

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended 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".

A motion to reconsider was laid on the table.

HOUSE CONSIDERATION AND PASSAGE OF S. 1143, AMENDED (IN LIEU OF H.R. 2218)

Mr. MURPHY of New York. Mr. Speaker, pursuant to the provisions of House Resolution 417, I call up a similar Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 1143, and to insert in lieu thereof the provisions of the bill, H.R. 2218, as passed, as follows:

That the first sentence of section 7(q) of the Endangered Species Act of 1973 (16 U.S.C. 1536(q)) is amended 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. 2. 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 fiscal year 1979, and not to exceed \$25,000,000 for each of fiscal years 1980, 1981, and 1982, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

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

SEC. 3. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2)."

SEC. 4. 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 (f)(2)(B)(i) to read as follows:

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

"(I) the 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 subsection (f) (2) (C) (ii) by inserting 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

(5) by adding at the end thereof the following new subsection :

"(h) AGENCY PROCEDURES.—The Secretary shall by regulation establish agency procedures to ensure that the purposes of this section are achieved efficiently and effectively. Such procedures 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 ensure that species facing a high degree of threat 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."

SEC 5. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is further 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 (h) 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 may 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 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)".

(3) 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 Secretary and under the supervision of the appropriate Federal agency." ;

(4) 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).";

(5) by amending subsection (g) (2) (A) by striking out "process." and inserting in lieu thereof "process; or, in the case of an 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.";

(6) 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 more than one application for exemption is filed for the same agency action, the same review board shall be convened for each application and shall consider each such application in the manner set forth in paragraph (5).";

(7) by amending subsection (g) (5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,
(B) by striking out "such exemption applicant" in clause (B) (as so redesignated and inserting in lieu thereof "the Federal agency or exemption applicant, as the case may be", and

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

(8) by amending subsection (h)—

(A) by amending paragraph (2) (A) to read as follows:

"(2) (A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute, but only if a biological assessment has been conducted under subsection (c) with respect to such agency action, a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, regardless whether the species was identified in the biological assessment."; and

"(2) (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 or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days that the exemption should not be permanent."

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

(1) by striking out subsection (e) of section 8;

(2) 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 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.

"(e) WILDLIFE 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 as required by the Convention on Nature Protection and Wilderness Preservation in the Western Hemisphere."; and

(3) by amending the table of contents by inserting immediately after the section title for section 8 the following: "Sec. 8A. Convention implementation."

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. The Endangered Species Act of 1973 (16 U.S.C. 1631 et seq.) is further amended as follows:

(1) Section 2(a) (5) is amended by striking out "fish and wildlife." and inserting in lieu thereof "fish, wildlife, and plants."

(2) Section 4(f) (2) (C) (ii) is amended—

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

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

(3) Section 8(b) is amended—

(A) by inserting "and plants" immediately after "fish or wildlife" in paragraph (1); and

(B) by inserting "or plants" immediately after "fish or wildlife" each place it appears in paragraph (3).

(4) Section 15 (as amended by section 2 of this Act) is amended by striking out "Act." at the end of paragraph (2) and inserting in lieu thereof "Act; and"; and by adding immediately after such paragraph the following new paragraph:

"(3) 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 importation or exportation of terrestrial plants."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended 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".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2218) was laid on the table.