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.

A BILL

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Mr. Wyden (for himself, Mr. Manchin, Ms. Cantwell, and Mrs. Feinstein) introduced the following bill; which was read twice and referred to the Committee on

A BILL
(b) TABLE OF CONTENTS.—The table of contents for 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.

3 SEC. 2. FINDINGS.

Congress finds that—

(1) in 2018, the Forest Service Fire Modeling Institute determined that 63,070,000 acres of National Forest System land and 171,200,000 acres of other forest land were at high or very high risk of experiencing a wildfire that would be difficult to suppress;

(2) according to the National Interagency Coordination Center, between 2009 and 2018, in the United States, on average—

(A) 67,000 wildfires burned 7,000,000 acres annually; and
(B) 86,345 prescribed fires burned only
3,000,000 acres annually;

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

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

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

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

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

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

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

(B) 64 prescribed burn associations in 11
States;

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

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

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

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

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

(A) In general.—The term “National Forest System” has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(B) Exclusion.—The term “National Forest System” does not include—
(i) the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.); or

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

(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 conditions that allow the fire to be confined to a predetermined area and produce the fireline intensity and rate of spread required to attain planned resource management objectives; and

(B) in accordance with applicable law, including 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) the Secretary of Agriculture, with respect to an account established by this section for the Department of Agriculture; and

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

(b) Establishment of Accounts.—There are established in the Treasury of the United States the following accounts:

(1) The Prescribed Fire account for the Department of Agriculture.

(2) The Prescribed Fire account for the Department of the Interior.

(c) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 2022 and each fiscal year thereafter for the accounts established by subsection (b) such sums as are necessary to carry out this section, not to exceed $300,000,000.

(d) Presidential Budget Requests.—For fiscal year 2023 and each fiscal year thereafter, each Secretary concerned shall submit, through the budget request of the
President, a request for amounts in the Wildland Fire Management appropriation account of the Secretary concerned to carry out the activities described in subsection (e).

(e) AUTHORIZED ACTIVITIES.—The Secretary concerned shall use amounts in the accounts established by subsection (b) as follows:

(1) The Secretary concerned shall—

(A) develop a prescribed fire plan, carry out necessary environmental review, conduct outreach to the public, Indian Tribes, and adjacent landowners, and implement a prescribed fire on Federal land;

(B) hire additional personnel and procure additional equipment, including unmanned aerial systems equipped with an aerial ignition system, to implement a greater number of prescribed fires;

(C) provide training for the implementation of a prescribed fire;

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

(E) conduct monitoring for safety and fire effects.
(2) The Secretaries shall coordinate to jointly develop a common data management and analysis system for planning and post-treatment accountability.

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

(A) to provide federally sponsored insurance administered by States, in conjunction with State-sponsored training and certification programs, for private persons implementing prescribed fires;

(B) to establish a training or certification program for teams comprised of citizens or local fire services to conduct prescribed fires on private land, consistent with any standards developed by the National Wildfire Coordinating Group or State prescribed fire standards;

(C) to enable additional fire managers and apparatus, whether provided by the local resources of an agency, private contractors, non-governmental organizations, Indian Tribes, local fire services, or qualified individuals, to be present while implementing a prescribed fire;
(D) pursuant to the memorandum of agreement authorized under section 203; or

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

(4) The Secretary concerned may provide technical or financial assistance to a prescribed fire council or prescribed burn association for the establishment or operation of the council or association.

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

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

(f) PRIORITIZATION OF FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary concerned shall coordinate with Federal, State, and local agencies, Indian Tribes, and qualified nongovernmental organizations, including through the Wildland Fire Leadership Council, to establish prioritization criteria for expending funds
under this section for each activity described in subsection (e).

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

(A) implemented across a large contiguous area;

(B) cross-boundary in nature;

(C) in an area that is threatening to, or located in, the wildland-urban interface;

(D) in an area identified as a priority area in a statewide forest resource assessment;

(E) on acres at high or very high risk of experiencing a wildfire that would be difficult to suppress;

(F) in an area that is designated as critical habitat and in need of ecological restoration or enhancement; or

(G) supportive of potential operational delineations or a strategic response zone.

SEC. 102. POLICIES AND PRACTICES.

(a) IN GENERAL.—The Secretaries shall significantly increase the number and size of prescribed fires conducted on Federal land.
(b) Use of Funds for Prescribed Fires.—From amounts appropriated to carry out the activity described in section 101(e)(1), the Secretaries may carry out prescribed fires on not more than 20,000,000 acres of Federal land per year.

(c) Requiring Minimum Acreage.—Subject to the availability of appropriations, the Secretaries shall carry out prescribed fires annually on at least 1,000,000 acres of Federal land.

(d) Increase in Familiarity with Prescribed Fires in Local Units.—Subject to the availability of appropriations, not later than September 30, 2023, the Secretaries shall each have carried out a minimum of 1 prescribed fire on each unit of the National Forest System, unit of the National Wildlife Refuge System, unit of the National Park System, and Bureau of Land Management district under the jurisdiction of the Secretaries—(1) that includes an area that—

(A) has a historical low-severity fire regime;

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

(C) is larger than 100 acres; and
(2) less than 50 percent of the land of which was burned by a wildland fire during the previous 10-year period.

SEC. 103. COLLABORATIVE PRESCRIBED FIRE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish within the Department of the Interior a collaborative prescribed fire program (referred to in this section as the “program”) to provide financial assistance to eligible entities, including units of Federal land management agencies, Indian Tribes, and prescribed fire councils, for the implementation of proposals for the conduct of prescribed fires in priority landscapes in accordance with applicable existing policies, including the National Cohesive Wildland Fire Management Strategy.

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

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

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

(3) be developed through a collaborative process;

(4) be implemented across multiple jurisdictions;

(5) provide an estimate of—
(A) the amount of annual Federal financial assistance necessary to implement the proposal; and

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

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

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

(c) SELECTION CRITERIA.—Subject to the availability of appropriations, the Secretary shall select proposals for financial assistance under the program that, as determined by the Secretary, would likely use the least amount of Federal funding to treat the most acres at high or very high risk of experiencing a wildfire that would be difficult to suppress.

(d) LIMITATIONS.—

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

(2) PROJECT FUNDING.—The Secretary may not provide more than $1,000,000 of Federal funds under the program to any 1 project in a fiscal year.
(3) Project performance.—The Secretary shall cease funding any proposal that, for 3 consecutive years, fails to meet the annual accomplishment targets that were established under subsection (b)(2).

(e) Prescribed fire training exchanges.—Not less frequently than once every 3 years, a recipient of financial assistance under the program shall provide to local entities and non-local entities experiential training relating to prescribed fires.

(f) Reporting.—

(1) Project reporting.—A recipient of financial assistance under the program shall annually submit to the Secretary a report summarizing, at a minimum—

(A) the numbers of acres treated with prescribed fire by the recipient under the program;

and

(B) the amount of Federal and non-Federal funds used by the recipient under the program.

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

(g) Authorization of Appropriations.—There is 
authorized to be appropriated to carry out this section 
$10,000,000 for each of fiscal years 2022 through 2031, 
to remain available until expended.

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

(a) In General.—Subject to the availability of ap- 
propriations, the Secretary shall establish an incentive 
program to encourage the implementation of large, cross-
boundary prescribed fires by providing incentive payments 
for conducting a qualified prescribed fire.

(b) Qualified Prescribed Fires.—

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

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

(B) occurred on land under Federal, State, 
or local government ownership; and

(C) had a target area identified in a pre-
scribed fire plan of not less than 50,000 acres.
(2) MULTIPLE FIRES.—The Secretary may consider a series of prescribed fires conducted within 1 fiscal year by the same 1 or more entities to be a qualified prescribed fire under the program under this section if the series of fires collectively meet the criteria under paragraph (1).

(e) PAYMENTS.—

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

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

(3) OTHER FEDERAL LAND.—In the case of each qualified prescribed fire on land under the jurisdiction of the Secretary, the Secretary shall increase the funding allocation to the agency of the Department of the Interior that manages the land in an amount not greater than $100,000.
(4) INDIAN COUNTRY.—In the case of each qualified prescribed fire in Indian country (as defined in section 1151 of title 18, United States Code), the Secretary shall make a payment to the applicable Indian Tribe in an amount not greater than $100,000.

TITLE II—FACILITATING IMPLEMENTATION AND OUTREACH

SEC. 201. COOPERATIVE AGREEMENTS AND CONTRACTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term “eligible entity” means a State, an Indian Tribe, a county or municipal government, a fire district, a nongovernmental organization, including the Nature Conservancy, or a private entity.

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

(c) SUBCONTRACTS.—A State, Indian Tribe, or county that enters into a cooperative agreement or contract under subsection (b) may enter into a subcontract, in accordance with applicable contracting procedures of the State, Indian Tribe, or county, to conduct a prescribed fire on Federal land pursuant to that cooperative agreement or contract.
(d) Agent of Secretary.—A cooperative agreement or contract entered into under subsection (b) may authorize the eligible entity to serve as the agent for the Secretary or the Secretary of Agriculture in coordinating, planning, or conducting a prescribed fire—

(1) on Federal land; or

(2) across an area that—

(A) includes adjacent landowners; and

(B) includes Federal land.

(e) Indemnity Requirements.—Each eligible entity contracted for implementing a prescribed fire shall procure and maintain sufficient indemnity insurance during the entire period of performance under the cooperative agreement or contract entered into under this section.

(f) Applicable Law.—A prescribed fire conducted under this section shall be carried out on a project-to-project basis under existing authorities of the applicable agency responsible for the management of the Federal land.

(g) Preservation of Decision Authority.—No project authorized under this section may be undertaken without the prior written approval of the Secretary or the Secretary of Agriculture.

(h) Long-Term Contracts.—A cooperative agreement or contract with an eligible entity under subsection
(b) may authorize the eligible entity to conduct a series of prescribed fires on Federal land for a period of not longer than 10 years.

SEC. 202. HUMAN RESOURCES.

(a) Prescribed Fire Workforce.—

(1) Training.—The Secretaries shall hire additional employees and provide training and development activities, including through partnerships with community colleges, to increase the number of skilled and qualified prescribed fire practitioners in the Department of the Interior, the Department of Agriculture, Indian Tribes, and other qualified organizations, including training in smoke management practices.

(2) Temporary Workers.—

(A) In General.—The Director of the Office of Personnel Management shall provide to the Secretaries direct hire authority in accordance with section 3304(a)(3) of title 5, United States Code, to appoint qualified individuals to positions performing temporary or emergency work relating to prescribed fires, including training, implementation, and post-prescribed burning activities.
(B) TERM OF EMPLOYMENT.—The term of the appointment of an individual under subparagraph (A) shall be restricted to a period that—

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

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

(3) OVERTIME PAYMENTS.—

(A) PURPOSE.—The purpose of the amendment made by subparagraph (B) is to allow the Secretaries to use additional new budget authority for wildfire suppression for the cost of overtime payments to employees implementing a prescribed fire.

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

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

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

(iii) by adding at the end the following:
“(dd) overtime payments to employees implementing a prescribed fire (as defined in section 3 of the National Prescribed Fire Act of 2021).”.

(4) DEDICATED PRESCRIBED FIRE CREWS.—

(A) IN GENERAL.—The Secretaries shall establish not fewer than 1 crew of Federal employees the primary responsibility of which is implementing prescribed fires.

(B) TERM OF EMPLOYMENT.—Notwithstanding section 213.104 or 316.401 of title 5, Code of Federal Regulations (or successor regulations), an employee of a crew established under subparagraph (A) may—

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

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

(C) PERMANENT PRESCRIBED FIRE EMPLOYEES.—The Secretaries may noncompetitively convert a Federal seasonal employee of a crew established under this paragraph to a Federal permanent employee, subject to paragraph (5).
(5) Conversion of Seasonal Firefighters to Permanent Employees.—The Secretaries may noncompetitively convert a Federal seasonal employee to a Federal permanent employee if—

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

(B) the employee received a rating of at least “Fully Successful” in each of the performance appraisals of the employee for the 5 most recent seasons of Federal employment of the employee; and

(C) the job duties and performance standards of the position into which the permanent employee converts include implementing prescribed fires.

(6) Employment of Formerly Incarcerated Individuals.—

(A) In General.—The Secretaries, in consultation with the Attorney General and State departments of corrections, shall seek to provide a career pathway, including through partnerships with the Corps Network, to individuals described in subparagraph (B) to work as prescribed fire practitioners.
(B) INDIVIDUALS DESCRIBED.—An individual referred to in subparagraph (A) is an individual that—

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

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

(7) UNDERREPRESENTED EMPLOYEES.—To further address the gender disparity in wildland firefighting, the Secretaries shall support the development and participation of women in leadership opportunities, mentorship networks, and training in prescribed fire, including the Fire Leadership for Women course and Women-In-Fire Training Exchange—

(A) to develop strong leaders;

(B) to increase the number of women overseeing prescribed fires; and

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

(8) VETERANS CREWS.—
(A) **IN GENERAL.**—The Secretaries, in consultation with the Secretary of Veterans Affairs, shall seek—

(i) to provide a career pathway to individuals described in subparagraph (B) to work as prescribed fire practitioners; and

(ii) to establish crews composed predominantly of veterans to conduct prescribed fires.

(B) **INDIVIDUALS DESCRIBED.**—An individual referred to in subparagraph (A) is an individual who—

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

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

(9) **INTER-TRIBAL ORGANIZATIONS.**—The Secretaries may provide funding to Tribal and inter-Tribal organizations, including the Intertribal Timber Council, to provide training and workforce development opportunities in wildland fire.

(b) **ADDITIONAL TRAINING CENTERS.**—Subject to the availability of appropriations, not later than September 30, 2023, the Secretary, in cooperation with the Secretary of Agriculture (and the Secretary of Defense in
the case of a center located on a military installation),

shall—

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

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

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

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

(c) Competencies for Firefighters.—

(1) Updates to required competencies
for specific firefighter positions.—The Sec-
retaries, in coordination with the Fire Executive
Council, the National Association of State Foresters,
and the Intertribal Timber Council, shall task the
National Wildfire Coordinating Group to add a re-
quirement for an individual to obtain the necessary
certification to serve in—

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

and

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

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

(d) INDEMNITY OF FEDERAL AND TRIBAL EMPLOYEES.—Except in the case of gross negligence, a Federal employee or an employee contracted by an Indian Tribe pursuant to a contract under the Indian Self-Determination 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

(5) complied with any applicable Federal, Tribal, State, and local laws.

(b) MEMORANDUM OF AGREEMENT.—Subject to the availability of appropriations, in accordance with recommendation A3C of the special report of the Western Governors’ National Forest and Rangeland Management Initiative, dated June 2017, the Secretary may enter into a memorandum of agreement with the National Governors’ Association to host a conference, at which governors can meet to discuss the benefits of addressing liability protection and possible incentives for States to enact a covered law.

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

SEC. 204. ENVIRONMENTAL REVIEW.

(a) SMOKE MANAGEMENT AGENCIES.—
(1) **POLICY.**—The Secretaries shall ensure that policies, training, and programs of the Secretaries are consistent with this subsection—

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

(B) to address public health and safety, including impacts from smoke from prescribed fires.

(2) **EXPENDITURE OF FUNDS.**—When a smoke-sensitive facility or vulnerable individual is identified in an area to be impacted by smoke from a prescribed fire, the Secretaries may expend funding appropriated for hazardous fuel reduction to mitigate the impacts of the prescribed fire.

(3) **COORDINATION AMONG FEDERAL AND 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 prescribed fire plan.

(4) EXCEPTIONAL EVENT DEMONSTRATIONS.—

(A) REQUIREMENT TO SEEK EXCEPTIONAL EVENT DEMONSTRATION.—Subject to subparagraph (C), the appropriate State or Tribal air quality agency shall develop and submit to the Administrator of the Environmental Protection Agency a demonstration in accordance with section 50.14 of title 40, Code of Federal Regulations (or successor regulations), if—
(i) the Secretary, the Secretary of Agriculture, a State land management agency, or an Indian Tribe conducts a prescribed fire on Federal land or State land, as applicable, in accordance with a State or Tribal smoke management program that incorporates basic smoke management practices; and

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

(B) DEMONSTRATION ASSISTANCE.—For an exceedance or other violation described in clause (ii) of subparagraph (A), the Secretary or Secretary of Agriculture, with the concurrence of the State or Tribal air quality agency, may assist with the development of the demonstration under that subparagraph.

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

(i) a violation of a smoke management
program;

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

(iii) a violation of applicable permit
conditions.

(5) Exemption for large prescribed
fires.—

(A) Federal land management agency
exemption.—Consistent with subsection (b) of
section 118 of the Clean Air Act (42 U.S.C.
7418), a prescribed fire conducted on Federal
land by the Secretary or the Secretary of Agri-
culture that burns more than 1,000 acres per
day shall be deemed to be in the paramount in-
terest of the United States and shall be exempt
from requirements with respect to the control of
pollution from Federal facilities under that Act
(42 U.S.C. 7401 et seq.) if the Secretary or the
Secretary of Agriculture determines that the
prescribed fire—

(i) will be conducted in an area where

the terrain or fuel load makes the area in-
accessible or unsafe for firefighting personnel;

(ii) is necessary to reduce hazardous fuels;

(iii) will be conducted to minimize smoke impacts on populated areas through the use of basic smoke management practices; and

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

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

(C) TRIBAL EXEMPTION.---Consistent with subsection (b) of section 118 of the Clean Air Act (42 U.S.C. 7418), a prescribed fire conducted on Tribal land by an Indian Tribe that burns more than 1,000 acres per day shall be
deemed to be in the paramount interest of the United States and shall be exempt from requirements with respect to the control of pollution from Federal facilities under that Act (42 U.S.C. 7401 et seq.) if the Indian Tribe determines that the prescribed fire—

(i) will be conducted in an area where the terrain or fuel load makes the area inaccessible or unsafe for firefighting personnel;

(ii) is necessary to reduce hazardous fuels;

(iii) will be conducted to minimize smoke impacts on populated areas through the use of basic smoke management practices; and

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

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

(i) an exemption granted under this paragraph shall apply to the applicable entity for a period of not more than 1 year; and
(ii) on a new determination of the Secretary, the Secretary of Agriculture, or an Indian Tribe under subparagraph (A) or (C), as applicable, additional exemptions under this paragraph may be granted for subsequent periods after the expiration of the exemption described in clause (i), each of which shall apply for a period of not more than 1 year.

(6) STATE AND TRIBAL STANDARDS.—

(A) APPROVAL OF STATE OR TRIBAL STANDARDS.—Notwithstanding section 110 of the Clean Air Act (42 U.S.C. 7410), when approving a State or Tribal implementation plan under that section, the Administrator of the Environmental Protection Agency may not approve any standards with respect to—

(i) preventing nuisance impacts that result from prescribed fires that incorporate basic smoke management practices; or

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

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

(i) preventing nuisance impacts that
result from prescribed fires that incor-
porate basic smoke management practices;

or

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

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

(7) EVALUATION.—The Secretary or the Secretary of Agriculture, as applicable, shall conduct an evaluation to facilitate learning new approaches for predicting and preventing exceedances during subsequent prescribed fires if the Secretary or the Secretary of Agriculture—

(A) conducts a prescribed fire on Federal land—

(i) for which a demonstration is developed and submitted under paragraph (4)(A); or

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

(B) the prescribed fire described in subparagraph (A) contributes to an exceedance of a national ambient air quality standard under section 109 of the Clean Air Act (42 U.S.C. 7409).

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

(A) wildland fire smoke prediction models;

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

(C) appropriate, cost-effective, and consistent mitigation strategies for communities impacted adversely by smoke from prescribed fire;

(D) consistent nationally and scientifically supported messages regarding personal protection equipment for the public; and

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

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

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

(2) Previous environmental review decisions.—The Secretaries shall—

(A) gather and evaluate all of the decision memos, decision notices, and records of decision and associated findings of no significant impact or environmental impact statements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) prepared for recent prescribed fire projects;

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

(C) develop findings of—

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

(ii) elements and mitigation measures that consistently appeared in those prescribed fire projects that did not individually or cumulatively have a significant impact on the environment.

(3) Rulemaking.—Not later than 2 years after the date of enactment of this Act, the Secretaries
shall publish in the Federal Register for public review and comment a series of notices of proposed categorical exclusions from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for implementing prescribed fire projects in, at a minimum, the following forest types:

(A) Longleaf pine forest.
(B) Shortleaf pine forest.
(C) Ponderosa pine forest.
(D) Pinyon-juniper forest.
(E) Dry-site Douglas-fir forest.
(F) Chaparral shrubland.

(4) EXTRAORDINARY CIRCUMSTANCES.—The Secretaries shall apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or successor regulations), in determining whether to use a categorical exclusion established under this subsection.

(5) OREGON AND CALIFORNIA GRANT LANDS.—On Oregon and California Railroad grant land re-vested in the United States by the Act of June 9, 1916 (39 Stat. 218, chapter 137), the Secretary, acting through the Director of the Bureau of Land Management, shall—
(A) implement not fewer than 2 impact demonstration projects to assess the environmental effects of prescribed fires;

(B) monitor the actual environmental effects during and after that implementation; and

(C) evaluate the merits of using a categorical exclusion from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for prescribed fires on that land.

SEC. 205. PRESCRIBED FIRE EDUCATION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary, acting through the Director of the Office of Wildland Fire, may enter into a memorandum of agreement with the Longleaf Alliance to carry out a national prescribed fire education program, including the use of—

(1) the character known as “Burner Bob”; and

(2) an anthropomorphic black-backed woodpecker character, to be known as “Burner Betty”.

(b) PROGRAM ELEMENTS.—A prescribed fire education program authorized under subsection (a) may include—

(1) public service advertisements;

(2) the use of social media;
(3) campaign and educational activities and materials;

(4) commercial licensing;

(5) character images and appearances; and

(6) awards and recognition.

TITLE III—REPORTING; TERMINATION

SEC. 301. ANNUAL REPORTS TO THE NATIONAL FIRE PLANNING 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.