

116TH CONGRESS  
1ST SESSION

# S. 1139

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

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IN THE SENATE OF THE UNITED STATES

APRIL 10, 2019

Mr. CARDIN (for himself, Mr. CASSIDY, Mr. CARPER, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Fish and  
5 Wildlife Foundation Reauthorization Act of 2019”.

6 **SEC. 2. NATIONAL FISH AND WILDLIFE FOUNDATION ES-**  
7 **TABLISHMENT ACT.**

8 (a) BOARD OF DIRECTORS OF FOUNDATION.—

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

4           (A) in subsection (b)—

5           (i) by striking paragraph (2) and in-  
6 serting the following:

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

12           “(A) be knowledgeable and experienced in  
13 matters relating to the conservation of fish,  
14 wildlife, or other natural resources; and

15           “(B) represent a balance of expertise in  
16 ocean, coastal, freshwater, and terrestrial re-  
17 source conservation.”; and

18           (ii) by striking paragraph (3) and in-  
19 serting the following:

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

23           (B) in subsection (g)(2)—

24           (i) in subparagraph (A), by striking

25           “(A) Officers and employees may not be

1 appointed until the Foundation has suffi-  
2 cient funds to pay them for their service.  
3 Officers” and inserting the following:

4 “(A) IN GENERAL.—Officers”; and

5 (ii) by striking subparagraph (B) and  
6 inserting the following:

7 “(B) EXECUTIVE DIRECTOR.—The Foun-  
8 dation shall have an Executive Director who  
9 shall be—

10 “(i) appointed by, and serve at the di-  
11 rection of, the Board as the chief executive  
12 officer of the Foundation; and

13 “(ii) knowledgeable and experienced in  
14 matters relating to fish and wildlife con-  
15 servation.”.

16 (2) CONFORMING AMENDMENT.—Section  
17 4(a)(1)(B) of the North American Wetlands Con-  
18 servation Act (16 U.S.C. 4403(a)(1)(B)) is amended  
19 by striking “Secretary of the Board” and inserting  
20 “Executive Director of the Board”.

21 (b) RIGHTS AND OBLIGATIONS OF FOUNDATION.—  
22 Section 4 of the National Fish and Wildlife Foundation  
23 Establishment Act (16 U.S.C. 3703) is amended—

24 (1) in subsection (c)—

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

4 “(c) POWERS.—

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

7 (B) by redesignating paragraphs (1)  
8 through (11) as subparagraphs (A) through  
9 (K), respectively, and indenting appropriately;

10 (C) in subparagraph (D) (as redesignated  
11 by subparagraph (B)), by striking “that are in-  
12 sured by an agency or instrumentality of the  
13 United States” and inserting “at one or more  
14 financial institutions that are members of the  
15 Federal Deposit Insurance Corporation or the  
16 Securities Investment Protection Corporation”;

17 (D) in subparagraph (E) (as redesignated  
18 by subparagraph (B)), by striking “paragraph  
19 (3) or (4)” and inserting “subparagraph (C) or  
20 (D)”;

21 (E) in subparagraph (J) (as redesignated  
22 by subparagraph (B)), by striking “and” at the  
23 end;

1 (F) by striking subparagraph (K) (as re-  
2 designated by subparagraph (B)) and inserting  
3 the following:

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

13 “(L) to do acts necessary to carry out the  
14 purposes of the Foundation.”; and

15 (G) by striking the undesignated matter at  
16 the end and inserting the following:

17 “(2) TREATMENT OF REAL PROPERTY.—

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

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

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

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

14           (3) by redesignating subsections (h) and (i) as  
15          subsections (f) and (g), respectively.

16          (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
17          10 of the National Fish and Wildlife Foundation Estab-  
18          lishment Act (16 U.S.C. 3709) is amended—

19           (1) in subsection (a), by striking paragraph (1)  
20          and inserting the following:

21           “(1) IN GENERAL.—There are authorized to be  
22          appropriated to carry out this Act for each of fiscal  
23          years 2020 through 2024—

24           “(A) \$15,000,000 to the Secretary of the  
25          Interior;

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

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

5           (2) in subsection (b)—

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

8           “(1) AMOUNTS FROM FEDERAL AGENCIES.—

9           “(A) IN GENERAL.—In addition to the  
10 amounts authorized to be appropriated under  
11 subsection (a), Federal departments, agencies,  
12 or instrumentalities are authorized to provide  
13 funds to the Foundation through Federal finan-  
14 cial assistance grants and cooperative agree-  
15 ments, subject to the condition that the  
16 amounts are used for purposes that further the  
17 conservation and management of fish, wildlife,  
18 plants, and other natural resources in accord-  
19 ance with this Act.

20           “(B) ADVANCES.—Federal departments,  
21 agencies, or instrumentalities may advance  
22 amounts described in subparagraph (A) to the  
23 Foundation in a lump sum without regard to  
24 when the expenses for which the amounts are  
25 used are incurred.

1           “(C) MANAGEMENT FEES.—The Founda-  
2           tion may assess and collect fees for the manage-  
3           ment of amounts received under this para-  
4           graph.”;

5           (B) in paragraph (2)—

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

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

10          (iii) by striking “and State and local  
11          government agencies” and inserting “,  
12          State and local government agencies, and  
13          other entities”; and

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

15          “(3) ADMINISTRATION OF AMOUNTS.—

16               “(A) IN GENERAL.—In entering into con-  
17               tracts, agreements, or other partnerships pursu-  
18               ant to this Act, a Federal department, agency,  
19               or instrumentality shall have discretion to waive  
20               any competitive process applicable to the de-  
21               partment, agency, or instrumentality for enter-  
22               ing into contracts, agreements, or partnerships  
23               with the Foundation if the purpose of the waiv-  
24               er is—



1           “(i) to address an environmental  
2           emergency resulting from a natural or  
3           other disaster; or

4           “(ii) as determined by the head of the  
5           applicable Federal department, agency, or  
6           instrumentality, to reduce administrative  
7           expenses and expedite the conservation and  
8           management of fish, wildlife, plants, and  
9           other natural resources.

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

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

17           “(d) USE OF GIFTS, DEVISES, OR BEQUESTS OF  
18           MONEY OR OTHER PROPERTY.—Any gifts, devises, or be-  
19           quests of amounts or other property, or any other amounts  
20           or other property, transferred to, deposited with, or other-  
21           wise in the possession of the Foundation pursuant to this  
22           Act, may be made available by the Foundation to Federal  
23           departments, agencies, or instrumentalities and may be  
24           accepted and expended (or the disposition of the amounts  
25           or property directed), without further appropriation, by

1 those Federal departments, agencies, or instrumentalities,  
2 subject to the condition that the amounts or property be  
3 used for purposes that further the conservation and man-  
4 agement of fish, wildlife, plants, and other natural re-  
5 sources.”.

6 (d) LIMITATION ON AUTHORITY.—Section 11 of the  
7 National Fish and Wildlife Foundation Establishment Act  
8 (16 U.S.C. 3710) is amended by inserting “exclusive” be-  
9 fore “authority”.

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