

(D) Requirements

An estimate of anticipated wildfire suppression costs shall be developed using the best available—

- (i) climate, weather, and other relevant data; and
- (ii) models and other analytic tools.

(i) Termination of authority

The authority of the Secretary concerned to use the FLAME Fund established for that Secretary shall terminate at the end of the third fiscal year in which no appropriations to, or withdrawals from, that FLAME Fund have been made for a period of three consecutive fiscal years. Upon termination of such authority, any amounts remaining in the affected FLAME Fund shall be transferred to, and made a part of, the Wildland Fire Management appropriation account of the Secretary concerned for wildland suppression activities.

(Pub. L. 111–88, div. A, title V, § 502, Oct. 30, 2009, 123 Stat. 2968.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748b. Cohesive wildfire management strategy**(a) Strategy required**

Not later than one year after October 30, 2009, the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

(b) Elements of strategy

The strategy required by subsection (a) shall provide for—

- (1) the identification of the most cost-effective means for allocating fire management budget resources;
- (2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;
- (3) employing the appropriate management response to wildfires;
- (4) assessing the level of risk to communities;
- (5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;
- (6) assessing the impacts of climate change on the frequency and severity of wildfire; and
- (7) studying the effects of invasive species on wildfire risk.

(c) Revision

At least once during each five-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall revise the strat-

egy to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

(Pub. L. 111–88, div. A, title V, § 503, Oct. 30, 2009, 123 Stat. 2971.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748c. Bureau of Land Management Foundation**(a) Definitions**

In this section:

(1) Board

The term “Board” means the Board of Directors of the Foundation established under subsection (c).

(2) Foundation

The term “Foundation” means the Bureau of Land Management Foundation established by subsection (b)(1)(A).

(3) Public land

The term “public land” has the meaning given the term “public lands” in section 1702 of this title.

(4) Secretary

The term “Secretary” means the Secretary of the Interior.

(5) Wild free-roaming horses and burros

The term “wild free-roaming horses and burros” has the meaning given the term in section 1332 of title 16.

(b) Establishment and purposes**(1) Establishment****(A) In general**

There is established a foundation, to be known as the “Bureau of Land Management Foundation”.

(B) Limitation

The Foundation shall not be considered to be an agency or establishment of the United States.

(C) Tax exemption

The Foundation shall be considered to be a charitable and nonprofit corporation under section 501(c)(3) of title 26.

(2) Purposes

The purposes of the Foundation are—

(A) to encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with the activities and services of, the Bureau of Land Management;

(B) to carry out activities that advance the purposes for which public land is administered;

(C) to carry out and encourage educational, technical, scientific, and other assistance or activities that support the mission of the Bureau of Land Management; and

(D) to assist the Bureau of Land Management with challenges that could be better addressed with the support of a foundation, including—

- (i) reclamation and conservation activities;
- (ii) activities relating to wild free-roaming horses and burros; and
- (iii) the stewardship of cultural and archeological treasures on public land.

(c) Board of Directors

(1) Establishment

(A) In general

The Foundation shall be governed by a Board of Directors.

(B) Composition

(i) In general

The Board shall consist of not more than 9 members.

(ii) Ex-officio member

The Director of the Bureau of Land Management shall be an ex-officio, nonvoting member of the Board.

(C) Requirements

(i) Citizenship

A member appointed to the Board shall be a citizen of the United States.

(ii) Expertise

A majority of members appointed to the Board shall have education or experience relating to natural, cultural, conservation, or other resource management, law, or research.

(iii) Diverse points of view

To the maximum extent practicable, the members of the Board shall represent diverse points of view.

(2) Date of initial appointment

Not later than 1 year after May 5, 2017, the Secretary shall appoint the initial members of the Board.

(3) Terms

(A) In general

Except as provided in subparagraph (B), a member of the Board shall be appointed for a term of 6 years.

(B) Initial appointments

The Secretary shall stagger the initial appointments to the Board, as the Secretary determines to be appropriate, in a manner that ensures that—

- (i) 1/3 of the members shall serve for a term of 2 years;
- (ii) 1/3 of the members shall serve for a term of 4 years; and
- (iii) 1/3 of the members shall serve for a term of 6 years.

(C) Vacancies

A vacancy on the Board shall be filled—

- (i) not later than 60 days after the date of the vacancy;
- (ii) in the manner in which the original appointment was made; and

(iii) for the remainder of the term of the member vacating the Board.

(D) Removal for failure to attend meetings

(i) In general

A member of the Board may be removed from the Board by a majority vote of the Board, if the individual fails to attend 3 consecutive regularly scheduled meetings of the Board.

(ii) Requirements

A vacancy as the result of a removal under clause (i) shall be filled in accordance with subparagraph (C).

(E) Limitation

A member of the Board shall not serve more than 12 consecutive years on the Board.

(4) Chairperson

(A) In general

The Board shall elect a Chairperson from among the members of the Board.

(B) Term

The Chairperson of the Board—

- (i) shall serve as Chairperson for a 2-year term; and
- (ii) may be reelected as Chairperson while serving as a member of the Board.

(5) Quorum

A majority of the voting members of the Board shall constitute a quorum for the transaction of business of the Board.

(6) Meetings

The Board shall meet—

- (A) at the call of the Chairperson; but
- (B) not less than once each calendar year.

(7) Reimbursement of expenses

(A) In general

Serving as a member of the Board shall not constitute employment by the Federal Government for any purpose.

(B) Reimbursement

A member of the Board shall serve without pay, other than reimbursement for the actual and necessary traveling and subsistence expenses incurred in the performance of the duties of the member for the Foundation, in accordance with section 5703 of title 5.

(8) General powers

The Board may—

- (A) appoint officers and employees in accordance with paragraph (9);
- (B) adopt a constitution and bylaws consistent with the purposes of the Foundation and this section; and
- (C) carry out any other activities that may be necessary to function and to carry out this section.

(9) Officers and employees

(A) In general

No officer or employee may be appointed to the Foundation until the date on which the Board determines that the Foundation

has sufficient funds to pay for the service of the officer or employee.

(B) Limitation

Appointment as an officer or employee of the Foundation shall not constitute employment by the Federal Government.

(10) Limitation and conflicts of interest

(A) Prohibition on political activity

The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(B) Limitation on participation

No member of the Board or officer or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects—

(i) the financial interests of the member of the Board, officer, or employee; or

(ii) the interests of any corporation partnership, entity, or organization in which the member of the Board, officer, or employee—

(I) is an officer, director, or trustee; or

(II) has any direct or indirect financial interest.

(d) Powers and obligations

(1) In general

The Foundation—

(A) shall have perpetual succession; and

(B) may conduct business throughout the several States, territories, and possessions of the United States.

(2) Notice; service of process

(A) Designated agent

The Foundation shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(B) Service of process

The serving of notice to, or service of process on, the agent required under this paragraph, or mailed to the business address of the agent, shall be deemed to be notice to, or the service of process on, the Foundation.

(3) Seal

The Foundation shall have an official seal, to be selected by the Board, which shall be judicially noticed.

(4) Powers

To carry out the purposes of the Foundation, the Foundation shall have, in addition to powers otherwise authorized by this section, the usual powers of a not-for-profit corporation in the District of Columbia, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, absolutely or in trust, of real or personal property, or any income from, or other interest in, the property;

(B) to acquire by donation, gift, devise, purchase, or exchange, and to dispose of, any real or personal property or interest in the property;

(C) to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property, unless limited by the instrument of transfer;

(D) to borrow money and issue bonds, debentures, or other debt instruments;

(E) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be held personally liable, except in a case of gross negligence;

(F)(i) to enter into contracts or other agreements with public agencies, private organizations, and persons; and

(ii) to make such payments as may be necessary to carry out the purposes of the contracts or agreements; and

(G) to carry out any activity necessary and proper to advance the purposes of the Foundation.

(5) Real property

(A) In general

For purposes of this section, an interest in real property shall include mineral and water rights, rights-of-way, and easements, appurtenant or in gross.

(B) Acceptance

A gift, devise, or bequest of real property may be accepted by the Foundation, regardless of whether the property is encumbered, restricted, or subject to beneficial interests of a private person, if any current or future interest in the property is for the benefit of the Foundation.

(C) Declining gifts

The Foundation may, at the discretion of the Foundation, decline any gift, devise, or bequest of real property.

(D) Prohibition on condemnation

No land, water, or interest in land or water, that is owned by the Foundation shall be subject to condemnation by any State, political subdivision of a State, or agent or instrumentality of a State or political subdivision of a State.

(e) Administrative services and support

(1) Funding

(A) In general

For the purposes of assisting the Foundation in establishing an office and meeting initial administrative, project, and other expenses, the Secretary may provide to the Foundation, from funds appropriated under subsection (j), such sums as are necessary for fiscal years 2017 and 2018.

(B) Availability of funds

Funds made available under subparagraph (A) shall remain available to the Foundation until expended for authorized purposes.

(2) Administrative expenses

(A) In general

The Secretary may provide to the Foundation personnel, facilities, equipment, and other administrative services, subject to such limitations, terms, and conditions as the Secretary may establish.

(B) Reimbursement

The Foundation may reimburse the Secretary for any support provided under subparagraph (A), in whole or in part, and any reimbursement received by the Secretary under this subparagraph shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing the services.

(f) Volunteers

The Secretary may accept, without regard to the civil service classification laws (including regulations), the services of the Foundation, the Board, and the officers, employees, and agents of the Foundation, without compensation from the Department of the Interior, as volunteers for the performance of the functions under section 1737(d) of this title.

(g) Audits and report requirements**(1) Audits**

For purposes of section 10101 of title 36, the Foundation shall be considered to be a private corporation established under Federal law.

(2) Annual reports

At the end of each fiscal year, the Board shall submit to Congress a report that describes the proceedings and activities of the Foundation during that fiscal year, including a full and complete statement of the receipts, expenditures, and investments.

(h) United States release from liability**(1) In general**

The United States shall not be liable for any debt, default, act, or omission of the Foundation.

(2) Full faith and credit

The full faith and credit of the United States shall not extend to any obligation of the Foundation.

(i) Limitation on authority

Nothing in this section authorizes the Foundation to perform any function the authority for which is provided to the Bureau of Land Management under any other provision of law.

(j) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 115-31, div. G, title I, §122, May 5, 2017, 131 Stat. 463.)

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2017, and also as part of the Consolidated Appropriations Act, 2017, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

SUBCHAPTER IV—RANGE MANAGEMENT

§ 1751. Grazing fees; feasibility study; contents; submission of report; annual distribution and use of range betterment funds; nature of distributions

(a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be

conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after October 21, 1976, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after October 21, 1976, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or \$10,000,000 per annum, whichever is greater of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d),¹ and on lands in National Forests in the sixteen contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a

¹ See References in Text note below.