

AMENDING THE NORTH AMERICAN WETLANDS CONSERVATION ACT TO
ESTABLISH REQUIREMENTS REGARDING PAYMENT OF THE NON-FED-
ERAL SHARE OF THE COSTS OF WETLANDS CONSERVATION PROJECTS
IN CANADA THAT ARE FUNDED UNDER THAT ACT, AND FOR OTHER
PURPOSES

OCTOBER 9, 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. 3433]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3433) to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3433 is to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Wetlands are among the world's most productive ecosystems. They provide critical habitat for numerous species of fish and wildlife and are particularly important to the life cycles of migratory birds and economically important fish species. Wetlands also serve as natural flood control basins and water filters, and wetland degradation is known to have severe negative effects on water quality. Beginning in the 1930's, alarming declines in migratory bird populations were linked conclusively to the loss of wetland habitats, and

consequently, over the last 70 years many federal, state, and private programs have been initiated to reduce wetland loss and recover and restore wetland habitats.

In 1986, the United States, Canada, and Mexico signed the North American Waterfowl Management Plan (NAWMP). NAWMP committed the federal government to a cooperative international effort to reverse the declines in waterfowl populations and their wetland habitats. Congress, in recognition of the need to support this strategy, enacted the North American Wetlands Conservation Act (NAWCA) in 1989.

NAWCA provides a funding mechanism for cooperative, public-private wetlands conservation efforts throughout North America which support the goals of NAWMP. Funding for conservation projects is drawn from four sources: (1) interest from short-term investment of the Federal Aid in Wildlife Restoration Fund (which also contains revenues from taxes on firearms, ammunition, bows, and arrows); (2) fines and forfeitures imposed for violations of the Migratory Bird Treaty Act; (3) a portion of the Sport Fish Restoration Fund (revenues from excise taxes on fishing and marine recreation-related products); and (4) annual appropriations.

NAWCA also established a North American Wetlands Conservation Council to oversee the selection of wetland conservation projects and distribution of grant funds. The Act specifies that between 30 to 60 percent of the funds available must be spent on projects within Canada and Mexico. The remaining 40 to 70 percent must be spent on projects in the United States. Any federal, state, local or private organization may apply for a grant. NAWCA projects use tools such as fee title ownership, conservation easements, and landowner agreements to ensure long-term (25 years or more) wetlands conservation benefits. The Migratory Bird Conservation Commission is required to approve or reject projects recommended for approval by the Council. Conservation projects aim to protect and/or restore wetlands and associated uplands, and, for projects in Mexico, provide funding for educational activities. All grants must be matched at least 1:1 with non-federal funds. Since enactment, grant recipients have generated non-federal matching contributions at roughly a 4:1 ratio of non-federal to federal dollars.

The NAWCA competitive matching grant program is popular and highly competitive with annual requests for projects far exceeding available funds. For fiscal year 2010, a total of \$33.4 million in funding was approved for 34 wetland conservation projects. Project partners are contributing \$89.3 million in matching funds to affect 194,717 acres of habitat, and \$28 million in non-matching funds to affect an additional 74,310 acres of habitat. Overall, since the first wetlands grants were awarded in 1991, over 1,500 grant projects have been funded through NAWCA. These grants, involving more than 3,000 partners, have invested more than \$770 million in federal taxpayer funds and generated more than \$2.3 billion in private matching contributions. Together, these projects have protected, restored or enhanced some 23 million acres of wetlands and associated uplands in the United States, Canada and Mexico.

Notwithstanding this record, the recent economic recession in North America, combined with existing statutory grant distribution and matching fund requirements under NAWCA, have had severe negative repercussions for projects in Canada.

Partner organizations, particularly Ducks Unlimited which is the most significant non-governmental partner in Canada, have been unable to generate sufficient non-federal matching contributions to meet existing grant obligations, much less pursue new grant applications. In the short-term these circumstances could result in partner organizations defaulting on existing grant agreements. The U.S. Fish and Wildlife Service may have to also withdraw grant applications for projects in Canada for the lack of non-federal matching funds which could leave approximately \$11 to \$15 million unspent and unavailable for conservation projects. What appears likely is that it will become increasingly more difficult for NAWCA to conserve critical wetland habitats located in Canada and to meet the goals of NAWMP unless greater flexibility is allowed for grant partners to meet their financial obligations.

H.R. 3433 would amend NAWCA to allow non-U.S. funds to be utilized to satisfy non-federal matching contribution requirements for conservation projects implemented in Canada. This amendment is intended to increase flexibility for grant recipients to meet matching requirements by using Canadian funds.

COMMITTEE ACTION

H.R. 3433 was introduced on July 30, 2009 by Congressman Robert Wittman (R-VA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On September 22, 2009, the Subcommittee held a hearing on the bill.

On September 30, 2009, the Subcommittee was discharged from further consideration of H.R. 3433 and the full Natural Resources Committee met to consider the bill. The bill was ordered favorably reported to the House of Representatives by unanimous consent.

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.

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 amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, 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. 3433—A bill to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the nonfederal share of the costs of wetlands conservation projects in Canada that are funded under that Act

H.R. 3433 would authorize the U.S. Fish and Wildlife Service (USFWS) to accept contributions from Canada for the nonfederal share of funding for projects carried out under the North American Wetlands Conservation Act (NAWCA). CBO estimates that enacting H.R. 3433 would not affect the federal budget.

Under NAWCA, the USFWS makes grants to nonfederal entities such as nonprofit organizations for projects to protect migratory bird habitat in North America, conduct research and monitoring, and provide education. The act requires that up to half of the cost of each project, which may be carried out in Canada or Mexico, must be contributed by nonfederal sources, and projects in Canada must be funded in U.S. dollars. H.R. 3433 would allow a portion of the nonfederal funding of NAWCA projects in Canada to be paid in Canadian dollars. The bill would not change the amounts authorized to be appropriated under NAWCA (currently, \$75 million through 2012) or provide any other funding. In 2009, more than \$40 million was appropriated for the program.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 3433 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NORTH AMERICAN WETLANDS CONSERVATION ACT

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SEC. 8. ALLOCATION OF AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) * * *

(b) COST SHARING.—(1) * * *

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[(3) The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.]

(3) The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Canada or Mexico, the non-Federal share of the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project. In the case of a project carried out in Canada, funds from Canadian sources may comprise up to 50 percent of the non-Federal share of the costs of the project.

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