

## Calendar No. 264

107TH CONGRESS  
1ST SESSION**S. 835****[Report No. 107–112]**

To establish the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 4, 2001

Mr. LEVIN (for himself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

DECEMBER 7, 2001

Reported by Mr. JEFFORDS, with amendments

[Omit the part struck through and insert the part printed in *italie*]**A BILL**

To establish the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Detroit River Inter-  
5       national Wildlife Refuge Establishment Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the Detroit River, 1 of North America's  
4 greatest rivers, was created about 14,000 years ago  
5 during the retreat of the Wisconsin Glacier;

6 (2) the present river channel, established when  
7 falling water levels permitted erosion of the lake  
8 plain and moraines, is a connecting channel linking  
9 the upper and lower Great Lakes, as well as linking  
10 the United States and Canada;

11 (3)(A) the lower Detroit River ecosystem is  
12 unique, with a number of distinct channels, numer-  
13 ous shoals that support dense stands of aquatic  
14 plants, and many islands; and

15 (B) the unique habitats and ecological features  
16 attract as many as 29 species of waterfowl and 65  
17 species of fish;

18 (4)(A) the Detroit River is a major migration  
19 corridor for fish, butterflies, and raptors and other  
20 birds in addition to waterfowl; and

21 (B) more than 300 species of bird have been  
22 documented in the Detroit-Windsor area, of which  
23 about 150 species breed in the immediate area;

24 (5)(A) because the Great Lakes are situated at  
25 the intersection of the Atlantic and Mississippi

1 flyways, the Detroit River is an important waterfowl  
2 migration corridor; and

3 (B) 3,000,000 ducks, geese, swans, and coots  
4 migrate annually through the Great Lakes region;

5 (6) the importance of the corridor is recognized  
6 in the Canada-United States North American Wa-  
7 terfowl Management Plan, which identifies the De-  
8 troit River as part of 1 of 34 Waterfowl Habitat  
9 Areas of Major Concern in the United States and  
10 Canada;

11 (7) approximately 300,000 diving ducks stop in  
12 the lower Detroit River on their fall migration from  
13 Canada to the east and south each year to rest and  
14 feed in beds of water celery;

15 (8) the international importance of the lower  
16 Detroit River area is manifested in the designation  
17 of the 460-acre Wyandotte National Wildlife Refuge  
18 by Public Law 87–119 (16 U.S.C. 668dd note);

19 (9)(A) Canada’s Canard River Marsh Complex,  
20 an internationally significant waterfowl staging area,  
21 is 1 of the main resting and feeding areas for can-  
22 vasbacks migrating from their nesting grounds in  
23 the Canadian prairies to the east coast; and

24 (B) many canvasbacks winter in the area as  
25 well;

1           (10)(A) the diversity of biota and habitats in  
2           the lower Detroit River ecosystem provides substan-  
3           tial benefits to the more than 5,000,000 people who  
4           live in the vicinity;

5           (B) the lower Detroit River has an international  
6           reputation for duck hunting; and

7           (C) sales related to waterfowl hunting, birding,  
8           photography, and other nonconsumptive uses of wa-  
9           terfowl contribute hundreds of millions of dollars an-  
10          nually to the regional economy;

11          (11)(A) more than 1,000,000 pleasure boats  
12          are registered in Michigan, and about half of those  
13          are used on the Detroit River and Lake St. Clair,  
14          in part to fish for the estimated 10,000,000 walleye  
15          that migrate to the Detroit River from Lake Erie  
16          each spring to spawn; and

17          (B) the walleye have helped create an inter-  
18          nationally renowned sport fishery estimated to bring  
19          in \$1,000,000 to the economy of communities along  
20          the lower Detroit River each spring;

21          (12)(A) all of the natural resource values and  
22          socioeconomic benefits described in the preceding  
23          paragraphs were acclaimed when the Detroit River  
24          was designated as an American Heritage River in  
25          1998; and

1 (B) the Detroit River is also a Canadian Herit-  
2 age River, making it the first international heritage  
3 river system in the world;

4 (13) the Detroit River has lost over 95 percent  
5 of its coastal wetland habitats, and despite increased  
6 awareness and supporting science of the importance  
7 of the habitats, the habitats continue to be destroyed  
8 and degraded; and

9 (14) protection of remaining wildlife habitats  
10 and restoration of degraded wildlife habitats is es-  
11 sential to sustaining the quality of life enjoyed by so  
12 many people living along the Detroit River.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) DETROIT RIVER.—The term “Detroit  
16 River” means the land and water within the area de-  
17 scribed in section 4.

18 (2) REFUGE.—The term “Refuge” means the  
19 Detroit River International Wildlife Refuge estab-  
20 lished by section 4(a).

21 (3) SECRETARY.—The term “Secretary” means  
22 the Secretary of the Interior.

23 (4) STATE.—The term “State” means the State  
24 of Michigan.

1 **SEC. 4. ESTABLISHMENT OF REFUGE.**

2 (a) BOUNDARIES.—There is established the Detroit  
 3 River International Wildlife Refuge, consisting of the land  
 4 and water in the State within the area extending from the  
 5 point in Michigan directly across the river from the north-  
 6 ernmost point of Ojibway Shores to the southern bound-  
 7 ary of Sterling State Park, as depicted on the map entitled  
 8 “Detroit River International Wildlife Refuge Proposed”  
 9 and dated ————, ~~2001~~. *July 31, 2001*.

10 (b) MAP.—The Secretary shall keep a map of the  
 11 Refuge available for inspection in appropriate offices of  
 12 the United States Fish and Wildlife Service.

13 (c) WYANDOTTE NATIONAL WILDLIFE REFUGE.—

14 (1) INCLUSION.—The area described in sub-  
 15 section (a) includes the Wyandotte National Wildlife  
 16 Refuge.

17 (2) REPEAL OF ACT ESTABLISHING WYAN-  
 18 DOTTE NATIONAL WILDLIFE REFUGE.—Public Law  
 19 87–119 (16 U.S.C. 668dd note) is repealed.

20 (3) REFERENCES.—Any reference in a law, reg-  
 21 ulation, map, document, paper, or other record of  
 22 the United States to the Wyandotte National Wild-  
 23 life Refuge shall be deemed to be a reference to the  
 24 Refuge.

25 (d) BOUNDARY REVISIONS.—The Secretary may  
 26 make such minor revisions to the boundaries of the Refuge

1 as are appropriate to carry out the purposes of the Refuge  
2 and to facilitate the acquisition of land, water, and inter-  
3 ests in land or water within the Refuge.

4 (e) ACQUISITIONS.—

5 (1) IN GENERAL.—The Secretary may acquire  
6 by donation, purchase with donated or appropriated  
7 funds, or exchange the land, water, and interests in  
8 land or water (including conservation easements)  
9 within the Refuge.

10 (2) CONSENT.—No land, water, or interest in  
11 land or water may be acquired without the consent  
12 of the owner.

13 (f) TRANSFERS FROM OTHER AGENCIES.—Any  
14 property located within the Refuge that is under the ad-  
15 ministrative jurisdiction of another Federal agency may,  
16 with the concurrence of the head of the agency, be trans-  
17 ferred without consideration to the administrative jurisdic-  
18 tion of the Secretary.

19 **SEC. 5. ADMINISTRATION.**

20 (a) APPLICABLE LAW.—

21 (1) IN GENERAL.—The Secretary shall admin-  
22 ister all federally owned land, water, and interests in  
23 land or water within the Refuge in accordance with  
24 the National Wildlife Refuge System Administration  
25 Act of 1966 (16 U.S.C. 668dd et seq.) and this Act.

1           (2) OTHER AUTHORITY.—The Secretary may  
2       use such additional statutory authority as is avail-  
3       able for the conservation of fish and wildlife and the  
4       provision of fish- and wildlife-oriented recreational  
5       opportunities as the Secretary considers appropriate  
6       to carry out this Act.

7       (b) COMMUNITY CHARACTERISTICS.—In admin-  
8       istering the Refuge, the Secretary shall conserve, restore,  
9       and enhance the native aquatic and terrestrial community  
10      characteristics of the Detroit River (including associated  
11      fish, wildlife, and plant species).

12      (c) PURPOSES.—The purposes for which the Refuge  
13      shall be managed are—

14           (1) to protect the remaining high-quality fish  
15      and wildlife habitats of the Detroit River before the  
16      habitats are lost to further development;

17           (2) to restore and enhance degraded wildlife  
18      habitats associated with the Detroit River;

19           (3) to cooperate in international efforts to con-  
20      serve, restore, and manage the fish and wildlife habi-  
21      tats associated with the Detroit River in the United  
22      States and Canada; and

23           (4) to encourage cooperation in facilitating  
24      partnerships among the United States Fish and  
25      Wildlife Service, Canadian national and provincial



1 authorities, State and local governments, local com-  
2 munities in the United States and in Canada, con-  
3 servation organizations, and other non-Federal enti-  
4 ties to promote public awareness of the resources of  
5 the Detroit River.

6 (d) PRIORITY USES.—In providing opportunities for  
7 compatible fish- and wildlife-oriented recreation, the Sec-  
8 retary shall ensure, to the maximum extent practicable,  
9 that the Refuge is used for priority uses under—

10 (1) the National Wildlife Refuge System Ad-  
11 ministration Act of 1966 (16 U.S.C. 668dd et seq.);  
12 and

13 (2) the National Wildlife Refuge System Im-  
14 provement Act of 1998 (16 U.S.C. 668dd note; Pub-  
15 lic Law 105–312).

16 (e) HUNTING AND FISHING.—

17 (1) IN GENERAL.—The Secretary shall permit  
18 hunting and fishing on Federal land and water with-  
19 in the Refuge in accordance with applicable Federal  
20 and State law.

21 (2) LIMITATIONS.—The Secretary may des-  
22 ignate zones where, and establish periods when,  
23 hunting or fishing shall not be permitted for reasons  
24 of public safety, administration, fish and wildlife  
25 management, or public use and enjoyment.

1           (3) REGULATIONS.—Except in an emergency,  
 2           any regulation promulgated by the Secretary under  
 3           this subsection shall become effective only after con-  
 4           sultation with the fish and wildlife agency of the  
 5           State.

6           (f) COOPERATIVE AGREEMENTS REGARDING NON-  
 7           FEDERAL LAND.—The Secretary may—

8           (1) enter into cooperative agreements with the  
 9           State, or a political subdivision of the State, and  
 10          with any other person or entity for the management  
 11          in a manner consistent with this Act of land or  
 12          water owned by the State, political subdivision, or  
 13          other person or entity and located within the Refuge;

14          (2) promote public awareness of the resources  
 15          of the Refuge; and

16          (3) encourage public participation in the con-  
 17          servation of the resources of the Refuge.

18          (g) USE OF EXISTING GREENWAY AUTHORITY.—The  
 19          Secretary shall encourage the State to use authority under  
 20          section 206 of title 23, United States Code, to provide  
 21          funding for acquisition and development of trails within  
 22          the Refuge.

23       **SEC. 6. INDEMNIFICATION.**

24          ~~(a) IN GENERAL.—If—~~

1           (1) a person donates to the United States in fee  
2       simple real property located within the Refuge;

3           (2) the appropriate State official determines  
4       that the property meets applicable State standards  
5       regarding the presence of hazardous substances, pol-  
6       lutants, contaminants, petroleum, or petroleum de-  
7       rivatives; and

8           (3) the President determines that the acquisi-  
9       tion of the property by the United States will fur-  
10      ther the purposes of the Refuge and is otherwise in  
11      the public interest;

12     the President may hold harmless, defend, and indemnify  
13     the person in full from any suit, demand, action, liability,  
14     judgment, cost, or fee arising out of any claim or order  
15     that results from, or is predicated on, the release or  
16     threatened release of any hazardous substance, pollutant,  
17     contaminant, petroleum, or petroleum derivative on the  
18     property.

19           (b) **TIMING.**—Indemnification under subsection (a)  
20     may be provided at the time at which the owner of the  
21     property conveys the property to the United States.

22     **SEC. 6. INDEMNIFICATION.**

23           (a) *IN GENERAL.*—In any case in which any person  
24     donates to the United States in fee simple real property  
25     located within the boundaries of the Refuge, if—

1           (1) *the State of Michigan has determined that*  
2           *the real property meets applicable State standards re-*  
3           *garding the presence of hazardous substances, pollut-*  
4           *ants or contaminants, or petroleum or petroleum de-*  
5           *rivatives; and*

6           (2) *the Secretary determines, after public review*  
7           *and comment, that the acquisition of the real prop-*  
8           *erty by the United States will further the purposes of*  
9           *the Refuge and is otherwise in the public interest;*  
10          *the Secretary may hold harmless, defend, and indemnify*  
11          *the person in full from and against any suit, demand, or*  
12          *action, liability, judgment, cost, or fee arising out of any*  
13          *claim or order that results from, or is in any manner predi-*  
14          *cated upon, the release or threatened release of, any haz-*  
15          *ardous substance, pollutant or contaminant, or petroleum*  
16          *or petroleum derivative on the real property.*

17          (b) *TIMING OF INDEMNIFICATION.—Indemnification*  
18          *under this section may be provided at the same time as*  
19          *the owner of the real property donates and transfers the*  
20          *real property to the United States.*

21          (c) *BENEFITS AND RISKS.—In determining whether*  
22          *indemnification under this section is in the public interest,*  
23          *the Secretary shall consider whether the benefits to the*  
24          *United States of acquiring the real property concerned out-*

1 *weigh the risks associated with the known or potential con-*  
2 *tamination.*

3       *(d) ADDITIONAL TERMS AND CONDITIONS.—The Sec-*  
4 *retary may require such additional terms and conditions*  
5 *in connection with granting indemnification under this sec-*  
6 *tion as the Secretary considers appropriate to protect the*  
7 *interests of the United States.*

8 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

9       There are authorized to be appropriated such sums  
10 as are necessary for—

11           (1) the acquisition of land, water, and interests  
12       in land or water within the Refuge; and

13           (2) the development, operation, and mainte-  
14       nance of the Refuge.

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**[Report No. 107-112]**

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Reported with amendments