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### NEOTROPICAL MIGRATORY BIRD CONSERVATION IMPROVEMENT ACT OF 2005

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SEPTEMBER 6, 2005.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1410]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1410) to amend the Neotropical Migratory Bird Conservation Act and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### GENERAL STATEMENT AND BACKGROUND

Enacted in 2000, the Neotropical Migratory Bird Conservation Act (NMBCA) provides grants to countries in Latin America, the Caribbean, and the United States for the conservation of birds that summer in North America and winter south of the border. The NMBCA created a competitive grants program to be administered by the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service. The law encourages habitat protection, education, research, monitoring, and capacity building to provide for the long-term protection of neotropical migratory birds. The NMBCA authorized \$5 million annually for fiscal years 2001 through 2005. In fiscal year 2005, Congress appropriated \$4 million for the program. At a minimum, 75 percent of annual appropriations are available for projects in Latin America and the Caribbean.

Since fiscal year 2002 when the grants program began, NMBCA partnerships have received nearly \$10 million in grants in support of 109 projects throughout the United States, Latin America, and the Caribbean. Partners have contributed more than \$40 million in

matching funds. NMBCA projects have ranged from protection of grassland bird habitat in Colorado and Chihuahua, to restoration of a freshwater wetland in Costa Rica for wintering waterbirds, to the multinational conservation of Red Knots in Argentina.

#### OBJECTIVES OF THE LEGISLATION

By reauthorizing the NMBCA and making several changes to existing law, S. 1410 will assist in addressing persistent threats to neotropical migratory birds during their breeding and migration in North America as well as their migration and over-wintering in Latin America and the Caribbean.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title.*

This Act may be cited as the ‘Neotropical Migratory Bird Conservation Improvement Act of 2005’.

##### *Sec. 2. Amendments to Neotropical Migratory Bird Conservation Act.*

#### SUMMARY

Section 2(a) adds ‘but breed in Canada and the United States’ to clarify the statute focuses on neotropical migratory birds that winter in Latin America and the Caribbean, but breed in Canada and the United States.

Section 2(b) inserts ‘Canada’ under the list of countries where conservation initiatives will be focused.

Section 2(c) defines ‘Caribbean’ as including Puerto Rico and the United States Virgin Islands. This section also strikes from the ‘Definitions’ the Neotropical Migratory Bird Conservation Account and establishes the new term ‘Fund’ as referring to the Neotropical Migratory Bird Conservation Fund.

Section 2(d) includes Canada on the list of countries where the Secretary may consider project proposals to be considered for financial assistance.

Section 2(e) amends the cost-share requirements by raising the Federal cost-share from 25 percent to 50 percent. This section also includes Canada as a country (along with the United States) where the non-Federal cost-share for projects must be paid in cash, and reiterates that projects in Latin America and the Caribbean may be paid in cash or in kind.

Section 2(f) requires the Secretary of Interior to submit a report to Congress on the results and effectiveness of the program ‘2 years after the date of enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2005,’ including a description of the activities of the advisory group convened under Section 7(b) of NMBCA.

Section 2(g) establishes in the Treasury a separate account known as the Neotropical Migratory Bird Conservation Fund. The Secretary of the Treasury shall deposit into the Fund all donations authorized under the statute, and other amounts appropriated by Congress. The Secretary is required to transfer immediately all amounts that were in the former Neotropical Migratory Bird Conservation Account to the Neotropical Migratory Bird Conservation

Fund. This section also increases the amount available for administrative expenses as not more than 3 percent or up to \$150,000, whichever is greater.

Section 2(h) reauthorizes the NMBCA at \$5 million annually in fiscal years 2006 and 2007; \$8 million in fiscal year 2008; and \$10 million annually in fiscal years 2009 and 2010. This section also maintains that funds shall remain available until expended, and not less than 75 percent of annual funds shall be expended for projects outside the United States.

#### DESCRIPTION

S. 1410 designates a Neotropical Migratory Bird Conservation Fund by removing the program from the Multinational Species Conservation Fund of the Treasury and creating a separate fund for the program. The non-Federal match for NMBCA projects is being lowered from three non-Federal dollars to every Federal dollar to a 1:1 match requirement to allow for greater project participation. Projects in the United States, Latin America, and the Caribbean have traditionally been eligible for grants. The legislation extends program eligibility to Canada to cover the full range of neotropical migratory birds and their habitats, including breeding grounds in Canada. S. 1410 reauthorizes funding for the program by phasing in higher funding over a 5-year period from the existing authorization of \$5 million annually, to \$8 million in fiscal year 2008, and \$10 million in each of fiscal years 2009 and 2010, for a total of \$38 million. There is also an increase from \$80,000 to \$150,000 to accommodate for increased administrative expenses associated with NMBCA implementation.

#### LEGISLATIVE HISTORY

On July 14, 2005, Senators Chafee, Jeffords, Clinton, Lautenberg, Voinovich, and Crapo introduced S. 1410 which was received, read twice and referred to the Committee on Environment and Public Works. On July 20, 2005, S. 1410 was favorably reported by the committee.

#### HEARINGS

No committee hearings were held on S. 1410.

#### ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of legislation be noted in the report.

On July 20, 2005, the committee met to consider S. 1410. The bill was agreed to by voice vote. No rollcall votes were taken.

#### REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1410 does not create any additional regulatory burdens, nor will it cause 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 S. 1410 would not impose Federal intergovernmental unfunded mandates on State, local or tribal governments.

## 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:

*S. 1410, A bill to reauthorize the Neotropical Migratory Bird Conservation Act, and for other purposes, As ordered reported by the Senate Committee on Environment and Public Works on July 20, 2005*

*Summary*

S. 1410 would reauthorize funding for projects carried out under the Neotropical Migratory Bird Conservation Act through fiscal year 2010. (The current authorization to fund this program expires after fiscal year 2005.) The Secretary of the Interior uses this funding primarily to help finance research and conservation programs in North and South America.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1410 would cost \$3 million in 2006 and \$35 million over the 2005–2010 period. Enacting the bill would not affect direct spending or revenues. S. 1410 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 S. 1410 is shown in the following table. For this estimate, CBO assumes that S. 1410 will be enacted near the start of fiscal year 2006 and that funds will be provided as specified in the bill. Estimates of outlays are based on historical spending patterns for this program and other conservation activities. The cost of this legislation falls within budget function 300 (natural resources and environment).

By Fiscal Year, in Millions of Dollars

	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level .....	5	5	8	10	10
Estimated Outlays .....	3	5	7	9	10

*Intergovernmental and Private-Sector Impact*

S. 1410 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

*Estimate Prepared By:* Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Selena Caldera.

*Estimate Approved By:* Peter H. Fontaine, 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 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:

### TITLE 16—CONSERVATION

#### CHAPTER 80—NEOTROPICAL MIGRATORY BIRD CONSERVATION

##### SEC. 6101. 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. 6102. PURPOSES

The purposes of this chapter are—

(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, *Canada*, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

##### SEC. 6103. DEFINITIONS

In this chapter:

[(1) ACCOUNT.—The term “Account” means the Neotropical Migratory Bird Conservation Account established by section 6108(a) of this title.]

(1) *CARIBBEAN.*—*The term ‘Caribbean’ includes Puerto Rico and the United States Virgin Islands.*

(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.
- (3) *FUND.*—*The term ‘Fund’ means the Neotropical Migratory Bird Conservation Fund established by section 9(a).*
- [(3)] (4) *SECRETARY.*—The term “Secretary” means the Secretary of the Interior.

**SEC. 6104. FINANCIAL ASSISTANCE**

(a) \* \* \*

\* \* \* \* \*

(c) *PROJECT PROPOSALS.*—To be considered for financial assistance for a project under this chapter, 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*;

\* \* \* \* \*

(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) *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.*—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.*

\* \* \* \* \*

**SEC. 6107. REPORT TO CONGRESS**

Not later than [October 1, 2002,] *2 years after the date of enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2005*, the Secretary shall submit to Congress a report

on the results and effectiveness of the program carried out under **[this chapter<sup>1</sup>, including recommendations]** *this Act that includes—*

(1) *recommendations concerning how the chapter might be improved and whether the program should be continued***[.]**; *and*

(2) *a description of the activities of the advisory group convened under section 7(b).*

**[SEC. 6108<sup>2</sup>. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT**

**[(a) ESTABLISHMENT.—**There is established in the Multi-national 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) of this section.

**[(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) of this section; 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 to be known as the ‘Neotropical Migratory Bird Conservation Fund’, which shall consist of amounts deposited in the Fund by the Secretary of the Treasury under subsection (b).*

(b) **DEPOSITS IN 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) **IN GENERAL.—**Subject to paragraph (2), the Secretary may use amounts in the **[Account]** *Fund*, without further Act of appropriation, to carry out this chapter.

(2) **ADMINISTRATIVE EXPENSES.—**Of amounts in the **[Account]** *Fund* 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 chapter.

(d) **ACCEPTANCE AND USE OF DONATIONS.—**The Secretary may accept and use donations to carry out this chapter. 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. 6109<sup>3</sup>. AUTHORIZATION OF APPROPRIATIONS**

**[**There is authorized to be appropriated to the Account to carry out this chapter \$5,000,000 for each of fiscal years 2001 through 2005, 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.**]**

<sup>1</sup>S. 1410 states “Act”, however this language is from code.

<sup>2</sup>S. 1410 states to strike “Sec. 9”. Sec. 6108 is corresponding code section.

<sup>3</sup>S. 1410 states to strike “Sec. 10”. Sec. 6109 is corresponding code section.

SEC. 10 . AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—*There are authorized to be appropriated to the Fund to carry out this Act—*

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

(2) *\$8,000,000 for fiscal year 2008; and*

(3) *\$10,000,000 for each of fiscal years 2009 and 2010.*

(b) AVAILABILITY.—*Amounts made available under this section shall remain available until expended.*

(c) ALLOCATION.—*Of amounts made available under this section for a fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.*

\* \* \* \* \*

