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House of Representatives - State of Minnesota

Subcommittee on National Parks, Forests and Public Lands

Hearing on HR 5544
Minnesota Education Investment and Employment Act
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Thank you Chairman Bishop for the invitation to testify in support of HR 5544. Chairman, members of the subcommittee, this bill if passed has the potential to be the next crucial step in a series of reform efforts in the State of Minnesota to fulfill our trust obligations for the public school children of Minnesota. Ms. Keliher and I are here today on their behalf.

As mentioned, I am a State Representative in the State of Minnesota but more importantly I am here today as a trustee of the Minnesota School Trust Lands. I arrived to the State Legislature with ten years of public education finance experience yet I did not know the school children of Minnesota were the beneficiaries of trust land and trust fund and that I was a trustee. Even as a member of education finance committee it was not until my third year serving at the State Legislature when I was assigned to be the chair of a School Trust Lands Work Group that I learned of the trust lands and their purpose. I learned a great deal about the history of school trust lands in our country and state.

Mr. Chairman, I know you are keenly aware of the school trust lands issue being from the trust land reform leading state of Utah - the State we have used as a model; however you may not be as familiar with the status of school trust lands in the state of MN. Please allow me to provide some Minnesota background.

When Minnesota became a state the federal government granted sections 16 and 36 of every township for the "benefit of public schools". The acceptance of that land grant created a trust and the State accepted the position of trustee on behalf of the beneficiaries who are clearly the school children of the state.

This trustee relationship extends to the MN legislature, Department of Natural Resources, State Board of Investment and others who make major decisions that influence the trust. It bears repeating for this discussion the same fiduciary principles that govern the administration of private trusts apply to the trustees of the school trust lands and funds.

Today we hold in trust for the students 2.5 million acres with 1 million acres of severed mineral rights, which are managed by the DNR. These lands generate revenue for the use of schools from forestry, mining and leasing.

As a State Representative I take my role as trustee very seriously. I now know when I stand up the first day of session and take the oath of office to uphold the State Constitution I am reaffirming my role as trustee. According to trust law a trustee must act with undivided loyalty to the beneficiaries, which are clearly the school children of this Minnesota. As I became more keenly aware of my role of trustee, it became clear that the management of School Trust Lands and the trust fund needed reform - we had been acting with divided loyalty.

In 1905 Minnesota had one of the top performing funds in the country and now I learned (with the help of Margaret Bird) we are in the bottom quartile. Our first school trust lands reform bill was passed off the house floor in 2008, it distributed the interest and dividends to the school districts of the state as required by the State Constitution BUT it eliminated the subtraction of the same amount from the education funding provided that year. This move provided additional \$26 per student beginning in 2010 and will continue to provide additional funding each year depending on the performance of the trust. The increased revenue (without raising taxes) has captured the attention of the education leaders and legislators on a bipartisan basis. It supports something we can all get behind: increasing revenue to our schools without raising taxes and honoring our trust obligations.

Our reforms have continued, in the next legislative session there will be a Legislative Trust Land Commission made up of 12 members - 6 senators and 6 representatives. Each body will have equal number of Democrats and Republicans regardless who is in the majority. This was intentional, since we have found this is a nonpartisan issue. Our final reform bill received 110 votes out of 134 - this is a topic that brings Republicans and Democrats together. That same bill allowed us to hire a School Trust Lands Director. This position will be critical in our attempt to get the school trust lands out of the Boundary Water Canoe Wilderness Area.

We have made great progress in honoring our trust obligations in the State of Minnesota. Yet we have one outstanding issue that only Congress can facilitate - we are here asking for your help. The 93,260 trust land acres in the Boundary Water Canoe Area, because of the wilderness status, have not generated income for 34 years. We understand they should not generate income in order to preserve the pristine character of the wilderness area.

Yet we as trustees have a fiduciary responsibility to explore all options in order to ensure that these constitutionally dedicated lands are being managed to generate revenue as mandated in State Statute 127A.31:

It is the goal of the Permanent School Fund to secure the maximum long-term economic return from the school trust lands consistent with the responsibilities imposed by the trust relationship established in the Minnesota Constitution, with sound natural resource conservation and management principles, and with other specific policy provided in State law.

As a state we have a long history with the 93,260 acres of Trust Land in the BWCAW. At the legislature we have debated sale vs swap, passed bills, passed resolutions, as well as created specific work groups all of which have come up empty handed for the children of our state. For this reason we are very grateful to Congressman Cravaack for introducing HR5544 and taking a leadership role in removing the school trust lands from the Boundary Waters Canoe Area. This bill is important for a many reasons:

- A duty of a trust is to make trust property productive. This land exchange would make 93,260 acres of unproductive land productive for the trust.
- Eliminates the threat of a potential law suit. According to Minnesota law, if management decisions were producing less than adequate income the trust fund would have to be compensated. The trust fund has never been compensated for the 93,260 acres that produce no revenue in the BWCAW. In the State vs University of Alaska, the Alaska Supreme Court ruled that the state had breached its duty to administer the trust solely in the interest of the beneficiaries by failing to compensate the trust for the value of university land included in a state park. We do not want Minnesota to continue to be in a position of a potential breach of trust law suit and paying lawyer fees instead of our students.
- Rectifies lost revenue to the trust fund and students: The lack of revenue generation can be calculated into real dollars owed our schools. In a calculation done by the Conservationists With Common Sense it was determined on average, school trust lands generate \$7 per acre annually for the trust fund. Based on 93,000 acres in the BWCAW this is more than \$650,000 annually. The absence of revenue for 34 years would have been more than \$22 million in lost revenue to the trust fund and increased value to the portfolio. If nothing is done this revenue to the schools is lost. You can't go back and purchase the reading or math materials that may have made a difference in students' learning for that year. A third grader is only third grader once - you can't get that year back.
- Land sale is not feasible: politically or fiscally. In previous years the iron range delegation has opposed a total land buyout and continue to do so. The land acquired with a land swap provides jobs for a struggling economy in Northern Minnesota. From a

fiscal perspective, it is the viewpoint of this taxpayer that the federal government does not have \$100 million required to buyout lands in the BWCAW.

- Land Swap provides a win-win solution to an ongoing problem. Swapping the trust land with federally owned land outside the BWCAW is a solution that creates a win for everyone involved. Congress honors the integrity of the BWCAW, the newly acquired trust lands will generate revenue for the trust fund, the schools receive badly needed increased revenue and the State honors its fiduciary responsibilities.
- Retains the integrity of the BWCAW. All the recreational value remains in tact - accessible and affordable for all Minnesotans to enjoy forever.
- Honors the trust obligations: The new acquired school trust lands maximizes potential income generation for schools into the future. The trust created upon statehood is a perpetual trust and must be managed for the future. This land swap ensures long-term productivity and economic potential for the benefit of current and future trust beneficiaries. Allows for future revenue generation through the use of leases, forestry, mining and other potential income generator such as wind energy.

As I have outlined, we have made great progress in the State of Minnesota to better manage the school trust lands to better honor our trust obligations. This issue is about generating more money for our schools but more importantly - it is about honoring the intent of our Founding Fathers who had the divine wisdom to understand that funding our public schools now and in the future is the building blocks of developing and maintaining a great, competitive country. Our Founding Fathers would not understand the lack of action on behalf of the students in regards to the trust land in the BWCAW...neither would our children. It is a matter of trust. I want to thank Representative Cravaack for his leadership in acting on their behalf and add my support for HR5544.