

I believe that avoiding a divisive veto battle will help focus congressional efforts on priority concerns.

Note: As enacted, H.R. 4388 is Public Law 96-69, approved September 25, 1979.

ENDANGERED SPECIES ACT OF 1973, APPROPRIATION AUTHORIZATION,  
PUBLIC LAW 96-159

BACKGROUND

Authorization for administration of the Endangered Species Act had been extended only 18 months by the 1978 Amendments and was scheduled to expire in the middle of fiscal year 1980. Bills to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes (H.R. 2218/S. 1143), passed the Senate on June 13, 1979, and passed the House on Oct. 24, 1979. Proposals to exempt the Tellico Dam project from the protections of the Act had been defeated in Senate Committee and again on the Senate floor. The House and Senate went to conference over differences in the two versions of the bill as respectively adopted. Conferees reached agreement on Dec. 4, 1979, and House and Senate agreed to the conference report (H. Rept. 96-697) on Dec. 19, 1979. The bill as enacted was signed into law on Dec. 28, 1979, as Public Law 96-159.

The new statute authorizes appropriations to fund the Act through fiscal year 1982. In addition to provisions for funding endangered species work of the Departments of Commerce and the Interior, the Act authorized appropriations to support Endangered Species Committee and review board functions (under section 7) for fiscal years 1980-82. For the first time, appropriations were also authorized for the Department of Agriculture to facilitate enforcement of both the Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with regard to the importation and exportation of terrestrial plants.

The 1979 Amendments designate the Interior Secretary as the Endangered Species Scientific Authority (ESSA) under CITES. Formerly ESSA was a 7-member independent panel with regulatory authority, but not accountable to any public official. The 7-member panel, stripped of regulatory authority, remains as the International Convention Advisory Commission (ICAC). The Secretary now has the enforcement authority ESSA formerly had, but if the Secretary rejects ICAC recommendations, reasons must be published in the Federal Register.

Finally, a number of revisions in the Endangered Species Act were also made by the 1979 Amendments with respect to public meetings and notice requirements, status reviews, critical habitat notifications, consultation requirements of Federal agencies, and other administrative matters. The

jeopardy standard under section 7 of the Endangered Species Act was changed from "would jeopardize" to "is likely to jeopardize." The details for the sale of scrimshaw was extended under the amendments for three more years in cases where whale parts and products were held in stock prior to 1973.

CHRONOLOGY—PUBLIC LAW 96-159

- February 15, 1979—H.R. 2218 introduced in the House, referred to Committee on Merchant Marine and Fisheries.  
 February 21, 1979—H.R. 2218 referred to Subcommittee on Fisheries and Wildlife Conservation and the Environment.  
 April 6, 1979—Hearings. (Printed. Serial No. 96-12).  
 April 27, 1979—H.R. 2218 considered in open markup session and ordered reported to Full Committee, with an amendment.  
 May 3, 1979—Considered by Full Committee in open markup and ordered reported to House, with an amendment.  
 May 15, 1979—H.R. 2218 reported to House, with an amendment. (H. Rept. 96-167).  
 May 15, 1979—S. 1143, an original bill, reported to the Senate (S. Rept. 96-151) by the Committee on Environment and Public Works.  
 June 13, 1979—Consideration and passage of S. 1143, with an amendment, by the Senate.  
 October 19, 1979—House agreed to H. Res. 417, providing for consideration of H.R. 2218, by vote of 320 to 9.  
 October 22, 1979—General debate by the House on H.R. 2218.  
 October 24, 1979—House considered and passed H.R. 2218, with amendments, subsequently vacating passage and passing S. 1143 in lieu after amending that bill to contain the language of the House bill as passed and amending the title of the Senate bill.  
 November 7, 1979—Senate disagreed to House amendments to S. 1143 and requested a conference.  
 November 14, 1979—House insisted on its amendments and agreed to a Conference.  
 December 11, 1979—Conference Report 96-697 filed in the House.  
 December 19, 1979—House agreed to Conference Report, clearing the measure for the Senate.  
 December 19, 1979—Senate agreed to Conference Report, clearing the enactment for the President.  
 December 28, 1979—S. 1143 approved by the President, Public Law 96-159.

Public Law 96-159  
96th Congress

An Act

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes.

Dec. 28, 1979  
[S. 1148]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a)(5) of the Endangered Species Act of 1973 (16 U.S.C. 1531(a)(5)) is amended by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants."

Endangered  
Species Act of  
1973,  
appropriation  
authorization.

Sec. 2. Section 3(1) of the Endangered Species Act of 1973 (16 U.S.C. 1532(1)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2)."

Sec. 3. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

(2) by amending subsection (k)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, shall publish—

Publication in  
Federal  
Register.

"(I) a general notice and the complete text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat."

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted.,"

(4) by amending that part of subsection (f)(2)(C) which precedes clause (i) by inserting " subsection (k)(4) of this section," immediately after "Neither subparagraph (A) or (B) of this paragraph";

(5) by amending subsection (f)(2)(C)(ii)—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish or wildlife or plants,"

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,"

(C) by striking out "120-day period," each place it appears therein and inserting in lieu thereof "240-day period," and

(D) by adding at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it," and

(6) by adding at the end thereof the following new subsection: "(h) AGENCY GUIDELINES.—The Secretary shall establish, and publish in the Federal Register, agency guidelines to insure that the

Publication in  
Federal  
Register.

purposes of this section are achieved efficiently and effectively. Such guidelines shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to assist in the identification of species that should receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.

The Secretary shall provide to the public notice of, and opportunity to submit written comments on, any guideline (including any amendment thereto) proposed to be established under this subsection."

Sec. 4. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (b) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d)."

(2) by amending the last sentence of subsection (b) to read as follows: "The Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or the permit or license applicant in implementing the agency action."

(3) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)";

(4) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "Biological Assessment.—" and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the

16 USC 1533

Comments.

Secretary and under the supervision of the appropriate Federal agency."

(5) by striking out "avoid jeopardizing" and all that follows thereafter in subsection (d) and inserting in lieu thereof "not violate subsection (a)(2)";

(6) by further amending subsection (g)(1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a)(2)";

(7) by amending subsection (g)(2)(A) by striking out "process," and inserting in lieu thereof "process, or, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license."

(8) by amending subsection (g)(3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If biological opinions of both the Secretary of the Interior and the Secretary of Commerce indicate that an agency action would violate subsection (a)(2), such Secretaries shall jointly convene a review board to consider any application for exemption filed with respect to such agency action."

(9) by further amending subsection (g)(5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(B) by inserting "the Federal agency concerned and" immediately before "such exemption applicant" in clause (B) (as so redesignated);

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively;

(D) by striking out "will avoid jeopardizing" and all that follows thereafter in subclause (i) (as so redesignated) and inserting in lieu thereof "would not violate subsection (a)(2)"; and

(E) by striking out "exemption applicant" and all that follows thereafter in the last sentence and inserting in lieu thereof "Federal agency concerned or the exemption applicant has not met its respective requirements under subclause (i), (ii), or (iii) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code."

(10) by amending subsection (g)(6) by striking out "subparagraphs (A), (B), and (C)" and inserting in lieu thereof "subclauses (i), (ii), and (iii)";

(11) by amending subsection (h)(2) to read as follows:

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action—

"(i) regardless whether the species was identified in the biological assessment; and

"(ii) only if a biological assessment has been conducted under subsection (c) with respect to such agency action.

"(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation under subsection (a)(2) or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days after the date of the Secretary's finding that the exemption should not be permanent.

If the Secretary makes a finding described in clause (i), the Committee shall meet with respect to the matter within 30 days after the date of the finding"; and

(12) by amending the first sentence of subsection (q) to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed \$600,000 for each of fiscal years 1979, 1980, 1981, and 1982."

Sec. 5. Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537) is amended—

(1) by inserting "and plants" immediately after "fish or wildlife" in subsection (b)(1);

(2) by inserting "or plants" immediately after "fish or wildlife" each place it appears in subsection (b)(3);

(3) by inserting "or plants" immediately after "fish or wildlife" in subsection (c)(1); and

(4) by striking out subsection (e).

Sec. 6. (a) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"Sec. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) INTERNATIONAL CONVENTION ADVISORY COMMISSION.—(1) There is hereby established the International Convention Advisory Commission (hereinafter in this section referred to as the "Commission").

"(2) The Commission shall be composed of the following members:

- "(A) One member appointed by each of the following Federal officers from his respective agency:
  - "(i) The Secretary.
  - "(ii) The Secretary of Agriculture.
  - "(iii) The Secretary of Commerce.
  - "(iv) The Director of the National Science Foundation.
  - "(v) The Chairman of the Council on Environmental Quality.

16 USC 1537a.

International Convention Advisory Commission Membership.

"(B) One member appointed by the Secretary from among officers and employees of the State agencies having fish and wildlife conservation and management responsibilities.

"(C) The Secretary of the Smithsonian Institution is invited to appoint a member.

"(3)(A) Individuals who are appointed as members of the Commission under paragraph (2) must be scientifically qualified.

"(B) The term of office of a member of the Commission appointed under paragraph (2)(B) is two years and an individual may be appointed under such paragraph for any number of terms, except that an individual may not be appointed under that paragraph for a term that would be a third consecutive term for that individual under that paragraph.

"(C) While away from his home or regular place of business in the performance of services for the Commission, a member appointed under paragraph (2) (B) or (C) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(D) Members of the Commission who are full-time officers or employees of the United States shall receive no additional compensation on account of their service on the Commission.

"(4)(A) The Commission shall elect a chairman from among its members. The term of office of the chairman is one year.

"(B) No recommendation referred to in paragraph (5) shall be deemed to be a recommendation of the Commission unless a majority of the members of the Commission vote for that recommendation.

"(5) The Commission shall make recommendations to the Secretary or his designee on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention. The Commission shall include with any such recommendation any written dissenting view made by any member.

"(6) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(7) In any case in which the Scientific Authority decides not to accept a recommendation made by the Commission under paragraph (5), the Scientific Authority shall provide to the Commission a written explanation of the reasons for that decision and shall publish the explanation in the Federal Register.

"(8)(A) The Chairman of the Commission, with the concurrence of the Commission, shall appoint an Executive Secretary for the Commission. The Executive Secretary shall carry out such duties and functions as shall be prescribed by the Commission, shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(B) The Secretary shall provide the necessary staff and administrative support for the Commission.

"(e) WHILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards

Term of office.

Travel expenses.

Chairman.

Recommendations to Secretary.

Experts and consultants.

Explanation, publication in Federal Register.

Executive Secretary.

5 USC 5101, 5331.

Wildlife preservation in Western Hemisphere.

as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere"; and

(2) by amending the table of contents by inserting immediately after the section title for section 5 the following:

"Sec. 5a. Convention implementation."

(b) Until such time as the Chairman, Members, and Executive Secretary of the International Convention Advisory Commission are appointed, but not later than 90 days after the date of the enactment of this Act, the functions of the Commission shall be carried out by the Endangered Species Scientific Authority as established by Executive Order Numbered 11911, with staff and administrative support being provided by the Secretary of the Interior as set forth in that Executive order.

Sec. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C), and

(2) by adding at the end thereof the following new paragraphs: "(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph. "(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph. Sec. 8. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS"

"Sec. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

(1) not to exceed \$23,000,000 for each of fiscal years 1979 and 1980, not to exceed \$25,000,000 for fiscal year 1981, and not to exceed \$27,000,000 for fiscal year 1982 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

(2) not to exceed \$2,500,000 for each of fiscal years 1979 and 1980, not to exceed \$3,000,000 for fiscal year 1981, and not to exceed \$3,500,000 for fiscal year 1982 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act, and

16 USC 1535, 1536.

16 USC 1537a note.

16 USC 1537 note.

"(9) not to exceed \$1,500,000 for fiscal year 1980, not to exceed \$1,750,000 for fiscal year 1981, and not to exceed \$1,850,000 for fiscal year 1982 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the enforcement or exportation of terrestrial plants."

Approved December 28, 1979.

96TH CONGRESS  
1ST SESSION

# H. R. 2218

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

## IN THE HOUSE OF REPRESENTATIVES

February 15, 1979

Mr. MURPHY of New York (for himself, Mr. Breaux, Mr. McCloskey, Mr. Forstner, Mr. Bowen, Mr. AuCoin, Mr. Emery, Mr. Akaka, Mr. Dingell, Mr. Studds, Mr. Patichard, and Mr. Downan) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

## A BILL

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

- 1 *Be it enacted by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 That the first sentence of section 7(q) of the Endangered
- 4 Species Act of 1973 (16 U.S.C. 1536(q)) is amended to read
- 5 as follows: "There are authorized to be appropriated to the
- 6 Secretary to assist review boards and the Committee in car-
- 7 rying out their functions under subsections (e), (f), (g), and (h)

### LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-167 accompanying H.R. 2218 (Comm. on Merchant Marine and Fisheries) and No. 96-897 (Comm. of Conference); SENATE REPORT No. 96-151 (Environment and Public Works); CONGRESSIONAL RECORD, Vol. 125 (1979):

June 13, considered and passed Senate.

Oct. 24, H.R. 2218 considered and passed House; passage vacated and S. 1143, amended, passed in lieu.

Dec. 5, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 52:

Dec. 28, Presidential statement.

1 of this section not to exceed \$600,000 for each of fiscal years  
2. 1979, 1980, 1981, and 1982."

3 SEC. 2. Section 15 of the Endangered Species Act of  
4 1973 (16 U.S.C. 1542) is amended to read as follows:

5 "AUTHORIZATION OF APPROPRIATIONS

6 "Sec. 15. Except as authorized in sections 6 and 7 of  
7 this Act, there are authorized to be appropriated—

8 "(1) not to exceed \$23,000,000 for fiscal year

9 1979, and not to exceed \$25,000,000 for each of fiscal  
10 years 1980, 1981, and 1982, to enable the Depart-

11 ment of the Interior to carry out such functions and re-

12 sponsibilities as it may have been given under this Act;

13 and

14 "(2) not to exceed \$2,500,000 for fiscal year

15 1979, and not to exceed \$3,000,000 for each of fiscal

16 years 1980, 1981, and 1982, to enable the Depart-

17 ment of Commerce to carry out such functions and re-

18 sponsibilities as it may have been given under this

19 Act."

96<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2218**

[Report No. 96-167]

To authorize appropriations to carry out the Endangered Species Act of 1973  
during fiscal years 1980, 1981, and 1982.

### IN THE HOUSE OF REPRESENTATIVES

February 15, 1979

Mr. MURPHY of New York (for himself, Mr. BEAUX, Mr. McCLOSKEY, Mr. FORSYTHE, Mr. BOWEN, Mr. AUCOIN, Mr. EMBRY, Mr. AKARA, Mr. DINGELL, Mr. STUBBS, Mr. PATRICHARD, and Mr. DORRAN) introduced the following bill, which was referred to the Committee on Merchant Marine and Fisheries

MAY 15, 1979

Additional sponsors: Mr. STACK, Mr. HURTO, Mr. HUGHES, Mr. OBERSTAR, Mr. LOWRY, Mr. DE LA GARZA, and Mr. BONKER

MAY 15, 1979

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in *italics*]

## A BILL

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*  
 3 That the first sentence of section 7(g) of the Endangered  
 4 Species Act of 1973 (16 U.S.C. 1536(g)) is amended to read  
 5 as follows: "There are authorized to be appropriated to the  
 6 Secretary to assist review boards and the Committee in car-  
 7 rying out their functions under subsections (e), (f), (g), and (h)  
 8 of this section not to exceed \$600,000 for each of fiscal years  
 9 1979, 1980, 1981, and 1982."

10 SEC. 2. Section 15 of the Endangered Species Act of  
 11 1973 (16 U.S.C. 1542) is amended to read as follows:

12 "AUTHORIZATION OF APPROPRIATIONS

13 "Sec. 15. Except as authorized in sections 6 and 7 of  
 14 this Act, there are authorized to be appropriated—

15 "(1) not to exceed \$23,000,000 for fiscal year  
 16 1979, and not to exceed \$25,000,000 for each of fiscal  
 17 years 1980, 1981, and 1982, to enable the Depart-  
 18 ment of the Interior to carry out such functions and re-  
 19 sponsibilities as it may have been given under this Act;  
 20 and  
 21 "(2) not to exceed \$2,500,000 for fiscal year  
 22 1979, and not to exceed \$3,000,000 for each of fiscal  
 23 years 1980, 1981, and 1982, to enable the Depart-  
 24 ment of Commerce to carry out such functions and re-

1 sponsibilities as it may have been given under this  
 2 Act."

3 SEC. 3. Subsection (f) of section 10 of the Endangered  
 4 Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

5 (1) in paragraph (4), by inserting "unless such  
 6 exemption is renewed under paragraph (8)" after "cer-  
 7 tificate" in subparagraph (C); and

8 (2) by adding at the end thereof the following new  
 9 paragraphs:

10 "(8)(A) Any person to whom a certificate of exemption  
 11 has been issued under paragraph (4) of this subsection may  
 12 apply to the Secretary for a renewal of such exemption for a  
 13 period not to exceed three years beginning on the expiration  
 14 date of such certificate. Such application shall be made in the  
 15 same manner as the application for exemption was made  
 16 under paragraph (3), but without regard to subparagraph (A)  
 17 of such paragraph.

18 "(B) If the Secretary approves any application for re-  
 19 newal of an exemption under this paragraph, he shall issue  
 20 to the applicant a certificate of renewal of such exemption  
 21 which shall provide that all terms, conditions, prohibitions,  
 22 and other regulations made applicable by the original certifi-  
 23 cate shall remain in effect during the period of the renewal.  
 24 "(C) No exemption or renewal of such exemption made  
 25 under this subsection shall have force and effect after the

- 1 expiration date of the certificate of renewal of such exemption  
 2 issued under this paragraph."

4

Amend the title so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes."

96TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT  
 1st Session } } No. 96-167

### ENDANGERED SPECIES ACT OF 1973 AUTHORIZATION

MAY 15, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### REPORT

[To accompany H.R. 2218]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 2, after line 19, insert the following:

Sec. 3. Subsection (f) of section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539 (f)) is amended—

- (1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in paragraph (C); and
- (2) by adding at the end thereof the following new paragraph:

"(8) (A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and