

117TH CONGRESS
1ST SESSION

H. R. 3442

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 HOUSE OF REPRESENTATIVES

MAY 20, 2021

Ms. SCHRIER (for herself, Mr. SIMPSON, and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture, Energy and Commerce, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “National Prescribed Fire Act of 2021”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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 Fire Planning and Operations Database.
Sec. 302. Termination date.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

4 (A) 67,000 wildfires burned 7,000,000
5 acres annually; and

6 (B) 86,345 prescribed fires burned only
7 3,000,000 acres annually;

8 (3) indigenous communities have used con-
9 trolled burns to manage landscapes since time imme-
10 morial;

11 (4) according to the National Interagency Co-
12 ordination Center, the annual cost of suppressing
13 wildfires in a State with an active prescribed burn-
14 ing program is less than 1 percent of the annual
15 cost of suppressing wildfires in a State without an
16 active prescribed burning program, despite each
17 State having the same number of wildfires;

18 (5) according to a 2017 study published in the
19 Journal of Forestry, on a given acre, a prescribed
20 fire burning in April or May produces less than $\frac{1}{5}$
21 of the smoke emissions of a wildfire that would burn
22 on that acre in August;

23 (6) according to a 2019 study conducted by
24 Stanford University, smoke from prescribed fires ex-

1 poses children to fewer negative health effects than
2 the detrimental smoke generated by wildfires;

3 (7) according to a 2015 study published in
4 Ecology, trees that have not been burnt by a low-in-
5 tensity fire are unusually prone to bark beetle at-
6 tacks, and between 2000 and 2010, bark beetles
7 killed the majority of trees on 32,000,000 acres of
8 the 193,000,000 acres of National Forest System
9 land;

10 (8) as of September 30, 2019, there were—

11 (A) 37 prescribed fire councils in 33
12 States; and

13 (B) 64 prescribed burn associations in 11
14 States;

15 (9) according to the 2018 National Prescribed
16 Fire Use Survey Report—

17 (A) 37 States regulate prescribed fires by
18 issuing burn permits;

19 (B) 23 States offer prescribed burn man-
20 ager certification courses to facilitate respon-
21 sible burning on private land;

22 (C) only 5 States (Vermont, Massachu-
23 setts, Missouri, Connecticut, and Rhode Island)
24 lack laws to reduce liability associated with the
25 responsible use of prescribed fire; and

(D) only 8 States (Florida, Montana, Nevada, Colorado, Michigan, Georgia, South Carolina, and Washington) have laws that use a standard of gross negligence for determining liabilities for the responsible use of prescribed fire; and

(10) as of September 30, 2019, 31 States have a formal process to track the number of acres treated for forestry purposes using prescribed fire.

SEC. 3. DEFINITIONS.

In this Act:

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

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

(B) units of the National Park System;

(C) units of the National Wildlife Refuge System;

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

(E) land in the National Forest System.

(2) **NATIONAL FOREST SYSTEM.**—The term “National Forest System” has the meaning given

the term in section 11(a) of the Forest and Range-
land Renewable Resources Planning Act of 1974 (16
U.S.C. 1609(a)).

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

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

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

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

(A) the Secretary; and

(B) the Secretary of Agriculture.

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

TITLE I—USE OF FUNDS

SEC. 101. PRESCRIBED FIRE ACCOUNTS.

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

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

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

7 (b) ESTABLISHMENT OF ACCOUNTS.—There are es-
8 tablished in the Treasury of the United States the fol-
9 lowing accounts:

10 (1) The Prescribed Fire account for the De-
11 partment of Agriculture.

12 (2) The Prescribed Fire account for the De-
13 partment of the Interior.

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

19 (d) PRESIDENTIAL BUDGET REQUESTS.—For fiscal
20 year 2023 and each fiscal year thereafter, each Secretary
21 concerned shall submit, through the budget request of the
22 President, a request for amounts in the Wildland Fire
23 Management appropriation account of the Secretary con-
24 cerned to carry out the activities described in subsection
25 (e).

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

4 (1) The Secretary concerned shall—

5 (A) develop a prescribed fire plan, carry
6 out necessary environmental review, conduct
7 outreach to the public, Indian Tribes, and adja-
8 cent landowners, and implement a prescribed
9 fire on Federal land;

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

15 (C) provide training for the implementa-
16 tion of a prescribed fire;

17 (D) conduct post-prescribed fire activities,
18 including reseeding to prevent the spread of
19 invasive species; and

20 (E) conduct monitoring for safety and fire
21 effects.

22 (2) The Secretaries shall coordinate to jointly
23 develop a common data management and analysis
24 system for planning and post-treatment account-
25 ability.

1 (3) The Secretary concerned may assist State,
2 Tribal, local government, or private prescribed fire
3 programs—

4 (A) to provide federally sponsored insur-
5 ance administered by States, in conjunction
6 with State-sponsored training and certification
7 programs, for private persons implementing
8 prescribed fires;

9 (B) to establish a training or certification
10 program for teams comprised of citizens or
11 local fire services to conduct prescribed fires on
12 private land, consistent with any standards de-
13 veloped by the National Wildfire Coordinating
14 Group or State prescribed fire standards;

15 (C) to enable additional fire managers and
16 apparatus, whether provided by the local re-
17 sources of an agency, private contractors, non-
18 governmental organizations, Indian Tribes, local
19 fire services, or qualified individuals, to be
20 present while implementing a prescribed fire;

21 (D) pursuant to the memorandum of
22 agreement authorized under section 203; or

23 (E) to finance the implementation of a pre-
24 scribed fire on State, Tribal, or private land
25 and any post-prescribed fire activities as are de-

1 terminated to be necessary by the Secretary con-
2 cerned.

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

7 (5) The Secretary may provide funding for the
8 collaborative prescribed fire program established
9 under section 103.

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

13 (f) PRIORITIZATION OF FUNDING.—

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

22 (2) REQUIREMENT.—In establishing criteria
23 under paragraph (1), the Secretary concerned shall
24 give priority to a project that is—

- 1 (A) implemented across a large contiguous
- 2 area;
- 3 (B) cross-boundary in nature;
- 4 (C) in an area that is threatening to, or lo-
- 5 cated in, the wildland-urban interface;
- 6 (D) in an area identified as a priority area
- 7 in a statewide forest resource assessment;
- 8 (E) on acres at high or very high risk of
- 9 experiencing a wildfire that would be difficult to
- 10 suppress;
- 11 (F) in an area that is designated as critical
- 12 habitat and in need of ecological restoration or
- 13 enhancement; or
- 14 (G) supportive of potential operational de-
- 15 lineations or a strategic response zone.

16 **SEC. 102. POLICIES AND PRACTICES.**

17 (a) IN GENERAL.—The Secretaries shall significantly

18 increase the number and size of prescribed fires conducted

19 on Federal land.

20 (b) USE OF FUNDS FOR PRESCRIBED FIRES.—From

21 amounts appropriated to carry out the activity described

22 in section 101(e)(1), the Secretaries may carry out pre-

23 scribed fires on not more than 20,000,000 acres of Fed-

24 eral land per year.

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

5 (d) INCREASE IN FAMILIARITY WITH PRESCRIBED
6 FIRES IN LOCAL UNITS.—Subject to the availability of
7 appropriations, not later than September 30, 2023, the
8 Secretaries shall each have carried out a minimum of 1
9 prescribed fire on each unit of the National Forest Sys-
10 tem, unit of the National Wildlife Refuge System, unit of
11 the National Park System, and Bureau of Land Manage-
12 ment district under the jurisdiction of the Secretaries—

13 (1) that includes an area that—

14 (A) has a historical low-severity fire re-
15 gime;

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

18 (C) is larger than 100 acres; and

19 (2) less than 50 percent of the land of which
20 was burned by a wildland fire during the previous
21 10-year period.

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

23 (a) IN GENERAL.—The Secretary shall establish
24 within the Department of the Interior a collaborative pre-
25 scribed fire program (referred to in this section as the

1 “program”) to provide financial assistance to eligible enti-
2 ties, including units of Federal land management agencies,
3 Indian Tribes, and prescribed fire councils, for the imple-
4 mentation of proposals for the conduct of prescribed fires
5 in priority landscapes in accordance with applicable exist-
6 ing policies, including the National Cohesive Wildland Fire
7 Management Strategy.

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

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

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

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

16 (4) be implemented across multiple jurisdic-
17 tions;

18 (5) provide an estimate of—

19 (A) the amount of annual Federal financial
20 assistance necessary to implement the proposal;
21 and

22 (B) the amount of non-Federal funds that
23 would be leveraged;

24 (6) describe benefits to sensitive wildlife species
25 of concern; and

1 (7) describe any established record of successful
2 collaborative planning or use of prescribed fire by
3 the eligible entity.

4 (c) SELECTION CRITERIA.—Subject to the avail-
5 ability of appropriations, the Secretary shall select pro-
6 posals for financial assistance under the program that, as
7 determined by the Secretary, would likely use the least
8 amount of Federal funding to treat the most acres at high
9 or very high risk of experiencing a wildfire that would be
10 difficult to suppress.

11 (d) LIMITATIONS.—

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

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

18 (3) PROJECT PERFORMANCE.—The Secretary
19 shall cease funding any proposal that, for 3 consecu-
20 tive years, fails to meet the annual accomplishment
21 targets that were established under subsection
22 (b)(2).

23 (e) PRESCRIBED FIRE TRAINING EXCHANGES.—Not
24 less frequently than once every 3 years, a recipient of fi-
25 nancial assistance under the program shall provide to local

1 entities and non-local entities experiential training relating
2 to prescribed fires.

3 (f) REPORTING.—

4 (1) PROJECT REPORTING.—A recipient of fi-
5 nancial assistance under the program shall annually
6 submit to the Secretary a report summarizing, at a
7 minimum—

8 (A) the numbers of acres treated with pre-
9 scribed fire by the recipient under the program;
10 and

11 (B) the amount of Federal and non-Fed-
12 eral funds used by the recipient under the pro-
13 gram.

14 (2) PROGRAM REPORTING.—Not later than 2
15 years after the first fiscal year in which funding is
16 made available to carry out prescribed fires under
17 the program, and every 2 years thereafter, the Sec-
18 retary shall submit to the Committee on Energy and
19 Natural Resources of the Senate and the Committee
20 on Natural Resources of the House of Representa-
21 tives a report on the program.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this section
24 \$10,000,000 for each of fiscal years 2022 through 2031,
25 to remain available until expended.

1 **SEC. 104. LARGE CROSS-BOUNDARY PRESCRIBED FIRE IN-**
2 **CENTIVE PROGRAM.**

3 (a) IN GENERAL.—Subject to the availability of ap-
4 propriations, the Secretary shall establish an incentive
5 program to encourage the implementation of large, cross-
6 boundary prescribed fires by providing incentive payments
7 for conducting a qualified prescribed fire.

8 (b) QUALIFIED PRESCRIBED FIRES.—

9 (1) CRITERIA.—A qualified prescribed fire
10 under the program under this section is a prescribed
11 fire that—

12 (A) occurred on not less than 2 parcels of
13 land that were under different ownership;

14 (B) had a target area identified in a pre-
15 scribed fire plan of not less than 50,000 acres;
16 and

17 (C) is on land under Federal, State, or
18 local government ownership.

19 (2) MULTIPLE FIRES.—The Secretary may con-
20 sider a series of prescribed fires conducted within 1
21 fiscal year by the same 1 or more entities to be a
22 qualified prescribed fire under the program under
23 this section if the series of fires collectively meet the
24 criteria under paragraph (1).

25 (c) PAYMENTS.—

1 (1) STATE AND COUNTY INCENTIVE PAY-
2 MENTS.—The Secretary shall make payments to the
3 State and county in which a qualified prescribed fire
4 was implemented in an amount not greater than
5 \$100,000.

6 (2) NATIONAL FOREST SYSTEM LAND.—In the
7 case of each qualified prescribed fire on a unit of the
8 National Forest System, the Secretary shall transfer
9 to the Secretary of Agriculture, acting through the
10 Chief of the Forest Service, an amount not greater
11 than \$100,000, which shall be used for that unit of
12 the National Forest System.

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

19 (4) INDIAN COUNTRY.—In the case of each
20 qualified prescribed fire in Indian country (as de-
21 fined in section 1151 of title 18, United States
22 Code), the Secretary shall make a payment to the
23 applicable Indian Tribe in an amount not greater
24 than \$100,000.

1 **TITLE II—FACILITATING IMPLE-**
2 **MENTATION AND OUTREACH**

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

4 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
5 tion, the term “eligible entity” means a State, an Indian
6 Tribe, a county or municipal government, a fire district,
7 a nongovernmental organization, including the Nature
8 Conservancy, or a private entity.

9 (b) AUTHORIZATION.—The Secretaries may enter
10 into a cooperative agreement or contract with an eligible
11 entity to authorize the eligible entity to coordinate, plan,
12 or conduct a prescribed fire on Federal land.

13 (c) SUBCONTRACTS.—A State, Indian Tribe, or coun-
14 ty that enters into a cooperative agreement or contract
15 under subsection (b) may enter into a subcontract, in ac-
16 cordance with applicable contracting procedures of the
17 State, Indian Tribe, or county, to conduct a prescribed
18 fire on Federal land pursuant to that cooperative agree-
19 ment or contract.

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

25 (1) on Federal land; or

1 (2) across an area that—

2 (A) includes adjacent landowners; and

3 (B) includes Federal land.

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

9 (f) APPLICABLE LAW.—A prescribed fire conducted
10 under this section shall be carried out on a project-to-
11 project basis under existing authorities of the applicable
12 agency responsible for the management of the Federal
13 land.

14 (g) PRESERVATION OF DECISION AUTHORITY.—No
15 project authorized under this section may be undertaken
16 without the prior written approval of the Secretary or the
17 Secretary of Agriculture.

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

23 **SEC. 202. HUMAN RESOURCES.**

24 (a) PRESCRIBED FIRE WORKFORCE.—

1 (1) TRAINING.—The Secretaries shall hire addi-
2 tional employees and provide training and develop-
3 ment activities, including through partnerships with
4 community colleges, to increase the number of
5 skilled and qualified prescribed fire practitioners in
6 the Department of the Interior, the Department of
7 Agriculture, Indian Tribes, and other qualified orga-
8 nizations, including training in smoke management
9 practices.

10 (2) TEMPORARY WORKERS.—

11 (A) IN GENERAL.—The Director of the Of-
12 fice of Personnel Management shall provide to
13 the Secretaries direct hire authority in accord-
14 ance with section 3304(a)(3) of title 5, United
15 States Code, to appoint qualified individuals to
16 positions performing temporary or emergency
17 work relating to prescribed fires, including
18 training, implementation, and post-prescribed
19 burning activities.

20 (B) TERM OF EMPLOYMENT.—The term of
21 the appointment of an individual under sub-
22 paragraph (A) shall be restricted to a period
23 that—

24 (i) begins not more than 72 hours
25 prior to planned ignition; and

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

3 (3) OVERTIME PAYMENTS.—

4 (A) PURPOSE.—The purpose of the
5 amendment made by subparagraph (B) is to
6 allow the Secretaries to use additional new
7 budget authority for wildfire suppression for the
8 cost of overtime payments to employees imple-
9 menting a prescribed fire.

10 (B) AMENDMENT.—Section
11 251(b)(2)(F)(ii)(II) of the Balanced Budget
12 and Emergency Deficit Control Act of 1985 (2
13 U.S.C. 901(b)(2)(F)(ii)(II)) is amended—

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

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

18 (iii) by adding at the end the fol-
19 lowing:

20 “(dd) overtime payments to
21 employees implementing a pre-
22 scribed fire (as defined in section
23 3 of the National Prescribed Fire
24 Act of 2021).”.

25 (4) DEDICATED PRESCRIBED FIRE CREWS.—

1 (A) IN GENERAL.—The Secretaries shall
2 establish not fewer than 1 crew of Federal em-
3 ployees the primary responsibility of which is
4 implementing prescribed fires.

5 (B) TERM OF EMPLOYMENT.—Notwith-
6 standing section 213.104 or 316.401 of title 5,
7 Code of Federal Regulations (or successor regu-
8 lations), an employee of a crew established
9 under subparagraph (A) may—

10 (i) be hired as a seasonal employee or
11 temporary employee; and

12 (ii) work more than 1,040 hours per
13 year.

14 (C) PERMANENT PRESCRIBED FIRE EM-
15 PLOYEES.—The Secretaries may noncompeti-
16 tively convert a Federal seasonal employee of a
17 crew established under this paragraph to a Fed-
18 eral permanent employee, subject to paragraph
19 (5).

20 (5) CONVERSION OF SEASONAL FIREFIGHTERS
21 TO PERMANENT EMPLOYEES.—The Secretaries may
22 noncompetitively convert a Federal seasonal em-
23 ployee to a Federal permanent employee if—

24 (A) the listed job duties of the employee
25 include wildland firefighting;

1 (B) the employee received a rating of at
2 least “Fully Successful” in each of the perform-
3 ance appraisals of the employee for the 5 most
4 recent seasons of Federal employment of the
5 employee; and

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

10 (6) EMPLOYMENT OF FORMERLY INCARCER-
11 ATED INDIVIDUALS.—

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

19 (B) INDIVIDUALS DESCRIBED.—An indi-
20 vidual referred to in subparagraph (A) is an in-
21 dividual that—

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

1 (ii) during the term of imprisonment
2 described in clause (i), served on a
3 wildland firefighting crew or received other
4 comparable training.

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

13 (A) to develop strong leaders;

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

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

18 (8) VETERANS CREWS.—

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

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

1 (ii) to establish crews composed pre-
2 dominantly of veterans to conduct pre-
3 scribed fires.

4 (B) INDIVIDUALS DESCRIBED.—An indi-
5 vidual referred to in subparagraph (A) is an in-
6 dividual who—

7 (i) served in the active military, naval,
8 or air service; and

9 (ii) was discharged or released under
10 conditions other than dishonorable.

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

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

22 (1) establish and operate a prescribed fire
23 training center in a western State;

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

1 (3) establish a virtual prescribed fire training
2 center; and

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

5 (c) COMPETENCIES FOR FIREFIGHTERS.—

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

14 (A) the position of a single-resource boss;
15 and

16 (B) any other positions determined to be
17 necessary by the Secretaries.

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

22 (d) INDEMNITY OF FEDERAL AND TRIBAL EMPLOY-
23 EES.—Except in the case of gross negligence, a Federal
24 employee or an employee contracted by an Indian Tribe
25 pursuant to a contract under the Indian Self-Determina-

tion Act (25 U.S.C. 5321 et seq.) overseeing a prescribed fire that escaped—

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

(2) shall not be subject to civil proceedings, except in accordance with section 2672 of title 28, United States Code.

SEC. 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MANAGERS.

(a) DEFINITION OF COVERED LAW.—In this section, the term “covered law” means a State law that establishes the standard of care in a civil suit against a certified prescribed fire manager for an escaped prescribed fire to be “gross negligence”, if the certified prescribed fire manager—

(1) obtained a permit for the prescribed fire;

(2) conducted the prescribed fire consistent with a written prescribed fire plan;

(3) was at the site of prescribed fire for the duration of the prescribed fire;

(4) ensured adequate personnel, equipment, and firebreaks were in place during the prescribed fire, in accordance with the written prescribed fire plan; and

1 (5) complied with any applicable Federal, Trib-
2 al, State, and local laws.

3 (b) MEMORANDUM OF AGREEMENT.—Subject to the
4 availability of appropriations, in accordance with rec-
5 ommendation A3C of the special report of the Western
6 Governors’ National Forest and Rangeland Management
7 Initiative, dated June 2017, the Secretary may enter into
8 a memorandum of agreement with the National Gov-
9 ernors’ Association to host a conference, at which gov-
10 ernors can meet to discuss the benefits of addressing li-
11 ability protection and possible incentives for States to
12 enact a covered law.

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

16 **SEC. 204. ENVIRONMENTAL REVIEW.**

17 (a) SMOKE MANAGEMENT AGENCIES.—

18 (1) POLICY.—The Secretaries shall ensure that
19 policies, training, and programs of the Secretaries
20 are consistent with this subsection—

21 (A) to facilitate greater use of prescribed
22 fire; and

23 (B) to address public health and safety, in-
24 cluding impacts from smoke from prescribed
25 fires.

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

7 (3) COORDINATION AMONG FEDERAL AND
8 STATE AIR QUALITY AGENCIES AND FEDERAL AND
9 STATE LAND MANAGEMENT AGENCIES.—The Admin-
10 istrator of the Environmental Protection Agency, in
11 cooperation with Federal and State land manage-
12 ment agencies, shall coordinate with State, Tribal,
13 and local air quality agencies that regulate smoke
14 under the Clean Air Act (42 U.S.C. 7401 et seq.)
15 to facilitate the use of prescribed fire on Federal
16 land and State, Tribal, and private land, including
17 by—

18 (A) streamlining the decisionmaking proc-
19 ess for approving the use of prescribed fire
20 under a State, Tribal, or local government
21 smoke management program; and

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

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

1 (iii) educating landowners that use pre-
2 scribed fire about the importance of—

3 (I) using basic smoke management
4 practices; and

5 (II) including basic smoke manage-
6 ment practices as a component of a pre-
7 scribed fire plan.

8 (4) EXCEPTIONAL EVENT DEMONSTRATIONS.—

9 (A) REQUIREMENT TO SEEK EXCEPTIONAL
10 EVENT DEMONSTRATION.—Subject to subpara-
11 graph (C), the appropriate State or Tribal air
12 quality agency shall develop and submit to the
13 Administrator of the Environmental Protection
14 Agency a demonstration in accordance with sec-
15 tion 50.14 of title 40, Code of Federal Regula-
16 tions (or successor regulations), if—

17 (i) the Secretary, the Secretary of Ag-
18 riculture, a State land management agen-
19 cy, or an Indian Tribe conducts a pre-
20 scribed fire on Federal land or State land,
21 as applicable, in accordance with a State
22 or Tribal smoke management program that
23 incorporates basic smoke management
24 practices; and

1 (ii) the prescribed fire described in
2 clause (i) contributes to an exceedance or
3 other violation of a national ambient air
4 quality standard under section 109 of the
5 Clean Air Act (42 U.S.C. 7409), as meas-
6 ured using a Federal reference monitor or
7 an equivalent method.

8 (B) DEMONSTRATION ASSISTANCE.—For
9 an exceedance or other violation described in
10 clause (ii) of subparagraph (A), the Secretary
11 or Secretary of Agriculture, with the concur-
12 rence of the State or Tribal air quality agency,
13 may assist with the development of the dem-
14 onstration under that subparagraph.

15 (C) SAVINGS PROVISION.—Subparagraph
16 (A) shall not apply if the exceedance or other
17 violation described in clause (ii) of that sub-
18 paragraph is the result of—

19 (i) a violation of a smoke management
20 program;

21 (ii) a failure to use basic smoke man-
22 agement practices; or

23 (iii) a violation of applicable permit
24 conditions.

1 (5) EXEMPTION FOR LARGE PRESCRIBED
2 FIRES.—

3 (A) FEDERAL LAND MANAGEMENT AGENCY
4 EXEMPTION.—Consistent with subsection (b) of
5 section 118 of the Clean Air Act (42 U.S.C.
6 7418), a prescribed fire conducted on Federal
7 land by the Secretary or the Secretary of Agri-
8 culture that burns more than 1,000 acres per
9 day shall be deemed to be in the paramount in-
10 terest of the United States and shall be exempt
11 from requirements with respect to the control of
12 pollution from Federal facilities under that Act
13 (42 U.S.C. 7401 et seq.) if the Secretary or the
14 Secretary of Agriculture determines that the
15 prescribed fire—

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

20 (ii) is necessary to reduce hazardous
21 fuels;

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

1 (iv) will be conducted under a smoke
2 management program, if applicable.

3 (B) STATE EXEMPTION.—If the Secretary
4 concerned conducts a prescribed fire that is
5 deemed to be in the paramount interest of the
6 United States under subparagraph (A) on Fed-
7 eral land, a prescribed fire conducted by a State
8 land management agency on State or private
9 land that is contiguous to that Federal land
10 shall be exempt from any applicable national
11 ambient air quality standards under section 109
12 of the Clean Air Act (42 U.S.C. 7409).

13 (C) TRIBAL EXEMPTION.—Consistent with
14 subsection (b) of section 118 of the Clean Air
15 Act (42 U.S.C. 7418), a prescribed fire con-
16 ducted on Tribal land by an Indian Tribe that
17 burns more than 1,000 acres per day shall be
18 deemed to be in the paramount interest of the
19 United States and shall be exempt from re-
20 quirements with respect to the control of pollu-
21 tion from Federal facilities under that Act (42
22 U.S.C. 7401 et seq.) if the Indian Tribe deter-
23 mines that the prescribed fire—

24 (i) will be conducted in an area where
25 the terrain or fuel load makes the area in-

1 accessible or unsafe for firefighting per-
2 sonnel;

3 (ii) is necessary to reduce hazardous
4 fuels;

5 (iii) will be conducted to minimize
6 smoke impacts on populated areas through
7 the use of basic smoke management prac-
8 tices; and

9 (iv) will be conducted under a smoke
10 management program, if applicable.

11 (D) SAVINGS PROVISION.—Consistent with
12 section 118(b) of the Clean Air Act (42 U.S.C.
13 7418(b))—

14 (i) an exemption granted under this
15 paragraph shall apply to the applicable en-
16 tity for a period of not more than 1 year;
17 and

18 (ii) on a new determination of the
19 Secretary, the Secretary of Agriculture, or
20 an Indian Tribe under subparagraph (A)
21 or (C), as applicable, additional exemptions
22 under this paragraph may be granted for
23 subsequent periods after the expiration of
24 the exemption described in clause (i), each

1 of which shall apply for a period of not
2 more than 1 year.

3 (6) STATE AND TRIBAL STANDARDS.—

4 (A) APPROVAL OF STATE OR TRIBAL
5 STANDARDS.—Notwithstanding section 110 of
6 the Clean Air Act (42 U.S.C. 7410), when ap-
7 proving a State or Tribal implementation plan
8 under that section, the Administrator of the
9 Environmental Protection Agency may not ap-
10 prove any standards with respect to—

11 (i) preventing nuisance impacts that
12 result from prescribed fires that incor-
13 porate basic smoke management practices;
14 or

15 (ii) criteria pollutants that result from
16 prescribed fires that are more stringent
17 than what is required to meet the national
18 ambient air quality standards for those
19 pollutants under section 109 of that Act
20 (42 U.S.C. 7409), as measured using a
21 Federal reference monitor or an equivalent
22 method.

23 (B) STATE AND TRIBAL ENFORCEMENT.—

24 A State or Indian Tribe may not enforce stand-
25 ards in a State or Tribal implementation plan

1 that was approved under the Clean Air Act (42
2 U.S.C. 7401 et seq.) before the date of enact-
3 ment of this Act with respect to—

4 (i) preventing nuisance impacts that
5 result from prescribed fires that incor-
6 porate basic smoke management practices;
7 or

8 (ii) criteria pollutants that result from
9 prescribed fires that are more stringent
10 than what is required to meet the national
11 ambient air quality standards for those
12 pollutants under section 109 of that Act
13 (42 U.S.C. 7409), as measured using a
14 Federal reference monitor or an equivalent
15 method.

16 (C) AMENDMENT TO ANTI-BACKSLIDING
17 PROVISION.—If a State or Tribal implementa-
18 tion plan under section 110 of the Clean Air
19 Act (42 U.S.C. 7410) is revised to include a
20 smoke management program for prescribed
21 fires in that implementation plan, subsection (l)
22 of that section shall not apply with respect to
23 that revision.

24 (7) EVALUATION.—The Secretary or the Sec-
25 retary of Agriculture, as applicable, shall conduct an

1 evaluation to facilitate learning new approaches for
2 predicting and preventing exceedances during subse-
3 quent prescribed fires if the Secretary or the Sec-
4 retary of Agriculture—

5 (A) conducts a prescribed fire on Federal
6 land—

7 (i) for which a demonstration is devel-
8 oped and submitted under paragraph
9 (4)(A); or

10 (ii) that is subject to an exemption
11 under paragraph (5)(A); and

12 (B) the prescribed fire described in sub-
13 paragraph (A) contributes to an exceedance of
14 a national ambient air quality standard under
15 section 109 of the Clean Air Act (42 U.S.C.
16 7409).

17 (8) PROGRAMS AND RESEARCH.—To address
18 the public health and safety risk of the expanded use
19 of prescribed fire under this Act, the Secretary of
20 Agriculture and the Secretary, in coordination with
21 the Administrator of the Environmental Protection
22 Agency and the Director of the Centers for Disease
23 Control and Prevention, shall conduct research to
24 improve or develop—

25 (A) wildland fire smoke prediction models;

1 (B) smoke impact display tools for the
2 public and decisionmakers;

3 (C) appropriate, cost-effective, and con-
4 sistent mitigation strategies for communities
5 impacted adversely by smoke from prescribed
6 fire;

7 (D) consistent nationally and scientifically
8 supported messages regarding personal protec-
9 tion equipment for the public; and

10 (E) prescribed fire activity tracking and
11 emission inventory systems for planning and
12 post-treatment accountability.

13 (b) NATIONAL ENVIRONMENTAL POLICY ACT OF
14 1969 EFFICIENCIES.—

15 (1) PURPOSE.—The purpose of this subsection
16 is to require the Secretaries to develop a series of
17 categorical exclusions from the requirements of the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.) for implementing prescribed
20 fires in accordance with this subsection.

21 (2) PREVIOUS ENVIRONMENTAL REVIEW DECI-
22 SIONS.—The Secretaries shall—

23 (A) gather and evaluate all of the decision
24 memos, decision notices, and records of decision
25 and associated findings of no significant impact

1 or environmental impact statements under the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.) prepared for recent pre-
4 scribed fire projects;

5 (B) review any documented environmental
6 impacts of those prescribed fire projects, if the
7 Secretaries monitored or evaluated the effects
8 of the implemented actions; and

9 (C) develop findings of—

10 (i) similarities and differences among
11 prescribed fire projects; and

12 (ii) elements and mitigation measures
13 that consistently appeared in those pre-
14 scribed fire projects that did not individ-
15 ually or cumulatively have a significant im-
16 pact on the environment.

17 (3) RULEMAKING.—Not later than 2 years after
18 the date of enactment of this Act, the Secretaries
19 shall publish in the Federal Register for public re-
20 view and comment a series of notices of proposed
21 categorical exclusions from the requirements of the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.) for implementing prescribed
24 fire projects in, at a minimum, the following forest
25 types:

1 (A) Longleaf pine forest.

2 (B) Shortleaf pine forest.

3 (C) Ponderosa pine forest.

4 (D) Pinyon-juniper forest.

5 (E) Dry-site Douglas-fir forest.

6 (F) Chaparral shrubland.

7 (4) EXTRAORDINARY CIRCUMSTANCES.—The
 8 Secretaries shall apply the extraordinary cir-
 9 cumstances procedures under section 220.6 of title
 10 36, Code of Federal Regulations (or successor regu-
 11 lations), in determining whether to use a categorical
 12 exclusion established under this subsection.

13 (5) OREGON AND CALIFORNIA GRANT LANDS.—
 14 On Oregon and California Railroad grant land re-
 15 vested in the United States by the Act of June 9,
 16 1916 (39 Stat. 218, chapter 137), the Secretary,
 17 acting through the Director of the Bureau of Land
 18 Management, shall—

19 (A) implement not fewer than 2 impact
 20 demonstration projects to assess the environ-
 21 mental effects of prescribed fires;

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

24 (C) evaluate the merits of using a categor-
 25 ical exclusion from the requirements of the Na-

1 tional Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.) for prescribed fires on that
3 land.

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

5 (a) IN GENERAL.—The Secretary of Agriculture, act-
6 ing through the Chief of the Forest Service, and the Sec-
7 retary, acting through the Director of the Office of
8 Wildland Fire, may enter into a memorandum of agree-
9 ment with the Longleaf Alliance to carry out a national
10 prescribed fire education program, including the use of—

- 11 (1) the character known as “Burner Bob”; and
12 (2) an anthropomorphic black-backed wood-
13 pecker character, to be known as “Burner Betty”.

14 (b) PROGRAM ELEMENTS.—A prescribed fire edu-
15 cation program authorized under subsection (a) may in-
16 clude—

- 17 (1) public service advertisements;
18 (2) the use of social media;
19 (3) campaign and educational activities and ma-
20 terials;
21 (4) commercial licensing;
22 (5) character images and appearances; and
23 (6) awards and recognition.

**TITLE III—REPORTING;
TERMINATION**

**SEC. 301. ANNUAL REPORTS TO THE NATIONAL FIRE PLAN-
NING AND OPERATIONS DATABASE.**

(a) PURPOSE.—The purpose of this section is to ensure an accurate reporting of annual prescribed fire accomplishments in the United States.

(b) COST-SHARE.—Subject to the availability of appropriations, the Secretary may provide financial assistance to States to pay a portion of the costs associated with annually reporting prescribed fire accomplishments to the National Fire Planning and Operations Database.

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

SEC. 302. TERMINATION DATE.

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

○