

(Feb. 14, 1923, ch. 74, 42 Stat. 1245.)

REFERENCES IN TEXT

The enabling act of Montana, referred to in text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676. For complete classification of this Act to the Code, see Tables.

**§ 867. Omitted**

CODIFICATION

Section, R.S. §2377; act June 20, 1874, ch. 330, 18 Stat. 111, related to extension of obsolete section 829 of this title to reissue of agricultural land scrip, canceled, or destroyed without the fault of the owner thereof.

**§ 868. Representation of Indian claimants in suits to determine right to school lands**

In any suit instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian Reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposition thereof by the United States, the right of such State may be fully tested and determined without making the Indian tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney General upon the request of such Secretary.

(Mar. 2, 1901, ch. 808, 31 Stat. 950.)

**§ 869. Disposal of lands for public or recreational purposes**

**(a) Application; conditions; classification; restoration if not applied for**

The Secretary of the Interior upon application filed by a duly qualified applicant under section 869-1 of this title may, in the manner prescribed by sections 869 to 869-4 of this title, dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles of incorporation or other creating authority. Before the land may be disposed of under sections 869 to 869-4 of this title it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under sections 869 to 869-4 of this title, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under sections 869 to 869-4 of this title. The Secretary may classify public lands in Alas-

ka for disposition under sections 869 to 869-4 of this title. Lands so classified may not be appropriated under any other public land law unless the Secretary revises such classification or authorizes the disposition of an interest in the lands under other applicable law. If, within eighteen months following such classification, no application has been filed for the purpose for which the lands have been so classified, then the Secretary shall restore such lands to appropriation under the applicable public land laws.

**(b) Acreage limitations**

Conveyances made in any one calendar year shall be limited as follows:

(i) For recreational purposes:

(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under sections 869 to 869-4 of this title in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year.

(ii) For public purposes other than recreation:

(A) To any State or agency or instrumentality thereof, for any one program, six hundred and forty acres.

(B) To any political subdivision of a State, six hundred and forty acres.

(C) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

**(c) Lands withdrawn in aid of functions of a department, agency, State, etc.; lands excepted from disposal**

Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under sections 869 to 869-4 of this title only with the consent of such Federal department or agency, or of such State, Territory, or local governmental unit. Nothing in sections 869 to 869-4 of this title shall be construed to apply to lands in any national forest, national park, or national monument, or national wild-