

112TH CONGRESS
1ST SESSION

S. 1494

To reauthorize and amend the National Fish and Wildlife Foundation
Establishment Act.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2011

Mrs. BOXER (for herself, Mr. CARDIN, Mr. COCHRAN, Mr. ROBERTS, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To reauthorize and amend the National Fish and Wildlife
Foundation Establishment Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Fish and
5 Wildlife Foundation Reauthorization Act of 2011”.

6 **SEC. 2. BOARD OF DIRECTORS OF THE FOUNDATION.**

7 (a) IN GENERAL.—Section 3 of the National Fish
8 and Wildlife Foundation Establishment Act (16 U.S.C.
9 3702) is amended—

10 (1) in subsection (b)—

1 (A) by striking paragraph (2) and insert-
2 ing the following:

3 “(2) IN GENERAL.—After consulting with the
4 Secretary of Commerce and considering the rec-
5 ommendations submitted by the Board, the Sec-
6 retary of the Interior shall appoint 28 Directors
7 who, to the maximum extent practicable, shall—

8 “(A) be knowledgeable and experienced in
9 matters relating to conservation of fish, wildlife,
10 or other natural resources; and

11 “(B) represent a balance of expertise in
12 ocean, coastal, freshwater, and terrestrial re-
13 source conservation.”; and

14 (B) by striking paragraph (3) and insert-
15 ing the following:

16 “(3) TERMS.—Each Director (other than a Di-
17 rector described in paragraph (1)) shall be appointed
18 for a term of 6 years.”; and

19 (2) in subsection (g)(2)—

20 (A) in subparagraph (A), by striking “(A)
21 Officers and employees may not be appointed
22 until the Foundation has sufficient funds to pay
23 them for their service. Officers” and inserting
24 the following:

25 “(A) IN GENERAL.—Officers”; and

1 (B) by striking subparagraph (B) and in-
2 serting the following:

3 “(B) EXECUTIVE DIRECTOR.—The Foun-
4 dation shall have an Executive Director who
5 shall be—

6 “(i) appointed by, and serve at the di-
7 rection of, the Board as the chief executive
8 officer of the Foundation; and

9 “(ii) knowledgeable and experienced in
10 matters relating to fish and wildlife con-
11 servation.”.

12 (b) CONFORMING AMENDMENT.—Section 4(a)(1)(B)
13 of the North American Wetlands Conservation Act (16
14 U.S.C. 4403(a)(1)(B)) is amended by striking “Secretary
15 of the Board” and inserting “Executive Director of the
16 Board”.

17 **SEC. 3. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

18 Section 4 of the National Fish and Wildlife Founda-
19 tion Establishment Act (16 U.S.C. 3703) is amended—

20 (1) in subsection (c)—

21 (A) by striking “(c) POWERS.—To carry
22 out its purposes under” and inserting the fol-
23 lowing:

24 “(c) POWERS.—

1 “(1) IN GENERAL.—To carry out the purposes
2 described in”;

3 (B) by redesignating paragraphs (1)
4 through (11) as subparagraphs (A) through
5 (K), respectively, and indenting appropriately;

6 (C) in subparagraph (D) (as redesignated
7 by subparagraph (B)), by striking “that are in-
8 sured by an agency or instrumentality of the
9 United States” and inserting “at 1 or more fi-
10 nancial institutions that are members of the
11 Federal Deposit Insurance Corporation or the
12 Securities Investment Protection Corporation”;

13 (D) in subparagraph (E) (as redesignated
14 by subparagraph (B)), by striking “paragraph
15 (3) or (4)” and inserting “subparagraph (C) or
16 (D)”;

17 (E) in subparagraph (J) (as redesignated
18 by subparagraph (B)), by striking “; and” and
19 inserting a semicolon;

20 (F) by striking subparagraph (K) (as re-
21 designating by subparagraph (B)) and inserting
22 the following:

23 “(K) to receive and administer restitution
24 and community service payments, amounts for
25 mitigation of impacts to natural resources, and

1 other amounts arising from legal, regulatory, or
2 administrative proceedings, subject to the con-
3 dition that the amounts are received or admin-
4 istered for purposes that further the conserva-
5 tion and management of fish, wildlife, plants,
6 and other natural resources; and

7 “(L) to do any and all acts necessary and
8 proper to carry out the purposes of the Founda-
9 tion.”; and

10 (G) by striking the undesignated matter at
11 the end and inserting the following:

12 “(2) TREATMENT OF REAL PROPERTY.—

13 “(A) IN GENERAL.—For purposes of this
14 Act, an interest in real property shall be treated
15 as including easements or other rights for pres-
16 ervation, conservation, protection, or enhance-
17 ment by and for the public of natural, scenic,
18 historic, scientific, educational, inspirational, or
19 recreational resources.

20 “(B) ENCUMBERED REAL PROPERTY.—A
21 gift, devise, or bequest may be accepted by the
22 Foundation even though the gift, devise, or be-
23 quest is encumbered, restricted, or subject to
24 beneficial interests of private persons if any

1 current or future interest in the gift, devise, or
2 bequest is for the benefit of the Foundation.

3 “(3) SAVINGS CLAUSE.—The acceptance and
4 administration of amounts by the Foundation under
5 paragraph (1)(K) does not alter, supersede, or limit
6 any regulatory or statutory requirement associated
7 with those amounts.”;

8 (2) by striking subsections (f) and (g); and

9 (3) by redesignating subsections (h) and (i) as
10 subsections (f) and (g), respectively.

11 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 10 of the National Fish and Wildlife Founda-
13 tion Establishment Act (16 U.S.C. 3709) is amended—

14 (1) in subsection (a), by striking paragraph (1)
15 and inserting the following:

16 “(1) IN GENERAL.—There are authorized to be
17 appropriated to carry out this Act for each of fiscal
18 years 2011 through 2015—

19 “(A) \$20,000,000 to the Secretary of the
20 Interior;

21 “(B) \$5,000,000 to the Secretary of Agri-
22 culture; and

23 “(C) \$5,000,000 to the Secretary of Com-
24 merce.”;

25 (2) in subsection (b)—

1 (A) by striking paragraph (1) and insert-
2 ing the following:

3 “(1) AMOUNTS FROM FEDERAL AGENCIES.—

4 “(A) IN GENERAL.—In addition to the
5 amounts authorized to be appropriated under
6 subsection (a), the Foundation may accept Fed-
7 eral funds from Federal departments, agencies,
8 or instrumentalities for use by the Foundation,
9 subject to the condition that the amounts are
10 used for purposes that further the conservation
11 and management of fish, wildlife, plants, and
12 other natural resources in accordance with this
13 Act.

14 “(B) ADVANCES.—Federal departments,
15 agencies, or instrumentalities may advance
16 amounts described in subparagraph (A) to the
17 Foundation in a lump sum without regard to
18 when the expenses for which the amounts are
19 used are incurred.

20 “(C) MANAGEMENT FEES.—The Founda-
21 tion may assess and collect fees for the manage-
22 ment of amounts received under this para-
23 graph.”;

24 (B) in paragraph (2)—

1 (i) in the paragraph heading, by strik-
2 ing “FUNDS” and inserting “AMOUNTS”;

3 (ii) by striking “shall be used” and in-
4 serting “may be used”; and

5 (iii) by striking “and State and local
6 government agencies” and inserting “,
7 State and local government agencies, and
8 other entities”; and

9 (C) by adding at the end the following:

10 “(3) ADMINISTRATION OF AMOUNTS.—

11 “(A) IN GENERAL.—In entering into con-
12 tracts, agreements, or other partnerships pursu-
13 ant to this Act, a Federal department, agency,
14 or instrumentality shall have discretion to waive
15 any competitive process of that department,
16 agency, or instrumentality for entering into
17 contracts, agreements, or partnerships with the
18 Foundation if the purpose of the waiver is—

19 “(i) to address an environmental
20 emergency resulting from a natural or
21 other disaster; or

22 “(ii) as determined by the head of the
23 applicable Federal department, agency, or
24 instrumentality, to reduce administrative
25 expenses and expedite the conservation and

1 management of fish, wildlife, plants, and
2 other natural resources.

3 “(B) REPORTS.—The Foundation shall in-
4 clude in the annual report submitted under sec-
5 tion 7(b) a description of any use of the author-
6 ity under subparagraph (A) by a Federal de-
7 partment, agency, or instrumentality in that fis-
8 cal year.”; and

9 (3) by adding at the end the following:

10 “(d) USE OF GIFTS, DEVISES, OR BEQUESTS OF
11 MONEY OR OTHER PROPERTY.—Any gifts, devises, or be-
12 quests of amounts or other property, or any other amounts
13 or other property, transferred to, deposited with, or other-
14 wise in the possession of the Foundation pursuant to this
15 Act, may be made available by the Foundation to Federal
16 departments, agencies, or instrumentalities and may be
17 accepted and expended (or the disposition of the amounts
18 or property directed), without further appropriation, by
19 those Federal departments, agencies, or instrumentalities,
20 subject to the condition that the amounts or property be
21 used for purposes that further the conservation and man-
22 agement of fish, wildlife, plants, and other natural re-
23 sources.”.

1 **SEC. 5. LIMITATION ON AUTHORITY.**

2 Section 11 of the National Fish and Wildlife Founda-
3 tion Establishment Act (16 U.S.C. 3710) is amended by
4 inserting “exclusive” before “authority”.

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