



Legislative Bulletin.....September 12, 2012

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H.R. 5544 – Minnesota Education Investment and Employment Act and Amendments

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Order of Business: The bill is scheduled to be considered on September 12, 2012 under a structured rule, H.Res. 773.

The rule provides for the consideration of H.R. 5544 in the Committee of the Whole House on the state of the Union. The rule provides for 1 hour of general debate that is equally divided by the chair and ranking minority member. After debate, the legislation shall be considered for amendment under the five minute rule. The rule makes in order only those amendments that are printed in Rules Committee Report 112-30. After amendment debate, the Committee shall rise and report the legislation to the House. The rule also provides for one motion to recommit, with or without instructions. The text of the rule can be [found here](#).

The rule also provides for the consideration of H.R. 5949 in the House of Representatives, not in the Committee of the Whole House. The rule provides for 1 hour of general debate. The rule also provides for one motion to recommit, with or without instructions.

Summary: The legislation directs the Secretary of Agriculture to carry out a land exchange with the State of Minnesota. This exchange shall be carried out pursuant to section 4 of S.F. No. 1750 (Chapter 236) of the Legislature of the state of Minnesota. This section of Minnesota statute was enacted on April 27, 2012.

In exchange for the land received by the Secretary of Agriculture within the Boundary Waters Canoe Area Wilderness, the state of Minnesota will receive an in-kind amount that is located with the Superior National Forest.

The state of Minnesota shall be responsible for the survey to determine the exact amount of acreage that will be transferred. The land acquired by the Secretary of Agriculture will be managed under the National Wilderness Preservation System, under the U.S. Forest Service. This will not affect any hunting or fishing rights on the land conveyed to the Secretary.

The land acquired by the state of Minnesota shall be deemed to be state trust lands and shall be held in a trust for the benefit of the Minnesota public school system.

If the land exchange required by this legislation is not completed within 18 months of enactment, the Secretary shall submit to Congress a report that specifies the reasons why the exchange has not been completed.

Additional Information: The state of Minnesota owns multiple parcels of land that are located within the Superior National Forest. These lands were given to the state via the Enabling Act of 1857. This legislation enabled the voters of the Minnesota Territory to decide if they wanted to become a state¹. The land was to generate financial support for the public school system through the sale or development of natural resources.

Several thousand areas of trust land is scattered in a checkerboard fashion within the Boundary Waters Canoe Area Wilderness, which was established by Congress in 1978. The presence of these State trust lands in the wilderness area makes land and resource management in the wilderness area more difficult, and costly. The Wilderness Act of 1964 prohibits road-building and the use of motorized equipment across federal land, therefore development and access to this land in the Wilderness is effectively prohibited.

Based on information provided by the Forest Service, CBO expects that, under the bill, the amount of federally owned land within the BWCAW would increase by 86,000 acres (about 15 percent) over the 2013-2016 period. In addition, CBO expects that the Forest Service would convey lands within the Superior National Forest, which are located outside the BWCAW, to the state of Minnesota to complete the land exchange required under the bill. Because those lands could generate offsetting receipts (a credit against direct spending) from timber sales or other activities over the next 10 years, enacting the bill could reduce offsetting receipts.

Amendments Made In Order:

Hastings (R-WA): This manager's amendment would direct the Secretary of Agriculture to take into consideration the lands acquired by the U.S. in determining the appraised value of National Forest System lands in the state of Minnesota. This is reportedly used for purposes of making payments to the state of Minnesota under the Thye-Blatnik Act and the Humphrey-Thye-Blatnik-Andresen Act. The text of the amendment can be [found here](#).

McCollum (D-MN): The amendment would add the following finding to the legislation:

“The proposed land exchanged would include land ceded or sold in the Treaty with the Chippewa of 1854, in which the signatory tribes reserved hunting, fishing, and gathering rights on the land ceded. Federal courts have affirmed the continuing existence of those rights. The Secretary of Agriculture shall consult on a government-to-government basis with potentially affected Indian tribes and ensure that the land exchange does not impinge upon treaty rights.”

The amendment also adds “gathering” to the rights listed that are not affected by the legislation. The amendment adds a new section stating that the legislation shall have no effect on treaty rights. The text of the amendment can be [found here](#).

¹ <http://www.mnhs.org/library/constitution/index.html>

Holt (D-NJ): The underlying text directs the Secretary to carry out the land exchange. This amendment alters the original language and gives the Secretary the option of carrying out the land exchange, thereby making the land exchange up to the discretion of the Secretary. The text of the amendment can be [found here](#).

Ellison (D-MN): The amendment directs the Secretary to not transfer particular parcels into the National Forest System if the Secretary determines that doing so would have a negative impact on private property, private property values, or small business. The text of the amendment can be [found here](#).

Grijalva (D-AZ): The underlying legislation allows the state of Minnesota to determine the appraisal process by which the transferred land is valued. The state of Minnesota has the option to choose the federal government’s appraisal process. This amendment mandates that the state use the federal government’s appraisal process. The text of the amendment can be [found here](#).

Committee Action: H.R. 5544 was introduced on May 8, 2012, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. A full committee markup was held on August 1, 2012, and the legislation was approved, as amended, by a [roll call vote of 25-19](#).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting the legislation would increase direct spending by \$6 million over the 2014-2022 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Cravaack states: “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.” The statement can be [found here](#).

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