

116TH CONGRESS
2D SESSION

S. 4625

To direct the Secretary of the Interior and the Secretary of Agriculture to encourage and expand the use of prescribed fire on land managed by the Department of the Interior or the Forest Service, with an emphasis on units of the National Forest System in the western United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2020

Mr. WYDEN (for himself, Mr. MANCHIN, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior and the Secretary of Agriculture to encourage and expand the use of prescribed fire on land managed by the Department of the Interior or the Forest Service, with an emphasis on units of the National Forest System in the western United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Prescribed Fire Act of 2020”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.

TITLE I—USE OF FUNDS

Sec. 101. Prescribed fire accounts.
 Sec. 102. Policies and practices.
 Sec. 103. Collaborative prescribed fire program.
 Sec. 104. Large cross-boundary prescribed fire incentive program.

TITLE II—FACILITATING IMPLEMENTATION AND OUTREACH

Sec. 201. Cooperative agreements and contracts.
 Sec. 202. Human resources.
 Sec. 203. Liability of certified prescribed fire managers.
 Sec. 204. Environmental review.
 Sec. 205. Prescribed fire education program.

TITLE III—REPORTING; TERMINATION

Sec. 301. Annual reports to the National Interagency Fire Center.
 Sec. 302. Termination date.

3 **SEC. 2. FINDINGS.**

4 Congress finds that—

5 (1) in 2018, the Forest Service Fire Modeling
 6 Institute determined that 63,070,000 acres of Na-
 7 tional Forest System land and 171,200,000 acres of
 8 other forest land were at high or very high risk of
 9 experiencing a wildfire that would be difficult to sup-
 10 press;

11 (2) according to the National Interagency Co-
 12 ordination Center, between 2009 and 2018, in the
 13 United States, on average—

14 (A) 67,000 wildfires burned 7,000,000
 15 acres annually; and

1 (B) 86,345 prescribed fires burned only
2 3,000,000 acres annually;

3 (3) according to the National Interagency Co-
4 ordination Center, the annual cost of suppressing
5 wildfires in a State with an active prescribed burn-
6 ing program is less than 1 percent of the annual
7 cost of suppressing wildfires in a State without an
8 active prescribed burning program, despite each
9 State having the same number of wildfires;

10 (4) according to a 2017 study published in the
11 Journal of Forestry, on a given acre, a prescribed
12 fire burning in April or May produces less than $\frac{1}{5}$
13 of the smoke emissions of a wildfire that would burn
14 on that acre in August;

15 (5) according to a 2019 study conducted by
16 Stanford University, smoke from prescribed fires ex-
17 poses children to fewer negative health effects than
18 the detrimental smoke generated by wildfires;

19 (6) according to a 2015 study published in
20 Ecology, trees that have not been burnt by a low-in-
21 tensity fire are unusually prone to bark beetle at-
22 tacks, and between 2000 and 2010, bark beetles
23 killed the majority of trees on 32,000,000 acres of
24 the 193,000,000 acres of National Forest System
25 land;

1 (7) as of September 30, 2019, there were—

2 (A) 37 prescribed fire councils in 33
3 States; and

4 (B) 64 prescribed burn associations in 11
5 States;

6 (8) according to the 2018 National Prescribed
7 Fire Use Survey Report—

8 (A) 37 States regulate prescribed fires by
9 issuing burn permits;

10 (B) 23 States offer prescribed burn man-
11 ager certification courses to facilitate respon-
12 sible burning on private land;

13 (C) only 5 States (Vermont, Massachu-
14 setts, Missouri, Connecticut, and Rhode Island)
15 lack laws to reduce liability associated with the
16 responsible use of prescribed fire; and

17 (D) only 8 States (Florida, Montana, Ne-
18 vada, Colorado, Michigan, Georgia, South Caro-
19 lina, and Washington) have laws that use a
20 standard of gross negligence for determining li-
21 abilities for the responsible use of prescribed
22 fire; and

23 (9) as of September 30, 2019, 31 States have
24 a formal process to track the number of acres treat-
25 ed for forestry purposes using prescribed fire.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **FEDERAL LAND.**—The term “Federal land”
4 means—

5 (A) public land (as defined in section 103
6 of the Federal Land Policy and Management
7 Act of 1976 (43 U.S.C. 1702));

8 (B) units of the National Park System;

9 (C) units of the National Wildlife Refuge
10 System;

11 (D) land held in trust by the United States
12 for the benefit of Indian Tribes or members of
13 an Indian Tribe; and

14 (E) land in the National Forest System.

15 (2) **NATIONAL FOREST SYSTEM.**—

16 (A) **IN GENERAL.**—The term “National
17 Forest System” has the meaning given the term
18 in section 11(a) of the Forest and Rangeland
19 Renewable Resources Planning Act of 1974 (16
20 U.S.C. 1609(a)).

21 (B) **EXCLUSION.**—The term “National
22 Forest System” does not include—

23 (i) the national grasslands and land
24 utilization projects administered under title
25 III of the Bankhead-Jones Farm Tenant
26 Act (7 U.S.C. 1010 et seq.); or

1 (ii) National Forest System land east
2 of the 100th meridian.

3 (3) PRESCRIBED FIRE.—The term “prescribed
4 fire” means a fire deliberately ignited to burn
5 wildland fuels in a natural or modified state—

6 (A) under specified environmental condi-
7 tions that allow the fire to be confined to a pre-
8 determined area and produce the fireline inten-
9 sity and rate of spread required to attain
10 planned resource management objectives; and

11 (B) in accordance with applicable law, in-
12 cluding applicable regulations.

13 (4) SECRETARIES.—The term “Secretaries”
14 means—

15 (A) the Secretary; and

16 (B) the Secretary of Agriculture.

17 (5) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 **TITLE I—USE OF FUNDS**

20 **SEC. 101. PRESCRIBED FIRE ACCOUNTS.**

21 (a) DEFINITION OF SECRETARY CONCERNED.—In
22 this section, the term “Secretary concerned” means—

23 (1) the Secretary of Agriculture, with respect to
24 an account established by this section for the De-
25 partment of Agriculture; and

1 (2) the Secretary, with respect to an account
2 established by this section for the Department of the
3 Interior.

4 (b) ESTABLISHMENT OF ACCOUNTS.—There are es-
5 tablished in the Treasury of the United States the fol-
6 lowing accounts:

7 (1) The Prescribed Fire account for the De-
8 partment of Agriculture.

9 (2) The Prescribed Fire account for the De-
10 partment of the Interior.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated for fiscal year 2022 and
13 each fiscal year thereafter for the accounts established by
14 subsection (b) such sums as are necessary to carry out
15 this section, not to exceed \$300,000,000.

16 (d) PRESIDENTIAL BUDGET REQUESTS.—For fiscal
17 year 2022 and each fiscal year thereafter, each Secretary
18 concerned shall submit, through the budget request of the
19 President, a request for amounts in the Wildland Fire
20 Management appropriation account of the Secretary con-
21 cerned to carry out the activities described in subsection
22 (e).

23 (e) AUTHORIZED ACTIVITIES.—The Secretary con-
24 cerned shall use amounts in the accounts established by
25 subsection (b) as follows:

1 (1) The Secretary concerned shall—

2 (A) develop a prescribed fire burn plan,
3 carry out necessary environmental review, con-
4 duct outreach to the public, Indian Tribes, and
5 adjacent landowners, and implement a pre-
6 scribed fire on Federal land;

7 (B) hire additional personnel and procure
8 additional equipment, including unmanned aer-
9 ial systems equipped with an aerial ignition sys-
10 tem, to implement a greater number of pre-
11 scribed fires;

12 (C) provide training for the implementa-
13 tion of a prescribed fire;

14 (D) conduct post-prescribed burning activi-
15 ties, including reseeding to prevent the spread
16 of invasive species; and

17 (E) conduct monitoring for safety and fire
18 effects.

19 (2) The Secretary concerned may assist State,
20 Tribal, local government, or private prescribed fire
21 programs—

22 (A) to provide federally sponsored insur-
23 ance administered by States, in conjunction
24 with State-sponsored training and certification

1 programs, for private persons implementing
2 prescribed fires;

3 (B) to establish a training or certification
4 program for teams comprised of citizens or
5 local fire services to conduct prescribed fires on
6 private land, consistent with any standards de-
7 veloped by the National Wildfire Coordinating
8 Group or State prescribed fire standards;

9 (C) to enable additional fire managers and
10 apparatus, whether provided by the local re-
11 sources of an agency, private contractors, non-
12 governmental organizations, Indian Tribes, local
13 fire services, or qualified individuals, to be
14 present while implementing a prescribed fire;

15 (D) pursuant to the memorandum of
16 agreement authorized under section 203; or

17 (E) to finance the implementation of a pre-
18 scribed fire on State, Tribal, or private land
19 and any post-prescribed burning activities as
20 are determined to be necessary by the Secretary
21 concerned.

22 (3) The Secretary concerned may provide tech-
23 nical or financial assistance to a prescribed fire
24 council or prescribed burn association for the estab-
25 lishment or operation of the council or association.

1 (4) The Secretary may provide funding for the
2 collaborative prescribed fire program established
3 under section 103.

4 (5) The Secretary may provide funding for the
5 large cross-boundary prescribed fire program estab-
6 lished under section 104.

7 (f) PRIORITIZATION OF FUNDING.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 the Secretary concerned shall coordinate with Fed-
10 eral, State, and local agencies, Indian Tribes, and
11 qualified nongovernmental organizations, including
12 through the Wildland Fire Leadership Council, to
13 establish prioritization criteria for expending funds
14 under this section for each activity described in sub-
15 section (e).

16 (2) REQUIREMENT.—In establishing criteria
17 under paragraph (1), the Secretary concerned shall
18 give priority to projects that are—

19 (A) implemented across large contiguous
20 areas;

21 (B) cross-boundary in nature;

22 (C) in areas that are threatening to, or lo-
23 cated in, the wildland-urban interface;

1 (D) within an area identified as a priority
2 area in a statewide forest resource assessment;
3 or
4 (E) on acres at high or very high risk of
5 experiencing a wildfire that would be difficult to
6 suppress.

7 **SEC. 102. POLICIES AND PRACTICES.**

8 (a) IN GENERAL.—The Secretaries shall significantly
9 increase the number and size of prescribed fires conducted
10 on Federal land.

11 (b) USE OF FUNDS FOR PRESCRIBED FIRES.—From
12 amounts appropriated to carry out the activity described
13 in section 101(e)(1), the Secretaries may carry out pre-
14 scribed fires on not more than 20,000,000 acres of Fed-
15 eral land per year.

16 (c) REQUIRING MINIMUM ACREAGE.—Subject to the
17 availability of appropriations, the Secretaries shall carry
18 out prescribed fires annually on at least 1,000,000 acres
19 of Federal land.

20 (d) INCREASE IN FAMILIARITY WITH PRESCRIBED
21 FIRES IN LOCAL UNITS.—Subject to the availability of
22 appropriations, not later than September 30, 2022, the
23 Secretaries shall each have carried out a minimum of 1
24 prescribed fire on each unit of the National Forest Sys-
25 tem, unit of the National Wildlife Refuge System, unit of

1 the National Park System, and Bureau of Land Manage-
2 ment district under the jurisdiction of the Secretaries—

3 (1) that includes an area that—

4 (A) has a historical low-severity fire re-
5 gime;

6 (B) has a historical fire-return interval of
7 not more than 35 years; and

8 (C) is larger than 100 acres; and

9 (2) less than 50 percent of the land of which
10 was burned by a wildland fire during the previous
11 10-year period.

12 **SEC. 103. COLLABORATIVE PRESCRIBED FIRE PROGRAM.**

13 (a) IN GENERAL.—The Secretary shall establish
14 within the Department of the Interior a collaborative pre-
15 scribed fire program (referred to in this section as the
16 “program”) to provide financial assistance to eligible enti-
17 ties for the implementation of proposals for the conduct
18 of prescribed fires in priority landscapes in accordance
19 with applicable existing policies, including the National
20 Cohesive Wildland Fire Management Strategy.

21 (b) PROPOSAL CRITERIA.—To be eligible for selection
22 for the program, a proposal shall—

23 (1) identify and prioritize planned prescribed
24 fires for a 6-year period within a landscape;

1 (2) establish annual accomplishment targets for
2 prescribed fires under the proposal;

3 (3) be developed through a collaborative proc-
4 ess;

5 (4) be implemented across multiple jurisdic-
6 tions;

7 (5) provide an estimate of—

8 (A) the amount of annual Federal financial
9 assistance necessary to implement the proposal;
10 and

11 (B) the amount of non-Federal funds that
12 would be leveraged;

13 (6) describe benefits to sensitive wildlife species
14 of concern; and

15 (7) describe any established record of successful
16 collaborative planning or use of prescribed fire by
17 the eligible entity.

18 (c) SELECTION CRITERIA.—Subject to the avail-
19 ability of appropriations, the Secretary shall select pro-
20 posals for financial assistance under the program that, as
21 determined by the Secretary, would likely use the least
22 amount of Federal funding to treat the most acres at high
23 or very high risk of experiencing a wildfire that would be
24 difficult to suppress.

25 (d) LIMITATIONS.—

1 (1) NUMBER OF PROJECTS.—The Secretary
2 may select not more than 20 proposals to be funded
3 under the program in any fiscal year.

4 (2) PROJECT FUNDING.—The Secretary may
5 not provide more than \$1,000,000 of Federal funds
6 under the program to any 1 project in a fiscal year.

7 (3) PROJECT PERFORMANCE.—The Secretary
8 shall cease funding any proposal that, for 3 consecu-
9 tive years, fails to meet the annual accomplishment
10 targets that were established under subsection
11 (b)(2).

12 (e) PRESCRIBED FIRE TRAINING EXCHANGES.—Not
13 less frequently than once every 3 years, a recipient of fi-
14 nancial assistance under the program shall provide to local
15 entities and non-local entities experiential training relating
16 to prescribed fires.

17 (f) REPORTING.—

18 (1) PROJECT REPORTING.—A recipient of fi-
19 nancial assistance under the program shall annually
20 submit to the Secretary a report summarizing, at a
21 minimum—

22 (A) the numbers of acres treated with pre-
23 scribed fire by the recipient under the program;
24 and

1 (B) the amount of Federal and non-Fed-
2 eral funds used by the recipient under the pro-
3 gram.

4 (2) PROGRAM REPORTING.—Not later than 2
5 years after the first fiscal year in which funding is
6 made available to carry out prescribed fires under
7 the program, and every 2 years thereafter, the Sec-
8 retary shall submit to the Committee on Energy and
9 Natural Resources of the Senate and the Committee
10 on Natural Resources of the House of Representa-
11 tives a report on the program.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$10,000,000 for each of fiscal years 2022 through 2031,
15 to remain available until expended.

16 **SEC. 104. LARGE CROSS-BOUNDARY PRESCRIBED FIRE IN-**
17 **CENTIVE PROGRAM.**

18 (a) IN GENERAL.—Subject to the availability of ap-
19 propriations, the Secretary shall establish an incentive
20 program to encourage the implementation of large, cross-
21 boundary prescribed fires by providing incentive payments
22 for conducting a qualified prescribed fire.

23 (b) QUALIFIED PRESCRIBED FIRES.—

1 (1) CRITERIA.—A qualified prescribed fire
2 under the program under this section is a prescribed
3 fire that—

4 (A) occurred on not less than 2 parcels of
5 land that were under different ownership; and

6 (B) had a target area identified in a pre-
7 scribed fire burn plan of not less than 50,000
8 acres.

9 (2) MULTIPLE FIRES.—The Secretary may con-
10 sider a series of prescribed fires conducted within 1
11 fiscal year by the same 1 or more entities to be a
12 qualified prescribed fire under the program under
13 this section if the series of fires collectively meet the
14 criteria under paragraph (1).

15 (c) PAYMENTS.—

16 (1) STATE AND COUNTY INCENTIVE PAY-
17 MENTS.—The Secretary shall make payments to the
18 State and county in which a qualified prescribed fire
19 was implemented in an amount not greater than
20 \$100,000.

21 (2) NATIONAL FOREST SYSTEM LAND.—In the
22 case of each qualified prescribed fire on a unit of the
23 National Forest System, the Secretary shall transfer
24 to the Secretary of Agriculture, acting through the
25 Chief of the Forest Service, an amount not greater

1 than \$100,000, which shall be used for that unit of
2 the National Forest System.

3 (3) OTHER FEDERAL LAND.—In the case of
4 each qualified prescribed fire on land under the ju-
5 risdiction of the Secretary, the Secretary shall in-
6 crease the funding allocation to the agency of the
7 Department of the Interior that manages the land in
8 an amount not greater than \$100,000.

9 (4) INDIAN COUNTRY.—In the case of each
10 qualified prescribed fire in Indian country (as de-
11 fined in section 1151 of title 18, United States
12 Code), the Secretary shall make a payment to the
13 applicable Indian Tribe in an amount not greater
14 than \$100,000.

15 **TITLE II—FACILITATING IMPLE-** 16 **MENTATION AND OUTREACH**

17 **SEC. 201. COOPERATIVE AGREEMENTS AND CONTRACTS.**

18 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
19 tion, the term “eligible entity” means a State, an Indian
20 Tribe, a county or municipal government, a fire district,
21 a nongovernmental organization, including the Nature
22 Conservancy, or a private entity.

23 (b) AUTHORIZATION.—The Secretaries may enter
24 into a cooperative agreement or contract with an eligible

1 entity to authorize the eligible entity to coordinate, plan,
 2 or conduct a prescribed fire on Federal land.

3 (c) SUBCONTRACTS.—A State, Indian Tribe, or coun-
 4 ty that enters into a cooperative agreement or contract
 5 under subsection (b) may enter into a subcontract, in ac-
 6 cordance with applicable contracting procedures of the
 7 State, Indian Tribe, or county, to conduct a prescribed
 8 fire on Federal land pursuant to that cooperative agree-
 9 ment or contract.

10 (d) AGENT OF SECRETARY.—A cooperative agree-
 11 ment or contract entered into under subsection (b) may
 12 authorize the eligible entity to serve as the agent for the
 13 Secretary or the Secretary of Agriculture in coordinating,
 14 planning, or conducting a prescribed fire—

15 (1) on Federal land; or

16 (2) across an area that—

17 (A) includes adjacent landowners; and

18 (B) includes Federal land.

19 (e) INDEMNITY REQUIREMENTS.—Each eligible enti-
 20 ty contracted for implementing a prescribed fire shall pro-
 21 cure and maintain sufficient indemnity insurance during
 22 the entire period of performance under the cooperative
 23 agreement or contract entered into under this section.

24 (f) APPLICABLE LAW.—A prescribed fire conducted
 25 under this section shall be carried out on a project-to-

1 project basis under existing authorities of the applicable
2 agency responsible for the management of the Federal
3 land.

4 (g) PRESERVATION OF DECISION AUTHORITY.—No
5 project authorized under this section may be undertaken
6 without the prior written approval of the Secretary or the
7 Secretary of Agriculture.

8 (h) LONG-TERM CONTRACTS.—A cooperative agree-
9 ment or contract with an eligible entity under subsection
10 (b) may authorize the eligible entity to conduct a series
11 of prescribed fires on Federal land for a period of not
12 longer than 10 years.

13 **SEC. 202. HUMAN RESOURCES.**

14 (a) PRESCRIBED FIRE WORKFORCE.—

15 (1) TRAINING.—The Secretaries shall hire addi-
16 tional employees and provide training and develop-
17 ment activities, including through partnerships with
18 community colleges, to increase the number of
19 skilled and qualified prescribed fire practitioners in
20 the Department of the Interior, the Department of
21 Agriculture, Indian Tribes, and other qualified orga-
22 nizations, including training in smoke management
23 practices.

24 (2) TEMPORARY WORKERS.—

1 (A) IN GENERAL.—The Director of the Of-
2 fice of Personnel Management shall provide to
3 the Secretaries direct hire authority in accord-
4 ance with section 3304(a)(3) of title 5, United
5 States Code, to appoint qualified individuals to
6 positions performing temporary or emergency
7 work relating to prescribed fires, including
8 training, implementation, and post-prescribed
9 burning activities.

10 (B) TERM OF EMPLOYMENT.—The term of
11 the appointment of an individual under sub-
12 paragraph (A) shall be restricted to a period
13 that—

14 (i) begins not more than 72 hours
15 prior to planned ignition; and

16 (ii) ends not more than 72 hours after
17 the prescribed fire has stopped burning.

18 (3) OVERTIME PAYMENTS.—

19 (A) PURPOSE.—The purpose of the
20 amendment made by subparagraph (B) is to
21 allow the Secretaries to use additional new
22 budget authority for wildfire suppression for the
23 cost of overtime payments to employees imple-
24 menting a prescribed fire.

1 (B) AMENDMENT.—Section
 2 251(b)(2)(F)(ii)(II) of the Balanced Budget
 3 and Emergency Deficit Control Act of 1985 (2
 4 U.S.C. 901(b)(2)(F)(ii)(II)) is amended—

5 (i) in item (bb), by striking “and” at
 6 the end;

7 (ii) in item (cc), by striking the period
 8 at the end and inserting “; and”; and

9 (iii) by adding at the end the fol-
 10 lowing:

11 “(dd) overtime payments to
 12 employees implementing a pre-
 13 scribed fire (as defined in section
 14 3 of the National Prescribed Fire
 15 Act of 2020).”.

16 (4) CONVERSION OF SEASONAL FIREFIGHTERS
 17 TO PERMANENT EMPLOYEES.—The Secretaries may
 18 noncompetitively convert a Federal seasonal em-
 19 ployee to a Federal permanent employee if—

20 (A) the listed job duties of the employee
 21 include wildland firefighting;

22 (B) the employee received a rating of at
 23 least “Fully Successful” in each of the perform-
 24 ance appraisals of the employee for the 5 most

1 recent seasons of Federal employment of the
2 employee; and

3 (C) the job duties and performance stand-
4 ards of the position into which the permanent
5 employee converts include implementing pre-
6 scribed fires.

7 (5) EMPLOYMENT OF FORMERLY INCARCER-
8 ATED INDIVIDUALS.—

9 (A) IN GENERAL.—The Secretaries, in
10 consultation with the Attorney General and
11 State departments of corrections, shall seek to
12 provide a career pathway, including through
13 partnerships with the Corps Network, to indi-
14 viduals described in subparagraph (B) to work
15 as prescribed fire practitioners.

16 (B) INDIVIDUALS DESCRIBED.—An indi-
17 vidual referred to in subparagraph (A) is an in-
18 dividual that—

19 (i) has been convicted in any court of
20 a criminal offense, other than arson, and
21 was sentenced to a term of imprisonment
22 for that offense; and

23 (ii) during the term of imprisonment
24 described in clause (i), served on a

1 wildland firefighting crew or received other
2 comparable training.

3 (6) UNDERREPRESENTED EMPLOYEES.—To
4 further address the gender disparity in wildland fire-
5 fighting, the Secretaries shall support the develop-
6 ment and participation of women in leadership op-
7 portunities, mentorship networks, and training in
8 prescribed fire, including the Fire Leadership for
9 Women course and Women-In-Fire Training Ex-
10 change—

11 (A) to develop strong leaders;

12 (B) to increase the number of women over-
13 seeing prescribed fires; and

14 (C) to enhance the longevity and success of
15 women in wildland fire management.

16 (7) VETERANS CREWS.—

17 (A) IN GENERAL.—The Secretaries, in
18 consultation with the Secretary of Veterans Af-
19 fairs, shall seek—

20 (i) to provide a career pathway to in-
21 dividuals described in subparagraph (B) to
22 work as prescribed fire practitioners; and

23 (ii) to establish crews composed pre-
24 dominantly of veterans to conduct pre-
25 scribed fires.

1 (B) INDIVIDUALS DESCRIBED.—An indi-
2 vidual referred to in subparagraph (A) is an in-
3 dividual who—

4 (i) served in the active military, naval,
5 or air service; and

6 (ii) was discharged or released under
7 conditions other than dishonorable.

8 (8) INTER-TRIBAL ORGANIZATIONS.—The Sec-
9 retaries may provide funding to Tribal and inter-
10 Tribal organizations, including the Intertribal Tim-
11 ber Council, to provide training and workforce devel-
12 opment opportunities in wildland fire.

13 (b) ADDITIONAL TRAINING CENTERS.—Subject to
14 the availability of appropriations, not later than Sep-
15 tember 30, 2023, the Secretary, in cooperation with the
16 Secretary of Agriculture (and the Secretary of Defense in
17 the case of a center located on a military installation),
18 shall—

19 (1) establish and operate a prescribed fire
20 training center in a western State;

21 (2) continue to operate a prescribed fire train-
22 ing center in an eastern State;

23 (3) establish a virtual prescribed fire training
24 center; and

1 (4) establish and operate a managed-wildfire
2 training center.

3 (c) COMPETENCIES FOR FIREFIGHTERS.—

4 (1) UPDATES TO REQUIRED COMPETENCIES
5 FOR SPECIFIC FIREFIGHTER POSITIONS.—The Sec-
6 retaries, in coordination with the Fire Executive
7 Council, the National Association of State Foresters,
8 and the Intertribal Timber Council, shall task the
9 National Wildfire Coordinating Group to add a re-
10 quirement for an individual to obtain the necessary
11 certification to serve in—

12 (A) the position of a single-resource boss;
13 and

14 (B) any other positions determined to be
15 necessary by the Secretaries.

16 (2) ADDITIONAL EXPERIENCE.—The Secre-
17 taries shall require significant additional experience,
18 gained exclusively during a prescribed fire, to obtain
19 a certification described in paragraph (1).

20 (d) INDEMNITY OF FEDERAL EMPLOYEES.—Except
21 in the case of gross negligence, a Federal employee plan-
22 ning or overseeing a prescribed fire that escaped—

23 (1) shall not be subject to criminal prosecution;
24 and

1 (2) shall not be subject to civil proceedings, ex-
 2 cept in accordance with section 2672 of title 28,
 3 United States Code.

4 **SEC. 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MAN-**
 5 **AGERS.**

6 (a) DEFINITION OF COVERED LAW.—In this section,
 7 the term “covered law” means a State law that establishes
 8 the standard of care in a civil suit against a certified pre-
 9 scribed fire manager for an escaped prescribed fire to be
 10 “gross negligence”, if the certified prescribed fire man-
 11 ager—

- 12 (1) obtained a permit for the prescribed fire;
- 13 (2) conducted the prescribed fire consistent
- 14 with a written burn plan;
- 15 (3) was at the site of prescribed fire for the du-
- 16 ration of the prescribed fire; and
- 17 (4) ensured adequate personnel, equipment, and
- 18 firebreaks were in place during the prescribed fire,
- 19 in accordance with the written burn plan.

20 (b) MEMORANDUM OF AGREEMENT.—Subject to the
 21 availability of appropriations, in accordance with rec-
 22 ommendation A3C of the special report of the Western
 23 Governors’ National Forest and Rangeland Management
 24 Initiative, dated June 2017, the Secretary may enter into
 25 a memorandum of agreement with the National Gov-

1 ernors' Association to host a conference, at which gov-
 2 ernors can meet to discuss the benefits of addressing li-
 3 ability protection and possible incentives for States to
 4 enact a covered law.

5 (c) FUNDING.—The Secretary may provide not more
 6 than \$1,000,000 under the memorandum of agreement
 7 under subsection (b).

8 **SEC. 204. ENVIRONMENTAL REVIEW.**

9 (a) SMOKE MANAGEMENT AGENCIES.—

10 (1) POLICY.—The Secretaries shall ensure that
 11 policies, training, and programs of the Secretaries
 12 are consistent with this subsection—

13 (A) to facilitate greater use of prescribed
 14 fire; and

15 (B) to address public health and safety, in-
 16 cluding impacts from smoke from prescribed
 17 fires.

18 (2) EXPENDITURE OF FUNDS.—When a smoke-
 19 sensitive facility or vulnerable individual is identified
 20 in an area to be impacted by smoke from a pre-
 21 scribed fire, the Secretaries may expend funding ap-
 22 propriated for hazardous fuel reduction to mitigate
 23 the impacts of the prescribed fire.

24 (3) COORDINATION AMONG FEDERAL AND
 25 STATE AIR QUALITY AGENCIES AND FEDERAL AND

STATE LAND MANAGEMENT AGENCIES.—The Administrator of the Environmental Protection Agency, in cooperation with Federal and State land management agencies, shall coordinate with State, Tribal, and local air quality agencies that regulate smoke under the Clean Air Act (42 U.S.C. 7401 et seq.) to facilitate the use of prescribed fire on Federal land and State, Tribal, and private land, including by—

(A) streamlining the decisionmaking process for approving the use of prescribed fire under a State, Tribal, or local government smoke management program; and

(B)(i) promoting basic smoke management practices;

(ii) disseminating information about basic smoke management practices; and

(iii) educating landowners that use prescribed fire about the importance of—

(I) using basic smoke management practices; and

(II) including basic smoke management practices as a component of a burn plan.

(4) EXCEPTIONAL EVENT DEMONSTRATIONS.—

1 (A) REQUIREMENT TO SEEK EXCEPTIONAL
2 EVENT DEMONSTRATION.—Subject to subpara-
3 graph (C), the appropriate State or Tribal air
4 quality agency shall develop and submit to the
5 Administrator of the Environmental Protection
6 Agency a demonstration in accordance with sec-
7 tion 50.14 of title 40, Code of Federal Regula-
8 tions (or successor regulations), if—

9 (i) the Secretary, the Secretary of Ag-
10 riculture, a State land management agen-
11 cy, or an Indian Tribe conducts a pre-
12 scribed fire on Federal land or State land,
13 as applicable, in accordance with a State
14 or Tribal smoke management program that
15 incorporates basic smoke management
16 practices; and

17 (ii) the prescribed fire described in
18 clause (i) contributes to an exceedance or
19 other violation of a national ambient air
20 quality standard under section 109 of the
21 Clean Air Act (42 U.S.C. 7409), as meas-
22 ured using a Federal reference monitor or
23 an equivalent method.

24 (B) DEMONSTRATION ASSISTANCE.—For
25 an exceedance or other violation described in

1 clause (ii) of subparagraph (A), the Secretary
 2 or Secretary of Agriculture, with the concu-
 3 rence of the State or Tribal air quality agency,
 4 may assist with the development of the dem-
 5 onstration under that subparagraph.

6 (C) SAVINGS PROVISION.—Subparagraph
 7 (A) shall not apply if the exceedance or other
 8 violation described in clause (ii) of that sub-
 9 paragraph is the result of—

10 (i) a violation of a smoke management
 11 program;

12 (ii) a failure to use basic smoke man-
 13 agement practices; or

14 (iii) a violation of applicable permit
 15 conditions.

16 (5) EXEMPTION FOR LARGE PRESCRIBED
 17 FIRES.—

18 (A) FEDERAL LAND MANAGEMENT AGENCY
 19 EXEMPTION.—Consistent with subsection (b) of
 20 section 118 of the Clean Air Act (42 U.S.C.
 21 7418), a prescribed fire conducted on Federal
 22 land by the Secretary or the Secretary of Agri-
 23 culture that burns more than 1,000 acres per
 24 day shall be deemed to be in the paramount in-
 25 terest of the United States and shall be exempt

1 from requirements with respect to the control of
2 pollution from Federal facilities under that Act
3 (42 U.S.C. 7401 et seq.) if the Secretary or the
4 Secretary of Agriculture determines that the
5 prescribed fire—

6 (i) will be conducted in an area where
7 the terrain or fuel load makes the area in-
8 accessible or unsafe for firefighting per-
9 sonnel;

10 (ii) is necessary to reduce hazardous
11 fuels;

12 (iii) will be conducted to minimize
13 smoke impacts on populated areas through
14 the use of basic smoke management prac-
15 tices; and

16 (iv) will be conducted under a smoke
17 management program, if applicable.

18 (B) STATE EXEMPTION.—If the Secretary
19 concerned conducts a prescribed fire that is
20 deemed to be in the paramount interest of the
21 United States under subparagraph (A) on Fed-
22 eral land, a prescribed fire conducted by a State
23 land management agency on State or private
24 land that is contiguous to that Federal land
25 shall be exempt from any applicable national

1 ambient air quality standards under section 109
2 of the Clean Air Act (42 U.S.C. 7409).

3 (C) TRIBAL EXEMPTION.—Consistent with
4 subsection (b) of section 118 of the Clean Air
5 Act (42 U.S.C. 7418), a prescribed fire con-
6 ducted on Tribal land by an Indian Tribe that
7 burns more than 1,000 acres per day shall be
8 deemed to be in the paramount interest of the
9 United States and shall be exempt from re-
10 quirements with respect to the control of pollu-
11 tion from Federal facilities under that Act (42
12 U.S.C. 7401 et seq.) if the Indian Tribe deter-
13 mines that the prescribed fire—

14 (i) will be conducted in an area where
15 the terrain or fuel load makes the area in-
16 accessible or unsafe for firefighting per-
17 sonnel;

18 (ii) is necessary to reduce hazardous
19 fuels;

20 (iii) will be conducted to minimize
21 smoke impacts on populated areas through
22 the use of basic smoke management prac-
23 tices; and

24 (iv) will be conducted under a smoke
25 management program, if applicable.

1 (D) SAVINGS PROVISION.—Consistent with
2 section 118(b) of the Clean Air Act (42 U.S.C.
3 7418(b))—

4 (i) an exemption granted under this
5 paragraph shall apply to the applicable en-
6 tity for a period of not more than 1 year;
7 and

8 (ii) on a new determination of the
9 Secretary, the Secretary of Agriculture, or
10 an Indian Tribe under subparagraph (A)
11 or (C), as applicable, additional exemptions
12 under this paragraph may be granted for
13 subsequent periods after the expiration of
14 the exemption described in clause (i), each
15 of which shall apply for a period of not
16 more than 1 year.

17 (6) STATE AND TRIBAL STANDARDS.—

18 (A) APPROVAL OF STATE OR TRIBAL
19 STANDARDS.—Notwithstanding section 110 of
20 the Clean Air Act (42 U.S.C. 7410), when ap-
21 proving a State or Tribal implementation plan
22 under that section, the Administrator of the
23 Environmental Protection Agency may not ap-
24 prove any standards with respect to—

1 (i) preventing nuisance impacts that
2 result from prescribed fires that incor-
3 porate basic smoke management practices;
4 or

5 (ii) criteria pollutants that result from
6 prescribed fires that are more stringent
7 than what is required to meet the national
8 ambient air quality standards for those
9 pollutants under section 109 of that Act
10 (42 U.S.C. 7409), as measured using a
11 Federal reference monitor or an equivalent
12 method.

13 (B) STATE AND TRIBAL ENFORCEMENT.—

14 A State or Indian Tribe may not enforce stand-
15 ards in a State or Tribal implementation plan
16 that was approved under the Clean Air Act (42
17 U.S.C. 7401 et seq.) before the date of enact-
18 ment of this Act with respect to—

19 (i) preventing nuisance impacts that
20 result from prescribed fires that incor-
21 porate basic smoke management practices;
22 or

23 (ii) criteria pollutants that result from
24 prescribed fires that are more stringent
25 than what is required to meet the national

1 ambient air quality standards for those
2 pollutants under section 109 of that Act
3 (42 U.S.C. 7409), as measured using a
4 Federal reference monitor or an equivalent
5 method.

6 (C) AMENDMENT TO ANTI-BACKSLIDING
7 PROVISION.—If a State or Tribal implementa-
8 tion plan under section 110 of the Clean Air
9 Act (42 U.S.C. 7410) is revised to include a
10 smoke management program for prescribed
11 fires in that implementation plan, subsection (l)
12 of that section shall not apply with respect to
13 that revision.

14 (7) EVALUATION.—The Secretary or the Sec-
15 retary of Agriculture, as applicable, shall conduct an
16 evaluation to facilitate learning new approaches for
17 predicting and preventing exceedances during subse-
18 quent prescribed fires if the Secretary or the Sec-
19 retary of Agriculture—

20 (A) conducts a prescribed fire on Federal
21 land—

22 (i) for which a demonstration is devel-
23 oped and submitted under paragraph
24 (4)(A); or

1 (ii) that is subject to an exemption
2 under paragraph (5)(A); and

3 (B) the prescribed fire described in sub-
4 paragraph (A) contributes to an exceedance of
5 a national ambient air quality standard under
6 section 109 of the Clean Air Act (42 U.S.C.
7 7409).

8 (8) PROGRAMS AND RESEARCH.—To address
9 the public health and safety risk of the expanded use
10 of prescribed fire under this Act, the Secretary of
11 Agriculture and the Secretary, in coordination with
12 the Administrator of the Environmental Protection
13 Agency and the Director of the Centers for Disease
14 Control and Prevention, shall conduct research to
15 improve or develop—

16 (A) wildland fire smoke prediction models;

17 (B) smoke impact display tools for the
18 public and decisionmakers;

19 (C) appropriate, cost-effective, and con-
20 sistent mitigation strategies for communities
21 impacted adversely by smoke from prescribed
22 fire;

23 (D) consistent nationally and scientifically
24 supported messages regarding personal protec-
25 tion equipment for the public; and

1 (E) prescribed fire activity tracking and
2 emission inventory systems.

3 (b) NATIONAL ENVIRONMENTAL POLICY ACT OF
4 1969 EFFICIENCIES.—

5 (1) PURPOSE.—The purpose of this subsection
6 is to require the Secretaries to develop a series of
7 categorical exclusions from the requirements of the
8 National Environmental Policy Act of 1969 (42
9 U.S.C. 4321 et seq.) for implementing prescribed
10 fires in accordance with this subsection.

11 (2) PREVIOUS ENVIRONMENTAL REVIEW DECISIONS.—The Secretaries shall—

12 (A) gather and evaluate all of the decision
13 memos, decision notices, and records of decision
14 and associated findings of no significant impact
15 or environmental impact statements under the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) prepared for recent pre-
18 scribed fire projects;

19 (B) review any documented environmental
20 impacts of those prescribed fire projects, if the
21 Secretaries monitored or evaluated the effects
22 of the implemented actions; and

23 (C) develop findings of—
24

- 1 (i) similarities and differences among
2 prescribed fire projects; and
3 (ii) elements and mitigation measures
4 that consistently appeared in those pre-
5 scribed fire projects that did not individ-
6 ually or cumulatively have a significant im-
7 pact on the environment.

8 (3) RULEMAKING.—Not later than 2 years after
9 the date of enactment of this Act, the Secretaries
10 shall publish in the Federal Register for public re-
11 view and comment a series of notices of proposed
12 categorical exclusions from the requirements of the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.) for implementing prescribed
15 fire projects in, at a minimum, the following forest
16 types:

- 17 (A) Longleaf pine forest.
18 (B) Shortleaf pine forest.
19 (C) Ponderosa pine forest.
20 (D) Pinyon-juniper forest.
21 (E) Dry-site Douglas-fir forest.
22 (F) Chaparral shrubland.

23 (4) EXTRAORDINARY CIRCUMSTANCES.—The
24 Secretaries shall apply the extraordinary cir-
25 cumstances procedures under section 220.6 of title

1 36, Code of Federal Regulations (or successor regu-
 2 lations), in determining whether to use a categorical
 3 exclusion established under this subsection.

4 (5) OREGON AND CALIFORNIA GRANT LANDS.—
 5 On Oregon and California Railroad grant land re-
 6 vested in the United States by the Act of June 9,
 7 1916 (39 Stat. 218, chapter 137), the Secretary,
 8 acting through the Director of the Bureau of Land
 9 Management, shall—

10 (A) implement not fewer than 2 impact
 11 demonstration projects to assess the environ-
 12 mental effects of prescribed fires;

13 (B) monitor the actual environmental ef-
 14 fects during and after that implementation; and

15 (C) evaluate the merits of using a categor-
 16 ical exclusion from the requirements of the Na-
 17 tional Environmental Policy Act of 1969 (42
 18 U.S.C. 4321 et seq.) for prescribed fires on that
 19 land.

20 **SEC. 205. PRESCRIBED FIRE EDUCATION PROGRAM.**

21 (a) IN GENERAL.—The Secretary of Agriculture, act-
 22 ing through the Chief of the Forest Service, and the Sec-
 23 retary, acting through the Director of the Office of
 24 Wildland Fire, may enter into a memorandum of agree-
 25 ment with the Longleaf Alliance to carry out a national

1 prescribed fire education program, including the use of the
 2 character known as “Burner Bob”.

3 (b) PROGRAM ELEMENTS.—A prescribed fire edu-
 4 cation program authorized under subsection (a) may in-
 5 clude—

6 (1) public service advertisements;

7 (2) the use of social media;

8 (3) campaign and educational activities and ma-
 9 terials;

10 (4) commercial licensing;

11 (5) character images and appearances; and

12 (6) awards and recognition.

13 **TITLE III—REPORTING;** 14 **TERMINATION**

15 **SEC. 301. ANNUAL REPORTS TO THE NATIONAL INTER-** 16 **AGENCY FIRE CENTER.**

17 (a) PURPOSE.—The purpose of this section is to en-
 18 sure an accurate reporting of annual prescribed fire ac-
 19 complishments in the United States.

20 (b) COST-SHARE.—Subject to the availability of ap-
 21 propriations, the Secretary may provide financial assist-
 22 ance to States to pay a portion of the costs associated
 23 with annually reporting prescribed fire accomplishments
 24 to the National Interagency Fire Center.

1 (c) ELIGIBILITY FOR FUNDS.—If, by December 31
2 of each year, a State has not reported to the National
3 Interagency Fire Center, at a minimum, the number of
4 acres treated using prescribed fire in the State, the State
5 shall not be eligible to receive any amounts made available
6 under this Act for the previous fiscal year.

7 **SEC. 302. TERMINATION DATE.**

8 The authority to carry out this Act terminates on the
9 date that is 10 years after the date of enactment of this
10 Act.

