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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–554

WILDLIFE AND SPORT FISH RESTORATION PROGRAMS IMPROVEMENT ACT OF 2000

MARCH 30, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3671]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3671) to amend the Acts popularly known as the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects and increase opportunities for recreational hunting, bow hunting, trapping, archery, and fishing, by eliminating opportunities for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and execution of those Acts, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildlife and Sport Fish Restoration Programs Improvement Act of 2000".

SEC. 2. DEFINITIONS.

In this Act:

(1) WILDLIFE RESTORATION ACT.—The term "Wildlife Restoration Act" means the Act of September 2, 1937 (chapter 899; 16 U.S.C. 669 et seq.), popularly

known as the Federal Aid in Wildlife Restoration Act and as the Pittman-Robertson Wildlife Restoration Act.

(2) SPORT FISH RESTORATION ACT.—The term "Sport Fish Restoration Act" means the Act of August 9, 1950 (chapter 658; 16 U.S.C. 777 et seq.), popularly known as the Federal Aid in Fish Restoration Act and as the Dingell-Johnson Sport Fish Restoration Act.

TITLE I—WILDLIFE RESTORATION

SEC. 101. EXPENDITURES FOR ADMINISTRATION.

(a) ANNUAL SET-ASIDE FOR ADMINISTRATION.—Section 4 of the Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by amending so much as precedes the second sentence of subsection (a) to read as follows:

"ALLOCATION AND APPORTIONMENT OF AVAILABLE AMOUNTS

"SEC. 4. (a) SET-ASIDE FOR ADMINISTRATION.—(1) Of the revenues (excluding interest accruing under section 3(b)) covered into the fund in each fiscal year, up to $5,000,000 may be used by the Secretary for expenses to administer this Act, in accordance with this subsection and section 9 in each of the fiscal years 2001, 2002, and 2003. Of the revenues (excluding interest accruing under section 3(b)) covered into the fund in each fiscal year, beginning in fiscal year 2004, such amount, adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000, may be used by the Secretary for expenses to administer this Act, in accordance with this subsection and section 9.

"(2)(A) The amount authorized to be used by the Secretary under paragraph (1) each fiscal year shall remain available for obligation for such use until the expiration of that fiscal year. Within 60 days after that fiscal year, the Secretary shall apportion among the States any of the amount that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts authorized by this Act are apportioned among the States for the fiscal year in which the apportionment is made.

"(B) Within 30 days after the end of each fiscal year, the Secretary shall—

"(i) certify in writing to the Secretary of the Treasury and to each State fish and game department—

"(I) the amount apportioned under subparagraph (A) to each State in the most recent apportionment under that subparagraph; and

"(II) amounts obligated by the Secretary during the fiscal year for administration of this Act; and

"(ii) publish in the Federal Register the amounts so certified.

"(b) APPORTIONMENT TO STATES.—"; and

(3) in subsection (b), as designated by the amendment made by paragraph (2), by striking "after making the aforesaid deduction, shall apportion, except as provided in subsection (b) of this section," and inserting "after deducting the amount authorized to be used under subsection (a), the amount apportioned under subsection (c), any amount apportioned under section 8A, and amounts provided as grants under sections 10 and 11, shall apportion".

(b) REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION.—Section 9 of the Wildlife Restoration Act (16 U.S.C. 669h) is amended to read as follows:

"REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION

"SEC. 9. (a) AUTHORIZED ADMINISTRATIVE COSTS.—The Secretary may use amounts under section 4(a)(1) only for administration expenses that directly support the implementation of this Act and that consist of any of the following:

"(1) Personnel costs of any employee who directly administers this Act on a full-time basis.

"(2) Personnel costs of any employee who directly administers this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of such costs incurred with respect to the work hours of such employee during which the employee directly administers this Act, as such hours are certified by the supervisor of the employee.

"(3) Support costs directly associated with personnel costs authorized under paragraphs (1) and (2) of this subsection not including costs associated with

staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior, other than for purposes of this Act.

"(4) Costs to evaluate, approve, disapprove, and advise concerning comprehensive fish and wildlife resource management plans under section 6(a)(1) and wildlife restoration projects under section 6(a)(2).

"(5) Overhead costs, including general administrative services, that are directly attributable to administration of this Act based on—

"(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

"(B) for those costs not determinable pursuant to subparagraph (A), an amount per full-time equivalent employee authorized pursuant to paragraphs (1) and (2) that does not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service.

"(6) Costs incurred in auditing the wildlife and sportfish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department every 5 years.

"(7) Costs of audits under subsection (d).

"(8) Costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act.

"(9) Costs of travel to the States, territories, and Canada by personnel who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, or who administer grants under section 6, section 10, or section 11.

"(10) Costs of travel outside of the United States (except travel to Canada) that relates directly to administration of this Act and that is approved directly by the Assistant Secretary for Fish and Wildlife and Parks.

"(11) Relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time such relocation expenses are incurred.

"(12) Costs to audit, evaluate, approve, disapprove, and advise concerning grants under section 6, section 10, or section 11.

"(b) UNAUTHORIZED COSTS.—Use of funds for a cost to administer this Act shall not be authorized because the cost is not expressly prohibited by this Act.

"(c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary may not use amounts under section 4(a)(1) to supplement any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

"(d) AUDIT REQUIREMENT.—(1) The Inspector General of the Department of the Interior shall procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of expenditures of amounts used by the Secretary for administration of this Act.

"(2) Audits under this subsection shall be performed under contracts that are awarded under competitive procedures (as that term is defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), by a person that is not associated in any way with the Department of the Interior.

"(3) The auditor selected pursuant to paragraph (1) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary at the time such findings are submitted to the Inspector General of the Department of the Interior.

"(4) The Inspector General of the Department of the Interior shall promptly report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of each such audit.

"(e) CERTIFICATION BY SECRETARY.—(1) The Secretary shall within 3 months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

"(A) The amount of funds used under section 4(a)(1) and a breakdown of categories for which such funds were expended.

"(B) The amount of funds apportioned to States under section 4(a)(2).

"(C) The results of the audits performed pursuant to subsection (d).

"(D) That all funds expended under section 4(a)(1) were necessary for administration of this Act.

"(E) The Secretary, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant

Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under this Act.

"(2) The Secretary may not delegate the responsibility to make certifications under paragraph (1) except to the Assistant Secretary for Fish and Wildlife and Parks.

"(3) Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

"(A) The amount of funds that will be expended in the fiscal year under section 4(a)(1) and a breakdown of categories for which such funds will be expended.

"(B) A description of how the funds to be expended are necessary for administration of this Act.

"(4) The Secretary shall promptly publish in the Federal Register each certification under this subsection.

"(f) CERTIFICATION BY ASSISTANT DIRECTOR FOR WILDLIFE AND SPORT FISH RESTORATION PROGRAMS.—Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall—

"(1) certify that—

"(A) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the United State Fish and Wildlife Service were used in accordance with this Act; and

"(B) all such expenditures were necessary to administer this Act; and

"(2) distribute such certifications to each State fish and game department.".

SEC. 102. FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS.

The Wildlife Restoration Act is amended by redesignating section 10 as section 12, and by inserting after section 9 the following:

"FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS

"SEC. 10. (a) IN GENERAL.—Of the revenues covered into the fund in each fiscal year, $15,000,000, less the amount used under section 4(a) and the amount granted under section 11(a)(1), shall be apportioned among the States in the manner specified in section 4(b) by the Secretary for the following:

"(1) Grants to States for the enhancement of hunter education programs, hunter and sporting firearm safety programs, and hunter development programs.

"(2) Grants for the enhancement of interstate coordination and development of hunter education programs.

"(3) Grants to States for the enhancement of bow hunter and archery education, safety, and development programs.

"(4) Grants to States for the enhancement of construction or enhancement of firearm shooting ranges and archery ranges, and updating safety features of firearm shooting ranges and archery ranges.

"(b) COST-SHARING.—The Federal share of the cost of any activity carried out with a grant under this section may not exceed 75 percent of the total cost of the activity and the remainder of the cost shall come from a non-Federal source.

"(c) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—Amounts available under this subsection shall remain available for 1 fiscal year, after which all unobligated balances shall be apportioned among the States in the manner specified in section 4(b).".

SEC. 103. MULTI-STATE CONSERVATION GRANT PROGRAM.

The Wildlife Restoration Act is further amended by inserting after section 10 the following:

"MULTI-STATE CONSERVATION GRANT PROGRAM

"SEC. 11. (a) IN GENERAL.—(1) Up to $2,500,000 of the revenues covered into the fund each fiscal year shall be available to the Secretary for making multi-State conservation grants in accordance with this section.

"(2) Amounts available under this subsection shall remain available for two fiscal years, after which all unobligated balances shall be apportioned in the manner specified in section 4(b).

"(b) SELECTION OF PROJECTS.—(1) A project shall not be eligible for a grant under this section unless it will benefit at least 26 States, a majority of the States in a region of the United States Fish and Wildlife Service, or a regional association of State fish and game departments.

"(2) The Secretary may award grants under this section based only on a priority list of wildlife restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies each fiscal year in accordance with paragraph (3).

"(3)(A) The International Association of Fish and Wildlife Agencies shall—

"(i) prepare each priority list through a committee comprised of the heads of State fish and game departments (or their designees);

"(ii) approve each priority list by a majority of the heads of all State fish and game departments (or their designees); and

"(iii) submit each priority list by not later than October 1 of each fiscal year to the Assistant Director for Wildlife and Sport Fish Restoration Programs, who shall accept such list on behalf of the Secretary.

"(B) In preparing any priority list under this paragraph, the International Association of Fish and Wildlife Agencies shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that support or promote hunting, trapping, recreational shooting, bow hunting, or archery.

"(4) The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under this subsection.

"(c) ELIGIBLE GRANTEES.—(1) The Secretary may make a grant under this section only to—

"(A) a State or group of States; or

"(B) subject to paragraph (2), a nongovernmental organization.

"(2) Any nongovernmental organization applying for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization does not promote or encourage opposition to regulated hunting or trapping of regulated wildlife, and will use any funds awarded pursuant to this section in compliance with subsection (d).

"(3) Any nongovernmental organization that is found to promote or encourage opposition to regulated hunting or trapping of regulated wildlife or does not use funds in compliance with subsection (d) shall return all funds received and be subject to any other penalties under law.

"(d) USE OF GRANTS.—Amounts provided as a grant under this section may not be used for education, activities, projects, or programs that promote or encourage opposition to regulated hunting or trapping of regulated wildlife.

"(e) CLARIFICATION.—No activities undertaken by the personnel of State fish and game departments under this section shall constitute advice or recommendations for 1 or more agencies or officers of the Federal Government.".

SEC. 104. MISCELLANEOUS PROVISIONS.

Section 5 of the Wildlife Restoration Act (16 U.S.C. 669d) is amended by inserting ", at the time such deduction or apportionment is made" after "he has apportioned to each State".

TITLE II—SPORT FISH RESTORATION

SEC. 201. EXPENDITURES FOR ADMINISTRATION.

(a) ANNUAL SET-ASIDE FOR ADMINISTRATION.—Section 4(d) of the Sport Fish Restoration Act (16 U.S.C. 777c(d)) is amended to read as follows:

"(d)(1) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section and section 14, up to $5,000,000 may be used by the Secretary of the Interior for expenses in accordance with this subsection and section 9 in each of the fiscal years 2001, 2002, and 2003. Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section and section 14, beginning in fiscal year 2004, such amount, adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000, may be used by the Secretary of the Interior for expenses in accordance with this subsection and section 9.

"(2) The amount authorized to be used by the Secretary under paragraph (1) each fiscal year shall remain available for obligation for such use until the expiration of that fiscal year. Within 60 days after the end of that fiscal year, the Secretary shall apportion any of the amount that remains unobligated at the end of the fiscal year on the same basis and in the same manner as other amounts authorized by this Act are apportioned among the States under section 4(e) for the fiscal year in which the apportionment is made.".

(b) REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION.—Section 9 of the Sport Fish Restoration Act (16 U.S.C. 777h) is amended to read as follows:

"REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION

"SEC. 9. (a) AUTHORIZED ADMINISTRATION COSTS.—The Secretary of the Interior may use amounts under section 4(d) only for administration expenses that directly support the implementation of this Act and that consist of any of the following:

"(1) Personnel costs of any employee who directly administers this Act on a full-time basis.

"(2) Personnel costs of any employee who directly administers this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of such costs incurred with respect to the work hours of such employee during which the employee directly administers this Act, as such hours are certified by the supervisor of the employee.

"(3) Support costs directly associated with personnel costs authorized under paragraphs (1) and (2).

"(4) Costs to evaluate, approve, disapprove, and advise concerning comprehensive fish and wildlife resource management plans under section 6(a)(1) and fish restoration and management projects under section 6(a)(2).

"(5) Overhead costs, including general administrative services, that are directly attributable to administration of this Act based on—

"(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

"(B) for those costs not determinable pursuant to subparagraph (A), an amount per full-time equivalent employee authorized pursuant to paragraphs (1) and (2) that does not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service.

"(6) Costs incurred in auditing the wildlife and sport fish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department every 5 years.

"(7) Costs of audits under subsection (d).

"(8) Costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act.

"(9) Costs of travel to the States, territories, and Canada by personnel who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, or who administer grants under section 6 or section 14.

"(10) Costs of travel outside of the United States (except travel to Canada) that relates to administration of this Act and that is approved directly by the Assistant Secretary for Fish and Wildlife and Parks.

"(11) Relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time such relocation expenses are incurred.

"(12) Costs to audit, evaluate, approve, disapprove, and advise concerning grants under section 6 and section 14.

"(b) UNAUTHORIZED COSTS.—Use of funds for a cost to administer this Act shall not be authorized because the cost is not expressly prohibited by this Act.

"(c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary may not use amounts under section 4(d) to supplement any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

"(d) AUDIT REQUIREMENT.—(1) The Inspector General of the Department of the Interior shall procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of expenditures of amounts used by the Secretary for administration of this Act.

"(2) Audits under this subsection shall be performed under contracts that are awarded under competitive procedures (as that term is defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), by a person that is not associated in any way with the Department of the Interior.

"(3) The auditor selected pursuant to paragraph (1) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the

Interior at the time such findings are submitted to the Inspector General of the Department of the Interior.

"(4) The Inspector General of the Department of the Interior shall promptly report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of each such audit.

"(e) CERTIFICATION BY SECRETARY.—(1) The Secretary of the Interior shall within 3 months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

"(A) The amount of funds used under section 4(d) and a breakdown of categories for which such funds were expended.

"(B) The amount of funds apportioned to States under section 4(d)(2)(A).

"(C) The results of the audits performed pursuant to subsection (d).

"(D) That all funds expended under section 4(d) were necessary for administration of this Act.

"(E) The Secretary, Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under this Act.

"(2) The Secretary may not delegate the responsibility to make certifications under paragraph (1) except to the Assistant Secretary for Fish and Wildlife and Parks.

"(3) The Secretary shall promptly publish in the Federal Register each certification under this subsection.

"(f) CERTIFICATION BY ASSISTANT DIRECTOR FOR WILDLIFE AND SPORT FISH RESTORATION PROGRAMS.—Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall—

"(1) certify that—

"(A) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the United States Fish and Wildlife Service were used in accordance with this Act; and

"(B) all such expenditures were necessary to administer this Act; and

"(2) distribute such certifications to each State fish and game department.".

SEC. 202. MULTI-STATE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Sport Fish Restoration Act is amended by striking the second section 13 (16 U.S.C. 777 note) and inserting the following:

"MULTI-STATE CONSERVATION GRANT PROGRAM

"SEC. 14. (a) IN GENERAL.—(1) Of the balance of each annual appropriation made in accordance with section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 each fiscal year, up to $2,500,000 shall be available to the Secretary of the Interior for making multi-State conservation grants in accordance with this section.

"(2) Amounts available under this subsection shall remain available for 2 fiscal years, after which all unobligated balances shall be apportioned in the manner specified in section 4(e).

"(b) SELECTION OF PROJECTS.—(1) A project shall not be eligible for a grant under this section unless it will benefit at least 26 States, a majority of the States in a region of the Fish and Wildlife Service, or a regional association of State fish and game departments.

"(2) The Secretary of the Interior may award grants under this section based only on a priority list of sportfish restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies each fiscal year in accordance with paragraph (3).

"(3)(A) The International Association of Fish and Wildlife Agencies shall—

"(i) prepare each priority list through a committee comprised of the heads of State fish and game departments (or their designees);

"(ii) approve each priority list by a majority of the heads of State fish and game departments (or their designees); and

"(iii) submit each priority list by not later than October 1 of each fiscal year to the Secretary of the Interior.

"(B) In preparing any priority list under this paragraph, the International Association of Fish and Wildlife Agencies shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that fund the Sport Fish Restoration Programs.

"(4) The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under this subsection.

"(c) ELIGIBLE GRANTEES.—(1) The Secretary of the Interior may make a grant under this section only to—

"(A) a State or group of States; or

"(B) subject to paragraph (2) a nongovernmental organization.

"(2) Any nongovernmental organization applying for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization does not promote or encourage opposition to the regulated taking of fish and will use any funds awarded pursuant to this section in compliance with subsection (d).

"(3) Any nongovernmental organization that is found to promote or encourage opposition to the regulated taking of fish or does not use funds in compliance with subsection (d) shall return all funds received and be subject to any other penalties under law.

"(d) USE OF GRANTS.—Amounts provided as a grant under this section may not be used for education, activities, projects, or programs that promote or encourage opposition to the regulated taking of fish.

"(e) CLARIFICATION.—No activities undertaken by the personnel of State fish and game departments, other State agencies, or organizations of State fish and game departments under this section shall constitute advice or recommendations for 1 or more agencies or officers of the Federal Government.

"(f) FUNDING FOR MARINE FISHERIES COMMISSIONS.—Of the balance of each annual appropriation made in accordance with section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 each fiscal year and after deducting amounts used for grants under subsection (a) of this section, $200,000 shall be available for each of—

"(1) the Atlantic States Marine Fisheries Commission;

"(2) the Gulf States Marine Fisheries Commission;

"(3) the Pacific States Marine Fisheries Commission; and

"(4) the Great Lakes Fisheries Commission.".

(b) CONFORMING AMENDMENTS.—Section 4 of the Sport Fish Restoration Act (16 U.S.C. 777c) is amended in subsection (e) by inserting "of this section and section 14" after "subsections (a), (b), (c), and (d)".

SEC. 203. CERTIFICATIONS.

Section 5 of the Sport Fish Restoration Act (16 U.S.C. 777d) is amended—

(1) by striking "SEC. 5." and inserting the following:

"CERTIFICATIONS

"SEC. 5. (a) ADMINISTRATIVE DEDUCTION AND STATE APPORTIONMENTS.—";

(2) in subsection (a) (as designated by the amendment made by paragraph (1) of this section) by inserting ", at the time such deduction or apportionment is made" after "apportioned to each State for such fiscal year"; and

(3) by adding at the end the following:

"(b) FISCAL YEAREND CERTIFICATION BY SECRETARY.—Within 30 days after the end of each fiscal year, the Secretary of the Interior shall—

"(1) certify in writing to the Secretary of the Treasury and to each State fish and game department—

"(A) the amount apportioned under section 4(d)(2) to each State in the most recent apportionment under that section for that fiscal year; and

"(B) amounts obligated by the Secretary during the fiscal year for administration of this Act; and

"(2) publish in the Federal Register the amounts so certified.

"(c) CERTIFICATION BY ASSISTANT DIRECTOR.—(1) Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

"(A) The amount of funds that will be expended in the fiscal year under section 4(d)(2) and a breakdown of categories for which such funds will be expended.

"(B) A description of how the funds to be expended are necessary for administration of this Act.

"(2) The Secretary of the Interior shall promptly publish in the Federal Register each certification under this subsection.".

SEC. 204. PERIOD OF AVAILABILITY.

Section 4(f) of the Sport Fish Restoration Act (16 U.S.C. 777c) is amended by striking the first sentence.

TITLE III—WILDLIFE AND SPORT FISH RESTORATION PROGRAMS

SEC. 301. DESIGNATION OF PROGRAMS.

The programs established under the Wildlife Restoration Act and the Sport Fish Restoration Act may be collectively referred to as the Federal Assistance Program for State Wildlife and Sport Fish Restoration Programs.

SEC. 302. ASSISTANT DIRECTOR FOR WILDLIFE AND SPORT FISH RESTORATION PROGRAMS.

(a) ESTABLISHMENT.—There is established within the United States Fish and Wildlife Service of the Department of the Interior an Assistant Director for Wildlife and Sport Fish Restoration Programs.

(b) SUPERIOR.—The Assistant Director for Wildlife and Sport Fish Restoration Programs shall report directly to the Director of the United States Fish and Wildlife Service.

(c) RESPONSIBILITIES.—The Assistant Director for Wildlife and Sport Fish Restoration Programs shall be responsible for the administration, management, and oversight of the Federal Assistance Program for State Wildlife and Sport Fish Restoration Programs under the Wildlife Restoration Act and the Sport Fish Restoration Act.

SEC. 303. CHIEF OF THE DIVISION OF FEDERAL AID.

The Chief of the Division of Federal Aid of the Department of the Interior, or any similar position, is abolished and the duties of that position shall be the responsibility of the Assistant Director for Wildlife and Sport Fish Restoration Programs.

PURPOSE OF THE BILL

The purpose of H.R. 3671 is to amend the Acts popularly known as the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects and increase opportunities for recreational hunting, bow hunting, trapping, archery and fishing, by eliminating opportunities for waste, fraud, abuse, maladministration, and unauthorized expenditures for administration and execution of those Acts, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

A. HISTORY

In 1937, Congress enacted the Federal Aid in Wildlife Restoration Act (popularly known as Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. 669 et seq.) so that the federal government and the States would "cooperatively engage in a broad program which will not only preserve our present-day limited supply of wildlife, but restore it to some semblance of its former abundance." (See, Aid to States In Wildlife Restoration Projects, Report No. 1572, 1st Session, 75th Cong.). Wildlife restoration was to be funded though excise taxes on sporting arms and ammunition. The theory behind that Act was that money taken in by Government agencies from sportsmen's license fees and excise taxes should be spent for the conservation and maintenance of wildlife species.

To get the conservation money collected through excise taxes for a State project, the State game and fish departments had to make laws governing the conservation of wildlife that included a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of State fish and game departments. This created a funding source for the State matching

requirement that would be needed to obtain the federal portion of the grants to the States.

The Fiscal year (FY) 1951 General Appropriations Act (Public Law 759) added language so that the wildlife conservation trust fund would have a permanent appropriation, making excise tax money collected automatically available to the Fish and Wildlife Service for apportionment and then grants to the States.

In 1970 revenue from an 11 percent excise tax on pistols and revolvers was added to the fund. One-half of those revenues would be available for hunter education programs and construction and maintenance of public target ranges, with the other half of the revenues going toward wildlife restoration projects. In addition, another provision encouraged comprehensive planning by State fish and game departments.

In 1972 an 11 percent excise tax was placed on archery equipment. Half of this revenue was designated for wildlife restoration and the other half was added to hunter education and target range development.

In 1950, Congress enacted the Federal Aid in Fish Restoration (popularly known as Dingell-Johnson Sport Fish Restoration Act, 16 U.S.C. 777 et seq.). Patterned after the Pittman-Robertson Act, the Dingell-Johnson Act was to do for sport fish what the Pittman-Robertson Act had done for wildlife: create a program of aid to the States for the restoration and management of sport fish resources of the States. The Dingell-Johnson Act is financed by a ten percent tax on fishing rods, reels, and artificial lures, bait and flies.

In 1984 an amendment to the Dingell-Johnson Act established a new trust fund, the Aquatic Resources Trust Fund (sport fish trust fund) which is divided into two accounts: the Boat Safety Account and the Sport Fish Restoration Account. The base tax was expanded to include all items of fishing tackle, new motorboat fuel taxes and import duties on fishing tackle and boats. In 1990 an increase in federal fuel excise taxes deposited to the Highway Trust Fund was mandated, of which 1.08 percent was to accrue to the Aquatic Resources Trust Fund. Federal fuel tax receipts attributable to small gasoline engines were designated for deposit to the Sport Fish Restoration Account.

Since its inception, the Pittman-Robinson Wildlife Restoration Act has provided over $2 billion for State wildlife restoration projects, and the Dingell-Johnson Sport Fish Restoration Act has provided more than $3.6 billion for State sport fish restoration projects. Both Acts are administered by the United States Fish and Wildlife Service (FWS) of the Department of the Interior. Collectively, the two Acts are known as the Federal Aid Program.

Under the both Acts, administration is funded by withholding a percentage (up to eight percent in the case of Pittman-Robertson and up to six percent in the case of Dingell-Johnson) of the revenues in each fund each fiscal year. The Secretary of the Interior has discretion to withhold up to the maximum percentage, provided the funds are used to "administer and execute" the Acts. To date, $237,176,491 was used for administration of the Wildlife Restoration Act and $186,240,791 was used for administration of the Sport Fish Restoration Act. Under the Dingell-Johnson Act, before the administration and execution funds are taken, other distributions

are made from the trust funds for the Coastal Wetlands Planning, Protection and Restoration Act, projects under the Clean Vessel Act of 1992, projects under the Sportfishing and Boating Safety Act of 1998, recreational boating and safety programs and funds for National Outreach and Communications Program.

After deduction for "administration and execution," the remainder of the trust funds are apportioned to the States according to a formula established in the Acts. The amount for administration is available for two fiscal years, and any remainder is then apportioned by the formula to the State fish and game departments. Administering the amounts apportioned to the States is done through a grant process.

The FWS Division of Federal Aid allocates trust funds to the States for fish and wildlife restoration projects. In FY 1998, the combined excise taxes collected for the Federal Aid programs were $426,836,814, of which "administration and execution" funds were $30,825,115. As the chart below demonstrates, during the last two years the six percent and eight percent caps have been reached and prior to that even greater percentages were taken. The yearly average for the Federal Aid Program administrative expenses since 1993 was $26,511,924.

FEDERAL AID DEDUCTIONS FOR ADMINISTRATION

Fiscal Year	Wildlife Restoration		Sport Fish Restoration	
	Amount	Percentage	Amount	Percentage
1959 and earlier	$7,786,190		$1,766,130	
1960	766,193	4.6	289,379	5.2
1961	857,708	5.5	350,695	6.0
1962	985,093	6.6	453,432	7.2
1963	979,717	6.6	478,494	7.9
1964	580,000	3.6	203,000	3.2
1965	719,941	4.1	316,529	4.3
1966	964,720	4.5	563,380	7.7
1967	810,804	3.3	359,018	4.5
1968	1,485,901	5.3	493,513	5.0
1969	1,051,605	3.4	383,299	4.2
1970	1,406,322	4.3	573,719	4.8
1971	2,005,725	6.1	819,091	5.3
1972	2,249,089	7.6	868,045	6.1
1973	2,288,533	5.1	922,667	7.1
1974	2,415,268	4.8	903,348	5.9
1975	3,384,672	5.9	1,338,692	7.4
1976	4,446,646	7.1	1,694,197	7.7
1977	5,287,154	5.9	1,784,610	6.7
1978	4,889,316	7.2	2,031,887	7.7
1979	3,818,633	4.1	1,369,505	4.8
1980	4,974,102	5.3	2,417,772	7.9
1981	7,250,651	7.9	2,690,051	8.0
1982	4,927,999	4.0	1,973,626	6.2
1983	4,394,029	3.9	2,201,798	6.3
1984	5,256,702	5.6	2,325,466	5.9
1985	6,772,254	7.9	3,025,995	7.9
1986	8,528,516	7.1	7,267,378	5.9
1987	6,487,540	5.9	5,855,884	4.2
1988	5,189,251	5.9	5,373,398	4.2
1989	7,534,070	6.0	7,162,802	3.8
1990	9,994,000	7.9	10,391,000	5.4
1991	13,683,734	8.0	12,541,280	6.0
1992	9,958,217	6.2	12,514,431	5.8
1993	11,888,000	7.5	11,714,000	5.2

FEDERAL AID DEDUCTIONS FOR ADMINISTRATION—Continued

Fiscal Year	Wildlife Restoration		Sport Fish Restoration	
	Amount	Percentage	Amount	Percentage
1994	11,297,000	6.2	10,573,000	5.7
1995	14,012,598	6.3	12,750,084	6.0
1996	14,326,972	6.6	12,583,206	6.0
1997	13,681,466	7.6	13,994,166	5.0
1998	13,461,598	8.0	17,363,517	6.0
1999	14,378,562	8.0	13,559,307	6.0
Total	$237,176,491	[3] 5.9	$186,240,791	[4] 5.9

[1] Wildlife Restoration deductions began in 1939 and Sport Fish Restoration deductions began in 1952.
[2] Includes transition quarter funding.
[3] This is the average percentage for the 1960 to 1999 period.
[4] This is the average percentage for the 1960 to 1999 period.
Source: Published Federal Aid data on deductions made for administration.

B. OVERSIGHT

The Committee on Resources initiated an oversight review of the "administration and execution" expenditures by the FWS through its Division of Federal Aid in December 1998 through the Government Accounting Office (GAO) and in March 1999 (through Committee staff). GAO and the Committee encountered a severe lack of documentation explaining where and how funds were spent. It was difficult to determine who within the FWS made decisions about how to spend the administration dollars. To date, the FWS has been unable to provide a clear accounting of how "administration and execution" funds were spent. Even considering a lack of documentation, the review uncovered irresponsible, wasteful, unauthorized and inappropriate expenditures of the administration and execution funds.

The Committee on Resources held three oversight hearings to examine how the FWS through its Division of Federal Aid administered and executed the Pittman-Robertson Act and Dingell-Johnson Act. It was revealed that the funds withheld by the Department of Interior to administer and execute the Pittman-Robertson and Dingell-Johnson Acts were used for expenses unrelated to the administration of these Acts. In addition, some funds that were used for appropriate and legitimate administration of these programs were not used responsibly. A lack of fiscal and organizational accountability and management throughout the Federal Aid Program was uncovered and found to be reinforced by those who were supposed to be administering these programs at all levels of the FWS. In fact, GAO characterized the program as the "one of the worst managed programs" the investigators had ever encountered.

Since the establishment of the Pittman-Robertson and Dingell-Johnson Acts, Congress has not reviewed the administration of the Federal Aid Program. The direct and indefinite appropriation of the funds to the Wildlife and Sport Fish Restoration accounts does not provide the yearly appropriations scrutiny that most other programs within federal agencies must undergo to receive funds, and there were no other built-in checks for administration and execution expenditures. In part, this contributed to an environment that enabled the FWS to invent new uses for trust fund money or cover costs unrelated to the administration and execution of Federal Aid Program.

In general, the Committee oversight found that because the authorizing legislation makes "administration and execution" funds available based on a percentage of the money in the Federal Aid Program, new ways to spend the maximum available administration and execution money were found. In federal agencies there are innumerable "needs" for money, but in many years the bulk of "administration and execution" expenditures were either unauthorized or only tangentially related administration of this program. While the core function of administering the restoration programs—dispensing wildlife and fish conservation grants to States and ensure that the funds are properly spent—did not change over the years, a host of other uses of administration money were devised.

Abuse of administration funds occurred throughout the FWS from the Washington Office level down to the Regional level. Adding to the abuse of administrative funds is the mismanagement of the Federal Aid Program by the Service. According to the GAO, collectively the problems suggest a lack of attention to detail that erodes the Division of Federal Aid's ability to effectively manage and oversee the administrative aspects of the program. In each area where administrative funds are used, there are problems. These include ineffective management oversight, inadequate internal controls, and inadequate policies and procedures for reviewing and approving administrative expenditures. As a result, it appears that some of the administrative funds have been spent unnecessarily and ineffectively. GAO testified at both hearings that these conditions have spawned a culture of permissive spending that raises significant questions about whether the Division is meeting its management responsibilities.

For example, the GAO and Committee investigations discovered that administration funds were being used by entities other than the Federal Aid Program. In some instances, individuals within the Director's office of the FWS were using Federal Aid Program administration funds for expenses unrelated to Federal Aid. In other instances, Regional Directors of the seven Fish and Wildlife Service Regions were using administration funds for expenses unrelated to Federal Aid. Under both scenarios expenses were being "charged" to administration of the Federal Aid Program that had nothing at all to do with administration of the Program.

C. ABUSES AND SOLUTIONS

The Committee focused on the Federal Aid program administration expenses in FY 1998, although different abuses occurred in different years to different degrees. For FY 1998, the Committee identified at least $15.8 million in "administration and execution" funds that were not used for administration of the Federal Aid Program. Some of these abuses are highlighted below with the proposed changes in the bill designed to curb or stop the abuses:

Administration and Execution Expenses

As stated above, in the original Acts, the FWS is able to withhold up to eight percent of the wildlife revenues and up to six percent of the sport fish revenues (after deductions for specific grant programs) for "administration and execution" of the two Acts. The GAO testified that while program administration was a relatively

well-understood concept, neither statute specifies exactly what might constitute program "execution." While the Committee disagrees with the FWS's contorted reading of the law, the bill deals with this problematic shortfall in the existing Acts in three ways: (1) it eliminates all references to funds being used for "execution;" (2) it specifies clearly what functions constitute "administration" of the law; and (3) it substitutes a reasonable dollar amount for the percentage concept in current law.

These changes eliminate entirely any possible interpretation, as the FWS testified, that the agency had "broad discretionary authority under the law" to spend administration funds as it wished. Thus, reading Section 9 of both Acts (that authorizes things like paying for employees, clerks, and equipment) in combination with the word "execution" is no longer a possible justification for the FWS to use any funds authorized for administration of the laws however it wishes. The percentage scenario, coupled with the contorted reading of Section 9, was used as a license to allow the administration of the Federal Aid Program to grow unchecked. The size of the administration side of the program became a function of funds available for administration, not the needs of properly carrying out apportionments and grants to the States for conservation projects and programs.

The three modifications also are intended to ensure that the bulk of the revenues in the fund go for the purposes of the Acts—to the States for wildlife and sport fish restoration projects. The modifications also avoid a varying level of administration funds. For example, under current law if there is a spike in fishing equipment sales, the revenues put into the fund would increase and there would be a 1:1 increase in the amount of funds available for administration. There are not necessarily added needs for administering the new level of money in the sport fish trust fund; however, the opportunity for "creatively" finding new ways to spend the additional "administration" money was easy and often occurred.

The construction of these modifications will also allow better fiscal planning, force the FWS and the Division of Federal Aid to make choices most important to its core function, and provide for more than adequate attention to the core functions of administering the program. Providing a dollar cap forces the FWS to request a new cap when it needs additional funds. This will give the Committee the opportunity to review administrative spending and determine if the additional funds are needed for administration of the Program.

Due to lack of data provided by the FWS, the bill authorizes a total of $15 million for expenses that were formerly funded though "administration and execution" withholdings. This includes a new statutory $5 million multi-state grant program for projects that benefit groups of States or regions. The remaining funds for administration (in FY 2001–2003) are $10 million total, combining sport fish and wildlife administration. Of that amount, the Committee anticipates the following staffing levels at the grade indicated for administration of the programs:

Washington Office

Staffing levels outlined below will enable the Assistant Director to have the staff needed to administer, manage and oversee the Federal Aid Program. This structure will *reinstate biological support* for the Federal Aid Program and *provide the fiscal integrity and accountability* of the Program. By eliminating excess staffing, more funds will be available for the States for on-the-ground projects. The goal is to eliminate the bureaucracy that developed over time when there was a sense of unlimited funds that facilitated growth of the Program.

Assistant Director for Wildlife and Sport Fish Restoration Programs (1) [SES/GS 15]—Administration, management, and oversight of the wildlife and sport fish restoration programs under the Wildlife Restoration Act and the Sport Fish Restoration Act.

Wildlife Biologist (2) [GS 14]—Administer regional office operations consistently with regard to national issues, visit regional offices, maintain consistency between regions, deal with programmatic national issues.

Fish Biologist (2) [GS 14]—Administer regional office operations consistently with regard to national issues, visit regional offices, maintain consistency between regions, deal with programmatic national issues.

Accounting/Auditing (2) [GS 13]—Tracking of all financial transactions involving administrative funds, supervision of the State audits, administration of State audit resolutions consistently throughout the United States and the Territories.

Reporting Administration (1) [GS 12]—Fulfillment of reporting requirements for the Federal Assistance Program for Wildlife and Sport Fish Restoration.

Multi-State Conservation Grant/Firearm & Bow Hunter Grant Administration (1) [GS 13]—Administration and oversight of the grants awarded under the Multi-State Conservation Grant Program and the Firearm and Bow Hunting Grant Program.

Secretarial/Office Support (4) [GS 5/6/7]—General secretarial support for the Washington Office.

Computer Support (2) [GS 12/13]—Computer support for the FAIMS system. These individuals would provide support for all Federal Aid offices.

Regulation Management (1) [GS 13]—Writing and management of regulations for the Federal Assistance Program for Wildlife and Sport Fish Restoration.

Regional Offices

Each Region will have an Assistant Regional Director for Wildlife and Sport Fish Restoration Programs. The responsibilities will be to administer, manage and oversee the Program at the Regional level. This includes administering and overseeing the grants that are awarded under the State apportionments. The number and size of the States in each Region will be reflected in the staffing of the Regional office. Depending on the number and size of the States in each Region, the number of biologists will vary as will the number of secretarial/support staff. A breakdown in the staffing of each Region is provided below:

Region 1

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (1) [GS 5/6]
Senior Wildlife Biologist (1) [GS 13]
Senior Fish Biologist (1) [GS 13]
Junior Wildlife Biologist (1) [GS 9/10/11/12]
Junior Fish Biologist (1) [GS 9/10/11/12]

Region 2

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (1) [GS 5/6]
Senior Wildlife Biologist (1) [GS 13]
Senior Fish Biologist (1) [GS 13]

Region 3

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (1) [GS 5/6]
Senior Wildlife Biologist (2) [GS 13]
Senior Fish Biologist (2) [GS 13]
Program Administrator (1) [GS 11/12]

Region 4

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (with wildlife/fish background) (1) [GS 14]
Secretarial/Office Support (1) [GS 5/6]
Senior Wildlife Biologist (2) [GS 13]
Senior Fish Biologist (2) [GS 13]
Junior Wildlife Biologist (1) [GS 9/10/11/12]
Junior Fish Biologist (1) [GS 9/10/11/12]
Program Administrator (1) [GS 11/12]

Region 5

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (2) [GS 5/6]
Senior Wildlife Biologist (2) [GS 13]
Senior Fish Biologist (2) [GS 13]
Junior Wildlife Biologist (.5) [GS 9/10/11/12]
Junior Fish Biologist (.5) [GS 9/10/11/12]
Program Administrator (1) [GS 11/12]

Region 6

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (2) [GS 5/6]
Senior Wildlife Biologist (2) [GS 13]
Senior Fish Biologist (2) [GS 13]
Program Administrator (1) [GS 11/12]

Region 7

Assistant Regional Director for Wildlife and Sport Fish Restoration Programs (1) [GS 14]
Secretarial/Office Support (1) [GS 5/6]
Senior Wildlife Biologist (1) [GS 13]
Senior Fish Biologist (1) [GS 13]

This staffing level provides 63 FTEs. Using the $76,000 per employee figure provided by the FWS for salary and benefits, approximately $5 million of the authorized amount would be used for personnel and support costs.

Administrative Grants Program

The FWS created an "Administrative Grants Program" from administrative funds that were "left over." According to the Acts, funds not used for administration within the two year period are to be returned to the States through the apportionment formula. Instead of returning the funds to the States as directed by the law, the FWS created an administrative grants program, in spite of the fact that no words in either statute authorize such a grant program. The theory behind the program was to fund projects that would benefit a majority of the States. In reviewing the projects that were funded through the Administrative Grant Program, not all projects funded met even this criteria. For example, some projects benefitted States of a specific region. In addition, the projects that the Director decided to fund did not always reflect the wishes of the States. In some cases, the Director would approve projects for funding that the States did not feel were a priority and should not be funded.

H.R. 3671 recognized the value of funding some projects that benefit groups of States by creating a new (but more transparent and clearly authorized) Multi-State Conservation Grant Program. The Multi-State Conservation Grant Program (MSCGP) authorizes projects that benefit a majority of the States or the majority of States in a Region of the FWS or a majority of the States within a regional association of State fish and game departments. A State, group of States, or a non-governmental organization may apply for a grant under the MSCGP. The International Association of Fish and Wildlife Agencies, which is the organization that represents all State fish and game departments, plays a central role in coordinating recommendations of worthwhile projects to the Secretary of the Interior. This legislation was designed to allow those groups that primarily pay into the trust funds to have a strong voice in the recommendations of conservation projects from which the Secretary may select.

Non-governmental organizations may apply for grants under the MSCGP if they meet specific criteria. For the wildlife grants, the organization must certify that it does not promote or encourage opposition to regulated hunting or trapping of wildlife, and will not use the funds awarded for education, activities, projects or programs that promote or encourage opposition to regulated hunting or trapping of wildlife. Any non-governmental organization that is found to promote or encourage opposition to regulated hunting or trapping of wildlife or does not use the funds as stated in the law will return all funds received and be subject to any other penalties

under law. On the sport fish side, the non-governmental organizations may not oppose the regulated taking of fish or use the funds for education, activities, projects or programs that promote or encourage opposition to the regulated taking of fish.

These criteria were developed to ensure that the anglers, hunters, and shooters who pay the excise taxes see the benefits of enhanced hunting, fishing, and shooting conservation and recreation opportunities. Groups that oppose those activities and groups who do not promote those activities are not to receive grant money under the MSCGP. These criteria were also developed in response to testimony before the Committee concerning an administrative grant that was applied for by the Fund for Animals. The Fund for Animals had applied for two administrative grants. The grant applications were reviewed by Federal Aid Program grant administrators, and were found not to satisfy the criteria established for the grants. However, superiors of the grant administrator, Mr. Jim Beers, at the FWS pressured him to approve the grant despite the fact that it lacked several criteria for the grant. He was then forced out of his job.

Jim Beers served with the FWS for thirty years. In his capacity as a grants administrator in the Federal Aid Program, Mr. Beers turned down funding for animal-rights applicants. The FWS, in reaction to his refusal of approving the application of an animal-rights group for consideration as an administrative grant and his work on a humane trapping standards project, announced that Mr. Beers would be transferred to a Regional office in Massachusetts. Mr. Beers alleged that his transfer was illegal and that FWS had proposed to transfer him because he differed with his superiors over whether to approve a request for grant money that had been filed by the Fund for Animals, a conservation group, and because of his involvement in the negotiation of an international agreement concerning humane trapping standards. Mr. Beers received a highly favorable award with the help of the Office of Special Counsel.

It was troubling to the Committee this type of mistreatment occurred and that excise taxes paid by sportsmen and women might be available for groups diametrically opposed to the activities from which the revenues are collected. Therefore, while sanctioning and providing legislative authorization for a MSCGP grant, the Committee ensured that funds available in the new MSCG program would not be used in any way to the detriment of the interests of those who collectively pay the excise taxes that fund the wildlife and sport fish conservation programs.

Certain projects were being funded with admininstrative funds under the direction of the FWS without concurrence of the State fish and game departments. Some of these projects have been described as necessary, while others have been described as unnecessary. For example, the Management Assistance Team (MAT) provided consultant services to State fish and game departments on a wide range of topics including organization development, planning, budgeting, leadership development, programmatic and agency review, work force diversity, commissions and boards, and organization effectiveness. MAT was previously funded solely by the Service and evolved into being fully funded by the Federal Aid Program. MAT employed six FWS FTEs and an additional 11 contract per-

sonnel. A recently removed homepage of MAT described the services they provide to State game and fish departments as "free." The services, however, were not free. In fact the States were funding MAT through administration and execution dollars belonging to the Federal Aid Program. Instead of apportioning funds not used for administration back to the States, the Service funneled the money to MAT. This decision was not being made by the States and was not related to administering the conservation trust funds managed by the Division of Federal Aid.

Another example is the funding of the National Fishing and Hunting Survey. The survey is conducted every five years at a current cost of $10 million. Over the years, States have complained about the timeliness of the data and the method and information gathered and whether it was helpful. The Survey was one of the most expensive projects that was funded with administration funds. The Service transferred in 1997 a total of almost $9.7 million from its interest-earning account to cover the cost of the Survey over a five year period. By transferring the money prematurely, the FWS lost over $400,000 in interest, which would have increased the amount of funds in the program. Again, the FWS was making spending decisions for the State game and fish departments.

A final example of funding from administration is the funding of the Fish and Wildlife Reference Service. Since 1965, the Federal Aid Program has been fully funding the Fish and Wildlife Reference Service (FWRS). FWRS receives, indexes, stores and distributes copies of reports produced by State fish and wildlife agencies from research studies supported by Federal Aid Program funding. FWRS also receives reports produced by the Anadromous Fish Conservation Program, the Endangered Species Grant Program, and the Cooperative Fish and Wildlife Research Units. Additional collections located at FWRS include the Lead Shot/Lead Poisoning Clearinghouse, Boating Access/Boating Facilities Clearinghouse, and the Clean Vessel Act Education/Information Clearinghouse. Although FWRS clearly serves other programs of importance to the FWS, the funding of FWRS is the sole responsibility of the Federal Aid Program.

The Committee is not recommending whether these three expenses should or should not be funded, but some of them appear to be beyond functions that relate to "administration and execution" of the Federal Aid Program. However, it is the intention of the Committee that these expenses, as well as others that have been traditionally funded under the Administrative Grant Program, compete under the new MSCGP for funding. Placing the funding of these programs under the auspices of the MSCG, forces setting of priorities and gives the States and other stakeholders influence over what projects may receive funding. In addition, through the competitive process the opportunity exists for realization of a savings if others are allowed to bid for the contracts to perform these services or projects.

MSCG projects under the new program include multi-State, regional or national projects which meet identified conservation needs. Such projects include those that strengthen the ability of the State and territorial fish and wildlife agencies to effectively meet

the needs of the public for fish and wildlife resources, or to provide direct benefit to a significant number of states at the national or broad geographic level to meet the needs of the Acts. Proposals must address a pressing resource management problem that is significant and urgent and will provide a practical and economically feasible management approach for fish and wildlife management which could not practically be addressed by a single State. Proposals for marine resource projects must also be of direct concern or provide direct benefit to a significant number of the States. Highest priority projects should be selected by the States from among those proposals submitted.

Use of Federal Aid Administration and Execution Money for Expenses Unrelated to the Trust Funds

The Committee found that the administration funds were used for expenses unrelated to the administration of the program. To ensure that the FWS only uses the funds for legitimate administration of the trust funds, H.R. 3671 establishes 12 categories of allowable administration costs.

The twelve categories were developed by examining what agency personnel actually do to accomplish the core tasks of allocating approximately $450 million annually in grant money to States for wildlife and sport fish conservation projects and ensuring that grants are properly spent. The 12 authorized categories provide an additional "checks and balances" to the program. The Committee consulted with the FWS on potential modifications of the categories to ensure all core, essential functions were covered, and the FWS could suggest no additional functions. The categories will prevent the Regions and the other parts of the FWS generally from supplementing their budgets with Federal Aid Program administrative funds. The 12 categories eliminate the ability of the FWS to redefine administration of the programs. The 12 categories are listed below:

(1) Personnel costs of any employee who directly administers this Act on a full-time basis.

(2) Personnel costs of any employee who directly administers this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of such costs incurred with respect to the work hours of such employee during which the employee directly administers this Act, as such hours are certified by the supervisor of the employee.

(3) Support costs directly associated with personnel costs authorized under paragraphs (1) and (2) of this subsection not including costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior, other than for purposes of this Act.

(4) Costs to evaluate, approve, disapprove, and advise concerning comprehensive fish and wildlife resource management plans and wildlife restoration projects.

(5) Overhead costs, including general administrative services, that are directly attributable to administration of this Act based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies;

(B) for those costs not determinable pursuant to subparagraph (A), an amount per full-time equivalent employee authorized pursuant to paragraphs (1) and (2) that does not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service.

(6) Costs incurred in auditing the wildlife and sport fish activities of each State fish and game department and the use of funds by each State fish and game department every 5 years.

(7) Costs of audits.

(8) Costs of necessary training of federal and State full-time personnel who administer this Act to improve administration of this Act.

(9) Costs of travel to the States, territories, and Canada by personnel who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, or who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, who administer apportionments to the States, the MSCGP, funding for the Marine Fisheries Commissions, or the Firearm and Bow Hunter Education Program.

(10) Costs of travel outside of the United States that relates directly to administration of this Act and that is approved directly by the Assistant Secretary for Fish and Wildlife and Parks.

(11) Relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time such relocation expenses are incurred.

(12) Costs to audit, evaluate, approve, disapprove, and advise concerning apportionments to the States, the MSGCP, Marine Fisheries Commissions), or the Firearm and Bow Hunter Education Program.

Unauthorized Grant Programs

Federal Aid "administration and execution" funds were used for several unauthorized grant programs described as "slush funds." For example, an unauthorized FWS Director's Conservation Fund was created in 1994 (perhaps it was created earlier on an informal basis) using $1 million annually drawn from money withheld for "administration and execution" of the Federal Aid Program. No words in either statute authorized this fund. The money was controlled *exclusively* by the Director, and had no criteria other than the Director's approval for issuance of grants. While some grants may be for worthy projects, they were completely unauthorized by either Federal Aid Program law, and there was no transparant process to evaluate the expenditures.

The Director gave grants to non-government organizations and used the Fund for other purposes within the FWS. Examples of "Director's Conservation Fund" grants include:

Organization	Grant title/year	Amount
Future Fisherman Foundation	Hooked on Fishing-Not on Drugs/FY95	$243,125
Mississippi Interstate Cooperative Resource Assoc.	Lower Mississippi Resource Conservation Council/FY 98.	100,000
States Organization for Boating Access	Nationwide Boating Access Needs Assessment/FY 95	49,868
Izzak Walton League of America	Hunter Ethics/Land-Access Project/FY 97	117,860
Fish and Wildlife Service	Human Resources—Various Projects/FY 94	235,886
Office of Migratory Bird Mgmt, Fish and Wildlife Service.	Nesting and Foraging Ecology and Habitat Use of Band-Tailed Pigeons in Western Oregon/FY 95.	85,000
Office of Migratory Bird Mgmt, Fish and Wildlife Service.	Webless Migratory Bird Research—Various Projects/FY96.	150,000

In addition to Director's Conservation Fund, the FWS created two additional granting mechanisms that tap "administration and execution" funds: "Operational grants" and "Regional Administrative Grants." Operational grants are made by the Division of Federal Aid as needed for projects that supported the Federal Aid Program. Operational grants awarded include: $78,924 to analyze a 1996 Survey of Fishing and Hunting and Wildlife-Associated Recreation, and $10,000 to Tread Lightly, Inc., for a 1997 Conference. Regional Administrative Grants are made by the Regions for projects and programs. Regional Administrative Grants include: $13,000 for a neotropical bird workshop; $11,500 for a SE deer study group conference; and $40,000 for routine Federal/State projects.

The Service has no statutory authorization to make the Operational grants or the Regional Administrative Grants from Pittman-Robertson and Dingell-Johnson "administration and execution" funds. Administration funds are only to be drawn from the money otherwise available for conservation grants to the States if they are necessary for administration and execution of the law.

Due to the lack of recordkeeping on the part of the FWS, the Committee does not believe all grant information has been provided to the Committee regarding these grants. Until that information is confirmed, there is no way to tell how the grants were used. Therefore, H.R. 3671 does not authorize the use of Federal Aid Program money for these grants.

Federal aid paying for overhead of the Fish and Wildlife Service through disproportionate assessments of General Administrative Services (GAS)

This was perhaps one of the most significant areas of abuse. The FWS "assessed" the Federal Aid Program a disproportionally high percentage of the funds available for administration and execution to make up for a shortfall in appropriated and recovered dollars for the funding of FWS-wide Administrative Support or overhead.

Non-resource management accounts (such as the Federal Aid Program) were assessed to pay for General Administrative Services (GAS), based on a percentage of the amount of their management and administrative funds. The FWS assessed Federal Aid Program based on the total amount of funds allowable to be withheld under the law—the whole eight percent and six percent—irrespective of what percentage of the funds were actually used for administration and execution. So, for example, in the years that administration and execution funds were only five percent of the Wildlife Restoration Program and four percent of the Sport Fish Restoration Pro-

gram, the FWS still based its GAS assessment on the whole eight percent and six percent. In addition the size of the program provided a larger baseline level on which to make the assessment. The more money in a program the higher the assessment for GAS. These odd practices allowed the FWS to use this money on non-conservation, non-authorized projects and programs.

FWS-wide Administrative Expenses were used by the Director to fund "Director's Office Projects and Initiatives." From FY 1990–1998, the Director has spent $10,174,993 of overhead funds on projects and initiatives. The projects and initiatives funded include: Spotted Owl, Seattle Sea Lions, Ferry Shrimp Habitat Conservation Plan under the Endangered Species Act, Mexican Wolf, Wolf Monitoring Project, Wolf Reintroduction Program, Grizzly Bears, Blackfoot Ferret, Habitat Conservation Planning, Department of the Interior Solicitor's Office, Relocation Costs, and the North American Free Trade Agreement.

The FWS testified that only "Director's Projects and Initiatives" funded with Pittman-Robertson and Dingell-Johnson funds were relocation costs. However, the Federal Aid Program's disproportionately large contribution to FWS-wide Administrative Support (overhead, rent, telephones) for the whole FWS allowed the FWS to pay for "projects and initiatives" conducted at the direction of the Director from FWS-wide Administrative Support. GAO described the FWS's use of Administrative Support funds as "a shell game" or an "accounting game," which is an accurate assessment.

At the conclusion of each year the Service has had a balance remaining for the FWS-wide Administrative Support Funds. The balance remaining ranges from a high of $1,718,546 in FY 1994 to a low of $100,864 in FY 1998. The remaining balance was not taken into account when determining funding for the next year—the Federal Aid programs continued to be assessed at the highest possible amount even though the Service did not use all of the funds it had at its disposal for overhead expenses.

Since the Committee's investigation, the FWS agreed to use a direct cost analysis to determine the overhead costs throughout the FWS. This is the approach required in the bill. It only authorizes expenditures for "direct costs" and guarantees that the programs will not be overcharged in the future. Any costs that are unable to be determined through a direct cost approach are only authorized to the lowest level charged or assessed other FWS divisions.

Travel Abuses

Federal Aid Program administrative funds were used to pay for foreign travel that was unrelated to the administration of the Acts. One example is an individual who made multiple trips to Japan. The purposes listed for these trips included: (1) encourage the use of the Federal Aid in Sport Fish Restoration Program Logo on products exported into the United States, (2) Federal Aid Program may serve as a model for Japan to consider as they develop funded support for sport fish restoration in Japan; and (3) make contacts with officials from Japanese Trade groups and their interest in a "user pay" concept. Whether or not the logo is placed on tackle, the tax is still collected. The two Japanese tackle manufacturers that export into the U.S. each have offices in the United States. Any

discussions regarding the placement of the logo on merchandise could have taken place over the phone, or at least at the U.S. offices of these Japanese manufacturers. However, the Act does not provide administrative funds for international travel to promote such causes. Numerous other examples of unnecessary, costly, and extravagant travel were uncovered by the Committee investigation.

H.R. 3671 restricts travel to employees who administer the Acts on a full-time basis. It was reported to the Committee that it may be necessary for travel to Canada and Mexico regarding issues related to administration of the Acts. It was also reported that there have been occasions in the past when it was necessary to send Federal Aid Program staff to other countries related to administration of the Acts. Because of the past abuses in this area, the Committee was reluctant to provide that such travel would be authorized. However, by requiring that the Assistant Secretary for Fish and Wildlife and Parks to directly approve such travel, more control will be exerted to prevent this type of abuse in the future.

Poor Records and Bookkeeping Abuses: Mismanagement

According to GAO, while individually the problems identified in each of the areas where administrative funds are spent may not appear too significant, collectively the problems suggest a lack of attention to detail that erodes the Division of Federal Aid's ability to effectively manage and oversee the administrative aspects of the programs. In each area where administrative funds are used, there are problems. These include ineffective management oversight, inadequate internal controls, and inadequate policies and procedures for reviewing and approving administrative expenditures. GAO testified at both hearings that these conditions have spawned a culture of permissive spending that raises significant questions about whether the Division is meeting its management responsibilities.

This culture finds its roots in the FWS. Federal Aid Program employees in the Regions answer to the Regional Directors, and the Chief of Federal Aid in Washington answers to the Assistant Director of External Affairs. These are the individuals making decisions as to how much, where, and how the administrative funds are spent. They were just carrying out the policies of the Director.

Because the Program funding does not have to be appropriated and no routine audits are performed, the Federal Aid Program has had very little oversight. First, unlike most other federal programs, Federal Aid Program receives dedicated tax revenues each year to administer its programs. As a result, Program officials do not have to publicly justify the Programs' spending levels before Congress each year. Second, although Federal Aid Program provides bi-annual reports on its programs to the public, it does not fully disclose all of its spending, as the Committee's work has shown. For example, the spending associated with the use of administrative funds by the Director's Conservation Fund and the FWS's Regional offices is not discussed in these reports. Third, only three audits of the administrative funds have been performed over the past 20 years, each of which has identified some significant management problems.

Poor Records and Bookkeeping Abuses: Lack of Internal Audits/ Recordkeeping

It is good management for an agency to keep accurate records and perform internal audits to ensure that programmatic and funding requirements are met. This was not the case with the Federal Aid Program. This systemic problem with lack of record keeping for the Federal Aid Program developed over the years.

GAO and Committee staff findings indicate that there was a careless disregard for how the Federal Aid Program was managed. GAO audited the Sport Fish Restoration program in 1993 and found the same internal record keeping and auditing deficiencies existed then—nearly seven years ago.

Very little was done to remedy the problems, particularly concerning the "administration and execution" record-keeping. State audits were initiated and there is an attempt to implement a new computer management system. In doing so, the cost of true administration of the Federal Aid Program increased leading to less funds for other purposes. As a result, the FWS instructed Federal Aid Program to cut funding of true administrative expenses to make more funds available to the Director for funding of other divisions of the FWS.

To prevent the management and fiscal abuses in the future, H.R. 3671 establishes certification requirements. H.R. 3671 establishes a series of certifications to ensure that funds used for administration of the programs are being used of this purpose and that they are used responsibly. It was revealed that no budgetary process existed that ensured that funds for administration were used for administration and that if funds were used as required, that they were done so responsibly. Committee staff has been unable to obtain from the FWS accurate and completed information explaining how the up to eight percent and up to six percent funds have been used in the past.

Beginning at the time the apportionment amounts are made available to the States, the Secretary of the Interior and the Assistant Director for Wildlife and Sport Fish Restoration Programs are required to provide a series of certifications to the House Committee on Resources, the Senate Committee on Environment and Public Works, each State game and fish department or publish in the Federal Register an accounting of the funds used for administration. The certifications in H.R. 3671 "forces" the Service to account for the expenses they have when administering the programs. A criticism in the past has been that it was difficult from the information provided and maintained by the Service to determine how the funds were used. In addition, it requires that the Secretary, Assistant Secretary for Fish and Wildlife and Parks, the Director of the Fish and Wildlife Service and the Assistant Director of the Wildlife and Sport Fish Restoration Programs all certify within 30 days of the end of each fiscal year that they each properly discharged their duties under the Acts.

Poor Oversight and Regional Office Control

Poor oversight and regional office control of administration and execution funds contributed to the mismanagement of the Federal Aid program. The Federal Aid Program and the funds apportioned

to the States account for over one-third of the Service's budget. Divisions within the Service with smaller budgets have representation at the Directorate level of the FWS. The decision to use Federal Aid Program administrative funds for expenses unrelated to the administration of the programs made at the Directorate level would have been less likely if the Federal Aid Program had an advocate at the Directorate level.

Under the current structure, the FWS has not provided the necessary tools for the Chief of Federal Aid to administer the program—it is obvious that the Program needs to be administered at a higher level within the FWS. The current structure of the Federal Aid Program does not provide for line authority of the Chief of Federal Aid to the Federal Aid staff in the Regions. Under the current structure, Federal Aid Program staff in the Region report to the Regional Directors. The Regional Directors make the final decisions regarding the Federal Aid budget in the Regions, not the Regional Federal Aid staff, and this arrangement has allowed for the opportunity of Regional Directors to supplement their Region's budgets with Federal Aid Program administrative funds.

There is no consistency between Regions as to how they develop Federal Aid budgets or assess the Federal Aid Program for common Regional costs. Again this allows for the opportunity of taking advantage of the Federal Aid administrative funds. The FWS has recently proposed a reorganization. The proposed structure places the Federal Aid Program under the same Assistant Director who will be responsible for Migratory Birds. This will create a temptation for the Assistant Director, who is tied to the appropriations process for obtaining funding for the Migratory Bird program, while not having the same restraints for the Federal Aid Program. It is important that funds from Federal Aid Program are not used by other programs to supplement their budgets.

The Assistant Director will raise the stature of this important conservation program and help to prevent other parts of the FWS from tapping Federal Aid Program funds. The Assistant Director will be responsible only for the administration, management and oversight of the programs. This will allow the Federal Aid Program to get the management attention it has not gotten in the past. Federal Aid is a mechanism for passing excise tax revenues to the States. The Federal Aid program is not a vehicle for the FWS to carry out other missions.

COMMITTEE ACTION

H.R. 3671 was introduced on February 16, 2000, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. Although no hearings were held on the bill, the bill was developed as a result of three oversight hearings held in 1999 on the Federal Aid Program administered by the FWS. On March 15, 2000, the Full Resources Committee met to consider the bill. Chairman Young offered an amendment in the nature of a substitute to make technical corrections to the bill and to clarify that the Firearm and Bow Hunting grants were to enhance existing grants used by States for these purposes, and to remove the designation of the Assistant Secretary for Fish and Wildlife and Parks as being ultimately responsible for the administration, management and over-

sight of the Wildlife and Sport Fish Restoration Programs (the Acts allow the Secretary of the Interior to delegate these responsibilities to the Assistant Secretary for Fish and Wildlife and Parks). The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported by a roll call vote of 36 to 0 to the House of Representatives, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 3-15-00

Roll No. 1

Bill No. H.R. 3671 Short Title Wildlife & Sport Fish Restoration Programs

Amendment or matter voted on: Improvement Act -- FINAL PASSAGE

Member	Yea	Nay	Pres	Member	Yea	Nay	Pres
Mr. Young (Chairman)	X			*Mr. Miller*	X		
Mr. Tauzin				*Mr. Rahall*			
Mr. Hansen	X			*Mr. Vento*	X		
Mr. Saxton	X			*Mr. Kildee*	X		
Mr. Gallegly				*Mr. DeFazio*	X		
Mr. Duncan				*Mr. Faleomavaega*			
Mr. Hefley				*Mr. Abercrombie*	X		
Mr. Doolittle	X			*Mr. Ortiz*			
Mr. Gilchrest	X			*Mr. Pickett*			
Mr. Calvert	X			*Mr. Pallone*			
Mr. Pombo	X			*Mr. Dooley*	X		
Mrs. Cubin	X			*Mr. Romero-Barcelo*	X		
Mrs. Chenoweth-Hage	X			*Mr. Underwood*	X		
Mr. Radanovich	X			*Mr. Kennedy*			
Mr. Jones	X			*Mr. Smith*	X		
Mr. Thornberry				*Mr. John*	X		
Mr. Cannon	X			*Mrs. Christensen*			
Mr. Brady				*Mr. Kind*			
Mr. Peterson	X			*Mr. Inslee*	X		
Mr. Hill	X			*Mrs. Napolitano*	X		
Mr. Schaffer	X			*Mr. Tom Udall*	X		
Mr. Gibbons	X			*Mr. Mark Udall*	X		
Mr. Souder	X			*Mr. Crowley*			
Mr. Walden				*Mr. Holt*	X		
Mr. Sherwood	X						
Mr. Hayes	X						
Mr. Simpson	X						
Mr. Tancredo	X			**TOTAL**	36	0	

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of H.R. 3671 is the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000.

Section 2. Definitions

The term "Wildlife Restoration Act" means the Act of September 2, 1937 (chapter 899; 16 U.S.C. 669 et seq.), popularly known as the Federal Aid in Wildlife Restoration Act and as the Pittman-Robertson Wildlife Restoration Act.

The term "Sport Fish Restoration Act" means the Act of August 9, 1950 (chapter 658; 16 U.S.C. 777 et seq.), popularly known as the Federal Aid in Fish Restoration Act and as the Dingell-Johnson Sport Fish Restoration Act.

Title I—Wildlife Restoration

Section 101. Expenditures for administration

Expenditures for administration will be spent from the revenues (excluding the interest accruing under section 3(b) of the Wildlife Restoration Act) covered into the fund each fiscal year. The Secretary may use up to $5,000,000 for administration of this program for fiscal years 2001, 2002, and 2003. Starting in fiscal year 2004, the Secretary may use an amount adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000. The Secretary of the Interior will make the apportionments to the States after deductions have been made for administration (section 4(a)), the apportionment to the States from the tax imposed on pistols, revolvers, bow and arrows (section 4(c)), any amount apportioned to the territories (section 8A), the Firearm and Bow Hunter Education and Safety Program Grants designated under Section 102 of this Act and the Multi-State Conservation Program designated under Section 103 of this Act.

The funds available to the Secretary for the administration of the Act will be available for only one fiscal year. Within 60 days of the end of the fiscal year, all unobligated funds will be returned to the States through the apportionment formula. In the past, the Secretary was able to carry over administration funds for two fiscal years. If after the two years, the funds were not used for administration and execution of the Act, any remaining funds are to be apportioned back to the States for their use on restoration projects. The Federal Aid Program has had leftover funds from previous years and has not been allocating all of these funds to the States. Instead, it has been rolling the funds over and adding them to the administration funds for the next fiscal year—making more funds available for redistribution to non-Federal Aid programs. For FY 1992–1998 only 18 percent of the carryover administrative funds were given to the States as required by law. In any given year, more funds are available to use in ways not envisioned by the Acts. For example, from FY 1992–1998 $32,805,402 in Wildlife and Sport Fish administrative funds were carried over. Of this amount only $6,048,576 was given back to the States and $26,756,826 stayed in the FWS. The remainder rolled over for use during the following

year. The FWS was unable to account for which funds were rolled over from one year to the next. The Committee determined that the ability of the FWS to carry over the funds allowed it the latitude to spend administration funds on expenses not related to the administration of the Act. This latitude, combined with the poor fiscal management of the administration funds created an environment ripe for abuse.

Section 101 also creates a series of certifications by the Secretary of the Interior (who may delegate only to the Assistant Secretary for Fish and Wildlife and Parks) and the Assistant Director for Wildlife and Sport Fish Restoration Programs that will build in a series of checks and balances that will require the FWS to report on how it uses administration funds. The certifications are described below:

Within 30 days after the end of each fiscal year, the Secretary of the Interior shall certify in writing to the Secretary of the Treasury and to each State fish and game department the amount apportioned to each State in the most recent apportionment and the amounts obligated by the Secretary of the Interior during the fiscal year for administration of the Act. These amounts are also to be published in the Federal Register.

The Secretary shall within three months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year: (1) the amount of funds used for administration and a breakdown of categories for which such funds were expended, (2) the amount of funds apportioned to States not used for administration, (3) the results of the audits of the funds used for administration of the Act, (4) that all funds expended for administration were necessary for administration of the Acts, and (5) the Secretary, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under this Act. This responsibility of the Secretary of the Interior to make these certifications may only be delegated to the Assistant Secretary for Fish and Wildlife and Parks.

Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate and publish in the Federal Register the following for the fiscal year: (1) the amount of funds that will be expended for administration, (2) a breakdown of categories for which such funds will be expended, and (3) a description of how the funds are necessary for the administration of the Act.

Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall certify that: (1) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the United States Fish and Wildlife Service were used in accordance with the Acts, (2) that all such expenditures were necessary to administer the Act, (3) distribute such certifications to each State fish

and game department, and (4) publish this information in the Federal Register.

Use of funds to administer this Act will not be authorized just because the cost is not expressly prohibited by this Act. The FWS testified that it had broad discretionary authority under the law to spend the administration funds as it saw fit. The wording in H.R. 3671 is designed to prevent the FWS from using the fact that funding for an item was not prohibited as a reason to allow for the funding. In addition, the Secretary of the Interior is not authorized to use any of the administration funds to supplement any function for which general appropriations are made for the FWS or any other entity of the Department of the Interior.

The Inspector General of the Department of the Interior is required to procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of the expenditures of amounts used by the Secretary for administration of this Act. The auditor will be supervised by the Inspector General of the Department of the Interior. The auditor shall provide a copy of the audit findings to the Secretary of the Interior and to the Inspector General of the Department of the Interior, who will promptly report to the House Committee on Resources and the Committee on Environment and Public Works of the Senate. The audits may not be conducted by anyone associated in any way with the Department of the Interior.

H.R. 3671 establishes a list of twelve categories of authorized administration costs. Each is described below:

Personnel Costs (categories 1 and 2).—Personnel costs are limited to employees who directly administer the Act on a full-time basis or on a part-time basis for at least 20 hours each week. The costs of part-time personnel are not to exceed the costs of employees who administer the Act on a full-time basis and the part-time hours are to be certified by the employee's supervisor. The Committee was concerned with the amount of administrative funds that were used to support the personnel costs of employees who were not involved in the administration of the Act. At both the Washington D.C. Office level and in the Regions, administrative funds were used to pay for personnel costs of employees who did not support the Act. The FWS used administrative funds from the Act to pay for salaries of employees they were unable to fund through the legitimate program or office of that employee. It also paid for some or all of the employee's personnel costs with administrative funds from the Act allowed funds normally used for the personnel costs to be used elsewhere in the organization.

Support Costs (category 3).—Support costs are limited to costs directly associated with the personnel costs authorized by categories 1 and 2 and does not include the costs associated with staffing and operation of any offices of the FWS and the Department of the Interior other than for purposes of the Act. Support costs, like personnel costs, of staff not involved with the administration of the Act were being paid with administration funds. This restriction is another means to prevent the FWS from covering costs with administration funds unrelated to the administration of the Act.

Costs Related to the Comprehensive Fish and Wildlife Resource Management Plans or Projects (category 4).—This category pro-

vides funds for the FWS to determine if comprehensive plans or projects are substantial in character and design.

Overhead Costs (category 5).—Overhead costs are limited to costs that are directly attributable to the administration of the Act and based on actual costs as determined by a direct cost allocation methodology and approved by the Director of the Office of Management and Budget for use by federal agencies and for costs not able to be determined by a direct cost methodology, the amount charged may not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the FWS.

As discussed earlier, the Committee discovered that the Service used a method to "assess" the Federal Aid Program that resulted in a disproportionally high percentage of the funds available for administration of the Federal Aid Program to make up for a shortfall in appropriated and recovered dollars for the funding of General Administrative Services overhead.

The FWS derives funds from three sources to meet its service-wide administrative support expenses (overhead): appropriated funds, reimbursements, and cost recovery from non-resource management programs (11 programs including Federal Aid Program pay into this source).

For example, in FY 1998, the FWS used about $55.5 million for service-wide administrative support. About $47.8 million came from appropriated funds and collections on reimbursements. Of the remaining $7.7—million cost recovery from non-resource management accounts—Federal Aid Program paid $4.7 million. In reality, however, the Federal Aid Program's contribution to the FWS's overhead expenses had nothing to do with the Federal Aid Program's cost to the FWS.

To put the Federal Aid Program's contribution in perspective, Federal Aid paid 61 percent of the cost recovery from non-resource management programs. While the overhead cost paid for each Service employee is about $7,000, the overhead cost paid by the Federal Aid Program for each Federal Aid employee is about $30,000.

FWS had assessed the Wildlife Restoration Program and the Sport Fish Restoration Program the total amount of funds allowable under the law—the entire eight percent and six percent irrespective of what percentage of the funds were actually used for administration and execution.

The FWS defended this practice by stating that all non-resource management programs were "assessed" the same percentage. This method takes unfair advantage of programs that have the most administrative funds at their disposal and in no way approximates true overhead costs for the Federal Aid Program. At issue is that when the Federal Aid program pays more than its fair share of overhead, wildlife and sport fish conservation suffer.

Costs of Auditing State Fish and Game Departments and the Use of State Apportionments (category 6).—The costs to audit the State Fish and Game Departments and their use of the State apportionment funds every five years is authorized. An important component of administration is the auditing of the States' use of the apportioned funds. This will ensure that the States are using the funds as intended under the Act. Another important component

of the auditing process is the audit resolution process. It is necessary that once the audits are completed that an audit resolution process is implemented. It is important that if diversions of license fees or of apportioned funds is found, the matter is resolved. It has come to the attention of the Committee that under the current audit resolution process there is an inconsistency with how the audits are resolved. The resolutions being promoted are not consistent from State to State. For example, when one State has been found to improperly use apportioned funds it is asked to repay the amount to the program. Another State, found to have also improperly used apportioned funds, is not asked to repay the funds to the program. It is imperative that the resolution to the audits are uniform throughout the United States and that all States are treated equally and fairly under the audit resolution process.

Costs of Audits of the Administration of the Acts (category 7).—The Inspector General of the Department of the Interior shall procure biennial audits of expenditures of amounts used by the Secretary for administration of the Act. The audit contract will be awarded under competitive procedures and performed by a person that is not associated in any way with the Department of the Interior. The auditor will be supervised by the Inspector General. The auditor shall submit a report of the findings to the Inspector General and the Secretary of the Interior. The Inspector General will then promptly report to the Committee on Resources of the House of Representative and the Committee on Environment and Public Works of the Senate on the results of each audit.

The Committee was greatly concerned to discover that the FWS never conducted an audit of the funds used to administer the Act. Conducting an audit of the use of the administration funds would have been good fiscal management of the program. Had such an audit been conducted, perhaps it could have prevented the use of administration funds for expenses unrelated to administration of the Acts. It is imperative that these audits are conducted and that actions are taken based on the findings of these audits to correct any inconsistencies or problems.

Costs of Necessary Training (category 8).—Training costs to improve administration of the Acts are allowed for federal and State full-time personnel who administer the Act.

Training is important to ensure that people are properly trained for the jobs they are hired to perform. Training offered for courses that would provide better administration of the Federal Aid Program are permissible. The Committee discovered that in addition to training for appropriate administrative-type skills, Federal Aid Program administrative funds were used to provide training that clearly falls outside of what is necessary for the administration of the programs. For example, training was offered and paid for with Federal Aid Program administrative funds for the following: Systematic Development of Informed Consent, Mourning Dove Workshop, Fish Stock Assessment, Stream Classification and Gravel Mining Workshop, Citizen Participation by Objective, Fundamentals of Ecosystem Management, Comprehensive Accessibility Planning for Parks, Recreation and Tourism and Media Relations. These courses may have been important, but they did not improve

the administration of the Act and it was not appropriate to fund them with administration funds.

The Committee is concerned about the method the FWS will use to train eligible personnel. The FWS has provided to the Committee documentation that it plans to offer a centralized training program at the National Conservation Training Center for eligible personnel. A centralized training program is not what the Committee intends by necessary training. Training classes and workshops that provide eligible personnel with information and skills that will allow them to better administer the programs is the intent of the Committee. The Committee is concerned that creation of such a program will be not to train eligible personnel in administration, but used as a way to cover the costs of training unrelated to the administration of the Act or training of ineligible employees.

Costs of Travel to the States, Territories and Canada (category 9).—Travel costs for personnel who administer the Acts on a full-time basis for purposes directly related to administration of State programs or projects or who administer the Firearm and Bow Hunter Education Grants Program or the Multi-State Conservation Grant Program. The Committee discovered that travel was being funded with administration funds that was unrelated to the administration of the programs, so the bill requires that all travel must directly relate to administration of the program or projects.

Costs of Travel Outside of the United States (category 10).—Travel costs that related to the administration of the Act by personnel who administer the Act on a full-time basis are authorized if travel is approved directly by the Assistant Secretary for Fish and Wildlife and Parks. This does however, not restrict the travel of Federal Aid employees to travel internationally to assist in issues related to wildlife or sport fish restoration. It only restricts the funding of that travel—it cannot be funded with administration funds. The Committee discovered many trips to international destinations for matters unrelated to the administration of the Acts. For example, trips were made to foreign countries to encourage them to develop their own Sport Fish Restoration Program. Although it maybe important that other countries develop similar programs, it is not a function that should be funded with administration funds. Such travel costs clearly fall within the responsibility of the FWS's International Affairs Office.

Relocation Expenses (category 11).—Relocation expenses for personnel who, after they relocate will administer the Act on a full-time basis for at least one year. At the time the relocation expenses are incurred, the Director of the FWS will have to certify that the employee will administer the Act on a full-time basis for a least one year. The Committee discovered that administration funds were being used to relocate personnel who did not administer the programs. Again, the FWS was using administration funds to pay for other expenses within the agency. For example, in one Region, administration funds were used to relocate the Deputy Regional Director. This type of expense will not be authorized under H.R. 3671.

Costs to Administer Grants (category 12).—Costs to audit, evaluate, approve, disapprove, and advise concerning grants to the States under the State apportionments, Firearm and Bow Hunter

Education Grants and Multi-State Conservation Grants. The intent of the Committee is not to add any new authorized functions. Rather, it is to capture what the Division now undertakes when it processes grant applications. This language describes the responsibility of the Secretary of the Interior and the process of review the Secretary engages in before apportioning funds to each State, as an eligible expenditure of the funds available under his or her discretion. The process for approval does not include a programmatic review of the grants. The role of the FWS is not to make programmatic determinations regarding the grants, but instead whether they are substantial in character and design.

In the course of streamlining the process for administering the Wildlife and Sport Fish Trust funds in the Regions, the Committee grew increasingly concerned about allegations that the staff responsible for administering the apportionments to the States used their ability to control the time it took for projects or plans to be approved as a means of retribution for actions States may or may not have taken that were not considered by the FWS to be appropriate. The allegations were not limited to actions States took with regard to the Wildlife or Sport Fish Restoration Trust Funds. In some cases, actions taken by States regarding land use, wildlife or sport fish management unrelated to the Wildlife and Sport Fish Trust Funds, for example, were seen to be the catalyst for actions taken by the FWS related to the length of time it took to process grant applications or approve grant applications. Additional allegations have surfaced of the FWS using the approval process for State apportionments to advance the restoration and conservation goals of the FWS on the States. The Act was not designed as a tool for the FWS to further its mission for or in the States. Instead, it was established to provide States with funding for State wildlife restoration projects that are necessary from the States' perspective for the effective management of wildlife.

The administration of the Wildlife and Sport Fish Trust Funds should not to be used by the FWS to further an independant agenda. Instead, the States are to decide, within the requirements of the Act, how to spend the apportioned funds. Interference by the FWS in any way to negatively impact the timing or approval of any project or plan that falls within the bounds of the requirements of the law is an obstruction to the implementation of the law.

Section 102. Firearm and Bow Hunter Education and Safety Program grants

In 1970 and 1972, Congress added handgun and archery equipment respectively to the list of items taxed under the Pittman-Robertson program. At that time, Congress recognized the need to invest in the future of hunting and shooting and included language that allowed States to use up to 50 percent of the revenues collected from handgun and archery equipment for hunter education and shooting range development. While Congress recognizes that States have used a portion of the available money for these purposes, both hunter education and shooting range development are in need of additional investments if they are to meet the challenges of the 21st Century.

In making reforms to the administration of the Pittman-Robertson program in this legislation, the Committee recognized an opportunity to re-invest the savings realized by these reforms in hunter education, including bowhunter education, as well as shooting ranges, including archery ranges. As a result, the Committee included language that earmarks $15 million minus the amount used for administration and the multi-state grant program to enhance both hunter education and shooting range construction, which constitute some of the savings achieved by the reforms in the bill.

The Committee has reviewed the December 1996 "Review of the National Hunter Education Program with Recommendations for Improvement" and supports the conclusions of this report. In providing this additional money, the Committee intends for States to implement relevant recommendations from this report. In particular, the Committee suggests that this money be used by States to: hire additional staff for the hunter education program; provide additional materials for hunter education courses; enhance and modernize materials as needed; investigate new technologies and delivery methods; develop and evaluate home study courses; create advanced hunter education courses; perform programmatic evaluations and monitoring of hunter education classes; improve and enhance training for hunter education instructors; and provide controlled and supervised facilities for hands-on live firing experiences.

In addition, the Committee intends that this money will be used by States to provide convenient opportunities for recreational shooting. Accordingly, the Committee urges States to construct new firearms and archery ranges and enhance and modernize existing ranges with the additional funding.

It is the Committee's intent that this money will be used to *enhance* existing hunter education and shooting range programs, and expects States to use this money as a supplement to the Pittman-Robertson program dollars under Section 8(b) and other current sources of funding for both hunter education and shooting ranges. The Committee does not intend for this money to be used as a replacement for money already being spent on hunter education and shooting ranges under Section 8(b). The Committee intends to monitor the use of this money by States to ensure that they are following with Congressional intent.

In drafting this section of the legislation, the Committee specifically provided that the 25 percent match that is required for eligibility come from a non-federal source. In so doing, it is the Committee's intent that States will actively seek private partners from the conservation community, sportsmen's and hunting organizations, and the firearms and archery industry to provide all or part of this match and work in concert with these groups and organizations to meet the goals and challenges of hunter education and shooting range development in the 21st Century.

Under Section 102, a new Section 10(a)(B) of the Pittman-Robertson Wildlife Restoration Act would make eligible the Hunter and Bow Hunter Education and Safety Program grants for interstate coordination and development of hunter education programs.

In the course of resolving current concerns with the former administrative grants program, the Committee grew increasingly con-

cerned about the condition of hunter education and sporting firearm safety programs authorized under the existing Act. The Committee found broad sentiment from sportsmen's organizations that current state programs are under funded and have not received adequate attention from State agencies. As a result, many sportsmen's organizations believe that State hunter education programs have not delivered a consistent level of effort, with some State programs inadequate in content, format, accessibility and meaning.

The Committee shares these concerns, but was concerned about the lack of quantifiable data that would better identify gaps in hunter education efforts among and within the States that receive Pittman-Robertson dollars. There appears at this time to be no consistent set of data or evaluations that reveal which States' programs are meeting expectations, exceeding expectation, or falling short of expectations.

The partnership bond with sportsmen's organizations has helped make the Pittman-Robertson program a success for more than six decades. It is very important that these organizations and the states reinvigorate their efforts to work together using the monies provided under Sections 102 and 103.

The Committee reiterates that the public uses and benefits arising from Pittman-Robertson Act projects and programs remain important. Just like wildlife dependent recreation is now a priority public use of National Wildlife Refuge system lands, similar activities including hunting, fishing, field trials with dogs, hunter education, and improvement of hunting skills on lands and interests acquired or administered with wildlife restoration funds are an important beneficial feature of the program. Guidance that sets clear and reasonable standards and recognizes the long and consistent uses of wildlife management areas for activities such as trialing may be useful.

Section 103. Multi-State Conservation Grant Program

HR 3671 establishes a Multi-State Conservation Grant Program (MSCGP) for the Secretary of the Interior to make grants of up to $2.5 million from the revenues covered into the fund. The funds for the grants will be available for two fiscal years, after which all unobligated funds are to be approtioned to the States according to the apportionment formula. A project is eligible for funding if: (1) benefits at least 26 states, or (2) benefits a majority of the States in a region of the United States Fish and Wildlife Service or (3) a majority of the States in a regional association of State fish and game departments. The Secretary may award grants only based on a priority list of wildlife restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies (IAFWA) each fiscal year. The IAFWA shall prepare each prioirty list through a committee comprised of the heads of State fish and game departments (or their designees). Once the list is developed, it must be approved by a majority of the heads of all State fish and game deaprtments (or their designees) and submitted not later than Ocotber 1 of each fiscal year to the Assistant Director for Wildlife and Sport Fish Restoration Programs, who shall accept the list on behalf of the Secretary of the Interior. The Assistant Director for Wildlife and Sport

Fish Restoration Programs shall publish in the Federal Register each priority list submitted. In preparing the list, the IAFWA shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that support or pormote hunting, trapping, recreational shooting, bow hunting, or archery.

The Secretary may make a grant only to a State or a group of States or a nongovernmental organziation (NGO) subject to the following restrictions. Any NGO applying for a grant must submit with their grant application to the IAFWA a certification that the organization does not promote or encourage oppostion to regulated hunting or trapping of wildlife. The funds may not be used for education, activities, projects, or promgrams that promote or encourage opposition to regulated hunting or trapping of wildlife. Any NGO that is found to promote or encourage opposition to regulated hunting or trapping of wildlife or does not use the funds in compliance with the section shall return all funds received and be subject to any other penalties under law. No activities undertaken by the personnel of State fish and game departments shall constitute advice or recommendations for one or more agencies or officers of the federal government.

Section 104. Miscellaneous provisions

Section 5 of the Act is amended so that for each fiscal year the Secretary of the Interior shall certify to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be necessary for administration and the sum he has apportioned to each State at the time such deduction or apportionment is made.

Title II—Sport Fish Restoration

Section 201. Expenditures for administration

Expenditures for administration will be made after the distribution and use under Section 4 subsections (a) for the Coastal Wetlands Planning, Protection and Restoration Act, subsection (b) for projects under the Clean Vessel Act of 1992 and for projects under the Sportfishing and Boating Safety Act of 1998, recreational boating and safety programs, subsection (c) for funds for National Outreach and Communications Program, and grants under the Multi-State Conservation Program and Funding for the Marine Fisheries Commissions under Section 14. The Secretary may use up to $5,000,000 for administration of this program for fiscal years 2001, 2002, and 2003. Starting in fiscal year 2004, the Secretary may use an amount adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000.

The funds available to the Secretary for the administration of the Act will be available for only one fiscal year. Within sixty days of the end of the fiscal year, all unobligated funds will be returned to the States through the apportionment formula. In the past, the Secretary was able to carry over administration funds for two fiscal years. If after the two years, the funds were not used for administration and execution of the Acts, any remaining funds are to be apportioned back to the States for their use on restoration projects.

The Federal Aid Program has had left over funds from previous years and has not been allocating all of these funds to the states. Instead, they have been rolling the funds over and adding them to the administration funds for the next fiscal year—making more funds available for redistribution to non-Federal Aid Programs. For FY 1992–1998 only 18 percent of the carryover administrative funds were given to the States as required by law. In any given year, more funds are available to use in ways not envisioned by the Acts. For example: From FY 1992–1998 $32,805,402 in Wildlife and Sport Fish administrative funds were carried over. Of this amount only $6,048,576 was given back to the States and $26,756,826 stayed in the FWS. The remainder rolled over for use during the following year. The FWS was unable to account for which funds were rolled-over from one year to the next.

The Committee determined that the ability of the FWS to carry over the funds allowed them the latitude to spend administration funds on expenses not related to the administration of the Act. This latitude, combined with the poor fiscal management of the administration funds created an environment ripe for abuse.

HR 3671 creates a series of certifications by the Secretary of the Interior (who may delegate only to the Assistant Secretary for Fish and Wildlife and Parks) and the Assistant Director for Wildlife and Sport Fish Restoration Programs that will build in a series of checks and balances that will require the Fish and Wildlife Service to report on how they use administration funds. The certifications are described below:

The Secretary shall within 3 months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives, and the Committee on Environment and Public Works of the Senate the following for the fiscal year: (1) the amount of funds used for administration and a breakdown of categories for which such funds were expended, (2) the amount of funds apportioned to States not used for administration, (3) the results of the audits of the funds used for administration of the Act, (4) that all funds expended for administration were necessary for administration of the Act, and (5) the Secretary, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under the Act. This responsibility of the Secretary of the Interior to make these certifications may only be delegated to the Assistant Secretary for Fish and Wildlife and Parks.

Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall certify that: (1) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the FWS were used in accordance with the Act, (2) that all such expenditures were necessary to administer the Act, (3) distribute such certifications to each State fish and game department, and (4) publish this information in the Federal Register.

Use of funds to administer this Act will not be authorized just because the cost is not expressly prohibited by this Act. The FWS testified to the Committee that it has had broad discretionary authority under the law to spend the administration funds as it saw

fit. This working is designed to prevent the FWS using the fact that funding for an item was not prohibited as a reason to allow for the funding. In addition, the Secretary of the Interior is not allowed to use any of the administration funds to supplement any function for which general appropriations are made for the FWS or any other entity of the Department of the Interior.

The Inspector General of the Department of the Interior is required to procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of the expenditures of amounts used by the Secretary for administration of this Act. The auditor will be supervised by the Inspector General of the Department of the Interior. The auditor shall provide a copy of the audit findings to the Secretary of the Interior and to the Inspector General of the Department of the Interior, who will promptly report to the House Committee on Resources and the Committee on Environment and Public Works of the Senate. The audits may not be conducted by anyone associated in any way with the Department of the Interior.

H.R. 3671 establishes a list of twelve categories of authorized administration costs. Each is described below:

Personnel Costs (categories 1 and 2).—Personnel costs are limited to employees who directly administer the Acts on a full-time basis or on a part-time basis for at least 20 hours each week. The costs of part-time personnel are not to exceed the costs of employees who administer the Act on a full-time basis and the part-time hours are to be certified by the employee's supervisor. The Committee was concerned with the amount of administrative funds that were used to support the personnel costs of employees who were not involved in the administration of the Act. At both the Washington D.C. Office level and in the Regions, administrative funds were used to pay for personnel costs of employees who did not support the Act. The FWS used administrative funds from the Act to pay for salaries of employees they were unable to fund through the legitimate program or office of that employee, or by paying for some or all of the employee's personnel costs with administrative funds from the Act allowed funds normally used for the personnel costs to be used elsewhere in the organization.

Support Costs (category 3).—Support costs are limited to costs directly associated with the personnel costs authorized by categories 1 and 2 and does not include the costs associated with staffing and operation of any offices of the FWS and the Department of the Interior other than for purposes of the Act. Support costs, like personnel costs, of staff not involved with the administration of the Act were being paid with administration funds. This restriction is another means to prevent the FWS from covering costs with administration funds unrelated to the administration of the Act.

Costs Related to the Comprehensive Fish and Wildlife Resource Management Plans or Projects (category 4).—This category provides funds for the FWS to determine if comprehensive plans or projects are substantial in character and design.

Overhead Costs (category 5).—Overhead costs are limited to costs that are directly attributable to the administration of the Act and based on actual costs as determined by a direct cost allocation methodology and approved by the Director of the Office of Manage-

ment and Budget for use by federal agencies and for costs not able to be determined by a direct cost methodology, the amount charged may not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the FWS.

The Committee discovered that the FWS used a method to "assess" the Federal Aid Program that resulted in a disproportionally high percentage of the funds available for administration of the Federal Aid Program to make up for a shortfall in appropriated and recovered dollars for the funding of General Administrative Services overhead.

The FWS derives funds from three sources to meet its service-wide administrative support expenses (overhead): appropriated funds, reimbursements, and cost recovery from non-resource management programs (11 programs including the Federal Aid Program pay into this source).

For example, in fiscal year 1998, the FWS received about $55.5 million for service-wide administrative support. About $47.8 million came from appropriated funds and collections on reimbursements. Of the remaining $7.7 million—cost recovery from non-resource management accounts—the Federal Aid Program paid $4.7 million. In reality, however, Federal Aid's contribution to the FWS's overhead expenses had nothing to do with the Federal Aid Programs' cost to the FWS.

To put the Federal Aid Program's contribution in perspective, Federal Aid paid 61 percent of the cost recovery from non-resource management programs. While the overhead cost paid for each FWS employee is about $7,000, the overhead cost paid by Federal Aid for each Federal Aid employee is about $30,000.

The FWS had assessed the Wildlife Restoration Program and the Sport Fish Restoration Program on the total amount of funds allowable under the law—the entire eight percent and six percent irrespective of what percentage of the funds were actually used for administration and execution. So, for example, in the years that administration and execution funds were only five percent of the Wildlife Restoration Program and five percent of the Sport Fish Restoration Program, the FWS still based its assessment on the entire eight percent and six percent. This allowed the FWS to use this money on non-conservation, non-authorized projects and programs.

The FWS defended this practice by stating that all non-resource management programs were "assessed" the same percentage. This method takes unfair advantage of programs that have the most administrative funds at their disposal and in no way approximates true overhead costs for the Federal Aid Program. At issue is that when the Federal Aid program pays more than its fair share of overhead, wildlife and sport fish conservation suffer.

Costs of Auditing State Fish and Game Departments and the Use of State Apportionments (category 6).—The costs to audit the State Fish and Game Departments and their use of the State apportionment funds every five years is allowable. An important component of administration is the auditing of the States' use of the apportioned funds. This will ensure that the States are using the funds as intended under the Acts. Another important component of

the auditing process is the audit resolution process. It is necessary that once the audits are completed that an audit resolution process is implemented. It is important that if diversions of license fees or of apportioned funds is found, the matter is resolved. It has come to the attention of the Committee that under the current audit resolution process there is an inconsistency with how the audits are resolved. The resolutions being promoted are not consistent from State to State. For example, when one State was been found to improperly use apportioned funds, it was asked to repay the amount to the program. Another State, found to have also improperly used apportioned funds, was not asked to repay the funds to the program. It is imperative that the resolution to the audits are uniform throughout the United States and that all States are treated equally and fairly under the audit resolution process.

Costs of Audits of the Administration of the Acts (category 7).—The Inspector General of the Department of the Interior shall procure biennial audits of expenditures of amounts used by the Secretary for administration of the Act. The audit contract will be awarded under competitive procedures and performed by a person that is not associated in any way with the Department of the Interior. The auditor will be supervised by the Inspector General. The auditor shall submit a report of the findings to the Inspector General and the Secretary of the Interior. The Inspector General will then promptly report to the Committee on Resources of the House of Representative and the Committee on Environment and Public Works of the Senate on the results of each audit.

The Committee was greatly concerned to discover that the FWS never conducted an audit of the funds used to administer the Act. Conducting an audit of the use of the administration funds would have been good fiscal management of the program. Had such an audit been conducted, perhaps it could have prevented the use of administration funds for expenses unrelated to administration of the Act. It is the opinion of the Committee that it is imperative that these audits are conducted and that actions are taken based on the findings of these audits to correct any inconsistencies or problems.

Costs of Necessary Training (category 8).—Training costs to improve administration of the Act are allowed for federal and State full-time personnel who administer the Act.

Training is important to ensure that people are properly trained for the jobs they are hired to perform. Training offered for courses that would provide better administration of the Federal Aid Program are permissible. The Committee discovered that in addition to training for appropriate administrative-type skills, Federal Aid administrative funds were used to provide training that clearly falls outside of what is necessary for the administration of the Program. For example, training was offered and paid for with Federal Aid Program administrative funds for the following: Systematic Development of Informed Consent, Mourning Dove Workshop, Fish Stock Assessment, Stream Classification and Gravel Mining Workshop, Citizen Participation by Objective, Fundamentals of Ecosystem Management, Comprehensive Accessibility Planning for Parks, Recreation and Tourism and Media Relations. These courses may have been important, but they did not improve the adminis-

tration of the Act and it was not appropriate to fund them with administration funds.

The Committee is concerned about the method the Fish and Wildlife Service will use to train eligible personnel. The FWS has provided to the Committee documentation that it plans to offer a centralized training program at the National Conservation Training Center for eligible personnel. A centralized training program is not what the Committee intends by necessary training. Training classes and workshops that provide eligible personnel with information and skills that will allow them to better administer the programs is the intent of the Committee. The Committee is concerned that creation of such a program will be not to train eligible personnel in administration, but used as a way to cover the costs of training unrelated to the administration of the Act or training of ineligible employees.

Costs of Travel to the States, Territories and Canada (category 9).—Travel costs for personnel who administer the Act on a full-time basis for purposes directly related to administration of State programs or projects or who administer the Firearm and Bow Hunter Education Grants Program or the Multi-State Conservation Grant Program. The Committee discovered that travel was being funded with administration funds that was unrelated to the administration of the programs.

Costs of Travel Outside of the United States (category 10).—Travel costs that related to the administration of the Acts by personnel who administer the Acts on a full-time basis are allowed if it is approved directly by the Assistant Secretary for Fish and Wildlife and Parks. This does however, not restrict the travel of Federal Aid Program employees to travel internationally to assist in issues related to sport fish restoration. It only restricts the funding of that travel—it cannot be funded with administration funds. The Committee discovered many trips to international destinations for matters unrelated to the administration of the Act. For example, trips were made to foreign countries to encourage them to develop their own Sport Fish Restoration Program. Although it is important that other countries develop similar programs, it is not a function that should be funded with administration funds. Such travel costs clearly fall within the responsibility of the FWS's International Affairs Office.

Relocation Expenses (category 11).—Relocation expenses for personnel who, after they relocate will administer the Act on a full-time basis for at least one year. At the time the relocation expenses are incurred, the Director of the FWS will have to certify that the employee will administer the Act on a full-time basis for a least one year. The Committee discovered that administration funds were being used to relocate personnel who did not administer the programs. Again, the FWS was using administration funds to pay for other expenses within the agency. For example, in one Region, administration funds were used to relocate the Deputy Regional Director.

Costs to Administer Grants (category 12).—Costs to audit, evaluate, approve, disapprove, and advise concerning grants to the States under the State apportionments, Marine Fisheries Commission Grants and Multi-State Conservation Grants. The intent of the

Committee is that funds are used to determine whether or not the grants fit within the criteria established under the Act and that the proper fiscal management and accountability of the grants is maintained. The process for approval does not include a programmatic review of the grants. The role of the FWS is not to make programmatic determinations regarding the grants, but instead whether they are substantial in character and design.

In the course of streamlining the process for administering the Sport Fish Trust funds in the Regions, the Committee grew increasingly concerned about allegations that the staff responsible for administering the apportionments to the States used their ability to control the time it took for projects or plans to be approved as a means of retribution for actions States may or may not have taken that were not considered by the Service to be appropriate. The allegations were not limited to actions States took with regard to the Sport Fish Restoration Trust Funds. In some cases, actions taken by States regarding land use, wildlife or sport fish management unrelated to the Sport Fish Trust Funds, for example, were seen to be the catalyst for actions taken by the FWS related to the length of time it took to process grant applications or approve grant applications. Additional allegations have surfaced of the FWS using the approval process for State apportionments to advance the restoration and conservation goals of the FWS on the States. The Act was not designed as a tool for the FWS to further its mission for or in the States. Instead, it was established to provide States with funding for State sport fish restoration projects that are necessary from the States' perspective for the effective management of sport fish.

The administration of the Sport Fish Trust Fund should not be used by the FWS to further an independent agenda. Instead, the States are to decide, within the requirements of the Act, how to spend the apportioned funds. Interference by the FWS in any way to negatively impact the timing or approval of any project or plan that falls within the bounds of the requirements of the law is an obstruction to the implementation of the laws.

Section 202. Multi-State Conservation Grant Program

H.R. 3671 establishes a Multi-State Conservation Grant Program (MSCGP) for the Secretary of the Interior to make grants of up to $2.5 million from the revenues covered into the fund. The funds for the grants will be available for two fiscal years, after which all unobligated funds are to be apportioned to the States according to the apportionment formula. A project is eligible for funding if: (1) benefits at least 26 states, or (2) benefits a majority of the States in a region of the United States Fish and Wildlife Service or (3) a majority of the States in a regional association of State fish and game departments. The Secretary may award grants only based on a priority list of sport fish restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies (IAFWA) each fiscal year. The IAFWA shall prepare each priority list through a committee comprised of the heads of State fish and game departments (or their designees). Once the list is developed, it must be approved by a majority of the heads of all State fish and game de-

partments (or their designees) and submitted not later than October 1 of each fiscal year to the Assistant Director for Wildlife and Sport Fish Restoration Programs, who shall accept the list on behalf of the Secretary of the Interior. The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted. In preparing the list, the IAFWA shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that fund the Sport Fish Restoration Programs.

The Secretary may make a grant only to a State or a group of States or a nongovernmental organization (NGO) subject to the following restrictions. Any NGO applying for a grant must submit with their grant application to the IAFWA a certification that the organization does not promote or encourage opposition to regulated taking of fish. The funds may not be used for education, activities, projects, or programs that promote or encourage opposition to regulated taking of fish. Any NGO that is found to promote or encourage opposition to the regulated taking of fish does not use the funds in compliance with the section shall return all funds received and be subject to any other penalties under law. No activities undertaken by the personnel of State fish and game departments shall constitute advice or recommendations for 1 or more agencies or officers of the federal government.

The aiding in the formulation of, adoption and or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters was established in Dingell-Johnson. H.R. 3671 eliminates that broad language and establishes a funding level of $200,000 for each of the following: the Atlantic Marine Fisheries Commission, the Gulf States Marine Fisheries Commission and the Pacific States Marine Fisheries Commission and the Great Lakes Fisheries Commission. It is the intention of the Committee that all funds received by these Commissions will be used for expenses related to conservation and management of migratory fishes in marine or freshwaters between States and not for use with other countries. The FWS began to fund the Atlantic Marine Fisheries Commission, the Gulf States Marine Fisheries Commission and the Pacific States Marine Fisheries Commission at a level of $200,000 a year. The Committee discovered that as the administration funds became scarce (due to the use by the FWS for expenses unrelated to the administration of the Program), the FWS began to cut back on the funding to the Commissions. To preserve the funding of compacts between two or more States, H.R. 3671 has detailed the funding to the Commissions.

Section 203. Certifications

Section 5 of the Dingell-Johnson Sport Fish Restoration Act is amended so that for each fiscal year the Secretary of the Interior shall certify to the Secretary of the Treasury and to each State fish and game department the sum which the Secretary has estimated to be necessary for administration and the sum he or she has apportioned to each State at the time such deduction or apportionment is made.

Within 30 days after the end of each fiscal year, the Secretary of the Interior shall certify in writing to the Secretary of the Treas-

ury and to each State fish and game department the amount apportioned to each State in the most recent apportionment and the amounts obligated by the Secretary of the Interior during the fiscal year for administration of the Act. These amounts are also to be published in the Federal Register.

Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives, and the Committee on Environment and Public Works of the Senate and publish in the Federal Register the following for the fiscal year: (1) the amount of funds that will be expended for administration, (2) a breakdown of categories for which such funds will be expended, and (3) a description of how the funds are necessary for the administration of the Acts.

Section 204. Period of availability

Section 4(f) is amended by removing the authority of the Secretary to use any unexpended sum available for expenditure by the Secretary of the Interior in carrying out the research program of the FWS in respect to fish of material value for sport or recreation.

Title III—Wildlife and Sport Fish Restoration Programs

Section 301. Designation of programs

H.R. 3671 designated that the programs established under the Wildlife Restoration Act and the Sport Fish Restoration Act are to be collectively referred to as the Federal Assistance Program for State Wildlife and Sport Fish Restoration Programs. The reference to the programs as the Federal Aid Program has supported a culture within the FWS that the revenues collected for Wildlife and Sport Fish Restoration belong to the FWS. There is a misconception regarding whose money it is. The revenues collected are from excise taxes placed on ammunition, firearms, archery equipment and fishing equipment paid for by sportsmen and women. These monies are paid so that State game and fish departments could use it for wildlife and sport fish restoration projects.

Section 302. Assistant Director for Wildlife and Sport Fish Restoration Programs

H.R. 3671 establishes an Assistant Director for Wildlife and Sport Fish Restoration Programs (Assistant Director). The lack of representation at the Directorate level of the FWS added to the environment that allowed the administration funds to be spent on expenses not related to the administration of the programs. The Assistant Director will report directly to the Director. In addition, the individuals in the Regional offices who are responsible for administering the Wildlife and Sport Fish Restoration Programs will also report to the Assistant Director. The Assistant Director will only be responsible for the administration, management and oversight of the Federal Assistance Program for State Wildlife and Sport Fish Restoration Programs.

Section 303. Chief of the Division of Federal Aid

The Chief of the Division of Federal Aid or any similar position is abolished and all duties shall be the responsibility of the Assistant Director for Wildlife and Sport Fish Restoration Programs (Assistant Director). By creating an Assistant Director whose sole responsibility is the Federal Assistance Program for State Wildlife and Sport Fish Restoration Programs, the position of the Chief is unnecessary.

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 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, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill could affect the timing of outlays from direct spending authority but the net impact on the federal budget would not be significant in any year.

3. Government Reform Oversight Findings.—Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 23, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3671, the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs) and Keith Mattrick (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3671—Wildlife and Sport Fish Restoration Programs Improvement Act of 2000

CBO estimates that enacting H.R. 3671 would have no net impact on the federal budget. Because the bill could affect the timing of outlays from direct spending authority, pay-as-you-go procedures would apply. We estimate, however, that the net impact on federal spending would not be significant in any year. H.R. 3671 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.R. 3671 would impose a new private-sector mandate on the International Association of Fish and Wildlife Agencies. Based on information provided by the association and the U.S. Fish and Wildlife Service, CBO estimates that the direct costs of complying with the new mandate would fall well below the threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

H.R. 3671 would amend the Federal Aid in Wildlife Restoration Act and the Federal Aid in Sport Fish Restoration Act to reduce the amounts that may be spent for administering grants or fish and wildlife restoration. Specifically, for each of the two grant programs carried out under these acts, the bill would limit spending for administrative expenses to $5 million annually through fiscal year 2003, and $7 million annually, adjusted for inflation, thereafter.

Under existing law, the amounts set aside for such expenses are calculated as a percentage of total deposits to the two funds each year. The annual deposits consist of excise taxes (primarily on fishing and hunting equipment), import duties, and interest earnings. All such amounts, including those used for administration, are available without appropriation in the year following deposit. The U.S. Fish and Wildlife Service, which oversees both programs, spends 8 percent annually to administer the federal aid-wildlife program ($14 million in 1999) and 6 percent to administer the sport fish program ($17 million in 1999). By capping administrative costs, the bill would reduce such costs in the future, however, this

savings would be offset by an equal amount of additional grant expenditures.

The bill also would create a new program for hunting education and safety, to be funded with up to $7.5 million of each year's revenues. In addition, it would set aside up to $2.5 million from each of the two funds for multi-state conservation grants. Finally, H.R. 3671 would establish within the U.S. Fish and Wildlife Service an assistant director for wildlife and sport fish restoration programs. The salary of the assistant director, who would directly administer these programs on a full-time basis, would be paid from the two funds. These new authorized expenditures would not increase the total amount of spending for fish and wildlife restoration.

The bill would impose a private-sector mandate by requiring that the International Association of Fish and Wildlife Agencies prepare and submit priority lists for projects to be funded by the new multi-state conservation grant program. As the association has voluntarily performed a similar role for the Department of the Interior in the past, however, CBO estimates that the direct costs imposed by that mandate would not be significant.

The CBO staff contacts are Deborah Reis (for federal costs) and Keith Mattrick (for the private-sector impacts). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates, as defined under Public Law 104–4.

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):

ACT OF SEPTEMBER 2, 1937

(Popularly known as the "Federal Aid in Wildlife Restoration Act" and the "Pittman-Robertson Wildlife Restoration Act")

AN ACT To provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes.

* * * * * * *

[SEC. 4. (a) So much, not to exceed 8 per centum, of the revenues (excluding interest accruing under section 3(b)) covered into said fund in each fiscal year as the Secretary of the Interior may estimate to be necessary for his expenses in the administration and execution of this Act and the Migratory Bird Conservation Act shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within sixty days after the close of such fiscal year

the Secretary of the Interior shall apportion such part thereof as remains unexpended by him, if any, and make certificate thereof to the Secretary of the Treasury and to the State fish and game departments on the same basis and in the same manner as is provided as to other amounts authorized by this Act to be apportioned among the States for such current fiscal year.]

ALLOCATION AND APPORTIONMENT OF AVAILABLE AMOUNTS

SEC. 4. (a) SET-ASIDE FOR ADMINISTRATION.—(1) Of the revenues (excluding interest accruing under section 3(b)) covered into the fund in each fiscal year, up to $5,000,000 may be used by the Secretary for expenses to administer this Act, in accordance with this subsection and section 9 in each of the fiscal years 2001, 2002, and 2003. Of the revenues (excluding interest accruing under section 3(b)) covered into the fund in each fiscal year, beginning in fiscal year 2004, such amount, adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000, may be used by the Secretary for expenses to administer this Act, in accordance with this subsection and section 9.

(2)(A) The amount authorized to be used by the Secretary under paragraph (1) each fiscal year shall remain available for obligation for such use until the expiration of that fiscal year. Within 60 days after that fiscal year, the Secretary shall apportion among the States any of the amount that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts authorized by this Act are apportioned among the States for the fiscal year in which the apportionment is made.

(B) Within 30 days after the end of each fiscal year, the Secretary shall—

(i) certify in writing to the Secretary of the Treasury and to each State fish and game department—

(I) the amount apportioned under subparagraph (A) to each State in the most recent apportionment under that subparagraph; and

(II) amounts obligated by the Secretary during the fiscal year for administration of this Act; and

(ii) publish in the Federal Register the amounts so certified.

(b) APPORTIONMENT TO STATES.—The Secretary of the Interior, [after making the aforesaid deduction, shall apportion, except as provided in subsection (b) of this section,] *after deducting the amount authorized to be used under subsection (a), the amount apportioned under subsection (c), any amount apportioned under section 8A, and amounts provided as grants under sections 10 and 11, shall apportion* the remainder of the revenue in said fund for each fiscal year among the several States in the following manner: One-half in the ratio which the area of each State bears to the total area of all the States, and one-half in the ratio which the number of paid hunting-license holders of each State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the total number of paid hunting-license holders of all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than one-half of 1 per centum nor more than 5 per centum of the total amount apportioned.

The term fiscal year as used in this Act shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of paid hunting-license holders shall be a State's fiscal or license year.

[(b)**]** *(c)* One-half of the revenues accruing to the fund under this Act each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States: *Provided*, That each State shall be apportioned not more than 3 per centum and not less than 1 per centum of such revenues and Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues. For the purpose of this subsection, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce.

SEC. 5. For each fiscal year, the Secretary of the Interior shall certify to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be deducted for administering and executing this Act and the Migratory Bird Conservation Act and the sum which he has apportioned to each State*, at the time such deduction or apportionment is made*. Any State desiring to avail itself of the benefits of this Act shall notify the Secretary of the Interior to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of the Interior as herein provided is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act.

* * * * * * *

[SEC. 9. Out of the deductions set aside for administering and executing this Act and the Migratory Bird Conservation Act, the Secretary of Agriculture is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service; to rent or construct buildings outside of the city of Washington; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the purposes of this Act.**]**

REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION

SEC. 9. (a) AUTHORIZED ADMINISTRATIVE COSTS.—The Secretary may use amounts under section 4(a)(1) only for administration expenses that directly support the implementation of this Act and that consist of any of the following:

(1) Personnel costs of any employee who directly administers this Act on a full-time basis.

(2) Personnel costs of any employee who directly administers this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of such costs incurred with respect to

the work hours of such employee during which the employee directly administers this Act, as such hours are certified by the supervisor of the employee.

(3) Support costs directly associated with personnel costs authorized under paragraphs (1) and (2) of this subsection not including costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior, other than for purposes of this Act.

(4) Costs to evaluate, approve, disapprove, and advise concerning comprehensive fish and wildlife resource management plans under section 6(a)(1) and wildlife restoration projects under section 6(a)(2).

(5) Overhead costs, including general administrative services, that are directly attributable to administration of this Act based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

(B) for those costs not determinable pursuant to subparagraph (A), an amount per full-time equivalent employee authorized pursuant to paragraphs (1) and (2) that does not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service.

(6) Costs incurred in auditing the wildlife and sportfish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department every 5 years.

(7) Costs of audits under subsection (d).

(8) Costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act.

(9) Costs of travel to the States, territories, and Canada by personnel who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, or who administer grants under section 6, section 10, or section 11.

(10) Costs of travel outside of the United States (except travel to Canada) that relates directly to administration of this Act and that is approved directly by the Assistant Secretary for Fish and Wildlife and Parks.

(11) Relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time such relocation expenses are incurred.

(12) Costs to audit, evaluate, approve, disapprove, and advise concerning grants under section 6, section 10, or section 11.

(b) UNAUTHORIZED COSTS.—Use of funds for a cost to administer this Act shall not be authorized because the cost is not expressly prohibited by this Act.

(c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary may not use amounts under section 4(a)(1) to supplement any function for which general appropriations are made

for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) AUDIT REQUIREMENT.—(1) The Inspector General of the Department of the Interior shall procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of expenditures of amounts used by the Secretary for administration of this Act.

(2) Audits under this subsection shall be performed under contracts that are awarded under competitive procedures (as that term is defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), by a person that is not associated in any way with the Department of the Interior.

(3) The auditor selected pursuant to paragraph (1) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary at the time such findings are submitted to the Inspector General of the Department of the Interior.

(4) The Inspector General of the Department of the Interior shall promptly report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of each such audit.

(e) CERTIFICATION BY SECRETARY.—(1) The Secretary shall within 3 months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

(A) The amount of funds used under section 4(a)(1) and a breakdown of categories for which such funds were expended.

(B) The amount of funds apportioned to States under section 4(a)(2).

(C) The results of the audits performed pursuant to subsection (d).

(D) That all funds expended under section 4(a)(1) were necessary for administration of this Act.

(E) The Secretary, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under this Act.

(2) The Secretary may not delegate the responsibility to make certifications under paragraph (1) except to the Assistant Secretary for Fish and Wildlife and Parks.

(3) Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

(A) The amount of funds that will be expended in the fiscal year under section 4(a)(1) and a breakdown of categories for which such funds will be expended.

(B) A description of how the funds to be expended are necessary for administration of this Act.

(4) The Secretary shall promptly publish in the Federal Register each certification under this subsection.

(f) CERTIFICATION BY ASSISTANT DIRECTOR FOR WILDLIFE AND SPORT FISH RESTORATION PROGRAMS.—Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall—

(1) certify that—

(A) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the United State Fish and Wildlife Service were used in accordance with this Act; and

(B) all such expenditures were necessary to administer this Act; and

(2) distribute such certifications to each State fish and game department.

FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS

SEC. 10. (a) IN GENERAL.—Of the revenues covered into the fund in each fiscal year, $15,000,000, less the amount used under section 4(a) and the amount granted under section 11(a)(1), shall be apportioned among the States in the manner specified in section 4(b) by the Secretary for the following:

(1) Grants to States for the enhancement of hunter education programs, hunter and sporting firearm safety programs, and hunter development programs.

(2) Grants for the enhancement of interstate coordination and development of hunter education programs.

(3) Grants to States for the enhancement of bow hunter and archery education, safety, and development programs.

(4) Grants to States for the enhancement of construction or enhancement of firearm shooting ranges and archery ranges, and updating safety features of firearm shooting ranges and archery ranges.

(b) COST-SHARING.—The Federal share of the cost of any activity carried out with a grant under this section may not exceed 75 percent of the total cost of the activity and the remainder of the cost shall come from a non-Federal source.

(c) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—Amounts available under this subsection shall remain available for 1 fiscal year, after which all unobligated balances shall be apportioned among the States in the manner specified in section 4(b).

MULTI-STATE CONSERVATION GRANT PROGRAM

SEC. 11. (a) IN GENERAL.—(1) Up to $2,500,000 of the revenues covered into the fund each fiscal year shall be available to the Secretary for making multi-State conservation grants in accordance with this section.

(2) Amounts available under this subsection shall remain available for two fiscal years, after which all unobligated balances shall be apportioned in the manner specified in section 4(b).

(b) SELECTION OF PROJECTS.—(1) A project shall not be eligible for a grant under this section unless it will benefit at least 26 States, a majority of the States in a region of the United States Fish and Wildlife Service, or a regional association of State fish and game departments.

(2) The Secretary may award grants under this section based only on a priority list of wildlife restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies each fiscal year in accordance with paragraph (3).

(3)(A) The International Association of Fish and Wildlife Agencies shall—

(i) prepare each priority list through a committee comprised of the heads of State fish and game departments (or their designees);

(ii) approve each priority list by a majority of the heads of all State fish and game departments (or their designees); and

(iii) submit each priority list by not later than October 1 of each fiscal year to the Assistant Director for Wildlife and Sport Fish Restoration Programs, who shall accept such list on behalf of the Secretary.

(B) In preparing any priority list under this paragraph, the International Association of Fish and Wildlife Agencies shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that support or promote hunting, trapping, recreational shooting, bow hunting, or archery.

(4) The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under this subsection.

(c) ELIGIBLE GRANTEES.—(1) The Secretary may make a grant under this section only to—

(A) a State or group of States; or

(B) subject to paragraph (2), a nongovernmental organization.

(2) Any nongovernmental organization applying for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization does not promote or encourage opposition to regulated hunting or trapping of regulated wildlife, and will use any funds awarded pursuant to this section in compliance with subsection (d).

(3) Any nongovernmental organization that is found to promote or encourage opposition to regulated hunting or trapping of regulated wildlife or does not use funds in compliance with subsection (d) shall return all funds received and be subject to any other penalties under law.

(d) USE OF GRANTS.—Amounts provided as a grant under this section may not be used for education, activities, projects, or programs that promote or encourage opposition to regulated hunting or trapping of regulated wildlife.

(e) CLARIFICATION.—No activities undertaken by the personnel of State fish and game departments under this section shall constitute advice or recommendations for 1 or more agencies or officers of the Federal Government.

SEC. [10.] *12.* The Secretary of Agriculture is authorized to make rules and regulations for carrying out the provisions of this Act.

ACT OF AUGUST 9, 1950

(Popularly known as the "Federal Aid in Fish Restoration Act", the "Fish Restoration and Management Projects Act", and the "Dingell-Johnson Sport Fish Restoration Act")

AN ACT To provide that the United States shall aid the States in fish restoration and management projects, and for other purposes.

* * * * * * *

SEC. 4. (a) * * *

* * * * * * *

[(d) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act, for an outreach and communications program and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year. Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section 8(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.]

"(d)(1) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section and section 14, up to $5,000,000 may be used by the Secretary of the Interior for expenses in accordance with this subsection and section 9 in each of the fiscal years 2001, 2002, and 2003. Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a), (b), and (c) of this section and section 14, beginning in fiscal year 2004, such amount, adjusted annually to reflect the changes in the Consumer Price Index, not to exceed $7,000,000, may be used by the Secretary of the Interior for expenses in accordance with this subsection and section 9.

(2) The amount authorized to be used by the Secretary under paragraph (1) each fiscal year shall remain available for obligation for such use until the expiration of that fiscal year. Within 60 days after the end of that fiscal year, the Secretary shall apportion any of the amount that remains unobligated at the end of the fiscal year on the same basis and in the same manner as other amounts authorized by this Act are apportioned among the States under section 4(e) for the fiscal year in which the apportionment is made.

(e) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d) *of this section and section 14*, respectively, shall apportion the remainder of each such annual appropriation among the several States in the following manner: 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than $4,500 annually, the Secretary of the Interior may allocate not more than $4,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes.

(f) ⟦So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.⟧ The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

⟦SEC. 5.⟧

CERTIFICATIONS

SEC. 5. (a) ADMINISTRATIVE DEDUCTION AND STATE APPORTIONMENTS.—For each fiscal year beginning with the fiscal year ending June 30, 1951, the Secretary of the Interior shall certify to the Secretary of the Treasury, and to each State fish and game department, the sum which he has estimated to be deducted for administering and executing this Act and the sum which he has apportioned to each State for such fiscal year*, at the time such deduction or apportionment is made.*

(b) FISCAL YEAREND CERTIFICATION BY SECRETARY.—Within 30 days after the end of each fiscal year, the Secretary of the Interior shall—

(1) certify in writing to the Secretary of the Treasury and to each State fish and game department—

(A) the amount apportioned under section 4(d)(2) to each State in the most recent apportionment under that section for that fiscal year; and

(B) amounts obligated by the Secretary during the fiscal year for administration of this Act; and

(2) publish in the Federal Register the amounts so certified.

(c) CERTIFICATION BY ASSISTANT DIRECTOR.—(1) Within 60 days after the start of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall provide to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

(A) The amount of funds that will be expended in the fiscal year under section 4(d)(2) and a breakdown of categories for which such funds will be expended.

(B) A description of how the funds to be expended are necessary for administration of this Act.

(2) The Secretary of the Interior shall promptly publish in the Federal Register each certification under this subsection.

* * * * * * *

[SEC. 9. Out of the deductions set aside for administering and executing this Act the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the civil service; to rent or construct buildings outside of the District of Columbia; to purchase such supplies, materials, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including publication of technical and administrative reports, purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the provisions of this Act.]

REQUIREMENTS AND RESTRICTIONS REGARDING USE OF AMOUNTS FOR ADMINISTRATION

SEC. 9. (a) AUTHORIZED ADMINISTRATION COSTS.—The Secretary of the Interior may use amounts under section 4(d) only for administration expenses that directly support the implementation of this Act and that consist of any of the following:

(1) Personnel costs of any employee who directly administers this Act on a full-time basis.

(2) Personnel costs of any employee who directly administers this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of such costs incurred with respect to the work hours of such employee during which the employee directly administers this Act, as such hours are certified by the supervisor of the employee.

(3) Support costs directly associated with personnel costs authorized under paragraphs (1) and (2).

(4) Costs to evaluate, approve, disapprove, and advise concerning comprehensive fish and wildlife resource management plans under section 6(a)(1) and fish restoration and management projects under section 6(a)(2).

(5) Overhead costs, including general administrative services, that are directly attributable to administration of this Act based on—

(A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and

(B) for those costs not determinable pursuant to subparagraph (A), an amount per full-time equivalent employee authorized pursuant to paragraphs (1) and (2) that does not exceed the amount charged or assessed for such costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service.

(6) Costs incurred in auditing the wildlife and sport fish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department every 5 years.

(7) Costs of audits under subsection (d).

(8) Costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act.

(9) Costs of travel to the States, territories, and Canada by personnel who administer this Act on a full-time basis for purposes directly related to administration of State programs or projects, or who administer grants under section 6 or section 14.

(10) Costs of travel outside of the United States (except travel to Canada) that relates to administration of this Act and that is approved directly by the Assistant Secretary for Fish and Wildlife and Parks.

(11) Relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time such relocation expenses are incurred.

(12) Costs to audit, evaluate, approve, disapprove, and advise concerning grants under section 6 and section 14.

(b) UNAUTHORIZED COSTS.—Use of funds for a cost to administer this Act shall not be authorized because the cost is not expressly prohibited by this Act.

(c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary may not use amounts under section 4(d) to supplement any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) AUDIT REQUIREMENT.—(1) The Inspector General of the Department of the Interior shall procure the conduct of biennial audits, in accordance with generally accepted accounting principles, of expenditures of amounts used by the Secretary for administration of this Act.

(2) Audits under this subsection shall be performed under contracts that are awarded under competitive procedures (as that term is defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), by a person that is not associated in any way with the Department of the Interior.

(3) The auditor selected pursuant to paragraph (1) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the Interior at the time such

findings are submitted to the Inspector General of the Department of the Interior.

(4) The Inspector General of the Department of the Interior shall promptly report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the results of each such audit.

(e) CERTIFICATION BY SECRETARY.—(1) The Secretary of the Interior shall within 3 months after each fiscal year certify in writing to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate the following for the fiscal year:

(A) The amount of funds used under section 4(d) and a breakdown of categories for which such funds were expended.

(B) The amount of funds apportioned to States under section 4(d)(2)(A).

(C) The results of the audits performed pursuant to subsection (d).

(D) That all funds expended under section 4(d) were necessary for administration of this Act.

(E) The Secretary, Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Assistant Director for Wildlife and Sport Fish Restoration Programs each properly discharged their duties under this Act.

(2) The Secretary may not delegate the responsibility to make certifications under paragraph (1) except to the Assistant Secretary for Fish and Wildlife and Parks.

(3) The Secretary shall promptly publish in the Federal Register each certification under this subsection.

(f) CERTIFICATION BY ASSISTANT DIRECTOR FOR WILDLIFE AND SPORT FISH RESTORATION PROGRAMS.—Within 1 month after the end of each fiscal year, the Assistant Director for Wildlife and Sport Fish Restoration Programs shall—

(1) certify that—

(A) all amounts expended in that fiscal year to administer this Act in agency headquarters and in regional offices of the United States Fish and Wildlife Service were used in accordance with this Act; and

(B) all such expenditures were necessary to administer this Act; and

(2) distribute such certifications to each State fish and game department.

* * * * * * *

[SEC. 13. The effective date of this Act shall be July 1, 1950.]

MULTI-STATE CONSERVATION GRANT PROGRAM

SEC. 14. (a) IN GENERAL.—(1) Of the balance of each annual appropriation made in accordance with section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 each fiscal year, up to $2,500,000 shall be available to the Secretary of the Interior for making multi-State conservation grants in accordance with this section.

(2) Amounts available under this subsection shall remain available for 2 fiscal years, after which all unobligated balances shall be apportioned in the manner specified in section 4(e).

(b) SELECTION OF PROJECTS.—(1) A project shall not be eligible for a grant under this section unless it will benefit at least 26 States, a majority of the States in a region of the Fish and Wildlife Service, or a regional association of State fish and game departments.

(2) The Secretary of the Interior may award grants under this section based only on a priority list of sportfish restoration projects prepared and submitted by State fish and game departments acting through the International Association of Fish and Wildlife Agencies each fiscal year in accordance with paragraph (3).

(3)(A) The International Association of Fish and Wildlife Agencies shall—

(i) prepare each priority list through a committee comprised of the heads of State fish and game departments (or their designees);

(ii) approve each priority list by a majority of the heads of State fish and game departments (or their designees); and

(iii) submit each priority list by not later than October 1 of each fiscal year to the Secretary of the Interior.

(B) In preparing any priority list under this paragraph, the International Association of Fish and Wildlife Agencies shall consult with nongovernmental organizations that represent conservation organizations, sportsmen organizations, and industries that fund the Sport Fish Restoration Programs.

(4) The Assistant Director for Wildlife and Sport Fish Restoration Programs shall publish in the Federal Register each priority list submitted under this subsection.

(c) ELIGIBLE GRANTEES.—(1) The Secretary of the Interior may make a grant under this section only to—

(A) a State or group of States; or

(B) subject to paragraph (2) a nongovernmental organization.

(2) Any nongovernmental organization applying for a grant under this section shall submit with the application to the International Association of Fish and Wildlife Agencies a certification that the organization does not promote or encourage opposition to the regulated taking of fish and will use any funds awarded pursuant to this section in compliance with subsection (d).

(3) Any nongovernmental organization that is found to promote or encourage opposition to the regulated taking of fish or does not use funds in compliance with subsection (d) shall return all funds received and be subject to any other penalties under law.

(d) USE OF GRANTS.—Amounts provided as a grant under this section may not be used for education, activities, projects, or programs that promote or encourage opposition to the regulated taking of fish.

(e) CLARIFICATION.—No activities undertaken by the personnel of State fish and game departments, other State agencies, or organizations of State fish and game departments under this section shall constitute advice or recommendations for 1 or more agencies or officers of the Federal Government.

(f) FUNDING FOR MARINE FISHERIES COMMISSIONS.—Of the balance of each annual appropriation made in accordance with section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 each fiscal year and after deducting amounts used for grants under subsection (a) of this section, $200,000 shall be available for each of—

(1) the Atlantic States Marine Fisheries Commission;

(2) the Gulf States Marine Fisheries Commission;

(3) the Pacific States Marine Fisheries Commission; and

(4) the Great Lakes Fisheries Commission.

ADDITIONAL VIEWS

The general intent of this legislation is to improve the financial management and accountability of the Office of Federal Aid within the U.S. Fish and Wildlife Service (Service). We do not oppose this broad objective. However, the Majority has proposed in this legislation an inter-locking set of funding caps, spending controls and redundant reports and certifications which, when taken together, provide insufficient funds and administrative flexibility to allow the Service to adequately implement reforms. These measures are overly excessive, and we contend that the legislation should be made less prescriptive to ensure that the Service can actually improve performance and ensure accountability.

Evidence documented by the General Accounting Office (GAO) investigation and by the Majority's own parallel investigation demonstrated that the administration and financial oversight of the Federal Aid in Wildlife and Sport Fish Restoration Program was lax, if not abysmal. We believe it is appropriate for Congress to address these deficiencies with reasonable, targeted reforms. That said, we do challenge the necessity and practically of the entire menu of prescriptive reforms developed by the Majority in this legislation. In its present form, we are concerned that the cumulative affects of the proposed reform strategy might be counterproductive. Moreover, we are concerned this bill might ultimately erode the capabilities of the Service to effectively administer the program, and also frustrate—if not prevent—the Service from achieving the worthy goal of this legislation.

Currently under Pittman-Robertson and Dingell-Johnson, the Service is authorized to withhold 8 percent and 6 percent of funds, respectively, to "administer and execute" the Federal Aid Program. This percent allowance has generally provided approximately $30 million annually to administer the Program. The GAO investigation did reveal some highly questionable, if not wholly inappropriate, Federal Aid administrative expenditures under the broad authority to "administer and execute" the Program. Nevertheless, the Majority has chosen to assume that virtually *all* spending to administer the program is suspect. They assume that a new budget for administrative expenses should be zero-based regardless of the existing fixed costs of the current program or the real consequences of drastically reducing the operating budget for administration.

The legislation imposes a rigid budget framework to clearly delineate authorized administrative expenses, purportedly to prevent future indiscretions in the spending, accounting and reporting of Federal Aid administrative funds. On balance, we believe the twelve specific budget categories for administrative expenses to be reasonable and inclusive. Additionally, we concur with the Majority that the Federal Aid program could learn to make do with less without sacrificing efficiency or service to the States. In this re-

spect, we agree that $30 million to administer the program is an excessive amount, especially when past expenses for administrative grants, operational grants, and other centralized program activities (e.g., the Management Assistance Team (MAT), the National Survey of Fishing, Hunting, and Wildlife Associated Recreation, etc.) are removed from the budget.

However, the caps and restrictions contained in the language are unrealistic and have the very real potential to severely damage the Service's ability to manage the program. For example, the bill contains a fixed funding cap of $10 ($5 million each from Pittman-Robertson and Dingell-Johnson) that would limit administrative funding to $10 million per year, also allowing for minimal Consumer Price Index (CPI) increases. The Majority has resisted increasing the cap, or alternatively, decreasing the existing 8 percent and 6 percent allowances to smaller percentages despite documentation provided by the Service demonstrating that the caps, if applied, would force the termination of approximately 60 FTEs, or roughly one-half of all Federal Aid employees. These caps would also reduce funding for important accountability functions such as State audits, budget monitoring and training. We are not alone in expressing this concern. In correspondence received by the Committee on Resources from the Wildlife Management Institute, the International Association of Fish and Wildlife Agencies, and the National Wildlife Federation, each organization has expressed their preference for a percent allowance instead of a fixed cap.

It is our understanding that a uniform 4 percent allowance would provide roughly $19 to $20 million per year for administration; approximately the amount the Service has estimated it would spend on administration based upon the Majority's own budget framework. We contend that a 4 percent allowance is a fair approach to provide the Service with sufficient administrative funds without imposing draconian cuts that will only undermine effective financial management and oversight of the States.

The problem created by the caps is exacerbated by other spending controls, certifications, and reporting requirements in the legislation. In fact, were the caps to be imposed, the need for these other controls would be obviated. For instance, this legislation would require all funds not expended by the Service for administration to be reapportioned to the States. In addition, the Service would be prohibited from spending funds on activities not expressly prohibited by the bill, and the Service would be prohibited also from transferring any Federal Aid funds to other programs or activities that receive appropriations within the Department of the Interior. Separately, any one of these controls would be reasonable. But cumulatively, we find them contrary to the expressed goal of effective reform.

Furthermore, the bill would require redundant certifications by the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the Fish and Wildlife Service, and a newly created Assistant Director for Wildlife and Sport Fish Restoration Programs, affirming that they have properly discharged their duties. The bill would also require separate annual certifications and reports specifying first, how all Federal Aid funds have been spent in the preceding fiscal year, and second, how Fed-

eral Aid funds will be apportioned and spent by the States and the Service in the upcoming year. These requirements should be streamlined into one annual certification or report to be filed by the Secretary of the Interior.

The cumulative effect of these spending controls is to reduce, if not eliminate, any discretion or administrative flexibility to allow the Service to address unexpected or unbudgeted expenses. As an example, just last year the Federal Government had to spend additional funds to prepare for possible exigencies related to the Year 2000 computer problem. More relevant, current legislation reported by the Committee on Resources (H.R. 701, The Conservation and Reinvestment Act) would, if enacted, require the Fish and Wildlife Service to administer an additional $300 million directed to Pittman-Robertson. The Majority assumes that they have perfectly predicted the future and that unforeseen events simply will not happen. This scenario would leave the Service with no administrative recourse to address unforeseen expenses other than for the Service to rely on the Congress to pass a new law. We view this as an unreasonable departure from the normal discretion delegated to the Congress to the Executive Branch to administer a program. The addition of an administrative mechanism, even a provision as simple as a congressional certification and notification process for unauthorized expenses, would be a reasonable adjustment.

The Majority has been made aware of the findings developed by outside auditors that identify substantial waste, fraud and abuse in how the States spend their Federal Aid apportionments. Yet this legislation focuses exclusively on the financial management of the $30 million Federal Aid dollars used by the Federal government and ignores whether the States are held similarly accountable for how they spend roughly $450 million apportioned annually to them under both Pittman-Robertson and Dingell-Johnson. These findings include gross abuses such as States spending Federal Aid funds to build prisons or motor pool parking lots. In the absence of an investigation, this legislation should be amended to at least require the States to annually certify that they have spent their apportioned funds in accordance with the law.

GEORGE MILLER.

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