

## Environmental Protection Funds

## CHAPTER 116P

ENVIRONMENT AND NATURAL  
RESOURCES TRUST FUND

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**116P.01 FINDINGS.**

The legislature finds that all Minnesotans share the responsibility to ensure wise stewardship of the state's environment and natural resources for the benefit of current citizens and future generations. Proper management of the state's environment and natural resources includes and requires foresight, planning, and long-term activities that allow the state to preserve its high quality environment and provides for wise use of its natural resources. The legislature also finds that to undertake such activities properly, a long-term, consistent, and stable source of funding must be provided.

**History:** 1988 c 690 art 1 s 5

**116P.02 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Advisory committee.** "Advisory committee" means the advisory committee created in section 116P.06.

Subd. 3. **Board.** "Board" means the state Board of Investment.

Subd. 4. **Commission.** "Commission" means the Legislative Commission on Minnesota Resources.

Subd. 5. **Natural resources.** "Natural resources" includes the outdoor recreation system under section 86A.04 and regional recreation open space systems as defined under section 473.351, subdivision 1.

Subd. 6. **Trust fund.** "Trust fund" means the Minnesota environment and natural resources trust fund established under Minnesota Constitution, article XI, section 14.

**History:** 1988 c 690 art 1 s 6; 1989 c 335 art 1 s 269; 2003 c 128 art 1 s 146

**116P.03 TRUST FUND NOT TO SUPPLANT EXISTING FUNDING.**

(a) The trust fund may not be used as a substitute for traditional sources of funding environmental and natural resources activities, but the trust fund shall supplement the traditional sources, including those sources used to support the criteria in section 116P.08, subdivision 1. The trust fund must be used primarily to support activities whose benefits become available only over an extended period of time.

(b) The commission must determine the amount of the state budget spent from traditional sources to fund environmental and natural resources activities before and after the trust fund is established and include a comparison of the amount in the report under section 116P.09, subdivision 7.

**History:** 1988 c 690 art 1 s 7

**116P.04 TRUST FUND ACCOUNT.**

Subdivision 1. **Establishment of account and investment.** A Minnesota environment and natural resources trust fund, under article XI, section 14, of the Minnesota Constitution, is established as an account in the state treasury. The commissioner of finance shall credit to the trust fund the amounts authorized under this section and section 116P.10. The state Board of Investment shall ensure that trust fund money is invested under section 11A.24. All money earned by the trust fund must be credited to the trust fund. The principal of the trust fund and any unexpended earnings must be invested and reinvested by the state Board of Investment.

Subd. 2. [Repealed, 1990 c 610 art 1 s 59]

Subd. 3. **Revenue.** Nothing in sections 116P.01 to 116P.12 limits the source of contributions to the trust fund.

Subd. 4. **Gifts and donations.** Gifts and donations, including land or interests in land, may be made to the trust fund. Noncash gifts and donations must be disposed of for cash as soon as the board prudently can maximize the value of the gift or donation. Gifts and donations of marketable securities may be held or be disposed of for cash at the option of the board. The cash receipts of gifts and donations of cash or capital assets and marketable securities disposed of for cash must be credited immediately to the principal of the trust fund. The value of marketable securities at the time the gift or donation is made must be credited to the principal of the trust fund and any earnings from the marketable securities are earnings of the trust fund.

Subd. 5. **Audits required.** The legislative auditor shall audit trust fund expenditures to ensure that the money is spent for the purposes provided in the commission's budget plan.

**History:** 1988 c 690 art 1 s 8; 1990 c 610 art 1 s 44; 1991 c 343 s 1

**116P.05 LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES.**

Subdivision 1. **Membership.** (a) A Legislative Commission on Minnesota Resources of 20 members is created, consisting of the chairs of the house and senate committees on environment and natural resources or designees appointed for the terms of the chairs, the chairs of the house and senate committees on environment and natural resources finance or designees appointed for the terms of the chairs, the chairs of the house Ways and Means and Senate Finance Committees or designees appointed for the terms of the chairs, seven members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, and seven members of the house appointed by the speaker.

At least three members from the senate and three members from the house must be from the minority caucus. Members are entitled to reimbursement for per diem expenses plus travel expenses incurred in the services of the commission.

(b) Members shall appoint a chair who shall preside and convene meetings as often as necessary to conduct duties prescribed by this chapter.

(c) Members shall serve on the commission until their successors are appointed.

(d) Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out their duties, and vacancies shall be filled in the same manner under paragraph (a).

Subd. 2. **Duties.** (a) The commission shall recommend a budget plan for expenditures from the environment and natural resources trust fund and shall adopt a strategic plan as provided in section 116P.08.

(b) The commission shall recommend expenditures to the legislature from the state land and water conservation account in the natural resources fund.

(c) It is a condition of acceptance of the appropriations made from the Minnesota environment and natural resources trust fund, and oil overcharge money under section 4.071, subdivision 2, that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the

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Legislative Commission on Minnesota Resources. None of the money provided may be spent unless the commission has approved the pertinent work program.

(d) The peer review panel created under section 116P.08 must also review, comment, and report to the commission on research proposals applying for an appropriation from the oil overcharge money under section 4.071, subdivision 2.

(e) The commission may adopt operating procedures to fulfill its duties under chapter 116P.

**History:** 1988 c 690 art 1 s 9; 1989 c 335 art 1 s 269; 1990 c 594 art 1 s 56; 1991 c 254 art 2 s 39; 1991 c 343 s 2; 1993 c 4 s 15; 1994 c 580 s 1; 1997 c 202 art 2 s 36; 2003 c 128 art 1 s 147

## 116P.06 ADVISORY COMMITTEE.

Subdivision 1. **Membership.** (a) An advisory committee of 11 citizen members shall be appointed by the governor to advise the Legislative Commission on Minnesota Resources on project proposals to receive funding from the trust fund and the development of budget and strategic plans. The governor shall appoint at least one member from each congressional district. The members shall elect the chair.

(b) The governor's appointees must be confirmed with the advice and consent of the senate. The membership terms, compensation, removal, and filling of vacancies for citizen members of the advisory committee are governed by section 15.0575. Notwithstanding section 15.059, subdivision 5, or other law to the contrary, the advisory committee does not expire.

Subd. 2. **Duties.** (a) The advisory committee shall:

(1) prepare and submit to the commission a draft strategic plan to guide expenditures from the trust fund;

(2) review the reinvest in Minnesota program during development of the draft strategic plan;

(3) gather public input during development of the draft strategic plan;

(4) advise the commission on project proposals to receive funding from the trust fund; and

(5) advise the commission on development of the budget plan.

(b) The advisory committee may review all project proposals for funding and may make recommendations to the commission on whether the projects:

(1) meet the standards and funding categories set forth in sections 116P.01 to 116P.12;

(2) duplicate existing federal, state, or local projects being conducted within the state; and

(3) are consistent with the most recent strategic plan adopted by the commission.

**History:** 1988 c 690 art 1 s 10; 1989 c 335 art 1 s 269; 1991 c 254 art 2 s 40; 1991 c 343 s 3; 2001 c 161 s 18; 2002 c 225 s 1

## 116P.07 INFORMATION GATHERING.

The commission may convene public forums to gather information for establishing priorities for funding.

**History:** 1988 c 690 art 1 s 11; 1991 c 254 art 2 s 41; 1991 c 343 s 4; 2002 c 225 s 2

## 116P.08 TRUST FUND EXPENDITURES; EXCEPTIONS; PLANS.

Subdivision 1. **Expenditures.** Money in the trust fund may be spent only for:

(1) the reinvest in Minnesota program as provided in section 84.95, subdivision 2;

(2) research that contributes to increasing the effectiveness of protecting or managing the state's environment or natural resources;

(3) collection and analysis of information that assists in developing the state's environmental and natural resources policies;

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(4) enhancement of public education, awareness, and understanding necessary for the protection, conservation, restoration, and enhancement of air, land, water, forests, fish, wildlife, and other natural resources;

(5) capital projects for the preservation and protection of unique natural resources;

(6) activities that preserve or enhance fish, wildlife, land, air, water, and other natural resources that otherwise may be substantially impaired or destroyed in any area of the state;

(7) administrative and investment expenses incurred by the State Board of Investment in investing deposits to the trust fund; and

(8) administrative expenses subject to the limits in section 116P.09.

**Subd. 2. Exceptions.** Money from the trust fund may not be spent for:

(1) purposes of environmental compensation and liability under chapter 115B and response actions under chapter 115C;

(2) purposes of municipal water pollution control under the authority of chapters 115 and 116;

(3) costs associated with the decommissioning of nuclear power plants;

(4) hazardous waste disposal facilities;

(5) solid waste disposal facilities; or

(6) projects or purposes inconsistent with the strategic plan.

**Subd. 3. Strategic plan required.** (a) The commission shall adopt a strategic plan for making expenditures from the trust fund, including identifying the priority areas for funding for the next six years. The strategic plan must be updated every two years. The plan is advisory only. The commission shall submit the plan, as a recommendation, to the house of representatives Ways and Means and senate Finance Committees by January 1 of each odd-numbered year.

(b) The commission may accept or modify the draft of the strategic plan submitted to it by the advisory committee before voting on the plan's adoption.

**Subd. 4. Budget plan.** (a) Funding may be provided only for those projects that meet the categories established in subdivision 1.

(b) Projects submitted to the commission for funding may be referred to the advisory committee for recommendation.

(c) The commission must adopt a budget plan to make expenditures from the trust fund for the purposes provided in subdivision 1. The budget plan must be submitted to the governor for inclusion in the biennial budget and supplemental budget submitted to the legislature.

(d) Money in the trust fund may not be spent except under an appropriation by law.

**Subd. 5. Public meetings.** All advisory committee and commission meetings must be open to the public. The commission shall attempt to meet at least once in each of the state's congressional districts during each biennium.

**Subd. 6. Peer review.** (a) Research proposals must include a stated purpose, timeline, potential outcomes, and an explanation of the need for the research. All research proposals must be reviewed by a peer review panel before receiving an appropriation.

(b) In conducting research proposal reviews, the peer review panel shall:

(1) comment on the methodology proposed and whether it can be expected to yield appropriate and useful information and data;

(2) comment on the need for the research and about similar existing information available, if any; and

(3) report to the commission and advisory committee on clauses (1) and (2).

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(c) The peer review panel also must review completed research proposals that have received an appropriation and comment and report upon whether the project reached the intended goals.

Subd. 7. **Peer review panel membership.** (a) The peer review panel must consist of at least five members who are knowledgeable in general research methods in the areas of environment and natural resources. Not more than two members of the panel may be employees of state agencies in Minnesota.

(b) The commission shall select a chair every two years who shall be responsible for convening meetings of the panel as often as is necessary to fulfill its duties as prescribed in this section. Compensation of panel members is governed by section 15.059, subdivision 3.

**History:** 1988 c 690 art 1 s 12; 1989 c 335 art 1 s 178; 1991 c 254 art 2 s 42,43; 1991 c 343 s 5,6; 1994 c 580 s 2,3; 2001 c 7 s 31; 2004 c 284 art 2 s 14

## 116P.09 ADMINISTRATION.

Subdivision 1. **Administrative authority.** The commission may appoint legal and other personnel and consultants necessary to carry out functions and duties of the commission. Permanent employees shall be in the unclassified service. In addition, the commission may request staff assistance and data from any other agency of state government as needed for the execution of the responsibilities of the commission and advisory committee and an agency must promptly furnish it.

Subd. 2. **Liaison officers.** The commission shall request each department or agency head of all state agencies with a direct interest and responsibility in any phase of environment and natural resources to appoint, and the latter shall appoint for the agency, a liaison officer who shall work closely with the commission and its staff.

Subd. 3. **Appraisal and evaluation.** The commission shall obtain and appraise information available through private organizations and groups, utilizing to the fullest extent possible studies, data, and reports previously prepared or currently in progress by public agencies, private organizations, groups, and others, concerning future trends in the protection, conservation, preservation, and enhancement of the state's air, water, land, forests, fish, wildlife, native vegetation, and other natural resources. Any data compiled by the commission shall be made available to any standing or interim committee of the legislature upon the request of the chair of the respective committee.

Subd. 4. **Personnel.** Persons who are employed by a state agency to work on a project and are paid by an appropriation from the trust fund are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons for a project is authorized. The use of classified employees is authorized when approved as part of the work program required by section 116P.05, subdivision 2; paragraph (c).

Subd. 5. **Administrative expense.** The prorated expenses related to commission administration of the trust fund may not exceed an amount equal to four percent of the amount available for appropriation of the trust fund for the biennium.

Subd. 6. **Conflict of interest.** A commission member, advisory committee member, peer review panelist, or an employee of the commission may not participate in or vote on a decision of the commission, advisory committee, or peer review panel relating to an organization in which the member, panelist, or employee has either a direct or indirect personal financial interest. While serving on the legislative commission, advisory committee, or peer review panel, or being an employee of the commission, a person shall avoid any potential conflict of interest.

Subd. 7. **Report required.** The commission shall, by January 15 of each odd-numbered year, submit a report to the governor, the chairs of the house appropriations and senate finance committees, and the chairs of the house and senate committees on environment and natural resources. Copies of the report must be available to the public. The report must include:

- (1) a copy of the current strategic plan;
- (2) a description of each project receiving money from the trust fund during the preceding biennium;
- (3) a summary of any research project completed in the preceding biennium;
- (4) recommendations to implement successful projects and programs into a state agency's standard operations;
- (5) to the extent known by the commission, descriptions of the projects anticipated to be supported by the trust fund during the next biennium;
- (6) the source and amount of all revenues collected and distributed by the commission, including all administrative and other expenses;
- (7) a description of the assets and liabilities of the trust fund;
- (8) any findings or recommendations that are deemed proper to assist the legislature in formulating legislation;
- (9) a list of all gifts and donations with a value over \$1,000;
- (10) a comparison of the amounts spent by the state for environment and natural resources activities through the most recent fiscal year; and
- (11) a copy of the most recent compliance audit.

**History:** 1988 c 690 art 1 s 13; 1991 c 254 art 2 s 44-46; 1991 c 343 s 7-10; 1994 c 580 s 4; 2003 c 128 art 1 s 148-150

#### **116P.10 ROYALTIES, COPYRIGHTS, PATENTS.**

This section applies to projects supported by the trust fund and the oil overcharge money referred to in section 4.071, subdivision 2, each of which is referred to in this section as a "fund." The fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the fund. Receipts from Minnesota future resources fund projects must be credited to the trust fund. Before a project is included in the budget plan, the commission may vote to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the fund.

**History:** 1988 c 690 art 1 s 14; 1993 c 172 s 79; 2003 c 128 art 1 s 151

#### **116P.11 AVAILABILITY OF FUNDS FOR DISBURSEMENT.**

(a) The amount biennially available from the trust fund for the budget plan developed by the commission is as defined in the Minnesota Constitution, article XI, section 14.

(b) Any appropriated funds not encumbered in the biennium in which they are appropriated cancel and must be credited to the principal of the trust fund.

**History:** 1988 c 690 art 1 s 15; 1990 c 594 art 1 s 57; 1990 c 612 s 14; 1992 c 513 art 2 s 27; 1992 c 539 s 10; 1993 c 300 s 10; 1994 c 580 s 5; 1995 c 220 s 111; 2002 c 225 s 3

#### **116P.12 WATER SYSTEM IMPROVEMENT LOAN PROGRAM.**

Subdivision 1. **Loans authorized.** (a) If the principal of the trust fund equals or exceeds \$200,000,000, the commission may vote to set aside up to five percent of the principal of the trust fund for water system improvement loans. The purpose of water system improvement loans is to offer below market rate interest loans to local units of government for the purposes of water system improvements.

(b) The interest on a loan shall be calculated on the declining balance at a rate four percentage points below the secondary market yield of one-year United States Treasury bills calculated according to section 549.09, subdivision 1, paragraph (c).

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(c) An eligible project must prove that existing federal or state loans or grants have not been adequate.

(d) Payments on the principal and interest of loans under this section must be credited to the trust fund.

(e) Repayment of loans made under this section must be completed within 20 years.

(f) The Minnesota Public Facilities Authority must report to the commission each year on the loan program under this section.

**Subd. 2. Application and administration.** (a) The commission must adopt a procedure for the issuance of the water system improvement loans by the Public Facilities Authority.

(b) The commission also must ensure that the loans are administered according to its fiduciary standards and requirements.

**History:** 1988 c 690 art 1 s 16

## 116P.13 MINNESOTA FUTURE RESOURCES FUND.

**Subdivision 1. Revenue sources.** The money in the Minnesota future resources fund consists of revenue credited under section 297F.10, subdivision 1, paragraph (b), clause (1).

**Subd. 2. Interest.** The interest attributable to the investment of the Minnesota future resources fund must be credited to the fund.

**Subd. 3. Revenue purposes.** Revenue in the Minnesota future resources fund may be spent for purposes of natural resources acceleration and outdoor recreation, including but not limited to the development, maintenance, and operation of the state outdoor recreation system under chapter 86A and regional recreation open space systems as defined under section 473.351, subdivision 1.

**History:** 1988 c 690 art 1 s 17; 1989 c 335 art 1 s 179; 1997 c 106 art 2 s 4

## 116P.14 FEDERAL LAND AND WATER CONSERVATION FUNDS.

**Subdivision 1. Designated agency.** The Department of Natural Resources is designated as the state agency to apply for, accept, receive, and disburse federal reimbursement funds and private funds, which are granted to the state of Minnesota from section 6 of the federal Land and Water Conservation Fund Act.

**Subd. 2. State land and water conservation account; creation.** A state land and water conservation account is created in the natural resources fund. All of the money made available to the state from funds granted under subdivision 1 shall be deposited in the state land and water conservation account.

**Subd. 3. Local share.** Fifty percent of all money made available to the state from funds granted under subdivision 1 shall be distributed for projects to be acquired, developed, and maintained by local units of government, providing that any project approved is consistent with a statewide or a county or regional recreational plan and compatible with the statewide recreational plan. All money received by the commissioner for local units of government is appropriated annually to carry out the purposes for which the funds are received.

**Subd. 4. State share.** Fifty percent of the money made available to the state from funds granted under subdivision 1 shall be used for state land acquisition and development for the state outdoor recreation system under chapter 86A and the administrative expenses necessary to maintain eligibility for the federal Land and Water Conservation Fund.

**History:** 1Sp2001 c 2 s 140; 2003 c 128 art 1 s 152,153

## 116P.15 LAND ACQUISITION RESTRICTIONS.

**Subdivision 1. Scope.** A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the

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appropriation must comply with this section. If the recipient fails to comply with the terms of this section, ownership of the interest in real property transfers to the state. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

Subd. 2. **Restrictions; modification procedure.** (a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

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

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

(2) the interest is in a reasonably equivalent location, and has a reasonably equivalent usefulness compared to the interest being replaced.

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

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

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement or work program controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative Commission on Minnesota Resources or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to this state."

**History:** *1Sp2001 c 2 s 141; 2002 c 225 s 4*