COMMITTEE REPORTS

112th Congress, 1st Session

HOUSE Report 112-164

H.R. 765

112 H. Rpt. 164

SKI AREA RECREATIONAL OPPORTUNITY ENHANCEMENT ACT OF 2011

July 20, 2011--Ordered to be printed

**TEXT:**

NOTICE:

{D> Text within these symbols is deleted <D}

JULY 20, 2011.--ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 765]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 765) to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

**Purpose of the Bill**

The purpose of H.R. 765 is to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits.

**Background and Need for Legislation**

The Ski Area Recreational Opportunity Enhancement Act of 2011, H.R. 765, amends the National Forest Ski Area Permit Act of 1986 to authorize the Secretary of Agriculture to permit seasonal and year-round natural resource-based, recreational activities and associated facilities at ski areas, in addition to those that support Nordic and alpine skiing and other snow sports that are currently authorized by the Act. Current law does not address activities other than Nordic and alpine skiing, snow sports, and their ancillary facilities at ski areas on U.S. Forest Service lands. Congress intended the term "appropriate ancillary facilities" to include "only those facilities directly necessary for the operation and support of a winter sports facility." This legislation would allow for new activities such as ziplines, climbing walls, mountain biking, and alpine slides.

The additional seasonal and year-round recreational activities and associated facilities authorized by the bill would encourage outdoor recreation and require such activities to harmonize with the natural environment. The bill would make clear that the primary purpose of the authorized use and occupancy would continue to be skiing and other snow sports. This legislation will not waive existing laws such as the Endangered Species Act and the National Environmental Policy Act to allow for these new activities to take place. Ski areas on Forest Service lands are themselves "developed sites" so these new activities will be keeping with the intended use of these areas.

**Committee Action**

H.R. 765 was introduced on February 17, 2011, by Congressman Rob Bishop (R-UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. The bill primarily referred to the Committee on Agriculture. On May 4, 2011, the Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill. On June 15, 2011, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

**Committee Oversight Findings and Recommendations**

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

**Compliance With House Rule XIII**

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 765--Ski Area Recreational Opportunity Enhancement Act of 2011*

H.R. 765 would expand the authority of the Forest Service to allow ski concessioners to offer additional recreational services on public lands. Based on information provided by the agency, CB0 estimates that enacting the legislation would have no significant impact on the federal budget. The Forest Service already has authority to allow its concessioners to provide certain off-season and other recreational services at ski resorts. Expanding that authority could increase the agency's collection of fees from ski concessioners (currently yielding offsetting receipts to the Treasury of about $30 million a year) but CBO estimates that any increase would total less than $500,000 a year.

Because enacting the legislation could result in additional offsetting receipts (a credit against direct spending), pay-as-you-go procedures apply. Enacting H.R. 765 would not affect revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. CBO estimates that enacting the legislation would have no significant impact on the federal budget. The Forest Service already has authority to allow its concessioners to provide certain off-season and other recreational services at ski resorts. Expanding that authority could increase the agency's collection of fees from ski concessioners (currently yielding offsetting receipts to the Treasury of about $30 million a year) but CBO estimates that any increase would total less than $500,000 a year. Because enacting the legislation could result in additional offsetting receipts (a credit against direct spending), pay-as-you-go procedures apply. Enacting H.R. 765 would not affect revenues.

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

**Earmark Statement**

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

**Compliance With Public Law 104-4**

This bill contains no unfunded mandates.

**Preemption of State, Local or Tribal Law**

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

**Changes in Existing Law Made by the Bill, as Reported**

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

**NATIONAL FOREST SKI AREA PERMIT ACT OF 1986**

**SEC. 3. SKI AREA PERMITS.**

(a) LAW APPLICABLE TO PERMITS.--The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of {D> nordic and alpine ski areas and facilities <D} *ski areas and associated facilities* on National Forest System lands shall henceforth be governed by this Act and other applicable law.

(b) AUTHORITY.--The Secretary of Agriculture (hereinafter referred to as "the Secretary") is authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for {D> nordic and alpine skiing operations and purposes <D} *skiing and other snow sports and recreational uses authorized by this Act*. A ski area permit--

(1) \* \* \*

(c) OTHER RECREATIONAL USES.--

(1) AUTHORITY OF SECRETARY.--Subject to the terms of a ski area permit issued pursuant to subsection (b), the Secretary may authorize a ski area permittee to provide such other seasonal or year-round natural resource-based recreational activities and associated facilities (in addition to skiing and other snow-sports) on National Forest System land subject to a ski area permit as the Secretary determines to be appropriate.

(2) REQUIREMENTS.--Each activity and facility authorized by the Secretary under paragraph (1) shall--

(A) encourage outdoor recreation and enjoyment of nature;

(B) to the extent practicable--

(i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and

(ii) be located within the developed portions of the ski area;

(C) be subject to such terms and conditions as the Secretary determines to be appropriate; and

(D) be authorized in accordance with--

(i) the applicable land and resource management plan; and

(ii) applicable laws (including regulations).

(3) INCLUSIONS.--Activities and facilities that may, in appropriate circumstances, be authorized under paragraph (1) include--

(A) zip lines;

(B) mountain bike terrain parks and trails;

(C) frisbee golf courses; and

(D) ropes courses.

(4) EXCLUSIONS.--Activities and facilities that are prohibited under paragraph (1) include--

(A) tennis courts;

(B) water slides and water parks;

(C) swimming pools;

(D) golf courses; and

(E) amusement parks.

(5) LIMITATION.--The Secretary may not authorize any activity or facility under paragraph (1) if the Secretary determines that the authorization of the activity or facility would result in the primary recreational purpose of the ski area permit to be a purpose other than skiing and other snow-sports.

(6) BOUNDARY DETERMINATION.--In determining the acreage encompassed by a ski area permit under subsection (b)(3), the Secretary shall not consider the acreage necessary for activities and facilities authorized under paragraph (1).

(7) EFFECT ON EXISTING AUTHORIZED ACTIVITIES AND FACILITIES.--Nothing in this subsection affects any activity or facility authorized by a ski area permit in effect on the date of enactment of this subsection during the term of the permit.

{D> (c) RULES AND REGULATIONS.--Within one year after the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this Act within 3 years of the date of enactment of this Act. <D}

(d) REGULATIONS.--Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to implement this section.

{D> (d) <D} *(e)* Nothing in this Act shall be deemed to amend, modify or otherwise affect the Secretary's duties under {D> the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act <D} *the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)*, including his duties to involve the public in his decision making and planning for the national forests.