

Union Calendar No. 299

108TH CONGRESS
2D SESSION

H. R. 4114

[Report No. 108–520]

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Mr. GILCHREST (for himself, Mr. SAXTON, and Mr. KIND) introduced the following bill; which was referred to the Committee on Resources

JUNE 3, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 1, 2004]

A BILL

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, 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,*

1 **TITLE I—EXCLUSION OF NON-**
 2 **NATIVE SPECIES FROM MI-**
 3 **GRATORY BIRD TREATY ACT**

4 **SEC. 101. SHORT TITLE.**

5 *This title may be cited as the “Migratory Bird Treaty*
 6 *Reform Act of 2004”.*

7 **SEC. 102. EXCLUSION OF NON-NATIVE SPECIES FROM AP-**
 8 **PLICATION OF CERTAIN PROHIBITIONS**
 9 **UNDER MIGRATORY BIRD TREATY ACT.**

10 *Section 2 of the Migratory Bird Treaty Act (16 U.S.C.*
 11 *703) is amended—*

12 *(1) in the first sentence by striking “That unless*
 13 *and except as permitted” and inserting the following:*
 14 *“(a) IN GENERAL.—Unless and except as permitted”;*
 15 *and*

16 *(2) by adding at the end the following:*
 17 *“(b) LIMITATION ON APPLICATION TO INTRODUCED*
 18 *SPECIES.—*

19 *“(1) IN GENERAL.—This section applies only to*
 20 *migratory bird species that are native to the United*
 21 *States and whose occurrence in the United States is*
 22 *entirely the result of natural biological or ecological*
 23 *conditions.*

24 *“(2) TREATMENT OF INTRODUCED SPECIES.—*
 25 *For purposes of paragraph (1)—*

1 “(A) a bird species shall not be treated as
2 native to the United States if it occurs in the
3 United States solely as a result of intentional or
4 unintentional human-assisted introduction; and

5 “(B) a migratory bird species shall be treat-
6 ed as native to the United States if—

7 “(i) it was native to the United States
8 and extant in 1918;

9 “(ii) it was extirpated after 1918
10 throughout its range in the United States;
11 and

12 “(iii) after such extirpation, it was re-
13 introduced in the United States as a part
14 of a program carried out by a Federal
15 agency.”.

16 **SEC. 103. PUBLICATION OF LIST.**

17 *The Secretary of the Interior shall publish in the Fed-*
18 *eral Register within 3 months after the date of enactment*
19 *of this Act a list of all non-native, human introduced bird*
20 *species to which the Migratory Bird Treaty Act does not*
21 *apply that belong to biological families of migratory birds*
22 *covered under any of the migratory bird conventions with*
23 *Great Britain (for Canada), Mexico, Russia, or Japan. The*
24 *Secretary shall provide adequate time for public comment.*
25 *Nothing in this section concerning the publication of the*

1 *list shall delay implementation of other provisions of this*
 2 *Act that exclude non-native, human introduced bird species*
 3 *from the application of the Migratory Bird Treaty Act.*

4 ***TITLE II—CONSERVATION OF***
 5 ***NEOTROPICAL MIGRATORY***
 6 ***BIRDS***

7 ***SEC. 201. SHORT TITLE.***

8 *This title may be cited as the “Neotropical Migratory*
 9 *Bird Conservation Improvement Act of 2004”.*

10 ***SEC. 202. AMENDMENTS TO NEOTROPICAL MIGRATORY***
 11 ***BIRD CONSERVATION ACT.***

12 *(a) FINDINGS.—Section 2(1) of the Neotropical Migra-*
 13 *tory Bird Conservation Act (16 U.S.C. 6101(1)) is amended*
 14 *by inserting “but breed in Canada and the United States”*
 15 *after “the Caribbean”.*

16 *(b) PURPOSES.—Section 3(2) of the Neotropical Mi-*
 17 *gratory Bird Conservation Act (16 U.S.C. 6102(2)) is*
 18 *amended by inserting “Canada,” after “United States,”.*

19 *(c) DEFINITION OF CARIBBEAN.—Section 4 of the*
 20 *Neotropical Migratory Bird Conservation Act is amended*
 21 *by redesignating paragraphs (2) and (3) in order or para-*
 22 *graphs (3) and (4), and by inserting paragraph (1) the fol-*
 23 *lowing:*

24 *“(2) CARIBBEAN.—The term ‘Caribbean’ includes*
 25 *Puerto Rico and the United States Virgin Islands.”.*

1 (d) *COST SHARING*.—Section 5(e) of the Neotropical
2 *Migratory Bird Conservation Act* (16 U.S.C. 6104(e)) is
3 amended—

4 (1) in paragraph (1) by striking “25 percent”
5 and inserting “50 percent”; and

6 (2) in paragraph (2) by amending subparagraph
7 (B) to read as follows:

8 “(B) *FORM OF PAYMENT*.—

9 “(i) *PROJECTS IN THE UNITED STATES*
10 *AND CANADA*.—The non-Federal share re-
11 quired to be paid for a project carried out
12 in the United States or Canada shall be
13 paid in cash.

14 “(ii) *PROJECTS IN LATIN AMERICA AND*
15 *THE CARIBBEAN*.—The non-Federal share
16 required to be paid for a project carried out
17 in Latin America or the Caribbean may be
18 paid in cash or in kind.”.

19 (e) *REPORT*.—Section 8 of the Neotropical Migratory
20 *Bird Conservation Act* (16 U.S.C. 6107) is amended—

21 (1) by striking “October 1, 2002,” and inserting
22 “12 months after the date of the enactment of the
23 *Neotropical Migratory Bird Conservation Improve-*
24 *ment Act of 2004*,”; and

1 (2) by inserting before the period the following:

2 “, and a description of the activities of the advisory
3 committee convened under section 7(b)”.

4 (f) NEOTROPICAL MIGRATORY BIRD CONSERVATION
5 FUND.—

(1) *IN GENERAL.*— Section 9 of the Neotropical
Migratory Bird Conservation Act (16 U.S.C. 6108) is
amended by striking so much as precedes subsection
(c) and inserting the following:

10 "SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION
11 FUND.

“(a) *ESTABLISHMENT.*—There is established in the Treasury a separate account, which shall be known as the ‘Neotropical Migratory Bird Conservation Fund’. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

17 “(b) *DEPOSITS INTO THE FUND.*—*The Secretary of the*
18 *Treasury shall deposit into the Fund—*

19 “(1) all amounts received by the Secretary in the
20 form of donations under subsection (d); and

21 “(2) other amounts appropriated to the Fund.”.

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(c)(2)) is amended by striking “\$80,000” and inserting “\$150,000”.

1 (3) CONFORMING AMENDMENTS.—*The*
 2 *Neotropical Migratory Bird Conservation Act* is
 3 *amended as follows:*

4 (A) *In section 4 (16 U.S.C. 6103), by strik-*
 5 *ing paragraph (1) and inserting the following:*

6 “(1) *FUND.—The term ‘Fund’ means the*
 7 *Neotropical Migratory Bird Conservation Fund estab-*
 8 *lished by section 9(a).”.*

9 (B) *In section 9(d) (16 U.S.C. 6108(d)), by*
 10 *striking “Account” and inserting “Fund”.*

11 (4) *TRANSFER.—The Secretary of the Treasury*
 12 *may transfer to the Neotropical Migratory Bird Con-*
 13 *servation Fund amounts that were in the Neotropical*
 14 *Migratory Bird Conservation Account immediately*
 15 *before the enactment of this Act.*

16 (g) *AUTHORIZATION OF APPROPRIATIONS.—Section 10*
 17 *of the Neotropical Migratory Bird Conservation Act (16*
 18 *U.S.C. 6109) is amended to read as follows:*

19 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20 “(a) *IN GENERAL.—There is authorized to be appro-*
 21 *priated to the Fund to carry out this Act the following*
 22 *amounts:*

23 “(1) *\$5,000,000 for fiscal year 2005.*

24 “(2) *\$5,000,000 for fiscal year 2006.*

25 “(3) *\$10,000,000 for fiscal year 2007.*

1 “(4) \$15,000,000 for fiscal year 2008.

2 “(b) *AVAILABILITY*.—Amounts appropriated under
3 this section may remain available until expended.

4 “(c) *ALLOCATION*.—Of amounts appropriated under
5 this section for each fiscal year, not less than 75 percent
6 shall be expended for projects carried out outside the United
7 States.

8 “(d) *LIMITATION ON EXPENDITURES FOR PROJECTS IN*
9 *CANADA*.—Amounts appropriated under this section for a
10 fiscal year may not be used for any project in Canada un-
11 less the amount available to carry out this Act for that fiscal
12 year is greater than \$10,000,000.”.

Union Calendar No. 299

108TH CONGRESS
2D Session

H. R. 4114

[Report No. 108-520]

A BILL

To amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes.

JUNE 3, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed