



**Legislative Bulletin.....September 19, 2013**

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**H.R. 1526 - Restoring Healthy Forests for Healthy Communities Act**

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**H.R. 1526 – Restoring Healthy Forests for Healthy Communities Act  
(Hastings, R-W)**

**Order of Business:** The legislation is scheduled to be considered on September 19, 2013, under a rule, [H.Res. 351](#). The rule provides for the consideration of H.R. 687, the Southeast Arizona Land Exchange and Conservation Act of 2013, H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act, and H.R. 3102, the Nutrition Reform and Work Opportunity Act of 2013.

With respect to H.R. 1526, the rule allow for the bill to be considered in the Committee of the Whole House on the state of the Union. The rule waives all points of order against consideration of the bill. The rule provides for one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate, the bill shall be considered for amendment under the five-minute rule, and makes in order the amendments summarized in this document. At the conclusion of amendment consideration, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered. The rule also provides for one motion to recommit.

**Summary:** H.R. 1526 seeks to address the decline in timber revenue to local counties that has resulted from overregulation, lawsuits and a lack of active forest management. The legislation also seeks to address forest management plans that have led to dense forests, which increase the likelihood for a wildfire. H.R. 1526 is a combination of five bills combined into one. This Legislative Bulletin provides a title-by-title summary.

**Title I – This text is similar to H.R. 1526, as introduced by Rep. Hastings.**

The title directs the Secretary of Agriculture to create one or more Forest Reserve Revenue Areas within each unit of the National Forest System (NFS). This is to be done within 60 days of enactment. These Forest Reserve Revenue Areas are to “provide a dependable source of 25-percent payments and economic activity through sustainable forest management” for each county that contains NFS land.

The Secretary shall determine the annual volume requirement for each Forest Reserve Revenue Area. The annual volume requirement is equal to half of the sustained yield for that area.

The establishment of the Forest Reserve Revenue Areas shall be interpreted as limited or restricting access to National Forest System land for hunting, fishing, recreation, or any valid and existing rights regarding National Forest System land.

The Secretary is required to maintain the FRRA so that it achieves the annual volume requirement for the FRRA. The Secretary is required to comply with the National Environmental Policy Act when conducting covered forest reserve projects within FRRAs, this includes publishing assessments pursuant to NEPA. In the case of a forest reserve project that could affect the continued existence of any endangered species, the Secretary shall issue a determination explaining that the proposed project is not likely to jeopardize the continued existence of the species.

In the case of a forest reserve project that is subject to judicial review, the plaintiff challenging the project is required to post a bond or other security acceptable to the court for the costs, expenses, and attorney's fees of the Secretary. If the plaintiff fails to post this bond within 90 days after the date of serve of the order then the action shall be dismissed. If the Secretary prevails in the case then the Secretary shall submit to the court a motion for payment of all litigation expenses.

The Secretary is directed to give 25-percent of the forest reserve revenues to states for the benefit of beneficiary counties.

## **Title II - This text is similar to**

The legislation directs the Secretary to implement a hazardous fuel reduction project or a forest health project on forests on certain forest land that is determined to be at an imminent risk for wildfires or beetle infestation. In order to address these risks, the Secretary is authorized to allow livestock grazing and timber harvesting and thinning. These areas are to be designated within 60 days after enactment, but high-risk areas may be designated at any time. This designation of an area within a state shall expire 20 years after the date of the designation, unless terminated earlier by the Governor.

State Governors are allowed to designate high-risk areas of federal land in the state for the purposes of addressing deteriorating forest health conditions due to the bark beetle epidemic, possible future insect infestations, or drought, with the resulting imminent risk of wildfires.

Components of the National Wilderness Preservation System and federal land within a National Monument are prohibited from being designated as a high-risk area. Additionally, federal land on which the removal of vegetation is specifically prohibited by federal statute may not be designated as a high-risk area.

## **Title III - This text is based on language by Reps. Defazio (D-OR), Walden (R-OR) and Schrader (D-OR) and is specific to lands in Oregon.**

The legislation establishes the Oregon and California Railroad Grant Lands Trust to oversee the management of the O&C Trust lands for the benefit of counties containing those lands. The purpose of the trust is to manage these lands so that the counties receive revenue through maximized timber sales. These O&C Trust lands include land on Oregon and California Railroad Grant land that was reclaimed by the United States in 1916, and other land. The title of these lands

shall remain with the United States, however the legislation establishes a Board of Trustees that shall have authority to manage the surface estate of the lands. The United States shall maintain the subsurface rights to minerals.

The legislation clarifies certain lands that are not to be included as O&C Trust Lands, including certain tribal land, and federal land within national monuments.

The legislation authorizes the maintenance or construction of a road system for the management of these lands. Public access to these lands shall be preserved and shall not change from their current status. However, the Board may limit or control public access for reasons of public safety or to protect resources on the lands.

The Board of Trustees shall be appointed by the Governor of Oregon and appointments are to be made within 60 days after enactment. The Board shall consist of 7 members and the legislation lays out criteria for the Governor when selecting members. The Board is responsible for updating and managing timber sale plans on O&C Trust lands. The Board is authorized to develop an integrated pest and vegetation management plan to combat pest, disease and weeds.

The legislation sets up a three transition period and lays out criteria for the Board during those first three years. The Board is also authorized to borrow from private sources and non-federal public sources in order to provide for the costs of organization, administration, and management of the O&C Trust during the three-year transition period beginning after enactment.

Any judicial review shall be brought before the U.S. Court of Appeals for the District of Columbia Circuit. Any suit must be filed within 60 days after enactment and no preliminary injunctive relief or stays pending appeal will be permitted. The Court is directed to rule on any action brought within 180 days.

Payments to counties shall be based on the proportion of timber that was harvested. After the fifth payment, counties are prohibited from receiving 110% of the previous year's payment. The legislation directs the O&C Trust to submit a payment of \$10,000,000 to the U.S. Treasury as soon as practicable after the end of the third fiscal year, and in each of the subsequent seven fiscal years. The legislation prohibits unprocessed timber that is harvested from O&C Trust lands from being exported.

The legislation requires the Secretary of the Interior to transfer the administrative jurisdiction of certain Oregon and California Railroad Grant lands and O&C Region Public Domain lands that are not designated as O&C Trust lands to the Secretary of Agriculture for inclusion in the National Forest System. This transfer will not include any tribal land. The Secretary of Agriculture is authorized to conduct land exchanges in order to create larger contiguous blocks of land under their management. The legislation contains protections against harvesting old growth trees.

This title directs the Secretary of Interior to transfer, within one year, management authority over the Coos Bay Wagon Road Grant lands to the Coos County government. This excludes certain land, including certain tribal land. The county will be responsible for all management and administrative costs of these lands. Revenues generated from the management of these lands shall be deposited in the general fund of the Coos County treasury. As soon as practicable after the end

of the third fiscal year of the transition period, and in each of the subsequent seven fiscal years, the county shall submit a payment of \$400,000 to the U.S. Treasury.

The title also designates approximately 30,520 acres of federal land, managed by the Forest Service, within the state of Oregon as a wilderness area. This land, known as “Devil’s Staircase Wilderness Proposal,” shall be included in the National Wilderness Preservation System. Existing Forest Service road are to be decommissioned and converted to a trail for primitive recreational use.

The National Wilderness Preservation System is further expanded by adding approximately 58,100 acres that is currently managed by the Bureau of Land Management. This land is known as the Wild Rogue Wilderness Area. This land is withdrawn from all forms of “entry, appropriation, or disposal under” public land law.

The legislation extends the Wild and Scenic River designation to several sections of rivers in Oregon. This designation puts a development freeze on rivers to preserve their ‘free-flowing’ values against the influx of manmade dams being constructed at the time.

#### **Title IV - This text is similar to H.R. 1294, as introduced by Rep. Labrador.**

The title directs the Secretary of Agriculture to establish a community forest demonstration area at the request of the state. The purpose of the community forest demonstration area is to manage National Forest System lands within the state. The title prohibits certain lands from being included in these demonstration areas (National Monuments, etc).

These areas must include at least 200,000 acres of National Forest System land, and not more than 2,000,000 acres of National Forest System land be included in demonstration areas. Nothing in this title shall limit or restrict access to National Forest System land included in a community forest demonstration area for hunting or fishing.

These demonstration areas are to be managed by an Advisory Committee appointed by the Governor of the state. The legislation contains criteria by which the Governor may appoint members to the Advisory Committee, and these members shall serve without pay. The legislation prohibits unprocessed timber that is harvested from these areas from being exported.

Amounts received from the demonstration areas shall be distributed to each county or local governmental unit in the state in an amount proportional to the funds received by the county or local government under title I of the Secure Rural School and Community Self-Determination Act.

Of revenues received from the demonstration areas, an amount shall be made to the U.S. Treasury. That legislation contains a formula to calculate this amount.

#### **Title V – Reauthorization and amendment of the Secure Rural Schools Act**

By February 2014, the Secretary of Agriculture shall distribute to each beneficiary county a payment equal to the amount distributed for fiscal year 2010 under the Secure Rural Schools and Community Self-Determination Act of 2000. This is a reauthorization of the Secure Rural Schools Act at 2010 levels, for one year.

The legislation also amends the calculation for payments so that payments to counties will be passed off of 25 percent of all amounts received for the applicable fiscal year and will no longer take into account amounts received in preceding years.

The legislation allows the Secretary to enter into a cooperative agreement with a state forester. These agreements shall authorize the state forester to provide the forest, rangeland, and watershed restoration, management, and protection services on National Forest System land, or land under the jurisdiction of the Bureau of Land Management within the state.

**Amendments Made In Order:**

**Smith (R-MO):** The amendment prohibits prescribed fire in the Mark Twain National Forest, Missouri, under a report is submitted to Congress. This amendment does not prohibit prescribed fire as part of wildfire suppression.

The amendment requires the Secretary of Agriculture to submit, within one year, a report to Congress containing an evaluation of recent and current Forest Service management practices for Mark Twain National Forest. The amendment includes criteria for the report, include the economic costs associated with the failure to utilize hardwoods cuts as part of the Collaborative Forest Landscape Restoration Project, and the extent of increased tree mortality due to excessive heat generated by prescribed fires. The text of the amendment can be [viewed here](#).

**Daines (R-MT):** The amendment requires a report, within 60 days after the end of each fiscal year, to be submitted by the Secretary that specifies the annual volume requirement in effect for that fiscal year for each Forest Reserve Revenue Area. The report shall also include the average cost of preparation for timber sales, the forest reserve revenues generated from those sales, and the amount of receipts distributed to each beneficiary county. The text of the amendment can be [viewed here](#).

**Daines (R-MT):** The amendment prohibits a court from issuing a restraining order, preliminary injunction, or injunction pending appeal that covers a forest reserve project in response to an allegation that the Secretary violated any procedural requirement applicable to how the project was selected, planned, or analyzed. The text of the amendment can be [viewed here](#).

**McClintock (R-CA):** In cases where the purpose of a hazardous fuel reduction project is the salvage of dead, damaged, or down timber that is a result from wildfire during 2013, the decision of the Secretary shall not be subject to judicial review or any restraining order or injunction issued by the U.S. The text of the amendment can be [viewed here](#).

**McClintock (R-CA):** The amendment prohibits the Forest Service from removing or otherwise eliminating any legally created road or trail unless there has been a specific decision to decommission the specific road or trail. The text of the amendment can be [viewed here](#).

**LaMalfa (R-CA):** The amendment prohibits the Attorney General from seeking intangible damages from a landowner from whose land wildfire escaped to federal land when the damages of the wildfire are not permitted by the law of the state. The text of the amendment can be [viewed here](#).

**LaMalfa (R-CA):** The amendment expands the definition of “fire suppression” to include reforestation, site rehabilitation, salvage operations, and replanting that occurs after fire damage. The text of the amendment can be [viewed here](#).

**Additional Information:** The Secure Rural Schools Act was last authorized as part of the MAP-21 Act, H.R. 4348 from the 112<sup>th</sup> Congress. This legislation authorized the Secure Rural Schools Act for fiscal year 2012. The last payments under the act were distributed in February of 2013. The Secure Rural Schools Act (P.L. 106-393) passed the House of Representatives on November 3, 1999, by a [roll call vote of 274-153](#). It was signed by the President and became law on October 30, 2000.

**Committee Action:** H.R. 1526 was introduced on April 12, 2013, and was referred to the House Natural Resources Subcommittee on Public Lands and Environmental Regulation, and the House Agriculture Subcommittee on Conservation, Energy, and Forestry. The Natural Resources Committee held a [markup on July 31, 2013](#), and passed the legislation, as amended, by voice vote.

**Outside Support:** The Natural Resources Committee has compiled an extensive list of organizations in support of H.R. 1526. Their full list can be viewed near the bottom of [this page](#).

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** CBO estimates that enacting the legislation would increase direct spending by \$238 million in 2015, but would decrease direct spending over the 2014-2023 period by \$383 million. CBO’s full report can be [viewed here](#).

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 1526 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on plaintiffs, including public and private entities, seeking judicial review of some activities on federal lands. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$75 million and \$150 million in 2013, respectively, adjusted annually for inflation).

**Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

**Constitutional Authority:** Rep. Hastings states “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2 The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.” The statement can be [viewed here](#).

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