

ADJUSTMENT IN THE NUMBER OF FREE ROAMING  
HORSES PERMITTED IN CAPE LOOKOUT NATIONAL  
SEASHORE, NORTH CAROLINA

—————  
OCTOBER 7, 2003.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 2055]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2055) to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore, 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. 2055 is to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in the Cape Lookout National Seashore.

BACKGROUND AND NEED FOR LEGISLATION

Established in 1966, Cape Lookout National Seashore, a 56-mile long section of the Outer Banks, includes three undeveloped barrier islands—North Core Banks, South Core Banks, and Shackleford Banks. The National Parks Service administers the National Seashore. A herd of free-ranging horses known as the “Shackleford herd” is part of the natural environment of the Seashore. In 1998 Congress passed legislation requiring annual reports on the status of the herd, and in April 1999, a Memorandum of Understanding was signed between the National Park Service and the Foundation of Shackleford Horses for joint management of the horses.

In 2002, the Superintendent of the Cape Lookout National Seashore and the Friends of Shackleford Horses agreed that the population of the horses should never fall below 110 horses for sound scientific reasons, such as genetic diversity. H.R. 2055 would adjust the number of free roaming horses permitted in Cape Lookout National Seashore, North Carolina, from 100 free roaming horses to not less than 110 free roaming horses with a target population of between 120 and 130, where 130 horses shall not be viewed as an absolute maximum. In addition, H.R. 2055 would not permit the removal of the horses unless removal is carried out as part of a plan to maintain the viability of the herd.

#### COMMITTEE ACTION

H.R. 2055 was introduced on May 9, 2003, by Congressman Walter B. Jones, Jr. (R-NC). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On June 24, 2003, the Subcommittee held a hearing on the bill. On September 23, 2003, the Subcommittee met to mark up the bill. No amendments were offered and the bill was forwarded to the Full Resources Committee by voice vote. On September 24, 2003, the Full Resources Committee met to consider the bill. 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 Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) 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)(3)(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.

2. **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 revenues or tax expenditures.

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.

4. Congressional Budget Office Cost Estimate. 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:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 26, 2003.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2055, a bill to amend Public Law 89–366 to allow for an adjustment in the number of free-roaming horses permitted in Cape Lookout National Seashore.

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

Sincerely,

ROBERT A. SUNSHINE  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*H.R. 2055—A bill to amend Public Law 89–366 to allow for an adjustment in the number of free-roaming horses permitted in Cape Lookout National Seashore*

H.R. 2055 would raise the existing ceiling on the number of free-roaming horses that the National Park Service may maintain at Cape Lookout National Seashore. Based on information provided by the agency, CBO estimates that allowing the herd to increase from the current limit of 100 animals to a maximum of 130 would have no significant effect on the cost of operating the national seashore.

This 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 Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

The 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):

**SECTION 5 OF THE ACT OF MARCH 10, 1966**

(Public Law 89-366)

An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes.

SEC. 5. (a) ~~[(a)]~~ The Secretary shall administer the Cape Lookout National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of ~~100 free roaming horses~~ *not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses*, in Cape Lookout National Seashore (hereinafter referred to as the "seashore"): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

\* \* \* \* \*

(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

(A) \* \* \*

~~[(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or]~~

*(B) unless removal is carried out as part of a plan to maintain the viability of the herd; or*

\* \* \* \* \*

(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below ~~100~~ *110* as a result of natural causes, including, but not limited to, disease or natural disasters.

\* \* \* \* \*

~~[(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the "Seashore"): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).~~

~~[(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackelford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—~~

~~[(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and~~

【(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

【(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

【(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

【(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or

【(C) except in the case of an emergency, or to protect public health and safety.

【(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

【(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.

【(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.】