

## Union Calendar No. 444

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4350

[Report No. 113-597]

To direct the Secretary of the Interior to take lands and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important lands into trust, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2014

Mr. DAINES introduced the following bill; which was referred to the  
Committee on Natural Resources

SEPTEMBER 15, 2014

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on April 1, 2014]

# **A BILL**

To direct the Secretary of the Interior to take lands and mineral rights on the reservation of the Northern Cheyenne Tribe of Montana and other culturally important lands into trust, 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 “Northern Cheyenne*  
5 *Lands Act”.*

6 **SEC. 2. FINDINGS.**

7        *Congress finds the following:*

8            (1) *The Northern Cheyenne Tribe has depended*  
9 *on its lands and land-based resources to support its*  
10 *way of life since time immemorial.*

11           (2) *The Tribe has made supreme and historic*  
12 *sacrifices to repossess and maintain its homeland, in-*  
13 *cluding its Reservation in Montana.*

14           (3) *The Tribe currently suffers from tremendous*  
15 *social and economic challenges, including a lack of*  
16 *employment opportunities on the Reservation, which*  
17 *can be improved by strengthening its control over its*  
18 *land base, natural resources, and trust funds.*

19           (4) *The Tribe and its members are currently the*  
20 *beneficial owners of over 95 percent of the surface*  
21 *lands on the Northern Cheyenne Reservation and all*  
22 *but approximately 5,000 subsurface acres of the Res-*  
23 *ervation.*

24           (5) *The Tribe seeks to obtain ownership of ap-*  
25 *proximately 5,000 subsurface acres on its Reservation*

1        *it does not own because of an error by the United*  
2        *States to secure that subsurface when the Reservation*  
3        *was expanded in 1900.*

4            (6) *In 2002, the Tribe agreed by settlement to*  
5        *dismiss its lawsuit against the United States, which*  
6        *alleged that the United States failed to protect the*  
7        *Reservation from the impacts of coal development, in*  
8        *return for assistance in securing tribal ownership of*  
9        *those subsurface rights substantially in the form of*  
10       *this Act, and to secure mitigation funding to address*  
11       *the impacts of coal development in areas adjacent to*  
12       *the Reservation, among other conditions.*

13           (7) *To increase tribal ownership of the surface*  
14       *lands, the Tribe has purchased approximately 932*  
15       *acres of land within its Reservation that were taken*  
16       *out of trust ownership status for various reasons.*

17           (8) *The Tribe has purchased approximately 635*  
18       *acres of land near Bear Butte, South Dakota, which*  
19       *the Tribe considers sacred ground for its members, as*  
20       *well as for members of other tribes.*

21           (9) *The Tribe now seeks to have the aforemen-*  
22       *tioned lands and subsurface within the Reservation*  
23       *and Bear Butte lands taken into trust on its behalf*  
24       *by the United States.*

1           (10) *If the actions authorized by this Act are*  
2           *completed, the Tribe will waive all legal claims*  
3           *against the United States arising out of the long-*  
4           *standing loss of the subsurface rights and arising out*  
5           *of the United States management of the Northern*  
6           *Cheyenne Trust Fund.*

7 **SEC. 3. DEFINITIONS.**

8           *In this Act:*

9           (1) *FUND.*—*The term “Fund” means the North-*  
10          *ern Cheyenne Trust Fund identified in the June 7,*  
11          *1999 Agreement Settling Certain Issues Relating to*  
12          *the Tongue River Dam Project which was entered into*  
13          *by the Tribe, the State of Montana, and delegates of*  
14          *the Secretary of the Interior, and managed by the Of-*  
15          *fice of Special Trustee in the Department of the Inte-*  
16          *rior.*

17          (2) *GREAT NORTHERN PROPERTIES.*—*The term*  
18          *“Great Northern Properties” means the Great North-*  
19          *ern Properties Limited Partnership, which is a Dela-*  
20          *ware limited partnership.*

21          (3) *PERMANENT FUND.*—*The term “Permanent*  
22          *Fund” means the Northern Cheyenne Tribe Perma-*  
23          *nent Fund managed by the Northern Cheyenne Tribe*  
24          *pursuant to the Plan for Investment, Management*

1        *and Use of the Fund, as amended by vote of the Trib-*  
2        *al membership on November 2, 2010.*

3            (4) *RESERVATION.—The term “Reservation”*  
4        *means the Northern Cheyenne Reservation.*

5            (5) *SECRETARY.—The term “Secretary” means*  
6        *the Secretary of the Interior.*

7            (6) *STATE.—The term “State” means the State*  
8        *of Montana.*

9            (7) *TRIBE.—The term “Tribe” means the North-*  
10       *ern Cheyenne Tribe.*

11        **SEC. 4. TRIBAL FEE LANDS TO BE TAKEN INTO TRUST.**

12        *Not later than 60 days after the date of the enactment*  
13        *of this Act, the Secretary shall take the approximately 1,568*  
14        *acres of land depicted on the map entitled “Northern Chey-*  
15        *enne Land Act—Fee-to-Trust Lands” and dated March 26,*  
16        *2014, and on the map entitled “Northern Cheyenne Land*  
17        *Act—Fee-to-Trust Lands—Lame Deer Townsite”, and*  
18        *dated March 26, 2014, into trust for the benefit of the North-*  
19        *ern Cheyenne Tribe.*

20        **SEC. 5. MINERAL RIGHTS TO BE TAKEN INTO TRUST.**

21            (a) *COMPLETION OF MINERAL CONVEYANCES.—Not*  
22        *later than 60 days after the date on which the Secretary*  
23        *receives the notification described in subsection (d), in a*  
24        *single transaction—*

1           (1) *Great Northern Properties shall convey to the*  
2           *Tribe all right, title, and interest of Great Northern*  
3           *Properties, consisting of coal and iron ore mineral in-*  
4           *terests, underlying the land on the Northern Cheyenne*  
5           *Reservation generally depicted as “Great Northern*  
6           *Properties” on the map entitled “Northern Cheyenne*  
7           *Land Act—Coal Tracts” and dated February 27,*  
8           *2014;*

9           (2) *the Secretary shall convey to Great Northern*  
10          *Properties all right, title, and interest of the United*  
11          *States in and to the coal mineral interests underlying*  
12          *the land generally depicted as “Bull Mountains” and*  
13          *“East Fork” on the map entitled “Northern Cheyenne*  
14          *Land Act—Coal Tracts” and dated February 27,*  
15          *2014; and*

16          (3) *the Secretary shall ensure that the deed for*  
17          *the conveyance authorized by paragraph (2) shall in-*  
18          *clude a covenant, running with the land—*

19                 (A) *that precludes the coal conveyed from*  
20                 *being mined by methods other than underground*  
21                 *mining techniques until any surface owner (as*  
22                 *defined in section 714 of Public Law 95–87 (30*  
23                 *U.S.C. 1304(e))) for any specific tract has given*  
24                 *written consent to Great Northern Properties to*

1           *enter such specific tract and commence surface*  
2           *mining; and*

3                   *(B) shall not create any property interest in*  
4           *the United States or any surface owner (as de-*  
5           *finied in section 714 of Public Law 95–87 (30*  
6           *U.S.C. 1304(e)).*

7           *(b) TRUST STATUS.—Upon tribal request, the coal and*  
8           *iron ore mineral interests conveyed to the Tribe under this*  
9           *section shall be held in trust by the United States for the*  
10          *benefit of the Tribe.*

11           *(c) IMMUNITIES.—The right, title, and interests con-*  
12          *veyed to the Tribe under subsection (a)(1) shall not be sub-*  
13          *ject to taxation by the State of Montana (including any*  
14          *political subdivision of the State of Montana).*

15           *(d) REVENUE SHARING AGREEMENT.—Consistent*  
16          *with the Settlement Agreement entered into effective Feb-*  
17          *ruary 19, 2002, by the Montana State Board of Land Com-*  
18          *missioners and the Tribe, the Tribe and Great Northern*  
19          *Properties have agreed on a formula for sharing revenue*  
20          *from development of the Northern Cheyenne Federal Tracts*  
21          *in the event that the Northern Cheyenne Federal Tracts are*  
22          *developed at a later date. The Tribe shall notify the Sec-*  
23          *retary in writing that the revenue sharing agreement re-*  
24          *mains in effect.*



1           (e) *WAIVER OF LEGAL CLAIMS.*—*In return for the con-*  
2 *veyances of mineral interests under subsection (a)—*

3           (1) *the Tribe shall waive any and all claims*  
4 *arising from the continuing failure of the United*  
5 *States to acquire the private coal and iron ore min-*  
6 *eral interests identified in subsection (a)(1) in trust*  
7 *for the Tribe as part of the Reservation as directed*  
8 *by Congress in 1900; and*

9           (2) *Great Northern Properties shall waive any*  
10 *claim against the United States relating to the value*  
11 *or completion of the conveyances under subsection (a).*

12          (f) *RESCISSION OF MINERAL CONVEYANCES.*—*If any*  
13 *portion of the mineral conveyances under subsection (a) is*  
14 *invalidated by a court of competent jurisdiction and the*  
15 *judgment of that court is not vacated or reversed on ap-*  
16 *peal—*

17           (1) *not later than 1 year after the date on which*  
18 *there is a final judgment, the Secretary or Great*  
19 *Northern Properties may rescind completely each*  
20 *mineral conveyance under subsection (a); and*

21           (2) *if the Secretary or Great Northern Properties*  
22 *carries out a rescission under paragraph (1), the*  
23 *waiver of the Tribe under this section shall be consid-*  
24 *ered to be rescinded.*

1 **SEC. 6. TRANSFER OF NORTHERN CHEYENNE TRUST FUND**  
2 **TO TRIBE.**

3 (a) *TRANSFER OF FUND.*—Not later than 30 days after  
4 the date of the enactment of this Act, the Fund shall be  
5 transferred to the Tribe and deposited into the Tribe's Per-  
6 manent Fund.

7 (b) *PERMITTED USES OF FUND.*—The principal of the  
8 Fund, upon deposit in the Permanent Fund, shall be main-  
9 tained in perpetuity, and the earnings of the Permanent  
10 Fund shall be used as provided in the Northern Cheyenne  
11 Tribe Permanent Fund Plan.

12 (c) *WAIVER OF LEGAL CLAIMS.*—In return for transfer  
13 of the Fund under subsection (a), the Tribe shall waive any  
14 and all claims arising from the United States management  
15 of the Fund.

16 **SEC. 7. ELIGIBILITY FOR OTHER FEDERAL BENEFITS.**

17 No sums or other benefits provided to the Tribe under  
18 this Act shall result in the reduction or denial of any Fed-  
19 eral services, benefits, or programs to the Tribe or to any  
20 member of the Tribe to which the Tribe or member is enti-  
21 tled or eligible because of—

22 (1) the status of the Tribe as a federally recog-  
23 nized Indian tribe; or

24 (2) the status of the member as a member of the  
25 Tribe.



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