

117TH CONGRESS
1ST SESSION

H. R. 5560

To make improvements to the role of the Department of Defense in responding to domestic emergencies, including wildfires.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2021

Mr. GARAMENDI (for himself, Ms. JACOBS of California, and Mr. CARBAJAL) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on Agriculture, Transportation and Infrastructure, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make improvements to the role of the Department of Defense in responding to domestic emergencies, including wildfires.

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 “Military Support for
5 Fighting Wildfires Act”.

1 **SEC. 2. REQUIREMENT OF SECRETARY OF DEFENSE TO RE-**
2 **IMBURSE STATE COSTS OF FIGHTING CER-**
3 **TAIN WILDLAND FIRES.**

4 Section 2691(d) of title 10, United States Code, is
5 amended by striking “may” and inserting “shall”.

6 **SEC. 3. AUTHORIZATION FOR FIREGUARD PROGRAM.**

7 (a) **AUTHORITY.**—Chapter 5 of title 32, United
8 States Code, is amended by adding at the end the fol-
9 lowing new section:

10 **“§ 510. Authorization for FireGuard Program**

11 “(a) **AUTHORIZATION.**—The Secretary of Defense
12 may use members of the National Guard to carry out a
13 program to aggregate, analyze, and assess multi-source re-
14 mote sensing information for interagency partnerships in
15 the detection and monitoring of wildfires, and to support
16 any emergency response to such wildfires. Such a program
17 shall be known as the ‘FireGuard Program’.

18 “(b) **RESOURCES; LIMITATION.**—If the Secretary
19 carries out a program under this section, the Secretary—

20 “(1) shall transfer the functions, personnel, as-
21 sets, and capabilities of the FireGuard Program, in
22 existence on the day before the date of enactment of
23 the Military Support for Fighting Wildfires Act, to
24 the FireGuard Program authorized under this sec-
25 tion;

1 “(2) may direct the Director of the National
 2 Geospatial-Intelligence Agency to provide such as-
 3 sistance as the Secretary determines necessary to
 4 carry out the FireGuard Program; and

5 “(3) may not reduce support, or transfer re-
 6 sponsibility for support to an interagency partner,
 7 for the FireGuard Program authorized under this
 8 section.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of such chapter is amended by adding
 11 at the end the following new item:

“510. Authorization for FireGuard Program.”.

12 **SEC. 4. AMENDMENT TO BUDGETING OF DEPARTMENT OF**
 13 **DEFENSE RELATING TO EXTREME WEATHER.**

14 Section 328(a) of the National Defense Authorization
 15 Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C.
 16 221 note) is amended—

17 (1) in paragraph (1), by striking “; and” and
 18 inserting a semicolon;

19 (2) in paragraph (2), by striking the period at
 20 the end and inserting “; and”; and

21 (3) by inserting after paragraph (2) the fol-
 22 lowing:

23 “(3) a calculation of the annual costs to the
 24 Department for assistance provided to—

1 “(A) the Federal Emergency Management
2 Agency or Federal land management agencies—

3 “(i) pursuant to requests for such as-
4 sistance; and

5 “(ii) approved under the National
6 Interagency Fire Center; and

7 “(B) any State, Territory, or possession
8 under title 10 or title 32, United States Code,
9 regarding extreme weather.”.

10 **SEC. 5. EXPANDED CONSULTATION IN TRAINING OF NA-**
11 **TIONAL GUARD PERSONNEL ON WILDFIRE**
12 **RESPONSE.**

13 Section 351 of the National Defense Authorization
14 Act for Fiscal Year 2018 (Public Law 115–91) is amended
15 by inserting “and the National Interagency Fire Center”
16 after “Bureau”.

17 **SEC. 6. TRANSFER OF AIRCRAFT TO OTHER DEPARTMENTS**
18 **FOR WILDFIRE SUPPRESSION AND OTHER**
19 **PURPOSES.**

20 Section 1098 of the National Defense Authorization
21 Act for Fiscal Year 2014 (Public Law 113–66) is amend-
22 ed—

23 (1) by striking subparagraph (C) of subsection
24 (a)(1); and

25 (2) in subsection (c)—

1 (A) in paragraph (1), by striking “pur-
 2 poses;” and inserting “purposes, search and
 3 rescue, or emergency operations pertaining to
 4 wildfires; and”;

5 (B) in paragraph (2), by striking “; and”
 6 and inserting a period; and

7 (C) by striking paragraph (3).

8 **SEC. 7. TRANSFER OF EXCESS AIRCRAFT TO OTHER DE-**
 9 **PARTMENTS OF THE FEDERAL GOVERN-**
 10 **MENT.**

11 Section 1091 of the National Defense Authorization
 12 Act for Fiscal Year 2013 (Public Law 112–239; 10 U.S.C.
 13 2576 note) is amended—

14 (1) by striking subsections (c) and (e) and re-
 15 designating subsections (d), (f), and (g) as sub-
 16 sections (c), (d), and (e), respectively;

17 (2) in subsection (c), as redesignated—

18 (A) in paragraph (1), by striking “up to
 19 seven”; and

20 (B) by amending paragraph (2) to read as
 21 follows:

22 “(2) EXPIRATION OF RIGHT OF REFUSAL.—A
 23 right of refusal afforded the Secretary of Agriculture
 24 or the Secretary of Homeland Security under para-
 25 graph (1) with regards to an aircraft shall expire

1 upon official notice of such Secretary to the Sec-
2 retary of Defense that such Secretary declines such
3 aircraft.”;

4 (3) in subsection (d), as redesignated—

5 (A) in paragraph (1), by inserting “,
6 search and rescue, or emergency operations per-
7 taining to wildfires” after “purposes”; and

8 (B) in paragraph (2), by inserting “,
9 search and rescue, emergency operations per-
10 taining to wildfires,” after “efforts”; and

11 (4) by adding at the end the following new sub-
12 section:

13 “(f) REPORTING.—Not later than November 1, 2022,
14 and annually thereafter, the Secretary of Defense shall
15 submit to the Committees on Armed Services of the Sen-
16 ate and House of Representatives a report on aircraft
17 transferred, during the fiscal year preceding the date of
18 such report, to—

19 “(1) the Secretary of Agriculture or the Sec-
20 retary of Homeland Security under this section;

21 “(2) the chief executive officer of a State under
22 section 112 of the National Defense Authorization
23 Act for Fiscal Year 2012 (Public Law 112–81); or

24 “(3) the Secretary of the Air Force, the Sec-
25 retary of Agriculture, or the Governor of California,

1 under section 1098 of the National Defense Author-
 2 ization Act for Fiscal Year 2014 (Public Law 113–
 3 66; 127 Stat. 881).”.

4 **SEC. 8. UPDATED REVIEW AND ENHANCEMENT OF EXIST-**
 5 **ING AUTHORITIES FOR USING AIR FORCE**
 6 **AND AIR NATIONAL GUARD MODULAR AIR-**
 7 **BORNE FIRE-FIGHTING SYSTEMS AND OTHER**
 8 **DEPARTMENT OF DEFENSE ASSETS TO FIGHT**
 9 **WILDFIRES.**

10 Section 1058 of the National Defense Authorization
 11 Act for Fiscal Year 2004 (Public Law 108–136; 31 U.S.C.
 12 1535 note) is amended by adding at the end the following
 13 new subsection:

14 “(g) **UPDATED REVIEW AND ENHANCEMENT.**—(1)
 15 Not later than 120 days after the date of the enactment
 16 of the Military Support for Fighting Wildfires Act, the Di-
 17 rector shall submit to Congress a report—

18 “(A) containing the results of a second review
 19 conducted under subsection (a) and a second deter-
 20 mination made under subsection (b); and

21 “(B) based on such second determination, de-
 22 scribing the new modifications proposed to be made
 23 to existing authorities under subsection (c) or (d),
 24 including whether there is a need for legislative

1 changes to further improve the procedures for using
2 Department of Defense assets to fight wildfires.

3 “(2) The new modifications described in paragraph
4 (1)(B) shall not take effect until the end of the 30-day
5 period beginning on the date on which the report is sub-
6 mitted to Congress under this subsection.”.

7 **SEC. 9. NO REIMBURSEMENT FOR USE OF NATIONAL**
8 **GEOSPATIAL-INTELLIGENCE AGENCY RE-**
9 **SOURCES DURING A MAJOR DISASTER.**

10 The Director of the National Geospatial-Intelligence
11 Agency may not require the Federal Emergency Manage-
12 ment Agency or a Federal land management agency to
13 reimburse the National Geospatial-Intelligence Agency for
14 use of resources for any request approved by the Director
15 pertaining to—

16 (1) a request made by such a Federal agency
17 through the National Interagency Fire Center; or

18 (2) an area of Federal land affected by extreme
19 weather, as that term is defined in section 328(c) of
20 the National Defense Authorization Act for Fiscal
21 Year 2020 (Public Law 116–92; 10 U.S.C. 221
22 note).

1 **SEC. 10. EXEMPTION FROM ECONOMY ACT FOR CERTAIN**
2 **REQUESTS MADE THROUGH THE NATIONAL**
3 **INTERAGENCY FIRE CENTER.**

4 Section 1535(b) of title 31, United States Code (com-
5 monly known as the “Economy Act”), shall not apply to
6 any assistance provided by the Department of Defense to
7 the Federal Emergency Management Agency or a Federal
8 land management agency under a request—

9 (1) made through the National Interagency
10 Fire Center; and

11 (2) pertaining to an area covered by a declara-
12 tion of a major disaster or emergency under section
13 401 of the Robert T. Stafford Disaster Relief and
14 Emergency Assistance Act (42 U.S.C. 5170).

15 **SEC. 11. GUIDANCE FOR USE OF UNMANNED AIRCRAFT**
16 **SYSTEMS BY THE NATIONAL GUARD.**

17 (a) NEW GUIDANCE.—Not later than 90 days after
18 the date of the enactment of this Act, the Secretary of
19 Defense shall issue new guidance that treats the use of
20 unmanned aircraft systems by the National Guard for cov-
21 ered activities in a manner no more restrictive than the
22 use of other aircraft for covered activities.

23 (b) COVERED ACTIVITIES DEFINED.—In this section,
24 “covered activities” means the following:

25 (1) Emergency operations.

26 (2) Search and rescue operations.

1 (3) Defense support to civil authorities.

2 (4) Support under section 502(f) of title 32,
3 United States Code.

4 **SEC. 12. IMPLEMENTATION OF CERTAIN RECOMMENDA-**
5 **TIONS REGARDING USE OF UNMANNED AIR-**
6 **CRAFT SYSTEMS BY THE NATIONAL GUARD.**

7 Not later than September 30, 2022, the Secretary of
8 Defense shall implement recommendations of the Sec-
9 retary described in section 519C(a)(2) of the William M.
10 (Mac) Thornberry National Defense Authorization Act for
11 Fiscal Year 2021 (Public Law 116–283).

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