

MINNESOTA EDUCATION INVESTMENT AND
EMPLOYMENT ACT

SEPTEMBER 10, 2012.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5544]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5544) to authorize and expedite a land exchange involving National Forest System land in the Laurentian District of the Superior National Forest and certain other National Forest System land in the State of Minnesota that has limited recreational and conservation resources and lands owned by the State of Minnesota in trust for the public school system that are largely scattered in checkerboard fashion within the Boundary Waters Canoe Area Wilderness and have important recreational, scenic, and conservation resources, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Minnesota Education Investment and Employment Act”.

SEC. 2. LAND EXCHANGE, BOUNDARY WATERS CANOE AREA WILDERNESS AND SUPERIOR NATIONAL FOREST, MINNESOTA.

(a) FINDINGS.—Congress makes the following findings:

(1) The State of Minnesota owns multiple parcels of land in the Boundary Waters Canoe Area Wilderness in the Superior National Forest that were grant-

ed to the State through sections 16 and 36 of the Enabling Act of 1857 to be held in trust for the benefit of the public school system in the State (in this section referred to as “State trust lands”).

(2) The State trust lands were acquired by the State long before the establishment of either the National Forest System or the wilderness area and are scattered in a largely checkerboard fashion amid the Superior National Forest and the wilderness area.

(3) The presence of State trust lands in the wilderness area makes land and resource management in the wilderness area more difficult, costly, and controversial for the United States and the State.

(4) Although the State trust lands were granted to the State to generate financial support for the public school system through the sale or development of natural resources, development of those resources in the wilderness area may be incompatible with managing the wilderness area for recreational, natural, and conservation purposes.

(5) The United States owns land and interests in land in other parts of the State that can be transferred to the State in exchange for the State trust lands without jeopardizing Federal management objectives or needs.

(6) It is in the public interest to exchange, on terms that are fair to the United States and the State, National Forest System land in the State that has limited recreational and conservation resources for State trust lands located in the wilderness area with important recreational, scenic, and conservation resources for permanent public management and use.

(7) The Legislature of the State of Minnesota, meeting in its 87th Legislative Session, passed (and on April 27, 2012, the Governor of Minnesota approved) S.F. No. 1750 (Chapter 236), section 4 of which adds section 92.80 to the Minnesota Statutes to expedite the exchange of a portion of the State trust lands located within the Boundary Waters Canoe Area Wilderness.

(b) **LAND EXCHANGE REQUIRED.**—The Secretary of Agriculture shall consummate a land exchange with the State of Minnesota pursuant to section 4 of S.F. No. 1750 (Chapter 236) of the Legislature of the State of Minnesota (section 92.80 of the Minnesota Statutes) to acquire all right, title, and interest of the State in and to certain State trust lands identified as provided in such section in exchange for all right, title, and interest of the United States in and to National Forest System land in the State for inclusion in the State trust lands.

(c) **VALUATION OF LANDS FOR EXCHANGE.**—Subdivision 4 of section 4 of S.F. No. 1750 (Chapter 236) of the Legislature of the State of Minnesota (section 92.80 of the Minnesota Statutes) shall control for purposes of the examination and value determination of the lands to be exchanged.

(d) **SURVEY AND ADMINISTRATIVE COSTS.**—The exact acreage and legal description of the land to be exchanged under subsection (b) shall be determined by a survey satisfactory to the Secretary. The State of Minnesota shall be responsible for the costs of the survey and all other administrative costs related to the land exchange.

(e) **BOUNDARIES AND MANAGEMENT OF ACQUIRED LAND.**—

(1) **LAND ACQUIRED BY SECRETARY.**—

(A) **IN GENERAL.**—The land acquired by the Secretary under subsection (b) shall be added to and administered as part of the Boundary Waters Canoe Area Wilderness established pursuant to section 3 of the Wilderness Act (16 U.S.C. 1132(a)), and the Secretary shall modify the boundaries of the wilderness area to reflect inclusion of the acquired lands. Subject to subparagraph (B), the land acquired by the Secretary shall be managed in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and other laws and regulations applicable to the National Wilderness Preservation System.

(B) **NO EFFECT ON EXISTING FISHING AND HUNTING RIGHTS.**—The acquisition of land by the United States under subsection (b) and inclusion of the land in the Boundary Waters Canoe Area Wilderness shall not alter or otherwise affect—

(i) any fishing and hunting rights in existence with respect to the land immediately before the conveyance of the land to the United States; or

(ii) the use of such rights after conveyance.

(2) **LAND ACQUIRED BY STATE.**—The land acquired by the State of Minnesota under subsection (b) shall be deemed to be State trust lands and shall be held in trust for the benefit of the public school system in the State. It is the sense of Congress that, whenever the land acquired by the State of Minnesota under subsection (b) is not being used for revenue-generating activities, the State should make the land available for other compatible uses, including hunting, fishing, hiking, biking, snowmobiling, and trail riding.

(3) BOUNDARIES OF SUPERIOR NATIONAL FOREST.—The Secretary shall modify the boundaries of the Superior National Forest to reflect the land exchange conducted under this section.

(f) RELATION TO OTHER LAWS.—

(1) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Superior National Forest, as modified by subsection (e)(3), shall be considered to be boundaries of the Superior National Forest as of January 1, 1965.

(2) NOT A MAJOR FEDERAL ACTION.—The land exchange conducted under this section shall not be considered to be a major Federal action.

(g) NO IMPACT ON OTHER LAND EXCHANGES.—The land exchange described in subsection (b) does not affect any land exchange involving National Forest System land in the State of Minnesota underway as of the date of the enactment of this Act.

(h) REPORT.—If the Secretary fails to complete the land exchange described in subsection (b) before the end of the 18-month period beginning on the date of the enactment of this Act, the Secretary shall submit to Congress, not later than 30 days after the end of such period, a report—

(1) specifying the reasons why the exchange has not been completed; and

(2) stating the date by which the Secretary anticipates the conveyance will be completed.

PURPOSE OF THE BILL

The purpose of H.R. 5544, as ordered reported, is to authorize and expedite a land exchange involving National Forest System land in the Laurentian District of the Superior National Forest and certain other National Forest System land in the State of Minnesota that has limited recreational and conservation resources and lands owned by the State of Minnesota in trust for the public school system that are largely scattered in checkerboard fashion within the Boundary Waters Canoe Area Wilderness and have important recreational, scenic, and conservation resources.

BACKGROUND AND NEED FOR LEGISLATION

The Minnesota Education Investment and Employment Act (H.R. 5544) would authorize a land exchange between the Superior National Forest and the State of Minnesota. Like many territories-turned-states, Minnesota retained a number of parcels of school trust land upon entering statehood for sale and/or development to raise funds for education, many of which were sold in the 1880s for agriculture and development. There now remains approximately 2.5 million acres of school trust land in the State of Minnesota, located primarily in ten northern counties. Unfortunately, several thousand acres of school trust land were included within the border of the Boundary Waters Canoe Area Wilderness (BWCAW) when it was established by Congress in 1978.

Access and development of these school trust lands is effectively prohibited by being located within a congressionally-designated wilderness area. The Wilderness Act of 1964 prohibits road-building and the use of motorized or mechanized equipment across federal land that would be necessary for the State to make any use of these lands. H.R. 5544 would provide a solution to this long-standing issue by exchanging the acres of school trust land locked away within the BWCAW for an in-kind amount of land from the Superior National Forest.

Opponents of a land exchange have advocated for the Forest Service to simply purchase the parcels within the BWCAW using the Land and Water Conservation Fund. However, given that the

value of the parcels is estimated to be in excess of \$100 million, an acquisition is not fiscally feasible.

H.R. 5544 directs the Secretary of Agriculture to enter into a land exchange with the State of Minnesota for the trust lands located within the BWCAW pursuant to the terms outlined by law recently enacted by the State of Minnesota (S.F. 1750), that requires equal value for the parcels to be exchanged. In addition, the legislation specifies that the State of Minnesota is responsible for all survey and administrative costs of the exchange, and that lands acquired by the State remain open to recreational activities while not in use for revenue generation.

During Full Committee consideration of the bill, the Committee adopted an amendment offered by Congressman Rob Bishop (R-UT) to make a technical correction and extend the deadline for completion of the exchange from one year to 18 months.

COMMITTEE ACTION

H.R. 5544 was introduced on May 8, 2012, by Congressman Chip Cravaack (R-MN). The bill was referred to the House Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On June 8, 2012, the Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill. On August 1, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered an amendment designated #1 to the bill; the amendment was adopted by voice vote. Congressman Raul Grijalva (D-AZ) offered an amendment designated .AM2 to the bill; the amendment was not adopted by a roll call vote of 19 to 25, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: August 1, 2012

Recorded Vote #: 2

Meeting on / Amendment: **H.R. 5544** – An amendment offered by Mr. Grijalva.AM2 was NOT AGREED TO by a roll call vote of 19 yeas and 25 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Ms. Sutton, OH</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Mr. Tonko, NY</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, MD		X	
Mr. Coffman, CO		X		Mr. Landry, LA			
<i>Mr. Costa, CA</i>	X			Mr. Runyan, NJ		X	
Mr. McClintock, CA		X		Mr. Johnson, OH		X	
<i>Mr. Boren, OK</i>				Mr. Amodei, NV		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA							
				TOTALS	19	25	

The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a roll call vote of 25 to 19, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: August 1, 2012

Recorded Vote #: 3

Meeting on / Amendment: **H.R. 5544** – Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 25 yeas and 19 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Ms. Sutton, OH</i>		X	
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC	X		
Mr. Gohmert, TX	X			<i>Ms. Tsongas, MA</i>		X	
<i>Mr. Faleomavaega, AS</i>		X		Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Mr. Pierluisi, PR</i>		X	
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Ms. Hanabusa, HI</i>		X	
<i>Mr. Holt, NJ</i>		X		Ms. Noem, SD	X		
Mr. Broun, GA	X			<i>Mr. Tonko, NY</i>		X	
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland, FL	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>		X		Mr. Harris, MD	X		
Mr. Coffman, CO	X			Mr. Landry, LA			
<i>Mr. Costa, CA</i>		X		Mr. Runyan, NJ	X		
Mr. McClintock, CA	X			Mr. Johnson, OH	X		
<i>Mr. Boren, OK</i>				Mr. Amodei, NV	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>		X					
Mr. Denham, CA							
				TOTALS	25	19	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 5544—Minnesota Education Investment and Employment Act

Summary: H.R. 5544 would require the Secretary of Agriculture to exchange unspecified national forest lands for 86,000 acres of land owned by the state of Minnesota, located within the federal Boundary Waters Canoe Area Wilderness (BWCAW). Based on information provided by the Forest Service, CBO estimates that enacting the legislation would increase direct spending by \$6 million over the 2014–2022 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 5544 would not affect revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The state of Minnesota would benefit from the land exchange authorized in the bill. Any costs to the state would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5544 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											2013– 2017	2013– 2022
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022			
	CHANGES IN DIRECT SPENDING												
Estimated Budget Authority ..	0	*	*	1	1	1	1	1	1	1	1	2	6
Estimated Outlays	0	*	*	1	1	1	1	1	1	1	1	2	6

Notes: Amounts may not sum to totals because of rounding.

* = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted late in 2012.

H.R. 5544 would require the Secretary of Agriculture to complete a land exchange that would increase the amount of federally owned land within the BWCAW. Under the Thye-Blatnick Act, the Forest Service makes annual payments to three counties in Minnesota that encompass portions of the BWCAW. Those payments are cal-

culated as a percentage of the appraised value of federally owned lands within the BWCAW. In 2012, the Forest Service owned 600,000 acres of land within the BWCAW and paid the affected counties \$6 million. 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, and we estimate that payments to the affected counties would increase by a total of \$6 million over the 2014–2022 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. However, CBO estimates that any loss of receipts would probably not exceed \$500,000 in any year.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting H.R. 5544 would increase direct spending by \$6 million over the 2014–2022 period. Enacting H.R. 5544 would not affect revenues.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5544 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON AUGUST 1, 2012

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012–2017	2012–2022
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	0	0	0	1	1	1	1	1	1	1	2	6

Intergovernmental and private-sector impact: H.R. 5544 contains no intergovernmental or private-sector mandates as defined in UMRA. The state of Minnesota would benefit from the land exchange authorized in the bill. Any costs to the state would be incurred voluntarily.

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of the legislation would increase direct spending by \$6 million over 2014–2022. In addition, CBO estimates that the bill could also reduce offsetting receipts of not more than \$500,000 in any year.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to authorize and expedite a land

exchange involving National Forest System land in the Laurentian District of the Superior National Forest and certain other National Forest System land in the State of Minnesota that has limited recreational and conservation resources and lands owned by the State of Minnesota in trust for the public school system that are largely scattered in checkerboard fashion within the Boundary Waters Canoe Area Wilderness and have important recreational, scenic, and conservation resources.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

Proponents of H.R. 5544 argue that state trust lands within the Boundary Waters Canoe Area Wilderness (BWCAW) should be exchanged for federal lands outside that area so that the state can generate more revenue through mining and logging. The legislation contains a number of controversial provisions, however, and ignores the fact that the relevant Minnesota counties are already being compensated for the presence of federal land within their boundaries. As a result, H.R. 5544 should be rejected.

H.R. 5544 mandates the exchange of land between the State of Minnesota and the U.S. Forest Service without identifying which federal lands will go into state ownership. Further, the legislation uses non-traditional methods to appraise those lands, putting taxpayers at risk. Finally, H.R. 5544 waives public input and consultation, making the bill controversial and potentially setting an unacceptable precedent. These defects were raised by the Forest Service in testimony against this legislation.

Counties in Minnesota continue to be compensated by the federal government for the designation of the BWCAW. In addition to payments that other counties receive through the Secure Rural Schools and Payment in Lieu of Taxes (PILT) programs, Cook, Lake, and St. Louis counties receive mandatory annual payments totaling \$6 million to compensate for the loss of property tax revenues resulting from federal ownership of land within the BWCAW.

During Committee consideration of this legislation, Ranking Member Grijalva offered an amendment to provide public participation and taxpayer protections while allowing the exchange to proceed. The amendment was defeated by a party-line vote.

There are ways to facilitate land exchanges that bring people together to a common solution. This bill is not one of them and should be rejected.

EDWARD J. MARKEY.
RAÚL GRIJALVA.

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