

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. 2150

To prevent catastrophic wildland fires by establishing a commission to study and recommend wildland fire prevention, mitigation, suppression, management, and rehabilitation policies for the Federal Government, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. ROMNEY

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildland Fire Mitiga-
5 tion and Management Commission Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **APPROPRIATE COMMITTEES OF CON-**
9 **GRESS.**—The term “appropriate committees of Con-
10 gress” means—

1 (A) the Committee on Energy and Natural
2 Resources of the Senate;

3 (B) the Committee on Agriculture, Nutri-
4 tion, and Forestry of the Senate;

5 (C) the Committee on Homeland Security
6 and Governmental Affairs of the Senate;

7 (D) the Committee on Appropriations of
8 the Senate;

9 (E) the Committee on Environment and
10 Public Works of the Senate;

11 (F) the Committee on Natural Resources
12 of the House of Representatives;

13 (G) the Committee on Agriculture of the
14 House of Representatives;

15 (H) the Committee on Homeland Security
16 of the House of Representatives;

17 (I) the Committee on Appropriations of the
18 House of Representatives;

19 (J) the Committee on Ways and Means of
20 the House of Representatives; and

21 (K) the Committee on Natural Resources
22 of the House of Representatives.

23 (2) COMMISSION.—The term “Commission”
24 means the commission established under section
25 3(a).

1 (3) HIGH-RISK INDIAN TRIBAL GOVERNMENT.—

2 The term “high-risk Indian tribal government”
3 means an Indian tribal government, during not
4 fewer than 4 of the 5 years preceding the date of en-
5 actment of this Act—

6 (A) that received fire management assist-
7 ance under section 420 of the Robert T. Staf-
8 ford Disaster Relief and Emergency Assistance
9 Act (42 U.S.C. 5187); or

10 (B) land of which included an area for
11 which the President declared a major disaster
12 for fire in accordance with section 401 of that
13 Act (42 U.S.C. 5170).

14 (4) HIGH-RISK STATE.—The term “high-risk
15 State” means a State that, during not fewer than 4
16 of the 5 years preceding the date of enactment of
17 this Act—

18 (A) received fire management assistance
19 under section 420 of the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act
21 (42 U.S.C. 5187); or

22 (B) included an area for which the Presi-
23 dent declared a major disaster for fire in ac-
24 cordance with section 401 of that Act (42
25 U.S.C. 5170).

1 (5) INDIAN TRIBAL GOVERNMENT.—The term
2 “Indian tribal government” has the meaning given
3 the term in section 102 of the Robert T. Stafford
4 Disaster Relief and Emergency Assistance Act (42
5 U.S.C. 5122).

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

8 (A) the Secretary of the Interior;

9 (B) the Secretary of Agriculture; and

10 (C) the Secretary of Homeland Security,
11 acting through the Administrator of the Federal
12 Emergency Management Agency.

13 (7) STATE.—The term “State” has the mean-
14 ing given the term in section 102 of the Robert T.
15 Stafford Disaster Relief and Emergency Assistance
16 Act (42 U.S.C. 5122).

17 (8) WILDLAND-URBAN INTERFACE.—The term
18 “wildland-urban interface” has the meaning given
19 the term in section 101 of the Healthy Forests Res-
20 toration Act of 2003 (16 U.S.C. 6511).

21 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

22 (a) ESTABLISHMENT.—Not later than 30 days after
23 the date of enactment of this Act, the Secretaries shall
24 jointly establish a commission to study and make rec-
25 ommendations to improve Federal policies relating to—

1 (ii) a representative of or liaison to
2 the Mitigation Framework Leadership
3 Group of the Federal Emergency Manage-
4 ment Agency;

5 (iii) a representative to the National
6 Interagency Coordination Center, which is
7 part of the National Wildfire Coordination
8 Group;

9 (iv) a representative from 1 of the co-
10 ordinating agencies of the Recovery Sup-
11 port Function Leadership Group; and

12 (v) if the Secretaries determine it to
13 be appropriate, a representative of any
14 other Federal department or agency, such
15 as the Department of Energy, the Environ-
16 mental Protection Agency, or the Depart-
17 ment of Defense; and

18 (C) 18 non-Federal stakeholders with ex-
19 pertise in wildland fire preparedness, mitiga-
20 tion, suppression, or management, who collec-
21 tively have a combination of backgrounds, expe-
22 riences, and viewpoints and are representative
23 of rural, urban, and suburban areas, to be ap-
24 pointed by the Secretaries, including—

1 (i) not fewer than 1 State hazard
2 mitigation officer of a high-risk State (or
3 a designee);

4 (ii) with preference given to represent-
5 atives from high-risk States and high-risk
6 Indian tribal governments, not fewer than
7 1 representative from each of—

8 (I) a State department of natural
9 resources, forestry, or agriculture or a
10 similar State agency;

11 (II) a State department of energy
12 or a similar State agency;

13 (III) a county government, with
14 preference given to counties at least a
15 portion of which is in the wildland-
16 urban interface; and

17 (IV) a municipal government,
18 with preference given to municipalities
19 at least a portion of which is in the
20 wildland-urban interface;

21 (iii) with preference given to rep-
22 resentatives from high-risk States and
23 high-risk Indian tribal governments, not
24 fewer than 1 representative from each of—

25 (I) the public utility industry;

1 (II) the property development in-
2 dustry;

3 (III) Indian tribal governments;

4 (IV) wildland firefighters; and

5 (V) an organization—

6 (aa) described in section
7 501(c)(3) of the Internal Rev-
8 enue Code of 1986 and exempt
9 from taxation under section
10 501(a) of that Code; and

11 (bb) with expertise in forest
12 management and environmental
13 conservation;

14 (iv) not greater than 2 other appro-
15 priate non-Federal stakeholders, which
16 may include the private sector; and

17 (v) any other appropriate non-Federal
18 stakeholders, which may include the pri-
19 vate sector, with preference given to non-
20 Federal stakeholders from high-risk States
21 and high-risk Indian tribal governments.

22 (2) STATE LIMITATION.—Each member of the
23 Commission appointed under clauses (i) and (ii) of
24 paragraph (1)(C) shall represent a different State.

1 (3) DATE.—The appointments of the members
2 of the Commission shall be made not later than 60
3 days after the date of enactment of this Act.

4 (c) PERIOD OF APPOINTMENT; VACANCIES.—

5 (1) IN GENERAL.—A member of the Commis-
6 sion shall be appointed for the life of the Commis-
7 sion.

8 (2) VACANCIES.—A vacancy in the Commis-
9 sion—

10 (A) shall not affect the powers of the Com-
11 mission; and

12 (B) shall be filled in the same manner as
13 the original appointment.

14 (d) MEETINGS.—

15 (1) INITIAL MEETING.—Not later than 30 days
16 after the date on which all members of the Commis-
17 sion have been appointed, the Commission shall hold
18 the first meeting of the Commission.

19 (2) FREQUENCY.—The Commission shall meet
20 not less frequently than once every 30 days.

21 (3) TYPE.—The Commission may hold meet-
22 ings, and a member of the Commission may partici-
23 pate in a meeting, remotely through teleconference,
24 video conference, or similar means.

1 (4) QUORUM.—A majority of the members of
2 the Commission shall constitute a quorum, but a
3 lesser number of members may hold hearings.

4 **SEC. 4. DUTIES OF COMMISSION.**

5 (a) REPORT ON RECOMMENDATIONS TO MITIGATE
6 AND MANAGE WILDLAND FIRES.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of the first meeting of the Commission, the
9 Commission shall submit to the appropriate commit-
10 tees of Congress a report describing recommenda-
11 tions to prevent, mitigate, suppress, and manage
12 wildland fires, including—

13 (A) policy recommendations, including rec-
14 ommendations—

15 (i) to maximize the protection of
16 human life, community water supplies,
17 homes, and other essential structures,
18 which may include recommendations to ex-
19 pand the use of initial attack strategies;

20 (ii) to facilitate efficient short- and
21 long-term forest management in residential
22 and nonresidential at-risk areas, which
23 may include a review of community wildfire
24 protection plans;

1 (iii) to manage the wildland-urban
2 interface;

3 (iv) to manage utility corridors;

4 (v) to rehabilitate land devastated by
5 wildland fire; and

6 (vi) to improve the capacity of the
7 Secretary of Agriculture and the Secretary
8 of the Interior to conduct hazardous fuels
9 reduction projects;

10 (B) policy recommendations described in
11 subparagraph (A) with respect to any rec-
12 ommendations for—

13 (i) categorical exclusions from the re-
14 quirement to prepare an environmental im-
15 pact statement or analysis under the Na-
16 tional Environmental Policy Act of 1969
17 (42 U.S.C. 4321 et seq.); or

18 (ii) additional staffing or resources
19 that may be necessary to more expedi-
20 tiously prepare an environmental impact
21 statement or analysis under that Act;

22 (C) policy recommendations for modern-
23 izing and expanding the use of technology, in-
24 cluding satellite technology, remote sensing, un-
25 manned aircraft systems, and any other type of

1 emerging technology, to prevent, mitigate, sup-
2 press, and manage wildland fires, including any
3 recommendations with respect to—

4 (i) the implementation of section 1114
5 of the John D. Dingell, Jr. Conservation,
6 Management, and Recreation Act (43
7 U.S.C. 1748b–1); or

8 (ii) improving early wildland fire de-
9 tection;

10 (D) an assessment of Federal spending on
11 wildland fire-related disaster management, in-
12 cluding—

13 (i) a description and assessment of
14 Federal grant programs for States and
15 units of local government for pre- and
16 post-wildland fire disaster mitigation and
17 recovery, including—

18 (I) the amount of funding pro-
19 vided under each program;

20 (II) the effectiveness of each pro-
21 gram with respect to long-term forest
22 management and maintenance; and

23 (III) recommendations to im-
24 prove the effectiveness of each pro-
25 gram, including with respect to—

1 (aa) the conditions on the
2 use of funds received under the
3 program; and

4 (bb) the extent to which ad-
5 ditional funds are necessary for
6 the program;

7 (ii) an evaluation, including rec-
8 ommendations to improve the effectiveness
9 in mitigating wildland fires, which may in-
10 clude authorizing prescribed fires, of—

11 (I) the Building Resilient Infra-
12 structure and Communities program
13 under section 203 of the Robert T.
14 Stafford Disaster Relief and Emer-
15 gency Assistance Act (42 U.S.C.
16 5133);

17 (II) the Pre-Disaster Mitigation
18 program under that section (42
19 U.S.C. 5133);

20 (III) the Hazard Mitigation
21 Grant Program under section 404 of
22 that Act (42 U.S.C. 5170c);

23 (IV) Hazard Mitigation Grant
24 Program post-fire assistance under

1 sections 404 and 420 of that Act (42
2 U.S.C. 5170c, 5187); and

3 (V) such other programs as the
4 Commission determines to be appro-
5 priate;

6 (iii) an assessment of the definition of
7 “small impoverished community” under
8 section 203(a) of the Robert T. Stafford
9 Disaster Relief and Emergency Assistance
10 Act (42 U.S.C. 5133(a)), specifically—

11 (I) the exclusion of the percent-
12 age of land owned by an entity other
13 than a State or unit of local govern-
14 ment; and

15 (II) any related economic impact
16 of that exclusion; and

17 (iv) recommendations for Federal
18 budgeting for wildland fires and post-wild-
19 fire recovery;

20 (E) any recommendations for matters
21 under subparagraph (A), (B), (C), or (D) spe-
22 cific to—

23 (i) forest type, vegetation type, or for-
24 est and vegetation type; or

1 (ii) State land, Tribal land, or private
2 land;

3 (F)(i) a review of the national strategy de-
4 scribed in the report entitled “The National
5 Strategy: The Final Phase in the Development
6 of the National Cohesive Wildland Fire Man-
7 agement Strategy” and dated April 2014; and

8 (ii) any recommendations for changes to
9 that national strategy to improve its effective-
10 ness; and

11 (G)(i) an evaluation of coordination of re-
12 sponse to, and suppression of, wildfires occur-
13 ring on Federal, Tribal, State, and local land
14 among Federal, Tribal, State, and local agen-
15 cies with jurisdiction over that land; and

16 (ii) any recommendations to improve the
17 coordination described in clause (i).

18 (2) SPECIFIC POLICY RECOMMENDATIONS.—To
19 the maximum extent practicable, the report de-
20 scribed in paragraph (1) shall include detailed short-
21 and long-term policy recommendations, including
22 any recommendations for Federal legislation.

23 (3) INTERIM REPORTS.—Before the submission
24 of the report under paragraph (1), on approval of all
25 members of the Commission, the Commission may

1 submit to the appropriate committees of Congress 1
2 or more interim reports, as the Commission deter-
3 mines to be appropriate, relating to any matters de-
4 scribed in paragraph (1).

5 (b) REPORT ON AERIAL WILDLAND FIREFIGHTING
6 EQUIPMENT STRATEGY AND INVENTORY ASSESSMENT.—

7 (1) SUBMISSION OF INVENTORY TO THE COM-
8 MISSION.—Not later than 45 days after the date on
9 which the Commission holds the first meeting of the
10 Commission, the Secretary of Defense and the heads
11 of other relevant Federal departments and agencies
12 shall submit to the Commission an inventory of sur-
13 plus cargo and passenger aircraft and excess com-
14 mon-use aircraft parts that may be used for wildland
15 firefighting purposes, excluding any aircraft or air-
16 craft parts that are—

17 (A) reasonably anticipated to be necessary
18 for military operations, readiness, or fleet man-
19 agement in the future; or

20 (B) already obligated for purposes other
21 than fighting wildland fires.

22 (2) SUBMISSION OF REPORT TO CONGRESS.—
23 Not later than 90 days after the date on which the
24 Commission receives the inventory described in para-
25 graph (1), the Commission shall submit to the ap-

1 appropriate committees of Congress a report outlining
2 a strategy to meet aerial firefighting equipment
3 needs through 2030 in the most cost-effective man-
4 ner, including—

5 (A) an assessment of the expected number
6 of aircraft and aircraft parts needed to fight
7 wildland fires through 2030;

8 (B) an assessment of existing authorities
9 of the Secretary of Defense and the heads of
10 other relevant Federal departments and agen-
11 cies to provide or sell surplus aircraft or air-
12 craft parts to Federal, State, or local authori-
13 ties for wildland firefighting use, including—

14 (i) a description of the current use of
15 each existing authority; and

16 (ii) a description of any additional au-
17 thorities that are needed for the Secretary
18 of Defense and the heads of other relevant
19 Federal departments and agencies to pro-
20 vide or sell surplus aircraft or aircraft
21 parts to Federal, State, or local authorities
22 for wildland firefighting use; and

23 (C) recommendations to ensure the avail-
24 ability of aircraft and aircraft parts that the
25 Commission expects will be necessary to fight

1 wildland fires through 2030 in the most cost-ef-
2 fective manner.

3 (3) CONSIDERATIONS FOR ACCESSING AIRCRAFT
4 AND AIRCRAFT PARTS.—In developing the strategy
5 in the report required under paragraph (2) and the
6 recommendations under paragraph (2)(C), the Com-
7 mission shall consider all private and public sector
8 options for accessing necessary aircraft and aircraft
9 parts, including procurement, contracting, retro-
10 fitting, and public-private partnerships.

11 (4) UNCLASSIFIED REPORT.—The inventory
12 and report submitted under paragraphs (1) and (2),
13 respectively—

14 (A) shall be unclassified; but

15 (B) may include a classified annex.

16 (c) MAJORITY REQUIREMENT.—Not less than $\frac{2}{3}$ of
17 the members of the Commission shall approve the rec-
18 ommendations contained in each report submitted under
19 subsection (a) or (b)(2).

20 **SEC. 5. POWERS OF COMMISSION.**

21 (a) HEARINGS.—The Commission may hold such
22 hearings, sit and act at such times and places, take such
23 testimony, and receive such evidence as the Commission
24 considers advisable to carry out this Act.

25 (b) INFORMATION FROM FEDERAL AGENCIES.—

1 (1) IN GENERAL.—The Commission may secure
2 directly from a Federal department or agency such
3 information as the Commission considers necessary
4 to carry out this Act.

5 (2) FURNISHING INFORMATION.—On request of
6 the Chairpersons of the Commission, the head of the
7 department or agency shall furnish the information
8 to the Commission.

9 (c) POSTAL SERVICES.—The Commission may use
10 the United States mails in the same manner and under
11 the same conditions as other departments and agencies of
12 the Federal Government.

13 (d) GIFTS.—The Commission may accept, use, and
14 dispose of such gifts or donations of services or property
15 as the Commission considers necessary to carry out this
16 Act.

17 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

18 (a) NO COMPENSATION.—A member of the Commis-
19 sion shall serve without compensation.

20 (b) TRAVEL EXPENSES.—A member of the Commis-
21 sion shall be allowed travel expenses, including per diem
22 in lieu of subsistence, at rates authorized for employees
23 of agencies under subchapter I of chapter 57 of title 5,
24 United States Code, while away from their homes or reg-

1 ular places of business in the performance of services for
2 the Commission.

3 (c) STAFF.—

4 (1) IN GENERAL.—The Chairpersons of the
5 Commission may, without regard to the civil service
6 laws (including regulations), appoint and terminate
7 an executive director and such other additional per-
8 sonnel as may be necessary to enable the Commis-
9 sion to perform its duties, except that the employ-
10 ment of an executive director shall be subject to con-
11 firmation by the Commission.

12 (2) COMPENSATION.—The Chairpersons of the
13 Commission may fix the compensation of the execu-
14 tive director and other personnel without regard to
15 chapter 51 and subchapter III of chapter 53 of title
16 5, United States Code, relating to classification of
17 positions and General Schedule pay rates, except
18 that the rate of pay for the executive director and
19 other personnel may not exceed the rate payable for
20 level V of the Executive Schedule under section 5316
21 of that title.

22 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-
23 eral Government employee may be detailed to the Commis-
24 sion without reimbursement, and such detail shall be with-
25 out interruption or loss of civil service status or privilege.

1 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
2 TENT SERVICES.—The Chairpersons of the Commission
3 may procure temporary and intermittent services under
4 section 3109(b) of title 5, United States Code, at rates
5 for individuals that do not exceed the daily equivalent of
6 the annual rate of basic pay prescribed for level V of the
7 Executive Schedule under section 5316 of that title.

8 **SEC. 7. TERMINATION OF COMMISSION.**

9 The Commission shall terminate on the date that is
10 180 days after the date on which the Commission has sub-
11 mitted the reports under subsections (a) and (b) of section
12 4.