To require the Secretary of Agriculture to establish a forest incentives program to keep forests intact and sequester carbon on private forest land of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2015

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To require the Secretary of Agriculture to establish a forest incentives program to keep forests intact and sequester carbon on private forest land of the United States, 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.

This Act may be cited as the “Forest Incentives Program Act of 2015”.

SEC. 2. FINDINGS.

Congress finds that—
(1) public and private forest land in the United States plays a crucial role in sequestering carbon and otherwise contributes to mitigation of greenhouse gas emissions;

(2) the Environmental Protection Agency has reported in the annual greenhouse gas inventory that United States forests and forest products sequester as much as 12 to 14 percent of annual United States carbon emissions, which makes forests one of the largest carbon sinks in the United States;

(3) according to the Environmental Protection Agency, carbon sequestration from forests and other land uses has grown by approximately 14 percent since 1990, largely as a result of afforestation and improved forest management;

(4) the use of forests products, such as wood products, in buildings and biobased products can also reduce carbon emissions when used in place of other, more carbon-intensive products;

(5)(A) in addition to the significant carbon mitigation benefits of using forests and forest products for carbon sequestration, the economic and societal co-benefits of forest carbon solutions are extraordinarily valuable; and
(B) incentivizing forest carbon activities, including through working forests, has the potential to provide timber and other forest commodities, improve air quality, enhance watershed function and water supply, create and sustain fish and wildlife habitat, contribute to scenic and aesthetic qualities, support historical and cultural resources, provide hunting, fishing, and recreational opportunities, and increase forest resiliency, while also supporting rural jobs and local economies;

(6) despite positive recent trends in forest carbon, as documented by the annual greenhouse gas inventory of the Environmental Protection Agency, projections of the Forest Service indicate those forest carbon and other benefits are at risk in future decades due to development pressures and other factors;

(7) while the majority of the productive forest land of the United States is under private ownership, private landowners are facing increased pressure to convert their forest land to other uses;

(8) while some landowners are able to participate in various carbon markets, the transaction costs and restrictions of those programs are often
prohibitive for private landowners, particularly smallholders; and

(9) creating incentives for private forest landowners to adopt best practices to maintain and increase carbon benefits from forest land through a streamlined program that avoids excessive transaction costs will help “keep forests as forests” and enhance forest carbon benefits by providing incentive payments for a suite of eligible practices throughout the lifecycle of forest management, including forest products that provide long-term carbon storage benefits.

SEC. 3. FOREST INCENTIVES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CARBON INCENTIVES CONTRACT; CONTRACT.—The term “carbon incentives contract” or “contract” means a 15- to 30-year contract that specifies—

(A) the eligible practices that will be undertaken;

(B) the acreage of eligible land on which the practices will be undertaken;

(C) the agreed rate of compensation per acre;
(D) a schedule to verify that the terms of the contract have been fulfilled; and

(E) such other terms as are determined necessary by the Secretary.

(2) **Conservation Easement Agreement; Agreement.**—The term “conservation easement agreement” or “agreement” means a permanent conservation easement that—

(A) covers eligible land that will not be converted for development;

(B) is enrolled under a carbon incentives contract; and

(C) is consistent with the guidelines for—

(i) the Forest Legacy Program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c), subject to the condition that an eligible practice shall be considered to be a conservation value for purposes of such consistency; or

(ii) any other program approved by the Secretary for use under this section to provide consistency with Federal legal requirements for permanent conservation easements.
(3) ELIGIBLE LAND.—The term “eligible land” means forest land in the United States that is privately owned at the time of initiation of a carbon incentives contract or conservation easement agreement.

(4) ELIGIBLE PRACTICE.—

(A) IN GENERAL.—The term “eligible practice” means a forestry practice, including improved forest management that produces marketable forest products, that is determined by the Secretary to provide measurable increases in carbon sequestration and storage beyond customary practices on comparable land.

(B) INCLUSIONS.—The term “eligible practice” includes—

(i) afforestation on nonforested land, such as marginal crop or pasture land, windbreaks, shelterbelts, stream buffers, including working land and urban forests and parks, or other areas identified by the Secretary;

(ii) reforestation on forest land impacted by wildfire, pests, wind, or other stresses, including working land and urban forests and parks;
(iii) improved forest management through practices such as improving regeneration after harvest, planting in understocked forests, reducing competition from slow-growing species, thinning to encourage growth, changing rotations to increase carbon storage, improving harvest efficiency or wood use; and

(iv) such other practices as the Secretary determines to be appropriate.

(5) Forest incentives program; program.—The term “forest incentives program” or “program” means the forest incentives program established under subsection (b)(1).

(6) Secretary.—The term “Secretary” means the Secretary of Agriculture.

(b) Supplemental greenhouse gas emission reductions in United States.—

(1) In general.—The Secretary shall establish a forest incentives program to achieve supplemental greenhouse gas emission reductions and carbon sequestration on private forest land of the United States through—

(A) carbon incentives contracts; and

(B) conservation easement agreements.
(2) PRIORITY.—In selecting projects under this subsection, the Secretary shall provide a priority for contracts and agreements—

(A) that sequester the most carbon on a per acre basis; and

(B) that create forestry jobs or protect habitats and achieve significant other environmental, economic, and social benefits.

(3) ELIGIBILITY.—

(A) IN GENERAL.—To participate in the program, an owner of eligible land shall—

(i) enter into a carbon incentives contract; and

(ii) fulfill such other requirements as the Secretary determines to be necessary.

(B) CONTINUED ELIGIBLE PRACTICES.—An owner of eligible land who has been carrying out eligible practices on the eligible land shall not be barred from entering into a carbon incentives contract under this subsection to continue carrying out the eligible practices on the eligible land.

(C) DURATION OF CONTRACT.—A contract shall be for a term of not less than 15 nor more
than 30 years, as determined by the owner of eligible land.

(D) COMPENSATION UNDER CONTRACT.—
The Secretary shall determine the rate of compensation per acre under the contract so that the longer the term of the contract, the higher rate of compensation.

(E) RELATIONSHIP TO OTHER PROGRAMS.—An owner or operator shall not be prohibited from participating in the program due to participation of the owner or operator in other Federal or State conservation assistance programs.

(4) COMPLIANCE.—In developing regulations for carbon incentives contracts under this subsection, the Secretary shall specify requirements to address whether the owner of eligible land has completed contract and agreement requirements.

(c) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Secretary shall provide to owners of eligible land financial incentive payments for—

(A) eligible practices that measurably increase carbon sequestration and storage over a
designated period on eligible land, as specified through a carbon incentives contract; and

(B) subject to paragraph (2), conservation easements on eligible land covered under a conservation easement agreement.

(2) COMPENSATION.—The Secretary shall determine the amount of compensation to be provided under a contract under this subsection based on the emissions reductions obtained or avoided and the duration of the reductions, with due consideration to prevailing carbon pricing as determined by any relevant or State compliance offset programs.

(3) NO CONSERVATION EASEMENT AGREEMENT REQUIRED.—Eligibility for financial incentive payments under a carbon incentives contract described in paragraph (1)(A) shall not require a conservation easement agreement.

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations that specify eligible practices and related compensation rates, standards, and guidelines as the basis for entering into the program with owners of eligible land.

(e) SET-ASIDE OF FUNDS FOR CERTAIN PURPOSES.—
(1) IN GENERAL.—At the discretion of the Sec-
retary, a portion of program funds made available
under this program for a fiscal year may be used—

(A) to develop forest carbon modeling and
methodologies that will improve the projection
of carbon gains for any forest practices made
eligible under the program;

(B) to provide additional incentive pay-
ments for specified management activities that
increase the adaptive capacity of land under a
carbon incentives contract; and

(C) for the Forest Inventory and Analysis
Program of the Forest Service to develop im-
proved measurement and monitoring of forest
carbon stocks.

(2) PROGRAM COMPONENTS.—In establishing
the program, the Secretary shall provide that funds
provided under this section shall not be substituted
for, or otherwise used as a basis for reducing, fund-
ing authorized or appropriated under other pro-
grams to compensate owners of eligible land for ac-
tivities that are not covered under the program.

(f) PROGRAM MEASUREMENT, MONITORING,
VERIFICATION, AND REPORTING.—
(1) Measurement, monitoring, and verification.—The Secretary shall establish and implement protocols that provide monitoring and verification of compliance with the terms of contracts and agreements.

(2) Reporting requirement.—At least annually, the Secretary shall submit to Congress a report that contains—

(A) an estimate of annual and cumulative reductions achieved as a result of the program, determined using standardized measures, including measures of economic efficiency;

(B) a summary of any changes to the program that will be made as a result of program measurement, monitoring, and verification;

(C) the total number of acres enrolled in the program by method; and

(D) a State-by-State summary of the data.

(3) Availability of report.—Each report required by this subsection shall be available to the public through the website of the Department of Agriculture.

(4) Program adjustments.—At least once every 2 years the Secretary shall adjust eligible practices and compensation rates for future carbon in-
centives contracts based on the results of monitoring
under paragraph (1) and reporting under paragraph
(2), if determined necessary by the Secretary.

(5) Estimating carbon benefits.—Any
modeling, methodology, or protocol resource devel-
oped under this section—

(A) shall be suitable for estimating carbon
benefits associated with eligible practices for
the purpose of incentives under this section;
and

(B) may be used for netting by States or
emission sources under Federal programs relat-
ing to carbon emissions.

(g) Authorization of Appropriations.—There
are authorized to be appropriated to carry out this section
such sums as are necessary.

SEC. 4. MATERIAL CHOICES IN BUILDINGS FOR SUPPLE-
MENTAL GREENHOUSE GAS EMISSION RED-
DUCTIONS IN UNITED STATES.

(a) Definitions.—In this section:

(1) Eligible building.—The term “eligible
building” means a nonresidential building used for
commercial or State or local government purposes.

(2) Eligible product.—The term “eligible
product” means a commercial or industrial product,
such as an intermediate, feedstock, or end product (other than food or feed), that is composed in whole or in part of biological products, including renewable agricultural and forestry materials used as structural building material.

(3) PROGRAM.—The term “program” means the greenhouse gas incentives program established under this section.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(b) SUPPLEMENTAL GREENHOUSE GAS EMISSION REDUCTIONS IN BUILDINGS.—

(1) IN GENERAL.—The Secretary shall establish a greenhouse gas incentives program to achieve supplemental greenhouse gas emission reductions from material choices in buildings, based on the lifecycle assessment of the building materials.

(2) FINANCIAL INCENTIVE PAYMENTS.—The Secretary shall provide to owners of eligible buildings incentive payments for the use of eligible products in buildings for sequestering carbon based on a lifecycle assessment of the structural assemblies, as compared to a model building as a result of using eligible products in substitution for more energy-intensive materials in—
(A) new construction; or

(B) building renovation.

(c) PROGRAM REQUIREMENTS.—

(1) APPLICATIONS.—To be eligible to participate in the program, the owner of an eligible building shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) COMPONENTS.—In establishing the program, the Secretary shall require that payments for activities under the program shall be—

(A) established at a rate not to exceed the net estimated benefit an owner of an eligible building would receive for similar practices under any federally established carbon offset program, taking into consideration the costs associated with the issuance of credits and compliance with reversal provisions;

(B) provided to owners of eligible buildings demonstrating at least a 20-percent reduction in carbon emissions potential, based on a lifecycle assessment of the structural assemblies, as compared to the structural assemblies of a model building, subject to the requirements that—
(i) the Secretary shall identify a model baseline nonresidential building—

(I) of common size and function; and

(II) having a service life of not less than 60 years; and

(ii) applicants shall evaluate the carbon emissions potential of the baseline building and the proposed building using the same lifecycle assessment software tool and data sets, which shall be compliant with the document numbered ISO 14044; and

(C) provided on certification by the owner of an eligible building and verification by the Secretary, after consultation with the Secretary of Energy, that—

(i) the eligible building meets the requirements of the applicable State commercial building energy efficiency code (as in effect on the date of the applicable permit of the eligible building); and

(ii) the State has made the certification required pursuant to section 304 of

(3) INCENTIVE PAYMENTS.—A participant in the program shall receive payment under the program on completion of construction or renovation of the applicable eligible building.

(d) REPORTS.—Not less frequently than once each year, the Secretary shall submit to Congress a report that contains—

(1) an estimate of annual and cumulative reductions achieved as a result of the program—

(A) determined by using lifecycle assessment software that is compliant with the document numbered ISO 14044; and

(B) expressed in terms of the total number of cars removed from the road;

(2) a summary of any changes to the program that will be made as a result of past implementation of the program; and

(3) the total number of buildings under carbon incentives contracts as of the date of the report.

(e) ANALYTICAL REQUIREMENTS.—For purposes of this section—

(1) any carbon emissions potential calculation shall—
(A) be performed in accordance with standard lifecycle assessment practice; and

(B) include removal and sequestration of carbon dioxide from the use of biobased products, as well as recycled content materials;

(2) a full lifecycle assessment shall be conducted taking into consideration all lifecycle stages, including—

(A) resource extraction and processing;

(B) product manufacturing;

(C) onsite construction of assemblies;

(D) transportation;

(E) maintenance and replacement cycles over an assumed eligible building service life of 60 years; and

(F) demolition;

(3) structural assemblies shall be considered to include columns, beams, girders, purlins, floor deck, roof, and structural envelope elements;

(4) primary materials shall be considered to include common products used as the structural system, such as wood, steel, concrete, or masonry; and

(5) the effects of recycling, reuse, or energy recovery beyond the boundaries of an applicable study system shall not be taken in account.
(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.