113TH CONGRESS
1ST SESSION

H. R. 1526

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2013

Mr. HASTINGS OF WASHINGTON (for himself, Mrs. MCMORRIS RODGERS, Ms. HERRERA BEUTLER, Mr. RIBBLE, Mr. LAMALFA, Mr. MCCLINTOCK, Mr. SOUTHERLAND, Mr. DAINES, Mr. THOMPSON of Pennsylvania, Mr. YOUNG of Alaska, Mr. GRIFFITH of Virginia, Mr. GOSAR, Mr. GOHMERT, Mr. PEARCE, Mr. BISHOP of Utah, and Mrs. LUMMIS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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

(a) SHORT TITLE.—This Act may be cited as the "Restoring Healthy Forests for Healthy Communities Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Establishment of Forest Reserve Revenue Areas and annual volume requirements.
Sec. 4. Management of Forest Reserve Revenue Areas.
Sec. 5. Distribution of forest reserve revenues.
Sec. 6. Extension of Secure Rural Schools and Community Self-Determination Act of 2000 pending full operation of Forest Reserve Revenue Areas.

SEC. 2. **DEFINITIONS.**

In this Act:

(1) ANNUAL VOLUME REQUIREMENT.—

(A) IN GENERAL.—The term "annual volume requirement", with respect to a Forest Reserve Revenue Area, means a volume of national forest materials no less than 50 percent of the sustained yield of the Forest Reserve Revenue Area.

(B) EXCLUSIONS.—In determining the volume of national forest materials or the sustained yield of a Forest Reserve Revenue Area, the Secretary may not include non-commercial post and pole sales and personal use firewood.

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

(3) CATASTROPHIC EVENT.—The term "catastrophic event" means an event (including severe fire, insect or disease infestations, windthrow, or other extreme weather or natural disaster) that the Secretary determines will cause or has caused substantial damage to National Forest System land or natural resources on National Forest System land.

(4) COMMUNITY WILDFIRE PROTECTION PLAN.—The term

"community wildfire protection plan" has the meaning given that term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

(5) COVERED FOREST RESERVE PROJECT.—The terms "covered forest reserve project" and "covered project" mean a project involving the management or sale of national forest materials within a Forest Reserve Revenue Area to generate forest reserve revenues and achieve the annual volume requirement for the Forest Reserve Revenue Area.

(6) FOREST RESERVE REVENUE AREA.—

(A) IN GENERAL.—The term "Forest Reserve Revenue Area" means National Forest System land in a unit of the National Forest System designated for sustainable forest management for the production of national forest materials and forest reserve revenues.

(B) INCLUSIONS.—Subject to subparagraph (C), but otherwise notwithstanding any other provision of law, including executive orders and regulations, the Secretary shall include in Forest Reserve Revenue Areas all National Forest System lands identified as commercial forest land capable of producing twenty cubic feet of timber per acre.

(C) EXCLUSIONS.—A Forest Reserve Revenue Area may not include National Forest System land—

(i) that is a component of the National Wilderness Preservation System; or

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

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

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

(9) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given that term in section 11(a) of the Forest

and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)), except that the term does not include the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012).

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(11) SUSTAINED YIELD.—The term "sustained yield" means the annual growth of the forest calculated on the basis of the culmination of mean annual increment using cubic measurement or other methods at the sole discretion of the Secretary.

(12) STATE.—The term "State" includes the Commonwealth of Puerto Rico.

(13) 25-PERCENT PAYMENT.—The term "25-percent payment" means the payment to States required by the sixth paragraph under the heading of "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

SEC. 3. **ESTABLISHMENT OF FOREST RESERVE REVENUE AREAS AND ANNUAL VOLUME REQUIREMENTS.**

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

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

(c) FIDUCIARY RESPONSIBILITY.—The Secretary shall have a fiduciary responsibility to beneficiary counties to manage Forest Reserve Revenue Areas to satisfy the annual volume requirement.

(d) DETERMINATION OF ANNUAL VOLUME REQUIREMENT.—Not later than 30 days after the date of the establishment of a Forest Reserve Revenue Area, the Secretary shall determine the annual volume requirement for that Forest Reserve Revenue Area.

(e) LIMITATION ON REDUCTION OF FOREST RESERVE

REVENUE AREAS.—Once a Forest Reserve Revenue Area is established under subsection (a), the Secretary may not reduce the number of acres of National Forest System land included in that Forest Reserve Revenue Area.

(f) MAP.—The Secretary shall provide a map of all Forest Reserve Revenue Areas established under subsection (a) for each unit of the National Forest System to—

(1) the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives; and

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

(g) RECOGNITION OF VALID AND EXISTING RIGHTS.—Neither the establishment of Forest Reserve Revenue Areas under subsection (a) nor any other provision of this Act shall be construed to limit or restrict—

(1) access to National Forest System land for hunting, fishing, recreation, and other related purposes; or

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

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

(a) REQUIREMENT TO ACHIEVE ANNUAL VOLUME REQUIREMENT.—Effective for fiscal year 2014 and each fiscal year thereafter, the Secretary shall manage each Forest Reserve Revenue Area in the manner necessary to achieve the annual volume requirement for the Forest Reserve Revenue Area. The Secretary is authorized and encouraged to commence covered forest reserve projects as soon as practicable after the date of the enactment of this Act to begin generating forest reserve revenues.

(b) STANDARDS FOR PROJECTS WITHIN FOREST RESERVE REVENUE AREAS.—The Secretary shall conduct covered forest reserve projects within Forest Reserve Revenue Areas in accordance with this section, which shall serve as the sole means by which the Secretary will comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) and other laws applicable to the covered projects.

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

(1) ENVIRONMENTAL ASSESSMENT.—The Secretary shall give published notice and complete an environmental assessment pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for a covered forest reserve project proposed to be conducted within a Forest Reserve Revenue Area, except that the Secretary is not required to study, develop, or describe any alternative to the proposed agency action.

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

(3) LENGTH.—The environmental assessment prepared for a proposed covered forest reserve project shall not exceed 100 pages in length. The Secretary may incorporate in the environmental assessment, by reference, any documents that the Secretary determines, in the sole discretion of the Secretary, are relevant to the assessment of the environmental effects of the covered project.

(4) DEADLINE FOR COMPLETION.—The Secretary shall complete the environmental assessment for a covered forest reserve project within 180 days after the date on which the Secretary published notice of the proposed covered project.

(5) CATEGORICAL EXCLUSION.—A covered forest reserve project that is proposed in response to a catastrophic event, is identified within a community wildfire protection plan, or that covers an area of 10,000 acres or less shall be categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(d) APPLICATION OF LAND AND RESOURCE MANAGEMENT PLAN.—A covered forest reserve project shall be implemented consistent with the standards and guidelines contained in the land and resource management plan for the unit of the National Forest System in which the covered project will be carried out, except that—

(1) section 6(g)(3)(E)(iv) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(E)(iv)) shall

not apply; and

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

(e) COMPLIANCE WITH ENDANGERED SPECIES ACT.—

(1) NON-JEOPARDY ASSESSMENT.—If the Secretary determines that a concern exists that a proposed covered forest reserve project may affect the continued existence of any species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), the Secretary shall issue a determination explaining the view of the Secretary that the proposed covered project will not jeopardize the continued existence of the species.

(2) SUBMISSION, REVIEW, AND RESPONSE.—

(A) SUBMISSION.—The Secretary shall submit a determination issued by the Secretary under paragraph (1) to the Secretary of the Interior or the Secretary of Commerce, as appropriate.

(B) REVIEW AND RESPONSE.—Within 30 days after receiving a determination under subparagraph (A), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall provide a written response to the Secretary concurring in or rejecting the Secretary's determination. If the Secretary of the Interior or the Secretary of Commerce rejects the determination, the written response shall include recommendations for measures that—

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

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

(iii) can be implemented consistent with the scope of the Secretary's legal authority and jurisdiction; and

(iv) are economically and technologically feasible.

(3) FORMAL CONSULTATION.—If the Secretary of the Interior or

the Secretary of Commerce rejects a determination issued by the Secretary under paragraph (1), the Secretary of the Interior or the Secretary of Commerce also is required to engage in formal consultation with the Secretary. The Secretaries shall complete such consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) within 90 days after the submission of the written response under paragraph (2).

(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

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

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—Judicial review of a covered forest reserve project shall occur in accordance with section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516).

(B) BOND REQUIRED.—A plaintiff challenging a covered forest reserve project shall be required to post a bond or other security acceptable to the court for the reasonably estimated costs, expenses, and attorneys fees of the Secretary as defendant. All proceedings in the action shall be stayed until the security is given. If the plaintiff has not complied with the order to post such bond or other security within 90 days after the date of service of the order, then the action shall be dismissed with prejudice.

(C) RECOVERY.—If the Secretary prevails in the case, the Secretary shall submit to the court a motion for payment of all litigation expenses.

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

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

(1) to make deposits into the fund established under section 3 of the Act of June 9, 1930 (16 U.S.C. 576b; commonly known as the Knutson-Vandenberg Fund) and the fund established under section 14 (h) of the National Forest Management Act of 1976 (16 U.S.C. 472a (h); commonly known as the salvage sale fund) in contributions equal

to the monies otherwise collected under those Acts for projects conducted on National Forest System land; and

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

SEC. 6. **EXTENSION OF SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000 PENDING FULL OPERATION OF FOREST RESERVE REVENUE AREAS.**

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