

Calendar No. 266

107TH CONGRESS }
1st Session }

SENATE

{ REPORT
107-113

ASIAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 2001

DECEMBER 7, 2001.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Environment and Public
Works, submitted the following

REPORT

[to accompany H.R. 700]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (H.R. 700) to reauthorize the Asian Elephant Conservation Act of 1997, having considered the same reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The population of Asian elephants living in the wild has dramatically fallen to about 40,000 animals. These wild populations are located in 13 countries in South and Southeast Asia. The largest population of 20,000 Asian elephants, or 50 percent of the total, reside in India; and the smallest population of 40 animals is located in Nepal. What is equally distressing is that there are only about 14 populations of 1,000 or more individual elephants in a contiguous area. Seven of these populations are found in Burma and India. This means that such drastic population fragmentation increases the likelihood of geographic extinctions and greatly reduces the long-term viability of the species. In addition, it has been estimated that there are about 16,000 domesticated elephants.

The Asian elephant is protected under our Endangered Species Act, and is also listed on the Red List of Mammals by the IUCN-World Conservation Union and on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and

Flora. Under Appendix I, all commercial international trade in Asian elephant products are prohibited.

In response to this crisis, Congress enacted the Asian Elephant Conservation Act of 1997. The law created the Asian Elephant Conservation Fund. The Fund, modeled after the African Elephant and Rhino and Tiger Conservation Funds, authorized an appropriation of up to \$5 million per year until September 30, 2002. The fund provides financial support for on-the-ground conservation projects throughout Asia to help protect the Asian elephant.

Congress has appropriated \$1.9 million to the Asian Elephant Fund since its enactment into law. This money, which has generated an additional \$1.8 million in private matching funds, was allocated by the U.S. Fish and Wildlife Service for 46 conservation grants in 12 different range countries. The type of projects funded include: construction of anti-poaching camps; equipping protected area field staff in India; promotion of elephant conservation in Asia; resettlement of elephants; school education to support Asian elephant conservation; and a study of the mobility patterns, population dynamics and feeding patterns of elephants.

OBJECTIVES OF THE LEGISLATION

The fundamental purpose of H.R. 700 is to extend the authorization of appropriations for the Asian Elephant Conservation Act through 2007. In addition, H.R. 700 allows the Secretary to establish an advisory group to assist in carrying out the Act.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This Act may be cited as the “Asian Elephant Conservation Reauthorization Act of 2001”.

Section 2. Reauthorization of the Asian Elephant Conservation Act of 1997

Section 2 amends Section 7 of the Asian Elephant Conservation Act to extend the authorization of the Act through September 30, 2007.

Section 3. Limitation on Administrative Expenses

Section 3 amends Section 7 of the Asian Elephant Conservation Act limiting the amount of money the Secretary may expend on administrative expense to carry out the Act. Not more than 3 percent or \$80,000, whichever is greater, may be expended from the amounts available in each fiscal year.

Section 4. Cooperation

Section 4 amends the Asian Elephant Conservation Act by adding Section 7 authorizing the Secretary to convene an advisory group of individuals representing public and private organizations actively involved in the conservation of Asian elephants. The Secretary shall provide public notice of each meeting of the advisory group. The meetings shall be open to the public and the minutes of the meetings shall be made available to the public. The Federal

Advisory Committee Act shall not apply to the advisory group authorized under this section.

The creation of a new advisory group will help increase public involvement and Federal and private partnerships. Also, it will provide consistency with the Great Ape Conservation Act and Neotropical Migratory Bird Conservation Act, both of which were enacted during the 106th Congress and are administered under the Multinational Species Conservation Fund, along with the Rhinoceros and Tiger Conservation Act and the African Elephant Conservation Fund Act.

Section 5. Technical and Conforming Amendments

Subsection (a) makes conforming amendments to Sections 4(3) and 6 of the Asian Elephant Conservation Act.

Subsection (b) makes a technical correction to Title I of section 101 (e) of division A of Public Law 105–277.

Section 6. Authorization of Appropriations for National Fish and Wildlife Foundation

Section 6 amends section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act by extending the authorization from 2003 to 2005 and increasing the authorization from \$20,000,000 to \$25,000,000.

The National Fish and Wildlife Foundation is a federally chartered, charitable, nonprofit corporation established to accept and administer gifts from private citizens for fish, wildlife and plant conservation. The Foundation develops private sector support for selected programs and activities of the U. S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (NOAA) that traditionally have not been adequately funded through annual appropriations. The Foundation awards grants in five major categories: conservation education, wetlands and private lands, neotropical migratory bird conservation, fisheries conservation and management, and wildlife and habitat management.

The legislation establishing the Foundation was reauthorized during the 106th Congress. During the drafting process, the authorized level of appropriations was inadvertently changed from \$25 million to \$20 million. This section corrects that error by increasing the authorization to \$25 million.

It also extends the authorization from 2003 to 2005. The Senate Committee on Environment and Public Works and the House Committee on Resources agree that the authorization should be extended to 2005 and the authorization level increased to \$25 million.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider H.R. 700 on November 8, 2001. The committee agreed to an amendment by Senator Jeffords by voice vote and agreed to H.R. 700, as amended, 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. 700 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 finds that H.R. 700 would impose no unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 6, 2001.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 700, the Asian Elephant Conservation Reauthorization Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 700, Asian Elephant Conservation Reauthorization Act of 2001, as ordered reported by the Senate Committee on Environment and Public Works on November 8, 2001

SUMMARY

H.R. 700 would reauthorize, through fiscal year 2007, appropriations for project to conserve Asian elephants at the existing authorization level of \$5 million annually. (The current authorization expires after fiscal year 2002.) Section 6 would extend the authorization of appropriations for federal payments to the U.S. Fish and Wildlife Foundation from 2003 through 2005. This section also would increase the annual authorization level for payments made to the Foundation by the U.S. Fish and Wildlife Service (USFWS) by \$5 million for each of fiscal years 2002 through 2005. Under existing law, a total of \$25 million is authorized for such payments for fiscal year 2003—\$20 million from the USFWS and \$5 million from the National Oceanic and Atmospheric Administration (NOAA).

Assuming appropriation of the authorized amounts by H.R. 700, CBO estimates that the USFWS and NOAA would spend a total of

\$38 million to fund ongoing Asian elephant conservation projects and Foundation activities over the 2002–2006 period. (An additional \$7 million would be spent after 2006.) The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 700 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of State, local, or tribal governments.

Estimated Cost to the Federal Government

The estimated budgetary impact of H.R. 700 is shown in the following table. For this estimate, CBO assumes that the entire amounts authorized by the Act would be appropriated for each fiscal year. We assume that payments to the National Fish and Wildlife Foundation will continue to be made by the USFWS and NOAA in the same year that the funds are appropriated. Outlay estimates for Asian elephant conservation grants are based on recent spending patterns for that program. The cost of this legislation falls within budget function 300 (natural resources and environment).

By Fiscal Year, in Millions of Dollars

	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION					
Spending Under Current Law:					
Budget Authority ¹	10	25	0	0	0
Estimated Outlays	10	25	0	0	0
Proposed Changes:					
Estimated Authorization Level	5	10	35	35	5
Estimated Outlays	5	8	35	35	5
Spending Under H.R. 700:					
Estimated Authorization Level ¹	15	35	35	35	5
Estimated Outlays	15	33	35	35	5

¹The 2002 level is the amount appropriated thus far for that year for Asian elephant conservation (\$1 million) and for the U.S. Fish and Wildlife Foundation (\$9.2 million). The 2003 level is the amount authorized to be appropriated for payments to the foundation under current law.

Pay-As-You-Go Considerations: None.

Intergovernmental and Private-Sector Impact

H.R. 700 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect on the budgets of State, local, or tribal governments.

Previous CBO Estimate

On May 18, 2001, CBO prepared a cost estimate for H.R. 700 as ordered reported by the House Committee on Resources on May 16, 2001. Our estimate of spending for projects to conserve Asian elephants is the same under both versions of H.R. 700. The version approved by the Senate Committee on Environment and Public Works also would authorize appropriations for grants to the U.S. Fish and Wildlife Foundation, increasing the estimated cost of the legislation by \$70 million through 2005.

Estimate Prepared By: Federal Costs: Deborah Reis Impact on State, Local, and Tribal Governments: Marjorie Miller Impact on the Private Sector: Lauren Marks.

Estimate Approved By: Peter H. Fontaine 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:

ASIAN ELEPHANT CONSERVATION ACT OF 1997

* * * * *

SEC. 4. DEFINITIONS.

In this Act:

(1) * * *

* * * * *

(3) The term "Fund" means the [Asian Elephant Conservation Fund established under section 6(a)] *the account established by division A, section 101(e), title I of Public Law 105 277 under the heading "MULTINATIONAL SPECIES CONSERVATION FUND"*.

* * * * *

[SEC. 6. ASIAN ELEPHANT CONSERVATION FUND.

[(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "Asian Elephant Conservation Fund", which 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—

[(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) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Fund without further appropriation to provide assistance under section 5.

[(2) ADMINISTRATION.—Of amounts in the Fund available for each fiscal year, the Secretary may use not more than 3 percent to administer the Fund.

[(d) ACCEPTANCE AND USE OF DONATIONS.—]

SEC. 6. ACCEPTANCE AND USE OF DONATIONS.

The Secretary may accept and use donations to provide assistance under section 5. 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. 7. ADVISORY GROUP.

(a) IN GENERAL.—*To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals rep-*

resenting public and private organizations actively involved in the conservation of Asian elephants.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The Advisory Group shall—

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

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

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

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

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

SEC. [7.] 8. AUTHORIZATION OF APPROPRIATIONS.

【There are authorized】 (a) IN GENERAL.—There is authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years 【1998, 1999, 2000, 2001, and 2002】 2001, 2002, 2003, 2004, 2005, 2006, and 2007 to carry out this Act, which may remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

* * * * *

SEC. 101. (a) * * *

* * * * *

(e) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

* * * * *

UNITED STATES FISH AND WILDLIFE SERVICE

* * * * *

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201 4203, 4211 4213, 4221 4225, 4241 4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105 96), and the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 5306), \$2,000,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated to the African Elephant Conservation Fund, Rewards and Operations account, and Rhinoceros and Tiger Conservation Fund may be transferred to and merged with this appropriation: *Provided further*, That in fiscal year 1999 and thereafter, donations to provide assistance under [section 5304 of the Rhinoceros and Tiger Conservation Act of 1994, part I of the African Elephant Conservation Act, and section 6 of the Asian Elephant Conservation Act of 1997] *section 5 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 4211 et seq.), and section 5 of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4264)* shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under [16 U.S.C. 4224] *section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224)* which are not used to pay rewards under [16 U.S.C. 4225] *section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225)* shall be deposited to this Fund to provide assistance under [16 U.S.C. 4211] *section 2201 of the African Elephant Conservation Act (16 U.S.C. 4221)* and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than 3 percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.

* * * * *

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

[As amended through P.L. 106–580, Dec. 29, 2000]

AN ACT to establish and National Fish and Wildlife Foundation.

* * * * *

SEC. 1. SHORT TITLE.

* * * * *

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are to be authorized to be appropriated to carry out this Act for each of fiscal years 2001 through [2003] 2005—

(A) **[\$20,000,000]** *\$25,000,000* to the Department of
the Interior; and
(B) *\$5,000,000* to the Department of Commerce.

* * * * *

