

115TH CONGRESS
1ST SESSION

H. R. 232

To authorize States to select and acquire certain National Forest System lands to be managed and operated by the State for timber production and for other purposes under the laws of the State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize States to select and acquire certain National Forest System lands to be managed and operated by the State for timber production and for other purposes under the laws of the State, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “State National Forest Management Act of 2017”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. State selection of eligible portions of the National Forest System for acquisition and management.

Sec. 4. Transition provisions during the exchange-transition period.

Sec. 5. Transition provisions outside the transition period.

Sec. 6. Miscellaneous duties of the parties and other provisions relating to the transfer.

Sec. 7. Conditions on changes to land management plans regarding management of young-growth stands.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) The term “Commissioner” means the head
 6 of the Department of Natural Resources of a State
 7 or comparable State agency.

8 (2) The term “eligible portions of the National
 9 Forest System” means all right, title, and interest of
 10 the United States in and to the surface and sub-
 11 surface lands and real property (including structures
 12 and facilities owned by the Forest Service) included
 13 as part of the National Forest System in a State.
 14 The term does not include Conservation System
 15 Units (as that term is defined in the Alaska Na-
 16 tional Interest Lands Conservation Act) and areas
 17 or national memorials protected by an Act of Con-
 18 gress.

19 (3) The term “Federal obligation”—

1 (A) means any obligation or duty of the
2 Forest Service arising out of any lease, permit,
3 license, contract, and other legal instruments
4 issued by or with the Forest Service relating to
5 eligible portions of the National Forest System;
6 and

7 (B) does not include any obligation with
8 respect to a Federal law, regulation, or policy.

9 (4) The term “forest operations” means the de-
10 velopment of forest operating plans for eligible por-
11 tions of the National Forest System acquired by a
12 State, including the conduct of inventories of timber
13 resources and the engineering of necessary access
14 needed necessary for timber management and re-
15 lated management activities.

16 (5) The term “patent date” means the last day
17 of the selection-transition period.

18 (6) The term “Secretary” means the Secretary
19 of Agriculture, acting through the Chief of the For-
20 est Service.

21 (7) The term “selection date” means the date
22 on which a State elects to acquire eligible portions
23 of the National Forest System and notifies the Sec-
24 retary of such election under section 3(a).

1 (8) The term “selection-transition period”
2 means the period beginning on the selection date
3 and ending no more than one year thereafter, on the
4 patent date.

5 (9) The term “State” means each of the several
6 States and the Commonwealth of Puerto Rico.

7 (10) The term “State forest practices law”
8 means a forest practices law applicable to State or
9 privately owned forest land in a State, including es-
10 tablished silvicultural best management practices or
11 other regulations for forest management practices
12 related to clean water, soil quality, wildlife or forest
13 health.

14 (11) The term “State obligation” means any
15 obligation or duty of the State arising out of any
16 lease, permit, license, contract and other legal in-
17 struments issued by or with the State relating to the
18 selected lands under this Act.

19 **SEC. 3. STATE SELECTION OF ELIGIBLE PORTIONS OF THE**
20 **NATIONAL FOREST SYSTEM FOR ACQUISI-**
21 **TION AND MANAGEMENT.**

22 (a) SELECTION AUTHORIZED; CONVEYANCE RE-
23 REQUIRED.—During the 10-year period beginning on the
24 date of the enactment of this Act, if a State elects pursu-
25 ant to subsection (b) to select and acquire eligible portions

1 of the National Forest System in that State under the
2 terms and conditions of this Act and notifies the Secretary
3 of such selection, then the Secretary shall convey the eligi-
4 ble portions of the National Forest System so selected to
5 the State in accordance with subsection (d). All convey-
6 ances shall be subject to valid existing rights.

7 (b) FORM OF ELECTION.—The election by a State
8 to select and acquire eligible portions of the National For-
9 est System in that State pursuant to subsection (a) shall
10 be executed in the form of a bill enacted into law by the
11 legislature of that State. Such a law shall provide, at a
12 minimum, the following:

13 (1) That the State elects to acquire eligible por-
14 tions of the National Forest System in that State—

15 (A) pursuant to purchase for fair-market
16 value;

17 (B) in exchange for State lands of equal
18 value;

19 (C) in satisfaction of land selection rights
20 pursuant to the law by which the State was ad-
21 mitted to the Union; or

22 (D) any combination of the preceding
23 paragraphs.

1 (2) Identifies the eligible portions of the Na-
2 tional Forest System to be acquired and the method
3 by which the State will acquire the land.

4 (3) Acceptance by the State that acquisition of
5 the identified eligible portions of the National Forest
6 System is subject to valid existing rights.

7 (4) Acceptance by the State of the procedures
8 specified in this Act and the transition provisions of
9 this Act.

10 (5) In the case of the State of Alaska, accept-
11 ance by the State of the rights and obligations of the
12 United States under the Alaska Native Claims Set-
13 tlement Act with respect to acquired lands, rights in
14 such lands, and use of lands acquired by that State
15 shall not be infringed by that State.

16 (6) Specification that up to 50 percent of the
17 annual harvest of timber from eligible portions of
18 the National Forest System to be acquired shall be
19 offered in at least 10-year contracts, and timber
20 sales shall, to the maximum extent practicable, pro-
21 vide sufficient volume to meet the needs of all wood
22 processing operations existing in that State as of the
23 date of the enactment of this Act, and forest oper-
24 ations shall be performed in compliance with the
25 State forest practices law.

1 (7) Acceptance by the State that eligible por-
2 tions of the National Forest System open to mineral
3 entry under the general mining laws of the United
4 States shall remain open to mineral entry under
5 State law unless subsequently changed by a State
6 mineral closing order.

7 (c) MULTIPLE STATE LAWS; ACREAGE LIMITA-
8 TION.—During the selection period specified in subsection
9 (a), a State may enact more than one law to select and
10 acquire eligible portions of the National Forest System in
11 that State, except that the total quantity of National For-
12 est System land acquired by the State under this Act may
13 not exceed 2,000,000 acres.

14 (d) PROCEDURE.—Beginning on the selection date
15 for a State's acquisition of eligible portions of the National
16 Forest System in that State, the Secretary shall prepare
17 patents conveying the National Forest System lands se-
18 lected by the State and shall convey such patents to the
19 State on the patent date. The duty of the Secretary to
20 prepare and convey such patents under this Act shall be
21 purely ministerial and conveyance of the patent on the
22 patent date shall not be withheld or conditioned by any
23 other provision of law except as provided herein. The
24 United States Supreme Court shall have exclusive jurisdic-
25 tion to issue such writs and compel such actions as may

1 be necessary to accomplish the conveyance made under
2 this Act.

3 (e) OTHER PROPERTY.—Beginning on the selection
4 date for a State’s acquisition of eligible portions of the
5 National Forest System in that State, in addition to other
6 conveyances made under this Act, the Secretary shall con-
7 vey the right and title to and interest of the United States
8 in all other types of property (including real and personal
9 property) used for purposes of operating, administering,
10 and managing the acquired National Forest System land
11 in that State. Such property shall be transferred on the
12 patent date and include only that property which is owned
13 by the United States and used by the Forest Service pri-
14 marily on the eligible portions of the National Forest Sys-
15 tem selected by the State.

16 (f) OTHER USES.—Beginning on the selection date
17 and concurrent with the selection and conveyance of the
18 National Forest System lands and property under this
19 Act, the Secretary shall transfer all existing special use
20 permits related to the acquired National Forest System
21 lands and property to the State.

1 **SEC. 4. TRANSITION PROVISIONS DURING THE EXCHANGE-**
2 **TRANSITION PERIOD.**

3 (a) **EXISTING OBLIGATIONS OF THE UNITED**
4 **STATES.**—The United States shall remain obligated for all
5 Federal obligations incurred prior to the patent date.

6 (b) **EMPLOYEES.**—During the selection-transition pe-
7 riod, to the extent practicable, the State shall interview
8 each person employed by the Forest Service on the date
9 of the enactment of this Act whose employment is made
10 redundant by this Act for purposes of reemployment by
11 the State in a comparable job within the new State admin-
12 istrative system for the National Forest System lands ac-
13 quired by the State under this Act. Employees who do not
14 secure employment with the State shall have the option
15 of placement in an equivalent position available within the
16 Federal Government.

17 (c) **MANAGEMENT PENDING CONVEYANCE.**—During
18 the selection-transition period and until the patent date,
19 except as provided otherwise under this Act, eligible por-
20 tions of the National Forest System not yet patented to
21 the State under this Act shall be administered and man-
22 aged under applicable Federal law and land management
23 plans.

24 (d) **TRANSFER OF CERTAIN RECEIPTS.**—Receipts
25 from all rentals or sales occurring on eligible portions of
26 the National Forest System selected by a State during the

1 selection-transition period shall be kept in escrow and
2 transferred to the State on the patent date.

3 **SEC. 5. TRANSITION PROVISIONS OUTSIDE THE TRANSI-**
4 **TION PERIOD.**

5 (a) **MANAGEMENT OF SELECTED LANDS.**—Begin-
6 ning on the patent date, eligible portions of the National
7 Forest System conveyed to a State under this Act shall
8 be administered and managed primarily for timber pro-
9 duction pursuant to the State forest practices law, except
10 as otherwise provided in this Act for the period provided
11 by this Act.

12 (b) **LAND DESIGNATIONS.**—Land use designations in
13 effect on the date of the enactment of this Act for eligible
14 portions of the National Forest System conveyed to a
15 State under this Act under the applicable land manage-
16 ment plan shall continue in effect until the patent date.

17 (c) **SUBSISTENCE USE AFTER THE SELECTION**
18 **DATE.**—In the case of eligible portions of the National
19 Forest System in the State of Alaska, the Secretary of
20 the Interior shall retain continuing authority to manage
21 subsistence uses of fish and wildlife on National Forest
22 System lands conveyed under this Act until the patent
23 date.

24 (d) **ACCESS.**—

1 (1) EASEMENTS.—The Secretary, in accordance
2 with the applicable forest transportation plan for a
3 unit of the National Forest System and any trans-
4 portation plan of the State, shall provide access in
5 the form of easements across lands owned by the
6 United States to and from eligible portions of the
7 National Forest System conveyed to the State. The
8 duty of the Secretary to deliver patents for such
9 easements shall be purely ministerial and shall not
10 be withheld or conditioned by any other provision of
11 law. The Secretary shall enter into agreements with
12 the Commissioner for the purpose of sharing the
13 costs of common use roads.

14 (2) STATE DUTY.—Following the patent date, a
15 State shall issue easements to the United States for
16 reasonable access across acquired eligible portions of
17 the National Forest System in the manner provided
18 in paragraph (1).

19 (e) MINING CLAIMS.—

20 (1) IN GENERAL.—Federal mining claims lo-
21 cated pursuant to the General Mining Law of 1872
22 (30 U.S.C. 22 et seq.) on eligible portions of the Na-
23 tional Forest System before the selection date shall
24 remain subject to the laws, rules, regulations, and
25 policies of the United States, but such laws, rules,

1 regulations, and policies shall be administered by the
2 State. The right and ability of a claimholder to pat-
3 ent such a mining claim and enjoy reasonable access
4 to the claim shall not be infringed. An application to
5 patent a Federal mining claim located on eligible
6 portions of the National Forest System may be
7 made by the claimholder with the State and shall
8 constitute an election by the claim holder to be sub-
9 ject to Federal mining claim patent procedures ad-
10 ministered by the State.

11 (2) ESCROW AND SUBSEQUENT TRANSFER.—
12 During the selection-transition period, the Federal
13 Government shall escrow all fees and revenues, if
14 any, due on Federal mining claims on eligible por-
15 tions of the National Forest System and on the pat-
16 ent date transfer those receipts to the State on the
17 patent date to the account established by the State
18 for purposes of the law specified in section 3(b)(7).

19 (3) STATE DUTY.—Any mining claims filed on
20 eligible portions of the National Forest System in a
21 State after the selection date shall be subject only to
22 the laws of the State.

23 (f) TRANSFER OF OTHER RECEIPTS.—Beginning
24 with the fiscal year of a State after the patent date,
25 escrowed fees and fees from all existing and future issued

1 special use permits and all other land management re-
2 cepts on eligible portions of the National Forest System
3 conveyed to the State under this Act, net of reasonable
4 cost of administration, shall be transferred to the State.

5 (g) EXISTING OBLIGATIONS AFTER PATENT
6 DATE.—On the patent date, a State shall assume all Fed-
7 eral obligations and duties and receive all rights of the
8 Forest Service, except that the State shall assume no obli-
9 gation for any claim for damages or specific performance
10 relating to a contract or permit, if such claim arose before
11 the patent date, unless the State receives the benefit from
12 such an obligation.

13 **SEC. 6. MISCELLANEOUS DUTIES OF THE PARTIES AND**
14 **OTHER PROVISIONS RELATING TO THE**
15 **TRANSFER.**

16 (a) HAZARDOUS MATERIALS.—As promptly as prac-
17 ticable after the date of the enactment of this Act, the
18 Secretary shall make available to a State for review and
19 inspection, all pertinent records relating to hazardous ma-
20 terials, if any, on eligible portions of the National Forest
21 System available for selection under this Act. The respon-
22 sibility for costs of remedial action related to such mate-
23 rials shall be borne by those entities responsible under ex-
24 isting law. If no party responsible for the hazardous mate-
25 rials can be determined, remediation responsibility and all

1 costs shall remain with the Secretary and remediation as
2 agreed to by the Commissioner shall be initiated as soon
3 as practical after the patent date.

4 (b) JUDICIAL REVIEW.—Selection of land pursuant
5 to this Act shall not be subject to judicial review in any
6 court of the United States, except—

7 (1) to the extent a right of judicial review is
8 conferred specifically by the United States Constitu-
9 tion;

10 (2) otherwise conferred by this Act; or

11 (3) when sought by the State on matters per-
12 taining to rights conferred by this Act.

13 (c) RULEMAKING.—No formal rules under section
14 553 of title 5, United States Code, are required to imple-
15 ment this Act.

16 (d) SURVEY.—The patent for and use of eligible por-
17 tions of the National Forest System conveyed to a State
18 pursuant to this Act shall not be subject to completion
19 of a field survey and may be issued based on a protraction
20 survey. However, the Secretary shall complete a field sur-
21 vey following patent.

22 (e) ENCUMBRANCES.—For purposes of an orderly
23 transfer of eligible portions of the National Forest System
24 to State ownership and transition to State management,
25 the Secretary shall provide a list of encumbrances and

1 uses of record and otherwise known on the selected lands
2 to the Commissioner during the selection-transition pe-
3 riod. The lands selected under this Act shall be subject
4 to all existing encumbrances.

5 **SEC. 7. CONDITIONS ON CHANGES TO LAND MANAGEMENT**
6 **PLANS REGARDING MANAGEMENT OF**
7 **YOUNG-GROWTH STANDS.**

8 (a) CHANGES CONDITIONED ON COMPREHENSIVE IN-
9 VENTORY OF THE YOUNG-GROWTH STANDS.—Before any
10 change to an applicable land management plan takes ef-
11 fect that will alter management of young-growth stands
12 covered by the land management plan, the Secretary
13 shall—

14 (1) conduct a comprehensive inventory of the
15 young-growth stands;

16 (2) provide public notice of the availability of
17 the comprehensive inventory; and

18 (3) after such public notice, provide a period of
19 not less than 90 days for public comment on the
20 comprehensive inventory.

21 (b) INVENTORY REQUIREMENTS.—At a minimum,
22 the comprehensive inventory required by subsection (a)
23 shall—

1 (1) include stand-level field work with respect to
2 all 462,000 acres of young-growth timber located
3 within the Tongass National Forest; and

4 (2) assess all age classes of timber inventoried
5 for the purpose of refining inventory and growth
6 data to properly forecast yields from stands and fu-
7 ture economic manufacturing feasibility with respect
8 to the timber inventoried.

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