



**TESTIMONY OF JODI SMITH
COMMISSIONER
North Dakota Department of Trust Lands**

Senate Concurrent Resolution 4013

**Senate Energy and Natural Resources Committee
February 11, 2021**

Chairman Kreun and members of the Senate Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify on Senate Bill 4013.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund (CSTF) and 12 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages five additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the CSTF.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

The Department manages over 706,000 surface acres and 2.6 million mineral acres owned by the various trust funds controlled by the Board.

The Board and Department are seeking legislative support urging Congress to pass the North Dakota Trust Lands Completion Act (the Act). This bill in the Senate of the United States would 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.

In 1889, Congress passed the Enabling Act "to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

Section 10 of this Act granted sections 16 and 36 in every township to the new states "for the support of common schools." In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or "in lieu" selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the state of North Dakota for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres; thus the total of Enabling Act land grants was nearly 3.2 million acres.

Prior to the enactment of the North Dakota Enabling Act, the United States, through treaties and Executive orders, including the Treaty between the United States of America and the Sisseton and Wahpeton Bands of Dakota or Sioux Indians, made and concluded at Fort Laramie April 29, 1868, and the Executive order of April 12, 1870, established several reservations of land for multiple Indian Tribes located in the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood, yet the minerals remain undeveloped due to the location of the minerals within the reservations. Established in 1960, the Little Missouri National Grasslands occupy more than 1,028,000 acres of land in western North Dakota and encompasses approximately 108,840 surface acres and 149,073 mineral acres of State Land grant parcels fragmented within its boundaries.

The Act would authorize the State of North Dakota to relinquish land grant parcels located within the reservations and the Little Missouri National Grasslands and to select other Federal land or minerals in lieu of not receiving full access to and use of the original land the State of North Dakota attained at statehood and would accomplish the following:

- Provide to the Indian Tribes greater Tribal sovereignty and control of land and minerals within the reservations; and
- Lands or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and
- Provide for greater conservation and preservation of the Little Missouri National Grasslands.

Congress, through the enactment of this bill, would authorize the State of North Dakota to:

- Relinquish the land and minerals located within the reservations and the Little Missouri National Grasslands; and
- Select in lieu of the relinquished land other Federal land or minerals in the State of North Dakota of equal value.

The Land conveyed under this Act would be subject to all applicable Federal, State, and Tribal law. The legislation requires consultation with North Dakota's Tribes and all transactions are subject to valid existing rights and are intended to only impact state trust lands and minerals and unappropriated federal

lands and minerals. It is not the intent for these transactions to impact any treaty lands or any possible unceded territory lands.

We look forward to working with the legislature in support of this Act and would be happy to answer any questions.