

114TH CONGRESS  
1ST SESSION

# H. R. 3650

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2015

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 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.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “State National Forest Management Act of 2015”.

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

- Sec. 1. Short title.  
 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.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

17 (3) The term “Federal obligation”—

18 (A) means any obligation or duty of the  
 19 Forest Service arising out of any lease, permit,  
 20 license, contract, and other legal instruments  
 21 issued by or with the Forest Service relating to

1 eligible portions of the National Forest System;  
2 and

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

5 (4) The term “forest operations” means the de-  
6 velopment of forest operating plans for eligible por-  
7 tions of the National Forest System acquired by a  
8 States, including the conduct of inventories of tim-  
9 ber resources and the engineering of necessary ac-  
10 cess needed necessary for timber management and  
11 related management activities.

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

14 (6) The term “Secretary” means the Secretary  
15 of Agriculture, acting through the Chief of the For-  
16 est Service.

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

21 (8) The term “selection-transition period”  
22 means the period beginning on the selection date  
23 and ending no more than one year thereafter, on the  
24 patent date.

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

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

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

15 **SEC. 3. STATE SELECTION OF ELIGIBLE PORTIONS OF THE**  
16 **NATIONAL FOREST SYSTEM FOR ACQUI-**  
17 **SITION AND MANAGEMENT.**

18          (a) SELECTION AUTHORIZED; CONVEYANCE RE-  
19 QUIRED.—During the 10-year period beginning on the  
20 date of the enactment of this Act, if a State elects pursu-  
21 ant to subsection (b) to select and acquire eligible portions  
22 of the National Forest System in that State under the  
23 terms and conditions of this Act and notifies the Secretary  
24 of such selection, then the Secretary shall convey the eligi-  
25 ble portions of the National Forest System so selected to

1 the State in accordance with subsection (d). All convey-  
2 ances shall be subject to valid existing rights.

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

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

11 (A) pursuant to purchase for fair-market  
12 value;

13 (B) in exchange for State lands of equal  
14 value;

15 (C) in satisfaction of land selection rights  
16 pursuant to the law by which the State was ad-  
17 mitted to the Union; or

18 (D) any combination of the preceding  
19 paragraphs.

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

23 (3) Acceptance by the State that acquisition of  
24 the identified eligible portions of the National Forest  
25 System is subject to valid existing rights.

1           (4) Acceptance by the State of the procedures  
2 specified in this Act and the transition provisions of  
3 this Act.

4           (5) In the case of the State of Alaska, accept-  
5 ance by the State of the rights and obligations of the  
6 United States under the Alaska Native Claims Set-  
7 tlement Act with respect to acquired lands, rights in  
8 such lands, and use of lands acquired by that State  
9 shall not be infringed by that State.

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

20          (7) Acceptance by the State that eligible por-  
21 tions of the National Forest System open to mineral  
22 entry under the general mining laws of the United  
23 States shall remain open to mineral entry under  
24 State law unless subsequently changed by a State  
25 mineral closing order.

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

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

22           (e) OTHER PROPERTY.—Beginning on the selection  
23 date for a State’s acquisition of eligible portions of the  
24 National Forest System in that State, in addition to other  
25 conveyances made under this Act, the Secretary shall con-

1 vey the right and title to and interest of the United States  
2 in all other types of property (including real and personal  
3 property) used for purposes of operating, administering,  
4 and managing the acquired National Forest System land  
5 in that State. Such property shall be transferred on the  
6 patent date and include only that property which is owned  
7 by the United States and used by the Forest Service pri-  
8 marily on the eligible portions of the National Forest Sys-  
9 tem selected by the State.

10 (f) OTHER USES.—Beginning on the selection date  
11 and concurrent with the selection and conveyance of the  
12 National Forest System lands and property under this  
13 Act, the Secretary shall transfer all existing special use  
14 permits related to the acquired National Forest System  
15 lands and property to the State.

16 **SEC. 4. TRANSITION PROVISIONS DURING THE EXCHANGE-**  
17 **TRANSITION PERIOD.**

18 (a) EXISTING OBLIGATIONS OF THE UNITED  
19 STATES.—The United States shall remain obligated for all  
20 Federal obligations incurred prior to the patent date.

21 (b) EMPLOYEES.—During the selection-transition pe-  
22 riod, to the extent practicable, the State shall interview  
23 each person employed by the Forest Service on the date  
24 of the enactment of this Act whose employment is made  
25 redundant by this Act for purposes of reemployment by

1 the State in a comparable job within the new State admin-  
2 istrative system for the National Forest System lands ac-  
3 quired by the State under this Act. Employees who do not  
4 secure employment with the State shall have the option  
5 of placement in an equivalent position available within the  
6 Federal Government.

7 (c) MANAGEMENT PENDING CONVEYANCE.—During  
8 the selection-transition period and until the patent date,  
9 except as provided otherwise under this Act, eligible por-  
10 tions of the National Forest System not yet patented to  
11 the State under this Act shall be administered and man-  
12 aged under applicable Federal law and land management  
13 plans.

14 (d) TRANSFER OF CERTAIN RECEIPTS.—Receipts  
15 from all rentals or sales occurring on eligible portions of  
16 the National Forest System selected by a State during the  
17 selection-transition period shall be kept in escrow and  
18 transferred to the State on the patent date.

19 **SEC. 5. TRANSITION PROVISIONS OUTSIDE THE TRANSI-**  
20 **TION PERIOD.**

21 (a) MANAGEMENT OF SELECTED LANDS.—Begin-  
22 ning on the patent date, eligible portions of the National  
23 Forest System conveyed to a State under this Act shall  
24 be administered and managed primarily for timber pro-  
25 duction pursuant to the State forest practices law, except

1 as otherwise provided in this Act for the period provided  
2 by this Act.

3 (b) LAND DESIGNATIONS.—Land use designations in  
4 effect on the date of the enactment of this Act for eligible  
5 portions of the National Forest System conveyed to a  
6 State under this Act under the applicable land manage-  
7 ment plan shall continue in effect until the patent date.

8 (c) SUBSISTENCE USE AFTER THE SELECTION  
9 DATE.—In the case of eligible portions of the National  
10 Forest System in the State of Alaska, the Secretary of  
11 the Interior shall retain continuing authority to manage  
12 subsistence uses of fish and wildlife on National Forest  
13 System lands conveyed under this Act until the patent  
14 date.

15 (d) ACCESS.—

16 (1) EASEMENTS.—The Secretary, in accordance  
17 with the applicable forest transportation plan for a  
18 unit of the National Forest System and any trans-  
19 portation plan of the State, shall provide access in  
20 the form of easements across lands owned by the  
21 United States to and from eligible portions of the  
22 National Forest System conveyed to the State. The  
23 duty of the Secretary to deliver patents for such  
24 easements shall be purely ministerial and shall not  
25 be withheld or conditioned by any other provision of

1 law. The Secretary shall enter into agreements with  
2 the Commissioner for the purpose of sharing the  
3 costs of common use roads.

4 (2) STATE DUTY.—Following the patent date, a  
5 State shall issue easements to the United States for  
6 reasonable access across acquired eligible portions of  
7 the National Forest System in the manner provided  
8 in paragraph (1).

9 (e) MINING CLAIMS.—

10 (1) IN GENERAL.—Federal mining claims lo-  
11 cated pursuant to the General Mining Law of 1872  
12 (30 U.S.C. 22 et seq.) on eligible portions of the Na-  
13 tional Forest System before the selection date shall  
14 remain subject to the laws, rules, regulations, and  
15 policies of the United States, but such laws, rules,  
16 regulations, and policies shall be administered by the  
17 State. The right and ability of a claimholder to pat-  
18 ent such a mining claim and enjoy reasonable access  
19 to the claim shall not be infringed. An application to  
20 patent a Federal mining claim located on eligible  
21 portions of the National Forest System may be  
22 made by the claimholder with the State and shall  
23 constitute an election by the claim holder to be sub-  
24 ject to Federal mining claim patent procedures ad-  
25 ministered by the State.

1           (2) ESCROW AND SUBSEQUENT TRANSFER.—

2           During the selection-transition period, the Federal  
3           Government shall escrow all fees and revenues, if  
4           any, due on Federal mining claims on eligible por-  
5           tions of the National Forest System and on the pat-  
6           ent date transfer those receipts to the State on the  
7           patent date to the account established by the State  
8           for purposes of the law specified in section 3(b)(7).

9           (3) STATE DUTY.—Any mining claims filed on  
10          eligible portions of the National Forest System in a  
11          State after the selection date shall be subject only to  
12          the laws of the State.

13          (f) TRANSFER OF OTHER RECEIPTS.—Beginning  
14          with the fiscal year of a State after the patent date,  
15          escrowed fees and fees from all existing and future issued  
16          special use permits and all other land management re-  
17          ceipts on eligible portions of the National Forest System  
18          conveyed to the State under this Act, net of reasonable  
19          cost of administration, shall be transferred to the State.

20          (g) EXISTING OBLIGATIONS AFTER PATENT  
21          DATE.—On the patent date, a State shall assume all Fed-  
22          eral obligations and duties and receive all rights of the  
23          Forest Service, except that the State shall assume no obli-  
24          gation for any claim for damages or specific performance  
25          relating to a contract or permit, if such claim arose before

1 the patent date, unless the State receives the benefit from  
2 such an obligation.

3 **SEC. 6. MISCELLANEOUS DUTIES OF THE PARTIES AND**  
4 **OTHER PROVISIONS RELATING TO THE**  
5 **TRANSFER.**

6 (a) HAZARDOUS MATERIALS.—As promptly as prac-  
7 ticable after the date of the enactment of this Act, the  
8 Secretary shall make available to a State for review and  
9 inspection, all pertinent records relating to hazardous ma-  
10 terials, if any, on eligible portions of the National Forest  
11 System available for selection under this Act. The respon-  
12 sibility for costs of remedial action related to such mate-  
13 rials shall be borne by those entities responsible under ex-  
14 isting law. If no party responsible for the hazardous mate-  
15 rials can be determined, remediation responsibility and all  
16 costs shall remain with the Secretary and remediation as  
17 agreed to by the Commissioner shall be initiated as soon  
18 as practical after the patent date.

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

22 (1) to the extent a right of judicial review is  
23 conferred specifically by the United States Constitu-  
24 tion;

25 (2) otherwise conferred by this Act; or

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

3           (c) RULEMAKING.—No formal rules under section  
4           553 of title 5, United States Code, are required to imple-  
5           ment this Act.

6           (d) SURVEY.—The patent for and use of eligible por-  
7           tions of the National Forest System conveyed to a State  
8           pursuant to this Act shall not be subject to completion  
9           of a field survey and may be issued based on a protraction  
10          survey. However, the Secretary shall complete a field sur-  
11          vey following patent.

12          (e) ENCUMBRANCES.—For purposes of an orderly  
13          transfer of eligible portions of the National Forest System  
14          to State ownership and transition to State management,  
15          the Secretary shall provide a list of encumbrances and  
16          uses of record and otherwise known on the selected lands  
17          to the Commissioner during the selection-transition pe-  
18          riod. The lands selected under this Act shall be subject  
19          to all existing encumbrances.

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