

115TH CONGRESS  
2D SESSION

**H. R. 4257**

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**AN ACT**

To maximize land management efficiencies, promote land conservation, generate education funding, 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 “Advancing Conserva-  
3 tion and Education Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) at statehood, Congress granted each of the  
7 western States land to be held in trust by the States  
8 and used for the support of public schools and other  
9 public institutions;

10 (2) since the statehood land grants, Congress  
11 and the executive branch have created multiple Fed-  
12 eral conservation areas on Federal land within the  
13 western States, including National Parks, National  
14 Monuments, national conservation areas, national  
15 grassland, components of the National Wilderness  
16 Preservation System, wilderness study areas, and  
17 national wildlife refuges;

18 (3) since statehood land grant land owned by  
19 the western States are typically scattered across the  
20 public land, creation of Federal conservation areas  
21 often include State land grant parcels with substan-  
22 tially different management mandates, making land  
23 and resource management more difficult, expensive,  
24 and controversial for both Federal land managers  
25 and the western States; and

## 11 SEC. 3. DEFINITIONS.

## 12 In this Act:

19 (A) a unit of the National Park System;

20 (B) a component of the National Wilder-  
21 ness Preservation System;

22 (C) a unit of the National Wildlife Refuge  
23 System;

24 (D) a unit of the National Landscape Con-  
25 servation System;

1 (E) an area determined by the Bureau of  
2 Land Management, through an inventory car-  
3 ried out in accordance with FLPMA, to have  
4 wilderness characteristics—

7 (ii) in a land use plan finalized under  
8 FLPMA;

9 (F) National Forest System land and pub-  
10 lic land administered by the Bureau of Land  
11 Management that has been designated as a na-  
12 tional monument, national volcanic monument,  
13 national recreation area, national scenic area,  
14 inventoried roadless area, unit of the Wild and  
15 Scenic Rivers System, wilderness study area, or  
16 Land Use Designation II (as described by sec-  
17 tion 508 of the Alaska National Interest Lands  
18 Conservation Act (Public Law 101-626; 104  
19 Stat. 4428)); or

20 (G) a sentinel landscape designated by the  
21 Secretary of Agriculture, the Secretary of De-  
22 fense, and the Secretary of the Interior.

9 (5) PUBLIC LAND.—

10 (A) IN GENERAL.—The term “public land”

11 has the meaning given the term “public lands”

12 in section 103 of FLPMA (43 U.S.C. 1702).

13 (B) EXCLUSIONS.—The term “public

14 land” does not include Federal land that—

15 (i) is within an eligible area;

16 (ii) is within an area of critical envi-

17 ronmental concern established pursuant to

18 section 202(c)(3) of FLPMA (43 U.S.C.

19 1712(c)(3));

20 (iii) is within an area withdrawn or

21 reserved by an Act of Congress, the Presi-

22 dent, or public land order for a particular

23 public purpose or program, including for

24 the conservation of natural resources;

1 (iv) has been acquired using funds  
2 from the Land and Water Conservation  
3 Fund established under section 200302 of  
4 title 54, United States Code;

5 (v) is within the boundary of an Indian reservation, pueblo, or rancheria; or  
6

7 (vi) is within a special recreation man-  
8 agement area.

13 (A) any land granted to a western State by  
14 Congress through a statehood or territorial land  
15 grant for the support of public education or  
16 other public institutions, or subsequently ac-  
17 quired by the western State for that purpose; or

23 (8) TRADITIONAL CULTURAL PROPERTY.—The  
24 term “traditional cultural property” has the mean-  
25 ing given the term—

10 (10) WESTERN STATE.—The term “western  
11 State” means any of the States of Alaska, Arizona,  
12 California, Colorado, Idaho, Montana, New Mexico,  
13 North Dakota, Oregon, South Dakota, Utah, Wash-  
14 ington, and Wyoming.

15 SEC. 4. RELINQUISHMENT OF STATE LAND GRANT PAR-  
16 CELS AND SELECTION OF REPLACEMENT  
17 LAND.

18 (a) AUTHORITY TO SELECT.—In accordance with  
19 this Act and in order to facilitate the fulfillment of the  
20 mandates of State land grant parcels and Federal land  
21 described in subparagraphs (A) through (G) of section  
22 3(2), on approval by the Secretary of an application under  
23 section 5, a western State may relinquish to the United  
24 States State land grant parcels wholly or primarily within

1 eligible areas and select in exchange public land within the  
2 western State.

3 (b) VALID EXISTING RIGHTS.—Land conveyed under  
4 this Act shall be subject to valid existing rights.

5 (c) MANAGEMENT AFTER RELINQUISHMENT.—Any  
6 portion of a State land grant parcel acquired by the  
7 United States under this Act that is located within an eli-  
8 gible area shall—

9 (1) be incorporated in, and be managed as part  
10 of, the applicable unit described in subparagraphs  
11 (A) through (G) of section 3(2) in which the land is  
12 located without further action by the Secretary with  
13 jurisdiction over the unit; and

14 (2) if located within the National Forest Sys-  
15 tem, be administered by the Secretary of Agriculture  
16 in accordance with—

17 (A) the Act of March 1, 1911 (commonly  
18 known as the “Weeks Law”) (16 U.S.C. 552 et  
19 seq.); and

20 (B) any laws (including regulations) appli-  
21 cable to the National Forest System and the  
22 unit of the National Forest System in which the  
23 land is located.

24 (d) LIMITATION.—

21 (B) the western State submitting the ap-  
22 plication is, as determined by the Secretary,  
23 making substantial progress in relinquishing  
24 State land grant parcels within priority areas in  
25 the western State; and

1 (C) the Secretary has not accepted any  
2 other applications from the western State under  
3 this paragraph during the 5-year period ending  
4 on the date of the application.

## 5 SEC. 5. PROCESS.

## 6 (a) PROCESS FOR APPLICATION.—

20 (b) PUBLIC NOTICE.—Prior to accepting or con-  
21 veying any land under this Act, the Secretary shall provide  
22 public notice and an opportunity to comment on the pro-  
23 posed conveyances between the western State and the  
24 United States.

25 (c) ENVIRONMENTAL ANALYSIS.—

5 (A) the National Environmental Policy Act  
6 of 1969 (42 U.S.C. 4321 et seq.); and

7 (B) other applicable laws.

8 (2) ENVIRONMENTAL ASSESSMENT OR ENVI-  
9 RONMENTAL IMPACT STATEMENT.—In preparing an  
10 environmental assessment or environmental impact  
11 statement pursuant to section 102(2) of the Na-  
12 tional Environmental Policy Act of 1969 (42 U.S.C.  
13 4332(2)) for the acquisition of State land grant par-  
14 cels and the conveyance of public land under this  
15 Act, if the western State has indicated an unwilling-  
16 ness to consider State land grant parcels for relin-  
17 quishment or public land for acquisition (other than  
18 the State land grant parcels and public land de-  
19 scribed in the proposed agency action), the Secretary  
20 is not required to study, develop, and describe more  
21 than—

22 (A) the proposed agency action; and  
23 (B) the alternative of no action.

24 (d) AGREEMENTS WITH STATES.—

10 (A) a time schedule for completing the con-  
11 veyances;

12 (B) an assignment of responsibility for  
13 performance of required functions and for costs  
14 associated with processing the conveyances; and

15 (C) a statement specifying whether as-  
16 sumption of costs will be allowed pursuant to  
17 section 8(d).

18 (e) APPROVAL OR REJECTION.—The Secretary—

23 (2) may approve an application in whole or in  
24 part, or as modified by the Secretary as necessary

1 to balance the equities of the States and interest of  
2 the public;

3 (3) shall not accept an application under this  
4 Act for selection of any parcel of public land that in  
5 the judgment of the Secretary—

6 (A) is not reasonably compact and consoli-  
7 dated;

8 (B) will create significant management  
9 conflicts with respect to the management of ad-  
10 jacent Federal land;

11 (C) will significantly adversely affect public  
12 use of a recreation site or recreation area eligi-  
13 ble for the collection of recreation fees under  
14 the Federal Lands Recreation Enhancement  
15 Act (16 U.S.C. 6801 et seq.) or other authority;

16 (D) will significantly adversely affect pub-  
17 lic access, hunting, fishing, recreational shoot-  
18 ing, outdoor recreation, or result in adverse im-  
19 pacts to critical fish and wildlife habitat; or

20 (E) is not in the public interest, as deter-  
21 mined under 43 Code of Federal Regulations  
22 2200.0-6(b), as in effect on the date of enact-  
23 ment of this Act;

24 (4) shall not accept any State land grant par-  
25 cels that, in the judgment of the Secretary, are not

1       suitable for inclusion in the applicable unit described  
2       in subparagraphs (A) through (G) of section 3(2) in  
3       which the land is located;

4               (5) shall, prior to approving an application, con-  
5       sult with the head of any Federal agency with juris-  
6       diction over Federal land—

7                       (A) within which a western State proposes  
8       to relinquish a State land grant parcel; or

9                       (B) that is adjacent to public land pro-  
10       posed for conveyance to a western State;

11               (6) shall, prior to approving an application—

12                       (A) consult, in accordance with Federal  
13       law, with any Indian tribe affected by the sub-  
14       ject of the application, including any Indian  
15       tribe that notifies the Secretary that there is  
16       traditional cultural property located within the  
17       public land proposed for conveyance to the  
18       western State; and

19                       (B) if the Secretary determines that tradi-  
20       tional cultural property is located within the  
21       public land proposed for conveyance to the  
22       western State, consider the extent to which pro-  
23       tection would be available for the traditional  
24       cultural property after conveyance of the public  
25       land to the western State, including terms or

1           conditions that the Secretary, with the agree-  
2           ment of the western State, may impose on the  
3           conveyance of the public land to the western  
4           State;

5           (7) may reject an application in whole or in  
6           part if the Secretary, after consideration of available  
7           protection for traditional cultural property located  
8           within the public land proposed for conveyance to  
9           the western State pursuant to paragraph (6)(B), de-  
10          termines that insufficient protection would be avail-  
11          able for the traditional cultural property after con-  
12          veyance of the public land to the western State;

13          (8) shall, for applications by a western State for  
14          the conveyance of a parcel of public land that will  
15          result in significantly diminished public access to ad-  
16          jacent Federal land—

17                   (A) reject that portion of the application;  
18                   or

19                   (B) reserve a right-of-way through the  
20          public land to be conveyed ensuring continued  
21          public access to adjacent Federal land; and

22          (9) shall convey any public land approved for  
23          selection not later than 1 year after entering into a  
24          final agreement between the Secretary and the west-

1       ern State on the land to be conveyed, subject to such  
2       other terms and conditions as may be appropriate.

3       (f) COSTS.—

4           (1) IN GENERAL.—All costs of conveyances  
5       under this Act, including appraisals, surveys, and re-  
6       lated costs, shall be paid equally by the Secretary  
7       and the western State.

8           (2) ALLOCATION.—The Federal agency that re-  
9       ceives State land in a conveyance under this Act  
10       shall assume the Federal share of administrative  
11       costs, including appraisals, surveys, and related  
12       costs, unless otherwise agreed to by the heads of the  
13       respective agencies.

14       (g) CONVEYANCE BY WESTERN STATE.—

15           (1) IN GENERAL.—The conveyance of any State  
16       land grant parcel under this Act shall—

17               (A) be by patent or deed acceptable to the  
18       Secretary; and

19               (B) not be considered an exchange or ac-  
20       quisition for purposes of sections 205 and 206  
21       of FLPMA (43 U.S.C. 1715, 1716).

22           (2) CONCURRENCE.—The Secretary of Agri-  
23       culture shall concur in any determination to accept  
24       the conveyance of a State land grant parcel within

1 the boundaries of any unit of the National Forest  
2 System.

3 (h) CONVEYANCE BY UNITED STATES.—The convey-  
4 ance of public land by the United States shall—

5 (1) not be considered a sale, exchange, or con-  
6 veyance under section 203, 206, or 209 of FLPMA  
7 (43 U.S.C. 1713, 1716, and 1719); and

8 (2) include such terms or conditions as the Sec-  
9 retary may require.

10 **SEC. 6. MINERAL LAND.**

11 (a) SELECTION AND CONVEYANCE.—

12 (1) IN GENERAL.—Subject to this Act, a west-  
13 ern State may select, and the Secretary may convey,  
14 land that is mineral in character under this Act.

15 (2) EXCLUSION.—A western State may not se-  
16 lect, and the Secretary may not convey land that in-  
17 cludes only—

18 (A) a portion of a mineral lease or permit;  
19 (B) the Federal mineral estate, unless the  
20 United States does not own the associated sur-  
21 face estate; or

22 (C) the Federal surface estate, unless the  
23 United States does not own the associated min-  
24 eral estate.

25 (b) MINING CLAIMS.—

## 19 SEC. 7. CONSTRUCTION WITH OTHER LAWS.

20 (a) CONSIDERATION.—In the application of laws, reg-  
21 ulations, and policies relating to selections made under  
22 this Act, the Secretary shall consider the equities of the  
23 western States and the interest of the public.

1       (b) LAND USE PLAN.—The Secretary may approve  
2 an application submitted in accordance with this Act even  
3 if—

4               (1) the selected public land is not otherwise  
5 identified for disposal; or  
6               (2) the land to be acquired is not identified to  
7 be acquired in the applicable land use plan.

8 **SEC. 8. VALUATION.**

9       (a) EQUAL VALUE.—

10               (1) IN GENERAL.—The overall value of the  
11 State land grant parcels and the public land to be  
12 conveyed shall be—

13                       (A) equal; or  
14                       (B) if the value is not equal—  
15                               (i) equalized by the payment of funds  
16                               to the western State or to the Secretary as  
17                               the circumstances require; or  
18                               (ii) reflected on the balance of a ledg-  
19                               er account established under subsection  
20                               (c).

21               (2) APPRAISAL REQUIRED.—Except as provided  
22 in subsection (b), the Secretary shall determine the  
23 value of a State land grant parcel and public land  
24 through an appraisal completed in accordance  
25 with—

11 (b) Low Value Parcels.—

22 (A) less than \$500,000; and

23 (B) less than \$500 per acre.

(2) DIVISION.—A State land grant parcel or a parcel of public land may not be artificially divided

1       in order to qualify for a summary appraisal or state-  
2       ment of value under paragraph (1).

3       (c) LEDGER ACCOUNTS.—

4           (1) IN GENERAL.—The Secretary and any west-  
5       ern State may agree to use a ledger account to make  
6       equal the value of land relinquished by the western  
7       State and conveyed by the United States to the  
8       western State under this Act.

9           (2) IMBALANCES.—A ledger account described  
10      in paragraph (1) shall reflect imbalances in value to  
11      be reconciled in a subsequent transaction.

12           (3) ACCOUNT BALANCING.—Each ledger ac-  
13      count shall be—

14               (A) balanced not later than 3 years after  
15       the date on which the ledger account is estab-  
16       lished; and

17               (B) closed not later than 5 years after the  
18       date of the last conveyance of land under this  
19       Act.

20       (d) COSTS.—

21           (1) IN GENERAL.—The Secretary or the west-  
22       ern State may assume costs or other responsibilities  
23       or requirements for conveying land under this Act  
24       that ordinarily are borne by the other party.

7 (e) ADJUSTMENT.—If value is attributed to any par-  
8 cel of public land that has been selected by a western State  
9 because of the presence of minerals under a lease entered  
10 into under the Mineral Leasing Act (30 U.S.C. 181 et  
11 seq.) that is in a producing or producible status, and the  
12 lease is to be conveyed under this Act, the value of the  
13 parcel shall be reduced by the amount that represents the  
14 likely Federal revenue sharing obligation under that Act,  
15 but the adjustment shall not be considered as reflecting  
16 a property right of the western State.

## 17 SEC. 9. MISCELLANEOUS.

18 (a) HAZARDOUS MATERIALS.—

1       veyed under this Act before the completion of the  
2       conveyance.

3       (b) WATER RIGHTS.—

4           (1) STATE-HELD APPURTEnant WATER  
5       RIGHTS.—Any conveyance of a State land grant par-  
6       cel under this Act may include the conveyance of  
7       State-held water rights appurtenant to the land con-  
8       veyed in accordance with applicable law.

9           (2) FEDERALLY HELD APPURTEnant WATER  
10       RIGHTS.—Any conveyance of public land under this  
11       Act may include the conveyance of federally held  
12       water rights appurtenant to the land conveyed in ac-  
13       cordance with applicable Federal and State law.

14       (3) EFFECT.—Nothing in this Act—

15           (A) creates an implied or expressed Fed-  
16       eral reserved water right;  
17           (B) affects a valid existing water right; or  
18           (C) affects the use of water conveyance in-  
19       frastructure associated with a water right de-  
20       scribed in subparagraph (B).

21       (c) GRAZING PERMITS.—

22           (1) IN GENERAL.—If land conveyed under this  
23       Act is subject to a lease, permit, or contract for the  
24       grazing of domestic livestock in effect on the date of  
25       the conveyance, the Secretary (or the Secretary of

1        Agriculture for land located within the National For-  
2        est System) and the western State shall allow the  
3        grazing to continue for the remainder of the term of  
4        the lease, permit, or contract, subject to the related  
5        terms and conditions of user agreements, including  
6        permitted stocking rates, grazing fee levels, access,  
7        and ownership and use of range improvements.

8                (2) RENEWAL.—On expiration of any grazing  
9        lease, permit, or contract described in paragraph  
10       (1), the party that has jurisdiction over the land on  
11       the date of expiration may elect to renew the lease,  
12       permit, or contract if permitted under applicable  
13       law.

14                (3) CANCELLATION.—

15                (A) IN GENERAL.—Nothing in this Act  
16        prevents the Secretary (or the Secretary of Ag-  
17        riculture for land located within the National  
18        Forest System) or the western State from can-  
19        celing or modifying a grazing permit, lease, or  
20        contract if the land subject to the permit, lease,  
21        or contract is sold, conveyed, transferred, or  
22        leased for nongrazing purposes.

23                (B) LIMITATION.—Except to the extent  
24        reasonably necessary to accommodate surface  
25        operations in support of mineral development,

1           the Secretary (or the Secretary of Agriculture  
2           for land located within the National Forest Sys-  
3           tem) or the western State shall not cancel or  
4           modify a grazing permit, lease, or contract for  
5           land conveyed pursuant to this Act because the  
6           land subject to the permit, lease, or contract  
7           has been leased for mineral development.

8           (4) BASE PROPERTIES.—If land conveyed by  
9           the western State under this Act is used by a graz-  
10          ing permittee or lessee to meet the base property re-  
11          quirements for a Federal grazing permit or lease,  
12          the land shall continue to qualify as a base property  
13          for the remaining term of the lease or permit and  
14          the term of any renewal or extension of the lease or  
15          permit.

16           (5) RANGE IMPROVEMENTS.—Nothing in this  
17          Act prohibits a holder of a grazing lease, permit, or  
18          contract from being compensated for range improve-  
19          ments pursuant to the terms of the lease, permit, or  
20          contract under existing Federal or State laws.

21           (d) ROAD RIGHTS-OF-WAYS.—

22           (1) IN GENERAL.—If land conveyed under this  
23          Act is subject to a road lease, road right-of-way,  
24          road easement, or other valid existing right in effect  
25          on the date of the conveyance, the Secretary (or the

1       Secretary of Agriculture for land located within the  
2       National Forest System) and the western State shall  
3       allow the lease, right-of-way, easement, or other  
4       valid existing right to continue for the remainder of  
5       the term of the lease, right-of-way, easement, or  
6       other valid existing right, subject to the applicable  
7       terms and conditions of the lease, right-of-way, ease-  
8       ment, or other valid existing right.

9                   (2) RENEWAL.—On expiration of any road  
10      lease, road right-of-way, road easement, or other  
11      valid existing right described in paragraph (1), the  
12      party that has jurisdiction over the land on the date  
13      of expiration may elect to renew the lease, right-of-  
14      way, easement, or other valid existing right if per-  
15      mitted under applicable law.

16                   (e) PROTECTION OF INDIAN RIGHTS.—

17                   (1) TREATY RIGHTS.—Nothing in this Act al-  
18      ters or diminishes the treaty rights of any Indian  
19      tribe.

20                   (2) LAND HELD IN TRUST.—Nothing in this  
21      Act affects—

22                   (A) land held in trust by the Secretary for  
23      any Indian tribe; or  
24                   (B) any individual Indian allotment.

7 (B) the Native American Graves Protec-  
8 tion and Repatriation Act (25 U.S.C. 3001 et  
9 seq.);

10 (C) Public Law 95-341 (commonly known  
11 as the "American Indian Religious Freedom  
12 Act") (42 U.S.C. 1996);

13 (D) chapter 3125 of title 54, United States  
14 Code; or

15 (E) the Archaeological Resources Protec-  
16 tion Act of 1979 (16 U.S.C. 470aa et seq.).

## 17 SEC. 10. EFFECT.

18 Nothing in this Act repeals or limits, expressly or by  
19 implication, any authority in existence on the date of en-  
20 actment of this Act for the selection or exchange of land.

## 21 SEC. 11. TERMINATION OF AUTHORITY.

22 (a) IN GENERAL.—Subject to subsection (b), the pro-  
23 visions of this Act shall cease to be effective with regard  
24 to any State land grant parcel located within an eligible  
25 area for which an application has not been filed by the

1 date that is 20 years after the date of the enactment of  
2 this Act.

3 (b) NEW ELIGIBLE AREAS.—If the application de-  
4 scribed in subsection (a) is for a State land grant parcel  
5 that is located within an eligible area established after the  
6 date of enactment of this Act, the provisions of this Act  
7 shall remain effective for 20 years after the date on which  
8 the new eligible area is established.

Passed the House of Representatives June 25, 2018.

Attest:

*Clerk.*



115TH CONGRESS  
2D SESSION

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To maximize land management efficiencies, promote land conservation, generate education funding, and for other purposes.