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108TH CONGRESS, *2d Session* | SENATE | REPORT 108–252

SOUTHWEST FOREST HEALTH AND WILDFIRE PREVENTION ACT OF 2004

MARCH 29, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2696]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2696) to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 2696 is to establish institutes to demonstrate and promote the use of adaptive ecosystem management and collaborative processes to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems in the interior West.

BACKGROUND AND NEED

Research shows a trend towards large, severe, and frequent wildfires in the dry forests and woodland ecosystems of the interior West. This trend is a symptom of unhealthy forests, and there is a significant focus on conducting hazardous fuel reduction treatments to reduce the risk of severe wildfire and to restore the health of these forests. However, the science behind these treatments is limited and still evolving, and it is not always readily available to and utilized by land managers. As a result, many forest fuel reduction treatments fail to restore these unhealthy forests and effectively reduce the risk of unnatural wildfire.

The quality of treatments must be improved to accomplish long-term fire risk reduction and restore forest health. Treatments should start with solid science and proceed with adaptive ecosystem management. They also should be developed to meet the practical needs of managers. To do so, more financial resources, collaboration, and outreach is necessary. H.R. 2969 would facilitate these efforts.

LEGISLATIVE HISTORY

H.R. 2696 was introduced on July 10, 2003, by Representatives Renzi, Hawarth, Kolbe, McInnis, Pearce, and Trancredo. Congressman Udall is a cosponsor. The Committee on Resources reported the bill with an amendment in the nature of a substitute by unanimous consent on November 21, 2003. On February 24, 2004, the House of Representatives passed H.R. 2696 as amended, by a voice vote. A companion measure, S. 32, was introduced by Senators Kyl, Allard, Bingaman, Campbell, and Domenici on January 7, 2003. Senators Jeffords and McCain are co-sponsors. The Subcommittee on Public Lands and Forests held a hearing on S. 32 on February 27, 2003. S. Hrg. 108–10. The Committee on Energy and Natural Resources ordered H.R. 2696 favorably reported without an amendment on March 10, 2004.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on March 10, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 2696.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 sets forth findings, and is self-explanatory.

Section 3 provides purposes of the measure. Section 3 incorporates changes requested by the Administration and House members to emphasize the need to synthesize and adopt scientific findings from conventional research, to facilitate the transfer of interdisciplinary knowledge, and for the institutes to collaborate with the federal agencies and assist federal and non-federal land managers in providing information to the public.

Section 4 defines terms used in the legislation. Section 4 incorporates changes requested by the Administration and House members, including: more complete definitions of "adaptive ecosystem management" and "restoration", and definitions for "subdominant trees", "overstocked stands", "resilience" and "dry forest and woodland ecosystem". Dry forest and woodland ecosystems included dry forests dominated by Ponderosa Pine and associated woodland types include interior Ponderosa Pine, Pinyon-Juniper, Arizona Cypress, and interior Douglas-fir (commonly referred to as low elevation dry mixed conifer).

Section 5 directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to establish three institutes to promote the use of adaptive ecosystem management to reduce the risk of wildlife and restore the health of dry forests and woodland ecosystems in the interior West. The institutes are to be located at

Northern Arizona University in Flagstaff, Arizona; at New Mexico Highlands University in Las Vegas, New Mexico; and in the State of Colorado. This section establishes the duties and qualifications of the institutes, requires annual work plans, and authorizes the establishment of additional institutes in the future. Section 5 incorporates changes requested by the Administration, including a list of specific duties of the institutes.

Section 6 requires the Secretary of Agriculture, in consultation with the Secretary of the Interior to provide financial and technical assistance to the institutes to carry out the duties of the institutes, to the extent that funds are appropriated. The Secretary is directed to encourage Federal agencies to use, on a cooperative basis, the information and expertise provided by the institutes. The Secretary is authorized to accept funds from other Federal agencies, and support and encourage educational opportunities. Additionally, the Secretaries are authorized to promulgate regulations to carry out the legislation.

Section 7 directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to complete a detailed evaluation of each institute five years after the date of enactment of this legislation and every 5 years thereafter. If the Secretary determines that an institute does not qualify for further Federal assistance, then no further funding shall be provided to the institute until such time as the qualifications of the institute are reestablished to the satisfaction of the Secretaries. Section 7 incorporates changes requested by the Administration and House members, including a description of the specific activities to be evaluated.

Section 8 authorizes $15,000,000 per year for implementation of the Act and incorporates the Administration's suggestion that no funds authorized under the Act may be used to construct facilities.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 17, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2696, the Southwest Forest Health and Wildfire Prevention Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOULGAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2696—Southwest Forest Health and Wildfire Prevention Act of 2004

Summary: H.R. 2696 would authorize the appropriation of $15 million a year for the Secretary of Agriculture to establish and pro-

vide assistance to three research institutes. Those institutes would develop strategies to reduce the risk of wildfires and enhance the health of forests in certain western states. CBO estimates that implementing this legislation would cost $2 million in 2004 and $86 million over the 2004–2009 period, assuming appropriation of the specified amounts. H.R. 2696 would not affect direct spending or revenues.

H.R. 2696 contains no governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: For this estimate, CBO assumes that H.R. 2696 will be enacted in fiscal year 2004 and that authorized amounts will be appropriated each year as specified in the legislation. Estimates of outlays are based on historical spending patterns for similar activities. The estimated budgetary impact of H.R. 2696 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	15	15	15	15	15	15
Estimated Outlays	2	10	20	21	18	15

Intergovernmental and private-sector impact: H.R. 2696 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The act would authorize the appropriation of federal funds to establish and fund research institutes that could be located at state universities in Arizona, New Mexico, and Colorado. Participation by these states would be voluntary.

Previous CBO estimate: On September 30, 2003, CBO transmitted a cost estimate for H.R. 2696 as ordered reported by the House Committee on Resources on September 24, 2003. The two versions of this legislation are identical. Differences in our estimates of outlays reflect a change in the assumed enactment date.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Selena Caldera.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2696.

The bill is not a regulator measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2696.

EXECUTIVE COMMUNICATIONS

On March 11, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 2696. These reports had not been received at the time the report on H.R. 2696 was filed. When the report becomes available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of Agriculture at the Subcommittee hearing on S. 32 follows:

STATEMENT OF JIM REAVES, DIRECTOR, VEGETATION MANAGEMENT & PROTECTION RESEARCH, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today. I am Jim Reaves, Director, Vegetation Management & Protection Research. With me today is David Cleaves, National Program Leader for Fire Systems Research. I would like to present the Administration's views on S. 32—the Southwest Forest Health and Wildfire Prevention Act of 2003 and S. 278—the Mount Naomi Wilderness Boundary Adjustment Act.

S. 32—The Southwest Forest Health and Wildfire Prevention Act of 2003

S. 32 would establish three institutes in the interior West that would promote the use of adaptive ecosystem management to reduce the risk of wildfires and improve the health of forest and woodland ecosystems. We support the intent of S. 32 to institutionalize research on adaptive management processes and ensure that sound scientific research products reach, and are utilized by, land managers in the field. We have some concerns regarding how the bill is currently drafted and would like to work with the sponsors on modifications to the bill. We commend Senator Kyl and the other sponsors of this bill for recognizing the importance of research needs in this area.

A trend that has become increasingly apparent during the last few years is that wildland fires, especially in the West, are becoming larger and burning hotter. These fires are increasingly more difficult to control and cause much more environmental damage. During the 2002 fire season nearly 73,000 fires burned 7.2 million ares and damaged or destroyed 3,000 structures. While most of this fire damage was in the West, the potential for significant property losses and resource impacts from wildland fire and degradation of forest health occurs in many other areas of the country. The issues and problems of fire and fuel management are truly national in scope.

In addition to the direct damage caused by wildfires, harmful non-indigenous plant species such as cheatgrass invade burned over areas, predispose them to even greater fire risk, and threaten healthy ecosystems and biological

diversity. Forests where fire has been excluded are also at increased risk from insect and disease infestations; and can experience significant shifts in composition away from the most desirable tree species for wood products or wildfire.

We agree with S. 32 that meeting these challenges effectively and efficiently requires a solid foundation in scientific knowledge and the ability to rapidly convert new scientific insights into technology and tools. We also agree that more research attention should be given to fire and forest health, not only in the interior West, but also throughout the U.S.

CURRENT FIRE RESEARCH

Congress recognized the need for scientific information and tools to support fuel and fire management programs and established the Joint Fire Science Program (JFSP) in 1998. The JFSP is a partnership of six federal wildland management and research organizations represented by a 10-member Governing Board that oversees and manages the program. Since its inception the JFSP has partnered with 45 universities and funded 178 research projects in 43 states, Puerto Rico, and the District of Columbia.

Beginning in 2001, additional research funds were made available through the National Fire Plan. National Fire Plan research, led by 78 research teams in the Forest Service regional research stations addresses firefighting, fuels management, restoration and rehabilitation, and community preparedness to directly support the goals of the Ten-Year Comprehensive Fire Strategy. The NFP-funded research teams support research in all 50 states, including 329 cooperative studies with 56 universities, non-government organizations, and private sector partners across the country. In addition to university partnerships, both the JFSP and the NFP are working with State and local agencies, not-for-profit groups such as Tall Timbers Research Station and The Nature Conservancy, as well as several for-profit companies. More than one third of the NFP funding in the first two years of the program has been invested with universities and other partners.

Research conducted under both the JFSP and the NFP addresses national and regional priorities and receives national level oversight to ensure coordination and applicability of products. Funds are allocated competitively with the involvement of fire managers and other users in the determination of needs and the selection of projects. Accountability is assured through annual progress and accomplishment reports. The strength of the two programs is their ability to design their research with the help of managers in the agencies and to deliver research results and tools through established training programs and other mechanisms.

S. 32 focuses on the problem of fire research in a portion of the interior West. However, wildland fire risks and forest health concerns are national in scale and growing in

size and complexity. We agree that many problems need to be addressed on a regional basis. We also believe that the scarcity of funding for fire research relative to the problem demands a national perspective and national oversight. In particular, the measure appears to create an expectation that affected agencies will be required to provide allocations to the centers without regard to overall budgetary constraints, and lead to a further diluting of scarce fire research funding. Oversight and coordination are necessary to assure that critical diversity of scientific talent and critical funding masses be directed at problems for protection of all regions and minimize disruptions to other ongoing research endeavors.

RECOMMENDATIONS

We think S. 32 should not only address the problem of fire in the interior West, but also address this issue nationwide. This approach would enhance existing collaborative efforts to investigate and develop management tools that would enable public and private land managers to manage fires and prevent the spread of invasive species throughout the Nation.

Some changes we recommend for S. 32 include:

- Clarify the definition of adaptive management and the scope of work of the centers relating to forest and rangeland ecosystems research;
- Ensure that research comports with criteria related to quality, relevance and performance;
- Participate in meeting national needs on complex problems and permit the Departments latitude in the identification of the optimal locations for the establishment of the centers created under this bill;
- Provide federal research and land manager oversight of the program, including setting of priorities and direction, to lead to selection of projects and products that are awarded on a merit-based competitive, and peer reviewed process;
- Ensure accountability through ongoing monitoring and periodic evaluation of funded activities;
- Build on existing fire research and technology transfer capacity to avoid unnecessary duplication of efforts and resources;
- Improve coordination of existing federal, state, university, and private research capacity, and establish non-federal cost-share requirements; and
- Utilize and improve existing authorities for centers of excellence such as Cooperative Ecosystem Studies Unit program and the granting programs of the Cooperative States Research, Education, and Extension Service.

We would like to work with the Subcommittee as it further considers S. 32.

S. 278—Mount Naomi Wilderness Boundary Adjustment Act

The Department supports S. 278, a bill that would adjust the boundary of the Mount Naomi Wilderness in the Wasatch-Cache National Forest in Utah. We believe the boundary adjustment will create a higher level of wilderness value by improving the area's solitude, scenery, and pristine qualities. We supported similar legislation that was considered during the 107th Congress.

The boundary adjustment would exclude approximately 31 acres of land currently part of the Mount Naomi Wilderness and, subject to with valid existing rights, would add 31 acres to the wilderness area. The bill also requires the Secretary to manage the 31 additional acres pursuant to the Utah Wilderness Act of 1984 (Public Law 98–428).

This adjustment would allow for the alignment of the Bonneville Shoreline trail, which is a multi-county recreational trail. The trail is designed predominately for heavy non-motorized use, which does not conform to use a wilderness trail. The boundary adjustment would also eliminate the need for a power line easement within the wilderness area, which is also a non-conforming use.

This concludes my statement and we look forward to working with the Subcommittee. I would be happy to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 2696 as ordered reported.

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