

113TH CONGRESS  
1ST SESSION

# H. R. 1526

To restore employment and educational opportunities in, and improve the economic stability of, counties containing National Forest System land, while also reducing Forest Service management costs, by ensuring that such counties have a dependable source of revenue from National Forest System land, to provide a temporary extension of the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2013

Mr. HASTINGS of Washington (for himself, Mrs. McMORRIS RODGERS, Ms. HERRERA BEUTLER, Mr. RIBBLE, Mr. LAMALFA, Mr. McCLINTOCK, Mr. SOUTHERLAND, Mr. DAINES, Mr. THOMPSON of Pennsylvania, Mr. YOUNG of Alaska, Mr. GRIFFITH of Virginia, Mr. GOSAR, Mr. GOHMERT, Mr. PEARCE, Mr. BISHOP of Utah, and Mrs. LUMMIS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, 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

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## A BILL

To restore employment and educational opportunities in, and improve the economic stability of, counties containing National Forest System land, while also reducing Forest Service management costs, by ensuring that such counties have a dependable source of revenue from National Forest System land, to provide a temporary extension of the Secure Rural Schools and Community Self-Determination Act of 2000, 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; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5 “Restoring Healthy Forests for Healthy Communities  
 6 Act”.

7        (b) TABLE OF CONTENTS.—The table of contents of  
 8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Establishment of Forest Reserve Revenue Areas and annual volume re-  
 quirements.

Sec. 4. Management of Forest Reserve Revenue Areas.

Sec. 5. Distribution of forest reserve revenues.

Sec. 6. Extension of Secure Rural Schools and Community Self-Determination  
 Act of 2000 pending full operation of Forest Reserve Revenue  
 Areas.

9 **SEC. 2. DEFINITIONS.**

10        In this Act:

11            (1) ANNUAL VOLUME REQUIREMENT.—

12                    (A) IN GENERAL.—The term “annual vol-  
 13                    ume requirement”, with respect to a Forest Re-  
 14                    serve Revenue Area, means a volume of na-  
 15                    tional forest materials no less than 50 percent  
 16                    of the sustained yield of the Forest Reserve  
 17                    Revenue Area.

18                    (B) EXCLUSIONS.—In determining the vol-  
 19                    ume of national forest materials or the sus-  
 20                    tained yield of a Forest Reserve Revenue Area,

1           the Secretary may not include non-commercial  
2           post and pole sales and personal use firewood.

3           (2) BENEFICIARY COUNTY.—The term “bene-  
4           ficiary county” means a political subdivision of a  
5           State that, on account of containing National Forest  
6           System land, was eligible to receive payments  
7           through the State under title I of the Secure Rural  
8           Schools and Community Self-Determination Act of  
9           2000 (16 U.S.C. 7111 et seq.).

10          (3) CATASTROPHIC EVENT.—The term “cata-  
11          strophic event” means an event (including severe  
12          fire, insect or disease infestations, windthrow, or  
13          other extreme weather or natural disaster) that the  
14          Secretary determines will cause or has caused sub-  
15          stantial damage to National Forest System land or  
16          natural resources on National Forest System land.

17          (4) COMMUNITY WILDFIRE PROTECTION  
18          PLAN.—The term “community wildfire protection  
19          plan” has the meaning given that term in section  
20          101 of the Healthy Forests Restoration Act of 2003  
21          (16 U.S.C. 6511).

22          (5) COVERED FOREST RESERVE PROJECT.—  
23          The terms “covered forest reserve project” and “cov-  
24          ered project” mean a project involving the manage-  
25          ment or sale of national forest materials within a

1 Forest Reserve Revenue Area to generate forest re-  
2 serve revenues and achieve the annual volume re-  
3 quirement for the Forest Reserve Revenue Area.

4 (6) FOREST RESERVE REVENUE AREA.—

5 (A) IN GENERAL.—The term “Forest Re-  
6 serve Revenue Area” means National Forest  
7 System land in a unit of the National Forest  
8 System designated for sustainable forest man-  
9 agement for the production of national forest  
10 materials and forest reserve revenues.

11 (B) INCLUSIONS.—Subject to subpara-  
12 graph (C), but otherwise notwithstanding any  
13 other provision of law, including executive or-  
14 ders and regulations, the Secretary shall include  
15 in Forest Reserve Revenue Areas all National  
16 Forest System lands identified as commercial  
17 forest land capable of producing twenty cubic  
18 feet of timber per acre.

19 (C) EXCLUSIONS.—A Forest Reserve Rev-  
20 enue Area may not include National Forest  
21 System land—

22 (i) that is a component of the Na-  
23 tional Wilderness Preservation System; or

1                   (ii) on which the removal of vegetation  
2                   is specifically prohibited by Federal stat-  
3                   ute.

4                   (7) FOREST RESERVE REVENUES.—The term  
5                   “forest reserve revenues” means revenues derived  
6                   from the sale of national forest materials in a Forest  
7                   Reserve Revenue Area.

8                   (8) NATIONAL FOREST MATERIALS.—The term  
9                   “national forest materials” has the meaning given  
10                  that term in section 14(e)(1) of the National Forest  
11                  Management Act of 1976 (16 U.S.C. 472a(e)(1)).

12                  (9) NATIONAL FOREST SYSTEM.—The term  
13                  “National Forest System” has the meaning given  
14                  that term in section 11(a) of the Forest and Range-  
15                  land Renewable Resources Planning Act of 1974 (16  
16                  U.S.C. 1609(a)), except that the term does not in-  
17                  clude the National Grasslands and land utilization  
18                  projects designated as National Grasslands adminis-  
19                  tered pursuant to the Act of July 22, 1937 (7  
20                  U.S.C. 1010–1012).

21                  (10) SECRETARY.—The term “Secretary”  
22                  means the Secretary of Agriculture.

23                  (11) SUSTAINED YIELD.—The term “sustained  
24                  yield” means the annual growth of the forest cal-  
25                  culated on the basis of the culmination of mean an-

1 nual increment using cubic measurement or other  
2 methods at the sole discretion of the Secretary.

3 (12) STATE.—The term “State” includes the  
4 Commonwealth of Puerto Rico.

5 (13) 25-PERCENT PAYMENT.—The term “25-  
6 percent payment” means the payment to States re-  
7 quired by the sixth paragraph under the heading of  
8 “FOREST SERVICE” in the Act of May 23, 1908  
9 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the  
10 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.  
11 500).

12 **SEC. 3. ESTABLISHMENT OF FOREST RESERVE REVENUE**  
13 **AREAS AND ANNUAL VOLUME REQUIRE-**  
14 **MENTS.**

15 (a) ESTABLISHMENT OF FOREST RESERVE REV-  
16 ENUE AREAS.—Not later than 60 days after the date of  
17 enactment of this Act, the Secretary shall establish one  
18 or more Forest Reserve Revenue Areas within each unit  
19 of the National Forest System.

20 (b) PURPOSE.—The purpose of a Forest Reserve  
21 Revenue Area is to provide a dependable source of 25-per-  
22 cent payments and economic activity for each beneficiary  
23 county containing National Forest System land.

24 (c) FIDUCIARY RESPONSIBILITY.—The Secretary  
25 shall have a fiduciary responsibility to beneficiary counties

1 to manage Forest Reserve Revenue Areas to satisfy the  
2 annual volume requirement.

3 (d) DETERMINATION OF ANNUAL VOLUME REQUIRE-  
4 MENT.—Not later than 30 days after the date of the es-  
5 tablishment of a Forest Reserve Revenue Area, the Sec-  
6 retary shall determine the annual volume requirement for  
7 that Forest Reserve Revenue Area.

8 (e) LIMITATION ON REDUCTION OF FOREST RE-  
9 SERVE REVENUE AREAS.—Once a Forest Reserve Rev-  
10 enue Area is established under subsection (a), the Sec-  
11 retary may not reduce the number of acres of National  
12 Forest System land included in that Forest Reserve Rev-  
13 enue Area.

14 (f) MAP.—The Secretary shall provide a map of all  
15 Forest Reserve Revenue Areas established under sub-  
16 section (a) for each unit of the National Forest System  
17 to—

18 (1) the Committee on Agriculture and the Com-  
19 mittee on Natural Resources of the House of Rep-  
20 resentatives; and

21 (2) the Committee on Agriculture, Nutrition,  
22 and Forestry and the Committee on Energy and  
23 Natural Resources of the Senate.

24 (g) RECOGNITION OF VALID AND EXISTING  
25 RIGHTS.—Neither the establishment of Forest Reserve

1 Revenue Areas under subsection (a) nor any other provi-  
2 sion of this Act shall be construed to limit or restrict—

3 (1) access to National Forest System land for  
4 hunting, fishing, recreation, and other related pur-  
5 poses; or

6 (2) valid and existing rights regarding National  
7 Forest System land, including rights of any federally  
8 recognized Indian tribe.

9 **SEC. 4. MANAGEMENT OF FOREST RESERVE REVENUE**  
10 **AREAS.**

11 (a) **REQUIREMENT TO ACHIEVE ANNUAL VOLUME**  
12 **REQUIREMENT.**—Effective for fiscal year 2014 and each  
13 fiscal year thereafter, the Secretary shall manage each  
14 Forest Reserve Revenue Area in the manner necessary to  
15 achieve the annual volume requirement for the Forest Re-  
16 serve Revenue Area. The Secretary is authorized and en-  
17 couraged to commence covered forest reserve projects as  
18 soon as practicable after the date of the enactment of this  
19 Act to begin generating forest reserve revenues.

20 (b) **STANDARDS FOR PROJECTS WITHIN FOREST RE-**  
21 **SERVE REVENUE AREAS.**—The Secretary shall conduct  
22 covered forest reserve projects within Forest Reserve Rev-  
23 enue Areas in accordance with this section, which shall  
24 serve as the sole means by which the Secretary will comply  
25 with the National Environmental Policy Act of 1969 (42



1 U.S.C. 4331 et seq.) and other laws applicable to the cov-  
2 ered projects.

3 (c) ENVIRONMENTAL ANALYSIS PROCESS FOR  
4 PROJECTS IN FOREST RESERVE REVENUE AREAS.—

5 (1) ENVIRONMENTAL ASSESSMENT.—The Sec-  
6 retary shall give published notice and complete an  
7 environmental assessment pursuant to section  
8 102(2) of the National Environmental Policy Act of  
9 1969 (42 U.S.C. 4332(2)) for a covered forest re-  
10 serve project proposed to be conducted within a For-  
11 est Reserve Revenue Area, except that the Secretary  
12 is not required to study, develop, or describe any al-  
13 ternative to the proposed agency action.

14 (2) CUMULATIVE EFFECTS.—The Secretary  
15 shall consider cumulative effects solely by evaluating  
16 the impacts of a proposed covered forest reserve  
17 project combined with the impacts of any other  
18 projects that were approved with a Decision Notice  
19 or Record of Decision before the date on which the  
20 Secretary published notice of the proposed covered  
21 project. The cumulative effects of past projects may  
22 be considered in the environmental assessment by  
23 using a description of the current environmental  
24 conditions.

1           (3) LENGTH.—The environmental assessment  
2 prepared for a proposed covered forest reserve  
3 project shall not exceed 100 pages in length. The  
4 Secretary may incorporate in the environmental as-  
5 sessment, by reference, any documents that the Sec-  
6 retary determines, in the sole discretion of the Sec-  
7 retary, are relevant to the assessment of the environ-  
8 mental effects of the covered project.

9           (4) DEADLINE FOR COMPLETION.—The Sec-  
10 retary shall complete the environmental assessment  
11 for a covered forest reserve project within 180 days  
12 after the date on which the Secretary published no-  
13 tice of the proposed covered project.

14           (5) CATEGORICAL EXCLUSION.—A covered for-  
15 est reserve project that is proposed in response to a  
16 catastrophic event, is identified within a community  
17 wildfire protection plan, or that covers an area of  
18 10,000 acres or less shall be categorically excluded  
19 from the requirements of the National Environ-  
20 mental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

21           (d) APPLICATION OF LAND AND RESOURCE MANAGE-  
22 MENT PLAN.—A covered forest reserve project shall be im-  
23 plemented consistent with the standards and guidelines  
24 contained in the land and resource management plan for

1 the unit of the National Forest System in which the cov-  
2 ered project will be carried out, except that—

3 (1) section 6(g)(3)(E)(iv) of the Forest and  
4 Rangeland Renewable Resources Planning Act of  
5 1974 (16 U.S.C. 1604(g)(3)(E)(iv)) shall not apply;  
6 and

7 (2) the Secretary may comply with section  
8 14(g) of the National Forest Management Act of  
9 1976 (16 U.S.C. 472(a)(g)) by using designation-by-  
10 prescription.

11 (e) COMPLIANCE WITH ENDANGERED SPECIES  
12 ACT.—

13 (1) NON-JEOPARDY ASSESSMENT.—If the Sec-  
14 retary determines that a concern exists that a pro-  
15 posed covered forest reserve project may affect the  
16 continued existence of any species listed as endan-  
17 gered or threatened under section 4 of the Endan-  
18 gered Species Act of 1973 (16 U.S.C. 1533), the  
19 Secretary shall issue a determination explaining the  
20 view of the Secretary that the proposed covered  
21 project will not jeopardize the continued existence of  
22 the species.

23 (2) SUBMISSION, REVIEW, AND RESPONSE.—

24 (A) SUBMISSION.—The Secretary shall  
25 submit a determination issued by the Secretary

1 under paragraph (1) to the Secretary of the In-  
2 terior or the Secretary of Commerce, as appro-  
3 priate.

4 (B) REVIEW AND RESPONSE.—Within 30  
5 days after receiving a determination under sub-  
6 paragraph (A), the Secretary of the Interior or  
7 the Secretary of Commerce, as appropriate,  
8 shall provide a written response to the Sec-  
9 retary concurring in or rejecting the Secretary’s  
10 determination. If the Secretary of the Interior  
11 or the Secretary of Commerce rejects the deter-  
12 mination, the written response shall include rec-  
13 ommendations for measures that—

14 (i) will avoid the likelihood of jeopardy  
15 to, or adverse modification of the habitat  
16 of, an endangered or threatened species;

17 (ii) can be implemented in a manner  
18 consistent with the intended purpose of the  
19 covered forest reserve project;

20 (iii) can be implemented consistent  
21 with the scope of the Secretary’s legal au-  
22 thority and jurisdiction; and

23 (iv) are economically and techno-  
24 logically feasible.

1           (3) FORMAL CONSULTATION.—If the Secretary  
2 of the Interior or the Secretary of Commerce rejects  
3 a determination issued by the Secretary under para-  
4 graph (1), the Secretary of the Interior or the Sec-  
5 retary of Commerce also is required to engage in  
6 formal consultation with the Secretary. The Secre-  
7 taries shall complete such consultation pursuant to  
8 section 7 of the Endangered Species Act of 1973 (16  
9 U.S.C. 1536) within 90 days after the submission of  
10 the written response under paragraph (2).

11 (f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

12           (1) ADMINISTRATIVE REVIEW.—Administrative  
13 review of a covered forest reserve project shall occur  
14 only in accordance with the special administrative  
15 review process established under section 105 of the  
16 Healthy Forests Restoration Act of 2003 (16 U.S.C.  
17 6515).

18           (2) JUDICIAL REVIEW.—

19           (A) IN GENERAL.—Judicial review of a  
20 covered forest reserve project shall occur in ac-  
21 cordance with section 106 of the Healthy For-  
22 ests Restoration Act of 2003 (16 U.S.C. 6516).

23           (B) BOND REQUIRED.—A plaintiff chal-  
24 lenging a covered forest reserve project shall be  
25 required to post a bond or other security ac-

1           ceptable to the court for the reasonably esti-  
2           mated costs, expenses, and attorneys fees of the  
3           Secretary as defendant. All proceedings in the  
4           action shall be stayed until the security is given.  
5           If the plaintiff has not complied with the order  
6           to post such bond or other security within 90  
7           days after the date of service of the order, then  
8           the action shall be dismissed with prejudice.

9           (C) RECOVERY.—If the Secretary prevails  
10          in the case, the Secretary shall submit to the  
11          court a motion for payment of all litigation ex-  
12          penses.

13 **SEC. 5. DISTRIBUTION OF FOREST RESERVE REVENUES.**

14          Forest reserve revenues generated by a covered forest  
15          reserve project shall be used by the Secretary—

16           (1) to make deposits into the fund established  
17          under section 3 of the Act of June 9, 1930 (16  
18          U.S.C. 576b; commonly known as the Knutson-Van-  
19          denberg Fund) and the fund established under sec-  
20          tion 14(h) of the National Forest Management Act  
21          of 1976 (16 U.S.C. 472a(h); commonly known as  
22          the salvage sale fund) in contributions equal to the  
23          monies otherwise collected under those Acts for  
24          projects conducted on National Forest System land;  
25          and

1           (2) to make 25-percent payments to States for  
2           the benefit of beneficiary counties.

3 **SEC. 6. EXTENSION OF SECURE RURAL SCHOOLS AND COM-**  
4                   **MUNITY SELF-DETERMINATION ACT OF 2000**  
5                   **PENDING FULL OPERATION OF FOREST RE-**  
6                   **SERVE REVENUE AREAS.**

7           The Secure Rural Schools and Community Self-De-  
8           termination Act of 2000 (16 U.S.C. 7101 et seq.) is  
9           amended—**[to be supplied]**

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