

Dear members,

I am a lifelong Minnesotan with a love of its landscapes and history. There are two areas of HF4554 that concern me. The two areas deal with Free State Park permits for select individuals of a minority group and additional authority to the DNR Commissioner's duties without administrative or legislative approval regarding tribal government land conveyance. It is my hope the provisions will be amended and proceed to the Governor's desk for his signature. Your time spent reviewing the next pages is much appreciated.

#### **ARTICLE 4 Inclusion of tribal governments**

Article 4's "Conveyance of Interests In Lands To State ~~And~~, Federal, And Tribal Governments" seeks an amendment to include "tribal governments." (Page 95, line 95.22 & 95.26, Sec. 1. Minnesota Statutes 2018, section 84.63).

The amendment does not adjust, clarify or define remaining subdivisions or terms within for the inclusion of tribal nations.

A "federally recognized Indian tribe" as used in the amendment does not explain the definition. MN House Research's publication, *American Indians, Indian Tribes, and State Government* (February, 2020) notes 12 federally recognized tribes whereas HF4554 lists 11 in section 2 (page 4). Federal designation is not a privilege of Minnesota executive or legislative rulings. Rather, Congress or an action by a federal office determines that classification. The classification can also be removed by the United States. Federal recognition in the event of addition or removal needs to be strictly adhered to as part of this amendment. The section requires additional criteria to

- Define federally recognized Indian tribes
- Identify what US offices will be consulted for existing Indian tribe status, who is responsible for verification, and what forms must be on file for any conveyances involving tribal government.

The status of an Indian tribe may fluctuate. Misinterpretations of "permanent" in the case of easements may cause misunderstanding between DNR or Indian tribes. Easements could become part of an Indian tribe who no longer holds federal recognition. The Section needs to reflect that possibility. Therefore,

- The word "permanent" must be changed to "renewable" to ensure Minnesota lands will remain in agreements with federally recognized tribes.

HF4554 contains a separate amendment “Conveyance of Conservation Easements” (HF4554DE1, Page 22, Article 2 Sec. 18) that appears to duplicate some of Article 4’s (page 95) discussion. The two titles refer to differing types of land however both refer to easements.

As the Article 2, Sec. 18 is not from a previous bill and was not heard in committee, it may be misunderstood and applied to Article 4 of HF4554; Article 4 being created solely from HF3352, authored by Rep. Becker-Finn. While Article 2’s Conservation Easement includes definitions and references,

- Article 4, Section 1 needs to define the specifics of “easement” from “conservation easement” and define “specified periods” and other terms in (a) to provide clear differentiation of the easement being allotted to “federally recognized tribes.”
- Revise “Conveyance of Interests In Lands To State ~~And~~, Federal, And Tribal Governments.” (page 95, line 22 & 23) to reflect specifically to easements and not conveyance of land for any purpose other than an easement to prevent transfers of land not required for easement purposes.

Article 2, Conservation Easement (page 22, line 26-33):

22.26 Sec. 18. ~~§84.625~~ CONVEYANCE OF CONSERVATION EASEMENTS.  
22.27 Notwithstanding any law to the contrary, the commissioner of natural resources may,  
22.28 on state-owned lands administered by the commissioner and on behalf of the state, convey  
22.29 conservation easements as defined in section 84C.01, upon such terms and conditions,  
22.30 including reversion in the event of nonuse, as the commissioner may determine. Any terms  
22.31 and conditions obligating the state to incur costs related to monitoring or maintaining a  
22.32 conservation easement must acknowledge the state is liable for the costs only to the extent  
22.33 of an available appropriation according to section 16A.138.

Article 4, Conveyance Of Interests In Lands To State ~~And~~, Federal, And Tribal, Governments. (page 95, line 22-33):

95.21 Section 1. Minnesota Statutes 2018, section 84.63, is amended to read:  
95.22 84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE ~~AND~~, FEDERAL,  
95.23 AND TRIBAL GOVERNMENTS.  
95.24 (a) Notwithstanding any existing law to the contrary, the commissioner of natural  
95.25 resources is hereby authorized on behalf of the state to convey to the United States, to a  
95.26 federally recognized Indian tribe, or to the state of Minnesota or any of its subdivisions,  
95.27 upon state-owned lands under the administration of the commissioner of natural resources,  
95.28 permanent or temporary easements for specified periods or otherwise for trails, highways,  
95.29 roads including limitation of right of access from the lands to adjacent highways and roads,  
95.30 flowage for development of fish and game resources, stream protection, flood control, and  
95.31 necessary appurtenances thereto, such conveyances to be made upon such terms and  
95.32 conditions including provision for reversion in the event of non-user as the commissioner  
95.33 of natural resources may determine.

The 2017 Omnibus Lands bill includes an element that is void. At that time and currently (predicting HF4554/SF4499 will be signed into law by Governor Walz), Minn. Law Ch. 54 is inapplicable. Section 23 of that Lands bill allows the Minnesota Historical Society to convey portions (over 125 acres) of a State historic site, Lower Sioux Agency, to a sovereign nation via the MN DNR. The Lower Sioux Indian Community was to add the land to Trust, a federal term. MN DNR Commissioner does not have authority to give land to federally recognized Indian tribes.

- Repeal 2017 Minn Law Ch. 54 section 23.

Adding this to HF4554 will aid in clarification of the authority of DNR commissioner with limitation only to easements for conveyance to federally recognized Indian tribes. The 2017 conveyance includes a cemetery and portion of a State historic site and property listed on the National Register to be transferred out of Minnesota State authority and into Indian Trust. For that reason, HF4554 needs to

- include a definition of “land” permitted for conveyance, private or public sale, and otherwise under State ownership that excludes any land containing marked or unmarked human remains, cemeteries, historic buildings, or probable sources of archaeological artifacts; or lands appearing on the National Register of Historic Places, State of Minnesota Historic Sites, or local or county government list of historic places.

Through specific identification of land that can and cannot be conveyed or sold by the DNR on behalf of the State or any of its agencies/offices, DNR research as well as other Agency research will need to be in place and thoroughly reviewed at several governmental levels available to the State including federal offices. Such addition will provide a layer of supervision through collaboration with other state agencies and offices. Tribal government will have the same opportunity to review State owned lands prior to requesting an easement conveyance.

**Article 2: Free State Park permit; members of federally recognized tribes.**

The segment of Article 2 presented below did not receive a hearing in conjunction with another bill. It is new language within HF4554. Page 25, line 20-29 follows.

25.20 Subd. 5a. Free permit; members of federally recognized tribes. (a) The commissioner  
25.21 must issue an annual state park permit for no charge to any member of the eleven federally  
25.22 recognized tribes in Minnesota, as determined by each of the tribal governments. To qualify  
25.23 for a free state park permit under this subdivision, a person must present a qualifying tribal  
25.24 identification to the park attendant on duty or other designee of the commissioner.

25.25 (b) For vehicles permitted under paragraph (a), the permit issued under this subdivision  
25.26 is valid only when displayed on a vehicle owned and occupied by the person to whom the  
25.27 permit is issued.

25.28 (c) The commissioner may issue a daily state park permit free of charge to an individual  
25.29 who qualifies under paragraph (a) and does not own or operate a motor vehicle.

Further examination of Subd. 5a reveals a hot mess of discrimination, lost revenue, presumptive acceptance of tribal law, additional pressure to agency resources, and redundancy.

Subd. 5a creates another duty and another requirement template to DNR staff responsibilities from the Commissioner to the Seasonal employee. All levels would require additional training including a history of federal law, keeping an up to date knowledge of Minnesota's qualifying tribes, forms and necessary identification required from a tribal member in addition to the regular information (license plate, address) needed for a permit.

The financial implications have not been evaluated for the negative impact it will have on the DNR and State budgets. There are no estimates of the State funds required to complete training, develop criteria, create forms or update DNR web sites/pages. Maintaining this subdivision will require ongoing, dedicated work. The subdivision does not define "federally recognized" - for example, the subdivision as written is already outdated as of February, 2020 if it includes reservations and tribal governments. Minnesota Chippewa Tribe (MCT) is listed as a MN federally recognized "tribal government" that assists other Ojibwe tribes. MCT would be number 12 using the term "federally recognized." Likewise, the subdivision does not state how or what tribal government takes precedence in the issue of MCT's involvement with six other Ojibwe reservations. The subdivision lacks definition to pinpoint eligibility, tribal reservation or tribal government. (MN House Research *American Indians American Tribes and State Government*, page 3, federal reservation/tribal government).

The extenuating circumstances involved with COVID-19 does not justify additional expenditures, especially when those expenditures result in lost revenue for the State.

The only identified group of people receiving free State Park permits are veterans and disabled veterans under the existing Statute 85.053. Free permits are addressed in separate subdivisions, 8 and 10, where reference is made to an interagency program granting free passes under a federal program. Additionally, MN DNR participates in the federal Yellow Ribbon program, part of the post 9/11 GI Bill. There is reimbursement of funds.

In contrast to free permit guidelines already existing in 85.053, the new language is misplaced under existing subdivision 5 – Daily vehicle permit for groups. Clearly a free yearly permit for a group based on domestic government law is not related to a ‘group’ or ‘daily’ permit as implied by the Statute. If any consideration is to be given, the additional language would need to appear as other free permits in its own subdivision. To prevent unnecessary expenditure of state resources, any free pass would need to be evaluated for reimbursement from existing federal programs.

The additional language acknowledges recipients would be “as determined by each of the tribal governments.” This phrase gives preferential treatment to some Minnesota residents of Dakota and Ojibwe descent. Tribes can expel members and change membership. There is no correlation between a Minnesota resident’s actual heritage and federal tribal members. Lineal descendants will be excluded from a State benefit due to another domestic government’s determination. That is a glaring conflict to the State’s constitution and spirit. Further, it sets a stage for continued discrimination in all state agencies based on the decision of a sovereign nation. In addition to individuals, portions of families and entire tribes not acknowledged by the federal government will not be entitled to a free permit.

Further, the new language is framed much like existing subdivisions 8 and 10 referring to free permits to veterans and disabled veterans. Unlike 8 and 10, the qualifier does not indicate the type of tribal identification needed for a free annual permit. By federal law, tribes can lose federal recognition. No Minnesota tribe has lost designation, but that is not an absolute for the future. There would need to be additional mandates such as a date, whether the id can/cannot be expired, etc.

- The additional language found on page 25, lines 20-29 needs to be deleted from the current HF4554 proposal (HF4554DE1).

Lastly, if programs begin to single out select individuals of a protected group, how with this promote One Minnesota? It cannot. If Minnesota is to retain its State parks, waysides, and wildlife areas, everyone needs to pitch in. Whether it is

through interagency agreement, discounted permits, or multiple permits per family to address all family vehicles, it is paramount to the finances, actions and significance to the continued benefit State Parks provide to all visitors.

Additional amendments need to be done in order for HF4554 to continue the trek to Governor Walz's desk.

In summary, Article 4's "Conveyance of Interests In Lands To State ~~And~~, Federal, And Tribal Governments" seeks an amendment to include "tribal governments." (Page 95, line 95.22 & 95.26, Sec. 1. Minnesota Statutes 2018, section 84.63).

An amendment needs to include adjustment, clarification, limitation and definition to incorporate new language of "tribal nations" and "federally recognized tribes" within the additional duty of the DNR Commissioner:

- Define federally recognized Indian tribes
- Identify what US offices will be consulted for existing Indian tribe status, who is responsible for verification, and what forms must be on file for any conveyances involving tribal government
- Change the word "permanent" to "renewable" to ensure Minnesota lands remain in agreements with federally recognized tribes
- Differentiate between "easement" and "conservation easement" and define "specified periods" and other terms in (a) to provide clear differentiation of the easement being allotted to "federally recognized tribes"
- Distinguish Article 4, Sec.1 from new language in Article 2 under Conservation Easements
- Revise "Conveyance of Interests In Lands To State ~~And~~, Federal, And Tribal Governments." (page 95, line 22 & 23) to reflect specifically to easements and not conveyance of land for any purpose other than an easement to prevent transfers of land not for easement purposes
- Repeal 2017 Minn Law Ch. 54 section 23
- Include a definition of "land" permitted for conveyance, private or public sale, and otherwise under State ownership that excludes any land containing marked or unmarked human remains, cemeteries, historic buildings, or probable sources of archaeological artifacts; or lands appearing on the National Register of Historic Places, State of Minnesota Historic Sites, or local or county government list of historic places
- Delete lines 20-29 on page 25 from HF4554 (HF4554DE1).

Thank you for making HF4554 an example of one Minnesota with 10,000 lakes and 10,000 opportunities for all MN residents as well as visitors to this great state!

Grateful for you service,  
Stephanie Chappell  
Glencoe, MN