

**Calendar No. 276**118TH CONGRESS  
1ST SESSION**S. 1088****[Report No. 118–132]**

To authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MARCH 30, 2023

Mr. HOEVEN (for himself, Mr. CRAMER, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

DECEMBER 12, 2023

Reported by Mr. MANCHIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “North Dakota Trust  
3 Lands Completion Act of 2023”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) in 1889, Congress enacted the North Da-  
7 kota Enabling Act “to provide for the division of  
8 Dakota into two States and to enable the people of  
9 North Dakota, South Dakota, Montana, and Wash-  
10 ington to form constitutions and State governments  
11 and to be admitted into the Union on an equal foot-  
12 ing with the original States, and to make donations  
13 of public lands to such States”;

14 (2) section 10 of the North Dakota Enabling  
15 Act (25 Stat. 679, chapter 180)—

16 (A) with certain exceptions, granted sec-  
17 tions 16 and 36 in every township to the new  
18 States of North Dakota, South Dakota, Mon-  
19 tana, and Washington “for the support of com-  
20 mon schools”; and

21 (B) in cases where portions of sections 16  
22 and 36 had been reserved, granted, or sold  
23 prior to those States attaining statehood, au-  
24 thorized indemnity or “in lieu” selections;

1           (3) the State of North Dakota was granted  
2 land and minerals totaling more than 2,500,000  
3 acres under the North Dakota Enabling Act;

4           (4) the North Dakota Enabling Act provided  
5 further land grants to the State of North Dakota for  
6 the support of colleges, universities, the State cap-  
7 itol, and other public institutions;

8           (5) prior to the enactment of the North Dakota  
9 Enabling Act, the United States, through treaties  
10 and Executive orders, including the Treaty between  
11 the United States of America and the Mandan,  
12 Hidatsa, Arikara, and other Tribal Nations, made  
13 and concluded at Fort Laramie September 17, 1851  
14 (11 Stat. 749), the Treaty between the United  
15 States of America and the Sisseton and Wahpeton  
16 Bands of Dakota or Sioux Indians, made and con-  
17 cluded at Washington February 19, 1867 (15 Stat.  
18 505), the Treaty between the United States of  
19 America and different Tribes of Sioux Indians, made  
20 and concluded at Fort Laramie April 29, 1868 (15  
21 Stat. 635), and the Executive order of April 12,  
22 1870, established several reservations of land for  
23 multiple Indian Tribes located in the State of North  
24 Dakota;

1           (6) authorizing the State to relinquish the State  
2 land grant parcels located within the reservations  
3 and to select other Federal land or minerals in lieu  
4 of the relinquished State land grant parcels will—

5           (A) fulfill the promise of land and minerals  
6 to the State; and

7           (B) provide to Indian Tribes greater Tribal  
8 sovereignty and control of land and minerals  
9 within the reservations; and

10          (7) Congress should authorize the State—

11          (A) to relinquish the land and minerals lo-  
12 cated within the reservations; and

13          (B) to select in lieu of the relinquished  
14 land other Federal land or minerals in the  
15 State of North Dakota of equal value.

16 **SEC. 3. DEFINITIONS.**

17          In this Act:

18          (1) **FEDERAL LAND.**—The term “Federal land”  
19 means public land and minerals located within the  
20 State of North Dakota, including public land that is  
21 mineral in character.

22          (2) **NORTH DAKOTA ENABLING ACT.**—The term  
23 “North Dakota Enabling Act” means the Act of  
24 February 22, 1889 (25 Stat. 676, chapter 180).

1           (3) PUBLIC LAND.—The term “public land”  
 2           has the meaning given the term “public lands” in  
 3           section 103 of the Federal Land Policy and Manage-  
 4           ment Act of 1976 (43 U.S.C. 1702).

5           (4) RESERVATION.—The term “reservation”  
 6           means any Indian reservation located wholly or par-  
 7           tially within the State of North Dakota and recog-  
 8           nized under United States treaty, Executive order,  
 9           or Act of Congress.

10          (5) SECRETARY.—The term “Secretary” means  
 11          the Secretary of the Interior.

12          (6) STATE.—The term “State” means the State  
 13          of North Dakota, acting through the North Dakota  
 14          Board of University and School Lands and its agent,  
 15          the Department of Trust Lands.

16          (7) STATE LAND GRANT PARCEL.—The term  
 17          “State land grant parcel” means—

18                (A) a parcel of land granted to the State  
 19                of North Dakota by Congress—

20                    (i) on statehood; or

21                    (ii) through a grant pursuant to the  
 22                    North Dakota Enabling Act;

23                (B) a section of land numbered 16 or 36  
 24                granted to the State of North Dakota by Con-  
 25                gress for school purposes;

1           (C) a parcel of land selected by the State  
 2 of North Dakota as indemnity for any section  
 3 of land numbered 16 or 36; and

4           (D) a parcel of land other than a parcel of  
 5 land described in subparagraph (A), (B), or (C)  
 6 obtained by the State after statehood.

7           (8) UNAPPROPRIATED FEDERAL LAND.—

8           (A) IN GENERAL.—The term “unappropri-  
 9 ated Federal land” means Federal land under  
 10 the management and control of the Bureau of  
 11 Land Management and located within the State  
 12 of North Dakota.

13           (B) EXCLUSIONS.—The term “unappropri-  
 14 ated Federal land” does not include—

15           (i) surface interests acquired by the  
 16 Bureau of Land Management;

17           (ii) any area of critical environmental  
 18 concern established pursuant to section  
 19 202(c)(3) of the Federal Land Policy and  
 20 Management Act of 1976 (43 U.S.C.  
 21 1712(c)(3)); or

22           (iii) land that is—

23           (I) withdrawn from public entry;

24           (II) located within a unit of the  
 25 National Park System;

1 (III) located within any reserva-  
2 tion;

3 (IV) located within—

4 (aa) T. 147 N., R. 95 W.;

5 (bb) T. 148 N., R. 95 W.;

6 (cc) T. 148 N., R. 96 W.; or

7 (dd) T. 149 N., R. 95 W.;

8 (V) located within a United  
9 States military reservation; or

10 (VI) designated by Congress or  
11 the President for conservation pur-  
12 poses.

13 **SEC. 4. RELINQUISHMENT AND SELECTION; CONVEYANCE.**

14 (a) RELINQUISHMENT AND SELECTION.—

15 (1) IN GENERAL.—Subject to valid existing  
16 rights, if the State elects to relinquish all right, title,  
17 and interest of the State in and to a State land  
18 grant parcel located wholly or partially within the  
19 boundaries of any reservation, the Secretary shall  
20 authorize the State to select in accordance with this  
21 Act 1 or more parcels of unappropriated Federal  
22 land of substantially equivalent value within the  
23 State of North Dakota.

24 (2) APPROVAL.—Not later than 90 days after  
25 the date on which the State makes a selection under

1 paragraph (1), the Secretary shall approve or reject,  
2 in whole or in part, the selection.

3 ~~(b) CONVEYANCE.—~~

4 ~~(1) CONVEYANCE BY SECRETARY.—~~

5 ~~(A) IN GENERAL.—Not later than 60 days~~  
6 ~~after the date on which the Secretary approves~~  
7 ~~a State selection of unappropriated Federal~~  
8 ~~land under subsection (a)(2), the Secretary~~  
9 ~~shall initiate the actions necessary to convey to~~  
10 ~~the State the unappropriated Federal land.~~

11 ~~(B) REQUIREMENTS.—Conveyance of Fed-~~  
12 ~~eral land by the Secretary under this Act—~~

13 ~~(i) shall be by clear list, patent, or~~  
14 ~~deed acceptable to the State; and~~

15 ~~(ii) shall not be considered a sale, ex-~~  
16 ~~change, or conveyance under section 203,~~  
17 ~~205, 206, or 209 of the Federal Land Pol-~~  
18 ~~icy and Management Act of 1976 (43~~  
19 ~~U.S.C. 1713, 1715, 1716, 1719).~~

20 ~~(2) RELINQUISHMENT AND CONVEYANCE BY~~  
21 ~~STATE.—~~

22 ~~(A) IN GENERAL.—As consideration for~~  
23 ~~the conveyance of Federal land under para-~~  
24 ~~graph (1), on the date on which the Federal~~  
25 ~~land is conveyed to the State, the State shall~~



1 concurrently relinquish and convey to the Sec-  
2 retary all right, title, and interest of the State  
3 in and to the State land grant parcel identified  
4 for relinquishment under subsection (a)(1).

5 (B) TITLE.—The State shall convey to the  
6 Secretary title, free of any financial claims, li-  
7 abilities, or other financial encumbrances, to all  
8 parcels relinquished under subparagraph (A).

9 (C) LIMITATION.—Relinquishment and  
10 conveyance by the State of a State land grant  
11 parcel under this Act shall not be considered an  
12 exchange or acquisition for purposes of section  
13 205 or 206 of the Federal Land Policy and  
14 Management Act of 1976 (43 U.S.C. 1715,  
15 1716).

16 (e) SUCCESSION TO RIGHTS AND OBLIGATIONS.—

17 Each party to which land is conveyed under this Act shall,  
18 to the fullest extent allowable under Federal and State  
19 law, succeed to the rights and obligations of the conveying  
20 party with respect to any lease, right-of-way, permit, or  
21 other valid existing right to which the land is subject.

22 (d) MANAGEMENT AFTER RELINQUISHMENT.—

23 (1) RESERVATION.—If a State land grant par-  
24 cel relinquished by the State and conveyed to the  
25 Secretary under this Act is located wholly or par-

1 tially within the boundaries of any reservation, on  
 2 request of the applicable Indian Tribe, the portion of  
 3 the State land grant parcel located within the  
 4 boundaries of the reservation shall be—

5 (A) taken into trust by the Secretary on  
 6 behalf of, and for the benefit of, the Indian  
 7 Tribe on the date of the conveyance; and

8 (B) considered to be a part of the reserva-  
 9 tion of the Indian Tribe.

10 (2) CONSULTATION REQUIRED.—Prior to the  
 11 conveyance of a State land grant parcel located  
 12 wholly or partially within the boundaries of any res-  
 13 ervation, the State and the Secretary shall consult  
 14 with the Indian Tribe the land of which is subject  
 15 to conveyance in accordance with Executive Order  
 16 13175 (25 U.S.C. 5301 note; relating to consulta-  
 17 tion and coordination with Indian tribal govern-  
 18 ments).

19 (c) SPECIAL RULES FOR MINERAL LAND.—

20 (1) DEFINITION OF UNAPPROPRIATED FEDERAL  
 21 LAND SUBJECT TO A LEASE OR PERMIT.—In this  
 22 subsection, the term “unappropriated Federal land  
 23 subject to a lease or permit” means unappropriated  
 24 Federal land subject to a mineral lease or permit  
 25 that is—

1           (A) issued under the Mineral Leasing Act  
2           (30 U.S.C. 181 et seq.); and

3           (B) in a producing or producible status  
4           during the 10-year period following the date of  
5           enactment of this Act.

6           (2) SELECTION OF MINERAL LAND.—The State  
7           may select, and the Secretary may convey, unappro-  
8           priated Federal land that is mineral in character  
9           under subsection (b) on the condition that, except as  
10          provided in paragraph (3)(A), if the selected land is  
11          unappropriated Federal land subject to a lease or  
12          permit—

13           (A) the Secretary shall reserve an over-  
14           riding interest in the portion of the mineral es-  
15           tate that is comprised of minerals subject to  
16           leasing under the Mineral Leasing Act (30  
17           U.S.C. 181 et seq.); and

18           (B) such a selection shall not include any  
19           portion of the mineral lease or permit.

20          (3) CONVEYANCE OF MINERAL ESTATE.—

21           (A) IN GENERAL.—If the State selects un-  
22           appropriated Federal land subject to a lease or  
23           permit under paragraph (2), on the option of  
24           the State—

1 (i) the Secretary may convey with the  
2 surface interest in the land the interest in  
3 the mineral estate that is comprised of  
4 minerals subject to leasing under the Min-  
5 eral Leasing Act (30 U.S.C. 181 et seq.);  
6 and

7 (ii) all Federal mining claims over the  
8 land shall be converted to State leases in  
9 accordance with this paragraph.

10 (B) MINING CLAIMS.—To facilitate the  
11 conversion of Federal mining claims to State  
12 leases under subparagraph (A), a Federal min-  
13 ing claimant may file with the Secretary a vol-  
14 untary relinquishment of the Federal mining  
15 claim conditioned on—

16 (i) conveyance of the land to the  
17 State; and

18 (ii) the conversion of the Federal min-  
19 ing claim to a State lease.

20 (C) OBLIGATIONS UNDER FEDERAL  
21 LAW.—Until the date on which the land is con-  
22 veyed to the State under subparagraph (A), a  
23 Federal mining claimant shall be subject to any  
24 obligations relating to the land under Federal  
25 law.

1           ~~(D) NO RELINQUISHMENT.~~—If the land  
2           previously encumbered by the relinquished Fed-  
3           eral mining claim is not conveyed to the State  
4           under subparagraph (A), the relinquishment of  
5           land under subparagraph (B) shall have no ef-  
6           fect.

7           ~~(E) RIGHTS-OF-WAY; OTHER INTEREST.~~—  
8           On conveyance to the State of land encumbered  
9           by a relinquished Federal mining claim under  
10          this paragraph, the State shall assume author-  
11          ity over any leases, licenses, permits, rights-of-  
12          way, operating plans, other land use authoriza-  
13          tions, or reclamation obligations applicable to  
14          the relinquished Federal mining claim on the  
15          date of conveyance.

16          ~~(F) VALUATION.~~—If a Federal mining  
17          claimant does not voluntarily relinquish under  
18          subparagraph (B) a Federal mining claim on  
19          land conveyed to the State, the Secretary shall  
20          take into account the encumbrance represented  
21          by the claim in determining the value of the  
22          land under section 5(b).

23          ~~(f) WITHDRAWAL.~~—

24                 ~~(1) IN GENERAL.~~—Subject to valid rights in ex-  
25          istence on the date of enactment of this Act, all Fed-

1 eral land selected by the State for conveyance under  
 2 this Act, effective beginning on the date on which  
 3 the State makes the selection and ending on the  
 4 date described in paragraph (2), is withdrawn from  
 5 all forms of—

6 (A) entry, appropriation, or disposal under  
 7 the public land laws;

8 (B) location, entry, and patent under the  
 9 mining laws; and

10 (C) disposition under all laws pertaining to  
 11 mineral and geothermal leasing or mineral ma-  
 12 terials.

13 (2) DATE DESCRIBED.—The date referred to in  
 14 paragraph (1) is the date on which, as applicable—

15 (A) the Federal land is conveyed by the  
 16 Secretary to the State;

17 (B) the Secretary rejects the selection  
 18 under subsection (a)(2); or

19 (C) the State withdraws the selection.

20 **SEC. 5. VALUATION.**

21 (a) EQUAL VALUE.—With respect to a State land  
 22 grant parcel conveyed under this Act in consideration for  
 23 a parcel of Federal land selected in accordance with this  
 24 Act—

1           (1) the overall value of the State land grant  
2 parcel and the overall value of the parcel of Federal  
3 land shall be substantially equal; or

4           (2) subject to subsection (c), if the overall value  
5 of the parcels is not equal, the party conveying the  
6 parcel of lesser value shall—

7           (A) equalize the value by the payment of  
8 funds to the other party; or

9           (B) enter the imbalance in value on a ledg-  
10 er account in accordance with subsection (c).

11       (b) APPRAISAL REQUIRED.—Except as provided in  
12 subsection (d), the Secretary shall determine the value of  
13 a State land grant parcel and a parcel of Federal land  
14 to be conveyed under this Act through an appraisal com-  
15 pleted in accordance with—

16           (1) the Uniform Appraisal Standards for Fed-  
17 eral Land Acquisitions; or

18           (2) subject to subsection (d)(1), the Uniform  
19 Standards for Professional Appraisal Practice.

20       (c) EQUALIZATION.—With respect to a conveyance to  
21 the Secretary of a State land grant parcel of lesser value  
22 than the parcel of Federal land to be conveyed to the State  
23 under this Act, the total value of the equalization payment  
24 described in subsection (a)(2)(A) or the ledger entry de-

1 scribed in subsection (c), as applicable, may not exceed  
 2 25 percent of the total value of the parcel of Federal land.

3 (d) LOW VALUE PARCELS.—

4 (1) IN GENERAL.—The Secretary, with the con-  
 5 sent of the State, may use mass appraisals, a sum-  
 6 mary appraisal, or a statement of value made by a  
 7 qualified appraiser carried out in accordance with  
 8 the Uniform Standards for Professional Appraisal  
 9 Practice to determine the value of a State land  
 10 grant parcel or a parcel of Federal land to be con-  
 11 veyed under this Act instead of an appraisal that  
 12 complies with the Uniform Appraisal Standards for  
 13 Federal Land Acquisitions if the State and the Sec-  
 14 retary agree that market value of the State land  
 15 grant parcel or parcel of Federal land, as applicable,  
 16 is—

17 (A) less than \$500,000; and

18 (B) less than \$500 per acre.

19 (2) DIVISION.—A State land grant parcel or a  
 20 parcel of Federal land may not be artificially divided  
 21 in order to qualify for a summary appraisal, mass  
 22 appraisal, or statement of value under paragraph  
 23 (1).

24 (e) LEDGER ACCOUNTS.—



1           (1) IN GENERAL.—With respect to a State land  
2 grant parcel conveyed under this Act in consider-  
3 ation for a parcel of Federal land, if the overall  
4 value of the parcels is not equal, the Secretary and  
5 the State may agree to use a ledger account to make  
6 equal the value.

7           (2) IMBALANCES.—A ledger account described  
8 in paragraph (1) shall reflect imbalances in value to  
9 be reconciled in a subsequent transaction.

10          (3) ACCOUNT BALANCING.—Each ledger ac-  
11 count described in paragraph (1) shall be—

12           (A) balanced not later than 3 years after  
13 the date on which the ledger account is estab-  
14 lished; and

15           (B) closed not later than 5 years after the  
16 date of the last conveyance of land under this  
17 Act.

18          (4) COSTS.—

19           (A) IN GENERAL.—The Secretary or the  
20 State may assume costs or other responsibilities  
21 or requirements for conveying land under this  
22 Act that ordinarily are borne by the other  
23 party.

24           (B) ADJUSTMENT.—If the Secretary or the  
25 State assume costs or other responsibilities

1           under subparagraph (A), the Secretary or the  
2           State shall make adjustments to the value of  
3           the Federal land conveyed to the State to com-  
4           pensate the Secretary or the State, as applica-  
5           ble, for assuming the costs or other responsibil-  
6           ities.

7           (5) **MINERAL LAND.**—If value is attributed to  
8           any parcel of Federal land that has been selected by  
9           the State because of the presence of minerals under  
10          a lease entered into under the Mineral Leasing Act  
11          (30 U.S.C. 181 et seq.) that is in a producing or  
12          producing status, and the lease is to be conveyed  
13          under this Act, the value of the parcel shall be re-  
14          duced by the amount that represents the likely Fed-  
15          eral revenue sharing obligation under the Mineral  
16          Leasing Act (30 U.S.C. 181 et seq.) with the State,  
17          but the adjustment shall not be considered as re-  
18          flecting a property right of the State.

19 **SEC. 6. MISCELLANEOUS.**

20          (a) **IN GENERAL.**—Land or minerals conveyed under  
21          this Act shall be subject to all applicable Federal, State,  
22          and Tribal law.

23          (b) **PROTECTION OF INDIAN RIGHTS.**—

24                  (1) **TREATY RIGHTS.**—Nothing in this Act  
25          modifies, limits, expands, or otherwise affects any

1 treaty-reserved right or other right of any Indian  
 2 Tribe recognized by any other means, including trea-  
 3 ties or agreements with the United States, Executive  
 4 orders, statutes, regulations, or case law.

5 ~~(2) LAND OR MINERALS HELD IN TRUST.—~~

6 Nothing in this Act affects—

7 ~~(A) land or minerals held in trust by the~~

8 United States as of the date of enactment of  
 9 this Act on behalf of, and for the benefit of, any

10 Indian Tribe; or

11 ~~(B) any individual Indian allotment.~~

12 ~~(c) HAZARDOUS MATERIALS.—~~

13 ~~(1) IN GENERAL.—~~The Secretary and the State  
 14 shall make available for review and inspection any  
 15 record relating to hazardous materials on land to be  
 16 conveyed under this Act.

17 ~~(2) CERTIFICATION.—~~

18 ~~(A) IN GENERAL.—~~Prior to completing a  
 19 conveyance of Federal land under this Act, the  
 20 Secretary shall complete an inspection and a  
 21 hazardous materials certification of the land to  
 22 be conveyed.

23 ~~(B) STATE LAND GRANT PARCELS.—~~Prior  
 24 to completing a conveyance of a State land  
 25 grant parcel under this Act, the State shall

1 complete an inspection and a hazardous mate-  
2 rials certification of the land to be conveyed.

3 ~~(d) GRAZING PERMITS.—~~

4 ~~(1) IN GENERAL.—~~If land conveyed under this  
5 Act is subject to a lease, permit, or contract for the  
6 grazing of domestic livestock in effect on the date of  
7 the conveyance, the Secretary or the State, as appli-  
8 cable, shall allow the grazing to continue for the re-  
9 mainder of the term of the lease, permit, or con-  
10 tract, subject to the related terms and conditions of  
11 the user agreements, including permitted stocking  
12 rates, grazing fee levels, access, and ownership and  
13 use of range improvements.

14 ~~(2) CANCELLATION.—~~

15 ~~(A) IN GENERAL.—~~Nothing in this Act  
16 prevents the Secretary or the State from can-  
17 celling or modifying a grazing permit, lease, or  
18 contract if the land subject to the permit, lease,  
19 or contract is sold, conveyed, transferred, or  
20 leased for nongrazing purposes.

21 ~~(B) BASE PROPERTIES.—~~If land conveyed  
22 by the State under this Act is used by a grazing  
23 permittee or lessee to meet the base property  
24 requirements for a Federal grazing permit or  
25 lease, the land shall continue to qualify as a

1 base property for the remaining term of the  
 2 lease or permit and the term of any renewal or  
 3 extension of the lease or permit.

4 (C) RANGE IMPROVEMENTS.—Nothing in  
 5 this Act prohibits a holder of a grazing lease,  
 6 permit, or contract from being compensated for  
 7 range improvements pursuant to the terms of  
 8 the lease, permit, or contract under existing  
 9 Federal or State laws.

10 **SEC. 7. SAVINGS CLAUSE.**

11 Nothing in this Act applies to or impacts the owner-  
 12 ship of any land or mineral resources.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “North Dakota Trust*  
 15 *Lands Completion Act of 2023”.*

16 **SEC. 2. DEFINITIONS.**

17 *In this Act:*

18 (1) *NORTH DAKOTA ENABLING ACT.*—*The term*  
 19 *“North Dakota Enabling Act” means the Act of Feb-*  
 20 *ruary 22, 1889 (25 Stat. 676, chapter 180).*

21 (2) *RESERVATION.*—*The term “reservation”*  
 22 *means any Indian reservation located wholly or par-*  
 23 *tially within the State of North Dakota and recog-*  
 24 *nized under United States treaty, Executive order, or*  
 25 *Act of Congress.*

1           (3) *SECRETARY.*—The term “Secretary” means  
2           the Secretary of the Interior.

3           (4) *STATE.*—The term “State” means the State  
4           of North Dakota, acting through the North Dakota  
5           Board of University and School Lands and its agent,  
6           the Department of Trust Lands.

7           (5) *STATE LAND GRANT PARCEL.*—The term  
8           “State land grant parcel” means—

9                   (A) a parcel of land granted to the State of  
10                  North Dakota by Congress—

11                           (i) on statehood; or

12                           (ii) through a grant pursuant to the  
13                  North Dakota Enabling Act;

14                   (B) a section of land numbered 16 or 36  
15                  granted to the State of North Dakota by Congress  
16                  for school purposes;

17                   (C) a parcel of land selected by the State of  
18                  North Dakota as indemnity for any section of  
19                  land numbered 16 or 36; and

20                   (D) a parcel of land other than a parcel of  
21                  land described in subparagraph (A), (B), or (C)  
22                  obtained by the State after statehood.

23           (6) *UNAPPROPRIATED FEDERAL LAND.*—

24                   (A) *IN GENERAL.*—The term “unappropri-  
25                  ated Federal land” means public land adminis-

1            *tered by the Bureau of Land Management lo-*  
2            *cated within the State of North Dakota, includ-*  
3            *ing public land that is mineral in character.*

4            (B) *EXCLUSIONS.—The term “unappropri-*  
5            *ated Federal land” does not include—*

6                    (i) *land (including an interest in land)*  
7                    *acquired by the Bureau of Land Manage-*  
8                    *ment;*

9                    (ii) *any area of critical environmental*  
10                   *concern established pursuant to section*  
11                   *202(c)(3) of the Federal Land Policy and*  
12                   *Management Act of 1976 (43 U.S.C.*  
13                   *1712(c)(3)); or*

14                   (iii) *land that is—*

15                            (I) *withdrawn from—*

16                                    (aa) *entry, appropriation, or*  
17                                    *disposal under the public land*  
18                                    *laws;*

19                                    (bb) *location, entry, and pat-*  
20                                    *ent under the mining laws; or*

21                                    (cc) *disposition under all*  
22                                    *laws pertaining to mineral and*  
23                                    *geothermal leasing or mineral ma-*  
24                                    *terials;*

1                   (II) located within a component  
2 of the National Landscape Conserva-  
3 tion System;

4                   (III) designated as a Research  
5 Natural Area;

6                   (IV) located within any reserva-  
7 tion;

8                   (V) located within—

9                         (aa) T. 147 N., R. 95 W.;

10                        (bb) T. 148 N., R. 95 W.;

11                        (cc) T. 148 N., R. 96 W.; or

12                        (dd) T. 149 N., R. 95 W.;

13                   (VI) located within a United  
14 States military reservation; or

15                   (VII) designated by Congress or  
16 the President for conservation pur-  
17 poses.

18 **SEC. 3. RELINQUISHMENT AND SELECTION; CONVEYANCE.**

19           (a) *RELINQUISHMENT AND SELECTION.*—

20                   (1) *IN GENERAL.*—Subject to valid existing  
21 rights, if the State elects to relinquish all right, title,  
22 and interest of the State in and to a State land grant  
23 parcel located wholly or partially within the bound-  
24 aries of any reservation, the Secretary shall authorize  
25 the State to select in accordance with this Act 1 or



1        *more parcels of unappropriated Federal land of sub-*  
2        *stantially equivalent value.*

3            (2) *APPROVAL.*—*Not later than 180 days after*  
4        *the date on which the State makes a selection under*  
5        *paragraph (1), the Secretary shall approve or reject,*  
6        *in whole or in part, the selection.*

7            (3) *REVIEW.*—*Nothing in this subsection pre-*  
8        *cludes the Secretary from conducting an environ-*  
9        *mental review of any parcel proposed for relinquish-*  
10       *ment under paragraph (1) if the Secretary determines*  
11       *that an environmental review is appropriate.*

12        (b) *CONVEYANCE.*—

13            (1) *CONVEYANCE BY SECRETARY.*—

14            (A) *IN GENERAL.*—*Not later than 60 days*  
15        *after the date on which the Secretary approves a*  
16        *State selection of unappropriated Federal land*  
17        *under subsection (a)(2), the Secretary shall ini-*  
18        *tiate the actions necessary to convey to the State*  
19        *the unappropriated Federal land.*

20            (B) *REQUIREMENTS.*—*Conveyance of unap-*  
21        *propriated Federal land by the Secretary under*  
22        *this Act—*

23            (i) *shall be by patent or deed in a form*  
24        *acceptable to the State and the Secretary;*  
25        *and*

1                   (ii) shall not be considered a sale, ex-  
2                   change, or conveyance for purposes of sec-  
3                   tion 203, 205, 206, or 209 of the Federal  
4                   Land Policy and Management Act of 1976  
5                   (43 U.S.C. 1713, 1715, 1716, 1719).

6                   (2) RELINQUISHMENT AND CONVEYANCE BY  
7                   STATE.—

8                   (A) IN GENERAL.—As consideration for the  
9                   conveyance of unappropriated Federal land  
10                  under paragraph (1), on the date on which the  
11                  unappropriated Federal land is conveyed to the  
12                  State, the State shall concurrently relinquish  
13                  and convey to the Secretary all right, title, and  
14                  interest of the State in and to the State land  
15                  grant parcel identified for relinquishment under  
16                  subsection (a)(1).

17                  (B) TITLE.—The State shall convey to the  
18                  Secretary title, free of any financial claims, li-  
19                  abilities, or other financial encumbrances, to all  
20                  parcels relinquished under subparagraph (A).

21                  (C) LIMITATION.—Relinquishment and con-  
22                  veyance by the State of a State land grant parcel  
23                  under this Act shall not be considered an ex-  
24                  change or acquisition for purposes of section 205

1            *or 206 of the Federal Land Policy and Manage-*  
2            *ment Act of 1976 (43 U.S.C. 1715, 1716).*

3            *(c) SUCCESSION TO RIGHTS AND OBLIGATIONS.—Each*  
4            *party to which land is conveyed under this Act shall, to*  
5            *the fullest extent allowable under Federal and State law,*  
6            *succeed to the rights and obligations of the conveying party*  
7            *with respect to any lease, right-of-way, permit, or other*  
8            *valid existing right to which the land is subject.*

9            *(d) MANAGEMENT AFTER RELINQUISHMENT.—*

10            *(1) RESERVATION.—If a State land grant parcel*  
11            *relinquished by the State and conveyed to the Sec-*  
12            *retary under this Act is located wholly or partially*  
13            *within the boundaries of any reservation, on request*  
14            *of the applicable Indian Tribe, the portion of the*  
15            *State land grant parcel located within the boundaries*  
16            *of the reservation shall be—*

17                    *(A) taken into trust by the Secretary on be-*  
18                    *half of, and for the benefit of, the Indian Tribe*  
19                    *on the date of the conveyance; and*

20                    *(B) considered to be a part of the reserva-*  
21                    *tion of the Indian Tribe.*

22            *(2) CONSULTATION REQUIRED.—Prior to the*  
23            *conveyance of a State land grant parcel located whol-*  
24            *ly or partially within the boundaries of any reserva-*  
25            *tion, the State and the Secretary shall consult with*

1 *affected Indian Tribes, including the Indian Tribe the*  
2 *land of which is subject to conveyance in accordance*  
3 *with Executive Order 13175 (25 U.S.C. 5301 note; re-*  
4 *lating to consultation and coordination with Indian*  
5 *tribal governments) and other applicable laws.*

6 *(e) WITHDRAWAL.—*

7 *(1) IN GENERAL.—Subject to valid rights in ex-*  
8 *istence on the date of enactment of this Act, all unap-*  
9 *propriated Federal land selected by the State for con-*  
10 *veyance under this Act, effective beginning on the date*  
11 *on which the State makes the selection and ending on*  
12 *the date described in paragraph (2), is withdrawn*  
13 *from all forms of—*

14 *(A) entry, appropriation, or disposal under*  
15 *the public land laws;*

16 *(B) location, entry, and patent under the*  
17 *mining laws; and*

18 *(C) disposition under all laws pertaining to*  
19 *mineral and geothermal leasing or mineral ma-*  
20 *terials.*

21 *(2) DATE DESCRIBED.—The date referred to in*  
22 *paragraph (1) is the date on which, as applicable—*

23 *(A) the unappropriated Federal land is con-*  
24 *veyed by the Secretary to the State;*

1                   (B) the Secretary rejects the selection under  
2                   subsection (a)(2); or

3                   (C) the State withdraws the selection.

4 **SEC. 4. VALUATION.**

5           (a) *EQUAL VALUE.*—With respect to a State land  
6 grant parcel conveyed under this Act in consideration for  
7 a parcel of unappropriated Federal land selected in accord-  
8 ance with this Act—

9                   (1) the overall value of the State land grant par-  
10 cel and the overall value of the parcel of unappropri-  
11 ated Federal land shall be substantially equal; or

12                   (2) subject to subsection (c), if the overall value  
13 of the parcels is not equal, the party conveying the  
14 parcel of lesser value shall—

15                           (A) equalize the value by the payment of  
16 funds to the other party; or

17                           (B) enter the imbalance in value on a ledger  
18 account in accordance with subsection (e).

19           (b) *APPRAISAL REQUIRED.*—

20                   (1) *IN GENERAL.*—Except as provided in sub-  
21 section (d), the value of the unappropriated Federal  
22 land selected in accordance with this Act and the  
23 value of a State land grant parcel conveyed under  
24 this Act shall be determined by appraisals conducted

1       *by 1 or more independent appraisers selected jointly*  
2       *by the Secretary and the State.*

3               (2) *REQUIREMENTS.*—*An appraisal under para-*  
4       *graph (1) shall be completed in accordance with—*

5                       (A) *the Uniform Appraisal Standards for*  
6                       *Federal Land Acquisitions; or*

7                       (B) *subject to subsection (d)(1), the Uniform*  
8                       *Standards for Professional Appraisal Practice.*

9       (c) *EQUALIZATION.*—*With respect to a conveyance to*  
10       *the Secretary of a State land grant parcel of lesser value*  
11       *than the parcel of unappropriated Federal land to be con-*  
12       *veyed to the State under this Act, the total value of the*  
13       *equalization payment described in subsection (a)(2)(A) or*  
14       *the ledger entry described in subsection (e), as applicable,*  
15       *may not exceed 25 percent of the total value of the parcel*  
16       *of unappropriated Federal land.*

17       (d) *LOW VALUE PARCELS.*—

18               (1) *IN GENERAL.*—*The Secretary, with the con-*  
19       *sent of the State, may use mass appraisals, a sum-*  
20       *mary appraisal, or a statement of value made by a*  
21       *qualified appraiser carried out in accordance with*  
22       *the Uniform Standards for Professional Appraisal*  
23       *Practice to determine the value of a State land grant*  
24       *parcel or a parcel of unappropriated Federal land to*  
25       *be conveyed under this Act instead of an appraisal*

1       *that complies with the Uniform Appraisal Standards*  
2       *for Federal Land Acquisitions if the State and the*  
3       *Secretary agree that market value of the State land*  
4       *grant parcel or parcel of unappropriated Federal*  
5       *land, as applicable, is—*

6               *(A) less than \$500,000; and*

7               *(B) less than \$500 per acre.*

8               (2) *DIVISION.—A State land grant parcel or a*  
9       *parcel of unappropriated Federal land may not be ar-*  
10       *tificially divided in order to qualify for a summary*  
11       *appraisal, mass appraisal, or statement of value*  
12       *under paragraph (1).*

13       (e) *LEDGER ACCOUNTS.—*

14               (1) *IN GENERAL.—With respect to a State land*  
15       *grant parcel conveyed under this Act in consideration*  
16       *for a parcel of unappropriated Federal land, if the*  
17       *overall value of the parcels is not equal, the Secretary*  
18       *and the State may agree to use a ledger account to*  
19       *make equal the value.*

20               (2) *IMBALANCES.—A ledger account described in*  
21       *paragraph (1) shall reflect imbalances in value to be*  
22       *reconciled in a subsequent transaction.*

23               (3) *ACCOUNT BALANCING.—Each ledger account*  
24       *described in paragraph (1) shall be—*

1           (A) balanced not later than 3 years after  
2           the date on which the ledger account is estab-  
3           lished; and

4           (B) closed not later than 5 years after the  
5           date of the last conveyance of land under this  
6           Act.

7           (4) COSTS.—

8           (A) IN GENERAL.—The Secretary or the  
9           State may assume costs or other responsibilities  
10          or requirements for conveying land under this  
11          Act that ordinarily are borne by the other party.

12          (B) ADJUSTMENT.—If the Secretary or the  
13          State assume costs or other responsibilities under  
14          subparagraph (A), the Secretary or the State  
15          shall make adjustments to the value of the unap-  
16          propriated Federal land conveyed to the State to  
17          compensate the Secretary or the State, as appli-  
18          cable, for assuming the costs or other responsibil-  
19          ities.

20          (5) MINERAL LAND.—If value is attributed to  
21          any parcel of unappropriated Federal land that has  
22          been selected by the State because of the presence of  
23          minerals under a lease entered into under the Mineral  
24          Leasing Act (30 U.S.C. 181 et seq.) that is in a pro-  
25          ducing or producible status, and the lease is to be con-



1        *veyed under this Act, the value of the parcel shall be*  
2        *reduced by the amount that represents the likely Fed-*  
3        *eral revenue sharing obligation under the Mineral*  
4        *Leasing Act (30 U.S.C. 181 et seq.) with the State,*  
5        *but the adjustment shall not be considered as reflect-*  
6        *ing a property right of the State.*

7        **SEC. 5. MISCELLANEOUS.**

8        (a) *IN GENERAL.*—*Land or minerals conveyed under*  
9        *this Act shall be subject to all applicable Federal, State,*  
10       *and Tribal law.*

11       (b) *PROTECTION OF INDIAN RIGHTS.*—

12                (1) *TREATY RIGHTS.*—*Nothing in this Act modi-*  
13        *fies, limits, expands, or otherwise affects any treaty-*  
14        *reserved right or other right of any Indian Tribe rec-*  
15        *ognized by any other means, including treaties or*  
16        *agreements with the United States, Executive orders,*  
17        *statutes, regulations, or case law.*

18                (2) *LAND OR MINERALS HELD IN TRUST.*—*Noth-*  
19        *ing in this Act affects—*

20                        (A) *land or minerals held in trust by the*  
21                        *United States as of the date of enactment of this*  
22                        *Act on behalf of, and for the benefit of, any In-*  
23                        *dian Tribe; or*

24                        (B) *any individual Indian allotment.*

25        (c) *HAZARDOUS MATERIALS.*—

1           (1) *IN GENERAL.*—*The Secretary and the State*  
2           *shall make available for review and inspection any*  
3           *record relating to hazardous materials on land to be*  
4           *conveyed under this Act.*

5           (2) *CERTIFICATION.*—

6           (A) *IN GENERAL.*—*Prior to completing a*  
7           *conveyance of unappropriated Federal land*  
8           *under this Act, the Secretary shall complete an*  
9           *inspection and a hazardous materials certifi-*  
10          *cation of the land to be conveyed.*

11          (B) *STATE LAND GRANT PARCELS.*—*Prior*  
12          *to completing a conveyance of a State land grant*  
13          *parcel under this Act, the State shall complete*  
14          *an inspection and a hazardous materials certifi-*  
15          *cation of the land to be conveyed.*

16          (d) *GRAZING PERMITS.*—

17          (1) *IN GENERAL.*—*If land conveyed under this*  
18          *Act is subject to a lease, permit, or contract for the*  
19          *grazing of domestic livestock in effect on the date of*  
20          *the conveyance, the Secretary or the State, as applica-*  
21          *ble, shall allow the grazing to continue for the re-*  
22          *mainder of the term of the lease, permit, or contract,*  
23          *subject to the related terms and conditions of the user*  
24          *agreements, including permitted stocking rates, graz-*

1 *ing fee levels, access, and ownership and use of range*  
2 *improvements.*

3 (2) *CANCELLATION.*—

4 (A) *IN GENERAL.*—*Nothing in this Act pre-*  
5 *vents the Secretary or the State from canceling*  
6 *or modifying a grazing permit, lease, or contract*  
7 *if the land subject to the permit, lease, or con-*  
8 *tract is sold, conveyed, transferred, or leased for*  
9 *nongrazing purposes.*

10 (B) *BASE PROPERTIES.*—*If land conveyed*  
11 *by the State under this Act is used by a grazing*  
12 *permittee or lessee to meet the base property re-*  
13 *quirements for a Federal grazing permit or lease,*  
14 *the land shall continue to qualify as a base prop-*  
15 *erty for the remaining term of the lease or per-*  
16 *mit and the term of any renewal or extension of*  
17 *the lease or permit.*

18 (C) *RANGE IMPROVEMENTS.*—*Nothing in*  
19 *this Act prohibits a holder of a grazing lease,*  
20 *permit, or contract from being compensated for*  
21 *range improvements pursuant to the terms of the*  
22 *lease, permit, or contract under existing Federal*  
23 *or State laws.*

1 **SEC. 6. SAVINGS CLAUSE.**

2       *Nothing in this Act applies to or affects litigation or*  
3 *disputes pending on the date of enactment of this Act re-*  
4 *garding the ownership of any land or mineral resources lo-*  
5 *cated within the State of North Dakota.*



Calendar No. 276

118<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1088**

[Report No. 118-132]

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## **A BILL**

To authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, and for other purposes.

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DECEMBER 12, 2023

Reported with an amendment