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**SUBSTITUTE SENATE BILL 5491**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Agriculture & Natural Resources (originally sponsored by Senators Warnick, Shewmake, Short, Chapman, Lovelett, Muzzall, Holy, Krishnadasan, and Nobles)

1 AN ACT Relating to a prescribed fire claims fund pilot program;  
2 amending RCW 4.92.220; adding a new section to chapter 76.04 RCW;  
3 creating a new section; providing expiration dates; and declaring an  
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington  
7 is experiencing a forest health crisis. Rangeland and forest fires  
8 have grown both larger and more damaging in recent years, threatening  
9 the health, livelihoods, and homes of Washingtonians. Over the last  
10 10 years, wildfires have burned an average of 470,000 acres across  
11 the state. According to the 2020 forest health assessment and  
12 treatment framework, approximately 3,000,000 acres in eastern  
13 Washington alone are in need of active management or disturbance to  
14 improve forest resiliency to stressors such as wildfire and drought.

15 (2) The legislature finds that prescribed fire and cultural  
16 burning are one of the most effective, yet underutilized tools to  
17 help address the forest health crisis. Most ecosystems in Washington  
18 evolved with fire through stewardship by tribal peoples and ignitions  
19 like lightning strikes. Prescribed fire and cultural burning remove  
20 dead and downed brush and vegetation, providing more management  
21 opportunities for fire suppression across a variety of landscapes by

1 proactively removing hazardous fuels. Compared to wildfire smoke,  
2 prescribed fire smoke produces up to 50 percent less PM2.5. Fire also  
3 returns important nutrients to the soil, revitalizes plant growth,  
4 and improves wildlife habitat. Tribes have used cultural burning  
5 since time immemorial to sustain healthy and resilient lands.

6 (3) The legislature finds that growing risks of wildfires to  
7 communities and the environment generally requires at least a five-  
8 fold increase in prescribed burning to effectively reduce accumulated  
9 fuels, restore resiliency to landscapes, and protect communities.

10 (4) The legislature further finds that while prescribed fire  
11 escapements are rare, the uncertain financial implications associated  
12 with an escapement deter this work despite its low risk. The 2023  
13 Washington prescribed fire barriers assessment report and strategic  
14 action plan found that one of the most significant barriers to more  
15 prescribed burns has been uncertainty around potential liability.

16 (5) Therefore, the legislature intends to establish a fire claims  
17 fund pilot program to provide loss coverage for prescribed and  
18 cultural burns conducted in accordance with applicable requirements.  
19 By decreasing the uncertainty associated with these regulated burns,  
20 the legislature intends to promote the use of this critical tool for  
21 strengthening and protecting our resources and communities.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04  
23 RCW to read as follows:

24 (1) Subject to the availability of amounts appropriated for this  
25 specific purpose, the office of risk management shall, in  
26 consultation with the department, establish a prescribed fire claims  
27 fund pilot program for the purposes of:

28 (a) Supporting coverage for losses from prescribed fires and  
29 cultural burning by nonstate and nonfederal entities such as cultural  
30 fire practitioners, private landowners, nongovernmental entities,  
31 conservation districts, fire districts, certified burn managers,  
32 companies, contractors, and operators; and

33 (b) Supporting the entities described in (a) of this subsection  
34 that are alleged to have caused damages resulting from appropriately  
35 conducted prescribed fires or cultural burning.

36 (2) To be eligible for reimbursement under this section, a claim  
37 must meet the criteria in (a) and (b) of this subsection.

38 (a) The claim results from a prescribed fire or cultural burn  
39 conducted:

1 (i) By a certified burn manager, under an approved burn plan,  
2 with applicable permits and in accordance with any other applicable  
3 conditions or requirements as determined by the department; or

4 (ii) By a cultural fire practitioner, in accordance with any  
5 applicable burn plan or permit.

6 (b) The claim is for:

7 (i) Property or economic damage, as described under RCW  
8 76.04.760(3) (a), (c), and (d), suffered by the claimant as a result  
9 of the prescribed fire or cultural burn; or

10 (ii) Reasonable costs authorized for reimbursement by the  
11 department under RCW 76.04.475, related to the prescribed fire or  
12 cultural burn.

13 (c) A claim for damage suffered as a result of a prescribed fire  
14 or cultural burn started, spread, or otherwise caused by a criminal  
15 or negligent act is not eligible for reimbursement under this  
16 section.

17 (3) Upon submission of a claim, the department shall determine  
18 and certify to the office of risk management whether the claim meets  
19 the criteria in subsection (2) of this section.

20 (4) The office of risk management may reimburse an eligible claim  
21 in an amount equal to or less than the actual losses suffered by the  
22 claimant, not to exceed \$2,000,000 per claim. The payment of a claim  
23 under this section is conditional on the availability of specific  
24 funding for this purpose, and nothing in this section shall be  
25 construed to create an entitlement to reimbursement or payment of any  
26 claim. The total amount paid for claims may not exceed the amounts  
27 available in the account established in subsection (7) of this  
28 section.

29 (5)(a) The office of risk management shall collaborate with the  
30 department, other relevant state agencies, the Washington prescribed  
31 fire council, cultural fire practitioners, and certified burn  
32 managers to establish guidelines governing the pilot program and the  
33 administration of the account established in subsection (7) of this  
34 section, including:

35 (i) Procedures for the submission of claims;

36 (ii) Any additional criteria for claim eligibility, as  
37 appropriate; and

38 (iii) A methodology or structure for how the payment of claims  
39 will be prioritized in the event that eligible claims exceed the

1 amounts available in the account established in subsection (7) of  
2 this section.

3 (b) The office of risk management and the department may adopt  
4 rules to implement this section.

5 (c) Guidelines and any rules adopted under this section must be  
6 made publicly available on the websites of the office of risk  
7 management and the department.

8 (6) This section does not limit the ability of a person to assert  
9 a claim for damages arising from a prescribed fire under any other  
10 law. A court shall offset any award of damages to a claimant under an  
11 action arising from the same set of alleged facts by the amount of  
12 reimbursement provided under this section.

13 (7) (a) The prescribed fire claims account is created in the state  
14 treasury. Moneys in the account may be spent only after  
15 appropriation. Expenditures from the account may only be used for the  
16 reimbursement of claims under this section.

17 (b) Upon the expiration of this section, any remaining amounts in  
18 the account must be deposited in the natural climate solutions  
19 account.

20 (8) For the purposes of this section:

21 (a) "Certified burn manager" means a prescribed burn manager  
22 certified under RCW 76.04.183 or a prescribed fire burn boss  
23 certified under the national wildfire coordinating group standards.

24 (b) "Cultural fire practitioner" means a person approved by an  
25 Indian tribe as having experience in burning to meet cultural goals  
26 or objectives, including subsistence, ceremonial activities,  
27 biodiversity, or other benefits.

28 (c) "Indian tribe" has the same meaning as in RCW 43.376.010.

29 (9) This section expires June 30, 2033.

30 **Sec. 3.** RCW 4.92.220 and 2002 c 332 s 18 are each amended to  
31 read as follows:

32 (1) The risk management administration account is created in the  
33 custody of the state treasurer. All receipts from appropriations and  
34 assessments shall be deposited into the account. Only the director or  
35 the director's designee may authorize expenditures from the account.  
36 The account is subject to allotment procedures under chapter 43.88  
37 RCW, but no appropriation is required for expenditures.

38 (2) The risk management administration account is to be used for  
39 the payment of costs related to:

1 (a) The appropriated administration of liability, property, and  
2 vehicle claims, including investigation, claim processing,  
3 negotiation, and settlement, and other expenses relating to  
4 settlements and judgments against the state not otherwise budgeted;  
5 ((and))

6 (b) The nonappropriated pass-through cost associated with the  
7 purchase of liability and property insurance, including catastrophic  
8 insurance, subject to policy conditions and limitations determined by  
9 the risk manager; and

10 (c) The administration of the prescribed fire claims fund pilot  
11 program under section 2 of this act.

12 (3) The risk management administration account's appropriation  
13 for risk management shall be financed through a combination of direct  
14 appropriations and assessments to state agencies.

15 NEW SECTION. Sec. 4. Section 3 of this act expires June 30,  
16 2033.

17 NEW SECTION. Sec. 5. This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of  
19 the state government and its existing public institutions, and takes  
20 effect immediately.

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