A bill for an act

relating to state government; appropriating money for environment and natural resources.

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

Section 1. **OUTDOOR HERITAGE APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the outdoor heritage fund and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this act mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011.

	APPROPRIATIONS Available for the Year Ending June 30	
	2010	**2011**
Sec. 2. **OUTDOOR HERITAGE**		
Subdivision 1. **Total Appropriation**	**$ 69,522,000**	**$ -0-**

This appropriation is from the outdoor heritage fund.

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Prairies**	14,213,000	-0-

(a) **Accelerated Prairie and Grassland Management**

$1,700,000 in fiscal year 2010 is to the commissioner of natural resources to accelerate the restoration and enhancement of native prairie vegetation on public lands, including roadsides. A list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan.

(b) **Green Corridor Legacy Program**

$1,617,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Southwest Initiative Foundation to acquire land in Redwood County to be added to the state outdoor recreation system. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition. No more than five percent of this appropriation may be spent on professional services directly related to this appropriation's purposes.

(c) **Prairie Heritage Fund – Acquisition and Restoration**

$3,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire and restore land to be added to the state wildlife management area system. A list of proposed fee title acquisitions and a list of proposed restoration projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition.

(d) **Accelerated Prairie Grassland Wildlife Management Area Acquisition**

$3,913,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas with native prairie or grassland habitats. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

(e) **Northern Tall Grass Prairie National Wildlife Refuge Protection**

$1,583,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the United States Fish and Wildlife Service to acquire land or permanent easements within the Northern Tall Grass Prairie Habitat Preservation Area in western Minnesota. The commissioner may advance funds to the United States Fish and Wildlife Service. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan.

(f) **Bluffland Prairie Protection Initiative**

$500,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Minnesota Land Trust to acquire permanent easements protecting critical prairie and grassland habitats in the blufflands in southeastern Minnesota. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan.

(g) **Rum River – Cedar Creek Initiative**

$1,900,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Anoka County to acquire land at the confluence of the Rum River and Cedar Creek in Anoka County. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. This is the first of two planned appropriations for this acquisition.

Subd. 3. **Forests**	20,000,000	-0-

$20,000,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land or permanent working forest easements on private forests in areas identified through the state forest for the future program. Priority must be given to acquiring land or interests in private lands within existing Minnesota state forest boundaries. Any easements acquired must have a forest management plan as described in Minnesota Statutes, section 290C.02, subdivision 7. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan. The appropriation is available for closings taking place after April 30, 2010. This is the first of two planned appropriations for this program.

Subd. 4. **Wetlands**	20,836,000	-0-

(a) **Accelerated Wildlife Management Area Acquisition**

$2,900,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

(b) **Accelerated Shallow Lake Restorations and Enhancements**

$2,528,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. to restore and enhance shallow lake habitats. Up to $400,000 of this appropriation may be used for permanent easements related to shallow lake restorations and enhancements. A list of proposed easements and projects, describing the types and locations of easements, restorations, and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each easement, restoration, and enhancement.

(c) **Accelerate the Waterfowl Production Area Program in Minnesota**

$5,600,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire and restore wetland and related upland habitats, in cooperation with the United States Fish and Wildlife Service and Ducks Unlimited, Inc., to be managed as waterfowl production areas. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

(d) **Reinvest in Minnesota Wetlands Reserve Program Acquisition and Restoration**

$9,058,000 in fiscal year 2010 is to the Board of Water and Soil Resources to acquire permanent easements and restore wetlands and associated uplands in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

(e) **Shallow Lake Critical Shoreland**

$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. to protect habitat by acquiring land associated with shallow lakes. A list of proposed acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition.

Subd. 5. **Fish, Game, and Wildlife Habitat**	13,903,000	-0-

(a) **Outdoor Heritage Conservation Partners Grant Program**

$4,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the National Fish and Wildlife Foundation to provide competitive, matching grants of up to $400,000 to local, regional, state, and national organizations, including government, for enhancement, restoration, or protection of forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. The funds may be advanced in three equal sums, on or after November 1, 2009, February 1, 2010, and April 1, 2010. Grantees may protect land through acquisition of land or interests in land. Easements must be permanent. Land acquired in fee must be open to hunting and fishing during the open season unless otherwise provided by state law. The commissioner of natural resources must agree to each proposed acquisition of land or interest in land. The program shall require a match of at least $1 nonstate funds to $10 state funds. Nonstate dollars match may be in-kind. The criteria for evaluating grant applications must include amount of habitat restored, enhanced, or protected; local support; degree of collaboration; urgency; multiple benefits; habitat benefits provided; consistency with sound conservation science; adjacency to protected lands; full funding of the project; supplementing existing funding; public access for hunting and fishing during the open season; sustainability; and use of native plant materials. All projects must conform to the Minnesota statewide conservation and preservation plan. Wildlife habitat projects must also conform to the state wildlife action plan. All restoration or enhancement projects must be on land permanently protected by conservation easement or public ownership. No more than four of the members of the Lessard Outdoor Heritage Council may be selected to sit on any advising panel developed by the National Fish and Wildlife Foundation. The program must be open for application year-round and grants must be evaluated and granted at least every three months. Up to six percent of this appropriation is available for grant program management expenses, including indirect expenses related to this grant program, of the National Fish and Wildlife Foundation. The National Fish and Wildlife Foundation's administration and management must be consistent with Minnesota Statutes, sections 16B.97 and 16B.98, and policies adopted thereunder by the Department of Administration, Office of Grants Management. Subdivision 10 applies to grants awarded under this paragraph. This appropriation is available until June 30, 2013, at which time all grant projects must be completed and final products delivered, unless an earlier date is specified in the grant agreement. No less than 15 percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report in the form prescribed by and satisfactory to the Lessard Outdoor Heritage Council.

(b) **Aquatic Management Area Acquisition**

$5,748,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land in fee title and easement to be added to the state aquatic management area system. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan.

(c) **Cold Water River and Stream Restoration, Protection, and Enhancement**

$2,050,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Trout Unlimited to restore, enhance, and protect cold water river and stream habitats in Minnesota. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition, restoration, and enhancement.

(d) **Dakota County Habitat Protection**

$1,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Dakota County for acquisition of permanent easements. A list of proposed acquisitions must be provided as part of the required accomplishment plan.

(e) **Lake Rebecca Water Quality Improvement Project**

$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Three Rivers Park District to improve the water quality in Lake Rebecca in Lake Rebecca Park Reserve in Hennepin County. A description of the activities to enhance fish habitat in Lake Rebecca must be provided as part of the required accomplishment plan.

(f) **Fountain Lake Fish Barriers**

$655,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Shell Rock River Watershed District to construct fish barriers at three locations on Fountain Lake. Land acquisition necessary for fish barrier construction is permitted. A list of proposed projects, describing the types and locations of barriers, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed barrier.

Subd. 6. **Administration and Other**	870,000	-0-

(a) **Contract Management**

$175,000 in fiscal year 2010 is to the commissioner of natural resources for contract management, in fiscal years 2010 and 2011, for duties assigned in this section.

(b) **Legislative Coordinating Commission**

$695,000 in fiscal year 2010 is to the Legislative Coordinating Commission for administrative expenses of the Lessard Outdoor Heritage Council and for compensation and expense reimbursement of council members. Up to $100,000 may be transferred to the game and fish fund as reimbursement for advances to the Lessard Outdoor Heritage Council made in fiscal year 2009.

(c) **Lessard Outdoor Heritage Council Site Visit Exception**

Travel to and from site visits by council members paid for under paragraph (b) are not meetings of the council for the purpose of receiving information under Minnesota Statutes, section 97A.056, subdivision 5.

Subd. 7. **Availability of Appropriation**

Unless otherwise provided, the amounts in this section are available until June 30, 2011, when projects must be completed and final accomplishments reported. For acquisition of an interest in real property, the amounts in this section are available until June 30, 2012. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

Subd. 8. **Cash Advances**

When the operations of the outdoor heritage fund would be impeded by projected cash deficiencies resulting from delays in the receipt of dedicated income, and when the deficiencies would be corrected within fiscal year 2010, the commissioner of finance may use fund-level cash reserves to meet cash demands of the outdoor heritage fund. If funds are transferred from the general fund to meet cash flow needs, the cash flow transfers must be returned to the general fund as soon as sufficient cash balances are available in the outdoor heritage fund. Any interest earned on general fund cash flow transfers accrues to the general fund and not to the outdoor heritage fund.

Subd. 9. **Accomplishment Plans**

It is a condition of acceptance of the appropriations made by this section that the agency or entity using the appropriation shall submit to the council an accomplishment plan and periodic accomplishment reports in the form determined by the Lessard Outdoor Heritage Council. The accomplishment plan must account for the use of the appropriation and outcomes of the expenditure in measures of wetlands, prairies, forests, and fish, game, and wildlife habitat restored, protected, and enhanced. The plan must include evaluation of results. None of the money provided in this section may be expended unless the council has approved the pertinent accomplishment plan.

Subd. 10. **Project Requirements**

(a) As a condition of accepting an appropriation in this section, any agency or entity receiving an appropriation must, for any project funded in whole or in part with funds from the appropriation:

(1) plant vegetation or sow seed only of native ecotypes to Minnesota and preferably of the local ecotype using a high diversity of species grown as close to the restoration site as possible, if the planting of vegetation or sowing of seed is a component of the accomplishment plan;

(2) provide that all easements:

(i) are permanent;

(ii) specify the parties to an easement in the easement;

(iii) specify all of the provisions of an agreement that are permanent;

(iv) are sent to the office of the Lessard Outdoor Heritage Council; and

(v) include a long-term stewardship plan and funding for monitoring and enforcing the easement agreement;

(3) for all restorations, prepare an ecological restoration and management plan that, to the degree practicable, is consistent with the highest quality conservation and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success of the restoration projects. The plan shall include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use the best available science to achieve the best restoration;

(4) for new lands acquired, prepare a restoration and management plan in compliance with clause (3), including identification of sufficient funding for implementation;

(5) to ensure public accountability for the use of public funds, provide to the Lessard Outdoor Heritage Council documentation of the selection process used to identify parcels acquired and provide documentation of all related transaction costs, including but not limited to appraisals, legal fees,

recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient shall also report to the Lessard Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13;

(6) provide that all restoration and enhancement projects are on land permanently protected by conservation easement or public ownership; and

(7) give consideration to contracting with the Minnesota Conservation Corps for contract restoration and enhancement services.

(b) The Lessard Outdoor Heritage Council may waive the application of paragraph (a), clause (5), for specific projects.

Subd. 11. **Payment Conditions and Capital Equipment Expenditures**

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Payments for reimbursement may not be made before November 1, 2009. Notwithstanding Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2009, are eligible for reimbursement unless otherwise provided in this section. Periodic payment must be made upon receiving documentation that the deliverable items articulated in the approved accomplishment plan have been achieved, including partial achievements as evidenced by approved progress reports. Reasonable amounts may be advanced to projects to accommodate cash flow needs or to match federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures in excess of $10,000 must be approved as part of the accomplishment plan.

Subd. 12. **Purchase of Recycled and Recyclable Materials**

A political subdivision, public or private corporation, or other entity that receives an appropriation in this section must use the appropriation in compliance with Minnesota Statutes, sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

Subd. 13. **Accessibility**

Structural and nonstructural facilities must meet the design standards in the Americans with Disabilities Act (ADA) accessibility guidelines.

Subd. 14. **Land Acquisition Restrictions**

(a) An interest in real property, including but not limited to an easement or fee title, that is acquired with money appropriated under this section must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

(b) A recipient of funding who acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard Outdoor Heritage Council or its successor. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard Outdoor Heritage Council or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to the state."

Subd. 15. **Real Property Interest Report**

By December 1 each year, a recipient of money appropriated under this section that is used for the acquisition of an interest in real property, including but not limited to an easement or fee title, must submit annual reports on the status of the real property to the Lessard Outdoor Heritage Council or its successor in a form determined by the council. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

(1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;

(2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 14; and

(3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred. Before the transfer, the entity receiving the transfer of property must certify to the Lessard Outdoor Heritage Council, or its successor, acceptance of all obligations and responsibilities held by the prior owner.

After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.