

105TH CONGRESS
2D SESSION

S. 2095

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on Resources

AN ACT

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 Establishment Act Amendments of
6 1998”.

1 **SEC. 2. PURPOSES.**

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

5 “(1) to encourage, accept, and administer pri-
 6 vate gifts of property for the benefit of, or in con-
 7 nection with, the activities and services of the De-
 8 partment of the Interior or the Department of Com-
 9 merce, particularly the United States Fish and Wild-
 10 life Service and the National Oceanic and Atmos-
 11 pheric Administration, to further the conservation
 12 and management of fish, wildlife, and plant re-
 13 sources;”.

14 **SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.**

15 (a) ESTABLISHMENT AND MEMBERSHIP.—Section 3
 16 of the National Fish and Wildlife Foundation Establish-
 17 ment Act (16 U.S.C. 3702) is amended by striking sub-
 18 section (a) and inserting the following:

19 “(a) ESTABLISHMENT AND MEMBERSHIP.—

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

25 “(2) REPRESENTATION OF DIVERSE POINTS OF
 26 VIEW.—To the maximum extent practicable, the

1 membership of the Board shall represent diverse
 2 points of view relating to conservation and manage-
 3 ment of fish, wildlife, and plants.

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

8 (b) APPOINTMENT AND TERMS.—Section 3 of the
 9 National Fish and Wildlife Foundation Establishment Act
 10 (16 U.S.C. 3702) is amended by striking subsection (b)
 11 and inserting the following:

12 “(b) APPOINTMENT AND TERMS.—

13 “(1) AGENCY HEADS.—The Director of the
 14 United States Fish and Wildlife Service and the
 15 Under Secretary of Commerce for Oceans and At-
 16 mosphere shall be Directors of the Foundation.

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

19 “(A) IN GENERAL.—Subject to subpara-
 20 graph (B), after consulting with the Secretary
 21 of Commerce and considering the recommenda-
 22 tions submitted by the Board, the Secretary of
 23 the Interior shall appoint 23 Directors who
 24 meet the criteria established by subsection (a),
 25 of whom—

1 “(i) at least 6 shall be knowledgeable
2 or experienced in fish and wildlife con-
3 servation;

4 “(ii) at least 4 shall be educated or
5 experienced in the principles of fish and
6 wildlife management; and

7 “(iii) at least 4 shall be knowledgeable
8 or experienced in ocean and coastal re-
9 source conservation.

10 “(B) TRANSITION PROVISION.—

11 “(i) CONTINUATION OF TERMS.—The
12 15 Directors serving on the Board as of
13 the date of enactment of this paragraph
14 shall continue to serve until the expiration
15 of their terms.

16 “(ii) NEW DIRECTORS.—The Sec-
17 retary of the Interior shall appoint 8 new
18 Directors; to the maximum extent prac-
19 ticable those appointments shall be made
20 not later than 45 calendar days after the
21 date of enactment of this paragraph.

22 “(3) TERMS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), each Director (other than a Director

1 described in paragraph (1)) shall be appointed
 2 for a term of 6 years.

3 “(B) INITIAL APPOINTMENTS TO NEW
 4 MEMBER POSITIONS.—Of the Directors ap-
 5 pointed by the Secretary of the Interior under
 6 paragraph (2)(B)(ii), the Secretary shall
 7 appoint—

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

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

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

13 “(4) VACANCIES.—

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

19 “(B) TERM OF APPOINTMENTS TO FILL
 20 UNEXPIRED TERMS.—An individual appointed
 21 to fill a vacancy that occurs before the expira-
 22 tion of the term of a Director shall be ap-
 23 pointed for the remainder of the term.

24 “(5) REAPPOINTMENT.—An individual (other
 25 than an individual described in paragraph (1)) shall

1 not serve more than 2 consecutive terms as a Direc-
2 tor, excluding any term of less than 6 years.”.

3 (c) PROCEDURAL MATTERS.—Section 3 of the Na-
4 tional Fish and Wildlife Foundation Establishment Act
5 (16 U.S.C. 3702) is amended by adding at the end the
6 following:

7 “(h) PROCEDURAL MATTERS.—The Federal Advi-
8 sory Committee Act (5 U.S.C. App.) shall not apply to
9 the Foundation.”.

10 (d) TECHNICAL AMENDMENTS.—

11 (1) Section 4(c)(5) of the National Fish and
12 Wildlife Foundation Establishment Act (16 U.S.C.
13 3703(c)(5)) is amended by striking “Directors of the
14 Board” and inserting “Directors of the Founda-
15 tion”.

16 (2) Section 6 of the National Fish and Wildlife
17 Foundation Establishment Act (16 U.S.C. 3705) is
18 amended by striking “Secretary” and inserting
19 “Secretary of the Interior or the Secretary of Com-
20 merce”.

21 (3) Section 6 of the National Fish and Wildlife
22 Foundation Establishment Act (16 U.S.C. 3705) is
23 amended by inserting “or the Department of Com-
24 merce” after “Department of the Interior”.

1 **SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

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

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

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

15 (2) by inserting after paragraph (2) the follow-
16 ing:

17 “(3) to invest any funds provided to the Foun-
18 dation by the Federal Government in obligations of
19 the United States or in obligations or securities that
20 are guaranteed or insured by the United States;

21 “(4) to deposit any funds provided to the Foun-
22 dation by the Federal Government into accounts
23 that are insured by an agency or instrumentality of
24 the United States;

25 “(5) to make use of any interest or investment
26 income that accrues as a consequence of actions

1 taken under paragraph (3) or (4) to carry out the
2 purposes of the Foundation;

3 “(6) to use Federal funds to make payments
4 under cooperative agreements entered into with will-
5 ing private landowners to provide substantial long-
6 term benefits for the restoration or enhancement of
7 fish, wildlife, and plant resources on private land;”.

8 (c) AGENCY APPROVAL OF ACQUISITIONS OF PROP-
9 erty.—Section 4(e)(1) of the National Fish and Wildlife
10 Foundation Establishment Act (16 U.S.C. 3703(e)(1)) is
11 amended by striking subparagraph (B) and inserting the
12 following:

13 “(B) the Foundation notifies the Federal agen-
14 cy that administers the program under which the
15 funds were provided of the proposed acquisition, and
16 the agency does not object in writing to the proposed
17 acquisition within 45 calendar days after the date of
18 the notification.”.

19 (d) REPEAL.—Section 304 of Public Law 102–440
20 (16 U.S.C. 3703 note) is repealed.

21 (e) AGENCY APPROVAL OF CONVEYANCES AND
22 GRANTS.—Section 4(e)(3)(B) of the National Fish and
23 Wildlife Foundation Establishment Act (16 U.S.C.
24 3703(e)(3)(B)) is amended by striking clause (ii) and in-
25 serting the following:

1 “(ii) the Foundation notifies the Federal agency
 2 that administers the Federal program under which
 3 the funds were provided of the proposed conveyance
 4 or provision of Federal funds, and the agency does
 5 not object in writing to the proposed conveyance or
 6 provision of Federal funds within 45 calendar days
 7 after the date of the notification.”.

8 (f) RECONVEYANCE OF REAL PROPERTY.—Section
 9 4(e) of the National Fish and Wildlife Foundation Estab-
 10 lishment Act (16 U.S.C. 3703(e)) is amended by striking
 11 paragraph (5) and inserting the following:

12 “(5) RECONVEYANCE OF REAL PROPERTY.—
 13 The Foundation shall convey at not less than fair
 14 market value any real property acquired by the
 15 Foundation in whole or in part with Federal funds
 16 if the Foundation notifies the Federal agency that
 17 administers the Federal program under which the
 18 funds were provided, and the agency does not dis-
 19 agree within 45 calendar days after the date of the
 20 notification, that—

21 “(A) the property is no longer valuable for
 22 the purpose of conservation or management of
 23 fish, wildlife, and plants; and

24 “(B) the purposes of the Foundation would
 25 be better served by use of the proceeds of the

1 conveyance for other authorized activities of the
2 Foundation.”.

3 (g) TERMINATION OF CONDEMNATION LIMITA-
4 TION.—Section 4 of the National Fish and Wildlife Foun-
5 dation Establishment Act (16 U.S.C. 3703) is amended
6 by striking subsection (d).

7 (h) EXPENDITURES FOR PRINTING SERVICES OR
8 CAPITAL EQUIPMENT.—Section 4 of the National Fish
9 and Wildlife Foundation Establishment Act (16 U.S.C.
10 3703) (as amended by subsection (g)) is amended by in-
11 serting after subsection (c) the following:

12 “(d) EXPENDITURES FOR PRINTING SERVICES OR
13 CAPITAL EQUIPMENT.—The Foundation shall not make
14 any expenditure of Federal funds in connection with any
15 1 transaction for printing services or capital equipment
16 that is greater than \$10,000 unless the expenditure is ap-
17 proved by the Federal agency that administers the Federal
18 program under which the funds were provided.”.

19 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 10 of the National Fish and Wildlife Founda-
21 tion Establishment Act (16 U.S.C. 3709) is amended by
22 striking subsections (a), (b), and (c) and inserting the fol-
23 lowing:

24 “(a) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this Act for each of fiscal
3 years 1999 through 2003—

4 “(A) \$25,000,000 to the Department of
5 the Interior; and

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

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

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

21 “(4) PROHIBITION ON USE FOR ADMINISTRA-
22 TIVE EXPENSES.—No Federal funds made available
23 under paragraph (1) shall be used by the Founda-
24 tion for administrative expenses of the Foundation,

1 including for salaries, travel and transportation ex-
2 penses, and other overhead expenses.

3 “(b) ADDITIONAL AUTHORIZATION.—

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

11 “(2) USE OF FUNDS ACCEPTED FROM FEDERAL
12 AGENCIES.—Federal funds provided to the Founda-
13 tion under paragraph (1) shall be used by the Foun-
14 dation for matching, in whole or in part, contribu-
15 tions (whether in currency, services, or property)
16 made to the Foundation by private persons and
17 State and local government agencies.

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

21 “(1) any expense related to litigation; or

22 “(2) any activity the purpose of which is to in-
23 fluence legislation pending before Congress.”.

1 **SEC. 6. LIMITATION ON AUTHORITY.**

2 The National Fish and Wildlife Foundation Estab-
3 lishment Act (16 U.S.C. 3701 et seq.) is amended by add-
4 ing at the end the following:

5 **“SEC. 11. LIMITATION ON AUTHORITY.**

6 “Nothing in this Act authorizes the Foundation to
7 perform any function the authority for which is provided
8 to the National Park Foundation by Public Law 90–209
9 (16 U.S.C. 19e et seq.).”.

Passed the Senate October 6 (legislative day, Octo-
ber 2), 1998.

Attest:

GARY SISCO,
Secretary.