

Subject Omnibus Environment and Natural Resources Bill

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Overview

This bill contains supplemental appropriations and appropriation extensions for the Pollution Control Agency (PCA), Department of Natural Resources (DNR), and other entities as well as a number of statutory and other changes related to the environment and natural resources. It also contains appropriations from the environment and natural resources trust fund.

Article 1: Environment and Natural Resources Appropriations

This article provides supplemental appropriations and appropriation extensions for certain environment and natural resources purposes.

Section Description – Environment and Natural Resources Appropriations

- 1 Pollution Control Agency; appropriations.**

Provides supplemental appropriations to the PCA including \$400,000 to reimburse owners/operators of dry cleaning facilities for the costs of transitioning to alternatives to perchloroethylene and \$492,000 to adopt water quality standards for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). Also specifies that \$250,000 from a small business loan program are available for assistance in reducing the use of trichloroethylene (TCE).
- 2 Department of Natural Resources; appropriations.**

Appropriates \$2,000,000 from the critical habitat private sector matching account to the DNR for transfer to the Board of Water and Soil Resources (BWSR) to provide state incentive payments to those enrolling in the federal Conservation Reserve Program (CRP). Extends the availability of a previous appropriation to the DNR for the no child left inside program.
- 3 Board of Water and Soil Resources; extension.**

Extends the availability of a previous appropriation to BWSR from the outdoor heritage fund for the Reinvest in Minnesota (RIM) wetlands partnership.

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- 4 **Zoological Board; appropriation.**
Appropriates \$350,000 from the lottery-in-lieu revenues dedicated for zoos to the Minnesota Zoo.
- 5 **Parks and trails management.**
Extends the availability of a previous appropriation from 2016 for all-terrain vehicle (ATV) trails.
- 6 **Transfers.**
Amends a previous appropriation and transfer language related to the dry cleaner environmental response and reimbursement account to make technical corrections and remove language making one of the appropriations contingent upon certain legislation being enacted in 2020.
- 7 **Parks and trails management.**
Removes a previous appropriation from the cross-country ski account and extends the availability of an appropriation for certain ATV trails.

Article 2: Environment and Natural Resources

This article contains a number of statutory and other provisions related to the environment and natural resources.

Section Description – Article 2: Environment and Natural Resources

- 1 **Soil and water conservation fund.**
Establishes a soil and water conservation fund for appropriations/revenue dedicated to benefit soil and water conservation.
- 2 to 14 **VHS/Fish health provisions related to aquaculture.**
Make a number of technical changes to the state’s aquaculture statutes regulating fish health, including regulations related to viral hemorrhagic septicemia (VHS), including updating the reference for the VHS susceptible species list, incorporating scientific names for certifiable diseases, and clarifying that the presence of a pathogen that causes a disease is included in the definition of disease.
- 15 **Running at large prohibited.**
Requires the owner of farmed Cervidae to immediately notify the DNR of an escaped animal (under current law they have 24 hours) and removes a provision requiring the DNR to provide the owner 24 hours to attempt to capture it. Allows a licensed hunter

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- to kill and possess an escaped farmed Cervidae without being liable to the owner for the loss of the animal. Requires farmed Cervidae killed by a hunter or the DNR to be tested for chronic wasting disease (CWD) at the owner’s expense. Provides an effective date of September 1, 2021, for the provision.
- 16 **Identification.**
Requires identification required of farmed Cervidae to incorporate global positioning system (GPS) technology or include certain contact information of the owner. Provides an effective date of September 1, 2021, for the provision.
- 17 **Permanent school fund authority; reporting.**
Requires the DNR to report to the Legislative Permanent School Fund Commission (LPSFC) on the management of school trust lands biennially (every two years) rather than biannually (twice a year).
- 18 **Conveyance of conservation easements.**
Allows the DNR to convey conservation easements on state-owned lands they administer. States that any terms and conditions obligating the state to incur costs for monitoring or maintaining the easement must acknowledge the state is liable only to the extent of available appropriations.
- 19 **General requirements.**
Eliminates the requirement that snowmobiles be registered in order to transport them.
- 20 **Collector limited snowmobile use.**
Technical related to the previous section.
- 21 **All-terrain vehicle or vehicle.**
Modifies the definition of an ATV. Under current law, an ATV must have no more than six low-pressure or non-pneumatic (airless) tires and meet certain weight and width restrictions. This section would remove the requirement that the tires be low pressure or non-pneumatic.
- 22 **Permit for invasive carp.**
Makes permanent a provision allowing the DNR to issue permits to DNR divisions to tag bighead, black, grass, and silver carp and release them back into the water body they were captured from for research or control purposes.

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- 23 **Authority to establish.**
Removes the authority of the DNR to establish provisions for improving and maintaining golf courses already established in state parks (provisions regarding the Fort Ridgely Golf Course are repealed in section 72).
- 24 **State park special events.**
Allows the DNR to stage and charge entrance/use fees for state park special events, rather than state park “pageants” as allowed under current law.
- 25 **State park reservation system.**
Expands the DNR’s ability to develop reservation policies for the use of state park facilities, tours, programs, and rentals. Under current law, the DNR may do so only for campsites and other lodging. Allows revenues from the state park reservation fee to also be used for campground operations in addition to the reservation system.
- 26 **Special-use permits.**
Allows the DNR to develop reasonable policies for special-use permits to use state parks, state recreation areas, and state waysides. Provides an exemption from the rulemaking provisions for the policies developed.
- 27 **Requirement.**
States that a motor vehicle’s owner/lessee is responsible for making sure a vehicle has the required state park permits and allows the commissioner to issue warnings and citations to the owner/lessee for noncompliance.
- 28 **Free permit; members of federally recognized tribes.**
Requires the DNR to issue annual state park permits to members of the 11 federally recognized tribes for free. Establishes identification requirements for receiving the free permit and states that the permit is only valid when displayed on a vehicle owned by the permittee. Allows the DNR to issue a free permit to an individual who qualifies but does not own a vehicle.
- 29 **State Park Open House Days.**
Technical (related to the change in section 24).
- 30 **Disposition of receipts; purpose.**
Modifies the purposes the cross-country-ski trails account may be used for to allow its use for developing and maintaining state cross-country-ski trails. Under current law, this is allowed only as appropriated by law. Provides a retroactive effective date to July 1, 2019.

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- 31 **Special-use permits.**
Allows the DNR to develop reasonable policies for special-use permits to use state trails and state water access sites. Provides an exemption from the rulemaking provisions for the policies developed.
- 32 **Conservation planning leases.**
Allows the DNR to lease certain state-owned lands for terms not to exceed 21 years for purposes of planning for conservation easements and exempts the leases from certain requirements.
- 33 **Unloaded.**
Amends the definition of “unloaded” to accommodate muzzle loading firearms with electronic encapsulated powder charge ignition systems added to the list of allowable firearms in section 41.
- 34 **Portable stands.**
Makes permanent a provision allowing a person to leave a portable deer stand overnight in WMAs in certain areas of Northwestern Minnesota. The provision expired December 31, 2019.
- 35 **Insecticides in wildlife management areas.**
Prohibits a person from using a product that contains an insecticide from the neonicotinoid class of insecticides in a WMA.
- 36 **Commissioner’s authority.**
Technical (related to the next section).
- 37 **Snakes, lizards, and salamanders.**
Requires the DNR to prescribe conditions and issue permits to breed, propagate, and sell snakes, lizards, and salamanders. Allows a person who obtained a snake, lizard, or salamander from a permitted breeder prior to August 1, 2020, to keep it as a pet.
- 38 **General.**
Modifies license revocation provisions for minnow dealers. Under current law, a minnow dealer’s license is revoked if there is a third violation of the minnow license within one year, the change would revoke a license if there is a second conviction within three years.
- 39 **Issuance after conviction; night vision or thermal imaging equipment.**
Prohibits a person in the possession of night vision or thermal imaging equipment convicted of certain violations (trespassing, hunting in a closed season/hours, taking a wild animal in violation of night vision/thermal imaging equipment laws, or

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- violating firearms restrictions in deer zones) from obtaining a hunting license or hunting wild animals for five years.
- 40 **Importing Cervidae carcasses.**
Expands a provision prohibiting the importation of Cervidae carcasses (e.g. deer, elk, and moose). Under current law, a person cannot import a hunter-harvested Cervidae carcass unless it has been processed to meet certain requirements to ensure it has been cleaned of all brain tissue and the spinal column (e.g. cut and wrapped meat, finished taxidermy mounts, or quartered without the spinal column or head attached). This section would expand the provision to all Cervidae carcasses, not just hunter-harvested ones.
- 41 **Permissible firearms and ammunition; big game and wolves.**
Amends the list of permissible firearms to take big game and wolves to accommodate muzzle loading firearms with electronic ignitions and encapsulated powder charge ignition systems.
- 42 **Crossbow hunting during firearms season.**
Allows the use of crossbows during the deer hunting season during all firearm seasons except the muzzleloader season.
- 43 **Possessing night vision or thermal imaging equipment.**
Clarifies that provisions allowing the use of night vision equipment also allow the use of night vision equipment enhanced with an infrared illuminator. Prohibits the use of night vision or thermal imaging equipment to hunt coyote/fox during the regular firearms deer season.
- 44 **Nontoxic shot required for taking small game in certain areas.**
Requires the use of nontoxic shot when hunting small game on a WMA in the farmland zone beginning July 1, 2021. The farmland zone is a portion of the state that falls south and west of a line that follows Highway 70 westward from the Wisconsin border to Highway 65 to Highway 23 to U.S. Highway 169 at Milaca to Highway 18 at Garrison to Highway 210 at Brainerd to U.S. Highway 10 at Motley to U.S. Highway 59 at Detroit Lakes northward to the Canadian border.
- 45 **Seasons, limits, and other rules.**
Allows the DNR to make midseason adjustments to fish possession and size limits to manage the fishery in Upper Red Lake similar to existing authority for Mille Lacs.

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- 46 **Bait restrictions.**
Technical related to the update of the reference to the VHS susceptible species list in previous sections.
- 47 **Permit for transportation.**
Technical related to the update of the reference to the VHS susceptible species list in previous sections.
- 48 **Areas closed to taking turtles.**
Prohibits a person with a turtle seller’s or turtle seller’s apprentice license from taking turtles within the seven-county metropolitan area.
- 49 **Restrictions.**
Reduces the number of nets that a person may use to net lake whitefish and ciscoes from two nets to one.
- 50 **Lake Superior lake trout; expanded assessment harvest.**
Removes the reference date for the Fisheries Management Plan for the Minnesota Waters of Lake Superior so that an updated version applies when reassessing quotas for commercial operators in certain management zones.
- 51 **Compensation.**
Increases the maximum amount of compensation a soil and water conservation district (SWCD) supervisor can receive per day from \$75 per day to \$125 per day.
- 52 **Public meeting.**
Requires the DNR to hold a public meeting prior to issuing a water-use permit for more than 250,000 gallons per day average. Specifies the location and notice requirements for the meeting.
- 53 **Vintage groundwater.**
Prohibits the DNR from issuing a water-use permit appropriating vintage water (defined as water with a tritium concentration less than or equal to one tritium unit) unless it can determine that the use will not cause groundwater with a higher tritium content from being drawn into the vintage water.
- 54 **Sustainability standard.**
Requires the DNR to make a determination that the level of recharge to an impacted aquifer is sufficient to replenish the supply to meet the needs of future generations when determining whether a water-use is sustainable.

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- 55 **Advisory Council on Water Supply Systems and Wastewater Treatment Facilities.**
Establishes an Advisory Council on Water Supply Systems and Wastewater Treatment Facilities to advise the commissioners of health and PCA on classification of water supply systems and wastewater treatment facilities, qualifications and competency evaluations of system and facility operators, and other laws and procedures needed to regulate these systems and facilities. Lists membership of the advisory council, requires at least two members to be from outside the seven-county metropolitan area, and requires one member to come from the Metropolitan Council. Provides that terms, compensation, and removal of members are governed by section 15.059. When new members are appointed, requires a chair to be elected at the next meeting, and requires the health department representative to serve as secretary. (This advisory council formerly existed in statute but sunset in 2019. This section reestablishes the advisory council.)
- 56 **Priorities; rules.**
Requires the PCA to use a federal Environmental Protection Agency Hazard Ranking System to establish a priority list of releases of hazardous substance to lands for the purpose of state cleanups.
- 57 **Legislative findings.**
Adds to legislative findings language specifying that the PCA, in cleaning up former mixed municipal solid waste facilities that are now on the federal Superfund list and the state’s Permanent List of Priorities under the Minnesota Environmental Response and Liability Act, seek to prevent unjust windfalls to and double liability of the facility’s owners and operators.
- 58 **Environmental liens.**
Provides that the liens on former mixed municipal solid waste facilities can include reasonable costs and expenses and that the 30-year limit on the lien under section 500.20 does not apply, nor does the 40-year limitation provided in section 541.023 to various types of real estate liens. Provides that the lien can include the increase in property value attributed to the cleanup, and provides a process for satisfaction of these types of liens that is different than the satisfaction of other environmental lines in law. Allows the liens to be satisfied if maintaining it is not in the public interest, and prevents the state from foreclosing on the land because of an unpaid lien. This section is retroactive and applies to cases related to liens under this section of law that were commenced on or after January 1, 2020.
- 59 **Acquiring and disposing of real property at priority qualified facilities.**
Creates an exemption from the normal eminent domain procedure for priority qualified facilities and develops a specific eminent domain procedure for these

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properties. This section is retroactive and applies to actions commenced on or after January 1, 2020.

60 Real property interests.

Allows the commissioner to acquire real property interests in a solid waste facility to manage the closure and care required after the closure.

61 Trichloroethylene ban.

Bans trichloroethylene (TCE) use after June 1, 2022, and establishes exceptions.

Subd. 1. Definitions. Defines terms for purposes of the section.

Subd. 2. Use restriction. Prohibits trichloroethylene (TCE) use at any permitted facility after June 1, 2022. Requires the agency to incorporate the ban as an enforceable permit provision or a separate enforceable agreement. Provides a process for granting a small business needing additional time to comply with the ban and establishes requirements for the small business.

Subd. 3. Replacement chemicals. Facilities must demonstrate that chemicals replacing TCE are less toxic than TCE. If more than one replacement chemical is proposed, the agency must consider the less-toxic chemical.

Subd. 4. Exceptions. Allows the agency to grant a waiver to the TCE ban if the facility demonstrates that: (1) TCE is used in a closed system, preventing emissions; (2) TCE is only being held at the facility for distribution to another party; or (3) it is a hospital or academic medical facility.

Subd. 5. Application of exceptions. States that nothing in the section authorizes the use of TCE that exceeds levels authorized in a stipulation agreement that was in effect on June 1, 2022.

Provides an immediate effective date.

62 Exemption; Mississippi River Corridor Critical Area.

Exempts local units of government within the Mississippi River Corridor Critical Area (MRCCA) from requirements applicable in critical areas generally that require them to send regulations and plans to the Environmental Quality Board in lieu of new requirements applicable in the MRCCA established in the next section.

63 Reviewing and approving local plans and regulations.

Makes the DNR responsible for local government plan and regulation reviews and approvals affecting land in the MRCCA and the Metropolitan Council responsible for duties required of regional development commissions for other critical areas.

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Establishes a 60-day timeframe when reviews must be completed. Requires the DNR to either conditionally approve the plan/regulations or return them for modification. Requires the local unit of government to revise and resubmit the plan/regulation within 60 days. Allows the local unit of government or Metropolitan Council to request a meeting which can extend the deadline. States that only plans and regulations receiving approval have the effect of law. Establishes conditions for approving the plans/regulations and requires a local unit of government to enforce the approved plan/regulation when they take effect.

64 Nonwoven personal care disposable products.

Prohibits certain nonwoven disposable products (e.g. disposable wipes) from being labeled or advertised as “flushable” or “septic/sewer safe” unless they meet certain requirements and requires all nonwoven disposable products sold in the state to meet certain industry standards for labeling.

Subd. 1. Definitions. Defines terms for purposes of the new requirements, including: “flushable, septic safe, and sewer safe” which is defined as a product that meets certain flushability tests established by the Federal Trade Commission (FTC) or that meets the most recent INDA (Association of the Nonwoven Fabrics Industry) code approved by the commissioner of the Pollution Control Agency (PCA); and “nonwoven disposable product” which is defined as a product constructed from nonwoven sheets designed or marketed for use in the bathroom or toileting purposes that during use could become contaminated with feces/urine or certain other wastes.

Subd. 2. Prohibition. Prohibits nonwoven disposable products sold in the state from being advertised, packaged, or labeled as flushable or septic/sewer safe unless they meet the requirements defined in the previous subdivision (they meet FTC tests or the INDA code approved by the PCA).

Subd. 3. Labeling requirement. Requires a nonwoven disposable product sold in the state to meet the most recent INDA code of practice for product labeling that has been approved by the PCA.

Subd. 4. Penalty; enforcement. Establishes a civil penalty for manufacturers who violate the new requirements of \$100 per prepackaged salable unit up to a maximum of \$5,000. States that the manufacturer may be enjoined from those violations. Allows the attorney general to bring action to recover the civil penalties and allows the attorney general to accept assurances from the manufacturer of the discontinuance of the violations under existing authorities.

Subd. 5. Exceptions. States that the prohibition and labeling requirements do not apply to television, radio, or a publisher of printed or other advertising; or to wholesalers or retailers that distribute or sell but do not package or label the

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products. Allows a manufacturer in possession of nonwoven disposable products on January 1, 2021, to exhaust existing stock.

Effective date. States that the section is effective July 1, 2022.

65 Perchloroethylene prohibition.

Prohibits the use of perchloroethylene as a dry cleaning solvent beginning January 1, 2022.

66 Food packaging; PFAS.

Bans the manufacture, distribution, and sale of food packaging intended for direct contact with food that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS) beginning January 2022.

Subd. 1. Definitions. Defines terms for purposes of the ban, including food package, package, packaging component, and PFAS.

Subd. 2. Prohibition. Prohibits the manufacture, sale, or distribution of a food package that contains intentionally added PFAS.

Subd. 3. Enforcement. Allows the Pollution Control Agency (PCA) to enforce the ban using existing authorities and requires coordination with the commissioners of commerce and health.

67 Exchange of state land; Aitkin, Beltrami, and Koochiching Counties.

Requires lessees of DNR land for wild rice in Aitkin, Beltrami, and Koochiching Counties that are eligible to be exchanged by the DNR to pay all the costs of the exchange (e.g. survey work, legal fees, title work, and closing costs).

68 Recommendations for safety program for watercraft operators.

Requires the DNR to develop recommendations for establishing a watercraft operators safety program. Specifies the requirements of the program, including requiring a special endorsement for operating watercraft with enhanced wake technology. Requires the recommendations to be submitted to the legislature by January 15, 2021.

69 Extension of various deadlines and requirements.

Extends the deadline for making certain land use decisions and holding a meeting or proceeding under the state's drainage laws 90 days during the peacetime emergency declared by the Governor due to COVID-19.

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- 70 **Accessibility of wildlife management areas.**
Requires the DNR to work with the Council on Disability and others to develop recommendations for legislation designed to increase access to WMAs, including increased opportunities for persons with disabilities to use motorized vehicles or other mobility aids. Requires the recommendations to be submitted to the legislature by February 15, 2021. Requires the DNR to pilot an accessibility project on at least one WMA by October 1, 2020, that reduces barriers to accessing WMAs.
- 71 **Lake Vermilion-Soudan Underground Mine State Park; secondary unit designation.**
Requires the DNR to manage a portion of Lake Vermilion-Soudan Underground Mine State Park located south of Highway 169 as a secondary unit that is designated as a state recreation area. Requires ingress and egress on designated routes by off-highway vehicles in the secondary unit into campgrounds and overnight facilities south of the highway.
- 72 **Repealer.**
Repeals provisions associated with the golf course at Fort Ridgely State Park and a rule that provides a ranking system used by the PCA and the commissioner of agriculture for environmental priority assessment.

Article 3: Environment and Natural Resources Trust Fund

This bill includes fiscal year 2021 appropriations from the environment and natural resources trust fund (a constitutionally dedicated trust fund funded by proceeds from the Minnesota State Lottery). The bill includes most of the preliminary recommendations considered by the Legislative-Citizen Commission on Minnesota Resources (LCCMR) but which did not receive the super majority required for approval.

Section Description – Article 3: Environment and Natural Resources Trust Fund

- 1 **Appropriations.**
Technical.
- 2 **Minnesota resources.**
Subd. 1. Total appropriation. Provides a total appropriation of \$61,367,000 in fiscal year 2021 from the environment and natural resources trust fund. It also includes a total appropriation of \$2,768,000 in fiscal year 2020 that became available due to the withdrawal and cancellation of a previously funded project.
Subd. 2. Definition. Technical.

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Subd. 3. Foundational natural resource data and information. Provides a total appropriation for natural resource data and information projects of \$8,593,000 in fiscal year 2021.

Subd. 4. Water resources. Provides a total appropriation for water resources projects of \$1,548,000 in fiscal year 2020 and \$3,457,000 in fiscal year 2021.

Subd. 5. Technical assistance, outreach, and environmental education. Provides a total appropriation for technical assistance, outreach, and environmental education projects of \$2,989,000 in fiscal year 2021.

Subd. 6. Aquatic and terrestrial invasive species. Provides a total appropriation for invasive species projects of \$320,000 in fiscal year 2020 and \$11,520,000 in fiscal year 2021.

Subd. 7. Air quality and renewable energy. Provides a total appropriation for air quality and renewable energy projects of \$573,000 in fiscal year 2021.

Subd. 8. Methods to protect or restore land, water, and habitat. Provides a total appropriation for projects for protection, restoration, and enhancement methods of \$900,000 in fiscal year 2020 and \$4,219,000 in fiscal year 2021.

Subd. 9. Land acquisition, habitat, and recreation. Provides a total appropriation for land acquisition projects of \$29,901,000 in fiscal year 2021.

Subd. 10. Administration and contract agreement reimbursement. Provides a total appropriation of \$135,000 in fiscal year 2021 for contract administration expenses of the Department of Natural Resources (DNR).

Subds. 11 to 19. Provides project requirements that apply to all recipients. The LCCMR recommends similar requirements each year, which include: specifying the availability of appropriations; data requirements; specific project requirements, including requiring ecological restoration and management plans; and requiring easements to be permanent and have a long-term monitoring and enforcement plan. Extends several previous appropriations set to expire and cancels the Sauk River Dam Removal and Rock Rapids Replacement project from fiscal year 2020. Allows projects expiring on June 30, 2020, to be extended by one year if the recipient notifies the LCCMR and modifies the applicable work plan.

3 Land acquisition, habitat, and recreation.

Amends a prior appropriation for a trail in the city of Tower to retroactively allow a trail connection to the Mesabi Trail.

Section Description – Article 3: Environment and Natural Resources Trust Fund

- 4 **Aquatic and terrestrial invasive species.**
Amends a prior appropriation for Palmer amaranth monitoring to include other noxious weeds.
- 5 **Effective date.**
Provides an immediate effective date for sections 1, 2, and 4.

Article 4: State Lands

This article contains a number of provisions that pertain to the administration of state lands.

Section Description – Article 4: State Lands

- 1 **Conveyance of interests in lands to state, federal, and tribal governments.**
Allows the DNR to convey easements on state-owned lands to federally recognized Indian tribe for trails, highways, flowage for development of fish/game resources, stream protection, and flood control.
- 2 **Lease of tax-forfeited and state lands.**
Allows the DNR to assess applicants for a lease of state land for a recreational trail or facility a monitoring fee to cover the reasonable costs of monitoring the construction and preparing the terms and conditions. Requires the DNR to provide the applicant an estimate of the fee before requiring it to be submitted.
- 3 **Addition to state park.**
Adds land to the statutory boundaries of Fort Snelling State Park.
- 4 **Addition to state recreation area.**
Adds land to the statutory boundaries of the Iron Range Off-Highway Vehicle Recreation Area.
- 5 **Deletions from state parks.**
Removes land from the statutory boundaries of Fort Snelling State Park and William O’Brien State Park.
- 6 to 8 **Private sales of surplus state land.**
Allows the DNR to sell certain surplus state lands by private sale in Cass, Lake of the Woods, and St. Louis Counties.

Section Description – Article 4: State Lands

- 9 **Private sale of tax-forfeited lands; St. Louis County.**
Allows St. Louis County to sell certain tax-forfeited land by private sale.
- 10 **Public sale of surplus state land bordering public water; Wadena County.**
Allows the DNR to sell surplus state lands bordering public water in Wadena County.



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