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NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

MARCH 26, 1999.—Ordered to be printed

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

REPORT

[To accompany S. 148]

The Committee on Environment and Public Works, to which was referred the bill (S. 148) to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds, having considered the same, reports favorably and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America. They comprise a vast array of birds well known to many in the Americas: ducks and other waterfowl; raptors; shorebirds such as sandpipers and plovers; terns and gulls; nightjars; swifts; martins; hummingbirds; woodpeckers; flycatchers; thrushes; vireos; tanagers; warblers; buntings; orioles; blackbirds; and dozens of other species. In some parts of the United States and Canada, almost all of the birds migrate to the tropics for the winter. Of those that breed in the northern coniferous forests, for example, 80 percent of the species and 94 percent of the individuals migrate to the tropics. About 62 percent of the species and 75 percent of the individuals that breed in the eastern deciduous forests

migrate. Migrants breeding in the central grasslands comprise 76 percent of the species and 73 percent of the individuals.

The aggregate figures tell only part of the story, however. A fuller appreciation of the nature of migratory birds can be acquired by considering the individual odysseys of some of these species. Turkey vultures, with a wingspan of greater than 5 ½ feet, migrate from their winter home in the southern United States, Mexico or Central America so punctually each spring that in Hinckley, Ohio, a festival celebrates their return each March 15th. Although Sandhill cranes breed in relatively small and scattered populations across the northern United States, Canada and Alaska, during their northward migrations from Mexico and Central America, upward of half a million birds may be found at staging areas such as along the Platte River in Nebraska. Killdeer living in the northern United States migrate up to 6,000 miles, often straying far from their normal routes, observed in Europe, Greenland, and Hawaii. The Ruby-throated hummingbird, with a four-inch wing span, will travel up to 3,500 miles, making the 500 mile crossing of the Caribbean without stopping. The Blackpoll warbler, after migrating from Alaska to Nova Scotia, will first begin a southern journey over the Atlantic to Venezuela, with a staging area in Bermuda.

The natural challenges facing these migratory birds are profound. Many migratory birds experience a relatively low survival rate, due to nest predation and brood parasitism, as well as natural competition among species, predation and general hazards along their migratory routes. Human induced threats have exacerbated these challenges. The greatest human induced threat is the continuing loss of habitat in the Caribbean and Latin America, both in staging areas and wintering areas of these species. Pollution, including widespread use of pesticides, and overharvesting have also taking their toll on migratory bird populations in the United States, Latin America, and the Caribbean. Some of these impacts are magnified because the birds assemble in relatively small patches of habitat during their migrations, so that adverse impacts to those areas can have exaggerated impacts on the species. Such is the case with the dickcissel, which breeds across much of the eastern United States, but winters in only a narrow stretch of Venezuelan grasslands. The species is threatened by continuing use of pesticides, and trapping, in these grasslands.

As a result of these impacts, populations of migratory birds have declined generally in recent years. Approximately 210 species of migratory birds in the United States are in serious decline, with 90 species either threatened or endangered under the Endangered Species Act. The Mexican government has identified approximately 390 species of birds as being endangered, threatened, vulnerable or rare. Many of these are neotropical migratory birds.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on specific categories of migratory birds or specific regions in the Americas. For example, in 1986, Canada and the United States entered into the North American Waterfowl Conservation Plan, joined by Mexico in 1994. This plan emphasizes waterfowl and wetlands conservation, although efforts are now being made to include other species sharing wetlands habitat. In 1991, the National Fish and Wildlife Founda-

tion began the neotropical Migratory Bird Conservation program, commonly known as Partners in Flight. This program provides funding, in cooperation with the U.S. Agency for International Development, for conservation projects in the Caribbean and Latin America, but not the United States. The Western Hemisphere Shorebird Reserve Network, a monitoring program that extends across the Americas, focuses on only shorebirds. Other monitoring plans and action plans exist for specific types of migratory birds and specific regions.

These programs have improved protections for some species of birds. For example, a joint project among the U.S. Departments of the Interior, Defense, and Agriculture, the Canadian and Argentinean Governments, the Boise State University's Raptor Research Center, and the Fish and Wildlife Foundation discovered the cause of sharp declines in certain populations of the Swainson's hawk, and took actions to redress these declines. The Swainson's hawk is a neotropical migrant that breeds in grassland, shrubsteppe, and agricultural habitats in North America, and winters in Argentina. Certain populations that bred in the western United States and Canada were exposed to pesticides on their wintering grounds in the La Pampa province of Argentina. Under the program, the Ciba-Geigy Company voluntarily imposed a ban on the sale of certain agrochemical compounds in the areas where the high mortality was occurring, and the decline in these populations of Swainson's hawks seems to have halted.

While this example illustrates progress in protecting migratory birds, it also underscores the need for additional projects. More importantly, as noted by the witnesses at a hearing before the committee on July 7, 1998 there is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range. Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

Migratory birds, apart from their intrinsic value, contribute to our aesthetic, environmental, and economic well-being. Many of these species protect crops and forests by feeding on insect pests. The ability of birds to control pest insects in both croplands and forests is well established, both by recent scientific studies, such as a U.S. Department of Agriculture estimate that a population of 3,000 Swainson's hawks in the western United States eat more than one million rodents each summer, and by rich anecdotal evidence, such as the rescue of the Mormon pioneers from an outbreak of grasshoppers by a flock of gulls. Many migratory birds feed on nuisance and health pests, such as flies and mosquitoes, and further help maintain healthy ecosystems by dispersing seeds and pollinating plants.

In addition to these environmental benefits, birds support a significant component of the economy. According to one study by the University of Georgia, bird watching is the fastest growing recreational activity in the country. Nearly 70 million Americans spend more than \$20 billion each year participating in bird-related

recreation. Bird festivals around the country have blossomed: from five in 1985, there were 60 held in 1997. No fewer than nine professional sports teams in all four organized team sports (hockey, football, baseball and basketball) are named after various species of birds. These statistics reinforce the fact that birds, particularly neotropical migratory birds, are popular and endearing symbols of our country.

OBJECTIVES OF THE LEGISLATION

The purpose of this legislation is to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section provides that the bill may be cited as the "Neotropical Migratory Bird Conservation Act."

Section 2. Findings

This section contains the findings of Congress. Of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among nations, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean. Neotropical birds provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere. Many neotropical birds are in decline, some to the point that their long-term survival is in jeopardy. The primary reason for the declines is habitat loss and degradation across the species' range. Because their range extends across numerous international borders, their conservation requires the commitment and effort of all countries along their migration routes. While numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

Section 3. Purposes

This section identifies the three following purposes of the bill: (1) to perpetuate healthy populations of neotropical migratory birds; (2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and (3) to provide financial resources and to foster international cooperation for those initiatives.

Section 4. Definitions

This section contains definitions of terms used in the bill. "Account" is defined as the Neotropical Migratory Bird Conservation Account. "Conservation" is defined as 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. In order to perpetuate healthy populations of birds, it is expected that upon bringing a species to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, conserva-

tion could include the use of methods and procedures necessary to maintain a species at that point. "Secretary" is defined as the Secretary of the Interior.

Section 5. Financial Assistance

This section requires the Secretary of the Interior to establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds. Project proposals may be submitted by: an individual, corporation, partnership, trust, association or other private entity; an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or any foreign government; a State, municipality, or political subdivision of a State; any other entity subject to the jurisdiction of the United States or of any foreign country; and an international organization.

A project proposal must meet seven requirements to be considered for financial assistance. First, the proposal must include the name of the individual responsible for the project, a succinct statement of purposes, a description of the qualifications of the individuals conducting the project, and an estimate of the funds and time necessary to complete the project. Second, the proposal must demonstrate that the project will enhance the conservation of neotropical migratory birds in the United States, Latin America or the Caribbean. Third, a proposal must include mechanisms to ensure adequate local public participation in project development and implementation. Fourth, it must contain assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project. Fifth, a proposal must demonstrate sensitivity to local historic and cultural resources and comply with applicable laws. Sixth, it must describe how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds. Finally, it must provide any other information that the Secretary considers to be necessary for evaluating the proposal. In addition, the recipient of assistance for a project may be required to submit periodic reports to the Secretary for evaluating the progress and outcome of the project.

The Federal share of the cost of each project shall be not greater than 33 percent. The non-Federal share cannot be derived from any other Federal grant program. For projects in the United States, the non-Federal share must be paid in cash. For projects outside the United States, the non-Federal share may be paid in cash or in kind. Countries in the Caribbean and Latin America may not have sufficient cash on hand for conservation projects. Allowing projects in those countries to use in-kind services for their non-Federal share will provide more opportunity, greater incentive, and more flexibility for participation in those countries.

Section 6. Duties of Secretary

This section provides that the Secretary shall: develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5; encourage submission of proposals for projects eligible for financial assistance under section 5, particu-

larly proposals from relevant wildlife management authorities; select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and generally implement the Act in accordance with its purposes.

Section 7. Cooperation

This section states that, in carrying out this Act, the Secretary shall support and coordinate existing efforts to conserve neotropical migratory bird species and shall coordinate activities and projects under this Act with those existing efforts in order to enhance neotropical migratory bird conservation. 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 shall not be subject to the Federal Advisory Committee Act, although must ensure that each meeting is open to the public, with an opportunity for public statements. The Secretary must provide timely notice of each meeting to the public, and keep minutes of each meeting. Use of an advisory group is encouraged, as it could play an integral role in ensuring that existing migratory bird conservation programs are well coordinated, thereby helping to maximize the effectiveness of this Act and other programs.

Section 8. Report to Congress

This section requires the Secretary to submit to Congress a report, not later than October 1, 2002, on the results and effectiveness of the program, including recommendations concerning how the Act may be improved and whether the program should be continued.

Section 9. Neotropical Migratory Bird Conservation Account

This section establishes in the Multinational Species Conservation Fund of the Treasury a separate account called the Neotropical Migratory Bird Conservation Account. The Secretary of the Treasury shall deposit into the Account appropriated amounts and donations. Donations may be given to the Secretary of the Interior, who will then transferr them to the Secretary of the Treasury for deposit into the account. The Secretary may use amounts in the Account to carry out the Act. Of the amounts in the Account available to carry out this legislation each fiscal year, the Secretary may use not more than 6 percent to pay administrative expenses.

Section 10. Authorization of Appropriations

This section authorizes \$8 million to be appropriated for each of the fiscal years from 2000 through 2003, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

LEGISLATIVE HISTORY

On January 19, 1999, Senator Abraham introduced S. 148, which was referred to the Committee on Environment and Public Works.

On Wednesday, March 17, 1999, the committee held a business meeting to consider this bill. The bill was favorably reported out of the committee by voice vote.

REGULATORY IMPACT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes this 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. The bill does not directly impose any private sector mandates.

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, March 19, 1999.

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. 148, the Neotropical Migratory Bird Conservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis, who can be reached at 226-2860 (for Federal costs) and Marjorie Miller (for State and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 148 Neotropical Migratory Bird Conservation Act As ordered reported by the Senate Committee on Environment and Public Works on March 17, 1999

Summary

S. 148 would direct the U.S. Fish and Wildlife Service (USFWS) to create a new grant program for projects to conserve nontropical migratory birds in the United States and Caribbean and Latin American countries. The program would provide financial assist-

ance to eligible government agencies, international or foreign organizations, and private entities. In order to provide financing for the new program, the bill would establish a nontropical migratory bird conservation account in the U.S. Treasury, into which the Secretary of the Treasury would deposit amounts donated to the government for this program as well as amounts appropriated by the Congress.

For the purposes of developing and administering the program and making grants, S. 148 would authorize the appropriation of \$8 million annually for fiscal years 2000 through 2003. Because the bill would authorize the USFWS to accept and spend donations without further appropriation, pay-as-you-go procedures would apply. CBO estimates, however, that any new revenues and resulting direct spending would be insignificant and largely offsetting. The bill 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

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 148 would cost the Federal Government \$30 million through 2004. For purposes of this estimate, CBO assumes that S. 148 will be enacted by the beginning of fiscal year 2000 and that the entire amount authorized will be appropriated for each year. Outlay estimates are based on spending patterns for similar programs. The costs of this legislation fall within budget function 300 (natural resources and environment). The estimated budgetary impact of S. 148 is shown in the following table.

By Fiscal Year, In Millions of Dollars					
	1999	2000	2001	2002	2003
Spending Subject to Appropriation					
Authorization Level	8	8	8	0	0
Estimated Outlays	3	6	8	8	5

Pay-as-you-go Considerations

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. S. 148 would affect both offsetting receipts (a credit against direct spending) and governmental receipts. CBO estimates, however, that any such effects would be insignificant and offsetting over the next five years.

Estimated impact on State, local, and tribal governments

S. 148 contains no intergovernmental mandates as defined in UMRA and would impose no costs on State, local, or tribal governments. State and local governments would be among the entities eligible to receive the financial assistance authorized by this bill. In order to receive assistance for a project, these governments would be required to submit a proposal meeting certain criteria and to pay at least 67 percent of the project costs. Any such costs incurred by State or local governments would be voluntary.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Deborah Reis (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

Section 12 of rule XXVI of the Standing Rules of the Senate requires publication of any changes in existing law made by the reported bill. This bill does not change existing law.

