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APPROVED  
DEC 12 1975

THE WHITE HOUSE  
WASHINGTON

ACTION

Last Day: December 13

December 10, 1975

Posted 12/13  
To ARCHIVES 12/15

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: H.R. 10027 - Forest Service  
Cooperative Agreements

Attached for your consideration is H.R. 10027, sponsored by Representative Ullman, which authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed.

A discussion of the enrolled bill is provided in OMB's bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 10027 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEC 8 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10027 - Forest Service  
Cooperative Agreements  
Sponsor - Rep. Ullman (D) Oregon

Last Day for Action

December 13, 1975 - Saturday

Purpose

Authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Civil Service Commission	Approval

Discussion

H.R. 10027 would authorize the Secretary of Agriculture to enter into cooperative agreements between the Forest Service and public or private agencies, organizations, institutions, or persons for certain work or services. Such agreements could only be entered into where the public interest will be benefited and where a mutual interest other than monetary considerations exists. The Secretary would be authorized to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment to the cooperators.

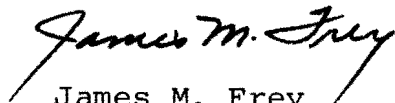
Under these agreements, Forest Service personnel could supervise the work performed by cooperators and their employees in cases of emergencies or as otherwise mutually agreed to. However, the cooperators and their employees

would not be deemed Federal employees except for purposes of Federal tort liability and work-connected injuries.

In its enrolled bill letter, Agriculture explains the need for this legislation:

"Cooperation is an important administrative tool which permits the equitable and efficient use of each party's manpower and other resources in the attainment of common objectives. It also has the advantage of generally resulting in net cost-savings to the Government. The Forest Service has authority under existing law to accept cooperative contributions and to perform work for the benefit of cooperators at their expense. In certain activities, specified classes of cooperators may perform work or furnish services to the Forest Service on a reimbursable or advance payment basis. These activities include road construction and maintenance, fire suppression, forest research, cooperation with States in the form of grants-in-aid, and cooperative law enforcement. However, under existing law, the Forest Service does not have clear authority to have cooperators perform general work or furnish services and facilities of benefit to any authorized Forest Service activity.

H.R. 10027 contains clear authority to cooperate in certain key activities for which we believe we need specific authority. For example, we have encountered difficulty in cooperatively constructing, operating, and/or maintaining such pollution abatement facilities as sanitary landfills, water systems, and sewer systems. We have also had to forego opportunities to utilize State firefighting crews for nonfire work on the National Forests during low-fire risk periods. The cooperative authorities contained in H.R. 10027 would permit the Forest Service to take advantage of these and other opportunities to cooperate. The bill would facilitate the administration of Forest Service programs and clarify and complement existing cooperative authority."



James M. Frey  
Assistant Director for  
Legislative Reference

Enclosures



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

December 5, 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Attention: Assistant Director for  
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of the Civil Service Commission on Enrolled H.R. 10027, "To authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes."

Section 1 of this bill would authorize the Secretary of Agriculture to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons, to construct, operate, and maintain cooperative pollution abatement equipment and facilities, to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection.

The authority in section 1 for cooperators and their employees to perform cooperative work under Forest Service supervision would not establish employer-employee relationships. As provided in section 2, cooperators and their employees would be deemed to be Federal employees only for purposes of Federal tort liability and work-connected injuries. This is appropriate.

We recommend that from the personnel standpoint the President sign Enrolled H.R. 10027.

By direction of the Commission:

Sincerely yours,

*J. B. Spain*  
Chairman



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

December 5, 1975

Honorable James T. Lynn  
Director, Office of Management  
and Budget

Dear Mr. Lynn:

As requested by your office, here are our views on the enrolled enactment H.R. 10027, "To authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes."

The Department of Agriculture recommends that the President approve the bill.

H.R. 10027 would authorize the Secretary of Agriculture, in administering the programs and activities of the Forest Service, to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to construct, operate and maintain cooperative pollution abatement equipment and facilities; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal and thinning of trees. The Secretary may enter into such agreements when he determines that the agreements are in the public interest and that there exists a mutual interest other than monetary considerations. Under H.R. 10027, the Secretary could advance or reimburse funds to cooperators or furnish or share materials, supplies, facilities, or equipment. Section 2 of the bill would permit cooperators and their employees to perform work under Forest Service supervision in emergencies or as otherwise agreed to. In such circumstances, cooperators and their employees would be covered by Federal tort liability and work injury laws.

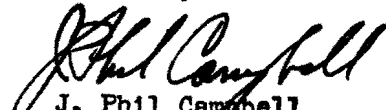
Cooperation is an important administrative tool which permits the equitable and efficient use of each party's manpower and other resources in the attainment of common objectives. It also has the advantage of generally resulting in net cost-savings to the Government. The Forest Service has authority under existing law to accept cooperative contributions and to perform work for the benefit of cooperators at their expense. In certain activities, specified classes of cooperators may perform work or furnish services to the Forest Service on a reimbursable or advance payment basis. These activities include road construction and maintenance, fire suppression, forest research, cooperation with States in the form of grants-in-aid, and cooperative law enforcement. However, under existing law the Forest Service does not have clear authority to have cooperators perform general work or furnish services and facilities of benefit to any authorized Forest Service activity.

Honorable James T. Lynn

H.R. 10027 contains clear authority to cooperate in certain key activities for which we believe we need specific authority. For example, we have encountered difficulty in cooperatively constructing, operating, and/or maintaining such pollution abatement facilities as sanitary landfills, water systems, and sewer systems. We have also had to forego opportunities to utilize State firefighting crews for nonfire work on the National Forests during low-fire risk periods. The cooperative authorities contained in H.R. 10027 would permit the Forest Service to take advantage of these and other opportunities to cooperate. The bill would facilitate the administration of Forest Service programs and clarify and complement existing cooperative authority.

Approval of H.R. 10027 would not increase costs or result in a need for additional appropriations. Any funds used to reimburse cooperators would come from the Forest Service function which benefited from the cooperative project.

Sincerely,



J. Phil Campbell  
Under Secretary

To  
J. Cannon  
12-8-75  
37.m.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEC 8 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10027 - Forest Service  
Cooperative Agreements  
Sponsor - Rep. Ullman (D) Oregon

Last Day for Action

December 13, 1975 - Saturday

Purpose

Authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Civil Service Commission	Approval

Discussion

H.R. 10027 would authorize the Secretary of Agriculture to enter into cooperative agreements between the Forest Service and public or private agencies, organizations, institutions, or persons for certain work or services. Such agreements could only be entered into where the public interest will be benefited and where a mutual interest other than monetary considerations exists. The Secretary would be authorized to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment to the cooperators.

Under these agreements, Forest Service personnel could supervise the work performed by cooperators and their employees in cases of emergencies or as otherwise mutually agreed to. However, the cooperators and their employees



THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M. L.*  
SUBJECT: H. R. 10027 - Forest Service Cooperative Agreements

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1249

Date: December 8

Time: 400pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 10

Time: noon

SUBJECT:

H.R. 10027 - Forest Service Cooperative Agreements

ACTION REQUESTED:

\_\_\_\_\_ For Necessary Action

\_\_\_\_\_ For Your Recommendations

\_\_\_\_\_ Prepare Agenda and Brief

\_\_\_\_\_ Draft Reply

X  For Your Comments

\_\_\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 12/9/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James W. Cavanaugh  
Staff Secretary

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1249

Date: December 8

Time: 400pm

FOR ACTION: Paul Leach *pk*  
Max Friedersdorf *pk*  
Ken Lazarus *pk*

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 10

Time: noon

SUBJECT:

H.R. 10027 - Forest Service Cooperative Agreements

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

## COOPERATIVE AGREEMENTS FOR CERTAIN FOREST SERVICE PROGRAMS

NOVEMBER 20 (legislative day NOVEMBER 18), 1975.—Ordered to be printed

Mr. EASTLAND, from the Committee on Agriculture and Forestry, submitted the following

### REPORT

[To accompany H.R. 10027]

The Committee on Agriculture and Forestry to which was referred the bill (H.R. 10027) to authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### SHORT EXPLANATION

H.R. 10027 authorizes the Secretary of Agriculture to enter into cooperative agreements between the Forest Service and public and private agencies, organizations, institutions, and persons, and to reimburse such cooperators for the performance of work by them which benefits Forest Service programs. Such agreements could only be entered into where the public interest will be benefited and where there exists a mutual interest other than monetary considerations. Further under these agreements, cooperators and their employees would be able to perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to.

#### BACKGROUND AND PURPOSE

H.R. 10027 is necessary to clarify and expand existing authority relating to cooperative agreements which may be entered into by the Forest Service. The bill provides clear authority to the Forest Service to engage in cooperative activities to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to

develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

At times the Forest Service has been unable to enter into cooperative arrangements because of the lack of statutory authority. In other cases, there have been inconsistent and uneven administrative practices throughout the country because of the lack of clear authority either to negotiate an agreement or to reimburse cooperators for work performed or for services, facilities, or equipment provided by the cooperator.

The authority provided by the bill will enable States to make maximum use of fire crews in order that they may be maintained on a year-round basis. States such as Oregon are having difficulty maintaining their crews throughout the year, thus endangering the renewable resources contained in national forest lands within their boundaries. The new authority would allow the use and reimbursement of these crews on needed nonfire work, such as reforestation, in national forests during periods of relatively low fire hazard as part of the cooperative arrangements and assure that the crews would be readily available in emergency fire situations.

#### COMMITTEE CONSIDERATION

On April 9, 1975, Senators Hatfield and Packwood introduced S. 1382, a bill to authorize the Secretary of Agriculture to reimburse cooperators for work performed which benefits Forest Service programs. The bill was referred to the Committee on Agriculture and Forestry and to its Subcommittee on Environment, Soil Conservation, and Forestry. On April 11, 1975, the bill was referred to the Department of Agriculture with a request for a report. A favorable report was received from the Department with a request for a perfecting amendment.

H.R. 5634, a companion bill, was considered by the House Committee on Agriculture and public hearings were held. As a result of those hearings, the legislation was revised and perfected and introduced as H.R. 10027. Further amendments were adopted and the bill was reported by the House Committee on Agriculture.

Because there is no controversy with regard to H.R. 10027, as amended, the Committee has not held public hearings. The Subcommittee on Environment, Soil Conservation, and Forestry was polled on November 4, 1975, and the full Committee voted on November 5, 1975, to report H.R. 10027.

#### SECTION-BY-SECTION ANALYSIS

*Section 1. Negotiation of cooperative agreements; advancing funds*

Section 1 authorizes the Secretary to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons—

- (a) To construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems;

S.R. 476

(b) To engage in cooperative manpower and job training and development programs;

(c) To develop and publish cooperative environmental education and forest history materials; and

(d) To perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

The Secretary may enter into such cooperative agreements when he determines that the public interest will be benefited and there exists a mutual interest other than monetary considerations.

Section 1 also authorizes the Secretary in such cooperative arrangements to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of the Act of January 31, 1923, relating to the advance of public moneys.

#### *Section 2. Supervision of cooperators*

Section 2 authorizes Forest Service personnel to supervise such cooperators and their employees in emergencies or otherwise as mutually agreed to. In such cases, the cooperators and their employees would be covered under Federal tort liability and work injury laws, but would not be considered Federal employees for other purposes.

#### *Section 3. No limitation on other authority to enter into cooperative agreements*

Section 3 provides that nothing in the bill shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law. The bill, therefore, supplements existing provisions of law relating to cooperative agreements.

#### DEPARTMENTAL VIEWS

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., September 25, 1975.

HON. HERMAN E. TALMADGE,  
Chairman, Committee on Agriculture and Forestry,  
U.S. Senate.

DEAR MR. CHAIRMAN: As you requested, here are our views on S. 1382, a bill "To authorize the Secretary of Agriculture to reimburse cooperators for work performed which benefits Forest Service programs."

The Department of Agriculture recommends that the bill be enacted with the amendment suggested herein.

S. 1382 would authorize the Secretary of Agriculture to include in cooperative agreements between the Forest Service and public and private agencies, organizations, institutions, and persons, arrangements for reimbursing such cooperators for the performance of work by them which benefits Forest Service programs. Such agreements could only be entered into where the public interest will be benefited and where there exists a mutual interest other than monetary consideration. Further under these agreements, cooperators and their employees would be able to perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to.

S.R. 476

The Forest Service has authority under existing law to accept cooperative contributions and to perform work for the benefit of cooperators may perform work or furnish services, specified classes of cooperators may perform work or furnish services to the Forest Service on a reimbursable or advance payment basis. These activities include road construction and maintenance, fire suppression, forest research, cooperation with States in the form of grants-in-aid and cooperative law enforcement.

However, existing statutes do not give the Forest Service clear authority to have cooperators perform general work or furnish services and facilities of benefit to any authorized Forest Service activity. S. 1382 would complement existing cooperative authorities by clarifying the Forest Service authority to reimburse cooperators for work performed by them for the benefit of Forest Service programs and activities and by permitting the equitable and most efficient utilization of each party's manpower and other resources in the attainment of common objectives. The new cooperative authority would not be used in place of regular procurement or employment where such procedures are appropriate.

An example of a situation where this additional authority is needed is in the use of State fire crews. Existing authority allows the Forest Service to use these crews in fire suppression. The new authority contained in S. 1382 would allow use and reimbursement of these crews on needed non-fire work on National Forest land during periods of relatively low fire hazard as part of mutually agreed to cooperative arrangements. Such use would serve both State and Federal purposes by assuring that these crews would be readily available in emergency fire situations.

The authority in section 2 to permit the Forest Service to supervise the cooperator and his employees would broaden and facilitate opportunities for cooperation and clarify the relationship of the parties. For example, the Forest Service participates with other agencies in cooperative agreements to provide meaningful work experience in various public manpower and youth development programs. It is sometimes desirable as part of the agreement for cooperators or program participants to work under Forest Service supervision. S. 1382 would provide clear authority for such supervision, but under the bill, such arrangements for supervision would not establish an employer-employee relationship. Cooperators, their employees or other aids would not be Federal employees except for the purpose of Federal tort liability, work-connected injuries, and the use of Federally-owned or leased passenger vehicles and aircraft.

As a perfecting amendment we recommend that line 7 on page 1 of the bill be amended by inserting between the words "work" and "by" the phrase "and for the furnishing of services or facilities." The insertion of these terms would clarify the meaning of cooperative work as used in S. 1382 and clarify the existing Forest Service authority to enter into cooperative agreements for joint use and maintenance of facilities and joint development of environmental education materials.

No increase in appropriations would be required by enactment of S. 1382.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Under Secretary.*

The Committee has been informally advised that the Forest Service supports H.R. 10027, as amended.

#### COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there would be no increased direct costs to the Federal Government during the current and the five subsequent fiscal years as a result of the enactment of the bill.

This cost estimate is in accord with the estimate which the Department of Agriculture furnished the House Committee on Agriculture in its letters of June 18 and October 23, 1975.

## COOPERATIVE AGREEMENTS FOR CERTAIN FOREST SERVICE PROGRAMS

NOVEMBER 1, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,  
submitted the following

### REPORT

[To accompany H.R. 10027]

The Committee on Agriculture, to whom was referred the bill (H.R. 10027), to authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, strike lines 4 through the period on line 9 and insert in lieu thereof the following:

forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

Page 3, following line 4, add the following new section:

SEC. 3. Nothing in this Act shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

#### PURPOSE AND NEED FOR THE LEGISLATION

H.R. 10027, as amended, authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed.

H.R. 10027, as amended, is necessary to clarify and expand existing authority relating to cooperative agreements which may be entered into by the Forest Service. The bill will provide clear authority to the Forest Service to engage in cooperative activities to construct, operate,

and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

At times the Forest Service has been unable to enter into cooperative arrangements which would benefit the program because of the lack of statutory authority. In other cases there have been inconsistent and uneven administrative practices throughout the country because of the lack of clear authority either to negotiate an agreement or to reimburse cooperators for work performed or for services, facilities or equipment provided by the cooperator.

The authority provided by H. R. 10027, as amended, would enable States to make maximum use of fire crews so they may be maintained on a year-round basis. States, such as Oregon, are having difficulty maintaining their crews throughout the year thus endangering the renewable resources contained in national forest lands within their boundaries. The new authority would allow the use and reimbursement of these crews on needed nonfire work in national forests during periods of relatively low fire hazard as part of the cooperative arrangement and assure that the crews would be readily available in emergency fire situations.

It is the Committee's intention that the authority for cooperative agreements for forestry protection would not be used for the purpose of commercial timber sales. Further, the authority provided by this legislation would be applicable only to land and programs within the jurisdiction of the Forest Service.

#### SECTION-BY-SECTION ANALYSIS

The bill provides as follows:

Section 1 authorizes the Secretary to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons for the following purposes:

(a) to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems;

(b) to engage in cooperative manpower and job training and development programs;

(c) to develop and publish cooperative environmental education and forest history materials; and

(d) to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

The Secretary may enter into said cooperative agreements when he determines that the public interest will be benefitted, and there exists a mutual interest other than monetary considerations.

The section also authorizes the Secretary in such cooperative arrangements to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment

without regard to the provisions of the Act of January 31, 1923, relating to the advance of public money.

Section 2 authorizes Forest Service personnel to supervise such cooperators and their employees in emergencies or otherwise as mutually agreed to and in such cases said cooperators and their employees would be covered under Federal tort liability and work injury laws, but would not be considered Federal employees for other purposes.

Section 3 provides that nothing in this Act shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law. This section makes clear that H.R. 10027, as amended, is intended to supplement, not supplant, existing provisions of law relating to cooperative agreements.

#### COMMITTEE CONSIDERATION

H.R. 5634, "To authorize the Secretary of Agriculture to reimburse cooperators for work performed which benefits Forest Service programs," was introduced by Mr. Ullman for himself and the other Members of the Oregon Delegation in the House on March 26, 1975.

On June 19, 1975, the Subcommittee on Forests conducted a public hearing on H.R. 5634. At that time, testimony was received from Congressman Ullman, the U.S. Forest Service, the National Forest Products Association, the American Forestry Association, the National Association of State Foresters, the Oregon Forest Protection Association and East Oregon Forest Protective Association, and the Oregon State Forester.

All testimony and correspondence received by the Subcommittee have been favorable.

John Melcher of Montana, a Member of the Subcommittee expressed reservations in questioning John McGuire, Chief of the Forest Service, about the bill H.R. 5634 as drafted because he felt that the authority contained therein was too broad. H.R. 5634 provided authority for cooperative agreements of the Forest Service for the benefit of any of its programs and activities.

In an attempt to meet Mr. Melcher's objections, Mr. Ullman revised H.R. 5634 and introduced the revised legislation as H.R. 10027 on October 3, 1975.

On October 7, the Subcommittee on Forests, meeting in an open business meeting and with a quorum present ordered H.R. 10027 reported to the full Committee by a rollcall vote of 10 yeas to 0 nays, with the recommendation that it do pass with two amendments. One provided further restrictions on the types of cooperative agreements covered by the legislation; the second amendment specified that this legislation does not affect the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

On October 30, 1975, the Committee on Agriculture after adopting two technical amendments reported the bill by a unanimous voice vote in the presence of a quorum.

#### ADMINISTRATION POSITION

The following letter dated June 18, 1975, was received by Chairman Foley in response to his request for a report on H.R. 5634:



DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., June 18, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 5634, a bill "To authorize the Secretary of Agriculture to reimburse cooperators for work performed which benefits Forest Service programs."

The Department of Agriculture recommends that the bill be enacted with the amendment suggested herein.

H.R. 5634 would authorize the Secretary of Agriculture to include in cooperative agreements between the Forest Service and public and private agencies, organizations, institutions, and persons arrangements for reimbursing such cooperators for the performance of work by them which benefits Forest Service programs. Such agreements could only be entered into where the public interest will be benefited and where there exists a mutual interest other than monetary consideration. Further under these agreements, cooperators and their employees would be able to perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to.

The Forest Service has authority under existing law to accept cooperative contributions and to perform work for the benefit of cooperators at their expense. In certain activities, specified classes of cooperators may perform work or furnish services to the Forest Service on a reimbursable or advance payment basis. These activities include road construction and maintenance, fire suppression, forest research, cooperation with States in the form of grants-in-aid, and cooperative law enforcement.

However, under existing law the Forest Service does not have clear authority to have cooperators perform general work or furnish services and facilities of benefit to any authorized Forest Service activity. H.R. 5634 would complement existing cooperative authorities by clarifying the Forest Service authority to reimburse cooperators for work performed by them for the benefit of Forest Service programs and activities and by permitting the equitable and most efficient utilization of each party's manpower and other resources in the attainment of common objectives. The new cooperative authority would not be used in place of regular procurement or employment where such procedures are appropriate.

An example of a situation where this additional authority is needed is in the use of State fire crews. Existing authority allows the Forest Service to use the crews in fire suppression. The new authority contained in H.R. 5634 would allow use and reimbursement of these crews on needed non-fire work on National Forest land during periods of relatively low fire hazard as part of mutually agreed to cooperative arrangements. Such use would serve both State and Federal purposes by assuring that these crews would be readily available in emergency fire situations.

The authority in section 2 to permit the Forest Service to supervise the cooperator and his employees would broaden and facilitate oppor-

tunities for cooperation and clarify the relationship of the parties. For example, the Forest Service participates with other agencies in cooperative agreements to provide meaningful work experience in various public manpower and youth development programs. It is sometimes desirable as part of the agreement for cooperators or program participants to work under Forest Service supervision. H.R. 5634 would provide clear authority for such supervision, but under the bill, such arrangements for supervision would not establish an employer-employee relationship. Cooperators, their employees or other aids would not be deemed Federal employees except for the purpose of Federal tort liability, work-connected injuries, and the use of Federally-owned or leased passenger vehicles and aircraft.

As a perfecting amendment we recommend that line 7 on page 1 of the bill be amended by inserting between the words "work" and "by" the phrase "and for the furnishing of services or facilities." The insertion of this phrase would clarify the meaning of cooperative work as used in H.R. 5634 and clarify the existing Forest Service authority to enter into cooperative agreements for joint use and maintenance of facilities and joint development of environmental education materials.

No increase in appropriations would be required by enactment of H.R. 5634.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT W. LONG,  
Acting Secretary.

The Committee has been informally advised that the Forest Service supports H.R. 10027, as amended.

The Committee received the following letter from the Forest Service regarding its estimates of costs that would be incurred in implementation of H.R. 10027, as amended:

UNITED STATES DEPARTMENT OF AGRICULTURE,  
FOREST SERVICE,  
Washington, D.C., October 23, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives.

DEAR MR. CHAIRMAN: Committee staff has asked us to provide an estimate of costs required to implement H.R. 10027, a bill "To authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed and for other purposes."

In our report and testimony on the original bill, H.R. 5634, we indicated that no direct costs would result from enactment of legislation to authorize reimbursement of Forest Service cooperators. Similarly, no direct costs would result from enactment of H.R. 10027. In fact, the accomplishment of Forest Service work through cooperation generally results in a net cost-savings to the Government.

Any funds used to reimburse cooperators would come from the Forest Service activity or function which benefited from the coopera-

tive project. For example, if during a low fire risk period, a State fire-fighting crew were able to perform reforestation work on a nearby National Forest, funds appropriated for timber management and reforestation purposes would be utilized to reimburse the State.

Sincerely,

R. MAX PETERSON,  
*Deputy Chief.*

#### CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATES

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that there would be no cost to the Federal Government during the current and the five subsequent fiscal years as a result of enactment of this legislation. As stated by the Department of Agriculture ". . . no direct costs would result from enactment of H.R. 10027. In fact, the accomplishment of Forest Service work through cooperation generally results in a net cost-savings to the Government."

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), Rule XI, of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 10027, as amended, will have no inflationary impact on the national economy.

#### BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 1(3)(B) of Rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. There was no estimate and comparison prepared by the Director of the Congressional Budget Office under clause 1(3)(C) of Rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report.

#### OVERSIGHT STATEMENT

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 10027, as amended, and H.R. 5634 were made by the Committee, within the definition of clause 2(b)(1) of Rule X of the House. No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 10027, as amended.

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# Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,  
one thousand nine hundred and seventy-five*

## An Act

To authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to facilitate the administration of the programs and activities of the Forest Service, the Secretary is authorized to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees. The Secretary may enter into aforesaid agreements when he determines that the public interest will be benefited and that there exists a mutual interest other than monetary considerations. In such cooperative arrangements, the Secretary is authorized to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of the Act of January 31, 1823 (Rev. Stat. 3648, as amended; 31 U.S.C. 529), relating to the advance of public moneys.*

**SEC. 2.** In any agreement authorized by section 1, cooperators and their employees may perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of chapter 171 of title 28, United States Code, and chapter 81 of title 5, United States Code.

**SEC. 3.** Nothing in this Act shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

December 2, 1975

Dear Mr. Director:

The following bills were received at the White House on December 2nd:

- S. 267 ✓
- S. 1245 ✓
- H.R. 6692 ✓
- H.R. 10027 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.