

Union Calendar No. 307

107TH CONGRESS
2^D SESSION

H. R. 3558

[Report No. 107-512]

To protect, conserve, and restore native fish, wildlife, and their natural habitats on Federal lands through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2001

Mr. RAHALL (for himself, Mr. GILCREST, and Mr. UNDERWOOD) introduced the following bill; which was referred to the Committee on Resources

JUNE 18, 2002

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on December 20, 2001]

A BILL

To protect, conserve, and restore native fish, wildlife, and their natural habitats on Federal lands through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes.

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 “Species Protection and*
5 *Conservation of the Environment Act”.*

6 **SEC. 2. PURPOSE.**

7 *The purpose of this Act is to control harmful nonnative*
8 *species on Federal lands.*

9 **SEC. 3. DEFINITIONS.**

10 *For the purposes of this Act:*

11 (1) *APPROPRIATE COMMITTEES.*—*The term “ap-*
12 *propriate Committees” means the Committee on Re-*
13 *sources of the House of Representatives and the Com-*
14 *mittee on Environment and Public Works of the Sen-*
15 *ate.*

16 (2) *CONTROL.*—*The term “control” means, as*
17 *appropriate, eradicating, suppressing, reducing, or*
18 *managing harmful nonnative species populations,*
19 *preventing the spread of harmful nonnative species*
20 *from areas where they are present, and taking steps*
21 *to restore native species and habitats to reduce the ef-*
22 *fects of harmful nonnative species.*

23 (3) *COUNCIL.*—*The term “Council” means the*
24 *National Invasive Species Council created by Execu-*
25 *tive Order 13112 of February 3, 1999.*

1 (4) *ENVIRONMENTAL SOUNDNESS.*—*The term*
2 *“environmental soundness” means the extent of inclu-*
3 *sion of methods, efforts, actions, or programs to pre-*
4 *vent or control infestations of harmful nonnative spe-*
5 *cies, that—*

6 (A) *minimize adverse impacts to the struc-*
7 *ture and function of an ecosystem and adverse*
8 *effects on nontarget species and ecosystems; and*

9 (B) *emphasize integrated management tech-*
10 *niques.*

11 (5) *FEDERAL LANDS.*—*The term “Federal lands”*
12 *means all lands and waters that are owned and ad-*
13 *ministered by the Department of the Interior or the*
14 *National Forest Service or are held in trust by the*
15 *Federal Government for an Indian tribe.*

16 (6) *HARMFUL NONNATIVE SPECIES.*—*The term*
17 *“harmful nonnative species”—*

18 (A) *subject to subparagraphs (B) and (C),*
19 *means, with respect to a particular ecosystem in*
20 *a particular region, any species, including its*
21 *seeds, eggs, spores, or other biological material*
22 *capable of propagating that species, that is not*
23 *native to that ecosystem and has a demonstrable*
24 *or potentially demonstrable negative environ-*
25 *mental or economic impact in that region;*

1 (B) does not include any plant or plant
2 product that can directly or indirectly injure or
3 cause damage to crops (including nursery stock
4 or plant products), livestock, poultry, or other
5 interests of agriculture; and

6 (C) does not include non-feral livestock.

7 (7) *INDIAN TRIBE*.—The term “Indian tribe” has
8 the meaning given that term in section 4 of the In-
9 dian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b).

11 (8) *NATIONAL MANAGEMENT PLAN*.—The term
12 “National Management Plan” means the management
13 plan referred to in section 5 of Executive Order 13112
14 of February 3, 1999, and entitled “Meeting the
15 Invasive Species Challenge”.

16 (9) *SECRETARY*.—The term “Secretary” means
17 the Secretary of the Interior.

18 (10) *STATE*.—The term “State” means each of
19 the several States of the United States, the District of
20 Columbia, the Commonwealth of Puerto Rico, the Vir-
21 gin Islands, Guam, American Samoa, the Common-
22 wealth of the Northern Mariana Islands, any other
23 territory or possession of the United States, and any
24 Indian tribe.

1 **SEC. 4. ALDO LEOPOLD NATIVE HERITAGE GRANT PRO-**
2 **GRAM.**

3 (a) *IN GENERAL.*—*The Secretary may provide—*

4 (1) *a grant to any eligible applicant to carry out*
5 *a qualified control project in accordance with this sec-*
6 *tion; and*

7 (2) *a grant to any State to carry out an assess-*
8 *ment project in accordance with this section to assess,*
9 *consistent with relevant State plans that have been*
10 *developed in whole or in part for the conservation of*
11 *fish, wildlife, and their habitats—*

12 (A) *the needs to restore, manage, or enhance*
13 *native fish or wildlife and their natural habitats*
14 *and processes in the State through control of*
15 *harmful nonnative species; and*

16 (B) *priorities for actions to address such*
17 *needs.*

18 *Such program shall be known as the “Aldo Leopold Native*
19 *Heritage Grant Program”.*

20 (b) *FUNCTIONS OF THE SECRETARY.*—

21 (1) *IN GENERAL.*—*The Secretary shall—*

22 (A) *solicit, receive, review, evaluate, and*
23 *approve applications for grants under this sec-*
24 *tion;*

25 (B) *consult with the Council on the projects*
26 *proposed for grants under this section, including*

1 *regarding the priority of proposed projects for*
2 *such grants; and*

3 *(C) consult with the Council regarding the*
4 *development of the database required under sub-*
5 *section (j).*

6 (2) *ADVICE.*—*To obtain advice regarding pro-*
7 *posed grants under this section, including advice on*
8 *the scientific merit, technical merit, and feasibility of*
9 *a proposed grant, the Secretary shall consult with the*
10 *advisory committee established under section 3(b) of*
11 *Executive Order 13112 of February 3, 1999.*

12 (3) *DELEGATION OF AUTHORITY.*—*The Secretary*
13 *may delegate to another Federal instrumentality the*
14 *authority of the Secretary under this section, other*
15 *than the authority to approve applications for grants*
16 *and make grants.*

17 (c) *FUNCTIONS OF THE COUNCIL.*—*The Council*
18 *shall—*

19 (1) *consult with the Secretary to create criteria*
20 *and guidelines for grants under this section;*

21 (2) *consult with the Secretary regarding whether*
22 *proposed control projects are qualified control*
23 *projects; and*

24 (3) *carry out functions relating to monitoring*
25 *control projects under subsection (j).*

1 (d) *ELIGIBLE APPLICANT.*—*To be an eligible appli-*
2 *cant for purposes of subsection (a)(1), an applicant shall—*

3 (1) *be a State, local government, interstate or re-*
4 *gional agency, or private person; and*

5 (2) *have adequate personnel, funding, and au-*
6 *thority to carry out and monitor or maintain a con-*
7 *trol project.*

8 (e) *QUALIFIED CONTROL PROJECT.*—

9 (1) *IN GENERAL.*—*To be a qualified control*
10 *project under this section, a project shall—*

11 (A) *control harmful nonnative species on*
12 *the lands or waters on which it is conducted;*

13 (B) *include a plan for monitoring the*
14 *project area and maintaining effective control of*
15 *harmful nonnative species after the completion of*
16 *the project, that is consistent with standards for*
17 *monitoring developed under subsection (j);*

18 (C) *be conducted in partnership with a*
19 *Federal agency; and*

20 (D) *be conducted on non-Federal lands or*
21 *waters that, for purposes of carrying out the*
22 *project, are under the control of the eligible ap-*
23 *plicant applying for the grant under this section*
24 *and on adjacent Federal lands or waters admin-*

1 *istered by the Federal agency referred to in sub-*
2 *paragraph (C), that are—*

3 *(i) administered for the long-term con-*
4 *servation of such lands and waters and the*
5 *native fish and wildlife dependent thereon;*
6 *and*

7 *(ii) managed to prevent the future re-*
8 *introduction or dispersal of harmful non-*
9 *native species from the lands and waters on*
10 *which the project is carried out.*

11 *(2) OTHER FACTORS FOR SELECTION OF*
12 *PROJECTS.—In ranking qualified control projects, the*
13 *Secretary may consider the following:*

14 *(A) The extent to which a project would ad-*
15 *dress the operational backlog of the National*
16 *Wildlife Refuge System attributed to nonnative*
17 *species.*

18 *(B) Whether a project will encourage in-*
19 *creased coordination and cooperation among one*
20 *or more Federal agencies and State or local gov-*
21 *ernment agencies or nongovernmental or other*
22 *private entities to control harmful nonnative*
23 *species.*

24 *(C) Whether a project fosters public-private*
25 *partnerships and uses Federal resources to en-*

1 *courage increased private sector involvement, in-*
2 *cluding consideration of the amount of private*
3 *funds or in-kind contributions to control harmful*
4 *nonnative species.*

5 *(D) The extent to which a project would aid*
6 *the conservation of species that are listed under*
7 *the Endangered Species Act of 1973 (16 U.S.C.*
8 *1531 et seq.).*

9 *(E) Whether a project includes pilot testing*
10 *or a demonstration of an innovative technology*
11 *having the potential for improved cost-effective-*
12 *ness in controlling harmful nonnative species.*

13 *(f) DISTRIBUTION OF CONTROL GRANT AWARDS.—In*
14 *making grants for control projects under this section the*
15 *Secretary shall, to the greatest extent practicable, ensure—*

16 *(1) a balance of smaller and larger projects con-*
17 *ducted with grants under this section; and*

18 *(2) an equitable geographic distribution of*
19 *projects carried out with grants under this section,*
20 *among all States within which such projects are pro-*
21 *posed to be conducted.*

22 *(g) GRANT DURATION.—*

23 *(1) IN GENERAL.—Each grant under this section*
24 *shall be to provide funding for the Federal share of*

1 *the cost of a project carried out with the grant for up*
2 *to 2 fiscal years.*

3 (2) *RENEWAL.—(A) If the Secretary, after re-*
4 *viewing the reports under subsection (h) regarding a*
5 *control project, finds that the project is making satis-*
6 *factory progress, the Secretary may renew a grant*
7 *under this section for the project for an additional 3*
8 *fiscal years.*

9 (B) *The Secretary may renew a grant under this*
10 *section to implement the monitoring and maintenance*
11 *plan required for a control project under subsection*
12 *(e)(1)(B) for up to 5 fiscal years after the project is*
13 *otherwise completed.*

14 (h) *REPORTING BY GRANTEE.—*

15 (1) *IN GENERAL.—(A) A grantee carrying out a*
16 *control project with a grant under this section shall*
17 *report annually to the Secretary.*

18 (B) *A State carrying out assessment project with*
19 *a grant under this section shall submit the assessment*
20 *to the Secretary no later than 24 months after the*
21 *grant is awarded.*

22 (2) *REPORT CONTENTS.—Each report under this*
23 *subsection shall include the following information*
24 *with respect to each project covered by the report:*

25 (A) *In the case of a control project—*

1 (i) the information described in sub-
2 paragraphs (B), (D), and (F) of subsection
3 (k)(2); and

4 (ii) specific information on the meth-
5 ods and techniques used to control harmful
6 nonnative species in the project area, in-
7 cluding any specific information on the
8 methods and techniques used to restore na-
9 tive fish, wildlife, or their habitats in the
10 project area.

11 (B) A detailed report of the funding for the
12 grant and the expenditures made.

13 (i) *COST SHARING FOR PROJECTS.*—

14 (1) *FEDERAL SHARE.*—Except as provided in
15 paragraphs (2) and (3), the Federal share of the cost
16 of a project carried out with a grant under this sec-
17 tion shall not exceed 75 percent of such cost.

18 (2) *INNOVATIVE TECHNOLOGY COSTS.*—The Fed-
19 eral share of the incremental additional cost of in-
20 cluding in a control project any pilot testing or a
21 demonstration of an innovative technology described
22 in subsection (e)(2)(E) shall be 85 percent.

23 (3) *PROJECTS ON FEDERAL LANDS OR WA-*
24 *TERS.*—The Federal share of the cost of the portion of
25 a control project funded with a grant under this sec-

1 *tion that is carried out on Federal lands or waters,*
2 *including the cost of acquisition by the Federal Gov-*
3 *ernment of inholdings within Federal lands or waters*
4 *for use for such a project, shall be 100 percent.*

5 (4) *APPLICATION OF IN-KIND CONTRIBUTIONS.—*

6 *The Secretary may apply to the non-Federal share of*
7 *costs of a control project carried out with a grant*
8 *under this section the fair market value of services or*
9 *any other form of in-kind contribution to the project*
10 *made by non-Federal interests that the Secretary de-*
11 *termines to be an appropriate contribution equivalent*
12 *to the monetary amount required for the non-Federal*
13 *share of the activity.*

14 (5) *DERIVATION OF NON-FEDERAL SHARE.—The*

15 *non-Federal share of the cost of a control project car-*
16 *ried out with a grant under this section may not be*
17 *derived from a Federal grant program or other Fed-*
18 *eral funds.*

19 (j) *MONITORING AND MAINTENANCE OF CONTROL*
20 *GRANT PROJECTS.—*

21 (1) *REQUIREMENTS.—The Council, in consulta-*
22 *tion with the Secretary, shall develop requirements for*
23 *the monitoring and maintenance of a control project*
24 *to ensure that the requirements under subsections*
25 *(e)(1)(A) and (B) are achieved.*

1 (2) *DATABASE OF GRANT PROJECT INFORMA-*
2 *TION.—The Council shall develop and maintain an*
3 *appropriate database of information concerning con-*
4 *trol projects carried out with grants under this sub-*
5 *section, including information on project techniques,*
6 *project completion, monitoring data, and other rel-*
7 *evant information.*

8 (3) *USE OF EXISTING PROGRAMS.—The Council*
9 *shall use existing programs within the Federal Gov-*
10 *ernment to create and maintain the database required*
11 *under this subsection.*

12 (4) *PUBLIC AVAILABILITY.—The Council shall*
13 *make the information collected and maintained under*
14 *this subsection available to the public.*

15 (k) *REPORTING BY SECRETARY.—*

16 (1) *IN GENERAL.—The Secretary shall, by not*
17 *later than 2 years after the date of the enactment of*
18 *this Act and every 2 years thereafter, report to the ap-*
19 *propriate Committees on the implementation of this*
20 *section.*

21 (2) *REPORT CONTENTS.—A report under para-*
22 *graph (1) shall include a biennial assessment of—*

23 (A) *trends in the population size and dis-*
24 *tribution of harmful nonnative species in the*
25 *project area for each control project carried out*

1 *with a grant under this section, and in the adja-*
2 *cent areas as defined by the Secretary;*

3 *(B) data on the number of acres of native*
4 *fish and wildlife habitat restored, protected, or*
5 *enhanced under this section, including descrip-*
6 *tions of, and partners involved with, control*
7 *projects selected, in progress, and completed*
8 *under this section with respect to those acres by*
9 *Federal, State, and local agencies and other enti-*
10 *ties;*

11 *(C) trends in the population size and dis-*
12 *tribution of native species in the project areas,*
13 *and in adjacent areas as defined by the Sec-*
14 *retary;*

15 *(D) an estimate of the long-term success of*
16 *varying conservation techniques used in carrying*
17 *out control projects with grants under this sec-*
18 *tion;*

19 *(E) an annual assessment of the status of*
20 *control projects carried out with grants under*
21 *this section, including an accounting of expendi-*
22 *tures by Federal, State, regional, and local gov-*
23 *ernment agencies and other entities to carry out*
24 *such projects;*

1 (F) a review of the environmental soundness
2 of the control projects carried out with grants
3 under this section;

4 (G) a review of efforts made to maintain an
5 appropriate database of grants under this sec-
6 tion; and

7 (H) a review of the geographical distribu-
8 tion of Federal money, matching funds, and in-
9 kind contributions for control projects carried
10 out with grants under this section.

11 (l) *COOPERATION OF NON-FEDERAL INTERESTS.*—The
12 Secretary may not make a grant under this section for a
13 control project on Federal lands before a non-Federal inter-
14 est has entered into a written agreement with the Secretary
15 under which the non-Federal interest agrees to—

16 (1) monitor and maintain the control project in
17 accordance with the plan required under subsection
18 (e)(1)(B); and

19 (2) provide any other items of cooperation the
20 Secretary considers necessary to carry out the project.

21 **SEC. 5. CREATION OF A RAPID RESPONSE CAPABILITY TO**
22 **HARMFUL NONNATIVE SPECIES.**

23 (a) *ESTABLISHMENT.*—The Secretary may provide fi-
24 nancial assistance to enable a rapid response to outbreaks
25 of harmful nonnative species that are at a stage at which

1 *rapid eradication or control is possible, and ensure eradi-*
2 *cation or immediate control of the harmful nonnative spe-*
3 *cies.*

4 **(b) REQUIREMENTS FOR ASSISTANCE.**—*The Secretary*
5 *shall provide assistance under this section, at the request*
6 *of the Governor of a State, to local and State agencies or*
7 *nongovernmental entities for the eradication of an imme-*
8 *diately harmful nonnative species threat in the State only*
9 *if—*

10 (1) *there is a demonstrated need for the assist-*
11 *ance;*

12 (2) *the harmful nonnative species is considered*
13 *to be an immediate threat to native fish, wildlife, or*
14 *their habitats, as determined by the Secretary; and*

15 (3) *the proposed response to such threat—*

16 (A) *is technically feasible; and*

17 (B) *minimizes adverse impacts to the struc-*
18 *ture and function of an ecosystem and adverse*
19 *effects on non-target species and ecosystems.*

20 **(c) AMOUNT OF FINANCIAL ASSISTANCE.**—*The Sec-*
21 *retary shall determine the amount of financial assistance*
22 *to be provided under this section with respect to an outbreak*
23 *of a harmful nonnative species, subject to the availability*
24 *of appropriations.*

1 (d) *COST SHARE.*—*The Federal share of the cost of any*
2 *activity carried out with assistance under this section may*
3 *be up to 100 percent.*

4 (e) *MONITORING AND REPORTING.*—*The Secretary*
5 *shall—*

6 (1) *require that persons receiving assistance*
7 *under this section report on activities carried out*
8 *with such assistance in the same manner as control*
9 *project grantees under section 4; and*

10 (2) *monitor and report on activities carried out*
11 *with assistance under this section in accordance with*
12 *the requirements that apply with respect to control*
13 *projects carried out with assistance under section 4.*

14 **SEC. 6. RELATIONSHIP TO OTHER AUTHORITIES.**

15 *Nothing in this Act affects authorities, responsibilities,*
16 *obligations, or powers of the Secretary under any other stat-*
17 *ute.*

18 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) *ALDO LEOPOLD NATIVE HERITAGE PROGRAM*
20 *GRANTS.*—*There is authorized to be appropriated to the*
21 *Secretary to carry out section 4 \$62,000,000 for each of fis-*
22 *cal years 2003 through 2008.*

23 (b) *RAPID RESPONSE ASSISTANCE.*—*There is author-*
24 *ized to be appropriated to the Secretary to carry out section*
25 *5 \$10,000,000 for each of fiscal years 2003 through 2008.*

1 (c) *MONITORING.*—*There is authorized to be appro-*
2 *priated to the Secretary to support the Council in its acqui-*
3 *sition, maintenance, and management of monitoring data*
4 *on grant projects carried out under this Act, \$3,000,000 for*
5 *each of fiscal years 2003 through 2008.*

6 (d) *CONTINUING AVAILABILITY.*—*Amounts appro-*
7 *priated under this Act may remain available until ex-*
8 *pendent.*

9 (e) *ADMINISTRATIVE EXPENSES OF SECRETARY.*—*Of*
10 *amounts available each fiscal year to carry out this Act,*
11 *the Secretary may expend not more than 5 percent to pay*
12 *the administrative expenses necessary to carry out this Act,*
13 *including such expenses incurred by the Council.*

Amend the title so as to read: “A bill to control harmful nonnative species on Federal lands, and for other purposes.”.

Calendar No. 307

107TH CONGRESS
2^D SESSION

H. R. 3558

[Report No. 107-512]

A BILL

To protect, conserve, and restore native fish, wildlife, and their natural habitats on Federal lands through cooperative, incentive-based grants to control, mitigate, and eradicate harmful non-native species, and for other purposes.

JUNE 18, 2002

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed