

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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**

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 2021”.

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 Fire Planning and Operations Database.
- 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) indigenous communities have used con-  
4 trolled burns to manage landscapes since time imme-  
5 morial;

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

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

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

22 (7) according to a 2015 study published in  
23 Ecology, trees that have not been burnt by a low-in-  
24 tensity fire are unusually prone to bark beetle at-  
25 tacks, and between 2000 and 2010, bark beetles

1 killed the majority of trees on 32,000,000 acres of  
2 the 193,000,000 acres of National Forest System  
3 land;

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

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

7 (B) 64 prescribed burn associations in 11  
8 States;

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

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

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

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

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

1           (10) as of September 30, 2019, 31 States have  
2           a formal process to track the number of acres treat-  
3           ed for forestry purposes using prescribed fire.

4 **SEC. 3. DEFINITIONS.**

5           In this Act:

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

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

11                  (B) units of the National Park System;

12                  (C) units of the National Wildlife Refuge  
13                  System;

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

17                  (E) land in the National Forest System.

18           (2) NATIONAL FOREST SYSTEM.—

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

24                   (B) EXCLUSION.—The term “National  
25                   Forest System” does not include—

1 (i) the national grasslands and land  
2 utilization projects administered under title  
3 III of the Bankhead-Jones Farm Tenant  
4 Act (7 U.S.C. 1010 et seq.); or

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

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

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

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

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

19 (A) the Secretary; and

20 (B) the Secretary of Agriculture.

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

1                   **TITLE I—USE OF FUNDS**

2   **SEC. 101. PRESCRIBED FIRE ACCOUNTS.**

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

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

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

11          (b) ESTABLISHMENT OF ACCOUNTS.—There are es-  
12 tablished in the Treasury of the United States the fol-  
13 lowing accounts:

14               (1) The Prescribed Fire account for the De-  
15 partment of Agriculture.

16               (2) The Prescribed Fire account for the De-  
17 partment of the Interior.

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

23          (d) PRESIDENTIAL BUDGET REQUESTS.—For fiscal  
24 year 2023 and each fiscal year thereafter, each Secretary  
25 concerned shall submit, through the budget request of the

1 President, a request for amounts in the Wildland Fire  
2 Management appropriation account of the Secretary con-  
3 cerned to carry out the activities described in subsection  
4 (e).

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

8 (1) The Secretary concerned shall—

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

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

19 (C) provide training for the implementa-  
20 tion of a prescribed fire;

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

24 (E) conduct monitoring for safety and fire  
25 effects.



1           (2) The Secretaries shall coordinate to jointly  
2           develop a common data management and analysis  
3           system for planning and post-treatment account-  
4           ability.

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

8                   (A) to provide federally sponsored insur-  
9                   ance administered by States, in conjunction  
10                  with State-sponsored training and certification  
11                  programs, for private persons implementing  
12                  prescribed fires;

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

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

1 (D) pursuant to the memorandum of  
2 agreement authorized under section 203; or

3 (E) to finance the implementation of a pre-  
4 scribed fire on State, Tribal, or private land  
5 and any post-prescribed fire activities as are de-  
6 termined to be necessary by the Secretary con-  
7 cerned.

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

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

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

18 (f) PRIORITIZATION OF FUNDING.—

19 (1) IN GENERAL.—Subject to paragraph (2),  
20 the Secretary concerned shall coordinate with Fed-  
21 eral, State, and local agencies, Indian Tribes, and  
22 qualified nongovernmental organizations, including  
23 through the Wildland Fire Leadership Council, to  
24 establish prioritization criteria for expending funds

1 under this section for each activity described in sub-  
2 section (e).

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

6 (A) implemented across a large contiguous  
7 area;

8 (B) cross-boundary in nature;

9 (C) in an area that is threatening to, or lo-  
10 cated in, the wildland-urban interface;

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

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

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

19 (G) supportive of potential operational de-  
20 lineations or a strategic response zone.

21 **SEC. 102. POLICIES AND PRACTICES.**

22 (a) IN GENERAL.—The Secretaries shall significantly  
23 increase the number and size of prescribed fires conducted  
24 on Federal land.

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

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

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

18 (1) that includes an area that—

19 (A) has a historical low-severity fire re-  
20 gime;

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

23 (C) is larger than 100 acres; and

1           (2) less than 50 percent of the land of which  
2           was burned by a wildland fire during the previous  
3           10-year period.

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

5           (a) IN GENERAL.—The Secretary shall establish  
6           within the Department of the Interior a collaborative pre-  
7           scribed fire program (referred to in this section as the  
8           “program”) to provide financial assistance to eligible enti-  
9           ties, including units of Federal land management agencies,  
10          Indian Tribes, and prescribed fire councils, for the imple-  
11          mentation of proposals for the conduct of prescribed fires  
12          in priority landscapes in accordance with applicable exist-  
13          ing policies, including the National Cohesive Wildland Fire  
14          Management Strategy.

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

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

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

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

23               (4) be implemented across multiple jurisdic-  
24               tions;

25               (5) provide an estimate of—

1 (A) the amount of annual Federal financial  
2 assistance necessary to implement the proposal;  
3 and

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

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

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

11 (c) SELECTION CRITERIA.—Subject to the avail-  
12 ability of appropriations, the Secretary shall select pro-  
13 posals for financial assistance under the program that, as  
14 determined by the Secretary, would likely use the least  
15 amount of Federal funding to treat the most acres at high  
16 or very high risk of experiencing a wildfire that would be  
17 difficult to suppress.

18 (d) LIMITATIONS.—

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

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

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

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

11          (f) REPORTING.—

12           (1) PROJECT REPORTING.—A recipient of fi-  
13 nancial assistance under the program shall annually  
14 submit to the Secretary a report summarizing, at a  
15 minimum—

16                   (A) the numbers of acres treated with pre-  
17 scribed fire by the recipient under the program;  
18 and

19                   (B) the amount of Federal and non-Fed-  
20 eral funds used by the recipient under the pro-  
21 gram.

22           (2) PROGRAM REPORTING.—Not later than 2  
23 years after the first fiscal year in which funding is  
24 made available to carry out prescribed fires under  
25 the program, and every 2 years thereafter, the Sec-

1       retary shall submit to the Committee on Energy and  
2       Natural Resources of the Senate and the Committee  
3       on Natural Resources of the House of Representa-  
4       tives a report on the program.

5       (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
6       authorized to be appropriated to carry out this section  
7       \$10,000,000 for each of fiscal years 2022 through 2031,  
8       to remain available until expended.

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

11       (a) IN GENERAL.—Subject to the availability of ap-  
12       propriations, the Secretary shall establish an incentive  
13       program to encourage the implementation of large, cross-  
14       boundary prescribed fires by providing incentive payments  
15       for conducting a qualified prescribed fire.

16       (b) QUALIFIED PRESCRIBED FIRES.—

17               (1) CRITERIA.—A qualified prescribed fire  
18       under the program under this section is a prescribed  
19       fire that—

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

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

24                       (C) had a target area identified in a pre-  
25       scribed fire plan of not less than 50,000 acres.



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

7           (c) PAYMENTS.—

8           (1) STATE AND COUNTY INCENTIVE PAY-  
9           MENTS.—The Secretary shall make payments to the  
10          State and county in which a qualified prescribed fire  
11          was implemented in an amount not greater than  
12          \$100,000.

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

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

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

7           **TITLE II—FACILITATING IMPLE-**  
8           **MENTATION AND OUTREACH**

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

10          (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-  
11          tion, the term “eligible entity” means a State, an Indian  
12          Tribe, a county or municipal government, a fire district,  
13          a nongovernmental organization, including the Nature  
14          Conservancy, or a private entity.

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

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

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

6                   (1) on Federal land; or

7                   (2) across an area that—

8                           (A) includes adjacent landowners; and

9                           (B) includes Federal land.

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

15          (f) APPLICABLE LAW.—A prescribed fire conducted  
16 under this section shall be carried out on a project-to-  
17 project basis under existing authorities of the applicable  
18 agency responsible for the management of the Federal  
19 land.

20          (g) PRESERVATION OF DECISION AUTHORITY.—No  
21 project authorized under this section may be undertaken  
22 without the prior written approval of the Secretary or the  
23 Secretary of Agriculture.

24          (h) LONG-TERM CONTRACTS.—A cooperative agree-  
25 ment or contract with an eligible entity under subsection

1 (b) may authorize the eligible entity to conduct a series  
2 of prescribed fires on Federal land for a period of not  
3 longer than 10 years.

4 **SEC. 202. HUMAN RESOURCES.**

5 (a) **PRESCRIBED FIRE WORKFORCE.—**

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

15 (2) **TEMPORARY WORKERS.—**

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

1 (B) TERM OF EMPLOYMENT.—The term of  
2 the appointment of an individual under sub-  
3 paragraph (A) shall be restricted to a period  
4 that—

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

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

9 (3) OVERTIME PAYMENTS.—

10 (A) PURPOSE.—The purpose of the  
11 amendment made by subparagraph (B) is to  
12 allow the Secretaries to use additional new  
13 budget authority for wildfire suppression for the  
14 cost of overtime payments to employees imple-  
15 menting a prescribed fire.

16 (B) AMENDMENT.—Section  
17 251(b)(2)(F)(ii)(II) of the Balanced Budget  
18 and Emergency Deficit Control Act of 1985 (2  
19 U.S.C. 901(b)(2)(F)(ii)(II)) is amended—

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

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

24 (iii) by adding at the end the fol-  
25 lowing:

1                   “(dd) overtime payments to  
2                   employees implementing a pre-  
3                   scribed fire (as defined in section  
4                   3 of the National Prescribed Fire  
5                   Act of 2021).”.

6                   (4) DEDICATED PRESCRIBED FIRE CREWS.—

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

11                  (B) TERM OF EMPLOYMENT.—Notwith-  
12                  standing section 213.104 or 316.401 of title 5,  
13                  Code of Federal Regulations (or successor regu-  
14                  lations), an employee of a crew established  
15                  under subparagraph (A) may—

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

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

20                  (C) PERMANENT PRESCRIBED FIRE EM-  
21                  PLOYEES.—The Secretaries may noncompeti-  
22                  tively convert a Federal seasonal employee of a  
23                  crew established under this paragraph to a Fed-  
24                  eral permanent employee, subject to paragraph  
25                  (5).

1           (5) CONVERSION OF SEASONAL FIREFIGHTERS  
2 TO PERMANENT EMPLOYEES.—The Secretaries may  
3 noncompetitively convert a Federal seasonal em-  
4 ployee to a Federal permanent employee if—

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

7           (B) the employee received a rating of at  
8 least “Fully Successful” in each of the perform-  
9 ance appraisals of the employee for the 5 most  
10 recent seasons of Federal employment of the  
11 employee; and

12           (C) the job duties and performance stand-  
13 ards of the position into which the permanent  
14 employee converts include implementing pre-  
15 scribed fires.

16           (6) EMPLOYMENT OF FORMERLY INCARCER-  
17 ATED INDIVIDUALS.—

18           (A) IN GENERAL.—The Secretaries, in  
19 consultation with the Attorney General and  
20 State departments of corrections, shall seek to  
21 provide a career pathway, including through  
22 partnerships with the Corps Network, to indi-  
23 viduals described in subparagraph (B) to work  
24 as prescribed fire practitioners.

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

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

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

12 (7) UNDERREPRESENTED EMPLOYEES.—To  
13 further address the gender disparity in wildland fire-  
14 fighting, the Secretaries shall support the develop-  
15 ment and participation of women in leadership op-  
16 portunities, mentorship networks, and training in  
17 prescribed fire, including the Fire Leadership for  
18 Women course and Women-In-Fire Training Ex-  
19 change—

20 (A) to develop strong leaders;

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

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

25 (8) VETERANS CREWS.—



1 (A) IN GENERAL.—The Secretaries, in  
2 consultation with the Secretary of Veterans Af-  
3 fairs, shall seek—

4 (i) to provide a career pathway to in-  
5 dividuals described in subparagraph (B) to  
6 work as prescribed fire practitioners; and

7 (ii) to establish crews composed pre-  
8 dominantly of veterans to conduct pre-  
9 scribed fires.

10 (B) INDIVIDUALS DESCRIBED.—An indi-  
11 vidual referred to in subparagraph (A) is an in-  
12 dividual who—

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

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

17 (9) INTER-TRIBAL ORGANIZATIONS.—The Sec-  
18 retaries may provide funding to Tribal and inter-  
19 Tribal organizations, including the Intertribal Tim-  
20 ber Council, to provide training and workforce devel-  
21 opment opportunities in wildland fire.

22 (b) ADDITIONAL TRAINING CENTERS.—Subject to  
23 the availability of appropriations, not later than Sep-  
24 tember 30, 2023, the Secretary, in cooperation with the  
25 Secretary of Agriculture (and the Secretary of Defense in

1 the case of a center located on a military installation),  
2 shall—

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

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

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

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

11 (c) COMPETENCIES FOR FIREFIGHTERS.—

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

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

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

24 (2) ADDITIONAL EXPERIENCE.—The Secre-  
25 taries shall require significant additional experience,

1           gained exclusively during a prescribed fire, to obtain  
2           a certification described in paragraph (1).

3           (d) INDEMNITY OF FEDERAL AND TRIBAL EMPLOY-  
4 EES.—Except in the case of gross negligence, a Federal  
5 employee or an employee contracted by an Indian Tribe  
6 pursuant to a contract under the Indian Self-Determina-  
7 tion Act (25 U.S.C. 5321 et seq.) overseeing a prescribed  
8 fire that escaped—

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

10          and

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

14 **SEC. 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MAN-**  
15 **AGERS.**

16           (a) DEFINITION OF COVERED LAW.—In this section,  
17 the term “covered law” means a State law that establishes  
18 the standard of care in a civil suit against a certified pre-  
19 scribed fire manager for an escaped prescribed fire to be  
20 “gross negligence”, if the certified prescribed fire man-  
21 ager—

22           (1) obtained a permit for the prescribed fire;

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

1           (3) was at the site of prescribed fire for the du-  
2           ration of the prescribed fire;

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

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

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

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

22          **SEC. 204. ENVIRONMENTAL REVIEW.**

23          (a) SMOKE MANAGEMENT AGENCIES.—

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

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

6                   (B) to address public health and safety, in-  
7 cluding impacts from smoke from prescribed  
8 fires.

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

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

1 (A) streamlining the decisionmaking proc-  
2 ess for approving the use of prescribed fire  
3 under a State, Tribal, or local government  
4 smoke management program; and

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

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

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

11 (I) using basic smoke management  
12 practices; and

13 (II) including basic smoke manage-  
14 ment practices as a component of a pre-  
15 scribed fire plan.

16 (4) EXCEPTIONAL EVENT DEMONSTRATIONS.—

17 (A) REQUIREMENT TO SEEK EXCEPTIONAL  
18 EVENT DEMONSTRATION.—Subject to subpara-  
19 graph (C), the appropriate State or Tribal air  
20 quality agency shall develop and submit to the  
21 Administrator of the Environmental Protection  
22 Agency a demonstration in accordance with sec-  
23 tion 50.14 of title 40, Code of Federal Regula-  
24 tions (or successor regulations), if—

1 (i) the Secretary, the Secretary of Ag-  
2 riculture, a State land management agen-  
3 cy, or an Indian Tribe conducts a pre-  
4 scribed fire on Federal land or State land,  
5 as applicable, in accordance with a State  
6 or Tribal smoke management program that  
7 incorporates basic smoke management  
8 practices; and

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

16 (B) DEMONSTRATION ASSISTANCE.—For  
17 an exceedance or other violation described in  
18 clause (ii) of subparagraph (A), the Secretary  
19 or Secretary of Agriculture, with the concu-  
20 rrence of the State or Tribal air quality agency,  
21 may assist with the development of the dem-  
22 onstration under that subparagraph.

23 (C) SAVINGS PROVISION.—Subparagraph  
24 (A) shall not apply if the exceedance or other

1 violation described in clause (ii) of that sub-  
2 paragraph is the result of—

3 (i) a violation of a smoke management  
4 program;

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

7 (iii) a violation of applicable permit  
8 conditions.

9 (5) EXEMPTION FOR LARGE PRESCRIBED  
10 FIRES.—

11 (A) FEDERAL LAND MANAGEMENT AGENCY  
12 EXEMPTION.—Consistent with subsection (b) of  
13 section 118 of the Clean Air Act (42 U.S.C.  
14 7418), a prescribed fire conducted on Federal  
15 land by the Secretary or the Secretary of Agri-  
16 culture that burns more than 1,000 acres per  
17 day shall be deemed to be in the paramount in-  
18 terest of the United States and shall be exempt  
19 from requirements with respect to the control of  
20 pollution from Federal facilities under that Act  
21 (42 U.S.C. 7401 et seq.) if the Secretary or the  
22 Secretary of Agriculture determines that the  
23 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 (B) STATE EXEMPTION.—If the Secretary  
12 concerned conducts a prescribed fire that is  
13 deemed to be in the paramount interest of the  
14 United States under subparagraph (A) on Fed-  
15 eral land, a prescribed fire conducted by a State  
16 land management agency on State or private  
17 land that is contiguous to that Federal land  
18 shall be exempt from any applicable national  
19 ambient air quality standards under section 109  
20 of the Clean Air Act (42 U.S.C. 7409).

21 (C) TRIBAL EXEMPTION.—Consistent with  
22 subsection (b) of section 118 of the Clean Air  
23 Act (42 U.S.C. 7418), a prescribed fire con-  
24 ducted on Tribal land by an Indian Tribe that  
25 burns more than 1,000 acres per day shall be

1 deemed to be in the paramount interest of the  
2 United States and shall be exempt from re-  
3 quirements with respect to the control of pollu-  
4 tion from Federal facilities under that Act (42  
5 U.S.C. 7401 et seq.) if the Indian Tribe deter-  
6 mines that the prescribed fire—

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

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

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

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

19 (D) SAVINGS PROVISION.—Consistent with  
20 section 118(b) of the Clean Air Act (42 U.S.C.  
21 7418(b))—

22 (i) an exemption granted under this  
23 paragraph shall apply to the applicable en-  
24 tity for a period of not more than 1 year;  
25 and



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

5 (B) STATE AND TRIBAL ENFORCEMENT.—  
6 A State or Indian Tribe may not enforce stand-  
7 ards in a State or Tribal implementation plan  
8 that was approved under the Clean Air Act (42  
9 U.S.C. 7401 et seq.) before the date of enact-  
10 ment of this Act 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 (C) AMENDMENT TO ANTI-BACKSLIDING  
24 PROVISION.—If a State or Tribal implementa-  
25 tion plan under section 110 of the Clean Air

1 Act (42 U.S.C. 7410) is revised to include a  
2 smoke management program for prescribed  
3 fires in that implementation plan, subsection (l)  
4 of that section shall not apply with respect to  
5 that revision.

6 (7) EVALUATION.—The Secretary or the Sec-  
7 retary of Agriculture, as applicable, shall conduct an  
8 evaluation to facilitate learning new approaches for  
9 predicting and preventing exceedances during subse-  
10 quent prescribed fires if the Secretary or the Sec-  
11 retary of Agriculture—

12 (A) conducts a prescribed fire on Federal  
13 land—

14 (i) for which a demonstration is devel-  
15 oped and submitted under paragraph  
16 (4)(A); or

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

19 (B) the prescribed fire described in sub-  
20 paragraph (A) contributes to an exceedance of  
21 a national ambient air quality standard under  
22 section 109 of the Clean Air Act (42 U.S.C.  
23 7409).

24 (8) PROGRAMS AND RESEARCH.—To address  
25 the public health and safety risk of the expanded use

1 of prescribed fire under this Act, the Secretary of  
2 Agriculture and the Secretary, in coordination with  
3 the Administrator of the Environmental Protection  
4 Agency and the Director of the Centers for Disease  
5 Control and Prevention, shall conduct research to  
6 improve or develop—

7 (A) wildland fire smoke prediction models;

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

10 (C) appropriate, cost-effective, and con-  
11 sistent mitigation strategies for communities  
12 impacted adversely by smoke from prescribed  
13 fire;

14 (D) consistent nationally and scientifically  
15 supported messages regarding personal protec-  
16 tion equipment for the public; and

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

20 (b) NATIONAL ENVIRONMENTAL POLICY ACT OF  
21 1969 EFFICIENCIES.—

22 (1) PURPOSE.—The purpose of this subsection  
23 is to require the Secretaries to develop a series of  
24 categorical exclusions from the requirements of the  
25 National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) for implementing prescribed  
2 fires in accordance with this subsection.

3 (2) PREVIOUS ENVIRONMENTAL REVIEW DECISIONS.—The Secretaries shall—  
4

5 (A) gather and evaluate all of the decision  
6 memos, decision notices, and records of decision  
7 and associated findings of no significant impact  
8 or environmental impact statements under the  
9 National Environmental Policy Act of 1969 (42  
10 U.S.C. 4321 et seq.) prepared for recent pre-  
11 scribed fire projects;

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

16 (C) develop findings of—

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

19 (ii) elements and mitigation measures  
20 that consistently appeared in those pre-  
21 scribed fire projects that did not individ-  
22 ually or cumulatively have a significant im-  
23 pact on the environment.

24 (3) RULEMAKING.—Not later than 2 years after  
25 the date of enactment of this Act, the Secretaries

1 shall publish in the Federal Register for public re-  
2 view and comment a series of notices of proposed  
3 categorical exclusions from the requirements of the  
4 National Environmental Policy Act of 1969 (42  
5 U.S.C. 4321 et seq.) for implementing prescribed  
6 fire projects in, at a minimum, the following forest  
7 types:

8 (A) Longleaf pine forest.

9 (B) Shortleaf pine forest.

10 (C) Ponderosa pine forest.

11 (D) Pinyon-juniper forest.

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

13 (F) Chaparral shrubland.

14 (4) EXTRAORDINARY CIRCUMSTANCES.—The  
15 Secretaries shall apply the extraordinary cir-  
16 cumstances procedures under section 220.6 of title  
17 36, Code of Federal Regulations (or successor regu-  
18 lations), in determining whether to use a categorical  
19 exclusion established under this subsection.

20 (5) OREGON AND CALIFORNIA GRANT LANDS.—  
21 On Oregon and California Railroad grant land re-  
22 vested in the United States by the Act of June 9,  
23 1916 (39 Stat. 218, chapter 137), the Secretary,  
24 acting through the Director of the Bureau of Land  
25 Management, shall—



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

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

6 (C) evaluate the merits of using a categor-  
7 ical exclusion from the requirements of the Na-  
8 tional Environmental Policy Act of 1969 (42  
9 U.S.C. 4321 et seq.) for prescribed fires on that  
10 land.

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

12 (a) IN GENERAL.—The Secretary of Agriculture, act-  
13 ing through the Chief of the Forest Service, and the Sec-  
14 retary, acting through the Director of the Office of  
15 Wildland Fire, may enter into a memorandum of agree-  
16 ment with the Longleaf Alliance to carry out a national  
17 prescribed fire education program, including the use of—

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

19 (2) an anthropomorphic black-backed wood-  
20 pecker character, to be known as “Burner Betty”.

21 (b) PROGRAM ELEMENTS.—A prescribed fire edu-  
22 cation program authorized under subsection (a) may in-  
23 clude—

24 (1) public service advertisements;

25 (2) the use of social media;

- 1           (3) campaign and educational activities and ma-  
2           terials;
- 3           (4) commercial licensing;
- 4           (5) character images and appearances; and
- 5           (6) awards and recognition.

6           **TITLE III—REPORTING;**  
7           **TERMINATION**

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

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

13          (b) COST-SHARE.—Subject to the availability of ap-  
14          propriations, the Secretary may provide financial assist-  
15          ance to States to pay a portion of the costs associated  
16          with annually reporting prescribed fire accomplishments  
17          to the National Fire Planning and Operations Database.

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

1 **SEC. 302. TERMINATION DATE.**

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