

MIGRATORY BIRDS OF THE AMERICAS CONSERVATION
ENHANCEMENTS ACT OF 2023

APRIL 5, 2024.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 4389]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4389) to amend the Neotropical Migratory Bird Conservation Act to make improvements to that Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Migratory Birds of the Americas Conservation Enhancements Act of 2023”.

SEC. 2. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT AMENDMENTS.

(a) **FEDERAL SHARE.**—Section 5(e)(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6104(e)(1)) is amended by striking “25 percent” and inserting “33.3 percent”.

(b) **COOPERATION.**—Section 7 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6106) is amended by adding at the end the following:

“(c) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of the Migratory Birds of the Americas Conservation Enhancements Act of 2023, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the implementation of subsection (b) by the Secretary, which shall include, if applicable, a description of the composition of the advisory group convened under paragraph (1) of that subsection.”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 10(a) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6109(a)) is amended by striking “2023” and inserting “2028”.

(d) **TECHNICAL CORRECTIONS.**—

(1) **DEFINITIONS.**—Section 4 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6103) is amended—

- (A) by striking paragraph (1); and
 - (B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.
- (2) COOPERATION.—Section 7(b)(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6106(b)(1)) is amended in the second sentence by adding a period at the end.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 4389 is to amend the Neotropical Migratory Bird Conservation Act to make improvements to that Act, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 4389 reauthorizes the Neotropical Migratory Bird Conservation Act (NMBCA), which expired at the end of Fiscal Year (FY) 2023, through FY 2028. The Neotropical Bird Conservation Act was passed by Congress in 2000, with the first projects being funded in 2002.¹ Grants made available by the program are authorized to conserve habitat for 390 different species of migratory birds that spend summer months in North America and winter months in Latin America or the Caribbean.² By law, 75 percent of the funds made available under the act must go to fund projects in Latin America, the Caribbean, or Canada.³ According to the U.S. Fish and Wildlife Service (FWS) FY 2025 budget justification, the Neotropical Bird Conservation Program has awarded 717 grants, totaling \$89 million in taxpayer dollars and over \$346 million in partner match dollars since it was initiated.⁴

The Migratory Birds of the Americas Conservation Enhancements Act (H.R. 4389) builds on the success of the NMBCA program by reauthorizing its existing authorization of appropriations level of \$6.5 million. Additionally, it increases the federal cost share for grants from 25 percent to 33.3 percent. The Act was last reauthorized by the John D. Dingell, Jr. Conservation, Management, and Recreation Act (P.L. 116–9) in 2019.⁵ In FY 2025, the FWS requested the program be funded at \$5.1 million. According to the FWS, funding under this program is highly competitive, with applicants requesting nearly \$7.5 million in funding for projects in FY 2024.⁶

COMMITTEE ACTION

H.R. 4389 was introduced on June 27, 2023, by Rep. Maria Salazar (R–FL). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On October 18, 2023, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On March 12, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged from further consideration of H.R. 4389 by unanimous con-

¹ U.S. Fish and Wildlife Service, Fiscal Year 2024 Budget Justifications. [fy2024-fws-greenbook.pdf-508.pdf](#).

² U.S. Fish and Wildlife Service, Fiscal Year 2025 Budget Justifications. FY 2025 Budget Justification and Performance Information FWS.

³ *Id.*

⁴ *Id.*

⁵ P.L. 116–9.

⁶ *Id.*

sent. Chairman Bruce Westerman (R-AR) offered an amendment designated Westerman #1. The amendment was agreed to by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on October 18, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “Migratory Birds of the Americas Conservation Enhancements Act of 2023.”

Section 2. Neotropical Migratory Bird Conservation Act amendments

Section 2 increases the federal cost for grants awarded under the Neotropical Migratory Bird Conservation Act from 25 percent to 33.3 percent. This section also requires a report to Congress no later than 180 days after the date of enactment of the legislation on the composition of the advisory group convened under Section 7 of the Neotropical Migratory Bird Conservation Act.

In addition, this section reauthorizes the Neotropical Migratory Bird Conservation Act, at existing authorization levels through FY 2028.

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 Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 4389, Migratory Birds of the Americas Conservation Enhancements Act of 2023			
As ordered reported by the House Committee on Natural Resources on March 12, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	28	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 4389 would amend the Neotropical Migratory Bird Conservation Act and would reauthorize the appropriation of \$6.5 million each year through 2028 to promote the conservation of neotropical migratory birds. The bill also would increase the federal cost share for migratory bird conservation assistance. Finally, H.R. 4389 would require the U.S. Fish and Wildlife Service to report to the Congress on whether the agency has convened an advisory group of people and organizations involved in the conservation of neotropical migratory birds and if so, a description of the members of that group.

In 2024, the Congress provided \$5 million for activities under the Neotropical Migratory Bird Conservation Act; therefore, the bill would authorize the appropriation of an additional \$1.5 million for 2024. Based on historical spending patterns for this program, CBO estimates that implementing H.R. 4389 would cost \$28 million over the 2024–2029 period, assuming appropriation of the authorized amounts.

The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 4389

By fiscal year, millions of dollars—							
	2024	2025	2026	2027	2028	2029	2024–2029
Authorization ^a	2	7	7	7	7	0	30
Estimated Outlays	*	5	6	7	7	3	28

* = between zero and \$500,000.

^a The Congress appropriated \$5 million in 2024 for the Neotropical Migratory Bird Conservation Act in the Consolidated Appropriations Act, 2024 (Public Law 118–42). The amounts shown in 2024 reflect the difference between what the bill would authorize in 2024 and the amount already provided.

The CBO staff contact for this estimate is Kelly Durand. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. 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 amend the Neotropical Migratory Bird Conservation Act to make improvements to that Act, and for other purposes.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clauses 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 4389 contains no unfunded mandates as defined in the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

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 italics, and existing law in which no change is proposed is shown in roman):

NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

* * * * *

SEC. 4. DEFINITIONS.

In this Act:

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

[(2)] (1) CARIBBEAN.—The term “Caribbean” includes Puerto Rico and the United States Virgin Islands.

[(3)] (2) 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) protection and management of neotropical migratory bird populations;
- (B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;
- (C) research and monitoring;
- (D) law enforcement; and
- (E) community outreach and education.

[(4)] (3) FUND.—The term “Fund” means the Neotropical Migratory Bird Conservation Fund established by section 9(a).

[(5)] (4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

- (1) an individual, corporation, partnership, trust, association, or other private entity;
- (2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;
- (3) a State, municipality, or political subdivision of a State;
- (4) any other entity subject to the jurisdiction of the United States or of any foreign country; and
- (5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

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

- (1) includes—
 - (A) the name of the individual responsible for the project;
 - (B) a succinct statement of the purposes of the project;
 - (C) a description of the qualifications of individuals conducting the project; and
 - (D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;
- (2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in the United States, Canada, Latin America, or the Caribbean;
- (3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains 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;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) **PROJECT REPORTING.**—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of each project shall be not greater than ~~25 percent~~ *33.3 percent*.

(2) **NON-FEDERAL SHARE.**—

(A) **SOURCE.**—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(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) **IN GENERAL.**—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(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 advi-

sory 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) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

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

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

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

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

(3) EXEMPTION FROM CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Chapter 10 of title 5, United States Code, shall not apply to the advisory group.

(c) *REPORT TO CONGRESS.*—Not later than 180 days after the date of the enactment of the *Migratory Birds of the Americas Conservation Enhancements Act of 2023*, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the implementation of subsection (b) by the Secretary, which shall include, if applicable, a description of the composition of the advisory group convened under paragraph (1) of that subsection.

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SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act \$6,500,000 for each of fiscal years 2019 through **[2023]** 2028.

(b) USE OF FUNDS.—Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.