

111TH CONGRESS  
1ST SESSION

# S. 1576

To require the Secretary of Agriculture to establish a carbon incentives program to achieve supplemental greenhouse gas emission reductions on private forest land of the United States, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2009

Mrs. SHAHEEN (for herself, Ms. SNOWE, Ms. COLLINS, Mr. SANDERS, Mr. MERKLEY, Mr. WYDEN, Mr. LEAHY, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

---

## A BILL

To require the Secretary of Agriculture to establish a carbon incentives program to achieve supplemental greenhouse gas emission reductions on private forest land of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Forest Carbon Incen-  
5       tives Program Act of 2009”.

1 **SEC. 2. CARBON INCENTIVES PROGRAM TO ACHIEVE SUP-**  
 2 **PLEMENTAL GREENHOUSE GAS EMISSION**  
 3 **REDUCTIONS ON PRIVATE FOREST LAND.**

4 (a) DEFINITIONS.—In this section:

5 (1) AVOIDED DEFORESTATION AGREEMENT.—

6 The term “avoided deforestation agreement” means  
 7 a permanent conservation easement that—

8 (A) covers eligible land that—

9 (i) is enrolled under a climate mitiga-  
 10 tion contract; and

11 (ii) will not be converted for develop-  
 12 ment; and

13 (B) is consistent with the guidelines for—

14 (i) the Forest Legacy Program estab-  
 15 lished under section 7 of the Cooperative  
 16 Forestry Assistance Act (16 U.S.C.  
 17 2103c); or

18 (ii) any other program approved by  
 19 the Secretary for use under this section to  
 20 provide consistency with Federal legal re-  
 21 quirements for permanent conservation  
 22 easements.

23 (2) CLIMATE MITIGATION CONTRACT; CON-  
 24 TRACT.—The term “climate mitigation contract” or  
 25 “contract” means a contract of not less than 15  
 26 years that specifies—

1 (A) the eligible practices that will be un-  
2 dertaken;

3 (B) the acreage of eligible land on which  
4 the practices will be undertaken;

5 (C) the agreed rate of compensation per  
6 acre; and

7 (D) a schedule to verify that the terms of  
8 the contract have been fulfilled.

9 (3) ELIGIBLE LAND.—The term “eligible land”  
10 means forest land in the United States that is pri-  
11 vately owned at the time of initiation of a climate  
12 mitigation contract.

13 (4) ELIGIBLE PRACTICE.—The term “eligible  
14 practice” means a forestry practice, including im-  
15 proved forest management that produces marketable  
16 forest products, that is determined by the Secretary  
17 to provide measurable increases in carbon sequestra-  
18 tion and storage beyond customary practices on  
19 comparable land.

20 (5) PROGRAM.—The term “program” means  
21 the carbon incentives program established under this  
22 section.

23 (6) SECRETARY.—The term “Secretary” means  
24 the Secretary of Agriculture.

1       (b) SUPPLEMENTAL GREENHOUSE GAS EMISSION  
2 REDUCTIONS IN THE UNITED STATES.—

3           (1) IN GENERAL.—The Secretary shall establish  
4       a carbon incentives program to achieve supplemental  
5       greenhouse gas emission reductions on private forest  
6       land of the United States.

7           (2) FINANCIAL INCENTIVE PAYMENTS.—

8           (A) IN GENERAL.—The Secretary shall  
9       provide to owners of eligible land financial in-  
10      centive payments for—

11           (i) eligible practices that measurably  
12           increase carbon sequestration and storage  
13           over a designated period on eligible land,  
14           as specified through a climate mitigation  
15           contract; and

16           (ii) subject to subparagraph (B), per-  
17           manent avoided deforestation agreements  
18           on eligible land covered under a climate  
19           mitigation contract.

20           (B) NO AGREEMENT REQUIRED.—Eligi-  
21      bility for financial incentive payments under a  
22      climate mitigation contract described in sub-  
23      paragraph (A)(i) shall not require an avoided  
24      deforestation agreement.

1 (c) PERFORMANCE OF SUPPLEMENTAL REDUC-  
2 TIONS.—In carrying out the program, the Secretary shall  
3 report under subsection (f) on progress toward reaching  
4 the following levels of carbon sequestration and storage  
5 through climate mitigation contracts:

6 (1) 100,000,000 tons of carbon reductions by  
7 2020.

8 (2) 200,000,000 tons of further carbon reduc-  
9 tions by 2030.

10 (d) PROGRAM REQUIREMENTS.—

11 (1) CONTRACT REQUIRED.—To participate in  
12 the program, an owner of eligible land shall enter  
13 into a climate mitigation contract with the Sec-  
14 retary.

15 (2) PROGRAM COMPONENTS.—In establishing  
16 the program, the Secretary shall provide that—

17 (A) funds provided under this section shall  
18 not be substituted for, or otherwise used as a  
19 basis for reducing, funding authorized or appro-  
20 priated under other programs to compensate  
21 owners of eligible land for activities that are not  
22 covered under a climate mitigation contract;

23 (B) emission reductions or sequestration  
24 achieved through a climate mitigation contract

1 shall not be eligible for crediting under any fed-  
2 erally established carbon offset program; and

3 (C) compensation for activities under this  
4 program shall be set at such a rate so as not  
5 to exceed the net estimated benefit an owner of  
6 eligible land would receive for similar practices  
7 under any federally established carbon offset  
8 program, taking into consideration the costs as-  
9 sociated with the issuance of credits and com-  
10 pliance with reversal provisions.

11 (3) REVERSALS.—

12 (A) IN GENERAL.—In developing regula-  
13 tions for climate mitigation contracts, the Sec-  
14 retary shall specify requirements in accordance  
15 with this paragraph to address intentional or  
16 unintentional reversal of carbon sequestration  
17 during the contract period.

18 (B) INTENTIONAL REVERSALS.—If the  
19 Secretary finds an owner of eligible land vio-  
20 lated a climate mitigation contract by inten-  
21 tionally reversing a practice or otherwise inten-  
22 tionally failing to comply with the contract, the  
23 Secretary shall terminate the contract and re-  
24 quire the owner to repay any contract payments

1 in an amount that reflects the lost carbon se-  
2 questration.

3 (C) UNINTENTIONAL REVERSAL.—If the  
4 Secretary finds an eligible practice has been un-  
5 intentionally reversed due to events outside the  
6 control of the owner of eligible land, the Sec-  
7 retary shall reevaluate and may modify or ter-  
8minate the climate mitigation contract, after  
9 consultation with the owner, taking into consid-  
10 eration lost carbon sequestration and the future  
11 carbon sequestration potential of the contract.

12 (e) INCENTIVE PAYMENTS.—

13 (1) REGULATIONS.—Not later than 1 year after  
14 the date of enactment of this Act, the Secretary  
15 shall issue regulations that specify eligible practices  
16 and related compensation rates, standards, and  
17 guidelines as the basis for entering into climate miti-  
18 gation contracts with owners of eligible land.

19 (2) SET-ASIDE OF FUNDS FOR CERTAIN PUR-  
20 POSES.—

21 (A) IN GENERAL.—Not less than 35 per-  
22 cent of program funds made available under  
23 this program for a fiscal year shall be used—

24 (i) to provide additional incentives for  
25 owners of eligible land that carry out ac-

1           activities and enter into agreements that pro-  
2           tect carbon reductions and otherwise en-  
3           hance environmental benefits achieved  
4           under a climate mitigation contract; and

5           (ii) to develop forest carbon moni-  
6           toring and methodologies that will improve  
7           the tracking of carbon gains achieved  
8           under the program.

9           (B) USE.—Of the amount of program  
10          funds made available for a fiscal year, the Sec-  
11          retary shall use—

12          (i) at least 25 percent to make funds  
13          available on a competitive basis to com-  
14          pensate owners for entering avoided defor-  
15          estation agreements on land subject to a  
16          climate mitigation contract;

17          (ii) not more than 10 percent to pro-  
18          vide incentive payments for additional  
19          management activities that increase the  
20          adaptive capacity of land under a climate  
21          mitigation contract; and

22          (iii) not more than 2 percent for the  
23          Forest Inventory and Analysis Program of  
24          the Forest Service to develop improved



1 measurement and monitoring of forest car-  
2 bon stocks.

3 (f) PROGRAM MEASUREMENT, MONITORING,  
4 VERIFICATION, AND REPORTING.—

5 (1) MEASUREMENT, MONITORING, AND  
6 VERIFICATION.—The Secretary shall establish and  
7 implement protocols that provide monitoring and  
8 verification of compliance with climate mitigation  
9 contracts, including both direct and indirect effects  
10 and any reversal of sequestration.

11 (2) REPORTING REQUIREMENT.—At least annu-  
12 ally, the Secretary shall submit to Congress a report  
13 that contains—

14 (A) an estimate of annual and cumulative  
15 reductions achieved as a result of the program,  
16 determined using standardized measures, in-  
17 cluding measures of economic efficiency; and

18 (B) a summary of any changes to the pro-  
19 gram that will be made as a result of program  
20 measurement, monitoring, and verification.

21 (3) AVAILABILITY OF REPORT.—Each report  
22 required by this subsection shall be available to the  
23 public through the website of the Department of Ag-  
24 riculture.

1           (4) PROGRAM ADJUSTMENTS.—At least once  
2       every 2 years the Secretary shall adjust eligible prac-  
3       tices and compensation rates for future climate miti-  
4       gation contracts based on the results of monitoring  
5       under paragraph (1) and reporting under paragraph  
6       (2).

7       (g) AUTHORIZATION OF APPROPRIATIONS.—There  
8       are authorized to be appropriated to carry out this section  
9       such sums as are necessary.

○