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TO AMEND THE TRIBAL FOREST PROTECTION ACT OF 2004 TO IMPROVE THAT ACT, AND FOR OTHER PURPOSES

MAY 12, 2025.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 719]

The Committee on Indian Affairs, to which was referred the bill, (S. 719), to amend the Tribal Forest Protection Act of 2004 to improve that Act, and for other purposes, having considered the same, reports favorably thereon, without amendment and recommends that the bill do pass.

PURPOSE

S. 719 would amend the *Tribal Forest Protection Act of 2004* (TFPA) to expand the lands and activities eligible for inclusion in the TFPA program and for other purposes.

BACKGROUND AND NEED

In 2002 and 2003, catastrophic wildfires, originating on national forests and other federal lands, swept across the West and devastated many Tribal forest resources and communities. The Tribal Forest Protection Act of 2004¹ (TFPA) was passed in the aftermath of these wildfires as a tool for Tribes to propose work to protect Indian forest lands and resources from various threats, including wildfires. The TFPA authorizes the Forest Service (USFS) or the Bureau of Land Management (BLM) to enter into contracts and agreements with Tribes to carry out Tribally-designed land management activities on USFS or BLM administered forest lands or rangelands that are “bordering or adjacent to” lands under Tribal jurisdiction. The TFPA was intended to facilitate treatment and

¹ Pub. L. No. 108–278; 118 Stat. 868 (2004).

collaboration between the USFS, BLM and Tribes to manage and restore healthy forests on a landscape scale to mitigate wildfire threats to Tribal lands. The Congressional intent of the TFPA has gone largely unfulfilled for nearly two decades as the tool has been under-utilized with few projects proposed and successfully implemented.²

In 2018, the *Agriculture Improvement Act of 2018*³ (2018 Farm Bill) provided the USFS (for the first time) and the BLM the authority to execute “638” contracts and agreements to undertake the administrative and management functions of programs implementing TFPA work under the *Indian Self-Determination Education and Assistance Act* (ISDEAA).⁴ The Forest Service’s ISDEAA “638” authority was initiated as a demonstration effort.

Like the ISDEAA, the TFPA authorizes Alaska Native Corporations (ANCs) as well as federally recognized Tribes to enter into contracts and agreements with the BLM and USFS—however the reference to trust or restricted fee lands in the definition of “Indian Forest Lands” in the TFPA, and the requirement that the lands be under the jurisdiction of the Tribe, has practically excluded ANCs from participation under the statute.

Legislation is needed to expand the definition of “Indian forest land or rangeland” in the TFPA statute to provide clarity for the use of TFPA by ANCs.

Removing the barrier in the TFPA statute requiring TFPA projects occur on federal lands that are “bordering or adjacent” to Indian forest land and rangelands, and replacing it with a requirement that the federal lands present or involve a special geographic, historic, or cultural significance to the Tribe, will permit Tribes and ANCs to conduct landscape-scale management projects throughout federal lands, more fully realizing the congressional intent of the TFPA to provide Tribes and ANCs a greater voice in management strategies to reduce threats to Indian forest lands and rangelands and nearby communities, trust resources, and values.

SUMMARY

S. 719 would amend the TFPA to expand the definition of “Indian forest or rangeland” to include lands held by ANCs, eliminate the requirement that projects take place on federal lands that are “bordering or adjacent to” Indian forest or rangeland” and replace it with a requirement that the federal lands present or involve a special geographic, historical, or cultural significance to a Tribe or ANC, and it allows for TFPA projects to be carried out on Indian forest or rangeland. S. 719 also provides an authorization of \$15 million in annual appropriations for each of Fiscal Years 2026 through 2031 for TFPA implementation.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section sets forth the short title as the “Tribal Forest Protection Act Amendments Act of 2025.”

² Intertribal Timber Council and U.S. Forest Service, *The Tribal Forest Protection Act Workshops 2014–2018: Sustaining Forests and Communities* (December 31, 2018).

³ Pub. L. No. 115–334 (2018).

⁴ Pub. L. No. 93–638, 88 Stat. 2203 (1975).

Section 2—Tribal Forest Protection Act of 2004 amendments

This section amends section 2 of the TFPA to:

- Add land in the state of Alaska held by Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to the definition of Indian Forest Land or Rangeland;
- Expand the authority of the Secretary to enter into agreements or contracts with Tribes to protect Indian forest or rangeland to include forest and watershed restoration activities;
- Expand the authority of Tribes and ANCs to carry out protection and restoration projects directly on Indian forest and rangeland;
- Remove the requirement that Indian forest or rangeland border or be adjacent to USFS or BLM lands, and replace it with a requirement that the federal land eligible for TFPA agreements have special geographic, historical, or cultural significance to a Tribe or ANC;
- Update the program reporting requirement to require the Secretary of Agriculture, with respect to USFS land, and the Secretary of Interior, with respect to BLM land, to submit a report to Congress not later than four years after the date of enactment of this bill⁵ that describes Tribal requests received and agreements or contracts that have been entered into under this bill; and
- Authorize appropriations of \$15 million per year, from Fiscal Years 2026 through 2031.

LEGISLATIVE HISTORY

S. 719 was introduced by Senators Murkowski and Heinrich on February 25, 2025.

In the 118th Congress, a similar bill, S. 4370, was introduced by Senator Murkowski on May 21, 2024. Senator Sullivan and Senator Heinrich later joined as cosponsors. The Committee held a hearing on S. 4370 on July 25, 2024 (S. Hrg. 118–532). The Committee, in an open business meeting on September 25, 2024, by a majority voice vote of a quorum present, ordered S. 4370, as amended, favorably reported by voice vote (S. Rept. 118–249).⁶ The Senate passed S. 4370 with an amendment by voice vote on December 12, 2024.⁷

COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office’s estimate of the cost of S. 719 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov, and printed in the Congressional Record.

⁵ Section 2(g) of the TFPA (Pub. L. 108–278) states, “the date of enactment of this Act.” Corresponding text of the U.S. Code at 25 U.S.C. 3115a(g) was changed by the Office of the Law Revision Counsel to read, “4 years after July 22, 2004” for clarity purposes.

⁶ S. Report No. 118–249 (2024).

⁷ 170 Cong. Rec. S6994 (daily ed. Dec. 12, 2024).

EXECUTIVE COMMUNICATIONS

The testimony provided by the U.S. Department of Agriculture from the July 25, 2024 hearing on S. 4370 follows:

Chairman Schatz, Vice Chairman Murkowski, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the views of the U.S. Department of Agriculture (USDA).

Federally recognized Indian Tribes are sovereign nations with long-standing government-to-government relationships with the Federal Government. We acknowledge that many of the Federal lands and waters managed by the USDA and the Department of the Interior are the traditional territories of American Indians and Alaska Natives. These lands are home to sacred sites and burial sites, wildlife, and other sources of indigenous foods and medicines. Many of these lands are in areas where Tribes have reserved rights to hunt, fish, gather, and practice their traditional ceremonies pursuant to statutes and ratified treaties and agreements with the Federal Government.

Forest Service policy honors the Federal trust relationship with Tribes, promotes protection of these ancestral lands and waters, and enhances co-stewardship opportunities with Tribes based on a suite of treaties, Federal laws and regulations, court decisions, executive orders and memorandums, interagency agreements, and agency-specific direction. These include but are not limited to the Tribal Forest Protection Act, Good Neighbor Authority, Stewardship Contracting Authority, Wyden Amendment, Service First, Executive Order 14096 on Revitalizing Our Nation's Commitment to Environmental Justice for All, and the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.

The Forest Service's recent expansion of work is consistent with our general trust responsibility and honors Tribal sovereignty. It has taken many forms:

- Tribal co-stewardship agreements developed in response to Joint Secretarial Order 3403 promote an approach to managing national forests and grasslands that seeks to protect the treaty, religious, subsistence and cultural interests of federally recognized Indian Tribes. In Fiscal Year (FY) 2023, the Forest Service and Tribes executed more than 120 agreements, representing a total investment of approximately \$68 million, more than triple the \$19.8 million invested in FY 2022. These agreements implement vegetation management projects to protect Tribal land and communities and reduce hazardous fuels in critical and cultural landscapes while strengthening our government-to-government relationships with Tribal Nations.
- The 2018 Farm Bill also expanded the Good Neighbor Authority (GNA) to Tribes. GNA allows the Forest Service to enter into cooperative agreements and contracts with Indian Tribes, States, and counties to perform forest, rangeland, and watershed restora-

tion services on the National Forest System. Since FY 2018, Tribes have entered 30 GNA agreements, totaling \$7.3 million, to accomplish a variety of restoration work, including addressing wildfires, pest control, climate change vulnerability assessments, and cultural resource protection.

- In FY 2021, the Infrastructure Investment and Jobs Act (IIJA) made additional funds available for Indian Tribes and states to implement forest management and wildfire mitigation projects on Federal lands pursuant to the GNA or the Tribal Forest Protection Act (TFPA). The IIJA provided the Forest Service with \$5.5 billion to reduce wildfire risk and create healthy and resilient ecosystems across Tribal, Federal, State, and private lands. This included the first-ever Tribal program appropriations for the Forest Service, increased eligibility for Tribes, and opportunity for priority allocations for Tribes.

Several statutes and implementing regulations authorize the Forest Service to enter into agreements and contracts with and/or provide grants to Indian Tribes to protect Tribal land, communities, and resources. The Tribal Forest Protection Act of 2004 (TFPA) provides authority for the Forest Service to enter into agreements or contracts to carry out projects on the National Forest System that protect bordering or adjacent Indian forest land and rangeland from threats such as fire, insects, and disease while being informed by Tribal knowledge. Tribes may submit requests to the Secretary of Agriculture to enter into agreements or contracts. The 2018 Farm Bill provided additional opportunity, with a new Tribal forestry self-determination demonstration authority, for increased Tribal participation in the co-stewardship of the National Forest System.

TFPA has been a key authority available to the Forest Service to collaborate with Tribes to protect Tribal forest lands, rangelands, and communities from threats that originate from the National Forest System and to restore National Forest System lands that encompass treaty rights, traditional use, and other areas of Tribal significance. Notwithstanding the import of the TFPA in bringing Indigenous Knowledge and Tribal voices to Federal management of the National Forest System, some have observed that there are aspects of the authority that limit its application.

Some have argued that TFPA's structure has limited the program's utilization and ability to meet Congress' intent of protecting and restoring Tribal lands. S. 4370, the *Tribal Forest Protection Act Amendments Act of 2024*, would amend existing law to:

1. *Expand the definition of "Indian forest land or rangeland" to include lands held by Alaska Native Corporations.* Under the Alaska Native Claims Settlement Act (ANCSA), Congress did not place Native land in Alaska into trust or restricted status. Instead, land was conveyed to Alaska

Native Corporations (ANCs) to manage for their shareholders. TFPA's current definition of "Indian forest land and rangeland" prevents nearly 44 million acres of ANCSA Federal lands under the jurisdiction of the Forest Service and Bureau of Land Management. In addition, the TFPA requires that the land be "under the jurisdiction" of a Tribe, which further prevents ANSCA lands from qualifying. There are four ANCs that hold lands pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that border or are adjacent to the Chugach and Tongass National Forests and/or may be proximate to potential threats from those National Forests. Expansion of TFPA to those lands under ANC oversight would create opportunity for Sealaska and Chugach Alaska Corporations, and potentially Ahtna, Inc. and Cook Inlet Region, Inc. The Forest Service does not have a presence outside of southeast Alaska.

2. *Strike the requirement that Indian lands "border on or be adjacent to Forest Service or Bureau of Land Management lands."* The bill instead requires the Forest Service or Bureau of Land Management land to have a special geographic, historical, or cultural significance to an Indian Tribe. Tribes have sacred sites, cultural landscapes, and other resources on federal lands that they want to protect or restore, but the lands on which those resources exist are not always bordering on or adjacent to Indian lands.

Some have observed that a limitation of TFPA is the requirement that the Indian forest land or rangeland border or be adjacent to lands in the National Forest System. This reduces participation for Tribes without an existing, or no, land base that meets these criteria.

The TFPA currently includes the following Tribally-related factors in evaluating the proposal of the Indian Tribe:

- the status of the Indian Tribe as an Indian Tribe;
- the trust status of the Indian forest land or rangeland of the Indian Tribe;
- the cultural, traditional, and historical affiliation of the Indian Tribe with the land subject to the proposal;
- the treaty rights or other reserved rights of the Indian Tribe relating to the land subject to the proposal;
- the Indigenous Knowledge and skills of members of the Indian Tribe;
- the features of the landscape subject to the proposal, including watersheds and vegetation types;
- the working relationships between the Indian Tribe and Federal agencies in coordinating activities affecting the land subject to the proposal; and the access by members of the Indian tribe to the land subject to the proposal.

Amending the bordering or adjacency criteria to include Indian forest land or rangeland and Tribal communities that are reasonably proximate to a threat from the Na-

tional Forest System may be a more effective framework to expand eligibility and to implement, as it can include factors such as the type and extent of the risk to Tribal lands, resources, and communities. For example, wildland fire travels over many acres; disease can flow downstream over many miles; insects can pervade over great distances. Therefore, the scope of reasonable proximity to the threat will expand the range of eligible Indian forest land or rangelands so that more Tribes will be able to submit TFPA proposals for work on National Forest System land.

Amending the bordering or adjacency requirement to instead allow for proximity, amending the definition of Indian forest land and rangeland to include ANCSA lands, and clarifying when Tribes must exercise jurisdiction over the lands, may achieve the desired goals of establishing Tribal relationships to the landscapes of interest and allow ANCs to participate. If the Committee would like to discuss additional/different criteria to establish “special geographic, historical, and cultural relationships” or other approaches to define the Tribal relationship to the lands within the National Forest System, the Forest Service would welcome that conversation.

3. *Expand program eligibility to allow for work on Indian forest land or rangelands.* The current program only applies to work conducted on Federal lands under the jurisdiction of the Forest Service or Bureau of Land Management. The TFPA came into being after the fire season of 2003 when 18 reservations were affected by wildfire from federal lands. To help reduce the threat of future tragedies, the Tribal Forest Protection Act of 2004 established a process to allow Tribes to perform hazardous fuels reduction operations and other forest health projects on U.S. Forest Service and Bureau of Land Management lands bordering or adjacent to their own.

The Bureau of Indian Affairs has authority and responsibilities as trustee to manage Tribal forest lands pursuant to the National Indian Forest Resources Management Act (25 U.S.C. Chapter 33). Given this, the Forest Service would like to work with the Committee to discuss the legal and administrative impacts of changing the scope of the TFPA, including how such changes may benefit by clarifying the role for each of the Bureau of Indian Affairs, Forest Service, and Bureau of Land Management as agencies with the different missions, obligations, and equities regarding work on the same Tribal landscapes.

4. *Add/update reporting on the program.* Although the TFPA is a process authority and not a program, the Forest Service takes no issue with instituting a reporting regime to monitor and assess the performance outcomes of work performed under the TFPA.

5. *Add a five-year authorization of appropriations of \$15 million per year.* The Forest Service received its first-ever TFPA appropriations in the Infrastructure Investment and Jobs Act, of up to \$8 million per year for TFPA (Division J) and \$32 million per year (40804(b)(2)) for both States

and Tribes to implement TFPA and Good Neighbor Authority. In FY 2024, more than \$185 million was requested by Forest Service field units to execute these authorities with Tribes on the National Forest System.

The testimony provided by the U.S. Department of the Interior from the July 25, 2024 hearing on S. 4370 follows:

Chairman Schatz, Vice Chairman Murkowski, and Members of the Committee, thank you for the opportunity to present testimony on *S. 4370, Tribal Forest Protection Act Amendments Act* . . .

S. 4370, TRIBAL FOREST PROTECTION ACT AMENDMENTS ACT

The Tribal Forest Protection Act (TFPA) allows federally recognized Tribes to propose forest or rangeland projects to be conducted on lands managed by the Bureau of Land Management (BLM) and U.S. Department of Agriculture (USDA) Forest Service to reduce threats to adjacent Tribal lands, trust resources, and values. S. 4370 would amend the TFPA to provide for participation of Alaska Native Corporations (ANC), remove the requirement that projects to achieve land management goals occur on lands bordering or adjacent to Tribal lands, and extend application of TFPA to projects occurring on Indian forest land or rangeland.

On November 15, 2021, Secretary of the Interior Haaland and Secretary of Agriculture Vilsack issued Secretary's Order 3403, Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters (S.O. 3403, Order). At the Tribal Nations Summit on November 22, 2022, Secretary of Commerce Raimondo joined S.O. 3403.

S.O. 3403 affirms the trust relationship between the United States and Tribes and acknowledges that the United States would benefit from the land management expertise and practices Tribal Nations have developed over centuries. The Order is also a commitment “to ensure that Tribal governments play an integral role in decision making related to the management of [F]ederal lands and waters through consultation, capacity building, and other means consistent with applicable authority.”

The Department of the Interior (Department) recognizes that forest and ecosystem health does not stop at the border of Tribal lands. The Department is committed to improving the stewardship of our Nation's Federal forest lands by strengthening the role of Tribal communities in Federal land management, honoring Tribal sovereignty, and supporting the priorities of Tribal Nations. S. 4370 aligns with these important Administration priorities, and the Department supports the bill.

The Department defers to the USDA regarding impacts to lands managed by the USDA Forest Service.

BACKGROUND

The TFPA authorizes the Department to enter into a contract or agreement with Tribes to carry out projects to protect Indian forest land or rangeland, including proposals to restore Federal land that borders on or is adjacent to Indian forest land or rangeland. The statute defines “Indian forest land or rangeland” as “land that . . . is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe,” and is “forest land . . . ; or . . . has a cover of grasses, brush, or any similar vegetation; or . . . formerly had a forest cover or vegetative cover that is capable of restoration.” Covered projects must meet certain criteria, including that the BLM-managed lands involved must be adjacent to the Tribe’s trust or restricted fee lands; those lands must be under the jurisdiction of the Tribe; pose a fire, disease, or other threat to those trust lands or be in need of land restoration activities; and present or involve a feature or circumstance unique to that Tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances). The TFPA requires that the Department respond to such projects within 120 days of receiving a proposal. If the Department denies a Tribe’s request to enter into an agreement, the TFPA requires the agency to provide the Tribe with an explanation for its decision, and to propose consultation with the Tribe. Under the TFPA, Tribes and the Department have engaged in mutually beneficial work to improve forest and grassland conditions and protect Tribal lands and communities from risks.

Projects proposed by a Tribe under the TFPA may be carried out through an Indian Self-Determination and Education Assistance Act (ISDEAA) funding agreement. Like the ISDEAA, the TFPA may extend to ANCs as well as federally recognized Tribes—although the reference to trust or restricted lands, and the requirement that the lands be under the jurisdiction of the Tribe, means that ANCs are practically excluded from participation under the statute.

ANALYSIS

S. 4370 would expand the definition of “Indian forest land or rangeland” to include land in the state of Alaska that is held by an ANC under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or has “a special geographic, historical, or cultural significance to the Indian tribe.” The bill also removes the requirement that projects occur on Federal lands managed by the BLM or the USDA Forest Service that are adjacent to Tribal lands. Rather, S. 4370 requires Federal lands present or involve a special geographic, historic, or cultural significance to the Tribe. Expanding the definition of “Indian forest land or rangeland” provides clarity for the use of TFPA by ANCs. Further, removing the requirement that projects occur on Fed-

eral lands bordering or adjacent to Tribal lands removes ambiguity pertaining to proximity. The BLM supports these amendments to reduce the threats to Tribal forest lands and rangeland, trust resources, and values.

S. 4370 also expands the lands on which Tribes may carry out land management activities to include Indian forest land or rangeland; requires the Department to submit to Congress a report describing the Tribal requests received and agreements or contracts that have been entered into; and authorizes the appropriation of \$15 million per year from 2026 through 2031 to carry out the Act. The TFPA has been successfully used to address management of lands administered by the BLM and USDA Forest Service that are a priority to Tribes due to their associated risks to Tribal forest land resources. The Department notes that without more specificity in the proposed bill's definition, there is a risk that expanding the TFPA to include Tribal lands could potentially result in duplicate efforts and the comingling of trustee obligations by the Bureau of Indian Affairs (BIA), USDA Forest Service, and the BLM, as the BIA administers programs including forest management and wildfire fuels reduction on lands held in trust for Tribes. However, in any format, this proposal would further Tribal ability to protect and restore forest lands across boundaries as threats to and the overall health of these lands do not stop at the boundaries of Tribal and Federal lands.

S. 4370 could allow for a TFPA project to occur in part or in whole on trust lands managed under the authority of the Bureau of Indian Affairs (BIA). We would welcome the opportunity to work with the Sponsor and the Committee on revisions to clearly define the role of the BIA for such projects. Finally, the Department would welcome the opportunity to work with the Sponsor on revisions that clarify agency financial responsibility for cross-jurisdictional projects.

The Department would welcome the opportunity to work with the Sponsor and the Committee to ensure that the expansion of the TFPA to apply to Tribal lands results in complementary, rather than duplicative, efforts.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 719, as reported, will have minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite business of the Senate.