of the
23 parties.

24 (d) The commissioner shall give priority to the
25 reclassification of public waters wetlands that are or have the
26 potential to be affected by public works projects.

27 (e) The commissioner may revise the public waters inventory
28 map and list of each county:

29 (1) to reflect the changes authorized in paragraph (b); and

30 (2) as needed, to:

31 (i) correct errors in the original inventory;

32 (ii) reflect court decisions;

33 (iii) add former mine pits, quarries, and sand and gravel
34 pits; and

35 (iv) add or subtract public waters that have been created
36 or eliminated as a requirement of a permit authorized by the

1 commissioner under section 103G.245.

2 Sec. 2. Minnesota Statutes 2004, section 103G.2372,
3 subdivision 1, is amended to read:

4 Subdivision 1. [COMMISSIONER OF NATURAL RESOURCES.] (a)

5 The commissioner of natural resources, conservation officers,
6 and peace officers shall enforce laws preserving and protecting
7 wetlands-and-public waters of the state. The commissioner of
8 natural resources, a conservation officer, or a peace officer
9 may issue a cease and desist order to stop any illegal activity
10 adversely affecting a-wetland-or-public waters of the state.

11 (b) In the order, or by separate order, the commissioner,
12 conservation officer, or peace officer may require restoration
13 or replacement of the wetland or public waters, as determined by
14 the local soil and water conservation district for wetlands and
15 the commissioner of natural resources for public waters.
16 Restoration or replacement orders may be recorded or filed in
17 the office of the county recorder or registrar of titles, as
18 appropriate, in the county where the real property is located by
19 the commissioner of natural resources, conservation officers, or
20 peace officers as a deed restriction on the property that runs
21 with the land and is binding on the owners, successors, and
22 assigns until the conditions of the order are met or the order
23 is rescinded. Notwithstanding section 386.77, the agency shall
24 pay the applicable filing fee for any document filed under this
25 section.

26 Sec. 3. Minnesota Statutes 2004, section 103G.245,
27 subdivision 4, is amended to read:

28 Subd. 4. [STRUCTURES IN OR ADJACENT TO PUBLIC WATERS.] (a)
29 The following definitions apply to this subdivision:

30 (1) "boathouse" means a ~~floating~~ structure or watercraft
31 that is moored by spuds, cables, ropes, anchors, or chains that
32 may be intended for habitation and has walls, a roof, and either
33 an open well for boats or a floor from wall to wall and does not
34 include houseboats watercraft that are designed and operated as
35 motorboats; and

36 (2) "houseboat" "motorboat" means a ~~motorboat-that-has~~

1 ~~either-a-pontoon-or-a-flat-bottomed-hull-configuration,-and-a~~
 2 ~~permanent-enclosed-superstructure-housing,-at-a-minimum,-~~
 3 ~~built-in-sleeping,-cooking,-and-toilet-facilities~~ watercraft
 4 that is designed for navigation on the water and that has an
 5 adequately sized external or internal mechanical propulsion
 6 system for the type of watercraft.

7 (b) The commissioner, subject to the approval of the county
 8 board, may grant and prescribe terms and conditions for granting
 9 public waters work permits to establish, construct, maintain,
 10 and control wharves, docks, piers, levees, breakwaters, basins,
 11 canals, and hangars in or adjacent to public waters of the
 12 state, except within the corporate limits of a municipality.

13 (c) Boathouses are prohibited on public waters of
 14 Minnesota, except as allowed by paragraph (d).

15 (d) The commissioner may issue a public waters work permit
 16 for boathouses ~~only~~, when approved by the local governmental
 17 unit and:

18 (1) only in areas of historic use for such structures, as
 19 determined by the commissioner, and where the boathouse was in
 20 existence on public waters prior to January 1, 1997; or

21 ~~(2) when-approved-by-the-local-government-unit,-and~~
 22 ~~{3} where the boathouse is-in-existence-on-public-waters~~
 23 ~~prior-to-January-1,-1997~~ serves as a public service structure
 24 within a permitted commercial marina.

25 (e) A boathouse in existence on public waters prior to
 26 January 1, 1997, may be repaired or replaced, provided that the
 27 repairs or replacement are consistent with the permit issued by
 28 the commissioner under paragraph (d).

29 Sec. 4. Minnesota Statutes 2004, section 103G.251,
 30 subdivision 2, is amended to read:

31 Subd. 2. [FINDINGS AND ORDER.] (a) With or without a
 32 public hearing, the commissioner may make findings and issue
 33 orders related to activities being conducted without a permit
 34 that affect waters of the state as otherwise authorized under
 35 this chapter.

36 (b) A copy of the findings and order must be served on the

1 person to whom the order is issued.

2 (c) If the commissioner issues the findings and order
3 without a hearing, the person to whom the order is issued may
4 file a demand for a hearing with the commissioner. The demand
5 for a hearing must be accompanied by the bond as provided in
6 section 103G.311, subdivision 6, and the hearing must be held in
7 the same manner and with the same requirements as a hearing held
8 under section 103G.311, subdivision 5. The demand for a hearing
9 and bond must be filed by 30 days after the person is served
10 with a copy of the commissioner's order.

11 (d) The hearing must be conducted as a contested case
12 hearing under chapter 14.

13 (e) If the person to whom the order is addressed does not
14 demand a hearing or demands a hearing but fails to file the
15 required bond:

16 (1) the commissioner's order becomes final at the end of 30
17 days after the person is served with the order; and

18 (2) the person may not appeal the order.

19 (f) An order of the commissioner may be recorded or filed
20 by the commissioner in the office of the county recorder or
21 registrar of titles, as appropriate, in the county where the
22 real property is located as a deed restriction on the property
23 that runs with the land and is binding on the owners,
24 successors, and assigns until the conditions of the order are
25 met or the order is rescinded.

26 Sec. 5. Minnesota Statutes 2004, section 103G.301,
27 subdivision 2, is amended to read:

28 Subd. 2. [PERMIT APPLICATION FEES.] (a) ~~An application for~~
29 ~~a permit authorized under this chapter, and each request to~~
30 ~~amend or transfer an existing permit, must be accompanied by A~~
31 permit application fee to defray the costs of receiving,
32 recording, and processing the application ~~or request to amend or~~
33 transfer must be paid for a permit authorized under this chapter
34 and for each request to amend or transfer an existing permit.

35 (b) The fee to apply for a permit to appropriate water, a
36 permit to construct or repair a dam that is subject to dam

1 safety inspection, or a state general permit or to apply for the
2 state water bank program is \$75. The application fee for a
3 permit to work in public waters or to divert waters for mining
4 must be at least \$75, but not more than \$500, according to a
5 schedule of fees adopted under section 16A.1285.

1 Senator moves to amend S.F. No. 935 as follows:

2 Page 2, delete line 32 and insert:

3 "(ii) add or subtract trout stream tributaries within
4 sections that contain a designated trout stream following
5 written notice to the landowner;"

6 Page 2, line 34, after "pits" insert "when the body of
7 water exceeds 50 acres and the shoreland has been zoned for
8 residential development"

9 Page 4, line 4, after "for" insert "and is capable of"

10 Page 4, line 18, strike "such" and insert "the"



Department of Natural Resources Fact Sheet



ALTERNATIVE RECORDING FOR STATE FOREST ROADS: PRESCRIPTIVE EASEMENTS HF 1438/SF 1326

Summary

This initiative will create a process that will allow the commissioner to record DNR's interest in state forest roads by prescriptive easements through a public process similar to that granted to townships in Minn. Stat. § 164.35.

It is needed because

There is a need to protect access to state forest lands for resource management and for recreational users. There are approximately 13,000 parcels of nonstate land that are crossed by or are contiguous to state forest road segments. To protect the state's legal right to use these roads, the state's interest in these roads should be recorded. Without this protection, the state will face many legal challenges.

Financial implications (if appropriate)

When state forest road segments on nonstate lands are blocked or closed by landowners, many hours of state time are expended to respond to the landowners. If the road closure effort goes to court, it costs the DNR thousands of dollars to document road use and defend the right of the DNR to use the road.

Background

The state forest road system contains approximately 2,200 miles of road. There are in excess of 33,000 parcels of state, county, federal, and private lands immediately accessed or affected by state forest roads.

The majority of state forest roads not on state lands does not have recorded easements. This situation can lead to a question of legal right for the road to exist or for the DNR to use the road. Because of landowners' rights and the increasing desire for access to private property using state roads and lands, the DNR will see legal challenges to the state forest road system. It is therefore critical to legally establish the state's interests in the roads. By establishing a public process

to record the state's interests, the DNR can address landowner concerns in a legal and consistent manner rather than be challenged multiple times and having to respond to many separate legal actions.

For further information contact:

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January 18, 2005

S.F. No. 1326: Referred to the Committee on Environment and Natural Resources.

Senator Marty introduced--

1 A bill for an act

2 relating to natural resources; providing for an
3 official map of state forest roads as an alternative
4 recording method; proposing coding for new law in
5 Minnesota Statutes, chapter 89.

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

7 Section 1. [89.715] [ALTERNATIVE RECORDING FOR STATE
8 FOREST ROAD.]

9 Subdivision 1. [AUTHORIZATION.] The commissioner may adopt
10 a recorded state forest road map under this section to record
11 the department's state forest road prescriptive easements. For
12 purposes of this section, "recorded state forest road map" means
13 the official map of state forest roads.

14 Subd. 2. [MAP REQUIREMENTS.] The recorded state forest
15 road map must:

16 (1) show state forest roads at the time the map is adopted;

17 (2) be prepared at a scale of at least four inches equals
18 one mile;

19 (3) include section numbers;

20 (4) include a north point arrow;

21 (5) include the name of the county and state;

22 (6) include a blank and a description under the blank for
23 the date of public hearing and date of adoption; and

24 (7) include blanks for signatures and dates of signatures
25 for the commissioner.

1 Subd. 3. [PROCEDURE TO ADOPT MAP.] (a) The commissioner
2 must prepare an official map for each county or smaller
3 geographic area as determined by the commissioner as provided in
4 subdivision 2, and set a time, place, and date for a public
5 hearing on adopting a recorded state forest road map to record
6 roads.

7 (b) The hearing notice must state that the roads to be
8 recorded will be to the width of the actual use including
9 ditches, backslopes, fills, and maintained rights-of-way, unless
10 otherwise specified in a prior easement of record. The hearing
11 notice must be published once a week for two successive weeks in
12 a qualified newspaper of general circulation that serves the
13 county or smaller geographic areas as determined by the
14 commissioner, the last publication to be made at least ten days
15 before the date of the public hearing. At least 30 days before
16 the hearing, the hearing notice must be sent by mail to the
17 property owners directly affected in the county or smaller
18 geographic areas as determined by the commissioner at the
19 addresses listed on the tax assessment notices. The hearing
20 notice may be sent with the tax assessment, but all additional
21 costs incurred shall be billed to the department.

22 (c) After the public hearing is held, the commissioner may
23 amend and adopt the recorded state forest road map. The
24 recorded state forest road map must be dated and signed by the
25 commissioner and must be recorded with the county recorder
26 within 90 days after the map is adopted.

27 (d) The recorded state forest road map that is recorded
28 with the county recorder must comply with the standards of the
29 county recorder where the state forest roads are located.

30 (e) A recorded state forest road map that was prepared by
31 using aerial photographs to establish road centerlines and that
32 has been duly recorded with the county recorder is an adequate
33 description for purposes of recording road easements and the map
34 is the legally constituted description and prevails when a deed
35 for a parcel abutting a road contains no reference to a road
36 easement. Nothing prevents the commissioner from accepting a

1 more definitive metes and bounds or survey description of a road
2 easement for a road of record if the description of the easement
3 is referenced to equal distance on both sides of the existing
4 road centerline.

5 Subd. 4. [APPEAL.] A person may appeal a decision to
6 record a road under this section to the district court within 60
7 days after the date the commissioner adopts the state forest
8 road map.

9 Subd. 5. [UNRECORDED ROAD OR TRAIL NOT AFFECTED.] This
10 section does not affect the legal status or state obligations of
11 roads and trails not shown on the recorded state forest road map.

12 Subd. 6. [EXEMPTION.] Adoption of a recorded state forest
13 road map under this section is exempt from the rulemaking
requirements of chapter 14 and section 14.386 does not apply.