

118TH CONGRESS
2D SESSION

S. 1088

AN ACT

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. DEFINITIONS.**

5 In this Act:

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

9 (2) **RESERVATION.**—The term “reservation”
10 means any Indian reservation located wholly or par-
11 tially within the State of North Dakota and recog-
12 nized under United States treaty, Executive order,
13 or Act of Congress.

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

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

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

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

24 (i) on statehood; or

25 (ii) through a grant pursuant to the
26 North Dakota Enabling Act;

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

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

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

10 (6) UNAPPROPRIATED FEDERAL LAND.—

11 (A) IN GENERAL.—The term “unappropri-
12 ated Federal land” means public land adminis-
13 tered by the Bureau of Land Management lo-
14 cated within the State of North Dakota, includ-
15 ing public land that is mineral in character.

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

18 (i) land (including an interest in land)
19 acquired by the Bureau of Land Manage-
20 ment;

21 (ii) any area of critical environmental
22 concern established pursuant to section
23 202(c)(3) of the Federal Land Policy and
24 Management Act of 1976 (43 U.S.C.
25 1712(c)(3)); or

- 1 (iii) land that is—
- 2 (I) withdrawn from—
- 3 (aa) entry, appropriation, or
- 4 disposal under the public land
- 5 laws;
- 6 (bb) location, entry, and
- 7 patent under the mining laws; or
- 8 (cc) disposition under all
- 9 laws pertaining to mineral and
- 10 geothermal leasing or mineral
- 11 materials;
- 12 (II) located within a component
- 13 of the National Landscape Conserva-
- 14 tion System;
- 15 (III) designated as a Research
- 16 Natural Area;
- 17 (IV) located within any reserva-
- 18 tion;
- 19 (V) located within—
- 20 (aa) T. 147 N., R. 95 W.;
- 21 (bb) T. 148 N., R. 95 W.;
- 22 (cc) T. 148 N., R. 96 W.; or
- 23 (dd) T. 149 N., R. 95 W.;
- 24 (VI) located within a United
- 25 States military reservation; or

1 (VII) designated by Congress or
2 the President for conservation pur-
3 poses.

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

5 (a) RELINQUISHMENT AND SELECTION.—

6 (1) IN GENERAL.—Subject to valid existing
7 rights, if the State elects to relinquish all right, title,
8 and interest of the State in and to a State land
9 grant parcel located wholly or partially within the
10 boundaries of any reservation, the Secretary shall
11 authorize the State to select in accordance with this
12 Act 1 or more parcels of unappropriated Federal
13 land of substantially equivalent value.

14 (2) APPROVAL.—Not later than 180 days after
15 the date on which the State makes a selection under
16 paragraph (1), the Secretary shall approve or reject,
17 in whole or in part, the selection.

18 (3) REVIEW.—Nothing in this subsection pre-
19 cludes the Secretary from conducting an environ-
20 mental review of any parcel proposed for relinquis-
21 hment under paragraph (1) if the Secretary deter-
22 mines that an environmental review is appropriate.

23 (b) CONVEYANCE.—

24 (1) CONVEYANCE BY SECRETARY.—

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

7 (B) REQUIREMENTS.—Conveyance of un-
8 appropriated Federal land by the Secretary
9 under this Act—

10 (i) shall be by patent or deed in a
11 form acceptable to the State and the Sec-
12 retary; and

13 (ii) shall not be considered a sale, ex-
14 change, or conveyance for purposes of sec-
15 tion 203, 205, 206, or 209 of the Federal
16 Land Policy and Management Act of 1976
17 (43 U.S.C. 1713, 1715, 1716, 1719).

18 (2) RELINQUISHMENT AND CONVEYANCE BY
19 STATE.—

20 (A) IN GENERAL.—As consideration for
21 the conveyance of unappropriated Federal land
22 under paragraph (1), on the date on which the
23 unappropriated Federal land is conveyed to the
24 State, the State shall concurrently relinquish
25 and convey to the Secretary all right, title, and

1 interest of the State in and to the State land
2 grant parcel identified for relinquishment under
3 subsection (a)(1).

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

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

15 (c) SUCCESSION TO RIGHTS AND OBLIGATIONS.—
16 Each party to which land is conveyed under this Act shall,
17 to the fullest extent allowable under Federal and State
18 law, succeed to the rights and obligations of the conveying
19 party with respect to any lease, right-of-way, permit, or
20 other valid existing right to which the land is subject.

21 (d) MANAGEMENT AFTER RELINQUISHMENT.—

22 (1) RESERVATION.—If a State land grant par-
23 cel relinquished by the State and conveyed to the
24 Secretary under this Act is located wholly or par-
25 tially within the boundaries of any reservation, on

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

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

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

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

19 (e) WITHDRAWAL.—

20 (1) IN GENERAL.—Subject to valid rights in ex-
21 istence on the date of enactment of this Act, all un-
22 appropriated Federal land selected by the State for
23 conveyance under this Act, effective beginning on
24 the date on which the State makes the selection and

1 ending on the date described in paragraph (2), is
2 withdrawn from all forms of—

3 (A) entry, appropriation, or disposal under
4 the public land laws;

5 (B) location, entry, and patent under the
6 mining laws; and

7 (C) disposition under all laws pertaining to
8 mineral and geothermal leasing or mineral ma-
9 terials.

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

12 (A) the unappropriated Federal land is
13 conveyed by the Secretary to the State;

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

16 (C) the State withdraws the selection.

17 **SEC. 4. VALUATION.**

18 (a) EQUAL VALUE.—With respect to a State land
19 grant parcel conveyed under this Act in consideration for
20 a parcel of unappropriated Federal land selected in ac-
21 cordance with this Act—

22 (1) the overall value of the State land grant
23 parcel and the overall value of the parcel of unap-
24 propriated Federal land shall be substantially equal;
25 or

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

4 (A) equalize the value by the payment of
5 funds to the other party; or

6 (B) enter the imbalance in value on a ledg-
7 er account in accordance with subsection (e).

8 (b) APPRAISAL REQUIRED.—

9 (1) IN GENERAL.—Except as provided in sub-
10 section (d), the value of the unappropriated Federal
11 land selected in accordance with this Act and the
12 value of a State land grant parcel conveyed under
13 this Act shall be determined by appraisals conducted
14 by 1 or more independent appraisers selected jointly
15 by the Secretary and the State.

16 (2) REQUIREMENTS.—An appraisal under para-
17 graph (1) shall be completed in accordance with—

18 (A) the Uniform Appraisal Standards for
19 Federal Land Acquisitions; or

20 (B) subject to subsection (d)(1), the Uni-
21 form Standards for Professional Appraisal
22 Practice.

23 (c) EQUALIZATION.—With respect to a conveyance to
24 the Secretary of a State land grant parcel of lesser value
25 than the parcel of unappropriated Federal land to be con-

1 veved to the State under this Act, the total value of the
2 equalization payment described in subsection (a)(2)(A) or
3 the ledger entry described in subsection (e), as applicable,
4 may not exceed 25 percent of the total value of the parcel
5 of unappropriated Federal land.

6 (d) LOW VALUE PARCELS.—

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

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

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

22 (2) DIVISION.—A State land grant parcel or a
23 parcel of unappropriated Federal land may not be
24 artificially divided in order to qualify for a summary

1 appraisal, mass appraisal, or statement of value
2 under paragraph (1).

3 (e) LEDGER ACCOUNTS.—

4 (1) IN GENERAL.—With respect to a State land
5 grant parcel conveyed under this Act in consider-
6 ation for a parcel of unappropriated Federal land, if
7 the overall value of the parcels is not equal, the Sec-
8 retary and the State may agree to use a ledger ac-
9 count to make equal the value.

10 (2) IMBALANCES.—A ledger account described
11 in paragraph (1) shall reflect imbalances in value to
12 be reconciled in a subsequent transaction.

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

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

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

21 (4) COSTS.—

22 (A) IN GENERAL.—The Secretary or the
23 State may assume costs or other responsibilities
24 or requirements for conveying land under this

1 Act that ordinarily are borne by the other
2 party.

3 (B) ADJUSTMENT.—If the Secretary or the
4 State assume costs or other responsibilities
5 under subparagraph (A), the Secretary or the
6 State shall make adjustments to the value of
7 the unappropriated Federal land conveyed to
8 the State to compensate the Secretary or the
9 State, as applicable, for assuming the costs or
10 other responsibilities.

11 (5) MINERAL LAND.—If value is attributed to
12 any parcel of unappropriated Federal land that has
13 been selected by the State because of the presence
14 of minerals under a lease entered into under the
15 Mineral Leasing Act (30 U.S.C. 181 et seq.) that is
16 in a producing or producible status, and the lease is
17 to be conveyed under this Act, the value of the par-
18 cel shall be reduced by the amount that represents
19 the likely Federal revenue sharing obligation under
20 the Mineral Leasing Act (30 U.S.C. 181 et seq.)
21 with the State, but the adjustment shall not be con-
22 sidered as reflecting a property right of the State.

1 **SEC. 5. MISCELLANEOUS.**

2 (a) IN GENERAL.—Land or minerals conveyed under
3 this Act shall be subject to all applicable Federal, State,
4 and Tribal law.

5 (b) PROTECTION OF INDIAN RIGHTS.—

6 (1) TREATY RIGHTS.—Nothing in this Act
7 modifies, limits, expands, or otherwise affects any
8 treaty-reserved right or other right of any Indian
9 Tribe recognized by any other means, including trea-
10 ties or agreements with the United States, Executive
11 orders, statutes, regulations, or case law.

12 (2) LAND OR MINERALS HELD IN TRUST.—
13 Nothing in this Act affects—

14 (A) land or minerals held in trust by the
15 United States as of the date of enactment of
16 this Act on behalf of, and for the benefit of, any
17 Indian Tribe; or

18 (B) any individual Indian allotment.

19 (c) HAZARDOUS MATERIALS.—

20 (1) IN GENERAL.—The Secretary and the State
21 shall make available for review and inspection any
22 record relating to hazardous materials on land to be
23 conveyed under this Act.

24 (2) CERTIFICATION.—

25 (A) IN GENERAL.—Prior to completing a
26 conveyance of unappropriated Federal land

1 under this Act, the Secretary shall complete an
2 inspection and a hazardous materials certifi-
3 cation of the land to be conveyed.

4 (B) STATE LAND GRANT PARCELS.—Prior
5 to completing a conveyance of a State land
6 grant parcel under this Act, the State shall
7 complete an inspection and a hazardous mate-
8 rials certification of the land to be conveyed.

9 (d) GRAZING PERMITS.—

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

20 (2) CANCELLATION.—

21 (A) IN GENERAL.—Nothing in this Act
22 prevents the Secretary or the State from can-
23 celing or modifying a grazing permit, lease, or
24 contract if the land subject to the permit, lease,

1 or contract is sold, conveyed, transferred, or
2 leased for nongrazing purposes.

3 (B) **BASE PROPERTIES.**—If land conveyed
4 by the State under this Act is used by a grazing
5 permittee or lessee to meet the base property
6 requirements for a Federal grazing permit or
7 lease, the land shall continue to qualify as a
8 base property for the remaining term of the
9 lease or permit and the term of any renewal or
10 extension of the lease or permit.

11 (C) **RANGE IMPROVEMENTS.**—Nothing in
12 this Act prohibits a holder of a grazing lease,
13 permit, or contract from being compensated for
14 range improvements pursuant to the terms of
15 the lease, permit, or contract under existing
16 Federal or State laws.

17 **SEC. 6. SAVINGS CLAUSE.**

18 Nothing in this Act applies to or affects litigation or
19 disputes pending on the date of enactment of this Act re-

- 1 guarding the ownership of any land or mineral resources
- 2 located within the State of North Dakota.

Passed the Senate December 18 (legislative day, December 16), 2024.

Attest:

Secretary.

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2^D SESSION

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AN ACT

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.