

110TH CONGRESS  
1ST SESSION

# H. R. 3614

To authorize Western States to make selections of public land within their borders in lieu of receiving 5 percent of the proceeds of the sale of public land lying within said States as provided by their respective enabling Acts.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2007

Mr. BISHOP of Utah (for himself, Mr. CANNON, Mr. YOUNG of Alaska, Mr. SHADEGG, Mr. FRANKS of Arizona, Mr. RENZI, Mr. HERGER, Mr. LAMBORN, Mr. CAMPBELL of California, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. BARTLETT of Maryland, Mr. COLE of Oklahoma, Mr. HENSARLING, Mr. WILSON of South Carolina, Mr. POE, Mr. PITTS, Mrs. BLACKBURN, Mr. FORTUÑO, Mr. GOHMERT, Mr. FEENEY, Mr. BACHUS, Mr. GINGREY, Mr. CULBERSON, Mr. WALBERG, and Mr. PEARCE) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To authorize Western States to make selections of public land within their borders in lieu of receiving 5 percent of the proceeds of the sale of public land lying within said States as provided by their respective enabling Acts.

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 “Action Plan for Public  
3 Lands and Education Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) The Acts enabling the people of territories  
7 of the American West to form their constitutions  
8 and State governments and providing for the admis-  
9 sion of such States into the Union on equal footing  
10 with the original States included a common provision  
11 of which the following example is typical: That 5  
12 percent of the proceeds of the sales of public land  
13 lying within said State, which shall be sold by the  
14 United States subsequent to the admission of said  
15 State into the Union, after deducting all the ex-  
16 penses incident to the same, shall be paid to the said  
17 State, to be used as a permanent fund, the interest  
18 of which only shall be expended for the support of  
19 the common schools within said State.

20 (2) Western States, as a group, are falling be-  
21 hind in education funding as measured by growth of  
22 real per pupil expenditures from 1979 to 2006.

23 (3) Eleven of the 12 States with the lowest real  
24 growth in per pupil expenditures are Western States.

25 (4) The growth rate of real per pupil expendi-  
26 tures in the 13 Western States is less than half such

1 rate in the 37 other States (28 percent versus 57  
2 percent).

3 (5) One effect of less funding for public edu-  
4 cation in the West is higher pupil-per-teacher ratios.

5 (6) Ten of the 12 States with the largest pupil-  
6 per-teacher ratios are Western States.

7 (7) On average, the 13 Western States have 3  
8 more students per classroom than the 37 other  
9 States.

10 (8) Over the next 10 years, the rate of enroll-  
11 ment growth is projected to be much higher in West-  
12 ern States than in other States.

13 (9) On average, the rate of enrollment growth  
14 in Western States is projected to increase dramati-  
15 cally, while the rate of enrollment growth of other  
16 States is projected to decrease.

17 (10) The State and local taxes of Western  
18 States as a percentage of personal income are as  
19 high as or higher than other States.

20 (11) Despite the fact that Western States tax  
21 at a comparable rate and allocate as much of their  
22 budgets to public education as other States, Western  
23 States have lower real growth in per pupil expendi-  
24 tures and have higher pupil-per-teacher ratios.

1           (12) The Federal Government is the source and  
2 potential solver of the problem because of the enor-  
3 mous amount of untaxed land the Federal Govern-  
4 ment owns in Western States.

5           (13) All States east of an imaginary vertical  
6 line from Montana to New Mexico have, on average,  
7 4.1 percent of their land federally owned, while the  
8 Western States on average have 51.9 percent of  
9 their land federally owned.

10          (14) The plain language of these enabling Acts  
11 proclaims that the public land shall be sold by the  
12 United States subsequent to the admission of the  
13 States into the Union.

14          (15) The United States honored those Acts by  
15 selling public land within the Western States until  
16 the passage of the Federal Land Policy and Manage-  
17 ment Act of 1976, wherein Congress declared that  
18 the policy of the United States was to retain public  
19 land in Federal ownership and management.

20          (16) The United States has broken its solemn  
21 compact with the Western States and breached its  
22 fiduciary duty to the school children who are des-  
23 ignated beneficiaries of the sale of Federal land  
24 under the terms of the respective enabling Acts of  
25 the Western States.

1           (17) The current shortfall in funding public  
2           education in the Western States requires immediate  
3           Congressional action to remedy the above-described  
4           discriminatory Federal land policy and prevent the  
5           further disadvantaging of the school children of the  
6           Western States.

7           (18) The most efficient and cost effective rem-  
8           edy now available to the United States is to grant  
9           to the Western States 5 percent of the remaining  
10          Federal land located within each State, authorizing  
11          each State to select such land from the unappropri-  
12          ated public land within the boundaries of the State  
13          to satisfy the grant.

14 **SEC. 3. QUANTITY GRANTS TO WESTERN STATES FOR EDU-**  
15 **CATION IMPROVEMENT.**

16          (a) QUANTITY LAND GRANTS.—Instead of receiving,  
17          for the support of the common schools, 5 percent of the  
18          proceeds of the sales of federally owned land lying within  
19          the Western States which have not been sold by the United  
20          States as of July 1, 2005, grants of land are hereby made  
21          to the Western States. The amount of land granted to  
22          each State shall be equal to 5 percent of the number of  
23          acres of federally owned land within the State as of July  
24          1, 2005.

25          (b) SELECTION PROCESS.—

1           (1) IN GENERAL.—Each Western State shall  
2           select from the unappropriated public lands within  
3           the borders of the State in such manner as the legis-  
4           lature of the State may provide, land equal in acre-  
5           age to 5 percent of the federally owned land in the  
6           State as of July 1, 2005.

7           (2) CALCULATION OF ACREAGE AND NOTIFICA-  
8           TION OF STATE.—The Secretary shall calculate the  
9           exact acreage of federally owned land in each West-  
10          ern State as of July 1, 2005, and designate the un-  
11          appropriated public land, as defined herein, eligible  
12          for selection by the State. The Secretary shall com-  
13          municate to each of the Western States the respec-  
14          tive acreage calculation and designation of land eligi-  
15          ble for selection not later than 1 year after the date  
16          of the enactment of this Act.

17          (c) APPLICATION OF CERTAIN LAW.—Selection and  
18          transfer of land under this Act shall not be considered a  
19          major Federal action for the purposes of section  
20          102(2)(C) of the National Environmental Policy Act of  
21          1969.

22          (d) MINERAL AND OIL AND GAS RIGHTS.—

23                 (1) IN GENERAL.—All mineral, oil, and gas  
24                 rights to the land selected by the Western States  
25                 under this Act shall become the property of the rel-

1       evant Western State unless the Federal lessee of the  
2       selected land is making royalty payments to the  
3       United States from production of minerals, oil, or  
4       gas, whereupon the particular leasehold interest  
5       shall remain in the ownership of the United States  
6       until the leasehold interest terminates. After that  
7       termination; the mineral, oil, and gas rights shall be-  
8       come the property of the relevant Western State.

9               (2) SELECTION OF SURFACE RIGHTS.—Western  
10       States may select only the surface of eligible land if  
11       the land is located on subsurface mineral, oil, or gas  
12       deposits that are generating royalty, rental or bonus  
13       payments to United States. The entire mineral, oil,  
14       and gas estate shall become the property of the  
15       Western State upon expiration or termination of  
16       production in paying quantities from the Federal  
17       lease.

18       (e) PERMANENT SCHOOL FUND.—All land selected  
19       by each of the Western States shall be held in trust by  
20       the State agency empowered to sale or lease such lands,  
21       the proceeds of which shall be used as a permanent fund,  
22       the interest of which shall only be expended for the sup-  
23       port of public education.

24       (f) DEFINITIONS.—In this Act:

1           (1) The term “Western States” means Alaska,  
2           Arizona, California, Colorado, Hawaii, Idaho, Mon-  
3           tana, New Mexico, Nevada, Oregon, Utah, Wash-  
4           ington, and Wyoming.

5           (2) The term “Secretary” means the Secretary  
6           of the Interior or the Secretary of Agriculture, as  
7           appropriate.

8           (3) The term “State educational agency” means  
9           the agency of the State primarily responsible for the  
10          supervision of education.

11          (4) The term “federally owned land” means all  
12          land held in the name of the United States or any  
13          agency thereof, including land held in trust, United  
14          States military reservations, Indian Reservations  
15          and any other land used for Federal purposes.

16          (5) The term “unappropriated public lands”  
17          means any and all land under the management and  
18          control of the Bureau of Land Management or  
19          United States Forest Service, excluding land that  
20          is—

21                  (A) held in trust as the part of an Indian  
22          Reservation;

23                  (B) located within a United States military  
24          reservation;

25                  (C) a unit of the National Park System;

- 1 (D) a Wildlife Refuge;
- 2 (E) a Wilderness Area designated by Con-
- 3 gress;
- 4 (F) a National Historic Site;
- 5 (G) a National Monument;
- 6 (H) a National Natural Landmark;
- 7 (I) an Area of Critical Environmental Con-
- 8 cern; or
- 9 (J) a Wilderness Study Area.

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