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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 591

February 9, 2009

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

A bill for an act

1.1 relating to natural resources; modifying Reinvest in Minnesota Resources Law;
1.2 amending Minnesota Statutes 2008, sections 84.66, subdivision 2; 103F.505;
1.3 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1,
1.4 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535,
1.5 subdivision 5; repealing Minnesota Statutes 2008, sections 103F.511, subdivision
1.6 4; 103F.521, subdivision 2; 103F.535, subdivision 1; Minnesota Rules, parts
1.7 8400.3000; 8400.3030; 8400.3060; 8400.3110; 8400.3130; 8400.3160;
1.8 8400.3200; 8400.3210; 8400.3230; 8400.3260; 8400.3300; 8400.3330;
1.9 8400.3360; 8400.3390; 8400.3400; 8400.3460; 8400.3500; 8400.3530;
1.10 8400.3560; 8400.3600; 8400.3610; 8400.3630; 8400.3700; 8400.3730;
1.11 8400.3800; 8400.3830; 8400.3870; 8400.3930.
1.12

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

1.14 Section 1. Minnesota Statutes 2008, section 84.66, subdivision 2, is amended to read:

1.15 Subd. 2. **Definitions.** For the purpose of this section, the following terms have
1.16 the meanings given:

- 1.17 (1) "forest land" has the meaning given under section 89.001, subdivision 4;
1.18 (2) "forest resources" has the meaning given under section 89.001, subdivision 8;
1.19 (3) "guidelines" has the meaning given under section 89A.01, subdivision 8;
1.20 (4) "riparian land" has the meaning given under section 103F.511, subdivision ~~8a~~
1.21 8b; and

1.22 (5) "working forest land" means land that provides a broad range of goods and
1.23 services, including forest products, recreation, fish and wildlife habitat, clean air and
1.24 water, and carbon sequestration.

1.25 Sec. 2. Minnesota Statutes 2008, section 103F.505, is amended to read:

1.26 **103F.505 PURPOSE AND POLICY.**

2.1 It is the purpose of sections 103F.505 to 103F.531 to ~~keep~~ restore certain marginal
 2.2 agricultural land ~~out of crop production~~ and protect environmentally sensitive areas to
 2.3 ~~protect~~ enhance soil and water quality, minimize damage to flood-prone areas, sequester
 2.4 carbon, and support native plant, fish, and wildlife habitat habitats. It is state policy to
 2.5 encourage the restoration of wetlands and riparian lands and promote the retirement of
 2.6 marginal, highly erodible land, particularly land adjacent to public waters, drainage
 2.7 systems, wetlands, and locally designated priority waters, ~~from crop production and to~~
 2.8 ~~reestablish a cover of perennial vegetation.~~

2.9 Sec. 3. Minnesota Statutes 2008, section 103F.511, subdivision 5, is amended to read:

2.10 Subd. 5. **Drained wetland.** "Drained wetland" means a former natural wetland that
 2.11 has been altered by draining, dredging, filling, leveling, or other manipulation sufficient
 2.12 to render the land suitable for agricultural crop production. ~~The alteration must have~~
 2.13 ~~occurred before December 23, 1985, and must be a legal alteration as determined by the~~
 2.14 ~~commissioner of natural resources.~~

2.15 Sec. 4. Minnesota Statutes 2008, section 103F.511, is amended by adding a subdivision
 2.16 to read:

2.17 Subd. 8a. **Reinvest in Minnesota reserve program.** "Reinvest in Minnesota
 2.18 reserve program" means the program established under section 103F.515.

2.19 Sec. 5. Minnesota Statutes 2008, section 103F.511, subdivision 8a, is amended to read:

2.20 Subd. ~~8a~~ 8b. **Riparian land.** "Riparian land" means lands adjacent to public
 2.21 waters, drainage systems, wetlands, or locally designated priority waters ~~identified in a~~
 2.22 ~~comprehensive local water plan, as defined in section 103B.3363, subdivision 3.~~

2.23 Sec. 6. Minnesota Statutes 2008, section 103F.515, subdivision 1, is amended to read:

2.24 Subdivision 1. **Establishment of program.** The board, in consultation with the
 2.25 commissioner of agriculture and the commissioner of natural resources, shall establish
 2.26 and administer ~~a conservation~~ the reinvest in Minnesota reserve program. The board
 2.27 shall implement sections 103F.505 to 103F.531. Selection of land for the ~~conservation~~
 2.28 reinvest in Minnesota reserve program must be based on its enhancement potential for
 2.29 fish ~~and~~, wildlife production, and native plant habitats, reducing erosion, and protecting
 2.30 water quality.

2.31 Sec. 7. Minnesota Statutes 2008, section 103F.515, subdivision 2, is amended to read:

3.1 Subd. 2. **Eligible land.** (a) Land may be placed in the ~~conservation~~ reinvest in
 3.2 Minnesota reserve program if the land meets the requirements of paragraphs (b) and (c).

3.3 (b) Land is eligible if the land:

3.4 (1) is marginal agricultural land;

3.5 (2) is adjacent to marginal agricultural land and is either beneficial to resource
 3.6 protection or necessary for efficient recording of the land description;

3.7 (3) consists of a drained wetland;

3.8 (4) is land that with a windbreak or water quality improvement practice would be
 3.9 beneficial to resource protection;

3.10 (5) is land in a sensitive groundwater area;

3.11 (6) is riparian land;

3.12 (7) is cropland or noncropland adjacent to restored wetlands to the extent of up to
 3.13 four acres of cropland or one acre of noncropland for each acre of wetland restored;

3.14 (8) is a woodlot on agricultural land;

3.15 (9) is abandoned building site on agricultural land, provided that funds are not used
 3.16 for compensation of the value of the buildings; or

3.17 (10) is land ~~on a hillside~~ used for pasture.

3.18 (c) Eligible land under paragraph (a) must:

3.19 (1) be owned by the landowner, or a parent or other blood relative of the landowner,
 3.20 for at least one year before the date of application;

3.21 (2) be at least five acres in size, except for a drained wetland area, riparian area,
 3.22 windbreak, woodlot, or abandoned building site, or be a whole field ~~as defined by the~~
 3.23 ~~United States Agricultural Stabilization and Conservation Services;~~

3.24 (3) not be set aside, enrolled or diverted under another federal or state government
 3.25 program unless enrollment in the ~~conservation~~ reinvest in Minnesota reserve program
 3.26 would provide additional conservation benefits or a longer term of enrollment than under
 3.27 the current federal or state program; and

3.28 (4) have been in agricultural crop production for at least two of the last five
 3.29 years before the date of application, ~~except drained wetlands, riparian lands, woodlots,~~
 3.30 ~~abandoned building sites,~~ environmentally sensitive areas, or land ~~on a hillside~~ used
 3.31 for pasture.

3.32 ~~(d) In selecting drained wetlands for enrollment in the program, the highest priority~~
 3.33 ~~must be given to wetlands with a cropping history during the period 1976 to 1985.~~

3.34 ~~(e)~~ (d) In selecting land for enrollment in the program, highest priority must be given
 3.35 to permanent easements that are consistent with the purposes stated in section 103F.505.

4.1 Sec. 8. Minnesota Statutes 2008, section 103F.515, subdivision 4, is amended to read:

4.2 Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must
4.3 prohibit:

4.4 (1) alteration of wildlife habitat and other natural features, unless specifically
4.5 approved by the board;

4.6 (2) agricultural crop production and livestock grazing, unless specifically approved
4.7 by the board for ~~wildlife~~ conservation management purposes; and

4.8 ~~(3) grazing of livestock except, for agreements entered before the effective date of~~
4.9 ~~Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the~~
4.10 ~~board after consultation with the commissioner of natural resources, in the case of severe~~
4.11 ~~drought, or a local emergency declared under section 12.29; and~~

4.12 ~~(4)~~ (3) spraying with chemicals or mowing, except as necessary to comply with
4.13 noxious weed control laws ~~or~~, for emergency control of pests necessary to protect public
4.14 health, or as approved by the board for conservation management purposes.

4.15 (b) A conservation easement is subject to the terms of the agreement provided in
4.16 subdivision 5.

4.17 (c) A conservation easement must allow repairs, improvements, and inspections
4.18 necessary to maintain public drainage systems provided the easement area is restored to
4.19 the condition required by the terms of the conservation easement.

4.20 Sec. 9. Minnesota Statutes 2008, section 103F.515, subdivision 5, is amended to read:

4.21 Subd. 5. **Agreements by landowner.** The board may enroll eligible land in the
4.22 ~~conservation~~ reinvest in Minnesota reserve program by signing an agreement in recordable
4.23 form with a landowner in which the landowner agrees:

4.24 (1) to convey to the state a conservation easement that is not subject to any prior
4.25 title, lien, or encumbrance;

4.26 (2) to seed the land subject to the conservation easement, as specified in the
4.27 agreement, to establish and maintain perennial cover of either a grass-legume mixture or
4.28 native grasses for the term of the easement, at seeding rates determined by the board; or
4.29 to plant trees or carry out other long-term capital improvements approved by the board
4.30 for soil and water conservation or wildlife management;

4.31 (3) to convey to the state a permanent easement for the wetland restoration;

4.32 (4) that other land supporting natural vegetation owned or leased as part of the
4.33 same farm operation at the time of application, if it supports natural vegetation ~~or~~ and
4.34 has not been used in agricultural crop production, will not be converted to agricultural
4.35 crop production or pasture; and

5.1 (5) that the easement duration may be lengthened through mutual agreement with
 5.2 the board in consultation with the commissioners of agriculture and natural resources
 5.3 if they determine that the changes effectuate the purpose of the program or facilitate
 5.4 its administration.

5.5 Sec. 10. Minnesota Statutes 2008, section 103F.515, subdivision 6, is amended to read:

5.6 Subd. 6. **Payments for conservation easements and establishment of cover**
 5.7 **conservation practices.** (a) The board ~~must make the following~~ shall establish rates
 5.8 for payments to the landowner for the conservation easement and agreement; related
 5.9 practices. The board shall consider market factors, including the township average
 5.10 equalized estimated market value of property as established by the commissioner of
 5.11 revenue at the time of easement application.

5.12 ~~(1) to establish the perennial cover or other improvements required by the agreement;~~

5.13 ~~(i) except as provided in items (ii) and (iii), up to 75 percent of the total eligible cost~~
 5.14 ~~not to exceed \$125 per acre for limited duration easements and 100 percent of the total~~
 5.15 ~~eligible cost not to exceed \$150 per acre for perpetual easements;~~

5.16 ~~(ii) for native species restoration, 75 percent of the total eligible cost not to exceed~~
 5.17 ~~\$200 per acre for limited duration easements and 100 percent of the total eligible cost not~~
 5.18 ~~to exceed \$300 per acre for perpetual easements; and~~

5.19 ~~(iii) 100 percent of the total eligible cost of wetland restoration not to exceed \$600~~
 5.20 ~~per acre;~~

5.21 ~~(2) for the cost of planting trees required by the agreement, up to 75 percent of the~~
 5.22 ~~total eligible cost not to exceed \$250 per acre for limited duration easements, and 100~~
 5.23 ~~percent of the total eligible cost not to exceed \$400 per acre for perpetual easements;~~

5.24 ~~(3) for a permanent easement, 70 percent of the township average equalized~~
 5.25 ~~estimated market value of agricultural property as established by the commissioner of~~
 5.26 ~~revenue at the time of easement application;~~

5.27 ~~(4) for an easement of limited duration, 90 percent of the present value of the~~
 5.28 ~~average of the accepted bids for the federal conservation reserve program, as contained in~~
 5.29 ~~Public Law 99-198, in the relevant geographic area and on bids accepted at the time of~~
 5.30 ~~easement application; or~~

5.31 ~~(5) an alternative payment system for easements based on cash rent or a similar~~
 5.32 ~~system as may be determined by the board;~~

5.33 ~~(b) For hillside pasture conservation easements, the payments to the landowner in~~
 5.34 ~~paragraph (a) for the conservation easement and agreement must be reduced to reflect the~~
 5.35 ~~value of similar property.~~

6.1 (b) The board may establish alternative practices to those defined in section 84.02 for
 6.2 restoration of native prairie, grasslands, or wetlands based on soil type, seed availability,
 6.3 adjacent land uses, or other site-specific factors.

6.4 (c) The board may establish a payment system for flowage easements acquired
 6.5 under this section.

6.6 (d) For wetland restoration projects involving more than one conservation easement,
 6.7 state payments for restoration costs may exceed the limits set ~~forth in this section~~ by the
 6.8 board for an individual easement provided the total payment for the restoration project
 6.9 does not exceed the amount payable for the total number of acres involved.

6.10 (e) The board may use available nonstate funds to exceed the payment limits in
 6.11 this section.

6.12 Sec. 11. Minnesota Statutes 2008, section 103F.521, subdivision 1, is amended to read:

6.13 Subdivision 1. **Cooperation.** In implementing sections 103F.505 to 103F.531, the
 6.14 board must share information and cooperate with the Department of Agriculture, the
 6.15 Department of Natural Resources, the Pollution Control Agency, the United States Fish
 6.16 and Wildlife Service, ~~the Agricultural Stabilization and Conservation Service and Soil~~
 6.17 ~~Conservation Service~~ of the United States Department of Agriculture, the Minnesota
 6.18 Extension Service, the University of Minnesota, county boards, soil and water conservation
 6.19 districts, watershed districts, and interested private organizations and individuals.

6.20 Sec. 12. Minnesota Statutes 2008, section 103F.525, is amended to read:

6.21 **103F.525 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE**
 6.22 **CONSERVATION PROGRAMS.**

6.23 The board may supplement payments made under federal land retirement programs
 6.24 to the extent of available appropriations ~~other than bond proceeds~~. The supplemental
 6.25 payments must be used to establish perennial cover on land enrolled or increase payments
 6.26 for land enrollment in programs approved by the board, ~~including the federal conservation~~
 6.27 ~~reserve program and federal and state water bank program.~~

6.28 Sec. 13. Minnesota Statutes 2008, section 103F.526, is amended to read:

6.29 **103F.526 FOOD PLOTS IN WINDBREAKS.**

6.30 The board, ~~in cooperation with the commissioner of natural resources,~~ may authorize
 6.31 wildlife food plots on land ~~with windbreaks~~ enrolled in a conservation easement under
 6.32 section 103F.515.

7.1 Sec. 14. Minnesota Statutes 2008, section 103F.531, is amended to read:

7.2 **103F.531 RULEMAKING.**

7.3 The board may adopt rules or policy to implement sections 103F.505 to 103F.531.
7.4 ~~The rules must include standards for tree planting so that planting does not conflict with~~
7.5 ~~existing electrical lines, telephone lines, rights-of-way, or drainage ditches.~~

7.6 Sec. 15. Minnesota Statutes 2008, section 103F.535, subdivision 5, is amended to read:

7.7 Subd. 5. **Release and alteration of conservation easements.** Conservation
7.8 easements ~~existing under this section, as of April 30, 1992,~~ may be altered, released,
7.9 or terminated by the board of ~~Water and Soil Resources~~ after consultation with the
7.10 commissioners of agriculture and natural resources. The board may alter, release, or
7.11 terminate a conservation easement only if the board determines that the public interest and
7.12 general welfare are better served by the alteration, release, or termination.

7.13 Sec. 16. **REVISOR'S INSTRUCTION.**

7.14 The revisor of statutes shall change the term "conservation reserve program" to
7.15 "reinvest in Minnesota reserve program" where it appears in Minnesota Statutes, sections
7.16 84.95, subdivision 2; 92.70, subdivision 1; and 103H.105.

7.17 Sec. 17. **REPEALER.**

7.18 (a) Minnesota Statutes 2008, sections 103F.511, subdivision 4; 103F.521, subdivision
7.19 2; and 103F.535, subdivision 1, are repealed.

7.20 (b) Minnesota Rules, parts 8400.3000; 8400.3030; 8400.3060; 8400.3110;
7.21 8400.3130; 8400.3160; 8400.3200; 8400.3210; 8400.3230; 8400.3260; 8400.3300;
7.22 8400.3330; 8400.3360; 8400.3390; 8400.3400; 8400.3460; 8400.3500; 8400.3530;
7.23 8400.3560; 8400.3600; 8400.3610; 8400.3630; 8400.3700; 8400.3730; 8400.3800;
7.24 8400.3830; 8400.3870; and 8400.3930, are repealed.

103F.511 DEFINITIONS.

Subd. 4. **Conservation reserve program.** "Conservation reserve program" means the program established under section 103F.515.

103F.521 COOPERATION AND TECHNICAL ASSISTANCE.

Subd. 2. **Technical assistance.** (a) The board and the commissioners of agriculture and natural resources must provide necessary technical assistance to landowners enrolled in the conservation reserve program. The commissioner of natural resources must provide technical advice and assistance to the board on:

- (1) the form and content of the conservation easement and agreement;
- (2) forestry and agronomic practices; and
- (3) hydrologic and hydraulic design relating to the establishment and maintenance of permanent cover, or other conservation improvements.

(b) The commissioner of transportation must provide technical advice and assistance to the board and the commissioner of natural resources on the planting of windbreaks adjacent to highways.

(c) The board and the commissioners of agriculture and natural resources shall jointly prepare an informational booklet on the conservation reserve program and other state and federal programs for land acquisition, conservation, and retirement to be made available to eligible landowners and the general public.

103F.535 RESERVATION OF MARGINAL LAND AND WETLANDS.

Subdivision 1. **Reservation of marginal land and wetlands.** (a) Marginal land and wetlands are withdrawn from sale or exchange unless:

- (1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the Board of Water and Soil Resources, is provided to prospective purchasers; and
- (2) the deed contains a restrictive covenant, in a form prescribed by the Board of Water and Soil Resources, that precludes enrollment of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

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

- (1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use;
- (2) land in platted subdivisions;
- (3) conveyances of land to correct errors in legal descriptions under section 84.0273;
- (4) exchanges of nonagricultural land with the federal government, or exchanges of Class A, Class B, and riparian nonagricultural land with local units of government under sections 94.342, 94.343, and 94.344;
- (5) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10; and
- (6) land not needed for trail purposes that is sold to adjacent property owners and lease holders under section 85.015, subdivision 1, paragraph (b).

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

- (1) the land is in platted subdivisions; or
- (2) the conveyance is a transfer to correct errors in legal descriptions.

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

- (1) land that is currently in nonagricultural commercial use if a restrictive covenant would interfere with the commercial use; or
- (2) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10.