

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.

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## 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

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## 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 ACQUI-**  
21 **SION AND MANAGEMENT.**

22           (a) **SELECTION AUTHORIZED; CONVEYANCE RE-**  
23 **QUIRED.**—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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