

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.**

**S. 1088**

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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

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

6           (3) SECRETARY.—The term “Secretary” means  
7 the Secretary of the Interior.

8           (4) STATE.—The term “State” means the State  
9 of North Dakota, acting through the North Dakota  
10 Board of University and School Lands and its agent,  
11 the Department of Trust Lands.

12           (5) STATE LAND GRANT PARCEL.—The term  
13 “State land grant parcel” means—

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

16                   (i) on statehood; or

17                   (ii) through a grant pursuant to the  
18 North Dakota Enabling Act;

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

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

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

4 (6) UNAPPROPRIATED FEDERAL LAND.—

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

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

12 (i) land (including an interest in land)  
13 acquired by the Bureau of Land Manage-  
14 ment;

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

20 (iii) land that is—

21 (I) withdrawn from—

22 (aa) entry, appropriation, or  
23 disposal under the public land  
24 laws;

1 (bb) location, entry, and  
2 patent under the mining laws; or

3 (cc) disposition under all  
4 laws pertaining to mineral and  
5 geothermal leasing or mineral  
6 materials;

7 (II) located within a component  
8 of the National Landscape Conserva-  
9 tion System;

10 (III) designated as a Research  
11 Natural Area;

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

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

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

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

25 (a) RELINQUISHMENT AND SELECTION.—

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

9           (2) APPROVAL.—Not later than 180 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           (3) REVIEW.—Nothing in this subsection pre-  
14 cludes the Secretary from conducting an environ-  
15 mental review of any parcel proposed for relinquis-  
16 hment under paragraph (1) if the Secretary deter-  
17 mines that an environmental review is appropriate.

18           (b) CONVEYANCE.—

19           (1) CONVEYANCE BY SECRETARY.—

20           (A) IN GENERAL.—Not later than 60 days  
21 after the date on which the Secretary approves  
22 a State selection of unappropriated Federal  
23 land under subsection (a)(2), the Secretary  
24 shall initiate the actions necessary to convey to  
25 the State the unappropriated Federal land.

1 (B) REQUIREMENTS.—Conveyance of un-  
2 appropriated Federal land by the Secretary  
3 under this Act—

4 (i) shall be by patent or deed in a  
5 form acceptable to the State and the Sec-  
6 retary; and

7 (ii) shall not be considered a sale, ex-  
8 change, or conveyance for purposes of sec-  
9 tion 203, 205, 206, or 209 of the Federal  
10 Land Policy and Management Act of 1976  
11 (43 U.S.C. 1713, 1715, 1716, 1719).

12 (2) RELINQUISHMENT AND CONVEYANCE BY  
13 STATE.—

14 (A) IN GENERAL.—As consideration for  
15 the conveyance of unappropriated Federal land  
16 under paragraph (1), on the date on which the  
17 unappropriated Federal land is conveyed to the  
18 State, the State shall concurrently relinquish  
19 and convey to the Secretary all right, title, and  
20 interest of the State in and to the State land  
21 grant parcel identified for relinquishment under  
22 subsection (a)(1).

23 (B) TITLE.—The State shall convey to the  
24 Secretary title, free of any financial claims, li-

1           abilities, or other financial encumbrances, to all  
2           parcels relinquished under subparagraph (A).

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

10          (c) SUCCESSION TO RIGHTS AND OBLIGATIONS.—  
11         Each party to which land is conveyed under this Act shall,  
12         to the fullest extent allowable under Federal and State  
13         law, 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) RESERVATION.—If a State land grant par-  
18                 cel relinquished by the State and conveyed to the  
19                 Secretary under this Act is located wholly or par-  
20                 tially within the boundaries of any reservation, on  
21                 request of the applicable Indian Tribe, the portion of  
22                 the State land grant parcel located within the  
23                 boundaries of the reservation shall be—

1 (A) taken into trust by the Secretary on  
2 behalf of, and for the benefit of, the Indian  
3 Tribe on the date of the conveyance; and

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

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

16 (e) WITHDRAWAL.—

17 (1) IN GENERAL.—Subject to valid rights in ex-  
18 istence on the date of enactment of this Act, all un-  
19 appropriated Federal land selected by the State for  
20 conveyance under this Act, effective beginning on  
21 the date on which the State makes the selection and  
22 ending on the date described in paragraph (2), is  
23 withdrawn from all forms of—

24 (A) entry, appropriation, or disposal under  
25 the public land laws;

1 (B) location, entry, and patent under the  
2 mining laws; and

3 (C) disposition under all laws pertaining to  
4 mineral and geothermal leasing or mineral ma-  
5 terials.

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

8 (A) the unappropriated Federal land is  
9 conveyed by the Secretary to the State;

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

12 (C) the State withdraws the selection.

13 **SEC. 4. VALUATION.**

14 (a) EQUAL VALUE.—With respect to a State land  
15 grant parcel conveyed under this Act in consideration for  
16 a parcel of unappropriated Federal land selected in ac-  
17 cordance with this Act—

18 (1) the overall value of the State land grant  
19 parcel and the overall value of the parcel of unap-  
20 propriated Federal land shall be substantially equal;  
21 or

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

1           (A) equalize the value by the payment of  
2 funds to the other party; or

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

5 (b) APPRAISAL REQUIRED.—

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

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

15           (A) the Uniform Appraisal Standards for  
16 Federal Land Acquisitions; or

17           (B) subject to subsection (d)(1), the Uni-  
18 form Standards for Professional Appraisal  
19 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 unappropriated Federal land to be con-  
23 veyed to the State under this Act, the total value of the  
24 equalization payment described in subsection (a)(2)(A) or  
25 the ledger entry described in subsection (e), as applicable,

1 may not exceed 25 percent of the total value of the parcel  
2 of unappropriated 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 unappropriated Federal  
11 land to be conveyed under this Act instead of an ap-  
12 praisal that complies with the Uniform Appraisal  
13 Standards for Federal Land Acquisitions if the  
14 State and the Secretary agree that market value of  
15 the State land grant parcel or parcel of unappropri-  
16 ated Federal land, as applicable, 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 unappropriated Federal land may not be  
21 artificially divided in order to qualify for a summary  
22 appraisal, mass appraisal, or statement of value  
23 under paragraph (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 unappropriated Federal land, if  
4 the overall value of the parcels is not equal, the Sec-  
5 retary and the State may agree to use a ledger ac-  
6 count to make 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 unappropriated Federal land conveyed to  
4           the State to compensate the Secretary or the  
5           State, as applicable, for assuming the costs or  
6           other responsibilities.

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

19 **SEC. 5. 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 unappropriated Federal land  
20 under this Act, the Secretary shall complete an  
21 inspection and a hazardous materials certifi-  
22 cation of the land to 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 celing 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. 6. SAVINGS CLAUSE.**

11 Nothing in this Act applies to or affects litigation or  
12 disputes pending on the date of enactment of this Act re-  
13 garding the ownership of any land or mineral resources  
14 located within the State of North Dakota.