Committee Reports

102nd Congress

House Report 102-1027 Part 1

102 H. Rpt. 1027; Part 1

SKI AREA PERMITS

**DATE:** October 5, 1992. Ordered to be printed

**SPONSOR:** Mr. de la Garza from the Committee on Agriculture, submitted the following

R E P O R T

(To accompany H.R. 4970 which on April 9, 1992 was referred jointly to the Committees on Agriculture and Interior and Insular Affairs)

(Including cost estimate of the Congressional Budget Office)

**TEXT:**

The Committee on Agriculture, to whom was referred the bill (H.R. 4970) to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. FINDINGS AND PURPOSES.

(a) The Congress finds and declares that

(1) although ski areas occupy less than one twentieth of one percent of national forest lands nationwide, in many rural areas of the United States, ski areas and investments by ski area permittees on national forest lands form the backbone of the local economy and preponderance of the employment base;

(2) ski area operations and their attendant communities provide revenues to the United States in the form of permit fees, income taxes and other revenues which are extremely significant in proportion to the limited Federal acreage and Forest Service administration and contractual obligations required to support such operations;

(3) in addition to alpine skiing, many ski area permittees provide multi-season facilities and enhanced access to national forest lands which result in greater public use and enjoyment of such lands than would otherwise occur;

(4) unlike many other private sector users of Federal lands, ski areas in almost all cases finance, construct, maintain, and market all recreational facilities and improvements on such lands;

(5) many ski areas on Federal lands operate in a competitive environment which requires a continuing high level of capital investment to upgrade existing facilities and install new facilities to serve the public, including lifts, trails, snowmaking and trail grooming equipment, restaurants, and day care centers;

(6) despite an outward appearance of economic wellbeing resulting from an intensive capital infrastructure, many ski area operations are marginally profitable due to the competition and capital investments referenced in subparagraph (5), weather conditions, insurance premiums, the national economy, and other factors beyond their control;

(7) because of the aforementioned contributions of ski areas to the economy and rural communities and to the enhanced use and enjoyment of national forest lands, it is in the public interest for the United States, where consistent with national forest management objectives, to take actions with respect to such ski areas and associated communities as will assist their long-term economic health and stability; and

(8) the National Forest Ski Area Permit Act of 1986 has been of assistance to ski area operations on national forest lands by providing longer term tenure and stability to permittees, but further adjustments and policy direction are warranted to address problems related to permit fees and fee calculations and conflicts with certain mineral activities.

(b) In furtherance of the findings of subsection (a) of this section, it is the purpose of this Act to

(1) legislate a ski area permit fee which returns fair market value to the United States and at the same time provides ski area permittees and the United States with a simplified, consistent, predictable, and equitable fee formula which is commensurate with long-term ski area planning, financing and operation needs and which simplifies bookkeeping and other administrative burdens on ski area permittees and Forest Service personnal; and

(2) prevent future conflicts between ski area operations and mining and mineral leasing programs by withdrawing lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

SEC. 2. SKI AREA PERMIT FEE.

(a) The Secretary of Agriculture (Secretary) shall charge a fee for all ski area permits issued pursuant to the National Forest Ski Area Permit Act of 1986, the Act of March 4, 1915, and the Act of June 4, 1897, on National Forest System lands as set forth in subsection (b) of this section. The Secretary shall require that fees for all existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, be calculated as set forth in subsection (b) of this section.

(b)(1) The ski area permit fee (SAPF) to be charged shall be calculated by adding the permittees gross revenues from year-round lift ticket/ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. Add to that amount gross year-round revenue from ancillary facilities (GRAF) physically located on National Forest System lands, including all permittee or sub-permittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit fee. Calculate the final fee by multiplying adjusted gross revenue by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(i) 1.5 percent of all adjusted gross-revenue below $3,000,000;

(ii) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(iii) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(iv) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF = (LT+SS STFP) + GRAF = AGR; AGR % BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) of this section is hereby determined to most accurately reflect the percent of an alpine ski area permittees total skier service capacity which is located on National Forest System lands. It shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from nordic ski operations shall be included or excluded from the fee calculation according to the percentage of trails physically located on national forest land.

(3) In order to insure that the fee legislated herein remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figures for each revenue bracket in subparagraphs (b)(1)(i-iv) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than five years after the date of enactment of this Act, and every ten years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committees of Agriculture and Interior and Insular Affairs of the United States House of Representatives a report analyzing whether the ski area permit fee system legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

(c) The fee set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. It is the intention of Congress that unless mutually agreed otherwise by the Secretary and the permittee, the payment or pre-payment schedule shall conform to the permittees schedule in effect prior to enactment of this Act. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual fee calculation brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(d) The ski area permit fee legislated herein shall become effective on June 1, 1993, and cover receipts retroactive to June 1, 1992: Provided, however, That if a permittee has paid fees for the period June 1, 1992, to June 1, 1993, under the graduated rate fee system formula in effect prior to this Act, such fees shall be credited toward the new fee due on June 1, 1993. In order to ensure increasing fee receipt levels to the United States during transition from the Graduated Rate Fee System formula to the formula of this Act, the fee paid by any individual permittee for the 1992-1993 permit year shall be either the fee paid for the preceding 1991-1992 base year or the fee calculated pursuant to this Act, whichever is higher. For the 1993-1994 permit year, the fee paid shall be either the fee paid for the 1991-1992 base year or the fee calculated pursuant to this Act, whichever is higher: Provided, however, That in the event an individual permittees adjusted gross revenue for either the 1992-1993 or 1993-1994 permit years falls more than 10 percent below the 1991-1992 base year, the fee paid shall then be the fee calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or sub-permittee revenue (other than lift ticket, area use pass or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit fee calculation.

(f) To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms "revenue" and "sales" shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts or other goods or services (except for bartered goods, complimentary lift tickets, or the value of lift tickets, lessons, meals or other goods or services included in any packaged sale of goods or services) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a) of this section, the permittee shall pay an annual minimum rental fee of two dollars for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

SEC. 3. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of June 4, 1897, the Act of March 4, 1915, or the National Forest Ski Area Permit Act of 1986 are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

SEC. 4. SAN JUAN NATIONAL FOREST.

Subject to valid existing rights, the Secretary of Agriculture shall not extend the deadline for the preparation of the Master Development Plan and construction of the East Fork ski area on the San Juan National Forest pursuant to existing special use permit. Unless the current permittee completes all requirements of the existing permit on or by July 1, 1994, the permit shall not be renewed.

brief explanation

H.R. 4970 establishes in law a formula for the calculation of the fair market value the Forest Service is required to obtain from permittees for the operation of ski areas on National Forest System lands.

The Forest Service currently calculates ski area fees according to a system established through regulations. The bill would simplify and codify the fee formula. The bill provides that year-round revenues (rather than ski-season only) would be included in the formula, and that fees would be paid on complimentary ski lift tickets given to the public.

In addition, the bill provides that for the first two years after enactment permittees will pay the higher of the fee calculated under the bill or the fee paid under existing regulations for 1991-92 to assure that revenues will not be diminished by the legislation.

The bill also provides an automatic withdrawal of all lands under ski area permits from mineral leasing, subject to valid existing rights, and contains a provision concerning the East Fork ski area on the San Juan National Forest.

The Congressional Budget Office estimates that fees under the bill would be about $1 million higher than under current law for both fiscal years 1993 and 1994, and that the new fee structure would increase receipts to the government over the long term.

purpose and need

Currently, the Forest Service calculates fees for ski area permits in accordance with the Graduated Rate Fee System (GRFS). This system was developed in 1965 and implemented for ski areas in 1972.

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The graduated rate fee system is set out in the U.S. Forest Service Manual, Section 2715.14 (Washington Office Amendment 2700-91-2, May 24, 1991).

Under GRFS each ski area: (1) works with the Forest Service to define a "development area boundary"; (2) calculates actual revenues or imputed revenues (gratuities, discounts, complimentary tickets, etc.) from revenue sources within that boundary; (3) ascertains "break even categories" for a variety of revenue components; (4) determines gross fixed assets for deduction purposes; (5) applies Slope Transport Feet Percentage (STFP) deductions (the percentage of an areas uphill lift capacity which is located on, or off, the forest) to various revenue components; and (6) then calculates the final fee.

Since the development and initial application of GRFS to calculate ski area fees, the nature of the ski industry and the complexity of individual ski area operations has increased. In particular, many large ski areas have evolved into multi-season resorts, with income and activities divided among Forest Service and private lands. As a result, the complexities of calculating fees under the GRFS has also grown.

As the difficulty and complexity of applying the GRFS to the determination of ski area fees has increased, so too has the cost and controversy associated with the determination of these fees. In particular, conflicts have arisen between Forest Service auditors and ski areas over what revenue-producing activities should be included in calculating the fees. Variations in the implementation of the GRFS by individual auditors has added to the controversy and the expense incurred by the Forest Service and the ski industry in making determinations of area fees.

H.R. 4970, as amended, is intended to establish, in statute, a formula for the calculation of the fee which a ski area must pay to the federal government for its permit to operate on National Forest System lands. The establishment of this formula in statute, although unique in that formulas for other Forest Service permittees are established by regulation, would eliminate the uncertainty associated with the implementation of GRFS. H.R. 4970, as amended, would provide that ski area fees be based on lift ticket and ski school revenues and would be adjusted for the proportion of lifts on National Forest System lands. To this would be added the revenues from ancillary facilities on such lands.

In addition to providing added certainty regarding the fees to be charged for ski areas, the formula that would be established by H.R. 4970, as amended, would reduce costs to the Forest Service and the ski industry in determining these fees.

The National Forest Ski Area Permit Act of 1986 requires that fees for ski area permits on National Forest System lands be based on their fair market value. According to testimony presented by Deputy Chief James Overbay of the Forest Service, the GRFS is the best estimate of fair market value for ski area permits.

The statutory formula required by H.R. 4970, as amended, is based on the assumption that the fees generated by the GRFS are equivalent to fair market value. However, in order to determine if the GRFS does, in fact, reflect fair market value, the Forest Service has awarded a contract in which standard real estate appraisal methodologies would be used to determine the market value of land rent for eleven ski areas. According to Forest Service testimony, that study is to be completed in the fall of 1992.

H.R. 4970, as amended, includes provisions to ensure that any changes in the revenues generated by the statutory formula it establishes would not result in an immediate reduction in federal revenues. Specifically, for the first two years after enactment, permittees are to pay the higher of the fee calculated under the bill or the fee paid under existing regulations for 1991-92, to assure that revenues will not be diminished during this period of time.

In addition, H.R. 4970, as amended, includes a provision to prohibit the Forest Service from extending a permit for construction of the East Fork Ski Area near Pagosa Springs, Colorado. While the proposed ski area development is not directly related to the ski area fee subject matter of H.R. 4970, as amended, the Committee is troubled by allegations that the area developer may be concerned less with development than with speculatively selling the permit for profit.

The Committee notes that the developer has requested a 3-year extension of the permit to allow more time to begin construction. (The permit will expire in 1994 if construction is not underway.) This request was recently denied by the Forest Supervisor who cited, among other reasons, the developers lack of due diligence in pursuing development and in obtaining necessary permits from other Federal and State agencies.

The Committee supports the Supervisors decision to deny the permit extension. It further notes that the proposed ski area is located adjacent to the South San Juan Wilderness Area and is in environmentally-sensitive terrain. As such, if the permit expires without development in 1994, the Committee encourages the Forest Supervisor to reconsider de novo whether ski area development is appropriate at the East Fork site or whether the land should be managed to protect its environmental values.

section-by-section analysis

Section 1. Findings and purposes

Section 1(a) sets out the Congressional findings related to the bill.

Section 1(b) sets out the purposes of the legislation, which are to: (1) legislate a ski area permit fee which returns fair market value to the United States; (2) provide a simplified, consistent, predictable, and equitable fee formula commensurate with long-term ski area planning, financing, and operation needs that simplifies bookkeeping and other administrative burdens on ski area permittees and Forest Service personnel; and (3) prevent conflicts between ski area operations and mining and mineral leasing programs by withdrawing lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

Section 2. Ski area permit fee

Section 2(a) requires the Secretary to charge a fee for all ski area permits issued pursuant to the National Forest Ski Area Permit Act of 1986, the Act of March 4, 1915, and the Act of June 4, 1897, on National Forest System lands as set forth in section 2(b) of the bill.

Section 2(a) directs the Secretary to apply the new fee formula uniformly to all existing ski area permittees. Ski area permits issued under the National Forest Ski Area Permit Act of 1986 (1986 Act) specifically provide for adjustment of fees to comply with any new fee system based on fair market value that may be adopted. There are 35 ski areas that now operate under 1986 Act permits. The remaining 90 ski areas operate under pre-1986 dual permits, consisting of an annually renewable permit for use of slopes and trails, and a term permit of up to 30 years for up to 80 acres occupied by lodges, lifts, and other capital improvements. These term permits incorporate the GRFS as the method for determining fees and do not, by their own terms, allow comprehensive restructuring of the fee system. Section 2(a) requires all ski area permittees to pay fees calculated according to the fee formula contained in section 2(b).

Section 2(b)(1) sets out the formula for calculating the ski area permit fee to be charged. The ski area permit fee will equal the product of the permittees adjusted gross income and a varying percentage based upon revenue. A permittees adjusted gross income is the sum of the permittees gross revenue from ancillary facilities

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plus the product of gross revenues from lift ticket and ski school sales and the slope transport feet percentage located on National Forest System lands.

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The percentage will be: 1.5% for adjusted gross revenue (AGR) below $3 million;

2.5% for AGR between $3 million-$15 million;

2.75% for AGR between $15 million-$50 million; and

4.0% for AGR that exceeds $50 million.

The adjusted gross revenue figures for each revenue bracket will be adjusted annually by the percent increase or decrease in the national Consumer Price Index (CPI) for the preceding calendar year. For example, if the CPI for 1999 increase 10%, the first $3,300,,000 of AGR would be multiplied by 1.5% in 2000.

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The gross year-round revenue from ancillary facilities physically located on National Forest land (including all permittee or sub-permittee lodging, food service, rental shops, parking and other ancillary operations).

In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land must be used to determine the percent of an alpine ski area permittees total skier service capacity that is located on National Forest System lands and must be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from nordic ski operations must be included or excluded from the fee calculation according to the percentage of trails physically located on national forest land.

No later than five years after the date of enactment of the bill and every ten years thereafter the Secretary must submit to the Congress a report analyzing whether the ski area permit fee system legislated by the bill is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

Section 2(c) provides that the fee set forth in section 2(b) will be due on June 1 of each year and must be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule must conform to the permittees schedule in effect prior to enactment of the bill. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary must each year provide the permittee with a standardized form and worksheets (including annual fee calculation brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms must be compiled by the Secretary annually and kept in the Office of the Chief of the Forest Service.

Section 2(d) provides that the ski area permit fee legislated by the bill will become effective on June 1, 1993, and cover receipts retroactive to June 1, 1992. However, if a permittee has paid fees for the period June 1, 1992, to June 1, 1993, under the graduated rate fee system formula in effect prior to the bill, such fees will be credited toward the new fee due on June 1, 1993. In order to ensure increasing fee receipt levels to the United States during transition from the Graduated Rate Fee System formula to the formula of the bill, the fee paid by any individual permittee for the 1992-1993 permit year will be either the fee paid for the preceding 1991-1992 base year or the fee calculated pursuant to the bill, whichever is higher. For the 1993-1994 permit year, the fee paid will be either the fee paid for the 1991-1992 base year or the fee calculated pursuant to the bill, whichever is higher. However, if an individual permittees adjusted gross revenue for either the 1992-1993 or 1993-1994 permit years falls more than 10 percent below the 1991-1992 base year, the fee paid for that year will then be the fee calculated pursuant to the bill.

Section 2(e) provides that under no circumstances will revenue, or sub-permittee revenue (other than lift ticket, area use pass or ski school sales) obtained from operations not physically located on national forest land be included in the ski area permit fee calculation.

Section 2(f) excludes from revenue all sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events, any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods and services for which the permittee does not receive money. Bartered goods, complimentary lift tickets, other than employee lift tickets, or the value of lift tickets, lessons, meals or other goods or services included in any packaged sale of goods or services will be included as revenue for purposes of determining the appropriate fee under section 2(b).

Exempting all complimentary lift tickets and bartered goods from revenue would reduce payments to the Treasury and counties. The Committee intends to preclude ski area permittees from shifting revenue from activities that are subject to fees, such as lift tickets and ski schools, to areas that are not subject to fees, such as hotels and condominiums on private land. For example, a permittee that negotiates the purchase price of a condominium by including a season pass to the ski area would be required to include as revenue the value of season pass. A ski area that markets a "package deal," including hotel accommodations and lift tickets, would also be required to include as revenue the value of the lift tickets as revenue. Otherwise ski resorts might list the lift tickets as complimentary and cover the lost ski ticket revenue with a higher hotel bill.

The barter value of commissions paid to travel agents would also be included as revenue subject to the fee formula. Typically, a ski resort may provide a travel agent with, for example, 1,000 lift tickets but the travel agent only pays for 800 tickets. The remaining 200 tickets would be commission for booking people into the resort and would be considered revenue under section 2(f).

Section 2(f) is intended to simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service.

Section 2(g) provides that in cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to section 2(a), the permittee must pay an annual minimum rental fee of two dollars for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

Section 3. Withdrawals

Section 3, subject to valid existing rights, withdraws from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing all lands located within the boundaries of ski area permits issued prior to, on, or after the date of enactment of the bill pursuant to authority of the Act of June 4, 1897, the Act of March 4, 1915, or the National Forest Ski Area Permit Act of 1986.

Such withdrawal continues for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal is cancelled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

Section 4. San Juan National Forest

Section 4 prohibits the Secretary from extending the deadline for the preparation of the Master Development Plan and construction of the East Fork ski area on the San Juan National Forest pursuant to existing special use permit. Unless the current permittee completes all requirements of the existing permit on or by July 1, 1994, the permit may not be renewed.

COMMITTEE CONSIDERATION

I. Hearing

H.R. 4970 was referred to the Committee on Agriculture on April 9, 1992.

The Subcommittee held a joint public hearing on H.R. 4970 with the Subcommittee on Department Operations, Research and Foreign Agriculture on July 22, 1992. Testimony was received from the Honorable Mike Synar, Member of Congress from Oklahoma; the Honorable Wayne Owens, Member of Congress from Utah; the Honorable Pat Williams, Member of Congress from Montana; and Mr. James C. Overbay, Deputy Chief, Forest Service, U.S. Department of Agriculture.

Other witnesses were Mr. Jerry Blann, United Ski Association, Big Bear Lake, California; Mr. Tim Beck, Sno-Engineering, Littleton, Colorado; Mr. Clayton Peterson, Arthur Anderson & Co., Denver, Colorado; Mr. Bruce Baizel, Forest Trust, Santa Fe, New Mexico; and Mr. Tom Lustig, Colorado Environmental Coalition, Denver, Colorado.

Representative Synar spoke in opposition to the legislation, questioning whether the legislation is based on fair market value or gives a fair return to the treasury.

Representative Owens spoke in support of the legislation, and pointed out that it would simplify the complex rental fee system.

Representative Williams spoke in support of the legislation as a means of returning fair market value to the United States and establishing a simplified, predictable and equitable fee formula that simplifies the administration of ski area permits.

Mr. Overbay expressed the Administrations support for H.R. 4970 if amended to be revenue neutral.

Mr. Beck testified that the ski area permit fee formula in the legislation returns to the United States a fair market value for the use of our public lands. Mr. Bland expressed support for the legislation because the GRFS has become too complex and cumbersome. Mr. Peterson testified that the fee system contained in H.R. 4970 more appropriately incorporates and reflects the attributes of a theoretically sound fee system than does the existing GRFS, and should provide an increase in annual revenue to the Federal government. Mr. Baizel discussed a number of shortcomings in the legislation and urged the Subcommittee to defer action on the bill until the General Accounting Office completes a study of fair market value for the use of the public lands. Mr. Lustig did not object to the legislation if it returned fair market value and urged the Subcommittees to view the environmental and economic damages that result from new ski developments on the public lands.

II. Subcommittee Consideration

On September 22, 1992, the Subcommittee on Forests, Family Farms, and Energy met to consider the provisions of the H.R. 4970. Chairman Volkmer called the meeting to order and recognized Mr. Stallings, who offered an amendment in the nature of a substitute to the bill (substitute).

8 4 4 The provisions of the Stallings substitute are explained below in this report under the heading "Full Committee Consideration" .

Mr. Jontz objected to consideration of the Stallings substitute. Chairman Volkmer asked the members of the Subcommittee to review the Stallings substitute and advised that he would request that the Subcommittee be discharged from further consideration of H.R. 4970 so that the bill could be considered by the Full Committee at its next business meeting.

III. Full Committee Consideration

On September 24, 1992, the Committee on Agriculture met to consider H.R. 4970. Chairman de la Garza recognized Mr. Volkmer, who asked unanimous consent that the Subcommittee on Forests, Family Farms, and Energy be discharged from further consideration of H.R. 4970. Mr. Jontz objected to the request. Mr. Volkmer then moved that the Subcommittee be discharged from further consideration of H.R. 4970, and by a show of hands vote of 20 yeas and 0 nays, the motion was adopted.

Mr. Stallings was recognized and offered an amendment in the nature of a substitute identical to the one he offered during subcommittee consideration. Mr. Stallings explained the provisions of the substitute, which made the following changes to the introduced version of the bill: (1) added a provision to prevent a decrease from the 1991-1992 level of Federal revenues from ski area permit fees for the 1992-1993 and 1993-1994 seasons; (2) added a provision requiring a periodic study and report to Congress regarding whether the new fee system authorized by the bill returns fair market value rental for use of the public lands to the Federal government; (3) made a technical change to clarify that ski area permits are not leases; (4) provided for monthly, quarterly, or annual payments, continuing the current practice, rather than annual payments only, as provided in the introduced version of the bill; (5) clarified that fees will apply to year-round operations, not just to winter operations; (6) clarified that the new fee system will apply to all ski area permits, regardless of the authority under which the permit was issued; (7) clarified that free tickets given to non-employees will be included in determining the permit holders sales revenue for purposes of determining the ski area permit fee and explained the provisions of the substitute.

Mr. Rose was recognized and offered two amendments en bloc to the substitute. The first amendment added a new section 4, prohibit the extension of the deadline for the preparation and construction of the East Fork ski area on the San Juan National Forest. The second amendment clarified in section 2(f) that the value of lift tickets, ski lessons, or meals from facilities located on Forest Service lands would be included in the sales revenue of the permit holder for purposes of determining the ski area permit fee. Mr. Rose moved the adoption of this amendments en bloc and, by voice vote, the motion was adopted.

Mr. Jontz was recognized and offered an amendment to require the Secretary to complete periodic studies to determine if the revenues from ski area permit fees under the formula required by the bill are approximately fair market rental value for the lands under such permits. The amendment also would require the Secretary to periodically change the formula as necessary to ensure that the fees collected are approximately equal to such fair market rental value. Mr. Jontz moved the adoption of his amendment and, by voice vote, the motion was not adopted.

Mr. Volkmer moved that the Stallings substitute, as amended, be adopted and, by voice vote, the Stallings amendment in the nature of a substitute, as amended, was adopted.

Mr. Morrison was recognized and offered report language to clarify the extent to which bartered goods are considered as revenue for purposes of calculating fees under the bill. By unanimous consent the report language was adopted.

Mr. Volkmer moved that H.R. 4970, as amended, be ordered reported to the House with a recommendation that it do pass, and by a voice vote, in the presence of a quorum, the motion was adopted. By unanimous consent, staff was authorized to make any necessary technical and conforming changes in the bill, as reported.

administration position

At the time of the filing of this report, the Committee had not received a report from the U.S. Department of Agriculture concerning H.R. 4970, as amended, to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands.

budget act compliance (section 308 and section 403)

The provisions of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expeditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of rule XI of the Rules 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 are as follows:

U.S. Congress,

Congressional Budget Office,

Washington, DC, October 5, 1992.

Hon. E de la Garza,

Chairman, Committee on Agriculture,

House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4970, a bill to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands.

Enactment of H.R. 4970 would effect direct spending, and thus the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI is attached.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4970.

2. Bill title: A bill to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands.

3. Bill status: As ordered reported by the House Committee on Agriculture on September 24, 1992.

4. Bill purpose: H.R. 4970 would revise the method of assessing fees for permits issued to ski areas for use of National Forest Service lands. Fees would be assessed using a system of four revenue brackets, whereby ski areas with large revenues would pay a higher percentage of their revenues in fees than areas with smaller revenues. The bill would establish assessment rates rising from 1.5 percent for the first $3 million of an areas revenues to 4 percent for any revenues above $50 million.

Under current law, ski areas on Forest Service lands pay fees that average about 2 percent of the revenues earned on those lands. Each areas current fee is derived from its revenues and the value of its fixed assets. The new fee assessments would be based on gross revenues without any deductions for asset value, but the assessments would continue to be prorated according to how much of the area is located on Forest Service land. The bills revenue brackets would be adjusted annually for inflation.

To ensure that fee receipts to the government cannot decline during a transition to the new fee system, ski areas would be required, for the next two years, to pay at least as much as they paid in the preceding year. In recent years, annual fees paid to the government by approximately 130 ski areas have totaled between $13 and $15 million per year.

The bill also would remove all lands located within the boundaries of ski area permits from all forms of mining use during the full term of such permits, and would prohibit the Secretary of Argiculture from extending the deadline for preparation of a plan for the proposed East Fork ski area on the San Juan National Forest.

5. Estimated cost to the Federal Government: -- (PLEASE REFER TO ORIGINAL SOURCE FOR TABLE) --

The costs of this bill fall within budget function 300.

Basis of estimate: Based on information provided by the Forest Service, CBO estimates that fees will be about $1 million higher than they would be under current law for both fiscal years 1993 and 1994. Most of this estimated increase in fees would occur because the bill would require each ski area to pay the higher of the amount calculated using the new fee assessment method and the amount that it paid in the preceding year.

Depending on their revenues, some ski areas would pay less in fees after 1994 than they pay now, while other areas would pay more. On balance, CBO expects that the new fee structure would increase receipts to the government over the long term, as compared to the current fee system. Whether the aggregate fee income over the 1995-1997 period would be more or less than under current law is uncertain, but the change in those years is likely to be less than $500,000 per year.

The new fee system would be easier to administer and hence would reduce the need for appropriations to the Forest Service for the costs of audits, accounting, and fee assessment appeals by ski areas. Based on information provided by the Forest Service, CBO estimates that H.R. 4970 would reduce the need for appropriations to cover such administrative costs by about $200,000 per year.

The bills provision for withdrawing ski permit lands from mining use would not have any significant effect on federal expenditures or receipts. As a matter of current policy, most lands in ski permit areas are already administratively withdrawn from mining use. We also estimate no cost for the bills provision regarding the deadline for a plan for the proposed East Fork ski area.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 established pay-as-you-go procedures for legislation affecting direct spending or receipts over the 1992-1995 period. The ski area fee provisions of H.R. 4970 would reduce direct spending (by increasing offsetting receipts to the Forest Service), and hence, the bill would be subject to pay-as-you-go procedures. CBO estimates that direct spending would decrease by about $1 million in both fiscal years 1993 and 1994. For fiscal year 1995, CBO estimates that direct spending would change by less than $500,000.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On August 14, 1992, CBO prepared a cost estimate for S. 2606, as ordered reported by the Senate Committee on Energy and Natural Resources on August 5, 1992. The two bills are nearly identical and this cost estimate is unchanged from the estimate for S. 2606.

10. Estimate prepared by: Peter Fontaine.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Congressional Budget Office Estimate

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The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:8

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An estimate of H.R. 4970 as ordered reported by the House Committee on Agriculture on September 24, 1992. This estimate was transmitted by the Congressional Budget Office on October 5, 1992.

|  |  |  |  |
| --- | --- | --- | --- |
| 1993 1994 1995 |  |  |  |
| Change in outlays | 1 | 1 | 0 |
| Change in receipts | ( 1 ) | ( 1 ) | ( 1 ) |

1

Not applicable.

inflationary impact statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 4970, as amended, will have no inflationary impact on the national economy.

oversight statement

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. 4970, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.