

**RESOLUTION 3-H.F.No. 426**

*A resolution memorializing the President and Congress to enact laws that will expedite the exchange of intermingled state and federal lands located within the exterior boundaries of the Superior National Forest to consolidate land ownership for the purpose of enabling each government to properly discharge its respective management duties.*

WHEREAS, pursuant to the Organic, Enabling, and other acts relating to the establishment of the state of Minnesota, land commonly referred to as school trust land has been granted to the state of Minnesota for public school and other purposes and has been constitutionally accepted and dedicated by the citizens of the state for such purposes by applying these lands to the production of income for the state's permanent school fund, all as described in detail in Minnesota Statutes, section 1.0451, subdivision 2; and

WHEREAS, pursuant to the federal Enabling Act authorizing the establishment of the state of Minnesota, on an equal footing with the original 13 states, and the Constitution of Minnesota, by which the citizens of Minnesota accepted the terms and conditions of the Enabling Act, the ownership of navigable waters and their beds was transferred to the state of Minnesota, all as described in detail in Minnesota Statutes, section 1.0451, subdivision 1; and

WHEREAS, approximately 100,000 acres of state-owned land (mostly school grant land) and approximately 172,000 acres of state-owned waters, or a total of over 272,000 state-owned acres, make up one-quarter of the 1,078,000 acres that are included within that portion of the Superior National Forest that has been designated by Congress as the Boundary Waters Canoe Area Wilderness; and

WHEREAS, the extraordinary nature of the land and waters located in this wilderness area has been described by the 8th U.S. Circuit Court of Appeals as follows in its decision in *State of Minnesota by Alexander v. Block*, 449 F.Supp. 1223 (D. Minn. 1980), 660 F.2d 1240 (8th Cir. 1981), Cert. denied 431 U.S. 939 (1982):

"The Boundary Waters Canoe Area is the largest wilderness area east of the Rocky Mountains and the second largest in our wilderness system. It is our Nation's only lakeland canoe wilderness - a network of more than 1,000 lakes linked by hundreds of miles of streams and short portages which served as the highway of fur traders who followed water routes pioneered by Sioux and Chippewa Indians. Despite extensive logging, the BWCA still contains 540,000 acres of virgin forests, by far the largest such area in the eastern United States.

This last remnant of the old "northwoods" is remarkable not only for its lakes and virgin forests, but also for its wildlife. \*\*\* [M]any western wilderness areas lack such complete food chains. This natural ecosystem is a valuable educational and scientific resource; it has been the focal point of important research in wildlife behavior, forest ecology, nutrient cycles, lake systems, and vegetation history."; and

WHEREAS, within this wilderness that contains a network of more than 1,000 lakes linked by hundreds of miles of streams and short portages and a land surface that is crowned with a forest which includes 540,000 acres of virgin or "old growth" timber that hosts unique plant and animal ecosystems such as that of the timber wolf, the state of Minnesota's school grant and other lands are scattered in a checkerboard fashion across the entire area, a consequence of the fact that the lands were granted almost entirely in Sections 16 and 36 in most townships in what now is designated as a federal wilderness; and

WHEREAS, as a consequence of decisions by the federal courts in the above cited case of *State of Minnesota by Alexander v. Block*, where the state unsuccessfully challenged the unilateral action by

Congress of extending federal jurisdiction from federally owned land to state-owned water, the state's free exercise of authority over its state-owned lands and waters was severely diminished; and

WHEREAS, in the 18 years since the federal courts upheld this congressional extension of federal authority over state water, the only revenue earned on school and other state grant lands from wilderness users has been derived from a token campground reservation fee that is reappropriated for necessary campground maintenance and therefor adds nothing to the permanent school fund, the fund constitutionally established to support public schools of the state out of income derived from school and other grant land sale and natural resource management revenues; and

WHEREAS, continuance of state land ownership within the Boundary Waters Canoe Area Wilderness not only defeats the purpose for which the state school grant lands were granted and dedicated, it also unnecessarily handicaps federal management duties relating to the wilderness area; and

WHEREAS, the Minnesota Constitution, article XI, sections 8 and 10, provide that school and other grant lands may be sold only at public auction or exchanged; and

WHEREAS, consolidation of federal land ownership within the Boundary Waters Canoe Area Wilderness through an exchange of Superior National Forest land that is located outside the wilderness area for state land that is located within the wilderness area will mutually benefit both the federal and state governments by simplifying federal wilderness area management activities through efficiencies arising from single land ownership and by enabling the state to properly manage its school trust lands for the purposes for which these lands were granted and dedicated, as was first contemplated for these lands by the Minnesota legislature in the enactment of Laws 1917, chapter 448, which created the Minnesota state forests in the counties of Cook, Lake, and St. Louis, the first state forests established in Minnesota; and

WHEREAS, there appears, preliminarily, to be sufficient acreage of federal land that is located within the exterior boundaries of the Superior National Forest, exclusive of lands in the Boundary Waters Canoe Area Wilderness, to exchange for the high value state-owned school grant and other land inholdings located within the wilderness area; NOW, THEREFORE,

BE IT RESOLVED by the Legislature of the State of Minnesota that Congress is requested to speedily enact laws that would expedite the exchange of federally owned land located within the Superior National Forest that lies outside of the Boundary Waters Canoe Area Wilderness for land owned by the state of Minnesota located within the Boundary Waters Canoe Area Wilderness.

BE IT FURTHER RESOLVED that in its deliberations concerning this request, Congress is requested to be especially cognizant that the legal title of the state of Minnesota to its school and other grant lands located within this wilderness area has been preserved, relatively unaltered, since being separated by grant from the federal public domain at statehood, and that the state of Minnesota's checkerboard land ownership pattern gives these lands a unique value because the lands are an integral part of what the 8th U.S. Circuit Court of Appeals recognized in *State of Minnesota by Alexander v. Block* as "...our Nation's only lakeland canoe wilderness - a network of more than 1,000 lakes linked by hundreds of miles of streams and short portages which served as the highway of fur traders..." and which "...still contains 540,000 acres of virgin [old growth] forests, by far the largest such area in the eastern United States."

BE IT FURTHER RESOLVED that Congress also be cognizant that the Minnesota Constitution, article XI, section 10, relating to the exchange of school grant and other state lands, requires the state to reserve mineral and water power rights in lands transferred by the state and, in addition, that Minnesota has never leased any state-owned minerals located on lands within the area that is federally designated as the Boundary Waters Canoe Area Wilderness, and further, that since 1976, under Minnesota Statutes, section 84.523, state law prohibits, except when needed in a national emergency declared by Congress, the exploration and mining of state-owned minerals and the harvesting of state-owned peat.

BE IT FURTHER RESOLVED that while the state of Minnesota is cognizant of the fact that Congress may authorize the federal government to acquire state-owned school grant and other lands by eminent domain proceedings brought in federal courts, a procedure which entails congressional appropriation of the substantial amount of money necessary to pay Minnesota the market value of these lands as approved by the federal courts, the state hereby affirms that the mutual best interests of both the federal and state governments are best served by land exchange as a solution to the long-standing problem of intermingled land ownership within the Superior National Forest.

BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, the chair of the Senate Committee on Energy and Natural Resources, the chair of the House Committee on Resources, and to each of Minnesota's Senators and Representatives in Congress for the purpose of assisting those members in the discharge of duties imposed by Minnesota Statutes, section 1.0451, especially those duties set forth in subdivision 3 relating to land exchange.

Presented to the governor April 20, 1999

Signed by the governor April 23, 1999, 11:53 a.m.