

Aitkin County Board of Commissioners  
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: 3-1-12

Via: Patrick Wussow, County Administrator

From: Mark Jacobs, Land Commissioner

Title of Item:

General Government Legislation of Interest

Requested Meeting Date: 3-6-12 Estimated Presentation Time: \_\_\_\_\_

Presenter: Mark Jacobs, Land Commissioner

**Type of Action Requested** (check all that apply)

- For info only, no action requested
- For discussion only with possible future action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute \_\_\_\_\_
- Approve under Consent Agenda
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) \_\_\_\_\_

**Fiscal Impact** (check all that apply)

- Is this item in the current approved budget? Yes \_\_\_\_\_ No \_\_\_\_\_ (attach explanation)
- What type of expenditure is this?  Operating  Capital  Other (attach explanation)
- Revenue line account # that funds this item is: \_\_\_\_\_
- Expenditure line account # for this item is: \_\_\_\_\_

**Staffing Impact** (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected.  Yes  No
- Applicable job description(s) may require revision.  Yes  No
- Item may impact a bargaining unit agreement or county work policy.  Yes  No
- Item may change the department's authorized staffing level.  Yes  No



**Supporting Attachment(s)**

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) \_\_\_\_\_

**Provide eleven (11) copies of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. Items WILL NOT be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)**

# AITKIN COUNTY LAND DEPARTMENT

**Aitkin County Courthouse**  
209 Second Street N.W.  
Aitkin, MN 56431  
218-927-7364  
Fax: 218-927-7249

**TO: Aitkin County Board of Commissioners**

**FROM: Mark Jacobs, Land Commissioner**

**RE: General Government Legislation of Interest**

**DATE: March 1, 2012**

At last week's County Board meeting the Commissioners asked to be made aware of any legislation staff feels is important and should be discussed. I would like to discuss the following bill:

House File H.F. No. 2244 a Bill to employ a director to oversee, manage, and administer school trust lands

A print out summary of the bill and the Senate companion file number is included for your review.

Please contact me with questions.



**Minnesota State Legislature**

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 None <  > None

**HF2244 Status in House for Legislative Session 87**

Bill Name: HF2244 Companion: SF1889 Revisor Number: 12-5194  
[Bill Text](#) [Companion Text](#)  
[Companion Status](#)  
[Senate Search](#)

**House Authors** [O'Driscoll](#); [Dittrich](#); [Persell](#); [Erickson](#); [Kiel](#); [Melin](#); [McFarlane](#); [Ward](#); [Downey](#); [Bills](#); [Quam](#); [Kieffer](#); [Anderson, S.](#); [Rukavina](#); [Norton](#); [Fabian](#); [Hancock](#); [Crawford](#)

**Short Description** Permanent School Fund Advisory Committee changed into a legislative commission, and commission authority granted to employ a director to oversee, manage, and administer school trust lands.

[Long Description](#) [Further Committee Actions](#) [House Research Summary](#)

**HOUSE Actions** [SENATE Actions](#) [Top](#)

<u>Date</u>	<u>Action</u>	<u>Description / Committee</u>	<u>Text</u>	<u>Page</u>	<u>Roll Call</u>
02/13/2012	Introduction and first reading, referred to	<a href="#">Education Finance</a>	<a href="#">Intro</a>	<a href="#">5552</a>	
02/15/2012	Authors added	<a href="#">Persell, Erickson, Kiel, Melin, McFarlane, Ward, Downey, Bills, Quam, and Kieffer</a>		<a href="#">5600</a>	
02/16/2012	Authors added	<a href="#">Anderson, S., and Rukavina</a>		<a href="#">5621</a>	
02/20/2012	Author added	<a href="#">Norton</a>		<a href="#">5659</a>	
02/22/2012	Committee report, to pass as amended and re-refer to	<a href="#">Environment, Energy and Natural Resources Policy and Finance</a>		<a href="#">5670a</a>	
02/22/2012	Authors added	<a href="#">Fabian and Hancock</a>		<a href="#">5701</a>	
02/23/2012	Committee report, to pass and re-refer to	<a href="#">Government Operations and Elections</a>		<a href="#">5708</a>	
02/23/2012	Author added	<a href="#">Crawford</a>		<a href="#">5714</a>	

**SENATE Actions** [HOUSE Actions](#) [Top](#)

None.

Please direct all comments concerning issues or legislation to your [House Member](#) or [State Senator](#).

For Legislative Staff or for directions to the Capitol, visit the [Contact Us](#) page.

[General questions or comments.](#)

last updated: 01/05/2012



## Minnesota House of Representatives

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KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

[Authors and Status](#)

[List versions](#)



H.F. No. 2244, 1st Engrossment - 87th Legislative Session (2011-2012) Posted on Feb 22, 2012

- 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
- 2.1 forest suspense account. The account must specify the trust funds interested in the lands
- 2.2 and the respective receipts of the lands.
- 2.3 (c) After a fiscal year, the commissioner of management and budget shall certify the
- 2.4 total costs incurred for forestry during that year under appropriations for the protection,
- 2.5 improvement, administration, and management of state forest trust fund lands and
- 2.6 construction and improvement of forest roads to enhance the forest value of the lands.
- 2.7 The certificate must specify the trust funds interested in the lands. The commissioner of
- 2.8 natural resources shall supply the commissioner of management and budget with the
- 2.9 information needed for the certificate.
- 2.10 (d) After a fiscal year, the commissioner shall distribute the receipts credited to the
- 2.11 suspense account during that fiscal year as follows:
- 2.12 (1) the amount of the certified costs incurred by the state Department of Natural
- 2.13 Resources for forest management, forest improvement, and road improvement during the
- 2.14 fiscal year shall be transferred to the forest management investment account established
- 2.15 under section 89.039;
- 2.16 (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.

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

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

2.21

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

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

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

2.30

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

2.32 **92.121 PERMANENT SCHOOL FUND LANDS.**

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

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

3.9

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

3.11 **92.13 STATE LANDS, DATE OF SALE.**

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

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

3.15

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

3.17 **93.2236 MINERALS MANAGEMENT ACCOUNT.**

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

3.21 (b) If the balance in the minerals management account exceeds \$3,000,000 on June  
 3.22 30, the amount exceeding \$3,000,000 must be distributed to ~~the permanent school fund~~  
 3.23 ~~and the permanent university fund. The amount distributed to each fund must be in the~~  
 3.24 ~~same proportion as the total mineral lease revenue received in the previous biennium~~  
 3.25 ~~from school trust lands and university lands.~~

3.26 (c) Subject to appropriation by the legislature, money in the minerals management  
 3.27 account may be spent by the commissioner of natural resources for mineral resource  
 3.28 management and projects to enhance future mineral income and promote new mineral  
 3.29 resource opportunities.

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

3.32 **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 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.

3.33

4.1

Subd. 2. Duties. ~~The advisory committee~~ commission shall review the policies of

- 4.3 ~~the Department of Natural Resources and~~ current statutes on management of school trust  
 4.4 fund lands at least annually and shall recommend necessary changes in statutes, policy,  
 4.5 and implementation in order to ensure provident utilization of the permanent school fund  
 4.6 lands. By January 15 of each year, the ~~advisory committee~~ commission shall submit  
 4.7 a report to the legislature with recommendations for the management of school trust  
 4.8 lands to secure long-term economic return for the permanent school fund, consistent with  
 4.9 sections 92.121 and 127A.31. The ~~committee's~~ commission's annual report may include  
 4.10 recommendations to:  
 4.11 (1) manage the school trust lands efficiently;  
 4.12 (2) reduce the management expenditures of school trust lands and maximize the  
 4.13 revenues deposited in the permanent school trust fund;  
 4.14 (3) manage the sale, exchange, and commercial leasing of school trust lands to  
 4.15 maximize the revenues deposited in the permanent school trust fund and retain the value  
 4.16 from the long-term appreciation of the school trust lands; ~~and~~  
 4.17 (4) manage the school trust lands to maximize the long-term economic return for  
 4.18 the permanent school trust fund while maintaining sound natural resource conservation  
 4.19 and management principles; ~~and~~  
 4.20 (5) make recommendations concerning the asset allocation of the school endowment  
 4.21 fund.  
 4.22 ~~Subd. 3. Duration. Notwithstanding section 15.059, subdivision 5, the advisory~~  
 4.23 ~~committee is permanent and does not expire.~~  
 4.24 Subd. 4. Conflict of interest. (a) A commission member may not be an advocate  
 4.25 for or against a commission action or vote on any action that may be a conflict of interest.  
 4.26 A conflict of interest must be disclosed as soon as it is discovered. The commission shall  
 4.27 follow the policies and requirements related to conflicts of interest developed by the Office  
 4.28 of Grants Management under section 16B.98.  
 4.29 (b) For the purposes of this section, a "conflict of interest" exists when a person  
 4.30 has an organizational conflict of interest or direct financial interests and those interests  
 4.31 present the appearance that it will be difficult for the person to impartially fulfill the  
 5.1 person's duty. An "organizational conflict of interest" exists when a person has an  
 5.2 affiliation with an organization that is subject to commission activities, which presents  
 5.3 the appearance of a conflict between organizational interests and commission member  
 5.4 duties. An "organizational conflict of interest" does not exist if the person's only affiliation  
 5.5 with an organization is being a member of the organization.  
 5.6 Subd. 5. Open meetings. (a) Meetings of the commission and other groups  
 5.7 the commission may establish are subject to chapter 13D. Except where prohibited by  
 5.8 law, the commission shall establish additional processes to broaden public involvement  
 5.9 in all aspects of its deliberations, including recording meetings, video conferencing,  
 5.10 and publishing minutes. For the purposes of this subdivision, a meeting occurs when a  
 5.11 quorum is present and the members receive information or take action on any matter  
 5.12 relating to the duties of the commission. The quorum requirement for the commission  
 5.13 shall be seven members.  
 5.14 (b) Travel to and from scheduled and publicly noticed site visits by commission  
 5.15 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).  
 5.16 (c) Enforcement of this subdivision is governed by section 3.055, subdivision 2.  
 5.17 Subd. 6. Director of trust lands and mineral assets. The director of trust lands  
 5.18 and mineral assets must be appointed according to subdivision 1, paragraph (d). The  
 5.19 Legislative Coordinating Commission shall provide office space for the director and  
 5.20 shall provide human resources, payroll, accounting, procurement, and other similar  
 5.21 administrative services to the director, except to the extent the director decides to obtain  
 5.22 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.  
**EFFECTIVE DATE.** This section is effective July 1, 2014.

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

Subdivision 1. **Scope.** For purposes of sections 127A.3011 to 127A.3019, the definitions have the meanings given.  
Subd. 2. **Commission.** "Commission" means the Legislative Permanent School Fund Commission.  
Subd. 3. **Director.** "Director" means the director of trust lands and mineral assets.  
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, 2014.

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

Subdivision 1. **Management.** (a) The director shall manage all school trust lands within the state. The Legislative Permanent School Fund Commission shall provide policies for the director and for the management of trust lands and assets.  
(b) The director 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 director and the fees the department will charge for providing these services. If the director and the commissioner of natural resources cannot reach an agreement satisfactory to both parties, the director may contract with an outside entity for these services.  
(c) If, after July 1, 2014, the director 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 director may move these services to another agency or outside entity.

5.16  
5.17  
5.18

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

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

5.23

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

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

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

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

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

5.31 (4) seek to optimize trust land revenues and increase the value of trust land holdings  
 5.32 consistent with the balancing of short-term and long-term interests, so that long-term

5.33 benefits are not lost in an effort to maximize short-term gains; and

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

6.3 Subd. 2. **Duties.** The commission and the director shall recommend to the governor  
 6.4 and the legislature any necessary or desirable changes in statutes relating to the trust  
 6.5 or their trust responsibilities. The commission shall develop policies for the long-term  
 6.6 benefit of the trust utilizing the broad discretion and power granted to it in sections  
 6.7 127A.3011 to 127A.3015.

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

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

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

6.19

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

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

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

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

6.30

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

6.32 Subdivision 1. **Duties and budget review.** In carrying out the policies of the  
 6.33 commission 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 commission policy;

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

commission:

(4) submit to the commission and for public inspection an annual management budget and financial plan for operations of the administration and, after approval by the commission, 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 director's 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 127A.3017;

(9) keep the commission, beneficiaries, governor, legislature, and the public informed about the work of the director and commission by reporting to the commission 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 commission 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 or other public or private entities for personnel management services; and

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

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

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

The attorney general shall: represent the commission, 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.

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

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

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

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

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

Subd. 2. May contract. The director 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, 2014.

Sec. 20. TRANSFER OF 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 director of trust lands and mineral assets effective upon establishment of the director under Minnesota Statutes, section 127A.3015.

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

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Sec. 21. REVISOR'S INSTRUCTION.

~~7.2~~ The revisor of statutes shall recode Minnesota Statutes, section 84.027, subdivision 18, as section 127.3016, subdivision 3.

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7.5 Please direct all comments concerning issues or legislation  
7.6 to your House Member or State Senator.

7.7 For Legislative Staff or for directions to the Capitol, visit the Contact Us page.

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7.9 General questions or comments.

7.10 last updated: 02/06/2012

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Approved by:  Date: Feb. 23, 2012  
 Tom Landwehr, Commissioner  
 Minnesota Department of Natural Resources



Minnesota Department of Natural Resources

**Management of School Trust Lands**

Operational Order	#121
Policy Owner	Commissioner's Office
Related Policies	NA
Related Procedures	NA
Effective Date	February 23, 2012
Last Update	NA
Next Review Date	To Be Determined

**Purpose and Scope**

The purpose of this Operational Order is to clarify DNR management objectives on School Trust lands.

**Background.** At the time of statehood, the federal government granted land to the States for the use of the schools. These lands are known as School Trust lands and include both the surface and mineral rights. When the States accepted the School Trust lands, they accepted the terms and conditions of the grant and took on the role of trustee for the lands for the benefit of the public schools. This trustee relationship extends to all who make decisions affecting the School Trust lands.

The Minnesota State Constitution also created a framework to establish a long-term funding source for public schools in the State through the creation of the Permanent School Fund (PSF or Trust). Minn. Const. art. XI, sec. 8. One of the sources of income to the PSF comes from revenue generated from School Trust lands.

In addition to the Constitutional directive, the Minnesota Legislature has stated that the goal of the PSF is to:  
 ....secure the maximum long-term economic return from the School Trust lands consistent with both the fiduciary responsibilities imposed by the trust relationship established in the Constitution, with sound natural resource conservation and management principles and with other specific policy provided in state law. Minn. Stat. § 127A.31.

This statutory language must be read to be consistent with the obligations set forth in the Constitution to the extent possible, but when the two are inconsistent, the Constitutional obligations control and must take precedence.

The Minnesota Legislature delegated to the Commissioner of the DNR the authority to manage the School Trust lands. In this role, the DNR acts as a trustee of the lands with fiduciary responsibilities to the beneficiaries of the Trust. The Minnesota Legislature also created the Permanent School Fund Advisory Committee (PFSAC) to

advise the DNR on the management of the School Trust lands and provide recommendations to the legislature for management of such lands. Minn. Stat. § 127A.30.

Case law in other jurisdictions has found that because School Trust lands are held in trust, constraints and obligations are imposed on trustees of these lands that would not apply if a state owned the land outright. This trust which holds the School Trust lands is governed by the same fiduciary principles that apply to the management of private trusts. The perpetual nature of this trust requires a trustee to manage it in a way that ensures its long term productivity and economic potential for the benefit of current and future trust beneficiaries. The duties of a trustee include the duty to manage the assets of the trust in accordance with the terms of the trust, the duty to demonstrate undivided loyalty to the trust beneficiaries and the duty to act prudently. A fiduciary must act with utmost care to represent the sole benefit and interests of the beneficiaries of the trust. The fiduciary must not act in its own interest and must not profit from the trust relationship.

### **Policy Statement**

The DNR acts as a trustee for School Trust lands, including minerals, with fiduciary duties to the beneficiaries of the Trust. This responsibility imposes obligations on the DNR that typically do not apply when the DNR manages acquired lands in accordance with its traditional natural resources mission which includes balancing a variety of values including outdoor recreation and natural resources protection and development.

The School Trust lands are not DNR lands, even when included within the boundaries of agency-designated management units, and the primary mission for School Trust lands is different than for other DNR-managed lands. Under the law, the primary management priority for School Trust lands is to maximize their long term economic return. This priority must be managed consistent with sound natural resource conservation and management principles. In most instances, these two goals are complementary and the appropriate balance can be achieved. This is true particularly with those natural resource management practices that are essential to maintaining a sustainable economic return such as ensuring good forest soil productivity for the long term health of timber harvest yields. However, in those circumstances where there is an unresolvable conflict between maximizing long term economic return and protecting natural resources and recreation values, the DNR must give precedence to long term economic return in its management duties on School Trust lands.

If the DNR decides to manage School Trust land to protect natural resource and recreation values and in doing so either restricts or prohibits long-term economic return in a way that conflicts with its Trust obligations, the DNR must seek a way to compensate the Trust. This may include buying the land or exchanging it for income-producing land. For example, where the DNR designates protection of old-growth forest on School Trust land and in doing so restricts or prohibits long term economic return from timber harvest on the land, the DNR must seek a way to compensate the Trust.

As trustee, the DNR must also look for short term economic return but must balance those with the need to protect the revenue generating capacity of the Trust in the long run. For example, it is important to manage forest harvest on School Trust lands for a specific amount of yield on a continuing and sustainable basis so there are not periods of timber unavailability resulting in periods of no income to the Trust. Accordingly, managing harvest cannot focus exclusively on short term revenue at the expense of long-term harvest yields. Further, given the perpetual nature of the Trust, the DNR must use adaptive management principles to ensure sustainable economic returns on School Trust lands over the long run. In doing so, the DNR must monitor and take into account uncertainties such as climate change, invasive species and land use trends and address these factors based on sound scientific principles.

In summary, School Trust lands must be managed differently than other DNR-managed lands because their primary missions are different. The primary management goal for School Trust lands is long term economic return; for other DNR-managed lands it includes a wide range of goals including outdoor recreation and natural resources protection and development. Most of the time these goals can be managed consistent with one another but at other times unresolvable conflicts may arise between achieving the maximum long term economic return and natural resources protection and recreation. On School Trust lands, maximizing long term economic gain takes precedence when there is an unresolvable conflict between the economic and natural resources and recreation management objectives. When the DNR decides to preserve the natural resource or recreation values

on certain School Trust lands because of their significance, and in doing so restricts or prohibits the land's long term revenue generating potential in a way that conflicts with its Trust obligations, the DNR must seek a way to compensate the Trust.

## **Actions**

To ensure the DNR meets its obligations to the Trust the Department will:

1. Centralize management oversight of School Trust lands to ensure the interests of the Trust are represented in all department decisions associated with management of School Trust lands and certification of costs associated with management of those lands.
2. Manage the School Trust land program employing business best practices including a quarterly business review to be presented to the Commissioner of the DNR and the PSFAC to include reports on actual and forecasted annual revenues generated from School Trust lands, actual and forecasted annual costs attributed to School Trust lands, market trends and performance metrics. Provide a report at least annually to the Commissioner of Education and the PSFAC discussing revenues, costs and management priorities for School Trust lands.
3. Develop and implement a business plan for the School Trust land program. The plan will include:
  - a. A comprehensive evaluation of management practices and costs associated with all aspects of agency work on School Trust lands including forest, minerals and recreation management with targeted actions to improve efficiency, reduce costs and increase revenue consistent with goals for these lands. This includes an analysis of the impacts of land sales and exchanges on overall agency funding and budgets; streamlining the processes and procedures for the sale (including condemnation), lease and exchange of School Trust lands; and consideration of investments made on School Trust lands that may improve the marketability or potential to generate income (i.e., improving access, etc.).
  - b. Explore opportunities to simplify flow of funds/costs and make management of forest and mineral accounts consistent to improve transparency.
  - c. Create a process of continuous improvement with focus on new revenue sources for School Trust lands.
4. Conduct an inventory of all School Trust land and minerals and do a highest and best use analysis looking at the potential maximum long term economic return on the land and minerals as well as natural resources and recreation values.
  - a. With respect to riparian School Trust lands:
    - i. The inventory should include an assessment of natural resource and recreation values as well as development potential which will form the basis of a strategic plan for the sale, exchange, lease or management of these lands consistent with the goals for the PSF.
  - b. With respect to School Trust lands that may be located in State Parks, Scientific and Natural Areas (other than those in Peatlands which have a designation by the legislature), Forest Recreation Areas, Wildlife and Aquatic Management Areas, and Public Water Access sites:
    - i. The inventory should form the basis for a plan to purchase, lease or exchange those School Trust lands, where maximum long term economic return is prohibited or limited in a manner inconsistent with Trust obligations, for lands with revenue-producing potential. Alternatively, if possible, the plan should identify a way to manage the lands in a way that generates long term economic return for the Trust.
  - c. With respect to School Trust lands that have DNR policy designations that may restrict or prohibit long term economic return such as High Conservation Value Forest, Old Growth, Ecologically Important Lowland Conifers, Representative Sample Areas and Registry Agreements:

- i. The inventory should include an evaluation of the designation to ensure it is overall consistent with goals for the Trust and a plan to seek funding to compensate the Trust if it is not.
5. Expedite to the extent practicable the exchange and sale of all School Trust lands located in the Boundary Waters Canoe Area Wilderness.
6. Secure long term funding from the legislature to pay for the real estate transaction costs associated with implementing plans to sell, lease and execute land sales and exchanges of School Trust lands.
7. Communicate to Department staff on an ongoing basis the role of the Department in managing School Trust lands and develop clear guidelines on how to exercise this management responsibility across the agency disciplines including a process for prompt dispute resolution. Communicate to Department staff how Departmental policies apply to School Trust lands including those related to mining and related exploration, forest certification, extended rotation forestry, forest planning, invasive species, climate change, recreation management, cultural resource protection and endangered species.
8. Require each DNR division that manages or uses School Trust lands to be responsible for making management decisions that are consistent with the Policy outlined herein. This includes a process whereby the division promptly identifies when a conflict exists in its Trust responsibilities on certain School Trust lands between natural resources values and long term economic return; clearly identifies the specific conflict and evaluates whether the natural resources values are of such high importance that they need to be preserved; and if it is determined that the natural resources values need preservation, develop a plan to compensate the Trust including through purchase, lease or exchange of those School Trust lands within a certain timeline for those with revenue-producing potential.

**Contact**

Mary P. McConnell, Assistant Commissioner for Forestry, Lands and Minerals, Waters and Ecological Resources and Legal Affairs , 651-259-5033.

**History**

NA

**Amended:**

NA

**Effective:**

February 23, 2012

**Supersedes:**

NA

**Trust fund lands per county, excluding university trust**

CTY	COUNTY	LAND TYPE	NET ACRES	NET ACRES	NET ACRES	Total SCHOOL TRUST per county	LAND TYPE	NET ACRES	LAND TYPE	NET ACRES	TOTAL NET ACRES ALL TRUST
			1	2	7		3	4			
1	AITKIN	School Trust	41,536.71	11,927.77		53,464.48	Swamp Trust	81,308.53			134,773.01
2	ANOKA	School Trust	644.15			644.15					644.15
3	BECKER	School Trust	7,816.87	2,031.54		9,848.41	Swamp Trust	5,677.37			15,525.78
4	BELTRAMI	School Trust	15,001.66	5,743.19		20,744.85	Swamp Trust	40,072.48			60,817.33
5	BENTON	School Trust	120.00			120.00					120.00
6	BIG STONE	School Trust	93.88			93.88					93.88
7	BLUE EARTH			7.44		7.44					7.44
9	CARLTON	School Trust	14,372.19	240.00		14,612.19	Swamp Trust	7,239.07			21,851.26
11	CASS	School Trust	45,679.28	446.96		46,126.24	Swamp Trust	101,105.76	Internal Imp	3,560.81	150,792.81
12	CHIPPEWA					0.00	Swamp Trust	11.25			11.25
13	CHISAGO	School Trust	120.00			120.00					120.00
14	CLAY	School Trust	200.00	120.70		320.70					320.70
15	CLEARWATER	School Trust	3,018.95	826.46		3,845.41	Swamp Trust	17,432.55			21,277.96
16	COOK	School Trust	41,378.40	35,305.30		76,683.70	Swamp Trust	45,067.68			121,751.38
18	CROW WING	School Trust	18,692.60	951.05		19,643.65	Swamp Trust	3,315.11	Internal Imp	1,034.56	23,993.32
19	DAKOTA	School Trust	101.78			101.78	Swamp Trust	8.28			110.06
21	DOUGLAS	School Trust	160.00			160.00					160.00
23	FILLMORE	School Trust	120.00			120.00					120.00
25	GOODHUE	School Trust	227.20			227.20					227.20
28	HOUSTON	School Trust	220.00			220.00					220.00
29	HUBBARD	School Trust	18,750.46	309.78		19,060.24	Swamp Trust	10,163.68			29,223.92
30	ISANTI	School Trust	200.00			200.00					200.00
31	ITASCA	School Trust	58,876.70	46,606.79		105,483.49	Swamp Trust	187,254.31	Internal Imp	821.11	293,558.91
33	KANABEC	School Trust	3,688.02	42.60		3,730.62					3,730.62
34	KANDIYOHI	School Trust	120.33	80.00		200.33					200.33
35	KITSON	School Trust	5,794.00	3,292.96		9,086.96	Swamp Trust	5,841.56			14,928.52
36	KOOCHICHING	School Trust	79,333.74	110,896.43		190,230.17	Swamp Trust	663,906.69			854,136.86
38	LAKE	School Trust	52,726.72	28,712.36		81,439.08	Swamp Trust	77,441.81			158,880.89
39	LAKE OF THE WOODS	School Trust	280.00	4,075.72		4,355.72	Swamp Trust	280.00			4,635.72
40	LESUEUR					0.00	Swamp Trust	80.00			80.00
43	MCLEOD			0.53		0.53					0.53
44	MAHNOMEN					0.00	Swamp Trust	7,267.47			7,267.47
45	MARSHALL	School Trust	2,200.00	1,484.63		3,684.63	Swamp Trust	18,677.94			22,362.57
46	MARTIN			0.03		0.03			Internal Imp	51.27	51.30
47	MEEKER	School Trust	40.65			40.65					40.65
48	MILLE LACS	School Trust	2,387.64	1,449.09		3,836.73	Swamp Trust	41.75			3,878.48
49	MORRISON	School Trust	2,600.03	280.00		2,880.03	Swamp Trust	4.02			2,884.05
54	NORMAN	School Trust	80.00	80.00		160.00			Internal Imp	160.00	320.00