

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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, to conserve the Little Missouri National Grasslands, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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

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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, to conserve the Little Missouri National Grasslands, 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 “North Dakota Trust  
5 Lands Completion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

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

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

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

23          (4) the North Dakota Enabling Act provided  
24          further land grants to the State of North Dakota for

1 the support of colleges, universities, the State cap-  
2 itol, and other public institutions;

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

20 (6) established in 1960, the Little Missouri Na-  
21 tional Grasslands—

22 (A) occupies more than 1,028,000 acres of  
23 land in western North Dakota; and

1 (B) encompasses approximately 108,840  
2 surface acres and 149,073 mineral acres of  
3 State land grant parcels within its boundaries;

4 (7) authorizing the State to relinquish the State  
5 land grant parcels located within the reservations  
6 and the Grasslands and to select other Federal land  
7 or minerals in lieu of the relinquished State land  
8 grant parcels will—

9 (A) fulfill the promise of land and minerals  
10 to the State;

11 (B) provide to Indian Tribes greater Tribal  
12 sovereignty and control of land and minerals  
13 within the reservations; and

14 (C) provide for greater conservation and  
15 preservation of the Grasslands; and

16 (8) Congress should authorize the State—

17 (A) to relinquish the land and minerals lo-  
18 cated within the reservations and the Grass-  
19 lands; and

20 (B) to select in lieu of the relinquished  
21 land other Federal land or minerals in the  
22 State of North Dakota of equal value.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1           (1) FEDERAL LAND.—The term “Federal land”  
2 means public land and minerals located within the  
3 State of North Dakota, including public land that is  
4 mineral in character.

5           (2) GRASSLANDS.—The term “Grasslands”  
6 means the Little Missouri National Grasslands lo-  
7 cated within the State of North Dakota.

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

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

15           (5) RESERVATION.—The term “reservation”  
16 means any Indian reservation located wholly or par-  
17 tially within the State of North Dakota and recog-  
18 nized under United States treaty, Executive order,  
19 or Act of Congress.

20           (6) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior.

22           (7) STATE.—The term “State” means the State  
23 of North Dakota, acting through the North Dakota  
24 Board of University and School Lands and its agent,  
25 the Department of Trust Lands.

1           (8) STATE LAND GRANT PARCEL.—The term  
2           “State land grant parcel” means—

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

5                           (i) on statehood; or

6                           (ii) through a grant pursuant to the  
7           North Dakota Enabling Act;

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

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

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

17           (9) UNAPPROPRIATED FEDERAL LAND.—

18                   (A) IN GENERAL.—The term “unappropri-  
19          ated Federal land” means Federal land under  
20          the management and control of the Bureau of  
21          Land Management and located within the State  
22          of North Dakota.

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

1 (i) surface interests acquired by the  
2 Bureau of Land Management;

3 (ii) any area of critical environmental  
4 concern established pursuant to section  
5 202(c)(3) of the Federal Land Policy and  
6 Management Act of 1976 (43 U.S.C.  
7 1712(c)(3)); or

8 (iii) land that is—

9 (I) withdrawn from public entry;

10 (II) located within a unit of the  
11 National Park System;

12 (III) located within any reserva-  
13 tion;

14 (IV) located within—

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

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

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

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

19 (V) located within a United  
20 States military reservation; or

21 (VI) designated by Congress or  
22 the President for conservation pur-  
23 poses.

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

25 (a) RELINQUISHMENT AND SELECTION.—

1           (1) IN GENERAL.—If the State elects to relin-  
2           quish all right, title, and interest of the State in and  
3           to a State land grant parcel located wholly or par-  
4           tially within the boundaries of any reservation or the  
5           Grasslands, the Secretary shall authorize the State  
6           to select in accordance with this Act 1 or more par-  
7           cels of unappropriated Federal land of substantially  
8           equivalent value within the State of North Dakota.

9           (2) APPROVAL.—Not later than 90 days after  
10          the date on which the State makes a selection under  
11          paragraph (1), the Secretary shall approve or reject,  
12          in whole or in part, the selection.

13          (b) CONVEYANCE.—

14           (1) CONVEYANCE BY SECRETARY.—

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

21           (B) REQUIREMENTS.—Conveyance of Fed-  
22           eral land by the Secretary under this Act—

23           (i) shall be by clear list, patent, or  
24           deed acceptable to the State; and



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

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

8 (A) IN GENERAL.—As consideration for  
9 the conveyance of Federal land under para-  
10 graph (1), on the date on which the Federal  
11 land is conveyed to the State, the State—

12 (i) shall concurrently relinquish and  
13 convey to the Secretary all right, title, and  
14 interest of the State in and to the State  
15 land grant parcel identified for relinquis-  
16 hment under subsection (a)(1); or

17 (ii) in the case of a State land grant  
18 parcel identified for relinquishment under  
19 subsection (a)(1) that is a located wholly  
20 or partially within the boundaries of the  
21 Grasslands, shall relinquish and convey to  
22 the Secretary of Agriculture all right, title,  
23 and interest of the State in and to the  
24 State land grant parcel.

1           (B) CLEAR TITLE.—The State shall convey  
2           to the Secretary clear title to all parcels relin-  
3           quished under subparagraph (A).

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

11        (e) SUCCESSION TO RIGHTS AND OBLIGATIONS.—  
12        Each party to which land is conveyed under this Act shall  
13        succeed to the rights and obligations of the conveying  
14        party with respect to any lease, right-of-way, permit, or  
15        other valid existing right to which the land is subject.

16        (d) MANAGEMENT AFTER RELINQUISHMENT.—

17           (1) GRASSLANDS.—All State land grant parcels  
18           relinquished by the State and conveyed to the Sec-  
19           retary of Agriculture under this Act and located  
20           within the Grasslands shall become part of, and be  
21           managed as part of, the Grasslands.

22           (2) 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 (3) 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 the Indian Tribe the land of which is subject  
14 to conveyance in accordance with Executive Order  
15 13175 (25 U.S.C. 5301 note; relating to consulta-  
16 tion and coordination with Indian tribal govern-  
17 ments).

18 (e) SPECIAL RULES FOR MINERAL LAND.—

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

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 or the Secretary of Agriculture of a State  
22 land grant parcel of lesser value than the parcel of Federal  
23 land to be conveyed to the State under this Act, the total  
24 value of the equalization payment described in subsection  
25 (a)(2)(A) or the ledger entry described in subsection (e),



1 as applicable, may not exceed 25 percent of the total value  
2 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 Secretary of  
8 Agriculture, or the State, as applicable, shall allow  
9 the grazing to continue for the remainder of the  
10 term of the lease, permit, or contract, subject to the  
11 related terms and conditions of the user agreements,  
12 including permitted stocking rates, grazing fee lev-  
13 els, access, and ownership and use of range improve-  
14 ments.

15 (2) CANCELLATION.—

16 (A) IN GENERAL.—Nothing in this Act  
17 prevents the Secretary or the Secretary of Agri-  
18 culture, or the State, from canceling or modi-  
19 fying a grazing permit, lease, or contract if the  
20 land subject to the permit, lease, or contract is  
21 sold, conveyed, transferred, or leased for non-  
22 grazing purposes.

23 (B) BASE PROPERTIES.—If land conveyed  
24 by the State under this Act is used by a grazing  
25 permittee or lessee to meet the base property

1 requirements for a Federal grazing permit or  
2 lease, the land shall continue to qualify as a  
3 base property for the remaining term of the  
4 lease or permit and the term of any renewal or  
5 extension of the lease or permit.

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

12 **SEC. 7. SAVINGS CLAUSE.**

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