

TO RESTORE THE PROHIBITION ON THE COMMERCIAL SALE AND  
SLAUGHTER OF WILD FREE-ROAMING HORSES AND BURROS

---

APRIL 17, 2007.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

---

Mr. RAHALL, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 249]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 249) to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros, 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. 249 is to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 249 repeals a rider contained in the FY 2005 Consolidated Appropriations Act that provided for the commercial sale and slaughter of wild free-roaming horses and burros, thus restoring the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros that, up until December 2004, had been in existence since 1971.

In 1971 Congress passed the Wild Free-Roaming Horse and Burro Act (PL 92-195). That law established as national policy “that wild free-roaming horses and burros shall be protected from capture, branding, harassment, and death; and to accomplish this they are considered in the area where presently found, as an inte-

gral part of the natural system of the public lands.” The law also directed that “no wild free-roaming horse or burros or its remains may be sold or transferred for consideration for processing into commercial products.”

The 1971 Act directed the Bureau of Land Management (BLM) and the Forest Service to enforce the law on public lands. Unfortunately, these agencies, especially the BLM, have not lived up to the task. Reports of the Government Accountability Office and the Inspector General, as well as newspaper exposés, have outlined numerous instances in which the BLM has failed to properly manage these animals. As recently as the late 1990s it was found that, because of BLM’s lax enforcement, hundreds of these animals had ended up at commercial slaughtering plants.

In addition to the agency’s lax oversight of adoptions of these animals, much of their problems stem from the fact that the agency annually rounds up more animals than can be adopted in a single year. As a result, the BLM currently has approximately 31,000 wild horses and burros in holding facilities where their care and feeding use up nearly half of the agency’s budget for wild horse and burro management.

While “excess” wild horses and burros have been cited as the reason for the recent changes in law, it is important to note that there are significantly fewer wild horses and burros on the public lands today than there were 25 years ago. In 1980 there were approximately 62,638 wild horses and burros on public lands. By February 2007, this number had dropped to approximately 28,500. Yet, the BLM continues to round up many more animals each year than can be adopted, adding to a growing number being placed in holding facilities.

The rider to the FY 2005 Consolidated Appropriations Act was inserted without the benefit of any hearings or public notice. Known as the “Burns rider” for its sponsor, former Senator Conrad Burns, the rider directs that wild horses and burros more than 10 years of age or that had been unsuccessfully offered for adoption three times must be sold without limitation. The rider also eliminated the provision in law that had prohibited the sale or transfer of wild horses and burros or their remains for processing into commercial products. Despite efforts to minimize the impact of these changes in law, more than 50 wild horses have been slaughtered as a result of the Burns rider.

Humane alternatives to slaughter exist and federal agencies have the authority to carry out such humane actions as adoption, sterilization, relocation, and placement with qualified individuals and organizations.

As part of the FY 2006 Interior Appropriations bill, the House, by a vote of 249–159, adopted the Rahall amendment that prohibited the use of funds for the sale or slaughter of wild free-roaming horses and burros. The House again adopted this same amendment as part of the FY 2007 Interior Appropriations bill by voice vote.

#### COMMITTEE ACTION

H.R. 249 was introduced by Natural Resources Committee Chairman Nick J. Rahall, II (D-WV) on January 5, 2007. The bill was referred to the Committee on Natural Resources. On March 7, 2007, the Full Natural Resources Committee met to consider the

bill. Representative Jeff Flake offered, then withdrew, an amendment to delete the prohibition on sales. The bill was then ordered favorably reported to the House of Representatives by voice vote.

#### 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 Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) 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)(3)(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.

2. **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.

3. **General Performance Goals and Objectives.** This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. **Congressional Budget Office Cost Estimate.** 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. 249—A bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros*

H.R. 249 would prohibit the commercial sale of wild horses and burros by the Bureau of Land Management (BLM). Currently, BLM administers a program to protect, manage, and control wild free-roaming horses and burros. As part of that program, BLM sells wild horses and burros that are over 10 years of age for commercial purposes for about \$10 per animal if the animals have not been successfully adopted in three auctions. If the animals are not adopted and BLM cannot sell the animals, it provides long-term care for them.

CBO estimates that implementing H.R. 249 would not have a substantial effect on the federal budget. BLM would lose minimal proceeds from the sale of the animals (which are classified as discretionary offsetting collections), and also would incur additional costs for providing long-term care for some animals. Based on information from BLM about the number of animals sold and the cost

to care for them, CBO estimates that the resulting net changes in discretionary spending under H.R. 249 would not exceed \$500,000 annually, assuming the availability of appropriated funds. Enacting H.R. 249 would not affect direct spending or revenues.

H.R. 249 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 Tyler Kruzich. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### EARMARK STATEMENT

H.R. 249 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or (f) of rule XXI.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

### ACT OF DECEMBER 15, 1971

(Public Law 92-195)

AN ACT To require the protection, management, and control of wild free-roaming horses and burros on public lands.

\* \* \* \* \*

SEC. 3. (a) \* \* \*

\* \* \* \* \*

(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act—

(1) \* \* \*

\* \* \* \* \*

(5) upon destruction or death for purposes of or incident to the program authorized in this section[.] *Provided, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.*

\* \* \* \* \*

[(e) SALE OF EXCESS ANIMALS.—

[(1) IN GENERAL.—Any excess animal or the remains of an excess animal shall be sold if—

[(A) the excess animal is more than 10 years of age; or  
 [(B) the excess animal has been offered unsuccessfully  
 for adoption at least 3 times.

[(2) METHOD OF SALE.—An excess animal that meets either  
 of the criteria in paragraph (1) shall be made available for sale  
 without limitation, including through auction to the highest  
 bidder, at local sale yards or other convenient livestock selling  
 facilities, until such time as—

[(A) all excess animals offered for sale are sold; or

[(B) the appropriate management level, as determined  
 by the Secretary, is attained in all areas occupied by wild  
 free-roaming horses and burros.

[(3) DISPOSITION OF FUNDS.—Funds generated from the sale  
 of excess animals under this subsection shall be—

[(A) credited as an offsetting collection to the Manage-  
 ment of Lands and Resources appropriation for the Bureau  
 of Land Management; and

[(B) used for the costs relating to the adoption of wild  
 free-roaming horses and burros, including the costs of mar-  
 keting such adoption.

[(4) EFFECT OF SALE.—Any excess animal sold under this  
 provision shall no longer be considered to be a wild free-roam-  
 ing horse or burro for purposes of this Act.]

\* \* \* \* \*

SEC. 8. (a) Any person who—

(1) \* \* \*

\* \* \* \* \*

(4) [except as provided in section 3(e),] processes or permits  
 to be processed into commercial products the remains of a wild  
 free-roaming horse or burro, or

\* \* \* \* \*

## DISSENTING VIEWS

I oppose H.R. 249. This legislation needlessly eliminates the sale authority of the Bureau of Land Management and bans the sale or transfer of wild horses and burros for commercial processing, which is already prohibited by the Bureau of Land Management (BLM).

Under current law, BLM is allowed to sell animals that are either more than 10 years old or have been offered unsuccessfully for adoption at least three times. Roughly 2,300 animals have been successfully sold into private care. Selling old animals that have not been adopted is a humane solution. It places animals into private care and lessens the crowding in holding facilities. The proceeds from selling eligible animals are returned to BLM's adoption fund to help with the wild horse and burro adoption program, which lowers the overall cost to taxpayers.

Because the bill groups the sale of wild horses and burros with the ban on slaughter, I oppose it. I do not believe that the two issues should be tied together.

However, I take hope from the Chairman's promise to hold hearings on the issue in exchange for the withdrawal of my amendment. I look forward to working with the Committee to address our mutual concerns.

JEFF FLAKE.

