

115TH CONGRESS
1ST SESSION

S. 1705

To provide to the Secretary of Agriculture the ability to enter into a lease agreement for administrative sites on National Forest System land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2017

Mr. BENNET (for himself and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide to the Secretary of Agriculture the ability to enter into a lease agreement for administrative sites on National Forest System land, 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 “Forest Service Flexible
5 Partnerships Act of 2017”.

6 **SEC. 2. AUTHORIZATION FOR LEASE OF FOREST SERVICE**
7 **SITES.**

8 (a) DEFINITIONS.—In this Act:

9 (1) ADMINISTRATIVE SITE.—

1 (A) IN GENERAL.—The term “administra-
2 tive site” means—

3 (i) any facility or improvement, in-
4 cluding curtilage, that was acquired or is
5 used specifically for purposes of adminis-
6 tration of the National Forest System;

7 (ii) any Federal land that—

8 (I) is associated with a facility or
9 improvement described in clause (i)
10 that was acquired or is used specifi-
11 cally for purposes of administration of
12 Forest Service activities; and

13 (II) underlies or abuts the facility
14 or improvement; and

15 (iii) for each fiscal year, not more
16 than 10 isolated, undeveloped parcels of
17 not more than 40 acres each.

18 (B) EXCLUSIONS.—The term “administra-
19 tive site” does not include—

20 (i) any land within a unit of the Na-
21 tional Forest System that is exclusively
22 designated for natural area or recreational
23 purposes;

24 (ii) any land within—

1 (I) a component of the National
 2 Wilderness Preservation System;

3 (II) a component of the National
 4 Wild and Scenic Rivers System; or

5 (III) a National Monument; or

6 (iii) any Federal land that the Sec-
 7 retary determines—

8 (I) is needed for resource man-
 9 agement purposes or to provide access
 10 to other land or water; or

11 (II) would be in the public inter-
 12 est not to lease.

13 (2) FACILITY OR IMPROVEMENT.—The term
 14 “facility or improvement” includes—

15 (A) a forest headquarters;

16 (B) a ranger station;

17 (C) a research station or laboratory;

18 (D) a dwelling;

19 (E) a warehouse;

20 (F) a scaling station;

21 (G) a fire-retardant mixing station;

22 (H) a fire-lookout station;

23 (I) a guard station;

24 (J) a storage facility;

25 (K) a telecommunication facility; and

1 (L) any other administrative installation
2 for conducting Forest Service activities.

3 (3) MARKET ANALYSIS.—The term “market
4 analysis” means the identification and study of the
5 market for a particular economic good or service.

6 (4) SECRETARY.—The term “Secretary” means
7 the Secretary of Agriculture.

8 (b) AUTHORIZATION.—The Secretary may lease an
9 administrative site that is under the jurisdiction of the
10 Secretary in accordance with this Act.

11 (c) IDENTIFICATION OF ELIGIBLE SITES.—A re-
12 gional forester, in consultation with forest supervisors in
13 the region, may submit to the Secretary a recommendation
14 for administrative sites in the region that the regional for-
15 ester considers eligible for leasing under this Act.

16 (d) CONSULTATION WITH LOCAL GOVERNMENT AND
17 PUBLIC NOTICE.—Before making an administrative site
18 available for lease under this Act, the Secretary shall—

19 (1) consult with local governmental officials of
20 the community, and governmental officials of the
21 State, in which the administrative site is located;
22 and

23 (2) provide public notice of the proposed lease.

24 (e) LEASE REQUIREMENTS.—

1 (1) SIZE.—An administrative site or compound
2 of administrative sites under a single lease under
3 this Act may not exceed 40 acres.

4 (2) CONFIGURATION OF ADMINISTRATIVE
5 SITES.—

6 (A) IN GENERAL.—To facilitate the lease
7 of an administrative site under this Act, the
8 Secretary may configure the administrative
9 site—

10 (i) to maximize the marketability of
11 the administrative site; and

12 (ii) to achieve management objectives.

13 (B) SEPARATE TREATMENT OF FACILITY
14 OR IMPROVEMENT.—A facility or improvement
15 on an administrative site to be leased under this
16 Act may be severed from the land and leased
17 under a separate lease under this Act.

18 (3) CONSIDERATION.—

19 (A) IN GENERAL.—A person to which a
20 lease of an administrative site is made under
21 this Act shall provide to the Secretary consider-
22 ation described in subparagraph (B) in an
23 amount that is not less than the market value
24 of the administrative site, as determined in ac-
25 cordance with subparagraph (C).

(B) FORM OF CONSIDERATION.—The consideration referred to in subparagraph (A) may be—

(i) cash;

(ii) in-kind, including—

(I) the construction of new facilities or improvements, title to which the lessee transfers to the Secretary, for use by the Secretary;

(II) the maintenance, repair, improvement, or restoration of existing facilities or improvements; and

(III) other services relating to activities that occur on the administrative site as the Secretary considers appropriate; or

(iii) any combination of the consideration described in clauses (i) and (ii).

(C) DETERMINATION OF MARKET VALUE.—

(i) IN GENERAL.—The Secretary shall determine the market value of an administrative site to be leased under this Act—

(I) by conducting an appraisal in accordance with—

1 (aa) the Uniform Appraisal
 2 Standards for Federal Land Ac-
 3 quisitions established in accord-
 4 ance with the Uniform Relocation
 5 Assistance and Real Property Ac-
 6 quisition Policies Act of 1970 (42
 7 U.S.C. 4601 et seq.); and

8 (bb) the Uniform Standards
 9 of Professional Appraisal Prac-
 10 tice; or

11 (II) by competitive lease.

12 (ii) IN-KIND CONSIDERATION.—The
 13 Secretary shall determine the market value
 14 of any in-kind consideration under sub-
 15 paragraph (B)(ii) by a process determined
 16 by the Secretary to be appropriate for the
 17 form of the in-kind consideration.

18 (4) CONDITIONS.—The lease of an administra-
 19 tive site under this Act shall be subject to such con-
 20 ditions, including bonding, as the Secretary deter-
 21 mines to be appropriate.

22 (f) RELATION TO OTHER LAWS.—

23 (1) FEDERAL PROPERTY DISPOSAL.—Chapter 5
 24 of subtitle I of title 40, United States Code, shall

1 not apply to the lease of an administrative site
2 under this Act.

3 (2) LEAD-BASED PAINT AND ASBESTOS ABATE-
4 MENT.—

5 (A) IN GENERAL.—Notwithstanding any
6 provision of law relating to the mitigation or
7 abatement of lead-based paint or asbestos-con-
8 taining building materials, the Secretary shall
9 not be required to mitigate or abate lead-based
10 paint or asbestos-containing building materials
11 with respect to an administrative site to be
12 leased under this Act.

13 (B) PROCEDURES.—With respect to an ad-
14 ministrative site to be leased under this Act
15 that has lead-based paint or asbestos-containing
16 building materials, the Secretary shall—

17 (i) provide notice to the person to
18 which the administrative site will be leased
19 of the presence of the lead-based paint or
20 asbestos-containing building material; and

21 (ii) obtain written assurance from
22 that person that the person will comply
23 with applicable Federal, State, and local
24 laws relating to the management of lead-

1 based paint and asbestos-containing build-
2 ing materials.

3 (3) ENVIRONMENTAL REVIEW.—The National
4 Environmental Policy Act of 1969 (42 U.S.C. 4321
5 et seq.) shall apply to the lease of an administrative
6 site under this Act, except that, in any environ-
7 mental review or analysis required under that Act
8 for the lease of an administrative site under this
9 Act, the Secretary shall be required only—

10 (A) to analyze the most reasonably foresee-
11 able use of the administrative site, as deter-
12 mined through a market analysis;

13 (B) to determine whether to include any
14 conditions under subsection (e)(4); and

15 (C) to evaluate the alternative of not leas-
16 ing the administrative site in accordance with
17 the National Environmental Policy Act of 1969
18 (42 U.S.C. 4321 et seq.).

19 (g) USE OF CONSIDERATION.—Cash consideration
20 for a lease of an administrative site under this Act shall
21 be available to the Secretary, until expended and without
22 further appropriation, to pay—

23 (1) any necessary and incidental costs incurred
24 by the Secretary in connection with—

1 (A) the acquisition, improvement, maintenance,
2 nance, reconstruction, or construction of a facility
3 or improvement for the National Forest System;
4 and

5 (B) the lease of an administrative site
6 under this Act; and

7 (2) reasonable commissions or fees for brokerage
8 services obtained in connection with the lease,
9 subject to the conditions that the Secretary—

10 (A) determines that the services are in the
11 public interest; and

12 (B) shall provide public notice of any brokerage
13 services contract entered into in connection with
14 a lease under this Act.

15 (h) CONGRESSIONAL NOTIFICATIONS.—

16 (1) ANTICIPATED USE OF AUTHORITY.—As
17 part of the annual budget justification documents
18 provided to the Committee on Appropriations of the
19 House of Representatives and the Committee on Appropriations
20 of the Senate, the Secretary shall include—
21

22 (A) a list of the anticipated leases to be
23 made, including the anticipated revenue that
24 may be obtained, under this Act;

1 (B) a description of the intended use of
2 any revenue obtained under a lease under this
3 Act, including a list of any projects that cost
4 more than \$500,000; and

5 (C) a description of accomplishments dur-
6 ing previous years using the authority of the
7 Secretary under this Act.

8 (2) CHANGES TO LEASE LIST.—If the Secretary
9 desires to lease an administrative site under this Act
10 that is not included on a list provided under para-
11 graph (1)(A), the Secretary shall submit to the con-
12 gressional committees described in paragraph (3) a
13 notice of the proposed lease, including the antici-
14 pated revenue that may be obtained from the lease.

15 (3) USE OF AUTHORITY.—Not less frequently
16 than once each year, the Secretary shall submit to
17 the Committee on Agriculture, the Committee on
18 Appropriations, and the Committee on Natural Re-
19 sources of the House of Representatives and the
20 Committee on Agriculture, Nutrition, and Forestry,
21 the Committee on Appropriations, and the Com-
22 mittee on Energy and Natural Resources of the Sen-
23 ate a report describing each lease made by the Sec-
24 retary under this Act during the period covered by
25 the report.

1 (i) EXPIRATION OF AUTHORITY.—

2 (1) IN GENERAL.—The authority of the Sec-
3 retary to enter into a lease agreement for an admin-
4 istrative site under this Act expires on September
5 30, 2027.

6 (2) EFFECT ON LEASE AGREEMENT.—Any
7 lease agreement entered into by the Secretary under
8 this Act before the date of the expiration of author-
9 ity under paragraph (1) shall not be affected by that
10 expiration of authority.

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