

COROLLA WILD HORSES PROTECTION ACT

MAY 17, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 126]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 126) to direct the Secretary of the Interior to enter into an agreement to provide for management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 126 is to direct the Secretary of the Interior to enter into an agreement to provide for management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge.

BACKGROUND AND NEED FOR LEGISLATION

While it is not precisely known when the Corolla horses arrived on the Currituck Outer Banks in North Carolina, there is evidence that they were introduced by Spanish explorers 500 years ago. In 2007, the National Horse of the Americas Registry recognized and registered these horses as Colonial Spanish Mustangs. The wild horses of Currituck have survived nearly five centuries of fierce hurricanes, severe droughts, floods and swarms of biting insects. Today, the herd is comprised of about 117 animals that live on ap-

proximately 7,544 acres of public and private lands. This is divided as follows: 4,671 acres are privately owned by individuals and corporations; 2,495 acres are part of the Currituck National Wildlife Refuge; 326 acres are found in the North Carolina National Estuarine Research Reserve; and 51 acres are owned by The Nature Conservancy.

In 1988, the Corolla Wild Horse Fund (CWHF) was established to support the Spanish mustangs in the wild and to educate the public about the history of the herd. The Fund was also instrumental in the enactment of a 1989 Wild Horse Ordinance which made it unlawful for “any person to lure, attract, or entice a wild horse to come within 50 feet of any person” or “any person to lure or entice a wild horse out of a wild horse sanctuary.” In Currituck County, the wild horse sanctuary is defined to extend from Corolla, North Carolina, to the Virginia state line.

In 2007, the last Wild Horse Management Plan was approved with the concurrence of the CWHF, the County of Currituck, the State of North Carolina and the U.S. Fish and Wildlife Service (FWS). Under this plan, the maximum number of horses was limited and FWS was permitted to control the population of these horses “through adoption, relocation, auction or contraceptive fertility methods.” In April 2008, CWHF formally requested that the maximum herd size be increased and that a small number of mares from the Shackleford Banks herd be introduced to restore diversity to the Corolla horses gene pool. Both requests were denied by FWS, and the Wild Horse Management Plan has now expired.

The Currituck National Wildlife Refuge was established in 1984 to manage waterfowl, migratory birds, and endangered species such as piping plovers and sea turtles. FWS will allow wild horses to freely roam the Refuge as long as the horses do not significantly impact habitat or wildlife. While FWS has been unable to quantify any negative impacts of the eight Corolla horses that utilize refuge land, FWS views the Corolla wild horses as an introduced feral animal.

On June 8, 2011, the Acting Deputy Director of FWS submitted a letter outlining various estimates of the annual costs of managing the wild horses, the additional expenses FWS may incur and an estimate of one-time costs as a result of the enactment of a predecessor bill to H.R. 126. While the Committee appreciates having this information, it lacks detail, justification and specificity. For instance, there is no explanation why it would cost FWS an additional \$160,000 a year to manage these horses simply because this legislation is enacted into law. H.R. 126 does not mandate any additional management requirements for FWS and there is no indication that FWS intends to assign staff to what is currently an unstaffed refuge or that it intends to build a visitor center, roads, hiking trails or any facilities which currently do not exist. The projected costs do not match up with existing or future management requirements.

Second, after carefully examining the estimated annual costs, it is clear that the overwhelming majority of these expenditures are for a new wildlife biologist, staff salaries, expenses such as a horse survey, adoption and feed of wild horses, and veterinary costs. With the exception of a new biologist and staff salaries, each of those expenses will be incurred by the CWHF and not FWS. The

Committee finds that in the 2006 Comprehensive Conservation Plan, which is required for all wildlife refuges, there is language that states: "The assistant manager performs the functions of a wildlife biologist. The refuge needs additional staff to meet its objectives. The biological and public use programs are currently the greatest needs." The document goes on to describe the types of activities that the new wildlife biologist would perform including conducting surveys of shorebirds, establishing an inventory protocol for neotropical migratory songbirds and monitoring the impacts of feral hogs on vegetation and habitat. It appears that FWS is now trying to use this legislation to justify the hiring of a new wildlife biologist, which was an identified need for Currituck long before the introduction of this legislation.

Third, included within the estimated one-time costs with the passage of this legislation are \$186,000 for a new barn and corral for the horses, \$54,000 for a new boat and trailer, pickup truck and utility vehicle, and \$26,000 for wild herd examinations. Together, these represent \$266,000 of the \$285,000 FWS has identified as "one-time" costs. In justifying the need for a new barn and corral, FWS has stated that it is needed for those horses it captures/handles and for herd examinations. If this is the case, then FWS would be in direct violation of the Currituck County Code of Ordinances as it applies to wild horses. Specifically the Ordinance says, "No person shall possess, harbor or keep in possession by confinement any wild horse. The provision of this section shall not apply to the keeping of wild horses in a licensed veterinary hospital or other location for treatment under the care and supervision of a licensed veterinarian." In addition, FWS has not provided any details on the need for these new vehicles and the CWHF is responsible for all health-related activities and costs, including herd examinations.

This legislation would require the Secretary of the Interior to enter into a new agreement with the CWHF, the County of Currituck, and the State of North Carolina within 180 days after the date of enactment. Under the terms of the new agreement, the size of the herd would be "not less than 110 and not more than 130 free-roaming wild horses." It would also provide for the cost-effective management of the herd and the introduction of a small number of free-roaming wild horses from the herd at the Cape Lookout National Seashore. There is no cost to the federal government for the management of these horses and no authorization of appropriations. All expenses related to the wild horse management throughout their range have been and would continue to be paid by the CWHF.

The proponents argue that the two primary reasons for this bill are the refusal of FWS to enter into a new Wild Horse Management Plan and the view of the CWHF that, "Without introductions from the Shackelford Banks herd and a larger herd size, the wild horses of Corolla are at great risk of genetic collapse and disappearing altogether. Managing the wild horses of Corolla at a maximum of 60 is managing for extinction." Bill supporters cite Dr. Gus Colthran of the College of Veterinary Medicine at Texas A&M University who notes that, "Horses of the Corolla herd show levels of genetic variability that are among the lowest seen in any horse population. Under the circumstances that the Corolla herd is now in, a minimum number of 110 should be considered."

COMMITTEE ACTION

H.R. 126 was introduced on January 3, 2013, by Congressman Walter Jones, Jr. (R-NC). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. On April 24, 2013, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs was discharged by unanimous consent. No amendments were offered, and the bill was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 126—Corolla Wild Horses Protection Act

H.R. 126 would require the U.S. Fish and Wildlife Service (USFWS) to enter into an agreement with the Corolla Wild Horse Fund (CWHF), a nonprofit organization, to manage wild horses in and around the Currituck National Wildlife Refuge. The wild horse population in the area is currently managed under a similar agreement between USFWS and CWHF. The new agreement would require CWHF to maintain a wild horse population totaling between 120 and 130 and would specify that CWHF is responsible for certain costs associated with managing the wild horse population.

Based on information provided by CWHF, CBO expects that, under the bill, the organization would manage the wild horse population using private funds; we estimate that the federal government would incur no significant additional costs to manage or mitigate the effects of horses on the refuge. If, however, CWHF was unable to maintain the population at or below 130 horses as required under the bill, CBO expects that USFWS would incur costs totaling roughly \$200,000 a year to manage the horses. Such spending would be subject to the availability of appropriated funds. Enacting H.R. 126 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 126 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by CWHF, CBO expects that, under the bill, the organization would manage the wild horse population using private funds; we estimate that the federal government would incur no significant additional costs to manage or mitigate the effects of horses on the refuge. If, however, CWHF was unable to maintain the population at or below 130 horses as required under the bill, CBO expects that USFWS would incur costs totaling roughly \$200,000 a year to manage the horses. Such spending would be subject to the availability of appropriated funds.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to direct the Secretary of the Interior to enter into an agreement to provide for management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS

H.R. 126 would call upon the Secretary of the Interior to enter into an agreement with the Corolla Wild Horse Fund, as well as local and state authorities, to provide for the management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge on North Carolina's Outer Banks. Wild horses live on the public and private lands of Currituck County, and may be descendant from those brought by the Spanish, or may have been put there more recently to avoid mainland taxes and provide summer grazing. H.R. 126 would require the U.S. Fish and Wildlife Service (the Service) to maintain a herd of no less than 110 horses, with a target population of 120–130 horses.

These wild horses are not native to the United States, and have a destructive impact on native plant and animal species and their habitat. The Currituck National Wildlife Refuge was established in 1984 to preserve and protect an important coastal barrier island ecosystem. The 4,500 acre Refuge provides essential habitat for migrating waterfowl and endangered species such as piping plover, sea turtles, and sea beach amaranth. The Service views the horses as feral, and manages them to minimize damage to the Refuge as time and funds allow, including by fencing them out of critical habitat areas and off of Refuge lands when practicable.

The Service opposes H.R. 126 because it would undermine the agency's ability to fulfill its core conservation mission at Currituck National Wildlife Refuge, forcing the Service to instead devote scarce resources to caring for non-native animals that degrade wildlife habitat. We share the Service's concerns, and support the ongoing effort to resolve this conflict administratively, rather than through legislation. Indeed, in 2007 the Service entered into a joint management agreement with the Corolla Wild Horse Fund, the County of Currituck, and the North Carolina Department of Environment and Natural Resources to implement a cooperative management strategy for horses on public and private lands, and we believe that framework should be used to address any new management issues.

EDWARD J. MARKEY.
GREGORIO KILILI CAMACHO
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