

PART VI

LEGISLATIVE HISTORY OF THE 1980 AMENDMENTS TO
THE ENDANGERED SPECIES ACT

ENDANGERED SPECIES ACT OF 1973, APPROPRIATION AUTHORIZATION
(SECTION 6), PUBLIC LAW 98-246

BACKGROUND

Authorization for funding Federal-State cooperative programs under Section 6 of the Endangered Species Act would expire in fiscal year 1981. The following quoted material explaining the purpose and need of the legislation is taken from the legislative report of the House Committee on Merchant Marine and Fisheries (Report No. 96-896, pp. 2-3):

Section 6 of the Endangered Species Act establishes a mechanism for the development of cooperative endangered species programs with the individual States. Section 6 places the fundamental responsibility for establishing and overseeing an endangered species program in the Federal Government. However, section 6 mandates that the Secretary of Commerce or the Secretary of the Interior, depending upon the species involved, cooperate with the States in carrying out the endangered species program. The cooperation envisioned by section 6 includes consultation with the States concerned before acquiring any land or water under the act and the development of cooperative management agreements with States that establish an adequate and active program for the conservation of endangered and threatened species.

Section 6 resulted from the realization that the successful development of an endangered species program depended upon a good working arrangement between the Federal and State agencies. Although the Federal agencies have the broad policy perspective and authority to carry out the act, the State agencies have the physical facilities and the personnel to see that the State and Federal endangered species policies are properly executed. Once any State qualifies under section 6, it becomes eligible to receive Federal matching grants on a 2 to 1 basis. Section 6 allows return of the management of endangered species to the individual State, along with Federal financial assistance, once the State has adopted an endangered species program which is consistent with, and not weaker than, the Federal program.

In 1977, Congress adopted an amendment to section 6 which was intended to encourage more States to sign cooperative

agreements with the Department of the Interior. The amendment permitted States to qualify for financial assistance even though their State laws did not give the State wildlife agency the authority for all species within the State that are on the endangered species list. A number of States had objected to providing their wildlife agency with the authority to conserve invertebrates. The amendment allowed a State to qualify for financial assistance if it had complied with all other requirements of the Endangered Species Act and had included plans to devote attention to the endangered species within the State most urgently in need of conservation programs. This amendment has been dramatically successful. Thirty-six States have now signed cooperative agreements with the Department of the Interior.

Public Law 95-212 had authorized \$16 million to carry out section 6 during fiscal years 1978 through 1981. Of this amount \$4 million remained to be appropriated in fiscal year 1981. H.R. 6839 authorized \$12 million to be appropriated in fiscal years 1981 and 1982 to carry out section 6 responsibilities. H.R. 6839, then, restated the authorization through fiscal year 1980, and added \$8 million to the amount previously authorized for fiscal years 1981 and 1982.

CHRONOLOGY—PUBLIC LAW 96-246

March 18, 1980.—H.R. 6839 introduced and referred to the Committee on Merchant Marine and Fisheries.
 March 21, 1980.—Hearings on H.R. 6839 (and other measures) before the Subcommittee on Fisheries and Wildlife Conservation and the Environment.
 March 26, 1980.—Subcommittee orders H.R. 6839 reported, as introduced, to the full Committee.
 April 2, 1980.—Full Committee ordered the legislation reported to the House, without amendment.
 April 22, 1980.—H.R. 6839 reported to the House (H. Rept. 96-896) by the Committee on Merchant Marine and Fisheries.
 May 5, 1980.—H.R. 6839 considered and approved by the House without amendment.
 May 12, 1980.—H.R. 6839 considered and approved by the Senate without amendment.
 May 23, 1980.—H.R. 6839 signed into law by the President (Public Law 96-246).

94 STAT. 348

PUBLIC LAW 96-246—MAY 23, 1980

Public Law 96-246
96th Congress

An Act

May 23, 1980
[H.R. 6839]Endangered
Species Act of
1973,
appropriation
authorization.

To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further amended by striking out paragraph (2) of subsection (i) in its entirety and inserting in lieu thereof the following:

"(2) \$12,000,000 for the period beginning October 1, 1977, and ending September 30, 1980,
 and
 "(3) \$12,000,000 for the period beginning October 1, 1980, and ending September 30, 1982."

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT NO. 96-896 (Comm. on Merchant Marine and Fisheries).
 CONGRESSIONAL RECORD, Vol. 128 (1980):
 May 5, considered and passed House.
 May 12, considered and passed Senate.

House Action
H.R. 6839 as Introduced, March 18, 1980 and as Reported Without Amend-
ment by the Committee on Merchant Marine and Fisheries, April 22, 1980

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96TH CONGRESS
2D SESSION
H. R. 6839

To authorize appropriations under the Endangered Species Act of 1973 to carry
out State cooperative programs through fiscal year 1982.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1980

Mr. BREAUX (for himself and Mr. FORSYTHE) introduced the following bill, which
was referred to the Committee on Merchant Marine and Fisheries

A BILL

To authorize appropriations under the Endangered Species Act
of 1973 to carry out State cooperative programs through
fiscal year 1982.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 6 of the Endangered Species Act of 1973 (16
- 4 U.S.C. 1535) is further amended by striking out paragraph
- 5 (2) of subsection (f) in its entirety and inserting in lieu thereof
- 6 the following:
- 7 " (2) \$12,000,000 for the period beginning Octo-
- 8 ber 1, 1977, and ending September 30, 1980.

96TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT
2d Session } } No. 96-896

FEDERAL-STATE COOPERATIVE PROGRAMS

APRIL 22, 1980.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MURPHY of New York, from the Committee on Merchant Marine
and Fisheries, submitted the following

REPORT

[Including cost estimate of the Congressional Budget Office]

[To accompany H.R. 6839]

The Committee on Merchant Marine and Fisheries, to whom was
referred the bill (H.R. 6839) to authorize appropriations under the
Endangered Species Act of 1973 to carry out State cooperative pro-
grams through fiscal year 1982 having considered the same, report
favorably thereon without amendment and recommend that the bill do
pass.

THE PURPOSE OF THE LEGISLATION

The purpose of H.R. 6839 is to increase the authorization under
Section 6 of the Endangered Species Act for Fiscal Year 1981, and
to authorize appropriations for Fiscal Year 1982. Section 6 provides
Federal matching grants to States that have developed State Endan-
gered Species programs.

LEGISLATIVE BACKGROUND

H.R. 6839 was introduced on March 18, 1980 by Mr. Breaux and co-
sponsored by Mr. Forsythe. The legislation was referred to the De-
partments of the Interior and Commerce for comments.

The Subcommittee on Fisheries and Wildlife Conservation and the
Environment held hearings on the legislation on March 20, 1980. The
Subcommittee received testimony on the legislation from Lynn Green-
wald, Director, U.S. Fish and Wildlife Service, Department of the
Interior, and Paul Lenzi on behalf of the International Association
of Fish and Wildlife Agencies. Mr. Greenwald suggested that the
legislation retain the existing \$4 million authorization level for Fiscal
Year 1981. He recommended an authorization of such sums as may be
necessary for Fiscal Years 1982 through 1984. Mr. Lenzi testified

to the critical need of the State Fish and Wildlife Agencies for augmented endangered species funding. He suggested funding authority of \$7, \$9, and \$11 million for Fiscal Years 1981, 1982 and 1983, respectively. He also suggested that the Federal/State matching ratio be changed from two-to-one, as it is at present, to three-to-one, which is the matching ratio under the Pittman-Robertson and Dingell-Johnson Programs, on which the State Fish and Wildlife Agencies regularly depend for a substantial portion of their annual funding. A change in the matching formula would increase the Federal contributions to the States and there would have to be an increase in the level of Federal funding in order to compensate for the reduced State contribution. If the matching formula were changed, Mr. Lenzini recommended that the authorization contained in H.R. 6839 be increased to \$9 million for Fiscal Year 1982, and \$13 million for Fiscal Year 1983.

The Subcommittee gave careful consideration to the evidence presented at the hearings and the Departmental Reports. On March 26, 1980 the Subcommittee ordered reported the legislation, as introduced, to the Full Committee. On April 2, 1980 the Full Committee ordered the legislation reported to the House without amendment.

BACKGROUND AND NEED FOR THE LEGISLATION

Section 6 of the Endangered Species Act establishes a mechanism for the development of cooperative endangered species programs with the individual states. Section 6 places the fundamental responsibility for establishing and overseeing an endangered species program in the Federal Government. However, Section 6 mandates that the Secretary of Commerce or the Secretary of the Interior, depending upon the species involved, cooperate with the States in carrying out the Endangered Species Program. The cooperation envisioned by Section 6 includes consultation with the States concerned before acquiring any land or water under the Act and the development of cooperative management agreements with States that establish an adequate and active program for the conservation of endangered and threatened species.

Section 6 resulted from the realization that the successful development of an Endangered Species Program depended upon a good working arrangement between the Federal and State agencies. Although the Federal agencies have the broad policy perspective and authority to carry out the Act, the State agencies have the physical facilities and the personnel to see that the State and Federal endangered species policies are properly executed. Once any State qualifies under Section 6 it becomes eligible to receive Federal matching grants on a two-to-one basis. Essentially then, Section 6 allows return of the management of endangered species to the individual State, along with Federal financial assistance, once the State has adopted an endangered species program which is consistent with, and not weaker than, the Federal program.

In 1977 Congress adopted an amendment to Section 6 which was intended to encourage more States to sign cooperative agreements with the Department of the Interior. The amendment permitted States to qualify for financial assistance even though their State laws did not give the State wildlife agency the authority for all species within the

State that are on the endangered species list. A number of States had objected to providing their wildlife agency with the authority to conserve invertebrates. The amendment allowed a State to qualify for financial assistance if it had complied with all other requirements of the Endangered Species Act and had included plans to devote attention to the endangered species within the State most urgently in need of conservation programs. This amendment has been dramatically successful. Thirty-three States have now signed cooperative agreements with the Department of the Interior and have established State endangered species programs. Another 11 States are in the process of developing agreements with the Department of the Interior. The following chart lists the States with completed and pending agreements.

CHART 1

States with ongoing programs, States with new cooperative agreements to be funded from the second allocation, and States expected to sign cooperative agreements this year.

Ongoing programs, 22 States

Arkansas, California, Colorado, Delaware, Florida, Georgia, Maine, Maryland, Michigan, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, Washington, and Wisconsin.

New Agreements, 11 States

Alaska, Idaho, Illinois, Iowa, Kansas, Massachusetts, Montana, Nevada, New Hampshire, Utah, and Virgin Islands.

Agreements Expected, 6 States

Guam, Hawaii, Minnesota, Mississippi, Ohio, and Puerto Rico.

The following chart indicates the allocation of funds in Fiscal Years 1977, 1978, 1979 and 1980 under section 6.

CHART 2

ALLOCATIONS OF FEDERAL FUNDS FOR ONGOING ENDANGERED SPECIES GRANTS, NOV. 15, 1979

(in thousands of dollars)

State	1977	1978	1979	1980	Total
Alabama	60.0	70.0	80.7	50.0	260.7
California	450.0	1,320.0	1,630.5	815.0	4,215.5
Colorado	100.0	1,118.0	881.5	415.6	2,815.1
Delaware	4.3	15.4	10.6	10.0	40.3
Florida	96.1	105.8	383.2	230.0	815.1
Georgia	0	160.0	397.8	114.0	671.8
Maine	10.0	10.0	0	0	20.0
Maryland	132.9	309.2	184.1	65.0	552.2
Michigan	194.9	209.2	311.0	360.8	960.8
Minnesota	23.9	123.9	46.0	46.0	316.9
Missouri	75.1	25.1	25.1	25.1	150.4
Montana	20.0	73.7	54.7	25.7	174.1
New Hampshire	0	25.7	0	0	25.7
New Jersey	28.0	366.5	402.8	155.0	1,152.3
New Mexico	0	178.9	370.1	215.0	764.0
New York	226.8	370.1	178.7	60.0	835.6
North Carolina	0	116.8	117.1	70.0	413.9
Pennsylvania	0	106.6	60.6	35.1	202.3
South Carolina	45.0	25.0	29.1	100.0	269.1
South Dakota	0	37.1	37.1	30.0	144.2
Tennessee	0	53.5	67.5	30.0	151.0
Virginia	37.1	81.3	125.3	77.5	321.2
Washington	14.6	81.3	125.3	81.3	382.5
Wisconsin	0	0	0	0	0
Total	1,568.4	5,717.9	5,962.4	2,820.5	15,969.2

SEC. 6 AUTHORIZATIONS AND APPROPRIATIONS

(In millions of dollars)

	1978	1979	1980	1981
Authorized.....		\$16 million for 4 yr		
Appropriated.....	4.0	3.0	5	
Obligated.....	15.7	5.8		

* A portion obligated from previous fiscal year appropriation.

Although the Section 6 program has been in full operation for only a short period of time, there have been a number of significant accomplishments. Some 17 critical areas in 5 States either have been acquired, or plans are underway for their acquisition, for the protection of 11 different species. Some of the nation's most celebrated species have benefited. For the Peregrine Falcon, for instance, 23 active nests have been located and protected. Reproduction has been augmented at 6 nests and this has resulted in the propagation of 16 new birds. In California, preparations are underway to acquire the 703 acre Palisades Ecological Reserve and the 400 acre Little Butte Ecological Reserve for the Peregrine Falcon. In Colorado, work is being performed on egg shell thinning which has resulted from chemical contamination and on analyzing prey for pesticide residues. In Florida, annual surveys assess the number and size of Brown Pellican colonies, their reproductive success and pesticide levels. Florida is also providing some 100 young birds annually to Louisiana for rebuilding the populations in that State. Cooperative efforts for the reestablishment of the Peregrine Falcon and the Bald Eagle are underway in New York, New Jersey, Maryland, and Virginia.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 of the legislation authorizes \$12 million to be appropriated in fiscal years 1981 and 1982 to carry out section 6 of the Endangered Species Act. P.L. 95-212 authorized \$16 million to carry out section 6 during fiscal years 1978 through 1981. \$4 million of this previous authorization remains to be appropriated in 1981. H.R. 6839, then, restates the authorization through fiscal year 1980, and adds \$8 million to the amount previously authorized for fiscal year 1981.

COST OF THE LEGISLATION

In the event the legislation is enacted into law, and the authorized funding is fully appropriated, the maximum cost to the Federal Government for Fiscal Years 1981 and 1982, the life of the legislation, would be \$12 million. The Committee accepts the cost and outlay estimate of the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

Pursuant to Clause 2(1) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 6839 would have no inflationary impact on the prices and costs in the national economy.

COMPLIANCE WITH CLAUSE 2(1) (3) OF RULE XI

With respect to the requirements of Clause 2(1) (3) of Rule XI of the Rules of the House of Representatives:

- (A) The Subcommittee on Fisheries and Wildlife Conservation and the Environment held 3 days of oversight hearings on the Endangered Species Act during the 96th Congress on July 16, 20 and 27, 1979. In addition, the Subcommittee held a day of hearings on H.R. 6839.
- (B) The requirements of Section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation.
- (C) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to Clause 2(b) (2) of Rule X.
- (D) A letter was received from the Director of the Congressional Budget Office, pursuant to Section 403 of the Congressional Budget Act of 1974 in reference to H.R. 6839 and follows herewith:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 14, 1980.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6839, a bill to authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982. Should the Committee so desire, we would be pleased to provide further details on this estimate.

ALICE M. RYAN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 6839.
2. Bill title: A bill to authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 2, 1980.
4. Bill purpose: H.R. 6839 amends section 6 of the Endangered Species Act of 1973 to authorize the appropriation of \$12 million for fiscal years 1981 and 1982.
5. Cost estimate:

Fiscal year:	Millions
1981	\$2
1982	6
1983	
1984	
1985	

Estimated outlays:

Fiscal year:	Millions
1981	-----
1982	-----
1983	-----
1984	-----
1985	-----
	\$5
	3

The costs of this bill fall within budget function 300.

6. Basis of estimate: Section 6 of the Endangered Species Act of 1973 allows the federal government to give eligible states matching grants for the development of endangered species programs. Current law authorizes the appropriation of \$16 million between October 1, 1977 and September 30, 1981. To date, all but \$4 million of that amount has been appropriated. This bill replaces the previous authorization with a new \$12 million authorization for fiscal years 1981 and 1982. The new authorization represents the \$4 million that has been authorized but not yet appropriated (and therefore is no additional cost to the government), plus an additional \$8 million for fiscal years 1981 and 1982. For the purposes of this estimate, it is assumed that \$6 million will be appropriated in 1981 (including the \$4 million already authorized), and the remaining \$6 million in 1982. Based on information from the Department of the Interior, it is estimated that the \$2 million of new authorization for 1981 will not be spent until fiscal year 1982, due to a backlog of requests from states for grants. It is estimated that half of the \$6 million in 1982 funds will be spent that year and that the remainder will be spent in fiscal year 1983.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Blaire French.
10. Estimate approved by:

C. G. NUCKOLS,
For JAMES L. BRUSH,
Assistant Director for Budget Analysis.

DEPARTMENTAL REPORT

H.R. 6839 was the subject of a report from the Department of the Interior and follows herewith:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 4, 1980.

Hon. JOHN M. MCCARTHY,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House
of Representatives, Washington, D.C.

Dear Mr. CHAIRMAN: This responds to your request for our views on H.R. 6839, a bill "To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982."

We recommend that H.R. 6839 be enacted if amended as suggested herein.

H.R. 6839 would extend the authorization of the Federal-State cooperative program established by section 6 of the Endangered Species Act by authorizing the appropriation of \$12,000,000 for the period beginning October 1, 1980 and ending September 30, 1982.

The purpose of section 6 is to provide a funding base to States to assist them in initiating and maintaining endangered species conservation programs. Funds are provided on a 2 $\frac{1}{2}$ -1 $\frac{1}{2}$ Federal/States cost-sharing basis. The Federal share is increased to 75 percent when two or more States cooperate in work on species. Funds are apportioned on the basis of several criteria set forth in the law, including the readiness and ability of a State to proceed with these conservation efforts and the relative urgency of the program.

To qualify for grants under the original section 6 program, States must first enter into a cooperative agreement with the Department of the Interior. This agreement demonstrates that the State (1) has the legal authority to conserve and protect resident species; (2) has established an acceptable conservation program; (3) is authorized to conduct investigations on the status of resident fish and wildlife; (4) has the authority to acquire habitat or interests therein; and (5) has provided for public participation in the designation of resident species as threatened or endangered.

Although the Act was signed into law in 1973, the first cooperative agreements were not entered into by the States until 1976. This was because while a few States, including California, Colorado, New Jersey, and New York, had already instituted their own endangered species programs, most had not ventured into this relatively new realm of fish and wildlife conservation. One impediment was lack of State matching funds. Another was lack of experience on the part of fish and game administrators whose activities had been restricted primarily to the management of game species. Yet another was lack of legal authority over some of the species placed on the Federal list.

A significant catalyst in getting States to participate in endangered species programs was an amendment adopted by Congress in 1977 which facilitated qualification by the States for section 6 programs. The 1973 Act specified that before a State can enter into an endangered species cooperative agreement, it must have the authority to conserve all resident fish and wildlife species which the Secretary determines to be threatened or endangered. A number of State fish and wildlife agencies, however, have the authority to conserve only certain categories of resident species, such as vertebrates, and were therefore unable to qualify for section 6 assistance. The 1977 amendment permits a State to enter into a "jointed authorities" cooperative agreement for those listed species which the Service and the State conclude are most urgently in need of attention. The State must also develop a conservation program for those species which is acceptable to the Service. It is also important to note that another amendment in 1978 also made endangered plants eligible for cooperative agreement funding. Largely as a result of these revisions, the number of States which qualify for the section 6 program has increased from 16 in 1977 to an anticipated 35 in fiscal year 1980.

Although the section 6 program has been in full operation for only a short period of time, accomplishments have been significant. Among these has been the protection through acquisition and other means of vital habitats which support threatened and endangered species. Some 17 critical areas in 5 States either have been acquired or plans are underway for their acquisition for the protection of 11 different species. Some of the Nation's most celebrated species have benefited. For the peregrine falcon, for instance, 23 active nests have been lo-

cated and protected. Reproduction has been augmented at 6 nests and this has resulted in the propagation of 16 new birds. In California preparations are underway to acquire the 703 acre Palisades ecological reserve and 400 acre Little Butte ecological reserve for the bird. In Colorado work is being done on eggshell thinning, which has resulted from chemical contamination and on analyzing prey for pesticide residues. In all, 14 States currently have on-going programs aimed at the conservation of this species.

In Florida, annual surveys assess the number and size of brown pelican colonies, their reproductive success and pesticide level in eggs. Florida is also providing some 100 young birds annually to Louisiana for rebuilding depleted colonies in that State. Cooperative efforts for the re-establishment of the peregrine falcon and bald eagle are underway in New York and New Jersey and in Maryland and Virginia. The elusive black-footed ferret is the subject of an intensive search by Nebraska, New Mexico, Colorado, and South Dakota. The big-eared bat, once thought to be extinct, has been found in 2 caves in Arkansas, and efforts are being made to enhance their populations.

As can be expected, State requests for section 6 funding has increased proportionally with the number of cooperative agreements which have been signed. An initial approach of \$2 million was made in February 1976, \$1.4 million of which was made in August of that year when 16 States became eligible for program grants. By the end of fiscal year 1977, a total of \$1.6 million had been allocated for 16 State programs, compared to a total appropriation of \$6 million. In 1978, a total of \$5.7 million was allocated for 22 States. In 1979, allocations totaled \$5.9 million. Both the 1978 and 1979 allocations made use of unobligated appropriations from prior years. For fiscal year 1980 we have allocated all of the \$5 million appropriation. This amount, however, will still fall short of total projected State demands, forcing us to prioritize our grant decisions to make the most cost-effective use of the available money.

For fiscal year 1980 \$12 million of the \$16 million authorized by Congress for fiscal years 1978-1981 has been appropriated and will be allocated. This leaves \$4 million of the \$16 million authorization available for the States in fiscal year 1981. In our view, this amount will permit the States to undertake their highest priority endangered species projects. As for authorizations beyond fiscal year 1981, we recommend H.R. 6839 be amended to authorize such sums as may be necessary for fiscal years 1982, 1983, and 1984, thus allowing total flexibility as to actual funding requirements.

In addition, we recommend that the Congress extend funding for sections 7 and 15, (which expire in fiscal year 1982) through fiscal year 1984 in order to synchronize authorizations for the entire Act.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID HALBS,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, 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) :

16 U.S.C. 1535

* * * * *
(i) For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

(1) \$10,000,000 through the period ending September 30, 1977.

[(2) \$16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.]

(2) \$12,000,000 for the period beginning October 1, 1977, and ending September 30, 1980.

(3) \$12,000,000 for the period beginning October 1, 1980, and ending September 30, 1982.

[From the Congressional Record, May 5, 1980]

HOUSE CONSIDERATION AND PASSAGE OF H.R. 6839, WITHOUT AMENDMENT

ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. BREAUUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6839) to authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

The Clerk read as follows:

H.R. 6839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is further amended by striking out paragraph (2) of subsection (1) in its entirety and inserting in lieu thereof the following:

“(2) \$12,000,000 for the period beginning October 1, 1977, and ending September 30, 1980.

“(3) \$12,000,000 for the period beginning October 1, 1980, and ending September 30, 1982.”.

The Speaker pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. Breaux) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. Forsythe) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. Breaux). Mr. Breaux. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6839 is a noncontroversial measure to authorize appropriations to provide funding to individual States to carry out State endangered species programs. The legislation authorizes to be appropriated \$8 million of new funds for fiscal years 1981 and 1982.

Section 6 of the Endangered Species Act is a very important provision which allows for extensive involvement of State fish and wildlife agencies in the management of endangered species within their States. Section 6 provides for Federal matching grants on a 2-to-1 basis to State agencies which have developed a qualified endangered species program. Section 6 resulted from the realization that the successful development of an endangered species program depends upon a good working arrangement between the Federal and State agencies. State agencies have the physical facilities and the personnel to effectively carry out these programs. We believe that it is absolutely vital that the State fish and wildlife agencies, which have the primary authority in this country for the management of resident species, become more involved in the endangered species program.

In 1977, Congress adopted an amendment to section 6 which was intended to encourage more States to enter the program. The amendment permitted States to qualify for financial assistance even though their State laws do not give the State wildlife agency the authority for all species within the State that are on the list. This amendment has been dramatically successful in encouraging State participation. I believe it will eventually reduce the level of Federal involvement in

this program. Thirty-three States have now signed cooperative agreements with the Department of the Interior and have established State endangered species programs. Another 11 States are in the process of developing agreements with the Department of the Interior.

The dramatic increase in the number of States participating in this program since 1977 justifies a modest increase in the funding level for this program. In 1977, when only 17 States were participating in the effort, we authorized \$4 million per year under this section. Now that the number of States qualifying for assistance has increased dramatically, we believe that an increase is appropriate. H.R. 6839 proposes to authorize an additional \$8 million for fiscal years 1981 and 1982. Under existing law, there only remains \$4 million to be authorized in fiscal year 1981. This level is not sufficient to retain the existing State programs. It is far below the demonstrated State needs.

Although the authorization level proposed here is modest, we recognize that every Government program must play a part in the effort to balance the budget. The State fish and wildlife agencies asked for a higher level than is provided in this bill. We have not recommended that higher level. The authorization provided here will, however, allow the States to fund their highest priority projects.

This is a small program but it plays an important part in our continuing effort to turn the endangered species program into a successful effort and to reduce the level of controversy in the program. The States have the expertise and they have the tradition of wildlife management. It is in all of our interests to encourage them to participate actively in this effort.

Mr. FORSYTHE. Mr. Speaker, when the Endangered Species Act was passed, it was clear that the Federal Government would never have the resources necessary to address the conservation needs of every species which would be listed as endangered. The conservation and management of endangered species will not and cannot proceed effectively without the assistance and cooperation of the States.

Section 6 of the Endangered Species Act establishes a mechanism for the development of cooperative endangered species programs with the individual States. Section 6 places the fundamental responsibility for establishing and overseeing an endangered species program in the Federal Government but it mandates that the Secretary of Commerce or the Secretary of the Interior, depending upon the species involved, cooperate with the States in carrying out that program. Section 6 resulted from the realization that the successful development of an endangered species program depended upon the cooperation and assistance of the State agencies. It was in this spirit that section 6 allowed the return of the management of endangered species to the individual State. To facilitate this process, section 6 provides for Federal matching grants to the States once the State has adopted an endangered species program which is consistent with, and not weaker than, the Federal program.

Thirty-four States have now signed cooperative agreements with the Department of the Interior and have established State endangered species programs. Another 11 States are in the process of developing agreements with the Department. To assist these States in carrying out their endangered species programs and to place the management of endangered species where it can best be done—with the States—I urge adoption of H.R. 6839.

Mr. MURPHY of New York. Mr. Speaker, the purpose of H.R. 6839 is to increase the amount of funds available to the States for carrying out endangered species programs under section 6 of the Endangered Species Act of 1973.

In accomplishing this purpose, H.R. 6839 would extend the program for 1 additional year, through fiscal year 1982, and authorize to be appropriated \$12 million for the 2-year period, fiscal years 1981 and 1982.

Mr. Speaker, section 6 of the Endangered Species Act establishes a mechanism for the development of cooperative endangered species programs with the individual States, section 6 places the fundamental responsibility for establishing and overseeing an endangered species program in the Federal Government. However, the success of any program to manage endangered species depends upon a good working arrangement between the Federal and State agencies since the State agencies have the physical facilities and the personnel to see that State and Federal endangered species policies are properly executed. Once a State has submitted its proposal and qualifies for participation under the section 6 program, it becomes eligible to receive Federal matching grants on a 2-to-1 basis and the management of endangered species is returned to that State.

Thus far, 33 States, of which my State of New York is one, have signed cooperative agreements with the Department of the Interior and have established endangered species programs. Since entering into an agreement in 1977, my State of New York has received \$1.1 million of Federal funds to assist it in carrying out an endangered species program.

Mr. Speaker, there are a number of additional States in the process of developing agreements and these additional funds are necessary if we are going to provide some startup funding for these States. H.R. 6839 was reported unanimously by the Committee on Merchant Marine and Fisheries and it has the strong support of the Department of the Interior and of the International Association of Fish and Wildlife agencies.

I urge its prompt passage.

Mr. FOSTER. Mr. Speaker, I yield back the balance of my time, and Mr. BREAUX. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. Breaux) that the House suspend the rules and pass the bill, H.R. 6839.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

From the Congressional Record, May 12, 1980

SENATE CONSIDERATION AND PASSAGE OF H.R. 6839, WITHOUT AMENDMENT

ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 6839.

The Presiding Officer. The bill will be stated by title.

The assistant legislative clerk read as follows:
A bill (H.R. 6839) to authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The Presiding Officer. Is there objection to the present consideration of the bill?

There being no objection, the bill (H.R. 6839) was considered, ordered to a third reading, read the third time, and passed.

From the Congressional Record, May 23, 1980

H.R. 6839 SIGNED INTO LAW, MAY 23, 1980 (PUBLIC LAW 96-246) WITHOUT STATEMENT

NEW PUBLIC LAWS

H.R. 6839, authorizing funds under the Endangered Species Act to carry out State cooperative programs through fiscal year 1982. Signed May 23, 1980 (Public Law 96-246).

ANNOTATED BIBLIOGRAPHY OF HEARING AND A COMMITTEE PRINT

U.S. Congress, House, Committee on Merchant Marine and Fisheries, Subcommittee on Fisheries and Wildlife Conservation and the Environment, National Wildlife Refuges. Hearings, 96th Congress, 2d session, September 27, October 29, 30, December 7, 1979; March 21, 1980, Serial No. 96-27. Washington, U.S. Govt. Print. Off., 1980, 584 p.

All of the hearings in this volume conducted in 1979 dealt with national wildlife refuges. On March 21, 1980 the hearings dealt with three bills; two of them concerned the proposed Bogue Chitto and Bon Secour national wildlife refuges, and the third, H.R. 6839, provided for authorization of the Federal-State cooperative agreements in this volume on the subject is the print of the bill, H.R. 6839 (p. 535) and the report of the Department of the Interior on the bill (pp. 536-538), together with the testimony of the Director of the U.S. Fish and Wildlife Service and his Associate Director (pp. 556-567) and their response to questions from Congressmen Breaux and Wyatt. Also in this volume with respect to H.R. 6839 is the testimony of Paul Lenzini, Legal Counsel of the International Association of Fish and Wildlife Agencies, and his response to questions from Congressmen Breaux and Wyatt (pp. 572-579).

U.S. Congress, House, Committee on Merchant Marine and Fisheries, Subcommittee on Fisheries and Wildlife Conservation and the Environment, Oversight Report on the Administration of The Endangered Species Act and The Convention on International Trade

in Endangered Species of Wild Fauna and Flora. April 7, 1980. Serial No. 96-D. Washington, U.S. Govt. Print. Off., 1980. 28 p.

This Committee Print reports on the conclusions and recommendations of the Subcommittee on Fisheries and Wildlife Conservation and the Environment as a result of the oversight hearings it conducted in July 1979 in review of the GAO report on the Endangered Species Act and of implementation of the 1978 Amendments to the Act, and also of its review of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). With respect to the ESA, the Subcommittee noted: "The Committee believes that the administration of the Endangered Species Act has been thoroughly and extensively reviewed in the 95th and 96th Congresses. The Act has been substantially amended to introduce a greater degree of flexibility into its administration. The Committee does not believe that further amendments of the Endangered Species Act are necessary to equitably balance economic and environmental concerns." With respect to CITES, the Subcommittee noted a number of institutional and procedural problems with respect to U.S. trade policy in endangered and threatened species. The Committee noted the changes made in the ESA regarding U.S. management and scientific authorities vis-a-vis CITES and expressed its hope the increased accountability addressed by the 1979 amendments to the Act would enable the Secretary of the Interior to "restore order to the program for regulating trade in endangered and threatened wildlife."

PART VII

UNOFFICIAL CODIFIED VERSION OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED THROUGH DECEMBER 31, 1980¹

¹ Source: Environmental Law Reporter, April 1980: 41823-41833. Reprinted with permission. N.B. 16 USC § 1533(h)(1) (2) and (3) [ESA § 6(b) (1) (2) and (3)] was amended subsequent to publication of this FLIR version, by Public Law 96-246. That additional amendment was incorporated in this FLIR text by CRS, in order to provide a completely up-to-date codified version of the Act through the end of the 96th Congress.