

BROWN TREE SNAKE CONTROL AND ERADICATION ACT
OF 2004

SEPTEMBER 15, 2004.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 3479]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3479) to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Brown Tree Snake Control and Eradication Act of 2004”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The brown tree snake, an invasive species, is believed to have been introduced to the island of Guam as a passive stowaway in a military cargo ship that moved materiel after World War II. The historic range of the brown tree snake is portions of Indonesia, New Guinea, the Solomon Islands, and Australia.

(2) Upon arrival in Guam, the brown tree snake encountered an abundant food supply and an absence of natural predators.

(3) The brown tree snake’s accidental introduction to Guam placed the species beyond its historic range, triggering a cascade of extinctions and an ecological disaster. The brown tree snake has been the principal cause of the destruction of Guam’s native bird population and has imposed significant stress on Guam’s economic and agricultural interests, thereby harming the integrity and environmental stability of Guam’s ecosystems and economy.

(4) The presence of the brown tree snake is a documented economic and human health hazard in Guam. The brown tree snake occurs in Guam at extremely high densities. Due to its high abundance the brown tree snake has

been accidentally transported from Guam to other sites worldwide through infested civilian and military vessels and cargo. The brown tree snake is a growing threat to the biodiversity, economy, and human health within the Pacific region. The brown tree snake poses a direct, significant, and growing threat of dispersal to other areas outside of its historic range, including the Commonwealth of the Northern Mariana Islands, the State of Hawaii, and the mainland of the United States.

(5) A number of Federal agencies, including the Department of the Interior, the Department of Agriculture, and the Department of Defense, and the governments of Guam, Hawaii, the Northern Mariana Islands, and the Freely Associated States have operational, environmental, economic, and human health interests in and responsibilities for controlling the brown tree snake.

(6) The present Brown Tree Snake Control Committee was established in response to section 1209 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4728), and the multi-agency Memorandum of Agreement on Brown Tree Snake Control, originally signed in 1992 and renewed in 1999, will expire in March 2004. It is a purpose of this Act to legislatively establish the Brown Tree Snake Control and Eradication Committee to ensure the ongoing activities and enhance the effectiveness of the present Committee.

(7) Annual funding for brown tree snake control and research has come from relatively few Federal agencies, which have then distributed those funds amongst a number of agencies actually conducting the work. While current funding is commendable on the part of these agencies, the absence of direct funding through the agencies actually conducting the work has impaired the progress of both operational and research efforts by limiting stability in staffing and year-to-year program implementation. It is a purpose of this Act to authorize funding for brown tree snake control, interdiction, research, and eradication through and by the agencies performing the specific tasks.

SEC. 3. DEFINITIONS.

In this Act:

(1) **BROWN TREE SNAKE.**—The term “brown tree snake” means the species of the snake *Boiga irregularis* that is an invasive species in Guam and a threat to spread elsewhere.

(2) **COMMITTEE.**—The term “Committee” means the Brown Tree Snake Control and Eradication Committee established under section 6.

(3) **COMPACT OF FREE ASSOCIATION.**—The term “Compact of Free Association” means a Compact of Free Association entered into between the United States and the government of a Freely Associated State.

(4) **FREELY ASSOCIATED STATE.**—The term “Freely Associated State” means the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(5) **INTRODUCTION.**—The terms “introduce” and “introduction” refer to the expansion of brown tree snakes outside of the range where this species is endemic.

(6) **SECRETARY.**—The term “Secretary concerned” means—

(A) the Secretary of the Interior, with respect to matters under the jurisdiction of the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to matters under the jurisdiction of the Department of Agriculture.

(7) **SECRETARIES.**—The term “Secretaries” means both the Secretary of the Interior and the Secretary of Agriculture.

(8) **TERRITORIAL.**—The term “territorial”, when used to refer to a government, means the Government of Guam, the Government of American Samoa, or the Government of the Commonwealth of the Northern Mariana Islands. The term includes such quasi-governmental entities as the University of Guam.

(9) **UNITED STATES.**—The term “United States”, when used in the geographic sense, means the several States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Freely Associated States, any other possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 4. STATEMENT OF POLICY REGARDING FEDERAL OBLIGATIONS RELATED TO BROWN TREE SNAKES INTRODUCTION, CONTROL, AND ERADICATION.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that there exists a need for improved and better coordinated control, interdiction, research, and eradication of the brown tree snake on the part of the United States and other interested parties.

(b) **UNITED STATES POLICY.**—It is the policy of the United States to fund and support coordinated and concerted programs and activities to control, interdict, and

eradicate the brown tree snake in Guam and to prevent the introduction of brown tree snakes to other areas of the United States.

(c) **PREVENTING INTRODUCTION.**—Notwithstanding any other provision of law, to the extent practicable, no Federal agency may authorize, fund, or carry out any action that would likely cause or promote the introduction or spread of the brown tree snake in the United States. All Federal agencies must consider brown tree snake interdiction issues, to the extent possible, when planning any activity that may cause the accidental introduction of brown tree snakes to uninfested areas in the United States.

(d) **CONTROL AND ERADICATION.**—All Federal agencies, to the extent possible, that manage lands where brown tree snakes occur shall fund the control and eradication of this species.

(e) **ACCESS.**—All Federal agencies, to the extent possible, shall facilitate access to Federal, State, and territorial employees, or their designees, who conduct control, interdiction, or research regarding brown tree snakes on lands and facilities under the jurisdiction of the Federal agency through a memorandum of understanding with the respective State or Territorial government in accordance with the guidelines developed under subsection (g).

(f) **COOPERATIVE SUPPORT.**—All Federal agencies, to the extent possible, shall provide cooperative support, such as office space, laboratory space, laboratory animal holding facilities, kennel facilities, short- and long-term housing for staff, power, water, and communication lines, to Federal agencies conducting brown tree snake control, interdiction, research, and eradication.

(g) **GUIDELINES.**—The Brown Tree Snake Control and Eradication Committee shall develop, in consultation with the Invasive Species Council established pursuant to Executive Order No. 13112 (42 U.S.C. 4321 note), guidelines for Federal agencies to analyze their actions and carry out their duties under this section.

SEC. 5. BROWN TREE SNAKE CONTROL, INTERDICTION, RESEARCH AND ERADICATION.

(a) **FUNDING AUTHORITY.**—Subject to the availability of appropriations to carry out this section, the Secretaries shall provide funds to support brown tree snake control, interdiction, research, and eradication efforts carried out by the Department of the Interior and the Department of Agriculture, other Federal agencies, States, territorial governments, local governments, and private sector entities. Funds may be provided through grants, contracts, reimbursable agreements, or other legal mechanisms available to the Secretaries for the transfer of Federal funds.

(b) **AUTHORIZED ACTIVITIES.**—Brown tree snake control, interdiction, research, and eradication efforts authorized by this section shall include at a minimum the following:

(1) Expansion of science-based eradication and control programs in Guam to reduce the undesirable impact of the brown tree snake in Guam and reduce the risk of the introduction or spread of brown tree snakes to areas in the United States in which the brown tree snake is not established.

(2) Expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, and Hawaii to assist local governments with detecting brown tree snakes and incipient brown tree snake populations.

(3) Expansion of efforts to protect and restore native wildlife in Guam or elsewhere in the United States damaged by the brown tree snake.

(4) Continuation, expansion, and provision of sustained research funding related to brown tree snakes, including research conducted at institutions located in areas affected by the brown tree snake.

(5) Expansion of long-term research into chemical, biological, and other control techniques that could lead to large-scale reduction of brown tree snake populations in Guam or other areas where the brown tree snake might become established.

(6) Expansion of short, medium, and long-term research, funded by all Federal agencies interested in or affected by brown tree snakes, into interdiction, detection, and early control of brown tree snakes.

(7) Provision of planning assistance for the construction or renovation of centralized multi-agency facilities in Guam to support Federal, State, and territorial brown tree snake control, interdiction, research and eradication efforts, including office space, laboratory space, animal holding facilities, and snake detector dog kennels.

(8) Provision of technical assistance to the Freely Associated States on matters related to brown tree snakes through the mechanisms contained within a Compact of Free Association dealing with environmental, quarantine, economic, and human health issues.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretaries to carry out this section (other than subsection (b)(7)) the following amounts:

(1) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, Operations, not more than \$2,600,000 for each of the fiscal years 2005 through 2010.

(2) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, National Wildlife Research Center, Methods Development, not more than \$2,200,000 for each of the fiscal years 2005 through 2010.

(3) For activities conducted through the Office of Insular Affairs, not more than \$4,600,000 for each of the fiscal years 2005 through 2010.

(4) For activities conducted through the Fish and Wildlife Service, not more than \$2,600,000 for each of the fiscal years 2005 through 2010.

(5) For activities conducted through the United States Geological Survey, Biological Resources, not more than \$1,300,000 for each of the fiscal years 2005 through 2010.

(d) **CONSTRUCTION PLANNING ASSISTANCE.**—There is authorized to be appropriated to carry out subsection (b)(7) the following amounts:

(1) To the Secretary of Agriculture, not more than \$2,300,000 for each of the fiscal years 2005 through 2010.

(2) To the Secretary of the Interior, not more than \$2,300,000 for each of the fiscal years 2005 through 2010.

SEC. 6. LEGAL MECHANISMS TO CONTROL THE INTRODUCTION AND SPREAD OF BROWN TREE SNAKES.

(a) **DESIGNATION OF AGRICULTURAL PEST.**—The brown tree snake is hereby designated as an agricultural pest in the United States under section 28 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–3).

(b) **QUARANTINE PROTOCOLS.**—

(1) **ESTABLISHMENT.**—The Secretaries shall establish a system of pre-departure quarantine protocols for persons traveling from, and baggage, cargo and other items being shipped from, Guam and other United States locations where brown tree snakes may have become established to prevent the introduction or spread of the brown tree snake. Under the quarantine protocols system, Federal quarantine, natural resource, conservation, and law enforcement officers and inspectors may enforce State and territorial laws regarding the illegal importation, possession, or introduction of brown tree snakes.

(2) **COOPERATION AND CONSULTATION.**—The activities of the Secretaries under paragraph (1) shall be carried out in cooperation with the appropriate State and territorial quarantine, natural resource, conservation, and law enforcement officers. In the case of Guam, the Secretaries shall enter into a memorandum of agreement with the Government of Guam to obtain the assistance and cooperation of the Government of Guam in establishing of the system of pre-departure quarantine protocols under paragraph (1).

(3) **IMPLEMENTATION.**—The system of pre-departure quarantine protocols to be established under paragraph (1) shall not be implemented until funds are specifically appropriated for that purpose.

(c) **NONMAILABLE MATTER.**—Consistent with subsection (c), brown tree snakes constitute nonmailable matter under section 3015 of title 39, United States Code.

SEC. 7. BROWN TREE SNAKE CONTROL AND ERADICATION COMMITTEE.

(a) **ESTABLISHMENT.**—The Secretaries shall establish a committee, to be known as the Brown Tree Snake Control and Eradication Committee, for the purpose of providing coordination among Federal agencies, and between the United States Government and State, territorial, and local governments, with respect to efforts related to brown tree snake control, interdiction, research, and eradication in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, the Freely Associated States, and other areas of the United States in which the brown tree snake is, or may be, introduced.

(b) **VOTING MEMBERS.**—

(1) **APPOINTMENT.**—Subject to paragraph (2), the voting members of the Committee shall consist of one representative from each of the following agencies:

(A) The Office of Insular Affairs, appointed by the Secretary of the Interior.

(B) The United States Fish and Wildlife Service, appointed by the Secretary of the Interior.

(C) The United State Geological Survey, appointed by the Secretary of the Interior.

(D) The Animal and Plant Health Inspection Service, Wildlife Services, Operations Branch, appointed by the Secretary of Agriculture.

(E) The Animal and Plant Health Inspection Service, Wildlife Services, National Wildlife Research Center, appointed by the Secretary of Agriculture.

(F) The Department of Commerce, appointed by the Secretary of Commerce.

(G) The Department of Transportation, appointed by the Secretary of Transportation.

(H) The Department of Homeland Security, appointed by the Secretary of Homeland Security.

(I) The Armed Forces Pest Management Board of the Department of Defense, appointed by the Secretary of Defense.

(J) The Department of the Air Force, appointed by the Secretary of the Air Force.

(K) The Department of the Navy, appointed by the Secretary of the Navy.

(L) The Department of Agriculture of the Government of Guam, appointed by the Governor of Guam.

(M) The Department of Land and Natural Resources of the State of Hawaii, appointed by the Governor of Hawaii.

(N) The Department of Agriculture of the State of Hawaii, appointed by the Governor of Hawaii.

(O) The Department of Land and Natural Resources of the Commonwealth of the Northern Mariana Islands, appointed by the Governor of the Commonwealth of the Northern Mariana Islands.

(P) Such additional voting members as may be designated under paragraph (3).

(2) BLOC VOTING REQUIREMENTS.—The members of the Committee appointed by the same executive branch official or State or territorial governor shall be required to vote as a single entity, so that a total of nine votes may be cast by the representatives specified in subparagraphs (A) through (O) of paragraph (1) plus the votes cast by any additional voting members designated under paragraph (3).

(3) ADDITIONAL VOTING MEMBERS.—With the concurrence of a majority of the voting members of the Committee, the chairperson of the Committee may designate additional voting members to the Committee from Federal, State, territorial, or local government agencies, and private sector entities with significant responsibilities concerning brown tree snake control, interdiction, research, and eradication.

(c) NONVOTING MEMBERS.—

(1) APPOINTMENT.—Nonvoting membership to the Committee shall be extended to representatives of the Freely Associated States as follows:

(A) The Republic of Palau, appointed by the President of Palau.

(B) The Federated States of Micronesia, appointed by the President of the Federated States of Micronesia.

(C) The Republic of the Marshall Islands, appointed by the President of the Marshall Islands.

(D) Such additional non-voting members as may be designated under paragraph (2).

(2) ADDITIONAL NONVOTING MEMBERS.—With the concurrence of a majority of the voting members of the Committee, the chairperson of the Committee may designate additional nonvoting members to the Committee from Federal, State, territorial, or local government agencies, and private sector entities with significant responsibilities concerning brown tree snake control, interdiction, research, and eradication.

(d) TERM AND MEETINGS.—

(1) TERM.—The term of a member of the Committee shall be three years. A member may be reappointed for additional terms. Vacancies shall be filled in the same manner as the original appointment.

(2) COMMITTEE MEETINGS.—The Committee shall meet at least annually, at the call of the chairperson.

(e) DUTIES AND FUNCTIONS OF THE COMMITTEE.—The Committee shall ensure that Federal, State, territorial, and local agency efforts concerning the brown tree snake are coordinated, effective, complementary, and cost-effective. Specific functions of the Committee include the following:

(1) Evaluate Federal, State, and territorial activities, programs and policies that are likely to cause or promote the introduction or spread of the brown tree snake in the United States and recommend governmental actions to minimize the risk of introduction or further spread of the brown tree snake.

(2) Recommend activities, programs, and policies to reduce and eventually eradicate the brown tree snake in Guam or other areas within the United

States where the snake may be established and to monitor the implementation of those activities, programs, and policies.

(3) Within 18 months after the date of the enactment of this Act, revise the Brown Tree Snake Control Plan that was prepared by the Brown Tree Snake Control Committee of the Aquatic Nuisance Species Task Force, as required by section 1209 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4728), to coordinate Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake, and subsequently revise and update this Plan every five years thereafter.

(4) Develop and submit to Congress a biennial report containing the following:

(A) Description of progress that will lead toward large-scale population reduction or eradication of the brown tree snake in Guam or other sites that are infested by the brown tree snake.

(B) Description of interdiction and other activities that will reduce the risk of introduction of brown tree snakes or other nonindigenous snake species in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, and American Samoa.

(C) Description of applied and basic research that will lead to improved brown tree snake control, interdiction and eradication efforts conducted by Federal, State, territorial, and local governments.

(D) Programs and activities for brown tree snake control, interdiction, research and eradication that have been funded, implemented, and planned by Federal, State, territorial, and local governments.

(E) A list of priorities, ranked in high, medium, and low categories, of Federal, State, territorial, and local efforts and programs in the following areas:

- (i) Control.
- (ii) Interdiction.
- (iii) Research.
- (iv) Eradication.

(F) An assessment of current funding shortfalls and future funding needs to support Federal, State, territorial, and local government efforts to control, interdict, eradicate, or conduct research on the brown tree snake.

(G) An assessment of regulatory limitations that hinder Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake.

(f) COMMITTEE CHAIRPERSON AND COORDINATOR.—

(1) ELECTION OF CHAIRPERSON.—The voting members of the Committee shall elect a member of the Committee to serve as chairperson of the Committee. The chairperson shall have a term of three years.

(2) APPOINTMENT OF COORDINATOR.—The Secretaries shall hire a Federal Interagency Brown Tree Snake Coordinator to serve on the staff of the chairperson.

(3) DUTIES.—The chairperson shall ensure that Federal, State, territorial, and local agency efforts concerning the brown tree snake are maximally coordinated, effective, complementary, and cost-effective through the Committee. Specific duties of the chairperson include the following:

(A) Coordinate and oversee the meetings of the Committee.

(B) Coordinate and oversee the Committee's work to produce the biennial brown tree snake control, research, interdiction, and eradication reporting documents for Congress.

(C) Coordinate and oversee revision of the Brown Tree Snake Control Plan.

(D) Coordinate and oversee preparation of other reports and documents dealing with brown tree snakes.

(E) Under direction of the Secretaries, and in collaboration with the Committee, evaluate Federal, State, and territorial activities, programs, and policies that are likely to—

(i) cause or promote the introduction or spread of the brown tree snake in the United States and recommend actions by Federal, State, territorial, or Freely Associated State governments to prevent the introduction and spread of brown tree snakes; and

(ii) reduce and eventually eradicate the brown tree snake in Guam and in any other areas in the United States where the snake may be established.

(F) Monitor the implementation of those policies by Federal, State, territorial, and local agencies and other persons.

(G) Provide, or arrange for the provision of, technical assistance dealing with brown tree snake control, interdiction, research, and eradication to Federal, State, territorial, and Freely Associated State governments.

(H) Serve as the primary contact for the Secretaries for inquiries or requests by Congress and the Administration regarding brown tree snakes.

(I) Serve as the primary representative for the Secretaries on brown tree snake issues to the National Invasive Species Council and provide assistance to the National Invasive Species Council related to brown tree snakes.

(4) LIMITATION.—Notwithstanding paragraph (3), the chairperson shall not have control over funding decisions or spending authority with respect to funds provided by any of the Committee members for the purposes of this Act. Federal and other agencies represented on the Committee shall retain control over decisions regarding their respective funds, although the chairperson may participate in planning and implementation of activities with respect to such funds.

(g) STAFF.—The Secretaries may hire staff to assist the Committee and the chairperson in carrying out their respective duties and functions.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to each of the Secretaries not more than \$450,000 for each of the fiscal years 2005 through 2010 to carry out this section.

SEC. 8. MISCELLANEOUS MATTERS.

(a) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated under this Act shall remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this Act for a fiscal year, the Secretaries may expend not more than five percent to cover the administrative expenses necessary to carry out this Act.

PURPOSE OF THE BILL

The purpose of H.R. 3479 is to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The brown tree snake (BTS), a non-native, invasive species on the island of Guam, has caused severe economic and environmental problems and public health concerns for the island's residents. The BTS has eliminated most of Guam's native forest birds and lizards. This dramatic wide-scale destruction of native species is unprecedented in modern ecological history. The BTS was accidentally introduced onto the island of Guam in the late 1940s or early 1950s. The likely vector was as a stowaway on a military cargo ship from the Papua New Guinea area. The snake was first detected on Guam in the 1950s near the Naval port Apra Harbor. The snake is approximately 15 inches at the time of hatching and can grow to up to 10 feet in length as adults. Most snakes, however, are three to four feet long. This species, which is both secretive and nocturnal, is classified as a rear-fanged semiconstrictor that is mildly poisonous. Since its initial arrival, the brown tree snake has spread throughout the island and recent estimates of the snake population is 13,000 animals per square mile or over 20 snakes per acre of jungle. Clearly, the once abundant prey resources on Guam and the absence of any natural predators or other population controls has led to the significant growth in the BTS population.

As a direct result of the BTS, there has been extensive economic and ecological damage as well as public health concerns for the residents of Guam. By crawling along on power lines at night, BTSs cause frequent power outages throughout the island. According to a report by the United States Geological Survey, BTSs cause an average 86 outages every year at a cost of \$1 million dollars.

On an individual basis, it costs commercial electricity customers between \$2,000 and \$10,000 annually to mitigate the effects of these power outages.

These BTSs also present a public health threat because they bite a number of residents each year, particularly infants and people sleeping at night. It is estimated that 200 cases of snake bites have required medical treatment; fortunately, there have been no fatalities on Guam because of an encounter with this mildly venomous snake.

In terms of native bird populations, the BTS has had a devastating effect. Since Guam's mostly endemic birds evolved in the absence of snake predators, they lacked the protective behaviors against the BTS. As a result, they were easy prey for these efficient, nocturnal predators. In fact, these BTSs are directly responsible for the extinction or extirpation of a number of avian species including: the Guam flycatcher, the Rufous fantail, Bridled white-eye nasa, Nightingale reed-warbler, White-throated ground-dove, Marian fruit-dove, Cardinal honey-eater, Micronesian kingfisher and Guam rail. Of the 13 original species of Guam birds, only three are still known to exist in the wild. These are: the Island swiftlet (which is found in one wildlife refuge); the Micronesian starling; and the Mariana crow that has a current population of 12 birds. Both the Island swiftlet and the Mariana crow are listed species under the Endangered Species Act.

As bird populations have declined, the BTS has turned its appetite and attention to native lizard populations. Originally, 12 indigenous species of lizard existed on Guam. Today, only three lizard species have survived: the blue-tailed skink, mutilating gecko and mourning gecko. Soberly, it does not appear that the population of BTS is poised to decline because of a lack of prey resources or as a result of the nearly \$6 million spent annually to control or eradicate this invasive species problem.

Because BTSs are able to live in small, confined spaces, it makes the job of detection extremely difficult for federal and island wildlife authorities. The likelihood of BTS distributions to other Pacific Islands in commercial shipping or air cargo remains a constant threat to native island ecosystems in the Pacific Basin.

In an effort to address this ongoing serious problem, H.R. 3479, the Brown Tree Snake Control and Eradication Act, was introduced. Under the terms of this comprehensive legislation the Secretaries of Agriculture and Interior are authorized to provide funds to support BTS control, interdiction, research and eradication efforts; nearly \$18 million per year in appropriations is authorized for fiscal years 2005 to 2010 to carry out the activities and requirements established by this Act; the BTS is designated as an "agricultural pest" under the Federal Insecticide, Fungicide, and Rodenticide Act; the establishment of a system of pre-departure quarantine protocols for persons traveling from, and baggage, cargo and other items being shipped from Guam to prevent the introduction or spread of the BTS is required; the BTS is declared to be a nonmailable matter under the United States Postal Code and authorizes the establishment of a Brown Tree Snake Control and Eradication Committee is established.

COMMITTEE ACTION

H.R. 3479 was introduced on November 7, 2003, by Congresswoman Madeleine Bordallo (D-GU). The bill was referred to the Committee on Resources and additionally to the Committee on Agriculture. Within the Committee on Resources, the bill was referred to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On May 13, 2004, the Subcommittee held a hearing on the bill. On June 3, 2004, the Subcommittee met to mark up the bill. There were no amendments offered and the bill was then ordered favorably reported to the Full Committee by unanimous consent. On July 14, 2004, the Full Resources Committee met to consider the bill. Congresswoman Madeleine Bordallo offered an amendment in the nature of a substitute that clarified the role of the federal government, revised the departure inspection protocol and clarified the voting procedures of the Brown Tree Snake Control and Eradication Committee. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is “The Brown Tree Snake Control and Eradication Act of 2004.”

Section 2. Findings

This section provides Congressional findings for the Act.

Section 3. Definitions

This section provides definitions under the Act.

Section 4. Statement of policy regarding federal obligations related to brown tree snakes introduction, control and eradication

This section declares that the policy of the United States is to fund and support coordinated and concerted programs and activities to control, interdict, and eradicate the brown tree snake in Guam and to prevent the introduction of the brown tree snakes to other areas of the United States.

The section further declares that no federal agency may authorize, fund, or carry out any action that would likely cause or promote the introduction or spread of the brown tree snake in the United States.

The section declares that all federal agencies that manage lands where brown tree snakes occur shall fund control and eradication work.

The section declares that all federal agencies shall facilitate access to employees who conduct control, interdiction, or research work on lands and facilities under their jurisdiction. This ensures information sharing between and among all local and State stakeholders and appropriate Federal officials.

This section declares that all federal agencies shall provide cooperative support, such as sharing of resources, to other federal agencies conducting brown tree snake control, interdiction, research and eradication. For example, the Department of Defense would be required, to the extent possible, to provide office space for U.S. De-

partment of Agriculture Wildlife Services personnel working on the ground at Andersen Air Force Base in Guam to control the brown tree snake or kennel facilities for Jack Russell terrier dogs who are integral to that control and interdiction work.

The section authorizes guidelines to be developed by the Brown Tree Snake Control and Eradication Committee, established by this bill, in consultation with the National Invasive Species Council to aid federal agencies in analyzing their actions and duties to comply with the policies declared by this section of the Act.

Section 5. Brown tree snake control, interdiction, research and eradication

This section authorizes the Secretary of Agriculture and the Secretary of the Interior to provide funds to support brown tree snake control, interdiction, research and eradication efforts carried out by their respective agencies, bureaus, and offices, as well as by providing grants to the Government of Guam and the State of Hawaii, as well as other potentially affected State, territorial, and local governments, to support their work.

The section further authorizes nine specific activities and provides statutory programmatic requirements for the authorized funds.

Finally, this section authorizes a total of \$18 million in appropriations in each of the fiscal years 2005 to 2010 for federal agencies to carry out these activities and meet the requirements established by this Act.

Section 6. Legal mechanisms to control the introduction and spread of brown tree snakes

This section designates the brown tree snake as an “agricultural pest” under the Federal Insecticide, Fungicide, and Rodenticide Act. This provision would require:

- The Secretary of Agriculture to annually report on the brown tree snake and its effects on agricultural production in Guam and Hawaii.
- The Administrator of the Environmental Protection Agency to coordinate with the Secretary of Agriculture to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods through existing research and implementation programs to combat and control the brown tree snake for the purposes of mitigating its effects on the quality and economical production of agricultural products in Guam and Hawaii.
- The Secretary of Health and Human Services to monitor the brown tree snake’s threat to public health and if needed, trigger the Public Health Service’s development and implementation of programs to reduce and eliminate this threat.

This section broadens the level of federal involvement in brown tree snake programs in Guam. For example, such designation would allow the Animal and Plant Health Inspection Service (APHIS) to have a greater role in detection, control, and eradication of the brown tree snake in Guam. This change would allow APHIS to budget for and commit more resources toward brown tree snake programs in Guam and result in integrated pest management.

This section also requires the Secretary of Agriculture and the Secretary of the Interior to establish by regulation within two years, a system of pre-departure quarantine protocols for persons traveling from, and baggage, cargo and other items being shipped from Guam to prevent the introduction or spread of the brown tree snake. Under such a system, federal quarantine, natural resource, conservation, and law enforcement officers and inspectors may enforce State and territorial laws regarding the illegal importation, possession, or introduction of brown tree snakes.

The section declares brown tree snakes to be a nonmailable matter under the United States Postal Code.

Section 7. Brown tree snake control and eradication committee

This section authorizes a Brown Tree Snake Control and Eradication Committee, whose membership would be, at minimum, comprised of 16 individuals representing various federal and non-federal agencies who have a stake in brown tree snake control, interdiction, research and eradication.

Head of agencies are given appointment authority for representative members of the Committee. The Secretary of Agriculture and the Secretary of the Interior are to select a chairperson from among the appointed members and hire a federal Interagency Brown Tree Snake Coordinator to staff the Committee. Members' terms are for three years and they may be reappointed.

This section instructs the Committee to meet at least annually and prescribes specific duties and functions of the Committee, including evaluation, reporting, and recommendation responsibilities for further and continuous actions to control, interdict, and eradicate the brown tree snake.

This section also requires the Committee to revise and keep updated a Brown Tree Snake Control Plan to coordinate federal, State, territorial and local government efforts to control, interdict and eradicate the brown tree snake.

Section 8. Miscellaneous matters

This section provides two technical provisions related to availability of funds that would be appropriated according to authorization proposed by this Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3479—Brown Tree Snake Control and Eradication Act of 2004

Summary: H.R. 3479 would authorize the appropriation of \$104 million over the 2005–2009 period to control brown tree snakes, an invasive species that currently infests Guam and other Pacific islands. The bill would direct the Department of Agriculture (USDA) and the Department of the Interior (DOI) to support governmental and private control efforts such as biological research, inspections of cargo and travelers, ship quarantines, and other measures. Under the bill, the coordination of those activities would be provided by a new brown tree snake control and eradication committee, consisting of USDA and DOI, other federal departments such as the Department of Defense (DoD), and state or territorial agencies in Guam, Hawaii, and the Northern Mariana Islands. Finally, section 4 of H.R. 3479 would require all federal agencies that manage infested lands to fund control and eradication projects and provide access and facilities to agencies and other entities involved in similar efforts.

Assuming appropriation of the amounts specifically authorized and estimated to be necessary, CBO estimates that implementing H.R. 3479 would cost the federal government \$12 million in fiscal year 2005 and \$102 million over the 2005–2009 period. Enacting this legislation would have no effect on revenues or direct spending.

H.R. 3479 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. State and territorial governments, particularly Guam, would benefit from federal funds authorized by this bill for efforts to control and eradicate brown

tree snakes. Any participation by those governments in the programs funded by this bill would be voluntary.

H.R. 3479 contains a private-sector mandate as defined in UMRA on certain travelers and shippers. CBO estimates that the cost of complying with the mandate would be well below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3479 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law to control brown tree snakes:						
Budget authority ¹	4	0	0	0	0	0
Estimated outlays	4	0	0	0	0	0
Proposed changes:						
Specified authorization for brown tree snake control measures:						
Authorization level	0	18	18	18	18	18
Estimated outlays	0	12	17	18	20	23
Implementation of quarantine protocols:						
Estimated authorization level	0	0	3	3	3	3
Estimated outlays	0	0	3	3	3	3
Spending under H.R. 3479 to control brown tree snakes:						
Estimated authorization level ¹	4	18	21	21	21	21
Estimated outlays	4	12	20	21	23	26

¹The 2004 level is the amount appropriated for that year to the USDA, DOI, and DOD for brown tree snake control.

Basis of estimate: H.R. 3479 would specifically authorize the appropriation of \$18 million annually for the next six years. Of this amount, \$450,000 would be provided to the brown tree snake control and eradication committee as authorized by section 7. The remaining amounts would be authorized to be appropriated to USDA and DOI to support control, interdiction, research, and eradication measures taken by federal and nonfederal agencies and by private entities. As specified by section 5, this funding includes \$7 million of year for the Animal and Plant Health Inspection Service (APHIS) and \$11 million a year for DOI agencies such as the U.S. Fish and Wildlife Service (USFWS) and the Office of Insular Affairs. Of those amounts, \$4.6 million a year is earmarked for construction and planning assistance to Guam for multiagency facilities such as laboratories, dog kennels, and office space.

In addition to the amounts specifically authorized to be appropriated by H.R. 3479, CBO estimates that there would be additional costs to administer and enforce new quarantine procedures for travelers, baggage, and cargo leaving Guam and other locations infested with brown tree snakes. Section 6 of the bill would require USDA and DOI to develop protocols for the predeparture quarantines but would prohibit implementing the protocols unless funds are appropriated specifically for that purpose. CBO expects that APHIS and DOI would develop the required protocols using a portion of the funds authorized for 2005 by section 5. Assuming additional appropriations to implement the protocols, we estimate that APHIS would spend a total of \$3 million annually beginning in 2006 for inspections and other enforcement activities.

For this estimate, CBO assumes that the entire amounts authorized by sections 5 and 7 or estimated to be necessary to carry out section 6 will be appropriated for each fiscal year. We further assume that the amounts authorized to be appropriated to DOI and USDA by section 5 will be used to support control and eradication measures on military and other federal lands; no additional amounts are estimated to be necessary to carry out the responsibilities of DoD and other agencies under section 4. This estimate is based on information provided by the USFWS, the National Invasive Species Council, DoD, and other federal and local agencies.

Estimated impact on state, local, and tribal governments: H.R. 3479 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State and territorial governments, particularly Guam, would benefit from federal funds authorized by this bill for efforts to control and eradicate brown tree snakes. Any participation by these governments in the programs funded by the bill would be voluntary.

Estimated impact on the private sector: By requiring federal agencies to implement a system of predeparture quarantine protocols for inspecting passengers, baggage, and cargo leaving from Guam and other areas infested with brown tree snakes, H.R. 3479 would impose a mandate on travelers and shippers of goods departing from those locations. CBO estimates that the cost of complying with the mandate would be well below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

The cost of the mandate would be the value of any additional time spent to participate in an inspection and any cost of delay associated with having items put in quarantine. Currently, federal officials in Guam conduct predeparture baggage and cargo inspections with the consent of the owners of such cargo or baggage. Among other methods used, dogs trained to detect snakes are being used on Guam to search for snakes in outgoing cargo and in other locations in the Pacific to inspect incoming cargo moved by both air and surface routes. Teams of dogs and handlers inspect a variety of materials, including personal goods, and container cargo. According to USDA, fewer than 15 snakes, on average, are found by the dog teams annually on Guam using this method in predeparture inspections.

Because travelers and shippers voluntarily comply with predeparture inspections and additional inspections at certain destinations and because the number of snakes that have been detected in packed cargo has been relatively low, CBO estimates that the incremental cost of complying with the mandate would be small.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Crystal Taylor and Amina Masood.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 25, 2004.

Hon. BOB GOODLATTE,
*Chairman, Committee on Agriculture,
Longworth HOB, Washington, DC.*

DEAR MR. CHAIRMAN: I ask your help in scheduling H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004, for consideration by the House of Representatives as soon as possible.

H.R. 3479 was referred primarily to the Committee on Resources and additionally to your Committee. The purpose of H.R. 3479 is to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States. The Committee on Resources ordered the bill reported with amendments on July 14, 2004, and I hope to file the report on the bill when Congress reconvenes on September 7, 2004.

Because the House has at most 23 legislative days before the target adjournment, I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill. This action would not be considered as precedent for any future referrals of similar measures or seen as affecting your Committee's jurisdiction over the subject matter of the bill. Moreover, if the bill is conferenced with the Senate, I would support naming Agriculture Committee members to the conference committee.

I look forward to your response and would be pleased to include it and this letter in the report on H.R. 3479.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 14, 2004.

Hon. RICHARD POMBO,
*Chairman, House Committee on Resources,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your August 25, 2004 correspondence regarding H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004. As you are aware, the Committee on Agriculture was granted an additional referral of this legislation.

In attempts to expedite consideration of this legislation, I will discharge H.R. 3479 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging these bills the Committee on Agriculture does not waive any future

jurisdictional claim over these or similar measures. In addition, in the event a conference with the Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if it should become necessary.

Thank you very much for your courtesy in this matter and I look forward to continued cooperation between our committees as we deal with these issues in the future.

Sincerely,

BOB GOODLATTE,
Chairman.

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