

Jean Wagenius
State Representative
District 63B
Hennepin County



Minnesota House of Representatives

May 22, 2018

Governor Dayton
130 State Capitol
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Dear Governor Dayton:

In 1988, when the Minnesota Legislature wrote the law that proposed using lottery proceeds to create the Environment and Natural Resources Trust Fund, the constitutional amendment, the question to the people of Minnesota, and the permitted uses of the money were all in one bill that passed the legislature. Seventy-seven percent of Minnesotans voted for the amendment to the constitution.

In 1998, Minnesotans again overwhelmingly voted to reaffirm the constitutional dedication of the state lottery proceeds. The permitted uses of the money that were in statute remained the same.

The statute permitting expenditures says “(m)oney in the trust fund may be spent only for...” a limited list of activities (emphasis added).¹

The statutes supporting the constitutional amendment do not permit expenditures for payments for principal and interest on bonds as evidenced by the inclusion of new language in the bonding bill (HF4425) that now permits expenditures for debt.

When 77% of Minnesotans voted for the constitutional amendment, they did not vote to spend the money to pay off debt. The inclusion of language in the bonding bill that allows the Trust Fund to pay off debt breaks the trust of Minnesotans who voted for the Fund.

The same 1988 statute that remains to this day also specifically listed what the trust fund money could *not* be used for. Again, disregarding the 77% of Minnesotans who created the Trust Fund, the bonding bill appropriates Trust Fund money for some of the activities that were specifically precluded.

Among the activities specifically precluded are “purposes of municipal water pollution control under the authority of chapters 115 and 116...”²

Yet, stating “notwithstanding” the Minnesota Statutes that preclude using Trust Fund money for waste water treatment, the bonding bill appropriates Trust Fund money for waste water treatment.

¹ Minnesota Statutes 2017, section 116P.08, subdivision 1(a)

² Minnesota Statutes 2017, section 116P.08, subdivision 2(2)



While there are instances where the legislature does change the law by “notwithstanding” another law, this “notwithstanding” changes the intent of the 77% of Minnesotans who voted for the constitutional amendment that created the Trust Fund.

Moreover, while spending for capital improvements is one of the permitted uses of Trust Fund dollars, capital projects must be “for the preservation and protection of unique natural resources” (emphasis added).³ Waste water from municipal plants goes into lakes or rivers, never into a unique body of water.

There is a legislative finding included in the bonding bill that overrides the exclusions that are listed in 116P.08, subd. 2; however, that finding also states that the projects must be “consistent with the purposes of the trust fund.”⁴ The purposes of the Trust Fund are found in the permitted list of expenditures. Capital expenditures are permitted “for the preservation and protection of unique natural resources.” Capital expenditures for waste water treatment do *not* preserve or protect unique natural resources, so funding them from the Trust Fund would be inconsistent with the purposes of the Trust Fund.

Similarly, in the bill, other capital expenditures are inappropriately funded by Trust Fund dollars in the bonding bill because they do not meet the required criteria “for the preservation and protection of unique natural resources.”

The statute that accompanied the question to Minnesotans and the constitutional language also precluded expenditures for hazardous and solid waste disposal facilities.⁵ Again, the bonding bill uses the “notwithstanding” language to fund the clean-up of a hazardous waste pit.⁶ Just as it is inappropriate to use Trust Fund dollars for waste water treatment, it is inappropriate to use trust fund dollars for a hazardous waste pit.

If you were to agree to allow Trust Fund dollars to be spent for some of the exclusions that were specifically listed and disregard the stated outcome for capital projects, then a precedent would be set and a future governor would likely be unable to stop the fund from being used for other of the specific exclusions including: “costs associated with the decommissioning of nuclear power plants.”⁷

When 77% of Minnesotans voted to establish the Trust Fund, it was crystal clear how the money would be spent—what it could be spent for and what it couldn’t be spent for.

This bill breaks the trust with Minnesotans and creates a precedent that puts all of our constitutional dedications at risk.

I ask you to line item veto all of the projects funded by appropriation bonds using Trust Fund dollars to pay the debt.

Sincerely,



Jean Wagenius
State Representative, 63B

³ Minnesota Statutes 2017, section 116P.08, subdivision 1(5)

⁴ Minn. H.F. 4425 art. 6, sec. 4, subd. 2 (2018)

⁵ Minnesota Statutes 2017, section 116P.08, subdivision 2(4)(5)

⁶ Minn. H.F. 4425 art. 6, sec. 5, subd. 6 (2018)

⁷ Minnesota Statutes 2017, section 116P.08, subdivision 2(3)