

104TH CONGRESS
1ST SESSION

S. 907

To amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 5), 1995

Mr. MURKOWSKI (for himself, Mr. LEAHY, Mr. CAMPBELL, Mr. KYL, Mr. BROWN, Mr. GREGG, Mr. CRAIG, and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—The Congress finds the following:

1 (1) Although ski areas occupy less than one-
2 twentieth of one percent of National Forest System
3 lands nationwide, in many rural areas of the United
4 States, ski areas and investments by ski area per-
5 mittees on National Forest System lands form the
6 backbone of the local economy and a preponderance
7 of the employment base.

8 (2) Ski area operations and their attendant
9 communities provide revenues to the United States
10 in the form of permit fees, income taxes, and other
11 revenues which are extremely significant in propor-
12 tion to the limited Federal acreage and Forest Serv-
13 ice administration and contractual obligations re-
14 quired to support such operations.

15 (3) In addition to alpine skiing, many ski area
16 permittees provide multiseason facilities and en-
17 hanced access to National Forest System lands that
18 result in greater public use and enjoyment of such
19 lands than would otherwise occur.

20 (4) Unlike many other private sector users of
21 Federal lands, ski areas in almost all cases assume
22 the risk to finance, construct, maintain, and market
23 all recreational facilities and improvements on such
24 lands.

1 (5) Many ski areas on National Forest System
2 lands operate in an extremely competitive environ-
3 ment with similar facilities located on private or
4 State lands, which requires ski area permittees to
5 maintain a high level of capital investment to up-
6 grade existing facilities and install new facilities
7 (such as lifts, trails, snowmaking and trail grooming
8 equipment, restaurants, and day care centers) to
9 serve the public.

10 (6) Despite an outward appearance of economic
11 well-being resulting from an intensive capital infra-
12 structure, many ski area operations are marginally
13 profitable due to the competition and capital invest-
14 ments referred to in paragraph (5), weather condi-
15 tions, insurance premiums, the national economy,
16 and other factors beyond the control of the ski area
17 permittee.

18 (7) Because of the contributions of ski areas to
19 the economies of the United States and the rural
20 communities in which they are located, and the en-
21 hanced use and enjoyment of National Forest Sys-
22 tem lands resulting from ski areas, it is in the na-
23 tional interest for the United States, where consist-
24 ent with national forest management objectives, to
25 take actions to promote the long-term economic

1 health and stability of ski areas and associated com-
2 munities.

3 (8) The National Forest Ski Area Permit Act
4 of 1986 (16 U.S.C. 497b) has been of assistance to
5 ski area operations on National Forest System lands
6 by providing longer term lease tenure and contrac-
7 tual stability to ski area permittees, but further ad-
8 justments and policy direction are warranted to ad-
9 dress problems related to permit fees and fee cal-
10 culations and conflicts with certain mineral activi-
11 ties.

12 (b) PURPOSE.—In light of the findings specified in
13 subsection (a), it is the purpose of this Act—

14 (1) to legislate a ski area permit fee that re-
15 turns fair market value to the United States and at
16 the same time—

17 (A) provides ski area permittees and the
18 United States with a simplified, consistent, pre-
19 dictable, and equitable fee formula that is com-
20 mensurate with long-term planning, financing,
21 and operational needs of ski areas; and

22 (B) simplifies bookkeeping and other ad-
23 ministrative burdens on ski area permittees and
24 Forest Service personnel; and

1 (2) to prevent future conflicts between ski area
2 operations and mining and mineral leasing programs
3 by withdrawing lands within ski area permit bound-
4 aries from the operation of the mining and mineral
5 leasing laws.

6 **SEC. 2. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI**
7 **AREAS FROM OPERATION OF MINING LAWS.**

8 The National Forest Ski Area Permit Act of 1986
9 (16 U.S.C. 497b) is amended by adding at the end the
10 following new sections:

11 **“SEC. 4. SKI AREA PERMIT FEES.**

12 “(a) SKI AREA PERMIT FEE.—After the date of the
13 enactment of this section, the fee for all ski area permits
14 on National Forest System lands shall be calculated,
15 charged, and paid only as set forth in subsection (b) in
16 order to—

17 “(1) return fair market value to the United
18 States and at the same time provide ski area permit-
19 tees and the United States with a simplified, consist-
20 ent, predictable, and equitable permit fee;

21 “(2) simplify administrative, bookkeeping, and
22 other requirements currently imposed on the Sec-
23 retary of Agriculture and ski area permittees on na-
24 tional forest lands; and

1 “(3) save costs associated with the calculation
2 of ski area permit fees.

3 “(b) METHOD OF CALCULATION.—

4 “(1) DETERMINATION OF ADJUSTED GROSS
5 REVENUE SUBJECT TO FEE.—The Secretary of Agri-
6 culture shall calculate the ski area permit fee
7 (SAPF) to be charged a ski area permittee by first
8 determining the permittee’s adjusted gross revenue
9 (AGR) to be subject to the permit fee. The permit-
10 tee’s adjusted gross revenue (AGR) is equal to the
11 sum of the following:

12 “(A) The permittee’s gross revenues from
13 alpine lift ticket and alpine season pass sales
14 plus revenue from alpine ski school operations
15 (LTA+ SSA), with such total multiplied by the
16 permittee’s slope transport feet percentage
17 (STFP) on National Forest System lands.

18 “(B) The permittee’s gross revenues from
19 nordic ski use pass sales and nordic ski school
20 operations (LTN+ SSN), with such total multi-
21 plied by the permittee’s percentage (NR) of
22 nordic trails on National Forest System lands.

23 “(C) The permittee’s gross revenues from
24 ancillary facilities (GRAF) physically located on
25 National Forest System lands, including all per-

1 mittee or subpermittee lodging, food service,
2 rental shops, parking, and other ancillary oper-
3 ations.

4 “(2) DEPICTION OF FORMULA.—Utilizing the
5 abbreviations indicated in paragraph (1), the cal-
6 culation of the adjusted gross revenue (AGR) of a
7 ski area permittee is illustrated by the following for-
8 mula:

$$\text{“AGR} = ((\text{LTA} + \text{SSA}) \times \text{STFP}) + ((\text{LTN} + \text{SSN}) \times \text{NR}) + \text{GRAF}$$

9 “(3) DETERMINATION OF SKI AREA PERMIT
10 FEE.—The Secretary shall determine the ski area
11 permit fee (SAPF) to be charged a ski area permit-
12 tee by multiplying adjusted gross revenue deter-
13 mined under paragraph (1) for the permittee by the
14 following percentages for each revenue bracket and
15 adding the total for each revenue bracket:

16 “(A) 1.5 percent of all adjusted gross reve-
17 nue below \$3,000,000.

18 “(B) 2.5 percent for adjusted gross reve-
19 nue between \$3,000,000 and \$15,000,000.

20 “(C) 2.75 percent for adjusted gross reve-
21 nue between \$15,000,000 and \$50,000,000.

22 “(D) 4.0 percent for the amount of ad-
23 justed gross revenue that exceeds \$50,000,000.

24 “(4) SLOPE TRANSPORT FEET PERCENTAGE.—
25 In cases where ski areas are only partially located on

1 National Forest System lands, the slope transport
2 feet percentage on national forest land referred to in
3 paragraph (1) is hereby determined to most accu-
4 rately reflect the percent of an alpine ski area per-
5 mittee's total skier service capacity which is located
6 on National Forest System land. It shall be cal-
7 culated as generally described in the Forest Service
8 Manual in effect as of January 1, 1992.

9 “(5) ANNUAL ADJUSTMENT OF ADJUSTED
10 GROSS REVENUE.—In order to insure that the ski
11 area permit fee set forth in this subsection remains
12 fair and equitable to both the United States and ski
13 area permittees, the Secretary shall adjust, on an
14 annual basis, the adjusted gross revenue figures for
15 each revenue bracket in subparagraphs (A) through
16 (D) of paragraph (3) by the percent increase or de-
17 crease in the national Consumer Price Index for the
18 preceding calendar year.

19 “(c) MINIMUM RENTAL FEE.—In cases where an
20 area of National Forest System land is under a ski area
21 permit but the permittee does not have revenue or sales
22 qualifying for fee payment pursuant to subsection (a), the
23 permittee shall pay an annual minimum rental fee of \$2
24 for each acre of National Forest System land under per-

1 mit. Rental fees imposed under this subsection shall be
2 paid at the time specified in subsection (d).

3 “(d) TIME FOR PAYMENT.—Unless otherwise mutu-
4 ally agreed to by the ski area permittee and the Secretary,
5 the ski area permit fee set forth in subsection (b) shall
6 be paid by the permittee by August 31 of each year and
7 cover all applicable revenues received during the 12-month
8 period ending on June 30 of that year. To simplify book-
9 keeping and fee calculation burdens on the permittee and
10 the Forest Service, the Secretary shall no later than
11 March 15 of each year provide each ski area permittee
12 with a standardized form and worksheets (including an-
13 nual fee calculation brackets and rates) to be utilized for
14 fee calculation and submitted with the fee payment.

15 “(e) EXCLUSION OF REVENUE OBTAINED OUTSIDE
16 OF NATIONAL FOREST LANDS.—Under no circumstances
17 shall ski area permittee revenue or subpermittee revenue
18 (other than lift ticket, area use pass, or ski school sales)
19 obtained from operations physically located on nonnational
20 forest land be included in the ski area permit fee calcula-
21 tion.

22 “(f) DEFINITIONS.—To simplify bookkeeping and ad-
23 ministrative burdens on ski area permittees and the For-
24 est Service, as used in this section, the terms ‘revenue’
25 and ‘sales’ shall mean actual income from sales. Such

1 terms shall not include sales of operating equipment, re-
2 funds, rent paid to the permittee by sublessees, sponsor
3 contributions to special events or any amounts attrib-
4 utable to employee gratuities, discounts, complimentary
5 lift tickets, or other goods or services (except for bartered
6 goods) for which the permittee does not receive money.

7 “(g) EFFECTIVE DATE FOR FEES.—The ski area
8 permit fees required by this section shall become effective
9 on July 1, 1995 and cover receipts retroactive to July 1,
10 1994. If a ski area permittee has paid fees for the 12-
11 month period ending on June 30, 1995, under the grad-
12 uated rate fee system formula in effect prior to the date
13 of the enactment of this section, such fees shall be credited
14 toward the new ski area permit fee due for that period
15 under this section.

16 “(h) TRANSITIONAL SKI AREA PERMIT FEES.—

17 “(1) DETERMINATION OF AVERAGE FEES.—In
18 order to minimize in any one year the effects of con-
19 verting individual ski areas from the fee system in
20 existence on the date of the enactment of this sec-
21 tion to the ski area permit fee required by sub-
22 section (a), each ski area permittee subject to the
23 new fee shall determine the permittee’s average ex-
24 isting fees (AEF) for each year of the three-year pe-
25 riod ending on June 30, 1994, and the permittee’s

1 proforma average ski area permit fee (ASF) under
2 subsection (a) for each year of that period. Both the
3 AEF and ASF shall be determined by adding to-
4 gether the fee payment made by the ski area or the
5 estimated payment that would have been paid under
6 subsection (a) for each year of that period and divid-
7 ing by three.

8 “(2) DETERMINATION OF TRANSITIONAL
9 FEES.—To calculate the ski area permit fee required
10 by subsection (a) for each year in the five-year pe-
11 riod ending on June 30, 1999, the Secretary of Ag-
12 riculture shall divide the ski area permit fee required
13 by subsection (a) by the ASF and then multiply by
14 the AEF. The resulting fee shall be called the Ad-
15 justed Base Fee (ABF). After June 30, 1999, all ski
16 areas will pay the ski area permit fee required by
17 subsection (a) without regard to previous fees or
18 rates paid.

19 “(3) EFFECT OF LOW ABF.—Should the ABF
20 be less than the ski area permit fee required by sub-
21 section (a), the ski area permittee shall pay the less-
22 er of the fee required by subsection (a) or the ABF,
23 which shall be adjusted by multiplying the ABF
24 by—

1 “(A) 1.1 for the fee required to be paid by
2 August 31, 1995;

3 “(B) 1.2 for the fee required to be paid by
4 August 31, 1996;

5 “(C) 1.3 for the fee required to be paid by
6 August 31, 1997;

7 “(D) 1.4 for the fee required to be paid by
8 August 31, 1998; and

9 “(E) 1.5 for the fee required to be paid by
10 August 31, 1999.

11 “(3) EFFECT OF HIGH ABF.—Should the ABF
12 be greater than the ski area permit fee required by
13 subsection (a), the ski area permittee shall pay the
14 greater of the fee required by subsection (a) or the
15 ABF, which shall be adjusted by multiplying the
16 ABF by—

17 “(A) 0.9 for the fee required to be paid by
18 August 31, 1995;

19 “(B) 0.8 for the fee required to be paid by
20 August 31, 1996;

21 “(C) 0.7 for the fee required to be paid by
22 August 31, 1997;

23 “(D) 0.6 for the fee required to be paid by
24 August 31, 1998; and

1 “(E) 0.5 for the fee required to be paid by
2 August 31, 1999.

3 **“SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF**
4 **MINING LAWS.**

5 “Subject to valid existing rights, all lands located
6 within the boundaries of ski area permits issued prior to,
7 on, or after the date of the enactment of this section pur-
8 suant to the authority of the Act of March 4, 1915 (16
9 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et
10 seq.), or section 3 of this Act are hereby and henceforth
11 automatically withdrawn from all forms of appropriation
12 under the mining laws and from disposition under all laws
13 pertaining to mineral and geothermal leasing and all
14 amendments to such laws. Such withdrawal shall continue
15 for the full term of the permit and any modification,
16 reissuance, or renewal of the permit. Such withdrawal
17 shall be canceled automatically upon expiration or other
18 termination of the permit unless, at the request of the Sec-
19 retary of Agriculture, the Secretary of the Interior deter-
20 mines to continue the withdrawal. Upon cancellation of the
21 withdrawal, the land shall be automatically restored to all
22 appropriation not otherwise restricted under the public
23 land laws.”.

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