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Executive Orders

Ned McWherter (1987-1995)

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### **No. 41 An Order Transferring the Division of Forestry in the Department of Conservation and its Related Functions and the Administration of the Tennessee Forestry Act from the Department of Conservation to the Department of Agriculture**

Ned R. McWherter

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STATE OF TENNESSEE

# EXECUTIVE ORDER

BY THE GOVERNOR

NO. 41

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AN ORDER TRANSFERRING THE DIVISION OF FORESTRY IN THE DEPARTMENT OF CONSERVATION AND ITS RELATED FUNCTIONS AND THE ADMINISTRATION OF THE TENNESSEE FORESTRY ACT FROM THE DEPARTMENT OF CONSERVATION TO THE DEPARTMENT OF AGRICULTURE

WHEREAS, it is in the interest of a more economical and efficient state service to reduce administrative duplication and to streamline the operation of state government; and

WHEREAS, it is in the interest of a more economical and efficient state service to combine into one department related service delivery and regulatory programs thereby facilitating the operation of these programs; and

WHEREAS, it has been determined that in the interest of economy, efficiency and better coordination of the functions of state government the Division of Forestry in the Department of Conservation and the administration of the Tennessee Forestry Act should be transferred to the Department of Agriculture; and

WHEREAS, both the Department of Conservation and the Department of Agriculture are created and established in Tennessee Code Annotated, Section 4-3-101;

NOW, THEREFORE, I, Ned McWherter, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Section 4-4-102, do hereby order and direct the following:

1. That the Division of Forestry in the Department of

Conservation be and is hereby transferred to and made a part of the Department of Agriculture, effective July 1, 1991, and that from and after July 1, 1991, all functions of the Division of Forestry and all functions of the Department of Conservation under the provisions of the Tennessee Forestry Act codified at Tennessee Code Annotated, title 11, chapter 4, and Sections 4-3-503(1) and 4-3-504(1) and (5), shall be administered by and shall be under the control of the Commissioner of Agriculture. Further, the administration of those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113, which concern the Division of Forestry or forests, are transferred to the Department of Agriculture and the Commissioner of Agriculture.

2. That from and after July 1, 1991, the Commissioner of Agriculture shall perform all such duties and shall have the same authority and responsibility with regard to the Division of Forestry as with other divisions assigned to the Department of Agriculture. The Commissioner of Agriculture shall also perform the duties and have the responsibilities with regard to the Division of Forestry that were hereto vested in the Commissioner of Conservation pursuant to Tennessee Code Annotated, title 11, chapter 4, Sections 4-3-503(1) and 4-3-504(1) and (5), and by those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113, which concern the Division of Forestry or forests, and the rules and regulations promulgated thereunder.

3. That the Commissioner of Finance and Administration, with the assistance and approval of the Department of Personnel, after consultation with the Department of Conservation and the Department of Agriculture, shall cause to be transferred to the Department of Agriculture, any filled or unfilled, authorized and funded positions assigned to said Division of Forestry together with any other employees of or positions of the Department of Conservation assigned primarily to provide support services to said Division and to enforce the provisions of the Tennessee Forestry Act codified at Tennessee Code Annotated, title 11, chapter 4, and Sections 4-3-503(1) and 4-3-504(1) and (5) and those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113, which concern the Division of Forestry and forests. The Commissioner of Finance and Administration shall, on or before July 1, 1991, begin the process of transferring the aforesaid positions and employees and shall complete the process in due time.
4. In accordance with the schedule for transferring positions and employees, the 1990-1991 and 1991-1992 fiscal year appropriations to the Department of Conservation for the operation of the Division of Forestry and for the administration of the Tennessee Forestry Act codified at Tennessee Code Annotated, title 11, chapter 4, and Sections 4-3-503(1) and 4-3-504(1) and (5), and for the administration of those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113 which concern the Division of

Forestry or forests, shall be transferred to the Department of Agriculture and the Department of Finance and Administration shall revise the present budgets as well as future budgets of the Department of Conservation and the Department of Agriculture to reflect the effect of this executive order.

5. That all personal property, equipment and other materials made available to the Department of Conservation for use by the Division of Forestry and the employees of the Department of Conservation performing functions in accordance with the provisions of the Tennessee Forestry Act codified at Tennessee Code Annotated, title 11, chapter 4, and Sections 4-3-503(1) and 4-3-504(1) and (5), and for the administration of those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113, which concern the Division of Forestry or forests, shall be transferred to the custody and control of the Department of Agriculture.

6. That on or after July 1, 1991, the Department of Agriculture through the Commissioner shall have the authority to receive, administer and supervise any and all grants and funds from whatever source, including but not limited to the federal, state, county and municipal governments, with respect to the programs or functions of the Division of Forestry herein transferred to the Department of Agriculture.

7. That all contracts or leases entered into prior to July 1, 1991, by the Department of Conservation with respect to any program or function transferred herein with any entity, corporation, agency, enterprise or person shall

continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on July 1, 1991, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Agriculture, unless and until such contracts or leases are amended or modified by the parties thereto.

8. That all rules, regulations, orders and decisions heretofore issued or promulgated by the Department of Conservation pursuant to provisions of the Tennessee Forestry Act codified at Tennessee Code Annotated, title 11, chapter 4, and Sections 4-3-503(1) and 4-3-504(1) and (5), and pursuant to those parts of Tennessee Code Annotated, Sections 11-1-102, 11-1-103, 11-1-105, 11-1-106, 11-1-108, 11-1-109, 11-3-111 and 11-1-113, which concern the Division of Forestry or forests, shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Agriculture. To this end the Department of Agriculture through the Commissioner shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders or rules and regulations heretofore issued and to adopt, issue or promulgate new orders or rules and regulations as may be necessary for the administration of the programs or functions herein transferred.

IN WITNESS WHEREOF, I have subscribed my signature and  
caused the Great Seal of the State of Tennessee to be affixed  
this 4<sup>th</sup> day of February, 1991.

Red McWhorter  
GOVERNOR

Burgess Milligan  
SECRETARY OF STATE