

AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION
ACT OF 2001

JUNE 12, 2001.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 643]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 643) to reauthorize the African Elephant Conservation Act, 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 all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. REAUTHORIZATION OF AFRICAN ELEPHANT CONSERVATION ACT.

Section 2306 of the African Elephant Conservation Act (16 U.S.C. 4245) is amended by striking “1997” and all that follows through “2002” and inserting “2001, 2002, 2003, 2004, 2005, 2006, and 2007”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 2306 of the African Elephant Conservation Act (16 U.S.C. 4245) is further amended—

(1) by striking “There are authorized” and inserting “(a) IN GENERAL.—There is authorized”; and

(2) by adding at the end the following:

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

SEC. 4. COOPERATION.

Part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.) is further amended by adding at the end the following:

“SEC. 2104. ADVISORY GROUP.

“(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of African elephants.

“(b) PUBLIC PARTICIPATION.—

“(1) MEETINGS.—The Advisory Group shall—

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

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

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

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

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

SEC. 5. PROJECT SUSTAINABILITY.

Section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following:

“(e) PROJECT SUSTAINABILITY.—To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants.”.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AND CLERICAL AMENDMENTS.—The African Elephant Conservation Act is amended as follows:

(1) Section 2101(a) (16 U.S.C. 4211(a)) is amended by striking “African Elephant Conservation”.

(2) Section 2102 (16 U.S.C. 4212) is amended by striking the section heading and all that follows through “(d) ACCEPTANCE AND USE OF DONATIONS.—” and inserting the following:

“SEC. 2102. ACCEPTANCE AND USE OF DONATIONS.”.

(3) Section 2304 (16 U.S.C. 4243) is repealed.

(4) Section 2305(4) (16 U.S.C. 4244(4)) is amended by striking “the African Elephant Conservation Fund established by section 2102” and inserting “the account established by division A, section 101(e), title I of Public Law 105–277 under the heading ‘MULTINATIONAL SPECIES CONSERVATION FUND’”.

(b) TECHNICAL CORRECTION.—Title I of section 101(e) of division A of Public Law 105–277 (112 Stat. 2681–237) is amended under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” by striking “Rhinceros and Tiger Conservation Act, subchapter I” and inserting “Rhinceros and Tiger Conservation Act of 1994, part I”.

PURPOSE OF THE BILL

The purpose of H.R. 643 is to reauthorize the African Elephant Conservation Act.

BACKGROUND AND NEED FOR LEGISLATION

In the late 1980s, the population of African elephants declined by almost half. In 1979, the total elephant population in Africa was approximately 1.3 million animals. In 1987, fewer than 600,000 African elephants were alive. While drought, disease, and competition for land use arising from human population growth were threats to elephant populations, the poaching of elephants for their ivory tusks reached epidemic proportions in the 1980s and far overshadowed the other factors.

The destruction of this flagship species was not confined to just a few countries, but was widespread throughout the African continent. In fact, there were only three southern African nations, Botswana, South Africa and Zimbabwe, that had stable elephant populations and effective conservation programs. The rest of the continent was fighting a losing battle against poachers who were selling illegally obtained elephant ivory at hugely inflated prices.

As a nation, the United States consumed about 30 percent of the world's carved ivory production. Since most experts believed that nearly 80 percent of all ivory is poached, consumer purchases in the United States accounted for the deaths of some 27,000 elephants. With the population of African elephants declining by nearly nine percent a year, unless this slaughter was stopped, the African elephant would have been annihilated as a viable population, throughout much of its range, by the end of the 20th century.

In response to this crisis, the Congress enacted the African Elephant Conservation Act of 1988 (Public Law 100-478). The major provisions of this law required an evaluation of the effectiveness of the elephant conservation programs; prohibited ivory imports from African countries unable to protect their elephants; required countries to stop selling illegal ivory; and established the African Elephant Conservation Fund.

In 1992 and 1998, Congress renewed the authority of the Secretary of the Interior to spend money from the African Elephant Conservation Fund until September 30, 2002. By so doing, the Congress is able to appropriate up to \$5 million a year to the African Elephant Conservation Fund to provide grant money for various conservation projects to assist this species.

The fundamental purpose of H.R. 643 is to extend the authorization of appropriations for the African Elephant Conservation Fund until September 30, 2007. This will allow Congress to appropriate money to conserve African elephants and to fund additional projects. This fund has been the only continuous source of new money for elephant conservation in the world.

Since its creation, Congress has appropriated more than \$11.9 million to the African Elephant Conservation Fund. This money, which has generated an additional \$51.7 million in private matching funds, was allocated by the U.S. Fish and Wildlife Service for some 113 conservation projects in 22 range states throughout Africa.

These projects have been sponsored by a diverse group of conservation organizations. Money allocated from the African Elephant Conservation Fund has been used to: assess the impact of elephants on plant and habitat biodiversity; purchase anti-poaching equipment for wildlife rangers; control elephant crop damage; create a comprehensive reference library on the African Elephant; undertake elephant population surveys; implement elephant conservation plans and move elephants from certain drought regions.

The Committee strongly condemns the actions of poachers and miners in the Democratic Republic of the Congo who are systematically killing thousands of African elephants and endangered Eastern lowland gorillas. In their quest to obtain the highly prized mineral colombo tantalite, these miners have slaughtered thousands of wildlife for the illegal commercial bushmeat trade. In the Garamba National Park in the Congo, 7,000 elephants have been poached since 1995. Unless immediate steps are taken, these two species will be eliminated from this critical habitat. The international community must not allow this monumental tragedy to continue in the future.

COMMITTEE ACTION

H.R. 643 was introduced on February 14, 2001, by Congressman Wayne T. Gilchrest (R-MD). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On March 15, 2001, the Subcommittee held a hearing on the bill. On March 29, 2001, the Subcommittee met to mark up the bill. Congressman Gilchrest offered an amendment in the nature of a substitute to allow for the establishment of an Advisory Panel to assist the Secretary of the Interior, to encourage the issuance of grants for long-term sustainable conservation of African elephants, and to clarify the amount of administrative expenses that may be spent on the program. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the Full Committee by voice vote. On May 16, 2001, the full Resources Committee met to consider the bill. No further amendments were offered and the bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

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 THE 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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. *General Performance Goals and Objectives.*—As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize appropriations for the African Elephant Conservation Act.

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, May 18, 2001.

Hon. JAMES V. HANSEN,
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. 643, the African Elephant Conservation Reauthorization Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

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

Enclosure.

H.R. 643—African Elephant Conservation Reauthorization Act of 2001

Summary: H.R. 643 would reauthorize funding for projects carried out under the African Elephant Conservation Act. Specifically, the bill would authorize annual appropriations for such projects to the Multinational Species Conservation Fund through 2007 at the existing authorization level of up to \$5 million annually. The current authorization expires after fiscal year 2002. The Secretary of the Interior uses this fund primarily to help finance research and conservation programs overseas.

Assuming appropriation of the authorized amounts, CBO estimates that enacting H.R. 643 would result in additional discretionary spending of \$18 million over the 2003–2006 period. (An additional \$7 million would be spent after 2006.) The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 643 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 643 is shown in the following table. For purposes of this estimate, CBO assumes that the entire amounts authorized by the bill would be appropriated for each fiscal year. Outlay estimates are based on recent spending patterns for this program. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Authorization level ¹	1	5	0	0	0	0
Estimated outlays	3	3	2	0	0	0
Proposed changes:						
Estimated authorization level	0	0	5	5	5	5
Estimated outlays	0	0	3	5	5	5
Spending under H.R. 643:						
Estimated authorization level ¹	1	5	5	5	5	5

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
Estimated outlays	3	3	5	5	5	5

¹ The 2001 level is the amount appropriated for that year for African elephant conservation. The 2002 level is the amount authorized under current law.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 643 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect on the budgets of State, local, or tribal governments.

Estimate prepared by: Federal costs: Deborah Reis; impact on State, local, and tribal governments: Marjorie Miller; impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

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):

AFRICAN ELEPHANT CONSERVATION ACT

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TITLE II—AFRICAN ELEPHANT CONSERVATION

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PART I—AFRICAN ELEPHANT CONSERVATION ASSISTANCE

SEC. 2101. PROVISION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide financial assistance under this part from the [African Elephant Conservation] Fund for approved projects for research, conservation, management, or protection of African elephants.

* * * * *

(e) PROJECT SUSTAINABILITY.—*To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants.*

[(e)] (f) **PROJECT REPORTING.**—Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

[SEC. 2102. AFRICAN ELEPHANT CONSERVATION FUND.]

[(a)] **ESTABLISHMENT.**—There is established in the general fund of the Treasury a separate account to be known as the “African Elephant Conservation Fund”, which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

[(b)] **DEPOSITS INTO FUND.**—The Secretary of the Treasury shall deposit into the Fund—

[(1)] subject to appropriations, all amounts received by the United States in the form of penalties under section 2204 which are not used to pay rewards under section 2205;

[(2)] amounts received by the Secretary of the Interior in the form of donations under subsection (d); and

[(3)] other amounts appropriated to the Fund to carry out this part.

[(c)] **USE.**—

[(1)] **IN GENERAL.**—Subject to paragraph (2), amounts in the Fund may be used by the Secretary, without further appropriation, to provide assistance under this part.

[(2)] **ADMINISTRATION.**—Not more than three percent of amounts appropriated to the Fund for a fiscal year may be used by the Secretary to administer the Fund for that fiscal year.

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

SEC. 2102. ACCEPTANCE AND USE OF DONATIONS.

The Secretary may accept and use donations of funds to provide assistance under this part. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

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SEC. 2104. ADVISORY GROUP.

(a) *IN GENERAL.*—*To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of African elephants.*

(b) *PUBLIC PARTICIPATION.*—

(1) *MEETINGS.*—*The Advisory Group shall—*

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

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

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

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

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

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PART III—MISCELLANEOUS

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SEC. 2304. EFFECTIVENESS OF CITES.

【Within 3 months after the completion of the 8th Conference of the Parties to CITES, the Secretary shall determine whether this title, together with the CITES Ivory Control System, has substantially stopped the importation of illegally harvested ivory into the United States. If the Secretary determines that the importation of illegally harvested ivory has not been substantially stopped, the Secretary shall recommend to the Congress amendments to this title or other actions that may be necessary to achieve the purposes of this title, including the establishment of a complete moratorium on the importation of elephant ivory into the United States.】

SEC. 2305. DEFINITIONS.

In this title—

(1) * * *

* * * * *

(4) the term “Fund” means 【the African Elephant Conservation Fund established by section 2102】 *the account established by division A, section 101(e), title I of Public Law 105–277 under the heading “MULTINATIONAL SPECIES CONSERVATION FUND”;*

* * * * *

SEC. 2306. AUTHORIZATION OF APPROPRIATIONS.

【There are authorized】 (a) *IN GENERAL.*—*There is authorized to be appropriated to the Fund and to the Secretary a total of not to exceed \$5,000,000 for each of fiscal years 【1997, 1998, 1999, 2000, 2001, and 2002】 2001, 2002, 2003, 2004, 2005, 2006, and 2007 to carry out this title, to remain available until expended.*

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

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SEC. 101. (a) * * *

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

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

TITLE I—DEPARTMENT OF THE INTERIOR

* * * * *

UNITED STATES FISH AND WILDLIFE SERVICE

* * * * *

MULTINATIONAL SPECIES CONSERVATION FUND

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

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