

NEW WILDLIFE REFUGE AUTHORIZATION ACT

SEPTEMBER 29, 1997.—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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 512]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 512) to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress pursuant to a recommendation from the United States Fish and Wildlife Service to create the refuge, 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. 512 is to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress.

BACKGROUND AND NEED FOR LEGISLATION

Today, the National Wildlife Refuge (NWR) System is comprised of 509 individual refuges, which are located in all 50 states and the five territories. The System affects about 92 million acres of Federal lands. It provides habitat for thousands of species of fish and wildlife, and it is particularly important to migratory bird con-

servation, as many refuges are concentrated along the major North American flyways.

To date, 67 refuge units have been legislatively created by Congress (Arctic NWR, Don Edwards San Francisco Bay NWR, and the Edwin B. Forsythe NWR), 121 refuge units were acquired with money from the Migratory Bird Conservation Fund, 104 units are comprised of Federal lands transferred to the Department of the Interior, 94 were established from lands donated to the Refuge System, and 78 units were financed by the Land and Water Conservation Fund.

In the last decade, over 70 new refuges and approximately three million acres have been added to the System. The vast majority of the Refuge System, 81 million acres out of 92 million acres, was reserved from the public domain. Roughly four million acres have been purchased by the Federal Government, and other lands have been obtained by transfer to the U.S. Fish and Wildlife Service and by donations from private citizens. The primary sources of funding for refuge acquisitions are: (1) the Migratory Bird Conservation Fund, which is financed by the purchase of annual duck stamps, import duties on firearms and ammunition, and refuge entrance fees; and (2) annual appropriations from the Land and Water Conservation Fund.

For instance, under normal conditions, money is allocated from the Migratory Bird Conservation Fund in the following manner: a Governor of a State or the U.S. Fish and Wildlife Service, after consulting with local citizens and officials, recommends that a new refuge be created or that additional land be added to the System. This recommendation is then considered and must be approved by the Migratory Bird Conservation Commission. At this time, the membership of that Commission includes: the Honorable Bruce Babbitt, Secretary of the Interior; the Honorable Carol M. Browner, Administrator, Environmental Protection Agency; the Honorable Thad Cochran (R-MS); the Honorable John D. Dingell (D-MI); the Honorable Daniel R. Glickman, Secretary of Agriculture; the Honorable Curt Weldon (R-PA); the Honorable John B. Breaux (D-LA); and Mr. Jeffrey M. Donahoe, U.S. Fish and Wildlife Service (Secretary of the Migratory Bird Conservation Commission). The Commission normally meets about three times a year in Washington, D.C., to review the acquisition recommendations.

By contrast, these checks and balances do not exist on the expenditure of money from the Land and Water Conservation Fund (LWCF). Under the terms of Public Law 88-579, Congress established the LWCF as a separate account in the U.S. Treasury, effective January 1, 1965. This Fund is to be used to: (1) authorize Federal assistance to the states in planning, acquisition and development of needed land and water areas and facilities; and (2) provide funding for the Federal acquisition and development of certain lands and other areas.

In the past 32 years, the U.S. Fish and Wildlife Service has obtained over \$1 billion in funding from the House and Senate Appropriations Committees to purchase private property for inclusion in existing or entirely new wildlife refuge units. In fact, in the past 10 years, 47 new refuges have been created with money from the LWCF. During this period, the Fund was responsible for the acqui-

sition of 498,775 acres of land. The authorizing committees had almost no meaningful role in this acquisition process.

Under the terms of this legislation, no funds could be expended from the LWCF to create a new refuge without a Congressional authorization.

H.R. 512 is a narrowly crafted bill that does not affect additions to the existing 509 wildlife refuges, private donations of property, transfers of land from one Federal agency to another, or those refuges created with money from the Migratory Bird Conservation Fund.

This authorization requirement is consistent with the legal stipulation that Congress must authorize all new flood control projects, highways, scenic rivers, and weapons systems. Furthermore, the House Resources Committee routinely reviews and must approve even the most minor additions, deletions, and boundary changes to units of our National Park System.

By requiring a Congressional authorization of a new refuge unit, the House Resources Committee and the Senate Environment and Public Works Committee will have a meaningful role in the expenditure of millions of tax dollars. This oversight is particularly important at this time with the Refuge System experiencing a maintenance backlog of more than \$505 million. The Fish and Wildlife Service priorities must be carefully reviewed.

COMMITTEE ACTION

H.R. 512 was introduced on February 4, 1997, by the Chairman of the House Resources Committee, Congressman Don Young (R-AK), and Congressman Richard Pombo (R-CA) and referred to the Committee on Resources. Within the Committee, the bill was referred to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. Congressman George Radanovich (R-CA) has cosponsored the bill.

On March 6, 1997, the Subcommittee on Fisheries Conservation, Wildlife and Oceans conducted a hearing on H.R. 512. Testimony was heard from the Honorable Bruce Babbitt, Secretary, Department of the Interior; the Honorable Bernie Richter, Assemblyman, California Legislature; Dr. Daniel Beard, Vice President, National Audubon Society; Mr. Roger Schlickeisen, President, Defenders of Wildlife; Mr. John P. Baranek, President, Herzog Company; and Mr. Jeff Craven of Cloverdale, Oregon. In his testimony, Mr. Craven stated, "With the Congressional oversight provided in H.R. 512, I believe that creative solutions are more likely to be found."

On July 31, 1997, the Subcommittee on Fisheries Conservation, Wildlife and Oceans considered H.R. 512 in a markup session and ordered it reported favorably, without amendment, to the full Committee on Resources by voice vote.

On September 17, 1997, the full Committee on Resources met to consider H.R. 512. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by a roll call vote of 25 to 9 as follows:

Committee on Resources
U.S. House of Representatives
105th Congress

Full Committee

Date 9-17-97Roll No. 1Bill No. HR 512 Short Title Wildlife Refuge Authorization ActAmendment or matter voted on: Final Passage

Member	Yes	No	Exc.	Member	Yes	NAV	Exc.
Mr. Young (Chairman)	X			Mr. Miller		X	
Mr. Tauzin				Mr. Markey			
Mr. Hansen	X			Mr. Rahall			
Mr. Saxton				Mr. Vento		X	
Mr. Gallegly				Mr. Kildee		X	
Mr. Duncan	X			Mr. DeFazio		X	
Mr. Hefley	X			Mr. Faleomavaega			
Mr. Doolittle	X			Mr. Abercrombie		X	
Mr. Gilchrest				Mr. Ortiz	X		
Mr. Calvert	X			Mr. Pickett	X		
Mr. Pombo	X			Mr. Pallone			
Mrs. Cubin	X			Mr. Dooley	X		
Mrs. Chenoweth	X			Mr. Romero-Barcelo	X		
Mrs. Linda Smith	X			Mr. Hinchey			
Mr. Radanovich	X			Mr. Underwood	X		
Mr. Jones	X			Mr. Farr		X	
Mr. Thornberry	X			Mr. Kennedy		X	
Mr. Shadegg	X			Mr. Adam Smith		X	
Mr. Ensign	X			Mr. Delahunt			
Mr. Bob Smith				Mr. John			
Mr. Cannon				Ms. Green			
Mr. Brady	X			Mr. Kind		X	
Mr. Peterson	X			Mr. Doggett			
Mr. Hill	X						
Mr. Schaffer	X						
Mr. Gibbons							
Mr. Crapo	X			TOTAL	25	9	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(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.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 512.

COST OF THE LEGISLATION

Clause 7(a) 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 H.R. 512. However, clause 7(d) 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 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(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. 512 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(1)(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. 512.

3. With respect to the requirement of clause 2(1)(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. 512 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 1997.

Hon. DON YOUNG,
*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. 512, the New Wildlife Refuge Authorization Act.

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).

Enclosure.

H.R. 512—New Wildlife Refuge Authorization Act

H.R. 512 would prohibit the spending of any amounts appropriated from the Land and Water Conservation Fund for the purpose of creating any new wildlife refuge unless the refuge has been specifically authorized by the Congress. CBO estimates that enacting H.R. 512 would have no direct impact on the federal budget because the bill would not affect any existing authorizations to acquire land for refugees.

H.R. 512 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no impact on the budgets of state, local, or tribal governments. The bill would not affect federal receipts or direct spending; therefore, pay-as-you-go procedures would not apply.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 512 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 512 would make no changes in existing law.

DISSENTING VIEWS

This legislation is a blatant attack on the National Wildlife Refuge System, and it is completely counter to the spirit of H.R. 1420, comprehensive legislation to improve the management of our wildlife refuges, which has received overwhelming bipartisan support in Congress.

The proponents of this legislation have argued that it is merely intended to enhance Congressional oversight of the creation of wildlife refuges. Yet Congress already has full oversight over land acquisition from the Land and Water Conservation Fund (LWCF) through the annual appropriations process. H.R. 512 throws up unnecessary roadblocks to the protection of wildlife habitat, the preservation of open space, and the availability of outdoor recreational opportunities at a time when the public is calling for *more spending*, not less, for land acquisition from the Land and Water Conservation Fund.

Congress has given the Secretary of the Interior authority to create and expand wildlife refuges, provided funds are available from the LWCF or other sources. Through its policy of acquiring land for fair market value from willing sellers, the Fish and Wildlife Service has established 90 refuges using LWCF, while respecting private property rights. Moreover, in a misdirected attempt to protect property rights, which are fully protected under the Fish and Wildlife Service's land acquisition policy, H.R. 512 actually usurps the property rights of those who would like to sell their land to the Fish and Wildlife Service.

The authority to establish refuges is especially important for the protection of endangered species: More than half of the refuges established administratively using LWCF funds have been for the protection of endangered species habitat. Once established, these refuges not only benefit endangered species but also provide outdoor recreational opportunities for the public and protect valuable habitat for other species. Further, increasing the amount of endangered species habitat under public ownership decreases the potential for the designation of critical habitat, with its concomitant use restrictions, on private land.

H.R. 512 is contrary to the interests of outdoorsmen and women of all stripes, and to the interests of the general public. The Secretary of the Interior has stated that he will recommend a veto of the bill if it is presented to the President. Our time would be much better spent doing what the American public really wants: protecting more of our precious open space using the Land and Water Conservation Fund.

GEORGE MILLER.
NEIL ABERCROMBIE.
PETER A. DEFazio.
WILLIAM D. DELAHUNT.
SAM FARR.
LLOYD DOGGETT.
FRANK PALLONE, Jr.
RON KIND.
BRUCE F. VENTO.

