

118TH CONGRESS
1ST SESSION

S. 540

To establish an Outdoor Restoration Fund for restoration and resilience projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2023

Mr. BENNET (for himself, Mr. HICKENLOOPER, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To establish an Outdoor Restoration Fund for restoration and resilience projects, 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.**

4 This Act may be cited as the “Protect the West Act
5 of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COUNCIL.—The term “Council” means the
9 Restoration Fund Advisory Council established by
10 section 4(a).

1 (2) COVERED AUTHORITY.—The term “covered
2 authority” means—

3 (A) the good neighbor authority estab-
4 lished by section 8206 of the Agricultural Act
5 of 2014 (16 U.S.C. 2113a);

6 (B) the Water Source Protection Program
7 under section 303 of the Healthy Forests Res-
8 toration Act of 2003 (16 U.S.C. 6542);

9 (C) the Watershed Condition Framework
10 established under section 304 of the Healthy
11 Forests Restoration Act of 2003 (16 U.S.C.
12 6543);

13 (D) the stewardship end result contracting
14 program under section 604 of the Healthy For-
15 ests Restoration Act of 2003 (16 U.S.C.
16 6591c);

17 (E) the Cooperative Forestry Assistance
18 Act of 1978 (16 U.S.C. 2101 et seq.);

19 (F) the Joint Chiefs’ Landscape Restora-
20 tion Partnership program;

21 (G) the Watershed Protection and Flood
22 Prevention Act (16 U.S.C. 1001 et seq.);

23 (H) the emergency watershed protection
24 program established under section 403 of the

1 Agricultural Credit Act of 1978 (16 U.S.C.
2 2203);

3 (I) the Collaborative Forest Landscape
4 Restoration Program established under section
5 4003 of Public Law 111–11 (16 U.S.C. 7303);

6 (J) the legacy roads and trails program of
7 the Department of Agriculture;

8 (K) the working lands for wildlife program
9 of the Department of Agriculture; and

10 (L) a conservation program under title XII
11 of the Food Security Act of 1985 (16 U.S.C.
12 3801 et seq.), including the Regional Conserva-
13 tion Partnership program under subtitle I of
14 that title (16 U.S.C. 3871 et seq.).

15 (3) ECOLOGICAL INTEGRITY.—The term “eco-
16 logical integrity” has the meaning given the term in
17 section 219.19 of title 36, Code of Federal Regula-
18 tions (as in effect on the date of enactment of this
19 Act).

20 (4) ELIGIBLE ENTITY.—The term “eligible enti-
21 ty” means—

22 (A) a State agency;

23 (B) a unit of local government;

24 (C) a Tribal government;

1 (D) a regional government or quasi-govern-
2 mental organization;

3 (E) a special district; or

4 (F) a nonprofit organization.

5 (5) FUND.—The term “Fund” means the Out-
6 door and Watershed Restoration Fund established
7 by section 3(a).

8 (6) GRANT PROGRAM.—The term “grant pro-
9 gram” means the restoration and resilience grant
10 program established by section 5(b).

11 (7) RESTORATION.—The term “restoration”
12 has the meaning given the term in section 219.19 of
13 title 36, Code of Federal Regulations (as in effect on
14 the date of enactment of this Act).

15 (8) RESTORATION AND RESILIENCE
16 PROJECT.—The term “restoration and resilience
17 project” means a project carried out on Federal
18 land, non-Federal land, or both, that is designed in
19 accordance with the best available science to conduct
20 restoration that measurably improves—

21 (A) forest conditions;

22 (B) rangeland and native grassland health;

23 (C) watershed function; or

24 (D) wildlife habitat.

1 (9) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 (10) WILDLAND-URBAN INTERFACE.—The term
4 “wildland-urban interface” has the meaning given
5 the term in section 101 of the Healthy Forests Res-
6 toration Act of 2003 (16 U.S.C. 6511).

7 **SEC. 3. OUTDOOR AND WATERSHED RESTORATION FUND.**

8 (a) ESTABLISHMENT.—There is established in the
9 Treasury an Outdoor and Watershed Restoration Fund.

10 (b) PURPOSE.—The purpose of the Fund is to pro-
11 vide funding for the grant program and the Restoration
12 and Resilience Partnership Program under section 6.

13 (c) USE.—Amounts in the Fund shall be used by the
14 Secretary through a transparent process—

15 (1) in coordination with the Council, to carry
16 out the grant program; and

17 (2) to carry out the Restoration and Resilience
18 Partnership Program under section 6.

19 (d) SAVINGS PROVISIONS.—

20 (1) COMPLEMENTARY PROGRAMS.—Activities
21 carried out under this Act shall complement, not du-
22 plicate or replace, existing Federal conservation, res-
23 toration, and resilience programs.

24 (2) APPLICABLE LAW.—A restoration and resil-
25 ience project on Federal land or non-Federal land

1 developed or implemented using amounts provided
2 under this Act shall be carried out in accordance
3 with applicable law and available authorities.

4 (e) SUPPLEMENT, NOT SUPPLANT.—Amounts pro-
5 vided under this Act shall supplement, not supplant, any
6 Federal, State, or other funds otherwise made available
7 to an eligible entity for activities described in this Act.

8 (f) INTERAGENCY FLEXIBILITY AND LEVERAGE.—To
9 facilitate interagency cooperation and enhance the speed
10 and scale of results of activities carried out using amounts
11 in the Fund—

12 (1) matching funds or cost-sharing require-
13 ments of a covered authority may be satisfied
14 through the contribution of funding from—

15 (A) 1 or more other covered authorities; or

16 (B) funds appropriated under section 8;

17 and

18 (2) the Secretary shall modify, expand, or
19 streamline eligibility and verification criteria for cov-
20 ered authorities to maximize flexibility, speed, and
21 use of Federal funds in the most effective manner
22 to achieve outcomes of activities using amounts in
23 the Fund.

24 (g) PAY-FOR-PERFORMANCE CONTRACT AUTHOR-
25 ITY.—In using amounts in the Fund, the Secretary may

1 use a contract, grant agreement, or fixed amount award
2 to purchase successfully implemented restoration and re-
3 silience project outcomes from qualifying projects, as de-
4 termined by the Secretary, at a negotiated per-unit price.

5 (h) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

6 (1) IN GENERAL.—The Secretary of the Treas-
7 ury, or a designee, may establish in the Treasury an
8 account to accept contributions of non-Federal funds
9 for the Fund.

10 (2) DEPOSIT AND USE OF CONTRIBUTIONS.—

11 Contributions of non-Federal funds received for the
12 Fund shall be—

13 (A) deposited into the account established
14 under paragraph (1); and

15 (B) available to the Secretary, without fur-
16 ther appropriation and until expended, to carry
17 out activities described in subsection (c).

18 (i) OVERSIGHT.—Not later than 1 year after the date
19 of enactment of this Act, and annually thereafter, the In-
20 spector General of the Department of Agriculture shall
21 prepare and submit to the Committees on Agriculture,
22 Nutrition, and Forestry and Appropriations of the Senate
23 and the Committees on Agriculture, Natural Resources,
24 and Appropriations of the House of Representatives a re-

1 port describing the use, and any abuse or misuse, as appli-
 2 cable, of the Fund by the Secretary with respect to—

- 3 (1) the grant program; and
- 4 (2) the Restoration and Resilience Partnership
 5 Program established by section 6.

6 **SEC. 4. RESTORATION FUND ADVISORY COUNCIL.**

7 (a) ESTABLISHMENT.—There is established a Res-
 8 toration Fund Advisory Council to provide recommenda-
 9 tions to the Secretary with respect to—

- 10 (1) the disbursement of amounts from the
 11 Fund for the grant program;
- 12 (2) priority-setting for landscapes; and
- 13 (3) evaluation and monitoring for restoration
 14 and resilience project success.

15 (b) MEMBERSHIP.—The Council shall be composed
 16 of—

- 17 (1) the Secretary;
- 18 (2) 12 members, to be appointed by the Sec-
 19 retary, of whom—

20 (A) 3 shall be representatives from re-
 21 source-dependent industries, including the agri-
 22 culture, oil and gas, outdoor recreation, or for-
 23 est products industries;

24 (B) 3 shall be national experts from each
 25 of the fields of natural resource restoration,

1 economic development, and community and cli-
2 mate resilience;

3 (C) 3 shall be representatives of conserva-
4 tion, wildlife, or watershed organizations;

5 (D) 1 shall be a representative of State
6 government;

7 (E) 1 shall be a representative of a unit of
8 local government; and

9 (F) 1 shall be a representative of a Tribal
10 government; and

11 (3) as determined to be necessary by the Sec-
12 retary, not more than 3 representatives from other
13 Federal agencies.

14 (c) REPORT.—Not later than 1 year after the date
15 of enactment of this Act, and annually thereafter, the Sec-
16 retary, in consultation with the Council, shall submit to
17 the Committee on Agriculture, Nutrition, and Forestry
18 and the Committee on Appropriations of the Senate and
19 the Committee on Agriculture, the Committee on Natural
20 Resources, and the Committee on Appropriations of the
21 House of Representatives a report describing—

22 (1) the status of any restoration and resilience
23 projects that received amounts from the Fund, in-
24 cluding—

25 (A) environmental and climate benefits;

- 1 (B) restoration achievements;
- 2 (C) attainment of restoration and habitat
3 improvement objectives;
- 4 (D) jobs created and retained;
- 5 (E) the growth in outdoor industries that
6 provide capacity to carry out restoration and re-
7 siliance projects; and
- 8 (F) progress towards State-, Tribal-, and
9 community-level resilience goals; and
- 10 (2) recommendations to improve coordination,
11 align Federal, State, or Tribal resources or existing
12 authorities, and expand workforce capacity in out-
13 door industries that provide capacity to carry out
14 restoration and resilience projects through legislative
15 and administrative changes.

16 **SEC. 5. RESTORATION AND RESILIENCE GRANT PROGRAM.**

17 (a) PURPOSES.—The purposes of this section are—

18 (1) to increase the capacity for—

19 (A) planning, coordinating, and monitoring
20 restoration and resilience projects on non-Fed-
21 eral land; and

22 (B) providing support for collaboration and
23 monitoring on Federal land; and

24 (2) to support, on non-Federal land—

25 (A) restoration and resilience projects;

1 (B) efforts to improve wildfire resistive
2 construction and reduce risks within the home
3 ignition zone; and

4 (C) projects to expand equitable outdoor
5 access.

6 (b) ESTABLISHMENT.—There is established a res-
7 toration and resilience grant program, to be administered
8 by the Secretary, with the guidance of the Council, to pro-
9 vide grants or pay-for-performance contracts from the
10 Fund to eligible entities for the purposes described in sub-
11 section (a).

12 (c) REGIONAL COORDINATION.—The Secretary and
13 the Council shall, to the maximum extent practicable—

14 (1) seek input from and coordinate with State
15 or regional efforts, initiatives, and partnerships to
16 restore ecological integrity on Federal land and non-
17 Federal land; and

18 (2) complement or support existing State or re-
19 gional efforts, initiatives, and partnerships to restore
20 ecological integrity on Federal land and non-Federal
21 land.

22 (d) USE OF FUNDS.—

23 (1) IN GENERAL.—The Secretary shall use
24 amounts in the Fund to provide capacity grants or
25 pay-for-performance contracts under paragraph (2)

1 and implementation grants or pay-for-performance
2 contracts under paragraph (3).

3 (2) CAPACITY GRANTS.—

4 (A) IN GENERAL.—Capacity grants or pay-
5 for-performance contracts shall be made avail-
6 able to eligible entities for the purpose de-
7 scribed in subsection (a)(1).

8 (B) APPLICATION.—

9 (i) IN GENERAL.—A grant or pay-for-
10 performance contract under this paragraph
11 may only be made to an eligible entity that
12 submits to the Secretary an application at
13 such time, in such manner, and containing
14 or accompanied by such additional infor-
15 mation as the Secretary, in consultation
16 with the Council, may require, including
17 the information required under clause (ii).

18 (ii) CONTENTS.—An application sub-
19 mitted under clause (i) shall contain—

20 (I) a clear and concise expression
21 of interest;

22 (II) an explanation for how funds
23 would complement existing Federal
24 funds;

1 (III) a description of how the
2 proposed planning, coordinating, or
3 monitoring of restoration and resil-
4 ience projects would be carried out in
5 accordance with the best available eco-
6 logical restoration science; and

7 (IV) an estimate of the number
8 and duration of jobs that provide ca-
9 pacity to carry out restoration and re-
10 siliience projects that would be cre-
11 ated, or sustained, with the funds.

12 (C) CONDITION.—To the maximum extent
13 practicable, the Secretary shall provide grant-
14 writing training and mentoring opportunities
15 for lower-capacity, less collaborative experience,
16 or underserved communities and organizations
17 to help lower the barriers to participation in,
18 and create more inclusion in and opportunities
19 under, the grant program.

20 (3) IMPLEMENTATION GRANTS.—

21 (A) IN GENERAL.—Implementation grants
22 or pay-for-performance contracts shall be made
23 available to eligible entities for the purpose de-
24 scribed in subsection (a)(2).

1 (B) APPLICATION.—A grant or pay-for-
2 performance contract under this paragraph may
3 be made only to an eligible entity that submits
4 to the Secretary an application at such time, in
5 such manner, and containing or accompanied
6 by such information as the Secretary, in con-
7 sultation with the Council, may require.

8 (C) WAIVER.—The Secretary may waive
9 matching requirements under covered authori-
10 ties for applicants for grants or pay-for-per-
11 formance contracts under this paragraph rep-
12 resenting lower-capacity, less collaborative expe-
13 rience, or underserved communities and organi-
14 zations and rural communities.

15 (e) PRIORITY.—In carrying out the grant program,
16 the Secretary, in consultation with the Council, shall give
17 priority to projects that would—

18 (1) create or sustain jobs, employ local or re-
19 gional labor, or expand the outdoor workforce to
20 provide capacity to carry out restoration and resil-
21 ience projects or equitable outdoor access through
22 training and education programs;

23 (2) be developed through a collaborative proc-
24 ess, relying on the best available social ecological

1 restoration science, with multiple stakeholders rep-
2 resenting diverse interests;

3 (3) address shared priorities for Federal and
4 non-Federal partners;

5 (4) advance State, local, and Tribal plans relat-
6 ing to forests, water, wildlife, or equitable outdoor
7 access;

8 (5) utilize watershed data analytics to quantify,
9 prioritize, and measure expected outcomes from pro-
10 posed restoration activities;

11 (6) be carried out by or in lower-capacity, less
12 collaborative experience, or underserved communities
13 and organizations; or

14 (7) improve long-term economic security in the
15 geographic region through restoration and resilience
16 projects, equitable outdoor access, and the indirect
17 benefits of those projects and access, particularly in
18 geographic regions transitioning from fossil-fuel ex-
19 traction.

20 (f) AUTHORITIES.—Eligible entities may use existing
21 authorities when carrying out a restoration and resilience
22 project, including a covered authority.

23 **SEC. 6. RESTORATION AND RESILIENCE PARTNERSHIP**
24 **PROGRAM.**

25 (a) PURPOSES.—The purposes of this section are—

1 (1) to restore and improve the ecological integ-
2 rity of forest, grassland, and rangeland ecosystems
3 across the United States in partnership with State,
4 local, and Tribal governments;

5 (2) to create or sustain outdoor jobs by reduc-
6 ing the backlog of restoration and resilience projects
7 on Federal land and non-Federal land;

8 (3) to improve the resilience and carrying ca-
9 pacity of rangelands in the United States by pre-
10 venting or mitigating invasive species, such as cheat-
11 grass, that contribute to rangeland fire; and

12 (4) to reduce uncharacteristic wildfires in the
13 highest risk areas of the United States by carrying
14 out, in accordance with applicable law, restoration
15 and resilience projects.

16 (b) ESTABLISHMENT.—There is established a Res-
17 toration and Resilience Partnership Program, under which
18 the Secretary shall carry out restoration and resilience
19 projects in partnership areas designated under subsection
20 (c)(1).

21 (c) DESIGNATION OF PARTNERSHIP AREAS.—

22 (1) IN GENERAL.—Not later than 60 days after
23 the date of enactment of this Act, the Secretary
24 shall designate, for the purposes of carrying out res-
25 toration and resilience projects under subsection (e),

1 any areas of Federal land and non-Federal land that
2 the Secretary determines to be appropriate.

3 (2) SUBMISSION OF PARTNERSHIP AREAS BY
4 STATES AND TRIBES.—

5 (A) IN GENERAL.—The Governor of a
6 State or an authorized representative of an In-
7 dian Tribe may submit to the Secretary, in
8 writing, a request to designate certain Federal
9 land or non-Federal land in the State or Indian
10 Country, respectively, for restoration and resil-
11 ience projects under subsection (e).

12 (B) INCLUSIONS.—A written request sub-
13 mitted under subparagraph (A) may include 1
14 or more maps or recommendations.

15 (d) REQUIREMENTS.—To be eligible for designation
16 under subsection (c), an area shall—

17 (1) have a high or very high wildfire potential
18 as determined by—

19 (A) the map of the Forest Service entitled
20 “Wildfire Hazard Potential Version 2020”;

21 (B) any other mapping resource or data
22 source approved by the Secretary that depicts
23 the risk of wildfires; or

24 (C) fire-risk assessment resources or map-
25 ping tools maintained by the applicable State;

1 (2) have high-priority wildlife habitat urgently
2 in need of restoration, as determined by the Sec-
3 retary, in consultation with eligible entities and the
4 applicable Governor or representative of an Indian
5 Tribe; or

6 (3) in the case of Federal land, be in the
7 wildland-urban interface.

8 (e) RESTORATION AND RESILIENCE PROJECTS.—

9 (1) IN GENERAL.—Subject to paragraphs (2)
10 and (3), the Secretary shall carry out restoration
11 and resilience projects on land designated under sub-
12 section (c).

13 (2) PRIORITY.—The Secretary shall give pri-
14 ority to restoration and resilience projects that
15 would—

16 (A) focus on the reintroduction of char-
17 acteristic, low-intensity fire in frequent fire re-
18 gime ecosystems;

19 (B) reduce hazardous fuels by focusing on
20 small-diameter trees, thinning, and strategic
21 fuel breaks;

22 (C) maximize the retention of old and
23 large trees, as appropriate for the forest type;

24 (D) measurably improve habitat conditions
25 for at-risk wildlife;

1 (E) measurably improve water quality or
2 water quantity outcomes in waterways that flow
3 through and out of priority areas;

4 (F) establish plans for measuring project
5 success and environmental outcomes;

6 (G) promote community and homeowner
7 involvement in planning and implementing ac-
8 tions to mitigate the risk posed by wildfire in
9 the wildland-urban interface;

10 (H) emphasize proactive wildfire risk miti-
11 gation actions in the wildland-urban interface;
12 and

13 (I) increase fire adaption in communities
14 located within the wildland-urban interface.

15 (3) COORDINATION.—The Secretary shall carry
16 out restoration and resilience projects under this
17 subsection—

18 (A) on Federal land, in coordination with
19 the Secretary of the Interior, as applicable; and

20 (B) on non-Federal land, in coordination
21 with eligible entities and other relevant stake-
22 holders, as determined by the Secretary.

23 (4) REQUIREMENTS.—

1 (A) IN GENERAL.—A restoration and resil-
2 ience project shall be carried out in accordance
3 with—

4 (i) in the case of a restoration and re-
5 siliience project carried out on Federal
6 land, the management objectives of an ap-
7 plicable land or resource management plan;
8 and

9 (ii) applicable law.

10 (B) INCLUSIONS.—The Secretary may use
11 existing authorities when carrying out a res-
12 toration and resilience project on land des-
13 igned under subsection (c), including any cov-
14 ered authority.

15 (C) EXCLUSIONS.—A restoration and resil-
16 ience project may not be carried out—

17 (i) in a wilderness area or designated
18 wilderness study area;

19 (ii) to construct a permanent road or
20 trail;

21 (iii) on any Federal land on which, by
22 an Act of Congress or Presidential procla-
23 mation, the removal of vegetation is re-
24 stricted or prohibited;

1 (iv) in an inventoried roadless area or
2 comparable roadless area defined by a
3 State-specific rule; or

4 (v) to remove old growth stands (as
5 defined in section 102(e)(1) of the Healthy
6 Forests Restoration Act of 2003 (16
7 U.S.C. 6512(e)(1))).

8 **SEC. 7. OVERSIGHT.**

9 Not later than 60 days after the date of enactment
10 of this Act, the Secretary shall submit to Congress a re-
11 port that, with respect to funding made available by the
12 Infrastructure Investment and Jobs Act (Public Law 117–
13 58; 135 Stat. 429) or Public Law 117–169 (commonly
14 known as the “Inflation Reduction Act of 2022”) for pur-
15 poses of forestry—

16 (1) explains the methodology for priority land-
17 scapes set by the Secretary;

18 (2) describes the metrics the Secretary is using
19 for measuring performance and outcomes; and

20 (3) describes the allocation of funds to States,
21 forests, and Indian Tribes.

22 **SEC. 8. FUNDING.**

23 (a) IN GENERAL.—There is appropriated, out of any
24 money in the Treasury not otherwise appropriated,

1 \$60,000,000,000 for the Fund, to remain available until
2 expended, of which—

3 (1) \$20,000,000,000 shall be for the grant pro-
4 gram; and

5 (2) \$40,000,000,000 shall be for the Restora-
6 tion and Resilience Partnership Program under sec-
7 tion 6, of which not less than \$20,000,000,000 shall
8 be for the conduct of restoration and resilience
9 projects on Federal land under that section.

10 (b) WORKFORCE NEEDS AND EXPENSES.—Funds
11 made available under subsection (a)(2) shall be available
12 for staffing, salary, and other workforce needs and ex-
13 penses relating to the administration of the Restoration
14 and Resilience Partnership Program under section 6.

○