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signed 12/16/75

APPROVED
DEC 16 1975

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: December 20

December 16, 1975

To Archives
12/17
Postal
12/17

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *[Signature]*
SUBJECT: S. 364 - Timber Sale Contracts

Attached for your consideration is S. 364, sponsored by Senator McClure, which would authorize the Secretary of Agriculture to permit the transfer of a purchaser's unused "purchaser credit" for road construction from one timber sale to another within the same National Forest.

A discussion of the bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 364 at Tab B.



to medium size companies are most severely affected by the cash flow problem, while, typically, the large, integrated companies are less affected by the capital shortage thus created."

The enrolled bill would overcome the problems discussed above by authorizing the Secretary of Agriculture to permit the transfer of a purchaser's unused "purchaser credit" for road construction from one timber sale to another within the same National Forest. Such a "purchaser credit" transfer would be subject to the rules and regulations prescribed by the Secretary and would apply to only those credits earned after the date of enactment.

In its enrolled bill letter, Agriculture notes that while it had originally opposed S. 364 as introduced, the enrolled version is "greatly improved" and the Department recommends that you approve the enactment. Specifically, Agriculture notes that:

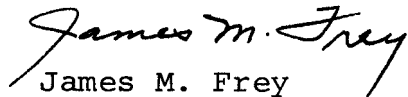
" ... Purchasers of National Forest timber maintain that this limitation unnecessarily ties up their operating capital. They further maintain that the ability to transfer credit to other sales to meet charges for timber being harvested would free operating capital to build other roads and harvest other timber, and would in some instances allow them to avoid borrowing capital. We believe the arguments of the purchasers are reasonable and defensible. We also believe that the credit transfers as provided by S. 364 would stimulate more road construction in advance of immediate use. Advance road construction usually results in better road construction. These roads become a permanent part of the National Forest road systems; therefore, the Government also stands to benefit from S. 364."

* * * * *

" ... In its present form, S. 364 provides that only unused effective purchaser credit that is earned after the date of enactment may be transferred. This new provision would

greatly reduce estimated first year credit transfers (from \$169 million to \$39 million) and substantially mitigate the impact on payments to States ... We anticipate that the present provisions will stimulate road construction. Consequently, some compensating economic benefits relating to the increased industrial activity should be realized by the counties."

"The Forest Service does not anticipate any significant increase in the cost of administering timber sales as a result of S. 364."



James M. Frey
Assistant Director
for Legislative Reference

Enclosures



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

December 9, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment S. 364, "Relating to certain Forest Service timber sale contracts involving road construction."

The Department of Agriculture recommends that the President approve the enactment.

S. 364 would amend section 4 of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 535), to authorize the Secretary of Agriculture, under such rules and regulations as he shall prescribe, to permit a purchaser of National Forest timber to transfer earned but unused effective purchaser credit from one of his sales in a National Forest to another of his sales in that same National Forest to be used in payment of timber harvested. Only unused effective purchaser credit that would be earned after date of enactment could be transferred.

Purchasers of National Forest timber would receive the principal benefits of this legislation. Under present law, the capital investments that purchasers make in the construction of roads needed to harvest timber are ultimately converted into credit that is applied to meet charges for the Federal timber. However, the present law has been interpreted as limiting the application of such credit to the timber sale where the credit is earned. Purchasers of National Forest timber maintain that this limitation unnecessarily ties up their operating capital. They further maintain that the ability to transfer credit to other sales to meet charges for timber being harvested would free operating capital to build other roads and harvest other timber, and would in some instances allow them to avoid borrowing capital. We believe the arguments of the purchasers are reasonable and defensible. We also believe that the credit transfers as provided by S. 364 would stimulate more road construction in advance of immediate use. Advance road construction usually results in better road construction. These roads become a permanent part of the National Forest road systems; therefore, the Government also stands to benefit from S. 364.

Earlier in this session of Congress the Department of Agriculture reported and testified in opposition to S. 364 as introduced. We cited the bill's potential effects of sharply reducing Federal receipts and payments to

counties from those receipts, its retroactive effect on existing contracts, and problems that might be encountered in administration as reasons for recommending against enactment.

Both bodies of Congress amended and greatly improved the provisions of S. 364. Those amendments have alleviated the concerns raised in our negative report and testimony. As introduced, the bill would have directed the Secretary of Agriculture to include provisions for the transfer of credit in every timber sale contract that involved road construction. This language would have mandated contract modifications without consideration of whether any prospects for earning or transferring credit existed. In its present form, S. 364 authorizes the Secretary to provide for the transfer of credit through the issuance of rules and regulations, and thereby permits the Secretary to develop relevant procedures and proper safeguards for implementing the intent of the legislation. As introduced, the bill would have permitted timber sale purchasers to transfer unused credits already accumulated under existing contracts. That feature would have permitted an estimated \$169 million of credit to be transferred and used in substitution for cash during the first year following enactment (assuming enactment on July 1, 1975). The postponement of cash receipts would have resulted in a proportional postponement of payments to States from those receipts. The postponement in payments to States would have been equal to 35 percent of the total payments made from fiscal year 1974 receipts or 48 percent of the total made from fiscal year 1975 receipts. In its present form, S. 364 provides that only unused effective purchaser credit that is earned after the date of enactment may be transferred. This new provision would greatly reduce estimated first year credit transfers (from \$169 million to \$39 million) and substantially mitigate the impact on payments to States. We do not believe the new provision would have a disruptive effect on the budgets of the counties that receive the monies paid to the States. We anticipate that the present provisions will stimulate road construction. Consequently, some compensating economic benefits relating to the increased industrial activity should be realized by the counties.

The Forest Service does not anticipate any significant increase in the cost of administering timber sales as a result of S. 364.

Sincerely,



J. Phil Campbell
Acting Secretary

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 12

Time: 700pm

FOR ACTION: Paul Leach *ML*
Max Friedersdorf *ML*
Ken Lazarus *ML*

cc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 15

Time: 400pm

SUBJECT:

S. 364 - Timber sale contracts

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Date: December 12

Time: 700pm

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazaruscc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 15

Time: 400pm

SUBJECT:

S. 364 - Timber sale contracts

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection.

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAN 12 1971

THE WHITE HOUSE

WASHINGTON

December 15, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M. L.*
SUBJECT: S. 364 - Timber sale contracts

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

TIMBER SALE ROAD COSTS

OCTOBER 9 (legislative day, SEPTEMBER 11, 1975).—Ordered to be printed

Mr. McCLURE, from the Committee on Public Works,
submitted the following

REPORT

[To accompany S. 364]

The Committee on Public Works, to which was referred the bill S. 364 relating to certain Forest Service timber sale contracts involving road construction, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSE OF THE LEGISLATION

S. 364, as amended, provides a new authority under section 4(2) of the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 535), which authorizes the Secretary of Agriculture, under rules and regulations he shall prescribe, to provide for the transfer of the unamortized portion of road costs on timber sale contracts from one timber sale contract to another timber sale contract held by the same purchaser within the same proclaimed National Forest.

BACKGROUND OF LEGISLATION

The economic impact on the timber industry of the recent national inflation/recession has been more severe than upon the economy of the Nation as a whole. Housing starts dropped markedly below the recent level of 2 million housing units per year, seriously curtailing the domestic market for lumber. At the same time, the costs of forest road construction, timber harvesting equipment, and labor have risen faster than the rate of inflation in the Nation as a whole. The sharp price increases of the needed gasoline, oil, diesel fuel, and asphalt are the leading factors in the disproportionate advancing costs in the timber industry. These increases in costs of timber production and

decreases in markets for lumber are further complicated by sharply rising bid prices on recent Federal timber sales.

The profitability of the timber processing industry has understandably declined under these negative influences. Since timber processing is a capital intensive industry, cash flow has become a critical problem. Although precise cost data are not available, approximately \$200 million is invested in permanent type national forest roads annually. This investment is required as a part of the timber sale contract and is accomplished by the timber processing industry as a part of timber harvesting. The finished National Forest roads are often unused for a period of 1 to 3 years before the timber purchaser can use his investment in forest road construction as a credit against Forest Service stumpage fees in that timber sale.

The shortage of available cash created by unrealized road amortization, compounded by other current problems, has adversely affected some timber processing companies in bidding on new sales and created uncertainty concerning future timber supplies. Small to medium size companies are most severely affected by the cash flow problem, while, typically, the large, integrated companies are less affected by the capital shortage thus created.

There is a basic Forest Service road construction funding policy imposed by the Office of Management and Budget which further aggravated the pressure on timber investment capital. Since 1972, the use of appropriated funds for timber access roads has declined from \$57 million to zero. The President has submitted a deferral and a rescission which will, if permitted to become effective, continue the zero level of forest road construction from appropriated funds. The costs of forest road construction have been shifted entirely to timber sale purchasers, with the result that the cost of all forest roads are now regarded as a part of the cost of harvesting timber, even though many of the roads have other uses and the roads with the greatest diversity of use are the most costly to construct. This includes use by hunters, fishermen, picnickers, recreationists, sightseers, berry pickers, and other commerce and industry.

For fiscal year 1976, currently in progress, it is expected that revenues from the sale of timber from National Forests will be reduced by about \$200 million to cover timber purchaser road construction. The budget as presented allocates \$8,267,000 in appropriated funds to all Forest Service direct road construction, of which \$5,267,000 is for bridge replacement and only \$3 million is for road construction.

Consistent statements in congressional hearings and reports show that the strongly expressed, clear and preferred intent of Congress is to use appropriated funds for all forest arterial roads and other permanent forest roads. The reliance on forest timber sale receipts as the sole source of road construction funds subjugates all natural resource planning and management, including road construction, to the chance location of a harvestable timber sale which can support the cost of the necessary access road.

Counties containing National Forest lands now receive 25 percent of the net receipts of timber sales in National Forests. The total timber sales receipts are now reduced by the amount of forest road construc-

tion under the present Forest Service policy of funding road construction out of timber sale receipts. The 25 percent county share is also reduced proportionately by this Office of Management and Budget imposed practice of funding all forest road construction from timber sales.

The committee notes that when the fiscal year 1975 budget was prepared it was estimated that revenues from timber, which constitute about 95 percent of Forest Service revenues, would be \$425 million. However, current revenue estimates show a substantial drop to \$332 million, a decline of \$93 million. This reflects a drop of national forest timber harvest volume, as well as a drop in lumber price. Housing starts reached a peak of 2.4 million on a yearly basis in 1972, and have declined to the present level of 1.2 million starts.

The fiscal year 1976 budget presented to Congress estimates revenues from timber at \$485 million. Clearly, given actual revenues for fiscal year 1975, unless the economy and housing make a miraculous recovery, Forest Service revenues will never approach even the optimistic estimate of fiscal year 1975. Thus payments to counties just made for fiscal year 1976 (which are from income earned in 1975) are down to \$88 million, the greatest recorded drop in a single year (down from \$117 million).

INTENT OF LEGISLATION

S. 364 addresses one aspect of the overall problem by improving the cash flow that is now restricted by timber company investments in forest road construction. The bill would enable a timber company to use earned, unused road cost credits on one sale in a National Forest in lieu of cash for stumpage fees on another sale in that National Forest. This provision would become effective with road costs earned on existing and new contracts after the date of enactment. It would not apply retroactively to road costs earned before the date of enactment.

The unamortized road costs that will be eligible for transfer will only be those earned on existing or new sales after enactment of this act. The committee intends that Forest Service accounting procedures will be considered in the actual timing of the date of implementation. The unamortized road costs, which will be earned only after the road is constructed by the purchaser, and accepted by the Forest Service, would be transferable to any existing or new contract.

The committee intends that the authority to transfer unamortized road costs shall only extend to transfers between timber sales under contract to the same timber purchaser and located on the same proclaimed National Forest. This limitation is necessary to maintain contract integrity and to minimize the impact on the distribution of the portion of timber receipts to States and counties that is provided by other law.

A proclaimed National Forest is considered an existing National Forest formally established by Public Law, Proclamation, Executive Order, Secretary's Order, or Public Land Order, and includes any lands added thereto by these same types of authorities. In certain States and areas two or more proclaimed National Forests are administered as a unit by one Forest Supervisor, and the unit may be

referred to as a single National Forest. However, each proclaimed National Forest within the unit retains its separate identity for such purposes as the distribution of receipts under this legislation.

The committee considers the term "unamortized road costs" as used in the bill to be the equivalent of what is currently referred to in Forest Service timber sale contracts as "effective purchaser credit." The committee recognizes that in certain situations involving so called "deficit timber sales" and timber sale contracts subject to payment rate adjustments, the amount of purchaser credit earned on an individual sale may exceed the amount that can be applied under the terms of the contract to meet charges for timber. The Committee does not intend for such unusable (ineffective) purchaser credit to be transferred to other timber sales. Hence, it is the intent of the Committee to only authorize the transfer of effective purchaser credit.

Under the terms of Forest Service timber sale contracts, it is possible for the amount of effective purchaser credit earned on a timber sale to decrease as a result of subsequent payment rate adjustments. In such situations, a transfer might be made before payment rate adjustments occur, and, as a result, the transferred amount may be later found to be in excess of the amount of effective purchaser credit to which the timber sale purchaser is entitled. In this event, the purchaser would be required to reimburse the Government with cash for the excess amount transferred.

The committee expects that the authority granted in this amendment will be used with care and discretion. The impact on payments to counties generally and to specific counties or groups of counties should be taken into consideration. The committee does not intend this provision to be used to affect the competitive position of various potential customers for National Forest timber. It shall not be used to engender or condone speculation, pyramiding of sales under contract, or to support the continuation of the exclusive use of timber sales to build roads. To the contrary, this provision is to be used to promote prompt, timely, orderly construction of roads incorporated into timber sales and the harvest of timber under contract. Special care should be taken that the authority is judiciously used and not abused.

The committee desires that the Secretary develop the rules and regulations required under this bill based on a policy statement drafted in consultation with conservation, forest industry, and local governmental groups. Final rules and policies should be published only after consideration of all suggestions so that the Secretary can assure that the published proposals are in the broad public interest.

COST OF THE LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the committee's estimate of the cost of reported legislation, together with estimates prepared by any Federal agency. This bill does not authorize any expenditure of funds. Net timber sale revenues would decrease in the first years, but over time there should be no net decrease in total revenues as timber begins to be marketed from sales from which road costs have been transferred.

ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Public Works require that any rollcall votes be announced in this report. No rollcall votes were taken during consideration of this bill, and S. 364 was ordered reported by a voice vote.

CHANGES IN EXISTING LAW

In the opinion of the Committee on Public Works it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

○

FOREST SERVICE ROADS

NOVEMBER 12, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONES of Alabama, from the Committee on Public Works and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 364]

The Committee on Public Works and Transportation, to whom was referred the bill (S. 364) relating to certain Forest Service timber sale contracts involving road construction, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On the first page, strike out lines 6 through 9 and insert the following:

Rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after the date of enactment of this sentence, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.'.

PURPOSE OF THE LEGISLATION

S. 364, as amended by this Committee, would amend section 4 of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 535) to authorize the Secretary of Agriculture under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after the date of enactment of this bill, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

BACKGROUND OF LEGISLATION

Section 4 of the Act of October 13, 1964, provides that the financing of forest development roads within lands administered by the Forest Service may be accomplished through four methods. One of the methods commonly used is to authorize purchasers of National Forest timber to build the roads needed to remove timber from the areas where it is harvested. Under this method, timber is appraised and offered for sale as if the necessary roads had already been constructed. As road construction proceeds, the timber purchaser is credited for the estimated cost of such work up to a maximum amount stated in the timber sale contract. As harvesting proceeds, earned credit is applied against the charges for the timber in excess of stated base rates. Since road construction generally precedes timber removal, and the initial rate of removal may not be sufficient to currently amortize costs, earned but unused credit may accumulate. The intent of S. 364 is to permit the unused credit to be applied toward charges for timber under other contracts held by the same purchaser in the same National Forest. Legislation is required to authorize this because such credit transfers have been found by the Comptroller General to be without statutory authority. (51 Comp. Gen. 826.)

It is typical for purchasers of National Forest timber to have two or more timber sales involving road construction under contract during the same period of time. In such situations it is generally advantageous to harvest timber on one sale area while constructing roads on another sale area where future harvesting is planned. This eliminates conflicts between harvesting and road construction operations and allows the new roads to be stabilized prior to use. Other factors, such as seasonal rains and snowfall, often cause purchasers to shift harvesting or road construction operations from one timber sale to another.

The capital investments that a purchaser makes in constructing roads are ultimately converted into credit; however, the present interpretations of the law limit the application of credit to the timber sale where the credit is earned. Purchasers of National Forest timber maintain that this limitation unnecessarily ties up their operating capital. They further maintain that the ability to transfer credit to other sales to meet charges for timber being harvested would free operating capital to build other roads and harvest other timber, and would in some instances allow them to avoid borrowing capital.

COMMITTEE ACTION

On May 21, 1975, the Subcommittee on Surface Transportation conducted a public hearing on H.R. 5077, a bill identical to S. 364 as introduced. Spokesmen representing both the large and small enterprise sectors of the timber industry unanimously supported H.R. 5077. The Department of Agriculture recommended that H.R. 5077 not be enacted because of the bill's retroactive effect on existing timber sale contracts, and because the Department believed the bill would, on a temporary basis, sharply reduce timber sale receipts and payments to counties from those receipts. Spokesmen for the National Associ-

ation of Counties also expressed concern over the bill's potential effect on receipts.

S. 364 as passed by the Senate is substantially different in two respects from the bills S. 364 and H.R. 5077 as introduced. The bills as introduced, would have directed the Secretary of Agriculture to include provisions for the transfer of credit in every timber sale contract that involved road construction. This language would have mandated contract modifications without consideration of whether any prospects for earning or transferring credit existed. As passed by the Senate, S. 364 authorizes the Secretary to provide for the transfer of credit through the issuance of rules and regulations. This change recognizes that new authorities are being added to an already complex area of timber sale contract administration, and that the details for implementing the intent of the bill can be best developed by the Secretary. The bills, as introduced, would have permitted timber sale purchasers to transfer unused credits already accumulated under existing contracts. As passed by the Senate, S. 364 provides that only credit earned after date of enactment can be transferred; thus the immediate impact on National Forest receipts and payments to the counties is considerably lessened and the aspect of reforming the executed portion of an existing contract is minimized.

The Committee's amendment to S. 364 embodies all the improvements made by the Senate and provides additional clarification as to the intent of the legislation. The Committee's amendment is more descriptive of the type of credit that may be transferred and expressly provides that credit can only be transferred between timber sales under contract to the same purchaser.

INTENT OF LEGISLATION

The bill would enable a purchaser of National Forest timber to transfer earned but unused effective purchaser credit from one of his sales in a National Forest to another of his sales in that same National Forest to be used in payment of timber harvested. Only unused effective purchaser credit that is earned after the date of enactment of this bill is authorized to be transferred.

The committee considers the term "purchaser credit for road construction," as used in the bill, to mean credit earned by purchaser's construction of permanent roads through a timber sale contract. "Effective purchaser credit" means credit which does not exceed current contract value minus base rate value. "Unused" means earned effective purchaser credit which has not been applied to meet charges for payment of timber harvested. The Committee does not intend for purchaser credits which are unusable (ineffective) to meet charges under the terms of the contract under which such credits were earned, to be transferred to other timber sales.

The Committee recognizes that situations may arise under certain contracts where transferred purchaser credit may be found to be unusable after it has been transferred. In this event, the purchaser would be required to reimburse the Government with cash for the excess amount transferred.

The Committee intends that the authority to transfer unused effective purchaser credit shall only extend to transfers between timber

sales under contract to the same timber purchaser and located on the same National Forest. For the purposes of this legislation, a National Forest shall be considered as a unit of the National Forest System, regardless of how it was established, which maintains a separate identity with respect to the distribution of receipts earned thereon to States and counties. The limitation pertaining to the same purchaser is necessary to maintain contract and fiscal integrity. The limitation pertaining to the same National Forest is necessary to prevent disrupting the system, that is provided by other law, for distributing timber receipts to States and counties.

COMPLIANCE WITH CLAUSE 2(1) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to Clause 2(1) (3) (A) of Rule XI of the Rules of the House of Representatives, no separate hearings were held on the subject matter of this legislation by the Subcommittee on Investigations and Review; however, the Subcommittee on Surface Transportation held hearings on this subject matter.

(2) With respect to Clause 2(1) (3) (C) of the Rules of the House of Representatives, the Committee has not received an estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

(3) With respect to Clause 2(1) (3) (D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

(4) With reference to Clause 2(1) (4) of rule XI of the Rules of the House of Representatives, the following information is provided:

S. 364, as reported, does not authorize any additional cost to the United States.

Accordingly, the Committee has determined that the enactment of this legislation will not have an inflationary impact on prices and costs in the operation of the national economy.

COST OF LEGISLATION

In accordance with Rule XIII (7) of the Rules of the House of Representatives the following information is furnished on the cost to the United States in carrying out S. 364 in Fiscal Year 1976 and in each of the five following fiscal years.

There is no additional cost to the United States.

With reference to section 308(a) of the Congressional Budget Act of 1974, S. 364, as reported, does not provide any new budget authority or any new increased tax expenditures.

VOTE

The Committee ordered the bill reported by voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as re-

ported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

ACT OF OCTOBER 13, 1964

AN ACT To enable the Secretary of Agriculture to construct and maintain an adequate system of roads and trails for the national forests, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests and other lands administered by the Forest Service is essential if increasing demands for timber, recreation, and other uses of such lands are to be met; that the existence of such a system would have the effect, among other things, of increasing the value of timber and other resources tributary to such roads; and that such a system is essential to enable the Secretary of Agriculture (hereinafter called the Secretary) to provide for intensive use, protection, development, and management of these lands under principles of multiple use and sustained yield of products and services.

SEC. 2. The Secretary is authorized, under such regulations as he may prescribe, subject to the provisions of this Act, to grant permanent or temporary easements for specified periods or otherwise for road rights-of-way (1) over national forest lands and other lands administered by the Forest Service, and (2) over any other related lands with respect to which the Department of Agriculture has rights under the terms of the grant to it.

SEC. 3. An easement granted under this Act may be terminated by consent of the owner of the easement, by condemnation, or after a five-year period of nonuse the Secretary may, if he finds the owner has abandoned the easement, make a determination to cancel it. Before the Secretary may cancel an easement for nonuse the owner of such easement must be notified of the determination to cancel and be given, upon his request made within sixty days after receipt of the notice, a hearing in accordance with such rules and regulations as may be issued by the Secretary.

SEC. 4. The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the na-

tional forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. *The Secretary is authorized, under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after the date of enactment of this sentence, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.*

SEC. 5. Copies of all instruments affecting permanent interests in land executed pursuant to this Act shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from the public domain shall be furnished to the Secretary of the Interior.

SEC. 6. The Secretary may require the user or users of a road under the control of the Forest Service, including purchasers of Government timber and other products, to maintain such roads in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a road to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited; *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates; *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

SEC. 7. Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national forests and other lands administered by the Forest Service a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

ADDITIONAL VIEWS OF CONGRESSMAN BUD SHUSTER

The purpose of S. 364 is to permit purchasers of National Forest Service timber greater flexibility in recovering costs incurred in the construction of roads to provide access to the timber. Thus, it would help solve legitimate cash flow problems for large and small operators alike, while protecting the interests of the United States.

Timber sale contracts between private companies and the Forest Service involve a complex relationship, which can be summarized as follows: under existing law and administrative regulations, a timber operator is allowed to offset the cost of road construction in the process of reimbursing the Forest Service for timber cut. But he is limited to use of this purchaser credit provision to road construction on Tract X to payment for timber cut on Tract X.

The problem is that for a number of reasons ranging from weather conditions to the extent of construction involved, it may be a long time between road construction on a given tract and actual cutting on that tract. Meanwhile, an operator also may have a contract to cut timber on another tract in the same national forest involving little or no road construction. A road may already have been constructed under the purchaser-credit arrangement. Or only a comparatively small amount of road construction may be needed. Therefore, this bill would allow a single purchaser to apply credits for road construction on one tract to reduce his timber payment obligations under another contract involving another tract in the same forest.

I find this a reasonable adjustment on our part, particularly at a time when the industry has been beset by slackened demand in housing construction. This bill has passed the Senate, and we have every assurance from the Forest Service that the rights and interests of the United States will be protected.

This bill has undergone clarifying amendments in subcommittee to assure that (1) the transfer of credits be limited to contracts held by the same purchaser, and (2) only those credits to which he would be legitimately entitled would be subject to such transfer. This was in accord with the Senate's objectives, as spelled out in its committee report. But I think it best whenever possible to spell out our intent in the language of the statute itself.

On the basis of the consideration it has received, I support this measure and recommend its enactment.

BUD SHUSTER.

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(7)

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

Relating to certain Forest Service timber sale contracts involving road construction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act of October 13, 1964 (78 Stat. 1089), is amended by adding at the end thereof a new sentence as follows: "The Secretary is authorized, under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after the date of enactment of this sentence, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 9, 1975

Dear Mr. Director:

The following bills were received at the White House on December 9th:

S. 233 ✓
S. 364 ✓
S. 1800

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.