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SENATE

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AMENDING 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

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MARCH 5, 2010.—Ordered to be printed

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Mrs. BOXER, from the Committee on Environment and Public Works, 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 Environment and Public Works, to which was referred a 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, reports favorably thereon without amendment and recommends that the bill, do pass.

#### GENERAL STATEMENT AND BACKGROUND

The North American Wetlands Conservation Act (NAWCA) was passed in 1989 to support the activities of the North American Waterfowl Management Plan and to combat the dramatic loss of wetland ecosystems. The Act provides a funding mechanism to support cooperative, public-private wetlands conservation efforts throughout North America. The Act requires that Federal spending under the program be matched 100% from non-Federal sources. The program is administered by the Fish and Wildlife Service's Division of Bird Habitat Conservation and has, over the past 20 years, funded over 1,900 projects to conserve more than 25 million acres of wetlands.

At present, NAWCA projects may be undertaken in Canada, but the required non-Federal match may not include funding from Canadian sources. However, NAWCA currently allows Mexican sources of funding to count towards the matching requirements for

projects in Mexico. In order to reconcile this inconsistency and to encourage contributions from Canadian sources, this bill amends NAWCA to allow non-U.S. sources to contribute to the non-Federal share of a conservation project in Canada. The bill specifies that funds from Canadian sources may comprise up to 50% of the non-Federal share of conservation projects in Canada.

#### OBJECTIVES OF THE LEGISLATION

Amends the North American Wetlands Conservation Act to allow the non-Federal share of the costs of wetlands conservation projects carried out in Canada to include cash contributions from non-U.S. sources and allow funds from Canadian sources to comprise up to 50% of the non-Federal share of such project costs.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Payment of non-Federal share of projects in Mexico and Canada under North American Wetlands Conservation Act*

Amends Section 8(b)(3) of the North American Wetlands Conservation Act ((16 U.S.C. 4407(b)(3)) to allow for contributions of non-U.S. sources of funding for the non-Federal share of projects in Canada and Mexico and specifies that funds from Canadian sources may comprise up to 50% of the non-Federal share of Canadian projects.

#### LEGISLATIVE HISTORY

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 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. On October 13, 2009 H.R. 3433 was passed by the House of Representatives by voice vote. On December 10, 2009 the Senate Committee on Environment and Public Works ordered the bill to be favorably reported without amendment.

#### HEARINGS

On September 22, 2009, the Subcommittee on Insular Affairs, Oceans and Wildlife of the House Committee on Natural Resources held a hearing on the bill. On December 3, 2009, the Water and Wildlife Subcommittee of the Senate Environment and Public Works Committee held a legislative hearing on multiple wildlife and invasive species bills, including H.R. 3433.

#### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider H.R. 3433 on December 10, 2009. The bill was ordered favorably reported by voice vote.

## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that H.R. 3433 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee noted that the Congressional Budget Office has found, “The legislation 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.”

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

DECEMBER 14, 2009.

Hon. BARBARA BOXER,  
*Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3433, an act 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, and for other purposes.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 3433—An act 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, and for other purposes*

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 a year through 2012) or provide any other funding. For fiscal year 2010, \$48 million has been appropriated for the program.

The legislation 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.

On October 5, 2009, CBO provided a cost estimate for H.R. 3433, as ordered reported by the House Committee on Natural Resources on September 30, 2009. The two pieces of legislation are identical as are the estimated costs.

The CBO staff contacts for this estimate are Deborah Reis and Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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:

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#### NORTH AMERICAN WETLANDS CONSERVATION ACT

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

(a) ALLOCATIONS.—Of the sums available to the Secretary for any fiscal year under this Act and section 3(b) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(b)), as amended by this Act—

(1) such percentage of that sum (but at least 30 percent and not more than 60 percent) as is considered appropriate by the Secretary, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, less such amount (but not more than 4 percent of such percentage) considered necessary by the Secretary to defray the costs of administering this Act during such fiscal year, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 6(b) of this Act; and

(2) the remainder of such sum after paragraph (1) is applied (but at least 40 percent and not more than 70 percent), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 6(a) of this Act.

(b) COST SHARING.—(1) Except as provided in paragraph (2), as a condition of providing assistance under this Act for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) that is used for the project.

(2) Federal moneys allocated under subsection (a) may be used to pay 100 percent of the costs of such projects located on Federal

lands and waters, including the acquisition of inholdings within such lands and waters.

【(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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