

**Text of Legislation**

S 2593 IS

110th CONGRESS  
2d Session  
S. 2593

To establish a program at the Forest Service and the Department of the Interior to carry out collaborative ecological restoration treatments for priority forest landscapes on public land, and for other purposes.

IN THE SENATE OF THE UNITED STATES  
**February 5, 2008**

Mr. BINGAMAN (for himself, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. ALLARD, Mr. WYDEN, Mr. SALAZAR, Ms. CANTWELL, Mr. CRAIG, Mr. AKAKA, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a program at the Forest Service and the Department of the Interior to carry out collaborative ecological restoration treatments for priority forest landscapes on public land, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the 'Forest Landscape Restoration Act of 2008'.

3 **SEC. 2. PURPOSE.**

4 The purpose of this Act is to encourage the collaborative, science-based ecosystem  
5 ecological restoration of priority forest landscapes through a process that--

- 6 (1) encourages ecological, economic, and social sustainability;  
7 (2) leverages local resources with national and private resources;  
8 (3) facilitates the reduction of wildfire management costs, including through  
9 reestablishing natural fire regimes and reducing the risk of uncharacteristic  
10 wildfire; and

- 11 (4) demonstrates the degree to which --  
12 (A) various ecological restoration techniques--  
13 (i) achieve ecological health objectives; and  
14 (ii) affect wildfire activity and management costs; and  
15 (B) the use of forest restoration byproducts can offset treatment costs  
16 while benefitting rural economies and improving forest health.

- 1 (1) protects, maintains, and perpetuates forests and other native landscape
- 2 vegetation types,
- 3 (2) restores forests, savannas, prairies, meadows, fields, berry patches, and other
- 4 landscape features to historical reference conditions,
- 5 (3) sustains old-growth trees and old-growth development pathways,
- 6 4) protects, maintains, and perpetuates wildlife populations including threatened
- 7 and endangered species,
- 8 (5) prevents catastrophic stand-replacement fires through active vegetation
- 9 management, and thereby reduces emergency fire suppression costs, resource
- 10 losses, and ecological damages,
- 11 (6) prevents catastrophic fire damage to watersheds, and protects, maintains, and
- 12 perpetuates water quality and yield,
- 13 (7) benefits rural economies, jobs, and local school funding in affected rural
- 14 communities.

15 SEC. 3. DEFINITIONS.

16 In this Act:

- 17 (1) **FUND**- The term 'Fund' means the Collaborative Forest Landscape
- 18 Restoration Fund established by section 5(f).
- 19 (2) **ECOLOGICAL RESTORATION**- The term 'ecological restoration' means
- 20 to actively manage through on-the-ground treatments in order to re-establish
- 21 forest and landscape plant and wildlife species, densities, populations, and
- 22 geographic distributions representative of historical reference conditions, and to
- 23 protect, maintain, and perpetuate historical ecological development pathways.
- 24 (3) **HISTORICAL ECOLOGICAL DEVELOPMENT PATHWAYS**- The
- 25 term 'historical ecological development pathways' means the specific disturbance
- 26 regimes and influences in the past that gave rise to historical reference
- 27 conditions.
- 28 (4) **HISTORICAL REFERENCE CONDITIONS**- The term 'historical
- 29 reference conditions' means the plant and wildlife species, densities, populations,
- 30 and geographic distributions that existed prior to Euro-American contact with
- 31 indigenous peoples, defined for the purposes of this Act to be 1800 in the

1 western U.S., and/or in early historical times, defined for the purposes of this  
2 Act to be prior to 1850 in the western U.S.

3 (5) NORTHWEST FOREST PLAN- The term 'Northwest Forest Plan' means  
4 the collection of documents issued in 1994 and entitled "Final Supplemental  
5 Environmental Impact Statement and Record of Decision for Amendments to  
6 Forest Service and Bureau of Land Management Planning Documents within  
7 the Range of the Northern Spotted Owl" and "Standards and Guidelines for  
8 Management of Habitat for Late-Successional and Old-Growth Forest Related  
9 Species Within the Range of the Northern Spotted Owl", as amended.

10 (6) OLD-GROWTH TREES- The term 'old-growth tree' means any tree that  
11 germinated prior to Euro-American settlement, defined for the purposes of this  
12 Act to be 1835 in the western U.S.

13 (7) PLAN- The term 'Plan' means the plan entitled the '10 Year Comprehensive  
14 Strategy Implementation Plan' and dated December 2006.

15 (8) PRIORITY FOREST LANDSCAPES- The term 'priority forest landscape'  
16 means those lands identified by the Secretary as most in need of ecological  
17 restoration, including but not limited to all lands and land use allocations and  
18 management directives referred to in the Northwest Forest Plan, such as "late-  
19 successional reserve", "managed late-successional area", "matrix", "riparian  
20 reserve," and "adaptive management area."

21 (9) PROGRAM- The term 'program' means the Collaborative Forest Landscape  
22 Restoration Program established under section 4(a).

23 (10) SECRETARY - The term 'Secretary ' means the Secretary of Agriculture,  
24 acting through the Chief of the Forest Service.

#### 25 SEC. 4. NATURAL/CULTURAL HISTORICAL ANALYSES.

26 (1) The Secretary shall investigate, analyze, and report on the forest and  
27 landscape histories of every likely priority forest landscape using the following  
28 guidance criteria:

29 (A) The reported histories shall look back at least 600 years before  
30 present; and

31 (B) shall include analyses of the historical forest and landscape  
32 conditions and historical ecological development pathways; and

1 (C) shall include analyses of historical anthropogenic influences; and  
2 (D) shall refer to substantial evidence collected in the field, as well as fire  
3 history, ethnographic, anthropological, geological, and geographical, and  
4 documented historical research specific to each watershed or basin in  
5 the priority forest landscapes; and  
6 (E) shall provide a set of reference conditions for restoring  
7 representative forests, savannas, prairies, meadows, fields, berry patches,  
8 wildlife populations, and other landscape conditions in each watershed  
9 or basin in the priority forest landscapes; and  
10 (F) shall provide the basis upon which the Secretary shall prioritize  
11 forest landscapes in need of ecological restoration.

12 (2) Historical Analyses Advisory Panel- The Secretary shall establish a scientific  
13 advisory panel comprised of not more than 12 experts in landscape  
14 natural/cultural historical analyses to evaluate and provide recommendations on  
15 Historical Analysis Reports.

16 (3) Natural/Cultural Historical Analysis Reports for all likely priority forest  
17 landscapes shall be completed and published within 2 (two) calendar years of the  
18 effective date of this Act. To achieve that due date, any and all aspects of the  
19 investigations, analyses, and report creation may be contracted outside of the  
20 agencies.

21 SEC. 5. COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM.

22 (a) In General- The Secretary, ~~in consultation with the Secretary of the Interior,~~ shall  
23 establish a Collaborative Forest Landscape Restoration Program to select and fund  
24 ecological restoration treatments for priority forest landscapes in accordance with  
25 applicable law.

26 (b) Eligibility Criteria- To be eligible for nomination under subsection (c), a collaborative  
27 forest landscape restoration proposal shall--

28 (1) be based on a landscape-scale ~~restoration~~ strategy that--

29 (A) is complete or substantially complete; and

30 (B) identifies and prioritizes ecological restoration treatments for a 10-  
31 year period across a landscape that is--

32 (i) at least 50,000 acres;

1 (ii) comprised primarily of forested National Forest System land,  
2 but may also include other Federal, State, tribal, or private land;  
3 (iii) in need of active ~~ecosystem~~ ecological restoration; and  
4 (iv) accessible by existing or proposed wood-processing  
5 infrastructure at an appropriate scale to use woody biomass and  
6 small diameter wood biological products removed in ecological  
7 restoration treatments; and

8 (C) incorporates--

9 (i) the best available science and scientific application tools in  
10 ecological restoration strategies; and

11 (ii) prohibition against removal of any old-growth trees, except  
12 for hazard and danger trees identified using accepted protocols  
13 administered by qualified persons; and

14 (D) is permitted to supersede the requirements for old-growth  
15 maintenance, restoration, and management direction of paragraphs (2),  
16 (3), and (4) of subsection (e) and the requirements for large-tree  
17 retention of subsection (f) of section 102 of the Healthy Forests  
18 Restoration Act of 2003 (16 U.S.C. 6512); and

19 (E) does not include the establishment of permanent roads; and

20 (F) does not utilize wildfires to achieve the restoration of historical  
21 reference conditions; and

22 (2) be developed and implemented through a collaborative process that--

23 (A) includes multiple stakeholders representing diverse interests; and

24 (B)(i) is transparent and nonexclusive; or

25 (ii) meets the requirements for a resource advisory committee  
26 under section 205 of the Secure Rural Schools and Community  
27 Self-Determination Act of 2000 (16 U.S.C. 500 note; Public  
28 Law 106-393); and

29 (C) has an established record of successful planning and implementation  
30 of ecological restoration projects on National Forest System land;

31 (3) describe plans to--

- 1 (A) restore forests, savannas, prairies, meadows, fields, berry patches,  
2 and other landscape features using historical reference conditions  
3 reported by the appropriate natural/cultural historical analyses created in  
4 Section 4; and
- 5 (B) sustain old-growth trees and old-growth development pathways; and  
6 (C) prevent catastrophic stand-replacement fires; and
- 7 (D) use controlled fire for ecological restoration and maintenance, where  
8 appropriate; and
- 9 (E) protect, maintain, and perpetuate improve fish and wildlife habitat,  
10 including for endangered, threatened, and sensitive species; and
- 11 (F) prevent catastrophic fire damage to watersheds, and protect,  
12 maintain, or improve water quality; and
- 13 (G) prevent, remediate, or control invasions of exotic species; and
- 14 (H) maintain or decommission roads; and
- 15 (I) use woody biomass and small-diameter trees biological products  
16 produced from projects implementing the landscape restoration strategy;  
17 and
- 18 (J) report annually on performance, including through performance  
19 measures from the Plan; and
- 20 (K) develop small business incubators and provide employment and  
21 training opportunities to people in rural communities, including  
22 contracts for monitoring activities, through--
- 23 (i) local private, nonprofit, or cooperative entities;  
24 (ii) Youth Conservation Corps crews or related partnerships,  
25 with State, local, and non-profit youth groups;  
26 (iii) small or micro-businesses; or  
27 (iv) other entities that will hire or train a significant percentage  
28 of local people to complete such contracts; and
- 29 (L) take into account any applicable community wildfire protection plan  
30 (as defined in section 101 of the Healthy Forests Restoration Act of  
31 2003 (16 U.S.C. 6511 )); and

1 (M) notwithstanding section 14(g) of the National Forest Management  
2 Act of 1976 (16 U.S.C. 472a(g)), the Secretary is encouraged to utilize  
3 Designation by Description and Designation by Prescription when  
4 identifying trees for harvest under this Act; and

5 (4) analyze the anticipated ~~cost~~ cost-plus-loss savings resulting from--

6 (A) reduced wildfire management costs, resource losses, and ecological  
7 damages; and

8 (B) a decrease in the unit costs of implementing ecological restoration  
9 treatments over time; and

10 (5) estimate--

11 (A) the annual Federal funding necessary to implement the proposal;  
12 and

13 (B) the amount of new non-Federal investment for carrying out the  
14 proposal that would be leveraged by Federal funding for ecological  
15 restoration treatments; and

16 (6) be subject to any other requirements that the Secretary determines to be  
17 necessary for the efficient and effective administration of the program.

18 (c) Nomination Process-

19 (1) SUBMISSION- Collaborative forest landscape restoration proposals shall be  
20 submitted to the appropriate Regional Forester ~~or~~ for consideration.

21 (2) NOMINATION- A Regional Forester may nominate collaborative forest  
22 landscape restoration proposals for selection by the Secretary.

23 (3) DOCUMENTATION- With respect to each collaborative forest landscape  
24 restoration proposal that is nominated under paragraph (2)--

25 (A) the appropriate Regional Forester shall--

26 (i) include a proposal to use Federal funds allocated to the  
27 region to fund those costs of planning and carrying out  
28 ecological restoration treatments on National Forest land  
29 consistent with the landscape restoration strategy that would not  
30 be covered by amounts transferred to the Secretary from the  
31 Fund; and

1 (ii) provide evidence that amounts proposed to be transferred to  
2 the Secretary from the Fund during the first 2 years following  
3 selection would be used to carry out ecological restoration  
4 treatments consistent with the landscape restoration strategy  
5 during the same fiscal year in which the funds are transferred to  
6 the Secretary; and

7 (iii) prepare and submit an Environmental Impact Statement in  
8 accordance with the National Environmental Policy Act  
9 (NEPA) [42 U.S.C. 4321 et seq.].

10 (B) if actions under the jurisdiction of the Secretary of the Interior are  
11 proposed, the nomination shall require--

12 (i) the concurrence of the appropriate official of the Department  
13 of the Interior; and

14 (ii) a proposal to fund ecological restoration treatments  
15 consistent with the landscape restoration strategy that would be  
16 carried out by the Secretary of the Interior; and

17 (C) if actions on land not under the jurisdiction of the Secretary or the  
18 Secretary of the Interior are proposed, the appropriate Regional Forester  
19 shall provide evidence that the landowner intends to participate in, and  
20 provide appropriate funding to carry out, the actions.

21 (d) Selection Process-

22 (1) IN GENERAL- After consulting with any scientific and technical advisory  
23 panels established under subsection (e), the Secretary, in consultation with the  
24 Secretary of the Interior, shall, subject to paragraph (2), select the best  
25 collaborative forest landscape restoration proposals that--

26 (A) have been nominated under subsection (c)(2); and

27 (B) meet the eligibility criteria established by subsection (b).

28 (2) CRITERIA- In selecting collaborative forest landscape restoration proposals  
29 under paragraph (1), the Secretary shall give special consideration to--

30 (A) the strength of the ecological restoration cases of the proposal for  
31 landscape restoration and the proposed restoration strategies; and

32 (B) the strength of the collaborative process;



1 (C) whether the proposal would reduce the relative costs of carrying out  
2 treatments as a result of the use of woody biomass and small diameter  
3 trees biological products; and

4 (D) whether the proposal is likely to achieve reductions in long-term  
5 wildfire management costs and resource losses and ecological damages  
6 due to wildfires; and

7 ~~(E) the strength of the landscape restoration proposal and strategy; and~~

8 (E) whether an appropriate level of non-Federal investment would be  
9 leveraged in carrying out the proposal.

10 (3) LIMITATION- The Secretary may select not more than--

11 (A) ~~10~~ 100 (one hundred) collaborative forest landscape restoration  
12 proposals to be funded during any given year; and

13 (B) ~~2~~ 25 (twenty-five) collaborative forest landscape restoration  
14 proposals in any 1 region of the National Forest System to be funded  
15 during any given year.

16 (e) Advisory Panels-

17 (1) SCIENTIFIC ADVISORY PANEL- The Secretary shall establish a scientific  
18 advisory panel comprised of not more than 12 experts in ecological forest  
19 restoration and wildfire ecology management to evaluate, and provide  
20 recommendations on, any proposal that has been nominated under subsection  
21 (c)(2) and meets the eligibility criteria established by subsection (b) with respect  
22 to--

23 (A) the strength of the ecological restoration case of the proposal for  
24 ~~landscape restoration and the proposed restoration strategies; and~~

25 (B) whether the proposal is likely to achieve reductions in long-term  
26 wildfire management costs and resource losses and ecological damages  
27 due to wildfires.

28 (2) TECHNICAL ADVISORY PANEL- The Secretary may establish a  
29 technical advisory panel comprised of experts in rural business development and  
30 the use of woody biomass and small diameter trees biological products to  
31 evaluate, and provide recommendations on, any proposal that has been  
32 nominated under subsection (c)(2) and meets the eligibility criteria established by

1 subsection (b) with respect to whether the proposal is likely to reduce the  
2 relative costs of carrying out treatments as a result of the use of woody biomass  
3 and small-diameter trees biological products and provide local economic benefit.

4 (f) Collaborative Forest Landscape Restoration Fund-

5 (1) ESTABLISHMENT- There is established in the Treasury of the United  
6 States a fund, to be known as the 'Collaborative Forest Landscape Restoration  
7 Fund', to be used to pay up to 50 percent of the cost of carrying out ecological  
8 restoration treatments on National Forest System land for each collaborative  
9 forest landscape restoration proposal selected to be carried out under subsection  
10 (d), consisting of--

11 (A) such amounts as are appropriated to the Fund under paragraph (5);

12 and

13 (B) any interest earned on investment of amounts in the Fund under  
14 paragraph (3).

15 (2) EXPENDITURES FROM FUND- On request by the Secretary, the  
16 Secretary of the Treasury shall transfer from the Fund to the Secretary of  
17 Agriculture such amounts as the Secretary of Agriculture determines are  
18 necessary to carry out ecological restoration treatments under paragraph (1).

19 (3) INVESTMENT OF AMOUNTS-

20 (A) IN GENERAL- The Secretary of the Treasury shall invest such  
21 portion of the Fund as is not, in the judgment of the Secretary of the  
22 Treasury, after consulting with the Secretary, required to meet current  
23 withdrawals.

24 (B) INTEREST-BEARING OBLIGATIONS- Investments may be  
25 made only in interest-bearing obligations of the United States.

26 (C) ACQUISITION OF OBLIGATIONS- For the purpose of  
27 investments under subparagraph (A), obligations may be acquired--

28 (i) on original issue at the issue price; or

29 (ii) by purchase of outstanding obligations at the market price.

30 (D) SALE OF OBLIGATIONS- Any obligation acquired by the Fund  
31 may be sold by the Secretary of the Treasury at the market price.

1 (E) CREDITS TO FUND- The interest on, and the proceeds from the  
2 sale or redemption of, any obligations held in the Fund shall be credited  
3 to and form a part of the Fund.

4 (4) ACCOUNTING AND REPORTING SYSTEM- The Secretary shall  
5 establish an accounting and reporting system for the Fund.

6 (5) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be  
7 appropriated to the Fund \$150,000,000 for each of fiscal years 2008 and 2009  
8 and \$75,000,000 for each of fiscal years 2010 through 2018, to remain available  
9 until expended.

10 (g) Program Implementation and Monitoring-

11 (1) WORK PLAN: NATURAL/CULTURAL HISTORICAL ANALYSES-

12 Not later than 180 days after the effective date of this Act, the Secretary shall  
13 create, in collaboration with the interested stakeholders, an implementation work  
14 plan and budget to investigate, analyze, and report on the forest and landscape  
15 histories of every likely priority forest landscape that includes--

16 (A) a description of the manner in which the natural/cultural historical  
17 analyses will be created, organized, and formatted; and

18 (B) a description of the manner in which the creation of natural/cultural  
19 historical analyses will utilize expertise and capacity outside the agency.

20 (2) WORK PLAN: PROPOSAL IMPLEMENTATION AND

21 MONITORING- Not later than 180 days after the date on which a  
22 collaborative forest landscape restoration proposal is selected to be carried out,  
23 the Secretary shall create, in collaboration with the interested stakeholders, an  
24 implementation work plan and budget to implement the collaborative forest  
25 landscape restoration proposal that includes--

26 (A) a description of the manner in which the proposal would be  
27 implemented to achieve ecological restoration and community economic  
28 benefit, including capacity building to accomplish ecological restoration;  
29 and

30 (B) a business plan that addresses--

31 (i) the anticipated unit treatment cost reductions over 10 years;

- (ii) the anticipated costs for infrastructure needed for the proposal;
  - (iii) the projected sustainability of the supply of ~~woody biomass and small diameter trees~~ biological products removed in ecological restoration treatments; and
  - (iv) the projected local economic benefits of the proposal; and
- (C) documentation of the non-Federal investment in the priority landscape, including the sources and uses of the investments; and
- (D) an estimate of reductions in long-term wildfire management costs and resource losses and ecological damages due to wildfires.

(2) PROJECT IMPLEMENTATION- Amounts transferred to the Secretary from the Fund shall be used to carry out ecological restoration treatments that are--

- (A) consistent with the landscape restoration proposal and strategy; and
- (B) identified through the collaborative process described in subsection (b)(2).

(3) ANNUAL REPORT- Annually, the Secretary, in collaboration with the Secretary of the Interior and interested stakeholders, shall prepare a report on the accomplishments of each selected collaborative forest landscape restoration proposal that includes--

- (A) a description of all acres (or other appropriate unit) treated and restored through projects implementing the landscape ecological restoration strategy; and
- (B) an evaluation of progress, including performance measures and how prior year evaluations have contributed to improved project performance; and
- (C) a description of community benefits achieved, including any local economic benefits; and
- (D) estimates of reductions in long-term wildfire management costs and resource losses and ecological damages due to wildfires; and
- (E) the results of the multiparty monitoring, evaluation, and accountability process under paragraph (4); and

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(F) a summary of the costs of--

(i) treatments; and

(ii) relevant wildfire management activities.

(4) MULTIPARTY MONITORING- The Secretary shall, in collaboration with the Secretary of the Interior and interested stakeholders, use a multiparty monitoring, evaluation, and accountability process to assess the positive or negative ecological, social, and economic effects of each project implementing a selected collaborative forest landscape restoration proposal for not less than 15 years after project implementation commences.

(h) Report- Not later than 5 years after the first fiscal year in which funding is made available to carry out ecological restoration projects under the program, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall submit a report on the program, including an assessment of whether, and to what extent, the program is fulfilling the purposes of this Act, to--

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Appropriations of the Senate; and

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

(4) the Committee on Appropriations of the House of Representatives.