

## Calendar No. 605

116TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 116-305

---

TO REQUIRE THE SECRETARY OF THE INTERIOR TO ESTABLISH TRIBAL  
WILDLIFE CORRIDORS, AND FOR OTHER PURPOSES

---

DECEMBER 9, 2020—Ordered to be printed

---

Mr. HOEVEN, from the Committee on Indian Affairs,  
submitted the following

### R E P O R T

[To accompany S. 2891]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 2891), to require the Secretary of the Interior to establish Tribal Wildlife Corridors, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 2891 is to maintain, enhance, or restore historical habit, and manage Indian land to facilitate native species movement. The bill is also designed to prevent the imposition of barriers that threaten to hinder native species movement.

#### BACKGROUND

Native fish, wildlife, and plant species are an integral component of the cultural heritage of Indian tribes throughout the nation. The sacred connection between Native communities and fish, wildlife, and plant species is under threat from the loss, degradation, fragmentation, and obstruction of natural habitats. Use of wildlife corridors across federal, state, and private lands to conserve native biodiversity and foster ecosystem resiliency against a range of stressors, including climate change, are increasing as a proven strategy to conserve native fish, wildlife, and plant species.

S. 2891 recognizes the unique relationship between Indian lands, and the patchwork of land ownership patterns across the West, by authorizing the establishment of Tribal wildlife corridors to restore habitat connectivity on Indian lands. The bill improves coordination between federal land management agencies, and Indian tribes,

and strengthens consultation efforts between them. The bill prioritizes conservation funding to projects that enhance native species movement through the expansion of Tribal wildlife corridors. The bill also provides grant funding to identify and expand wildlife corridors on Indian lands.

Maintaining or restoring habitat connectivity through Tribal wildlife corridors builds on ongoing efforts by Indian tribes to promote species preservation and diversity, lower the risk of species extinction, and conserve biodiversity for future generations. S. 2891 acknowledges the importance of native fish, wildlife, and plant species to the heritage of Native communities, recognizes the sovereignty of Indian tribes, and respects the role of federal, state, local, and private land owners in conserving the broader landscape for species movement.

#### NEED FOR LEGISLATION

Fish and wildlife migration corridors and habitat are necessary to maintain healthy populations of most fish, wildlife, and plant species. Western landscapes consist of a patchwork of landownership patterns, including Federal, State, Tribal, and private lands, which can limit or eliminate connectivity for migrating species. Fragmentation by roads, fences, development, energy facilities, and other man-made barriers hinder the safe migration of wildlife across large landscapes. Climate change is also fundamentally altering landscapes, forcing many animals to relocate.

Due to increased population growth in the wildland urban interface over the last few decades, there has been rapid loss of natural areas and wildlife in the United States. From 2001 to 2017, a quantity of natural areas equal to the size of a football field disappeared, due to development, every 30 seconds in the United States, constituting more than 1,500,000 acres per year.<sup>1</sup> In the United States and Canada, 2,900,000,000 birds have been lost since 1970, representing a decline of 29 percent.<sup>2</sup> State fish and game agencies have identified approximately 12,000 animal and plant species in the United States that require proactive conservation efforts to avoid extinction, of which approximately one third will be lost in the next decades.<sup>3</sup>

The use of wildlife corridors in the transportation sector, using wildlife crossing infrastructure, has been proven to significantly reduce wildlife-vehicle collisions. Whether through fencing, overpasses, underpasses, motion sensors and other technology, wildlife corridors can guard against the significant threat to public safety and wildlife populations. For example, according to an annual State Farm Mutual Automobile Insurance Company report, it is estimated that there were over one million wildlife-vehicle collisions with deer, elk, moose or caribou in the United States between July 2017 and June 2018. Roads receiving heavy daily vehicular traffic create barriers for migrating species and pose dangerous, and often fatal, wildlife crossings for animals that do navigate them, as well as putting human lives at risk. Wildlife corridors are a way to ad-

<sup>1</sup>David D. Theobald et al., *Loss of Fragmentation on Natural Lands in the Conterminous U.S. From 2001 to 2017*, CONSERVATION SCIENCE PARTNERS, (January 18, 2019).

<sup>2</sup>Kenneth V. Rosenberg et al., *Decline of North American Avifauna*, SCIENCE, Sept. 2019.

<sup>3</sup>Bruce A. Stein et al., *Reversing America's Wildlife Crisis: Securing the Future of Our Fish and Wildlife* (Washington: National Wildlife Federation, 2018).

dress the fragmentation caused by roads and related development which further fragment the landscape and degrades the quality of wildlife habitat.

Wildlife corridors have garnered broad interest throughout the United States. The Department of the Interior announced Secretarial Order 3362 in February 2018, which aimed to improve wildlife corridor and habitat connectivity for big game species on federal lands.<sup>4</sup> In 2019, the Western Governors' Association declared their support for state and Tribal efforts to identify key wildlife migration corridors and habitat in the West through its policy resolution, "Wildlife Migration Corridors and Habitat."<sup>5</sup> On May 23, 2019, the Native American Fish and Wildlife Society passed a resolution in support of efforts among Tribal, state, federal, and private land managers to protect wildlife corridors and other habitat connectivity needs across large landscapes on and off Tribal lands, and called for the Department of the Interior to make Secretarial Order 3362 inclusive of the nation's federally recognized Indian Tribes.<sup>6</sup>

S. 2891 would improve coordination between federal land management agencies and Indian tribes, facilitate the identification and use of wildlife migration corridors and habitat, strengthen consultation with Indian tribes, and provide grant funding to identify and expand wildlife corridors on Indian lands.

#### LEGISLATIVE HISTORY

S. 2891 was introduced on November 19, 2019 by Senator Udall, along with Senators Booker, Harris, Blumenthal, Sanders, Tester, Smith, and Warren. The bill was referred to the Committee on Indian Affairs. On March 4, 2020, the Committee held a legislative hearing on S. 2891. The Committee received testimony from the U.S. Fish and Wildlife Service in support of the intent of S. 2891, and the Service expressed interest in working with the Committee to ensure that legislation complements the existing work of the Administration to improve the habitat conditions in migration corridors. The Committee also received testimony in support of the bill from Lawrence Montoya, Governor of the Pueblo of Santa Ana. On July 29, 2020, the Committee met at a duly called business meeting to consider the bill. The bill was ordered to be reported favorably, without amendment, to the Senate by voice vote.

On November 19, 2019, a companion bill was introduced, H.R. 5179, by Representative Gallego, in the U.S. House of Representatives. The bill was referred to the Committee on Natural Resources of the U.S. House of Representatives. On January 29, 2020, the House Committee on Natural Resources met at a duly called business meeting to consider the bill. The bill was ordered to be reported favorably, without amendment, to the House by a vote of 22–15. H.R. 5179 did not have a legislative hearing. No further action was taken.

<sup>4</sup>Department of the Interior, *Improving Habitat Quality in Western Big-Game Winter Range and Migration Corridors*, Secretarial Order No. 3362 (Feb. 9, 2018).

<sup>5</sup>Western Governors' Association, *Wildlife Migration Corridors and Habitat*, Policy Resolution 2019-08 (2019).

<sup>6</sup>Native American Fish & Wildlife Society, *Support for the Protection of Wildlife Corridors*, Resolution No. 19-002 (May 23, 2019).

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

This section states that the bill may be cited as the “Tribal Wildlife Corridors Act of 2019”.

*Section 2. Definitions*

This section provides for definitions used throughout the bill.

*Section 3. Establishment of Tribal wildlife corridors*

Section 3 establishes a process for Indian tribes to submit an application to the Secretary of the Interior (Secretary) for Indian land of the Indian tribe to be recognized as a Tribal wildlife corridor. The Secretary has 90 days to determine whether the application meets the criteria for a Tribal wildlife corridor. Upon finding the Tribal wildlife corridor meets the criteria, the Secretary must publish a Federal Register notice on the establishment of the Tribal wildlife corridor, along with a map and legal description.

Section 3 also requires the Secretary to publish Tribal Wildlife Corridor criteria in the Federal Register within 540 days of enactment of the *Tribal Wildlife Corridors Act of 2019*, which must include at a minimum: (1) the restoration of historical habitat for facilitating connectivity; (2) management of land for the purposes of facilitating connectivity; or (3) management of land to prevent the imposition of barriers that hinder current and future connectivity. Section 3 allows Indian tribes to remove the designation of a Tribal wildlife corridor by notifying the Secretary.

*Section 4. Coordination of land use plans*

Section 4 amends the *Federal Land Policy and Management Act of 1976* to require: (1) the U.S. Forest Service, in the development and revision of land use plans, to determine whether such plans would provide additional connectivity with a newly established Tribal wildlife corridor, and (2) the Secretary to conduct meaningful consultation with the Indian tribe upon the creation of a Tribal wildlife corridor, to determine whether that corridor can be expanded into public lands or otherwise benefit connectivity through revision of a land use plan.

*Section 5. Technical assistance*

Section 5 requires the Secretary to provide technical assistance relating to the establishment, management, and expansion of a Tribal wildlife corridor, which may also include assisting with accessing wildlife data and working with private landowners to access Federal and State programs to improve wildlife habitat and connectivity on non-Federal land.

*Section 6. Availability of assistance*

Section 6 authorizes the Secretary of Agriculture to give priority to applications for four U.S. Department of Agriculture (USDA)-managed conservation programs that would benefit a Tribal wildlife corridor. These USDA programs include: (1) the conservation reserve program, (2) the environmental quality incentives program, (3) the conservation stewardship program, and (4) the agricultural conservation easement program. This section also establishes a

grant program to encourage wildlife movement, and the Secretary must make grants under this authority to one or more Indian tribes no later than 3 years after enactment of the *Tribal Wildlife Corridors Act of 2019* for purposes of increasing connectivity through Tribal Wildlife Corridors.

*Section 6. Savings clause*

Section 6 provides that nothing in the *Tribal Wildlife Corridors Act of 2019* authorizes or affects the use of private property or Indian land.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 3, 2020.*

Hon. JOHN HOEVEN,  
*Chairman, Committee on Indian Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2891, the Tribal Wildlife Corridors Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

| <b>Bill #, Tribal Wildlife Corridors Act of 2019</b>   |      |                                     |               |
|--|------|-------------------------------------|---------------|
| <b>As ordered reported by the Senate Committee on Indian Affairs on July 29, 2020</b>          |      |                                     |               |
| By Fiscal Year, Millions of Dollars  | 2020 | 2020-2025                           | 2020-2030     |
| Direct Spending (Outlays)  | 0    | 0                                   | 0             |
| Revenues   | 0    | 0                                   | 0             |
| Increase or Decrease (-) in the Deficit  | 0    | 0                                   | 0             |
| Spending Subject to Appropriation (Outlays)  | 0    | 6                                   | not estimated |
| Statutory pay-as-you-go procedures apply?  | No   | <b>Mandate Effects</b>              |               |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031? | No   | Contains intergovernmental mandate? | No            |
|  |      | Contains private-sector mandate?    | No            |

S. 2891 would direct the U.S. Fish and Wildlife Service (USFWS) to establish a program to designate wildlife corridors on tribal land and to provide related grants to tribes beginning no later than three years after enactment. For this estimate, CBO assumes that the legislation will be enacted early in fiscal year 2021.

Based on the costs of similar activities, CBO estimates that USFWS would require two additional employees at an average annual cost of \$125,000 each to manage the program. In 2019, USFWS awarded \$2 million to states to conserve habitat corridors

for several species. On that basis, CBO estimates that the agency would award similar amounts under S. 2891. Assuming USFWS takes three years to implement the grant program, we expect that the agency would begin to obligate funds in 2024. The bill also would direct the Forest Service and the Department of the Interior to coordinate land use planning with tribes. CBO estimates that annual costs for that provision would be insignificant and would be incurred when those plans are updated. In total, we estimate that implementing S. 2891 would cost \$6 million over the 2020–2025 period, subject to the availability of appropriated funds.

On May 29, 2020, CBO transmitted a cost estimate for H.R. 5179, the Tribal Wildlife Corridors Act of 2019, as ordered reported by the House Committee on Natural Resources on January 29, 2020. The two bills are similar and CBO’s estimates of their budgetary effects through 2025 are the same.

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

#### EXECUTIVE COMMUNICATIONS

The Committee did not receive any Executive communications on this bill.

#### REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 2891 will have a minimal impact on regulatory or paperwork requirements.

#### CHANGES IN EXISTING LAW

On February 6, 2019, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.