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JOINT VENTURES FOR BIRD HABITAT CONSERVATION ACT OF 2009

DECEMBER 21 (legislative day, DECEMBER 20), 2009.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany H.R. 2188]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (H.R. 2188) to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

Multiple factors, including drought and wetlands loss, damaged the habitat of waterfowl and by the mid-1980's resulted in a waterfowl population in crisis. The United States and Canadian governments recognized intervention was necessary to protect waterfowl habitat and developed the North American Waterfowl Management Plan (NAWMP). The scope of the conservation effort needed to conserve these waterfowl exceeded the capacity of the efforts of the federal government's alone. The concept of joint ventures, public-private partnerships working together to conserve the continent's waterfowl, were developed as a way to bring an array of partners together to address this challenge. A variety of other bird species, including shorebirds, landbirds, and other waterbirds were integrated into the joint venture planning processes and conservation efforts.

Currently there are 18 habitat-based joint venture partnerships at work across the United States, ranging from long-established joint ventures to those in various stages of development. There are also three species-based joint ventures (arctic goose, black duck and sea duck), and four habitat-based joint ventures presently operating in Canada (Canadian Intermountain Joint Venture; Eastern Habitat Joint Venture; Pacific Coast Joint Venture; and, Prairie Habitat Joint Venture). The Canadian Joint Ventures are not subject to the terms of this legislation.

To ensure a logical and coordinated approach to the development and support of joint ventures, the United States Fish and Wildlife Service defined the term “joint venture” in Director’s Order Number 146 as:

A self-directed partnership of agencies, organizations, corporations, tribes, or individuals that has formally accepted the responsibility of implementing national or international bird conservation plans within a specific geographic area or for a specific taxonomic group, and has received general acceptance in the bird conservation community for such responsibility.

Joint ventures conduct a comprehensive suite of activities in support of bird conservation goals cooperatively developed within each respective partnership. These activities include biological planning, conservation design, project development and implementation, monitoring, evaluation, applied research, communications and outreach, and fund-raising. Joint venture activities, while primarily developed to support the goals of NAWMP, commonly fulfill the goals and obligations of the United States under a variety of other international treaties, agreements and initiatives that govern migratory bird resources.

The Fish and Wildlife Service supports recognized joint ventures by funding a full-time joint venture coordinator and associated costs for program infrastructure. Consistent with the partnership, the Service encourages contribution from other federal and state agencies, conservation organizations and private interests, but does not fund all facets of joint venture efforts. To date, joint ventures have invested \$4.5 billion to conserve 15.7 million acres of habitat.

The Atlantic Coast Joint Venture (ACJV) is a good example of the breadth and scope of joint ventures. Stretching from Maine to Puerto Rico, the ACJV is focused on conservation of habitat for native birds in the Atlantic Flyway, which spans over 283 million acres and where more than 600 native bird species breed, migrate and winter. The mission of the ACJV is to provide a forum for federal, state, regional and local partners to coordinate and improve the effectiveness of bird conservation planning and implementation throughout the entire Atlantic Flyway. Since its inception in 1988, the ACJV has protected, restored or enhanced 4,233,300 acres of critical bird habitat, and the ACJV and its partners have supported research projects to address some of their most pressing needs.

H.R. 2188 provides statutory authorization for this successful continent-wide conservation program that encourages a broad, landscape-approach to the conservation of bird habitat. The bill, as introduced and reported by the committee, fully incorporates the voluntary, partnership-oriented approach to habitat conservation

that make joint ventures flexible, adaptive, innovative and effective in conserving and protecting bird habitats in North America.

OBJECTIVES OF THE LEGISLATION

The purpose of H.R. 2188 is to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, and for other purposes.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this bill may be cited as the “Joint Ventures for Bird Habitat Conservation Act of 2009.”

Section 2. Findings and purpose

Section 2 provides the general purpose of the bill, along with several findings which: recognize the economic and environmental importance of migratory bird populations; acknowledge the responsibilities of the federal government, including international treaty obligations, and the role of the states in conserving this resource; and, appreciate the demonstrated value of voluntary partnerships, including Joint Ventures, in implementing effective landscape level bird conservation strategies.

Section 3. Definitions

Section 3 provides definitions for several terms used throughout the bill.

Section 4. Joint Ventures Program

Section 4 authorizes the Secretary of the Interior (Secretary) to conduct, through the U.S. Fish and Wildlife Service, a Joint Ventures Program administered by the Director of the Service (Director). The Director shall develop an administrative framework for the Program, including the approval, establishment and implementations of Joint Ventures, to ensure that the Program complements and supports the activities of the Secretary under multiple bird conservation statutes, treaties and strategies.

Section 5. Joint Venture establishment and administration

Section 5 authorizes the Director to enter into agreements with eligible partners, as defined in this section, to establish Joint Ventures. All Joint Ventures are required to have Management Boards of diverse membership operating under organization and operations plans. Each Joint Venture is required to develop an Implementation Plan to be approved by the Director which details the strategic framework for the long-term conservation agenda for the Joint Venture. All Implementation Plans shall be circulated for public review and comment and shall be approved by the Director if the Plan fulfills all criteria for approval.

Section 6. Grants and other assistance

Section 6 authorizes the Director to award financial grants or provide technical assistance to support approved Joint Ventures. Financial support may be used by Joint Ventures for administrative and management activities or to implement conservation projects. The Director is required to develop grant program guidelines within 180 days after date of enactment of this Act. For projects of equal conservation value, Management Boards are to give priority to projects that provide non-federal matching contributions equal to or in excess of the federal grant amount. The Secretary is authorized to accept gifts, donations and in-kind contributions in order to provide assistance.

Section 7. Reporting requirements

Section 7 requires all Joint Venture Management Boards to report annually to the Director on all activities undertaken during the preceding year, including amounts spent on administrative expenses and conservation projects, and the status of progress to meet the goals and objectives of related Implementation Plans. The Secretary, through the Director, shall be required to complete a comprehensive review of the Program beginning five years after date of enactment and every five years thereafter. These five-year reviews shall be subject to public review and comment.

Section 8. Treatment of existing Joint Ventures

Section 8 considers all Joint Ventures and all approved Implementation Plans in existence prior to the date of enactment of this Act, to be approved under this Act.

Section 9. Relationship to other authorities

Section 9 assures that nothing in this Act would affect other authorities, responsibilities or powers of the Secretary of the Interior or preempt any State authority relating to the management of fish and wildlife.

Section 10. Federal Advisory Committee Act

Section 10 states that the Federal Advisory Committee Act would not apply to the activities of Joint Ventures.

LEGISLATIVE HISTORY

H.R. 2188 was introduced in the House of Representatives on April 30, 2009 by Representative Frank Kratovil, Jr. (D-MD). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent. The House of Representatives passed H.R. 2188 on July 16, 2009 with a roll call vote of 400–0.

H.R. 2188 was referred to the Senate Committee on Environment and Public Works on July 20, 2009. The Subcommittee on Water and Wildlife held a legislative hearing to consider a number of wildlife bills, including H.R. 2188, on December 3, 2009. The bill was ordered to be reported without amendment favorably by the full committee on December 10, 2009.

HEARINGS

The Senate Committee Environment and Public Works, Subcommittee on Water and Wildlife, held a legislative hearing on December 3, 2009 to consider a number of wildlife bills including H.R. 2188, The Joint Ventures for Bird Habitat Conservation Act of 2009. At the hearing, U.S. Fish and Wildlife Service Deputy Director Dan Ashe testified that the Administration supported the legislation. He provided the Subcommittee with a brief history of the Joint Venture programs currently in operation. Eric C. Schwaab, Deputy Secretary, Maryland Department of Natural Resources, also testified at the December 3 hearing in support of the legislation. Schwaab testified on behalf of both his State and the national Association of Fish and Wildlife Agencies. He cited the 2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation report which estimated the number of people that observe birds in the U.S. at 47.7 million. The 2002 national survey on birdwatching in the United States estimated that while watching birds, and other wildlife in 2001, the public generated \$85 billion in overall economic output (about 1% of GDP), \$32 billion in retail sales, and \$13 billion in state and federal income taxes. The 2006 national survey estimated about 2.3 million migratory bird hunters who spent approximately \$1.3 billion in 2006. Schwaab noted the importance of Joint Ventures in supporting this important part of the American economy. Finally, Robert L. Bendick, Director of Government Relations for The Nature Conservancy, also testified in support of the legislation. The Chairman entered letters in support of the legislation from 30 organizations into the record.

The full Committee on Environment and Public Works met to consider H.R. 2188 on December 10, 2009. The Chairman of the Subcommittee and the Chairman of the Full Committee noted the strong support for the bill and recounted its main provisions. The bill was reported favorably by voice vote.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider H.R. 2188 on December 10, 2009. The bill was ordered favorably reported by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that H.R. 2188 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that H.R. 2188 would not impose intergovernmental or private-sector mandates on State, local, or tribal governments.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

DECEMBER 15, 2009.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2188, the Joint Ventures for Bird Habitat Conservation Act of 2009.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2188—Joint Ventures for Bird Habitat Conservation Act of 2009

H.R. 2188 would authorize the United States Fish and Wildlife Service to enter into joint ventures with public and private stakeholders to promote the conservation of migratory birds. The bill also would codify the mechanisms used to establish and support joint ventures, such as allowing federal agencies to provide personnel to assist them. Finally, the legislation would authorize the Fish and Wildlife Service to award grants, subject to the availability of appropriations, to provide financial assistance to joint ventures.

Based on information from the Fish and Wildlife Service, CBO estimates that H.R. 2188 would have a negligible effect on the federal budget because a similar program currently exists. Roughly \$14 million was appropriated for that program in 2010.

H.R. 2188 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no cost on state, local, or tribal governments. Those governments would benefit from technical and financial assistance for conservation activities related to migratory birds. Any costs to those governments would be incurred voluntarily as a condition of receiving federal assistance.

On June 26, 2009, CBO transmitted a cost estimate for H.R. 2188, the Joint Ventures for Bird Habitat Conservation Act of 2009, as ordered reported by the House Committee on Natural Resources on June 10, 2009. The two versions of the legislation are similar, and the CBO cost estimates are the same.

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

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.