

110TH CONGRESS  
2D SESSION

# S. 3256

To provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 11, 2008

Mr. REID (for Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Federal Land Assistance, Management and Enhance-  
6       ment Act” or “FLAME Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Flame Fund for catastrophic emergency wildland fire suppression activities.

Sec. 3. Cohesive wildland fire management strategy.

Sec. 4. Review of certain wildfires to evaluate cost containment in wildland fire suppression activities.

Sec. 5. Reducing risk of wildfires in fire-ready communities.

3 **SEC. 2. FLAME FUND FOR CATASTROPHIC EMERGENCY**  
 4 **WILDLAND FIRE SUPPRESSION ACTIVITIES.**

5 (a) DEFINITIONS.—In this section:

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

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

11 (B) Units of the National Park System.

12 (C) Refuges of the National Wildlife Ref-  
 13 uge System.

14 (D) Lands held in trust by the United  
 15 States for the benefit of Indian tribes or indi-  
 16 vidual Indians.

17 (E) Lands in the National Forest System,  
 18 as defined in section 11(a) of the Forest and  
 19 Rangeland Renewable Resources Planning Act  
 20 of 1974 (16 U.S.C. 1609(a)).

1           (2) FLAME FUND.—The term “Flame Fund”  
2 means the Federal Land Assistance, Management,  
3 and Enhancement Fund established by this section.

4           (3) SECRETARY CONCERNED.—The term “Sec-  
5 retary concerned” means—

6                   (A) the Secretary of the Interior, with re-  
7 spect to Federal land described in subpara-  
8 graphs (A), (B), (C), and (D) of paragraph (1);  
9 and

10                   (B) the Secretary of Agriculture, with re-  
11 spect to National Forest System land.

12           (4) SECRETARIES.—The term “Secretaries”  
13 means the Secretary of the Interior and the Sec-  
14 retary of Agriculture, acting jointly.

15           (b) ESTABLISHMENT AND AVAILABILITY OF FLAME  
16 FUND.—

17                   (1) ESTABLISHMENT.—There is established in  
18 the Treasury of the United States a fund to be  
19 known as the Federal Land Assistance, Manage-  
20 ment, and Enhancement Fund.

21                   (2) CONTENTS.—The Flame Fund shall consist  
22 of the following amounts:

23                           (A) Amounts appropriated to the Flame  
24 Fund pursuant to the authorization of appro-  
25 priations in subsection (c).

1 (B) Amounts transferred to the Flame  
2 Fund pursuant to subsection (d).

3 (3) AVAILABILITY.—Subject to subsection (e),  
4 amounts in the Flame Fund shall be available to the  
5 Secretaries to pay the costs of catastrophic emer-  
6 gency wildland fire suppression activities that are  
7 separate from amounts annually appropriated to the  
8 Secretaries for the predicted annual workload for  
9 wildland fire suppression activities, based on anal-  
10 yses of historical workloads and anticipated in-  
11 creased workloads due to changing environmental or  
12 demographic conditions.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) AUTHORIZATION OF APPROPRIATIONS.—  
15 There is authorized to be appropriated to the Flame  
16 Fund such funds as may be necessary to carry out  
17 this section. It is the intent of Congress that the  
18 amount appropriated to the Flame Fund for fiscal  
19 year 2009 and each subsequent fiscal year equal the  
20 average amount expended by the Secretaries for  
21 emergency wildland fire suppression activities over  
22 the five fiscal years preceding that fiscal year.

23 (2) SENSE OF CONGRESS ON DESIGNATION OF  
24 CERTAIN APPROPRIATIONS AS EMERGENCY REQUIRE-  
25 MENT.—It is the sense of Congress that the

1 amounts appropriated to the Flame Fund that are  
2 above the average of the obligations of the preceding  
3 10 years for wildland fire suppression in the Forest  
4 Service and the Department of the Interior, adjusted  
5 for inflation, should be designated as amounts nec-  
6 essary to meet emergency needs, and the new budget  
7 authority and outlays resulting therefrom should not  
8 count for the purposes of titles III and IV of the  
9 Congressional Budget Act of 1974.

10 (3) NOTICE OF INSUFFICIENT FUNDS.—The  
11 Secretaries shall notify the congressional committees  
12 specified in subsection (h)(2) whenever only an esti-  
13 mated two months worth of funding remains in the  
14 Flame Fund.

15 (d) TRANSFER OF EXCESS WILDLAND FIRE SUP-  
16 PRESSION AMOUNTS INTO FLAME FUND.—At the end of  
17 each fiscal year, the Secretary concerned shall transfer to  
18 the Flame Fund amounts appropriated to the Secretary  
19 concerned for wildland fire suppression activities for the  
20 fiscal year, but not obligated for wildland fire suppression  
21 activities before the end of the fiscal year.

22 (e) USE OF FLAME FUND.—

23 (1) DECLARATION REQUIRED.—Amounts in the  
24 Flame Fund shall be made available to the Secretary  
25 concerned only after the Secretaries issue a declara-

1 tion that a wildland fire suppression activity is eligi-  
2 ble for funding through the Flame Fund.

3 (2) DECLARATION CRITERIA.—A declaration by  
4 the Secretaries under paragraph (1) shall be based  
5 on the following criteria:

6 (A) In the case of an individual wildland  
7 fire incident—

8 (i) the fire covers 300 or more acres;

9 (ii) the severity of the fire, which may  
10 be based on incident complexity or the po-  
11 tential for increased complexity; and

12 (iii) the threat posed by the fire, in-  
13 cluding the potential for loss of lives, prop-  
14 erty, or critical resources.

15 (B) Consistent with subsection (f), in the  
16 case of a firefighting season, cumulative  
17 wildland fire suppression activities, when the  
18 costs of those activities for the Secretary con-  
19 cerned are projected to exceed amounts annu-  
20 ally appropriated.

21 (3) TRANSFER OF AMOUNTS TO SECRETARY  
22 CONCERNED.—After issuance of a declaration under  
23 paragraph (1) and upon the request of the Secretary  
24 concerned, the Secretary of the Treasury shall trans-  
25 fer from the Flame Fund to the Secretary concerned

1 such amounts as the Secretaries determine are nec-  
2 essary for wildland fire suppression activities associ-  
3 ated with the declared suppression emergency.

4 (4) STATE, PRIVATE, AND TRIBAL LAND.—Use  
5 of the Flame Fund for catastrophic emergency  
6 wildland fire suppression activities on State and pri-  
7 vate land and, where applicable, tribal land shall be  
8 consistent with existing agreements where the Secre-  
9 taries have agreed to assume responsibility for  
10 wildland fire suppression activities on the land.

11 (f) TREATMENT OF ANTICIPATED AND PREDICTED  
12 ACTIVITIES.—The Secretary concerned shall continue to  
13 fund anticipated and predicted wildland fire suppression  
14 activities within the appropriate agency budget for each  
15 fiscal year. Use of the additional funding made available  
16 through the Flame Fund is intended to supplement the  
17 budgeted and appropriated agency funding and is to be  
18 used only for purposes and in instances consistent with  
19 this section.

20 (g) PROHIBITION ON OTHER TRANSFERS.—All  
21 amounts in the Flame Fund, as well as all funds appro-  
22 priated for the purpose of wildland fire suppression on  
23 Federal land, must be obligated before the Secretary con-  
24 cerned may transfer funds from non-fire accounts for  
25 wildland fire suppression.

1 (h) ACCOUNTING AND REPORTS.—

2 (1) ACCOUNTING AND REPORTING SYSTEM.—

3 The Secretaries shall establish an accounting and re-  
4 porting system for the Flame Fund compatible with  
5 existing National Fire Plan reporting procedures.

6 (2) ANNUAL REPORT.—The Secretaries shall  
7 submit to the Committee on Natural Resources, the  
8 Committee on Agriculture, and the Committee on  
9 Appropriations of the House of Representatives and  
10 the Committee on Energy and Natural Resources,  
11 the Committee on Indian Affairs, and the Committee  
12 on Appropriations of the Senate an annual report on  
13 the use of the funds from the Flame Fund, together  
14 with any recommendations that the Secretaries may  
15 have to improve the administrative control and over-  
16 sight of the Flame Fund.

17 (3) PUBLIC AVAILABILITY.—The annual report  
18 required by paragraph (2) shall be made available to  
19 the public.

20 **SEC. 3. COHESIVE WILDLAND FIRE MANAGEMENT STRAT-**  
21 **EGY.**

22 (a) STRATEGY REQUIRED.—Not later than one year  
23 after the date of the enactment of this Act, the Secretary  
24 of the Interior and the Secretary of Agriculture shall sub-  
25 mit to Congress a report that contains a cohesive wildland

1 fire management strategy, consistent with the rec-  
2 ommendations contained in recent Comptroller General re-  
3 ports regarding this issue.

4 (b) ELEMENTS OF STRATEGY.—The strategy re-  
5 quired by subsection (a) shall address the findings of the  
6 Comptroller General in the reports referred to in such sub-  
7 section and include the following elements:

8 (1) A system to identify the most cost effective  
9 means for allocating fire management budget re-  
10 sources.

11 (2) An illustration of plans by the Secretary of  
12 the Interior and the Secretary of Agriculture to rein-  
13 vest in non-fire programs.

14 (3) A description of how the Secretaries will  
15 employ appropriate management response.

16 (4) A system for assessing the level of risk to  
17 communities.

18 (5) A system to ensure that the highest priority  
19 fuels reduction projects are being funded first.

20 (c) NOTICE OF PRESCRIBED FIRES.—As part of the  
21 strategy required by subsection (a) for the Forest Service,  
22 the Secretary of Agriculture shall ensure that, before any  
23 prescribed fire is used on National Forest System land,  
24 owners of adjacent private land are notified in writing of  
25 the date and scope of the proposed prescribed fire.

1 **SEC. 4. REVIEW OF CERTAIN WILDFIRES TO EVALUATE**  
2 **COST CONTAINMENT IN WILDLAND FIRE SUP-**  
3 **PPRESSION ACTIVITIES.**

4 (a) REVIEW REQUIRED.—The Secretary of the Inte-  
5 rior and the Secretary of Agriculture shall conduct a re-  
6 view, using independent panels, of each wildfire incident  
7 for which the Secretary concerned incurs expenses in ex-  
8 cess of \$10,000,000.

9 (b) REPORT.—The Secretary concerned shall submit  
10 to the Committee on Natural Resources, the Committee  
11 on Agriculture, and the Committee on Appropriations of  
12 the House of Representatives and the Committee on En-  
13 ergy and Natural Resources, the Committee on Indian Af-  
14 fairs, and the Committee on Appropriations of the Senate  
15 a report containing the results of each review conducted  
16 under subsection (a).

17 **SEC. 5. REDUCING RISK OF WILDFIRES IN FIRE-READY**  
18 **COMMUNITIES.**

19 (a) FIRE-READY COMMUNITY DEFINED.—In this  
20 section, the term “fire-ready community” means a com-  
21 munity that—

22 (1) is located within a priority area identified  
23 pursuant to subsection (b);

24 (2) has a cooperative fire agreement that ar-  
25 ticulates the roles and responsibilities for Federal,

1 State and local government entities in local wildfire  
2 suppression and protection;

3 (3) has local codes that require fire-resistant  
4 home design and building materials;

5 (4) has a community wildfire protection plan  
6 (as defined in section 101 of the Healthy Forests  
7 Restoration Act of 2003 (16 U.S.C. 6502)); and

8 (5) is engaged in a successful collaborative  
9 process that includes multiple interested persons  
10 representing diverse interests and is transparent and  
11 nonexclusive, such as a resource advisory committee  
12 established under section 205 of the Secure Rural  
13 Schools and Community Self-Determination Act of  
14 2000 (Public Law 106–393; 16 U.S.C. 500 note).

15 (b) FIRE RISK MAPPING.—As soon as is practicable  
16 after the date of the enactment of this Act, the Secretary  
17 of Agriculture and the Secretary of the Interior (in this  
18 section referred to as the “Secretaries”) shall develop re-  
19 gional maps of communities most at risk of wildfire and  
20 in need of hazardous fuel treatment and maintenance. The  
21 maps shall identify priority areas for hazardous fuels re-  
22 duction projects, including—

23 (1) at-risk communities in fire-prone areas of  
24 the wildland-urban interface (as defined in section

1 101 of the Healthy Forests Restoration Act of 2003  
2 (16 U.S.C. 6502));

3 (2) watersheds and municipal drinking water  
4 sources;

5 (3) emergency evacuation corridors;

6 (4) electricity transmission corridors; and

7 (5) low-capacity or low-income communities.

8 (c) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
9 GRANTS.—

10 (1) GRANTS AVAILABLE.—The Secretaries may  
11 provide cost-share grants to fire-ready communities  
12 to assist such communities in carrying activities au-  
13 thorized by paragraph (2).

14 (2) ELIGIBLE ACTIVITIES.—Grant funds may  
15 be used for the following:

16 (A) Education programs to raise aware-  
17 ness of homeowners and citizens about wildland  
18 fire protection practices, including FireWise or  
19 similar programs.

20 (B) Training programs for local fire-  
21 fighters on wildland firefighting techniques and  
22 approaches.

23 (C) Equipment acquisition to facilitate  
24 wildland fire preparedness.

1                   (D) Implementation of a community wild-  
2                   fire protection plan.

3           (d) WILDLAND FIRE COST-SHARE AGREEMENTS.—

4 In developing any wildland fire cost-share agreement with  
5 a State Forester or equivalent official, the Secretaries  
6 shall, to the greatest extent possible, encourage the State  
7 and local communities involved to become fire-ready com-  
8 munities.

9           (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
10 authorized to be appropriated to the Secretaries to carry  
11 out this section such sums as may be necessary.

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