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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3094**

February 22, 2010

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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

relating to natural resources; modifying certain administrative accounts; modifying electronic transaction provisions; providing for certain registration exemptions; modifying all-terrain vehicle operation restrictions; modifying state trails and canoe and boating routes; modifying fees and disposition of certain receipts; modifying certain competitive bidding exemptions; modifying horse trail pass provisions; modifying master plan requirements; modifying beaver dam provisions; modifying the Water Law; modifying nongame wildlife checkoffs; providing for acquisition of Lake Vermilion State Park; amending Minnesota Statutes 2008, sections 84.025, subdivision 9; 84.027, subdivision 15; 84.0856; 84.0857; 84.82, subdivision 3, by adding a subdivision; 84.922, subdivision 5, by adding a subdivision; 84.925, subdivision 1; 85.015, subdivision 14; 85.052, subdivision 4; 85.22, subdivision 5; 85.32, subdivision 1; 85.43; 85.46, as amended; 97B.665, subdivision 2; 103A.305; 103F.325, by adding a subdivision; 103F.335, subdivision 1; 103G.271, subdivision 3; 103G.285, subdivision 5; 103G.301, subdivision 6; 103G.305, subdivision 2; 103G.315, subdivision 11; 103G.515, subdivision 5; 290.431; 290.432; Minnesota Statutes 2009 Supplement, sections 84.928, subdivision 1; 85.015, subdivision 13; 86A.09, subdivision 1; 103G.201; proposing coding for new law in Minnesota Statutes, chapter 103G; repealing Minnesota Statutes 2008, sections 97B.665, subdivision 1; 103G.295; 103G.650.

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

Section 1. Minnesota Statutes 2008, section 84.025, subdivision 9, is amended to read:

Subd. 9. Professional services support account. The commissioner of natural resources may bill other governmental units, including tribal governments, and the various programs carried out by the commissioner for the costs of providing them with professional support services. Except as provided under section 89.421, receipts must be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

The commissioner of natural resources shall submit to the commissioner of management and budget before the start of each fiscal year a work plan showing the

2.1 estimated work to be done during the coming year, the estimated cost of doing the work,
2.2 and the positions and fees that will be necessary. This account is exempted from statewide
2.3 and agency indirect cost payments.

2.4 Sec. 2. Minnesota Statutes 2008, section 84.027, subdivision 15, is amended to read:

2.5 Subd. 15. **Electronic transactions.** (a) The commissioner may receive an
2.6 application for, sell, and issue any license, stamp, permit, pass, sticker, ~~duplicate gift~~
2.7 card, safety training certification, registration, or transfer under the jurisdiction of the
2.8 commissioner by electronic means, including by telephone. Notwithstanding section
2.9 97A.472, electronic and telephone transactions may be made outside of the state. The
2.10 commissioner may:

2.11 (1) provide for the electronic transfer of funds generated by electronic transactions,
2.12 including by telephone;

2.13 (2) assign an identification number to an applicant who purchases a hunting or
2.14 fishing license or recreational vehicle registration by electronic means, to serve as
2.15 temporary authorization to engage in the activity requiring a license or registration until
2.16 the license or registration is received or expires;

2.17 (3) charge and permit agents to charge a fee of individuals who make electronic
2.18 transactions and transactions by telephone or Internet, including issuing fees and an
2.19 additional transaction fee not to exceed \$3.50;

2.20 (4) charge and permit agents to charge a convenience fee not to exceed three percent
2.21 of the cost of the license to individuals who use electronic bank cards for payment. An
2.22 electronic licensing system agent charging a fee of individuals making an electronic
2.23 bank card transaction in person must post a sign informing individuals of the fee. The
2.24 sign must be near the point of payment, clearly visible, include the amount of the fee, and
2.25 state: "License agents are allowed by state law to charge a fee not to exceed three percent
2.26 of the cost of state licenses to persons who use electronic bank cards for payment. The
2.27 fee is not required by state law.";

2.28 (5) establish, by written order, an electronic licensing system commission to be
2.29 paid by revenues generated from all sales made through the electronic licensing system.
2.30 The commissioner shall establish the commission in a manner that neither significantly
2.31 overrecovers nor underrecovers costs involved in providing the electronic licensing
2.32 system; and

2.33 (6) adopt rules to administer the provisions of this subdivision.

(b) The fees established under paragraph (a), clauses (3) and (4), and the commission established under paragraph (a), clause (5), are not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.

(c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

Sec. 3. Minnesota Statutes 2008, section 84.0856, is amended to read:

84.0856 FLEET MANAGEMENT ACCOUNT.

The commissioner of natural resources may bill organizational units within the Department of Natural Resources and other governmental units, including tribal governments, for the costs of providing them with equipment. Costs billed may include acquisition, licensing, insurance, maintenance, repair, and other direct costs as determined by the commissioner. Receipts and interest earned on the receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

Sec. 4. Minnesota Statutes 2008, section 84.0857, is amended to read:

84.0857 FACILITIES MANAGEMENT ACCOUNT.

(a) The commissioner of natural resources may bill organizational units within the Department of Natural Resources and other governmental units, including tribal governments, for the costs of providing them with building and infrastructure facilities. Costs billed may include modifications and adaptations to allow for appropriate building occupancy, building code compliance, insurance, utility services, maintenance, repair, and other direct costs as determined by the commissioner. Receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

(b) Money deposited in the special account from the proceeds of a sale under section 94.16, subdivision 3, paragraph (b), is appropriated to the commissioner to acquire facilities or renovate existing buildings for administrative use or to acquire land for, design, and construct administrative buildings for the Department of Natural Resources.

Sec. 5. Minnesota Statutes 2008, section 84.82, subdivision 3, is amended to read:

Subd. 3. **Fees for registration.** (a) The fee for registration of each snowmobile, other than those used for an agricultural purpose, as defined in section 84.92, subdivision

1c, or those registered by a dealer or manufacturer pursuant to clause (b) or (c) shall be as follows: \$45 for three years and \$4 for a duplicate or transfer.

(b) The total registration fee for all snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be \$50 per year.

(c) The total registration fee for all snowmobiles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes shall be \$150 per year. Dealer and manufacturer registrations are not transferable.

(d) The onetime fee for registration of an exempt snowmobile under subdivision 6a is \$6.

Sec. 6. Minnesota Statutes 2008, section 84.82, is amended by adding a subdivision to read:

Subd. 6a. **Exemption; collector unlimited snowmobile use.** Snowmobiles may be issued an exempt registration if the machine is at least 25 years old. Exempt registration is valid from the date of issuance until ownership of the snowmobile is transferred. Exempt registrations are not transferable.

Sec. 7. Minnesota Statutes 2008, section 84.922, is amended by adding a subdivision to read:

Subd. 2b. **Collector unlimited use; exempt registration.** All-terrain vehicles may be issued an exempt registration if requested and the machine is at least 25 years old. Exempt registration is valid from the date of issuance until ownership of the all-terrain vehicle is transferred. Exempt registrations are not transferable.

Sec. 8. Minnesota Statutes 2008, section 84.922, subdivision 5, is amended to read:

Subd. 5. **Fees for registration.** (a) The fee for a three-year registration of an all-terrain vehicle under this section, other than those registered by a dealer or manufacturer under paragraph (b) or (c), is:

(1) for public use, \$45;

(2) for private use, \$6; and

(3) for a duplicate or transfer, \$4.

(b) The total registration fee for all-terrain vehicles owned by a dealer and operated for demonstration or testing purposes is \$50 per year. Dealer registrations are not transferable.

(c) The total registration fee for all-terrain vehicles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes is \$150 per year. Manufacturer registrations are not transferable.

(d) The onetime fee for registration of an all-terrain vehicle under subdivision 2b is \$6.

(e) The fees collected under this subdivision must be credited to the all-terrain vehicle account.

Sec. 9. Minnesota Statutes 2008, section 84.925, subdivision 1, is amended to read:

Subdivision 1. **Program established.** (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate all-terrain vehicle safety certificate. The commissioner shall establish the fee for a duplicate all-terrain vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. Fee proceeds, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person ~~the cost of~~ up to the established fee amount for class material materials and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

Sec. 10. Minnesota Statutes 2009 Supplement, section 84.928, subdivision 1, is amended to read:

Subdivision 1. **Operation on roads and rights-of-way.** (a) Unless otherwise allowed in sections 84.92 to 84.928, a person shall not operate an all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway.

(b) A person may operate a class 1 all-terrain vehicle in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph (d) or (f).

(c) A person may operate a class 2 all-terrain vehicle within the public road right-of-way of a county state-aid or county highway on the extreme right-hand side of the road and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions, unless prohibited under paragraph (d) or (f). A person may operate a class 2 all-terrain vehicle on the bank or ditch of a public road right-of-way on a designated class 2 all-terrain vehicle trail.

(d) A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of all-terrain vehicles in the public road right-of-way under its jurisdiction.

(e) The restrictions in paragraphs (a), (d), (h), (i), and (j) do not apply to the operation of an all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway:

(1) that is part of a funded grant-in-aid trail; or

(2) when the all-terrain vehicle is:

~~(1)~~ owned by or operated under contract with a publicly or privately owned utility or pipeline company; and

~~(2)~~ used for work on utilities or pipelines.

(f) The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

(1) degradation of vegetation on adjacent public property;

(2) siltation of waters of the state;

(3) impairment or enhancement to the act of taking game; or

(4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

(g) A person may operate an all-terrain vehicle registered for private use and used for agricultural purposes on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

(h) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

(i) A person shall not operate an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(j) A person shall not operate an all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

Sec. 11. Minnesota Statutes 2009 Supplement, section 85.015, subdivision 13, is amended to read:

Subd. 13. **Arrowhead Region Trails, in Cook, Lake, St. Louis, Pine, Carlton, Koochiching, and Itasca Counties.** (a)(1) The Taconite Trail shall originate at Ely in St. Louis County and extend southwesterly to Tower in St. Louis County, thence westerly to McCarthy Beach State Park in St. Louis County, thence southwesterly to Grand Rapids in Itasca County and there terminate;

(2) The C. J. Ramstad/Northshore Trail shall originate in Duluth in St. Louis County and extend northeasterly to Two Harbors in Lake County, thence northeasterly to Grand Marais in Cook County, thence northeasterly to the international boundary in the vicinity of the north shore of Lake Superior, and there terminate;

(3) The Grand Marais to International Falls Trail shall originate in Grand Marais in Cook County and extend northwesterly, outside of the Boundary Waters Canoe Area, to Ely in St. Louis County, thence southwesterly along the route of the Taconite Trail to Tower in St. Louis County, thence northwesterly through the Pelican Lake area in St. Louis County to International Falls in Koochiching County, and there terminate;

(4) The Minnesota-Wisconsin Boundary Trail shall originate in Duluth in St. Louis County and extend southerly to St. Croix State Forest in Pine County.

(b) The trails shall be developed primarily for riding and hiking.

(c) In addition to the authority granted in subdivision 1, lands and interests in lands for the Arrowhead Region trails may be acquired by eminent domain. Before acquiring any land or interest in land by eminent domain the commissioner of administration shall obtain the approval of the governor. The governor shall consult with the Legislative Advisory Commission before granting approval. Recommendations of the Legislative Advisory Commission shall be advisory only. Failure or refusal of the commission to make a recommendation shall be deemed a negative recommendation.

Sec. 12. Minnesota Statutes 2008, section 85.015, subdivision 14, is amended to read:

Subd. 14. **Willard Munger Trail System, Chisago, Ramsey, Pine, St. Louis, Carlton, and Washington Counties.** (a) The trail shall consist of six segments. One segment shall be known as the Gateway Trail and shall originate at the State Capitol and extend northerly and northeasterly to William O'Brien State Park, thence northerly to Taylors Falls in Chisago County. ~~One segment shall be known as the Boundary Trail and shall originate in Chisago County and extend into Duluth in St. Louis County.~~ One segment shall be known as the Browns Creek Trail and shall originate at Duluth Junction and extend into Stillwater in Washington County. One segment shall be known as the Munger Trail and shall originate at Hinckley in Pine County and extend through Moose Lake in Carlton County to Duluth in St. Louis County. One segment shall be known as the Alex Laveau Trail and shall originate in Carlton County at Carlton and extend through Wrenshall to the Minnesota-Wisconsin border. One segment shall be established that extends the trail to include the cities of Proctor, Duluth, and Hermantown in St. Louis County.

(b) The Gateway and Browns Creek Trails shall be developed primarily for hiking and nonmotorized riding and the remaining trails shall be developed primarily for riding and hiking.

(c) In addition to the authority granted in subdivision 1, lands and interests in lands for the Gateway and Browns Creek Trails may be acquired by eminent domain.

Sec. 13. Minnesota Statutes 2008, section 85.052, subdivision 4, is amended to read:

Subd. 4. **Deposit of fees.** (a) Fees paid for providing contracted products and services within a state park, state recreation area, or wayside, and for special state park

9.1 uses under this section shall be deposited in the natural resources fund and credited to a
9.2 state parks account.

9.3 (b) Gross receipts derived from sales, rentals, or leases of natural resources within
9.4 state parks, recreation areas, and waysides, other than those on trust fund lands, must be
9.5 deposited in the state treasury and credited to the ~~general fund~~ state parks working capital
9.6 account.

9.7 (c) Notwithstanding paragraph (b), the gross receipts from the sale of stockpile
9.8 materials, aggregate, or other earth materials from the Iron Range Off-Highway Vehicle
9.9 Recreation Area shall be deposited in the dedicated accounts in the natural resources fund
9.10 from which the purchase of the stockpile material was made.

9.11 Sec. 14. Minnesota Statutes 2008, section 85.22, subdivision 5, is amended to read:

9.12 Subd. 5. **Exemption.** Purchases for resale or rental made from the state parks
9.13 working capital ~~fund~~ and account are exempt from competitive bidding, notwithstanding
9.14 chapter 16C.

9.15 Sec. 15. Minnesota Statutes 2008, section 85.32, subdivision 1, is amended to read:

9.16 Subdivision 1. **Areas marked.** The commissioner of natural resources is authorized
9.17 in cooperation with local units of government and private individuals and groups when
9.18 feasible to mark ~~canoe and boating~~ water trail routes on the Little Fork, Big Fork,
9.19 Minnesota, St. Croix, Snake, Mississippi, Red Lake, Cannon, Straight, Des Moines,
9.20 Crow Wing, St. Louis, Pine, Rum, Kettle, Cloquet, Root, Zumbro, Pomme de Terre
9.21 within Swift County, Watonwan, Cottonwood, Whitewater, Chippewa from Benson in
9.22 Swift County to Montevideo in Chippewa County, Long Prairie, Red River of the North,
9.23 Sauk, Otter Tail, Redwood, ~~and Crow,~~ and Blue Earth Rivers which have historic and
9.24 scenic values and to mark appropriately points of interest, portages, camp sites, and all
9.25 dams, rapids, waterfalls, whirlpools, and other serious hazards which are dangerous to
9.26 canoe and watercraft travelers.

9.27 Sec. 16. Minnesota Statutes 2008, section 85.43, is amended to read:

9.28 **85.43 DISPOSITION OF RECEIPTS; PURPOSE.**

9.29 Fees from cross-country ski passes shall be deposited in the state treasury and
9.30 credited to a cross-country ski account in the natural resources fund and, except for the
9.31 electronic licensing system commission established by the commissioner under section
9.32 84.027, subdivision 15, are appropriated to the commissioner of natural resources for
9.33 the following purposes:

- 10.1 (1) grants-in-aid for cross-country ski trails ~~sponsored by~~ to:
 10.2 (i) ~~local units of government~~ counties and municipalities for construction and
 10.3 maintenance of cross-country ski trails; and
 10.4 (ii) special park districts as provided in section 85.44: ~~for construction and~~
 10.5 maintenance of cross-country ski trails; and
 10.6 (2) development and maintenance of state cross-country ski trails.

10.7 Sec. 17. Minnesota Statutes 2008, section 85.46, as amended by Laws 2009, chapter
 10.8 37, article 1, sections 22 to 24, is amended to read:

10.9 **85.46 HORSE ~~TRAIL~~ PASS.**

10.10 Subdivision 1. **Pass in possession.** (a) Except as provided in paragraph (b), while
 10.11 riding, leading, or driving a horse ~~on horse trails and associated day use areas on state~~
 10.12 ~~trails, in state parks, in state recreation areas, and in state forests,~~ on lands administered by
 10.13 the commissioner, a person 16 years of age or over shall carry in immediate possession
 10.14 a valid horse ~~trail~~ pass. The pass must be available for inspection by a peace officer, a
 10.15 conservation officer, or an employee designated under section 84.0835.

10.16 (b) A valid horse ~~trail~~ pass is not required under this section for a person riding,
 10.17 leading, or driving a horse ~~only on the portion of a horse trail property~~ that is owned by
 10.18 the person or the person's spouse, child, parent, or guardian.

10.19 Subd. 2. **License agents.** (a) The commissioner of natural resources may appoint
 10.20 agents to issue and sell horse ~~trail~~ passes. The commissioner may revoke the appointment
 10.21 of an agent at any time.

10.22 (b) The commissioner may adopt additional rules as provided in section 97A.485,
 10.23 subdivision 11. An agent shall observe all rules adopted by the commissioner for the
 10.24 accounting and handling of passes according to section 97A.485, subdivision 11.

10.25 (c) An agent must promptly deposit and remit all money received from the sale of
 10.26 passes, except issuing fees, to the commissioner.

10.27 Subd. 3. **Issuance.** The commissioner of natural resources and agents shall issue
 10.28 and sell horse ~~trail~~ passes. The pass shall include the applicant's signature and other
 10.29 information deemed necessary by the commissioner. To be valid, a daily or annual pass
 10.30 must be signed by the person riding, leading, or driving the horse, and a commercial
 10.31 annual pass must be signed by the owner of the commercial ~~trail~~ riding facility.

10.32 Subd. 4. **Pass fees.** (a) The fee for an annual horse ~~trail~~ pass is \$20 for an individual
 10.33 16 years of age and over. The fee shall be collected at the time the pass is purchased.
 10.34 Annual passes are valid for one year beginning January 1 and ending December 31.

11.1 (b) The fee for a daily horse ~~trail~~ pass is \$4 for an individual 16 years of age and
11.2 over. The fee shall be collected at the time the pass is purchased. The daily pass is valid
11.3 only for the date designated on the pass form.

11.4 (c) The fee for a commercial annual horse ~~trail~~ pass is \$200 and includes issuance
11.5 of 15 passes. Additional or individual commercial annual horse ~~trail~~ passes may be
11.6 purchased by the commercial ~~trail~~ riding facility owner at a fee of \$20 each. Commercial
11.7 annual horse ~~trail~~ passes are valid for one year beginning January 1 and ending December
11.8 31 and may be affixed to the horse tack, saddle, or person. Commercial annual horse ~~trail~~
11.9 passes are not transferable to another commercial ~~trail~~ riding facility. For the purposes of
11.10 this section, a "commercial ~~trail~~ riding facility" is an operation where horses are used for
11.11 riding instruction or other equestrian activities for hire or use by others.

11.12 Subd. 5. **Issuing fee.** In addition to the fee for a horse ~~trail~~ pass, an issuing fee of
11.13 \$1 per pass shall be charged. The issuing fee shall be retained by the seller of the pass.
11.14 Issuing fees for passes sold by the commissioner of natural resources shall be deposited
11.15 in the state treasury and credited to the horse ~~trail~~ pass account in the natural resources
11.16 fund and are appropriated to the commissioner for the operation of the electronic licensing
11.17 system. A pass shall indicate the amount of the fee that is retained by the seller.

11.18 Subd. 6. **Disposition of receipts.** Fees collected under this section, except for
11.19 the issuing fee, shall be deposited in the state treasury and credited to the horse ~~trail~~
11.20 pass account in the natural resources fund. Except for the electronic licensing system
11.21 commission established by the commissioner under section 84.027, subdivision 15, the
11.22 fees are appropriated to the commissioner of natural resources for trail acquisition, trail and
11.23 facility development, and maintenance, enforcement, and rehabilitation of horse trails or
11.24 trails authorized for horse use, whether for riding, leading, or driving, on ~~state trails and in~~
11.25 ~~state parks, state recreation areas, and state forests~~ land administered by the commissioner.

11.26 Subd. 7. **Duplicate horse ~~trail~~ passes.** The commissioner of natural resources and
11.27 agents shall issue a duplicate pass to a person or commercial ~~trail~~ riding facility owner
11.28 whose pass is lost or destroyed using the process established under section 97A.405,
11.29 subdivision 3, and rules adopted thereunder. The fee for a duplicate horse ~~trail~~ pass is \$2,
11.30 with an issuing fee of 50 cents.

11.31 Sec. 18. Minnesota Statutes 2009 Supplement, section 86A.09, subdivision 1, is
11.32 amended to read:

11.33 Subdivision 1. **Master plan required.** No construction of new facilities or other
11.34 development of an authorized unit, other than repairs and maintenance, shall commence
11.35 until the managing agency has prepared and submitted to the commissioner of natural

12.1 resources and the commissioner has reviewed, pursuant to this section, a master plan for
 12.2 administration of the unit in conformity with this section. No master plan is required for
 12.3 wildlife management areas that do not have resident managers, for scientific and natural
 12.4 areas, for water access sites, for aquatic management areas, for rest areas, or for boater
 12.5 waysides.

12.6 Sec. 19. Minnesota Statutes 2008, section 97B.665, subdivision 2, is amended to read:

12.7 Subd. 2. **Petition to district court.** If a beaver dam causes a threat to personal
 12.8 safety or a serious threat to damage property, ~~and a person cannot obtain consent under~~
 12.9 ~~subdivision 1~~, a person may petition the district court for relief. The court may order the
 12.10 ~~commissioner~~ owners of private property where beaver dams are located to take action to
 12.11 reduce the threat. The action may include destruction or alteration of beaver dams and
 12.12 removal of beaver. This subdivision does not apply to state parks, state game refuges,
 12.13 and federal game refuges.

12.14 Sec. 20. Minnesota Statutes 2008, section 103A.305, is amended to read:

12.15 **103A.305 JURISDICTION.**

12.16 Sections 103A.301 to 103A.341 apply if the decision of an agency in a proceeding
 12.17 involves a question of water policy in one or more of the areas of water conservation, water
 12.18 pollution, preservation and management of wildlife, drainage, soil conservation, public
 12.19 recreation, forest management, and municipal planning under section 97A.135; 103A.411;
 12.20 103E.011; 103E.015; 103G.245; 103G.261; 103G.271; 103G.275; 103G.281; ~~103G.295;~~
 12.21 ~~subdivisions 1 and 2;~~ 103G.287; 103G.297 to 103G.311; 103G.315, subdivisions 1, 10,
 12.22 11, and 12; 103G.401; 103G.405; 103I.681, subdivision 1; 115.04; or 115.05.

12.23 Sec. 21. Minnesota Statutes 2008, section 103F.325, is amended by adding a
 12.24 subdivision to read:

12.25 Subd. 6. **District boundary adjustments.** (a) Notwithstanding subdivision 1, the
 12.26 commissioner may, by written order, amend the boundary of the designated area according
 12.27 to this subdivision. At least 30 days prior to issuing the order, the commissioner must
 12.28 give notice of the proposed boundary amendment to the local governmental unit and
 12.29 property owners in the designated area directly affected by the amendment and publish
 12.30 notice in an official newspaper of general circulation in the county. The commissioner
 12.31 must consider comments received on the proposed boundary amendment and must make
 12.32 findings and issue a written order.

13.1 **(b) The commissioner's order is effective 30 days after issuing the order. Before**
 13.2 **the effective date, a local unit of government with jurisdiction in the affected area may**
 13.3 **contest the order under chapter 14.**

13.4 **(c) Boundary amendments under this subdivision remain subject to the acreage**
 13.5 **limitations in this section.**

13.6 Sec. 22. Minnesota Statutes 2008, section 103F.335, subdivision 1, is amended to read:

13.7 Subdivision 1. **Compliance of ordinances with system.** (a) Within six months after
 13.8 establishment of a wild, scenic, or recreational river system, or within six months after
 13.9 revision of the management plan, each local governmental unit with jurisdiction over a
 13.10 portion of the system shall adopt or amend its ordinances and land use district maps
 13.11 to the extent necessary to substantially comply with the standards and criteria of the
 13.12 commissioner and the management plan.

13.13 (b) If a local government fails to adopt ~~adequate~~ substantially compliant ordinances,
 13.14 maps, or amendments within six months, the commissioner shall adopt the ordinances,
 13.15 maps, or amendments in the manner and with the effect specified in section 103F.215.

13.16 (c) The commissioner shall assist local governments in the preparation,
 13.17 implementation, and enforcement of the ordinances.

13.18 Sec. 23. Minnesota Statutes 2009 Supplement, section 103G.201, is amended to read:

13.19 **103G.201 PUBLIC WATERS INVENTORY.**

13.20 (a) The commissioner shall maintain a public waters inventory map of each county
 13.21 that shows the waters of this state that are designated as public waters under the public
 13.22 waters inventory and classification procedures prescribed under Laws 1979, chapter
 13.23 199, and shall provide access to a copy of the maps ~~and lists~~. As county public waters
 13.24 inventory maps ~~and lists~~ are revised according to this section, the commissioner shall send
 13.25 a notification or a copy of the maps ~~and lists~~ to the auditor of each affected county.

13.26 (b) The commissioner is authorized to revise the ~~list~~ map of public waters established
 13.27 under Laws 1979, chapter 199, to reclassify those types 3, 4, and 5 wetlands previously
 13.28 identified as public waters wetlands under Laws 1979, chapter 199, as public waters or as
 13.29 wetlands under section 103G.005, subdivision 19. The commissioner may only reclassify
 13.30 public waters wetlands as public waters if:

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

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

14.4 (3) the state or federal government has become titleholder to any of the beds or
14.5 shores of the public waters wetlands, subsequent to the preparation of the public waters
14.6 inventory map filed with the auditor of the county, pursuant to paragraph (a), and the
14.7 responsible state or federal agency declares that the water is necessary for the purposes
14.8 of the public ownership.

14.9 (c) The commissioner must provide notice of the reclassification to the local
14.10 government unit, the county board, the watershed district, if one exists for the area, and
14.11 the soil and water conservation district. Within 60 days of receiving notice from the
14.12 commissioner, a party required to receive the notice may provide a resolution stating
14.13 objections to the reclassification. If the commissioner receives an objection from a party
14.14 required to receive the notice, the reclassification is not effective. If the commissioner does
14.15 not receive an objection from a party required to receive the notice, the reclassification
14.16 of a wetland under paragraph (b) is effective 60 days after the notice is received by all
14.17 of the parties.

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

14.20 (e) The commissioner may revise the public waters inventory map ~~and list~~ of each
14.21 county:

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

14.23 (2) as needed, to:

14.24 (i) correct errors in the original inventory;

14.25 (ii) add or subtract trout stream tributaries within sections that contain a designated
14.26 trout stream following written notice to the landowner;

14.27 (iii) add depleted quarries, and sand and gravel pits, when the body of water exceeds
14.28 50 acres and the shoreland has been zoned for residential development; and

14.29 (iv) add or subtract public waters that have been created or eliminated as a
14.30 requirement of a permit authorized by the commissioner under section 103G.245.

14.31 Sec. 24. Minnesota Statutes 2008, section 103G.271, subdivision 3, is amended to read:

14.32 Subd. 3. **Permit restriction during summer months.** The commissioner must not
14.33 modify or restrict the amount of appropriation from a groundwater source authorized in a
14.34 water use permit issued to irrigate agricultural land ~~under section 103G.295, subdivision~~

15.1 ~~2~~, between May 1 and October 1, unless the commissioner determines the authorized
 15.2 amount of appropriation endangers a domestic water supply.

15.3 Sec. 25. **[103G.282] MONITORING TO EVALUATE IMPACTS FROM**
 15.4 **APPROPRIATIONS.**

15.5 Subdivision 1. **Monitoring equipment.** The commissioner may require the
 15.6 installation and maintenance of monitoring equipment to evaluate water resource impacts
 15.7 from permitted appropriations and proposed projects that require a permit. Monitoring for
 15.8 water resources that supply more than one appropriator must be designed to minimize
 15.9 costs to individual appropriators.

15.10 Subd. 2. **Measuring devices required.** Monitoring installations required under
 15.11 subdivision 1 must be equipped with automated measuring devices to measure water
 15.12 levels, flows, or conditions. The commissioner may determine the frequency of
 15.13 measurements and other measuring methods based on the quantity of water appropriated
 15.14 or used, the source of water, potential connections to other water resources, the method
 15.15 of appropriating or using water, seasonal and long-term changes in water levels, and any
 15.16 other facts supplied to the commissioner.

15.17 Subd. 3. **Reports and costs.** (a) Records of water measurements under subdivision
 15.18 2 must be kept for each installation. The measurements must be reported annually to the
 15.19 commissioner on or before February 15 of the following year in a format or on forms
 15.20 prescribed by the commissioner.

15.21 (b) The owner or person in charge of an installation for appropriating or using
 15.22 waters of the state or a proposal that requires a permit is responsible for all costs related
 15.23 to establishing and maintaining monitoring installations and to measuring and reporting
 15.24 data. Monitoring costs for water resources that supply more than one appropriator may be
 15.25 distributed among all users within a monitoring area determined by the commissioner and
 15.26 assessed based on volumes of water appropriated and proximity to resources of concern.

15.27 Sec. 26. Minnesota Statutes 2008, section 103G.285, subdivision 5, is amended to read:

15.28 Subd. 5. **Trout streams.** Permits issued after June 3, 1977, to appropriate water
 15.29 from streams designated trout streams by the commissioner's orders under section ~~97C.021~~
 15.30 97C.005 must be limited to temporary appropriations.

15.31 Sec. 27. **[103G.287] GROUNDWATER APPROPRIATIONS.**

15.32 Subdivision 1. **Waiver.** The commissioner may waive a limitation or requirement in
 15.33 subdivisions 2 to 6 for just cause.

16.1 **Subd. 2. Applications for groundwater appropriations.** Groundwater use permit
16.2 applications are not complete until the applicant has supplied:

16.3 (1) a water well record as required by section 103I.205, subdivision 9, information
16.4 on the subsurface geologic formations penetrated by the well and the formation or aquifer
16.5 that will serve as the water source, and geologic information from test holes drilled to
16.6 locate the site of the production well;

16.7 (2) the maximum daily, seasonal, and annual pumpage rates and volumes being
16.8 requested;

16.9 (3) information on groundwater quality in terms of the measures of quality
16.10 commonly specified for the proposed water use and details on water treatment necessary
16.11 for the proposed use;

16.12 (4) an inventory of existing wells within 1-1/2 miles of the proposed production well
16.13 or within the area of influence, as determined by the commissioner. The inventory must
16.14 include information on well locations, depths, geologic formations, depth of the pump or
16.15 intake, pumping and nonpumping water levels, and details of well construction; and

16.16 (5) the results of an aquifer test completed according to specifications approved by
16.17 the commissioner. The test must be conducted at the maximum pumping rate requested
16.18 in the application and for a length of time adequate to assess or predict impacts to other
16.19 wells and surface water and groundwater resources. The permit applicant is responsible
16.20 for all costs related to the aquifer test, including the construction of groundwater and
16.21 surface water monitoring installations, and water level readings before, during, and after
16.22 the aquifer test.

16.23 **Subd. 3. Relationship to surface water resources.** Groundwater appropriations
16.24 that have potential impacts to surface waters are subject to applicable provisions in
16.25 section 103G.285.

16.26 **Subd. 4. Protection of groundwater supplies.** The commissioner may establish
16.27 water appropriation limits to protect groundwater resources. When establishing water
16.28 appropriation limits to protect groundwater resources, the commissioner must consider
16.29 current and projected water levels and water supply management objectives in section
16.30 103G.265, subdivision 1.

16.31 **Subd. 5. Groundwater management areas.** The commissioner may designate
16.32 groundwater management areas and limit total annual water appropriations and uses
16.33 within a designated area to ensure future supplies. Water appropriations and uses within a
16.34 designated management area must be consistent with a plan approved by the commissioner
16.35 that addresses water conservation requirements and water allocation priorities established
16.36 in section 103G.261.

17.1 Subd. 6. **Interference with other wells.** The commissioner may issue water use
 17.2 permits for appropriation from groundwater only if the commissioner determines that
 17.3 adequate water supplies are available for the proposed use without reducing water levels
 17.4 beyond the reach of public water supply and private domestic wells constructed according
 17.5 to Minnesota Rules, chapter 4725.

17.6 Sec. 28. Minnesota Statutes 2008, section 103G.301, subdivision 6, is amended to read:

17.7 Subd. 6. **Filing application.** ~~(a)~~ An application for a permit must be filed with the
 17.8 commissioner and if the proposed activity for which the permit is requested is within a
 17.9 municipality, or is within or affects a watershed district or a soil and water conservation
 17.10 district, a copy of the application with maps, plans, and specifications must be served on
 17.11 the mayor of the municipality, the secretary of the board of managers of the watershed
 17.12 district, and the secretary of the board of supervisors of the soil and water conservation
 17.13 district.

17.14 ~~(b) If the application is required to be served on a local governmental unit under~~
 17.15 ~~this subdivision, proof of service must be included with the application and filed with~~
 17.16 ~~the commissioner.~~

17.17 Sec. 29. Minnesota Statutes 2008, section 103G.305, subdivision 2, is amended to read:

17.18 Subd. 2. **Exception.** The requirements of subdivision 1 do not apply to applications
 17.19 for a water use permit for:

17.20 ~~(1) appropriations from waters of the state for irrigation, under section 103G.295;~~
 17.21 ~~(2)~~ appropriations for diversion from the basin of origin of more than 2,000,000
 17.22 gallons per day average in a 30-day period; or
 17.23 ~~(3)~~ (2) appropriations with a consumptive use of more than 2,000,000 gallons per
 17.24 day average for a 30-day period.

17.25 Sec. 30. Minnesota Statutes 2008, section 103G.315, subdivision 11, is amended to
 17.26 read:

17.27 Subd. 11. **Limitations on permits.** (a) Except as otherwise expressly provided by
 17.28 law, a permit issued by the commissioner under this chapter is subject to:

17.29 (1) cancellation by the commissioner at any time if necessary to protect the public
 17.30 interests;

17.31 (2) further conditions on the term of the permit or its cancellation as the
 17.32 commissioner may prescribe and amend and reissue the permit; and

17.33 (3) applicable law existing before or after the issuance of the permit.

18.1 (b) Permits issued to irrigate agricultural land ~~under section 103G.295, or considered~~
 18.2 ~~issued~~, are subject to this subdivision and are subject to cancellation by the commissioner
 18.3 upon the recommendation of the supervisors of the soil and water conservation district
 18.4 where the land to be irrigated is located.

18.5 Sec. 31. Minnesota Statutes 2008, section 103G.515, subdivision 5, is amended to read:

18.6 Subd. 5. **Removal of hazardous dams.** Notwithstanding any provision of
 18.7 this section or of section 103G.511 relating to cost sharing or apportionment, the
 18.8 commissioner, within the limits of legislative appropriation, may assume or pay the entire
 18.9 cost of removal of a privately or publicly owned dam upon determining removal provides
 18.10 the lowest cost solution and:

18.11 (1) that continued existence of the structure presents a significant public safety
 18.12 hazard, or prevents restoration of an important fisheries resource; or

18.13 (2) that public or private property is being damaged due to partial failure of the
 18.14 structure, ~~and that an attempt to assess costs of removal against the private or public~~
 18.15 ~~owner would be of no avail.~~

18.16 Sec. 32. **[103G.651] REMOVING SUNKEN LOGS FROM PUBLIC WATERS**
 18.17 **PROHIBITED.**

18.18 Removing sunken logs from public waters is prohibited. The commissioner of
 18.19 natural resources must not issue leases to remove sunken logs or issue permits for the
 18.20 removal of sunken logs from public waters.

18.21 Sec. 33. Minnesota Statutes 2008, section 290.431, is amended to read:

18.22 **290.431 NONGAME WILDLIFE CHECKOFF.**

18.23 Every individual who files an income tax return or property tax refund claim form
 18.24 may designate on their original return that \$1 or more shall be added to the tax or deducted
 18.25 from the refund that would otherwise be payable by or to that individual and paid into an
 18.26 account to be established for the management of nongame wildlife. The commissioner
 18.27 of revenue shall, on the income tax return and the property tax refund claim form, notify
 18.28 filers of their right to designate that a portion of their tax or refund shall be paid into
 18.29 the nongame wildlife management account. The sum of the amounts so designated to
 18.30 be paid shall be credited to the nongame wildlife management account for use by the
 18.31 nongame program ~~of the section of wildlife~~ in the Department of Natural Resources. All
 18.32 interest earned on money accrued, gifts to the program, contributions to the program, and
 18.33 reimbursements of expenditures in the nongame wildlife management account shall be

credited to the account by the commissioner of management and budget, except that gifts or contributions received directly by the commissioner of natural resources and directed by the contributor for use in specific nongame field projects or geographic areas shall be handled according to section 84.085, subdivision 1. ~~The commissioner of natural resources shall submit a work program for each fiscal year and semiannual progress reports to the Legislative-Citizen Commission on Minnesota Resources in the form determined by the commission. None of the money provided in this section may be expended unless the commission has approved the work program.~~

The state pledges and agrees with all contributors to the nongame wildlife management account to use the funds contributed solely for the management of nongame wildlife projects and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of nongame wildlife. The commissioner may use funds appropriated for nongame wildlife programs for the purpose of developing, preserving, restoring, and maintaining wintering habitat for neotropical migrant birds in Latin America and the Caribbean under agreement or contract with any nonprofit organization dedicated to the construction, maintenance, and repair of such projects that are acceptable to the governmental agency having jurisdiction over the land and water affected by the projects. Under this authority, the commissioner may execute agreements and contracts if the commissioner determines that the use of the funds will benefit neotropical migrant birds that breed in or migrate through the state.

Sec. 34. Minnesota Statutes 2008, section 290.432, is amended to read:

290.432 CORPORATE NONGAME WILDLIFE CHECKOFF.

A corporation that files an income tax return may designate on its original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that corporation and paid into the nongame wildlife management account established by section 290.431 for use by ~~the section of wildlife in the Department of~~ Natural Resources for its nongame wildlife program. The commissioner of revenue shall, on the corporate tax return, notify filers of their right to designate that a portion of their tax return be paid into the nongame wildlife management account for the protection of endangered natural resources. All interest earned on money accrued, gifts to the program, contributions to the program, and reimbursements of expenditures in the nongame wildlife management account shall be credited to the account by the commissioner of management and budget, except that gifts or contributions received directly by the commissioner of natural resources and directed by the contributor for use in specific nongame field projects

20.1 or geographic areas shall be handled according to section 84.085, subdivision 1. ~~The~~
20.2 ~~commissioner of natural resources shall submit a work program for each fiscal year to~~
20.3 ~~the Legislative-Citizen Commission on Minnesota Resources in the form determined by~~
20.4 ~~the commission. None of the money provided in this section may be spent unless the~~
20.5 ~~commission has approved the work program.~~

20.6 The state pledges and agrees with all corporate contributors to the nongame wildlife
20.7 account to use the funds contributed solely for the nongame wildlife program and further
20.8 agrees that it will not impose additional conditions or restrictions that will limit or
20.9 otherwise restrict the ability of the commissioner of natural resources to use the available
20.10 funds for the most efficient and effective management of those programs.

20.11 Sec. 35. **ACQUISITION; LAKE VERMILION STATE PARK.**

20.12 Notwithstanding any law to the contrary, the commissioner of natural resources may
20.13 acquire by gift or purchase the lands for Lake Vermilion State Park. The commissioner
20.14 may pay up to \$18,000,000 for the lands for Lake Vermilion State Park.

20.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

20.16 Sec. 36. **REVISOR'S INSTRUCTION.**

20.17 (a) The revisor of statutes shall change the term "horse trail pass" to "horse pass"
20.18 wherever it appears in Minnesota Statutes and Minnesota Rules.

20.19 (b) The revisor of statutes shall change the term "canoe and boating routes" or
20.20 similar term to "water trail routes" or similar term wherever it appears in Minnesota
20.21 Statutes and Minnesota Rules.

20.22 Sec. 37. **REPEALER.**

20.23 Minnesota Statutes 2008, sections 97B.665, subdivision 1; 103G.295; and 103G.650,
20.24 are repealed.

97B.665 IMPAIRMENT OF DRAINAGE BY BEAVER DAMS.

Subdivision 1. **Agreement by county board, landowner, and commissioner.** (a) When a drainage watercourse is impaired by a beaver dam, the commissioner shall take action to remove the impairment, if:

- (1) the county board unanimously consents;
- (2) the landowner approves;
- (3) the commissioner agrees; and
- (4) the action is financially feasible.

(b) In a county with unanimous consent of the county board of commissioners and approval of the landowner, the department shall take action agreed to by unanimous consent of the county board, the commissioner, and the landowner. The action may include destruction or alteration of beaver dams and removal of beaver. This subdivision does not apply to state parks, state game refuges, and federal game refuges.

103G.295 IRRIGATION OF AGRICULTURAL LAND.

Subdivision 1. **Recommendation and information for waters of the state appropriation.** (a) If an application is made for a permit to irrigate agricultural land from waters of the state, the soil and water conservation district may make recommendations to the commissioner regarding the disposition of the application and its compatibility to a comprehensive soil and water conservation plan approved under section 103C.331, subdivision 11. The recommendations must be made within 30 days of the receipt of the application.

(b) Within 30 days of receipt of the application, the commissioner may require additional specific information from the applicant.

Subd. 2. **Issuance or denial of permit for appropriation from waters of the state.** After receiving all requested information, the commissioner must review the application and information, consider the soil and water conservation district's recommendations, and issue or deny the permit within 60 days. If the commissioner orders a hearing, the permit must be issued or denied within ten days after receiving the report of the hearing officer. For an application for a permit to irrigate agricultural land, failure of the commissioner to issue or deny a permit within the time specified under this subdivision is considered an order issuing the permit as applied for. The order is effective ten days after the applicant has given written notice to the commissioner stating an intention to proceed with the appropriation of water to irrigate agricultural land.

Subd. 3. **Groundwater appropriation permit classification areas.** (a) Water use permit applications required for appropriation of groundwater for agricultural irrigation must be processed in the order received and designated as either class A or class B applications. Class A applications are for wells located in areas for which the commissioner has adequate groundwater availability data. Class B applications are for wells located in other areas.

(b) The commissioner must evaluate available groundwater data, determine its adequacy, and designate class A and B application areas for the entire state. The commissioner shall request, obtain, and evaluate groundwater data from soil and water conservation districts, and where appropriate revise the class A and B application area designations.

(c) The commissioner shall file a commissioner's order with the secretary of state defining class A and B application areas by county and township. Additional areas may be added by a later order of the commissioner.

Subd. 4. **Class B permit requirements.** (a) Class B groundwater use permit applications are not complete until the applicant has supplied:

- (1) a summary of the anticipated well depth and subsurface geologic formation expected to be penetrated by the well, including for glacial drift aquifers, the logs of test holes drilled to locate the site of the proposed production well;
- (2) the formation and aquifer expected to serve as the groundwater source;
- (3) the maximum daily, seasonal, and annual pumpage expected;
- (4) the anticipated groundwater quality in terms of the measures of quality commonly specified for the proposed water use;
- (5) the results of a pumping test supervised by the commissioner or a designee of the commissioner, conducted at a rate not to exceed the proposed pumping rate for not more than 72 continuous hours for wells under water table conditions and not more than 24 continuous hours for wells under artesian conditions; and

(6) when the area of influence of the proposed well is determined, the location of existing wells within the area of influence that were reported according to section 103I.205, subdivision 9,

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together with readily available facts on depths, geologic formations, pumping and nonpumping water levels, and details of well construction as related to the water well construction code.

(b) The commissioner may in any specific application waive any requirements of paragraph (a), clauses (4) to (6), or (c) if the necessary data are already available.

(c) Before, during, and after the pumping test required in paragraph (a), clause (5), the commissioner shall require monitoring of water levels in one observation well located at a distance from the pumping well that the commissioner has reason to believe may be affected by the new appropriation. The permit applicant is responsible for costs of the pumping tests and monitoring in the observation well. The applicant is responsible for the construction of one observation well if suitable existing wells cannot be located for this purpose. If the commissioner determines that more than one observation well is needed, the commissioner shall instruct the applicant to install and monitor more observation wells. The commissioner shall reimburse the applicant for these added costs.

Subd. 5. Issuance of permits for groundwater appropriation. The commissioner may issue water use permits for irrigation appropriation from groundwater only if the commissioner determines that:

(1) proposed soil and water conservation measures are adequate based on recommendations of the soil and water conservation districts; and

(2) water supply is available for the proposed use without reducing water levels beyond the reach of vicinity wells constructed in accordance with the water well construction code in Minnesota Rules, parts 4725.1900 to 4725.6500.

103G.650 RECOVERING SUNKEN LOGS ON INLAND WATERS.

Subdivision 1. Definitions. (a) Unless the language or context clearly indicates that a different meaning is indicated, the following terms, for the purposes of this section, shall have the meanings given to them.

(b) "District office" means the office of the area forest supervisor, unless otherwise stipulated in a lease issued under this section.

(c) "Inland waters" means navigable bodies of water within the boundaries of this state, excluding boundary lakes and boundary rivers.

(d) "Log" means a portion of the trunk of a felled tree that has not been further processed for any end use.

(e) "Officer" means a forest officer, conservation officer, or other peace officer.

(f) "Person" means a natural person, including a person acting in a representative capacity, or a corporation, firm, or association of whatever nature or kind.

(g) "Submerged lands" means beds of navigable waters below the low-water mark.

Subd. 2. Title to sunken logs and historical artifacts. Notwithstanding section 16B.25, title and ownership of a log or historical artifact that rests for more than one year on submerged land owned by the state in inland waters is considered abandoned property that has forfeited to the state.

Subd. 3. Application to remove sunken logs. A person who wishes to raise and remove logs that are resting on submerged lands owned by the state and that are located in inland waters shall make application to the commissioner for a lease. A person may not hold more than three leases at one time. Each lease must be for a specific lake or river. A resident applicant shall include with the application a fee of \$500. A nonresident applicant shall include a fee of \$2,500. The applicant shall:

(1) identify the inland lake or river where the logs will be raised;

(2) identify the submerged land area requested for the lease by providing the section, township, and range in which the inland water is located;

(3) specify the methods to be used in raising the sunken logs, including any techniques with the potential to disturb lake bed material;

(4) provide evidence of a general liability insurance policy that names the state as a coinsured party and that is in force for the lease with limits of at least \$300,000 per occurrence and \$1,000,000 in aggregate; and

(5) include any additional information required by the commissioner.

Subd. 4. Review of applications. The commissioner shall review and approve applications in order by time and date received to prevent two or more applications being approved for the same lease. The commissioner shall immediately notify the Minnesota Historical Society of each application received. The commissioner shall publish notice of each application in the State Register and allow 30 days for public comment. Within 60 days after the time date stamp

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of receipt, the commissioner shall either approve, modify and approve, or deny an application. In determining whether to approve an application, the commissioner shall consider:

- (1) whether the project requires a permit under section 103G.245;
- (2) whether the proposed project may affect public rights in navigable waters;
- (3) whether the proposed project is subject to any requirements arising under federal law; and
- (4) whether the project meets ecological criteria for protection of fish, wildlife, and native plants and their habitats.

Subd. 5. **Lease terms.** (a) The terms and conditions in this subdivision must be specified in leases issued under this section.

(b) A lease is effective for three years and is not transferable. A lease may be renewed within 90 days of expiration for a fee of \$50.

(c) Within one year after the effective date of the lease, the lessee shall commence operations to recover the logs covered by the lease or the lease must be canceled.

(d) The lease must specify the lake or river where the sunken logs may be raised. No lake or river may be covered by more than one lease under this section unless the water body is located in more than one county, in which case one lease may be issued in each county.

(e) The lessee shall comply with all conditions attached to the lease by the commissioner to protect the public rights in navigable water, ensure compliance with federal requirements, and protect aquatic habitats.

(f) The lessee shall only recover logs that are submerged at a water depth of 20 feet or more. The lessee is entitled to ownership of only the sunken logs recovered during the time covered by the lease from submerged lands described in the lease.

(g) The location where the recovered logs are deposited on shore is subject to approval by the commissioner but in no case may the operations interfere with the public's use of public accesses.

(h) The lessee shall plainly place the number of the lease on all logs recovered to adequately identify the logs from the time they are hauled onto shore until they are delivered to the manufacturing facility where they will be processed.

(i) The commissioner reserves the right to revoke the lease for failure to follow the terms and conditions of the lease.

(j) The only acceptable method of recovery is by winching so as to minimize disturbance of lake or riverbed material.

(k) The commissioner shall bill the lessee for the value of the recovered logs based on a rate of 25 percent of the weighted average selling price for all logs sold from state lands for the preceding 12 months.

(l) If the commissioner determines that use of the lease area will interfere with the present or future management objectives of the commissioner, a lease may be canceled upon 21 business days' written notice from the commissioner to the lessee.

(m) The lessee shall indemnify the commissioner against all claims, damages, costs, and expenses, including attorney fees, arising either from reclamation or from any negligence on the part of the lessee.

(n) All divers used in recovery must be certified by the National Association of Scuba Diving Schools or the Professional Association of Diving Instructors.

(o) A lessee must notify personnel at the appropriate department district office five working days before raising submerged logs.

(p) The commissioner and staff have access to leased premises, recovery vehicles, and land vehicles for inspection at any and all reasonable times. Failure to comply must result in immediate suspension of recovery and loss of the lease.

(q) It is the responsibility of the lessee to notify the Minnesota Historical Society before commencing log removal. Upon locating historic items, the lessee must notify the Minnesota Historical Society within one business day. The historical society shall then make a determination on the disposition of the items found. The staff of the historical society shall have access to leased premises, recovery vehicles, and land vehicles for inspection at any and all reasonable times. Failure to comply must result in immediate and permanent suspension of all leases held by the lessee.

(r) An officer shall enforce the terms and conditions of a lease issued under this section.

(s) If the lessee finds what the lessee reasonably believes to be a pollutant or contaminant, the lessee shall contact the Pollution Control Agency within 24 hours.

(t) If the lessee recovers a log with an American Indian tribal mark or brand, the lessee shall notify the nearest tribal government authority within five business days.

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Subd. 6. **Disposition of revenue.** Money collected under this section must be deposited in the state treasury and credited as follows:

- (1) application fees must be credited to the general fund;
- (2) lease proceeds must be credited to the game and fish fund, unless the submerged lands are permanent school fund lands; and
- (3) lease proceeds for leases of submerged lands that are permanent school fund lands must be credited to the permanent school fund.

Subd. 7. **Penalties.** (a) Recovery of sunken logs that are removed from submerged lands without a lease issued by the commissioner under this section is trespass as defined in section 90.301.

(b) After the first offense under this subdivision, a person may not apply for or work under a lease issued under this section to remove sunken logs for a period of one year.

(c) After the second offense under this subdivision, a person may not apply for or work under a lease issued under this section to remove sunken logs.