

114TH CONGRESS
1ST SESSION

S. 508

To amend the FLAME Act of 2009 to provide for additional wildfire suppression activities, to provide for the conduct of certain forest treatment projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2015

Mr. MCCAIN (for himself, Mr. FLAKE, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the FLAME Act of 2009 to provide for additional wildfire suppression activities, to provide for the conduct of certain forest treatment projects, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “FLAME Act Amendments of 2015”.

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

Sec. 1. Short title; table of contents.

TITLE I—FLAME ACT AMENDMENTS

- Sec. 101. Findings.
 Sec. 102. FLAME Act amendments.
 Sec. 103. Wildfire disaster funding authority.

TITLE II—FOREST TREATMENT PROJECTS

- Sec. 201. Definitions.
 Sec. 202. Projects in Forest Management Emphasis Areas.
 Sec. 203. Administrative review; arbitration.
 Sec. 204. Distribution of revenue.
 Sec. 205. Performance measures; reporting.
 Sec. 206. Termination.

TITLE III—FOREST STEWARDSHIP CONTRACTING

- Sec. 301. Stewardship end result contracting projects.

TITLE I—FLAME ACT AMENDMENTS

3 SEC. 101. FINDINGS.

4 Congress finds that—

5 (1) over the past 2 decades, wildfires have in-
 6 creased dramatically in size and costs;

7 (2) existing budget mechanisms for estimating
 8 the costs of wildfire suppression are not keeping
 9 pace with the actual costs for wildfire suppression
 10 due in part to improper budget estimation method-
 11 ology;

12 (3) the FLAME Funds have not been adequate
 13 in supplementing wildland fire management funds in
 14 cases in which wildland fire management accounts
 15 are exhausted; and

16 (4) the practice of transferring funds from
 17 other agency funds (including the hazardous fuels

1 treatment accounts) by the Secretary of Agriculture
 2 or the Secretary of the Interior to pay for wildfire
 3 suppression activities, commonly known as “fire-bor-
 4 rowing”, does not support the missions of the Forest
 5 Service and the Department of the Interior with re-
 6 spect to protecting human life and property from the
 7 threat of wildfires.

8 **SEC. 102. FLAME ACT AMENDMENTS.**

9 (a) FUNDING.—Section 502(d) of the FLAME Act
 10 of 2009 (43 U.S.C. 1748a(d)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “shall consist of” and all
 13 that follows through “appropriated to” in sub-
 14 paragraph (A) and inserting “shall consist of
 15 such amounts as are appropriated to”; and

16 (B) by striking subparagraph (B); and

17 (2) by striking paragraphs (4) and (5).

18 (b) USE OF FLAME FUND.—Section 502(e) of the
 19 FLAME Act of 2009 (43 U.S.C. 1748a(e)) is amended
 20 by striking paragraphs (1) and (2) and inserting the fol-
 21 lowing:

22 “(1) IN GENERAL.—Amounts appropriated to a
 23 FLAME Fund, in accordance with section
 24 251(b)(2)(E) of the Balanced Budget and Emer-
 25 gency Deficit Control Act of 1985 (2 U.S.C.

1 901(b)(2)(E)), shall be available to the Secretary
2 concerned for wildfire suppression operations if the
3 Secretary concerned issues a declaration and notifies
4 the relevant congressional committees that a wildfire
5 suppression event is eligible for funding from the
6 FLAME Fund.

7 “(2) DECLARATION CRITERIA.—A declaration
8 by the Secretary concerned under paragraph (1)
9 may be issued only if—

10 “(A) an individual wildfire incident meets
11 the objective indicators of an extraordinary
12 wildfire situation, including—

13 “(i) a wildfire that the Secretary con-
14 cerned determines has required an emer-
15 gency Federal response based on the sig-
16 nificant complexity, severity, or threat
17 posed by the fire to human life, property,
18 or a resource;

19 “(ii) a wildfire that covers 1,000 or
20 more acres; or

21 “(iii) a wildfire that is within 10 miles
22 of an urbanized area (as defined in section
23 134(b) of title 23, United States Code); or

24 “(B) the cumulative costs of wildfire sup-
25 pression and Federal emergency response activi-

1 ties, as determined by the Secretary concerned,
2 would exceed, within 30 days, all of the
3 amounts otherwise previously appropriated (in-
4 cluding amounts appropriated under an emer-
5 gency designation, but excluding amounts ap-
6 propriated to the FLAME Fund) to the Sec-
7 retary concerned for wildfire suppression and
8 Federal emergency response.”.

9 (c) TREATMENT OF ANTICIPATED AND PREDICTED
10 ACTIVITIES.—Section 502(f) of the FLAME Act of 2009
11 (43 U.S.C. 1748a(f)) is amended by striking
12 “(e)(2)(B)(i)” and inserting “(e)(2)(A)”.

13 (d) PROHIBITION ON OTHER TRANSFERS.—Section
14 502 of the FLAME Act of 2009 (43 U.S.C. 1748a) is
15 amended by striking subsection (g) and inserting the fol-
16 lowing:

17 “(g) PROHIBITION ON OTHER TRANSFERS.—The
18 Secretary concerned shall not transfer funds provided for
19 activities other than wildfire suppression operations to pay
20 for any wildfire suppression operations.”.

21 (e) ACCOUNTING AND REPORTS.—Section 502(h) of
22 the FLAME Act of 2009 (43 U.S.C. 1748a(h)) is amend-
23 ed by striking paragraphs (2) and (3) and inserting the
24 following:

1 “(2) ESTIMATES OF WILDFIRE SUPPRESSION
2 OPERATIONS COSTS TO IMPROVE BUDGETING AND
3 FUNDING.—

4 “(A) BUDGET SUBMISSION.—Consistent
5 with section 1105(a) of title 31, United States
6 Code, the President shall include in each budget
7 for the Department of Agriculture and the De-
8 partment of the Interior information on esti-
9 mates of appropriations for wildfire suppression
10 costs based on an out-year forecast that uses a
11 statistically valid regression model.

12 “(B) REQUIREMENTS.—The estimate of
13 anticipated wildfire suppression costs under
14 subparagraph (A) shall be developed using the
15 best available—

16 “(i) climate, weather, and other rel-
17 evant data; and

18 “(ii) models and other analytic tools.

19 “(C) INDEPENDENT REVIEW.—The meth-
20 odology for developing the estimates of wildfire
21 suppression costs under subparagraph (A) shall
22 be subject to periodic independent review to en-
23 sure compliance with subparagraph (B).

24 “(D) SUBMISSION TO CONGRESS.—

“(i) IN GENERAL.—Consistent with the schedule described in clause (ii) and in accordance with subparagraphs (B) and (C), the Secretary concerned shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives an updated estimate of wildfire suppression costs for the applicable fiscal year.

“(ii) SCHEDULE.—The Secretary concerned shall submit the updated estimates under clause (i) during—

“(I) March of each year;

“(II) May of each year;

“(III) July of each year; and

“(IV) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, September of each year.

“(3) REPORTS.—Annually, the Secretary of Agriculture and the Secretary of the Interior shall jointly submit to the Committee on Energy and Nat-

1 ural Resources of the Senate, the Committee on
 2 Natural Resources of the House of Representatives,
 3 and the Committees on Appropriations of the Senate
 4 and the House of Representatives a report that—

5 “(A) provides a summary of the amount of
 6 appropriations made available during the pre-
 7 vious fiscal year, which specifies the source of
 8 the amounts and the commitments and obliga-
 9 tions made under this section;

10 “(B) describes the amounts obligated to in-
 11 dividual wildfire events that meet the criteria
 12 specified in subsection (e)(2); and

13 “(C) includes any recommendations that
 14 the Secretary of Agriculture or the Secretary of
 15 the Interior may have to improve the adminis-
 16 trative control and oversight of the FLAME
 17 Fund.”.

18 **SEC. 103. WILDFIRE DISASTER FUNDING AUTHORITY.**

19 (a) IN GENERAL.—Section 251(b)(2) of the Balanced
 20 Budget and Emergency Deficit Control Act of 1985 (2
 21 U.S.C. 901(b)(2)) is amended by adding at the end the
 22 following:

23 “(E) FLAME WILDFIRE SUPPRESSION.—

1 “(i)(I) The adjustments for a fiscal
2 year shall be in accordance with clause (ii)
3 if—

4 “(aa) a bill or joint resolution
5 making appropriations for a fiscal
6 year is enacted that—

7 “(AA) specifies an amount
8 for wildfire suppression oper-
9 ations in the Wildland Fire Man-
10 agement accounts at the Depart-
11 ment of Agriculture or the De-
12 partment of the Interior; and

13 “(BB) specifies a total
14 amount to be used for the pur-
15 poses described in subclause (II)
16 in the Wildland Fire Manage-
17 ment accounts at the Department
18 of Agriculture or the Department
19 of the Interior that is not less
20 than 50 percent of the amount
21 described in subitem (AA); and

22 “(bb) as of the day before the
23 date of enactment of the bill or joint
24 resolution all amounts in the FLAME
25 Fund established under section 502 of

1 the FLAME Act of 2009 (43 U.S.C.
2 1748a) have been expended.

3 “(II) The purposes described in this
4 subclause are—

5 “(aa) hazardous fuels reduction
6 projects and other activities of the
7 Secretary of the Interior, as author-
8 ized under the Healthy Forests Res-
9 toration Act of 2003 (16 U.S.C. 6501
10 et seq.) and the Tribal Forest Protec-
11 tion Act of 2004 (25 U.S.C. 3115a);

12 “(bb) forest restoration and fuel
13 reduction activities carried out outside
14 of the wildland urban interface that
15 are on condition class 3 Federal land
16 or condition class 2 Federal land lo-
17 cated within fire regime I, fire regime
18 II, or fire regime III; and

19 “(cc) timber sales, pre-commer-
20 cial thinning, and wood salvage har-
21 vests carried out by the Chief of the
22 Forest Service in accordance with sec-
23 tion 14 of the National Forest Man-
24 agement Act of 1976 (16 U.S.C.
25 472a).

1 “(ii) If the requirements under clause
2 (i)(I) are met for a fiscal year, the adjust-
3 ments for that fiscal year shall be the
4 amount of additional new budget authority
5 provided in the bill or joint resolution de-
6 scribed in clause (i)(I)(aa) for wildfire sup-
7 pression operations for that fiscal year, but
8 shall not exceed \$1,000,000,000 in addi-
9 tional new budget authority in each of fis-
10 cal years 2016 through 2022.

11 “(iii) As used in this subparagraph—

12 “(I) the term ‘additional new
13 budget authority’ means the amount
14 provided for a fiscal year in an appro-
15 priation Act and specified to pay for
16 the costs of wildfire suppression oper-
17 ations that is equal to the greater of
18 the amount in excess of—

19 “(aa) 100 percent of the av-
20 erage costs for wildfire suppres-
21 sion operations over the previous
22 5 years; or

23 “(bb) the estimated amount
24 of anticipated wildfire suppres-
25 sion costs at the upper bound of

1 the 90 percent confidence inter-
 2 val for that fiscal year calculated
 3 in accordance with section
 4 502(h)(2) of the FLAME Act of
 5 2009 (43 U.S.C. 1748a(h)(2));
 6 and

7 “(II) the term ‘wildfire suppres-
 8 sion operations’ means the emergency
 9 and unpredictable aspects of wildland
 10 firefighting including support, re-
 11 sponse, and emergency stabilization
 12 activities; other emergency manage-
 13 ment activities; and funds necessary
 14 to repay any transfers needed for
 15 these costs.

16 “(iv) The average costs for wildfire
 17 suppression operations over the previous 5
 18 years shall be calculated annually and re-
 19 ported in the President’s Budget submis-
 20 sion under section 1105(a) of title 31,
 21 United States Code, for each fiscal year.”.

22 (b) DISASTER FUNDING.—Section 251(b)(2)(D) of
 23 the Balanced Budget and Emergency Deficit Control Act
 24 of 1985 (2 U.S.C. 901(b)(2)(D)) is amended—

25 (1) in clause (i)—

1 (A) in subclause (I), by striking “and” and
 2 inserting “plus”;

3 (B) in subclause (II), by striking the pe-
 4 riod and inserting “; less”; and

5 (C) by adding the following:

6 “(III) the additional new budget
 7 authority provided in an appropriation
 8 Act for wildfire suppression operations
 9 pursuant to subparagraph (E) for the
 10 preceding fiscal year.”; and

11 (2) by adding at the end the following:

12 “(v) Beginning in fiscal year 2017
 13 and in subsequent fiscal years, the calcula-
 14 tion of the ‘average funding provided for
 15 disaster relief over the previous 10 years’
 16 shall not include the additional new budget
 17 authority provided in an appropriation Act
 18 for wildfire suppression operations pursu-
 19 ant to subparagraph (E).”.

20 **TITLE II—FOREST TREATMENT** 21 **PROJECTS**

22 **SEC. 201. DEFINITIONS.**

23 In this title:

24 (1) COVERED PROJECT.—The term “covered
 25 project” means a project that involves the manage-

ment or sale of national forest material within a
Forest Management Emphasis Area.

(2) FOREST MANAGEMENT EMPHASIS AREA.—

(A) IN GENERAL.—The term “Forest
Management Emphasis Area” means National
Forest System land identified as suitable for
timber production in a forest management plan
in effect on the date of enactment of this Act.

(B) EXCLUSIONS.—The term “Forest
Management Emphasis Area” does not include
National Forest System land—

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

(ii) on which removal of vegetation is
specifically prohibited by Federal law.

(3) NATIONAL FOREST MATERIAL.—The term
“national forest material” means trees, portions of
trees, or forest products, with an emphasis on
sawtimber and pulpwood, derived from National
Forest System land.

(4) NATIONAL FOREST SYSTEM.—

(A) IN GENERAL.—The term “National
Forest System” has the meaning given the term
in section 11(a) of the Forest and Rangeland

1 Renewable Resources Planning Act of 1974 (16
2 U.S.C. 1609(a)).

3 (B) EXCLUSION.—The term “National
4 Forest System” does not include—

5 (i) the national grasslands and land
6 utilization projects administered under title
7 III of the Bankhead-Jones Farm Tenant
8 Act (7 U.S.C. 1010 et seq.); or

9 (ii) National Forest System land east
10 of the 100th meridian.

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of Agriculture.

13 **SEC. 202. PROJECTS IN FOREST MANAGEMENT EMPHASIS**
14 **AREAS.**

15 (a) CONDUCT OF COVERED PROJECTS WITHIN FOR-
16 EST MANAGEMENT EMPHASIS AREAS.—

17 (1) IN GENERAL.—The Secretary may conduct
18 covered projects in Forest Management Emphasis
19 Areas, subject to paragraphs (2) through (4).

20 (2) DESIGNATING TIMBER FOR CUTTING.—

21 (A) IN GENERAL.—Notwithstanding sec-
22 tion 14(g) of the National Forest Management
23 Act of 1976 (16 U.S.C. 472a(g)), the Secretary
24 may use designation by prescription or designa-

tion by description in conducting covered projects under this title.

(B) REQUIREMENT.—The designation methods authorized under subparagraph (A) shall be used in a manner that ensures that the quantity of national forest material that is removed from the Forest Management Emphasis Area is verifiable and accountable.

(3) CONTRACTING METHODS.—

(A) IN GENERAL.—Timber sale contracts under section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall be the primary means of carrying out covered projects under this title.

(B) RECORD.—If the Secretary does not use a timber sale contract under section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) to carry out a covered project under this title, the Secretary shall provide a written record specifying the reasons that different contracting methods were used.

(4) ACREAGE TREATMENT REQUIREMENTS.—

(A) TOTAL ACREAGE REQUIREMENTS.—
The Secretary shall identify, prioritize, and carry out covered projects in Forest Manage-

1 ment Emphasis Areas that mechanically treat a
2 total of at least 7,500,000 acres in the Forest
3 Management Emphasis Areas during the 15-
4 year period beginning on the date that is 60
5 days after the date on which the Secretary as-
6 signs the acreage treatment requirements under
7 subparagraph (B).

8 (B) ASSIGNMENT OF ACREAGE TREAT-
9 MENT REQUIREMENTS TO INDIVIDUAL UNITS
10 OF THE NATIONAL FOREST SYSTEM.—

11 (i) IN GENERAL.—Not later than 60
12 days after the date of enactment of this
13 Act and subject to clause (ii), the Sec-
14 retary, in the sole discretion of the Sec-
15 retary, shall assign the acreage treatment
16 requirements that shall apply to the Forest
17 Management Emphasis Areas of each unit
18 of the National Forest System.

19 (ii) LIMITATION.—Notwithstanding
20 clause (i), the acreage treatment require-
21 ments assigned to a specific unit of the
22 National Forest System under that clause
23 may not apply to more than 25 percent of
24 the acreage to be treated in any unit of the
25 National Forest System in a Forest Man-

1 agement Emphasis Area during the 15-
2 year period described in subparagraph (A).

3 (b) ENVIRONMENTAL ANALYSIS AND PUBLIC RE-
4 VIEW PROCESS FOR COVERED PROJECTS IN FOREST
5 MANAGEMENT EMPHASIS AREAS.—

6 (1) ENVIRONMENTAL ASSESSMENT.—The Sec-
7 retary shall comply with the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.) by com-
9 pleting an environmental assessment that assesses
10 the direct environmental effects of each covered
11 project proposed to be conducted within a Forest
12 Management Emphasis Area, except that the Sec-
13 retary shall not be required to study, develop, or de-
14 scribe more than the proposed agency action and 1
15 alternative to the proposed agency action for pur-
16 poses of that Act.

17 (2) PUBLIC NOTICE AND COMMENT.—In pre-
18 paring an environmental assessment for a covered
19 project under paragraph (1), the Secretary shall pro-
20 vide—

21 (A) public notice of the covered project;

22 and

23 (B) an opportunity for public comment on
24 the covered project.

1 (3) LENGTH.—The environmental assessment
2 prepared for a covered project under paragraph (1)
3 shall not exceed 100 pages in length.

4 (4) INCLUSION OF CERTAIN DOCUMENTS.—The
5 Secretary may incorporate, by reference, into an en-
6 vironmental assessment any documents that the Sec-
7 retary, in the sole discretion of the Secretary, deter-
8 mines are relevant to the assessment of the environ-
9 mental effects of the covered project.

10 (5) DEADLINE FOR COMPLETION.—Not later
11 than 180 days after the date on which the Secretary
12 has published notice of a covered project in accord-
13 ance with paragraph (2), the Secretary shall com-
14 plete the environmental assessment for the covered
15 project.

16 (c) COMPLIANCE WITH ENDANGERED SPECIES
17 ACT.—To comply with the Endangered Species Act of
18 1973 (16 U.S.C. 1531 et seq.), the Secretary shall use
19 qualified professionals on the staff of the Forest Service
20 to make determinations required under section 7 of that
21 Act (16 U.S.C. 1536).

22 (d) LIMITATION ON REVISION OF NATIONAL FOREST
23 PLANS.—The Secretary may not, during a revision of a
24 forest plan under section 6 of the Forest and Rangeland
25 Renewable Resources Planning Act of 1974 (16 U.S.C.

1 1604), reduce the acres designated as suitable for timber
 2 harvest under a covered project, unless the Secretary de-
 3 termines, in consultation with the Secretary of the Inte-
 4 rior, that the reduction in acreage is necessary to prevent
 5 a jeopardy finding under section 7(b) of the Endangered
 6 Species Act of 1973 (16 U.S.C. 1536(b)).

7 **SEC. 203. ADMINISTRATIVE REVIEW; ARBITRATION.**

8 (a) ADMINISTRATIVE REVIEW.—Administrative re-
 9 view of a covered project shall occur only in accordance
 10 with the special administrative review process established
 11 by section 105 of the Healthy Forests Restoration Act of
 12 2003 (16 U.S.C. 6515).

13 (b) ARBITRATION.—

14 (1) IN GENERAL.—There is established in the
 15 Department of Agriculture a pilot program that—

16 (A) authorizes the use of arbitration in-
 17 stead of judicial review of a decision made fol-
 18 lowing the special administrative review process
 19 for a covered project described in subsection
 20 (a); and

21 (B) shall be the sole means to challenge a
 22 covered project in a Forest Management Em-
 23 phasis Area during the 15-year period begin-
 24 ning on the date that is 60 days after the date
 25 on which the Secretary assigns the acreage

1 treatment requirements under section
2 202(a)(4)(B).

3 (2) ARBITRATION PROCESS PROCEDURES.—

4 (A) IN GENERAL.—Any person who sought
5 administrative review for a covered project in
6 accordance with subsection (a) and who is not
7 satisfied with the decision made under the ad-
8 ministrative review process may file a demand
9 for arbitration in accordance with—

10 (i) chapter 1 of title 9, United States
11 Code; and

12 (ii) this paragraph.

13 (B) REQUIREMENTS FOR DEMAND.—A de-
14 mand for arbitration under subparagraph (A)
15 shall—

16 (i) be filed not more than 30 days
17 after the date on which the special admin-
18 istrative review decision is issued under
19 subsection (a); and

20 (ii) include a proposal containing the
21 modifications sought to the covered
22 project.

23 (C) INTERVENING PARTIES.—

24 (i) DEADLINE FOR SUBMISSION; RE-
25 QUIREMENTS.—Any person that submitted

1 a public comment on the covered project
 2 subject to the demand for arbitration may
 3 intervene in the arbitration under this sub-
 4 section by submitting a proposal endorsing
 5 or modifying the covered project by the
 6 date that is 30 days after the date on
 7 which the demand for arbitration is filed
 8 under subparagraph (A).

9 (ii) MULTIPLE PARTIES.—Multiple ob-
 10 jectors or intervening parties that meet the
 11 requirements of clause (i) may submit a
 12 joint proposal under that clause.

13 (D) APPOINTMENT OF ARBITRATOR.—The
 14 United States District Court in the district in
 15 which a covered project subject to a demand for
 16 arbitration filed under subparagraph (A) is lo-
 17 cated shall appoint an arbitrator to conduct the
 18 arbitration proceedings in accordance with this
 19 subsection.

20 (E) SELECTION OF PROPOSALS.—

21 (i) IN GENERAL.—An arbitrator ap-
 22 pointed under subparagraph (D)—

23 (I) may not modify any of the
 24 proposals submitted under this para-
 25 graph; and

1 (II) shall select to be con-
2 ducted—

3 (aa) a proposal submitted by
4 an objector under subparagraph
5 (B)(ii) or an intervening party
6 under subparagraph (C); or

7 (bb) the covered project, as
8 approved by the Secretary.

9 (ii) SELECTION CRITERIA.—An arbi-
10 trator shall select the proposal that best
11 meets the purpose and needs described in
12 the environmental assessment conducted
13 under section 202(b)(1) for the covered
14 project.

15 (iii) EFFECT.—The decision of an ar-
16 bitrator with respect to a selection under
17 clause (i)(II)—

18 (I) shall not be considered a
19 major Federal action;

20 (II) shall be binding; and

21 (III) shall not be subject to judi-
22 cial review.

23 (F) DEADLINE FOR COMPLETION.—Not
24 later than 90 days after the date on which a de-
25 mand for arbitration is filed under subpara-

1 graph (A), the arbitration process shall be com-
2 pleted.

3 **SEC. 204. DISTRIBUTION OF REVENUE.**

4 (a) PAYMENTS TO COUNTIES.—

5 (1) IN GENERAL.—Effective for fiscal year
6 2016 and each fiscal year thereafter until the termi-
7 nation date under section 206, the Secretary shall
8 provide to each county in which a covered project is
9 carried out annual payments in an amount equal to
10 25 percent of the amounts received for the applica-
11 ble fiscal year by the Secretary from the covered
12 project.

13 (2) LIMITATION.—A payment made under para-
14 graph (1) shall be in addition to any payments the
15 county receives under the payment to States re-
16 quired by the sixth paragraph under the heading
17 “FOREST SERVICE” in the Act of May 23, 1908 (35
18 Stat. 260; 16 U.S.C. 500), and section 13 of the Act
19 of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

20 (b) DEPOSIT IN KNUTSON-VANDENBERG AND SAL-
21 VAGE SALE FUNDS.—After compliance with subsection
22 (a), the Secretary shall use amounts received by the Sec-
23 retary from covered projects during each of the fiscal
24 years during the period described in subsection (a) to
25 make deposits into the fund established under section 3

1 of the Act of June 9, 1930 (commonly known as the
 2 “Knutson-Vandenberg Act”) (16 U.S.C. 576b), and the
 3 fund established under section 14(h) of the National For-
 4 est Management Act of 1976 (16 U.S.C. 472a(h)) in con-
 5 tributions equal to the amounts otherwise collected under
 6 those Acts for projects conducted on National Forest Sys-
 7 tem land.

8 (c) DEPOSIT IN GENERAL FUND OF THE TREAS-
 9 URY.—After compliance with subsections (a) and (b), the
 10 Secretary shall deposit into the general fund of the Treas-
 11 ury any remaining amounts received by the Secretary for
 12 each of the fiscal years referred to in those subsections
 13 from covered projects.

14 **SEC. 205. PERFORMANCE MEASURES; REPORTING.**

15 (a) PERFORMANCE MEASURES.—The Secretary shall
 16 develop performance measures that evaluate the degree to
 17 which the Secretary is achieving—

18 (1) the purposes of this title; and

19 (2) the minimum acreage requirements estab-
 20 lished under section 202(a)(4).

21 (b) ANNUAL REPORTS.—Annually, the Secretary
 22 shall submit to the Committee on Energy and Natural Re-
 23 sources of the Senate and the Committee on Natural Re-
 24 sources of the House of Representatives—

1 (1) a report that describes the results of evalua-
 2 tions using the performance measures developed
 3 under subsection (a); and

4 (2) a report that describes—

5 (A) the number and substance of the cov-
 6 ered projects that are subject to administrative
 7 review and arbitration under section 203; and

8 (B) the outcomes of the administrative re-
 9 view and arbitration under that section.

10 **SEC. 206. TERMINATION.**

11 The authority of this title terminates on the date that
 12 is 15 years after the date of enactment of this Act.

13 **TITLE III—FOREST**
 14 **STEWARDSHIP CONTRACTING**

15 **SEC. 301. STEWARDSHIP END RESULT CONTRACTING**
 16 **PROJECTS.**

17 (a) CANCELLATION CEILINGS.—Section 604(d) of
 18 the Healthy Forests Restoration Act of 2003 (16 U.S.C.
 19 6591c(d)) is amended—

20 (1) by redesignating paragraphs (5), (6), and
 21 (7) as paragraphs (6), (7), and (8), respectively;

22 (2) by inserting after paragraph (4) the fol-
 23 lowing:

24 “(5) CANCELLATION CEILINGS.—

1 “(A) IN GENERAL.—The Chief and the Di-
2 rector may obligate funds to cover any potential
3 cancellation or termination costs for an agree-
4 ment or contract under subsection (b) in stages
5 that are economically or programmatically via-
6 ble.

7 “(B) NOTICE.—

8 “(i) SUBMISSION TO CONGRESS.—Not
9 later than 30 days before entering into a
10 multiyear agreement or contract under
11 subsection (b) that includes a cancellation
12 ceiling in excess of \$25,000,000, but does
13 not include proposed funding for the costs
14 of cancelling the agreement or contract up
15 to the cancellation ceiling established in
16 the agreement or contract, the Chief and
17 the Director shall submit to the Commit-
18 tees on Energy and Natural Resources and
19 Agriculture, Nutrition, and Forestry of the
20 Senate and the Committees on Natural Re-
21 sources and Agriculture of the House of
22 Representatives a written notice that in-
23 cludes—

24 “(I)(aa) the cancellation ceiling
25 amounts proposed for each program

1 year in the agreement or contract;
 2 and

3 “(bb) the reasons for the can-
 4 cellation ceiling amounts proposed
 5 under item (aa);

6 “(II) the extent to which the
 7 costs of contract cancellation are not
 8 included in the budget for the agree-
 9 ment or contract; and

10 “(III) a financial risk assessment
 11 of not including budgeting for the
 12 costs of agreement or contract can-
 13 cellation.

14 “(ii) TRANSMITTAL TO OMB.—At least
 15 14 days before the date on which the Chief
 16 and Director enter into an agreement or
 17 contract under subsection (b), the Chief
 18 and Director shall transmit to the Director
 19 of the Office of Management and Budget
 20 a copy of the written notice submitted
 21 under clause (i).”; and

22 (3) in paragraph (6) (as redesignated by para-
 23 graph (1)), by striking “, the Chief may” and insert-
 24 ing “and section 2(a)(1) of the Act of July 31, 1947
 25 (commonly known as the ‘Materials Act of 1947’)

1 (30 U.S.C. 602(a)(1)), the Chief and the Director
2 may”.

3 (b) EXCESS OFFSET VALUE.—Section 604(g)(2) of
4 the Healthy Forests Restoration Act of 2003 (16 U.S.C.
5 6591c(g)(2)) is amended by striking subparagraphs (A)
6 and (B) and inserting the following:

7 “(A) use the excess to satisfy any out-
8 standing liabilities for cancelled agreements or
9 contracts; or

10 “(B) if there are no outstanding liabilities
11 under subparagraph (A), apply the excess to
12 other authorized stewardship projects.”.

13 (c) REPORTING.—Section 604(i) of the Healthy For-
14 ests Restoration Act of 2003 (16 U.S.C. 6591c(i)) is
15 amended by striking “Committee on Agriculture, Nutri-
16 tion, and Forestry of the Senate and the Committee on
17 Agriculture of the House of Representatives” and insert-
18 ing “Committees on Energy and Natural Resources and
19 Agriculture, Nutrition, and Forestry of the Senate and the
20 Committees on Natural Resources and Agriculture of the
21 House of Representatives”.

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