

MIGRATORY BIRD FRAMEWORK AND HUNTING
OPPORTUNITIES FOR VETERANS ACT

SEPTEMBER 25, 2018.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 6013]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6013) to amend the Migratory Bird Treaty Act to establish January 31 of each year as the Federal closing date for duck hunting season and to establish special duck hunting days for youths, veterans, and active military personnel, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Migratory Bird Framework and Hunting Opportunities for Veterans Act”.

SEC. 2. FEDERAL CLOSING DATE FOR HUNTING OF DUCKS, MERGANSERS, AND COOTS.

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended by adding at the end the following:

“(c) FEDERAL FRAMEWORK CLOSING DATE FOR HUNTING OF DUCKS, MERGANSERS, AND COOTS.—

“(1) IN GENERAL.—In promulgating regulations under subsection (a) relating to the Federal framework for outside dates within which the States may select seasons for migratory bird hunting, except as provided in paragraph (2), the Secretary shall, with respect to the hunting season for ducks, mergansers, and coots—

“(A) adopt the recommendation of each respective flyway council (as defined in section 20.152 of title 50, Code of Federal Regulations) for the Federal framework, but the framework closing date shall be January 31 of each year; and

“(B) allow the States to establish the closing date for the hunting season in accordance with the Federal framework.

“(2) SPECIAL DUCK HUNTING DAYS FOR YOUTHS, VETERANS, AND ACTIVE MILITARY PERSONNEL.—

“(A) IN GENERAL.—Notwithstanding the closing date under paragraph (1) and subject to subparagraphs (B) and (C), the Secretary shall allow States to select 2 days for youths and 2 days for veterans (as defined in section 101 of title 38, United States Code), and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), to hunt ducks, mergansers, and coots. Such days shall be treated as an addition to the regular hunting season lengths selected by the States.

“(B) REQUIREMENTS.—In selecting days under subparagraph (A), a State shall ensure that—

“(i) the days selected—

“(I) do not fall within the regular hunting season for ducks, mergansers, and coots;

“(II) with regard to youth days, are on a weekend, holiday or other day in which schools are not in session; and

“(III) are not more than 14 days before or after the hunting season for duck, mergansers, and coots; and

“(ii) the total number of days in a hunting season for ducks, mergansers and coots, including any days selected under subparagraph (A), is not more than 107 days.

“(C) LIMITATION.—A State may combine the 2 days allowed for youths with the 2 days allowed for veterans and members of the Armed Forces on active duty under subparagraph (A), but in no circumstance may a State have more than a total of 4 additional days added to its regular hunting season for any purpose.

“(3) REGULATIONS.—The Secretary shall promulgate regulations in accordance with this subsection for the Federal framework for migratory bird hunting for the 2019–2020 hunting season and each hunting season thereafter.”

Amend the title so as to read:

A bill to amend the Migratory Bird Treaty Act to establish January 31 of each year as the Federal framework closing date for the duck hunting season and to establish special duck hunting days for youths, veterans, and active military personnel, and for other purposes.

PURPOSE OF THE BILL

The purpose of H.R. 6013, as ordered reported, is to amend the Migratory Bird Treaty Act to establish January 31 of each year as the federal framework closing date for the duck hunting season and to establish special duck hunting days for youths, veterans, and active military personnel.

BACKGROUND AND NEED FOR LEGISLATION

The Secretary of the Interior is authorized to determine when duck hunting can take place in the United States under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).¹ That responsibility has been delegated to the U.S. Fish and Wildlife Service (USFWS).² Each year, USFWS issues proposed regulations establishing outside dates, season lengths, and bag limits.³ Following that announcement, the four North American Flyway Councils (At-

¹ 16 U.S.C. 704.

² 50 C.F.R. 20.

³ 50 C.F.R. 20.22.

lantic, Central, Mississippi and Pacific), which are comprised of representatives from each State within the flyway of migratory birds,⁴ submit comments and recommendations.⁵

Once the federal regulations are final, States set their own regulations within the overall framework set by USFWS. For example, in recent years federal regulations have provided that State wildlife agencies in all four flyways can allow the hunting of ducks “between the Saturday nearest September 24 and the last Sunday in January.”⁶ Federal regulations also set a maximum number of days that States can allow duck hunting within this timeframe.⁷

This bill establishes January 31 as the closing date for duck hunting instead of “the last Sunday in January” to provide greater certainty to States. This bill will not increase the number of days or bag limit—rather, it will provide a specific end date for States to work with when determining their individual hunting seasons. This will alleviate the confusion experienced when the last Sunday in January might fall on the 25th in some years and the 31st in other years.

The bill also provides for additional duck hunting days for youths, veterans and active military personnel within the overall federal framework.

COMMITTEE ACTION

H.R. 6013 was introduced on June 6, 2018, by Congressman Rob Bishop (R-UT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On July 17, 2018, the Subcommittee held a hearing on the bill. On September 5, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Rob Bishop offered an amendment designated #1; it was adopted by voice vote. Congressman Garret Graves (R-LA) offered and withdrew an amendment designated #2. No additional amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

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 Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has

⁴The U.S. Fish and Wildlife Service and its partners manage migratory birds based largely on routes the birds follow as they migrate between nesting and wintering areas.

⁵Flyways, Greater Sage-Grouse | Species Information (2018), <https://www.fws.gov/birds/management/flyways.php>.

⁶<https://www.federalregister.gov/documents/2018/02/02/2018-02112/migratory-bird-hunting-proposed-frameworks-for-migratory-bird-hunting-regulations>.

⁷*Id.*

received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6013, the Migratory Bird Framework and Hunting Opportunities for Veterans Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

*H.R. 6013—Migratory Bird Framework and Hunting Opportunities
for Veterans Act*

H.R. 6013 would amend the Migratory Bird Treaty Act to establish January 31 of each year as the federal closing date for duck hunting season. The bill also would direct the U.S. Fish and Wildlife Service (USFWS), which issues annual duck hunting regulations, to allow states to establish special hunting days outside of the regular season for youth, veterans, and members of the armed forces.

Using information from the USFWS, CBO estimates that implementing the bill would have no significant effect on spending subject to appropriation.

Enacting H.R. 6013 could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. CBO expects that adding hunting days could increase the sales of federal duck stamps; those collections are recorded in the budget as revenues, deposited in the Migratory Bird Conservation Fund, and later spent without further appropriation action. CBO estimates that any additional revenues would not be significant in any year and would be offset by subsequent direct spending; thus, the net effect on the deficit would be negligible.

CBO estimates that enacting H.R. 6013 would not significantly increase net direct spending and would not increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6013 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contacts for this estimate are Janani Shankaran (for spending) and Nathaniel Frentz (for revenues). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to amend the Migratory Bird Treaty Act to establish January 31 of each year as the federal framework closing date for the duck hunting season and to estab-

lish special duck hunting days for youths, veterans, and active military personnel.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill contains one directed rulemaking in Section 2, which requires the Secretary of the Interior to promulgate regulations for the federal framework for migratory bird hunting for the 2019–2010 season and every season thereafter in accordance with this bill.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

MIGRATORY BIRD TREATY ACT

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SEC. 3. (a) That subject to the provisions and in order to carry out the purposes of the conventions, the Secretary of Agriculture is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

(b) It shall be unlawful for any person to—

(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.

(c) *FEDERAL FRAMEWORK CLOSING DATE FOR HUNTING OF DUCKS, MERGANSERS, AND COOTS.*—

(1) *IN GENERAL.*—*In promulgating regulations under subsection (a) relating to the Federal framework for outside dates within which the States may select seasons for migratory bird hunting, except as provided in paragraph (2), the Secretary shall, with respect to the hunting season for ducks, mergansers, and coots—*

(A) *adopt the recommendation of each respective flyway council (as defined in section 20.152 of title 50, Code of Federal Regulations) for the Federal framework, but the framework closing date shall be January 31 of each year; and*

(B) *allow the States to establish the closing date for the hunting season in accordance with the Federal framework.*

(2) *SPECIAL DUCK HUNTING DAYS FOR YOUTHS, VETERANS, AND ACTIVE MILITARY PERSONNEL.*—

(A) *IN GENERAL.*—*Notwithstanding the closing date under paragraph (1) and subject to subparagraphs (B) and (C), the Secretary shall allow States to select 2 days for youths and 2 days for veterans (as defined in section 101 of title 38, United States Code), and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), to hunt ducks, mergansers, and coots. Such days shall be treated as an addition to the regular hunting season lengths selected by the States.*

(B) *REQUIREMENTS.*—*In selecting days under subparagraph (A), a State shall ensure that—*

(i) *the days selected—*

(I) *do not fall within the regular hunting season for ducks, mergansers, and coots;*

(II) *with regard to youth days, are on a weekend, holiday or other day in which schools are not in session; and*

(III) *are not more than 14 days before or after the hunting season for duck, mergansers, and coots; and*

(ii) *the total number of days in a hunting season for ducks, mergansers and coots, including any days selected under subparagraph (A), is not more than 107 days.*

(C) *LIMITATION.*—*A State may combine the 2 days allowed for youths with the 2 days allowed for veterans and members of the Armed Forces on active duty under subparagraph (A), but in no circumstance may a State have*

more than a total of 4 additional days added to its regular hunting season for any purpose.

(3) REGULATIONS.—The Secretary shall promulgate regulations in accordance with this subsection for the Federal framework for migratory bird hunting for the 2019–2020 hunting season and each hunting season thereafter.

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ADDITIONAL VIEWS

Currently, the Migratory Bird Treaty Act gives the Secretary of the Interior the authority to determine when hunting of migratory game birds can take place in the United States, based on recommendations that have been adopted by the respective Flyway Councils. This bill would take away the authority of the Secretary of Interior to issue the final approval. While the Flyway Councils play a critical role in developing the regulations, establishing the framework for migratory bird management should remain a federal responsibility conducted in consultation with the Flyway Councils.

In addition, season lengths and bag limits should be established by science and not Congressional mandates to ensure the long-term survival of the species for the ecosystem and future hunting opportunities.

The Majority has made improvements to H.R. 6013. We intend to work with our colleagues in the Senate to address these remaining concerns.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*

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