

1.1 A bill for an act

1.2 relating to natural resources; eliminating the need to scale cut forest products on  
1.3 state land; appropriating money for habitat improvement projects on state land;  
1.4 amending Minnesota Statutes 2008, sections 90.031, subdivision 5; 90.061,  
1.5 subdivisions 5, 8; 90.14; 90.151, subdivision 4; 90.181, subdivision 1; 90.221;  
1.6 90.281; 90.41; repealing Minnesota Statutes 2008, sections 90.01, subdivision 4;  
1.7 90.201, subdivision 2; 90.251; 90.252.

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

1.9 Section 1. Minnesota Statutes 2008, section 90.031, subdivision 5, is amended to read:

1.10 Subd. 5. **Appointment of agents.** The Executive Council may appoint one or  
1.11 more agents to gather evidence in any action brought by the state or to investigate the  
1.12 correctness of any state appraiser's ~~or scaler's~~ report or to ascertain whether any timber  
1.13 proposed to be sold is subject to sale, or whether any trespass has been committed on  
1.14 state lands, and may send ~~such the~~ agent to examine ~~such the~~ timber or lands. ~~Such The~~  
1.15 agents of the Executive Council, independently of the commissioner, ~~or~~ state appraisers,  
1.16 ~~or scalers~~ shall report, in writing, to the governor, and the money necessary to defray  
1.17 expenses in connection therewith shall be paid upon verified accounts from any funds  
1.18 available for the expenses of the Executive Council.

1.19 Sec. 2. Minnesota Statutes 2008, section 90.061, subdivision 5, is amended to read:

1.20 Subd. 5. **Appraiser duties.** The duties of the state appraiser shall be to appraise and  
1.21 place a valuation upon any state lands or any state timber or any interest therein anywhere;  
1.22 to ~~check-scale~~ appraise timber cut from state lands in trespass, either situated upon state  
1.23 lands or removed therefrom; ~~to check-scale any scale of timber cut on state lands; to make~~

2.1 ~~check scales, by the stump and top, or any other method, of timber removed from state~~  
2.2 ~~lands;~~ and to perform ~~such~~ other duties as may be assigned.

2.3 Sec. 3. Minnesota Statutes 2008, section 90.061, subdivision 8, is amended to read:

2.4 Subd. 8. **Appraiser authority; form of documents.** State appraisers are  
2.5 empowered, with the consent of the commissioner, to perform any ~~scaling appraisal~~, and  
2.6 generally to supervise the cutting and removal of timber on or from state lands so far as  
2.7 may be reasonably necessary to insure compliance with the terms of the permits or other  
2.8 contracts governing the same and protect the state from loss.

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

2.11 Sec. 4. Minnesota Statutes 2008, section 90.14, is amended to read:

2.12 **90.14 AUCTION SALE PROCEDURE.**

2.13 (a) All state timber shall be offered and sold by the same unit of measurement as it  
2.14 was appraised. No tract shall be sold to any person other than the purchaser in whose name  
2.15 the bid was made. The commissioner may refuse to approve any and all bids received and  
2.16 cancel a sale of state timber for good and sufficient reasons.

2.17 (b) The purchaser at any sale of timber shall, immediately upon the approval of the  
2.18 bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under  
2.19 section 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent  
2.20 of the appraised value. In case any purchaser fails to make ~~such~~ payment, the purchaser  
2.21 shall be liable therefor to the state in a civil action, and the commissioner may reoffer the  
2.22 timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor  
2.23 had been made.

2.24 (c) ~~In lieu of the scaling of state timber required by this chapter,~~ A purchaser of  
2.25 state timber ~~may~~ shall, at the time of payment by the purchaser to the commissioner of  
2.26 15 percent of the appraised value, ~~elect in writing on a form prescribed by the attorney~~  
2.27 ~~general to purchase a permit based solely on the appraiser's estimate of the volume of~~  
2.28 ~~timber described in the permit, provided that the commissioner has expressly designated~~  
2.29 ~~the availability of such option for that tract on the list of tracts available for sale as~~  
2.30 ~~required under section 90.101. A purchaser who elects in writing on a form prescribed~~  
2.31 ~~by the attorney general to purchase a permit based solely on the appraiser's estimate of~~  
2.32 ~~the volume of timber described on the permit does not have recourse to the provisions~~  
2.33 ~~of section 90.281.~~

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3.1 (d) In the case of a public auction sale conducted by a sealed bid process, tracts shall  
3.2 be awarded to the high bidder, who shall pay to the commissioner a down payment of 15  
3.3 percent of the appraised value within ten business days of receiving a written award  
3.4 notice. If a purchaser fails to make the down payment, the purchaser is liable for the down  
3.5 payment to the state and the commissioner may offer the timber for sale to the next highest  
3.6 bidder as though no higher bid had been made.

3.7 (e) Except as otherwise provided by law, at the time the purchaser signs a permit  
3.8 issued under section 90.151, the purchaser shall make a bid guarantee payment to the  
3.9 commissioner in an amount equal to 15 percent of the total purchase price of the permit  
3.10 less the down payment amount required by paragraph (b). If the bid guarantee payment is  
3.11 not submitted with the signed permit, no harvesting may occur, the permit cancels, and the  
3.12 down payment for timber forfeits to the state. The bid guarantee payment forfeits to the  
3.13 state if the purchaser and successors in interest fail to execute an effective permit.

3.14 Sec. 5. Minnesota Statutes 2008, section 90.151, subdivision 4, is amended to read:

3.15 Subd. 4. **Permit terms.** The permit shall provide that all timber sold or designated  
3.16 for cutting shall be cut without damage to other timber; that the permit holder shall remove  
3.17 all timber authorized to be cut under the permit; ~~that timber sold by board measure but~~  
3.18 ~~later determined by the commissioner not to be convertible into board measure shall be~~  
3.19 ~~paid for by the piece or cord or other unit of measure according to the size, species, or~~  
3.20 ~~value, as may be determined by the commissioner; that all timber products, except as~~  
3.21 ~~specified by the commissioner, shall be scaled and the final settlement for the timber cut~~  
3.22 ~~shall be made on this scale;~~ and that the permit holder shall pay to the state the permit  
3.23 price for all timber authorized to be cut, including timber not cut.

3.24 Sec. 6. Minnesota Statutes 2008, section 90.181, subdivision 1, is amended to read:

3.25 Subdivision 1. **Passage of title to timber.** (a) The commissioner shall transmit to  
3.26 the permit holder a statement of the amount due therefor by the terms of the permit upon  
3.27 completion of the cutting or at least annually in the case of an auction permit. Any partial  
3.28 payment received may be applied to any items on the statement as the commissioner  
3.29 shall determine.

3.30 (b) The title to the timber shall not pass from the state until ~~the timber has been~~  
3.31 ~~scaled as required by the permit,~~ full payment for the timber has been received, and all  
3.32 other provisions of the permit have been fully complied with.

4.1 Sec. 7. Minnesota Statutes 2008, section 90.221, is amended to read:

4.2 **90.221 TIMBER SALES RECORDS.**

4.3 The commissioner shall keep timber sales records, including the description of each  
4.4 tract of land from which any timber is sold; the date of the report of the state appraisers;  
4.5 the kind, amount, and value of the timber as shown by ~~such the~~ report; the date of the sale;  
4.6 the price for which the timber was sold; the name of the purchaser; the number, date of  
4.7 issuance and date of expiration of each permit; the date of any assignment of the permit;  
4.8 the name of the assignee; the dates of the filing and the amounts of the respective bonds  
4.9 by the purchaser and assignee; the names of the sureties thereon; the amount of timber  
4.10 taken from the land; ~~the date of the report of the scaler and state appraiser; the names of~~  
4.11 ~~the scaler and the state appraiser who scaled the timber;~~ and the amount paid for ~~such the~~  
4.12 timber and the date of payment.

4.13 Sec. 8. Minnesota Statutes 2008, section 90.281, is amended to read:

4.14 **90.281 ~~RESCALES, RECOUNTS AND REESTIMATES.~~**

4.15 (a) Upon complaint of any interested permit holder questioning the accuracy of  
4.16 any ~~scale, count, or~~ estimate of timber made by any state appraiser, or at any other time  
4.17 the commissioner determines in the absence of a complaint, the commissioner may  
4.18 cause a ~~rescale, recount, or~~ reestimate thereof to be made jointly by any two or more  
4.19 state appraisers, which when made shall supersede and for all purposes take the place of  
4.20 the original ~~scale, count, or~~ estimate, if and only when the ~~scale or count varies more~~  
4.21 ~~than ten percent from the original or the~~ estimate exceeds the standards established by  
4.22 section 90.045.

4.23 (b) As a condition precedent to the making of a ~~rescale, recount, or~~ reestimate upon  
4.24 the complaint of any person, the commissioner may require the person to make available  
4.25 ~~such a~~ sum of money as the commissioner deems necessary for the actual expenses thereof  
4.26 and to forfeit the same to the state if ~~the rescale and recount does not vary more than ten~~  
4.27 ~~percent from the original or the~~ reestimate does not exceed the standards established by  
4.28 section 90.045. All forfeited money shall be paid into the state treasury and credited to the  
4.29 fund or account from which the expenses of the ~~rescale, recount, or~~ reestimate were paid.

4.30 Sec. 9. Minnesota Statutes 2008, section 90.41, is amended to read:

4.31 **90.41 STATE APPRAISER ~~AND SCALER;~~ VIOLATIONS, PENALTIES.**

4.32 Subdivision 1. **Violations.** Any ~~state scaler or~~ state appraiser who shall accept any  
4.33 compensation or gratuity for services ~~as such~~ from any other source except the state of

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5.1 Minnesota, or ~~any state scaler, or other person authorized to scale state timber,~~ or state  
5.2 appraiser, who shall make any false report, or insert in any ~~such~~ report any false statement,  
5.3 or shall make any ~~such~~ report without having examined the land embraced therein or  
5.4 without having actually been upon the land, or omit from any ~~such~~ report any statement  
5.5 required by law to be made therein, or who shall fail to report any known trespass  
5.6 committed upon state lands, or who shall conspire with any other person in any manner, by  
5.7 act or omission or otherwise, to defraud or unlawfully deprive the state of Minnesota of any  
5.8 land or timber, or the value thereof, shall be guilty of a felony. ~~Any material discrepancy~~  
5.9 ~~between the facts and the scale returned by any such person scaling timber for the state~~  
5.10 ~~shall be considered prima facie evidence that such person is guilty of violating this statute.~~

5.11 No ~~such~~ appraiser or ~~scaler~~ who has been once discharged for cause shall ever again  
5.12 be appointed. This provision shall not apply to resignations voluntarily made by and  
5.13 accepted from ~~such~~ employees.

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

5.17 Sec. 10. **APPROPRIATION.**

5.18 \$..... in fiscal year 2010 and \$..... in fiscal year 2011 are appropriated from the  
5.19 outdoor heritage fund to the commissioner of natural resources for habitat improvement  
5.20 projects on state forest lands.

5.21 Sec. 11. **REPEALER.**

5.22 Minnesota Statutes 2008, sections 90.01, subdivision 4; 90.201, subdivision 2;  
5.23 90.251; and 90.252, are repealed.

**90.01 DEFINITIONS.**

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

**90.201 VOID TIMBER SALES; REFUNDS; ADJUSTMENT OF SALE TERMS.**

Subd. 2. **Refunds on final billing.** The commissioner shall refund to a permit holder any amount paid on a timber sale which exceeds the value of the timber cut under that sale as determined on a final statement transmitted pursuant to section 90.181. The commissioner may credit a refund to any other permit held by the same permit holder if the permit is delinquent as provided in section 90.181, subdivision 2, and may credit a refund to any other permit to which the permit holder requests that it be credited.

**90.251 TIMBER SCALING.**

Subdivision 1. **Scaling and check scaling procedures and requirements; penalty.** The commissioner shall institute scaling and check scaling procedures for state timber sufficient to protect the interest of the state. This will include the assignment of a trained timber scaling specialist in the classified service to be responsible for check scaling and to develop scaling and check scaling techniques and standards. The scaling and check scaling techniques and standards shall be approved by the commissioner. Check scaling shall also be accomplished by other forestry supervisors with reports forwarded to the timber scaling specialist. The timber scaling specialist shall report any scaling deficiencies or trespass to the commissioner. Any deficiencies requiring the attention of the attorney general or State Executive Council will be forwarded to these offices by the commissioner. All timber cut on lands in the charge of the commissioner, except as expressly provided otherwise by the commissioner shall be scaled. No timber may be scaled until it is first properly identified as specified in the permit. All scaling shall be done upon the land from which the timber was cut; provided that the state appraiser, subject to the approval of the commissioner, may designate in writing to a permit holder another location where such timber may be scaled, counted or measured; all logs individually scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler; allowance shall be made for defects to make the timber equivalent to merchantable timber. No state timber shall be removed from the land where it was cut until it has been so scaled or counted except as herein provided. Any person removing timber from the land where it was cut, or from the place designated, before it has been so scaled or counted is guilty of trespass.

Subd. 2. **Reports of scaled timber.** The scaler or state appraiser shall make separate reports to the commissioner of all such timber scaled, covering the respective permits. Each report shall describe the land on which the timber was cut, the quantities of each kind or species of timber, the total number of feet or other units of measurement, as the case may be.

Subd. 3. **Final examination.** Final examination of lands and timber covered by any permit shall be made by a state appraiser at or subsequent to the expiration of the permit or of any cutting season and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on the land or left standing thereon, but the appraiser shall not report any timber cut and left which has been marked as scaled.

Subd. 4. **Scaling requirements.** No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser or scaler except as provided otherwise by the commissioner, and as far as practicable the scaler and appraiser shall not be the same person for any timber cut under a permit. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or scaler shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this chapter. Reappraisals of unsold state land or timber may be made when deemed advisable by the commissioner. Except as herein expressly provided and as generally authorized by section 16D.09, no claim of the state for timber from state lands shall ever be settled or discharged for less than the full amount thereof as shown by the scale or estimate of scalers, or of state appraisers, as the case may be.

**90.252 CONSUMER SCALE OF STATE TIMBER; WEIGHT MEASUREMENT SERVICES; FEES.**

Subdivision 1. **Consumer scaling.** The commissioner may enter into an agreement with either a timber sale permittee, or the purchaser of the cut products, or both, so that the scaling

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of the cut timber and the collection of the payment for the same can be consummated by the consumer. Such an agreement shall be approved as to form and content by the attorney general and shall provide for a bond or cash in lieu of a bond and such other safeguards as are necessary to protect the interests of the state. The scaling and payment collection procedure may be used for any state timber sale, except that no permittee who is also the consumer shall both cut and scale the timber sold unless such scaling is supervised by a state scaler.

Subd. 2. **Weight measurement services; fees.** The commissioner may enter into an agreement with the owner or operator of any weight scale inspected, tested, and approved under chapter 239 to provide weight measurements for the scaling of state timber according to section 90.251. The agreement shall be on a form prescribed by the attorney general, shall become a part of the official record of any state timber permit so scaled, and shall contain safeguards that are necessary to protect the interests of the state. Except as otherwise provided by the commissioner, the cost of any agreement to provide weight measurement of state timber shall be paid by the permit holder of any state timber permit so measured and the cost shall be included in the statement of the amount due for the permit under section 90.181, subdivision 1.