

104TH CONGRESS
1ST SESSION

H. R. 2413

To transfer the Tongass National Forest to the State of Alaska.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1995

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on 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 transfer the Tongass National Forest to the State of
Alaska.

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 “Tongass Transfer and
5 Transition Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) It is in the public interest to provide a
9 mechanism to transfer ownership of the Tongass

1 National Forest to the State of Alaska to be man-
2 aged and operated under the laws of the State of
3 Alaska.

4 (2) The State of Alaska is the level of govern-
5 ment that is most sensitive to the ecologic and eco-
6 nomic needs of the people of the Tongass and other
7 Alaskans.

8 (3) The State of Alaska is committed to policies
9 in connection with the Tongass that include in-
10 formed decisionmaking, prudent management of
11 Tongass resources with sound science, multiple, bal-
12 anced, and sustainable use of Tongass resources, an
13 inclusive planning process for the diverse interests
14 associated with the Tongass, and planning that
15 fosters consensus.

16 (4) It is appropriate for the State level of gov-
17 ernment to own and manage the land area now com-
18 prising Tongass National Forest and to provide the
19 best ecologic and economic balance in the Southeast
20 Alaska area that comprises the Tongass National
21 Forest.

22 (5) Without Federal constraints and costs, the
23 State of Alaska is in a better position to balance the
24 diverse needs and interests of those concerned with
25 the future of the Tongass.

1 (6) It is necessary to provide a smooth transi-
2 tion between Federal and State ownership and con-
3 trol and to resolve as many issues as possible prior
4 to State ownership and control.

5 **SEC. 3. DEFINITIONS.**

6 For purposes of this Act:

7 (1) The term “Secretary” means the Secretary
8 of Agriculture.

9 (2) The term “Tongass National Forest”
10 means the Tongass National Forest, as depicted on
11 the map numbered ____ and dated ____.

12 (3) The term “Federal obligation” means any
13 obligation or duty of the United States Forest Serv-
14 ice arising out of any lease, permit, license, contract,
15 and other legal instruments issued by or with the
16 Forest Service relating to the Tongass National For-
17 est. The term “Federal obligation” does not include
18 any obligation with respect to a Federal law, regula-
19 tion, or policy.

20 (4) The term “Tongass National Forest lands”
21 includes all right, title, and interest of the United
22 States in and to all real property located in the
23 Tongass National Forest, and all structures (perma-
24 nent and temporary) owned by the United States
25 Forest Service located on such land.

1 (5) The term “transfer-transition period”
2 means the period beginning when the State of Alas-
3 ka elects to receive the lands pursuant to this Act
4 and ending one year thereafter.

5 (6) The term “transfer date” means the date
6 on which the State of Alaska elects to receive the
7 lands pursuant to this Act and notifies the Secretary
8 of such election.

9 (7) The term “patent date” means the last day
10 of the transfer-transition period.

11 (8) Terms used in section 6(c) shall be accorded
12 the meaning given to such terms under the Alaska
13 National Interest Lands Conservation Act.

14 **SEC. 4. TRANSFER OF TONGASS LANDS AND PROPERTY TO**
15 **THE STATE OF ALASKA.**

16 (a) AUTOMATIC TRANSFER OF LANDS.—If, within 10
17 years after the date of the enactment of this Act, the State
18 of Alaska elects to receive all Tongass National Forest
19 lands in conformance with subsection (b), and so notifies
20 the Secretary, all Tongass National Forest lands shall be
21 conveyed, by operation of law, to the State of Alaska, sub-
22 ject only to valid existing rights. Such transfer shall occur
23 in accordance with this Act.

24 (b) FORM OF ELECTION.—The election by the State
25 of Alaska to receive lands pursuant to subsection (a) shall

1 be in the form of a bill approved by the House and Senate
2 of the Alaska State Legislature and signed by the Gov-
3 ernor of the State of Alaska. Such law shall state that—

4 (1) the State of Alaska elects to receive all
5 Tongass National Forest lands;

6 (2) the Tongass National Forest lands received
7 shall be received subject to valid existing rights;

8 (3) the procedures specified in this Act and the
9 transition provisions of this Act shall apply to the
10 transfer; and

11 (4) the rights and obligations of the United
12 States under the Alaska Native Claims Settlement
13 Act with respect to lands, rights in lands, and use
14 of lands transferred by the Tongass Transfer and
15 Transition Act shall not be infringed by the State of
16 Alaska.

17 (c) PROCEDURE.—Upon receipt by the Secretary of
18 Agriculture of a copy of the law specified under subsection
19 (b), the Secretary of Agriculture shall prepare a patent
20 conveying all Tongass National Forest lands to the State
21 of Alaska and shall deliver such patent to the State of
22 Alaska on the patent date. The duty of the Secretary to
23 prepare and deliver such patent pursuant to this Act shall
24 be purely ministerial and delivery of the patent on the pat-
25 ent date shall not be withheld or conditioned. The United

1 States Supreme Court shall have exclusive jurisdiction to
2 issue such writs and compel such actions as may be nec-
3 essary to accomplish the conveyance made under this Act.

4 (d) OTHER PROPERTY.—Upon the election pursuant
5 to subsection (a) and concurrent with the transfer of lands
6 pursuant to this Act, the Secretary shall also transfer the
7 right and title to and interest in all other types of property
8 (including real and personal property) used for purposes
9 of operating, administering, and managing the Tongass
10 National Forest. Such property shall be transferred on the
11 patent date and include only that which is owned by the
12 United States and used by the United States Forest Serv-
13 ice within the Tongass National Forest and that which
14 is directly associated with the management of such Forest.
15 All vehicles transferred shall be painted the official colors
16 of State of Alaska vehicles prior to transfer.

17 **SEC. 5. TRANSITION PROVISIONS DURING THE TRANSITION**
18 **PERIOD.**

19 (a) EXISTING OBLIGATIONS OF THE UNITED
20 STATES.—The United States shall remain obligated for
21 Federal obligations during the transfer-transition period.

22 (b) EMPLOYEES.—During the transfer-transition pe-
23 riod, to the extent practicable, the State of Alaska shall
24 interview each person employed on the date of the enact-
25 ment of this Act in the Tongass National Forest by the

1 United States Forest Service for purposes of reemploy-
2 ment by the State of Alaska for a comparable function
3 within the new State administrative system for the
4 Tongass Forest. Employees who do not secure employ-
5 ment with the State of Alaska shall be given preferential
6 treatment for purposes of other available positions with
7 the United States Government.

8 (c) ALASKA PULP CORPORATION CONTRACT.—The
9 State of Alaska shall enter into discussions with the Alas-
10 ka Pulp Corporation during the transition-transfer period
11 and conclude an agreement which reinstates the Alaska
12 Pulp Corporation Contract (Contract No. 12-11-010-
13 1545) within six months of the patent date. Such agree-
14 ment shall provide for dismissal with prejudice of a lawsuit
15 styled as Alaska Pulp Corporation against the United
16 States of America, No. 95-153C. Such reinstatement shall
17 include an additional provision which requires sale or as-
18 signment of such contract to a third party who agrees to
19 construct a manufacturing facility in Southeast Alaska
20 that utilizes pulp-grade logs. The State of Alaska shall as-
21 sume the obligations of the Forest Service under such re-
22 instated contract, except that the State of Alaska shall as-
23 sume no obligation for any claim relating to such contract
24 which arose from an occurrence before the transfer date.

1 (d) TIMBER ROAD PROGRAM FUND.—From amounts
2 remaining after making payments for the benefit of public
3 schools and roads under the Act of May 23, 1908 (16
4 U.S.C. 500), the Secretary shall, notwithstanding any
5 other provision of law, provide the gross receipts from the
6 Tongass National Forest derived from timber sale stump-
7 age fees due during the transfer-transition period to the
8 State of Alaska as seed money for purposes of establishing
9 a timber roads revolving fund.

10 **SEC. 6. TRANSITION PROVISIONS OUTSIDE THE TRANSI-**
11 **TION PERIOD.**

12 (a) MANAGEMENT OF TRANSFERRED LANDS.—(1)
13 Beginning on the patent date, the lands transferred pursu-
14 ant to this Act shall be administered and managed under
15 applicable State of Alaska law, except as otherwise pro-
16 vided in this Act for the period provided by this Act.

17 (2) During the transfer-transition period and until
18 the patent date, the lands subject to transfer pursuant to
19 this Act shall be administered and managed under Federal
20 law and the Tongass Land Management Plan.

21 (b) LAND DESIGNATIONS.—Land use designations in
22 effect on the date of the enactment of this Act under the
23 Tongass Land Management Plan shall continue in effect
24 for a period of up to one year after the patent date, but
25 shall cease to be applicable when the State of Alaska

1 adopts a land use designation system for the transferred
2 lands during such one-year period.

3 (c) SUBSISTENCE USE AFTER THE PATENT DATE.—

4 The Secretary of the Interior shall retain continuing au-
5 thority to manage subsistence uses of fish and wildlife on
6 lands transferred under this Act until such time as the
7 State of Alaska law is in compliance with title VIII of the
8 Alaska National Interest Lands Conservation Act.

9 (d) MINING CLAIMS.—(1) For a period of 15 years
10 after the patent date, Federal mining claims located before
11 the patent date pursuant to the General Mining Law of
12 1872 (30 U.S.C. 22 and following) in the Tongass Na-
13 tional Forest shall remain subject to the laws, rules, regu-
14 lations, and policies of the United States, but such laws,
15 rules, regulations, and policies shall be administered by
16 the State of Alaska. During such period, the right and
17 ability of a claimholder to patent such a mining claim shall
18 not be infringed. An application to patent a Federal min-
19 ing claim located in the area comprising the Tongass Na-
20 tional Forest may be made by the claimholder with the
21 State of Alaska and shall constitute an election by the
22 claim holder to be subject to Federal mining claim patent
23 procedures administered by the State of Alaska.

24 (2) At any time during the 15-year period referred
25 to in paragraph (1), the holder of a Federal mining claim

1 may elect to convert the claim into a mining claim to be
2 administered under the laws of the State of Alaska. An
3 election to convert such a claim must be in writing, include
4 such information as the Commissioner may request, and
5 be sent to the Commissioner of the Department of Natural
6 Resources of the State of Alaska. The State of Alaska
7 shall convert each Federal claim into one or more State
8 claims covering the area of the Federal claim.

9 (3) Upon the expiration of the 15-year period re-
10 ferred to in paragraph (1), each Federal mining claim for
11 which a mining patent application has not been filed and
12 which is located within the Tongass National Forest shall
13 be converted by operation of law into a mining claim or
14 claims to be administered under the laws of the State of
15 Alaska.

16 (4) During the transfer-transition period the Federal
17 Government shall maintain the right to receive fees and
18 revenues, if any, due on Federal mining claims. After the
19 patent date, the State of Alaska shall have the right to
20 receive any fees or revenues due on Federal claims that
21 are not converted under paragraph (2) or (3).

22 (e) LAND GRANTS TO NATIVE PEOPLE.—The State
23 of Alaska shall negotiate in good faith to obtain an agree-
24 ment with the native people of the communities of Haines,
25 Ketchikan, Petersburg, Tenakee, and Wrangell, Alaska

1 who did not receive a land claim settlement under the
2 Alaska Native Claims Settlement Act. Under such agree-
3 ment, the State of Alaska shall convey not less than
4 23,040 acres of surface estate and not more than 46,080
5 acres of surface estate to each community within the
6 boundary of the land transferred for purposes of histori-
7 cal, cultural, economic (including timber, tourism, and
8 recreation) development and subsistence use in settlement
9 of such claims. Upon the conveyance of such surface es-
10 tate, the State of Alaska shall convey the subsurface estate
11 of such lands to Sealaska Corporation. Unprocessed tim-
12 ber (as defined in section 493 of Public Law 101-382)
13 may not be exported from Alaska. Negotiations shall con-
14 clude as soon as practicable after the patent date, but in
15 no case later than two years after the transfer date. If
16 an agreement is not reached, then the matter shall be sub-
17 mitted to binding arbitration.

18 (f) TIMBER RECEIPTS TO LOCAL GOVERNMENTS.—
19 In each year, beginning with the fiscal year of the State
20 of Alaska beginning after the transfer date and ending
21 with the tenth fiscal year thereafter, the State of Alaska
22 shall allocate 25 percent of the net timber stumpage re-
23 ceipts for all timber sold on the lands transferred under
24 authority of this Act directly to boroughs, municipalities,

1 and local governments for purposes of schools, educational
2 materials, and community roads.

3 (g) TIMBER RECEIPTS TO THE UNITED STATES.—

4 For a period of 10 calendar years, beginning with the fis-
5 cal year of the State of Alaska beginning after the patent
6 date, the State of Alaska shall pay to the United States,
7 25 percent of the net receipts for all timber sold on the
8 lands transferred under authority of this Act.

9 (h) KETCHIKAN PULP CONTRACT.—On the patent
10 date, the State of Alaska shall assume all the obligations
11 of the United States and be entitled to all the benefits
12 due to the United States under Contract No. A10fs-1042
13 with the Ketchikan Pulp Corporation beginning on the
14 patent date.

15 (i) TIMBER EXPORTS.—The State of Alaska shall
16 prohibit by law export of unprocessed saw, utility, and
17 pulp logs originating from lands transferred under this
18 Act for a minimum period of ten years.

19 (j) EXISTING OBLIGATIONS AFTER PATENT DATE.—

20 On the patent date, the State of Alaska shall assume all
21 Federal obligations and duties and receive all rights of the
22 United States Forest Service, except that the State of
23 Alaska shall assume no obligation for any claim for dam-
24 ages or specific performance relating to a contract if such

1 claim arose before the patent date, unless the State of
2 Alaska receives the benefit from such an obligation.

3 **SEC. 7. MISCELLANEOUS DUTIES OF THE PARTIES AND**
4 **OTHER PROVISIONS RELATING TO THE**
5 **TRANSFER.**

6 (a) MAP AND LEGAL DESCRIPTION.—The Secretary
7 shall provide the State of Alaska with a map and other
8 legal descriptions of the land to be transferred under sec-
9 tion 4. The map and the legal descriptions provided under
10 this subsection shall be on file and available for public in-
11 spection in the Office of the Secretary in Washington, Dis-
12 trict of Columbia, and in two readily accessible locations
13 in Alaska, at least one of which is in Southeast Alaska.

14 (b) HAZARDOUS MATERIALS.—As promptly as prac-
15 ticable after the enactment of this Act, the Secretary shall
16 make available to the State of Alaska for review and in-
17 spection, all pertinent records relating to hazardous mate-
18 rials, if any, on lands to be transferred under this section.
19 The responsibility for costs of remedial action related to
20 such materials shall be borne by those entities responsible
21 under existing law.

22 (c) JUDICIAL REVIEW.—Transfer of land pursuant to
23 this Act shall not be subject to judicial review in any court
24 of the United States, except—

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

4 (2) otherwise conferred by this Act; or

5 (3) when sought by the State of Alaska on mat-
6 ters pertaining to rights conferred by this Act.

7 (d) RULEMAKING.—No formal rules under section
8 553 of title 5, United States Code, are required to imple-
9 ment this Act.

10 (e) SURVEY.—The patent for lands conveyed pursu-
11 ant to this Act shall not be subject to completion of a field
12 survey and may be issued based on a protraction survey.

13 (f) REPEAL.—Sections 503, 508, 703, 704, 705, and
14 706 of the Alaska National Lands Interest Conservation
15 Act are repealed on the patent date. Title III of the
16 Tongass Timber Reform Act is repealed on the transfer
17 date.

18 (g) ENCUMBRANCES.—For purposes of an orderly
19 transfer of the Tongass National Forest to State owner-
20 ship and transition to State management, the Secretary
21 shall provide a list of encumbrances of record and other-
22 wise known in the Tongass National Forest to the Com-
23 missioner of the Department of Natural Resources of the
24 State of Alaska during the transfer-transition period. The

1 transfer under this Act shall be subject to all existing en-
2 cumbrances.

○