

## TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

**§ 669b-1. Authorization of appropriation of accumulated unappropriated receipts**

There is hereby authorized to be appropriated, out of the Federal aid to wildlife restoration fund established by this chapter, for the 1956 fiscal year and for each fiscal year thereafter, an amount equal to 20 per centum of the accumulated unappropriated receipts in such fund on August 12, 1955, until the accumulated unappropriated receipts in such fund on such date have been appropriated and expended. Funds appropriated under the authority of this section shall be made available to the States in accordance with the provisions of, and under the apportionment formula set forth in, this chapter, and shall be in addition to the funds appropriated under section 669b of this title.

(Aug. 12, 1955, ch. 861, § 1, 69 Stat. 698.)

## CODIFICATION

Section was not enacted as part of act Sept. 2, 1937, ch. 899, 50 Stat. 917, which comprises this chapter.

**§ 669c. Allocation and apportionment of available amounts**

**(a) Set-aside for expenses for administration of this chapter**

**(1) In general**

**(A) Set-aside**

For fiscal year 2001 and each fiscal year thereafter, of the revenues (excluding interest accruing under section 669b(b) of this title) covered into the fund for the fiscal year, the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in implementation of this chapter, in accordance with this subsection and section 669h of this title.

**(B) Available amounts**

The available amount referred to in subparagraph (A) is—

(i) for each of fiscal years 2001 and 2002, \$9,000,000;

(ii) for fiscal year 2003, \$8,212,000; and

(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

(I) the available amount for the preceding fiscal year; and

(II) the amount determined by multiplying—

(aa) the available amount for the preceding fiscal year; and

(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

**(2) Period of availability; apportionment of unobligated amounts**

**(A) Period of availability**

For each fiscal year, the available amount under paragraph (1) shall remain available

for obligation for use under that paragraph until the end of the fiscal year.

**(B) Apportionment of unobligated amounts**

Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts made available under this chapter are apportioned among the States for the fiscal year.

**(b) Apportionment to States**

The Secretary of the Interior, after deducting the available amount under subsection (a), the amount apportioned under subsection (c),<sup>1</sup> any amount apportioned under section 669g-1 of this title, and amounts provided as grants under sections 669h-1 and 669h-2 of this title, shall apportion the remainder of the revenue in said fund for each fiscal year among the several States in the following manner: One-half in the ratio which the area of each State bears to the total area of all the States, and one-half in the ratio which the number of paid hunting-license holders of each State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the total number of paid hunting-license holders of all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than one-half of 1 per centum nor more than 5 per centum of the total amount apportioned. The term fiscal year as used in this chapter shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of paid hunting-license holders shall be a State's fiscal or license year.

**(c)<sup>2</sup> Apportionment of certain taxes**

One-half of the revenues accruing to the fund under this chapter each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States: *Provided*, That each State shall be apportioned not more than 3 per centum and not less than 1 per centum of such revenues and Guam, the Virgin Islands, American Samoa, Puerto Rico, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues. For the purpose of this subsection, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce.

**(c)<sup>2</sup> Apportionment of Wildlife Conservation and Restoration Account**

(1) The Secretary of the Interior shall make the following apportionment from the Wildlife Conservation and Restoration Account:

(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum

<sup>1</sup>Probably means the subsection (c) relating to apportionment of certain taxes.

<sup>2</sup>So in original. Two subsecs. (c) have been enacted.

equal to not more than one-half of 1 percent thereof.

(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof.

(2)(A) The Secretary of the Interior, after making the apportionment under paragraph (1), shall apportion the remaining amount in the Wildlife Conservation and Restoration Account for each fiscal year among the States in the following manner:

(i) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

(ii) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States.

(B) The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than one percent of the amount available for apportionment under this paragraph for any fiscal year or more than five percent of such amount.

(3) Of the amounts transferred to the Wildlife Conservation and Restoration Account, not to exceed 3 percent shall be available for any Federal expenses incurred in the administration and execution of programs carried out with such amounts.

**(d) Wildlife conservation and restoration programs**

(1) Any State, through its fish and wildlife department, may apply to the Secretary of the Interior for approval of a wildlife conservation and restoration program, or for funds from the Wildlife Conservation and Restoration Account, to develop a program. To apply, a State shall submit a comprehensive plan that includes—

(A) provisions vesting in the fish and wildlife department of the State overall responsibility and accountability for the program;

(B) provisions for the development and implementation of—

(i) wildlife conservation projects that expand and support existing wildlife programs, giving appropriate consideration to all wildlife;

(ii) wildlife-associated recreation projects; and

(iii) wildlife conservation education projects pursuant to programs under section 669g(a) of this title; and

(C) provisions to ensure public participation in the development, revision, and implementation of projects and programs required under this paragraph.

(D) WILDLIFE CONSERVATION STRATEGY.— Within five years of the date of the initial apportionment, develop and begin implementation of a wildlife conservation strategy based upon the best available and appropriate scientific information and data that—

(i) uses such information on the distribution and abundance of species of wildlife, including low population and declining species as the State fish and wildlife department deems appropriate, that are indicative of the diversity and health of wildlife of the State;

(ii) identifies the extent and condition of wildlife habitats and community types essential to conservation of species identified under paragraph (1);

(iii) identifies the problems which may adversely affect the species identified under paragraph (1) or their habitats, and provides for priority research and surveys to identify factors which may assist in restoration and more effective conservation of such species and their habitats;

(iv) determines those actions which should be taken to conserve the species identified under paragraph (1) and their habitats and establishes priorities for implementing such conservation actions;

(v) provides for periodic monitoring of species identified under paragraph (1) and their habitats and the effectiveness of the conservation actions determined under paragraph (4), and for adapting conservation actions as appropriate to respond to new information or changing conditions;

(vi) provides for the review of the State wildlife conservation strategy and, if appropriate, revision at intervals of not more than ten years;

(vii) provides for coordination to the extent feasible the State fish and wildlife department, during the development, implementation, review, and revision of the wildlife conservation strategy, with Federal, State, and local agencies and Indian tribes that manage significant areas of land or water within the State, or administer programs that significantly affect the conservation of species identified under paragraph (1) or their habitats.

(2) A State shall provide an opportunity for public participation in the development of the comprehensive plan required under paragraph (1).

(3) If the Secretary finds that the comprehensive plan submitted by a State complies with paragraph (1), the Secretary shall approve the wildlife conservation and restoration program of the State and set aside from the apportionment to the State made pursuant to subsection (c)<sup>3</sup> an amount that shall not exceed 75 percent of the estimated cost of developing and implementing the program.

(4)(A) Except as provided in subparagraph (B), after the Secretary approves a State's wildlife conservation and restoration program, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses. Such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program.

(B) Not more than 10 percent of the amounts apportioned to each State under this section for

<sup>3</sup>Probably means the subsection (c) relating to apportionment of Wildlife Conservation and Restoration Account.

a State's wildlife conservation and restoration program may be used for wildlife-associated recreation.

(5) For purposes of this subsection, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Sept. 2, 1937, ch. 899, § 4, 50 Stat. 918; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 24, 1946, ch. 605, § 1, 60 Stat. 656; Pub. L. 91-503, title I, § 102, Oct. 23, 1970, 84 Stat. 1098; Pub. L. 92-558, title I, § 101(b), Oct. 25, 1972, 86 Stat. 1172; Pub. L. 94-273, § 4(1), Apr. 21, 1976, 90 Stat. 377; Pub. L. 99-396, § 8(b), Aug. 27, 1986, 100 Stat. 839; Pub. L. 101-233, § 7(a)(2), Dec. 13, 1989, 103 Stat. 1975; Pub. L. 106-408, title I, § 111(a), Nov. 1, 2000, 114 Stat. 1763; Pub. L. 106-553, § 1(a)(2) [title IX, § 902(e)], Dec. 21, 2000, 114 Stat. 2762, 2762A-121.)

#### AMENDMENTS

2000—Pub. L. 106-408 inserted section catchline, substituted subsec. (a) for "(a) So much, not to exceed 8 per centum, of the revenues (excluding interest accruing under section 669b(b) of this title) covered into said fund in each fiscal year as the Secretary of the Interior may estimate to be necessary for his expenses in the administration and execution of this chapter and the Migratory Bird Conservation Act shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within sixty days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended by him, if any, and make certificate thereof to the Secretary of the Treasury and to the State fish and game departments on the same basis and in the same manner as is provided as to other amounts authorized by this chapter to be apportioned among the States for such current fiscal year.", inserted subsec. (b) designation and heading, substituted "after deducting the available amount under subsection (a), the amount apportioned under subsection (c), any amount apportioned under section 669g-1 of this title, and amounts provided as grants under sections 669h-1 and 669h-2 of this title, shall apportion" for "after making the aforesaid deduction, shall apportion, except as provided in subsection (b) of this section.", redesignated former subsec. (b) as (c), and inserted "Puerto Rico," after "American Samoa."

Subsec. (c). Pub. L. 106-553 added subsec. (c) relating to apportionment of Wildlife Conservation and Restoration Account.

Subsec. (d). Pub. L. 106-553 added subsec. (d).

1989—Subsec. (a). Pub. L. 101-233 inserted "(excluding interest accruing under section 669b(b) of this title)" after "revenues" in first sentence.

1986—Subsec. (b). Pub. L. 99-396 inserted "and Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues".

1976—Subsec. (a). Pub. L. 94-273 substituted "September" for "June", and "October" for "July".

1972—Subsec. (b). Pub. L. 92-558 substituted "(beginning with the fiscal year 1975)" for "(beginning with the fiscal year 1971)" and "pistols, revolvers, bows, and arrows" for "pistols and revolvers".

1970—Pub. L. 91-503 designated existing provisions as subsec. (a), substituted "second fiscal year preceding" for "preceding fiscal year" in provision dealing with the apportionment by the Secretary of the Interior, defined "fiscal year", and struck out provisions dealing with the maximum and minimum apportionments "to all the States", and added subsec. (b).

1946—Act July 24, 1946, substituted proviso making apportionment upon a percentage basis for provisos

providing for certain definite sums to be apportioned to each State.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-233 effective Oct. 1, 1989, see section 7(a)(3) of Pub. L. 101-233, set out as a note under section 669b of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-558 effective Jan. 1, 1975, see section 101(c) of Pub. L. 92-558, set out as a note under section 669b of this title.

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Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

#### SUSPENSION OF EXPENSE LIMITATION

The Interior Department Appropriation Act, 1945, act June 28, 1944, ch. 298, § 1, 58 Stat. 504, provided that the limitations in this chapter were waived to the extent necessary to provide overtime under the provisions of the War Overtime Pay Act, 1943, former sections 1401 to 1415 of the former Appendix to Title 50, War and National Defense, which act expired June 30, 1945.

### § 669d. Apportionment; certification to States and Secretary of the Treasury; acceptance by States; disposition of funds not accepted

For each fiscal year, the Secretary of the Interior shall certify, at the time at which a deduction or apportionment is made, to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be deducted for administering this chapter and the Migratory Bird Conservation Act [16 U.S.C. 715 et seq.] and the sum which he has apportioned to each State. Any State desiring to avail itself of the benefits of this chapter shall notify the Secretary of the Interior to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of the Interior as herein provided is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act.

(Sept. 2, 1937, ch. 899, § 5, 50 Stat. 918; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91-503, title I, § 102, Oct. 23, 1970, 84 Stat. 1098; Pub. L. 106-408, title I, § 111, Nov. 1, 2000, 114 Stat. 1769.)

#### REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in text, is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, as amended, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

#### AMENDMENTS

2000—Pub. L. 106-408 in first sentence inserted "at the time at which a deduction or apportionment is made," after "certify" and struck out "and executing" after "for administering".

1970—Pub. L. 91-503 struck out requirement that apportionments be made by February 20 of each year preceding commencement of fiscal year in which funds would be used.