

104TH CONGRESS
2D SESSION

S. 1738

To provide for improved access to and use of the Boundary Waters Canoe Area Wilderness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 8, 1996

Mr. GRAMS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for improved access to and use of the Boundary Waters Canoe Area Wilderness, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Boundary Waters
5 Canoe Area Wilderness Accessibility and Partnership Act
6 of 1996”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) the Boundary Waters Canoe Area Wilder-
10 ness, located amidst the scenic splendor of the Min-

1 nesota-Ontario border, is and always will be a
2 unique lakeland-based Federal wilderness unit that
3 serves as 1 of the Nation's great natural ecosystems;

4 (2) the Boundary Waters Canoe Area Wilder-
5 ness is a special wilderness area dedicated to appro-
6 priate public access and use through recognized mo-
7 torized and nonmotorized recreational activities
8 under protections and commitments in the Wilder-
9 ness Act (16 U.S.C. 1131 et seq.) and Public Law
10 95-495 (92 Stat. 1649);

11 (3) intergovernmental cooperation that respects
12 and emphasizes the role of State, local, and tribal
13 governments in land management decisionmaking
14 processes is essential to optimize the preservation
15 and development of social, historical, cultural, and
16 recreational resources; and

17 (4) the national interest is served by—

18 (A) improving the management and protec-
19 tion of the Boundary Waters Canoe Area Wil-
20 derness;

21 (B) allowing Federal, State, local, and
22 tribal governments to engage in an innovative
23 management partnership in Federal land man-
24 agement decisionmaking processes; and

1 (C) ensuring adequate public access, enjoy-
2 ment, and use of the Boundary Waters Canoe
3 Area Wilderness through nonmotorized and lim-
4 ited motorized means.

5 **SEC. 3. MANAGEMENT CHANGES.**

6 (a) USE OF MOTORBOATS.—

7 (1) LAC LA CROIX.—Section 4(c)(1) of Public
8 Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note)
9 is amended by inserting “Lac La Croix, Saint Louis
10 County;” after “Saint Louis County;”.

11 (2) BASSWOOD, BIRCH, AND SAGANAGA
12 LAKES.—Section 4(c) of Public Law 95–495 (92
13 Stat. 1650; 16 U.S.C. 1132 note) is amended—

14 (A) in paragraph (1)—

15 (i) by striking “except that portion
16 generally” and all that follows through
17 “Washington Island” and inserting “Lake
18 County; Birch, Lake County”; and

19 (ii) by striking “, except for that por-
20 tion west of American Point”; and

21 (B) by striking paragraph (4).

22 (3) SEA GULL LAKE.—Section 4(c) of Public
23 Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note)
24 is amended—

1 (A) in paragraph (2), by striking “that
2 portion generally east of Threemile Island,”;
3 and

4 (B) in paragraph (3), by striking “Sea
5 Gull, Cook County, that portion generally west
6 of Threemile Island, until January 1, 1999;”.

7 (b) DEFINITION OF GUEST.—The second proviso of
8 section 4(f) of Public Law 95–495 (92 Stat. 1651; 16
9 U.S.C. 1132 note) is amended—

10 (1) by inserting “day and overnight” after
11 “lake homeowners and their”;

12 (2) by inserting “who buy or rent goods and
13 services” after “resort owners and their guests”; and

14 (3) by inserting “or chain of lakes” after “shall
15 have access to that particular lake”.

16 (c) MOTORIZED PORTAGES.—Section 4 of Public
17 Law 95–495 (92 Stat. 1651; 16 U.S.C. 1132 note) is
18 amended by striking subsection (g) and inserting the fol-
19 lowing:

20 “(g) MOTORIZED PORTAGES.—Nothing in this Act
21 shall prevent the operation of motorized vehicles and asso-
22 ciated equipment to assist in the transport of a boat across
23 the portages from the Moose Lake chain to Basswood
24 Lake, from Fall Lake to Basswood Lake, and from Lake
25 Vermilion to Trout Lake.”.

1 **SEC. 4. PLANNING AND MANAGEMENT COUNCIL.**

2 Section 4 of Public Law 95–495 (92 Stat. 1650; 16
3 U.S.C. 1132 note) is amended by adding at the end the
4 following:

5 “(j) **PLANNING AND MANAGEMENT COUNCIL.**—

6 “(1) **ESTABLISHMENT.**—There is established
7 the Boundary Waters Canoe Area Wilderness Inter-
8 governmental Council (referred to in this Act as the
9 ‘Council’).

10 “(2) **DUTIES OF THE COUNCIL.**—The Council
11 shall develop and monitor a comprehensive manage-
12 ment plan for the wilderness in accordance with sec-
13 tion 20.

14 “(3) **MEMBERSHIP.**—The Council shall be com-
15 posed of 11 members, appointed by the Secretary, of
16 whom—

17 “(A) 1 member shall be the Under Sec-
18 retary for Natural Resources and Environment
19 of the Department of Agriculture, or a des-
20 ignee;

21 “(B) 3 members shall be appointed, from
22 recommendations by the Governor of Min-
23 nesota, to represent the Department of Natural
24 Resources, the Office of Tourism, and the Envi-
25 ronmental Quality Board, of the State of Min-
26 nesota;

1 “(C) 1 member shall be a commissioner
2 from each of the counties of Lake, Cook, and
3 Saint Louis from recommendations by each of
4 the county board of commissioners;

5 “(D) 1 member shall be an elected official
6 from the Northern Counties Land-Use Coordi-
7 nating Board from recommendations by the
8 Board;

9 “(E) 1 member shall be the State senator
10 who represents the legislative district that con-
11 tains a portion of the wilderness;

12 “(F) 1 member shall be the State rep-
13 resentative who represents the legislative dis-
14 trict that contains a portion of the wilderness;
15 and

16 “(G) 1 member shall be an elected official
17 of the Native American community to represent
18 the 1854 Treaty Authority, from recommenda-
19 tions of the Authority.

20 “(4) ADVISORY COUNCILS.—

21 “(A) IN GENERAL.—The Council may es-
22 tablish 1 or more advisory councils for consulta-
23 tion, including councils consisting of members
24 of conservation, sportsperson, business, profes-
25 sional, civic, and citizen organizations.

1 “(B) FUNDING.—An advisory council es-
2 tablished under subparagraph (A) may not re-
3 ceive any amounts made available to carry out
4 this Act.

5 “(5) QUORUM.—A majority of the members of
6 the Council shall constitute a quorum.

7 “(6) CHAIRPERSON.—

8 “(A) ELECTION.—The members of the
9 Council shall elect a chairperson of the Council
10 from among the members of the Council.

11 “(B) TERMS.—The chairperson shall serve
12 not more than 2 terms of 2 years each.

13 “(7) MEETINGS.—The Council shall meet at
14 the call of the chairperson or a majority of the mem-
15 bers of the Council.

16 “(8) STAFF AND SERVICES.—

17 “(A) STAFF OF THE COUNCIL.—The Coun-
18 cil may appoint and fix the compensation of
19 such staff as the Council considers necessary to
20 carry out this Act.

21 “(B) PROCUREMENT OF TEMPORARY
22 SERVICES.—The Council may procure tem-
23 porary and intermittent services under section
24 3109(b) of title 5, United States Code.

1 “(C) ADMINISTRATIVE SUPPORT SERV-
2 ICES.—The Administrator of General Services
3 shall provide to the Council, on a reimbursable
4 basis, such administrative support services as
5 the Council requests.

6 “(D) PROVISION BY THE SECRETARY.—On
7 a request by the Council, the Secretary shall
8 provide personnel, information, and services to
9 the Council to carry out this Act.

10 “(E) PROVISION BY OTHER FEDERAL DE-
11 PARTMENTS AND AGENCIES.—A Federal agency
12 shall provide to the Council, on a reimbursable
13 basis, such information and services as the
14 Council requests.

15 “(F) PROVISION BY THE GOVERNOR.—The
16 Governor of Minnesota may provide to the
17 Council, on a reimbursable basis, such person-
18 nel and information as the Council may request.

19 “(G) SUBPOENAS.—The Council may not
20 issue a subpoena nor exercise any subpoena au-
21 thority.

22 “(9) PROCEDURAL MATTERS.—

23 “(A) GUIDELINES FOR CONDUCT OF BUSI-
24 NESS.—The following guidelines apply with re-

1 spect to the conduct of business at meetings of
2 the Council:

3 “(i) OPEN MEETINGS.—Each meeting
4 shall be open to the public.

5 “(ii) PUBLIC NOTICE.—Timely public
6 notice of each meeting, including the time,
7 place, and agenda of the meeting, shall be
8 published in local newspapers and such no-
9 tice may be given by such other means as
10 will result in wide publicity.

11 “(iii) PUBLIC PARTICIPATION.—Inter-
12 ested persons shall be permitted to give
13 oral or written statements regarding the
14 matters on the agenda at meetings.

15 “(iv) MINUTES.—Minutes of each
16 meeting shall be kept and shall contain a
17 record of the persons present, an accurate
18 description of all proceedings and matters
19 discussed and conclusions reached, and
20 copies of all statements filed.

21 “(v) PUBLIC INSPECTION OF
22 RECORD.—The administrative record, in-
23 cluding minutes required under clause (iv),
24 of each meeting, and records or other doc-
25 uments that were made available to or pre-

1 pared for or by the Council incident to the
2 meeting, shall be available for public in-
3 spection and copying at a single location.

4 “(B) NEW INFORMATION.—At any time
5 when the Council determines it appropriate to
6 consider new information from a Federal or
7 State agency or from a Council advisory body,
8 the Council shall give full consideration to new
9 information offered at that time by interested
10 members of the public. Interested parties shall
11 have a reasonable opportunity to respond to
12 new data or information before the Council
13 takes final action on management measures.

14 “(10) COMPENSATION.—

15 “(A) IN GENERAL.—A member of the
16 Council who is not an officer or employee of the
17 Federal government shall serve without pay.

18 “(B) TRAVEL EXPENSES.—While away
19 from the home or regular place of business of
20 the member in the performance of services for
21 the Council, a member of the Council shall be
22 allowed travel expenses, including per diem in
23 lieu of subsistence, in the same manner as per-
24 sons employed intermittently in Federal Gov-

1 ernment service are allowed expenses under sec-
2 tion 5703 of title 5, United States Code.

3 “(11) FUNDING.—Of amounts appropriated to
4 the Forest Service for a fiscal year, the Secretary
5 shall make available such amounts as the Council
6 shall request, not to exceed \$150,000 for the fiscal
7 year.

8 “(12) TERMINATION OF COUNCIL.—The Coun-
9 cil shall terminate on the date that is 10 years after
10 the date of enactment of this subsection.”.

11 **SEC. 5. MANAGEMENT PLAN.**

12 Section 20 of Public Law 95–495 (92 Stat. 1659; 16
13 U.S.C. 1132 note) is amended to read as follows:

14 **“SEC. 20. MANAGEMENT PLAN.**

15 “(a) SCHEDULE.—

16 “(1) IN GENERAL.—Not later than 3 years
17 after the date of enactment of this subsection, the
18 Council shall submit to the Secretary and the Gov-
19 ernor of Minnesota a comprehensive management
20 plan (referred to in this section as the ‘plan’) for the
21 Boundary Waters Canoe Area Wilderness, to be de-
22 veloped and implemented by the responsible Federal
23 agencies, the State of Minnesota, and local political
24 subdivisions.

1 “(2) PRELIMINARY REPORT.—Not later than 1
2 year after the date of the first meeting of the Coun-
3 cil, the Council shall submit a preliminary report to
4 the Secretary describing the process to be used to
5 develop the plan.

6 “(b) DEVELOPMENT OF PLAN.—

7 “(1) IN GENERAL.—In developing the plan, the
8 Council shall examine all relevant issues, including—

9 “(A) year-round visitation consistent with
10 the use levels established under this Act, includ-
11 ing—

12 “(i) reform and simplification of the
13 current day use and overnight use permit
14 system;

15 “(ii) resolving discrepancies between
16 actual permit use and absences; and

17 “(iii) defining the need for special per-
18 mit policies for commercial uses;

19 “(B) the appropriate distribution of visi-
20 tors in the wilderness; and

21 “(C) a comprehensive visitor education
22 program.

23 “(2) CONDITIONS.—In carrying out subpara-
24 graphs (A) through (C) of paragraph (1), the Coun-
25 cil shall—

1 “(A) be subject to relevant environmental
2 law;

3 “(B) consult on a regular basis with ap-
4 propriate officials of each Federal or State
5 agency or local government that has jurisdiction
6 over land or water in the wilderness;

7 “(C) consult with interested conservation,
8 sportsperson, business, professional, civic, and
9 citizen organizations; and

10 “(D) conduct public meetings at appro-
11 priate places to provide interested persons the
12 opportunity to comment on matters to be ad-
13 dressed by the plan.

14 “(3) PROHIBITED CONSIDERATIONS.—The
15 Council may not consider—

16 “(A) removing wilderness designation;

17 “(B) allowing mining, logging, or commer-
18 cial or residential development; or

19 “(C) allowing new types of motorized uses
20 in the wilderness, except as provided in this
21 Act.

22 “(c) APPROVAL OF PLAN.—

23 “(1) SUBMISSION TO SECRETARY AND GOV-
24 ERNOR.—The Council shall submit the plan to the
25 Secretary and the Governor of Minnesota for review.

1 “(2) APPROVAL OR DISAPPROVAL BY THE SEC-
2 RETARY.—

3 “(A) REVIEW BY THE GOVERNOR.—The
4 Governor may comment on the plan not later
5 than 60 days after receipt of the plan from the
6 Council.

7 “(B) SECRETARY.—

8 “(i) IN GENERAL.—The Secretary
9 shall approve or disapprove the plan not
10 later than 90 days after receipt of the plan
11 from the Council.

12 “(ii) CRITERIA FOR REVIEW.—In re-
13 viewing the plan, the Secretary shall con-
14 sider—

15 “(I) the adequacy of public par-
16 ticipation;

17 “(II) assurances of plan imple-
18 mentation from State and local offi-
19 cials in Minnesota;

20 “(III) the adequacy of regulatory
21 and financial tools that are in place to
22 implement the plan;

23 “(IV) provisions of the plan for
24 continuing oversight by the Council of
25 implementation of the plan; and

1 “(V) the consistency of the plan
2 with Federal law.

3 “(iii) NOTIFICATION OF DIS-
4 APPROVAL.—If the Secretary disapproves
5 the plan, the Secretary shall, not later
6 than 30 days after the date of disapproval,
7 notify the Council in writing of the reasons
8 for the disapproval and provide rec-
9 ommendations for revision of the plan.

10 “(C) REVISION AND RESUBMISSION.—Not
11 later than 60 days after receipt of a notice of
12 disapproval under subparagraph (B) or (D), the
13 Council shall revise and resubmit the plan to
14 the Secretary for review.

15 “(D) APPROVAL OR DISAPPROVAL OF RE-
16 VISION.—The Secretary shall approve or dis-
17 approve a plan submitted under subparagraph
18 (C) not later than 30 days after receipt of the
19 plan from the Council.

20 “(d) REVIEW AND MODIFICATION OF IMPLEMENTA-
21 TION OF PLAN.—The Council—

22 “(1) shall review and monitor the implementa-
23 tion of the plan; and

24 “(2) may, after providing for public comment
25 and after approval by the Secretary, modify the

1 plan, if the Council and the Secretary determine
2 that the modification is necessary to carry out this
3 Act.

4 “(e) INTERIM PROGRAM.—Before the approval of the
5 plan, the Council shall advise and cooperate with appro-
6 priate Federal, State, local, and tribal governmental enti-
7 ties to minimize adverse impacts on the values described
8 in section 2.

9 “(f) FOREST SERVICE REGULATIONS.—During the
10 period beginning on the date of enactment of this sub-
11 section and ending on the date a management plan is ap-
12 proved by the Secretary under subsection (c)(2), the Sec-
13 retary may not issue any regulation that relates to the
14 Boundary Waters Canoe Area Wilderness, except for—

15 “(1) regulations required for routine business,
16 such as issuing permits, visitor education, mainte-
17 nance, and law enforcement; and

18 “(2) emergency regulations.

19 “(g) STATE AND LOCAL JURISDICTION.—Nothing in
20 this Act diminishes, enlarges, or modifies any right of the
21 State of Minnesota or any political subdivision of the State
22 to—

23 “(1) exercise civil and criminal jurisdiction;

24 “(2) carry out State fish and wildlife laws in
25 the wilderness; or

1 “(3) tax persons, corporations, franchises, or
2 private property on land and water included in the
3 wilderness.”.

○