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AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 2001

NOVEMBER 30, 2001.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Environment and Public Works, submitted the following

REPORT

[to accompany H.R. 643]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (H.R. 643) to reauthorize the African Elephant Conservation Act, having considered the same, reports favorably thereon and recommends that the bill do pass.

General Statement and Background

In the late 1980's, the population of African elephants declined by almost half. In 1979, the total elephant population in Africa was approximately 1.3 million animals. In 1987, fewer than 600,000 African elephants were alive. While drought, disease, and competition for land use arising from human population growth were threats to elephant populations, the poaching of elephants for their ivory tusks reached epidemic proportions in the 1980's and far overshadowed the other factors.

The destruction of this flagship species was not confined to just a few countries, but was widespread throughout the African continent. In fact, there were only three southern African nations, Botswana, South Africa and Zimbabwe, that had stable elephant populations and effective conservation programs. The rest of the continent was fighting a battle against poachers who were selling illegally obtained elephant ivory at hugely inflated prices.

As a nation, the United States consumed about 30 percent of the world's carved ivory production. Since most experts believed that nearly 80 percent of all ivory is poached, consumer purchases in the United States accounted for the deaths of some 27,000 ele-

phants. With the population of African elephants declining by nearly 9 percent a year, unless this slaughter was stopped, the African elephant would have been annihilated as a viable population, throughout much of its range, by the end of the 20th century.

In response to this crisis, the Congress enacted the African Elephant Conservation Act of 1988 (Public Law 100–478). The major provisions of this law required an evaluation of the effectiveness of the elephant conservation programs; prohibited ivory imports from African countries unable to protect their elephants; required countries to stop selling illegal ivory; and established the African Elephant Conservation Fund. The African Elephant Conservation Fund was established to provide financial support for on-the-ground elephant conservation efforts throughout range states in Africa.

In 1992 and 1998, Congress renewed the authority of the Secretary of the Interior to spend money from the African Elephant Conservation Fund until September 30, 2002. The Congress is authorized to appropriate up to $5 million a year to the African Elephant Conservation Fund to provide grant money for various conservation projects to assist this species.

Since its creation, Congress has appropriated more than $11 million to the African Elephant Conservation Fund. This money, which has generated an additional $53.6 million in private matching funds, has been allocated by the U.S. Fish and Wildlife Service for 134 conservation projects in 24 range states throughout Africa. These projects have been sponsored by a diverse group of conservation organizations. Money allocated from the African Elephant Conservation Fund has been used to: assess the impact of elephants on plant and habitat biodiversity; purchase anti-poaching equipment for wildlife rangers; control elephant crop damage; create a comprehensive reference library on the African elephant; undertake elephant population surveys; implement elephant conservation plans; and move elephants from certain drought regions.

OBJECTIVES OF THE LEGISLATION

The fundamental purpose of H.R. 643 is to extend the authorization of appropriations for the African Elephant Conservation Fund until September 30, 2007. This will allow Congress to appropriate money to conserve African elephants and to fund additional projects. This fund has been the only continuous source of new money for elephant conservation in the world. In addition, H.R. 643 allows the Secretary of the Interior to convene an advisory group to assist in carrying out the Act.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This Act may be cited as the "African Elephant Conservation Reauthorization Act of 2001".

Section 2. Reauthorization of African Elephant Conservation Act

Section 2 amends section 2306 of the African Elephant Conservation Act to extend the authorization of the Act through 2007.

Section 3. Administrative Expenses

Section 3 amends Section 2306 of the African Elephant Conservation Act limiting the amount of money the Secretary may expend on administrative expenses to carry out the Act. Not more than 3 percent or $80,000, whichever is greater, may be expended from the amounts available in each fiscal year.

Section 4. Cooperation

Section 4 amends Part I of the African Elephant Conservation Act by adding Section 2104 authorizing the Secretary to convene an advisory group of individuals representing public and private organizations actively involved in the conservation of African elephants. The Secretary shall provide public notice of each meeting of the advisory group. The meetings shall be open to the public and the minutes of the meetings shall be made available to the public. The Federal Advisory Committee Act shall not apply to the advisory group authorized under this section.

The creation of a new advisory group will help increase public involvement and Federal and private partnerships. Also, it will provide consistency with the Great Ape Conservation Act and Neotropical Migratory Bird Conservation Act, both of which were enacted during the 106th Congress and are administered under the Multinational Species Conservation Fund, along with the Rhinoceros and Tiger Conservation Act and the Asian Elephant Conservation Act.

Section 5. Project Sustainability

Section 5 amends Section 2101 of the African Elephant Conservation Act to direct the Secretary to give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants when determining whether to approve project proposals. This priority will help balance the need for projects that directly benefit the species with projects directed at ensuring the long-term conservation of the species through local capacity building and institutional development.

Section 6. Technical and Conforming Amendments

Subsection (a) of Section 6 conforming and clerical changes to Sections 2101, 2102, 2304, and 2305(4) of the African Elephant Conservation Act.

Subsection (b) makes a technical correction to Title I of section 101(e) of division A of Public Law 105–277.

LEGISLATIVE HISTORY

The bill was referred to the Committee on Environment and Public Works on June 13, 2001. No hearings were held on the bill. On November 8, 2001, the Committee on Environment and Public Works met to consider H.R. 643, and agreed to report the bill 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. 643 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. 643 would impose no unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 2001.

Hon. JAMES JEFFORDS, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 643, the African Elephant Conservation Reauthorization Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 643, African Elephant Conservation Reauthorization Act of 2001, As ordered reported by the Senate Committee on Environment and Public Works on November 8, 2001

SUMMARY

H.R. 643 would reauthorize funding for projects carried out under the African Elephant Conservation Act. Specifically, the act would authorize annual appropriations for such projects to the Multinational Species Conservation Fund through 2007 at the existing authorization level of up to $5 million annually. The current authorization expires after fiscal year 2002. The Secretary of the Interior uses this fund primarily to help finance research and conservation programs overseas.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 643 would cost $18 million over the 2003–2006 period. (An additional $7 million would be spent after 2006.) The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 643 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government

The estimated budgetary impact of H.R. 643 is shown in the following table. For purposes of this estimate, CBO assumes that the entire amounts authorized by the act will be appropriated for each fiscal year. Outlay estimates are based on recent spending patterns for this program. The costs of this legislation fall within budget function 300 (natural resources and environment).

By Fiscal Year, in Millions of Dollars

	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION					
Spending Under Current Law:.					
Budget Authority	5	0	0	0	0
Estimated Outlays	1	0	0	0	0
Proposed Changes.					
Estimated Authorization Level	0	5	5	5	5
Estimated Outlays	0	3	5	5	5
Spending Under H.R. 643.					
Estimated Authorization Level[1]	5	5	5	5	5
Estimated Outlays	1	3	5	5	5

[1] The 2002 level is the amount appropriated for African elephant conservation.

Pay-As-You-Go Considerations: None.

Intergovernmental and Private-Sector Impact

H.R. 643 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect on the budgets of state, local, or tribal governments.

Previous CBO Estimate

On May 18, 2001, CBO prepared a cost estimate for H.R. 643 as ordered reported by the House Committee on Resources on May 16, 2001. The two versions of the legislation are identical, as are the estimated costs.

Estimate Prepared By: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Lauren Marks.

Estimate Approved By:

Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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:

AFRICAN ELEPHANT CONSERVATION ACT

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TITLE II--AFRICAN ELEPHANT CONSERVATION

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PART I--AFRICAN ELEPHANT CONSERVATION ASSISTANCE

SEC. 2101. PROVISION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide financial assistance under this part from the [African Elephant Conservation] Fund for approved projects for research, conservation, management, or protection of African elephants.

* * * * * * *

(e) *PROJECT SUSTAINABILITY.—To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants.*

[(e)] *(f)* PROJECT REPORTING.—Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

[SEC. 2102. AFRICAN ELEPHANT CONSERVATION FUND.

[(a) Establishment.—There is established in the general fund of the Treasury a separate account to be known as the "African Elephant Conservation Fund", which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

[(b) Deposits Into Fund.—The Secretary of the Treasury shall deposit into the Fund——

[(1) subject to appropriations, all amounts received by the United States in the form of penalties under section 2204 which are not used to pay rewards under section 2205;

[(2) amounts received by the Secretary of the Interior in the form of donations under subsection (d); and

[(3) other amounts appropriated to the Fund to carry out this part.

[(c) Use.——

[(1) In general.—Subject to paragraph (2), amounts in the Fund may be used by the Secretary, without further appropriation, to provide assistance under this part.

[(2) Administration.—Not more than 3 percent of amounts appropriated to the Fund for a fiscal year may be used by the Secretary to administer the Fund for that fiscal year.

[(d) ACCEPTANCE AND USE OF DONATIONS.—]

SEC. 2102. ACCEPTANCE AND USE OF DONATIONS.

The Secretary may accept and use donations of funds to provide assistance under this part. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

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SEC. 2104. ADVISORY GROUP.

(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of African elephants.

(b) PUBLIC PARTICIPATION.——

(1) MEETINGS.—The Advisory Group shall——

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

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PART III—MISCELLANEOUS

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[SEC. 2304. EFFECTIVENESS OF CITES.

[Within 3 months after the completion of the 8th Conference of the Parties to CITES, the Secretary shall determine whether this title, together with the CITES Ivory Control System, has substantially stopped the importation of illegally harvested ivory into the United States. If the Secretary determines that the importation of illegally harvested ivory has not been substantially stopped, the Secretary shall recommend to the Congress amendments to this title or other actions that may be necessary to achieve the purposes of this title, including the establishment of a complete moratorium on the importation of elephant ivory into the United States.]

SEC. 2305. DEFINITIONS.

In this title——

(1) * * *

* * * * * * *

(4) the term "Fund" means the [African Elephant Conservation Fund established by section 2102] *the account established by division A, section 101(e), title I of Public Law 105 277 under the heading "MULTINATIONAL SPECIES CONSERVATION FUND"*;

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SEC. 2306. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized] *(a) IN GENERAL.—There is authorized* to be appropriated to the Fund and to the Secretary a total of not to exceed $5,000,000 for each of fiscal years [1997, 1998, 1999, 2000, 2001, and 2002] *2001, 2002, 2003, 2004, 2005, 2006, and 2007* to carry out this title, to remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

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SEC. 101. (a) * * *

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(e) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

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UNITED STATES FISH AND WILDLIFE SERVICE

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MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201 4203, 4211 4213, 4221 4225, 4241 4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105 96), and the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 5306), $2,000,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated to the African Elephant Conservation Fund, Rewards and Operations account, and Rhinoceros and Tiger Conservation Fund may be transferred to and merged with this appropriation: *Provided further*, That in fiscal year 1999 and thereafter, donations to provide assistance under section 5304 of the [Rhinoceros and Tiger Conservation Act, subchapter I] *Rhinoceros and Tiger Conservation Act of 1994, part I* of the African Elephant Conservation Act, and section 6 of the Asian Elephant Conservation Act of 1997 shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under 16 U.S.C. 4224 which are not used to pay rewards under 16 U.S.C. 4225 shall be deposited to this Fund to provide assistance under 16 U.S.C. 4211 and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than 3 percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.

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