A bill for an act

relating to the permanent school fund; creating an independent authority to manage, supervise, and administer Minnesota's permanent school trust lands; amending Minnesota Statutes 2010, sections 16A.06, subdivision 11; 16A.125, subdivision 5; 84.027, subdivision 18; 84.085, subdivision 1; 92.12, subdivision 1; 92.121; 92.13; 93.2236; 94.342, subdivision 5; proposing coding for new law as Minnesota Statutes, chapter 128E.

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

Section 1. Minnesota Statutes 2010, section 16A.06, subdivision 11, is amended to read:

Subd. 11. **Permanent school fund reporting.** The commissioner shall annually report to the Board of Trustees of the Permanent School Trust Lands Administration, the Permanent School Fund Advisory Committee, and the legislature the amount of the permanent school fund transfer and information about the investment of the permanent school fund provided by the State Board of Investment. The State Board of Investment shall provide information about how they maximized the long-term economic return of the permanent school fund.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 2. Minnesota Statutes 2010, section 16A.125, subdivision 5, is amended to read:

Subd. 5. **Forest trust lands.** (a) The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the Constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

(b) The commissioner of management and budget shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

(c) After a fiscal year, the commissioner of management and budget shall certify the total costs incurred for forestry during that year under appropriations for the protection, improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands. The certificate must specify the trust funds interested in the lands. The commissioner of natural resources and the director of the Permanent School Trust Lands Administration shall supply the commissioner of management and budget with the information needed for the certificate.

(d) After a fiscal year, the commissioner shall apportion the receipts and distribute the receipts credited to the suspense account during that fiscal year as follows:

(1) the amount of the certified costs incurred by the ~~state~~ Department of Natural Resources for forest management, forest improvement, and road improvement during the fiscal year shall be transferred to the forest management investment account established under section 89.039, and the portion of the certified costs incurred by the Permanent School Trust Lands Administration must be transferred to that agency's investment account;

(2) the balance of the certified costs incurred by the ~~state~~ Department of Natural Resources during the fiscal year shall be transferred to the general fund; and

(3) the balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 3. Minnesota Statutes 2010, section 84.027, subdivision 18, is amended to read:

Subd. 18. **Permanent school fund authority; reporting.** The ~~commissioner of natural resources~~ director of the Permanent School Trust Lands Administration has the authority and responsibility for the administration of school trust lands under sections 92.121 and 127A.31. The ~~commissioner~~ director shall biannually report to the Permanent School Fund Advisory Committee and the legislature on the management of the school trust lands that shows how the ~~commissioner~~ director has and will continue to achieve the following goals:

(1) manage the school trust lands efficiently;

(2) reduce the management expenditures of school trust lands and maximize the revenues deposited in the permanent school trust fund;

(3) manage the sale, exchange, and commercial leasing of school trust lands to maximize the revenues deposited in the permanent school trust fund and retain the value from the long-term appreciation of the school trust lands; and

(4) manage the school trust lands to maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 4. Minnesota Statutes 2010, section 84.085, subdivision 1, is amended to read:

Subdivision 1. **Authority.** (a) The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) When the commissioner of natural resources accepts lands or interests in land, the commissioner may reimburse the donor for costs incurred to obtain an appraisal needed for tax reporting purposes. If the state pays the donor for a portion of the value of the lands or interests in lands that are donated, the reimbursement for appraisal costs shall not exceed $1,500. If the donor receives no payment from the state for the lands or interests in lands that are donated, the reimbursement for appraisal costs shall not exceed $5,000.

(c) The commissioner of natural resources, on behalf of the state, may accept and use grants of money or property from the United States or other grantors for conservation purposes not inconsistent with the laws of this state. Any money or property so received is hereby appropriated and dedicated for the purposes for which it is granted, and shall be expended or used solely for such purposes in accordance with the federal laws and regulations pertaining thereto, subject to applicable state laws and rules as to manner of expenditure or use providing that the commissioner may make subgrants of any money received to other agencies, units of local government, private individuals, private organizations, and private nonprofit corporations. Appropriate funds and accounts shall be maintained by the commissioner of management and budget to secure compliance with this section.

~~(d) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 127A.31.~~

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 5. Minnesota Statutes 2010, section 92.12, subdivision 1, is amended to read:

Subdivision 1. **Appraisers.** The director of the Permanent School Trust Lands Administration may have any school trust land appraised. The commissioner may have any ~~school trust or~~ other state lands appraised. The appraisals must be made by regularly appointed and qualified state appraisers. To be qualified, an appraiser must hold a state appraiser license issued by the Department of Commerce. The appraisal must be in conformity with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 6. Minnesota Statutes 2010, section 92.121, is amended to read:

92.121 PERMANENT SCHOOL FUND LANDS.

The director of the Permanent School Trust Lands Administration and the commissioner of natural resources shall exchange permanent school fund land as defined in the Minnesota Constitution, article XI, section 8, located in state parks, state recreation areas, wildlife management areas, scientific and natural areas, or state waysides or on lands managed by the commissioner as old growth stands, for other lands as allowed by the Minnesota Constitution, article XI, section 10, and section 94.343, subdivision 1, that are compatible with the goal of the permanent school fund lands in section 127A.31 when, as a result of management practices applied to the permanent school fund lands and associated resources, revenue generation has been diminished or is prohibited and no alternative has been put into effect to compensate the permanent school fund for the income losses.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 7. Minnesota Statutes 2010, section 92.13, is amended to read:

92.13 STATE LANDS, DATE OF SALE.

The commissioner shall hold public sales of ~~school and other~~ state lands other than school trust lands when it is advantageous to the state and to intending buyers and settlers.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 8. Minnesota Statutes 2010, section 93.2236, is amended to read:

93.2236 MINERALS MANAGEMENT ACCOUNT.

(a) The minerals management account is created as an account in the natural resources fund. Interest earned on money in the account accrues to the account. Money in the account may be spent or distributed only as provided in paragraphs (b) and (c).

(b) If the balance in the minerals management account exceeds $3,000,000 on June 30, the amount exceeding $3,000,000 must be distributed to the permanent school fund and the permanent university fund. The amount distributed to each fund must be in the same proportion as the total mineral lease revenue received in the previous biennium from school trust lands and university lands.

(c) Subject to appropriation by the legislature, and approval by the director of the Permanent School Trust Lands Administration, money in the minerals management account may be spent by the commissioner of natural resources for mineral resource management and projects to enhance future mineral income and promote new mineral resource opportunities.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 9. Minnesota Statutes 2010, section 94.342, subdivision 5, is amended to read:

Subd. 5. **Additional restrictions on school trust land.** School trust land may be exchanged with other Class A land only if the ~~Permanent School Fund Advisory Committee is appointed as temporary~~ Board of Trustees of the Permanent School Trust Lands Administration is serving as trustee of the school trust land for purposes of the exchange. The ~~committee~~ board shall provide independent legal counsel to review the exchanges.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 10. **[128E.01] CITATION; PERMANENT SCHOOL TRUST LANDS ADMINISTRATION ACT.**

This chapter may be cited as the Permanent School Trust Lands Administration Act.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 11. **[128E.02] POLICY AND PURPOSE.**

(a) The purpose of this chapter is to establish an administration and board to manage Minnesota's school trust lands in accordance with the provisions of the Minnesota Constitution, article XI, section 8.

(b) As trustee, the state must manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose

inconsistent with the best interests of the trust beneficiaries as defined in the Minnesota Constitution, article XI, section 8.

(c) The trustee must be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short-term and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.

(d) This chapter shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 12. **[128E.03] DEFINITIONS.**

Subdivision 1. **Administration.** "Administration" means the Permanent School Trust Lands Administration.

Subd. 2. **Board.** "Board" or "board of trustees" means the Permanent School Trust Lands Board of Trustees.

Subd. 3. **Director.** "Director" or "director of the Permanent School Trust Lands Administration" means the chief executive officer of the Permanent School Trust Lands Administration.

Subd. 4. **School trust land.** "School trust land" means land granted by the United States for use of schools within each township, swampland granted to the state, and internal improvement land that are reserved for permanent school fund purposes under the Minnesota Constitution, article XI, section 8, and land exchanged, purchased, or granted for the benefit of the permanent school fund.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 13. **[128E.04] GOVERNANCE.**

Subdivision 1. **Establishment.** The Permanent School Trust Lands Administration is established. The Permanent School Trust Lands Administration is located within the Department of Natural Resources for administrative purposes. The commissioner of natural resources shall provide office space for the administration. The commissioner of natural resources shall provide human resources, payroll, accounting, procurement, and other similar administrative services to the administration, except to the extent the administration decides to obtain these services from another state agency that provides services to small agencies.

Subd. 2. **Management.** (a) The Permanent School Trust Lands Administration shall manage all school trust lands within the state. The administration is managed by a director appointed by a majority vote of the board of trustees. The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The Board of Trustees may enter into an agreement with the commissioner of natural resources for administration and management of trust lands. This agreement must specify the services that the Department of Natural Resources will provide to the administration and the fees the department will charge for providing these services. If the administration and the commissioner of natural resources cannot reach an agreement satisfactory to both parties, the administration may contract with an outside entity for these services.

(c) If, after July 1, 2013, the administration determines that receiving administrative and management services from the commissioner of natural resources is not the best way to manage lands in the most prudent and profitable manner, the board may move these services to another agency.

Subd. 3. **Joint ventures.** The Permanent School Trust Lands Administration, upon approval of the board of trustees, may enter into joint ventures to develop trust lands and minerals.

Subd. 4. **Board of trustees membership; nomination list; qualifications; terms; replacement; chair.** (a) There is established the Permanent School Trust Lands Board of Trustees.

(b) The board shall consist of seven members appointed by the governor with the consent of the senate for six-year terms. Of the initial appointments to the board, the governor shall appoint one member to serve a six-year term, one member to serve a five-year term, one member to serve a four-year term, one member to serve a three-year term, one member to serve a two-year term, and one member to serve a one-year term. All subsequent appointments shall be for a term of six years, except that if a vacancy occurs, the governor shall appoint a replacement to fill the unexpired term.

(c) The governor shall select six of the seven appointees to the board from a nomination list of at least two candidates for each position or vacancy submitted according to subdivision 5. The governor may request an additional nomination list of at least two candidates from the nominating committee if the initial list of candidates for a given position is unacceptable.

(d) The governor may appoint one member without requiring a nomination list. This member serves a six-year term, but may be removed at the pleasure of the governor. The initial member appointed under this paragraph serves a six-year term.

(e) Each board member must possess outstanding professional qualifications pertinent to the purposes and activities of the trust. Qualifications which are pertinent include: renewable and nonrenewable resource management or development, real estate, business, finance, trust administration, asset management, and the practice of law in the areas of natural resources or real estate.

(f) The board of trustees shall select a chair from its membership. The governor or five board members may, for cause, remove a member of the board.

(h) Compensation and reimbursement of expenses for members of the board of trustees is as provided in section 15.0575.

(i) Board members are "public officials" for purposes of chapter 10A.

Subd. 5. **Board of trustees nominating committee.** The Board of Trustees Nominating Committee consists of 12 members. Six members must be appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate. Six members must be appointed by the speaker of the house. A legislator may not be a member of the committee. Appointing authorities must attempt to appoint members who are knowledgeable about school trust funds issues. Geographical representation must be taken into consideration when making appointments. Membership terms, compensation, and removal of the members are governed by section 15.0575. The nominating committee is subject to the open meeting law under chapter 13D.

Subd. 6. **Information to board.** Board members shall be given access to all administration records and personnel consistent with law and as necessary to permit the board to accomplish its responsibilities to ensure that the administration is in full compliance with applicable policies and law.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 14. **[128E.05] POLICIES.**

Subdivision 1. **Management.** The board shall establish policies for the management of the Permanent School Trust Lands Administration. The policies shall:

(1) be consistent with the Minnesota Constitution and state law;

(2) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

(3) require the return of not less than fair market value for the use, sale, or exchange of school trust assets;

(4) seek to optimize trust land revenues and increase the value of trust land holdings consistent with the balancing of short-term and long-term interests, so that long-term benefits are not lost in an effort to maximize short-term gains; and

(5) maintain the integrity of the trust and prevent the misapplication of its lands and its revenues.

Subd. 2. **Duties.** The board and the director shall recommend to the governor and the legislature any necessary or desirable changes in statutes relating to the trust or their trust responsibilities. The board shall develop policies for the long-term benefit of the trust utilizing the broad discretion and power granted to it in this chapter. The board is subject to the open meeting law under chapter 13D.

Subd. 3. **Policies continued unless changed.** Policies adopted by the Department of Natural Resources prior to the effective date of this act regarding school trust lands shall remain in effect until amended or repealed by the board. The administration shall be the named party in substitution of the Department of Natural Resources or its predecessor agencies with respect to all documents affecting trust lands from the effective date of this act.

Subd. 4. **Accept land and property.** The board may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 127A.31.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 15. **[128E.06] DIRECTOR.**

Subdivision 1. **Term.** The board shall select the director on the basis of outstanding professional qualifications pertinent to the purposes and activities of the trust. The director serves in the unclassified service at the pleasure of the board.

Subd. 2. **Compensation.** The board shall establish the compensation of the director and annually report the director's compensation to the legislature. The compensation and performance of the director shall be examined each year as part of the board's budget review process. The director's compensation is subject to approval under section 3.855.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 16. **[128E.07] RESPONSIBILITIES OF DIRECTOR.**

Subdivision 1. **Duties and budget review.** In carrying out the policies of the board of trustees and in establishing procedures and rules, the director shall:

(1) take an oath of office before assuming any duties as the director;

(2) adopt procedures necessary for the proper administration of matters entrusted to the director by state law and board policy;

(3) faithfully manage the administration under the policies established by the board;

(4) submit to the board and for public inspection an annual management budget and financial plan for operations of the administration and, after approval by the board, submit the budget to the governor;

(5) direct and control the budget expenditures as finally authorized and appropriated;

(6) establish job descriptions and employ, within the limitation of the budget, staff necessary to accomplish the purposes of the office;

(7) maintain appropriate records of trust activities to enable the legislative auditor to conduct periodic audits of trust activities;

(8) provide that all leases, contracts, and agreements be submitted to legal counsel for review of compliance with applicable law and fiduciary duties prior to execution and utilize the services of the attorney general as provided in section 128E.08;

(9) keep the board, beneficiaries, governor, legislature, and the public informed about the work of the director and administration by reporting to the board in a public meeting at least once during each calendar quarter; and

(10) respond in writing within a reasonable time to a request by the board for responses to questions on policies and practices affecting the management of the trust.

Subd. 2. **Additional responsibilities.** The director may:

(1) contract with other public agencies for personnel management services; and

(2) with the approval of the board, enter into joint ventures and other business arrangements consistent with the purposes of the trust.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 17. **[128E.08] ATTORNEY GENERAL; CAUSE OF ACTION.**

(a) The attorney general shall: represent the board, director, or administration in any legal action relating to trust lands; review leases, contracts, and agreements submitted for review prior to execution; and undertake suits for the collection of royalties, rental, and other damages in the name of the state.

(b) The attorney general may institute actions against any party to enforce this chapter or to protect the interests of the trust beneficiaries.

(c) The trust beneficiaries specified in the Minnesota Constitution, article XI, section 8, may bring an action against the board of trustees to ensure that the board of trustees faithfully fulfills the board's obligations to the trust beneficiaries.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 18. **[128E.09] LAND EXCHANGE.**

The director of the Permanent School Trust Lands Administration may enter into land exchange agreements with the commissioner of natural resources according to the provisions of section 92.121.

Sec. 19. **[128E.10] FOREST AND MINERALS MANAGEMENT.**

Subdivision 1. **Control.** All forest and minerals management on school trust lands is vested with the board of the Permanent School Trust Lands Administration according to the provisions of this chapter.

Subd. 2. **May contract.** The administration may contract with any public or private entity to make improvements to or upon trust lands and to carry out any of the responsibilities of the office, so long as the contract requires strict adherence to trust management principles and applicable law.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 20. **TRANSFER OF STAFF AND ASSETS AND BUDGET RESPONSIBILITY.**

Unless otherwise provided by statute, the responsibilities of the Department of Natural Resources and any other state agency with respect to the permanent school fund lands are transferred to the Permanent School Trust Lands Administration effective July 1, 2013.

EFFECTIVE DATE. This section is effective July 1, 2013.