

104TH CONGRESS
2D SESSION

S. 2089

To transfer land administered by the Bureau of Land Management to the States in which the land is located.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 1996

Mr. THOMAS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To transfer land administered by the Bureau of Land Management to the States in which the land is located.

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. DEFINITIONS.**

4 In this Act:

5 (1) INDIAN TRIBE.—The term “Indian tribe”
6 means an Indian tribe, band, nation, pueblo, or
7 other organized group or community, including any
8 Alaska Native village or regional corporation (as de-
9 fined in or established pursuant to the Alaska Na-
10 tive Claims Settlement Act (43 U.S.C. 1601 et

1 seq.)), that is recognized as eligible for the special
2 programs and services provided by the United States
3 to Indians because of their status as Indians.

4 (2) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior.

6 **SEC. 2. TRANSFER OF BUREAU OF LAND MANAGEMENT**
7 **LAND.**

8 (a) REQUIRED OFFER.—

9 (1) IN GENERAL.—Subject to valid existing
10 rights and except as otherwise provided in this Act,
11 the Secretary shall offer to transfer all right, title,
12 and interest of the United States in and to all land
13 and interests in land administered by the Bureau of
14 Land Management to the State in which the land
15 and interests are located.

16 (2) LAND AND INTERESTS INCLUDED.—The
17 land and interests in land referred to in paragraph
18 (1) include—

19 (A) the fee simple interest, if the United
20 States owns both the surface and mineral
21 rights;

22 (B) the mineral rights, if the surface estate
23 is owned by a non-Federal person, including a
24 State or political subdivision of a State; and

1 (C) water rights related to the land or in-
2 terest in land.

3 (3) EXCLUSION OF MINERAL INTERESTS UN-
4 DERLYING INDIAN RESERVATIONS.—Paragraph (1)
5 does not apply with respect to the mineral interests
6 underlying a surface estate held by the United
7 States in trust for an Indian tribe.

8 (b) OFFER WITHIN 2 YEARS.—The offer required by
9 subsection (a) to be made to a State shall be made to the
10 Governor of the State not later than 2 years after the date
11 of enactment of this Act.

12 (c) ACCEPTANCE OF OFFER.—

13 (1) ALL OR NOTHING.—A State may accept an
14 offer under subsection (a) in its entirety but may
15 not accept the offer in part.

16 (B) reject the offer in its entirety.

17 (2) ACCEPTANCE BY THE GOVERNOR.—Accept-
18 ance by a State of an offer under subsection (a) may
19 be made only by the Governor of the State, in writ-
20 ing, to the Secretary.

21 (d) EFFECTIVE DATE OF TRANSFER.—Any transfer
22 of land under this Act shall be effective with respect to
23 a State on the date that is 10 years after the date on
24 which the offer to the State is accepted.

1 (e) SURVEYS.—The Secretary is not required to con-
2 duct a survey of any land prior to transferring the land
3 under this Act.

4 (f) RETENTION OF OWNERSHIP BY THE STATE.—

5 (1) RESTRICTIVE COVENANT.—

6 (A) IN GENERAL.—An instrument by
7 which land or an interest in land is transferred
8 under this Act shall contain a restrictive cov-
9 enant stating that the State shall not convey
10 any ownership interest in the land or interest in
11 land to any person (including a political sub-
12 division of the State) unless the Governor of the
13 State submits to the Secretary, at least 90 days
14 before the date of conveyance, a certification
15 that—

16 (i) the land or interest in land will be
17 conveyed in connection with a transaction
18 or series of transactions in which there will
19 be conveyed to the State land or an inter-
20 est in land that is of at least equal value
21 to the State; and

22 (ii) the ownership of that land or in-
23 terest in land by the State will be subject
24 to the same restrictive covenant.

1 (B) BREACH.—Not later than 90 days
2 after the date on which the Secretary receives
3 a certification under paragraph (1), the Attor-
4 ney General, at the request of the Secretary,
5 may bring an action in the United States dis-
6 trict court for the district in which the land is
7 located to enjoin a conveyance in breach of the
8 restrictive covenant.

9 **SEC. 3. LEASES, PERMITS, AND UNPATENTED MINING**
10 **CLAIMS.**

11 (a) VALID LEASES AND PERMITS.—A State to which
12 land is transferred under this Act shall honor valid exist-
13 ing leases and permits on the land for the term of the
14 lease or permit and shall manage the leases and permits
15 in accordance with the other terms and conditions of the
16 leases and permits.

17 (b) MINING CLAIMS.—

18 (1) IN GENERAL.—Except for mining claims for
19 which the holder is entitled to a patent as provided
20 in paragraph (2), after the date on which land sub-
21 ject to a mining claim is transferred to a State
22 under this Act, the validity and continued existence
23 of the mining claim shall be determined under the
24 law of the State to which the land was transferred

1 and shall be administered in accordance with the law
2 of that State.

3 (2) ISSUANCE OF PATENT.—The holder of a
4 mining claim is entitled to the issuance of a patent
5 in the case of a mining claim on land transferred to
6 a State under this Act in the same manner and de-
7 gree to which the holder would have been entitled
8 to prior to the date of the transfer if, as of the date
9 of the transfer—

10 (A) a patent application was filed with the
11 Secretary; and

12 (B) the holder fully complied with—

13 (i) all requirements under sections
14 2325 and 2326 of the Revised Statutes (30
15 U.S.C. 29 and 30) for vein or lode claims;

16 (ii) all requirements under sections
17 2329, 2330, 2331, and 2333 of the Re-
18 vised Statutes (30 U.S.C. 35, 36, 37) for
19 placer claims; and

20 (C) all requirements applicable to the pat-
21 ent application for mill site claims.

22 (c) RIGHTS-OF-WAY.—A State to which land is trans-
23 ferred under this Act shall respect a right-of-way granted
24 by the United States on the land in accordance with the
25 terms and conditions of the right-of-way.

1 **SEC. 4. MANAGEMENT OF LAND TRANSFERRED UNDER**
2 **THIS ACT.**

3 (a) WILDERNESS.—Land transferred under this Act
4 that has been designated by an Act of Congress as wilder-
5 ness shall be managed by the State as wilderness in ac-
6 cordance with the requirements of the Wilderness Act (16
7 U.S.C. 1131 et seq.), the law that designated the land as
8 wilderness, and any other Federal law that specifically
9 provides for the management of the land, except that the
10 State shall be substituted for the Secretary as the person
11 with authority and responsibility to manage the land.

12 (b) MILITARY USES.—

13 (1) CONTINUED USE.—Land transferred under
14 this Act that on the date of transfer is subject to use
15 for military purposes shall continue to be subject to
16 the same military uses.

17 (2) LAND SUBJECT TO WITHDRAWAL.—

18 (A) IN GENERAL.—In the case of land
19 transferred to a State under this Act that is
20 subject to a withdrawal from public use for
21 military purposes, the State shall respect the
22 withdrawal and military use for the term of the
23 withdrawal and may not impose any fee or
24 other charge on the United States with respect
25 to the military purpose.

1 (B) NEGOTIATION AT END OF TERM OF
2 WITHDRAWAL.—At the end of the term of with-
3 drawal, the Secretary of the military depart-
4 ment concerned, or the Secretary of Defense,
5 may negotiate with the Governor of the State
6 for the continued use of the land.

7 (C) DECONTAMINATION.—Land for which
8 there is not a continued military use shall be
9 decontaminated by the appropriate Secretary in
10 accordance with the Act of Congress that with-
11 drew the land for military purposes or the with-
12 drawal order, if any.

13 (c) RECORDS.—

14 (1) HOLDING BY THE SECRETARY.—The Sec-
15 retary shall continue to hold all land records of the
16 Secretary with respect to the land transferred to a
17 State under this Act.

18 (2) COPIES TO THE STATE.—The Secretary
19 shall provide to the State full copies of all applicable
20 land records relating to land transferred under this
21 Act.

22 (3) AVAILABILITY TO THE PUBLIC.—The Sec-
23 retary shall make such records available for public
24 use as the Secretary determines to be appropriate
25 for public disclosure.

1 (d) INDIAN LAND.—The mineral interests described
2 in section 2(a)(3) shall be transferred from the adminis-
3 trative jurisdiction of the Bureau of Land Management
4 and shall be held in trust for the Indian tribe for which
5 the overlying surface estate is held in trust.

6 (e) CONTINUED PUBLIC ACCESS.—A State to which
7 land or an interest in land is transferred under this Act
8 shall ensure that the public continues to have access to
9 the land for the purposes of hunting, fishing, and other
10 appropriate recreational activities, in accordance with ap-
11 plicable Federal and State laws and the principles of mul-
12 tiple use, to substantially the same extent as on the date
13 of transfer.

14 **SEC. 5. WATER RIGHTS.**

15 (a) IN GENERAL.—The Secretary shall transfer to a
16 State to which land is transferred under this Act all water
17 rights of the United States associated with the land.

18 (b) CERTAIN RIGHTS NOT AFFECTED.—A transfer
19 of water rights under subsection (a) shall not be construed
20 as—

21 (1) affecting, impairing, diminishing, subordi-
22 nating, or enlarging—

23 (A) the rights of the United States or any
24 State to water under any international treaty,
25 interstate compact, or existing judicial decree;

1 (B) any obligation of the United States to
2 Indians or Indian tribes or any claim or right
3 owned or held by or for Indians or Indian
4 tribes, including with respect to any Indian
5 water compact;

6 (C) any right to any quantity of water re-
7 served or used for governmental purposes or
8 programs of the United States at any time
9 prior to the date of enactment of this Act; or

10 (D) any license or permit issued before the
11 date of enactment of this Act; or

12 (2) as a recognition, disclaimer, relinquishment,
13 or reduction of any water right of the United States
14 reserved or appropriated before the date of enact-
15 ment of this Act.

16 **SEC. 6. REDUCTION IN BUDGET AUTHORITY FOR THE BU-**
17 **REAU OF LAND MANAGEMENT.**

18 (a) CAP ON OBLIGATIONS AND EXPENDITURES.—Be-
19 ginning with the fiscal year in which this Act is enacted,
20 not more than \$800,000,000 may be obligated or ex-
21 pended in any fiscal year by the Bureau of Land Manage-
22 ment in carrying out its duties, functions, and responsibil-
23 ities under any provision of law.

24 (b) PRIORITY FOR USE OF FISCAL RESOURCES.—
25 The Secretary shall give priority to expending amounts

1 available to the Bureau of Land Management to land
2 management activities and to carrying out this Act.

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