

**Calendar No. 550**

104TH CONGRESS }  
*2d Session* }

SENATE

{ REPORT  
104-340

**NATIONAL PHYSICAL FITNESS AND  
SPORTS FOUNDATION ESTABLISHMENT  
ACT**

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1311



JULY 31, 1996.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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### NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ESTABLISHMENT ACT

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Mr. PRESSLER, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### REPORT

[To accompany S. 1311]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1311) “A bill to establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President’s Council on Physical Fitness and Sports, and for other purposes,” having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The bill would establish a not-for-profit foundation to raise funds from the private sector to support the activities of the President’s Council on Physical Fitness.

#### BACKGROUND AND NEEDS

The President’s Council on Physical Fitness (President’s Council) advises the President and the Secretary of Health and Human Services on the enhancement of “opportunities for participation in physical fitness and sports activities” and “on State, local, and private actions to extend and improve physical activity programs and services” (Executive Order 12345 of February 2, 1982). Physical fitness and sports activities are widely recognized as an essential activity for fostering and maintaining good health.

The President’s Council has been supported by appropriations of federal funds but future appropriations are unlikely. This bill would create a not-for-profit corporation called the National Phys-

ical Fitness and Sports Foundation to raise private funds to support the activities of the President's Council.

#### LEGISLATIVE HISTORY

Senators Campbell and Bradley introduced S. 1311 on October 11, 1995. On June 6, 1996, the Committee on Commerce, Science, and Transportation considered S. 1311 in open Executive Session and ordered the bill reported without objection and without amendment.

#### SUMMARY OF MAJOR PROVISIONS

The bill would create the National Physical Fitness and Sports Foundation (Foundation). The Foundation would be a not-for-profit corporation and would not be an agency or establishment of the United States Government. The Foundation's purpose would be to raise private funds to support the activities of the President's Council.

The bill establishes a Board of Directors (Board) to govern the Foundation's activities. The Board would have nine Directors: three appointed by the Secretary of Health and Human Services, two by the Majority Leader of the Senate, two by the Speaker of the House, and one by each of the minority leaders of the Senate and House of Representatives. The bill requires that one of the Board members be a representative of the U.S. Olympic Committee. The bill permits the Board to organize the Foundation by hiring officers and employees, and by adopting a constitution and bylaws.

To foster the Foundation's fund-raising efforts, the bill would grant the Foundation trademark rights to the Foundation's seal and the seal of the President's Council. The Foundation would be permitted to authorize the use of these trademarks in exchange for contributions.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and Section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 28, 1996.*

Hon. LARRY PRESSLER,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1311, the National Fitness and Sports Foundation Establishment Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 6, 1996. The proposed foundation would have no net budgetary impact over time, but creating it would allow for lower appropriations for the President's Council on Physical Fitness and Sports, potentially saving about \$1 million annually beginning in fiscal year 1998.

S. 1311 would establish a federally chartered, nonprofit corporation, the National Physical Fitness and Sports Foundation, to assist the President's Council on Physical Fitness and Sports in planning, fundraising, and promoting physical fitness and sports. A board of nine directors, each appointed for a six-year term, would govern the foundation. The bill would direct the Secretary of the Department of Health and Human Services (HHS) to appoint three members, the Majority Leader of the Senate to appoint two members, the Minority Leader of the Senate to appoint one member, the Speaker of the House to appoint two members, and the Minority Leader of the House to appoint one member. Income to the foundation would be derived entirely from private donations.

The bill would require the foundation to deposit any excess funds into a special fund at the United States Treasury, which would then be available for use by HHS. Because the foundation would be created by the government, its board would be appointed by the government, and it would raise funds for spending by the government, CBO concludes that it would be a governmental entity. Hence, all of the foundation's income and spending should be recorded in the federal budget. Donations to the foundations should be recorded as governmental receipts, and spending by the foundation should be recorded as federal outlays. The foundation's spending, along with that of HHS, would not be subject to appropriations action. Hence, pay-as-you-go procedures would apply to this bill.

CBO expects the foundation would eventually raise enough donations to cover not only its own expenses, but also those of the President's Council on Physical Fitness and Sports—an entity within HHS. The council received an appropriation of \$1 million for fiscal year 1996. CBO estimates that enacting S. 1311 would increase federal receipts by less than \$500,000 in fiscal year 1997 and by about \$2 million annually thereafter. We expect that the government would spend all donations collected, resulting in no net budgetary impact for the foundation. The estimated pay-as-you-go impact is as follows:

[By fiscal year in millions of dollars]

	1996	1997	1998
Change in outlays .....	0	0	2
Change in receipts .....	0	0	2

By funding the President's Council on Physical Fitness and Sports through private donations, S. 1311 would eliminate the need for future appropriations to the council. Relative to the 1996 appropriations level, the potential discretionary savings would be \$1 million a year beginning in fiscal year 1998. (CBO expects that the council would receive funding in the fiscal year 1997 appropriations bill; the House Committee on Appropriations has recommended \$1 million for the council for next fiscal year.)

S. 1311 contains no intergovernmental or private-sector mandates as defined by Public Law 104-4, and would not have a direct impact on the budgets of state, local or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JUNE E. O'NEILL, *Director*.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

This legislation would simply create a not-for-profit Foundation to raise funds from private sources to support the activities of the President's Council on Physical Fitness. To foster those fund raising efforts the Foundation would be given certain intellectual property rights. As the legislation makes no programmatic changes concerning the President's Council on Physical Fitness and its activities, it will have no effect on the number of individuals regulated or on the personal privacy of regulated individuals. The legislation should not have any significant economic impact and it will not create any paperwork requirements.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides that the bill may be cited as the "National Physical Fitness and Sports Foundation Establishment Act".

##### *Section 2. Establishment and purpose of Foundation*

This section would establish the Foundation as a charitable, non-profit corporation to promote the contribution of private gifts to support the activities of the President's Council on Physical Fitness. At least annually, after deduction of administrative expenses, the Foundation would transfer the balance of any contributions to the Public Health Service Gift Fund for expenditure consistent with the purposes for which the funds were donated.

##### *Section 3. Board of Directors of the Foundation*

Section 3 would establish the Foundation's Board of Directors, provide for the appointment of directors and set their term of office. The section also provides for the election of a Chairperson of the Board. The Board of Directors would be given the power to organize the Foundation by appointing officers and employees, by adopting a constitution and bylaws, and by undertaking other acts necessary to fulfill the Foundation's mission. This section would require the members of the Board to serve without pay but would permit reimbursement for certain expenses.

##### *Section 4. Rights and obligations of the Foundation*

In addition to establishing the basic powers of the Foundation, this section provides that the Foundation shall have an official seal to be selected by the Board.

##### *Section 5. Protection and uses of trademarks and trade names*

This section would provide the Foundation with certain intellectual property rights that it may use to facilitate the contribution

of funds or the supply of goods or services. The Foundation could, for example, permit the use of its official seal, or the official seal of the President's Council, in exchange for contributions to the Foundation.

*Section 6. Volunteer status*

Section 6 would permit the Foundation to utilize the services of volunteers.

*Section 7. Audit, report requirements, and petition of Attorney General for equitable relief*

This section would provide for audits of the Foundation and require the Foundation to report to Congress and the Secretary of Health and Human Services, at the end of each fiscal year, on the Foundation's proceedings and activities. This section would permit the Attorney General to seek equitable relief if the Foundation acts in a manner inconsistent with its established purpose or if the Foundation refuses to discharge its obligations under the legislation.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.