

110TH CONGRESS
2D SESSION

H. R. 6682

To allow the State of Alaska to fulfill a portion of its remaining Statehood land entitlement by selecting certain lands from within the Tongass National Forest and for those lands to be managed and operated by the Department of Natural Resources of the State as State Timber Management Areas and for other purposes under the laws of the State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2008

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To allow the State of Alaska to fulfill a portion of its remaining Statehood land entitlement by selecting certain lands from within the Tongass National Forest and for those lands to be managed and operated by the Department of Natural Resources of the State as State Timber Management Areas 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Alaska Timber Man-
3 agement Areas for Education Land Selection Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) It is in the public interest to allow the State
7 of Alaska to fulfill a portion of its remaining State-
8 hood land entitlement by selecting certain lands
9 from within the Tongass National Forest and for
10 those lands to be managed and operated by the De-
11 partment of Natural Resources of the State as State
12 Timber Management Areas and for other purposes
13 under the laws of the State.

14 (2) The reasons for limiting to 400,000 acres
15 the selection and granting of public lands for com-
16 munity development and recreational purposes from
17 the National Forest System by the State of Alaska
18 under section 6(a) of the Statehood Act of 1958 are
19 no longer applicable, and the need for National For-
20 est System lands in Alaska to remain in Federal
21 ownership to assure satisfaction of Federal contrac-
22 tual obligations is no longer valid.

23 (3) The State of Alaska is the level of govern-
24 ment that is most sensitive to the ecological and eco-
25 nomic needs of the people of southeast Alaska and
26 other Alaskans.

1 (4) The State of Alaska is more capable than
2 the Federal Government to commit to policies, re-
3 lated to the State Timber Management Areas under
4 this Act, to engage in informed decisionmaking, pru-
5 dent management, and multiple, balanced, and sus-
6 tainable use, with respect to forest resources.

7 (5) The State of Alaska is capable of commit-
8 ting to an endowment using all receipts, net of the
9 cost of land management operations, raised through
10 forest management and other land uses to be used
11 specifically for State education in kindergarten
12 through twelfth grade, with distribution of the funds
13 to be based on the Public Law 60–136, Twenty-Five
14 Percent Fund Act formula.

15 (6) It is necessary to provide a smooth transi-
16 tion between Federal and State ownership and con-
17 trol of lands to be conveyed to Alaska under this Act
18 and to resolve as many issues as possible prior to
19 change of ownership and control.

20 (7) It is necessary to create a mechanism by
21 which the State of Alaska can make selections of
22 land under this Act, as far as practicable, consistent
23 with past law and decisions which permit the Fed-
24 eral Government to provide the land entitlement of
25 the State under the Alaska Statehood Act.

1 **SEC. 3. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act:

3 (1) The term “Secretary” means the Secretary
4 of the Interior.

5 (2) The term “State” means the State of Alas-
6 ka.

7 (3) The term “Commissioner” means the Com-
8 missioner of the Department of Natural Resources
9 of the State.

10 (4) The term “Portions of the Tongass Na-
11 tional Forest” means all right, title, and interest of
12 the United States in and to the surface and sub-
13 surface lands and real property (including structures
14 and facilities owned by the United States Forest
15 Service on Federal lands, adjacent tidelands and on
16 submerged lands owned by the State) within the
17 Tongass National Forest, consisting of approxi-
18 mately 1.8 million acres, as described on the map
19 entitled “Portions of the Tongass National Forest”
20 and dated July 30, 2008. The term does not include
21 Conservation System Units (as that term is defined
22 in the Alaska National Interest Lands Conservation
23 Act) and areas protected by an Act of Congress.

24 (5) The term “Federal obligation”—

25 (A) means any obligation or duty of the
26 United States Forest Service arising out of any

1 lease, permit, license, contract, and other legal
2 instruments issued by or with the Forest Serv-
3 ice relating to the selected portions of the
4 Tongass National Forest; and

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

7 (6) The term “State obligation” means any ob-
8 ligation or duty of the State arising out of any lease,
9 permit, license, contract and other legal instruments
10 issued by or with the State relating to the selected
11 lands under this Act.

12 (7) The term “selection date” means the date
13 on which the State elects to acquire lands and noti-
14 fies the Secretary of such election under section
15 4(a).

16 (8) The term “selection-transition period”
17 means the period beginning on the selection date
18 and ending no more than one year thereafter, on the
19 patent date.

20 (9) The term “patent date” means the last day
21 of the selection-transition period.

22 (10) The term “State Timber Management
23 Area” means all areas described as such in the map
24 under paragraph (4).

1 (11) The term “forest operations” means the
2 development of forest operating plans for State Tim-
3 ber Management Areas, including the conduct of in-
4 ventories of timber resources and the engineering of
5 necessary access needed necessary for timber man-
6 agement and related management activities.

7 (b) SPECIAL RULE.—The terms used in section 6(c)
8 shall be accorded the meaning given to such terms in title
9 VIII of the Alaska National Interest Lands Conservation
10 Act.

11 **SEC. 4. SELECTION OF TONGASS NATIONAL FOREST LANDS**
12 **AND PROPERTY BY THE STATE OF ALASKA.**

13 (a) AUTOMATIC TRANSFER OF LANDS.—In further-
14 ance and confirmation of the entitlement of the State
15 under the Alaska Statehood Act to certain public lands
16 within the National Forest System, if within 10 years
17 after the date of the enactment of this Act the State pur-
18 suant to subsection (b) elects to select and acquire por-
19 tions of the Tongass National Forest under the terms and
20 conditions of this Act, and so notifies the Secretary, then
21 such portions of the Tongass National Forest shall be con-
22 veyed, by operation of law, to the State of Alaska in ac-
23 cordance with subsection (c), subject to valid existing
24 rights.

1 (b) FORM OF ELECTION.—The election by the State
2 of Alaska to acquire portions of the Tongass National For-
3 est pursuant to subsection (a) shall be in the form of a
4 bill approved by the House and Senate of the Alaska State
5 Legislature and signed by the Governor of the State of
6 Alaska. Such law shall provide that—

7 (1) the State of Alaska elects to acquire the
8 Portions of the Tongass National Forest as partial
9 consideration of land selection rights pursuant to
10 section 6(b) of the Alaska Statehood Act of 1958;

11 (2) such Portions of the Tongass National For-
12 est lands shall be acquired subject to valid existing
13 rights;

14 (3) the procedures specified in this Act and the
15 transition provisions of this Act shall apply to the
16 acquisition;

17 (4) the rights and obligations of the United
18 States under the Alaska Native Claims Settlement
19 Act with respect to lands, rights in lands, and use
20 of lands acquired by this Act shall not be infringed
21 by the State of Alaska;

22 (5) up to 50 percent of the annual harvest of
23 timber in State Timber Management Areas shall be
24 offered as 10-year contracts and timber sales shall,
25 to the maximum extent practicable, provide suffi-

1 cient volume to meet the needs of all wood proc-
2 essing operations existing on the Tongass National
3 Forest at the time of passage of this Act, and man-
4 agement shall be performed in compliance with the
5 Alaska State Forest Practices Act;

6 (6) all receipts from the State Timber Manage-
7 ment Areas acquired by the State under this Act,
8 net of the cost of forest operations, obtained from
9 the sale, lease or disposition of forest resources and
10 any other land management receipts, net of adminis-
11 trative costs, shall be deposited into an account es-
12 tablished by the State for kindergarten through
13 twelfth grade education, and the distribution of
14 funds from such account shall be based on the
15 Twenty-Five Percent Fund Act (Public Law 60–
16 136); and

17 (7) lands currently open to mineral entry under
18 the General Mining Law (as amended) shall remain
19 open to mineral entry under State law unless subse-
20 quently changed by a State mineral closing order.

21 (c) PROCEDURE.—Beginning on the selection date,
22 the Secretary shall prepare patents conveying Portions of
23 the Tongass National Forest selected by the State and
24 shall convey such patents to the State on the patent date.
25 The duty of the Secretary to prepare and convey such pat-

1 ents under this Act shall be purely ministerial and convey-
2 ance of the patent on the patent date shall not be withheld
3 or conditioned by any other provision of law except as pro-
4 vided herein. The United States Supreme Court shall have
5 exclusive jurisdiction to issue such writs and compel such
6 actions as may be necessary to accomplish the conveyance
7 made under this Act.

8 (d) OTHER PROPERTY.—Beginning on the selection
9 date, in addition to other conveyances made under this
10 Act, the Secretary shall convey the right and title to and
11 interest of the United States in all other types of property
12 (including real and personal property) used for purposes
13 of operating, administering, and managing the acquired
14 portions of the Tongass National Forest. Such property
15 shall be transferred on the patent date and include only
16 that property which is owned by the United States and
17 used by the United States Forest Service primarily on the
18 Portions of the Tongass National Forest selected by the
19 State.

20 (e) OTHER USES.—Beginning on the selection date
21 and concurrent with the selection and conveyance of the
22 Federal lands and property under this Act, the Secretary
23 shall transfer all existing special use permits on the Por-
24 tions of the Tongass National Forest to the State.

1 **SEC. 5. 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 of Alaska shall
8 interview each person employed by the United States For-
9 est Service on the date of the enactment of this Act whose
10 employment is made redundant by this Act for purposes
11 of reemployment by the State of Alaska in a comparable
12 job within the new State administrative system for the new
13 State Timber Management Areas. 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, Portions of
20 the Tongass National Forest not yet patented to the State
21 under this Act shall be administered and managed under
22 applicable Federal law and the Tongass Land Manage-
23 ment Plan.

24 (d) TREATMENT OF CERTAIN RECEIPTS.—Receipts
25 from all rentals or sales occurring on the Portions of the
26 Tongass National Forest selected by the State during the

1 selection-transition period shall be kept in escrow and
2 transferred to the State on the patent date to be used for
3 kindergarten through twelfth grade educational purposes,
4 with distribution of the funds to be based on the Twenty-
5 Five Percent Fund Act formula (Public Law 60–136).

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

8 (a) MANAGEMENT OF SELECTED LANDS.—Begin-
9 ning on the patent date, the portions of the Tongass Na-
10 tional Forest conveyed to the State under this Act shall
11 be administered and managed primarily for timber pro-
12 duction as State Timber Management Areas under appli-
13 cable State of Alaska law, except as otherwise provided
14 in this Act for the period provided by this Act.

15 (b) FUNDING.—For a period of five years following
16 the patent date, the Secretary shall make available to the
17 State the average annual planning, operation and mainte-
18 nance funds allocated for management of the Portions of
19 the Tongass National Forest selected by the State during
20 the five-year period prior to the selection date. The
21 amount shall be calculated as the total budget of the
22 Tongass National Forest, excluding funds for manage-
23 ment of Conservation System Units and legislated LUD
24 II areas (as those terms are used in the Tongass Land
25 Management Plan), divided by the total acres of the

1 Tongass National Forest, excluding Conservation System
2 Units and legislated LUD II areas prior to the selection,
3 multiplied by the total acres selected by the State.

4 (c) LAND DESIGNATIONS.—Land use designations in
5 effect on the selected Tongass National Forest lands on
6 the date of the enactment of this Act under the Tongass
7 Land Management Plan shall continue in effect until the
8 patent date.

9 (d) SUBSISTENCE USE AFTER THE SELECTION
10 DATE.—The Secretary of the Interior shall retain con-
11 tinuing authority to manage subsistence uses of fish and
12 wildlife on lands conveyed under this Act until the patent
13 date.

14 (e) ACCESS.—(1) The Secretary, in accordance with
15 the Tongass Forest Transportation Plan and the Trans-
16 portation Plan of the State, shall provide access in the
17 form of easements across uplands owned by the United
18 States to and from areas of the new State Timber Man-
19 agement Areas and other Portions of the Tongass Na-
20 tional Forest selected by the State. The duty of the Sec-
21 retary to deliver patents for such easements shall be pure-
22 ly ministerial and shall not be withheld or conditioned by
23 any other provision of law. The Secretary shall enter into
24 agreements with the Commissioner for the purpose of
25 sharing the costs of common use roads.

1 (2) Following the patent date, the State shall issue
2 easements to the United States for reasonable access
3 across the portions of the Tongass National Forest in ac-
4 cordance with the Tongass Forest Transportation Plan
5 and the Transportation Plan of the State.

6 (f) MINING CLAIMS.—(1) Federal mining claims lo-
7 cated pursuant to the General Mining Law of 1872 (30
8 U.S.C. 22 and following) on the portions of the Tongass
9 National Forest before the selection date shall remain sub-
10 ject to the laws, rules, regulations, and policies of the
11 United States, but such laws, rules, regulations, and poli-
12 cies shall be administered by the State of Alaska. The
13 right and ability of a claimholder to patent such a mining
14 claim and enjoy reasonable access to the claim shall not
15 be infringed. An application to patent a Federal mining
16 claim located on the portions of the Tongass National For-
17 est may be made by the claimholder with the State of
18 Alaska and shall constitute an election by the claim holder
19 to be subject to Federal mining claim patent procedures
20 administered by the State of Alaska.

21 (2) During the selection-transition period the Federal
22 Government shall escrow all fees and revenues, if any, due
23 on Federal mining claims on portions of the Tongass Na-
24 tional Forest and on the patent date transfer those re-
25 cepts to the State of Alaska on the patent date to the

1 State to be used for kindergarten through twelfth grade
2 educational purposes.

3 (3) Any mining claims filed on portions of the
4 Tongass National Forest after the selection date shall be
5 subject only to the laws of the State of Alaska.

6 (g) TIMBER EXPORTS.—The State shall prohibit by
7 law the export of unprocessed saw, utility, and pulp logs
8 originating from lands patented to the State under this
9 Act except for minor species and products that may be
10 permitted for export by the State to promote manufacture
11 of new wood products.

12 (h) OTHER RECEIPTS.—Beginning with the fiscal
13 year of the State of Alaska after the patent date, escrowed
14 fees and fees from all existing and future issued special
15 use permits and all other land management receipts on
16 portions of the Tongass National Forest, net of reasonable
17 cost of administration, shall be transferred the account es-
18 tablished by the State for kindergarten through twelfth
19 grade education purposes, with distribution to be based
20 on the Twenty-Five Percent Fund Act (Public Law 60–
21 136).

22 (i) EXISTING OBLIGATIONS AFTER PATENT DATE.—
23 On the patent date, the State shall assume all Federal
24 obligations and duties and receive all rights of the United
25 States Forest Service, except that the State shall assume

1 no obligation for any claim for damages or specific per-
2 formance relating to a contract or permit, if such claim
3 arose before the patent date, unless the State receives the
4 benefit from such an obligation.

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

8 (a) MAP AND LEGAL DESCRIPTION.—The Map re-
9 ferred to in section 3(a)(4) and the maps and legal de-
10 scriptions prepared of the Portions of the Tongass Na-
11 tional Forest selected by the State under this Act shall
12 be on file and available for public inspection in the Office
13 of the Secretary in Washington, DC, the Office of the
14 Commissioner in Juneau, Alaska, and readily accessible
15 in one additional location in the State.

16 (b) HAZARDOUS MATERIALS.—As promptly as prac-
17 ticable after the enactment of this Act, the Secretary shall
18 make available to the State for review and inspection, all
19 pertinent records relating to hazardous materials, if any,
20 on lands to be selected under this Act. The responsibility
21 for costs of remedial action related to such materials shall
22 be borne by those entities responsible under existing law.
23 If no party responsible for the hazardous materials can
24 be determined, remediation responsibility and all costs
25 shall remain with the Secretary and remediation as agreed

1 to by the Commissioner shall be initiated as soon as prac-
2 tical after the patent date.

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

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

9 (2) otherwise conferred by this Act; or

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

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

15 (e) SURVEY.—The patent for and use of the lands
16 conveyed to the State pursuant to this Act shall not be
17 subject to completion of a field survey and may be issued
18 based on a protraction survey. However, the Secretary
19 shall complete a field survey following patent.

20 (f) REPEAL.—With respect to the lands selected by
21 the State under this Act, sections 503, 508, 703, 704, 705
22 and 706 of the Alaska National Lands Interest Conserva-
23 tion Act shall not apply effective on the patent date and
24 title III of the Tongass Timber Reform Act shall not apply
25 effective on the selection date.

1 (g) ENCUMBRANCES.—For purposes of an orderly
2 transfer of the Tongass National Forest lands to State
3 ownership and transition to State management, the Sec-
4 retary shall provide a list of encumbrances and uses of
5 record and otherwise known on the selected portions of
6 the Tongass National Forest to the Commissioner during
7 the selection-transition period. The lands selected under
8 this Act shall be subject to all existing encumbrances.

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