

(1) the seriousness of the noxious weed problem or potential problem addressed by the project;

(2) the likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future;

(3) the extent to which the payment will leverage non-Federal funds to address the noxious weed problem addressed by the project;

(4) the extent to which the weed management entity has made progress in addressing noxious weed problems;

(5) the extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;

(6) the extent to which the project will reduce the total population of a noxious weed;

(7) the extent to which the project uses the principles of integrated vegetation management and sound science; and

(8) such other factors that the State determines to be relevant.

(c) **INFORMATION AND REPORT.**—As a condition of the receipt of funding, States shall require such information from grant recipients as necessary and shall submit to the Secretary a report that describes the purposes and results of each project for which the payment or award was used, by not later than 6 months after completion of the projects.

(d) **FEDERAL SHARE.**—The Federal share of any project or activity approved by a State or Indian tribe under this Act may not exceed 50 percent unless the State meets criteria established by the Secretary that accommodates situations where a higher percentage is necessary to meet the needs of an underserved area or addresses a critical need that cannot be met otherwise.

#### SEC. 6. LIMITATIONS.

(a) **LANDOWNER CONSENT; LAND UNDER CULTIVATION.**—Any activity involving real property, either private or public, may be carried out under this Act only with the consent of the landowner and no project may be undertaken on property that is devoted to the cultivation of row crops, fruits, or vegetables.

(b) **COMPLIANCE WITH STATE LAW.**—A weed management entity may carry out a project to address the noxious weed problem in more than one State only if the entity meets the requirements of the State laws in all States in which the entity will undertake the project.

(c) **USE OF FUNDS.**—Funding under this Act may not be used to carry out a project—

(1) to control or eradicate animals, pests, or submerged or floating noxious aquatic weeds; or

(2) to protect an agricultural commodity (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) other than—

(A) livestock (as defined in section 602 of the Agricultural Trade Act of 1949 (7 U.S.C. 1471)); or

(B) an animal- or insect-based product.

#### SEC. 7. RELATIONSHIP TO OTHER PROGRAMS.

Assistance authorized under this Act is intended to supplement, and not replace, assistance available to weed management entities, areas, and districts for control or eradication of harmful, invasive weeds on public lands and private lands, including funding available under the Pulling Together Initiative of the National Fish and Wildlife Foundation; and the provision of funds to any entity under this Act shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code (commonly known as the Payments in Lieu of Taxes Act).

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act there is authorized to be appropriated to the Secretary \$100,000,000 for each of fiscal years 2002 through 2006, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.

Mr. REID. Mr. President, Senator BINGAMAN has a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid on the table, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read three times and passed, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 4975) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 198), as amended, was read the third time and passed.

### WILDFIRE PREVENTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 652, S. 2670.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2670) to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 2670

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Prevention Act of 2002".

#### SEC. 2. 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;

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

(6) of the timberland in National Forests in the States of Arizona and New Mexico, 59

percent of such land in Arizona, and 56 percent of such land in New Mexico, has an average diameter of 9 to 12 inches diameter at breast height;

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

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

(9) catastrophic wildfires—

(A) endanger homes and communities;

(B) damage and destroy watersheds and soils; and

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

(10) a 1994 assessment of forest health in the interior West estimated that only a 15- to 30-year window of opportunity exists for effective management intervention before damage from uncontrollable wildfire becomes widespread, with 8 years having already elapsed since the assessment;

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

(12) healthy forest and woodland ecosystems—

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

(B) improve wildlife habitat and biodiversity;

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

(D) enhance watershed values;

(E) improve the environment; and

(F) provide a basis in some areas for economically and environmentally sustainable uses;

(13) sustaining the long-term ecological and economic health of interior West forests and woodland, and their dependent human communities, requires preventing severe wildfires before the wildfires occur and permitting natural, low-intensity ground fires;

(14) more natural fire regimes cannot be accomplished without the reduction of excess fuels and thinning of subdominant trees (which fuels and trees may be of commercial value);

(15) ecologically-based forest and woodland ecosystem restoration on a landscape scale will—

(A) improve long-term community protection;

(B) minimize the need for wildfire suppression;

(C) improve resource values;

(D) reduce rehabilitation costs;

(E) reduce loss of critical habitat; and

(F) protect forests for future generations;

(16) although the National Fire Plan, and the report entitled "Protecting People and Sustaining Resources in Fire-Adapted Ecosystems—A Cohesive Strategy" (65 Fed. Reg. 67480), advocate a shift in wildfire policy from suppression to prevention (including restoration and hazardous fuels reduction), Federal land managers are not dedicating sufficient attention and financial resources to restoration activities that simultaneously restore forest health and reduce the risk of severe wildfire;

(17) although landscape scale restoration is needed to effectively reverse degradation, scientific understanding of landscape scale treatments is limited;

(18) the Federal wildfire research program is funded at approximately 1/3 of the amount that is required to address emerging wildfire problems, resulting in the lack of a cohesive strategy to address the threat of catastrophic wildfires; and

(19) rigorous, understandable, and applied scientific information is needed for—

(A) the design, implementation, and adaptation of landscape scale restoration treatments and improvement of wildfire management technology;

(B) the environmental review process; and  
(C) affected entities that collaborate in the development and implementation of wildfire treatment.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to enhance the capacity to develop, transfer, apply, and monitor practical science-based forest restoration treatments that will reduce the risk of severe wildfires, and improve forest and woodland health, in the interior West;

(2) to develop the practical scientific knowledge required to implement forest and woodland restoration on a landscape scale;

(3) to develop the interdisciplinary knowledge required to understand the socioeconomic and environmental impacts of wildfire control on ecosystems and landscapes;

(4) to require Federal agencies—

(A) to use ecological restoration treatments to reverse declining forest health and reduce the risk of severe wildfires across the forest landscape;

(B) to ensure that sufficient funds are dedicated to wildlife prevention activities, including restoration treatments; and

(C) to monitor and use wildfire treatments based on the use of adaptive ecosystem management;

(5) to develop, transfer, and assist land managers in treating acres with restoration-based treatments and use new management technologies (including the transfer of understandable information, assistance with environmental review, and field and classroom training and collaboration) to accomplish the goals identified in—

(A) the National Fire Plan;

(B) the report entitled “Protecting People and Sustaining Resources in Fire-Adapted Ecosystems—A Cohesive Strategy” (65 Fed. Reg. 67480); and

(C) the report entitled “10-Year Comprehensive Strategy: A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment” of the Western Governors’ Association; and

(6) to provide technical assistance to collaborative efforts by affected entities to develop, implement, and monitor adaptive ecosystem management restoration treatments that are ecologically sound, economically viable, and socially responsible.

### SEC. 4. DEFINITIONS.

In this Act:

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

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

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

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

(A) land managers;

(B) stakeholders;

(C) concerned citizens; and

(D) the States of the interior West, including political subdivisions of the States.

(3) **INSTITUTE.**—The term “Institute” means an Institute established under section 5(a).

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

(5) **LAND MANAGER.**—

(A) **IN GENERAL.**—The term “land manager” means a person or entity that practices or guides natural resource management.

(B) **INCLUSIONS.**—The term “land manager” includes a Federal, State, local, or tribal land management agency.

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

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

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

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

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

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

(B) the Secretary of the Interior.

(9) **STAKEHOLDER.**—The term “stakeholder” means any person interested in or affected by management of forest or woodland ecosystems.

(10) **STATES.**—The term “States” means—

(A) the [State of Arizona] *State of Arizona at Northern Arizona University*;

(B) the State of New Mexico; and

(C) the State of Colorado.

### SEC. 5. ESTABLISHMENT OF INSTITUTES.

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

(1) not later than 180 days after the date of enactment of this Act, establish 3 Institutes to promote the use of adaptive ecosystem management to reduce the risk of wildfires, and improve the health of forest and woodland ecosystems, in the interior West; and

(2) provide assistance to the Institutes to promote the use of adaptive ecosystem management in accordance with paragraph (1).

(b) **LOCATION.**—

(1) **EXISTING INSTITUTES.**—The Secretary may designate an institute in existence on the date of enactment of this Act to serve as an Institute established under this Act.

(2) **STATES.**—Of the Institutes established under this Act, the Secretary shall establish 1 Institute in each of the States of Arizona, New Mexico, and Colorado.

(c) **DUTIES.**—Each Institute shall—

(1) plan, conduct, or promote research on the use of adaptive ecosystem management to reduce the risk of wildfires, and improve the health of forest and woodland ecosystems, in the interior West, including—

(A) research that assists in providing information on the use of adaptive ecosystem management practices to affected entities; and

(B) research that will be useful in the development and implementation of practical, science-based, ecological restoration treatments for forest and woodland ecosystems affected by wildfires; and

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

(d) **COOPERATION.**—To increase and accelerate efforts to restore forest ecosystem health and abate unnatural and unwanted wildfires in the interior West, each Institute shall cooperate with—

(1) researchers at colleges and universities in the States that have a demonstrated capability to conduct research described in subsection (c); and

(2) other organizations and entities in the interior West (such as the Western Governors’ Association).

(e) **ANNUAL WORK PLANS.**—As a condition of the receipt of funds made available under this Act, for each fiscal year, each Institute shall submit to the Secretary, for review by

the Secretary, in consultation with the Secretary of the Interior, an annual work plan that includes assurances, satisfactory to the Secretaries, that the proposed work of the Institute will serve the informational needs of affected entities.

### SEC. 6. COOPERATION BETWEEN INSTITUTES AND FEDERAL AGENCIES.

In carrying out this Act, the Secretary, in consultation with the Secretary of the Interior—

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

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

(3) shall encourage Federal agencies to use, on a cooperative basis, information and expertise provided by the Institutes;

(4) shall encourage cooperation and coordination between Federal programs relating to—

(A) ecological restoration;

(B) wildfire risk reduction; and

(C) wildfire management technologies;

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

(A) enter into contracts, cooperative agreements, interagency personal agreements to carry out this Act; and

(B) carry out other transactions under this Act;

(6) may accept funds from other Federal agencies to supplement or fully fund grants made, and contracts entered into, by the Secretaries;

(7) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this Act;

(8) shall encourage professional education and public information activities relating to the purposes of this Act; and

(9) may promulgate such regulations as the Secretaries determine are necessary to carry out this Act.

### SEC. 7. MONITORING AND EVALUATION.

(a) **IN GENERAL.**—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary, in consultation with the Secretary of Interior, shall complete and submit to the appropriate committees of Congress a detailed evaluation of the programs and activities of each Institute—

(1) to ensure, to the maximum extent practicable, that the research, communication tools, and information transfer activities of each Institutes meet the needs of affected entities; and

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

(b) **TERMINATION OF ASSISTANCE.**—If, as a result of an evaluation under subsection (a), the Secretary, in consultation with the Secretary of the Interior, determines that an Institute does not qualify for further Federal assistance under this Act, the Institute shall receive no further Federal assistance under this Act until such time as the qualifications of the Institute are reestablished to the satisfaction of the Secretaries.

### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed and the motion to reconsider be laid on the

table. Senator BINGAMAN has a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid on the table; that the bill, as amended, be read three times and passed, the motion to reconsider be laid on the table; that there be no intervening action or debate, and any statements related thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment was agreed to.

The amendment (No. 4976) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 2670), as amended, was read the third time and passed.

#### CAPE FOX LAND ENTITLEMENT ADJUSTMENT ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 599, S. 2222.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2222) to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 2222

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

#### SECTION 1. FINDINGS.

【Congress finds and declares that:

【(1) Cape Fox Corporation (Cape Fox) is an Alaska Native Village Corporation organized pursuant to the Alaska Native Claims Settlement Act, as amended, (ANCSA) (43 U.S.C. 1601, et seq.) for the Native Village of Saxman.

【(2) As with other ANCSA village corporations in Southeast Alaska, Cape Fox was limited to selecting 23,040 acres under section 16 of ANCSA.

【(3) Except for Cape Fox, all other Southeast Alaska ANCSA village corporations were restricted from selecting within two miles of a home rule city.

【(4) To protect the watersheds in the vicinity of Ketchikan, Cape Fox was restricted from selecting lands within six miles from the boundary of the home rule City of Ketchikan under section 22(1) of ANCSA.

【(5) The six mile restriction damaged Cape Fox by precluding the corporation from selecting valuable timber lands, industrial sites, and other commercial property, not only in its core township but in surrounding lands far removed from Ketchikan and its watershed.

【(6) As a result of the six mile restriction, only the remote mountainous northeast cor-

ner of Cape Fox's core township, which is nonproductive and of no economic value, was available for selection by the corporation. Selection of this parcel was, however, mandated by section 16(b) of ANCSA.

【(7) Cape Fox's land selections were further limited by the fact that the Annette Island Indian Reservation is within its selection area, and those lands were unavailable for ANCSA selection. Cape Fox is the only ANCSA village corporation affected by this restriction.

【(8) Adjustment of Cape Fox's selections and conveyances of land under ANCSA requires adjustment of Sealaska Corporation's (Sealaska) selections and conveyances to avoid creation of split estate between national forest surface and Sealaska subsurface lands.

【(9) There is an additional need to resolve existing areas of Sealaska/Tongass National Forest split estate.

【(10) The Tongass National Forest lands identified in this Act for selection by and conveyance to Cape Fox and Sealaska, subject to valid existing rights, provide a means to resolve certain Cape Fox and Sealaska ANCSA land entitlement issues without significantly affecting Tongass National Forest resources, uses or values.

【(11) Adjustment of Cape Fox's selections and conveyances of land under ANCSA through the provisions of this Act, and the related adjustment of Sealaska's selections and conveyances hereunder, are in accordance with the purposes of ANCSA and otherwise in the public interest.

#### SEC. 2. SHORT TITLE.

【This Act may be cited as the "Cape Fox Land Entitlement Adjustment Act of 2002".

#### SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR CERTAIN NON-PRODUCTIVE LANDS.

【Notwithstanding the provisions of section 16(b) of ANCSA, Cape Fox Corporation (Cape Fox) shall not be required to select or receive conveyance of approximately 160 non-productive acres, more particularly described as within the following described lands:

【T. 75 S., R. 91 E., C.R.M., section 1.

#### SEC. 4. SELECTION OUTSIDE EXTERIOR SELECTION BOUNDARY.

【(a) In addition to lands made available for selection under ANCSA and notwithstanding any other provision of law, within 24 months after the date of enactment of this Act, Cape Fox may select, and, upon receiving written notice of such selection, the Secretary of the Interior shall convey approximately 99 acres of the surface estate of Tongass National Forest lands outside Cape Fox's current exterior selection boundary, specifically that parcel described as follows:

【T. 73 S., R. 90 E., C.R.M.

【Section 33: SW portion of SE¼: 38 acres.

【Section 33: NW portion of SE¼: 13 acres.

【Section 33: SE¼ of SE¼: 40 acres.

【Section 33: SE¼ of SW¼: 8 acres.

【(b) Upon conveyance to Cape Fox of the surface estate to the lands identified in subsection (a), the Secretary of the Interior shall convey to Sealaska Corporation (Sealaska) the subsurface estate to said lands.

【(c) The Secretary of the Interior shall complete the interim conveyances to Cape Fox and Sealaska under this section within 180 days after the Secretary of the Interior receives notice of the Cape Fox selection under subsection (a).

#### SEC. 5. EXCHANGE OF LANDS BETWEEN CAPE FOX AND THE TONGASS NATIONAL FOREST.

【(a) The Secretary of Agriculture shall offer, and if accepted by Cape Fox, shall ex-

change the Federal lands described in subsection (b) for lands and interests therein identified by Cape Fox under subsection (c).

【(b) The lands to be offered for exchange by the Secretary of Agriculture are Tongass National Forest lands comprising approximately 2,663.9 acres in T. 36 S., R. 62 E., C.R.M. and T. 35 S., R. 62 E., C.R.M., as designated upon a map entitled "Proposed Kensington Project Land Exchange", dated March 18, 2002, and available for inspection in the Forest Service Region 10 regional office in Juneau, Alaska. The Secretary of Agriculture shall exclude from the lands offered all land from the mean high tide mark to a point five hundred feet inland of all marine shorelands in and adjacent to the waters of Berners Bay; Provided, said exclusion shall not include any lands in the Slate Creek Cove area within T. 36 S., R. 62 E., C.R.M., section 1, W½ W½ or section 2, E½ E½.

【(c) Cape Fox shall be entitled, within 90 days after the date of enactment of this Act, to identify for exchange lands that the Secretary of Agriculture agrees are equal in value to the Federal exchange lands described in subsection (b). The lands shall be identified from lands previously conveyed to Cape Fox comprising approximately 3,000 acres and designated as parcels A-1 to A-3, B-1 to B-3, and C upon a map entitled "Cape Fox Corporation ANCSA Lands Exchange Proposal", dated March 15, 2002, and available for inspection in the Forest Service Region 10 regional office in Juneau, Alaska. Lands identified for exchange within each parcel shall be contiguous to adjacent national forest lands and in reasonably compact tracts. Cape Fox shall notify the Secretaries of Agriculture and the Interior and Sealaska in writing which lands and interests therein Cape Fox has identified for exchange. The lands identified for exchange shall include a public trail easement designated as D on said map, unless the Secretary of Agriculture agrees otherwise.

【(d) The offer and conveyance of Federal lands to Cape Fox in the exchange shall, notwithstanding section 14(f) of ANCSA, be of the surface and subsurface estate, but subject to valid existing rights and all other provisions of section 14(g) of ANCSA.

【(e) The Secretary of Agriculture shall attempt, within 90 days after the date of enactment of this Act, to enter into an agreement with Cape Fox to consummate the exchange. The lands identified in the exchange agreement shall be exchanged by conveyance at the earliest possible date after the exchange agreement is signed. Subject only to Cape Fox agreement and conveyance to the United States of all its right, title and interest in the Cape Fox lands included in the exchange, the Secretary of Agriculture shall complete the exchange. Subject only to said agreement and conveyance, the Secretary of the Interior shall complete the interim conveyance to Cape Fox of the Federal lands included in the exchange within 180 days after the date of enactment of this Act.

#### SEC. 6. EXCHANGE OF LANDS BETWEEN SEALASKA AND THE TONGASS NATIONAL FOREST.

【(a) Upon conveyance by Cape Fox of all its right, title and interest in the Cape Fox lands included in the exchange under section 5 and conveyance and relinquishment by Sealaska Corporation of all its right, title and interest in the lands described in subsection (c), the Secretary of the Interior shall convey to Sealaska the Federal lands identified for exchange under subsection (b). Subject only to said Cape Fox and Sealaska conveyances and relinquishment, the Secretary of the Interior shall complete the interim conveyance to Sealaska of the Federal lands identified for exchange within 180 days after the date of enactment of this Act.