

107TH CONGRESS  
2D SESSION

# S. 2670

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 2002

Referred to the Committee on Resources, and in addition to the Committee on Agriculture, 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

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## AN ACT

To establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West.

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

# **TITLE I—WILDFIRE PREVENTION ACT**

## **SEC. 101. SHORT TITLE.**

This title may be cited as the “Wildfire Prevention Act of 2002”.

## **SEC. 102. FINDINGS.**

Congress finds that—

(1) there is an increasing threat of wildfire to millions of acres of forest land and rangeland throughout the United States;

(2) forest land and rangeland are degraded as a direct consequence of land management practices (including practices to control and prevent wildfires and the failure to harvest subdominant trees from overstocked stands) that disrupt the occurrence of frequent low-intensity fires that have periodically removed flammable undergrowth;

(3) at least 39,000,000 acres of land of the National Forest System in the interior West are at high risk of wildfire;

(4) an average of 95 percent of the expenditures by the Forest Service for wildfire suppression during fiscal years 1990 through 1994 were made to suppress wildfires in the interior West;

1           (5) the number, size, and severity of wildfires in  
2           the interior West are increasing;

3           (6) of the timberland in National Forests in the  
4           States of Arizona and New Mexico, 59 percent of  
5           such land in Arizona, and 56 percent of such land  
6           in New Mexico, has an average diameter of 9 to 12  
7           inches diameter at breast height;

8           (7) the population of the interior West grew  
9           twice as fast as the national average during the  
10          1990s;

11          (8) efforts to prioritize forests and communities  
12          for wildfire risk reduction have been inconsistent  
13          and insufficient and have resulted in funding to  
14          areas that are not prone to severe wildfires;

15          (9) catastrophic wildfires—

16                (A) endanger homes and communities;

17                (B) damage and destroy watersheds and  
18                soils; and

19                (C) pose a serious threat to the habitat of  
20                threatened and endangered species;

21          (10) a 1994 assessment of forest health in the  
22          interior West estimated that only a 15- to 30-year  
23          window of opportunity exists for effective manage-  
24          ment intervention before damage from uncontrollable

1 wildfire becomes widespread, with 8 years having al-  
2 ready elapsed since the assessment;

3 (11) following a catastrophic wildfire, certain  
4 forests in the interior West do not return to their  
5 former grandeur;

6 (12) healthy forest and woodland ecosystems—

7 (A) reduce the risk of wildfire to forests  
8 and communities;

9 (B) improve wildlife habitat and biodiver-  
10 sity;

11 (C) increase tree, grass, forb, and shrub  
12 productivity;

13 (D) enhance watershed values;

14 (E) improve the environment; and

15 (F) provide a basis in some areas for eco-  
16 nomically and environmentally sustainable uses;

17 (13) sustaining the long-term ecological and  
18 economic health of interior West forests and wood-  
19 land, and their dependent human communities, re-  
20 quires preventing severe wildfires before the wildfires  
21 occur and permitting natural, low-intensity ground  
22 fires;

23 (14) more natural fire regimes cannot be ac-  
24 complished without the reduction of excess fuels and

1 thinning of subdominant trees (which fuels and trees  
2 may be of commercial value);

3 (15) ecologically-based forest and woodland eco-  
4 system restoration on a landscape scale will—

5 (A) improve long-term community protec-  
6 tion;

7 (B) minimize the need for wildfire suppres-  
8 sion;

9 (C) improve resource values;

10 (D) reduce rehabilitation costs;

11 (E) reduce loss of critical habitat; and

12 (F) protect forests for future generations;

13 (16) although the National Fire Plan, and the  
14 report entitled “Protecting People and Sustaining  
15 Resources in Fire-Adapted Ecosystems—A Cohesive  
16 Strategy” (65 Fed. Reg. 67480), advocate a shift in  
17 wildfire policy from suppression to prevention  
18 (including restoration and hazardous fuels reduc-  
19 tion), Federal land managers are not dedicating suf-  
20 ficient attention and financial resources to restora-  
21 tion activities that simultaneously restore forest  
22 health and reduce the risk of severe wildfire;

23 (17) although landscape scale restoration is  
24 needed to effectively reverse degradation, scientific

1 understanding of landscape scale treatments is lim-  
2 ited;

3 (18) the Federal wildfire research program is  
4 funded at approximately  $\frac{1}{3}$  of the amount that is re-  
5 quired to address emerging wildfire problems, result-  
6 ing in the lack of a cohesive strategy to address the  
7 threat of catastrophic wildfires; and

8 (19) rigorous, understandable, and applied sci-  
9 entific information is needed for—

10 (A) the design, implementation, and adap-  
11 tation of landscape scale restoration treatments  
12 and improvement of wildfire management tech-  
13 nology;

14 (B) the environmental review process; and

15 (C) affected entities that collaborate in the  
16 development and implementation of wildfire  
17 treatment.

18 **SEC. 103. PURPOSES.**

19 The purposes of this title are—

20 (1) to enhance the capacity to develop, transfer,  
21 apply, and monitor practical science-based forest res-  
22 toration treatments that will reduce the risk of se-  
23 vere wildfires, and improve forest and woodland  
24 health, in the interior West;

1           (2) to develop the practical scientific knowledge  
2           required to implement forest and woodland restora-  
3           tion on a landscape scale;

4           (3) to develop the interdisciplinary knowledge  
5           required to understand the socioeconomic and envi-  
6           ronmental impacts of wildfire control on ecosystems  
7           and landscapes;

8           (4) to require Federal agencies—

9                 (A) to use ecological restoration treatments  
10           to reverse declining forest health and reduce the  
11           risk of severe wildfires across the forest land-  
12           scape;

13                (B) to ensure that sufficient funds are  
14           dedicated to wildfire prevention activities, in-  
15           cluding restoration treatments; and

16                (C) to monitor and use wildfire treatments  
17           based on the use of adaptive ecosystem manage-  
18           ment;

19           (5) to develop, transfer, and assist land man-  
20           agers in treating acres with restoration-based treat-  
21           ments and use new management technologies  
22           (including the transfer of understandable informa-  
23           tion, assistance with environmental review, and field  
24           and classroom training and collaboration) to accom-  
25           plish the goals identified in—

1 (A) the National Fire Plan;

2 (B) the report entitled “Protecting People  
3 and Sustaining Resources in Fire-Adapted Eco-  
4 systems—A Cohesive Strategy” (65 Fed. Reg.  
5 67480); and

6 (C) the report entitled “10-Year Com-  
7 prehensive Strategy: A Collaborative Approach  
8 for Reducing Wildland Fire Risks to Commu-  
9 nities and the Environment” of the Western  
10 Governors’ Association; and

11 (6) to provide technical assistance to collabo-  
12 rative efforts by affected entities to develop, imple-  
13 ment, and monitor adaptive ecosystem management  
14 restoration treatments that are ecologically sound,  
15 economically viable, and socially responsible.

16 **SEC. 104. DEFINITIONS.**

17 In this title:

18 (1) **ADAPTIVE ECOSYSTEM MANAGEMENT.**—The  
19 term “adaptive ecosystem management” means a  
20 natural resource management process under which  
21 planning, implementation, monitoring, research,  
22 evaluation, and incorporation of new knowledge are  
23 combined into a management approach that is—

24 (A) based on scientific findings and the  
25 needs of society; and



1 (B) used to modify future management  
2 methods and policy.

3 (2) AFFECTED ENTITIES.—The term “affected  
4 entities” includes—

5 (A) land managers;

6 (B) stakeholders;

7 (C) concerned citizens; and

8 (D) State land managers.

9 (3) INSTITUTE.—The term “Institute” means  
10 an Institute established under section 105(a).

11 (4) INTERIOR WEST.—The term “interior  
12 West” means the States of Arizona, Colorado,  
13 Idaho, Nevada, New Mexico, and Utah.

14 (5) LAND MANAGER.—

15 (A) IN GENERAL.—The term “land man-  
16 ager” means a person or entity that practices  
17 or guides natural resource management.

18 (B) INCLUSIONS.—The term “land man-  
19 ager” includes a Federal, State, local, or tribal  
20 land management agency.

21 (6) RESTORATION.—The term “restoration”  
22 means a process undertaken to return an ecosystem  
23 or habitat toward—

24 (A) the original condition of the ecosystem  
25 or habitat; or

1 (B) a condition that supports a related  
2 species, natural function, or ecological process  
3 (including a low intensity fire).

4 (7) SECRETARY.—The term “Secretary” means  
5 the Secretary of Agriculture, acting through the  
6 Chief of the Forest Service.

7 (8) SECRETARIES.—The term “Secretaries”  
8 means—

9 (A) the Secretary of Agriculture, acting  
10 through the Chief of the Forest Service; and

11 (B) the Secretary of the Interior.

12 (9) STAKEHOLDER.—The term “stakeholder”  
13 means any person interested in or affected by man-  
14 agement of forest or woodland ecosystems.

15 **SEC. 105. ESTABLISHMENT OF INSTITUTES.**

16 (a) IN GENERAL.—The Secretary, in consultation  
17 with the Secretary of the Interior, shall—

18 (1) not later than 180 days after the date of  
19 enactment of this title, establish 3 Institutes to pro-  
20 mote the use of adaptive ecosystem management to  
21 reduce the risk of wildfires, and improve the health  
22 of forest and woodland ecosystems, in the interior  
23 West; and

1           (2) provide assistance to the Institutes to pro-  
2       mote the use of adaptive ecosystem management in  
3       accordance with paragraph (1).

4       (b) LOCATION.—

5           (1) EXISTING INSTITUTES.—The Secretary may  
6       designate an institute in existence on the date of en-  
7       actment of this title to serve as an Institute estab-  
8       lished under this title.

9           (2) LOCATIONS.—Of the Institutes established  
10      under this title, the Secretary shall establish one In-  
11      stitute in each of the States of Arizona, New Mexico,  
12      and Colorado. The Institute established in Arizona  
13      shall be located at Northern Arizona University.

14      (c) DUTIES.—Each Institute shall—

15           (1) plan, conduct, or promote research on the  
16      use of adaptive ecosystem management to reduce the  
17      risk of wildfires, and improve the health of forest  
18      and woodland ecosystems, in the interior West, in-  
19      cluding—

20           (A) research that assists in providing in-  
21      formation on the use of adaptive ecosystem  
22      management practices to affected entities; and

23           (B) research that will be useful in the de-  
24      velopment and implementation of practical,  
25      science-based, ecological restoration treatments

1           for forest and woodland ecosystems affected by  
2           wildfires; and

3           (2) provide the results of research described in  
4       paragraph (1) to affected entities.

5       (d) COOPERATION.—To increase and accelerate ef-  
6       forts to restore forest ecosystem health and abate unnatu-  
7       ral and unwanted wildfires in the interior West, each In-  
8       stitute shall cooperate with—

9           (1) researchers at colleges and universities in  
10       the States of Arizona, New Mexico, and Colorado  
11       that have a demonstrated capability to conduct re-  
12       search described in subsection (c); and

13           (2) other organizations and entities in the inte-  
14       rior West (such as the Western Governors’ Associa-  
15       tion).

16       (e) ANNUAL WORK PLANS.—As a condition of the  
17       receipt of funds made available under this title, for each  
18       fiscal year, each Institute shall submit to the Secretary,  
19       for review by the Secretary, in consultation with the Sec-  
20       retary of the Interior, an annual work plan that includes  
21       assurances, satisfactory to the Secretaries, that the pro-  
22       posed work of the Institute will serve the informational  
23       needs of affected entities.

1 **SEC. 106. COOPERATION BETWEEN INSTITUTES AND FED-**  
2 **ERAL AGENCIES.**

3 In carrying out this title, the Secretary, in consulta-  
4 tion with the Secretary of the Interior—

5 (1) shall ensure that adequate financial and  
6 technical assistance is provided to the Institutes to  
7 enable the Institutes to carry out the purposes of the  
8 Institutes under section 105, including prevention  
9 activities and ecological restoration for wildfires and  
10 affected ecosystems;

11 (2) shall use information and expertise provided  
12 by the Institutes;

13 (3) shall encourage Federal agencies to use, on  
14 a cooperative basis, information and expertise pro-  
15 vided by the Institutes;

16 (4) shall encourage cooperation and coordina-  
17 tion between Federal programs relating to—

18 (A) ecological restoration;

19 (B) wildfire risk reduction; and

20 (C) wildfire management technologies;

21 (5) notwithstanding chapter 63 of title 31,  
22 United States Code, may—

23 (A) enter into contracts, cooperative agree-  
24 ments, interagency personal agreements to  
25 carry out this title; and

1 (B) carry out other transactions under this  
2 title;

3 (6) may accept funds from other Federal agen-  
4 cies to supplement or fully fund grants made, and  
5 contracts entered into, by the Secretaries;

6 (7) may support a program of internships for  
7 qualified individuals at the undergraduate and grad-  
8 uate levels to carry out the educational and training  
9 objectives of this title;

10 (8) shall encourage professional education and  
11 public information activities relating to the purposes  
12 of this title; and

13 (9) may promulgate such regulations as the  
14 Secretaries determine are necessary to carry out this  
15 title.

16 **SEC. 107. MONITORING AND EVALUATION.**

17 (a) IN GENERAL.—Not later than 5 years after the  
18 date of enactment of this title, and every 5 years there-  
19 after, the Secretary, in consultation with the Secretary of  
20 the Interior, shall complete and submit to the appropriate  
21 committees of Congress a detailed evaluation of the pro-  
22 grams and activities of each Institute—

23 (1) to ensure, to the maximum extent prac-  
24 ticable, that the research, communication tools, and

1 information transfer activities of each Institute meet  
 2 the needs of affected entities; and

3 (2) to determine whether continued provision of  
 4 Federal assistance to each Institute is warranted.

5 (b) TERMINATION OF ASSISTANCE.—If, as a result  
 6 of an evaluation under subsection (a), the Secretary, in  
 7 consultation with the Secretary of the Interior, determines  
 8 that an Institute does not qualify for further Federal as-  
 9 sistance under this title, the Institute shall receive no fur-  
 10 ther Federal assistance under this title until such time as  
 11 the qualifications of the Institute are reestablished to the  
 12 satisfaction of the Secretaries.

13 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to carry out  
 15 this title \$15,000,000 for each fiscal year.

16 **TITLE II—COMMUNITY-BASED**  
 17 **FOREST AND PUBLIC LANDS**  
 18 **RESTORATION ACT**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the “Community-Based  
 21 Forest and Public Lands Restoration Act”.

22 **SEC. 202. PURPOSES.**

23 The purposes of this title are—

24 (1) to create a coordinated, consistent, commu-  
 25 nity-based program to restore and maintain the eco-

1       logical integrity of degraded National Forest System  
2       and public lands watersheds;

3           (2) to ensure that restoration of degraded Na-  
4       tional Forest System and public lands recognizes  
5       variation in forest type and fire regimes, incor-  
6       porates principles of community forestry, local and  
7       traditional knowledge, and conservation biology; and,  
8       where possible, uses the least intrusive methods  
9       practicable;

10          (3) to enable the Secretaries to assist small,  
11       rural communities to increase their capacity to re-  
12       store and maintain the ecological integrity of sur-  
13       rounding National Forest System and public lands,  
14       and to use the by-products of such restoration in  
15       value-added processing;

16          (4) to require the Secretaries to monitor eco-  
17       logical, social, and economic conditions based on ex-  
18       plicit mechanisms for accountability;

19          (5) to authorize the Secretaries to expand part-  
20       nerships and to contract with nonprofit organiza-  
21       tions, conservation groups, small and micro-enter-  
22       prises, cooperatives, non-Federal conservation corps,  
23       and other parties to encourage them to provide serv-  
24       ices or products that facilitate the restoration of  
25       damaged lands; and



1           (6) to improve communication and joint prob-  
2       lem solving, consistent with Federal and State envi-  
3       ronmental laws, among individuals and groups who  
4       are interested in restoring the diversity and produc-  
5       tivity of watersheds.

6 **SEC. 203. DEFINITIONS.**

7       As used in this title:

8           (1) The term “public lands” has the meaning  
9       given such term in section 103(e) of the Federal  
10      Land Policy and Management Act (43 U.S.C.  
11      1702(e)).

12          (2) The term “National Forest System” has the  
13      meaning given such term in section 11(a) of the  
14      Forest and Rangeland Renewable Resources Plan-  
15      ning Act (16 U.S.C. 1609(a)).

16          (3) The term “Secretaries” means the Sec-  
17      retary of Agriculture, acting through the Chief of  
18      the Forest Service, and the Secretary of the Interior,  
19      acting through the Director of the Bureau of Land  
20      Management.

21          (4) The term “restore” means to incorporate  
22      historic, current, and new scientific information as it  
23      becomes available, to reintroduce, maintain, or en-  
24      hance the characteristics, functions, and ecological

1 processes of healthy, properly functioning water-  
2 sheds.

3 (5) The term “local” means within the same  
4 county, watershed unit, or jurisdiction of a Resource  
5 Advisory Council established pursuant to Public Law  
6 106–393 where an associated restoration project, or  
7 projects, are conducted.

8 (6) The term “micro-enterprise” means a non-  
9 subsidiary business or cooperative employing five or  
10 fewer people.

11 (7) The term “small enterprise” means a non-  
12 subsidiary business or cooperative employing be-  
13 tween 6 and 150 people.

14 (8) The term “value-added processing” means  
15 additional processing of a product to increase its  
16 economic value and to create additional jobs and  
17 benefits where the processing is done.

18 (9) The term “low-impact equipment” means  
19 the use of equipment for restorative, maintenance,  
20 or extraction purposes that minimizes or eliminates  
21 impacts to soils and other resources.

22 (10) The terms “rural” and “rural area” mean,  
23 a city, town, or unincorporated area that has a pop-  
24 ulation of 50,000 inhabitants or less, other than an  
25 urbanized area immediately adjacent to a city, town,

1 or unincorporated area that has a population in ex-  
2 cess of 50,000 inhabitants.

3 **SEC. 204. ESTABLISHMENT OF PROGRAM.**

4 (a) REQUIREMENTS.—The Secretaries shall jointly  
5 establish a National Forest System and public lands col-  
6 laborative community-based restoration program. The  
7 purposes of the program shall be—

8 (1) to identify projects that will restore de-  
9 graded National Forest System and public lands;  
10 and

11 (2) implement such projects in a collaborative  
12 way and in a way that builds rural community ca-  
13 pacity to restore and maintain in perpetuity the  
14 health of the National Forest System and other pub-  
15 lic lands.

16 (b) COOPERATION.—The Secretaries may enter into  
17 cooperative agreements with willing tribal governments,  
18 State and local governments, private and nonprofit entities  
19 and landowners for protection, restoration, and enhance-  
20 ment of fish and wildlife habitat, forests, and other re-  
21 sources on the National Forest System and public lands.

22 (c) MONITORING.—(1) The Secretaries shall establish  
23 a multiparty monitoring, evaluation, and accountability  
24 process in order to assess the cumulative accomplishments  
25 or adverse impacts of projects implemented under this

1 title. The Secretaries shall include any interested indi-  
2 vidual or organization in the monitoring and evaluation  
3 process.

4 (2) Not later than 5 years after the date of enactment  
5 of this title, the Secretaries shall submit a report to the  
6 Committee on Energy and Natural Resources of the  
7 United States Senate and the Committee on Resources of  
8 the United States House of Representatives detailing the  
9 information gathered as a result of the multiparty moni-  
10 toring and evaluation. The report shall include an assess-  
11 ment on whether, and to what extent, the projects funded  
12 pursuant to this title are meeting the purposes of the title.

13 (3) The Secretaries shall ensure that monitoring data  
14 is collected and compiled in a way that the general public  
15 can easily access. The Secretaries may collect the data  
16 using cooperative agreements, grants, or contracts with  
17 small or micro-enterprises, or Youth Conservation Corps  
18 work crews or related partnerships with State, local, and  
19 other non-Federal conservation corps.

20 (d) The Secretaries shall hire additional outreach spe-  
21 cialists, grants and agreements specialists, and contract  
22 specialists in order to implement this title.

1 **SEC. 205. FOREST RESTORATION AND VALUE-ADDED CEN-**  
2 **TERS.**

3 (a) ESTABLISHMENT.—Subject to subsection (d), the  
4 Secretaries shall provide cost-share grants, cooperative  
5 agreements, or both to establish Restoration and Value-  
6 Added Centers in order to improve the implementation of  
7 collaborative, community-based restoration projects on  
8 National Forest System or public lands.

9 (b) REQUIREMENTS.—The Restoration and Value-  
10 Added Centers shall provide technical assistance to non-  
11 profit organizations, small or micro-enterprises or individ-  
12 uals interested in creating a natural-resource related small  
13 or micro-enterprise in the following areas—

14 (1) restoration, and

15 (2) processing techniques for the byproducts of  
16 restoration and value-added manufacturing.

17 (c) ADDITIONAL REQUIREMENTS.—The Restoration  
18 and Value-Added Centers shall provide technical assist-  
19 ance in one or more of the following—

20 (1) using the latest, independent peer reviewed,  
21 scientific information and methodology to accomplish  
22 restoration and ecosystem health objectives,

23 (2) workforce training for value-added manufac-  
24 turing and restoration,

25 (3) marketing and business support for con-  
26 servation-based small and micro-enterprises,

1           (4) accessing urban markets for small and  
2           micro-enterprises located in rural communities,

3           (5) developing technology for restoration and  
4           the use of products resulting from restoration,

5           (6) accessing funding from government and  
6           nongovernment sources, and

7           (7) development of economic infrastructure in-  
8           cluding collaborative planning, proposal development,  
9           and grant writing where appropriate.

10          (d) LOCATIONS.—The Secretaries shall ensure that  
11          at least one Restoration and Value-Added Center is lo-  
12          cated within Idaho, New Mexico, Montana, northern Cali-  
13          fornia, eastern Oregon, and Washington and that every  
14          Restoration and Value-Added Center is located in a rural  
15          community that is adjacent to or surrounded by National  
16          Forest System or other public lands:

17                (1) The Secretaries may enter into partnerships  
18                and cooperative agreements with other Federal agen-  
19                cies or other organizations, including local nonprofit  
20                organizations, conservation groups, or community  
21                colleges in creating and maintaining the Restoration  
22                and Value-Added Centers.

23                (2) The appropriate Regional Forester and  
24                State Bureau of Land Management Director will  
25                issue a request for proposals to create a Restoration

1 and Value-Added Center. The Regional Forester and  
2 State Bureau of Land Management Director will se-  
3 lect a proposal with input from existing Resource  
4 and Technical Advisory Committees where appro-  
5 priate.

6 (3) The Secretaries shall provide cost-share  
7 grants, cooperative agreements, or both equaling 75  
8 percent of each Restoration and Value-Added Cen-  
9 ter's operating costs, including business planning,  
10 not to exceed \$1,000,000 annually per center.

11 (4) Within 30 days of approving a grant or co-  
12 operative agreement to establish a Restoration and  
13 Value-Added Center, the Secretary shall notify the  
14 Committee on Energy and Natural Resources of the  
15 United States Senate and the Committee on Re-  
16 sources of the United States House of Representa-  
17 tives and identify the recipient of the grant award  
18 or cooperative agreement.

19 (5) After a Restoration and Value-Added Cen-  
20 ter has operated for 5 years, the Secretary of Agri-  
21 culture shall assess the center's performance and  
22 begin to reduce, by 25 percent annually, the level of  
23 Federal funding for the center's operating costs.

24 (e) REPORT.—No later than 5 years after the date  
25 of enactment of this title, the Secretaries shall submit a

1 report to the Committee on Energy and Natural Re-  
2 sources of the United States Senate and the Committee  
3 on Resources of the United States House of Representa-  
4 tives, assessing the Restoration and Value-Added Centers  
5 created pursuant to this section. The report shall in-  
6 clude—

7           (1) descriptions of the organizations receiving  
8           assistance from the centers, including their geo-  
9           graphic and demographic distribution,

10           (2) a summary of the projects the technical as-  
11           sistance recipients implemented, and

12           (3) an estimate of the number of nonprofit or-  
13           ganizations, small enterprises, micro-enterprises, or  
14           individuals assisted by the Restoration and Value-  
15           Added Centers.

16 **SEC. 206. COMMUNITY-BASED NATIONAL FOREST SYSTEM**  
17 **AND PUBLIC LANDS RESTORATION.**

18           (a) ESTABLISHMENT.—(1) Notwithstanding Federal  
19 procurement laws, the Federal Grant and Cooperative  
20 Agreements Act of 1977 (31 U.S.C. 6301 et seq.), and  
21 the Competition in Contracting Act, the Secretaries shall  
22 ensure that a percentage of the total dollar value of con-  
23 tracts and agreements they award in each fiscal year be-  
24 ginning after the date of enactment of this Act are award-  
25 ed to qualifying entities as follows:



- 1 (A) Ten percent in the first fiscal year.
- 2 (B) Twenty percent in the second fiscal year.
- 3 (C) Thirty percent in the third fiscal year.
- 4 (D) Forty percent in the fourth fiscal year.
- 5 (E) Fifty percent in the fifth fiscal year and
- 6 each fiscal year thereafter.

7 (2) For purposes of this section:

8 (A) The term “contracts and agreements”  
9 means special salvage timber sale contracts, other  
10 timber sale contracts, service contracts, construction  
11 contracts, supply contracts, emergency equipment  
12 rental agreements, architectural and engineering  
13 contracts, challenge cost-share agreements, coopera-  
14 tive agreements, and participating agreements.

15 (B) The term “qualifying entity” means—

16 (i) a natural-resource related small or  
17 micro-enterprise;

18 (ii) a Youth Conservation Corps crew or  
19 related partnerships with State, local and other  
20 non-Federal conservation corps;

21 (iii) an entity that will hire and train local  
22 people to complete the service or timber sale  
23 contract;

1 (iv) an entity that will re-train nonlocal  
 2 traditional forest workers to complete the serv-  
 3 ice or timber sale contract; or

4 (v) a local entity that meets the criteria to  
 5 qualify for the Historically Underutilized Busi-  
 6 ness Zone Program under section 32 of the  
 7 Small Business Act (15 U.S.C. 657a).

8 (b) NOTICE OF NATIONAL FOREST SYSTEM PLAN.—

9 At the beginning of each fiscal year, each unit of the Na-  
 10 tional Forest System shall make its advanced acquisition  
 11 plan publicly available, including publishing it in a local  
 12 newspaper for a minimum of 15 working days.

13 (c) BEST VALUE CONTRACTING.—In order to imple-  
 14 ment projects, the Secretaries may select a source for per-  
 15 formance of a contract or agreement on a best value basis  
 16 with consideration of one or more of the following:

17 (1) Understanding of the technical demands  
 18 and complexity of the work to be done.

19 (2) Ability of the offeror to meet desired eco-  
 20 logical objectives of the project and the sensitivity of  
 21 the resources being treated.

22 (3) The potential for benefit to local small and  
 23 micro-enterprises.

24 (4) The past performance and qualification by  
 25 the contractor with the type of work being done, the

1 application of low-impact equipment, and the ability  
 2 of the contractor or purchaser to meet desired eco-  
 3 logical conditions.

4 (5) The commitment of the contractor to train-  
 5 ing workers for high wage and high skill jobs.

6 (6) The commitment of the contractor to hiring  
 7 highly qualified workers and local residents.

8 **SEC. 207. NATIONAL FOREST SYSTEM RESEARCH AND**  
 9 **TRAINING.**

10 (a) ESTABLISHMENT OF PROGRAM.—The Secretary  
 11 of Agriculture shall establish a program of applied re-  
 12 search using the resources of Forest Service Research Sta-  
 13 tion and the Forest Product Laboratory. The purposes of  
 14 the program shall be to—

15 (1) identify restoration methods and treatments  
 16 that minimize impacts to the land, such as through  
 17 the use of low-impact techniques and equipment;  
 18 and

19 (2) test and develop value-added products cre-  
 20 ated from the by-products of restoration.

21 (b) DISSEMINATION OF RESEARCH TO COMMU-  
 22 NITIES.—The Secretary of Agriculture shall disseminate  
 23 the applied research to rural communities, including the  
 24 Restoration and Value-Added Centers, adjacent to or sur-  
 25 rounded by National Forest System or public lands. The

1 Secretary of Agriculture shall annually conduct training  
2 workshops and classes in such communities to ensure that  
3 residents of such communities have access to the informa-  
4 tion.

5 (c) COOPERATION.—In establishing the program re-  
6 quired pursuant to this section, the Secretary of Agri-  
7 culture may partner with nonprofit organizations or com-  
8 munity colleges.

9 (d) MONITORING.—In designing the multiparty moni-  
10 toring and evaluation process to assess the cumulative ac-  
11 complishments or adverse impacts of projects implemented  
12 under this title pursuant to section 204, the Secretaries  
13 shall use the expertise of Forest Service Research Sta-  
14 tions.

15 **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

16 These are authorized to be appropriated such sums  
17 as may be necessary to carry out this title.

18 **SEC. 209. SMALL BUSINESS ADMINISTRATION.**

19 Nothing in this title is intended to modify the Small  
20 Business Act, Public Law 83–167, regulations promul-  
21 gated by the Small Business Administration at part 121  
22 of title 13, Code of Federal Regulations, or affect the  
23 Small Business shares prescribed in the Memorandum of  
24 Understanding on the Small Business Set Aside Program

1 or the amount of timber volume offered to SBA qualified  
2 companies.

3 **TITLE III—FINGER LAKES NA-**  
4 **TIONAL FOREST LAND WITH-**  
5 **DRAWAL**

6 **SEC. 301. FINGER LAKES NATIONAL FOREST LAND WITH-**  
7 **DRAWAL.**

8 All Federal land within the boundary of Finger Lakes  
9 National Forest in the State of New York is withdrawn  
10 from all forms of entry, appropriation, or disposal under  
11 the public land laws and disposition under all laws relating  
12 to oil and gas leasing.

13 **TITLE IV—ALASKA NAVIGABLE**  
14 **WATERS COMMISSION**

15 **SEC. 401. FINDINGS AND PURPOSES.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) The efficient and orderly development of the  
18 State of Alaska will be better achieved if the Federal  
19 Government joins the State of Alaska in a carefully  
20 coordinated approach to identify ownership and ju-  
21 risdictional interests in land and waters.

22 (2) Alaska has abundant water resources that  
23 are invaluable to State residents and all citizens of  
24 the United States.

1           (3) Because of the massive number of navigable  
2           waterways and other bodies of water in the State of  
3           Alaska, the task of resolving submerged land owner-  
4           ship and navigable water determinations has been  
5           very slow, counter-productive from an orderly re-  
6           source management standpoint, and costly as the  
7           State, private landowners, and the Federal Govern-  
8           ment attempt to initiate long-range planning proc-  
9           esses.

10          (b) PURPOSES.—The purposes of this title are—

11           (1) to expedite the process of quieting legiti-  
12           mate title to the submerged lands in the State of  
13           Alaska;

14           (2) to facilitate determinations for purposes of  
15           the Submerged Lands Act (43 U.S.C. 1301 et seq.),  
16           to the extent possible, which bodies of water in Alas-  
17           ka are navigable waters and which such bodies of  
18           water are not navigable waters; and

19           (3) to recommend to the State of Alaska and  
20           the Federal Government—

21           (A) ways to improve the process of making  
22           water use and navigability decisions; and

23           (B) ways to fairly and expeditiously quiet  
24           title to the State's submerged lands and assist

1           in the determination of the specifically reserved  
2           lands that will remain in Federal ownership.

3 **SEC. 402. SHORT TITLE.**

4           This title may be cited as the “Joint Federal and  
5 State Navigable Waters Commission for Alaska Act”.

6 **SEC. 403. ESTABLISHMENT.**

7           There is established a commission to be known as the  
8 “Joint Federal and State Navigable Waters Commission  
9 for Alaska” (referred to in this title as the  
10 “Commission”).

11 **SEC. 404. DUTIES OF THE COMMISSION.**

12          The Commission shall—

13           (1) make recommendations to the Secretary of  
14 the Interior and the State of Alaska regarding deter-  
15 minations of bodies of water in the State that are  
16 navigable waters for purposes of the Submerged  
17 Lands Act (43 U.S.C. 1301 et seq.);

18           (2) establish a process for employing estab-  
19 lished standards to facilitate making such rec-  
20 ommendations and determinations;

21           (3) develop procedures for involving private  
22 landowners, including Alaska Native corporations  
23 and the general public, in that process;

24           (4) for purposes of making such recommenda-  
25 tions, undertake a process to identify navigable wa-

1       ters in Alaska pursuant to established standards and  
2       criteria; and

3           (5) make recommendations to improve coordi-  
4       nation and consultation between the government of  
5       the State of Alaska and the Federal Government re-  
6       garding navigability determinations and decisions  
7       concerning title to submerged lands.

8   **SEC. 405. MEMBERSHIP.**

9       (a) NUMBER AND APPOINTMENT.—

10           (1) IN GENERAL.—The Commission shall be  
11       composed of 14 members, of which 7 shall be Fed-  
12       eral members appointed under subsection (b) and 7  
13       shall be State members appointed under subsection  
14       (c).

15           (2) APPOINTMENT DEADLINE.—Initial appoint-  
16       ments under this section shall be made not later  
17       than 60 days after the date of enactment of this  
18       title.

19       (b) FEDERAL MEMBERS.—The seven Federal mem-  
20       bers shall consist of—

21           (1) two members appointed by the President of  
22       the United States, one of which shall be designated  
23       as the President’s appointee for the position of Fed-  
24       eral co-chair under subsection (e);



1           (2) one member appointed by each of the three  
2       members of the Congress who represent the State of  
3       Alaska;

4           (3) one member appointed by the Secretary of  
5       the Interior; and

6           (4) one member appointed by the Secretary of  
7       Agriculture.

8       (c) STATE MEMBERS.—The seven State members  
9       shall be appointed in accordance with the requirements of  
10      State law.

11      (d) INELIGIBILITY FOR APPOINTMENT.—Members of  
12      Congress shall not be eligible for appointment to the Com-  
13      mission.

14      (e) CO-CHAIRS.—One of the members appointed by  
15      the President of the United States and the Governor or  
16      Governor's designee shall serve as co-chairs of the Com-  
17      mission.

18      (f) INITIAL MEETING.—The initial meeting of the  
19      Commission shall be called by the co-chairs.

20      (g) TERM OF APPOINTMENT.—

21           (1) IN GENERAL.—Subject to paragraph (2),  
22      members of the Commission shall be appointed for  
23      the life of the Commission.

24           (2) Early termination of appointment:

1           (A) Membership of a member of the Com-  
2 mission shall terminate if the member is an in-  
3 dividual who is an officer or employee of a gov-  
4 ernment body and who ceases to serve as such  
5 an officer or employee, or if the member is an  
6 individual who is not an officer or employee of  
7 a government and who becomes an officer or  
8 employee of a government.

9           (B) Termination of an individual's mem-  
10 bership pursuant to paragraph (A) shall take  
11 effect on the expiration of the 90-day period be-  
12 ginning on the date such member ceases to be  
13 such an officer or employee of such government,  
14 or becomes an officer or employee of a govern-  
15 ment, respectively.

16       (h) QUORUM.—Four Federal members and four  
17 State members of the Commission shall constitute a  
18 quorum, but a lesser number may conduct meetings. All  
19 decisions of the Commission shall require concurrence by  
20 at least four State members and four Federal members  
21 of the Commission.

22       (i) VACANCY.—A vacancy in the membership of the  
23 Commission—

1 (1) shall not affect the powers of the Commis-  
 2 sion to meet or conduct business, subject to sub-  
 3 section (h); and

4 (2) shall be filled in the same manner in which  
 5 the original appointment was made, by the same ap-  
 6 pointing authority.

7 **SEC. 406. COMPENSATION OF THE COMMISSION.**

8 (a) PAY FOR FEDERAL MEMBERS OF THE COMMIS-  
 9 SION.—

10 (1) NON-GOVERNMENT EMPLOYEES.—Each  
 11 Federal member of the Commission who is not oth-  
 12 erwise an officer or employee of the Federal Govern-  
 13 ment shall be entitled to receive the daily equivalent  
 14 of the annual rate of basic pay payable for Level IV  
 15 of the Executive Schedule under section 5315 of title  
 16 5, United States Code, as in effect from time to  
 17 time, for each day (including travel time) during  
 18 which such member is engaged in the actual per-  
 19 formance of duties of the Commission.

20 (2) GOVERNMENT EMPLOYEES.—A member of  
 21 the Commission who is an officer or employee of ei-  
 22 ther the government of the State of Alaska or the  
 23 Federal Government shall serve without additional  
 24 pay or benefits for service as a member of the Com-  
 25 mission.

1       (b) TRAVEL EXPENSES.—Federal members of the  
2 Commission shall receive travel expenses, including per  
3 diem in lieu of subsistence, in accordance with subchapter  
4 I of chapter 57 of title 5, United States Code. State mem-  
5 bers of the Commission are entitled to per diem and travel  
6 expenses as authorized under pertinent laws of the State  
7 of Alaska.

8   **SEC. 407. POWERS OF THE COMMISSION.**

9       (a) HEARINGS AND MEETINGS.—The Commission or,  
10 on the authorization of the Commission, any subcommittee  
11 or member of the Commission may, for the purposes of  
12 carrying out its duties, hold hearings, take testimony, re-  
13 ceive evidence, print or otherwise reproduce and distribute  
14 all or part of commission proceedings and reports, and sit  
15 and act at those times and places as the Commission, sub-  
16 committee, or members consider desirable.

17       (b) INFORMATION FOR THE COMMISSION.—The  
18 Commission may obtain directly from any executive agen-  
19 cy (as defined in section 105 of title 5 of the United States  
20 Code) or court, information necessary to enable it to carry  
21 out its duties under this title. On this request of either  
22 co-chair of the Commission, and consistent with applicable  
23 law, the head of an executive agency or of a Federal court  
24 shall provide such information to the Commission.

1       (c) POWERS OF MEMBERS AND AGENTS.—Any mem-  
2 ber or agent of the Commission may, if authorized by the  
3 Commission, take any action which the Commission is au-  
4 thorized to take by this section.

5       (d) VOLUNTEER SERVICES.—The Commission may  
6 accept volunteer services for the purpose of aiding or fa-  
7 cilitating the work of the Commission.

8       (e) MAILS.—The Commission may use the United  
9 States mails in the same manner and under the same con-  
10 ditions as other departments and agencies of the United  
11 States.

12       (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the  
13 request of the Commission, the Administrator of General  
14 Services shall provide to the Commission, on a reimburs-  
15 able basis, the administrative support services necessary  
16 for the Commission to carry out its responsibilities under  
17 this title.

18       (g) CONTRACT AUTHORITY.—To the extent or in the  
19 amounts provided in advance in appropriation Acts, the  
20 Commission may contract with and compensate govern-  
21 ment and private agencies or persons for property or serv-  
22 ices, without regard to section 3709 of the Revised Stat-  
23 utes (41 U.S.C. 5).

1 **SEC. 408. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
2 **ANTS.**

3 (a) STAFF.—Subject to rules prescribed by the Com-  
4 mission, the co-chairs may appoint and fix the pay of per-  
5 sonnel as they consider appropriate.

6 (b) APPLICABILITY OF CERTAIN CIVIL SERVICE  
7 LAWS.—The staff of the Commission may be appointed  
8 without regard to the provisions of title 5, United States  
9 Code, governing appointments in the competitive service,  
10 and may be paid without regard to the provisions of chap-  
11 ter 51 and subchapter III of chapter 53 of that title relat-  
12 ing to classification and General Schedule pay rates, ex-  
13 cept that an individual so appointed may not receive pay  
14 in excess of the annual rate of basic pay for GS-15 of  
15 the General Schedule.

16 (c) EXPERTS AND CONSULTANTS.—Subject to rules  
17 prescribed by the Commission, the co-chairs may procure  
18 temporary and intermittent services under section 3109(b)  
19 of title 5, United States Code, but at rates for individuals  
20 not to exceed the daily equivalent of the maximum annual  
21 rate of basic pay for GS-15 of the General Schedule.

22 (d) STAFF OF FEDERAL AGENCIES.—Upon request  
23 of the co-chairs, the head of any Federal department or  
24 agency may detail, on a reimbursable basis, any of the  
25 personnel of that department or agency to the Commission  
26 to assist it in carrying out its duties under this title.

1 **SEC. 409. RELATIONSHIP TO OTHER LAW.**

2 The Federal Advisory Committee Act (5 App. U.S.C.)  
3 shall not apply to the Commission.

4 **SEC. 410. REPORTS.**

5 (a) ANNUAL REPORT.—Not later than January 31  
6 of each year, the Commission shall submit to the President  
7 of the United States, the Committee on Energy and Nat-  
8 ural Resources of the United States Senate, the Com-  
9 mittee on Resources of the House of Representatives, the  
10 Governor of the State of Alaska, and the legislature of  
11 the State of Alaska a written report describing its activi-  
12 ties during the preceding year.

13 (b) FINAL REPORT.—The Commission shall submit  
14 a final comprehensive report to the officials and entities  
15 referred to in subsection (a) at least 10 days before the  
16 date the Commission terminates.

17 **SEC. 411. TERMINATION OF THE COMMISSION.**

18 The Commission is terminated 2 years after the date  
19 of completion of appointment of all members of the Com-  
20 mission.

21 **TITLE V—LAND CONVEYANCE TO**  
22 **HAINES, OREGON**

23 **SEC. 501. CONVEYANCE TO THE CITY OF HAINES, OREGON.**

24 (a) CONVEYANCE.—As soon as practicable after the  
25 date of enactment of this title, the Secretary of the Inte-  
26 rior shall convey, without consideration, all right, title, and

1 interest of the United States in and to the parcel of land  
2 described in subsection (b) to the city of Haines, Oregon.

3 (b) DESCRIPTION OF LAND.—The parcel of land re-  
4 ferred to in subsection (a) is the parcel of Bureau of Land  
5 Management land consisting of approximately 40 acres,  
6 as indicated on the map entitled “S. 1907: Conveyance  
7 to the City of Haines, Oregon” and dated May 9, 2002.

Passed the Senate November 20 (legislative day, No-  
vember 19), 2002.

Attest:

JERI THOMSON,  
*Secretary.*