

## Neotropical Migratory Bird Conservation Act

(Public Law 106-247)

[As Amended Through P.L. 109-363, Enacted October 17, 2006]

AN ACT To require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SEC. 2. 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;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

### SEC. 3. PURPOSES

The purposes of this Act 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. 4. DEFINITIONS

In this Act:

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(1) **FUND.**—The term “Fund” means the Neotropical Migratory Bird Conservation Fund established by section 9(a).

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

(3) **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.

(4) **FUND.**—The term “Fund” means the Neotropical Migratory Bird Conservation Fund established by section 9(a).

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

**SEC. 5. FINANCIAL ASSISTANCE**

(a) **IN GENERAL.**—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) **PROJECT APPLICANTS.**—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

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

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) **PROJECT REPORTING.**—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of each project shall be not greater than 25 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 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. 6. DUTIES OF THE SECRETARY**

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

#### **SEC. 7. COOPERATION**

(a) **IN GENERAL.**—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

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- (A) facilitating meetings among persons involved in such efforts;
  - (B) promoting the exchange of information among such persons;
  - (C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and
  - (D) conducting such other activities as the Secretary considers to be appropriate; and
- (2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

**(b) ADVISORY GROUP.—**

(1) **IN GENERAL.**—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds. The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere<sup>1</sup>

**(2) PUBLIC PARTICIPATION.—**

**(A) MEETINGS.**—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

**(B) NOTICE.**—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

**(C) MINUTES.**—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

**(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

**SEC. 8. REPORT TO CONGRESS**

Not later than 2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006 the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

**SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION 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).

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

<sup>1</sup>So in law. There is no period at the end of paragraph (1) of section 7(b). See amendment made by section 302(f)(1) of Public Law 109-363.

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

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 3 percent or up to \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

#### SEC. 10. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—There is authorized to be appropriated to the Account to carry out this Act for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b), 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.

(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

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

(2) \$5,500,000 for fiscal year 2008;

(3) \$6,000,000 for fiscal year 2009; and

(4) \$6,500,000 for fiscal year 2010.

(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.