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### NATIONAL FISH AND WILDLIFE FOUNDATION REAUTHORIZATION ACT OF 2005

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AUGUST 31, 2005.—Ordered to be printed

Filed, under authority of the order of the Senate of July 29, 2005

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Mr. INHOFE, from the Committee on Environment and Public  
Works, submitted the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany H.R. 1428]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (H.R. 1428) to authorize appropriations for the National Fish and Wildlife Foundation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### GENERAL STATEMENT AND BACKGROUND

The National Fish and Wildlife Foundation (Foundation) was created in 1984 by the National Fish and Wildlife Foundation Establishment Act (P. L. 98-244) as a charitable nonprofit corporation that is not an agency of the United States. The stated 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 '84 Act also stipulated that the Foundation be governed by a Board of Directors consisting of nine U. S. citizens appointed by the Secretary of the Interior who would serve for a maximum of 12 years without pay, but would be eligible for travel and subsistence expenses. The Foundation is audited annually and is required to match, on a one-for-one basis, any money it receives from the Congress for the purpose of grant awards. The Foundation was initially authorized to receive up to \$1 million a year for a 10-year period.

Since its establishment in 1984, the Foundation has funded more than 6,420 conservation projects throughout the United States and in other countries. By using a partnership and challenge grant approach, \$305 million in Federal funds have leveraged conservation projects worth more than \$918.8 million, making an average match ratio of three non-Federal dollars for each Federal dollar appropriated to the Foundation. Moreover, the Foundation has built partnerships with 388 Federal partners, 514 State and local agencies, 186 colleges and universities, and 1,815 different conservation groups.

The fundamental goals of conservation projects has been: to engage the broadest possible base of partners for collaborative conservation; increase resources for conservation; support innovative and sustainable conservation solutions; respect private property rights; enhance personal and community livelihoods; recover and sustain viable and healthy ecosystems; maintain scientific rigor and integrity; and maximize efficiency, customer service and financial accountability.

In 1988, Congress increased the authorization level for the Foundation to \$5 million a year. (P. L. 100-240). In 1990, Congress again extended and increased the Foundation's authorization ceilings in the following manner: \$15 million in fiscal year 1991, \$20 million in fiscal year 1992 and \$25 million in fiscal year 1993. In addition, the legislation (P. L. 101-593) prohibited the Foundation from using any Federal funds for its administrative expenses, including salaries, travel, transportation and other overhead expenses. In 1994, Congress passed the National Fish and Wildlife Improvement Act (P. L. 103-232), expanding the Foundation's Board of Directors from nine to 15 members; granting explicit new authority for the Foundation to work with the National Oceanic and Atmospheric Administration (NOAA) on marine conservation projects; and authorizing \$25 million annually for five fiscal years until September 30, 1998.

In 2000, Congress enacted the National Fish and Wildlife Foundation Establishment Act Amendments. This legislation again increased the size of the Board of Directors to 25 members; established a 30-day congressional notice requirement for any proposed conservation grant; prohibited the use of Federal funds by those groups or individuals who obtain grant money from the Foundation from engaging in litigation and lobbying; and extended authorizations of appropriations until September 30, 2003. However, the Congress inadvertently reduced the Foundation's authorization for the Department of the Interior from \$25 to \$20 million. This oversight was corrected in Section 6 of P. L. 107-141, the Asian Ele-

phant Conservation Reauthorization Act of 2002, which restored the authorization to \$25 million per year and extended the authorization period until September 30, 2005.

Most recently, Congress approved the National Park System Laws Technical Amendments Act (P.L. 108–352) in 2003, which partially affected the Foundation. Incorporated within Section 9 of that Act is language stipulating that employees of foundations established by Acts of Congress, including the National Fish and Wildlife Foundation, the National Forest Foundation and the National Park Foundation, are eligible for General Services Administration contract airfare rates.

#### OBJECTIVES OF THE LEGISLATION

The purpose of H.R. 1428 is to authorize appropriations for the National Fish and Wildlife Foundation.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title.*

This Act may be cited as the “National Fish and Wildlife Foundation Reauthorization Act of 2005”.

##### *Sec. 2. Authorization of Appropriations.*

Section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(1)) is amended by striking “fiscal years 2001 through 2005” and inserting “fiscal years 2006 through 2010”.

##### *Sec. 3. Application of Notice Requirement Limited to Grants Made with Federal Funds.*

Section 4(i) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(i)) is amended by striking “grant of funds” and inserting “grant of Federal funds in an amount greater than \$10,000”.

##### *Sec. 4. Clarification of Authority to Use Federal Funds to Match Contributions Made to Recipients of National Fish and Wildlife Foundation Grants.*

Section 10(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(3)) is amended by inserting “, or to a recipient of a grant provided by the Foundation,” after “made to the Foundation”.

##### *Sec. 5. Repeal.*

Effective September 30, 2015, the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) is hereby repealed.

#### LEGISLATIVE HISTORY

On June 28, 2005, H.R. 1428 was received in the Senate and referred to the Senate Committee on Environment and Public Works. On July 20, 2005, the full committee held a business meeting and unanimously ordered H.R. 1428 to be favorably reported without amendment to the full Senate.

## HEARINGS

No Senate committee hearings were held on H.R. 1428.

## ROLLCALL VOTES

The Committee on Environment and Public Works met to consider H.R. 1428 on July 20, 2005. The committee approved H.R. 1428 by unanimous consent.

## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that H.R. 1428 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that H.R. 1428 would not impose Federal intergovernmental unfunded mandates on State, local, or tribal governments.

## COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

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*H.R. 1428, National Fish and Wildlife Foundation Reauthorization Act of 2005, As ordered reported by the Senate Committee on Environment and Public Works on July 20, 2005*

*Summary*

H.R. 1428 would extend the authorization of appropriations for Federal support of the National Fish and Wildlife Foundation. CBO estimates that implementing H.R. 1428 would cost \$30 million in 2006 and \$150 million over the next 5 years, assuming appropriation of the authorized amounts. Enacting the legislation would not affect direct spending or revenues. H.R. 1428 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on State, local, or tribal governments.

*Estimated Cost to the Federal Government*

The estimated budgetary impact of H.R. 1428 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

H.R. 1428 would authorize, through 2010, appropriations totaling \$30 million a year for Federal support of the National Fish and Wildlife Foundation (\$7 million was appropriated for that purpose in fiscal year 2005). The foundation is a nonprofit corporation established by Federal law to provide grants for activities related to conserving and managing fish, wildlife, plants, and other natural resources. Assuming appropriation of the specified amounts, CBO

estimates that payments to the foundation under H.R. 1428 would cost \$30 million a year over the 2006–2010 period.

By Fiscal Year, in Millions of Dollars

	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for the National Fish and Wildlife Foundation.						
Budget Authority <sup>1</sup> .....	7	0	0	0	0	0
Estimated Outlays .....	7	0	0	0	0	0
Proposed Changes.						
Authorization Level .....	0	30	30	30	30	30
Estimated Outlays .....	0	30	30	30	30	30
Spending Under H.R. 1428 for the National Fish and Wildlife Foundation.						
Authorization Level <sup>1</sup> .....	7	30	30	30	30	30
Estimated Outlays .....	7	30	30	30	30	30

<sup>1</sup>The 2005 level is the amount appropriated for Federal support of the National Fish and Wildlife Foundation for that year.

#### *Intergovernmental and Private-Sector Impact*

H.R. 1428 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

#### *Previous CBO Estimate*

On June 3, 2005, CBO transmitted a cost estimate for H.R. 1428 as ordered reported by the House Committee on Resources on May 18, 2005. The two versions of the legislation are identical, and our cost estimates are the same.

*Estimate Prepared By:* Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Craig Cammarata.

*Estimate Approved By:* Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## ADDITIONAL VIEWS OF SENATORS CHAFEE, JEFFORDS, AND WARNER

Established in 1984, the National Fish and Wildlife Foundation (Foundation) is a congressional chartered private non-profit organization dedicated to the conservation of fish, wildlife, and plants, and the habitat on which they depend. By fostering partnerships to further conservation and the sustainable use of natural resources, the Foundation has awarded more than 6,400 grants leveraging \$261 million in Federal funds for more than \$786 million in on-the-ground conservation in every State in the Nation. This has resulted in 27 million acres of protected, restored, and managed wildlife habitat, ushering in a new model for private land stewardship that has protected countless species and provided future benefits for generations of Americans.

Section 5 of H.R. 1428 would sunset the Foundation effective September 30, 2015 by repealing provisions in the National Fish and Wildlife Foundation Establishment Act (P.L. 98-244, as amended) authorizing annual appropriations for the Foundation. Originally intended to repeal the Foundation itself, Section 5 was added by the House Resources Committee prior to Committee approval and modified before final passage of H.R. 1428 by the House of Representatives. We are troubled by this provision, as it alters the practice of the Senate Committee on Environment and Public Works to reauthorize appropriations before their expiration. To date, it is our understanding that this Committee has had no opportunity in the past to consider, debate, or ultimately approve or deny legislation that included a sunset provision of this nature.

By rescinding the 'Authorization of Appropriations' in Section 10(a)(1) of the Foundation's Establishment Act, Section 5 refers to an ongoing debate in the House of Representatives regarding authorizations versus appropriations. Rather than allowing funding authorizations to expire as has occurred with several environmental statutes, Section 5 proposes to rescind arbitrarily the authorization of appropriations at a date certain without regard to a balanced policy decision based on the merit of the program or its effectiveness. If we are to begin to sunset programs under the jurisdiction of this Committee, we believe this discussion must be part of a larger debate on the merits of sunseting statutes on specific dates. In our opinion, the Committee's approval of the "repeal" language in H.R. 1428 sets a dangerous precedent for the potential to sunset other environmental statutes in the future. We will be working to remove Section 5 before Senate approval of H.R. 1428.

## CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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 italic, existing law in which no change is proposed is shown in roman:

**NATIONAL FISH AND WILDLIFE FOUNDATION  
ESTABLISHMENT ACT**

\* \* \* \* \*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Fish and Wildlife Foundation Establishment Act”.

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

(i) NOTICE TO MEMBERS OF CONGRESS.—The Foundation shall not make a [grant of funds] *grant of Federal funds in an amount greater than \$10,000* unless, by not later than 30 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 carried out.

\* \* \* \* \*

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act for each of [fiscal years 2001 through 2005] *fiscal years 2006 through 2010*—

- (A) \$25,000,000 to the Department of the Interior; and  
(B) \$5,000,000 to the Department of Commerce.

\* \* \* \* \*

(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, *or to a recipient of a grant provided by the Foundation*, by private persons and State and local government agencies.

\* \* \* \* \*

*[Effective September 30, 2015, section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(1)) is hereby repealed.]*

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

**[(a) AUTHORIZATION OF APPROPRIATIONS.—**

**[(1) IN GENERAL.—**There are authorized to be appropriated to carry out this Act for each of fiscal years 2001 through 2005—

and [(A) \$25,000,000 to the Department of the Interior;  
[(B) \$5,000,000 to the Department of Commerce.]

\* \* \* \* \*