

**[DRAFT BILL] H.R. __, “NATIONAL FOREST
COUNTY REVENUE, SCHOOLS, AND JOBS
ACT OF 2011”; AND H.R. 2852, “ACTION
PLAN FOR PUBLIC LANDS AND EDU-
CATION ACT OF 2011”**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS
AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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HEARING ON [DRAFT BILL] H.R. , TO INCREASE EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES IN, AND IMPROVE THE ECONOMIC STABILITY OF, COUNTIES CONTAINING FEDERAL FOREST LANDS, WHILE ALSO REDUCING THE COST OF MANAGING SUCH LANDS, BY PROVIDING SUCH COUNTIES A DEPENDABLE SOURCE OF REVENUE FROM SUCH LANDS. "NATIONAL FOREST COUNTY REVENUE, SCHOOLS, AND JOBS ACT OF 2011"; AND H.R. 2852, 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 PROVIDED BY THEIR RESPECTIVE ENABLING ACTS. "ACTION PLAN FOR PUBLIC LANDS AND EDUCATION ACT OF 2011"

Thursday, September 22, 2011
U.S. House of Representatives
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:00 a.m. in Room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, McClintock, Tipton, Labrador, Johnson, Hastings [ex officio], Grijalva, and DeFazio.

Also Present: McMorris Rodgers, Walden, and Gosar.

STATEMENT OF HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. The Subcommittee will come to order. You heard the gavel bang. The Chairman notes the presence of a quorum. The Subcommittee on National Parks, Forests and Public Lands is meeting today to hear testimony on two pieces of legislation, a discussion draft of the National Forest County Revenue, Schools, and Jobs Act of 2011, and H.R. 2852, a brilliant piece of legislation called the Action Plan for Public Lands and Education Act of 2011, as well. Under Committee Rules, the opening statements are limited to the Chairman, the Ranking Member of the Subcommittee; however, I ask unanimous consent to include any other Member's opening statement in the hearing record if they are submitted to the clerk by the close of business today.

Hearing no objections, that will be so ordered. I also ask unanimous consent that the gentlewoman from Washington, Ms. McMorris Rodgers, as well as our colleague from Oregon, Mr. Walden, be allowed to participate on the dais. Without objection, so ordered. To both of you, we are happy to have you here. If you do not want to actually sit that far down there, you can come closer. You will have to sit by Doc, but you can come closer. All right. This morning I am actually going to postpone my opening statement to appear in the middle of the panel over there when we actually talk about the APPLE bill, but just as a preface, we are talking about two bills that show the interrelationship between lands and schools. It will still be somewhat of a paradigm shift in that education.

As we look at the Federal Government, which has more and more become an absentee landlord of the third of the government that it owns and spending most of its budget on wildfire suppression with a maintenance backlog that would make your head spin. Left out of this equation are schools and everything else. What we tried to do in the first bill, the National Forest County Revenue, Schools, and Jobs Act, which deals with SRS, Secure Rural Schools, as we know, is to give the Forest Service some direction and ability to actually manage a portion of land for the benefit of those real communities. I will note here for the Committee and also for those witnesses, there are a number of issues that need to be resolved with this proposal to ensure that it is going to be feasible and sustainable, so we are doing this very methodically. This is the way we have this legislative process here. I look forward to hearing the testimony that will address those issues that still need to be resolved in this particular piece of legislation. With that, I would like to recognize the Ranking Member, Mr. Grijalva, for his opening statement.

[The prepared statement of Mr. Bishop follows:]

**Statement of The Honorable Rob Bishop, Chairman,
Subcommittee on National Parks, Forests and Public Lands**

This morning we will look at two pieces of legislation that represent a much-needed and important paradigm shift in federal lands policy. Public lands policy through much of our history and right up into the second half of the 20th century focused on developing our resources and utilizing public lands for the benefit of a growing and prosperous nation.

Through that time, our national forests were managed for a variety of purposes, including secure water flows, a continuous supply of timber, recreation opportunities and the perpetual protection of forest resources. Furthermore, the federal government also recognized an obligation to counties when it agreed to share revenues from the federal lands in their backyard as well as proceeds from the sale of the public domain.

Since then, we have tragically seen the federal government become an absentee landlord on the third of our country it currently owns. Instead of managing healthy and productive lands, the federal land management agencies now see nearly half of their budget going to wildfire suppression and the federal estate has a maintenance backlog in the billions. This lack of management has left our counties and schools holding the bag for the consequences of this inaction.

The first piece of legislation we will consider today is a draft proposal put forth to address the expiration of the Secure Rural Schools program. This proposal is by no means intended to return our national forests to the days of being a 'timber factory' as some may like to spin it. The draft "National Forest County Revenue, Schools and Jobs Act" is about giving the Forest Service a clear direction and the ability to actually manage a portion of its land for the benefit of rural communities while beginning to improve forest health in the process. For too long we have managed our national forests in a way that is completely devoid of the social and economic realities facing the counties and states that host the public's lands. There are a number of issues that need to be resolved with this proposal to ensure that it can be feasibly and sustainably implemented, but that is why we have this legislative process and I look forward to working to ensure these issues are addressed.

The second bill is one I have introduced to address a longstanding issue with the federal government's abandonment of land disposal and fiduciary responsibility to Utah and twelve other Western States. The "Action Plan for Public Lands and Education Act of 2011" would allow those States to select five percent of the federal land within their border to manage for educational purposes in lieu of the five percent of proceeds it was supposed to receive under the federal government's previous disposal policies. The APPLE Act will give these States much-needed certainty in providing basic funding to education in response to a reversal of previous federal policy.

Opponents of these two solutions have so far offered plenty of the usual criticism of multiple-use and upholding the sacred cow of federal ownership, yet conversely have offered no concrete alternatives for how to address the underlying problems

beyond continuing to write a check cashed from the People's Republic Bank of China. By looking at these two proposals, this committee is taking an important step towards changing this course and reinstating a purpose of scientifically managing our land and resources for the greater good and not left to be locked away at the whim of a few who think they know best. I thank our witnesses for being here. I look forward to hearing their testimony and discussing the issue of making our public lands once again work for the public who live among them, taxpayers nationwide and the long-term health of our renewable resources.

I now recognize the Ranking Member for his opening statement.

**STATEMENT OF HON. RAÚL GRIJALVA, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. GRIJALVA. Thank you, Mr. Chairman. In 2000, Congress passed the Secure Rural Schools Act to provide rural counties with a stable source of funding for schools and roads. The stable funding provided the certainty these communities needed to make important investments in transportation and education. Unfortunately, the 109th Congress, under Republican leadership, allowed the program to expire. The new Democratic majority reauthorized the Secure Rural Schools program in the 110th Congress by pursuing legislation that was both measured and bipartisan. I am concerned that history is about to repeat itself. The discussion draft that is the subject of today's hearing is not measured, it is not bipartisan and it represents a significant step back toward the old days when funding for local school kids was directly tied to cutting down our forests.

This approach will not work, but more important, it will not gain enough support to pass, and thus, it will not lead to the continuation of the program. We stand ready to work with the majority on a more effective proposal. The second bill, H.R. 2852, would require the American people to give away 24 million acres of public land that they own to state governments. The bill is apparently based on the allegation that Federal land ownership harms states and localities. This claim overlooks the wide variety of Federal programs which provide direct revenue to states, including payment in lieu of taxes, impact aid, Secure Rural Schools, and many others.

Further, this claim ignores the significant indirect benefits to states from Federal lands such as travel and tourism dollars and the role these lands play in improving the quality of life and the standard of living in communities across the West. Our public lands are the backbone of the outdoor recreation economy, which generates over \$730 billion in economic activity, 600.5 million jobs and \$88 billion in annual state and Federal tax revenue. Funding for public schools is a complicated and difficult problem facing communities across this country. H.R. 2852 is not an appropriate or workable solution to these challenges. I thank the witnesses for joining us today, look forward to their thoughts and their proposals, and with that, I yield back, Mr. Chairman.

[The prepared statement of Mr. Grijalva follows:]

**Statement of The Honorable Raúl Grijalva, Ranking Member,
Subcommittee on National Parks, Forests and Public Lands**

Mr. Chairman, in 2000, Congress passed the Secure Rural Schools Act to provide rural counties with a stable source of funding for schools and roads. This stable funding provided the certainty these communities needed to make important investments in transportation and education.

Unfortunately, the 109th Congress, under Republican leadership, allowed the program to expire.

It took a new Democratic majority to reauthorize the Secure Rural Schools program in the 110th Congress by pursuing legislation that was measured and bipartisan.

I am concerned that history is about to repeat itself. The Discussion Draft that is the subject of today's hearing is not measured, it is not bipartisan and it represents a significant step back toward the old days when funding for local school kids was directly tied to cutting down our forests.

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Our public lands are the backbone of the outdoor recreation economy, which generates over \$730 billion in economic activity, 6.5 million jobs, and \$88 billion in annual state and federal tax revenue.

Funding for public schools is a complicated and difficult problem facing communities across the country. H.R. 2852 is not an appropriate or workable solution to these challenges.

I thank the witnesses for joining us today and look forward to their thoughts on these proposals.

Mr. BISHOP. Otherwise you are neutral, right?

Mr. GRIJALVA. I have not taken a position yet.

Mr. BISHOP. OK. We also are happy to have the Chairman of the full Committee, Mr. Hastings, here. By our Rules, Mr. Hastings, if you have an opening statement, you are recognized right now to give it.

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. I do, and thank you very much, Mr. Chairman, for your courtesy, and thank you for holding this hearing on this draft legislation to address the expiration of the Secure Rural Schools program. This draft proposal is a starting point as we work toward a long-term solution to provide a stable funding stream for rural counties and rural schools. These forested counties have long depended on revenue from timber sales to help fund vital services such as education and roads. The Secure Rural Schools program was designed as a short-term solution in 2000 to continue providing funding as timber sales dramatically declined due to Federal over-regulation and harmful lawsuits, but the reality is that we cannot afford to forever finance this program, \$500 million in annual mandatory spending, during the times of growing deficits and debts that we have in the Federal level.

We need a new approach, one that renews the Federal Government's commitment to manage resources for the benefit of forested counties and their schools. Restoring active management of our national forests, as this draft proposal does, would provide a stable revenue stream for those counties and schools. It would help create new jobs, strengthen rural economies, promote healthier forests, it

would reduce the risk of wildfires and decrease our reliance on foreign countries for timber and related products. In the State of Washington, my home state, the Forest Service is responsible for managing over nine million acres of forest land contained within seven national forests. According to the Washington Department of Natural Resources, timber harvests in Washington have declined by 84 percent over the past decade.

The result has been a staggering loss of jobs and economic productivity in these forested communities. Washington's national forests each year grow an additional 4.5 billion board feet of timber while about a third as much, 1.3 billion, simply dies, yet the Forest Service only harvests about two percent of the amount. In contrast, the State of Washington, which manages a trust about a quarter of the amount of the Federal, produces 700 percent more for local governments and universities and school construction as they are mandated on a state level. Seven hundred percent more with about a quarter of the acreage. As stated earlier, declining forest revenues and poor management directly impacts real people and costs real jobs.

Just last month, Hampton Lumber announced the layoff of an additional 80 workers and cut operations in Randle, Washington, a small town adjacent to the Gifford Pinchot National Forest, and that was due to declining supply of timber from the forest. So, Mr. Chairman, this draft proposal seeks to stop and reverse this trend. It would require the Forest Service to more actively manage national forests, making them healthier and more economically viable for the local governments. This legislation encourages local Federal forest managers to work with the states, with the tribes and local governments to identify priority projects that would increase revenues and manage forests in an environmentally sensitive and proactive way.

Now, I understand there are efforts underway to address the 2.5 million acres of Bureau of Land Management, BLM, lands, particularly in western Oregon which are known as the O&C grants. I look forward to working with my colleagues in developing a workable solution for them on this legislation, and this draft legislation has a title specifically left blank for them to work on—something that would be applicable to BLM. This draft legislation puts forth a long-term solution as the clock ticks on the expiration of this program. It will continue our effort to achieve a more secure and dependable source of revenue for counties and the schools in these rural communities. With that, thank you again for the courtesy, and I yield back my time.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Chairman, Committee on Natural Resources, on H.R. __, "National Forest County Revenue, Schools and Jobs Act of 2011"

Thank you, Mr. Chairman, for holding this hearing on draft legislation to address the expiration of the Secure Rural Schools program. This draft proposal is a starting point as we work towards a long-term solution to provide a stable revenue stream for rural counties and schools.

These forested counties have long depended on revenue from timber sales to help fund vital services such as education and roads. The Secure Rural Schools program was designed as a short-term solution in 2000 to continue providing funding as timber sales dramatically declined due to federal overregulation and harmful lawsuits.

But the reality is that we cannot afford to forever finance this program—\$500 million in annual mandatory spending—during these times of growing debts and deficits.

We need a new approach—one that renews the federal government's commitment to manage resources for the benefit of forested counties and their schools.

Restoring active management of our national forests, as this draft proposal does, would provide a stable revenue stream for counties and schools. It would create new jobs, strengthen rural economies, promote healthier forests, reduce the risk of wildfires, and decrease our reliance on foreign countries for timber and related products.

In the State of Washington, the Forest Service is responsible for managing over 9 million acres of forest land contained within seven different national forests. According to the Washington Department of Natural Resources, timber harvests in Washington have declined by *84 percent* over the past decade. The result has been a staggering loss of jobs and economic productivity in rural forest communities.

Washington's national forests each year grow an additional 4.5 billion board feet of timber, while about a third as much—1.3 billion board feet—simply dies.

Yet, the Forest Service harvests only about 2 percent of the amount. In contrast, the State of Washington, which manages in trust about a quarter of the amount of forest lands of those managed by the Forest Service, produces 700% more than that for local governments, universities and state school construction.

As stated earlier, declining federal forest revenues and poor management directly impacts real people and costs real jobs. Just last month, Hampton Lumber announced the layoff of an additional 80 workers and cut operations in Randle Washington, a small town adjacent to the Gifford-Pinchot National Forest, due primarily to a declining supply of timber from the forest.

Mr. Chairman, this draft proposal seeks to stop and reverse this trend. It would require the Forest Service to more actively manage national forests, making them healthier and more economically viable for local governments to use for schools and other needs. The legislation encourages local federal forest managers to work with states, tribes and local governments to identify priority projects, increase revenues, and manage forests in an environmentally sensible and proactive way.

I understand efforts are underway to address the 2.5 million acres of Bureau of Land Management-owned forest lands in western Oregon known as the "O&C Grant" lands, and I look forward to working other colleagues on developing a workable solution as part of this legislation. The draft legislation has a Title II to specifically accommodate additional language to address other federal land management issues such as "O&C."

The draft legislation puts forth a long-term solution, as the clock ticks on the expiration of the current Secure Rural Schools program. It will continue our effort to achieve a more secure and dependable source of revenue for counties and schools and provide a lifeline to these rural economies.

Mr. BISHOP. Thank you, Mr. Chairman. I appreciate that. We will next hear the witnesses in the order that they are there. We will first talk, have, the witnesses will be talking about the Secure Rural Schools issue. Then I am going to take the rest of my opening statement to introduce the APPLE and the last two witnesses will be talking about the APPLE bill. We have the witnesses, going from left to right, Mr. Harris Sherman, the Under Secretary of Agriculture for Natural Resources and Environment from the Forest Service, the Department of Agriculture. We appreciate you being here. Mr. DeFazio, I notice that two of the next three witnesses are your constituents. I don't know if you would like the opportunity to introduce them to us.

Mr. DEFazio. Thank you, Mr. Chairman. I appreciate the fact that we have two witnesses here from my district. The first would be Steve Swanson, President & CEO of Swanson Group, Glendale, Oregon, a company that has an innovative and updated mill and is in need of timber resources. He will make that case to the Committee. Then second would be Andy Stahl with the Forest Service Employees for Environmental Ethics, and he will be testifying as

to a potential approach on the O&C lands to provide revenue, a basis for our counties' conservation objectives and timber production. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you. Between those two witnesses is Mr. Ron Walter who is the County Commissioner from Chelan County. Did I say that closely? Chelan County. Sorry. In Washington State. We appreciate those witnesses being here. They will all testify to the National Forest County Revenue, Schools, and Jobs Act of 2011. Next to them also will be Stephen Urquhart who is a state Senator from the State of Utah who was involved with the Council of State Governments West in the formulation of the APPLE concept, as well as Mr. Dave Alberswerth who is the Senior Policy Advisor for The Wilderness Society, and they will be talking about the APPLE bill. So, with that, Mr. Sherman, I understand you are somewhat under the weather. We apologize for that. If, you know, you have to leave us, we will understand. We would like you to start off talking about either, or both, bills.

**STATEMENT OF HARRIS SHERMAN, UNDER SECRETARY OF
AGRICULTURE FOR NATURAL RESOURCES AND ENVIRON-
MENT, FOREST SERVICE, U.S. DEPARTMENT OF
AGRICULTURE**

Mr. SHERMAN. Thank you, Mr. Chairman. My name is Harris Sherman. I am Under Secretary at USDA. I would like to offer a couple of points which amplify on my written testimony. At the outset, I want to emphasize that we recognize the challenges and the difficulties facing rural communities within, and adjacent to, the national forests. The struggles of these communities are real and we want to work with Congress to find immediate and permanent solutions. We also recognize the great concern that we all have over the Federal deficit which must be addressed both on a short-term and a long-term basis. President Obama has provided his recommendations to extend the Secure Rural Schools Act for another five years phasing down the program during that time while we find a more permanent solution. The two bills before this Committee have just come to our attention literally in the past few days. We need more time to provide analysis and comment, but as a general matter, based on what we now know, we are strongly opposed to each for reasons which I will identify. Before doing so, I want to emphasize that the Forest Service is working on thousands of projects on the national forests which provide jobs and income to rural communities. These projects return over \$1 billion to the Federal treasury and some \$19 billion in gross domestic product. The projects include recreation, oil and gas, timber, mining, grazing and a host of other activities. As to timber production, which I know is of great concern to this Committee, the Forest Service is working hard to turn the corner to bring us out of a 15 to 20 year downward slide. For the last two years, timber sales and production have started to increase. This is not by accident. The Forest Service is working hard to foster a collaboration among stakeholders. The Forest Service is promoting large landscape scale projects often involving hundreds of thousands of acres where there is greater output and greater efficiencies associated with those projects. The Forest Service is developing new approaches to NEPA

which are more adaptive, more focused and result in shorter time periods to accomplish completion of NEPA. The Forest Service is utilizing more streamlined administrative processes, and the Forest Service is building partnerships at the local level to help us do the work, and in certain cases, to share in the cost. We are pleased to say that appeals are decreasing significantly in timber sales and we are starting to get more work done. These projects will lead to greater production and greater restoration of our national forests. We will be better able to address challenges, such as a Bark Beetle infestation, and to create jobs in rural communities. We will need Congress' help to achieve these goals through a number of new approaches or extensions of existing approaches, such as extension of the stewardship contract authority, your help in our achieving an integrated resource budget, and your help in providing the resources we need to get the job done. As to the two pending bills, we oppose these bills for the following reasons. First, rather than fostering collaboration, we believe the bills could easily polarize stakeholders against each other. We cannot afford to go backwards at this critical juncture. Second, H.R. 2852 would transfer national assets to a limited number of states and counties. This is certain to be resisted on multiple levels. Third, both bills will weaken long-standing environmental protections. Fourth, both bills will result in a diminution of multiple uses which are likely to impact recreation, wildlife and other important uses on the national forests. Both bills appear to complicate also the Federal deficit problem rather than improving it. So for these reasons, we oppose the bills at this current time. I would be happy to answer any questions that you may have. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you. Mr. Swanson? Let me, before you start here. Mr. Sherman has been here repeatedly. We will maybe invite you back once the agency has a chance to actually study the bills again for an update of your testimony. For the rest of you who are here, your written statements will appear in the record. What we would like now is an oral statement to complement that. You are limited to five minutes. In front of you is the time clock that you have there. When it is green, you are safe, when it hits yellow, you have a minute left, when it hits red, I really would ask you if you could summarize and quit before I have to throw a gavel at you. So, with that, Mr. Swanson, you got five minutes. You are recognized. Please. You need to turn on the mic and put it right up to your face.

Mr. SWANSON. How is that?

Mr. BISHOP. Is it on?

Mr. SWANSON. It says talk.

Mr. BISHOP. OK. You are ready.

[The prepared statements of Mr. Sherman follow:]

Statement of Harris Sherman, Under Secretary for Natural Resources and Environment, United States Department of Agriculture, on the Discussion Draft for the National Forest County, Revenue and Jobs Act of 2011

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the Administration's views regarding the Discussion Draft for the National Forest County Revenue, Schools and Jobs Act of 2011.

The Discussion Draft proposes to establish a trust to provide counties with a dependable source of revenue to support public education and public roads, and to re-

quire the Secretary of Agriculture, as trustee, to carry out trust projects to generate sufficient receipts to meet an annual revenue requirement on each unit of the National Forest System (NFS). This annual revenue requirement would be calculated as a predetermined percentage, to be established by the legislation for all NFS units nationwide, of each unit's average annual gross receipts between 1980 and 2000, and create a statutory right for a county to sue the Secretary for breach of fiduciary duty if the annual revenue requirement is not met. The draft would also incentivize Forest Service employees to exceed a minimum sale level of timber, to be calculated as a nationally predetermined percentage of the annual average of certain volumes of timber harvested from each unit between 1980 and 2000. In addition, the draft would provide different procedures for environmental analysis and administrative review of trust projects that would effectively waive compliance under several existing laws including the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Endangered Species Act (ESA), and the administrative review process under the Appeals Reform Act (ARA). The draft would also preclude judicial review for all projects undertaken under the authority of the proposed bill.

Historically, public education and roads in eligible states containing NFS lands have been partially supported by federal payments, under the authority of the Act of May 23, 1908 (P.L. 60-136) and other laws, equal to 25% of receipts generated by NFS units within their boundaries from the proceeds of timber sales, grazing permits, recreation permits and fees, and other activities. After receipts fell from historical highs in the 1980s and early 1990s, the Secure Rural Schools and Community Self-Determination Act of 2000, (Secure Rural Schools Act, or SRS) was enacted to provide temporary funding to help rural communities make the transition through stark changes in our natural resource economy, particularly in forest-dependent communities of the West. The last payment under the current SRS authority, as amended and reauthorized in 2008, is for the current fiscal year, which ends on September 30.

We understand the predicament this creates for rural communities, and recognize how important federal payments have been in supporting public schools and roads in counties all across the country, particularly in rural areas. That is why the President's 2012 Budget includes a proposal to reauthorize the Secure Rural School Act for five more years.

In presenting an alternative means of addressing this predicament, the proposal contained in the Discussion Draft calls for substantial consideration and debate—not only for the importance of the topics it addresses, but also for the essential questions it suggests about the management of public land in our Nation. For that reason in particular, the time between our receipt of your invitation to testify about this draft and the date of today's hearing was not sufficient to fully analyze the proposal. We must therefore request to reserve the right to submit additional comments after a bill is introduced. In the meantime, however, the Administration will take this opportunity today to point out several serious concerns that this proposal raises.

First, while we appreciate the need to consider ways in which compliance with environmental analysis may be expedited in appropriate circumstances, we are opposed to the environmental reporting proposed in this draft because it does not provide for meaningful analysis or public input. Even though (and partly because) the proposal would preclude trust projects from judicial review, these changes would invite more, not less, controversy over timber sales on NFS lands, and potentially undermine or cause a chilling effect on the positive collaboration that has substantially improved how the National Forests are managed.

We are also concerned that the obligation to meet any predetermined rate of revenue generation, let alone one based on a relatively short time period when circumstances supported peak timber production, ignores the temporal and geographic variability of landscape and economic conditions, thereby exposing the Federal government to liability for circumstances beyond its control. This obligation could also have a potentially significant adverse impact on the federal deficit, depending on the percentage set for the definition of annual revenue requirement.

Finally, and perhaps most troubling, this proposal creates a false expectation that we can return to the peak timber production levels of decades past. However, the market conditions that supported those levels simply no longer exist, regardless of who manages the land. The fact that receipts from Forest Service timber sales have fallen from almost \$1.2 billion in 1990 to just under \$100 million in 2009 is not only a result of the decreased volume of timber harvested and sold by the agency, but also the value of the timber, the costs of producing it, and the market for forest products in general. The decrease in the value of timber harvested on NFS lands over this period, from \$113.10/MBF (thousand board feet) to \$48.60/MBF, is to a

considerable degree the result of a broader decline in timber prices associated with the slumping housing market, changing import/export dynamics, increased transportation costs, and other market factors. Obligations to meet unrealistically high expectations for revenue could create difficult multiple-use dilemmas compelling managers to pursue commodities with the highest possible returns at the expense of other important objectives.

Meanwhile, it is important to note that the draft's emphasis and unrealistic expectations regarding timber receipts overlooks the value of other receipts and broader revenue generation by the National Forests overall. NFS lands are estimated to be producing over \$1 billion in receipts to the U.S. Treasury in 2011. For the national economy, NFS lands directly contributed an estimated \$19 billion to GDP in 2005, less than a quarter of which came from timber harvest; recreation provided the largest contribution, at 43.8%. On many National Forests throughout the West, revenues deriving from timber represent an even smaller proportion of economic activity.

The Administration recognizes the important role of the timber industry in maintaining rural communities, particularly in light of the urgent forest restoration needs many areas face in light of the expanding beetle epidemic and the ongoing needs to reduce the risk of uncharacteristic wildfire effects—especially in the wildland-urban interface. That's why the Forest Service is investing considerable effort in ways to maximize the effectiveness of our collaborative management procedures: in streamlining our implementation of NEPA to anticipate the needs of large landscapes and watersheds; in maximizing the use of special authorities such as pre-decisional administrative review and stewardship contracting; and in exploring ways to make more efficient use of scarce budgets through the Integrated Resource Restoration budget line item. Collaborative efforts such as these must be fostered and broadened if local communities are to reap increasing benefits from their National Forests.

While we recognize the ongoing reliance of rural counties on sharing receipts from NFS land, we also recognize the need to manage the federal budget thoughtfully and deliberately for deficit reduction, and would like to work with the Congress to develop a proposal that addresses both rural needs and deficit concerns.

But it is just as important to recognize that the National Forests, in their 100 year-plus history, are valued by Americans throughout the Nation, not only for their wood, mineral, and grazing resources, but also for outdoor recreation, as a place to recharge, for wildlife habitat in a rapidly developing world, as a place to enjoy historic, scenic, and cultural treasures, and for clean water to millions of downstream users. These dynamic values serve the urban public as well as the rural, the national interest as well as interest of individual states. We would like to work with the Congress on a solution that honors all of our Nation's interests over the long term.

This concludes my prepared statement and I would be pleased to answer any questions you may have.

Statement of Harris Sherman, Under Secretary for Natural Resources and Environment, United States Department of Agriculture, on H.R. 2852, The Action Plan for Public Lands and Education Act of 2011

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the Administration's views regarding H.R. 2852, the Action Plan for Public Lands and Education Act of 2011. The Administration strongly opposes H.R. 2852.

H.R. 2852 authorizes land grants to 13 western states for establishment of a permanent fund to support public education in each respective state. The amount of land to be granted shall equal five percent of the acres of federally owned land with the state, and shall be selected by each state from lands administered by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) within their borders in such manner as each state's legislature may provide. Most National Forest System (NFS) lands would be available for selection, except for those specifically designated as Wilderness Areas, Wilderness Study Areas, National Historic Sites, National Monuments, or National Natural Landmarks. The selection and transfer processes would not be considered to be a major Federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969. Mineral, oil and gas rights associated with the selected lands would also become property of the state, except where federal leases are currently in effect, in which case the rights would transfer to the state upon expiration of the federal lease.

Historically, public education in eligible states containing NFS lands has been partially supported by federal payments, under the authority of the Act of 1908 and other laws, equal to 25% of receipts generated by NFS units within their boundaries from the proceeds of timber sales, grazing permits, recreation permits and fees, and other activities. After receipts fell from historical highs in the 1980s and early 1990s, the Secure Rural Schools and Community Self-Determination Act of 2000, (Secure Rural Schools Act, or SRS) was enacted to provide temporary funding to help rural communities make the transition through stark changes in our natural resource economy, particularly in forest-dependent communities of the West. The current SRS authority, as amended and reauthorized in 2008, expires at the end of this month.

We understand the predicament this creates for rural communities, and recognize how important federal payments have been in supporting public schools in counties all across the country, particularly in rural areas. That is why the President's 2012 Budget includes a proposal to reauthorize the Secure Rural School Act for five more years.

However, as an alternative means of addressing this predicament, we believe that H.R. 2852 is counterproductive and contrary to public land management objectives. Therefore, the Administration strongly opposes the bill. Its proposed transfer of NFS land to States could result in weakened environmental protections and a diminution of the multiple-use mandate that currently guides the management of these lands, while the legislation's failure to address many key uncertainties concerning access, liability, and other issues invites controversy and litigation. We are also opposed to waiving the National Environmental Policy Act which provides for meaningful analysis and public input that helps defuse public controversy develop the positive collaboration that has substantially improved how the National Forests are managed. Additionally, given the presumption that States are likely to select the lands that generate the greatest amount of revenue, the loss of income to the Treasury would increase the federal deficit, which the Administration and Congress are working so hard to reduce.

But our greatest concern about this legislation is more fundamental in nature. The notion that land held in trust for the Nation as a whole should be disposed of for the sole benefit of the residents of an individual state runs contrary to the principle that these lands are important to all Americans.

While we recognize the immediate reliance of rural counties on sharing receipts from NFS land, we also recognize the need to manage the federal budget thoughtfully and deliberately for deficit reduction, and would like to work with the Congress to develop a proposal that addresses both rural needs and deficit concerns.

But it is just as important to recognize that the National Forests, in their 100 year-plus history, are valued by Americans throughout the Nation, not only for their wood, mineral, and grazing resources, but also for outdoor recreation, as a place to recharge, for wildlife habitat in a rapidly developing world, as a place to enjoy historic, scenic, and cultural treasures, and for clean water to millions of downstream users. These dynamic values serve the urban public as well as the rural, the national interest as well as interest of individual states. We would like to work with the Congress on a solution that honors all of our Nation's interests over the long term.

This concludes my prepared statement and I would be pleased to answer any questions you may have.

**STATEMENT OF STEVE SWANSON, PRESIDENT & CEO,
SWANSON GROUP, INC.**

Mr. SWANSON. OK. Thank you very much. Good morning, Chairman Bishop, Congressman DeFazio, and Members of the Subcommittee. I am Steve Swanson, President & CEO of Swanson Group, a family owned forest priced company that dates back to 1951 when my father and uncle established Superior Lumber Company in Glendale, Oregon. I appreciate the opportunity to appear before you today to discuss the long overdue need for legislation to fix the senseless forest policies devastating our rural communities' funding for local governments and schools, as well as the health of our forests. The Swanson Group currently operates two sawmills and two plywood mills and employs about 650 people in some of

the most economically distressed communities in rural Oregon. Like most of the domestic industry, we have invested heavily to upgrade all of our mills with state-of-the-art technology and retooled them to utilize the smaller diameter timber we were told would be coming from our Federal forest.

The only problem is that timber has not come. Mr. Chairman, my hometown of Glendale, Oregon, population 800, has experienced the same travails as many other rural forested communities as the timber wars have raged over the past two decades. Many of the employees in my mills are folks I grew up with. Having to stand in front of them and tell them they no longer have a job is a very real and very personal thing. It makes it all the harder when the solutions are, at least on their face, so easy. An analogy I like to use is that our situation is akin to living in a refrigerator full of food while starving to death. Our communities are literally surrounded by some of the most productive timber land in the world.

However, here in southwest Oregon, the Federal Government controls nearly 60 percent of the timber land through the U.S. Forest Service and the BLM O&C lands. Without an adequate and dependable supply of timber coming from these forests, our communities and industries will continue to suffer. This is what makes this Committee's work to find a comprehensive solution to the problem so important. County government is great, but it alone does not build a healthy community. My community does not need another handout, my community needs jobs, stability and predictability. By returning to responsible, sustainable forest management, we can have all those things. The discussion draft recently shared by this Committee would provide counties and communities a lifeline.

By utilizing a trust concept you can ensure that local county governments, as originally intended, get their share in a predictable level of timber receipts. You can, while protecting these important safeguards, ensure that professional foresters are able to do their jobs without the threat of endless lawsuits. This certainty will allow communities and businesses like mine across the country to plan for the future as certainty is returned to Federal forest management. Finally, we can begin to address the serious forest health issues plaguing our national forests. In Oregon's Federal Forest and Clearing Bureau of Land Management, our Federal forests grow approximately 10 billion board feet per year.

Of this growth, 2.75 billion board feet a year dies through natural causes. We currently harvest approximately 525 million board feet. To sum it up, under our current policy rural communities wither and Federal land managers in Oregon are able to sell and harvest approximately five percent of annual growth and 28 percent of annual mortality. I am certain that the figures are equally as stark across the country. One need not wonder why we watch our forests go up in smoke every year. Of course we are told these unnaturally severe fires are good for the forest. We all know better. Of course, when they burn we cannot harvest any of the dead burn material to provide jobs, produce revenue and replant new forests for future generations. The draft bill would help with all these issues. It is time that we shift the paradigm.

The level of harvest required to accomplish this is less than dies in the forest each year and far less than grows each year. It is also far less than we harvested during the 1970s and 1980s. I have provided the Committee information on the Washington DNR timber management program in comparison to the U.S. Forest Service in Washington. If the Forest Service were to focus on truly managing just a small portion of its land base it could generate similar results in many areas. I have also provided the Committee an estimate of the harvest levels that would be required to meet the 20 year average of receipts in the legislation for Oregon and Washington. One final remark.

I think it is important that the Committee has expressed the willingness to address the paralysis impacting the BLM O&C grant lands in western Oregon. Their unique nature, purpose, intended use and configuration make them very critical to my, and all other communities in western Oregon. Mr. DeFazio, Mr. Walden and Mr. Schrader have all expressed a willingness to devise a trust-like solution to end the management gridlock on the O&C lands while also doing positive things for conservation. I trust that the Committee will work with them to include such a proposal. In conclusion, the time to act is now. It is time that our Federal forests again start providing for rural America. I thank you for this opportunity and for all your work on the draft legislation and welcome any questions you may have.

Mr. BISHOP. Thank you, Mr. Swanson. Timed that perfectly. Commissioner Walter.

[The prepared statement of Mr. Swanson follows:]

Statement of Steve Swanson, President & CEO, Swanson Group, Inc., Glendale, Oregon, on National Forest County Revenue, Schools, and Jobs Act of 2011

Good morning Chairman Hastings, Chairman Bishop, Congressman DeFazio and members of the Subcommittee. I am Steve Swanson, President & CEO of Swanson Group, Inc., a family owned forest products company that dates back to 1951 when my father and uncle established Superior Lumber Company in Glendale, Oregon. I appreciate the opportunity to appear before you today to discuss the long overdue need for legislation to fix the senseless federal forest policies devastating our rural communities, funding for local governments and schools, as well as the health of our forests.

The Swanson Group currently operates two sawmills and two plywood mills and employs about 650 people in some of the most economically distressed communities in rural Oregon. Like most of the domestic industry we have invested heavily to upgrade all of our mills with state-of-the-art technology and retooled them to utilize the smaller diameter timber we were told would be coming from federal forests. It has not materialized. Our industry can compete with anyone in the world, if—and it is a big if—we can secure the raw materials required to run our operations.

Mr. Chairman, my hometown of Glendale, Oregon (population 800) has experienced the same travails as many other rural, forested communities as the “timber wars” have raged over the past two decades. Our company experienced it first hand when on the morning of January 2, 2001 our main office was destroyed by an arson attack by members of the Earth Liberation Front. As shocking as that attack was it is far less serious than economic and social ills primarily caused by the paralysis affecting the management of our federal forests.

We have largely ignored this paralysis over the past twenty years and opted to dole out billions in Secure Rural School (SRS) payments in an effort to cover up the severity of the problem facing our rural forested communities. The SRS payments have helped maintain essential government services, but they do not make up for the lack of jobs and opportunity available to local residents of most rural, forested communities.

Over the past twenty years of Secure Rural Schools and Spotted Owl Guarantee payments just about every indicator of rural economic health has declined in many forested states, including Oregon. The disparity in pay between Oregon's metropolitan and rural counties, which was once modest, has quadrupled. Rural Oregon's per-capita income is now only 74% of the national average; while Portland's per-capita income is at or above the national average. 46% of rural Oregon students qualify for free or reduced lunch. Unfortunately, this is the norm in many rural communities across the country, particularly those where federal land ownership is highest.

Here in southwest Oregon nearly 60% of the forestland is under federal control, whether it be the Bureau of Land Management Oregon & California (O&C) Grant Lands or the US Forest Service. In my home county of Josephine the federal government controls nearly 74% of the forest. Most rural communities that are dominated by federal forest ownership can't simply create alternative industries they defy the realities of their geography. With some of the most productive forestland in the entire world we would be foolish to even suggest it. Instead we should be promoting the responsible, sustainable management of our federal forests.

Mr. Chairman, I know this hearing is being held today because the Committee is well aware of the dire conditions our rural communities and forests face. There is little doubt that the health of our forests continues to decline due to overstocking, beetle and disease infestations and catastrophic wildfire. Unless action is taken to sustainably manage these forests I believe we will continue to see massive fire seasons like those experienced across the southwest this year. These catastrophic events threaten the old growth forests, water quality and wildlife habitat many advocates have spent their careers trying to save.

The fundamental question before this Congress as it considers this legislation and the pending sunset of the SRS program is what responsibility do we have to the rural communities and residents that surround our federal forests? I for one believe they deserve far more than the systemic poverty, joblessness and uncertainty that have come with federal SRS timber payments. They deserve an opportunity to make an honest living and provide for their families while being stewards of the forests in their backyards. They deserve to see their children have the same opportunity to succeed as their urban and suburban counterparts.

There will undoubtedly be opposition to taking action from those who wish to see no management of our federal lands. I hope the Congress will see beyond the typical rhetoric and work to pass comprehensive legislation. A candid look at the facts on the ground is necessary to understand the relatively modest levels of timber harvest needed to generate significant revenue for counties. I have prepared a document that outlines the estimated harvest levels required to generate the legislation's annual revenue requirement for counties in Oregon and Washington. The required harvest levels are below the amount of timber that dies on the forest each year. It is small portion of the annual growth of the forest and but a fraction of the current standing volume on these forests. Many would argue that it isn't enough to maintain forest health and provide robust employment opportunities in rural communities.

Some will also argue that there isn't sufficient demand for increased timber harvests from federal lands to fund rural counties. I disagree. One of the greatest threats to the future of our four mills is the lack of an adequate and predictable log supply from federal forests. I can say with the utmost certainty that without a change in forest policy more mills will close. Only 4-years ago my company employed 1200. With a reliable timber supply we could begin to rehire and add jobs. Without it, more will be lost.

Mills across the country are struggling with log shortages. While the current state of the U.S. housing market continues to affect domestic demand, international demand for lumber has seen significant growth as countries like China and India continue to develop. We are feeling the effect of this demand in the Pacific Northwest as exports of lumber and raw logs to Asia have spiked. In fact, US lumber exports to China tripled between 2009 and 2010. Conservative forecasts indicate that total Chinese wood demand is likely to grow by 10-15% a year through 2015, which will create an opportunity for U.S. mills if they can secure an adequate log supply. We should also remember that domestic demand will increase again as housing starts returns to a more typical level of 1.5 million per year. Without action I fear that we will lose many more mills in areas with heavy federal forest ownership, similar to what has occurred in the Southwest.

I believe the draft legislation you are considering includes critical components to providing our rural counties and communities the certainty they deserve. While I know the legislative process is dynamic and changes are likely to be made as the legislation progresses, I hope you will maintain these key concepts.

Establishment of a trust obligation. The legislation would establish a revenue trust obligation between the Forest Service and rural forested counties and schools. It appears that the trust mandate being considered would be more than achievable for the agency since it is only based on generating a portion of a broad average of annual historical receipts. In Chairman Hastings' state the Washington Department of Natural Resources (DNR) manages 2.2 million acres of state timber trust land under a beneficiary trust mandate. Between 2000–2010 the DNR generated \$128.6 million in timber receipts annually for county, state school construction, hospital and university trust beneficiaries. By comparison, the Forest Service generated approximately \$13.4 million in gross receipts annually during a comparable period on the 9.3 million acres it manages in Washington.

A trust obligation is essential to providing certainty to local communities and clear direction to the agency, which has gradually moved away from recognizing any obligation to the economic and social well-being of these rural communities. A trust obligation would also require the Forest Service to give greater consideration to the economics of the timber projects it proposes. This is not the case today as the agency frequently opts for costlier project designs and a light touch that doesn't treat the forest effectively or economically.

Administrative efficiencies. The Forest Service is mired in endless red tape, process and procedural requirements in need of reform if we expect the agency to deliver even modest returns to local governments. These burdensome and often senseless requirements should be streamlined for county revenue trust projects. The legislation would require public comment, appeals and the preparation of an environmental report outlining the effects of revenue projects. It would limit these streamlined authorities to only the projects required to meet the revenue requirement.

The paralysis crippling the agency cannot be solved administratively. For example, in the Pacific Northwest the Forest Service and BLM must comply with "Survey and Manage", a protocol that requires agency employees to survey (at times on their hands and knees) for approximately 300 different species—including fungi and lichens—before most timber harvest activities can take place on the small fraction of the forest we manage today. This requirement is in addition to the current requirements of NEPA and ESA and makes no sense when you consider the vast amount of the forests dedicated to non-timber uses. The agencies have attempted to replace this costly and time consuming requirement with existing special status species programs three times without success.

Informal estimates we have collected from the agencies indicate that they spend nearly 75% of their land management budgets meeting planning, regulatory and legal hurdles. The cost and time required to meet these hurdles is the primary limiting factor to increasing forest management activities since few resources remain for project layout, preparation and implementation costs. The Forest Service's current cost structure is broken and results in what some claim are "below cost timber sales." However, state management of timber trust lands in states like Washington, Montana, Idaho, and Minnesota shows that government can generate solid returns for the public by applying sustained yield forest management principles for the benefit of current and future generations.

Revolving management fund. The legislation allows the Forest Service to retain 20% of the receipts generated for future project planning and implementation costs. In light of the fiscal challenges facing our nation any legislative solution should also generate a large portion of the funding the agency will need to meet the trust mandate. This funding should also allow the agency to rebuild their forest management staff expertise. For comparison purposes, the Washington DNR receives no state general funding for the management of its timber trust lands and covers its management expenses by keeping 25% of the gross receipts generated. The revolving management fund may also reduce the Forest Service's reliance on Congressional appropriations.

Transition period. The legislation also provides a transition period for county receipt revenue as forest management activities ramp up. In many areas of the country, including much of the Midwest, South and Pacific Northwest, I believe the transition can be fairly short. In portions of the Intermountain West and Southwest the transition is likely to take a little longer due to the loss of industry infrastructure. However, private sector companies will invest in new manufacturing infrastructure if they have certainty that a reliable raw material base exists. I support the need to provide county governments and schools certainty in the short term, but I believe it is critical that we finally deliver on the promise of a return to responsible forest management that has been unfulfilled following the last two reauthorizations.

Inclusion of Bureau of Land Management O&C lands. The Committee has also indicated a willingness to consider a legislative trust proposal to resolve the gridlock affecting over 2 million acres of largely checkerboard O&C lands in western Oregon. These lands once provided the 18 O&C counties over \$100 million annually in shared timber receipts. The O&C Act of 1937, which revested these lands back into federal control, directed that they be managed for permanent timber production to benefit local communities and industries. Today, these lands grow 1.2 billion board feet of timber each year and the BLM is currently struggling to harvest 200 million board feet, or just one-sixth of annual growth. Additional reductions in timber harvest volumes are likely unless Congress takes action to resolve the long-running controversy in a manner that benefits various constituencies.

Congressman DeFazio, Congressman Walden and Congressman Schrader have all expressed an interest in developing a trust management proposal for the O&C lands that resolves the controversy once and for all while providing certainty and opportunity to our rural communities. I hope you will work with them to develop and pass such a proposal.

I appreciate the opportunity to testify before the subcommittee and welcome any questions you may have.

**STATEMENT OF RON WALTER, COMMISSIONER,
CHELAN COUNTY, WASHINGTON**

Mr. WALTER. Thank you for giving me the opportunity to be here today to speak in favor of the proposal. In addition to being a county commissioner, I currently serve as the president of the National Association of Counties, Western Interstate Region. Chelan County is a large county with 2.2 million acres. Eighty percent of that is Federal forest land. Our major industry is tree fruit production. The timber and agricultural industries, including grazing on Federal lands, have been the core of our local heritage and culture. Unfortunately, over the last 20 years we have seen our timber-related jobs disappear, with our last mill closing several years ago. We used to have nine to 10 mills operating in Chelan County.

Now there are only three to four mills operating in the entire east side of Washington State. Now, the sight of a logging truck is rare and most of the lumber moving through town comes from Canada, and there is virtually no grazing. Unfortunately, this scenario has played itself out across the West. The Federal Government has succeeded in effectively setting aside countless acres of wilderness and roadless areas but has neglected to properly manage the remaining holdings in the Forest Service system. Our forests are in a state of disrepair. Acres of once productive forests are now burdened by excessive fuel loads, are susceptible to disease and insect infestation and threatened by catastrophic wildfires. Since I took office in 2001 I have witnessed countless attempts to address forest management and forest health, yet actions have fallen short of reaching the goal of achieving healthy, resilient forests.

This proposed legislation attempts to simplify bureaucratic process and red tape in the effort to reverse that trend. We need a new mindset of national forest management where healthy forests produce jobs and dependable, sustained revenue to the Federal treasury, local schools and counties. As I said, this legislation is a step in the right direction as it identifies a pathway to expedite projects on Federal land while ensuring the Federal Government continues its commitment to sharing revenues with counties and schools. Currently, the Forest Service seems to be in a state of analysis paralysis with too few projects being implemented. It is time for Congress to change the status quo and provide effective

means for the Forest Service to achieve one of its primary goals of creating jobs and resilient forests.

Walt Disney said the way to get started is to quit talking and get going. In general, the National Association of Counties supports the reauthorization of the Secure Rural Schools. Further, counties support continuation of three important goals or provisions under the act: active management and restoration of forests, revenue sharing consistent with historic Federal land management receipts, sharing with states, counties and local school districts, and collaborative processes such as the resource advisory committees and community fire plans that successfully address some of the issues. The revenue sharing provisions of Secure Rural Schools are vital to local communities and represent a strategic agreement that dates back to 1908.

The revenue helps fund rural counties' ability to deliver basic services to our constituents. We believe that reauthorization and pursuing management and restoration in the nation's forests will generate tremendous environmental and social benefits and create needed jobs and revenue for rural economies. The legislation attempts to return the U.S. Forest Service to the forest management business and explicitly provides clear direction to the agency on how to achieve management targets to fulfill current financial responsibilities. I would encourage the Committee to consider removing the restrictions on the use of county funds for roads. Under the current authorization, schools are able to use these funds as general revenue. Congress should trust county government to develop priorities through our annual budget process and use these funds accordingly.

We support expediting the environmental review process. There is a critical need to modernize agency processes to increase productivity and to expedite project analysis and decisionmaking. Our national forests hold vast resources that are currently being underutilized, whether it is biomass for renewable energy, value added wood products such as wood pellets, mineral, natural gas, oil or timber products. Counties across the West strongly urge congressional action that will return effective management to our Federal forests. Again, I thank you for the opportunity of being here.

Mr. BISHOP. Thank you for your testimony. Mr. Stahl?

[The prepared statement of Mr. Walter follows:]

Statement of The Honorable Ron Walter, Commissioner, Chelan County, Washington, on the National Forest and County Revenue, Schools and Jobs Act of 2011

Thank you for giving me the opportunity to be here today to speak in favor of the proposal. I am Ron Walter, a County Commissioner from Chelan County, Washington State. I also currently serve as President of the National Association of Counties Western Interstate Region. Chelan County is a large county encompassing 2.2 million acres, 80% is managed by the US Forest Service. We are located on the eastern slope of the Cascade Mountains. Our Western border is the crest of the Cascade Mountains; we are bordered on east by the Columbia River. Our population is 70,000 with slightly less than half of our residents living in our largest town Wenatchee. The remaining population resides in 8 small cities or communities or in the unincorporated areas of the county.

Our major industry is tree fruit production or Apples, Pears and Cherries. Each of our small towns used to have a mill and timber jobs. The first two summers after high school graduation, I was fortunate to work in local lumber mills. The timber and agriculture industry—which includes grazing on Federal lands—were part of

our local heritage and culture. Unfortunately over the last twenty years we have seen our timber related jobs completely disappear with our last mill closing several years ago. With that mill closure our county lost 80 family wage jobs and the related economic benefit to our local economy.

The entire Eastern side of Washington State currently has only four operating mills. I used to see logging trucks moving logs to the mills and finished lumber moving to market. Now the sight of a truck hauling logs is rare and most of the finished lumber products are moving through town on rail cars from mills in Canada. Livestock grazing is very limited. The most visible activity on local forest is now fire suppression.

Unfortunately this scenario has played itself out across the west. The Federal government has succeeded in effectively setting aside countless acres of wilderness but has neglected to properly manage the remaining holdings in the National Forest System. Our forests are in a state of disrepair—acres of once productive forests are now burdened by excessive fuel loads, susceptible to disease and insect infestation, and threatened by catastrophic wildfire.

Our National Forests hold vast resources that are currently underutilized, whether it is biomass for renewable energy or added value products such as pellets, timber products, minerals, oil, and natural gas. Counties across the West strongly request congressional action to return active management to our federal lands in an effort to fuel local economies and return revenues to the treasury.

Since I took office in 2001, I have witnessed countless attempts to address forest management and forest health, yet actions have fallen short of reaching the goal of achieving healthy resilient forests. This proposed legislation attempts to simplify bureaucratic process and red tape in an effort to reverse that trend. Walt Disney said the way to get started is to quit talking and begin doing. We need a new mindset of National Forest Management where energy production, grazing, recreation, timber harvest, mineral resource utilization and environmental stewardship are all components of obtaining healthy resilient forests which produce dependable and predictable revenue to the federal treasury, local schools and counties and produce critically needed jobs in our communities.

This proposed legislation is a step in the right direction as it identifies a pathway to expedite projects on federal land while ensuring the federal government protects its commitment to sharing revenues with counties and rural schools. Currently the Forest Service seems to be in a state of “analysis paralysis” with little resources actually reaching ground. It is time for Congress to change the status quo and provide effective means for the Forest Service to achieve one of its primary goals of “creat[ing] jobs that will sustain communities.”

I would like to take the remainder of my time to make some specific comments about the proposal.

In general, the National Association of Counties supports reauthorization of the Secure Rural Schools and Community Self-Determination Act (SRS). Furthermore, counties support continuation of three important goals or provisions under the Act: 1) active management and restoration of federal forests; 2) revenue sharing consistent with historic federal land management receipts with states, counties and school districts, and 3) collaborative processes such as the Resource Advisory Committees (Title II) and community fire planning (Title III).

The revenue sharing provisions of SRS are vital to local communities and represent a strategic intergovernmental agreement that dates back to 1908. The revenue helps fund rural counties ability to deliver public services to thousands of communities throughout the nation. We believe that reauthorization and pursuing management and restoration of the nation’s forests will generate tremendous environmental and social benefits and create needed jobs and revenue for rural economies.

I applaud the Committee’s commitment to continuing the Federal government’s obligation to honor the revenue sharing agreement with counties established in 1908. Historically payments to counties and schools have been coupled with natural resource management activities. This legislation attempts to return the U.S. Forest Service to the forest management business and explicitly provides clear direction to the agency on how to achieve management targets to fulfill current fiduciary responsibilities.

Specifically, section 102 (e) (3) directs the Forest Service to send Title I payments directly to rural schools and protect payments from being offset by state funding. This provision is important to a number of our rural schools districts who have had Title I funds diverted away by State governments.

Incentive and consequences; section 106 (b) (2) I fully support the section on performance based cash rewards, however there should be consequences if minimum sale levels are not obtained.

Catastrophic event; section 105 (c) The Secretary should be required to immediately implement this provision nationwide. Every Region to the USFS has a backlog of potential sales that have been through the NEPA revenue and are ready for bid and the demand for the product exists. The National Association of Counties has repeatedly called on Congress to give the Forest Service greater flexibility in their authority to address catastrophic events. Further, NACo has called on Congress to grant a Governor authority to declare a state of emergency when the severity of fire danger from fuels on identified federal lands within that state poses a significant threat to public health and safety. Many National Forests are clogged with dead and dying trees that pose significant risk to public health and safety. Conservative estimates show that perhaps 140 million acres of National Forest timberland in the west is in ecological condition Class 3 or 2: meaning it is ready to burn or soon will be.

Use of Funds; section 107 (b) I would encourage the committee to consider removing the restrictions on the use of the county funds for roads. Under the current authorization, schools are able to use these funds as general revenue. Congress should trust county government to develop priorities through our annual budget process and use these funds according to local needs and priorities.

Environmental review; Section 105 (d) Chelan county supports the National Association of Counties policies related to the need to revise and update outdated existing environmental statutes such as the National Environmental Policy Act (NEPA) and Administrative rules such as the Forest Service Planning Rule. Currently there is a critical need to modernize agency processes in an effort to increase productivity and efficiency, and to expedite project analysis decision making in a timely but effective manner. I support the Committee's goal to expedite the environmental review process and encourage Congress to move further toward amending and modernizing NEPA.

In closing I would like to again thank you for the opportunity to share my thoughts. Counties are united in their desire to move away from direct annual SRS payments in exchange for sustainable economies based on management of our Federal lands. Elected county officials would prefer to share in the revenue from production in healthy forests that are a part of our community fabric, whether those lands are generating biomass or timber products, mineral, energy production, recreation or grazing. Effective management of our federal forests will create much needed, family-wage jobs in our resource dependent communities while providing sufficient revenue sharing to county governments and schools through the historic 25% revenue sharing agreements. However, until the Federal government returns management to our federal forests, we will require Congress to continue direct annual payments through the Secure Rural Schools program.

Chairman Bishop, Ranking Member Grijalva—thank you for the opportunity to testify this morning.

**STATEMENT OF ANDY STAHL, EXECUTIVE DIRECTOR,
FOREST SERVICE EMPLOYEES FOR ENVIRONMENTAL ETHICS**

Mr. STAHL. Thank you, Chairman Bishop. I will address six items in my testimony. First, the essential elements of a trust, then timber sale volumes necessary to meet the proposed bill's annual revenue requirement, budgetary implications to the Treasury of doing so, environmental implications of the bill, effects on the stewardship contracting program, and finally, effects on private timber land owners. A trust requires four elements: a settler who creates the trust, a trust instrument that demonstrates the intent to create a trust, trust property, which is also called the trust corpus, and a trust beneficiary, that is, those who get the revenue from the trust. The draft bill is missing one of those elements. It is missing the trust property. The bill misunderstands the Doctrine of Trust by mistaking the earnings from the trust for the trust corpus. In a bona fide trust, the property is used to generate earnings which, net of the management expenses, are paid to the beneficiary. Here, in the bill's Section 102[a], the earnings from projects are defined as the property itself. By defining the trust as an annual revenue stream rather than as an income producing asset the

Forest Service will be forced to sell more timber during periods of low demand and less timber when demand for wood is high. That is opposite to the behavior expected from a prudent trustee or a private land owner. At current prices, for each county to receive payments equal to the average of the past four years of SRS payments, trust project timber sales would have to increase by over 20 billion board feet from current levels. To maintain SRS payments at their 2011 levels, sales would have to increase by over 15 billion board feet. Now, these timber volumes differ substantially among national forests. A few national forests could cut less than current levels. Those are primarily in Region 9 in the northeast and the lake states. Other forests would be required to increase cutting by 10 to 100 fold. For instance, Region 3's forest, the Tonto and Coronado, the Chugach in Alaska and the Six Rivers in California. New Mexico's Gila National Forest, for example, sold three million board feet in the first three quarters of this fiscal year at \$17 per 1,000 board feet. This low value would require the Gila to sell an additional 429 million board feet, 143 times current levels, to achieve the average SRS payment of \$5.5 million, and that is at the 75 percent county share provided in the bill. Now, all of these data and calculations are available on the web at the Headwaters Economics website. In 2010, the Forest Service spent about \$158 per 1,000 board feet on its timber program for a total cost of \$382 million. Increasing sales to the level necessary to meet the SRS payments would cost about \$3 billion in appropriations. Net of the 20 percent in revenues that the bill allocates from trust projects to the Forest Service, that amount is about 10 times greater than the SRS appropriations are today. The bill also proposes to eliminate existing legal requirements for timber sale advertisement and competitive bidding which will reduce prices further. The bill proposes to waive existing environmental laws which protect watersheds and stream quality. The bill would likely eliminate stewardship contracting because the timber value would no longer be available to fund fire reduction measures, for example. For private timber land owners, the bill would put a lot of Federal timber on the market to meet these payments levels, reducing the value of private timber lands and also imposing endangered species obligations on private land owners that the Federal Government would be exempt from meeting. Thank you for this opportunity to testify.

[The prepared statement of Mr. Stahl follows:]

Statement of Andy Stahl, Executive Director, Forest Service Employees for Environmental Ethics, on the National Forest County Revenue, Schools, and Jobs Act of 2011

My name is Andy Stahl. I am Executive Director of Forest Service Employees for Environmental Ethics, a 10,000-member coalition of civil servants who manage our national forests and citizens who own them. Thank you, Mr. Chairman, for this invitation to discuss the draft National Forest County Revenue, Schools, and Jobs Act of 2011.

My testimony will address the following: 1) essential elements of a "trust;" 2) timber sale volumes necessary to meet the bill's "annual revenue requirement;" 3) budgetary implications to the Treasury of meeting these timber sale volumes; 4) environmental implications; 5) effects on the stewardship contracting program; and, 6) effects on private timberland owners.

The County, Schools and Revenue Trust is not a True “Trust”

A trust requires four elements: 1) a settlor who creates the trust; 2) a trust instrument that demonstrates the necessary intent to create a trust; 3) trust property, also called the trust “corpus” or “res;” and, 4) a beneficiary. The draft bill is missing one of these essential elements—the trust property. The bill misunderstands the doctrine of trusts by mistaking a trust’s earnings for the trust’s corpus. In a bona fide trust, the trust property is used to generate earnings (also called the “distribution”) which, net of the trustee’s management expenses, are paid to the beneficiary. Here, in section 102(a), the trust’s earnings from Projects are defined as the trust property itself. The bill creates something more like an entitlement program than a fiduciary trust.

The bill’s failure to identify a trust property means that the Secretary has no duty to preserve and protect that property, as is the case in a true fiduciary trust. For example, this bill would require the Secretary to cut beyond sustained yield levels if necessary to meet the annual revenue requirement (and waives existing legal caps on harvest levels), an outcome not permitted under trust doctrine that requires the trustee to protect the corpus of the trust.

By defining the “trust” as an annual revenue stream, rather than as an income-producing asset, the Forest Service will be forced to sell more timber during periods of low demand for wood and less timber when demand for wood is high—opposite to the behavior expected from a prudent trustee or private landowner. The American people—who are the true beneficiaries of these public lands that are held in trust for all of us—will see their trees sold at bargain-basement prices. The Secretary, as trustee, will also be required to produce the county beneficiaries’ revenue streams regardless of how much it costs American taxpayers and the Treasury to do so.

Timber Sale Volume Necessary to Meet the “Annual Revenue Requirement”

For each county to receive payments equal to the average of the past four Secure Rural Schools payment years, Trust Project timber cut would have to increase by over 20 billion board feet. The additional timber cut, above current levels, necessary to simply maintain 2011 SRS payment amounts is 15.3 billion board feet.

These timber volumes vary substantially among national forests. A few national forests could cut at less than current levels, e.g., Allegheny, Chippewa, Hiawatha. Other national forests would be required to increase cutting by ten to more than a hundred times current amounts, e.g., Tonto, Coronado, Chugach, and Six Rivers.

For example, New Mexico’s Gila National Forest sold 3 million board feet in the first three quarter of FY2011 at \$17.15 per thousand board feet (mbf). This low timber value would require the Gila to sell an additional 429 million board feet, 143 times current levels, to achieve the 2008–2011 SRS average annual payment of \$5.5 million, at the 75% county share provided in the bill.

For further details regarding these data and calculations, the committee can contact Headwaters Economics at <http://headwaterseconomics.org/>.

Budgetary Implications of Meeting the Necessary Timber Sale Volumes

The bill obligates the Secretary, enforceable by the counties, to spend whatever appropriated funds are necessary on Trust Projects to meet the annual revenue requirement. These tax-financed costs are likely to exceed revenues and will likely cost more than the Secure Rural Schools appropriated amounts now being made to counties.

In 2010, the Forest Service spent \$158.30/mbf on its timber sale program, for a total cost of \$382 million. See <http://www.fs.fed.us/publications/budget-2010/overview-fy-2010-budget-request.pdf> (page 1–2). Increasing timber sales to the level necessary to meet average SRS payments during the last four years would cost nearly \$3 billion in appropriations, net of the 20% in timber revenues the bill allocates from Trust Projects to the Forest Service. This amount is about 10 times greater than the Secure Rural Schools average annual payment from appropriations during the past four years.

The bill eliminates existing legal requirements for timber sale advertisement, competitive bidding, and open and fair competition, which could reduce Trust Project income, requiring a further increase in sales to meet the annual revenue requirement. The bill also eliminates legislative authority for the salvage sale fund and purchaser road credits, in regard to Trust Projects.

Environmental Implications

If necessary to meet the annual revenue requirements, the bill authorizes Trust Projects where logging would irreversibly damage soil, slope, or other watershed conditions and waives reforestation requirements. The bill allows for Trust Projects

that seriously and adversely damage fish habitat and eliminates riparian protections for streams, lakes, and other water bodies. The bill also waives legal restrictions on clearcut size and protections for soil, water, scenery, fish, wildlife and recreation where forests are logged using even-aged management.

Implications for Stewardship Contracting

The Forest Service uses stewardship contracting authority granted by Congress to purchase services in exchange for timber value. The timber value is often used to pay contractors to treat woody biomass that may pose a fire hazard to nearby communities. The bill's annual revenue requirement will likely require that all available timber value be dedicated to the County, Schools, and Revenue Trust, leaving little, if any, to lessen wildland fire risk to communities.

Implications to Private Timberland Owners

The bill allows the Secretary to undertake Trust Projects that would take threatened or endangered species without limit. This would shift the responsibility for species conservation from the public's national forests to owners of private timberlands, who are required to enter into habitat conservation agreements with the federal government before they can harm imperilled species.

The substantial increased federal harvest necessary to meet the annual revenue requirement will depress stumpage prices, particularly during periods of low wood products demand. This will decrease financial returns to private timberland owners. The willingness of the federal government to subsidize from appropriations the management expenses of timber sales, such as road construction and maintenance, will put private timber owners at a further competitive disadvantage. Insofar as that subsidy appears unconstrained by the bill, and enforceable by the county beneficiaries, the anti-competitive effect could be particularly dramatic in areas where timberlands are of relatively low productivity, such as the inland mountain west.

Thank you again for this opportunity to testify. I would be happy to answer any questions you may have.

Mr. BISHOP. Thank you. I appreciate your testimony. Before we go to the next witness I wish to introduce the APPLE Act. There are some slides up there I would look at. In a prior life before I came here, I spent 16 years in the Legislature all on the Appropriations Committee for Public Education trying to find money for education, and also 28 years in the classroom as a teacher knowing that end of it. There always seemed to be something, like a dam, that was stopping the flow of funds going to the schools. It was a difficult one to do. I think one thing we found out is that schools have historically been based upon land as a funding mechanism. It goes back to Henry VIII when he established the Church of England. He took the monasteries away from the Catholic Church.

He gave them to aristocracy on the condition that they maintain the school systems that had been established by the church itself. 1777, Georgia became the first state to actually give efforts to help their schools in the counties. Ironically, half of the counties in Georgia rejected it because they said it was an insult to them thinking they could not do their own jobs. Connecticut actually sold 3.3 million acres of land to put up a full trust fund for education. Of course, the land they sold was in Ohio, but at least they were selling something of land at the time. Texas, as you will note, has very little public land, but when they became a state they set aside 17,000 acres for a permanent trust fund for their education systems. One of the things we notice right here is the land policy makes it difficult for those in the West to do the same thing.

Everything that is red on that map is owned by the Federal Government. You will notice the Federal Government owns one out of every three acres, and primarily in the West. Those of us in the West have the wonderful opportunity of realizing the Federal Gov-

ernment owns one out of every two acres. The BLM land, which is the basis of this particular bill, 93 percent of that is found west of Denver. If you will notice the next map, you will see the states in red are the states that have the slowest rate in their education growth. If you flip back between two and three—Casey, just a minute—if you would look at those maps, look at the Federal land, go back to the states having problems, go back to the Federal land, you will notice there is a unique correlation between the amount of Federal lands and the difficulty states have in funding their education system. Eleven of the 17 states that have the slowest growth rate are found in the West. Not yet. Do not get ahead of me here.

That is also almost double the rate. Ninety-two percent growth in states east of Denver, only 56 percent growth in the states that are west of that. It is double in the East than it is in the West. Now, the question you have to have is why? What is the paradox? Why do we in the West have the slowest growth in our education funding? Why do we in the West have the largest class sizes? Twelve states have the largest class size. Nine of them are found in the West on public land states. Why, as you see in here, do we have the kids? The growth rate of public education students is triple in the West than it is the East, and still we have the kids, we have the overcrowded classrooms. We cannot fund our education system, not nearly to what our friends in the East are having with the lighter base. Now, why is that? Is it because we are not paying taxes?

As you will notice in the next one, the West pays actually more taxes in state and local taxes as a percent of their income than those in the East do. It is also not because we are not putting education into our state budgets. Once again, you will find out western states put more of their budget toward education than eastern states do as a percentage. The reason why we are having it is this particular one. The ones that are yellow do not have public lands. None of them have more than 15 percent of their land as public, and the total average for the East is four percent. Those of us in the West get a great total of 52 percent. You will notice, especially those in the red ones that are in the West, we have the abundant opportunity of having more than 52 percent of our land tied up by the Federal Government. It is interesting to note that when each of these western states was admitted to the union, in their Enabling Act there was language that was put in there that said that that was not to be the way of things.

Each of them had phrases in there that said five percent of the proceeds of the sale of public lands lying within said state which shall be sold by the United States subsequent to the admission of said state into the union after deducting all the expenses incident of the same shall be paid to the said state to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said state. The only two states in the West that did not get that language in their Enabling Acts are Hawaii, which got nothing because there is not a whole lot of land there that is owned by the Federal Government, and California. Was not in their Enabling Act. Instead, Congress passed a special piece of legislation a year after they were a state that gave them the same promise that those of us in the West were given.

The obvious thing is that promise simply was never fulfilled. Oklahoma got that promise. When they were made a state, the government gave them a \$5 million bonus to bring them in on an equal footing with those in the West, but the rest of us in the West simply did not have it. The cost to us if the Federal Government had fulfilled what they promised in the Enabling Act is about a one time expenditure of \$14 billion that would go to those western states. If you taxed the land that they kept at the lowest rate, the absolute lowest property tax rate, as if it is totally worthless land, it would be an extra \$6 billion coming to those western states if the Federal Government just put those lands, or the Federal Government paid the tax where if those lands were on the tax rolls. Now, some people say we are solving that problem with PILT.

PILT is supposed to help states with that, but as you will see in here, PILT has never been more than four percent of what could be raised if those lands were actually taxed like normal pieces of property. PILT money does not go to schools, that goes to counties, which means, as you will see in here, what is happening to the West, those are what the West is losing every year in lost property tax revenue because the Federal Government did not live up to the language in the Enabling Acts that were promised at statehood. When it comes to education, once again, at the lowest rate possible, that is how much each state would be gaining from those lands if they were allowed to be taxed every year. It is very simple. Education is based on property tax. We lose \$4 billion a year in the West because these lands do not generate property tax for us, and PILT does not come close to cutting it, nor does SRS come close to cutting it.

We lose \$2 billion in loss of severance and royalty taxes the states could be getting if they actually had control of these lands, plus the income tax that would be given from high paying jobs if we could actually develop our own lands, as well as the school trust lands we each have that are surrounded by public lands and sometimes make them inaccessible and unusable to generate revenue as they were supposed to be generated. So the solution to this one is simply APPLE, which is cute for the Action Plan for Public Lands and Education. Senator Urquhart, thank your wife for coming up with that name. It is a wonderful name. What this does is simply say, OK, the states were promised five percent of the proceeds from the sale of that land, let the states pick five percent of their land to be used for a permanent fund to pay for their education. It can only go to the trust fund with their education.

I should put a caveat in here. I said every western state was promised five percent for education. Three states, Colorado, Nevada and Oregon, were actually promised five percent for infrastructure, but you can use it for education if you want to in my bill. Excluded from the land they can choose are wilderness areas, national parks, military installations, Native American properties, historic sites and wildlife refuges, first of all because I do not want to create the dilemma that some people have said might exist, but more importantly, states do not want those lands because they do not generate money. Those are money losers. They are not going to pick those. They need lands that can actually generate something for their

states. Nine states have already passed resolutions in support of this.

I wish I could say this was my idea. It actually came from the Council of State Governments, West. So it was a think tank proffer. It was an effort of legislators sitting down, thinking of how to help themselves in the future as best they possibly can. The bottom line is here, in the West, kids are harmed and they are harmed by the land policy the Federal Government imposes on the West. It was not intended to be that way, and it does not have to be that way, and it ought not to be that way, and it is about time we realized kids should not be harmed simply because they live in the West with the absentee land owner, the Federal Government. With that, I would like to recognize Representative Urquhart who has been working on this for a long time both in the Utah Legislature, as well as in Council of State Governments, West. Mr. Urquhart?

**STATEMENT OF HON. STEPHEN H. URQUHART, SENATOR,
UTAH STATE SENATE**

Mr. URQUHART. Chairman Bishop, Members, thank you for this opportunity. Chairman Bishop, that was excellent. Thank you very much. Most states in this nation were frontier states. In order to be on equal footing with other states, the frontier states have always pushed the United States to sell off Federally owned lands. We need to remember that. We are a young nation. That experience continues today. This is the frontier speaking to you, just as it has in the past. When Utah joined the Nation it struck an agreement with the United States. Utah's Enabling Act requires that the United States sell Federally owned lands there to go on the tax rolls and five percent of the sale proceeds are to go to Utah's schools. This is not a favor, as I heard it called today, this is not a giveaway, this is not a project where collaboration is the main goal, this is an obligation of the United States. It cannot be unilaterally modified.

However, in 1976, through FLPMA, the United States did unilaterally change that agreement. It determined that public lands no longer would be sold. Utah did not agree to that change. Therefore, the United States is in breach of its agreement. That breach hurts the citizens of my state and all western states. As Chairman Bishop said, this affects children, this affects families. The West is growing. Growth requires serious infrastructure and education investment, but Congress' breach chokes off needed funding. As Congressman Bishop said, we tax the West as heavily as the rest of the nation, but our per pupil funding does not keep pace with that of nonwestern states. We already cram more kids in our classrooms and matters would only get worse as we are slated to increase enrollment three times faster than nonwestern states.

The United States' breach of its obligation to dispose of the public lands artificially restricts our property tax base. It hobbles our economies. Let me give you one example. Utah could be a significant player in the energy sector, but the problem for us is most of our energy fields or oil and gas fields are on public lands, which is not surprising since the Federal Government owns two-thirds of all the land in our state. If we were allowed to tap this, that would mean jobs, prosperity, school funding and less dependence on for-

eign oil, but the Federal ownership precludes those benefits. As we witnessed three years ago, the changing winds of partisan elections and the cavalier stroke of a pen by a Federal overseer can halt energy production on our Federal lands.

Of course, any energy producers are reluctant to risk capital knowing that a Federal overseer can, and will, harm jobs, communities, schoolchildren and energy production in order to gain political favor with environmental special interest groups. Utah is a state. Can anyone argue that Utah should not be on equal footing with other states, or that Congress can breach the compact it entered into with Utah? Can anyone argue that citizens of Utah and the other western states are less deserving of jobs, opportunities and education? These lands should be sold. They should be put on the tax rolls. Western states should receive their contracted proceeds. If Congress is unwilling to step up to those clear responsibilities, an accord must be struck. I greatly appreciate Congressman Bishop's efforts regarding APPLE.

Utah and the other western states should be allowed to select five percent of the public lands for disposition. Recognize the United States' obligation here. Let us put lands that surround our cities on the tax rolls. Let us put mineral lands to beneficial economic use. Let us create jobs and wealth on these lands. Let us adequately support our schools. A member of a State Legislature should not have to ask the Federal Government's permission to use lands in his state to create jobs, wealth and opportunity. The system is upside down. The servant has lost track of its role. Congress has usurped the will of the people as expressed in the Constitution and the Enabling Acts of the western states. No member of this Subcommittee participated in that arrogant breach in 1976, but members of this Subcommittee can right that wrong. Work to pass the APPLE bill. Work to help the children in my state and in all western states. As you help our great nation honor its commitments millions of westerners will honor you. Thank you.

Mr. BISHOP. Thank you, Senator. Mr. Alberswerth?

[The prepared statement of Mr. Urquhart follows:]

Statement of The Honorable Stephen H. Urquhart, Senator, Utah State Senate, on H.R. 2852: Action Plan for Public Lands and Education Act of 2011

Thank you for allowing me to appear before you. I am deeply honored. I, like you, love the United States of America. Please allow me to tell you how you can honor our great nation, by helping it honor an agreement it has made with my state and the other 12 western states.

Utah, like most states, joined the United States pursuant to an agreement, an enabling act, entered into with the United States. Utah's enabling act, like that of most states, calls for future sale of federally-owned lands. The agreement calls for those lands to be sold—and put on the tax rolls—and for 5% of the proceeds of those sales to go to Utah for the support of Utah's schools.

Again, I reiterate, this is an obligation of the United States, not a favor or an idea to be revisited. It is a solemn obligation.

The United States Supreme Court has ruled that these enabling acts cannot be unilaterally modified by either party—the states or the United States. However, in 1976, through the Federal Lands Policy and Management Act (FLPMA), the United States did unilaterally change that agreement, by determining that public lands no longer would be sold. Utah did not agree to that change in our agreement. Therefore, the United States is in breach of its agreement. I need you to know that the United States' unilateral breach of our agreement significantly hurts the citizens of my state and all western states. Please allow me to explain.

Other than the 13 colonies and Texas and Tennessee, all states have a public lands history. Part of that history is for those frontier states to strive for full statehood—through disposition of those public lands—over the opposition of the non-public land states. The frontier states always hit a point of significant growth where, to stay on equal footing with the other states, they need the revenues from the sale of the public lands and, more importantly, they need those lands on the tax rolls.

We see it every census. The West is growing. Growth requires serious infrastructure and education investment. But, Congress' breach of Utah's enabling act is choking off that needed funding. But, this doesn't just affect Utah. Federal ownership of land adversely affects all western states.

Eleven of the seventeen states with the lowest real growth in per pupil expenditures are western states. From 1979 to 2007, real per pupil expenditures in western states—public land states—increased 56%, compared to 92% in non-western states. Western states cram more kids in classrooms than non-western states—3.7 more students per classroom than in the other 37 states. And, those sad facts will only get worse; between 2012 and 2018, the rate of enrollment growth in western states is projected to increase 9%, while the rate of enrollment growth in non-western states is projected to increase by only 3.3%.

And, please don't think that these statistics are the result of an unwillingness to tax our citizens. As a percentage of personal income, Western states are taxing every bit as hard as other states. This is simply the result of rapid growth, an artificially-low property tax base, political restraints on economic activity. In other words, it is the result of the United States' breach of enabling acts in the western states and continued federal ownership of public lands.

Utah, for example, provides significant services to the public lands and public land users, such as transportation, policing, and search and rescue, but Utah does not receive tax support from those lands. While the federal government does provide some payment in lieu of taxes, those amounts do not approach tax revenues that would be generated were those lands privatized.

Also, let's talk about productive uses on those lands. Utah could be a player in the nation's energy sector. That would mean jobs for Utah citizens, wealth for communities, significant revenues for our schools, and less dependence on foreign energy producers. But, those benefits are precluded because the federal government continues to own those lands. With the changing winds of partisan elections and the cavalier stroke of a pen, a federal overseer can stop all energy production on our federal lands. Why, of course, would an energy producer risk capital on public lands when a threat always exists that the federal overseer might find it expedient to harm jobs, communities, school children, and energy production in order to gain a little favor with environmental special interest groups?

Utah is a state. Can anyone argue that Utah should not be a full state, on equal footing with other states? Can anyone argue that it is okay for Congress to breach the compact it entered into with Utah? Can anyone argue that the citizens of the Utah and the other western states are less deserving of jobs, opportunities, and education than the other states?

These lands should be sold. They should be put on the tax rolls. Western states should receive their contracted proceeds. If Congress is unwilling to step up to those clear responsibilities, an accord must be struck. I appreciate Congressman Bishop's attempt to navigate Congress' clear obligation in this matter with the current realities of a profoundly flawed political process.

Utah and the other western states should be allowed to select 5% of the public lands for disposition. Go ahead and exclude from that possible selection lands that would involve significant controversy—such as designated wilderness, forest reserves, national parks. Recognize your obligation. Let us put lands that surround our cities on the tax rolls. Let us put mineral lands to beneficial economic use. Let us create jobs and wealth on these lands. Let us adequately support our schools.

I have to point out that is offensive to me, as a member of a state legislature, to have to ask the federal government's permission to use lands in my state to create jobs, wealth, and opportunity. It is offensive to have to plead with the federal overseer to honor its obligation. That speaks to a system that is upside down. That speaks to a system where the servant has lost track of its role. It speaks to the fact that, in this situation, Congress has usurped the will of the people as expressed in the Constitution and the enabling acts of the western states.

I don't believe that any members of this subcommittee participated in that arrogant breach of the enabling acts in 1976. I do believe that all members of this subcommittee can right that wrong. Compacts are to be honored. Please honor the compacts entered into between the western states and the United States. Work to pass the APPLE bill. As you help our great nation honor its commitments, millions of westerners will honor you.

**STATEMENT OF DAVE ALBERSWERTH,
SENIOR POLICY ADVISOR, THE WILDERNESS SOCIETY**

Mr. ALBERSWERTH. Thank you, Mr. Chairman, and Members of the Subcommittee for the opportunity to provide testimony on behalf of The Wilderness Society regarding H.R. 2852. Before I discuss that bill, I just want to mention that we also have a keen interest in the Secure Rural Schools program as well and would like to submit comments on the final proposal for the record once you have had a chance to take a look at it. We oppose enactment of H.R. 2852, which essentially requires the Federal Government to give away five percent of the unappropriated public lands, defined to include national forest system lands, as well as BLM lands, to each western state, an area we think is about 30 million acres, or roughly the size of the State of New York or Mississippi. This is an unwarranted and unmerited giveaway of assets owned by all Americans to a select few states.

In fact, we are somewhat surprised that such a proposal is being considered at all given the Federal Government's current budget woes. If enacted, this bill would amount to giving away free of charge literally tens of billions of dollars of American taxpayers assets without compensation to those taxpayers at a time of deepening concern about the impacts of the Federal deficit on our nation's fiscal future. We instead support current laws articulated in Section 102 of the Federal Land Policy and Management Act that the public lands be retained in Federal ownership unless as a result of the land use planning procedure provided in the Act it is determined that disposal of a particular parcel will serve the national interest. It is important to understand that when enacted, this landmark statute received broad bipartisan support from Republicans and Democrats, including Members from all points of the compass, including especially the western states.

In fact, the primary sponsors and architects of the policy were western Members of Congress who held numerous public hearings over several years during the law's development. The law itself was based on the recommendations of the bipartisan Public Land Law Review Commission which was also comprised largely of representatives from western states. So, in the findings of H.R. 2852, to state that, "the United States has broken its solemn compact with the western states and breached its fiduciary duty to the school-children who are designated beneficiaries of the sale of Federal land under the terms of the respective Enabling Acts of the western states," is simply not the case and is a misreading of the history of this issue. In fact, by this logic one could equally argue that any Member of Congress from the State of Utah who sponsors this legislation is breaking Utah's solemn compact with the United States by proposing such legislation because Utah's enabling statute also states that, "the people inhabiting said proposed state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof", but we won't make that argument here.

Now, it is easy to see from any land ownership map of Utah, and many other western states, that state and Federal land ownership patterns do not necessarily provide for the optimal management of either state lands or Federal lands. That is why FLPMA provides

for land exchanges. Those such exchanges between the Federal Government and the western states are fraught with difficulty. State and Federal land exchanges have occurred over the years to the mutual benefit of the states and the Federal Government, including Utah. In fact, I understand that members of the Utah congressional delegation are considering some land exchange proposals even now. In addition, there are better ways to enhance the revenues the western states already receive from Federal revenue transfer programs. For instance, the current Federal royalty rate for oil and gas extracted from public land is only 12 and a half percent, significantly below the royalty rates charged by many western states. Wyoming, for instance, charges 16 and two-thirds percent royalty on all the oil and gas extracted from state lands and adds a six percent severance tax to that for an effective rate of over 20 percent. Since the Federal Government splits oil and gas royalty receipts from operations on Federal lands 50/50 with the western states, increasing the Federal royalty rate to say 20 percent would be of obvious benefit to both American taxpayers and the treasuries of the western states. In conclusion, our recommendation is that instead of promoting a bill like H.R. 2852, which unnecessarily perpetuates conflicts, misunderstandings and gridlock over the status and management of America's public lands and national forests, the sponsors of this legislation should change direction and seek out practical solutions to the nettlesome issues of Federal state land and resource ownership and stewardship. It does take time and patience to arrive at solutions to these complicated issues that serve the interest of all stakeholders, but Congress has done this in the past and there is no reason it cannot be done in the future. Thank you very much.

[The prepared statement of Mr. Alberswerth follows:]

Statement of David Alberswerth, Senior Policy Advisor, The Wilderness Society, on H.R. 2852, the "Action Plan for Public Lands and Education Act of 2011"

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to provide testimony on behalf of The Wilderness Society regarding H.R. 2852, the "Action Plan for Public Lands and Education Act of 2011." My name is David Alberswerth, and I am a Senior Policy Advisor to The Wilderness Society. The Wilderness Society works on behalf of its 500,000 members and supporters to protect wilderness and inspire Americans to care for our wild places and our public lands and forests.

We oppose enactment of H.R. 2852, which essentially requires the federal government to give away 5 percent of the "unappropriated public lands"—which by its quirky definition encompasses National Forest System lands as well as those public lands managed by the Bureau of Land Management—to each western state. This is an unwarranted and unmerited giveaway of assets owned by all Americans to a select few states.

We are somewhat surprised that such a proposal is being considered at all, given the federal government's current budget woes. For, if enacted, this bill would amount to giving away free-of-charge literally tens of billions of dollars of American taxpayer assets without compensation to those taxpayers, at a time of deepening concern about the impacts of the federal deficit on our nation's fiscal future.

We instead support current law as articulated in Section 102(a)(1) of the Federal Land Policy and Management Act (FLPMA) that, "the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest" (43 U.S.C. 1701(a)(1)).

It is important to understand that this landmark statute received broad bipartisan support from Republicans and Democrats, including Members from all points of the compass, including especially the western states. In fact the primary sponsors

and architects of the policy of western public land retention in federal ownership at the time of enactment were western Members of Congress, who held numerous public hearings over several years during the law's development. The law itself was based on the recommendations of the bi-partisan Public Land Law Review Commission, which was comprised largely of representatives from western states. So, to state in the findings of H.R. 2852 that, "The United States has broken its solemn compact with the Western States and breached its fiduciary duty to the school children who are designated beneficiaries of the sale of Federal land under the terms of the respective enabling Acts of the Western States," is simply not the case and a misreading of the history of the issue of federal public land retention.

By this logic, one could equally argue that any Member of Congress from the State of Utah who sponsors this legislation is breaking Utah's "solemn compact" with the United States of America by proposing such legislation because Utah's enabling statute states that, ". . .the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof. . ."

Now it is easy to see from any land ownership map of Utah and many other western states that state and federal land ownership patterns do not necessarily provide for the optimal management of either the state lands or the federal lands. That is why FLPMA also provides for federal land disposals and exchanges. And though such exchanges between the federal government and the western states can be fraught with difficulty, state/federal land exchanges have occurred over the years to the mutual benefit of the states and the federal government—including some successful ones sponsored by members of the Utah Congressional delegation that have benefitted both Utah and the citizens of the United States. In fact, I understand that members of the Utah Congressional delegation are considering some land exchange proposals even now.

In addition, there are other, better ways to enhance the revenues the western states already receive from federal revenue transfer programs. For instance, the current federal royalty rate for oil and gas extracted from public lands is only 12.5 percent, significantly below the royalty rates charge by many western states. For example, Wyoming charges a 16.66% royalty on oil and gas extracted from state lands, plus a 6% severance tax for an effective rate of over 20 percent. Since the federal government splits oil and gas royalty receipts from operations on federal public lands 50–50 with the western states, increasing the federal royalty rate to, say, 20 percent would be of obvious benefit to both American taxpayers and the treasuries of the states where oil and gas production occurs on federal lands.

In conclusion, our recommendation is that, instead of promoting a bill like H.R. 2852 which unnecessarily perpetuates conflicts, misunderstandings, and gridlock over the status and management of America's public lands and national forests, the sponsors of this legislation should change direction and seek out practical solutions to the nettlesome issues of federal/state land and resource ownership patterns. It does take time and patience to arrive at solutions to these complicated issues that serve the interests of all stakeholders. But, Congress has done this in the past—there is no reason it cannot be done in the future.

Thank you.

Mr. BISHOP. I appreciate the witness' testimony. We will now turn to our phase of questions. I will turn to the Chairman of the full Committee, Mr. Hastings, if you have questions.

Mr. HASTINGS. Yes. For Mr. Sherman. I did not see it in your written statement, but in your oral statement you suggested that you are working on some NEPA reforms to streamline the process. Did I hear you correctly?

Mr. SHERMAN. That is correct.

Mr. HASTINGS. Does that take congressional approval?

Mr. SHERMAN. No. The reforms that we are looking at are ones that I believe—

Mr. HASTINGS. Well, let me ask you, you say it does not take congressional approval.

Mr. SHERMAN. That is correct.

Mr. HASTINGS. When are you going to have them done?

Mr. SHERMAN. Well, we are implementing some right now and we are working on others.

Mr. HASTINGS. But do we have what you are working on here? Are you providing that to our Committee?

Mr. SHERMAN. I would be happy in greater detail to provide an explanation of the range of modifications and improvements that we are making to the NEPA process. I would be happy to do that, Congressman.

Mr. HASTINGS. How soon can you get that to the Committee?

Mr. SHERMAN. We can get it to you within the next few weeks, if that is acceptable to you.

Mr. HASTINGS. Well, the sooner, the better. OK.

Mr. SHERMAN. Thank you.

Mr. HASTINGS. OK. Thank you. Mr. Stahl, you said in your written statement, in your written testimony, that the Secure Rural Schools bill would require the secretary to cut beyond the sustained yield. In my state of Washington, and I alluded to this in my opening statement, they manage their timber land on a sustained yield principle, the same thing, I assume, that you are talking about. In Washington State they manage about 2.2 million acres which generated \$168 million to their requirements. In Washington State the Federal Government owns nine million acres that generates \$13.4, so it is kind of just a reverse. How can you say, then, that this bill would make somebody manage beyond a sustained yield?

Mr. STAHL. As I pointed out, it varies national forest by national forest.

Mr. HASTINGS. I understand that. I am talking about Washington State, and I am talking about Federal forests in Washington State. I am making a direct comparison between those two—

Mr. STAHL. Yes.

Mr. HASTINGS.—if you have that. So how do you say that?

Mr. STAHL. In Washington State at current timber prices—

Mr. HASTINGS. No. No, no, no, no, no. Wait, wait, wait. That is going to vary what the prices are anytime. Prices go up, it is going to be the same price that is going to go down. I am talking about generating something like 700 percent more on one-fourth of the land. So how can you say that this would require beyond the sustained yield?

Mr. STAHL. Sustained yield is calculated on a national forest by national forest basis.

Mr. HASTINGS. I am asking about Washington, and I am comparing Washington. Tell me where I am wrong on what I am asking you.

Mr. STAHL. Because you are talking about timber amounts, not revenue amounts.

Mr. HASTINGS. No, I mentioned revenue. I mentioned revenue here. What I mentioned is what the Department of Natural Resources in Washington State generated, \$168 million on 2.2. You are generating \$13.4 on nine.

Mr. STAHL. I am not generating it, the Forest Service—

Mr. HASTINGS. Somebody is.

Mr. STAHL. Right.

Mr. HASTINGS. All right.

Mr. STAHL. In large part it is because the Forest Service has a different objective in choosing which trees to cut. The Forest Service cuts trees for wildfire risk reduction.

Mr. HASTINGS. I apologize for—we are talking about sustained yield, and the idea of the Secure Rural Schools bill is to build revenue by having commercial activity on Federal lands—sustained yield. We are comparing apples and apples. Yet, you say it is beyond. I am getting frustrated because you are not telling me why Washington State can do so much more on lands that are comparable to the Federal Government.

Mr. STAHL. It has different lands and different objectives than the national forests do. That is the reason why.

Mr. HASTINGS. Well, I find that hard to believe because there are state lands that are right next to national forest lands in Washington State. Those that do not yield as much are the same, so I—well, Mr. Chairman, obviously I get frustrated when I hear somebody saying this testimony when the facts, particularly in Washington State, suggest exactly the opposite, so thank you very much and I yield back.

Mr. BISHOP. Thank you. We will probably have another round for you as well. Mr. Grijalva?

Mr. GRIJALVA. Thanks very much. Mr. Alberswerth, on the APPLE initiative, we have heard testimony today that speaks to the allegation that all the Federal land is not being used effectively and it is not being turned over to the states as per enabling legislation or whatever. One of the things, according to official statistics, sir, at one time in the history of our Federal Government, our nation owned 1.8 billion acres in this country. That was about 80 percent of the land mass. Over time, about 1.3 billion acres of that total have left Federal ownership. So the feds at one time owned 80 percent, now they own 30 percent. To me, that sounds like the Federal Government has used Federal land, particularly in the West, very, very effectively in order to settle the West. Would you agree with that assessment on the percentages?

Mr. ALBERSWERTH. I think that the percentage is approximately correct. I believe it is a little bit less than 30 percent now.

Mr. GRIJALVA. There will be some other rounds, but could you describe some of the Federal programs which send, Mr. Sherman, revenue from public lands to states. They include PILT, Secure Rural Schools. There are others. If you could maybe at least list those.

Mr. SHERMAN. Well, there are, and I will have to get back to you on the specifics of this, for example, I believe mineral royalties are shared to a certain extent with the states right now. This is more in the purview of the Department of the Interior than Department of Agriculture. There are obviously all kinds of programs.

Mr. GRIJALVA. Well, there are direct economic payments and then there are indirect benefits that come from the Federal lands, and jobs, economic development, tourism dollars, all that.

Mr. SHERMAN. Yes.

Mr. GRIJALVA. States get a share of the revenue from oil and gas, and mining and grazing on Federal land. What would happen if the Federal Government began to charge market rate for these activities or began to charge a royalty on mining, for example, which

does not exist. Is that one way to get direct payment and direct contributions of revenue to these states?

Mr. SHERMAN. To charge additional royalties? Is that what you are suggesting?

Mr. GRIJALVA. And to charge royalties where no royalties exist.

Mr. SHERMAN. Well, it would be a way to generate additional revenues. I think you would have to obviously determine what the impact of that would be on the production levels that occur in those states.

Mr. GRIJALVA. And I think one other. Let me follow up, Mr. Sherman. Much was made about the levels of timber production in the 1980s and 1990s compared to now. What has happened to timber prices over that period? We keep using that 1990s comparison, 1980s, 1990s, to right now. What happened to price?

Mr. SHERMAN. Timber prices have changed dramatically over the past 20 years. I think today approximately the price for 1,000 board feet would be somewhere about 30 percent of what one could have achieved 20 years ago. In certain regions of the country that differential is even greater. It is probably an 80 percent difference. So there has been a precipitous drop in the value of timber and we are probably near an all time low.

Mr. GRIJALVA. With reference to the Headwaters economic study that maintains that at current SRS payment levels timber cut levels would need to increase 259 percent to achieve the value of timber receipts generated between 1980 and 2000, and the cut levels would need to increase by 745 percent, Mr. Sherman, is the 259 percent increase in cuts desirable, and is it even possible to reach a level of a 745 percent increase?

Mr. SHERMAN. Well, it would obviously be extremely difficult to reach those levels, and one of the reasons it would be difficult to reach those levels is that today the cost of producing timber is greater than the revenues that are received so there is a budgetary impact and in order for the Forest Service to oversee and administer these programs, we simply do not have the resources to accomplish that because in most cases across the country, not in all cases, but in most cases, our budgets have to supplement timber sales so that the work can get completed. The work is not just removing the timber. The work relates to a lot of other factors that go into any sort of timber sale or stewardship contract.

Mr. BISHOP. Thank you, Mr. Grijalva. Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman, for holding this important legislative hearing on a very important solution to update the Secure Rural Schools program. I represent southeastern Ohio which is home to the Wayne National Forest, and while the counties in my district may not receive the same level of payments that the counties in my colleague's district from out west do, these payments are still an important revenue stream for my counties. Our country is at a cross-roads when it comes to our debt crisis and it is clear that the new formula authorized for the program through the 2008 TARP bill is not sustainable as we in Congress look for ways to reign in the Federal debt. This draft legislation would help create a dependable stream of revenue for the counties that depend on the funding, while also setting a goal for annual revenue from timber receipts.

Furthermore, this legislation would begin to roll back some of the red tape that is slowing down timber production in this country. As a 26 year plus veteran of the United States Air Force, this proposal is the type of common sense idea that seems to be missing from our nation's energy strategy. In the Air Force we would plan, set goals and then go out and meet our mission objectives to exceed those goals. This draft legislation seems to set those goals for the Forest Service to meet timber production goals across the nation. This legislation also begins to make it easier for companies to receive the permits necessary to begin timber production. Time and again this year this Committee has heard from companies that they were not able to get the environmental permits needed to go forward with job creating projects.

This legislation would allow for an expedited review process to help kick start timber production. Not surprisingly, the Administration and the Department of the Interior have testified against these common sense reforms. All year we have heard no from Interior officials, which I have begun to refer to, by the way, as the department of no. We hear them say no to such common sense reforms like this that would speed up responsible development of America's natural resources. Instead of a department of no, this Committee and America needs a partner at the bargaining table to engage in serious debate to get a solution that satisfies all parties involved and breaks the status quo. So I do have a couple of questions. Mr. Swanson, in your testimony you spoke of the red tape and administrative efficiencies that you see with the Forest Service. Can you give us an idea of how much time and money your company spends on regulatory and legal hurdles?

Mr. SWANSON. The bulk of those costs are incurred by the agency in the preparation of the sale and things, overreaching regulations, like survey and manage, for example, where they are required to go out there and on each and every project search for, literally get on their hands and knees and search for over 300 different species, including moss and you name it, on a very small fraction of the landscape. Those are the kind of things that have increased the cost of preparation of a timber sale that do not exist on private land or on state lands, and that is the reason why the Forest Service return has dropped by 30 percent. When you look at what the cost of that log is delivered to a mill, in the 1980s, you know, when it was delivered to a mill it was \$300 per 1,000 board feet. Today it is \$600 per 1,000 board feet. It is the preparation that has caused the problem, and it is the logging systems and the lack of productivity once the project is completed that has caused the revenue to drop. You cannot have a timber sale where the volume removed is so small that the cost of removal becomes so large that there is nothing left for the land owner, in this case, the Federal Government.

Mr. JOHNSON. All right. Well, thank you. Commissioner Walter, you testified about Title I payments being offset by state funding in the past. Can you comment on the importance of sending Title I payments directly to rural schools without being offset by state funding?

Mr. WALTER. Well, absolutely. Our local schools, the way the State of Washington has been handling it is they just put the

money into the state school fund and then it goes out by the formula, so our local rural schools do not directly benefit from that revenue. All schools, just like all local governments, as well as the Federal and state government, are looking at budget cuts so our local schools are being penalized.

Mr. JOHNSON. OK. Well, thank you very much. My time has expired, Mr. Chairman. I yield back.

Mr. BISHOP. Thank you. Mr. DeFazio?

Mr. DEFAZIO. Chairman, we are going to have more than one round, right? Hopefully. OK. Because I have a lot of questions. Mr. Sherman, first, I do want to start out, because your agency often does not get thanked, I do want to thank you and your agency. Earlier this year I contacted the agency. We had some timber under the Rustler Project available on the Rogue Siskiyou Forest, but there was nobody to lay out the sales. It had already been through all the environmental approvals and everything else, but they just did not have people to do it and your agency did find some additional funds so that we can go ahead and let those sales. It is particularly important in southern Oregon, as Mr. Swanson can testify. So I want to start there. I am going to ask you the same question I asked Mary Wagner, the Associate Chief. You know, the President did propose, as he did promise as a candidate numerous times, that he would find some long-term solution to the Safe and Secure County Rural Schools Act. He did propose in his budget this year that this be funded at a level of \$450 million. Unfortunately, it appears that the \$450 million is supposed to come out of your budget. I asked Deputy, or Associate Chief Wagner where the money was going to come from and she just kind of said, well, we were hoping you knew. Are there ongoing active discussions at the Administration on how you might fund the continuation of this program?

Mr. SHERMAN. Congressman, I think the Administration is certainly willing to have a dialogue with this Committee and Congress over what the appropriate source of funding for this program would be. In the President's budget it is funded on a discretionary basis out of four service funds, but we are willing to talk to you about where the best source would be. It potentially could be from a mandatory source or it could be from the Forest Service budget. I think we have to determine this on a bipartisan basis working with Congress.

Mr. DEFAZIO. Well, I would suggest that, you know, and I did support the President's initiative this week on the Buffett rule on taxes, and when the President, you know, is forceful and pushes an issue that I think is good for the country and good for the budget and all the problem is confronted, I support him. In this case, I have to say I am pretty disappointed that we are now at this point and you are willing to have a dialogue. I mean, so you have no proposals or ideas. I mean October 1, the last payment. I just had one county notify the Governor of my state, Curry County, that if their initiative on the ballot to increase property taxes fails, and the last one failed by a margin of three to one, that essentially the county will have to dissolve. They will be incapable of meeting their basic state mandatory requirements. There will be no deputy sheriffs, there will be no jail, there will be no public health in a very large

area, and this is likely to occur in other counties in my district. This is something that needs urgent attention.

Mr. SHERMAN. Congressman, we agree with you it does need urgent attention. The problems you are raising are real problems and we are prepared to sit down as soon as possible with this Committee and others to talk about how we achieve that end goal.

Mr. DEFAZIO. I am not going to ask you about the O&C lands. That is not your jurisdiction and I will get to that with other witnesses in my second round. On the Forest Service lands, I just went back and looked at the history, the highest level of harvest ever was 12.7 billion board feet. I do not think, you know, I do not even believe this bill would propose we go back to that, but let us just say that we went to levels of 12.7 billion board feet referring to the beginning of my questions. As I understand it, it costs the Forest Service \$111 per 1,000 board feet, and Steve would say that a number of that is due to the requirements put on you, but I understand the industry, it costs about \$80 1,000 board feet on private lands. If you got the \$80 1,000 board feet, and just roughly figuring this out, it looks like it would cost you a little over \$1 billion to produce that timber, which of course is considerably more than continuing county payments. Is that accurate?

Mr. SHERMAN. That is accurate. I mean I do not know the exact details, I would have to examine the figures you are mentioning, but right now, again, the cost of these timber sales far exceed the revenues. This is in part because of the very low prices that you can get these days for timber.

Mr. DEFAZIO. Well not, actually, that is not totally true in our region. I see my time has expired but I would like, and I will provide maybe a more specific question, but I would like the agency to follow up on their costs, compare their costs to industry costs, but give me, you know, bottom line on both what it would cost to produce that much timber. Just my rough calculation is it would cost twice as much as the current payments, which means maybe we ought to just find the money in your budget. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you, Mr. DeFazio. You will get another shot at these guys, too. Mr. McClintock?

Mr. MCCLINTOCK. Well, Mr. Sherman, I would like to follow up on Congressman DeFazio's line of questioning. We have the same situation in my region. When you say, well, this is because of the decline of lumber prices. The decline of lumber prices is significant but we just last year had several mills close in my district and they were very clear on the reason for the closure. It was not because of the economy, it was because they could not get enough logs to justify keeping these mills open. Each one came with about 300 jobs destroyed, a spin off factor of about three to one. These are small communities. This is absolutely devastating to them. It concerns me when an official of the Forest Service comes before the Subcommittee directly responsible for this conduct and is told do not worry, it is just the market. Well, it is not just the market and that has been very clear, and anybody who has been following these issues, even tangentially, should know that. I find it disturbing that you would come here and make that kind of representation. Do you want to modify it?

Mr. SHERMAN. Congressman, I think the market is one factor, but there are other factors as well and I would be happy to amplify with some of those other—

Mr. MCCLINTOCK. The principal factor that was cited in these mill closures was the dwindling supply of timber coming from Federal lands. Now, if you look at the District of Columbia, the seat of our government, with all of its government buildings and government parks, the sprawling Mall, the museums and all of the government buildings, the Federal Government owns about 25 percent of the land area of the District of Columbia. It owns 70 percent of Plumas County in my district. It owns most of the service area of most of the counties in my district. When we were managing that land in a sustainable manner it supported a thriving economy. We were the heart of the gold country. Sutter's Mill is in my district. Now we have gold mines that have been operating under several generations for 100 years closing down their operations not because of the falling price of gold, but rather because the Forest Service refuses to act on their permits.

It is not telling them no, it is simply refusing to act on them. We had thriving timber harvests and now we are facing mill closures across the district. We had thriving grazing operations that are now being forced off of the Federal lands by continual bureaucratic harassment by your department. Recreation and tourism. I have Lake Tahoe in my district and yet you are doing wholesale road closures throughout the forests that are absolutely essential to tourism, not to mention refusing to grant permits to community events that have been going on for generations and that a lot of these small towns depend upon for their tourism. I have to ask you, if you are not going to relinquish these lands, what are you going to do to use this tremendous asset that you are sitting on to restore prosperity to these communities?

Mr. SHERMAN. Congressman, in my opening statement, I did outline I think a variety of very affirmative, positive steps that the Forest Service is taking to increase our production of timber on Federal lands.

Mr. MCCLINTOCK. But you are not increasing it. It has declined.

Mr. SHERMAN. We, in fact, are increasing it, Congressman.

Mr. MCCLINTOCK. Sir, I am sorry, but in our region it has actually declined.

Mr. SHERMAN. Well, I will double check the figures in your region but in the last two years the Forest Service sales and production on Federal lands have increased. We have been able to reverse this downward trend.

Mr. MCCLINTOCK. We cannot even get fire, salvage fire killed timber because the litigation delays the process beyond the period where that timber can be salvaged.

Mr. SHERMAN. Well, there are improvements on the litigation front as well. We are seeing a decrease in litigation, we are seeing a significant decrease in the amount of timber sales that are appealed. I believe we are making progress on a number of fronts.

Mr. MCCLINTOCK. Well, that is because there is a decrease in the timber sales.

Mr. SHERMAN. No.

Mr. McCLINTOCK. I would invite you to come to a little county, like Plumas County, of which you own 70 percent. You are the lord of the land in Plumas County. They are suffering 20 percent unemployment and complaining bitterly about your department's conduct as the landlord for their county.

Mr. BISHOP. Thank you, Mr. McClintock. Mr. Labrador?

Mr. LABRADOR. Thank you, Mr. Chairman. Mr. Sherman, how does the Administration view the SRS program at this time? Do you think it should be a permanent program, in your view, or transitional, as it was originally intended.

Mr. SHERMAN. We believe the Secure Rural Schools program is an important program, but this is a program which was meant to phase out over a period of time when we could find alternative ways of supporting rural schools and counties. We continue to believe that we need to find that alternate approach. In the interim, though, because of the importance of this program to counties and schools, the President has proposed a five year extension of this program.

Mr. LABRADOR. If you think it is transitional, or it should be, you call that an alternate approach, what should that alternate approach be?

Mr. SHERMAN. Well, I think there are a variety of solutions here that we need to consider. There may be some other ways for the Federal Government to provide assistance to these local communities. We need to discuss how we can increase certain productivity on Federal lands, such as you are doing today. There may be other ways to discuss how we can create and assist rural communities with economic development activities. So there are a variety of ways that need to be explored. I think we need to do this clearly on a bipartisan basis and try to come up with a permanent solution.

Mr. LABRADOR. So obviously you agree with us that, you know, we have a deficit and budget situation at this time and there are constraints that we are dealing with and we are facing at this time. So you do agree that there should be a revenue stream from our public lands that must be part of this equation.

Mr. SHERMAN. Absolutely. You know, public lands are an important way to provide revenue to local communities. The public lands also, though, I should mention, have multiple uses. Some of these uses are economic uses and some of them are noneconomic uses. So we have to find a balance that works for all Americans.

Mr. LABRADOR. Do you think that revenue streams should come now during whatever—you know, I do not know how long we are going to extend it, if we are going to extend it at all, but let us say we do a five year extension like you are suggesting. Should there be revenue ideas coming at this time so we can start using different pilot projects or things like that?

Mr. SHERMAN. I think we have to, across the board, explore ways to provide revenue streams, to provide jobs, provide economic opportunities for rural communities. Some of these will relate to timber production, some will relate to hazardous fuel reduction, nonrenewable energy opportunities, other energy opportunities, recreation, tourism. There is a variety, a panoply of possibilities here that need to be constantly explored and investigated. These

solutions do not work overnight. They take time to develop. We are going to have to work collectively to try to come up with an approach that works for rural America and the West.

Mr. LABRADOR. What is your agency doing right now to help these communities provide revenue streams?

Mr. SHERMAN. Well, one of the things that we are doing that I am very proud of is that we are working very hard to set up collaborative efforts within these communities to identify projects where everyone can agree going forward. We, I think, have been very successful in people coming together who never worked together before but now they are. They are exploring ways in which to work together on particular timber sales, or recreation projects, or energy projects. This is a very important development. I mentioned to the congressman that the level of appeals, the level of litigations have decreased recently, which I think is a reflection of that. We are working on larger landscape scale projects which are more efficient where there is greater output. We are working on partnerships with local partners to how they can join us to jointly explore the development of a project, to help us to fund projects. So there are many ways we can do this, and I believe the Forest Service is working very hard to explore these ways.

Mr. LABRADOR. You know, several Idaho counties, which I represent the State of Idaho, have developed an alternative proposal to the SRS payments that they call a community forest trust and are asking us to approve a pilot project on this concept. I know they have sent a copy to the Forest Service for suggestions, and also to seek technical assistance in some of the practical details. Have you seen this proposal?

Mr. SHERMAN. I have not, but I would be happy to look into it and get back to you.

Mr. LABRADOR. So if we get that to you, you will get back to us and give us some ideas?

Mr. SHERMAN. I would be happy to do that.

Mr. LABRADOR. Thank you.

Mr. BISHOP. Thank you. Let me ask a couple of questions as well. Senator Urquhart first. As was indicated by my colleague here, at one time, 80 percent of America was owned by the Federal Government. My guesstimate would be to you that perhaps those were in the territories of the United States was owned by the Federal Government, not the states.

Mr. URQUHART. Well, you start with the northwest ordinance. The United States owned lands in just about every state other than the original 13, Tennessee, Texas, and, as you say, Hawaii. You know, the bit that the territory to become a state would relinquish title and claim to the Federal lands, that goes back to all of our states, and so then the Federal Government would sell off those lands. So this is not anything wonderful to celebrate, that the Federal Government has honored its obligation in a number of states, but it decided to breach its obligation when it came to the western states.

Mr. BISHOP. So it is true that they had close to 80 percent of the territory and that was a funding mechanism for the Federal Government. In the 1830s we hit a high of 24 percent of all Federal revenue came from sale of lands in the territories. It is also kind

of cool that in the 1840s the Federal Government tried to hold on to the land in Alabama once it became a state and the Supreme Court said since you cannot do that in Georgia, you cannot do it in Alabama. Once it becomes a state the Federal Government actually has to go back to the Constitution as to what lands it can actually hold. It would not be nice if precedent were to change that way. Senator Urquhart, in the State of Utah with the large growth rate that is coming in the school systems, what sources of revenue do you have for paying for those number of kids coming in, sans something like this?

Mr. URQUHART. Well, I mean we have the property tax, which again, not much of our property is on the tax rolls, we have sales tax, we have income tax. You know, we tax heavily. It is absolutely ridiculous to me that we live in a nation that has spiraling debt, we desperately need jobs and we have resources that we cannot tap. If we could eat collaboration, if we could pay our bills with collaboration, I get the feeling we would be set, but unfortunately, we need jobs, we need resources, and that is what Utah needs to educate its kids.

Mr. BISHOP. Thank you. Mr. Sherman, I understand you once served on the Colorado Oil and Gas Commission. Colorado requires, or receives, oil and gas receipts and revenue sharing from those Federal lands in Colorado. If the Federal restrictions and policies drastically reduced those receipts, do you believe it is the taxpayers' responsibility to replace that funding?

Mr. SHERMAN. Are you saying if restrictions—

Mr. BISHOP. If the Federal Government cut off the money that you naturally get, is it the responsibility of the taxpayers to replace that? This is a yes or no thing here.

Mr. SHERMAN. Well, it is hard to, I am not quite sure I understand the question.

Mr. BISHOP. Well, we will continue the dialogue. We are doing a great job with your department on that. Mr. Walter, Commissioner Walter, if I could ask you how significant SRS flexibility would be for local government if indeed we are going to have changes in the scale of money that comes to you, maybe even the process, flexibility to put those where you need to put them. How important is that?

Mr. WALTER. Well, I think that is very important. To put it in perspective, like I mentioned, we have 80 percent of our land base in Federal ownership. If you take the other public ownership, we only have 13 percent of our land base in private ownership. The Federal payments make up about three percent of our total revenues. That is significant in a \$30 million budget, but sometimes, you know, having those funds restricted, we are struggling to meet priorities. For instance, we use about \$60,000 of Title III funds to address search and rescue. As of the first of July, our bill for search and rescue exceeded \$100,000. So, you know, it just would help us, I think, do a better job in meeting and responding to the changes as we see them.

Mr. BISHOP. I appreciate that. Mr. Sherman, I will ask you to comment because this was another question to ask you about. What other means does the Federal Government have of supplying revenue toward states? I will just give you some statistics and ask

for your comment on that. I have 30 seconds to get this done. I apologize for being so short. The bottom line is, you know, even with the Federal presence in the State of Utah, you do not add much to our economy. The last year for which I have figures, the Federal expenditure per capita in Utah is 77 percent the national average, which means in Utah we got \$4,338 per capita while the national average was \$5,666 per capita, which means we are being—the eastern states that have all their land and develop them actually get \$1,300 a month per capita more than we do living in the West. Do you want to respond to that?

Mr. SHERMAN. I would like to have an—

Mr. BISHOP. Actually, let me give you a chance to respond to that in the next round that I have because I am over here, and I apologize. I will let you think about that. You are not adding much to our economy. Why do you add more to the eastern economy than you do the western economy even though you have all our land? With that, Mr. Grijalva, do you have another round of questions?

Mr. GRIJALVA. Thank you, Mr. Chairman. Mr. Sherman, the discussion draft would allow counties to sue in cases where they feel the Forest Service is not generating enough revenue. What are the dangers in this kind of approach, basically turning Secure Rural Schools into an entitlement program where the beneficiaries can sue the Federal Government?

Mr. SHERMAN. Congressman, I am concerned about that provision because there may be many factors beyond the control of the Forest Service in terms of providing a certain level of receipts or revenues. Prices, markets, certain types of regulations, lawsuits, you could go through a whole variety of possibilities where the Secretary could simply not deliver the level of revenues that are projected. So, yes, that concerns us.

Mr. GRIJALVA. Thank you. Mr. Stahl, your written testimony points out that this is not really a trust proposal because it contains no requirement where the asset, the asset being the national forest, be preserved or protected. In fact, given the mandatory targets, could not the proposal lead to an unsustainable harvest of the forest so its trust that will guaranty the loss of its only asset?

Mr. STAHL. That is right. By setting up a revenue target that is mandatory, that has to be met, the Secretary is compelled to do anything on the national forests that is necessary to meet those targeted revenues, and at the same time this bill eliminates all of the environmental restrictions, eliminates the sustained yield law, eliminates competitive bidding, eliminates advertisement of timber sales. So it removes any legal constraints on what the Secretary might have to do except—

Mr. GRIJALVA. To meet the target.

Mr. STAHL.—to meet the target. That becomes the only legal requirement enforceable by the counties.

Mr. GRIJALVA. In your written testimony you also indicate that there could be harmful effects from the proposal, harmful impacts to stewardship contracting. Can you quickly elaborate just a bit on that?

Mr. STAHL. Stewardship contracting, which is used to minimize wildfire risk, is financed out of the value of the timber that is traded to the contractor for performing services in the woods. This bill

requires that timber value to meet the mandatory revenue targets for the counties, thus depriving stewardship contracts of their funding.

Mr. GRIJALVA. So you could actually harm efforts to reduce the risk of wildfire.

Mr. STAHL. You would almost certainly have to do that because to meet these revenue targets you would have to harvest the more valuable trees, which tend to be the most fire-resistant, and you would have to leave the least valuable trees because you cannot afford to take them out and meet the target, which tend to be the most fire-prone.

Mr. GRIJALVA. Thank you. Mr. Alberswerth, some of the testimony we have heard today claims that Congress somehow broke a promise to the states with the passage of the Federal Land Policy and Management Act of 1976. Specifically, the claim is that the Act stopped Federal land sales. That is not true. In fact, isn't Section 203 of the Act entitled sales?

Mr. ALBERSWERTH. Yes, sir, it is.

Mr. GRIJALVA. And so land sales was still allowed under Federal law and the same law also allows other forms of land disposals, such as exchanges, is that correct?

Mr. ALBERSWERTH. That is correct.

Mr. GRIJALVA. So what the APPLE initiative seeks to do is, you know, we heard from the colleague, the Senator, that some of the lands went to the states, like Utah. We also heard about some selective referencing to Utah's statehood agreement, but so far no one has mentioned that about becoming a state, Utah received more than six million acres of Federal land for things like schools, hospitals and courthouses. So I think as we go forward with both legislation that one of the things that we really do need is a factual basis of the discussion as to what is really available, what is the revenue stream that is realistic and the issues of royalties on mining, the issues of increasing royalty demands of other extractions on the public lands as an additional source for the states to be able to use on their schools and as a revenue source for those counties. I think those have to be equally explored as much as we are exploring this particular discussion today. Thank you, Mr. Chairman. I yield back.

Mr. BISHOP. Thank you. Mr. Labrador, do you have another round of questions? Mr. DeFazio, you are up?

Mr. DEFazio. Thank you, Mr. Chairman. Mr. Swanson, I would like to pose something to you. My major focus here is on the O&C lands which are statutorily and physically unique and management-wise, they are managed by the BLM and not by the Forest Service. I have been meeting with other members of the delegation and proposing that we move forward with a true trust, a fiduciary trust, for these lands. I think you are a little bit familiar with what we have proposed or what we have tentatively proposed. It is not in any way in final form. In a long-term solution do you think there is an opportunity to provide something on those lands that could bring all the stakeholders to the table? I mean you live there, you know the area. You know, what I would propose, that the industry gets a more predictable volume. Generally, they would be smaller diameter trees, which I think you are pretty well set up to process.

The counties, as I referenced earlier, are looking at an economic precipice of, you know, not even being able to provide the most basic mandatory services under state law. They would get a permanent source of revenues. Then the conservation community would get two trusts, one a conservation trust and one a timber trust, and would get permanent protection of the most sensitive lands. Do you think there is a way we could work this through?

Mr. SWANSON. Well, I think there certainly is a way we can work it through. As always, the Devil is in the details. You would have to get out on the ground and decide what portions were going to be preserved, what portions were going to be used for timber production, and it is a simple mathematical calculation that the more you set aside, the more intensely you will have to work on those that are not set aside. You know, we certainly stand willing to work with you on that proposal or any variation of that proposal.

Mr. DEFAZIO. Thank you. Mr. Stahl, I know that you are familiar with this idea. In fact, I think you proposed an iteration of it. Would you want to address essentially that same question? Also, very quickly outline major differences between what you have proposed, what you understand that I and the other members of the delegation might be proposing and the proposal regarding Forest Service lands here.

Mr. STAHL. The major difference is that the Committee's proposed bill does not have any land in the trust. It defines the trust as a revenue stream, as a fund. The proposal that the Oregon delegation is discussing would define two trusts to be land. That would be what would be held in trust. The trustee's obligations would be to the land and the revenue stream that results from management of that trust would go to the counties, and the trust that would be protected land to provide other services, such as recreation, and wildlife habitat, and water quality and the like, those lands would be preserved. Their financing would come out of a portion of the timber trust revenue. One of the biggest differences between your proposal and the Committee's is your proposal does not cost the Treasury a nickel. The Committee's proposal threatens to cost the Treasury an untold amount of money to meet these revenue targets.

Mr. DEFAZIO. OK. I mean there is, I think, a few other major differences. You know, the delegation has not proposed that we suspend all environmental laws and all due process in order to move forward with this. Do you think that would be necessary to move forward with the trust proposal, to do what the Committee is proposing on Forest Service land?

Mr. STAHL. I do not see any way that the Committee's proposal can reach revenue targets comparable to the Secure Rural Schools payments without the, for lack of a better word, radical proposal to eliminate 30 years of environmental loss.

Mr. DEFAZIO. OK. Thank you. So, Mr. Chairman, I did not get an opening statement and I have one for the record. I am continuing to work with my delegation. The O&C lands are totally statutorily unique and we hope to be able to present the Committee with a thoughtful proposal that has support of all the stakeholders which would include, you know, obviously the folks who live there, my county commissioners, the industry and conservation groups.

We are working as quickly as we can, and we appreciate the potential opportunity to provide that for Title II. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you, Mr. DeFazio. All Members have the ability of putting a statement in the record. I appreciate also. Looking forward to your comments on the O&C land issues in that portion of it. Mr. Stahl, let me ask you one last question. Your testimony questions the nature of the trust proposed in this legislation on the grounds that the trust is not based on real property. Do you believe the legislation should instead identify a specific amount of Forest Service land to be put into the trust for the counties as you were proposing for BLM land in western Oregon?

Mr. STAHL. I think that is an interesting question. I would look forward to seeing such a proposal from the Committee if you wanted to put it out.

Mr. BISHOP. So you think it ought to be done?

Mr. STAHL. My testimony focused on what you did.

Mr. BISHOP. So do you think it ought to be done?

Mr. STAHL. I would be fascinated to see it. One thing you should recognize is—

Mr. BISHOP. Well, maybe we can engage in some of the discussions with the Forest Service that are ongoing as well.

Mr. STAHL. I think that would be great.

Mr. BISHOP. Go ahead.

Mr. STAHL. Well, what differentiates the O&C lands, for instance, from lands in your state is the incredibly higher productivity of O&C lands for growing timber. If you want to set aside timber growing lands, in most of the interior western states, those lands will lose money.

Mr. BISHOP. Thank you. That is why we look to the BLM as well for the addition to that. Mr. Alberswerth, can I ask you one last question? Is there not precedent for states selecting territory? Let me give you a specific example. The State of Nevada when they were able to get their school trust lands were given the authority to select the lands they wanted to be part of those state school trust lands. Is that not precedent for the idea of states actually being able to select lands for certain public purposes?

Mr. ALBERSWERTH. Well, I think the best way to deal with the situation in your state is to do—

Mr. BISHOP. No, no, no.

Mr. ALBERSWERTH.—land exchanges of the sort that—

Mr. BISHOP. No, no. Come on. Come back to the question I asked. It is a nice answer, but it is—

Mr. ALBERSWERTH. Is there precedent for that?

Mr. BISHOP. Is there not precedent for doing that? The answer is yes. You cannot give me another answer. The answer is yes because we have done it.

Mr. ALBERSWERTH. Well, you have just answered your own question.

Mr. BISHOP. Thank you.

Mr. ALBERSWERTH. I am not sure it is relevant to what we really need to do here.

Mr. BISHOP. It was a darn good answer, too. I appreciate all of you having been here for these questions. We will continue discus-

sion on the SRS issue, we will continue discussion on APPLE because the western states deserve to be treated fairly, and we deserve to stop harming kids in the West, which is, Mr. Sherman, the one message I want you to take back to the Forest Service Department. Quit hurting kids. With that, we are adjourned.

[Whereupon, at 11:50 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

**Statement of The Honorable Peter DeFazio, a Representative
in Congress from the State of Oregon**

Thank you Chairman Bishop and Chairman Hastings for this opportunity. And thank you for organizing this hearing on such an important topic.

I want to welcome the witnesses, two of which are from my district. Steve Swanson, President of Swanson Group, and Andy Stahl, Executive Director of FSEEE, know these issues as well as anyone. I know they will provide very useful and informative testimonies to this Committee, although, maybe from slightly different perspectives. Steve and Andy, and to the other witnesses, welcome and thanks for being here.

Most of today's hearing will focus on Title I of Chairman Hastings' draft bill. Title I applies exclusively to the management of national forest lands and the United States Forest Service.

However, I would like to take a moment to talk briefly about Title II of the draft bill, entitled "Other Federal Forest Lands." For the last several months I have been working with Rep. Greg Walden, Rep. Kurt Schrader, Governor Kitzhaber, and other members of the Oregon Delegation on a proposal I hope to eventually include in this section. And I appreciate the willingness by both Chairman Bishop and Chairman Hastings to work with me and the Oregon Delegation on this proposal.

The proposal I am working on is for a unique set of lands in Western Oregon, called the O&C Lands. They consist of 2.4 million acres of checkerboard forestland and are managed by the Bureau of Land Management. The O&C Lands are not national forests. In fact, the O&C Lands are managed under a special statute, called the O&C Lands Act of 1937, which specifies that the 2.4 million acres shall be managed to provide for permanent timber production through long-term sustained yield forestry to help support local communities and local governments.

The O&C Lands have been at the center of intense and emotional controversy for the last several decades. But, one thing is clear: the status quo of management for the O&C Lands is not working. It's not working for rural counties who depend on timber receipts to provide basic county services. It's not working for the timber industry that depends on the land for a steady supply of timber to support mills and create jobs. And, it's not working for those who want to see lasting protection for the remaining old growth and most sensitive areas on the landscape. Legal and political unknowns have created enormous uncertainty for everyone.

What I envision for the O&C Lands has never been done before; and, frankly, it's very different from what's being proposed in Title I. What I am proposing is an "outside the box" idea for a unique, and extremely complex set of challenges we face in Western Oregon.

In general terms, the idea is to divide the O&C Lands into two fiduciary trusts: a timber trust and conservation trust. While the O&C Lands would remain in public ownership, the trusts and day-to-day operations would be managed by boards of trustees.

The timber trust would include approximately half the lands and be managed for sustainable timber production. The Timber Board of Trustees would be authorized to engage in a long-term lease, which would be competitively bid. Revenues from the lease would be used to provide O&C Counties with a predictable level of revenue on an annually basis for education, infrastructure, and law enforcement.

The conservation trust would include all lands not designated for the timber trust, and provide permanent protection for old growth and the most sensitive areas on the landscape. The conservation trust would not be managed under a "no touch" policy. Rather, the mission would be to manage the land predominantly for forest health, fuel reduction, and to protect wildlife and critical watersheds.

I continue to work with Rep. Walden, Rep. Schrader, the Governor, and the Oregon Delegation on many outstanding details. But, the potential benefits for key stakeholders and the federal government are real. Here's why the proposal deserves serious consideration by this Committee and the House of Representatives:

It would save the federal government money and provide a net benefit to the American taxpayer. Under my proposal, the BLM would no longer manage the O&C Lands. This would provide a savings to the federal government of over \$100 million over 10 years.

Under my proposal, a portion of the revenues generated by the lease(s) of the timber trust would be paid to the U.S. Treasury, perhaps as much as \$100 million.

And, under my proposal, after a transition period the O&C Counties would no longer receive Secure Rural Schools payments. Whatever the final outcome of the SRS program, this proposal would allow O&C Counties to be financially self-sufficient, again saving the federal government hundreds of millions of dollars over the next decade.

I look forward to presenting my proposal to the Committee in more definitive form, hopefully in very the near future. And, again, I want to thank Chairman Bishop and Chairman Hastings for expressing their interest in working with me and the Oregon Delegation to bring some finality to the challenges posed by the O&C Lands.

**Statement for the Record by the U.S. Department of the Interior on
H.R. 2852, "Action Plan for Public Lands and Education Act of 2011"**

Thank you for the opportunity to provide testimony on H.R. 2852, the "Action Plan for Public Lands and Education Act". This legislation would make land grants to 13 western states of millions of acres of Federal lands (public lands managed by the Bureau of Land Management and National Forest System lands managed by the U.S. Forest Service) within each state. As a result of these land grants, billions of dollars of public land revenues and resources that now benefit all Americans would be diverted instead to just 13 western states. H.R. 2852 would increase the federal budget deficit by depriving U.S. taxpayers of current revenues, and would leave to each state the decision to close off access, sell, or lease lands conveyed to the state. The bill also would jeopardize existing protections for natural, cultural, and historic resources located on public lands by taking the lands out of federal ownership. This legislation is fiscally and environmentally irresponsible and would irrevocably change America and the American West. The Administration strongly opposes H.R. 2852.

Background

Congress has long recognized the national interest in preserving and conserving the public lands for present and future generations of Americans. In 1976, Congress declared it the policy of the United States that ". . . the public lands be retained in federal ownership, unless as a result of land use planning. . . it is determined that disposal of a particular parcel will serve the national interest" (Federal Land Policy and Management Act of 1976 (FLPMA); Public Law 94-579).

The 245 million acres of public lands managed by the BLM are extraordinarily diverse. They include desert mountain ranges, alpine tundra, forests, expanses of rangeland and red rock canyons. Consistent with FLPMA, the BLM manages these lands for multiple uses: recreation, grazing, forestry, mineral development, watershed protection, fish and wildlife conservation, wilderness values, air and water quality, and soil conservation. In addition to their tremendous resources, the public lands feature countless extraordinary places, including Arizona's San Pedro Riparian National Conservation Area; the world-class off-highway-vehicle (OHV) area at Imperial Sand Dunes in California (with over 1.4 million OHV visitors per year); Utah's Slickrock Bike Trail; Nevada's Red Rock Canyon National Conservation Area; and Oregon's Yaquina Head Outstanding Natural Area—to name just a few.

The public lands contain invaluable scenic, historic, and cultural sites as well. Archaeological, historic, and paleontological properties on BLM-managed lands form the most important body of cultural resources in the United States. These include the 11,700-year-old Mesa site in the Brooks Range, Alaska, which preserves some of the earliest evidence of human migration to the North American continent, and the prehistoric Anasazi complex that extends across portions of Utah, Arizona, and Colorado. There are also historic sites dating from more recent periods, including the remains of Spanish exploration in the southwest, portions of the original trails used by settlers moving westward, and significant Native American religious sites. Public lands in several western states contain prehistoric petroglyphs and dinosaur fossils. In fact, six entirely new species of dinosaur have been discovered on BLM-managed lands in Utah.

Including BLM-managed public lands, the Department of the Interior manages nearly 500 million acres of lands throughout the United States for the benefit of the

American people. In addition, the Department holds in trust over 55 million acres of lands for specific Indian Tribes. Additional Federal lands include the approximately 193 million acres managed as National Forest System lands by the U.S. Department of Agriculture and the nearly 30 million acres managed by the Department of Defense. Other Federal holdings include sites conducting highly sensitive research work such as the Los Alamos, Lawrence Livermore and Idaho National Laboratories. As detailed in the Department of the Interior's Economic Contributions Report, dated June 21, 2011, all told the Federal government holds over 600 million acres of lands that provide innumerable benefits to the American people. In 2010 alone, these benefits included:

- Oil, gas, coal, hydropower, wind power, geothermal power, and other mineral activities on Federal lands, both onshore and offshore, that supported 1.3 million jobs and \$246 billion in economic activity.
- Use of water, timber, forage, and other resources produced from Federal lands supported about 370,000 jobs and \$48 billion in economic activity in 2010.
- Americans and foreign visitors made some 439 million visits to Interior-managed lands. These visits supported over 388,000 jobs and contributed over \$47 billion in economic activity.
- As a subset of the foregoing totals, BLM's management of Federal lands has an impact of over \$122 billion on the national economy and supports over 550,000 American jobs.

The coal, oil and gas, geothermal, wind and solar energy resources of the public lands are used to meet our national energy needs, help achieve energy independence, and spur economic development throughout the United States. These public land resources assure all Americans, not only those residing in the western states, of a reliable domestic energy supply.

State Trust Lands

Most of the lands administered by the BLM are what remain from the original 1.8 billion acres—known as public domain lands—that were acquired by the United States government on behalf of all Americans through treaty or purchase. As a condition of entry to the Union, western territories agreed that “unappropriated” public domain lands within their boundaries belonged to the people of the United States. In return for renouncing any claims, new states entering the Union received land grants under their enabling acts. The amount of federal land granted for schools depended upon the date of statehood.

Under the Land Grant Ordinance of 1785, states entering the Union after that date were granted section 16 in each township to support public schools. In 1853, California was granted two sections (16 and 36) in each township, establishing the standard grant for new states, except that Arizona, New Mexico, and Utah were granted four sections (2, 16, 32, and 36) for schools. Historically many western states have sold land given to them by the Federal government in order to generate revenues.

At one time the Federal government held title to more than 80 percent of the land in the United States. Today less than 30 percent of the land in the United States still remains in federal ownership, with the vast remainder of this land transferred to private entities and state institutions as a part of the settlement of the American frontier. Among the millions of acres that passed out of Federal ownership during this period were more than eighty million acres of “state trust lands”—lands that were granted to the newly-organized states.

H.R. 2852—Summary

H.R. 2852, the “Action Plan for Public Lands and Education Act of 2011” would transfer large swaths of BLM and National Forest System lands from federal ownership, where they currently benefit all Americans, to the ownership of individual Western states. Sec. 3(b) allows the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming to select to receive from unappropriated public lands within each state the number of acres equivalent to five percent of the total Federal land base in the respective states, in a manner to be determined by each state legislature. The bill defines “unappropriated public lands” as all public lands managed by the BLM or the Forest Service, excluding: land that is held in trust as part of an Indian reservation; located within a United States military reservation; a unit of the National Park System; a Wildlife Refuge; a Wilderness Area designated by Congress; a National Historic Site; a National Monument; a National Natural Landmark; an Area of Critical Environmental Concern; or a Wilderness Study Area. H.R. 2852 would place the lands selected by each state in the hands of the state agency empowered to sell or

lease such lands, the proceeds of which are to be used for public education. (Sec. 3(e)).

H.R. 2852 Sec. 3(b)(2) requires the Secretary of the Interior to calculate the exact acreage of Federally-owned land within each state, defined in Sec. 3(f)(4) as all land held by the United States within that state, including land held in trust, military reservations, Indian Reservations and any other land used for Federal purposes. Over 600 million acres in the western states are owned by the Federal government; five percent of that amount is nearly 30 million acres.

Finally, the intent of the legislation is that states could and would select revenue-producing public lands and resources. Under Sec. 3(d), all mineral, oil, and gas rights to the land selected by the Western States under this Act would become the property of the relevant Western State unless the Federal lessee is making royalty payments to the United States from production of minerals, oil, or gas. After the expiration of the Federal leases or the termination of production in paying quantities from the Federal lease, the entire mineral, oil, and gas estate would become the property of the relevant Western State. In addition, Sec. 3(c) of H.R. 2852 provides that selection and transfer of lands under this Act are not major Federal actions that would trigger application of the National Environmental Policy Act (NEPA).

Alternate Sources of Revenues for Western States

The Administration fully appreciates the desire for additional revenue generation by Western states. It is essential that the American taxpayers—in the individual Western states and nationally—receive a fair return from those who extract value from the public lands. We strongly encourage this Committee and the Congress to consider and pass proposals in the President's FY2012 budget submission which would accomplish those aims.

Specifically, the Administration proposes changes to the mining laws that would generate significant income by moving the mining of gold, silver, lead, zinc, copper, uranium and molybdenum on public lands into the existing solid mineral leasing program. Under the proposal, new mining of these valuable minerals on the public lands would result in significant royalties in the future to both the U.S. Treasury and the state in which they are mined. Currently, no royalties are generated by mining on the public lands.

Additionally, the BLM is pursuing a rulemaking which would increase the on-shore royalty rate for oil and gas from the current 12.5% of revenue (half of which goes to the individual states). This increase would provide added revenues to both the U.S. Treasury and, through the state share, to the individual state in which the development occurs.

H.R. 2852—Administration Position

The Department strongly opposes H.R. 2852. H.R. 2852 is unfair to American taxpayers as it would transfer revenues and resources owned by all Americans to a relatively small number of states. It increases the federal budget deficit by depriving U.S. taxpayers of billions of dollars of current revenues, and gives away national assets that will continue to generate substantial revenues over the long-term.

H.R. 2852 would irrevocably change the character of the American West by allowing individual states to sell or lease millions of acres of public domain lands. Nothing in H.R. 2852 would prevent these states, in seeking to maximize revenues for the support of schools or other programs, from selling off their newly-acquired public lands and their resources to the highest bidder, possibly removing them forever from multiple-use and public enjoyment, and preservation for future generations. The winners at such an auction could be absentee owners, foreign governments, or corporate owners who could lock up the land, restricting or allowing activities, such as hunting and fishing, 'by invitation only.'

If H.R. 2852 were enacted, Americans would lose not only the monetary benefits but also the immeasurable benefits that can come from lands managed for the enjoyment of and use by all Americans. These include big and small game hunting opportunities, wildlife viewing, and a broad range of recreation opportunities from backpacking and camping to the use of OHV's on remote trails to sand rails on the sand dunes. Additionally, the public could lose forever the rich historical and archeological diversity of the public lands, unbroken expanses of wildlife habitat, as well as the rural West's contribution to the nation's culture. Our public lands should be managed for the public good and be held for the benefit of future generations.

Conclusion

The Administration strongly opposes this measure that would result in a wholesale conveyance of invaluable national assets into state and likely private owner-

ship. The Department of the Interior appreciates the opportunity to present this Statement for the Record on H.R. 2852.

Statement of The Honorable Cathy McMorris Rodgers, a Representative in Congress from the State of Washington, on H.R. ___

I would like to thank the Chairman for the opportunity to share my thoughts on the Secure Rural Schools program and the important role that this bill plays in ensuring the program's future viability. For the last decade, the program has deviated from what I believe to be the best interest of our national forests, counties, and of the federal government. We have stopped using our forests and as a result they have become overgrown, diseased, and insect-ridden. Counties have become no different than wards of the state.

We need to put the land back to work. We need to put our counties back to work. Duane Vaagen, who testified before this Committee just a few months ago on this very same issue, said that the federal timber sale program is the single most effective way of putting people who live in national forest communities back to work.

It is important to mention that for many decades the United States Forest Service did use our forests and the revenue generated for the counties was there to be used for schools, roads, and infrastructure.

However, over the last decade or so there has been a distinct shift in policy and management. As a result, land use and revenue declined precipitously forcing counties to become no different than welfare recipients. In Eastern Washington, the failure to harvest timber has caused most of the mills located within the counties to go out of business taking family wage jobs with them. The lack of good management practices over the last several years has left forests diseased and in poor overall health, exacerbating the likelihood of major wildfires including the Tri-pod fire in 2006 that burned over 250,000 acres in Okanogan County.

This bill stops the viscous cycle. It puts people, land, and communities back to work. It promotes good forest management, and best of all it allows our communities to sever their unhealthy ties to the federal government.

I applaud my colleagues for understanding that reform is the only way to set our counties free. I believe the policies reflected in this draft bill accomplish this goal. I look forward to hearing from our witnesses and making the legislation even stronger.

Statement of The Honorable Scott R. Tipton, a Representative in Congress from the State of Colorado, on Draft Bill, the "National Forest County Revenue, Schools, and Jobs Act of 2011"

This draft legislation is an important first step towards providing a long term solution to properly fund our rural schools, while also addressing two other major problems in western districts. I commend the Chair's initiative in bringing this forward for consideration and comment as the temporary solution known as the Secure Rural Schools Act is set to expire.

Colorado's Third Congressional District faces three distinct problems which are all addressed in large part by the National Forest County Revenue, Schools, and Jobs Act of 2011. Our mills in the 3rd District are facing more closures now than ever before due to a lack of available timber from federal lands. These mill closures result in the unnecessary loss of jobs and have broader community impacts as well. Furthermore, the Forest Service's failure to manage our forests has left them dangerously dense, making the risk of life threatening wildfire greater each year. Recent wildfires in our State and others in the western United States should provide warning enough that it is time to act. Failure to heed these warnings will only lead to a loss of wildlife habitat, considerable damage to the tourism industry, and most importantly, the endangerment of human lives. We are also all aware that our rural schools are vastly underfunded and that Secure Rural Schools was originally intended as a stop-gap measure to provide a minimum level of funding while a permanent solution was reached. Extending this costly program which provides only a minimal level of funding to schools and which has broken down in its implementation over the years due to Forest Service malfeasance is not the responsible course to take.

This draft legislation appears to address all three major problems and does so in a way that is sustainable for generations to come. While I recognize that this draft is just the beginning of the process towards reform, I support the Chairman in bringing it forward and it is my hope that a final version is passed as soon as possible.

Statement of The Honorable Don Young, a Representative in Congress from the State of Alaska, on the National Forest County Revenue, Schools, and Jobs Act (draft)

Chairman Bishop and Ranking Member Grijalva, thank you for holding a hearing on this important legislation, which would address an issue that is critical to many communities in my State. Also, I appreciate the opportunity you have afforded both Members and others to provide feedback on this draft.

Alaska is home to the nation's two largest national forests. They used to provide many well paying jobs and steady revenue to the local economies in their regions, but due to an unstable and an almost nonexistent timber supply coming from the U.S. Forest Service, coupled with endless litigation from environmental groups, this is no longer the case.

Make no mistake; the Secure Rural Schools Program is critical to many of my communities. For example, this program provides 25% of the revenue to the Wrangell schools and 30% to Klawock. The list goes on.

As much as I support continuation of the Rural Schools Program we must not treat this program as another entitlement. In this tough economic time, an increase in forest jobs, while also funding our communities is a real economic stimulus package we should all agree upon. These communities don't want hand outs, they want to develop their resources and be self-sufficient, but the bottom line is, they need help and the Secure Rural Schools program can provide this help.

This is a good bill and I hope it becomes law. However, for it to work in Alaska, I believe a few changes should be made.

- 1) The USFS cannot be allowed to determine the harvest level for each unit of the Forest System.

In Alaska, the USFS has lowered the harvest level over 90% from nearly 500 million board feet to less than 50 million board feet a year. The USFS claims the problem is a lack of markets, but that is simply untrue. There is plenty of demand for Alaskan timber. It is a failure of leadership and vision that has caused this dramatic decrease. I believe Congress needs to set the harvest levels by statute in this bill.

At a minimum, the to-be-determined percentage of the average of historical receipts must be robust to provide areas like Region 10 with a required harvest level high enough to support an industry and our rural schools. Over the 21 year period covered in this legislation (1980–2000), the annual historical harvest was 251 mmbf annually at a net stumpage of roughly \$15 million. Even if the to-be-determined percentage of the average of historical receipts was 100%, it would still not equal the amount that Alaska currently receives under the Program. The current Tongass Land Management Plan plans for 267 mmbf annually. However, from 2001 to 2010, the USFS sold an average of only 38 mmbf annually. The need for hard targets is evident.

- 2) A stronger waiver of federal judicial review must be included.

The courts have been home court for extreme environmental groups to obstruct and defeat clear congressional policy. These courts have tied up federal timber sales throughout the country. The Committee must act not only to prevent judicial review, but must also amend and possibly eliminate the environmental report section of the bill. If the Agency doesn't complete this review in 180 days, can the timber sale continue?

- 3) In Alaska, we have a further problem. Roadless.

The Federal District Court overturned a settlement that found that the Roadless Rule does not apply to Alaska. Now, on over 92% of forests in Alaska, the Roadless Rule applies. Since Section 105(3)(B) excludes any USFS land on which vegetation removal is prohibited by federal law, I fear this would take roadless out of the available pool and effectively void this bill's impacts in Alaska.

In closing, Mr. Chairman, I want to thank you and your staff for putting together a fine bill that seeks an outside-the-box solution to funding the Secure Schools Program and seeks to strengthen the economic situations in our rural communities. I look forward to working with you on a final bill to ensure that Alaska's students aren't left behind.

I urge this Committee to pass this bill so we can put Americans back to work and save our rural schools and economies.

Thank you again.