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U.S. GOVERNMENT
INFORMATION
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109TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
109–421

NEOTROPICAL MIGRATORY BIRD CONSERVATION IMPROVEMENT ACT OF 2006

APRIL 25, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 518]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 518) to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds, 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 all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Improvement Act of 2006".

SEC. 2. AMENDMENTS TO NEOTROPICAL BIRD CONSERVATION ACT.

(a) FINDINGS.—Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by inserting "but breed in Canada and the United States" after "the Caribbean".

(b) PURPOSES.—Section 3(2) of such Act (16 U.S.C. 6102(2)) is amended by inserting "Canada," after "United States,".

(c) DEFINITION OF CARIBBEAN.—Section 4 of such Act (16 U.S.C. 6103) is amended by redesignating paragraphs (2) and (3) in order as paragraphs (3) and (4), and by inserting paragraph (1) the following:

"(2) CARIBBEAN.—The term 'Caribbean' includes Puerto Rico and the United States Virgin Islands.".

(d) AUTHORIZATION OF PROJECTS TO ENHANCE CONSERVATION IN CANADA.—Section 5(c)(2) of such Act (16 U.S.C. 6104(c)(2)) is amended by inserting "Canada," after "the United States,".

(e) COST SHARING.—Section 5(e) of such Act (16 U.S.C. 6104(e)) is amended—

(1) in paragraph (1) by striking "25 percent" and inserting "50 percent"; and

(2) in paragraph (2) by amending subparagraph (B) to read as follows:

"(B) FORM OF PAYMENT.—

"(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

"(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.".

(f) ADVISORY GROUP.—

(1) COMPOSITION.—Section 7(b)(1) of such Act (16 U.S.C. 6106(b)(1) is amended by adding at the end the following: "The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere.".

(2) ENCOURAGEMENT TO CONVENE.—The Secretary of the Interior is encouraged to convene an advisory group under section 7(b)(1) of such Act by not later than 6 months after the effective date of this Act. This paragraph shall not be considered to authorize delay of the schedule previously established by the United States Fish and Wildlife Service for the submission, judging, and awarding of grants.

(g) REPORT.—Section 8 of such Act (16 U.S.C. 6107) is amended by striking "October 1, 2002," and inserting "2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006,".

(h) NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.—

(1) IN GENERAL.—Section 9 of such Act (16 U.S.C. 6108) is amended by striking so much as precedes subsection (c) and inserting the following:

"SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the 'Neotropical Migratory Bird Conservation Fund'. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

"(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

"(1) all amounts received by the Secretary in the form of donations under subsection (d); and

"(2) other amounts appropriated to the Fund.".

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of such Act (16 U.S.C. 6108(c)(2) is amended by striking "$80,000" and inserting "$150,000".

(3) CONFORMING AMENDMENTS.—Such Act is amended as follows:

(A) In section 4 (16 U.S.C. 6103), by striking paragraph (1) and inserting the following:

"(1) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(B) In section 9(d) (16 U.S.C. 6108(d)), by striking "Account" and inserting "Fund".

(4) TRANSFER.—The Secretary of the Treasury may transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the enactment of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of such Act (16 U.S.C. 6109) is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence;

(2) by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)"; and

(3) by adding at the end the following:

"(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

"(1) $5,000,000 for each of fiscal years 2006 and 2007;

"(2) $6,000,000 for fiscal year 2008;

"(3) $7,000,000 for fiscal year 2009; and

"(4) $8,000,000 for fiscal year 2010.

"(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

"(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.".

PURPOSE OF THE BILL

The purpose of H.R. 518 is to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

BACKGROUND AND NEED FOR LEGISLATION

Neotropical migrants are birds that travel between the United States, Mexico, Central America, much of the Caribbean, and the northern part of South America. These birds include the following species: blue birds, cranes, ducks, goldfinches, gulls, hawks, herons, robins, hummingbirds, orioles, plovers, warblers, and woodpeckers. They migrate thousands of miles across international borders and depend upon suitable stopover and staging habitat for foraging and rest. Each autumn some five billion birds from 341 species of neotropical migratory birds fly between their breeding grounds in North America and their tropical habitats in the Caribbean and Latin America. In fact, in some parts of the United States and Canada, almost all of the birds migrate to the tropics for the winter.

According to the U.S. Fish and Wildlife Service, neotropical migratory birds typically spend five months of the year at Caribbean/Latin American wintering sites, four months in North American breeding areas, and three months traveling to these sites during spring and autumn migrations. Through bilateral treaties, the United States is responsible for assisting in the maintenance of populations of over 800 game and nongame species of migratory birds. Regrettably, 90 North American bird species are listed as either threatened or endangered under our Endangered Species Act and an additional 131 bird species have been identified by the U.S. Fish and Wildlife Service as Migratory Nongame Birds of Management Concern.

There are many reasons for the decline in the populations of these species including nest predation, competition among species, general hazards along their migration routes, and the widespread use of pesticides. However, the greatest threat to their long-term survival is the continuing loss of essential habitat in the Caribbean and Latin America, both in staging and wintering areas.

According to various experts, there are nearly 46 million Americans who enjoy watching and feeding birds. In fact, birdwatching is one of America's fastest growing forms of outdoor recreation. These activities generate some $85 billion in overall economic output each year, $13 billion in federal and state taxes and the creation of 863,406 jobs. Furthermore, healthy bird populations are a valuable asset for farmers and timber interests. These birds help to pollinate and disperse seeds of many economically important plant species. They also consume detrimental insects thereby limiting agricultural crop losses each year. The U.S. Department of Agriculture has indicated that a population of 3,000 Swainson's hawks in the western United States eat more than one million rodents each summer.

While there was no debate on the importance of these birds, what was seriously lacking was a strategic plan for bird conservation, money for on-the-ground projects, public awareness, and any real coordination among the various range countries where neotropical migratory birds live. In response to these problems and to help achieve the goals of the North American Bird Conservation Initiative, Congress enacted the Neotropical Migratory Bird Conservation Act of 2000 (Public Law 106–247). This legislation was modeled after the highly successful efforts to assist threatened and endangered African and Asian elephants, rhinoceroses and tigers.

Like those landmark conservation laws, the Secretary of the Interior was charged with the responsibility of evaluating and selecting meritorious conservation projects. In addition, the Neotropical Migratory Bird Conservation Account was authorized to receive up to $5 million per year, money was allocated for administrative expenses by the U.S. Fish and Wildlife Service, preference was given to conservation projects supported by appropriate wildlife management authorities, a three to one matching requirement was established for each approved grant and 75 percent of the funding appropriated for this account was required to be spent on projects outside the United States. In the past five years, the Fish and Wildlife Service has received 690 grant applications for assistance under the Act. The Service has approved 146 conservation projects in 30 different range states. Congress has appropriated a cumulative $13.8 million for this program and these funds have been matched by $64.8 million in private sector funds which far exceed the three to one matching requirement. The Bush Administration has requested that this Account receive $4 million in Fiscal Year (FY) 2007.

This legislation would extend the authorization of appropriations for the Neotropical Migratory Bird Conservation Act of 2000 which expired on September 30, 2005. In addition, the bill makes a number of modifications to the underlying statute including: expanding the definition of Caribbean to include Puerto Rico and the United States Virgin Islands; changing the matching requirement from a three to one to a one to one dollar match; increasing the amount of available funds for administrative costs from $80,000 to $150,000; allowing the funding of conservation projects in Canada when the appropriation level exceeds $10 million; changing the Neotropical Migratory Bird Conservation Account to a Fund; and gradually increasing the authorization levels from $5 million in FY 2006 to $15 million in FY 2009.

COMMITTEE ACTION

H.R. 518 was introduced on February 2, 2005, by Congressman Ron Kind (D–WI). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries and Oceans. On June 23, 2005, the Subcommittee held a hearing on the bill. On March 29, 2006, the Full Resources Committee met to consider H.R. 518. The Subcommittee on Fisheries and Oceans was discharged from further consideration of the bill by unanimous consent. Chairman Richard W. Pombo (R–CA) offered an amendment in the nature of a substitute to permit conservation projects for neotropical migratory birds in Canada; increase the authorization period and modify the funding levels to $5 million in FY 2006 and FY 2007, $6 million in FY 2008, $7 million in FY 2009 and $8 million in FY 2010. It was adopted by unanimous consent. The bill, as amended, was then 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 Re-

sources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the underlying law and amended by the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 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. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

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:

H.R. 518—Neotropical Migratory Bird Conservation Improvement Act of 2006

Summary: H.R. 518 would authorize additional funding for projects carried out under the Neotropical Migratory Bird Conservation Act through fiscal year 2010. The Secretary of the Interior would use that funding primarily to help finance research and conservation programs in North and South America.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 518 would cost $27 million over the 2006–2011 period. Enacting the bill would not affect direct spending or revenues. H.R. 518 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 518 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Neotropical Birds:						
Budget Authority[1]	4	0	0	0	0	0
Estimated Outlays	2	1	*	0	0	0
Proposed Changes:						
Authorization Level	1	5	6	7	8	0
Estimated Outlays	*	4	5	7	8	3
Spending Under H.R. 518 for Neotropical Birds:						
Authorization Level[1]	5	5	6	7	8	0
Estimated Outlays	2	5	5	7	8	3

[1] The 2006 level is the amount appropriated for that year for programs related to the conservation of certain migratory birds.
Note: * = less than $500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 518 will be enacted during 2006 and that funds will be appropriated as specified in the bill.

H.R. 518 would authorize the appropriation of $31 million over the 2006–2010 period for activities related to the research and conservation of certain species of migratory birds. For fiscal year 2006, the Congress has already provided $4 million for such activities; therefore, CBO estimates that fully funding H.R. 518 would require the appropriation of an additional $1 million in 2006 and $26 million over the 2007–2010 period. Based on historical spending patterns for this program, CBO estimates that implementing H.R. 518 would increase federal spending by less than $500,000 in 2006 and $27 million over the 2006–2011 period, assuming appropriation of the specified amounts.

Intergovernmental and private-sector impact: H.R. 518 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On August 8, 2005, CBO transmitted a cost estimate for S. 1410, the Neotropical Migratory Bird Conservation Improvement Act of 2005, as ordered reported by the Senate Committee on Environment and Public Works on July 20, 2005. Both bills authorize funding to support international conservation projects. Because H.R. 518 would authorize less funding that S. 1410, our estimate of spending under that bill is lower.

Estimate prepared by: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This 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):

NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

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SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean *but breed in Canada and the United States*;

* * * * * * *

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) * * *

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, *Canada,* Latin America, and the Caribbean; and

* * * * * * *

SEC. 4. DEFINITIONS.

In this Act:

[(1) ACCOUNT.—The term "Account" means the Neotropical Migratory Bird Conservation Account established by section 9(a).**]**

(1) FUND.—The term "Fund" means the Neotropical Migratory Bird Conservation Fund established by section 9(a).

(2) CARIBBEAN.—The term "Caribbean" includes Puerto Rico and the United States Virgin Islands.

[(2)**]** *(3)* CONSERVATION.—The term "conservation" means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) * * *

* * * * * * *

[(3)**]** *(4)* SECRETARY.—The term "Secretary" means the Secretary of the Interior.

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SEC. 5. FINANCIAL ASSISTANCE.

(a) * * *

* * * * * * *

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) * * *

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in the United States, *Canada,* Latin America, or the Caribbean;

* * * * * * *

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than [25 percent] *50 percent.*

(2) NON-FEDERAL SHARE.—

(A) * * *

[(B) FORM OF PAYMENT.—

[(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

[(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.]

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.

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SEC. 7. COOPERATION.

(a) * * *

(b) ADVISORY GROUP.—

(1) 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 neotropical migratory birds. *The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere.*

* * * * * * *

SEC. 8. REPORT TO CONGRESS.

Not later than [October 1, 2002,] *2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006,* the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

[SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

[(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the "Neotropical Migratory Bird Conservation Account", which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

[(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

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

[(2) other amounts appropriated to the Account.]

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the "Neotropical Migratory Bird Conservation Fund". The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Fund.

(c) USE.—

(1) * * *

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 3 percent or up to [$80,000] *$150,000*, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the [Account] *Fund.*

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Account to carry out this Act [$5,000,000 for each of fiscal years 2001 through 2005] *for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)*, to remain available until expended, of which not less than 75 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

(1) $5,000,000 for each of fiscal years 2006 and 2007;

(2) $6,000,000 for fiscal year 2008;

(3) $7,000,000 for fiscal year 2009; and

(4) $8,000,000 for fiscal year 2010.

(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.

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