

113TH CONGRESS
1ST SESSION

S. _____

To amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects.

IN THE SENATE OF THE UNITED STATES

Mr. FLAKE (for himself, Mr. MCCAIN, Mr. CRAPO, Mr. RISCH, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Healthy Forests Restoration Act of 2003 to provide for the conduct of stewardship end result contracting projects.

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 “Stewardship Con-
5 tracting Reauthorization and Improvement Act”.

1 **SEC. 2. STEWARDSHIP END RESULT CONTRACTING**
2 **PROJECTS.**

3 (a) IN GENERAL.—Title VI of the Healthy Forests
4 Restoration Act of 2003 (16 U.S.C. 6591) is amended by
5 adding at the end the following:

6 **“SEC. 602. STEWARDSHIP END RESULT CONTRACTING**
7 **PROJECTS.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) CHIEF.—The term ‘Chief’ means the Chief
10 of the Forest Service.

11 “(2) DIRECTOR.—The term ‘Director’ means
12 the Director of the Bureau of Land Management.

13 “(b) PROJECTS.—Until September 30, 2023, the
14 Chief and the Director, via agreement or contract as ap-
15 propriate, may enter into stewardship contracting projects
16 with private persons or other public or private entities to
17 perform services to achieve land management goals for the
18 national forests and the public lands that meet local and
19 rural community needs.

20 “(c) LAND MANAGEMENT GOALS.—The land man-
21 agement goals of a project under subsection (b) may in-
22 clude—

23 “(1) road and trail maintenance or obliteration
24 to restore or maintain water quality;

25 “(2) soil productivity, habitat for wildlife and
26 fisheries, or other resource values;

1 “(3) setting of prescribed fires to improve the
2 composition, structure, condition, and health of
3 stands or to improve wildlife habitat;

4 “(4) removing vegetation or other activities to
5 promote healthy forest stands, reduce fire hazards,
6 or achieve other land management objectives;

7 “(5) watershed restoration and maintenance;

8 “(6) restoration and maintenance of wildlife
9 and fish; or

10 “(7) control of noxious and exotic weeds and re-
11 establishing native plant species.

12 “(d) AGREEMENTS OR CONTRACTS.—

13 “(1) PROCUREMENT PROCEDURE.—A source
14 for performance of an agreement or contract under
15 subsection (b) shall be selected on a best-value basis,
16 including consideration of source under other public
17 and private agreements or contracts.

18 “(2) CONTRACT FOR SALE OF PROPERTY.—A
19 contract entered into under this section may, at the
20 discretion of the Secretary of Agriculture, be consid-
21 ered a contract for the sale of property under such
22 terms as the Secretary may prescribe without regard
23 to any other provision of law.

24 “(3) TERM.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Chief and the Director
3 may enter into a contract under subsection (b)
4 in accordance with section 3903 of title 41,
5 United States Code.

6 “(B) MAXIMUM.—The period of the con-
7 tract under subsection (b) may exceed 5 years
8 but may not exceed 10 years.

9 “(4) OFFSETS.—

10 “(A) IN GENERAL.—The Chief and the Di-
11 rector may apply the value of timber or other
12 forest products removed as an offset against the
13 cost of services received under the agreement or
14 contract described in subsection (b).

15 “(B) METHODS OF APPRAISAL.—The value
16 of timber or other forest products used as an
17 offset under subparagraph (A)—

18 “(i) shall be determined using appro-
19 priate methods of appraisal commensurate
20 with the quantity of products to be re-
21 moved; and

22 “(ii) may—

23 “(I) be determined using a unit
24 of measure appropriate to the con-
25 tracts; and

1 “(II) may include valuing prod-
2 ucts on a per-acre basis.

3 “(5) CANCELLATION CEILINGS.—

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

10 “(B) NOTICE.—

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

1 “(I)(aa) the cancellation ceiling
2 amounts proposed for each program
3 year in the agreement or contract;
4 and

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

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

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

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

24 “(6) RELATION TO OTHER LAWS.—Notwith-
25 standing subsections (d) and (g) of section 14 of the

1 National Forest Management Act of 1976 (16
2 U.S.C. 472a), the Chief may enter into an agree-
3 ment or contract under subsection (b).

4 “(7) CONTRACTING OFFICER.—Notwithstanding
5 any other provision of law, the Secretary or the Sec-
6 retary of the Interior may determine the appropriate
7 contracting officer to enter into and administer an
8 agreement or contract under subsection (b).

9 “(8) FIRE LIABILITY PROVISIONS.—Not later
10 than 90 days after the date of enactment of this sec-
11 tion, the Chief and the Director shall issue for use
12 in all contracts and agreements under subsection (b)
13 fire liability provisions that are in substantially the
14 same form as the fire liability provisions contained
15 in—

16 “(A) integrated resource timber contracts,
17 as described in the Forest Service contract
18 numbered 2400–13, part H, section H.4; and

19 “(B) timber sale contracts conducted pur-
20 suant to section 14 of the National Forest
21 Management Act of 1976 (16 U.S.C. 472a).

22 “(e) RECEIPTS.—

23 “(1) IN GENERAL.—The Chief and the Director
24 may collect monies from an agreement or contract
25 under subsection (b) if the collection is a secondary

1 objective of negotiating the contract that will best
2 achieve the purposes of this section.

3 “(2) USE.—Monies from an agreement or con-
4 tract under subsection (b)—

5 “(A) may be retained by the Chief and the
6 Director; and

7 “(B) shall be available for expenditure
8 without further appropriation at the project site
9 from which the monies are collected or at an-
10 other project site.

11 “(3) RELATION TO OTHER LAWS.—

12 “(A) IN GENERAL.—Notwithstanding any
13 other provision of law, the value of services re-
14 ceived by the Chief or the Director under a
15 stewardship contract project conducted under
16 this section, and any payments made or re-
17 sources provided by the contractor, Chief, or
18 Director shall not be considered monies received
19 from the National Forest System or the public
20 lands.

21 “(B) KNUTSON-VANDERBERG ACT.—The
22 Act of June 9, 1930 (commonly known as the
23 ‘Knutson-Vanderberg Act’) (16 U.S.C. 576 et
24 seq.) shall not apply to any agreement or con-
25 tract under subsection (b).

1 “(f) COSTS OF REMOVAL.—Notwithstanding the fact
2 that a contractor did not harvest the timber, the Chief
3 may collect deposits from a contractor covering the costs
4 of removal of timber or other forest products under—

5 “(1) the Act of August 11, 1916 (16 U.S.C.
6 490); and

7 “(2) the Act of June 30, 1914 (16 U.S.C. 498).

8 “(g) PERFORMANCE AND PAYMENT GUARANTEES.—

9 “(1) IN GENERAL.—The Chief and the Director
10 may require performance and payment bonds under
11 sections 28.103–2 and 28.103–3 of the Federal Ac-
12 quisition Regulation, in an amount that the con-
13 tracting officer considers sufficient to protect the in-
14 vestment in receipts by the Federal Government
15 generated by the contractor from the estimated
16 value of the forest products to be removed under a
17 contract under subsection (b).

18 “(2) EXCESS OFFSET VALUE.—If the offset
19 value of the forest products exceeds the value of the
20 resource improvement treatments, the Chief and the
21 Director shall—

22 “(A) use the excess to satisfy any out-
23 standing liabilities for cancelled agreements or
24 contracts; or

1 “(B) if there are no outstanding liabilities
2 under subparagraph (A), apply the excess to
3 other authorized stewardship projects.

4 “(h) MONITORING AND EVALUATION.—

5 “(1) IN GENERAL.—The Chief and the Director
6 shall establish a multiparty monitoring and evalua-
7 tion process that accesses the stewardship con-
8 tracting projects conducted under this section.

9 “(2) PARTICIPANTS.—Other than the Chief and
10 Director, participants in the process described in
11 paragraph (1) may include—

12 “(A) any cooperating governmental agen-
13 cies, including tribal governments; and

14 “(B) any other interested groups or indi-
15 viduals.

16 “(i) REPORTING.—Not later than 1 year after the
17 date of enactment of this section, and annually thereafter,
18 the Chief and the Director shall report to the Committee
19 on Energy and Natural Resources of the Senate and the
20 Committee on Natural Resources of the House of Rep-
21 resentatives on—

22 “(1) the status of development, execution, and
23 administration of agreements or contracts under
24 subsection (b);

1 “(2) the specific accomplishments that have re-
2 sulted; and

3 “(3) the role of local communities in the devel-
4 opment of agreements or contract plans.”.

5 (b) OFFSET.—To the extent necessary, the Chief and
6 the Director shall offset any direct spending authorized
7 under section 602 of the Healthy Forests Restoration Act
8 of 2003 (as added by subsection (a)) using any additional
9 amounts that may be made available to the Chief or the
10 Director for the applicable fiscal year.

11 (c) CONFORMING AMENDMENT.—Section 347 of the
12 Department of the Interior and Related Agencies Appro-
13 priations Act, 1999 (16 U.S.C. 2104 note; Public
14 Law 105–277) is repealed.