

CHAPTER 1158**NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND***S.F. 2310*

AN ACT creating a natural resources and outdoor recreation trust fund to implement a proposed amendment to the Constitution of the State of Iowa, and providing for contingent implementation.

Be It Enacted by the General Assembly of the State of Iowa:

**SUBCHAPTER I
GENERAL PROVISIONS****Section 1. NEW SECTION. 461.1 Title.**

This Act shall be known and may be cited as the natural resources and outdoor recreation Act.

Sec. 2. NEW SECTION. 461.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Department*” means the department of agriculture and land stewardship, the department of natural resources, or the department of transportation.

2. “*Fiscal year*” means the state fiscal year effective as provided in section 3.12.

3. “*Initiative*” includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in section 461.3.

4. “*Recreational purpose*” includes hunting, trapping, angling, horseback riding, swimming, boating, camping, picnicking, hiking, bird watching, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

5. “*Trust fund*” means the natural resources and outdoor recreation trust fund created in section 461.31.

6. “*Trust fund moneys*” means moneys originating from the natural resources and outdoor recreation trust fund.

Sec. 3. NEW SECTION. 461.3 Constitutional purpose and implementation.

1. This chapter is created for the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state.

2. This chapter is intended to implement Article VII, section 10, of the Constitution of the State of Iowa by establishing the natural resources and outdoor recreation trust fund, accounts in the trust fund, and appropriating or allocating trust fund moneys to support initiatives specified in subchapter IV.

**SUBCHAPTER II
PARTICIPATION****Sec. 4. NEW SECTION. 461.11 Departmental consultation.**

1. When making decisions regarding the expenditure of trust fund moneys affecting soil and water conservation, the secretary of agriculture shall regularly consult with the soil conservation committee established in section 161A.4. When making decisions regarding the expenditure of trust fund moneys affecting natural resources and outdoor recreation the director of the department of natural resources shall regularly consult with the natural resource commission established pursuant to section 455A.5. When making decisions regarding the expenditure of trust fund moneys affecting trails, the department of transportation shall consult with the state transportation commission as provided in chapter 307A.

2. The heads of each department receiving trust fund moneys shall regularly meet and whenever practicable collaborate in decision-making including by adopting rules,

establishing funding priorities, and determining when it is beneficial to provide joint funding of initiatives.

SUBCHAPTER III ADMINISTRATION

Sec. 5. NEW SECTION. **461.21 Audit.**

1. The auditor of state or a certified public accounting firm appointed by the auditor of state shall conduct an annual audit of the trust fund and all accounts and transactions of the trust fund and accounts.

2. The auditor of state or the certified public accounting firm appointed by the auditor as provided in subsection 1 shall be paid from trust fund moneys without reducing the percentage of trust fund moneys distributed to the Iowa resources enhancement and protection fund or any one account established pursuant to this chapter.

Sec. 6. NEW SECTION. **461.22 Report.**

The three departments shall jointly prepare and submit to the governor and the general assembly not later than January 15 of each year a complete report in an electronic format detailing all of the following:

1. The receipts and expenditures of the trust fund and its accounts, a summary of initiatives supported by trust fund moneys, the results of those expenditures, any performance goals or measurements, and plans for future short-term or long-term expenditures.

2. Recommendations to the general assembly, including legislation proposed by one or more of the departments.

Sec. 7. NEW SECTION. **461.23 Rules.**

The department of revenue, the department of agriculture and land stewardship, the department of natural resources, and department of transportation shall adopt rules separately or jointly as necessary in order to implement and administer this chapter.

Sec. 8. NEW SECTION. **461.24 Public listing.**

The department of natural resources, the department of agriculture and land stewardship, and the department of transportation shall cooperate to publish and maintain a public listing of how moneys contained in the natural resources and outdoor recreation trust fund as created in section 461.31 are distributed and spent during the course of each fiscal year. The departments shall designate one of the departments to be responsible for publishing and maintaining the public listing on the internet site operated by that department.

SUBCHAPTER IV NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND AND DISTRIBUTIONS TO SUPPORT DEDICATED PURPOSES

Sec. 9. NEW SECTION. **461.31 Natural resources and outdoor recreation trust fund — creation.**

A natural resources and outdoor recreation trust fund is created within the state treasury.

1. The trust fund shall be composed of moneys required to be credited to the trust fund by law and moneys accepted by a department for placement in an account established in this subchapter and from any source.

2. Trust fund moneys are exclusively appropriated by law to carry out the constitutional purposes provided in section 461.3.

3. Trust fund moneys shall supplement and not replace moneys appropriated by the general assembly to support the constitutional purposes provided in section 461.3.

4. Trust fund moneys shall only be used to support voluntary initiatives and shall not be used for regulatory efforts, enforcement actions, or litigation.

5. In administering a trust fund account, a department may contract, sue and be sued, and authorize payment for costs, fees, commissions, and other reasonable expenses from the account. However, a department shall not in any manner directly or indirectly pledge the credit of this state.

6. Notwithstanding section 8.33, any unexpended balance in the trust fund or in an account created within the trust fund at the end of each fiscal year shall be retained in the trust fund or the respective account. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the trust fund and its respective accounts shall be credited to the trust fund and its respective accounts. The recapture of awards originating from an account and other repayments to an account shall be retained in that account.

Sec. 10. NEW SECTION. 461.32 Natural resources account — allocations.

A natural resources account is created in the trust fund. Twenty-three percent of the moneys credited to the trust fund shall be allocated to the account.

1. The account shall be used by the department of natural resources to support all of the following initiatives:

a. The establishment, restoration, or enhancement of state parks, state preserves, state forests, wildlife areas, wildlife habitats, native prairies, and wetlands.

b. Wildlife diversity.

c. Recreational purposes.

d. Technical assistance and financial incentives to private landowners to promote the management of forests, fisheries, wetlands, and wildlife.

e. The improvement of water trails, rivers, and streams.

f. Education and outreach that provide instruction regarding natural history and the outdoors. The subjects of such instruction may relate to opportunities involving recreational purposes, outdoor safety, and ethics.

2. The department of natural resources shall to every extent possible consider its comprehensive plan provided in section 456A.31 when making funding decisions.

Sec. 11. NEW SECTION. 461.33 Soil conservation and water protection account — allocations.

A soil conservation and water protection account is created in the trust fund. Twenty percent of the moneys credited to the trust fund shall be allocated to the account.

1. The account shall be used by the department of agriculture and land stewardship to support all of the following initiatives:

a. Soil conservation and watershed protection, including by supporting the soil conservation division of the department of agriculture and land stewardship and soil and water conservation district commissioners. The department may provide for the installation of conservation practices and watershed protection improvements as provided in chapters 161A, 161C, 461A, 466, and 466A.

b. The conservation of highly erodible land. The department of agriculture and land stewardship may execute contracts with private landowners who agree to reserve such land only for uses that prevent erosion in excess of the applicable soil loss limits as established in section 161A.44.

c. Soil conservation or crop management practices used on land producing biomass for biorefineries, including cellulosic ethanol production.

2. The department of agriculture and land stewardship may use the account to provide financial incentives or technical assistance to landowners.

Sec. 12. NEW SECTION. 461.34 Watershed protection account — allocations.

A watershed protection account is created in the trust fund. Fourteen percent of the moneys credited to the trust fund shall be allocated to the account.

1. The account shall be used cooperatively by the department of natural resources and the department of agriculture and land stewardship to support all of the following initiatives:

a. Water resource projects administered by the department of natural resources to preserve watersheds, including but not limited to all of the following:

(1) Projects to protect, restore, or enhance water quality in the state through the provision of financial assistance to communities for impairment-based, locally directed watershed projects. The department may use the account to support the water resource restoration sponsor program as provided in section 455B.199.

(2) Regional and community watershed assessment, planning, and prioritization efforts, including as provided in chapter 466B.

b. Surface water protection projects and practices administered by the department of agriculture and land stewardship or the department of natural resources, including but not limited to the installation of permanent vegetation cover, filter strips, grass waterways, and riparian forest buffers; dredging; and bank stabilization. The departments of agriculture and land stewardship and natural resources may use the account to support the conservation buffer strip program provided in section 466.4 and the conservation reserve enhancement program as provided in section 466.5.

2. The departments' decision to prioritize initiatives may be based on the priority list of watersheds provided in section 456A.33A.

Sec. 13. NEW SECTION. 461.35 Iowa resources enhancement and protection fund — allocation.

Thirteen percent of the moneys credited to the trust fund shall be allocated to the Iowa resources enhancement and protection fund created in section 455A.18 for further allocation as provided in section 455A.19.

Sec. 14. NEW SECTION. 461.36 Local conservation partnership account — allocations.

A local conservation partnership account is created in the trust fund. Thirteen percent of the moneys credited to the trust fund shall be allocated to the account.

1. The department of natural resources shall allocate trust fund moneys in the account to local communities for the following initiatives:

a. The maintenance and improvement of parks, preserves, wildlife areas, wildlife habitats, native prairies, and wetlands.

b. Wildlife diversity.

c. Recreational purposes.

d. The improvement of water trails, rivers, and streams.

e. Education and outreach programs and projects that provide instruction regarding natural history and the outdoors. The subjects of such instruction may relate to opportunities involving recreational purposes, outdoor safety, and ethics.

f. Any other purpose described in section 350.1.

2. A local community may cooperate with the state or the federal government to carry out the initiative. Two or more local communities may form an entity if allowed under chapter 28E in order to carry out the initiative.

3. As used in this section, “*local community*” means a county conservation board, a city, or a nongovernmental organization operating on a nonprofit basis.

Sec. 15. NEW SECTION. 461.37 Trails account — allocations.

A trails account is created in the trust fund. Ten percent of the moneys credited to the trust fund shall be allocated to the account.

1. The department of transportation and the department of natural resources shall allocate moneys in the account to support initiatives related to the design, establishment, maintenance, improvement, and expansion of land trails.

2. The department of natural resources may use the account to support the design, establishment, maintenance, improvement, and expansion of water trails.

Sec. 16. NEW SECTION. 461.38 Lake restoration account — allocations.

A lake restoration account is created in the trust fund. Seven percent of the moneys credited to the trust fund shall be deposited to the account. The department of natural resources shall use moneys in the account to support public lake restoration initiatives as follows:

1. An initiative shall account for a lake's recreational, environmental, aesthetic, ecological, and social value. It must improve water quality.

2. The department's decision to prioritize an initiative may be based on the department's lake restoration plan and report as provided in section 456A.33B.

Sec. 17. CONTINGENT IMPLEMENTATION. This Act shall be implemented on January 1, 2011, if the joint resolution proposing an amendment to the Constitution of the State of Iowa to dedicate a portion of state revenue for the benefit of the state's natural resources, as passed for the second time by the general assembly as provided in 2009 Iowa Acts, chapter 185, and submitted to the people of the State of Iowa at the general election in November 2010, in the manner required by the Constitution of the State of Iowa and the laws of this state, is ratified.

Approved April 23, 2010

CHAPTER 1159

COURT ORDERS, PROCEEDINGS, AND ADMINISTRATION

S.F. 2345

AN ACT relating to judicial branch administration, child custody and visitation matters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 236.4, subsection 2, Code 2009, is amended to read as follows:

2. The court may enter any temporary order it deems necessary to protect the plaintiff from domestic abuse prior to the hearing, including temporary custody or visitation orders pursuant to subsection 2A, upon good cause shown in an ex parte proceeding. Present danger of domestic abuse to the plaintiff constitutes good cause for purposes of this subsection.

Sec. 2. Section 236.4, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The court may award temporary custody of or establish temporary visitation rights with regard to children under eighteen years of age. In awarding temporary custody or temporary visitation rights, the court shall give primary consideration to the safety of the alleged victim and the children. If the court finds that the safety of the alleged victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall set conditions or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court shall also determine whether any other existing orders awarding custody or visitation should be modified.

Sec. 3. Section 236.4, subsection 3, Code 2009, is amended to read as follows:

3. If a hearing is continued, the court may make or extend any temporary order under subsection 2 or 2A that it deems necessary.

Sec. 4. Section 236.4, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Prior to the entry of a temporary order under this section that involves a child-custody determination as defined in section 598B.102, the plaintiff shall furnish information to the court in compliance with section 598B.209.

Sec. 5. Section 236.5, subsection 1, paragraph b, subparagraph (4), subparagraph division (c), Code Supplement 2009, is amended to read as follows:

(c) The court shall also investigate determine whether any other existing orders awarding custody or visitation rights should be modified.