Calendar No. 417

105TH CONGRESS, 2d Session | SENATE | REPORT 105–218

WETLANDS AND WILDLIFE ENHANCEMENT ACT OF 1998

JUNE 19, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 1677]

The Committee on Environment and Public Works, to which was referred the bill (S. 1677), to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act, having considered the same, reports favorably thereon and recommends that the bill do pass.

GENERAL STATEMENT

The North American Wetlands Conservation Act

Throughout this century, populations of waterfowl have fluctuated, and with increased interest in waterfowl conservation, cooperative surveys of populations were started in 1955 in the United States and Canada. The most recent downward trend occurred in the early 1980's, when duck and other waterfowl populations experienced a drastic decline, compared to levels of the previous decade. This decline was due to several factors, including continuing loss of habitat and an extended drought in many parts of the country. The numbers are stark: between the 1970's and 1985, breeding populations of ducks dropped an average of 31 percent, with certain species, such as the northern pintail, declining by as much as 61 percent.

In response to this decline, the United States and Canada signed the North American Waterfowl Management Plan (the Plan) in 1986, which established ambitious goals and innovative strategies for conserving waterfowl habitat. The goals were to return waterfowl populations to 1970's levels. The strategies called for voluntary partnerships among various stakeholders—Federal, State

and local government agencies, businesses, conservation organizations, and private individuals—to undertake projects to conserve wetlands for waterfowl, migratory birds and other species. The Plan provides an important framework for conservation efforts among the United States, Canada and, since 1994, Mexico. Under the Plan, the the most important habitat areas for waterfowl are determined. Based on these priorities, 10 joint ventures exist in the United States across all four flyways, and other joint ventures are being formed.

The North American Wetlands Conservation Act (NAWCA) was passed by Congress in 1989, in large part to assist in the implementation of the Plan. The law created a Federal funding source for wetlands conservation projects, including projects undertaken by the partnerships under the Plan. NAWCA provides funding from four sources: annual appropriations by Congress; interest on short-term investments of monies held in the fund established by the Federal Aid in Wildlife Restoration Act (the Pittman-Robertson Fund); fines and penalties collected under the Migratory Bird Treaty Act (MBTA); and a portion of the monies from the Sport Fish Restoration Account of the Aquatic Resources Trust Fund (ARTF), pursuant to the Coastal Wetlands Planning, Protection, and Restoration Act.

Of the funds derived from the first three sources, between 50 percent and 70 percent must be spent on projects in Canada and Mexico, and between 30 percent and 50 percent must be spent on projects in the United States. Funds from the ARTF must be spent on coastal wetlands conservation projects in coastal States. Federal funds used to carry out projects cannot exceed 50 percent of the total contribution by all U.S. partners involved in the project, unless the project is carried out on Federal lands or waters. In fiscal year 1997, $23.5 million was generated with Pittman-Robertson Fund interest, $9.5 million was provided by the ARTF, and $9.75 million was appropriated.

NAWCA established the North American Wetlands Conservation Council (the Council) to review proposed wetlands conservation projects. The Council recommends projects to the Migratory Bird Conservation Commission based on criteria enumerated in the law, including the extent to which the project fulfills the purposes of the Plan, the availability of non-Federal funds, and the extent to which there is a partnership among public and private entities.

The Council consists of nine members: the Director of the U.S. Fish and Wildlife Service; the Secretary of the Board of the National Fish and Wildlife Foundation; four directors of State fish and wildlife agencies, each from a different flyway, appointed by the Secretary of the Interior; and three representatives from nonprofit organizations actively participating in wetlands conservation projects, also appointed by the Secretary.

According to the U.S. Fish and Wildlife Service, since its enactment, NAWCA has funded approximately 575 projects covering approximately 3.8 million acres across the continent. In the United States alone, approximately 280 projects in 46 States, with more than 800 partners, have been funded by NAWCA. Overall, more than $240 million in Federal funds has been matched by more than $360 million in non-Federal funds.

With the help of NAWCA and other laws that help conserve wetlands and waterfowl, in concert with abundant rainfall in recent years, populations of many species of ducks and other waterfowl have rebounded to, or even surpassed, their levels in the early 1970's. For example, after dropping from an average of 36.1 million between 1970 and 1972 to a low of 25.1 million in 1989 (a drop of 31 percent), the number of breeding ducks, surveyed each spring at key nesting areas, increased to a high of 42.6 million in 1997 (an increase of 70 percent from 1989). In addition, loss of wetlands, while still occurring, has declined in recent years. However, to obtain accurate estimates of current wetlands acreage, the committee believes that the Administration needs to coordinate wetlands surveys among the various wetlands programs administered by the Federal Government.

The success of NAWCA in conserving wetlands and waterfowl is attributable to several factors. First, NAWCA, in conjunction with the Plan, focuses on management and protection of the habitat itself. Second, the law relies on voluntary partnerships rather than regulatory mandates. Lastly, NAWCA leverages Federal dollars with State, local and private dollars.

The benefits of NAWCA have not been limited to waterfowl and wetlands. Several joint ventures have undertaken significant projects covering numerous species and habitat types. For example, the Central Valley Habitat Joint Venture, founded in 1988, stretches 400 miles along the San Joaquin and Sacramento River basins and the Suisun Marsh. This area serves as the wintering grounds for 60 percent of the migratory waterfowl in the Pacific flyways, but it also sustains 200 species of migratory birds and almost 50 species listed as endangered or threatened under the Endangered Species Act. Since the joint venture was established, more than 110,000 acres have been protected through 19 projects and $14 million in Federal funds, matched by $56 million in partner funds. In addition, when the Plan was reviewed and updated in 1994, joint ventures were encouraged to develop additional goals and strategies for other species of migratory birds or wildlife of regional significance. These goals must complement waterfowl-based habitat objectives of the Plan.

The Partnerships for Wildlife Act

The Partnerships for Wildlife Act was enacted in 1992 to encourage partnerships among the U.S. Fish and Wildlife Service, State agencies, and private organizations and individuals to undertake projects to conserve non-game wildlife species. It created the Wildlife Conservation and Appreciation Fund, which receives monies from Federal appropriations. Under the law, the Secretary of the Interior makes grants to State fish and wildlife agencies for wildlife conservation and appreciation projects. In general, each Federal dollar for a project must be matched with at least one dollar from the State and one dollar from a private entity or person.

The law is modeled after NAWCA, and is the only Federal grants program for the sole purpose of benefiting non-game species--species that are not hunted, fished, or trapped. Projects have covered numerous species across 40 States, and have entailed management programs, research, education and outreach. Since 1994, Federal

funding for grants has totaled $4.2 million. Appropriations in 1997 totaled $800,000, although more than $1.2 million in grants was requested.

OBJECTIVES AND SUMMARY OF THE LEGISLATION

The bill would reauthorize NAWCA through fiscal year 2003 at a level of $30 million per year. It would also reauthorize the Partnerships for Wildlife Act through fiscal year 2003 at a level of $6.25 million per year. These amounts are the same as those in the current laws, both of which expire at the end of fiscal year 1998.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes an evaluation of the regulatory impact of the reported bill. The reported bill will have no regulatory impact. This bill will not have 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 this bill would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments. All of its governmental directives are imposed on Federal agencies. The bill does not directly impose any private sector mandates.

LEGISLATIVE HISTORY

S. 1677 was introduced by Senator Chafee and referred to the committee on February 25, 1998. H.R. 2556, a similar bill introduced by Congressman Saxton on September 25, 1997, was received from the House of Representatives and referred to the Committee on Environment and Public Works on May 20, 1998. On May 21, 1998, the committee held a business meeting to consider S. 1677, which was favorably reported out of the committee by voice vote.

COST OF LEGISLATION

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11 , 1998.

Hon. JOHN H. CHAFEE, *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 S. 1677, the Wetlands and Wildlife Enhancement Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Joanna Wilson (for Federal costs), both of whom can be reached at 226–2820, and Marjorie Miller (for the State and local impact), who can be reached at 225–3220.

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1677, Wetlands and Wildlife Enhancement Act of 1998, as reported by the Senate Committee on Environment and Public Works on May 21, 1998.

Summary

S. 1677 would reauthorize, through fiscal year 2003, appropriations for two programs of the U.S. Fish and Wildlife Service (FWS). Specifically, the bill would authorize annual appropriations of $30 million and $6.25 million, respectively, for programs carried out under the North American Wetlands Conservation Act (NAWCA) and the Partnerships for Wildlife Act (PWA). The FWS uses appropriations authorized by these Acts to fund a wide variety of activities including matching grants, cooperative projects, and land acquisition.

Assuming appropriation of the entire amounts authorized, CBO estimates that enacting S. 1677 would result in additional discretionary spending of about $160 million over the 1999–2003 period. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1677 does not contain any 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 amounts authorized by S. 1677 are the same as the current authorization levels for both programs, but are significantly higher than the amounts appropriated for these activities in recent years. The 1998 appropriations for NAWCA and PWA are $11.7 million and $0.8 million, respectively. For purposes of this estimate, CBO assumes that the entire amounts authorized will be appropriated for each fiscal year and that outlays will follow historical spending patterns for each program. The estimated budgetary impact of S. 1677 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

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority[1]	13	0	0	0	0	0
Estimated Outlays	12	4	1	0	0	0
Proposed Changes:						
Authorization Level	0	36	36	36	36	36
Estimated Outlays	0	20	32	36	36	36
Spending Under S. 1677:						
Authorization Level[1]	13	36	36	36	36	36
Estimated Outlays	12	24	33	36	36	36

[1] The 1998 level is the sum of amounts appropriated for that year for the programs carried out under NAWCA and PWA.

Pay-As-You-Go Considerations: None.

Estimated Impact on State, Local, and Tribal Governments: S. 1677 contains no intergovernmental mandates as defined in UMRA and would impose no costs on State, local, or tribal governments. State fish and wildlife agencies receive grants under the Partnerships for Wildlife Act. These Federal funds must be matched by equal amounts of both State and private funds.

Estimated Impact on the Private Sector: S. 1677 contains no private-sector mandates as defined in UMRA.

Previous CBO Estimate: On May 7, 1998, CBO transmitted a cost estimate for H.R. 2556, the Wetlands and Wildlife Enhancement Act of 1997, as ordered reported by the House Committee on Resources on April 29, 1998. The two bills are identical, as are the cost estimates.

Estimate Prepared by: Federal Costs: Deborah Reis and Joanna Wilson (226–2860); Impact on State, Local, and Tribal Governments: Marjorie Miller (225–3220).

Estimate Approved by: Robert A. Sunshine, 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 as proposed to be omitted is enclosed in **[**bold brackets**]**; new matter proposed to be added to existing law is printed in *italic*; and existing law in which no change is proposed is shown in roman.

UNITED STATES CODE—TITLE 16—CONSERVATION

CHAPTER 64—NORTH AMERICAN WETLANDS CONSERVATION

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§ 4406. Amounts available to carry out this chapter

(a) OMITTED.

b) MIGRATORY BIRD FINES, PENALTIES, FORFEITURES—.The sums received under section 707 of this title as penalties or fines, or from forfeitures of property are authorized to be appropriated to the Department of the Interior for purposes of allocation under section

4407 of this title. This subsection shall not be construed to require the sale of instrumentalities.

(c) AUTHORIZATION OF APPROPRIATIONS—.In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title [not to exceed $20,000,000 for each of fiscal years 1995 and 1996 and $30,000,000 for each of fiscal years 1997 and 1998] *not to exceed $30,000,000 for each of fiscal years 1999 through 2003.*

(d) AVAILABILITY OF FUNDS—.Sums made available under this section shall be available until expended.

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UNITED STATES CODE—TITLE 16—CONSERVATION

CHAPTER 57A—PARTNERSHIPS FOR WILDLIFE

§ 3744. Wildlife partnership program

(a) IN GENERAL—.The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) ELIGIBLE PROJECTS—.The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) PROJECT STANDARDS—.The Secretary shall not provide funding to carry out an eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) Limitations on Federal payment—.The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project; and

(4) may not be used to defray the administrative cost of State programs.

(e) NON-FEDERAL SHARE OF PROJECTS—

(1) STATE SHARE—.Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from State, non-Federal sources, except that if designated State agencies from 2 or more States cooperate in implementing such a project at least 30 percent shall be paid with amounts from such State, non-Federal sources. Payments required by this paragraph may not be in the form of an in-kind contribution.

(2) PRIVATE SHARE—.Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a) of this section, at least ⅓ shall be paid with amounts from voluntary contributions by private entities or persons, except that if designated State agencies from 2 or more States cooperate in implementing such a project, at least 30 percent shall be paid from such sources. Subject to the approval of the Secretary, such contributions for a project may be in the form of, but are not required to be limited to, private cash donations, and the contribution of materials, equipment, or services necessary for the project.

(f) ELIGIBILITY OF DESIGNATED STATE AGENCIES—.No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND—

(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects.

(h) AUTHORIZATION OF APPROPRIATIONS—.There are authorized to be appropriated to the Fund and to the Secretary [for each of fiscal years 1992 through 1998 not to exceed $6,250,000] *not to exceed $6,250,000 for each of fiscal years 1999 through 2003.*

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