

NATIONAL FISH AND WILDLIFE FOUNDATION
ESTABLISHMENT ACT AMENDMENTS OF 2000

SEPTEMBER 28, 2000.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany S. 1653]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 1653) to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, having considered the same, reports favorably thereon with an amendment and recommends 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 “National Fish and Wildlife Foundation Establishment Act Amendments of 2000”.

SEC. 2. PURPOSES.

Section 2(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)) is amended by striking paragraph (1) and inserting the following:

“(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, to further the conservation and management of fish, wildlife, plants, and other natural resources;”.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—Section 3 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702) is amended by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT AND MEMBERSHIP.—

“(1) IN GENERAL.—The Foundation shall have a governing Board of Directors (referred to in this Act as the ‘Board’), which shall consist of 25 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.

“(2) REPRESENTATION OF DIVERSE POINTS OF VIEW.—To the maximum extent practicable, the membership of the Board shall represent diverse points of view relating to conservation and management of fish, wildlife, plants, and other natural resources.

“(3) NOT FEDERAL EMPLOYEES.—Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.”.

(b) APPOINTMENT AND TERMS.—Section 3 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702) is amended by striking subsection (b) and inserting the following:

“(b) APPOINTMENT AND TERMS.—

“(1) AGENCY HEADS.—The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.

“(2) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

“(A) IN GENERAL.—Subject to subparagraph (B), after consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a), of whom—

“(i) at least 6 shall be educated or experienced in fish, wildlife, or other natural resource conservation;

“(ii) at least 4 shall be educated or experienced in the principles of fish, wildlife, or other natural resource management; and

“(iii) at least 4 shall be educated or experienced in ocean and coastal resource conservation.

“(B) TRANSITION PROVISION.—

“(i) CONTINUATION OF TERMS.—The 15 Directors serving on the Board as of the date of enactment of this paragraph shall continue to serve until the expiration of their terms.

“(ii) NEW DIRECTORS.—The Secretary of the Interior shall appoint 8 new Directors; to the maximum extent practicable those appointments shall be made not later than 45 calendar days after the date of enactment of this paragraph.

“(3) TERMS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

“(B) INITIAL APPOINTMENTS TO NEW MEMBER POSITIONS.—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint—

“(i) 2 Directors for a term of 2 years;

“(ii) 3 Directors for a term of 4 years; and

“(iii) 3 Directors for a term of 6 years.

“(4) VACANCIES.—

“(A) IN GENERAL.—The Secretary of the Interior shall fill a vacancy on the Board; to the maximum extent practicable the vacancy shall be filled not later than 45 calendar days after the occurrence of the vacancy.

“(B) TERM OF APPOINTMENTS TO FILL UNEXPIRED TERMS.—An individual appointed to fill a vacancy that occurs before the expiration of the term of a Director shall be appointed for the remainder of the term.

“(5) REAPPOINTMENT.—An individual (other than an individual described in paragraph (1)) shall not serve more than 2 consecutive terms as a Director, excluding any term of less than 6 years.

“(6) REQUEST FOR REMOVAL.—The executive committee of the Board may submit to the Secretary a letter describing the nonperformance of a Director and requesting the removal of the Director from the Board.

“(7) CONSULTATION BEFORE REMOVAL.—Before removing any Director from the Board, the Secretary shall consult with the Secretary of Commerce.”.

(c) TECHNICAL AMENDMENTS.—

(1) Section 4(c)(5) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)(5)) is amended by striking “Directors of the Board” and inserting “Directors of the Foundation”.

(2) Section 6 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3705) is amended by striking “Secretary” and inserting “Secretary of the Interior or the Secretary of Commerce”.

(3) Section 6 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3705) is amended by inserting “or the Department of Commerce” after “Department of the Interior”.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) **PRINCIPAL OFFICE OF THE FOUNDATION.**—Section 4(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(a)(3)) is amended by inserting after “the District of Columbia” the following: “or in a county in the State of Maryland or Virginia that borders on the District of Columbia”.

(b) **INVESTMENT AND DEPOSIT OF FEDERAL FUNDS.**—Section 4(c) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;

“(4) to deposit any funds provided to the Foundation by the Federal Government into accounts that are insured by an agency or instrumentality of the United States;

“(5) to make use of any interest or investment income that accrues as a consequence of actions taken under paragraph (3) or (4) to carry out the purposes of the Foundation;

“(6) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;”

(c) **AGENCY APPROVAL OF ACQUISITIONS OF PROPERTY.**—Section 4(e)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)(1)) is amended by striking subparagraph (B) and inserting the following:

“(B) the Foundation notifies the Federal agency that administers the program under which the funds were provided of the proposed acquisition, and the agency does not object in writing to the proposed acquisition within 60 calendar days after the date of the notification.”

(d) **REPEAL.**—Section 304 of Public Law 102–440 (16 U.S.C. 3703 note) is repealed.

(e) **AGENCY APPROVAL OF CONVEYANCES AND GRANTS.**—Section 4(e)(3)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)(3)(B)) is amended by striking clause (ii) and inserting the following:

“(ii) the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided of the proposed conveyance or provision of Federal funds, and the agency does not object in writing to the proposed conveyance or provision of Federal funds within 60 calendar days after the date of the notification.”

(f) **RECONVEYANCE OF REAL PROPERTY.**—Section 4(e) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e)) is amended by striking paragraph (5) and inserting the following:

“(5) **RECONVEYANCE OF REAL PROPERTY.**—The Foundation shall convey at not less than fair market value any real property acquired by the Foundation in whole or in part with Federal funds if the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided, and the agency does not disagree within 60 calendar days after the date of the notification, that—

“(A) the property is no longer valuable for the purpose of conservation or management of fish, wildlife, plants, and other natural resources; and

“(B) the purposes of the Foundation would be better served by use of the proceeds of the conveyance for other authorized activities of the Foundation.”

(g) **EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.**—Section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

“(h) **EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.**—The Foundation shall not make any expenditure of Federal funds in connection with any 1 transaction for printing services or capital equipment that is greater than \$10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.”

SEC. 5. ANNUAL REPORTING OF GRANT DETAILS.

Section 7(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3706(b)) is amended—

(1) by striking “Congress” and inserting “the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate”; and

(2) by adding at the end the following: “The report shall include a detailed statement of the recipient, amount, and purpose of each grant made by the Foundation in the fiscal year.”.

SEC. 6. NOTICE OF GRANTS TO MEMBERS OF CONGRESS.

Section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is further amended by adding at the end the following:

“(i) NOTICE OF GRANTS TO MEMBERS OF CONGRESS.—The Foundation may not make a grant of funds unless, by not later than 60 days before the grant is made, the Foundation provides notice of the grant to the Member of Congress for the congressional district in which the project to be funded with the grant will be conducted.”.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended by striking subsections (a), (b), and (c) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act for each of fiscal years 2001 and 2002—

“(A) \$20,000,000 to the Department of the Interior; and

“(B) \$5,000,000 to the Department of Commerce.

“(2) REQUIREMENT OF ADVANCE PAYMENT.—The amount made available for a fiscal year under paragraph (1) shall be provided to the Foundation in an advance payment of the entire amount on October 1, or as soon as practicable thereafter, of the fiscal year.

“(3) USE OF APPROPRIATED FUNDS.—Subject to paragraph (4), amounts made available under paragraph (1) shall be provided to the Foundation for use for matching, on a 1-to-1 basis, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

“(4) PROHIBITION ON USE FOR ADMINISTRATIVE EXPENSES.—No Federal funds made available under paragraph (1) shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.

“(b) ADDITIONAL AUTHORIZATION.—

“(1) IN GENERAL.—In addition to the amounts authorized to be appropriated under subsection (a), the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this Act.

“(2) USE OF FUNDS ACCEPTED FROM FEDERAL AGENCIES.—Federal funds provided to the Foundation under paragraph (1) shall be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

“(c) PROHIBITION ON USE OF GRANT AMOUNTS FOR LITIGATION AND LOBBYING EXPENSES.—Amounts provided as a grant by the Foundation shall not be used for—

“(1) any expense related to litigation; or

“(2) any activity the purpose of which is to influence legislation pending before Congress.”.

SEC. 8. LIMITATION ON AUTHORITY.

The National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) is amended by adding at the end the following:

“SEC. 11. LIMITATION ON AUTHORITY.

“Nothing in this Act authorizes the Foundation to perform any function the authority for which is provided to the National Park Foundation by Public Law 90-209 (16 U.S.C. 19e et seq.).”.

SEC. 9. PROHIBITION ON USE OF GRANT AMOUNTS FOR INTRODUCTION OF WOLVES OR GRIZZLY BEARS.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended by adding at the end the following:

“(d) PROHIBITION ON USE OF GRANT AMOUNTS FOR INTRODUCTION OF WOLVES OR GRIZZLY BEARS.—Amounts provided as a grant by the Foundation shall not be used

for any activity related to the introduction of wolves or grizzly bears in Idaho, Montana, Utah, or Wyoming.”.

PURPOSE OF THE BILL

The purpose of S. 1653 is to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act.

BACKGROUND AND NEED FOR LEGISLATION

On March 26, 1984, President Ronald Reagan signed H.R. 2809 into law, thus establishing the National Fish and Wildlife Foundation. Public Law 98-244, the National Fish and Wildlife Foundation Establishment Act, states that: the Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States. The purposes of the Foundation are—

- (1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service; and
- (2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans.

The National Fish and Wildlife Foundation Establishment Act also stipulated that the Foundation would be governed by a Board of Directors, consisting of nine U.S. citizens appointed by the Secretary of the Interior who are educated, experienced, and knowledgeable in fish and wildlife conservation; the members of the Board would serve for a maximum of 12 years without pay, but would be eligible for travel and subsistence expenses; the Foundation would be audited on a yearly basis; and the Foundation would be authorized to receive up to \$1 million in U.S. taxpayers' funds for a ten-year period beginning on October 1, 1983. The Foundation was required to match, on a one-for-one basis, any money it received from the United States Congress.

In 1988, the Congress increased the authorization for the National Fish and Wildlife Foundation to \$5 million a year (Public Law 100-240). It also repealed the one-for-one matching fund requirement.

In 1990, the Congress again extended the Foundation's ability to obtain U.S. taxpayer support for an additional three years by increasing the \$5 million authorization ceiling to \$15 million in fiscal year 1991, \$20 million in fiscal year 1992, and \$25 million in fiscal year 1993. Furthermore, the legislation prohibited the Foundation from using any federal funds for its administrative expenses, including salaries, travel, transportation, and other overhead expenses.

In 1994, Congress enacted the National Fish and Wildlife Improvement Act of 1994 (Public Law 103-232). This law expanded the Foundation's Board of Directors from nine to 15 members; provided explicit authority for the Foundation to work with the National Oceanic and Atmospheric Administration on marine conservation projects; and authorized federal appropriations of \$25 million per year for fiscal years 1994, 1995, 1996, 1997 and 1998.

While the Foundation has not received \$25 million in any single fiscal year, it has obtained total \$150 million in federal funds

through both appropriations and cooperative agreements with individual agencies since 1984. Appropriated dollars are invested directly in on-the-ground projects.

Federal funds provided to the Foundation are awarded as challenge grants to on-the-ground conservation projects. The term “challenge grant” indicates that the federal seed funds must be matched with additional funding, thereby multiplying investments in conservation and involving diverse public and private participants in projects. Since the National Fish and Wildlife Foundation was established in 1984, the Foundation has funded more than 3,850 grants, comprised of \$150 million federal funds matched with more than \$340 million in non-federal dollars for a total of \$490 million invested for conservation. That is a ratio of more than 2:1, which means more than \$2 in non-federal money for each dollar appropriated to the Foundation.

The Foundation fosters partnerships among federal, State, and local governments, corporations, private foundations, individuals, and nonprofit organizations. Funds have been awarded to more than 1,100 grantees, including government agencies, educational institutions, and domestic and international conservation organizations. They have conducted these projects with 36 federal agencies, 125 State and local agencies, 92 colleges and universities, and 852 different conservation groups, including the Audubon Society, Cape May Bird Observatory, Chesapeake Bay Foundation, Defenders of Wildlife, Ducks Unlimited, the International Association of Fish and Wildlife Agencies, the Nature Conservancy, the Peregrine Fund, and Zoo Atlanta.

The fundamental goal of the National Fish and Wildlife Foundation is to provide support to local conservation projects and foster cooperation through established partnerships with government and private stakeholders. The Foundation awards funds to projects benefiting conservation education, habitat protection and restoration, and natural resource management.

To capitalize on its goal of supporting community-based conservation, the Foundation works through a network of regions and partnership offices. Within this regional orientation, there are five thematic objectives:

Working with Private Landowners.—This program focuses on conserving natural resources by partnering with the people who make their living from the land, and can be broken into three categories:

Restoring and enhancing riparian areas, wetlands, and floodplains: The Foundation has undertaken more than 400 projects to enhance the native vegetative composition and the stability of riparian areas in watersheds with both public and private landownership. An example of a partnership is a project in the Catlow Valley in Oregon’s Great Basin that played an important part of a “listing is not warranted” decision for the Great Basin redband trout under the Endangered Species Act. The overall project involves 300,000 acres of land, over half of which is privately owned, on which the Foundation supported restoring springs and building wildlife and livestock watering areas to enhance riparian areas and improve habitat for redband trout and tui chub.

Controlling invasive and noxious weeds: Through the Pulling Together Initiative, the Foundation creates partnerships between fed-

eral agencies and State and local agencies, industry, private landowners, and related interested parties in developing long-term weed management projects as part of an integrated pest management strategy. The coordinated approach supports long-term invasive plant management at the local level and has resulted in leveraged funds; shared experience among partners; cooperation between private and public partners; and increased public awareness of the dangers of allowing expansion of invasive and noxious plants. For example, the American Land Conservancy's Bear Creek Watershed Restoration project in California brought multiple partners together to control yellow starthistle and other invasive weeds utilizing an integrated pest management approach. State universities and agencies established demonstration sites throughout the watershed to show examples of weed control, native plant enhancement, and habitat restoration as well as to raise public awareness about invasive plants and the ecological restoration that has been implemented.

Protecting land through easements and other mechanisms: Conservation easements offer landowners a variety of options for protecting wildlife habitat while allowing farmers, ranchers and other landowners the ability to continue to own and work their land and pass the property to heirs. All easements supported by the Foundation are done with willing partners and must promote and further the conservation and management of fish, wildlife and plant resources of the United States. The Foundation has supported over 120 projects involving conservation easements with partners as diverse as the California Rangeland Trust, Malpai Borderlands Group, Ducks Unlimited, and many locally-based land trusts.

Enhancing Conservation Education.—This program supports innovative education programs targeting under-served groups and young people, educators, community leaders, and private landowners nationwide, the critical audiences responsible for the current and future management of our natural resources. To date, the Foundation has awarded over 530 grants worth \$11.4 million, and those grants have leveraged more than \$38 million for conservation education projects located in all 50 States.

Promoting Sustainable Communities.—This program invests in projects that build economic opportunity and capacity at the local level to balance growth with species and habitat conservation. The Foundation has awarded over 800 grants, committing \$27 million in federal funds and leveraging an additional \$60 million in non-federal contributions to support projects that sustain the health and diversity of fish and wildlife habitat in communities.

Fostering Resolution of Resource Conflicts.—The Foundation has provided critical support to resolve controversies regarding fish and wildlife protection and communities' development needs. For example, the Foundation is assisting the Sierra Business Council, an association of over 450 member businesses working to secure the economic and environmental health of the Sierra Nevada, to develop the Placer County Open Space and Preservation Plan. Working collaboratively with State and federal agencies, the Sierra Business Council simultaneously addressed the environmental and economic needs of Placer County through the establishment of a countywide Natural Communities Conservation Plan.

Promoting Strong, Diversified Local Economies.—The Pinellas County Environmental Foundation (PCEF) is a unique partnership that brings the Foundation's expertise to this Florida Gulf Coast community. PCEF's mission is to conserve, restore and enhance the natural resources of Pinellas County for its citizens and visitors through innovative and sustainable partnerships among stakeholders. Although Pinellas is the State's most densely populated county, natural resources are abundant, including wading bird rookeries, nearshore fisheries, and parklands. Through PCEF, the Tampa Bay area is becoming a model for nature tourism (the Florida Birding Festival and Flats Fishing Tournament), environmental education, and integrating natural resource conservation with population growth.

The Foundation develops partnerships with private corporations that foster strategic investments in conservation solutions. Programs are jointly developed by the corporation and the Foundation and address demonstrated conservation needs.

For additional information, please see Senate Report 106–230.

COMMITTEE ACTION

S. 1653 was introduced on September 28, 1999, by the late Senator John H. Chafee (R-RI). On March 9, 2000, the Senate passed S. 1653 by unanimous consent. In the House of Representatives, the bill was referred to the Resources Committee. While there were no specific hearings on this legislation, the Subcommittee on Fisheries Conservation, Wildlife and Oceans of the Committee on Resources has conducted several comprehensive oversight hearings on the operation of the National Fish and Wildlife Foundation. On September 20, 2000, the Full Resources Committee met to consider the bill. Chairman Don Young (R-AK) offered an amendment in the nature of a substitute that shortened the authorization period, provided level funding for the Foundation at \$25 million (\$20 million to the Department of the Interior and \$5 million to the Department of Commerce), retained the lobbying and litigation prohibition reforms, did not expand the Foundation's authority beyond the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, and increased the size of the Foundation's Board of Directors. Congressman Jim Hansen (R-UT) offered an amendment to the substitute that required an annual report to the House Committee on Resources and Senate Committee on Environment and Public Works detailing the recipient, amount and purpose of each conservation grant, and required that the Foundation must provide a 60-day notice to those Members of Congress that will be affected by a specific conservation grant project in their district. The amendment was adopted by voice vote. Congressman Helen Chenoweth-Hage (R-ID) offered an amendment that prohibited the use of grant money for the introduction of wolves or grizzly bears in Idaho, Montana, Utah, or Wyoming. The amendment was adopted by a vote of 25 to 9, as follows:

Committee on Resources
U.S. House of Representatives
106th Congress

Full Committee

Date 9-20-00Roll No. 1

Bill No. S. 1653 Short Title "National Fish and Wildlife Foundation
Establishment Act Amendments of 2000"

Amendment or matter voted on: Amendment offered by Mrs. Chenoweth-Hage

Member	Present	Absent	Excused	Message	Present	Absent	Excused
Mr. Young (Chairman)	X			Mr. Miller			
Mr. Tauzin	X			Mr. Rahall			
Mr. Hansen	X			Mr. Vento			
Mr. Saxton		X		Mr. Kildee		X	
Mr. Gallegly				Mr. DeFazio		X	
Mr. Duncan	X			Mr. Faleomavaega	X		
Mr. Hefley		X		Mr. Abercrombie	X		
Mr. Doolittle	X			Mr. Ortiz			
Mr. Gilchrest		X		Mr. Pickett	X		
Mr. Calvert	X			Mr. Pallone			
Mr. Pombo	X			Mr. Dooley			
Mrs. Cubin	X			Mr. Romero-Barcelo			
Mrs. Chenoweth-Hage	X			Mr. Underwood	X		
Mr. Radanovich	X			Mr. Kennedy			
Mr. Jones	X			Mr. Smith			
Mr. Thornberry	X			Mr. John			
Mr. Cannon	X			Mrs. Christensen			
Mr. Brady	X			Mr. Kind			
Mr. Peterson	X			Mr. Inslee		X	
Mr. Hill	X			Mrs. Napolitano		X	
Mr. Schaffer				Mr. Tom Udall		X	
Mr. Gibbons	X			Mr. Mark Udall		X	
Mr. Souder	X			Mr. Crowley			
Mr. Walden	X			Mr. Holt			
Mr. Sherwood							
Mr. Hayes							
Mr. Simpson	X						
Mr. Tancredo	X			TOTAL	25	9	

The amendment in the nature of a substitute, as amended, was then approved by voice vote. The bill, as amended, was then 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 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 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. Government Reform Oversight Findings. Under clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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, September 25, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1653, the National Fish and Wildlife Foundation Establishment Act Amendments of 2000.

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.

S. 1653—National Fish and Wildlife Foundation Establishment Act Amendments of 2000

Summary: S. 1653 would authorize the appropriation of \$25 million for each of fiscal years 2001 and 2002 for making payments to the National Fish and Wildlife Foundation (NFWF). The payments would be made by the Department of the Interior and the Department of Commerce, and would be available to the foundation to match contributions received from private, state, and local organizations to carry out various wildlife programs. Other provisions of the act, which would amend the National Fish and Wildlife Foundation Establishment Act, would have no impact on federal spending. Many of its provisions would clarify existing laws regarding the foundation’s investment and use of funds.

The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1653 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government: Assuming appropriation of the authorized amounts, CBO estimates that federal agencies would make payments totaling \$25 million to the NFWF in fiscal years 2001 and 2002. The amounts that would be authorized to be appropriated for payment to the NFWF under S. 1653 are the same as the previous annual authorization (which expired at the end of fiscal year 1998) and \$18 million higher than the amount appropriated for payments to the NFWF for 2000. The estimated budgetary impact of S. 1653 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority ¹	7	0	0	0	0	0
Estimated outlays	7	0	0	0	0	0
Proposed changes:						
Authorization level	0	25	25	0	0	0
Estimated outlays	0	25	25	0	0	0
Spending under S. 1653:						
Authorization level	7	25	25	0	0	0
Estimated outlays	7	25	25	0	0	0

¹The 2000 level is the amount appropriated for that year for payments to the NFWF.

Pay-as-You-Go Considerations: None.

Intergovernmental and Private-Sector Impact: S. 1653 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Previous CBO Estimate: On February 24, 2000, CBO transmitted a cost estimate for S. 1653, the National Fish and Wildlife Foundation Establishment Act Amendments of 1999, as ordered reported by the Senate Committee on Environment and Public Works on February 9, 2000. The House version of S. 1653 would authorize

annual appropriations of \$15 million less than the Senate version, and would authorize such payments for two rather than five years. These differences are reflected in the CBO estimates.

Estimate Prepared by: Federal Costs Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miler; 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 italics, existing law in which no change is proposed is shown in roman):

**NATIONAL FISH AND WILDLIFE FOUNDATION
ESTABLISHMENT ACT**

* * * * *

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) * * *

(b) PURPOSES.—The purposes of the Foundation are—

[(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration;]

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, to further the conservation and management of fish, wildlife, plants, and other natural resources;

* * * * *

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

[(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the “Board”), which shall consist of 15 Directors, each of whom shall be a United States citizen and—

[(1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and

[(2) 4 of whom must be educated and experienced in the principles of fish and wildlife management.

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation. The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board. Appointment

to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

[(b) APPOINTMENT AND TERMS.—By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this Act as the “Secretary”) shall appoint the Directors of the Board. The Directors shall be appointed for terms of 6 years; except that the Secretary, in making the initial appointments to the Board, shall appoint 3 Directors to a term of 2 years, 3 Directors to a term of 4 years, and 3 Directors to a term of 6 years. A vacancy on the Board shall be filled within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a Director. The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.]

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) IN GENERAL.—*The Foundation shall have a governing Board of Directors (referred to in this Act as the “Board”), which shall consist of 25 Directors appointed in accordance with subsection (b), each of whom shall be a United States citizen.*

(2) REPRESENTATION OF DIVERSE POINTS OF VIEW.—*To the maximum extent practicable, the membership of the Board shall represent diverse points of view relating to conservation and management of fish, wildlife, plants, and other natural resources.*

(3) NOT FEDERAL EMPLOYEES.—*Appointment as a Director of the Foundation shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.*

(b) APPOINTMENT AND TERMS.—

(1) AGENCY HEADS.—*The Director of the United States Fish and Wildlife Service and the Under Secretary of Commerce for Oceans and Atmosphere shall be Directors of the Foundation.*

(2) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—*Subject to subparagraph (B), after consulting with the Secretary of Commerce and considering the recommendations submitted by the Board, the Secretary of the Interior shall appoint 23 Directors who meet the criteria established by subsection (a), of whom—*

(i) *at least 6 shall be educated or experienced in fish, wildlife, or other natural resource conservation;*

(ii) *at least 4 shall be educated or experienced in the principles of fish, wildlife, or other natural resource management; and*

(iii) *at least 4 shall be educated or experienced in ocean and coastal resource conservation.*

(B) TRANSITION PROVISION.—

(i) CONTINUATION OF TERMS.—*The 15 Directors serving on the Board as of the date of enactment of this paragraph shall continue to serve until the expiration of their terms.*

(ii) NEW DIRECTORS.—*The Secretary of the Interior shall appoint 8 new Directors; to the maximum extent practicable those appointments shall be made not later*

than 45 calendar days after the date of enactment of this paragraph.

(3) TERMS.—

(A) IN GENERAL.—Subject to subparagraph (B), each Director (other than a Director described in paragraph (1)) shall be appointed for a term of 6 years.

(B) INITIAL APPOINTMENTS TO NEW MEMBER POSITIONS.—Of the Directors appointed by the Secretary of the Interior under paragraph (2)(B)(ii), the Secretary shall appoint—

- (i) 2 Directors for a term of 2 years;
- (ii) 3 Directors for a term of 4 years; and
- (iii) 3 Directors for a term of 6 years.

(4) VACANCIES.—

(A) IN GENERAL.—The Secretary of the Interior shall fill a vacancy on the Board; to the maximum extent practicable the vacancy shall be filled not later than 45 calendar days after the occurrence of the vacancy.

(B) TERM OF APPOINTMENTS TO FILL UNEXPIRED TERMS.—An individual appointed to fill a vacancy that occurs before the expiration of the term of a Director shall be appointed for the remainder of the term.

(5) REAPPOINTMENT.—An individual (other than an individual described in paragraph (1)) shall not serve more than 2 consecutive terms as a Director, excluding any term of less than 6 years.

(6) REQUEST FOR REMOVAL.—The executive committee of the Board may submit to the Secretary a letter describing the non-performance of a Director and requesting the removal of the Director from the Board.

(7) CONSULTATION BEFORE REMOVAL.—Before removing any Director from the Board, the Secretary shall consult with the Secretary of Commerce.

* * * * *

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) * * *

* * * * *

(3) shall have its principal offices in the District of Columbia or in a county in the State of Maryland or Virginia that borders on the District of Columbia; and

* * * * *

(c) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) * * *

* * * * *

(3) to invest any funds provided to the Foundation by the Federal Government in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States;

(4) to deposit any funds provided to the Foundation by the Federal Government into accounts that are insured by an agency or instrumentality of the United States;

(5) to make use of any interest or investment income that accrues as a consequence of actions taken under paragraph (3) or (4) to carry out the purposes of the Foundation;

(6) to use Federal funds to make payments under cooperative agreements entered into with willing private landowners to provide substantial long-term benefits for the restoration or enhancement of fish, wildlife, plants, and other natural resources on private land;

[(3)] (7) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

[(4)] (8) to borrow money and issue bonds, debentures, or other debt instruments;

[(5)] (9) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the [Directors of the Board] *Directors of the Foundation* shall not be personally liable, except for gross negligence;

[(6)] (10) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

[(7)] (11) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

* * * * *

(e) ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—(1) The Foundation may only use Federal funds for the acquisition of interests in real property if—

(A) * * *

[(B) the Director of the United States Fish and Wildlife Service (hereinafter in this subsection referred to as the “Director”) consents to the acquisition in writing.]

(B) the Foundation notifies the Federal agency that administers the program under which the funds were provided of the proposed acquisition, and the agency does not object in writing to the proposed acquisition within 60 calendar days after the date of the notification.

* * * * *

(3)(A) * * *

* * * * *

(B) The Foundation may only make a conveyance or provide Federal funds under subparagraph (A) if—

(i) * * *

[(ii) the Director finds that conveyance or provision of Federal funds meets the requirements of clause (i) and consents to it in writing.]

(ii) the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided of the proposed conveyance or provision of Federal funds, and the agency does not object in writing to the proposed con-

veyance or provision of Federal funds within 60 calendar days after the date of the notification.

* * * * *

[(5) The Foundation shall convey at not less than fair-market value any real property acquired by it in whole or in part with Federal funds if the Foundation and the Director determine, in writing, that—

[(A) the land is no longer valuable for the purposes of fish and wildlife conservation or management; and

[(B) the purposes of the Foundation would be better served by the use of the Federal funds for other authorized activities of the Foundation.]

(5) *RECONVEYANCE OF REAL PROPERTY.*—*The Foundation shall convey at not less than fair market value any real property acquired by the Foundation in whole or in part with Federal funds if the Foundation notifies the Federal agency that administers the Federal program under which the funds were provided, and the agency does not disagree within 60 calendar days after the date of the notification, that—*

(A) *the property is no longer valuable for the purpose of conservation or management of fish, wildlife, plants, and other natural resources; and*

(B) *the purposes of the Foundation would be better served by use of the proceeds of the conveyance for other authorized activities of the Foundation.*

* * * * *

(h) *EXPENDITURES FOR PRINTING SERVICES OR CAPITAL EQUIPMENT.*—*The Foundation shall not make any expenditure of Federal funds in connection with any 1 transaction for printing services or capital equipment that is greater than \$10,000 unless the expenditure is approved by the Federal agency that administers the Federal program under which the funds were provided.*

(i) *NOTICE OF GRANTS TO MEMBERS OF CONGRESS.*—*The Foundation may not make a grant of funds unless, by not later than 60 days before the grant is made, the Foundation provides notice of the grant to the Member of Congress for the congressional district in which the project to be funded with the grant will be conducted.*

* * * * *

SEC. 6. VOLUNTEER STATUS.

The [Secretary] *Secretary of the Interior or the Secretary of Commerce* may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior or the Department of Commerce, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 7. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) * * *

(b) **REPORT.**—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to [Congress] *the Committee on Resources of the House of Representatives and the Committee on*

Environment and Public Works of the Senate a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments; and a description of all acquisition and disposal of real property that is subject to section 4(e). *The report shall include a detailed statement of the recipient, amount, and purpose of each grant made by the Foundation in the fiscal year.*

* * * * *

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

[(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior \$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.]

[(b) USE OF AMOUNTS APPROPRIATED.—(1) Subject to paragraph (2), amounts appropriated under this section shall be made available to the Foundation for use for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.]

[(2) No Federal funds authorized under this section shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.]

[(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.]

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—*There are authorized to be appropriated to carry out this Act for each of fiscal years 2001 and 2002—*

(A) \$20,000,000 to the Department of the Interior; and
(B) \$5,000,000 to the Department of Commerce.

(2) REQUIREMENT OF ADVANCE PAYMENT.—*The amount made available for a fiscal year under paragraph (1) shall be provided to the Foundation in an advance payment of the entire amount on October 1, or as soon as practicable thereafter, of the fiscal year.*

(3) USE OF APPROPRIATED FUNDS.—*Subject to paragraph (4), amounts made available under paragraph (1) shall be provided to the Foundation for use for matching, on a 1-to-1 basis, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.*

(4) PROHIBITION ON USE FOR ADMINISTRATIVE EXPENSES.—*No Federal funds made available under paragraph (1) shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.*

(b) ADDITIONAL AUTHORIZATION.—

(1) IN GENERAL.—*In addition to the amounts authorized to be appropriated under subsection (a), the Foundation may accept Federal funds from a Federal agency under any other Federal law for use by the Foundation to further the conservation and management of fish, wildlife, plants, and other natural resources in accordance with the requirements of this Act.*

(2) *USE OF FUNDS ACCEPTED FROM FEDERAL AGENCIES.*—Federal funds provided to the Foundation under paragraph (1) shall be used by the Foundation for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

(c) *PROHIBITION ON USE OF GRANT AMOUNTS FOR LITIGATION AND LOBBYING EXPENSES.*—Amounts provided as a grant by the Foundation shall not be used for—

(1) any expense related to litigation; or

(2) any activity the purpose of which is to influence legislation pending before Congress.

(d) *PROHIBITION ON USE OF GRANT AMOUNTS FOR INTRODUCTION OF WOLVES OR GRIZZLY BEARS.*—Amounts provided as a grant by the Foundation shall not be used for any activity related to the introduction of wolves or grizzly bears in Idaho, Montana, Utah, or Wyoming.

SEC. 11. LIMITATION ON AUTHORITY.

Nothing in this Act authorizes the Foundation to perform any function the authority for which is provided to the National Park Foundation by Public Law 90–209 (16 U.S.C. 19e et seq.).

SECTION 304 OF THE ACT OF OCTOBER 23, 1992

AN ACT To promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.

[SEC. 304. NATIONAL FISH AND WILDLIFE FOUNDATION.

[Beginning in fiscal year 1993 and hereafter, the National Fish and Wildlife Foundation may continue to draw down Federal funds when matching requirements have been met: *Provided*, That interest earned by the Foundation and its subgrantees on funds drawn down to date, but not immediately disbursed, shall be used to fund all activities as approved by the Board of Directors: *Provided further*, That the Foundation’s subgrantees shall be exempt from the audit reporting and compliance requirements of OMB Circular A–133, for all grants of \$100,000 or less. The Foundation shall amend its grant contracts to ensure that its subgrantees are advised and certify that they will comply with all applicable Federal laws and regulations imposed on individuals or organizations receiving Federal funds.]

DISSENTING VIEWS

It is with regret that we oppose S. 1653 as amended by the Committee on Resources. The National Fish and Wildlife Foundation (Foundation) has enjoyed wide, bipartisan support from Congress since its inception in 1984, but the Majority has chosen to depart from that tradition and again derail what should be a non-controversial bill by the inclusion of a poison pill amendment.

We support S. 1653 and its fundamental goal of reauthorizing the Foundation and its popular programs. Unfortunately, the amendment offered by Rep. Chenoweth-Hage and adopted over our objectives at the September 20, 2000 Committee markup transforms what should have been a straightforward reauthorization into a partisan platform with the objective of undermining the Endangered Species Act (ESA).

The Chenoweth-Hage amendment would prohibit the Foundation from funding any activities related to the reintroduction of wolves or grizzly bears in Idaho, Montana, Utah, and Wyoming. This amendment, which serves the political and ideological interests of a handful of Members who object to the Endangered Species Act, compromises the fundamental integrity of the Foundation's science-based programs.

The Foundation is an established, competitive grant-making, peer-reviewed organization with a long history of funding successful conservation projects throughout the United States. The Foundation has worked closely with Congress and has engaged in numerous popular endeavors, without major objections, until the 104th Congress when certain Members of the Majority of this Committee began investigating Foundation activities related to the Endangered Species Act.

Ironically, the Foundation has never funded any grizzly bear reintroduction efforts. It has, however, funded research and education programs on the prevention of human/grizzly bear interactions. In addition, the Foundation has awarded less than \$150,000 worth of projects related to the reintroduction of wolves.

However, the substance of our concern with the Chenoweth-Hage amendment is the precedent of Congress intervening to constrain the Foundation's conservation activities. The amendment effectively undercuts a competitive grant-making process that has resulted in more than 3,500 conservation projects throughout all fifty states and insular areas and in 35 other countries. The development of scientifically-based projects is not enhanced by the interjection of Congressional politics as reflected in the Chenoweth-Hage amendment.

Over the past 16 years the Foundation has matched federal dollars with private donations on over a two-to-one ratio, ensuring that federal appropriations have a far greater impact. The Foundation has worked successfully with diverse interests such as the

California Cattleman's Association and The Nature Conservancy, forging partnerships and developing effective cost-sharing initiatives.

In conclusion, it is unwise and unnecessary to include the Chenoweth-Hage restrictions on non-controversial reauthorization legislation. It would be bad precedent for Congress to begin micro-managing the Foundation's scientifically-based and competitive conservation grant projects. If the Majority wants to rewrite the Endangered Species Act they should choose another legislative forum in which to engage in that battle and refrain from cluttering this bipartisan bill with their ideological baggage. The House should reject the Committee's nefarious amendments and instead send S. 1653, as passed by the Senate, to the President for his signature.

GEORGE MILLER,
*Ranking Member, Committee
on Resources.*
FRANK PALLONE.

