



# Energy, Minerals and Natural Resources Department

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## HOUSE BILL 57: PRESCRIBED BURNING ACT

New Mexico has a wildfire problem. Almost every year we see more intense and longer fire seasons throughout the state. Attempts at suppressing all wildfires has had an unintended consequence: accumulated flammable vegetation has turned our forests into tinderboxes. We need to take action. The best way is to fight fire with fire.

### Prescribed burning.

Prescribed burning is the planned use of fire to reduce forest underbrush under safe conditions. Mature trees survive, and the removal of flammable vegetation reduces threats to our communities, protects our water sources and air quality, and improves wildlife habitat.

Federal land management agencies and some state agencies are already using prescribed burning to keep our forests safe. But almost no prescribed burning is happening on private lands.

House Bill 57 aims to change that.

The Prescribed Burning Act *does not apply* to agricultural, acequia, or ditch burning.

## BILL SUMMARY

In 2019, House Memorial 42 created a working group to study the barriers to expanding the use of prescribed burning on private lands. This year, HB 57, the Prescribed Burning Act, sponsored by Representatives Matthew McQueen and Gail Armstrong, enacts the recommendations of the HM 42 working group. The bill:

- **Establishes a negligence standard for prescribed burning on private lands;**
- **Creates a training and certification program through New Mexico State University for landowners and contractors to build the skills to conduct prescribed burns safely;**
- **Provides an incentive for landowners and contractors to get that training; and**
- **Creates a model prescribed burning permit for counties to use if they choose to issue permits.**

## HOW DOES HB 57 EXPAND THE USE OF PRESCRIBED BURNING?

Under current New Mexico law landowners are strictly liable for prescribed burning activities and subject to double damages. Under HB57 a negligence standard would be established for prescribed burning on private lands. The negligence standard, provision of training, and establishment of a certification program will improve the safety of prescribed burning and make private insurance more accessible and affordable. Reducing the recoverable damages from a prescribed burn from double to actual for certified prescribed burn managers will provide an incentive to obtain that training.

## IS PRESCRIBED BURNING EFFECTIVE IN MODERATING EXTREME WILDFIRES?

Yes. For example, in August 2020, the Medio Fire was moving quickly toward the Santa Fe Ski Basin. Luckily, a recent prescribed burn area blocked its way, preventing the loss of important recreation infrastructure. By contrast, the Luna Fire spread off of federal land onto private lands and threatened more than 4,000 homes. No prescribed burns had taken place on those private lands. New Mexico had to bring in an expensive fire management team to contain the fire.



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## **FREQUENTLY ASKED QUESTIONS**

*Is prescribed burning cost-effective?*

Prescribed burning is the lowest-cost method of reducing overgrown brush and trees. It costs under \$200 per acre. Cutting trees ranges from \$500 to \$2,000 per acre, and suppressing wildfire costs even more, from \$100,000 to \$1 million per day, depending on the circumstance.

*What do other states do about wildfire management?*

With the passage of the Prescribed Burning Act, New Mexico would join 21 other states in implementing prescribed burning laws or policies.

*Can the state afford this bill?*

HB 57 specifies roles for the Energy, Minerals and Natural Resources Department and the New Mexico State University Cooperative Extension Service. Both agencies have sufficient funding in their current budgets to cover the necessary costs if this bill is enacted.

*Do prescribed burns impact air quality?*

Unlike wildfires, prescribed burns can be planned for days where there will be the lowest impact to air quality possible. Prescribed burns also prevent more intense wildfires that would have a more detrimental and widespread impact on air quality.

