

SENATE  
STATE OF MINNESOTA  
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1889

(SENATE AUTHORS: KRUSE, Bakk, Bonoff, Olson and Ingebrigtsen)

DATE	D-PG	OFFICIAL STATUS
02/15/2012	3823	Introduction and first reading Referred to Education
03/13/2012	4348a	Comm report: To pass as amended and re-refer to Environment and Natural Resources
03/19/2012	4522a	Comm report: To pass as amended and re-refer to State Government Innovation and Veterans
03/22/2012		HF substituted in committee HF2244

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; providing for an advisor

1.4

for school trust lands; amending Minnesota Statutes 2010, sections 15A.0815,

1.5

subdivision 3; 16A.06, subdivision 11; 16A.125, subdivision 5; 84.027,

1.6

subdivision 18; 94.342, subdivision 5; 127A.30; proposing coding for new law

1.7

in Minnesota Statutes, chapter 127A.

1.8

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

1.9

Section 1. Minnesota Statutes 2010, section 15A.0815, subdivision 3, is amended to

1.10

read:

1.11

Subd. 3. **Group II salary limits.** The salaries for positions in this subdivision may

1.12

not exceed 85 percent of the salary of the governor:

1.13

Executive director of Gambling Control Board;

1.14

Commissioner, Iron Range Resources and Rehabilitation Board;

1.15

Commissioner, Bureau of Mediation Services;

1.16

Ombudsman for Mental Health and Developmental Disabilities;

1.17

Chair, Metropolitan Council;

1.18

School trust lands advisor;

1.19

Executive director of pari-mutuel racing; and

1.20

Commissioner, Public Utilities Commission.

1.21

Sec. 2. Minnesota Statutes 2010, section 16A.06, subdivision 11, is amended to read:

1.22

Subd. 11. **Permanent school fund reporting.** The commissioner shall annually

1.23

report to the Legislative-Citizen Permanent School Fund ~~Advisory Committee~~

1.24

Commission, and the legislature the amount of the permanent school fund transfer and

Sec. 2.

1

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.

Sec. 3. 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. After presentation to the Legislative-Citizen Permanent School Fund Commission, the commissioner of natural resources shall supply the commissioner of management and budget with the information needed for the certificate. The certificate shall include an analysis that compares costs certified under this section with costs incurred on other public and private lands with similar land assets.

(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 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 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. 4. Minnesota Statutes 2010, section 84.027, subdivision 18, is amended to read:

Subd. 18. **Permanent school fund authority; reporting.** (a) The commissioner of natural resources has the authority and responsibility for the administration of school trust

lands under sections 92.121 and 127A.31. The commissioner shall biannually report to the ~~Permanent School Fund Advisory Committee~~ Legislative-Citizen Permanent School Fund Commission and the legislature on the management of the school trust lands that shows how the commissioner 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.

(b) When the commissioner finds an irresolvable conflict between maximizing the long-term economic return and protecting natural resources and recreational values on school trust lands, the commissioner shall give precedence to the long-term economic return in managing school trust lands. By July 1, 2016, the permanent school fund shall be compensated for all school trust lands included under a designation or policy provision that prohibits long-term economic return. Any uncompensated designation or policy provision restrictions on the long-term economic return on school trust lands is removed on July 1, 2016, and the lands shall be managed for long-term economic return to the permanent school fund.

(c) The first 2013 report required under paragraph (a) shall provide an inventory and identification of all school trust lands that are included under a designation or policy provision that prohibits long-term economic return. The report shall include a plan to compensate the permanent school fund through the purchase or exchange of the lands or a plan to manage the school trust land to generate long-term economic return to the permanent school fund. Subsequent reports under paragraph (a) shall include a status report of the commissioner's progress in maximizing the long-term economic return on lands identified in the first 2013 report.

(d) When future designations or policies prohibit the long-term economic return on school trust land, the conflict shall be resolved by compensating the permanent school fund through an exchange or purchase of the lands before designation or application of the policy.

Sec. 5. 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~~ Legislative-Citizen Permanent School Fund Commission is appointed as temporary trustee of the school trust land for purposes of the exchange. The ~~committee~~ commission shall provide independent legal counsel to review the exchanges.

Sec. 6. Minnesota Statutes 2010, section 127A.30, is amended to read:

**127A.30 LEGISLATIVE-CITIZEN PERMANENT SCHOOL FUND**  
**ADVISORY COMMITTEE COMMISSION.**

Subdivision 1. **Commission established; membership.** ~~A state (a) The~~ Legislative-Citizen Permanent School Fund Advisory Committee Commission of 16 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.~~

5.1 (1) two public members appointed by the senate Subcommittee on Committees of  
5.2 the Committee on Rules and Administration;

5.3 (2) two public members appointed by the speaker of the house;

5.4 (3) four public members appointed by the governor;

5.5 (4) four members of the senate, including two members from the minority party,  
5.6 appointed by the senate Subcommittee on Committees of the Committee on Rules and  
5.7 Administration; and

5.8 (5) four members of the house of representatives, including two members from the  
5.9 minority party, appointed by the speaker of the house.

5.10 (b) Members appointed under paragraph (a) must not be registered lobbyists. The  
5.11 governor's appointments to the commission are subject to the advice and consent of the  
5.12 senate.

5.13 (c) Public members appointed under paragraph (a) shall have practical experience or  
5.14 expertise or demonstrated knowledge in renewable or nonrenewable resource management  
5.15 or development, real estate, business, finance, trust administration, asset management, or  
5.16 the practice of law in the areas of natural resources or real estate.

5.17 (d) Public members serve four-year terms. Appointed legislative members serve  
5.18 at the pleasure of the appointing authority. Public and legislative members continue to  
5.19 serve until their successors are appointed. Public members shall be initially appointed  
5.20 according to the following schedule of terms:

5.21 (1) two public members appointed by the governor for a term ending the first  
5.22 Monday in January 2015;

5.23 (2) one public member appointed by the senate Subcommittee on Committees of the  
5.24 Committee on Rules and Administration for a term ending the first Monday in January  
5.25 2015;

5.26 (3) one public member appointed by the speaker of the house for a term ending  
5.27 the first Monday in January 2015;

5.28 (4) two public members appointed by the governor for a term ending the first  
5.29 Monday in January 2017;

5.30 (5) one public member appointed by the senate Subcommittee on Committees of the  
5.31 Committee on Rules and Administration for a term ending the first Monday in January  
5.32 2017; and

5.33 (6) one public member appointed by the speaker of the house for a term ending  
5.34 the first Monday in January 2017.

(e) Terms, compensation, and removal of public members are as provided in section 15.0575. A vacancy on the commission may be filled by the appointing authority for the remainder of the unexpired term.

(f) 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.

(g) The school trust lands advisor shall provide staffing for 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) manage the asset allocation of the permanent school 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

7.1 present the appearance that it will be difficult for the person to impartially fulfill the  
7.2 person's duty. An "organizational conflict of interest" exists when a person has an  
7.3 affiliation with an organization that is subject to commission activities, which presents  
7.4 the appearance of a conflict between organizational interests and commission member  
7.5 duties. An "organizational conflict of interest" does not exist if the person's only affiliation  
7.6 with an organization is being a member of the organization.

7.7 Subd. 5. **Open meetings.** (a) Meetings of the commission and other groups the  
7.8 commission may establish are subject to section 3.055. Except where prohibited by  
7.9 law, the commission shall establish additional processes to broaden public involvement  
7.10 in all aspects of its deliberations, including recording meetings, video conferencing,  
7.11 and publishing minutes. For the purposes of this subdivision, a meeting occurs when a  
7.12 quorum is present and the members take action on any matter relating to the duties of the  
7.13 commission. The quorum requirement for the commission shall be seven members.

7.14 (b) For legislative members of the commission, enforcement of this subdivision is  
7.15 governed by section 3.055, subdivision 2. For nonlegislative members of the commission,  
7.16 enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.

7.17 Sec. 7. **[127A.3014] POLICIES.**

7.18 Subdivision 1. **Management.** The Legislative-Citizen Permanent School Fund  
7.19 Commission shall recommend policies for the school trust lands advisor and the  
7.20 commissioner of natural resources. The policies shall:

- 7.21 (1) be consistent with the Minnesota Constitution and state law;  
7.22 (2) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;  
7.23 (3) require the return of not less than fair market value for the use, sale, or exchange  
7.24 of school trust assets;  
7.25 (4) seek to optimize trust land revenues and increase the value of trust land holdings  
7.26 consistent with the balancing of short-term and long-term interests, so that long-term  
7.27 benefits are not lost in an effort to maximize short-term gains; and  
7.28 (5) maintain the integrity of the trust and prevent the misapplication of its lands  
7.29 and its revenues.

7.30 Subd. 2. **Duties.** The commissioner of natural resources and the school trust lands  
7.31 advisor shall recommend to the governor and the legislature any necessary or desirable  
7.32 changes in statutes relating to the trust or their trust responsibilities.

7.33 Sec. 8. **[127A.3015] SCHOOL TRUST LANDS ADVISOR.**

8.1        Subdivision 1. **Appointment.** The school trust lands advisor shall be appointed by  
8.2        the governor. The commissioner of management and budget shall provide office space  
8.3        for the advisor. The commissioner shall provide human resources, payroll, accounting,  
8.4        procurement, and other similar administrative services to the advisor. The advisor's  
8.5        appointment is subject to the advice and consent of the senate.

8.6        Subd. 2. **Qualifications.** The governor shall select the advisor on the basis of  
8.7        outstanding professional qualifications and knowledge of finance, business practices,  
8.8        minerals, forest and real estate management, and the fiduciary responsibilities of the  
8.9        trustee to the beneficiaries of the trust. The advisor serves in the unclassified service.

8.10       Subd. 3. **Compensation.** Compensation of the advisor shall be established under  
8.11       chapter 15A.

8.12       Subd. 4. **Duties.** The school trust lands advisor shall advise the governor,  
8.13       commissioners of natural resources and management and budget, and the  
8.14       Legislative-Citizen Permanent School Fund Commission on the management of school  
8.15       trust lands, including:

8.16       (1) Department of Natural Resources management plans;

8.17       (2) leases;

8.18       (3) royalty agreements;

8.19       (4) land sales and exchanges;

8.20       (5) cost certifications; and

8.21       (6) revenue generation opportunities.

8.22       Subd. 5. **Cost certification.** The costs of the school trust lands advisor and the  
8.23       Legislative-Citizen Permanent School Fund Commission shall be certified under section  
8.24       16A.125.