

**Calendar No. 517**112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1494****[Report No. 112-215]**

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

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2011

Mrs. BOXER (for herself, Mr. CARDIN, Mr. COCHRAN, Mr. ROBERTS, Mr. THUNE, Mr. BINGAMAN, Mr. BAUCUS, Mr. WHITEHOUSE, Mr. TESTER, Ms. SNOWE, Ms. COLLINS, Ms. MURKOWSKI, Mr. UDALL of New Mexico, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 19, 2012

Reported by Mrs. BOXER, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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**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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Fish and  
3 Wildlife Foundation Reauthorization Act of ~~2011~~ 2012”.

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

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

8 (1) in subsection (b)—

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

11 “(2) IN GENERAL.—After consulting with the  
12 Secretary of Commerce and considering the rec-  
13 ommendations submitted by the Board, the Sec-  
14 retary of the Interior shall appoint 28 Directors  
15 who, to the maximum extent practicable, shall—

16 “(A) be knowledgeable and experienced in  
17 matters relating to conservation of fish, wildlife,  
18 or other natural resources; and

19 “(B) represent a balance of expertise in  
20 ocean, coastal, freshwater, and terrestrial re-  
21 source conservation.”; and

22 (B) by striking paragraph (3) and insert-  
23 ing the following:

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

1 (2) in subsection (g)(2)—

2 (A) in subparagraph (A), by striking “(A)  
3 Officers and employees may not be appointed  
4 until the Foundation has sufficient funds to pay  
5 them for their service. Officers” and inserting  
6 the following:

7 “(A) IN GENERAL.—Officers”; and

8 (B) by striking subparagraph (B) and in-  
9 serting the following:

10 “(B) EXECUTIVE DIRECTOR.—The Foun-  
11 dation shall have an Executive Director who  
12 shall be—

13 “(i) appointed by, and serve at the di-  
14 rection of, the Board as the chief executive  
15 officer of the Foundation; and

16 “(ii) knowledgeable and experienced in  
17 matters relating to fish and wildlife con-  
18 servation.”.

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

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

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

4 (1) in subsection (c)—

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

8 “(c) POWERS.—

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

11 (B) by redesignating paragraphs (1)  
12 through (11) as subparagraphs (A) through  
13 (K), respectively, and indenting appropriately;

14 (C) in subparagraph (D) (as redesignated  
15 by subparagraph (B)), by striking “that are in-  
16 sured by an agency or instrumentality of the  
17 United States” and inserting “at 1 or more fi-  
18 nancial institutions that are members of the  
19 Federal Deposit Insurance Corporation or the  
20 Securities Investment Protection Corporation”;

21 (D) in subparagraph (E) (as redesignated  
22 by subparagraph (B)), by striking “paragraph  
23 (3) or (4)” and inserting “subparagraph (C) or  
24 (D)”;

1 (E) in subparagraph (J) (as redesignated  
2 by subparagraph (B)), by striking “; and” and  
3 inserting a semicolon;

4 (F) by striking subparagraph (K) (as re-  
5 designated by subparagraph (B)) and inserting  
6 the following:

7 “(K) to receive and administer restitution  
8 and community service payments, amounts for  
9 mitigation of impacts to natural resources, and  
10 other amounts arising from legal, regulatory, or  
11 administrative proceedings, subject to the con-  
12 dition that the amounts are received or admin-  
13 istered for purposes that further the conserva-  
14 tion and management of fish, wildlife, plants,  
15 and other natural resources; and

16 “(L) to do any and all acts necessary and  
17 proper to carry out the purposes of the Founda-  
18 tion.”; and

19 (G) by striking the undesignated matter at  
20 the end and inserting the following:

21 “(2) TREATMENT OF REAL PROPERTY.—

22 “(A) IN GENERAL.—For purposes of this  
23 Act, an interest in real property shall be treated  
24 as including easements or other rights for pres-  
25 ervation, conservation, protection, or enhance-

1           ment by and for the public of natural, scenic,  
2           historic, scientific, educational, inspirational, or  
3           recreational resources.

4           “(B) ENCUMBERED REAL PROPERTY.—A  
5           gift, devise, or bequest may be accepted by the  
6           Foundation even though the gift, devise, or be-  
7           quest is encumbered, restricted, or subject to  
8           beneficial interests of private persons if any  
9           current or future interest in the gift, devise, or  
10          bequest is for the benefit of the Foundation.

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

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

17          (3) by redesignating subsections (h) and (i) as  
18          subsections (f) and (g), respectively.

19 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

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

22          (1) in subsection (a), by striking paragraph (1)  
23          and inserting the following:

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

4                     ~~“(A) \$20,000,000 to the Secretary of the~~  
5                     ~~Interior;~~  
6           ~~years 2012 through 2017—~~

7                     “(A) \$15,000,000 to the Secretary of the In-  
8                     terior;

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

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

13           (2) in subsection (b)—

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

16           “(1) AMOUNTS FROM FEDERAL AGENCIES.—

17                    “(A) IN GENERAL.—In addition to the  
18                    amounts authorized to be appropriated under  
19                    subsection (a), the Foundation may accept Fed-  
20                    eral funds from Federal departments, agencies,  
21                    ~~or instrumentalities for use by the Foundation,~~  
22                    ~~subsection (a), Federal departments, agencies, or~~  
23                    ~~instrumentalities may provide Federal funds to~~  
24                    ~~the Foundation,~~ subject to the condition that  
25                    the amounts are used for purposes that further

1 the conservation and management of fish, wild-  
2 life, plants, and other natural resources in ac-  
3 cordance with this Act.

4 “(B) ADVANCES.—Federal departments,  
5 agencies, or instrumentalities may advance  
6 amounts described in subparagraph (A) to the  
7 Foundation in a lump sum without regard to  
8 when the expenses for which the amounts are  
9 used are incurred.

10 “(C) MANAGEMENT FEES.—The Founda-  
11 tion may assess and collect fees for the manage-  
12 ment of amounts received under this para-  
13 graph.”;

14 (B) in paragraph (2)—

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

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

19 (iii) by striking “and State and local  
20 government agencies” and inserting “,  
21 State and local government agencies, and  
22 other entities”; and

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

24 “(3) ADMINISTRATION OF AMOUNTS.—



1           “(A) IN GENERAL.—In entering into con-  
2 tracts, agreements, or other partnerships pursu-  
3 ant to this Act, a Federal department, agency,  
4 or instrumentality shall have discretion to waive  
5 any competitive process of that department,  
6 agency, or instrumentality for entering into  
7 contracts, agreements, or partnerships with the  
8 Foundation if the purpose of the waiver is—

9           “(i) to address an environmental  
10 emergency resulting from a natural or  
11 other disaster; or

12           “(ii) as determined by the head of the  
13 applicable Federal department, agency, or  
14 instrumentality, to reduce administrative  
15 expenses and expedite the conservation and  
16 management of fish, wildlife, plants, and  
17 other natural resources.

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

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

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

15 **SEC. 5. LIMITATION ON AUTHORITY.**

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



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