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02/17/2011	262	Introduction and first reading Referred to Environment and Natural Resources
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1.1A bill for an act

1.2relating to natural resources; discontinuing state tree nursery operations;

1.3requiring sale of state tree nursery land; repealing Minnesota Statutes 2010,

1.4sections 89.06; 89.35; 89.36; 89.37; 89.38; 89.39; 89.391.

1.5BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6Section 1. STATE TREE NURSERY CLOSURE; SALE OF LAND; ACCOUNT

1.7BALANCE TRANSFER.

1.8By July 1, 2011, the commissioner of natural resources shall discontinue the tree

1.9nursery operations at the Baudora State Nursery and the General C.C. Andrews State

1.10Nursery. Notwithstanding Minnesota Statutes, section 89.021, as soon as practicable after

1.11discontinuing tree nursery operations, the commissioner shall sell the land containing the

1.12state tree nurseries. After the sale of the land, the land shall be eliminated from the state

1.13forest as provided in Minnesota Statutes, section 89.01, subdivision 5a. On June 30, 2011,

1.14the commissioner of management and budget shall transfer the unobligated balance in

1.15the forestry nursery account to the forest management investment account created in

1.16Minnesota Statutes, section 89.039.

1.17EFFECTIVE DATE. This section is effective the day following final enactment.

1.18Sec. 2. REPEALER.

1.19Minnesota Statutes 2010, sections 89.06; 89.35; 89.36; 89.37; 89.38; 89.39; and

1.2089.391, are repealed.

1.21EFFECTIVE DATE. This section is effective July 1, 2011.

89.06 NURSERY AND TREE IMPROVEMENT PLAN.

By February 1, 1983, the commissioner, with the assistance of the agricultural experiment station of the University of Minnesota, shall submit a plan to the legislature on the benefits and costs of making the nursery and tree improvement program in this chapter self-supporting. The plan shall include, but not be limited to, at least the following elements:

- (a) tree species and stand improvement;
- (b) adoption of a seed certification system;
- (c) development of specialized seed tree orchards;
- (d) implementation of modern nursery techniques;
- (e) contractual arrangements with users of tree seedlings; and
- (f) an economic analysis of surcharges and user fees that would make the nursery and tree improvement program self-supporting.

89.35 TREE PLANTING.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to sections 89.35 to 89.39.

(a) "Tree" means any species of tree, woody perennial, shrub, or vine approved by the commissioner for the purposes authorized in sections 89.35 to 89.39, except cultivated varieties that are capable of producing fruit for human consumption.

(b) "Planting stock" or "tree planting stock" means trees native to this state and includes native tree hybrids that have been improved for conservation purposes.

Subd. 2. **Purpose of planting.** The purposes for which trees may be produced, procured, distributed, and planted under sections 89.35 to 89.39 shall include auxiliary forests, woodlots, windbreaks, shelterbelts, erosion control, soil conservation, water conservation, provision of permanent food and cover for wild life, environmental education, and afforestation and reforestation on public or private lands of any kind, but shall not include the raising of fruit for human consumption or planting for purely ornamental purposes. It is hereby declared that all such authorized purposes are in furtherance of the public health, safety, and welfare.

89.36 PRODUCING AND PROCURING PLANTING STOCK.

Subdivision 1. **Production at state nurseries.** The commissioner of natural resources may produce tree planting stock for the purposes of sections 89.35 to 89.39 upon any lands under control of the commissioner which may be deemed suitable and available therefor so far as not inconsistent with other uses to which such lands may be dedicated by law. The commissioner may not produce more than 10,000,000 units of planting stock annually, after January 1, 2003.

Subd. 2. **Purchase of stock.** The commissioner of natural resources may purchase tree planting stock for the purposes herein authorized under the provisions of sections 89.35 to 89.39, or any other applicable law now or hereafter in force. The commissioner must give preference for Minnesota-grown planting stock.

Subd. 3. **Sale or exchange of stock.** In carrying out the provisions of sections 89.35 to 89.39, the commissioner may sell to or exchange surplus tree planting stock and seed with other states or the federal government for the following purposes:

- (1) to acquire tree planting stock of a species which is in short supply in the commissioner's inventory;
 - (2) to acquire tree planting stock of a species not grown by the commissioner;
 - (3) to acquire tree planting stock genetically superior to that grown by the commissioner;
- and
- (4) to utilize tree planting stock or seed not needed for the reforestation program in the state.

Subd. 4. **Annual report.** The commissioner shall submit an annual report to the legislature relating to the production of planting stock at state nurseries. The report must include the following:

- (1) sales figures;
- (2) income figures; and
- (3) expenses for operations and administration.

Copies of the report must be filed with the Legislative Reference Library and made available to the public.

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The commissioner shall also provide any additional information requested by the legislature relating to the production of planting stock at state nurseries.

89.37 DISTRIBUTING PLANTING STOCK.

Subdivision 1. **Planting conditions.** The commissioner of natural resources may supply planting stock produced or procured hereunder for use on any public or private lands within the state for the purposes herein authorized under such conditions as the commissioner may prescribe for planting, care, and maintenance in furtherance of such purposes.

Subd. 2. **Public lands; auxiliary forests of nonprofit corporations.** Such planting stock may be supplied for use on any lands owned by or subject to an easement or right-of-way held by the state or by any political subdivision of the state upon payment of the cost of such stock and expenses of distribution, as the commissioner may determine. Such planting stock may be supplied under like conditions for use in any auxiliary forest owned and maintained by any corporation organized for religious, social, moral, educational, scientific, benevolent, charitable, fraternal, or reformatory purposes and not for profit.

Subd. 3. **Private lands.** The commissioner may supply only bare root seedlings, woody cuttings, and transplant material for use on private land, provided that such material must be sold in lots of not less than 500 for a sum determined by the commissioner to be equivalent to the cost of the materials and the expenses of their distribution. The commissioner may not directly or indirectly supply any other planting stock for use on private lands.

Subd. 3a. **Sales of trees to soil and water conservation districts.** The commissioner of natural resources may supply tree planting stock to organized soil and water conservation districts for soil, water, wildlife and conservation purposes or as prescribed in section 89.35, subdivision 2, upon payment of the cost of the stock and expenses of distribution.

There is no minimum limitation on the number of trees going on an individual location. The district shall make the determination of the numbers of trees going to each location.

Resale of trees with roots attached by the districts to their cooperators is permitted if planted in accordance with conservation purposes set forth in section 89.35, subdivision 2.

The soil and water conservation districts are permitted to resell trees with an adequate amount added to defray costs of handling, grading, transportation, storage, salaries and other costs directly related to planting the stock.

The district shall keep a record of all trees planted and the locations of the plantings. A record of the plantings shall be sent to the commissioner of natural resources.

Soil and water conservation districts may establish joint distribution centers, if necessary, to facilitate distribution or improve quality of tree planting stock when approved by the commissioner of natural resources and the soil and water conservation districts so affected.

Subd. 3b. **Sales to nurseries.** To promote the availability and use of native plant material, the commissioner may sell native tree seed to licensed, private Minnesota nurseries when supplies of seed from geographically adapted sources are not available from private Minnesota seed dealers. The commissioner may also sell native trees and shrubs in lots of ten or more to nonprofit groups and local units of government.

Subd. 4. **Proceeds of sale.** All money received in payment for tree planting stock supplied under this section shall be deposited in the state treasury and credited to a forest nursery account and are available to the commissioner of natural resources for the purposes of sections 89.35 to 89.37, including up to \$250,000 per year for forestry education and technical assistance.

Subd. 5. **Investment income.** Income earned from the investment of funds in the forest nursery account beginning July 1, 1989, shall be credited to the account and are annually appropriated to the commissioner of natural resources for the purposes of sections 89.35 to 89.37.

Subd. 6. **Promotional activities.** All promotional materials for public cost-share programs for tree planting shall address the eligibility of private nursery planting stock.

Subd. 7. **Rulemaking exemption.** The sale price of planting stock and native tree seeds distributed by the commissioner under this section is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the sale price of planting stock and native tree seeds notwithstanding section 16A.1283.

89.38 PROHIBITION; PENALTIES.

It shall be unlawful for a period of ten years from the date of purchase for any person who purchases trees from the commissioner to use or permit the use of planting stock furnished hereunder for any purpose not authorized hereunder, or to sell, give, remove, or permit the removal with roots attached of any tree previously planted from stock furnished hereunder for

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replanting on any ground not owned by the purchaser or for any purpose not authorized hereunder. Any violation of this section shall be a misdemeanor.

89.39 PURCHASE AGREEMENTS AND PENALTIES.

Every individual, partnership, or private corporation to whom any planting stock is supplied for planting on private land hereunder shall execute an agreement, upon a form approved by the attorney general, to comply with all the requirements of sections 89.35 to 89.39 and all conditions prescribed by the commissioner hereunder. Any party to such an agreement who shall violate any provision thereof shall, in addition to any other penalties that may be applicable, be liable to the state in a sum equal to three times the reasonable value of the trees affected by the violation at the time the same were shipped for planting; provided, that if such trees are sold or offered for sale for any purpose not herein authorized, such penalty shall be equal to three times the sale price. Such penalties shall be recoverable in a civil action brought in the name of the state by the attorney general.

89.391 NURSERY INSPECTION CERTIFICATES; LIMITATIONS ON ISSUANCE.

No certificate of inspection shall be issued pursuant to section 18H.05 by the commissioner of agriculture to a person who is determined by the commissioner of natural resources to have purchased trees pursuant to sections 89.35 to 89.39 and who is selling, giving, removing, or permitting the removal of the trees with roots attached, in violation of section 89.38.