

108TH CONGRESS  
2D SESSION

# S. 2598

To protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive species, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2004

Mr. AKAKA (for himself, Mr. LAUTENBERG, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive 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 “Public Land Protection  
5 and Conservation Act of 2004”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to encourage partnerships  
3 among Federal, State, and local agencies, nongovern-  
4 mental entities, and Indian tribes to protect, enhance, re-  
5 store, and manage public land and adjacent land through  
6 the control of invasive species by—

7 (1) promoting the development of voluntary  
8 State assessments to establish priorities for control-  
9 ling invasive species;

10 (2) promoting greater cooperation among Fed-  
11 eral, State, and local land and water managers and  
12 owners of private land or other interests to imple-  
13 ment strategies to control and mitigate the spread of  
14 invasive species through a voluntary and incentive-  
15 based financial assistance grant program;

16 (3) establishing a rapid response capability to  
17 combat incipient invasive species invasions; and

18 (4) modifying the requirements applicable to  
19 the National Invasive Species Council.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) CONTROL.—The term “control” means—

23 (A) eradicating, suppressing, reducing, or  
24 managing invasive species in areas in which the  
25 species are present;

1           (B) taking steps to detect early infesta-  
2           tions of invasive species on Public land and ad-  
3           jacent land that is at risk of being infested; and

4           (C) restoring native ecosystems to reverse  
5           or reduce the impacts of invasive species.

6           (2) COUNCIL.—The term “Council” means the  
7           National Invasive Species Council established by sec-  
8           tion 3 of Executive Order No. 13112 (64 Fed. Reg.  
9           6184).

10          (3) INDIAN TRIBE.—The term “Indian tribe”  
11          has the meaning given the term in section 4 of the  
12          Indian Self-Determination and Education Assistance  
13          Act (25 U.S.C. 450b).

14          (4) INVASIVE SPECIES.—The term “invasive  
15          species” means, with respect to a particular eco-  
16          system, any animal, plant, or other organism (in-  
17          cluding biological material of the animal, plant, or  
18          other organism that is capable of propagating the  
19          species)—

20                 (A) that is not native to the ecosystem;

21                 and

22                 (B) the introduction of which causes or is  
23                 likely to cause economic harm, environmental  
24                 harm, or harm to human health.

1           (5) NATIONAL MANAGEMENT PLAN.—The term  
2 “National Management Plan” means the manage-  
3 ment plan referred to in section 5 of Executive  
4 Order No. 13112 (64 Fed. Reg. 6185) and entitled  
5 “Meeting the Invasive Species Challenge”.

6           (6) PUBLIC LAND.—The term “Public land”  
7 means all land and water that is—

8           (A) owned by, or under the jurisdiction of,  
9 the United States; and

10           (B) administered by the Department of the  
11 Interior or the Forest Service.

12           (7) SECRETARY.—The term “Secretary” means  
13 the Secretary of the Interior.

14           (8) STATE.—The term “State” means—

15           (A) a State of the United States;

16           (B) the District of Columbia;

17           (C) the Commonwealths of Puerto Rico  
18 and the Northern Mariana Islands;

19           (D) the Territories of American Samoa,  
20 Guam, and the Virgin Islands;

21           (E) the Federated States of Micronesia;

22           (F) the Republic of the Marshall Islands;

23           and

24           (G) the Republic of Palau.

1 **SEC. 4. NATIVE HERITAGE ASSESSMENT AND CONTROL**  
2 **GRANT PROGRAM.**

3 (a) **ASSESSMENT GRANTS.**—The Secretary may pro-  
4 vide to a State a grant to carry out an assessment project  
5 consistent with relevant invasive species management  
6 plans of the State to—

7 (1) identify invasive species that occur in the  
8 State;

9 (2) survey the extent of invasive species in the  
10 State;

11 (3) assess the needs to restore, manage, or en-  
12 hance native ecosystems in the State;

13 (4) identify priorities for actions to address  
14 those needs;

15 (5) incorporate, as applicable, the guidelines of  
16 the National Management Plan; and

17 (6) identify methods to—

18 (A) control or detect incipient infestations  
19 of invasive species in the State; or

20 (B) control or assess established popu-  
21 lations of invasive species in the State.

22 (b) **CONTROL GRANTS.**—

23 (1) **IN GENERAL.**—The Secretary may provide  
24 grants to appropriate public or private entities and  
25 Indian tribes to carry out, in partnership with a  
26 Federal agency, control projects for the management

1 or eradication of invasive species on Public land or  
2 adjacent land that—

3 (A) include plans for—

4 (i) monitoring the project areas; and

5 (ii) maintaining effective control of  
6 invasive species after the completion of the  
7 projects, including through the conduct of  
8 restoration activities;

9 (B) in the case of a project on adjacent  
10 land, are carried out with the consent of the  
11 owner of the adjacent land; and

12 (C) provide public notice to, and conduct  
13 outreach activities relating to the control  
14 projects in, communities in which control  
15 projects are carried out.

16 (2) PRIORITY.—In prioritizing grants for con-  
17 trol projects, the Secretary shall consider—

18 (A) the extent to which a project would ad-  
19 dress—

20 (i) the priorities of a State for  
21 invasive species control; and

22 (ii) the priorities for invasive species  
23 management on Public land, such as the  
24 priorities for management on National

1 Park System and National Forest System  
2 land;

3 (B) the estimated number of, or extent of  
4 infestation by, invasive species in the State;

5 (C) whether a project would encourage in-  
6 creased coordination and cooperation among 1  
7 or more Federal agencies and State or local  
8 government agencies to control invasive species;

9 (D) whether a project—

10 (i) fosters public-private partnerships;

11 and

12 (ii) uses Federal resources to encour-  
13 age increased private sector involvement,  
14 including the provision of private funds or  
15 in-kind contributions;

16 (E) the extent to which a project would aid  
17 the conservation of species included on Federal  
18 or State lists of threatened or endangered spe-  
19 cies;

20 (F) whether a project includes pilot testing  
21 or a demonstration of an innovative technology  
22 that has the potential to improve the cost-effec-  
23 tiveness of controlling invasive species; and

24 (G) the extent to which a project—

1 (i) considers the potential for unin-  
2 tended consequences of control methods on  
3 native species; and

4 (ii) includes contingency measures to  
5 address the unintended consequences.

6 (c) DUTIES OF THE SECRETARY.—The Secretary  
7 shall—

8 (1) not later than 180 days after the date on  
9 which funds are made available to carry out this  
10 Act, publish guidelines and solicit applications for  
11 grants under this section;

12 (2) not later than 1 year after the date on  
13 which funds are made available to carry out this  
14 Act, evaluate and approve or disapprove applications  
15 for grants submitted under this section;

16 (3) consult with the Council on—

17 (A) any projects proposed for grants under  
18 this section, including the priority of proposed  
19 projects for the grants; and

20 (B) providing a definition of the term “ad-  
21 jacent land” for purposes of the control grant  
22 program under subsection (b);

23 (4) consult with the advisory committee estab-  
24 lished under section 3(b) of Executive Order No.  
25 13112 (64 Fed. Reg. 6184) on projects proposed for

1 a grant under this section, including the scientific  
2 merit, technical merit, and feasibility of a proposed  
3 project; and

4 (5) if a project is conducted on National Forest  
5 System land, consult with the Secretary of Agri-  
6 culture.

7 (d) GRANT DURATION.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), a grant under this section shall provide  
10 funding for the Federal share of the cost of a  
11 project for not more than 2 fiscal years.

12 (2) RENEWAL OF CONTROL PROJECTS.—

13 (A) IN GENERAL.—If the Secretary, after  
14 reviewing the reports submitted under sub-  
15 section (f) with respect to a control project,  
16 finds that the project is making satisfactory  
17 progress, the Secretary may renew a grant  
18 under this section for an additional 3 fiscal  
19 years.

20 (B) IMPLEMENTATION OF MONITORING  
21 AND MAINTENANCE PLAN.—The Secretary may  
22 renew a grant under this section to implement  
23 the monitoring and maintenance plan required  
24 for a control project under subsection (b) for

1 not more than 10 years after the project is oth-  
2 erwise complete.

3 (e) DISTRIBUTION OF CONTROL GRANT AWARDS.—

4 In making grants for control projects under subsection  
5 (b), the Secretary shall, to the maximum extent prac-  
6 ticable, ensure that—

7 (1) at least 50 percent of control project funds  
8 are spent on land adjacent to Public land; and

9 (2) there is a balance of smaller and larger con-  
10 trol projects conducted with grants under that sub-  
11 section.

12 (f) REPORTING BY GRANT RECIPIENT.—

13 (1) ASSESSMENT PROJECTS.—Not later than 2  
14 years after the date on which a grant is provided  
15 under subsection (a), a grant recipient carrying out  
16 an assessment project shall submit to the Secretary  
17 and the Governor of the State in which the assess-  
18 ment project is carried out a report on the assess-  
19 ment project.

20 (2) CONTROL PROJECTS.—A grant recipient  
21 carrying out a control project under subsection (b)  
22 shall submit to the Secretary—

23 (A) an annual synopsis of the control  
24 project; and

1 (B) a report on the control project not  
2 later than the earlier of—

3 (i) at least once every 2 years; or

4 (ii) the date on which the grant ex-  
5 pires.

6 (3) CONTENTS.—A report submitted under this  
7 subsection shall include—

8 (A) a detailed accounting of—

9 (i) the funding made available for the  
10 project; and

11 (ii) any expenditures made for the  
12 project; and

13 (B) with respect to a control project—

14 (i) a chronological list of any progress  
15 made with respect to the project;

16 (ii) specific information on the meth-  
17 ods and techniques used to control invasive  
18 species in the project area;

19 (iii) trends in the population size and  
20 distribution of invasive species in the  
21 project area; and

22 (iv) the number of acres of the native  
23 ecosystem protected or restored.

24 (g) COST-SHARING REQUIREMENT.—

25 (1) PROJECTS ON ADJACENT LAND.—

1 (A) IN GENERAL.—Except as provided in  
2 subparagraph (B), the Federal share of the cost  
3 of a control project carried out on adjacent land  
4 shall be not more than 75 percent.

5 (B) CERTAIN CONTROL PROJECTS.—The  
6 Federal share of a control project carried out  
7 on adjacent land that uses pilot testing, dem-  
8 onstrates an innovative technology, or provides  
9 for the conservation of threatened or endan-  
10 gered species shall be 85 percent.

11 (2) PROJECTS ON PUBLIC LAND.—The Federal  
12 share of the cost of the portion of a control project  
13 that is carried out on Public land shall be 100 per-  
14 cent.

15 (3) APPLICATION OF IN-KIND CONTRIBU-  
16 TIONS.—The Secretary may apply to the non-Fed-  
17 eral share of the costs of a control project the fair  
18 market value of services or any other form of in-kind  
19 contribution to the project made by a non-Federal  
20 entity.

21 (4) DERIVATION OF NON-FEDERAL SHARE.—  
22 The non-Federal share of the cost of a control  
23 project carried out with a grant under this section  
24 may not be derived from a Federal grant program  
25 or other Federal funds.

1 (h) REPORTING BY SECRETARY.—

2 (1) IN GENERAL.—Not later than 3 years after  
3 the date of enactment of this Act and every 2 years  
4 thereafter, the Secretary shall submit to Congress a  
5 report that—

6 (A) describes the implementation of this  
7 section; and

8 (B) includes a determination whether the  
9 grants authorized under subsections (a) and (b)  
10 should be expanded to land and water that are  
11 owned and administered by Federal agencies  
12 other than the Department of the Interior or  
13 the Forest Service.

14 (2) CONTENTS.—A report under paragraph (1)  
15 shall include a review of control projects, including—

16 (A) a list of control projects selected, in  
17 progress, and completed;

18 (B) an assessment of project impacts, in-  
19 cluding—

20 (i) areas treated; and

21 (ii)(I) if feasible, a measurement of  
22 invasive species eradicated; or

23 (II) an estimate of the extent to which  
24 invasive species have been reduced or con-  
25 tained;

1 (C) the success and failure of control tech-  
2 niques used;

3 (D) an accounting of expenditures by Fed-  
4 eral, State, regional, and local government  
5 agencies and other entities to carry out the  
6 projects;

7 (E) a review of efforts made to maintain  
8 an appropriate database of projects assisted  
9 under this section; and

10 (F) a review of the geographical distribu-  
11 tion of Federal funds, matching funds, and in-  
12 kind contributions provided for projects.

13 **SEC. 5. RAPID RESPONSE ASSISTANCE.**

14 (a) **IN GENERAL.**—The Secretary may provide finan-  
15 cial assistance to States, local governments, public or pri-  
16 vate entities, and Indian tribes for a period of 1 fiscal year  
17 to enable States, local governments, nongovernmental en-  
18 tities, and Indian tribes to rapidly respond to outbreaks  
19 of invasive species that are at a stage at which rapid eradi-  
20 cation or control is possible.

21 (b) **REQUIREMENTS FOR ASSISTANCE.**—The Sec-  
22 retary shall—

23 (1) at the request of the Governor of a State—

24 (A) provide assistance under this section to  
25 the State, a local government, public or private

1           entity, or Indian tribe for the eradication of an  
2           immediate invasive species threat in the State  
3           if—

4                   (i) there is a demonstrated need for  
5                   the assistance;

6                   (ii) the invasive species is considered  
7                   to be an immediate threat to native eco-  
8                   systems, human health, or the economy, as  
9                   determined by the Secretary; and

10                   (iii) the proposed response of the  
11                   State, local government, public or private  
12                   entity, or Indian tribe to the threat—

13                           (I) is technically feasible; and

14                           (II) minimizes adverse impacts to  
15                           native ecosystems and non-target spe-  
16                           cies; or

17                   (B) if the requirements under subpara-  
18                   graph (A) are not met, submit to the Governor  
19                   of the State, not later than 30 days after the  
20                   date on which the Secretary received the re-  
21                   quest, written notice that the State is not eligi-  
22                   ble for assistance under this section;

23                   (2) determine the amount of financial assist-  
24                   ance to be provided under this section, subject to the

1 availability of appropriations, with respect to an out-  
2 break of an invasive species;

3 (3) require that entities receiving assistance  
4 under this section monitor and report on activities  
5 carried out with such assistance in the same manner  
6 that control project grant recipients monitor and re-  
7 port on such activities; and

8 (4) expedite environmental and regulatory re-  
9 views to ensure that an outbreak of invasive species  
10 can be addressed within the 180-day period begin-  
11 ning on the date on which the State notifies the Sec-  
12 retary of the outbreak.

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

14 Nothing in this Act affects authorities, responsibil-  
15 ities, obligations, or powers of the Secretary under any  
16 other statute.

17 **SEC. 7. BUDGET CROSSCUT.**

18 Not later than March 31, 2005, and each year there-  
19 after, the Director of the Office of Management and Budg-  
20 et, in consultation with the Council, shall submit to Con-  
21 gress—

22 (1) a comprehensive budget analysis and sum-  
23 mary of Federal programs relating to invasive spe-  
24 cies; and

1           (2) a list of general priorities, ranked in high,  
2           medium, and low categories, of Federal efforts and  
3           programs in—

4                   (A) prevention;

5                   (B) early detection and rapid response;

6                   (C) eradication, control, management, and  
7           restoration;

8                   (D) research and monitoring;

9                   (E) information management; and

10                  (F) public outreach and partnership ef-  
11           forts.

12 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

13           (a) ASSESSMENT GRANTS.—There are authorized to  
14           be appropriated to the Secretary to carry out assessment  
15           projects under section 4(a)—

16                   (1) \$25,000,000 for fiscal year 2005; and

17                   (2) such sums as are necessary for each of fis-  
18           cal years 2006 through 2009.

19           (b) CONTROL GRANTS.—There are authorized to be  
20           appropriated to the Secretary to carry out control projects  
21           under section 4(b)—

22                   (1) \$175,000,000 for fiscal year 2005; and

23                   (2) such sums as are necessary for each of fis-  
24           cal years 2006 through 2009.

1       (c) RAPID RESPONSE ASSISTANCE.—There are au-  
2 thORIZED to be appropriated to the Secretary to carry out  
3 section 5—

4           (1) \$50,000,000 for fiscal year 2005; and

5           (2) such sums as are necessary for each of fis-  
6 cal years 2006 through 2009.

7       (d) CONTINUING AVAILABILITY.—Amounts made  
8 available under this section shall remain available until ex-  
9 pended.

10       (e) ADMINISTRATIVE EXPENSES OF SECRETARY.—  
11 Of amounts made available each fiscal year to carry out  
12 this Act, the Secretary may expend not more than 5 per-  
13 cent to pay the administrative expenses necessary to carry  
14 out this Act.

○