

[From the Congressional Record, Oct. 19, 1979]

HOUSE CONSIDERATION AND APPROVAL OF H. RES. 417, PROVIDING FOR CONSIDERATION OF H.R. 2218, ENDANGERED SPECIES ACT AUTHORIZATIONS, 1980-82

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and amendment made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Merchant Marine and Fisheries now printed on page 3, line 3 through page 4, line 2 of the bill, it shall be in order to consider an amendment printed in the Congressional Record of September 20, 1979, by Representative Breaux, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 2218, it shall be in order in the House to move to take from the Speaker's table the bill S. 1143 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 2218 as passed by the House.

The SPEAKER pro tempore. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. Bauman), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 417 is an open rule providing for the consideration of H.R. 2218 which authorizes appropriations for the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The rule provides for 1 hour of general debate with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries. The resolution also makes in order, in lieu of the amendment recommended by the Merchant Marine Committee now printed in the bill, an amendment which was printed in the Congressional Record of September 20 by Mr. Breaux, the chairman of the Fisheries and Wildlife Subcommittee. As introduced, H.R. 2218 was a simple authorization for fiscal years 1980 through 1982. However, the proposed amendments amend several provisions of the Endangered Species Act, and as such, are not germane to the bill as introduced. The resolution provides a waiver of clause 7, rule XVI, the germaneness clause, to allow consideration of these amendments.

Should the House pass H.R. 2218, the resolution will allow the House to consider S. 1143, the Senate's Endangered Species Act authorization. The rule will allow the House to strike all after the enacting clause of the Senate bill and to substitute the language of the House passed bill.

H.R. 2218 authorizes \$28.3 million for the activities of the Departments of Interior and Commerce under the Endangered Species Act. Included in the authorization is \$600,000 for the activities of the Endangered Species Committee and Review Boards which were created by the 1978 amendments to the act.

Mr. Speaker, House Resolution 417 is a simple open rule which will allow for amendments to the authorization amounts as well as amendments to the amendments proposed by Mr. Breaux. I would urge my colleagues to adopt this rule so that we may proceed to the consideration of H.R. 2218.

Mr. BAUMAN. Mr. Speaker, the gentleman from Texas has done an adequate job of describing the rule we have before us. I would therefore like to take a few moments to draw to the attention of my colleagues several of the provisions of H.R. 2218 and the Endangered Species Act in general.

First, the bill authorizes appropriations of \$25.6 million to the Department of the Interior and \$3 million to the Department of Commerce in each of the next 3 fiscal years to carry out their responsibilities under the Endangered Species Act of 1973. This results in a total authorization of \$85.8 million over the next 3 years. This is an exceptionally large sum especially when one calls to mind the endless stories of questionable actions taken by the Endangered Species Committee concerning the supposed destruction of the habitat of so-called endangered species.

Furthermore, Mr. Speaker, the Members of this body should be aware of the findings of the GAO in their report of July 2, 1979 entitled, "Endangered Species—A Controversial Issue Needing Resolution." The report first states that the cornerstone of effective implementation of the Endangered Species Act is the process used by the Fish and Wildlife Service to determine which species should be listed as endangered or threatened and which species should be reclassified or removed from the lists. Unfortunately GAO found that FWS had not consistently applied existing policies, procedures, and practices used to list species, nor had they periodically reviewed listed species or established criteria to determine if their status had changed.

To continue, the Endangered Species Act provides that Federal agencies which determine that their projects and programs may affect endangered or threatened species must consult with the Fish and Wildlife Service to resolve any potential conflicts. GAO found that FWS has continually improved the consultation process; however, conflicts involving ongoing and planned projects and programs had not always been identified or resolved promptly. The onerous bureaucracy of the Department of the Interior has again thwarted the attempts and intention of the Congress to serve the best interests of the American people.

Finally, GAO found that further legislative changes to the Endangered Species Act are needed to better balance species protection and

economic growth and development. Currently the Endangered Species Act permits the Fish and Wildlife Service to continue to list geographically limited populations of species as endangered or threatened even though they may not be endangered or threatened throughout all or a significant portion of their existing ranges or their overall status are not known. Furthermore, the present act does not make clear whether permanent exemptions are available for all Federal projects and programs. For some projects and programs the lengthy consultation process may have to be initiated and the project stopped each time the affected species is listed and a potential conflict is identified. Currently our Nation is faced with rampant inflation existing side by side with a growing recession. Now is not the time to hinder economic growth and development with poorly drafted and poorly implemented legislation.

It should be noted, Mr. Speaker, that the Committee on Merchant Marine and Fisheries has conducted oversight on the Endangered Species Act using the GAO report as a guide. The chairman of the full committee, Mr. Murphy, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation, Mr. Breaux, have stated that amendments will be offered to correct the deficiencies I have mentioned. I anxiously await those amendments and urge my colleagues to support them.

In conclusion, Mr. Speaker, I would like to reiterate to the Members of this body the high cost of this legislation and the mismanagement of the act by the bureaucracy. Without doubt the Endangered Species Act is a prime candidate for sunset and legislative veto provisions.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. Breaux).

Mr. BREAUX. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, just by way of explanation for the members of the committee on this rule, let me say first that I, of course, support the rule.

One might say that the procedures under which this legislation is brought to the floor are somewhat unusual. Considering the time restraints under which the House is acting, I think we handled this in a proper manner.

I would like to point out to the Members of the House that the Endangered Species Act has, of course, had a great deal of controversy in years past. In the last Congress the legislation was reauthorized only for a period of something like 18 months, rather than the normal 3-year authorization period.

When our subcommittee began hearings on the Endangered Species Act this year, we started off with the attitude of having some very detailed oversight hearings on the legislation to see if amendments that had been adopted in the last Congress were working in the manner in which this Congress intended them to work. Of course, with a May 15 deadline, it was impossible for our subcommittee and the full committee to adequately have oversight committee hearings and at the same time meet that deadline.

So we made a commitment to the Members of the House that we would go ahead and report out a normal 3-year reauthorization bill

with this legislation and then follow that up with extensive oversight hearings. The amendments that are in order under this rule today are a result of those oversight hearings which were 3 days in length and which I think focused in on some of the real concerns that had previously been expressed by Members of the House, including bringing in the General Accounting Office to present to our committee its findings that had been adopted in the last Congress were working in the manner after an extensive study on the workings of the Endangered Species Act.

These amendments which I will be offering are, I think—and the gentleman from New Jersey (Mr. Forsythe) can speak for this—supported by the ranking minority member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, and they are also strongly supported by the chairman of the full committee. They, of course, were not voted on by our committee because we had to report out the reauthorization bill prior to the time we were in a position to write the amendments which we are now recommending and which will be offered at an appropriate time when this legislation is brought up.

I think the amendments are good. We needed a waiver of points of order merely because of the fact that they would normally be non-germane in a routine 3-year authorization bill.

Mr. Speaker, this is an open rule. I strongly support the rule, and I urge the Members to support the rule and the legislation.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have not had a chance to read the proposed amendments, but I understand that none of the amendments change in any way the present authorization for projects that are now exempt from the Endangered Species Act. Is that correct?

Mr. BREAUX. Mr. Speaker, I would assure the gentleman that is correct. I would further assure the gentleman that none of the amendments affect Tellico Dam in Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 4, rule XI and the Chair's prior announcement, further proceedings on this vote will be postponed.

The point of no quorum is considered withdrawn.

The SPEAKER pro tempore. The unfinished business is agreeing to the resolution, House Resolution 417.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 320, nays 9, not voting 104, as follows:

[Roll No. 586]

YEAS—320

Abdnor	Collins, Tex.	Gaydos
Akaka	Conte	Gephardt
Albosta	Corcoran	Giaimo
Ambro	Corman	Gilman
Anderson, Calif.	Coughlin	Gingrich
Andrews, N.C.	Courter	Ginn
Andrews, N. Dak.	Crane, Daniel	Glickman
Annunzio	D'Amours	Goldwater
Anthony	Daniel, Dan	Gonzalez
Applegate	Daniel, R. W.	Goodling
Archer	Danielson	Gore
Ashbrook	Dannemeyer	Gradison
Aspin	Daschle	Gramm
Atkinson	Davis, Mich.	Grassley
Bafalis	de la Garza	Gray
Bailey	Deckard	Green
Baldus	Dellums	Grisham
Barnard	Derrick	Guarini
Barnes	Derwinski	Gudger
Bauman	Dingell	Guyer
Beard, R.I.	Dixon	Hall, Ohio
Bedell	Dodd	Hall, Tex.
Benjamin	Donnelly	Hamilton
Bennett	Dornan	Hammerschmidt
Bereuter	Duncan, Tenn.	Hance
Bethune	Eckhardt	Hanley
Bevill	Edwards, Ala.	Hansen
Bingham	Edwards, Calif.	Harkin
Blanchard	Edwards, Okla.	Harris
Boner	Emery	Hawkins
Bowen	English	Heckler
Brademas	Erdahl	Heftel
Breaux	Erlenborn	Hightower
Brinkley	Ertel	Hillis
Brodhead	Evans, Del.	Hinson
Brooks	Evans, Ga.	Holt
Broomfield	Evans, Ind.	Hopkins
Broyhill	Fary	Howard
Buchanan	Fascell	Hubbard
Burlison	Fenwick	Hughes
Burton, Phillip	Ferraro	Hutto
Butler	Findley	Hyde
Byron	Fisher	Ichord
Campbell	Fithian	Jacobs
Carney	Foley	Jeffords
Carter	Ford, Mich.	Jeffries
Cavanaugh	Ford, Tenn.	Jenkins
Chappell	Forsythe	Jenrette
Clausen	Fountain	Johnson, Calif.
Clinger	Fowler	Jones, Okla.
Coelho	Frenzel	Jones, Tenn.
Coleman	Frost	Kastenmeier

## YEAS—Continued

Kazen	Murtha	Snowe
Kelly	Myers, Ind.	Snyder
Kemp	Myers, Pa.	Solarz
Kildee	Natcher	Solomon
Kindness	Neal	Spellman
Kramer	Nelson	Spence
LaFalce	Nichols	St Germain
Iagomarsino	Nowak	Staggers
Latta	O'Brien	Stangeland
Leach, Iowa	Oberstar	Stanton
Leath, Tex.	Obey	Stark
Lederer	Ottinger	Stenholm
Lee	Panetta	Stewart
Lehman	Pashayan	Stockman
Leland	Patten	Stokes
Levitas	Patterson	Stratton
Lewis	Paul	Stump
Livingston	Pease	Swift
Lloyd	Perkins	Symms
Loeffler	Petri	Synar
Long, La.	Peyser	Tauke
Lott	Preyer	Taylor
Luken	Price	Thomas
Lungren	Pursell	Traxler
McClory	Rangel	Trible
McCloskey	Ratchford	Udall
McCormack	Regula	Ullman
McHugh	Reuss	Vander Jagt
McKay	Rhodes	Vanik
McKinney	Rinaldo	Vento
Madigan	Ritter	Volkmer
Maguire	Robinson	Walgren
Markey	Roe	Walker
Marks	Rose	Wampler
Marlenee	Roth	Waxman
Marriott	Royer	Weaver
Martin	Rudd	Weiss
Mathis	Russo	White
Matsui	Sabo	Whitehurst
Mattox	Satterfield	Whitley
Mavroules	Sawyer	Whittaker
Mazzoii	Schroeder	Whitten
Mica	Schulze	Williams, Mont.
Mikulski	Sebelius	Wolff
Miller, Ohio	Seiberling	Wolpe
Mineta	Sensenbrenner	Wright
Minish	Shannon	Wyatt
Mitchell, Md.	Sharp	Wydler
Mitchell, N.Y.	Shelby	Wylie
Montgomery	Shumway	Yates
Moore	Shuster	Yatron
Moorhead, Calif.	Simon	Young, Alaska
Mottl	Skelton	Young, Mo.
Murphy, N.Y.	Slack	Zablocki
Murphy, Pa.	Smith, Nebr.	

## NAYS—9

Beilenson	Burton, John	McDonald
Bonior	Hollenbeck	Stack
Bonker	Lowry	Studds

## NOT VOTING—104

Abbaddo	Fazio	Nolan
Alexander	Fish	Oakar
Anderson, Ill.	Flippo	Pepper
Ashley	Flood	Pickle
AuCoin	Florio	Pritchard
Badham	Fuqua	Quayle
Beard, Tenn.	Garcia	Quillen
Biaggi	Gibbons	Rahall
Boggs	Hagedorn	Railsback
Bolling	Harsha	Richmond
Bouquard	Hefner	Roberts
Brown, Calif.	Holland	Rodino
Brown, Ohio	Holtzman	Rosenthal
Burgener	Horton	Rostenkowski
Carr	Huckaby	Rousselot
Cheney	Ireland	Roybal
Chisholm	Johnson, Colo.	Runnels
Clay	Jones, N.C.	Santini
Cleveland	Kogovsek	Scheuer
Collins, Ill.	Kostmayer	Smith, Iowa
Conable	Leach, La.	Steed
Conyers	Lent	Thompson
Cotter	Long, Md.	Treen
Crane, Philip	Lujan	Van Deerlin
Davis, S. C.	Lundine	Watkins
Devine	McDade	Williams, Ohio
Dicks	McEwen	Wilson, Bob
Dickinson	Michel	Wilson, C. H.
Diggs	Miller, Calif.	Wilson, Tex.
Dougherty	Moakley	Winn
Downey	Moffett	Wirth
Drinan	Mollohan	Young, Fla.
Duncan, Oreg.	Moorhead, Pa.	Zeferetti
Early	Murphy, Ill.	
Edgar	Nedzi	

The Clerk announced the following pairs :

Mr. Addabbo with Mr. Winn.  
 Mr. Fazio with Mr. Young of Florida.  
 Mr. Garcia with Mr. Horton.  
 Mr. Long of Maryland with Mr. McDade.  
 Mr. Moffett with Mr. Pritchard.  
 Mr. Charles H. Wilson of California with Mr. Quayle.  
 Mr. Van Deerlin with Mr. Railsback.  
 Mr. Thompson with Mr. Williams of Ohio.  
 Mr. Steed with Mr. Rousselot.  
 Mr. Pepper with Mr. Bob Wilson.  
 Mr. Rodino with Mr. Fish.  
 Mr. Watkins with Mr. Harsha.  
 Mr. Rostenkowski with Mr. Burgener.  
 Mr. Santini with Mr. Devine.  
 Mr. Flippo with Mr. Beard of Tennessee.  
 Mr. Early with Mr. Anderson of Illinois.  
 Mr. Downey with Mr. Badham.  
 Mr. Roybal with Mr. Brown of Ohio.  
 Mr. Zeferetti with Mr. Lent.  
 Mr. Charles Wilson of Texas with Mr. Quillen.  
 Mr. Moakley with Mr. Lujan.  
 Mr. Kostmayer with Mr. Dickinson.  
 Ms. Holtzman with Mr. McEwen.  
 Mr. Kogovsek with Mr. Hagedorn.  
 Mr. Gibbons with Mr. Conable.

Mr. Hefner with Mr. Dougherty.  
 Mr. Lundine with Mr. Cheney.  
 Mr. Miller of California with Mr. Roberts.  
 Mr. Ireland with Mr. Cleveland.  
 Mr. Jones of North Carolina with Mr. Pickle.  
 Mr. Holland with Mr. Philip M. Crane.  
 Mr. Dicks with Mr. Rahall.  
 Mr. Drinan with Mr. Rosenthal.  
 Mrs. Collins of Illinois with Mr. Richmond.  
 Mr. Carr with Ms. Oakar.  
 Mrs. Bouquard with Mr. Noland.  
 Mrs. Boggs with Mr. Florio.  
 Mr. Cotter with Mr. Davis of South Carolina.  
 Mr. Boland with Mr. Edgar.  
 Mr. Huckaby with Mr. Fuqua.  
 Mr. Clay with Mr. Duncan of Oregon.  
 Mrs. Chisholm with Mr. Brown of California.  
 Mr. Biaggi with Mr. AuCoin.  
 Mr. Ashley with Mr. Alexander.  
 Mr. Conyers with Mr. Mollohan.  
 Mr. Moorhead of Pennsylvania with Mr. Scheuer.  
 Mr. Nedzi with Mr. Wirth.  
 Mr. Murphy of Illinois with Mr. Smith of Iowa.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROPOSED AMENDMENT BY MR. BREAUX TO THE AMENDMENT TO  
 H.R. 2218 OFFERED BY MR. BREAUX

H.R. 2218

By Mr. BREAUX:

(Amendment to the amendment to H.R. 2218 offered by Mr. Breaux.)

—Page 7, strike out line 12 and all that follows down through and including line 24 on page 11, and insert the following:

“CONVENTION IMPLICATION

“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 is authorized and directed to do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

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

“(d) ENDANGERED SPECIES SCIENTIFIC AUTHORITY COMMISSION.—(1) There is hereby established within the U.S. Fish and Wildlife Service the Endangered Species Scientific Authority Commission (hereinafter in this section referred to as the ‘Commission’).

“(2) The Commission shall be composed of scientifically qualified agency representatives. Each of the following shall designate one such representative from his agency:

“(A) The Secretary of the Interior, whose representative shall be the Chairman.

“(B) The Secretary of Agriculture.

“(C) The Secretary of Commerce.

“(D) The Secretary of Health, Education, and Welfare.

“(E) The Director of the National Science Foundation.

“(F) The Chairman of the Council on Environmental Quality.

"(G) The Secretary of the Smithsonian Institution is invited to designate a representative.

"(3) The Commission shall make recommendations to the Director of the U.S. Fish and Wildlife Service on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention.

"(4) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, 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.

"(5) The Secretary shall designate an Executive Secretary for the Commission, and shall provide the necessary staff and administrative support for the Commission.

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[From the Congressional Record, Oct. 22, 1979]

## HOUSE CONSIDERATION OF H.R. 2218

### ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. BOWEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2218) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Bowen).

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2218, with Mr. Fascell, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Mississippi (Mr. Bowen) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. Forsythe) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. Bowen).

Mr. BOWEN. Mr. Chairman, I rise in support of H.R. 2218. This bill authorizes appropriations to carry out the Endangered Species Act through fiscal year 1982. The bill authorizes \$25.6 million to the Department of the Interior and \$3 million to the Department of Commerce in each of the next 3 years. This authorization level is identical to that approved last year.

The Endangered Species Act has just completed a difficult 3 years. The act has been subjected to considerable disrepute since the January 1977 decision of the Sixth Circuit Court of Appeals in the snail darter case. To some extent the act warranted the public attention that it received. As originally constructed, the act was inflexible—it did not adequately provide for a mechanism to balance economic and environmental interests.

The 1978 Amendments to the Endangered Species Act changed all of this, however. The 1978 amendments significantly altered the struc-