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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2244

02/13/2012 Authored by O'Driscoll, Dittrich, Persell, Erickson, Kiel and others

The bill was read for the first time and referred to the Committee on Education Finance

02/22/2012 Adoption of Report: Pass as Amended and re-referred to Environment, Energy and Natural Resources Policy and Finance

02/23/2012 Adoption of Report: Pass and re-referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to the permanent school fund; changing the Permanent School Fund
1.3 Advisory Committee into a legislative commission; granting the commission
1.4 authority to employ a director to oversee, manage, and administer school
1.5 trust lands; amending Minnesota Statutes 2010, sections 16A.06, subdivision
1.6 11; 16A.125, subdivision 5; 84.027, subdivision 18; 84.085, subdivision 1;
1.7 92.12, subdivision 1; 92.121; 92.13; 93.2236; 94.342, subdivision 5; 127A.30;
1.8 proposing coding for new law in Minnesota Statutes, chapter 127A.

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

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

1.11 Subd. 11. **Permanent school fund reporting.** The commissioner shall annually
1.12 report to the Legislative Permanent School Fund Advisory Committee Commission, and
1.13 the legislature the amount of the permanent school fund transfer and information about
1.14 the investment of the permanent school fund provided by the State Board of Investment.
1.15 The State Board of Investment shall provide information about how they maximized the
1.16 long-term economic return of the permanent school fund.

1.17 **EFFECTIVE DATE.** This section is effective July 1, 2014.

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

1.19 Subd. 5. **Forest trust lands.** (a) The term "state forest trust fund lands" as used
1.20 in this subdivision, means public land in trust under the Constitution set apart as "forest
1.21 lands under the authority of the commissioner" of natural resources as defined by section
1.22 89.001, subdivision 13, but excludes school trust lands as defined in section 92.025.

1.23 (b) The commissioner of management and budget shall credit the revenue from the
1.24 forest trust fund lands, excluding school trust lands defined under section 92.025, 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 shall supply the commissioner of management and budget with the information needed for the certificate.

(d) After a fiscal year, the commissioner shall 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;

(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, 2014.

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 trust lands and mineral assets 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 Legislative Permanent School Fund Advisory Committee Commission 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, 2014.

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, 2014.

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

Subdivision 1. **Appraisers.** The director of trust lands and mineral assets 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, 2014.

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

92.121 PERMANENT SCHOOL FUND LANDS.

The director of trust lands and mineral assets 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, 2014.

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, 2014.

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, 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.

(d) Beginning July 1, 2014, no revenue from school trust lands, including revenue from severed minerals interests, shall be deposited in the minerals management account.

EFFECTIVE DATE. This section is effective July 1, 2014.

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~~ director of trust lands and mineral assets is serving as trustee of the school trust land for purposes of the exchange. The ~~committee~~ director shall provide independent legal counsel to review the exchanges.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 10. Minnesota Statutes 2010, section 127A.30, is amended to read:

127A.30 LEGISLATIVE PERMANENT SCHOOL FUND ADVISORY COMMITTEE COMMISSION.

Subdivision 1. **Commission established; membership.** ~~A state~~ (a) The Legislative Permanent School Fund Advisory Committee Commission of 12 members is established to advise the Department of Natural Resources on the management of permanent school fund land, which is held in trust for the school districts of the state in the legislative branch. The advisory committee must consist commission consists of the following persons ~~or their designees: the chairs of the education committees of the legislature, the chairs of the legislative committees with jurisdiction over the K-12 education budget, the chairs of the legislative committees with jurisdiction over the environment and natural resources policy and budget, the chair of the senate Committee on Finance and the chair of the house of representatives Committee on Ways and Means, the commissioner of education, one superintendent from a nonmetropolitan district, one superintendent from a~~

~~metropolitan area district, one person with an expertise in forestry, one person with an expertise in minerals and mining, one person with an expertise in real estate development, one person with an expertise in renewable energy, one person with an expertise in finance and land management, and one person with an expertise in natural resource conservation. The school district superintendents shall be appointed by the commissioner of education. The committee members with areas of expertise in forestry, minerals and mining, real estate development, renewable energy, finance and land management, and natural resource conservation shall be appointed by the commissioner of natural resources. Members of the legislature shall be given the opportunity to recommend candidates for vacancies on the committee to the commissioners of education and natural resources. The advisory committee must also include a nonvoting member appointed by the commissioner of natural resources. The commissioner of natural resources shall provide administrative support to the committee. The members of the committee shall serve without compensation. The members of the Permanent School Fund Advisory Committee shall elect their chair and are bound by the provisions of sections 43A.38 and 116P.09, subdivision 6.~~

(1) six members of the senate, including three members from the majority party and three members from the minority party, appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration; and

(2) six members of the house of representatives, including three majority party members appointed by the speaker of the house and three minority party members appointed by the minority leader.

(b) Appointed legislative members serve at the pleasure of the appointing authority and continue to serve until their successors are appointed.

(c) The first meeting of the commission shall be convened by the chair of the Legislative Coordinating Commission no later than December 1, 2014. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the commission. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

(d) Upon coordination with the Legislative Coordinating Commission, the commission may appoint nonpartisan staff, including a director of trust lands and mineral assets, and contract with consultants as necessary to carry out the functions of the commission.

Subd. 2. **Duties.** ~~The advisory committee~~ commission shall review ~~the policies of the Department of Natural Resources and~~ current statutes on management of school trust fund lands at least annually and shall recommend necessary changes in statutes, policy, and implementation in order to ensure provident utilization of the permanent school fund

lands. By January 15 of each year, the ~~advisory committee~~ commission shall submit a report to the legislature with recommendations for the management of school trust lands to secure long-term economic return for the permanent school fund, consistent with sections 92.121 and 127A.31. The ~~committee's~~ commission's annual report may include recommendations to:

- (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; and
- (5) make recommendations concerning the asset allocation of the school endowment fund.

~~Subd. 3. **Duration.** Notwithstanding section 15.059, subdivision 5, the advisory committee is permanent and does not expire.~~

Subd. 4. **Conflict of interest.** (a) A commission member may not be an advocate for or against a commission action or vote on any action that may be a conflict of interest. A conflict of interest must be disclosed as soon as it is discovered. The commission shall follow the policies and requirements related to conflicts of interest developed by the Office of Grants Management under section 16B.98.

(b) For the purposes of this section, a "conflict of interest" exists when a person has an organizational conflict of interest or direct financial interests and those interests present the appearance that it will be difficult for the person to impartially fulfill the person's duty. An "organizational conflict of interest" exists when a person has an affiliation with an organization that is subject to commission activities, which presents the appearance of a conflict between organizational interests and commission member duties. An "organizational conflict of interest" does not exist if the person's only affiliation with an organization is being a member of the organization.

Subd. 5. **Open meetings.** (a) Meetings of the commission and other groups the commission may establish are subject to chapter 13D. Except where prohibited by law, the commission shall establish additional processes to broaden public involvement in all aspects of its deliberations, including recording meetings, video conferencing, and publishing minutes. For the purposes of this subdivision, a meeting occurs when a

quorum is present and the members receive information or take action on any matter relating to the duties of the commission. The quorum requirement for the commission shall be seven members.

(b) Travel to and from scheduled and publicly noticed site visits by commission members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a).

(c) Enforcement of this subdivision is governed by section 3.055, subdivision 2.

Subd. 6. **Director of trust lands and mineral assets.** The director of trust lands and mineral assets must be appointed according to subdivision 1, paragraph (d). The Legislative Coordinating Commission shall provide office space for the director and shall provide human resources, payroll, accounting, procurement, and other similar administrative services to the director, except to the extent the director decides to obtain these services from another public or private entity.

Subd. 7. **School trust lands suspense account.** A school trust lands suspense account is established in the state treasury. The director shall credit all revenue from the school trust lands to the school trust lands suspense account. After a fiscal year, the director shall certify that year's costs for oversight, protection, improvement, administration, and management of school trust lands against the account and distribute the balance of the revenue to the school trust fund endowment.

EFFECTIVE DATE. This section is effective July 1, 2014.

Sec. 11. **[127A.3011] POLICY AND PURPOSE.**

(a) The purpose of sections 127A.3011 to 127A.3019 is to establish a director to oversee, manage, and administer 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) Sections 127A.3011 to 127A.3019 shall be liberally construed to enable the director and the commission to faithfully fulfill the state's obligations to the trust beneficiaries.

9.1 **EFFECTIVE DATE.** This section is effective July 1, 2014.

9.2 Sec. 12. **[127A.3012] DEFINITIONS.**

9.3 Subdivision 1. **Scope.** For purposes of sections 127A.3011 to 127A.3019, the
9.4 definitions have the meanings given.

9.5 Subd. 2. **Commission.** "Commission" means the Legislative Permanent School
9.6 Fund Commission.

9.7 Subd. 3. **Director.** "Director" means the director of trust lands and mineral assets.

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

9.13 **EFFECTIVE DATE.** This section is effective July 1, 2014.

9.14 Sec. 13. **[127A.3013] GOVERNANCE.**

9.15 Subdivision 1. **Management.** (a) The director shall manage all school trust lands
9.16 within the state. The Legislative Permanent School Fund Commission shall provide
9.17 policies for the director and for the management of trust lands and assets.

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

9.24 (c) If, after July 1, 2014, the director determines that receiving administrative and
9.25 management services from the commissioner of natural resources is not the best way to
9.26 manage lands in the most prudent and profitable manner, the director may move these
9.27 services to another agency or outside entity.

9.28 Subd. 2. **Joint ventures.** The director, upon approval of the Legislative Permanent
9.29 School Fund Commission, may enter into joint ventures to develop trust lands and
9.30 minerals.

9.31 **EFFECTIVE DATE.** This section is effective July 1, 2014.

9.32 Sec. 14. **[127A.3014] POLICIES.**

10.1 Subdivision 1. **Management.** The commission shall establish policies for the
10.2 director of trust lands and mineral assets. The policies shall:

- 10.3 (1) be consistent with the Minnesota Constitution and state law;
10.4 (2) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;
10.5 (3) require the return of not less than fair market value for the use, sale, or exchange
10.6 of school trust assets;
10.7 (4) seek to optimize trust land revenues and increase the value of trust land holdings
10.8 consistent with the balancing of short-term and long-term interests, so that long-term
10.9 benefits are not lost in an effort to maximize short-term gains; and
10.10 (5) maintain the integrity of the trust and prevent the misapplication of its lands
10.11 and its revenues.

10.12 Subd. 2. **Duties.** The commission and the director shall recommend to the governor
10.13 and the legislature any necessary or desirable changes in statutes relating to the trust
10.14 or their trust responsibilities. The commission shall develop policies for the long-term
10.15 benefit of the trust utilizing the broad discretion and power granted to it in sections
10.16 127A.3011 to 127A.3015.

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

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

10.27 **EFFECTIVE DATE.** This section is effective July 1, 2014.

10.28 Sec. 15. **[127A.3015] DIRECTOR.**

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

10.32 Subd. 2. **Compensation.** The commission shall establish the compensation of
10.33 the director and annually report the director's compensation to the legislature. The
10.34 compensation and performance of the director shall be examined each year as part of the

11.1 commission's budget review process. The director's compensation is subject to approval
11.2 under section 3.855.

11.3 **EFFECTIVE DATE.** This section is effective July 1, 2014.

11.4 Sec. 16. **[127A.3016] RESPONSIBILITIES OF DIRECTOR.**

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

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

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

11.10 (3) faithfully manage the administration under the policies established by the
11.11 commission;

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

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

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

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

11.20 (8) provide that all leases, contracts, and agreements be submitted to legal counsel
11.21 for review of compliance with applicable law and fiduciary duties prior to execution and
11.22 utilize the services of the attorney general as provided in section 127A.3017;

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

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

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

11.29 (1) contract with other public agencies or other public or private entities for
11.30 personnel management services; and

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

11.33 **EFFECTIVE DATE.** This section is effective July 1, 2014.

12.1 Sec. 17. **[127A.3017] ATTORNEY GENERAL.**

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

12.6 **EFFECTIVE DATE.** This section is effective July 1, 2014.

12.7 Sec. 18. **[127A.3018] LAND EXCHANGE.**

12.8 The director may enter into land exchange agreements with the commissioner of
12.9 natural resources according to the provisions of section 92.121.

12.10 Sec. 19. **[127A.3019] FOREST AND MINERALS MANAGEMENT.**

12.11 Subdivision 1. **Control.** All forest and minerals management on school trust lands is
12.12 vested with the director according to the provisions of sections 127A.3011 to 127A.3019.

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

12.17 **EFFECTIVE DATE.** This section is effective July 1, 2014.

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

12.19 Unless otherwise provided by statute, the responsibilities of the Department of
12.20 Natural Resources and any other state agency with respect to the permanent school fund
12.21 lands are transferred to the director of trust lands and mineral assets effective upon
12.22 establishment of the director under Minnesota Statutes, section 127A.3015.

12.23 **EFFECTIVE DATE.** This section is effective July 1, 2014.

12.24 Sec. 21. **REVISOR'S INSTRUCTION.**

12.25 The revisor of statutes shall recode Minnesota Statutes, section 84.027, subdivision
12.26 18, as section 127.3016, subdivision 3.