

**Legislative Bulletin.....July 17, 2009**

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**H.R. 1018**—Restore Our American Mustangs (ROAM) Act

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*(Rahall, D-WV)*

**Key Conservative Concerns**

*Take Away Points*

- ***Exacerbates the Problem:*** Some conservatives have expressed concern that by expanding the territory and range of wild horses and burros, even more public lands will be devastated by H.R. 1018.
- ***Restrictive Process:*** Some conservatives have expressed concern that the bill restricts a number of methods to manage the herds and mitigate the damage done to native plants, wildlife and rangeland.
- ***Grazing Capacity:*** Some conservatives have expressed concern that the bill will reduce grazing allocations for cattle in areas where wild horse and burro herds are expanded.
- ***More Restrictions on Federal Land:*** Some conservatives have expressed concern that the bill establishes an additional 19 million acres of public and private land for wild horses. Current law already provides for protection for 32 million acres – approximately the size of New York.

*For additional conservative concerns in the bill, see below*

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**Order of Business:** The bill is scheduled to be considered on Friday, July 17, 2009, under a structured rule ([H.Res.653](#)) providing for one hour of general debate and making in order a manager’s amendment and an amendment in the nature of a substitute. The RSC will summarize each amendment made in order in a separate document.

**Summary:** H.R. 1018 would authorize \$310 million to amend the Wild Free-Roaming Horses and Burros Act to require that wild horses and burros be considered an “integral part of the natural system” on Bureau of Land Management (BLM) and Forest Service (FS) public lands, not just on the areas where they were found when the Act was passed in 1971. Additionally, the bill prohibits the commercial processing of these animals and confinement for only six months. Some of the more notable provisions are listed below:

- **Expansion:** Expands habitat for wild horses and burros by approximately 19 million acres by considering them an ‘integral part of the natural system’ on additional federal lands.
- **Census:** Requires the Secretary to maintain an inventory of wild and free-roaming horses and burros on public lands and update the inventory every two years to determine if a “thriving natural ecological balance” exists with regards to the population of wild horses and burros on public lands.
- **Contraception:** Requires the BLM to research, develop, and implement enhanced fertility control for mares and/or stallions.
- **Adoption:** Animals can only be removed if the BLM has exhausted all practicable options for maintaining a thriving natural “ecological balance” and as long as the Secretary has determined that an adoption demand exists. Additionally, the bill requires the Secretary to develop marketing strategies for the adoption program, explore public outreach opportunities, provide resources to properly screen and train, develop a volunteer mentor and compliance check program for assisting the agency in facilitating successful adoptions; and develop a program through which potential adopters may be offered an economic incentive for successful completion of the adoption program.
- **Destruction:** Prohibits the destruction of wild free-roaming horses or burros unless the wild free-roaming horse or burro is terminally ill or fatally injured (loosely defined in the bill).
- **Cooperative agreements:** The bill will authorize the Secretary to enter into cooperative agreements with owners of private property.
- **Joint Advisory Board:** Expands the make up of the board to include 12 total members including; at least three representatives of the livestock industry, three representatives of the environmental community, three representatives of the animal protection community; and three scientists with expertise in wildlife management, animal husbandry, or natural resource management.
- **Slaughter:** Subject fines of up to \$2,000 or imprisonment for up to one year, for any person who processes, transports for processing, or permits to be processed into commercial products a live or deceased wild free-roaming horse or burro.

**Additional Background:** The primary purpose of the 1971 Act was to have the BLM determine the “appropriate management level” (AML) of wild horses and burros on the public rangelands. The agency manages these animals as part of its multiple-use mission under the Federal Land Management Policy (FLMP) Act of 1976. According to the BLM approximately 36,000 wild horses and burros roam BLM-managed lands in 181 herd management areas in 10 western states. In order to protect the health of the herd and federal land, the BLM is authorized to remove excess animals to restore a “thriving natural ecological balance” to the range and protect the range from the deterioration associated with overpopulation. The BLM has determined the optimum number of animals on the range should consist of approximately 27,200 animals.

With no natural predators, the wild horse and burro populations can increase their size at a rate that can double the total population every three to four years. If a herd grows too great, BLM rounds up wild horses and burros from public rangelands and offers them for adoption or sale to those individuals and groups. Over the last decade, adoptions and sales of the animals have declined and the BLM now holds approximately 33,000 un-adopted animals compared to 9,807 in 2001.

The Wild, Free-Roaming Horses and Burros Act of 1971 granted authority to manage wild horses and burros populations on BLM and National Forest rangeland. H.R. 1018 would expand the authority to apply to additional BLM and FS lands by designating these animals as an “integral part of the natural system.”

### ***Democrat Inconsistency Alert!***

As Representative Lummis office points out, “Rather than recognize the problem of wild horse overpopulation and making the necessary changes to the wild horse program within the Bureau of Land Management (BLM) to address it, H.R. 1018 expands the problem by allowing wild horses in sensitive areas where they currently do not roam.”

In the same week when House Democrats passed legislation allowing taxpayer-funded abortion in DC (as part of the Financial Service Appropriations bill), Democrats are now seeking to expand protection for horses.

#### **Conservative Concerns in addition to the ones listed above:**

- ***Endangered Species:*** Since rangelands are a critical but sensitive part of the semi-arid ecosystem of the west and serve as the habitat for a wide variety of endangered species, the bill will actually contradict the protections provided for many species under Endangered Species Act.
- ***More Restrictions on Federal Land:*** Some conservatives have expressed concern that the bill establishes an additional 19 million acres of public and

private land for wild horses. The current law already provides for protection for 32 million acres – approximately the size of New York.

- **Horse Contraception:** The bill provides “enhanced contraception” and birth control for horses, which many conservatives view as unnecessarily costly and ineffective.
- **Slaughter:** Some conservatives have expressed concern that the bill will actually prevent the BLM from disposing dead wild horses in any manner – not just prohibiting disposal for means of slaughter.
- **Cost:** Many conservatives have expressed that CBO cost estimates are inaccurate and do not take into account the entire scope of this BLM program and that it has been growing at a rate of 50% each year. The Resources Committee estimates that the legislation could cost upwards of \$700 million.

**Committee Action:** On February 12, 2009, the bill was introduced and referred to the Committee on Natural Resources. On April 29, 2009, the committee held a mark-up and ordered the bill to reported by a vote of 21-14. On June 23, 2009, the bill reported by the committee and placed on the union calendar.

**Administration Position:** No Statement of Administration Position is available.

**Cost to Taxpayers:** According to CBO, “H.R. 1018 would authorize \$310 million over the 2010 – 2014 period. CBO estimates the bill would increase discretionary costs by \$200 million over that same period. Additional funds would be needed after 2014 to continue acquiring and restoring range land for those animals.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, the bill expands the Wild Free-Roaming Horses and Burros Act of 1971 to include all BLM and FS managed land – not just to the lands they roamed in 1971.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** According to Committee Report 111-177, “H.R. 1018 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(t) of rule XXI.”

**Constitutional Authority:** The Natural Resources Committee cites Article I, Section 8 of the Constitution, but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution”

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