

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1404) TO AUTHORIZE A SUPPLEMENTAL FUNDING SOURCE FOR CATASTROPHIC EMERGENCY WILDLAND FIRE SUPPRESSION ACTIVITIES ON DEPARTMENT OF THE INTERIOR AND NATIONAL FOREST SYSTEM LANDS, TO REQUIRE THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF AGRICULTURE TO DEVELOP A COHESIVE WILDLAND FIRE MANAGEMENT STRATEGY, AND FOR OTHER PURPOSES

MARCH 24, 2009.—Referred to the House Calendar and ordered to be printed

Mr. POLIS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 281]

The Committee on Rules, having had under consideration House Resolution 281, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1404, the Federal Land Assistance, Management and Enhancement (FLAME) Act, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the bill shall be considered as read. The rule waives all points of order against provisions in the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and

10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and waives all points of order against the provisions in the bill, the Committee is not aware of any points of order. The waivers of all points of order are prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 48

Date: March 24, 2009.

Measure: H.R. 1404.

Motion by: Mr. Dreier.

Summary of motion: To make in order en bloc and provide appropriate waivers for amendments by Rep. Hastings of Washington, #16, which would define the term “suppression” to include preventative management to reduce the likelihood of catastrophic wildfire, and #17, which would include fire prevention activities as part of the cohesive wildland fire management strategy required in the bill.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 49

Date: March 24, 2009.

Measure: H.R. 1404.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Herger, #11, which would require that any wildfire suppression funds in excess of amounts annually appropriated to the Secretary of the Interior or Agriculture and transferred to the Flame Fund at the end of a fiscal year be made available for hazardous fuels reduction projects as identified by a community wildfire protection plan.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS TO BE MADE IN ORDER

1. Rahall (WV): Would strike from the bill the Sense of Congress language on the designation of Flame Fund appropriations as emergency spending. (10 minutes)

2. Perlmutter (CO): Would clarify that authorized suppression activities for the Flame Fund include containment activities in re-

sponse to crisis insect infestations to reduce the likelihood of wildfires. (10 minutes)

3. Polis (CO): Would require revisions of the cohesive wildland fire management strategy at least once every five years. (10 minutes)

4. Hastings, Doc (WA): Would require advance notice, in writing, to adjacent landowners whenever the Department of Agriculture sets a prescribed fire on National Forest System land. (10 minutes)

5. Hastings, Doc (WA): Would require the review of certain wildfires specified in the bill to include an assessment of what actions, if any, could have been taken in advance of the fire that may have prevented the fire or at least reduced the severity of the fire. (10 minutes)

6. Hastings, Doc (WA): Would require the review of certain wildfires specified in the bill to include an assessment of the quantity of greenhouse gases produced as a result of the fire. (10 minutes)

7. Heinrich (NM): Would require the cohesive wildland fire management strategy required in the bill to include among its elements a system to assess the impacts of climate change on the frequency and severity of wildland fire. (10 minutes)

8. Minnick (ID): Would require that the Secretaries, in considering severity of and threat posed by a fire for the purposes of determining whether to declare that a wildland fire suppression activity is eligible for funding from the Flame Fund, take into account areas where insect infestation has created an extreme risk for wildfire. (10 minutes)

9. Luján (NM)/Markey, Betsy (CO)/Connolly (VA): Would require the cohesive wildland fire management strategy required in the bill to include among its elements a system to study the effects of invasive species on wildland fire risk. Would add to the list of eligible uses for cost-share grants provided for in the bill implementation of fire-safety programs focused on the eradication or control of invasive species. (10 minutes)

10. Matheson (UT): Would require the cohesive wildland fire management strategy required in the bill to include among its elements a plan, developed in coordination with the National Guard Bureau, to maximize the use of National Guard resources to fight wildfires. (10 minutes)

11. Roskam (IL): Would prohibit obligation of funds in the Flame Fund until 30 days after the submission by the Secretaries of the Interior and Agriculture of an initial estimate of anticipated wildfire suppression costs for the current and following fiscal year. (10 minutes)

12. Kirkpatrick (AZ): Would amend the definition of “fire-ready community” in the bill to provide that a community satisfies the definition if it is located within a priority area identified by the fire risk maps required by the bill, and meets two of the other four criteria listed in the bill for “fire-ready communities.” (10 minutes)

13. Goodlatte (VA): Would authorize the Secretary of Agriculture to enter into contracts or cooperative agreements with a State Forester to prepare and implement “good neighbor” projects on National Forest System land to complement any similar project being performed on bordering or adjacent non-Federal land. Would provide that the decision to proceed with a good neighbor project is in

the Secretary's sole discretion. Defines good neighbor projects to include certain fuels reduction projects. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RAHALL OF WEST VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, beginning line 3, strike paragraph (2) (and redesignate the subsequent paragraph accordingly).

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PERLMUTTER OF COLORADO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 15, insert after the period the following new sentence: "Authorized suppression activities include containment activities in response to crisis insect infestations to reduce the likelihood of wildfires."

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, after line 4, insert the following new subsection:

(c) REVISION.—At least once during every five-year period initially beginning on the date of the submission of the cohesive wildland fire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall submit to Congress a revised strategy that takes into consideration changes affecting the elements of the strategy specified in subsection (b) during the five-year period, in particular changes with respect to landscape, vegetation, climate, and weather.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, after line 4, insert the following new subsection:

(c) NOTICE OF PRESCRIBED FIRES.—As part of the strategy required by subsection (a) for the Forest Service, the Secretary of Agriculture shall ensure that, before any prescribed fire is used on National Forest System land, owners of adjacent private land are notified in writing of the date and scope of the prescribed fire.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, line 12, insert after the period the following new sentence: "The review of a wildfire incident shall include an assessment of what actions, if any, could have been taken in advance of the fire that may have prevented the fire or at least reduced the severity of the fire."

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, line 12, insert after the period the following new sentence: “The review of a wildfire incident shall include an assessment of the quantity of greenhouses gases produced as a result of the fire.”

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HEINRICH OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, after line 4, insert the following new paragraph:

(6) A system to assess the impacts of climate change on the frequency and severity of wildland fire.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MINNICK OF IDAHO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 13, insert the following new paragraph:

(5) EFFECT OF INSECT INFESTATIONS.—For purposes of applying clauses (ii) and (iii) of paragraph (2)(A), the Secretaries shall take into account areas where insect infestation has created an extreme risk for wildfire.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LUJÁN OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, after line 4, insert the following new paragraph:

(6) A system to study the effects of invasive species on wildland fire risk.

Page 14, after line 7, insert the following new subparagraph:

(E) Implementation of fire-safety programs focused on the eradication or control of invasive species.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MATHE-SON OF UTAH, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, after line 4, insert the following new paragraph:

(6) A plan, developed in coordination with the National Guard Bureau, to maximize the use of National Guard resources to fight wildfires.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROSKAM OF ILLINOIS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, after line 3, insert the following new subparagraph:

(D) LIMITATION ON INITIAL USE OF FLAME FUND.—Amounts in the Flame Fund may not be obligated until at least 30 days after the date on which the Secretaries submit the initial estimate of anticipated wildfire suppression costs under subparagraph (A).

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KIRKPATRICK OF ARIZONA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, line 25, strike “that—” and insert the following: “that satisfies the requirement of paragraph (1), and the requirements in at least two of the other four paragraphs, as follows:”.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new section:

SEC. 6. DEPARTMENT OF AGRICULTURE PARTNERSHIPS TO REDUCE HAZARDOUS FUELS ON NATIONAL FOREST SYSTEM LANDS TO PREVENT OR REDUCE THE SEVERITY OF WILDFIRES.

(a) DEFINITIONS.—In this section:

(1) CONTRACT.—The term “contract” means any contracting authority available to the Secretary of Agriculture, including a sole source contract or other agreement for the mutual benefit of the Secretary and a State Forester.

(2) GOOD NEIGHBOR PROJECT.—The term “good neighbor project” means any project on National Forest System land that meets the requirements for hazardous fuels reduction projects under subsections (a), (d), (e), and (f) of section 102 of the Healthy Forests Restoration Act (16 U.S.C. 6512).

(3) STATE FORESTER.—The term “State Forester” has the meaning given that term in section 4(k) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(b) PARTNERSHIP AUTHORITY.—The Secretary of Agriculture (in this section referred to as the “Secretary”) may enter into contracts or cooperative agreements with a State Forester to prepare and implement good neighbor projects on National Forest System land to complement any similar project being performed on bordering or adjacent non-Federal land. The decision to proceed with a good neighbor project is in the Secretary’s sole discretion.

(c) STATE FORESTER OR EQUIVALENT OFFICIAL AS AGENT.—A cooperative agreement or contract under subsection (b) may authorize the State Forester to serve as the agent for the Secretary in providing all services necessary to facilitate the performance of good neighbor projects, except that any decision with respect to a good neighbor project required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may not be delegated to a State Forester or any officer or employee of the State Forester.

(d) PROJECT REQUIREMENTS.—In implementing any good neighbor project, the Secretary shall ensure that—

(1) the project is consistent with the applicable land and resource management plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and

(2) the project improves the cost efficiency of managing the National Forest System land covered by the project, as determined by the Secretary.

(e) **PRIORITY FOR COLLABORATIVE PROJECTS.**—The Secretary shall give priority to good neighbor projects that are—

(1) developed in collaboration with nongovernmental entities;

(2) consistent with a community wildfire protection plan (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6502)); or

(3) prepared in a manner consistent with the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report No. 106–64), and subsequent revisions of the implementation plan.

(f) **RELATION TO OTHER LAWS.**—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to a contract or other agreement under this subsection.

(g) **SUBCONTRACTING BY A STATE FORESTER.**—A State Forester may subcontract to the extent allowed by State and local law to prepare or implement a contract or other agreement under this section.