

JOINT VENTURES FOR BIRD HABITAT CONSERVATION
ACT OF 2009

JULY 10, 2009.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2188]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2188) to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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 “Joint Ventures for Bird Habitat Conservation Act of 2009”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) migratory birds are of great ecological and economic value to the Nation, contributing to biological diversity, advancing the well-being of human communities through pollination, seed dispersal, and other ecosystem services, and bringing tremendous enjoyment to the tens of millions of Americans who study, watch, feed, or hunt these birds;

(2) sustainable populations of migratory birds depend on the conservation, protection, restoration, and enhancement of terrestrial, wetland, marine, and other aquatic habitats throughout their ranges in the United States, as well as the rest of North America, the Caribbean, and Central and South America;

(3) birds are good indicators of environmental health and provide early warning of the impacts of environmental change, helping to yield the most out of every dollar invested in conservation;

(4) human and environmental stressors are causing the decline of populations of many migratory bird species, many of them once common, and climate change will exacerbate the impacts of these stressors on migratory bird populations;

(5) the coordination of Federal, State, tribal, and local government natural resource conservation efforts and the formation of partnerships that include a diversity of nongovernmental conservation organizations, private landowners, and other relevant stakeholders is necessary to accomplish the conservation of migratory bird populations, their habitats, and the ecosystem functions they rely on;

(6) hunters, through their purchase of Federal migratory bird hunting stamps and State hunting licenses, have long supported the conservation of migratory birds and their habitats in the United States through the various State and Federal programs that are supported by the fees charged for such purchases;

(7) the Department of the Interior, through the United States Fish and Wildlife Service, is authorized under a number of broad statutes to undertake many activities with partners to conserve natural resources, including migratory birds and their habitat;

(8) through these authorities, the Service has created and supported a number of joint ventures with diverse partners to help protect, manage, enhance, and restore migratory bird habitat throughout much of the United States and to conserve migratory bird species;

(9) the North American Waterfowl Management Plan, adopted by the United States and Canada in 1986, with Mexico joining as a signatory in 1994, was the first truly landscape-level approach to conserving migratory game birds and the wetland habitats on which they depend, and became the foundation for the voluntary formation of Joint Ventures;

(10) since the adoption of the North American Waterfowl Management Plan, joint ventures have expanded their application to all native birds and other wildlife species that depend on wetlands and associated upland habitats, resulting in significant conservation benefits over the last twenty years;

(11) States possess broad trustee and management authority over fish and wildlife resources within their borders, and have utilized their authorities to undertake conservation programs to conserve resident and migratory birds and their habitats;

(12) consistent with applicable Federal and State laws, the Federal Government and the States each have management responsibilities affecting fish and wildlife resources, and should work cooperatively in fulfilling these responsibilities;

(13) other domestic and international conservation projects authorized under the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) and the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.), and additional bird conservation projects authorized under other Federal authorities, can expand and increase the effectiveness of the joint ventures in protecting and enhancing migratory bird habitats throughout the different ranges of species native to the United States; and

(14) the voluntary partnerships fostered by these joint ventures have served as innovative models for cooperative and effective landscape conservation, with far-reaching benefits to other fish and wildlife populations, and similar joint ventures should be authorized specifically to reinforce the importance and multiple benefits of these models to encourage adaptive resource management and the implementation of flexible conservation strategies in the 21st century.

(b) PURPOSE.—The purpose of this Act is to establish a program administered by the Director, in coordination with other Federal agencies with management authority over fish and wildlife resources and the States, to develop, implement, and support innovative, voluntary, cooperative, and effective conservation strategies and conservation actions to—

(1) promote, primarily, sustainable populations of migratory birds, and, secondarily, the fish and wildlife species associated with their habitats;

(2) encourage stakeholder and government partnerships consistent with the goals of protecting, improving, and restoring habitat;

(3) establish, implement, and improve science-based migratory bird conservation plans and promote and facilitate broader landscape-level conservation of fish and wildlife habitat; and

(4) coordinate related conservation activities of the Service and other Federal agencies to maximize the efficient and effective use of funds appropriated or

otherwise made available to support projects and activities to enhance bird populations and other populations of fish and wildlife and their habitats.

SEC. 3. DEFINITIONS.

In this Act:

(1) **CONSERVATION ACTION.**—The term “conservation action” means activities that—

(A) support the protection, restoration, adaptive management, conservation, or enhancement of migratory bird populations, their terrestrial, wetland, marine, or other habitats, and other wildlife species supported by those habitats, including—

- (i) biological and geospatial planning;
- (ii) landscape and conservation design;
- (iii) habitat protection, enhancement, and restoration;
- (iv) monitoring and tracking;
- (v) applied research; and
- (vi) public outreach and education;

(B) are conducted on lands or waters that—

- (i) are administered for the long-term conservation of such lands or waters and the migratory birds thereon, including the marine environment; or
- (ii) are not primarily held or managed for conservation but provide habitat value for migratory birds; and

(C) incorporate adaptive management and science-based monitoring, where applicable, to improve outcomes and ensure efficient and effective use of Federal funds.

(2) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service.

(3) **IMPLEMENTATION PLAN.**—The term “Implementation Plan” means an Implementation Plan approved by the Director under section 5.

(4) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) **JOINT VENTURE.**—The term “Joint Venture” means a self-directed, voluntary partnership, established and conducted in accordance with section 5.

(6) **MANAGEMENT BOARD.**—The term “Management Board” means a Joint Venture Management Board established in accordance with section 5.

(7) **MIGRATORY BIRDS.**—The term “migratory birds” means those species included in the list of migratory birds that appears in section 10.13 of title 50, Code of Federal Regulations, under the authority of the Migratory Bird Treaty Act.

(8) **PROGRAM.**—The term “Program” means the Joint Ventures Program conducted in accordance with this Act.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(10) **SERVICE.**—The term “Service” means the United States Fish and Wildlife Service.

(11) **STATE.**—The term “State” means—

(A) any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) one or more agencies of a State government responsible under State law for managing fish or wildlife resources.

SEC. 4. JOINT VENTURES PROGRAM.

(a) **IN GENERAL.**—The Secretary shall conduct, through the United States Fish and Wildlife Service, a Joint Ventures Program administered by the Director. The Director, through the Program, shall develop an administrative framework for the approval and establishment and implementation of Joint Ventures, that—

(1) provides financial and technical assistance to support regional migratory bird conservation partnerships;

(2) develops and implements plans to protect and enhance migratory bird populations throughout their range, that are focused on regional landscapes and habitats that support those populations;

(3) complements and supports activities by the Secretary and the Director to fulfill obligations under—

- (A) the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);
- (B) the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.);
- (C) the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.);

- (D) the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);
 - (E) the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.); and
 - (F) the Partners for Fish and Wildlife Act (16 U.S.C. 3771 et seq.); and
- (4) support the goals and objectives of—
- (A) the North American Waterfowl Management Plan;
 - (B) the United States Shorebird Conservation Plan;
 - (C) the North American Waterbird Conservation Plan;
 - (D) the Partners in Flight North American Landbird Conservation Plan;
- and
- (E) other treaties, conventions, agreements, or strategies entered into by the United States and implemented by the Secretary that promote the conservation of migratory bird populations and their habitats.

(b) **GUIDELINES.**—Within 180 days after the date of enactment of this Act the Secretary, through the Director, shall publish in the Federal Register guidelines for the implementation of this Act, including regarding requirements for approval of proposed Joint Ventures and administration, oversight, coordination among, and evaluation of approved Joint Ventures.

(c) **COORDINATION WITH STATES.**—In the administration of the program authorized under this section, the Director shall coordinate and cooperate with the States to fulfill the purposes of this Act.

SEC. 5. JOINT VENTURE ESTABLISHMENT AND ADMINISTRATION.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Director, through the Program, may enter into an agreement with eligible partners described in paragraph (2) to establish a Joint Venture to fulfill one or more of the purposes set forth in paragraphs (1) through (3) of section 2(b).

(2) **ELIGIBLE PARTNERS.**—The eligible partners referred to in paragraph (1) are the following:

- (A) Federal and State agencies with jurisdiction over migratory bird resources, their habitats, or that implement program activities that affect migratory bird habitats or the ecosystems they rely on.
- (B) Affected regional, local, and tribal governments, private landowners, land managers, and other private stakeholders.
- (C) Nongovernmental organizations with expertise in bird conservation or fish and wildlife conservation or natural resource and landscape management generally.
- (D) Other relevant stakeholders.

(b) **MANAGEMENT BOARD.**—

(1) **IN GENERAL.**—An agreement under this section for a Joint Venture shall establish a Management Board in accordance with this subsection.

(2) **MEMBERSHIP.**—The Management Board shall include a diversity of members representing stakeholder interests from the appropriate geographic region, including, as appropriate, representatives from the Service and other Federal agencies that have management authority over fish and wildlife resources on public lands or in the marine environment, or that implement programs that affect migratory bird habitats, and representatives from the States, and may include—

- (A) regional governments and Indian tribes;
- (B) academia or the scientific community;
- (C) nongovernmental landowners or land managers;
- (D) nonprofit conservation or other relevant organizations with expertise in migratory bird conservation, or in fish and wildlife conservation generally; and
- (E) private organizations with a dedicated interest in conserving migratory birds and their habitats.

(3) **FUNCTIONS AND RESPONSIBILITIES.**—

(A) **ORGANIZATION AND OPERATIONS PLAN.**—A Management Board, in accordance with the guidelines published by the Director under section 4 and in coordination with the Director, shall develop, publish, and comply with a plan that specifies the organizational structure of the Joint Venture and prescribes its operational practices and procedures.

(B) **ADMINISTRATION.**—Subject to applicable Federal and State law, the Management Board shall manage the personnel and operations of the Joint Venture, including—

(i) by appointing a coordinator for the Joint Venture in consultation with the Director, to manage the daily and long-term operations of the Joint Venture;

(ii) approval of other full- or part-time administrative and technical non-Federal employees as the Management Board determines necessary to perform the functions of the Joint Venture, meet objectives specified in the Implementation Plan, and fulfill the purpose of this Act; and

(iii) establishment of committees, steering groups, focus groups, geographic or taxonomic groups, or other organizational entities to assist in implementing the relevant Implementation Plan.

(4) USE OF SERVICE AND FEDERAL AGENCY EMPLOYEES.—Subject to the availability of appropriations and upon the request from a Management Board, and after consultation with and approval of the Director, the head of any Federal agency may detail to the Management Board, on a reimbursable or nonreimbursable basis, any agency personnel to assist the Joint Venture in performing its functions under this Act.

(c) IMPLEMENTATION PLAN.—

(1) SUBMISSION OF PLAN TO DIRECTOR.—Before the Director enters into an agreement to establish a Joint Venture under subsection (a), the Management Board for the Joint Venture shall submit to the Director a proposed Implementation Plan that shall contain, at a minimum, the following elements:

(A) A strategic framework for migratory bird conservation that includes biological planning; conservation design; habitat restoration, protection, and enhancement; applied research; and monitoring and evaluation activities.

(B) Provisions for effective communication among member participants within the Joint Venture.

(C) A long-term strategy to conduct public outreach and education regarding the purposes and activities of the Joint Venture and activities to regularly communicate to the general public information generated by the Joint Venture.

(D) Coordination with laws and conservation plans referred to in section 4(a)(3) and (4) that are relevant to migratory birds, and other relevant regional, national, or international initiatives identified by the Director to conserve migratory birds, their habitats, ecological functions, and associated populations of fish and wildlife.

(E) An organizational plan that—

(i) identifies the initial membership of the Management Board and establishes procedures for updating the membership of the Management Board as appropriate;

(ii) describes the organizational structure of the Joint Venture, including proposed committees and subcommittees, and procedures for revising and updating the structure, as necessary; and

(iii) provides a strategy to increase stakeholder participation or membership in the Joint Venture.

(F) Procedures to coordinate the development, implementation, oversight, monitoring, tracking, and reporting of conservation actions approved by the Management Board and an evaluation process to determine overall effectiveness of activities undertaken by the Joint Venture.

(G) A strategy to encourage the contribution of non-Federal financial resources, donations, gifts and in-kind contributions to support the objectives of the Joint Venture and fulfillment of the Implementation Plan.

(2) REVIEW.—The Director shall—

(A) coordinate the review of a proposed Implementation Plan submitted under this section; and

(B) ensure that such plan is circulated for review for a period not to exceed 90 days, to—

(i) bureaus within the Service and other appropriate bureaus or agencies within the Department of the Interior;

(ii) appropriate regional migratory bird Flyway Councils;

(iii) national and international boards that oversee bird conservation initiatives under the plans specified in section 4(a)(4);

(iv) relevant State agencies, regional governmental entities, and Indian tribes;

(v) nongovernmental conservation organizations, academic institutions, or other stakeholders engaged in existing Joint Ventures that have knowledge or expertise of the geographic or ecological scope of the Joint Venture; and

- (vi) other relevant stakeholders considered necessary by the Director to ensure a comprehensive review of the proposed Implementation Plan.
- (3) APPROVAL.—The Director shall approve an Implementation Plan submitted by the Management Board for a Joint Venture if the Director finds that—
 - (A) the plan provides for implementation of conservation actions to conserve waterfowl and other native migratory birds and their habitats and ecosystems either—
 - (i) in a specific geographic area of the United States; or
 - (ii) across the range of a specific species or similar group of like species;
 - (B) the members of the Joint Venture—
 - (i) accept the responsibility for implementation of national or international bird conservation plans in the region of the United States to which the plan applies; and
 - (ii) have demonstrated to the satisfaction of the Director the capacity to implement conservation actions identified in the plan, including (I) the design, funding, monitoring, and tracking of conservation projects that advance the objectives of the Joint Venture; and (II) reporting and conduct of public outreach regarding such projects; and
 - (C) the plan maximizes, to the extent practicable, coordination with other relevant and active conservation plans or programs within the geographic scope of the Joint Venture to conserve, protect, recover, or restore migratory bird habitats and other fish and wildlife habitat within the operating region of the Joint Venture.

SEC. 6. GRANTS AND OTHER ASSISTANCE.

- (a) IN GENERAL.—Except as provided in subsection (b), and subject to the availability of appropriations, the Director may award grants of financial assistance to implement a Joint Venture through—
 - (1) support of the activities of the Management Board of the Joint Venture and to pay for necessary administrative costs and services, personnel, and meetings, travel, and other business activities; and
 - (2) support for specific conservation actions and other activities necessary to carry out the Implementation Plan.
- (b) LIMITATION.—A Joint Venture is not eligible for assistance or support authorized in this section unless the Joint Venture is operating under an Implementation Plan approved by the Director under section 5.
- (c) CONSERVATION ACTION GRANT CRITERIA.—The Secretary, through the Director, within 180 days after date of enactment of this Act and after consultation with representatives from Management Boards and equivalent entities of joint ventures referred to in section 8, shall publish guidelines for determining funding allocations among joint ventures and priorities for funding among conservation action proposals to meet the purpose of this Act and respective Implementation Plans.
- (d) MATCHING REQUIREMENTS.—If a Management Board determines that two or more proposed conservation actions are of equal value toward fulfillment of the relevant Implementation Plan, priority shall be given to the action or actions for which there exist non-Federal matching contributions that are equal to or exceed the amount of Federal funds available for such action or actions.
- (e) TECHNICAL ASSISTANCE.—The Secretary, through the Director, may provide technical and administrative assistance for implementation of Joint Ventures and the expenditure of financial assistance under this subsection.
- (f) ACCEPTANCE AND USE OF DONATIONS.—The Secretary, through the Director, may accept and use donations of funds, gifts, and in-kind contributions to provide assistance under this section.

SEC. 7. REPORTING REQUIREMENTS.

- (a) ANNUAL REPORTS BY MANAGEMENT BOARDS.—
 - (1) IN GENERAL.—The Secretary, acting through the Director, shall—
 - (A) require each Management Board to submit annual reports for all approved Joint Ventures of the Management Board; and
 - (B) publish within 180 days after the date of enactment of this Act guidelines to implement this subsection.
 - (2) CONTENTS.—Each annual report shall include—
 - (A) a description and justification of all conservation actions approved and implemented by the Management Board during the period covered by the report;
 - (B) when appropriate based upon the goals and objectives of an Implementation Plan, an estimate of the total number of acres of migratory bird

habitat either restored, protected, or enhanced as a result of such conservation actions;

(C) the amounts and sources of Federal and non-Federal funding for such conservation actions;

(D) the amounts and sources of funds expended for administrative and other expenses of the Joint Venture of the Management Board, including all donations, gifts, and in-kind contributions provided for the Joint Venture;

(E) the status of progress made in achieving the strategic framework of the Implementation Plan of such Joint Venture and fulfillment of the purpose of this Act; and

(F) other elements considered necessary by the Director to insure transparency and accountability by Management Boards in the implementation of its responsibilities under this Act.

(b) JOINT VENTURE PROGRAM FIVE-YEAR REVIEWS.—

(1) **IN GENERAL.**—The Secretary, acting through the Director, shall at five years after the date of enactment of this Act and at five-year intervals thereafter, complete an objective and comprehensive review and evaluation of the Program.

(2) **REVIEW CONTENTS.**—Each review under this subsection shall include—

(A) an evaluation of the effectiveness of the Program in meeting the purpose of this Act specified in section 2(b);

(B) an evaluation of all approved Implementation Plans, especially the effectiveness of existing conservation strategies, priorities, and methods to meet the objectives of such plans and fulfill the purpose of this Act; and

(C) recommendations to revise the Program or to amend or otherwise revise Implementation Plans to ensure that activities undertaken pursuant to this Act address the effects of climate change on migratory bird populations and their habitats, and fish and wildlife habitats, in general.

(3) **CONSULTATION.**—The Secretary, acting through the Director, in the implementation of this subsection—

(A) shall consult with other appropriate Federal agencies with responsibility for the conservation or management of fish and wildlife habitat and appropriate State agencies; and

(B) may consult with appropriate Indian tribes, Flyway Councils, or regional conservation organizations, public and private landowners, members of academia and the scientific community, and other nonprofit conservation or private stakeholders.

(4) **PUBLIC COMMENT.**—The Secretary, through the Director, shall provide for adequate opportunities for general public review and comment of the Program as part of the five-year evaluations conducted pursuant to this subsection.

SEC. 8. TREATMENT OF EXISTING JOINT VENTURES.

For purposes of this Act, the Director—

(1) shall treat as a Joint Venture any joint venture recognized by the Director before the date of the enactment of this Act in accordance with the United States Fish and Wildlife Services manual (721FW6); and

(2) shall treat as an Implementation Plan an implementation plan adopted by the management board for such joint venture.

SEC. 9. RELATIONSHIP TO OTHER AUTHORITIES.

(a) **AUTHORITIES, ETC. OF SECRETARY.**—Nothing in this Act affects authorities, responsibilities, obligations, or powers of the Secretary under any other Act.

(b) **STATE AUTHORITY.**—Nothing in this Act preempts any provision or enforcement of a State statute or regulation relating to the management of fish and wildlife resources within such State.

SEC. 10. FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any boards, committees, or other groups established under this Act.

PURPOSE OF THE BILL

The purpose of H.R. 2188 is to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

By the mid-1980's, the draining of wetlands and other factors had damaged the habitat of waterfowl and resulted in a continent-wide waterfowl population crisis. The United States and Canadian governments reacted to this crisis by cooperatively developing the North American Waterfowl Management Plan (NAWMP). The concept of joint ventures evolved as the two federal governments realized they did not have sufficient resources to save vital waterfowl habitats. By building public-private partnerships, however, their shared conservation goals could be met. Conservationists observed the success of the NAWMP's joint ventures in restoring waterfowl populations and wetland habitat, and soon thereafter other shorebirds, landbirds, and waterbirds were integrated into the planning processes.

Currently there are 18 habitat-based joint venture partnerships at work across the United States, ranging from long-established joint ventures to those in various stages of development. There are also three species-based joint ventures (arctic goose, black duck and sea duck), and four habitat-based joint ventures presently operating in Canada (Canadian Intermountain Joint Venture; Eastern Habitat Joint Venture; Pacific Coast Joint Venture; and, Prairie Habitat Joint Venture). The Canadian Joint Ventures are not subject to the terms of this legislation.

To ensure a logical and coordinated approach to the development and support of joint ventures, the United States Fish and Wildlife Service defined the term "joint venture" in Director's Order Number 146 as:

"A self-directed partnership of agencies, organizations, corporations, tribes, or individuals that has formally accepted the responsibility of implementing national or international bird conservation plans within a specific geographic area or for a specific taxonomic group, and has received general acceptance in the bird conservation community for such responsibility."

Joint ventures conduct a comprehensive suite of activities in support of bird conservation goals cooperatively developed within each respective partnership. These activities include biological planning, conservation design, project development and implementation, monitoring, evaluation, applied research, communications and outreach, and fund-raising. Joint venture activities, while primarily developed to support the goals of NAWMP, commonly fulfill the goals and obligations of the United States under a variety of other international treaties, agreements and initiatives that govern migratory bird resources.

The Fish and Wildlife Service supports recognized joint ventures by funding a full-time joint venture coordinator and associated costs for program infrastructure. Consistent with the partnership, the Service encourages contribution from other federal and state agencies, conservation organizations and private interests, but does not fund all facets of joint venture efforts. To date, joint ventures have invested \$4.5 billion to conserve 15.7 million acres of habitat.

The Atlantic Coast Joint Venture (ACJV) is a good example of the breadth and scope of joint ventures. Stretching from Maine to Puerto Rico, the ACJV is focused on conservation of habitat for na-

tive birds in the Atlantic Flyway, which spans over 283 million acres and where more than 600 native bird species breed, migrate and winter. The mission of the ACJV is to provide a forum for federal, state, regional and local partners to coordinate and improve the effectiveness of bird conservation planning and implementation throughout the entire Atlantic Flyway. Since its inception in 1988, the ACJV has protected, restored or enhanced 4,233,300 acres of critical bird habitat, and the ACJV and its partners have supported research projects to address some of their most pressing needs.

H.R. 2188 was introduced to provide a statutory authorization for this very important continent-wide tool that encourages a broad, landscape-approach to the conservation of bird habitat. The bill, as introduced and passed by the committee, captures the fundamental aspects of joint ventures as they have been defined and as they have evolved. The legislation also fully incorporates the voluntary, partnership-oriented approach to habitat conservation that make joint ventures flexible, adaptive, innovative and effective in conserving and protecting bird habitats in North America.

COMMITTEE ACTION

H.R. 2188 was introduced on April 30, 2009 by Representative Frank Kratovil, Jr. (D-MD). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On May 13, 2009, the Subcommittee held a hearing on the bill.

On June 10, 2009, the Subcommittee was discharged from further consideration of H.R. 2188 and the Full Natural Resources Committee met to consider the bill. Rep. Kratovil offered an amendment in the nature of a substitute to make technical and clarifying changes to the bill. More specifically, the definition for “conservation project” was changed to “conservation action” to better capture the full range and diversity of joint venture activities. The amendment also inserted the phrase “or strategies” to further broaden the reference beyond the list of bird conservation statutes and plans for which the United States has binding obligations. Without making the list of statutes and plans in the bill unwieldy, this amendment gives joint ventures greater flexibility to continue to support other meritorious bird conservation strategies not listed, such as Wetlands of International Importance listed under the Ramsar Convention on Wetlands, or Important Bird Areas identified through the Important Bird Area Program administered by the National Audubon Society. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this bill may be cited as the “Joint Ventures for Bird Habitat Conservation Act of 2009.”

Section 2. Findings and purpose

Section 2 provides the general purpose of the bill, along with several findings which: recognize the economic and environmental importance of migratory bird populations; acknowledge the respon-

sibilities of the federal government, including international treaty obligations, and the role of the states in conserving this resource; and, appreciate the demonstrated value of voluntary partnerships, including Joint Ventures, in implementing effective landscape level bird conservation strategies.

Section 3. Definitions

Section 3 provides definitions for several terms used throughout the bill.

Section 4. Joint Ventures Program

Section 4 authorizes the Secretary of the Interior (Secretary) to conduct, through the U.S. Fish and Wildlife Service, a Joint Ventures Program administered by the Director of the Service. The Director shall develop an administrative framework for the Program, including the approval, establishment and implementations of Joint Ventures, to ensure that the Program complements and supports the activities of the Secretary under multiple bird conservation statutes, treaties and strategies.

Section 5. Joint Venture establishment and administration

Section 5 authorizes the Director to enter into agreements with eligible partners, as defined in this section, to establish Joint Ventures. All Joint Ventures are required to have Management Boards of diverse membership operating under organization and operations plans. Each Joint Venture is required to develop an Implementation Plan to be approved by the Director which details the strategic framework for the long-term conservation agenda for the Joint Venture. All Implementation Plans shall be circulated for public review and comment and shall be approved by the Director if the Plan fulfills all criteria for approval.

Section 6. Grants and other assistance

Section 6 authorizes the Director to award financial grants or provide technical assistance to support approved Joint Ventures. Financial support may be used by Joint Ventures for administrative and management activities or to implement conservation projects. The Director is required to develop grant program guidelines within 180 days after date of enactment of this Act. For projects of equal conservation value, Management Boards are to give priority to projects that provide non-federal matching contributions equal to or in excess of the federal grant amount. The Secretary is authorized to accept gifts, donations and in-kind contributions in order to provide assistance.

Section 7. Reporting requirements

Section 7 requires all Joint Venture Management Boards to report annually to the Director on all activities undertaken during the preceding year, including amounts spent on administrative expenses and conservation projects, and the status of progress to meet the goals and objectives of related Implementation Plans. The Secretary, through the Director, shall be required to complete a comprehensive review of the Program beginning five years after date of enactment and every five years thereafter. These five-year reviews shall be subject to public review and comment.

Section 8. Treatment of existing Joint Ventures

Section 8 considers all Joint Ventures and all approved Implementation Plans in existence prior to the date of enactment of this Act, to be approved under this Act.

Section 9. Relationship to other authorities

Section 9 assures that nothing in this Act would affect other authorities, responsibilities or powers of the Secretary of the Interior or preempt any State authority relating to the management of fish and wildlife.

Section 10. Federal Advisory Committee Act

Section 10 states that the Federal Advisory Committee Act would not apply to the activities of Joint Ventures.

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.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) 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 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. 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 authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c) (3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

H.R. 2188—Joint Ventures for Bird Habitat Conservation Act of 2009

H.R. 2188 would authorize the United States Fish and Wildlife Service to enter into joint ventures with public and private stakeholders to promote the conservation of migratory birds. The bill also would codify the mechanisms used to establish and support joint ventures, such as allowing federal agencies to provide personnel to assist them. Finally, the bill would authorize the Fish and Wildlife Service to award grants, subject to the availability of appropriations, to provide financial assistance to joint ventures.

Based on information from the Fish and Wildlife Service, CBO estimates that H.R. 2188 would have a negligible effect on the federal budget because a similar program currently exists. Nearly \$13 million was appropriated for that program in 2009.

H.R. 2188 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no cost on state, local, or tribal governments. Those governments would benefit from technical and financial assistance for conservation activities related to migratory birds. Any costs to those governments would be incurred voluntarily as a condition of receiving federal assistance.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 2188 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.