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S. 1036

To provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2003

Mr. ALLARD (for himself, Mr. FEINGOLD, Mr. KOHL, Mr. ROBERTS, Mr. CAMPBELL, Mr. BURNS, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, 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 “Chronic Wasting Dis-
5 ease Support Act of 2003”.

1 **SEC. 2. DEFINITION OF CHRONIC WASTING DISEASE.**

2 In this Act, the term “chronic wasting disease”
3 means the animal disease afflicting deer and elk that—

4 (1) is a transmissible disease of the nervous
5 system resulting in distinctive lesions in the brain;
6 and

7 (2) belongs to the group of diseases known as
8 transmissible spongiform encephalopathies, which
9 group includes scrapie, bovine spongiform
10 encephalopathy, and Cruetzfeldt-Jakob disease.

11 **SEC. 3. FINDINGS.**

12 Congress finds the following:

13 (1) Pursuant to State and Federal law, the
14 States retain undisputed primacy and policymaking
15 authority with regard to wildlife management, and
16 nothing in this Act interferes with or otherwise af-
17 fects the primacy of the States in managing wildlife
18 generally, or managing, surveying, and monitoring
19 the incidence of chronic wasting disease.

20 (2) Chronic wasting disease, the fatal neuro-
21 logical disease found in cervids, is a fundamental
22 threat to the health and vibrancy of deer and elk
23 populations, and the increased occurrence of chronic
24 wasting disease in regionally diverse locations in re-
25 cent months necessitates an escalation in research,
26 surveillance, monitoring, and management activities

1 focused on containing, managing, and eradicating
2 this lethal disease.

3 (3) As the States move to manage existing inci-
4 dence of chronic wasting disease and insulate non-
5 infected wild and captive cervid populations from the
6 disease, the Federal Government should endeavor to
7 provide integrated and holistic financial and tech-
8 nical support to these States.

9 (4) In its statutory role as supporting agent,
10 relevant Federal agencies should provide consistent,
11 coherent, and integrated support structures and pro-
12 grams for the benefit of State wildlife and agricul-
13 tural administrators, as chronic wasting disease can
14 move freely between captive and wild cervids across
15 the broad array of Federal, State, and local land
16 management jurisdictions.

17 (5) The Secretary of the Interior, the Secretary
18 of Agriculture, and other affected Federal authori-
19 ties can provide consistent, coherent, and integrated
20 support systems under existing legal authorities.

1 **TITLE I—DEPARTMENT OF THE**
2 **INTERIOR ACTIVITIES**

3 **SEC. 101. GRANTS FOR STATE AND TRIBAL EFFORTS TO**
4 **MANAGE CHRONIC WASTING DISEASE IN**
5 **WILDLIFE.**

6 (a) AVAILABILITY OF ASSISTANCE.—The Secretary
7 of the Interior shall develop a grant program to allocate
8 funds appropriated to carry out this section directly to the
9 State agency responsible for wildlife management in each
10 State that petitions the Secretary for a portion of such
11 fund to develop and implement long-term management
12 strategies to address chronic wasting disease in wildlife.

13 (b) FUNDING PRIORITIES.—In determining the
14 amounts to be allocated to grantees under subsection (a),
15 priority shall be given based on the following criteria:

16 (1) Relative scope of incidence of chronic wast-
17 ing disease in the State, with priority given to those
18 jurisdictions with the highest incidence of the dis-
19 ease.

20 (2) Expenditures on chronic wasting disease
21 management, monitoring, surveillance, and research,
22 with priority given to those States and tribal govern-
23 ments that have shown the greatest financial com-
24 mitment to managing, monitoring, surveying, and
25 researching chronic wasting disease.

1 (3) Comprehensive and integrated policies and
2 programs focused on chronic wasting disease man-
3 agement between involved State wildlife and agricul-
4 tural agencies and tribal governments, with priority
5 given to grantees that have integrated the programs
6 and policies of all involved agencies related to chron-
7 ic wasting disease management.

8 (4) Rapid response to new outbreaks of chronic
9 wasting disease, whether occurring in States in
10 which chronic wasting disease is already found or
11 States with first infections, with the intent of con-
12 taining the disease in any new area of infection.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$10,000,000 to carry
15 out this subsection.

16 **SEC. 102. COMPUTER MODELING OF DISEASE SPREAD IN**
17 **WILD CERVID POPULATIONS.**

18 (a) MODELING PROGRAM REQUIRED.—The Sec-
19 retary of the Interior shall establish a modeling program
20 to predict the spread of chronic wasting disease in wild
21 deer and elk in the United States.

22 (b) ROLE.—Computer modeling shall be used to iden-
23 tify areas of potential disease concentration and future
24 outbreak and shall be made available for the purposes of

1 targeting public and private chronic wasting disease con-
2 trol efforts.

3 (c) DATA INTEGRATION.—Information shall be dis-
4 played in a GIS format to support management use of
5 modeling results, and shall be displayed integrated with
6 the following:

- 7 (1) Land use data.
- 8 (2) Soils data.
- 9 (3) Elevation data.
- 10 (4) Environmental conditions data.
- 11 (5) Wildlife data.
- 12 (6) Other data as appropriate.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of the
15 Interior \$1,000,000 under this section.

16 **SEC. 103. SURVEILLANCE AND MONITORING PROGRAM RE-**
17 **GARDING PRESENCE OF CHRONIC WASTING**
18 **DISEASE IN WILD HERDS OF DEER AND ELK.**

19 (a) PROGRAM DEVELOPMENT.—Using existing au-
20 thorities, the Secretary of the Interior, acting through the
21 United States Geological Survey, shall conduct a surveil-
22 lance and monitoring program on Federal lands managed
23 by the Secretary to identify—

- 24 (1) the incidence of chronic wasting disease in-
25 fection in wild herds of deer and elk;

1 State agencies, and tribal governments assisted
2 under this Act;

3 (2) modeling information regarding the spread
4 of chronic wasting disease in the United States; and

5 (3) other relevant information regarding chronic
6 wasting disease received from other sources.

7 (b) INFORMATION SHARING POLICY.—The national
8 repository shall be available as a resource for Federal and
9 State agencies responsible for managing and controlling
10 chronic wasting disease and for institutions of higher edu-
11 cation and other public or private research entities con-
12 ducting research regarding chronic wasting disease. Data
13 from the repository shall be made available to other Fed-
14 eral agencies, State agencies, and the general public upon
15 request.

16 **TITLE II—DEPARTMENT OF**
17 **AGRICULTURE ACTIVITIES**

18 **SEC. 201. SAMPLING AND TESTING PROTOCOLS.**

19 (a) SAMPLING PROTOCOL.—Within 30 days of enact-
20 ment of this Act, the Secretary of Agriculture shall release
21 guidelines for the use by Federal, State, tribal, and local
22 agencies for the collection of animal tissue to be tested
23 for chronic wasting disease. Guidelines shall include, at
24 a minimum, procedures for the collection and stabilization

1 of tissue samples for transport for laboratory assessment.

2 Such guidelines shall be updated as necessary.

3 (b) TESTING PROTOCOL.—Within 30 days of enact-
4 ment of this Act, the Secretary of Agriculture shall release
5 a protocol to be used in the laboratory assessment of sam-
6 ples of animal tissue that may be contaminated with
7 chronic wasting disease.

8 (c) LABORATORY CERTIFICATION AND INSPECTION
9 PROGRAM.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of enactment of this Act, the Secretary
12 shall establish a program for the certification and
13 inspection of Federal and non-Federal laboratories
14 (including private laboratories) under which the Sec-
15 retary shall authorize laboratories certified under the
16 program to conduct tests for chronic wasting dis-
17 ease.

18 (2) VERIFICATION.—In carrying out the pro-
19 gram established under paragraph (1), the Secretary
20 may require that the results of any tests conducted
21 by private laboratories shall be verified by Federal
22 laboratories.

23 (d) DEVELOPMENT OF NEW TESTS.—Not later than
24 45 days after the date of enactment of this Act, the Sec-
25 retary shall accelerate research into—

1 (1) the development of animal tests for chronic
2 wasting disease, including—

3 (A) tests for live animals; and

4 (B) field diagnostic tests; and

5 (2) the development of testing protocols that re-
6 duce laboratory test processing time.

7 **SEC. 202. ERADICATION OF CHRONIC WASTING DISEASE IN**
8 **HERDS OF DEER AND ELK.**

9 (a) CAPTIVE HERD PROGRAM DEVELOPMENT.—The
10 Secretary of Agriculture, acting through the Animal and
11 Plant Health Inspection Service, shall develop a program
12 to identify the rate of chronic wasting disease infection
13 in captive herds of deer and elk, the cause and extent of
14 the spread of the disease, and potential reservoirs of infec-
15 tion and vectors promoting the spread of the disease.

16 (1) IMPLEMENTATION.—The Secretary of Agri-
17 culture shall provide financial and technical assist-
18 ance to States and tribal governments to implement
19 surveillance and monitoring program for captive
20 herds.

21 (2) COOPERATION.—In developing the surveil-
22 lance and monitoring program for captive herds, the
23 Secretary of Agriculture shall cooperate with State
24 agencies responsible for managing and controlling
25 chronic wasting disease in captive wildlife. Grantees

1 under this section shall submit to the Secretary of
2 Agriculture a plan for monitoring chronic wasting
3 disease in captive wildlife and reducing the risk of
4 disease spread through captive wildlife transport. As
5 a condition of awarding aid under this section, the
6 Secretary of Agriculture may prohibit or restrict
7 the—

8 (A) movement in interstate commerce of
9 any animal, article, or means of conveyance if
10 the Secretary determines that the prohibition or
11 restriction is necessary to prevent the introduc-
12 tion or dissemination of chronic wasting dis-
13 ease; and

14 (B) use of any means of conveyance or fa-
15 cility in connection with the movement in inter-
16 state commerce of any animal or article if the
17 Secretary determines that the prohibition or re-
18 striction is necessary to prevent the introduc-
19 tion or dissemination of chronic wasting dis-
20 ease.

21 (3) COORDINATION.—The Secretary of Agri-
22 culture, in cooperation with the Secretary of the In-
23 terior, shall establish uniform standards for the col-
24 lection and assessment of samples and data derived
25 from the surveillance and monitoring program.

1 (b) CAPTIVE HERD PROGRAM.—The Secretary of Ag-
2 riculture, acting through the Animal and Plant Health In-
3 spection Service, shall, consistent with existing authority,
4 provide grants to assist States in reducing the incidence
5 of chronic wasting disease infection in captive herds of
6 deer and elk.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of Agri-
9 culture \$8,000,000 to conduct activities under this sec-
10 tion, of which no less than \$6,000,000 is to be awarded
11 to State and tribal governments.

12 **SEC. 203. EXPANSION OF DIAGNOSTIC TESTING CAPACITY.**

13 (a) PURPOSE.—Diagnostic testing will continue to be
14 conducted on samples collected under the surveillance and
15 monitoring programs regarding chronic wasting disease
16 conducted by the States and the Federal Government and
17 Indian tribes, including the programs required by this Act,
18 but current laboratory capacity is inadequate to process
19 the anticipated sample load.

20 (b) UPGRADING OF FEDERAL FACILITIES.—The Sec-
21 retary of Agriculture shall provide for the upgrading of
22 Federal laboratories to facilitate the timely processing of
23 samples from the surveillance and monitoring programs
24 required by this Act and related epidemiological investiga-
25 tion in response to the results of such processing.

1 (c) UPGRADING OF CERTIFIED LABORATORIES.—
2 Using the grant authority provided under section 2(d) of
3 the Competitive, Special and Facilities Research Grant
4 Act (7 U.S.C. 450i(d)), the Secretary of Agriculture shall
5 make grants to provide for the upgrading of laboratories
6 certified by the Secretary to facilitate the timely pro-
7 cessing of samples from surveillance and monitoring pro-
8 grams and related epidemiological investigation in re-
9 sponse to the results of such processing.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of Agri-
12 culture \$7,500,000 to carry out this section.

13 **SEC. 204. EXPANSION OF AGRICULTURAL RESEARCH SERV-**
14 **ICE RESEARCH.**

15 (a) EXPANSION.—The Secretary of Agriculture, act-
16 ing through the Agricultural Research Service, shall ex-
17 pand and accelerate basic research on chronic wasting dis-
18 ease, including research regarding detection of chronic
19 wasting disease, genetic resistance, tissue studies, and en-
20 vironmental studies.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of Agri-
23 culture \$1,000,000 to carry out this section.

1 **SEC. 205. EXPANSION OF COOPERATIVE STATE RESEARCH,**
 2 **EDUCATION AND EXTENSION SERVICE SUP-**
 3 **PORTED RESEARCH AND EDUCATION.**

4 (a) RESEARCH EFFORTS.—The Secretary of Agri-
 5 culture, acting through the Cooperative State Research,
 6 Education and Extension Service, shall expand the grant
 7 program regarding research on chronic wasting disease.

8 (b) EDUCATIONAL EFFORTS.—The Secretary of Ag-
 9 riculture shall provide educational outreach regarding
 10 chronic wasting disease to the general public, industry,
 11 and conservation organizations, hunters, and interested
 12 scientific and regulatory communities.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 14 are authorized to be appropriated to the Secretary of Agri-
 15 culture—

- 16 (1) \$3,000,000 to carry out subsection (a); and
 17 (2) \$1,000,000 to carry out subsection (b).

18 **TITLE III—GENERAL**
 19 **PROVISIONS**

20 **SEC. 301. INTERAGENCY COORDINATION.**

21 (a) IN GENERAL.—Within 60 days after the date of
 22 enactment of this Act, the Secretary of the Interior and
 23 the Secretary of Agriculture shall enter into a cooperative
 24 agreement for the purpose of coordinating actions and dis-
 25 bursing funds authorized under this Act to prevent the

1 spread of chronic wasting disease and related diseases in
2 the United States.

3 (b) REPORT.—Not later than 180 days after the date
4 of enactment of this Act, the Secretaries shall submit to
5 Congress a report that—

6 (1) describes actions that are being taken, and
7 will be taken, to prevent the further outbreak of
8 chronic wasting disease and related diseases in the
9 United States; and

10 (2) contains any additional recommendations
11 for additional legislative and regulatory actions that
12 should be taken to prevent the spread of chronic
13 wasting disease in the United States.

14 **SEC. 303. RULEMAKING.**

15 (a) JOINT RULEMAKING.—To ensure that the sur-
16 veillance and monitoring programs and research programs
17 required by this Act are compatible and that information
18 collection is carried out in a manner suitable for inclusion
19 in the national database required by section 102, the Sec-
20 retary of the Interior and the Secretary of Agriculture
21 shall jointly promulgate rules to implement this Act.

22 (b) PROCEDURE.—The promulgation of the rules
23 shall be made without regard to—

1 (1) chapter 35 of title 44, United States Code
2 13 (commonly known as the “Paperwork Reduction
3 Act”);

4 (2) the Statement of Policy of the Secretary of
5 Agriculture effective July 24, 1971 (36 Fed. Reg.
6 13804), relating to notices of proposed rulemaking
7 and public participation in rulemaking; and

8 (3) the notice and comment provisions of sec-
9 tion 553 of title 5, United States Code.

10 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
11 MAKING.—In carrying out this section, the Secretary of
12 the Interior and the Secretary of Agriculture shall use the
13 authority provided under section 808 of title 5, United
14 States Code.

15 (d) RELATION TO OTHER RULEMAKING AND LAW.—
16 The requirement for joint rulemaking shall not be con-
17 strued to require any delay in the promulgation by the
18 Secretary of Agriculture of rules regarding the interstate
19 transportation of captive deer or elk or to effect any other
20 rule or public law implemented by the Secretary of Agri-
21 culture or the Secretary of the Interior regarding chronic
22 wasting disease before the date of the enactment of this
23 Act.

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