

104TH CONGRESS
REPORT
HOUSE OF REPRESENTATIVES

1st Session

104-296

FREE-ROAMING HORSES IN THE OZARK NATIONAL SCENIC RIVERWAYS

OCTOBER 30, 1995- Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 238]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 238) to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses, 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 in lieu thereof the following:

SECTION 1. FREE-ROAMING HORSES.

Section 7 of the Act entitled 'An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes', approved August 27, 1964 (16 U.S.C. 460m-6), is amended to read follows:

` SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

` (b) The Secretary may not remove, or assist in or permit the removal of, any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless the entity with whom the Secretary entered into the agreement under subsection (a), following notice and a 180-day response period, substantially fails to meet the terms and conditions of the agreement or in the case of an emergency as defined in the agreement.

` (c) Nothing in this section shall be construed as creating additional liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.'.

PURPOSE OF THE BILL

The purpose of H.R. 238 is to provide for continuation of a population of free-roaming horses at Ozark National Scenic Riverways.

BACKGROUND AND NEED FOR LEGISLATION

Wild horses have inhabited this portion of Missouri for at least 50 years and were certainly present in 1964 when Ozark National Scenic Riverways was authorized. The number of horses has remained relatively constant in recent years at about 20 animals ranging over an area of 20-30,000 acres both inside and outside of the park.

The National Park Service (NPS) took no action to manage the horses for nearly 25 years after the park was authorized. In 1990, the NPS began a program to remove all horses. Due to substantial public opposition, the NPS decided to complete an environmental assessment on the project, after which the agency determined that removal was necessary.

When the NPS again initiated removal efforts, local citizens sued. Eventually the appellate court ruled that it was within the discretion of the agency to remove the horses. While the NPS has temporarily ceased their removal efforts, absent legislative relief, those efforts could begin again any time.

There is no question that feral horse populations can have substantial impacts on natural resources. Such has certainly been the case in many parts of the West. However, the NPS has not documented any significant resource damage at this park due to grazing by feral horses.

NPS policies do call for elimination of non-native plants and animals to the extent practicable. However, there are at least six different NPS areas where wild or feral horses are managed by the agency as a natural resource. The NPS has not made a case as to why they are advocating a different policy for this park.

COMMITTEE ACTION

H.R. 238 was introduced on January 4, 1995, by Mr. Emerson. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On May 18, 1995, the Subcommittee held a hearing on H.R. 238. On July 18, 1995, the Subcommittee met to mark up H.R. 238. An amendment in the nature of a substitute was offered by Mr. Hansen, and adopted by voice vote. The bill was then ordered favorably reported to the Full Committee in the presence of a quorum. On August 2, 1995, the Full Resources Committee met to consider H.R. 238. An en bloc amendment which made technical changes and clarified the liability of the Federal Government was offered by Mr. Richardson, and adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS

Section 1: This bill amends the law establishing Ozark National Scenic Riverways in the State of Missouri to direct the National Park Service (NPS) to manage an existing herd of free-roaming horses on Federal lands. The bill directs the NPS to enter into an agreement with the Missouri Wild Horse League to allow the League to carry out the management of the horses, and to issue a permit which provides adequate land for pasturing up to 50 horses. The NPS may not remove the horses except in case of an emergency, or if the Missouri Wild Horse League substantially fails to carry out the terms of its agreement with the NPS.

The Committee recognizes that the horses move between public and private lands with limited restrictions. The Committee also understands that while there is broad general supply for continuation of the horse population, there is potential for these animals to cause impacts to private property adjacent to the park.

An amendment was adopted by the Resources Committee which clarifies that this legislation will have no impact on the current level of liability of the Federal Government for any activities of the horses either on lands inside or outside of

the park. By the addition of language limiting the liability of the Federal Government, it is not the intent of the Committee to require private property owners to accept increased liability for any potential damages caused by the horses. These horses are not regulated under any state law, except with respect of infectious diseases. The Committee expects that any entity entering into an agreement with the NPS to manage the horses shall be liable for any impacts from these horses on private property.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 238 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement 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, H.R. 238 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.
2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 238.
3. With respect to the requirement of 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, the Committee has received the following cost estimate for H.R. 238 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. Congress,

Congressional Budget Office,

Washington, DC, October 26, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 238, a bill to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses, as ordered reported by the House Committee on Resources on August 2, 1995. We estimate that enacting this bill would have no significant impact on the federal budget and no impact on those of state or local governments. H.R. 238 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 238 would prohibit the National Park Service from removing or allowing the removal of wild horses from federal lands within the Ozark National Scenic Riverways. The bill would direct the NPS to enter into an agreement with a nonprofit group to provide for management of the horses at no cost to the federal government other than expenses related to monitoring the agreement. We expect that those expenses would not be significant.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

James L. Blum

(For June E. O'Neill, Director.)

DEPARTMENTAL REPORTS

The Committee has received no reports on H.R. 238.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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):

SECTION 7 OF THE ACT OF AUGUST 27, 1964

AN ACT To provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes

[Struck out->] SEC. 7. (a) There is hereby established an Ozark National Scenic Riverways Commission. The Commission shall cease to exist ten years after the date of establishment of the area pursuant to section 4 of this Act.] [<-Struck out]

[Struck out->] (b) The Commission shall be composed of seven members each appointed for a term of two years by the Secretary as follows:] [<-Struck out]

[Struck out->] (1) Four members to be appointed from recommendations made by the members of the county court in each of the counties in which the Ozark National Scenic Riverways is situated (Carter, Dent, Shannon, and Texas), one member from the recommendations made by each such court;] [<-Struck out]

[Struck out->] (2) Two members to be appointed from recommendations of the Governor of the State of Missouri; and] [<-Struck out]

[Struck out->] (3) One member to be designated by the Secretary.] [<-Struck out]

[Struck out->] (c) The Secretary shall designate one member to be chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.] [<-Struck out]

[Struck out->] (d) A member of the Commission shall serve without compensation. The Secretary shall reimburse members of the Commission for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.] [<-Struck out]

[Struck out->] (e) The Secretary or his designee shall from time to time consult with the members of the Commission with respect to matters relating to the development of the Ozark National Scenic Riverways, and shall consult with the members with respect to carrying out the provisions of this Act.] [<-Struck out]

[Struck out->] (f) It shall be the duty of the Commission to render advice to the Secretary from time to time upon matters which the Secretary may refer to it for its consideration.] [<-Struck out]

SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for

management of free-roaming horses. The agreement shall provide for cost-effective management of horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

(b) The Secretary may not remove, or assist in or permit the removal of, any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless the entity with whom the Secretary entered into the agreement under subsection (a), following notice and a 180-day response period, substantially fails to meet the terms and conditions of the agreement or in the case of an emergency as defined in the agreement.

(c) Nothing in this section shall be construed as creating additional liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.

MINORITY VIEWS

The Democratic Committee Members are concerned about the welfare of the horses if it becomes necessary to remove them from the Ozark National Scenic Riverways area. The Members expect that if such removal is imminent, arrangements be made to ensure that the horses are not transferred or sold for slaughter or to a feed lot for fattening for slaughter. Should the Secretary find it necessary to remove any horse from the area, a report should be submitted to the Committee on Resources within 30 days of such removal explaining why the horses were removed and where they were transferred.

Bill Richardson.

Bruce F. Vento.

Sam Gejdenson.

Dale E. Kildee.

Eni Faleomavaega.

Nick Rahall.

Frank Pallone, Jr.

Robert A. Underwood.

Pat Williams.