

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 2404

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DATE	D-PG	OFFICIAL STATUS
03/02/2023	1270	Introduction and first reading Referred to Environment, Climate, and Legacy
03/13/2023	1703	Authors added Morrison; Abeler
03/15/2023	1799	Authors added Hoffman; Hauschild
03/16/2023	1809a	Comm report: To pass as amended and re-refer to State and Local Government and Veterans
	1812	Rule 12.10: report of votes in committee
05/04/2023	7010a	Comm report: To pass as amended and re-refer to Rules and Administration Joint rule 2.03, referred to Rules and Administration
05/11/2023	7408a	Comm report: Amend previous comm report Jt rule 2.03 suspended
	7409	Re-referred to Finance HF substituted in committee HF1900

1.1 A bill for an act

1.2 relating to natural resources; proposing an amendment to the Minnesota

1.3 Constitution, article XI, section 14; providing for the renewal of the environment

1.4 and natural resources trust fund; establishing the environment and natural resources

1.5 trust fund community grant program; appropriating money; proposing coding for

1.6 new law in Minnesota Statutes, chapter 116P; proposing coding for new law as

1.7 Minnesota Statutes, chapter 116X.

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

1.9 **ARTICLE 1**

1.10 **CONSTITUTIONAL AMENDMENT**

1.11 Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

1.12 An amendment to the Minnesota Constitution is proposed to the people. If the amendment

1.13 is adopted, article XI, section 14, will read:

1.14 Sec. 14. A permanent environment and natural resources trust fund is established in the

1.15 state treasury. ~~Loans may be made of up to five percent of the principal of the fund for water~~

1.16 ~~system improvements as provided by law.~~ The assets of the fund shall be appropriated by

1.17 law for the public purpose of protection, conservation, preservation, and enhancement of

1.18 the state's air, water, land, fish, wildlife, and other natural resources. The assets of the fund

1.19 shall not be used to pay the principal or interest of any bonds. The assets of the fund shall

1.20 not be used to pay for any costs related to the construction, repair, improvement, or operation

1.21 of any facility or system that processes wastewater, but may be used to pay for research

1.22 related to wastewater. The amount appropriated each year of a biennium, commencing on

1.23 July 1 in each odd-numbered year and ending on and including June 30 in the next

1.24 odd-numbered year, may be up to ~~5-1/2~~ seven percent of the market value of the fund on

2.1 June 30 one year before the start of the biennium. Not less than 40 percent of the net proceeds
 2.2 from any state-operated lottery must be credited to the fund ~~until the year 2025~~ through
 2.3 December 31, 2050.

2.4 Sec. 2. **SUBMISSION TO VOTERS.**

2.5 (a) The proposed amendment must be submitted to the people at the 2024 general election.
 2.6 The question submitted must be:

2.7 "Shall the Minnesota Constitution be amended to protect drinking water sources and the
 2.8 water quality of lakes, rivers, and streams; conserve wildlife habitat and natural areas;
 2.9 improve air quality; and expand access to parks and trails by extending the transfer of
 2.10 proceeds from the state-operated lottery to the environment and natural resources trust fund,
 2.11 and to dedicate the proceeds for these purposes?

2.12 Yes
 2.13 No "

2.14 (b) The title required under Minnesota Statutes, section 204D.15, subdivision 1, for the
 2.15 question submitted to the people under paragraph (a) shall be: "Environment and Natural
 2.16 Resources Trust Fund Renewal."

2.17 **ARTICLE 2**

2.18 **STATUTORY CHANGES**

2.19 Section 1. **[116P.011] CHAPTER DOES NOT APPLY TO CERTAIN**
 2.20 **APPROPRIATIONS.**

2.21 This chapter does not apply to appropriations from the environment and natural resources
 2.22 trust fund under section 116X.03 or to projects funded with those appropriations.

2.23 **EFFECTIVE DATE.** If the constitutional amendment in article 1, section 1, is approved
 2.24 by the voters at the 2024 general election, this section is effective January 1, 2025.

2.25 Sec. 2. **[116X.01] DEFINITIONS.**

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

2.27 Subd. 2. **Advisory council.** "Advisory council" means the council created under section
 2.28 116X.05.

2.29 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of natural resources.

3.1 Subd. 4. **Grant program.** "Grant program" means the program established under section
3.2 116X.03.

3.3 **EFFECTIVE DATE.** This section is effective the date following the day on which the
3.4 constitutional amendment in article 1, section 1, is approved by the voters at the 2024 general
3.5 election.

3.6 Sec. 3. **[116X.03] ENVIRONMENT AND NATURAL RESOURCES TRUST FUND**
3.7 **COMMUNITY GRANT PROGRAM.**

3.8 Subdivision 1. **Establishment; grants.** (a) The commissioner must establish the
3.9 environment and natural resources trust fund community grant program for the benefit of
3.10 current residents and future generations.

3.11 (b) The commissioner must award grants under the program for purposes that are
3.12 authorized under Minnesota Constitution, article XI, section 14, but that have not traditionally
3.13 been funded from that source. The commissioner must provide at least two grant award
3.14 cycles per calendar year and must ensure that grants are awarded and deployed under the
3.15 program as expeditiously as possible.

3.16 Subd. 2. **Priority.** In awarding grants under this section, the commissioner must give
3.17 priority to awarding grants to partner organizations that will fund projects that will:

3.18 (1) be undertaken in census tracts that are overburdened or underserved, including
3.19 communities disproportionately affected by agriculture loss, building loss, wildfire risk,
3.20 low incomes, high energy costs, rates of asthma, rates of diabetes, rates of heart disease,
3.21 low life expectancy, high housing costs, lack of green space, lack of indoor plumbing,
3.22 presence of lead paint, proximity to hazardous waste and related facilities, particulate matter
3.23 exposure, linguistic isolation, or unemployment; and

3.24 (2) provide multiple public benefits.

3.25 Subd. 3. **Appropriation.** (a) Each year of a biennium, commencing on July 1 in each
3.26 odd-numbered year and ending on and including June 30 in the next odd-numbered year,
3.27 1.5 percent of the market value of the environment and natural resources trust fund on June
3.28 30 one year before the start of the biennium is appropriated to the commissioner of natural
3.29 resources to provide grants under the grant program.

3.30 (b) Money appropriated from the trust fund under this subdivision must be used to
3.31 supplement traditional sources of funding environment and natural resources activities and
3.32 may not be used as a substitute.

4.1 (c) Any appropriated funds not encumbered before the appropriation expires must be
 4.2 credited to the principal of the trust fund.

4.3 Subd. 4. **Administrative expenses.** (a) Up to five percent of the money appropriated to
 4.4 the commissioner under subdivision 3 may be used by the commissioner for administering
 4.5 and monitoring grants under this section.

4.6 (b) A recipient of a grant awarded under this section may not use more than five percent
 4.7 of the grant for administrative expenses.

4.8 Subd. 5. **Improper expenditure of funds.** The commissioner may require a recipient
 4.9 of a grant under this section to return all money awarded to the recipient if the recipient
 4.10 does not use the money to complete the project in accordance with the applicable agreement.

4.11 Subd. 6. **Reporting.** By February 1 each year, the commissioner must submit a report
 4.12 to the chairs and ranking minority members of the house of representatives and senate
 4.13 committees and divisions with jurisdiction over environment and natural resources on the
 4.14 administration of this section during the previous fiscal year, including administrative
 4.15 expenses and the grants awarded.

4.16 **EFFECTIVE DATE.** If the constitutional amendment in article 1, section 1, is approved
 4.17 by the voters at the 2024 general election, this section is effective January 1, 2025.

4.18 Sec. 4. **[116X.05] ENVIRONMENT AND NATURAL RESOURCES TRUST FUND**
 4.19 **COMMUNITY GRANT ADVISORY COUNCIL; REPORTING.**

4.20 Subdivision 1. **Establishment.** The commissioner of natural resources must establish
 4.21 an Environment and Natural Resources Trust Fund Community Grant Advisory Council.

4.22 Subd. 2. **Membership; terms.** (a) The commissioner, in consultation with the
 4.23 commissioners of health and of the Pollution Control Agency, must appoint 11 residents of
 4.24 Minnesota to the advisory council and the appointees must include:

4.25 (1) two members who are members of the Ojibwe Tribe;

4.26 (2) two members who are members of the Dakota Tribe; and

4.27 (3) four members who identify as Black or African American, Hispanic or Latino, Asian,
 4.28 or Pacific Islander or as members of a community of color.

4.29 (b) In addition to the members appointed under paragraph (a), the commissioner, in
 4.30 consultation with the commissioners of health and of the Pollution Control Agency, may
 4.31 appoint up to eight additional residents of Minnesota to the advisory council when, in the

5.1 commissioner's discretion, it is necessary in order to ensure that the advisory council is
5.2 sufficiently representative of various Minnesota communities.

5.3 (c) The commissioner must make appointments to the advisory council under this
5.4 subdivision that result in substantially equal representation of rural, suburban, and urban
5.5 communities.

5.6 (d) The membership appointed under paragraphs (a) and (b) must include persons who:

5.7 (1) have experience or expertise in the science, policy, or practice of the protection,
5.8 conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife,
5.9 and other natural resources, including expertise in understanding the cultural context in
5.10 which these activities are undertaken from the perspective of Tribal communities;

5.11 (2) have strong knowledge of the state's environment and natural resource issues around
5.12 the state, including those that are of particular importance to Tribal communities; and

5.13 (3) have demonstrated the ability to work in a collaborative environment.

5.14 (e) Members shall serve staggered three-year terms, beginning in January of the first
5.15 year and continuing through the end of December of the final year. Members continue to
5.16 serve until their replacement is named. Initial appointees may be appointed to terms of less
5.17 than three years in order to establish a structure of staggered terms.

5.18 (f) A registered lobbyist may not be appointed to the advisory council under this
5.19 subdivision.

5.20 Subd. 3. **Duties.** (a) The advisory council must:

5.21 (1) advise the commissioner on the development of criteria, forms, applications, and
5.22 reporting for grants awarded under the grant program created in section 116X.03;

5.23 (2) review proposed grant program policies and budgets for the upcoming year;

5.24 (3) propose changes to the grant program as needed;

5.25 (4) review other relevant information;

5.26 (5) make recommendations to the legislature and the commissioner for improving
5.27 management of the grant program; and

5.28 (6) review and advise on recipient eligibility.

5.29 (b) The commissioner must provide the council with the information required to perform
5.30 its duties under this subdivision.

6.1 Subd. 4. **Per diem.** Members of the council are entitled to per diem and reimbursement
6.2 for expenses incurred in the services of the commission, as provided in section 15.059,
6.3 subdivision 3.

6.4 **EFFECTIVE DATE.** This section is effective the date following the day on which the
6.5 constitutional amendment in article 1, section 1, is approved by the voters at the 2024 general
6.6 election.

6.7 **Sec. 5. COUNCIL ORGANIZATION; REPORT.**

6.8 By January 15, 2026, the commissioner of natural resources must submit a report to the
6.9 chairs and ranking minority members of the house of representatives and senate committees
6.10 and divisions with jurisdiction over environment and natural resources on the organizational
6.11 structure and membership of the Environment and Natural Resources Trust Fund Community
6.12 Grant Advisory Council required under Minnesota Statutes, section 116X.05.

6.13 **EFFECTIVE DATE.** This section is effective the date following the day on which the
6.14 constitutional amendment in article 1, section 1, is approved by the voters at the 2024 general
6.15 election.

6.16 **Sec. 6. INITIAL REPORTING DATES.**

6.17 Notwithstanding Minnesota Statutes, section 116X.03, subdivision 6, the commissioner
6.18 of natural resources is not required to submit the report required under that section before
6.19 February 1, 2027.

6.20 **Sec. 7. FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY**
6.21 **RECIPIENTS.**

6.22 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
6.23 meanings given.

6.24 (b) "Grant" means a grant or business subsidy funded by an appropriation in this act.

6.25 (c) "Grantee" means a business entity as defined in Minnesota Statutes, section 5.001.

6.26 Subd. 2. **Financial information required; determination of ability to perform.** Before
6.27 an agency awards a competitive, legislatively named, single-source, or sole-source grant,
6.28 the agency must assess the risk that a grantee cannot or would not perform the required
6.29 duties. In making this assessment, the agency must review the following information:

6.30 (1) the grantee's history of performing duties similar to those required by the grant,
6.31 whether the size of the grant requires the grantee to perform services at a significantly

7.1 increased scale, and whether the size of the grant will require significant changes to the
7.2 operation of the grantee's organization;

7.3 (2) for a grantee that is a nonprofit organization, the grantee's Form 990 or Form 990-EZ
7.4 filed with the Internal Revenue Service in each of the prior three years. If the grantee has
7.5 not been in existence long enough or is not required to file Form 990 or Form 990-EZ, the
7.6 grantee must demonstrate to the grantor's satisfaction that the grantee is exempt and must
7.7 instead submit the grantee's most recent board-reviewed financial statements and
7.8 documentation of internal controls;

7.9 (3) for a for-profit business, three years of federal and state tax returns, current financial
7.10 statements, certification that the business is not under bankruptcy proceedings, and disclosure
7.11 of any liens on its assets. If a business has not been in business long enough to have three
7.12 years of tax returns, the grantee must demonstrate to the grantor's satisfaction that the grantee
7.13 has appropriate internal financial controls;

7.14 (4) evidence of registration and good standing with the secretary of state under Minnesota
7.15 Statutes, chapter 317A, or other applicable law;

7.16 (5) if the grantee's total annual revenue exceeds \$750,000, the grantee's most recent
7.17 financial audit performed by an independent third party in accordance with generally accepted
7.18 accounting principles; and

7.19 (6) certification, provided by the grantee, that none of its principals have been convicted
7.20 of a financial crime.

7.21 Subd. 3. **Additional measures for some grantees.** The agency may require additional
7.22 information and must provide enhanced oversight for grants that have not previously received
7.23 state or federal grants for similar amounts or similar duties and so have not yet demonstrated
7.24 the ability to perform the duties required under the grant on the scale required.

7.25 Subd. 4. **Assistance from administration.** An agency without adequate resources or
7.26 experience to perform obligations under this section may contract with the commissioner
7.27 of administration to perform the agency's duties under this section.

7.28 Subd. 5. **Agency authority to not award grant.** If an agency determines that there is
7.29 an appreciable risk that a grantee receiving a competitive, single-source, or sole-source
7.30 grant cannot or would not perform the required duties under the grant agreement, the agency
7.31 must notify the grantee and the commissioner of administration and give the grantee an
7.32 opportunity to respond to the agency's concerns. If the grantee does not satisfy the agency's
7.33 concerns within 45 days, the agency must not award the grant.

8.1 Subd. 6. **Legislatively named grantees.** If an agency determines that there is an
8.2 appreciable risk that a grantee receiving a legislatively named grant cannot or would not
8.3 perform the required duties under the grant agreement, the agency must notify the grantee,
8.4 the commissioner of administration, the chair and ranking minority member of the Ways
8.5 and Means Committee in the house of representatives, the chair and ranking minority member
8.6 of the Finance Committee in the senate, and the chairs and ranking minority members of
8.7 the committees in the house of representatives and the senate with primary jurisdiction over
8.8 the bill in which the money for the grant was appropriated. The agency must give the grantee
8.9 an opportunity to respond to the agency's concerns. If the grantee does not satisfy the agency's
8.10 concerns within 45 days, the agency must delay award of the grant until adjournment of the
8.11 next regular or special legislative session.

8.12 Subd. 7. **Subgrants.** If a grantee will disburse the money received from the grant to
8.13 other organizations to perform duties required under the grant agreement, the agency must
8.14 be a party to agreements between the grantee and a subgrantee. Before entering agreements
8.15 for subgrants, the agency must perform the financial review required under this section with
8.16 respect to the subgrantees.

8.17 Subd. 8. **Effect.** The requirements of this section are in addition to other requirements
8.18 imposed by law; the commissioner of administration under Minnesota Statutes, sections
8.19 16B.97 and 16B.98; or agency grant policy.