Calendar No. 14

108TH CONGRESS *1st Session* | SENATE | REPORT 108–6

NOXIOUS WEED CONTROL ACT OF 2003

FEBRUARY 11, 2003.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 144]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 144) to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, non-native weeds on public and private land, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the Noxious Weed Control Act of 2003."

SEC. 2. DEFINITIONS.

In this Act:

(1) NOXIOUS WEED.—The term "noxious weed" has the same meaning as in the Plant Protection Act (7 U.S.C. 7702(10)).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)

(5) WEED MANAGEMENT ENTITY.—The term "weed management entity" means an entity that—

(A) is recognized by the State in which it is established;

(B) is established by and includes local stakeholders, including Indian tribes;

(C) is established for the purpose of controlling or eradicating harmful, invasive weeds and increasing public knowledge and education concerning the need to control or eradicate harmful, invasive weeds; and

(D) is multijurisdictional and multidisciplinary in nature.

SEC. 3. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish a program to provide financial assistance through States to eligible weed management entities to control or eradicate weeds. In developing the program, the Secretary shall consult with the National Invasive Species Council, the Invasive Species Advisory Committee, representatives from States and Indian tribes with weed management entities or that have particular problems with noxious weeds, and public and private entities with experience in noxious weed management.

SEC. 4. ALLOCATION OF FUNDS TO STATES AND INDIAN TRIBES.

The Secretary shall allocate funds to States to provide funding to weed management entities to carry out projects approved by States to control or eradicate noxious weeds on the basis of the severity or potential severity of the noxious weed problem, the extent to which the Federal funds will be used to leverage non-Federal funds, the extent to which the State has made progress in addressing noxious weed problems, and such other factors as the Secretary deems relevant. The Secretary shall provide special consideration for States with approved weed management entities established by Indian Tribes, and may provide an additional allocation to a State to meet the particular needs and projects that such a weed management entity will address.

SEC. 5. ELIGIBILITY AND USE OF FUNDS.

(a) REQUIREMENTS.—The Secretary shall prescribe requirements for applications by States for funding, including provisions for auditing of and reporting on the use of funds and criteria to ensure that weed management entities recognized by the States are capable of carrying out projects, monitoring and reporting on the use of funds, and are knowledgeable about and experienced in noxious weed management and represent private and public interests adversely affected by noxious weeds. Eligible activities for funding shall include—

(1) applied research to solve locally significant weed management problems and solutions, except that such research may not exceed 8 percent of the available funds in any year;

(2) incentive payments to encourage the formation of new weed management entities, except that such payments may not exceed 25 percent of the available funds in any year; and

(3) projects relating to the control or eradication of noxious weeds, including education, inventories and mapping, management, monitoring, and similar activities, including the payment of the cost of personnel and equipment that promote such control or eradication, and other activities to promote such control or eradication, if the results of the activities are disseminated to the public.

(b) PROJECT SELECTION.—A State shall select projects for funding to a weed management entity on a competitive basis considering—

(1) the seriousness of the noxious weed problem or potential problem addressed by the project;

(2) the likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future;

(3) the extent to which the payment will leverage non-Federal funds to address the noxious weed problem addressed by the project;

(4) the extent to which the weed management entity has made progress in addressing noxious weed problems;

(5) the extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;

(6) the extent to which the project will reduce the total population of a noxious weed;

(7) the extent to which the project uses the principles of integrated vegetation management and sound science; and

(8) such other factors that the State determines to be relevant.

(c) INFORMATION AND REPORT.—As a condition of the receipt of funding, States shall require such information from grant recipients as necessary and shall submit to the Secretary a report that describes the purposes and results of each project for which the payment or award was used, by not later than 6 months after completion of the projects.

(d) FEDERAL SHARE.—The federal share of any project or activity approved by a State or Indian tribe under this Act may not exceed 50 percent unless the State meets criteria established by the Secretary that accommodates situations where a higher percentage is necessary to meet the needs of an underserved area or addresses a critical need that cannot be met otherwise.

SEC. 6 LIMITATIONS.

(a) LANDOWNER CONSENT; LAND UNDER CULTIVATION.—Any activity involving real property, either private or public, may be carried out under this Act only with the consent of the landowner and no project may be undertaken on property that is devoted to the cultivation of row crops, fruits, or vegetables.

(b) COMPLIANCE WITH STATE LAW.—A weed management entity may carry out a project to address the noxious weed problem in more than one State only if the entity meets the requirements of the State laws in all States in which the entity will undertake the project.

(c) USE OF FUNDS.—Funding under this Act may not be used to carry out a project—

(1) to control or eradicate animals, pests, or submerged or floating noxious aquatic weeds; or

(2) to protect an agricultural commodity (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) other than—

(A) livestock (as defined in section 602 of the Agricultural Trade Act of 1949 (7 U.S.C. 1471); or

(B) an animal- or insect-based product.

SEC. 7. RELATIONSHIP TO OTHER PROGRAMS.

Assistance authorized under this Act is intended to supplement, and not replace, assistance available to weed management entities, areas, and districts for control or eradication of harmful, invasive weeds on public lands and private lands, including funding available under the "Pulling Together Initiative" of the National Fish and Wildlife Foundation, and the provision of funds to any entity under this Act shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code (commonly known as the Payments in Lieu of Taxes Act).

SEC. 8 AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act there is authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2003 through 2007, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.

PURPOSE OF THE MEASURE

The purpose of S. 144 is to authorize the Secretary of the Interior to establish a program to provide financial assistance to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

BACKGROUND AND NEED

The control of harmful nonnative weeds has become a major management concern on public and private lands. Currently, at least 94 types of nonnative weeds are recognized as "Federal Noxious Weeds" and many more are designated on State noxious weed lists. The National Strategy for Invasive Plant Management estimates that invasive plants already infest over 100 million acres in the United States and the affected area continues to increase by 8 to 20 percent annually.

The costs of invasive weeds are significant, both in terms of control and eradication costs and loss of agricultural production. Annual direct control costs are estimated to be as high as $5.4 billion, with an additional $1 billion in indirect costs. Losses in agricultural productivity are estimated to be even higher. In addition to agricultural losses, invasive weeds threaten important habitat for over two-thirds of the endangered species in the United States.

Previous studies have identified that public and private partnerships are essential to combat weed infestation. S. 144 would support such partnerships by authorizing a State grant program to assist local weed management entities control and eradicate harmful nonnative weeds on public and private lands.

LEGISLATIVE HISTORY

S. 144 was introduced by Senators Craig, Hagel, Daschle, Crapo, Baucus, Burns, Dorgan, Smith, Johnson and Ensign on January 13, 2003. A similar bill, S. 198, was introduced by Senator Craig in the 107th Congress. The Subcommittee on Public Lands and Forests held a hearing on S. 198 on June 18, 2002. The Committee favorably reported S. 198 with amendments on September 17, 2002 and it passed the Senate with additional amendments on November 20, 2002. At the business meeting on February 5, 2003, the Committee on Energy and Natural Resources ordered S. 144, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS

The Committee on Energy and Natural Resources, in open business session on February 5, 2003, by a unanimous vote of a quorum present, recommends that the Senate pass S. 144, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 144, the Committee adopted an amendment in the nature of a substitute. The amendment adopts the language passed by the Senate during the 107th Congress. This language incorporates changes requested by the Administration and suggested by witnesses at the Subcommittee hearing in Washington and at the field workshop in Idaho held during the 107th Congress.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Noxious Weed Control Act of 2003."

Section 2 defines key terms used in the bill.

Section 3 directs the Secretary of the Interior to establish a program to provide financial assistance through States to eligible weed management entities to control or eradicate weeds. In developing the program, the Secretary shall consult with certain public and private entities.

Section 4 directs the Secretary of the Interior to allocate funds to States to provide funding to weed management entities for projects to control or eradicate noxious weed. The Secretary shall allocate funding to each State based on the severity or potential severity of the weed problem; the extent to which Federal funds will be used to leverage non-Federal funds; the extent to which the State has made progress in addressing noxious weed problems; and such other factors as the Secretary deems relevant. The Secretary is directed to provide special consideration for States with approved weed management entities established by Indian tribes.

Section 5(a) directs the Secretary to prescribe requirements for applications by States for funding, including auditing, monitoring and other provisions. Eligible activities for funding shall include applied research (up to 8 percent of the available funds in any year); incentive payments to encourage the formation of new weed management entities (up to 25 percent of the available funds in any year); and projects relating to the control or eradication of noxious weeds.

Subsection (b) requires a State to select projects for funding to a weed management entity on a competitive basis and sets forth a series of considerations.

Subsection (c) states that as a condition of the receipt of funding, States shall require such information from grant recipients as necessary and shall submit to the Secretary a report that describes the purposes and results of each projects for which the payment or award was used, by not later than 6 months after completion of the projects.

Subsection (d) provides that the Federal share of any project or activity approved by a State or Indian tribe under this Act may not exceed 50 percent unless the State meets criteria established by the Secretary that accommodates situations where a higher percentage is necessary to meet the needs of an under-served area or addresses a critical need that cannot be met otherwise.

Section 6 provides that any activity involving real property, either private or public, may be carried out under this Act only with the consent of the landowner and no project may be undertaken on property that is devoted to the cultivation of row crops, fruits, or vegetables. In addition, a weed management entity may carry out a multi-state project only if the entity meets the requirements of the State laws in all applicable States. Funding under this Act may not be used to carry out a project to control or eradicate animals, pests, or submerged or floating noxious aquatic weeds; or to protect an agricultural commodity other than livestock or an animal- or insect-based product.

Section 7 states that assistance authorized under this Act is intended to supplement, and not replace, assistance available to weed management entities, areas, and districts; and the provision of funds to any entity under this Act shall have no effect on the amount of any payment received by a county from the Federal Government under the Payments in Lieu of Taxes Act.

Section 8 authorizes $100,000,000 to be appropriated to the Secretary to carry out this Act for each fiscal years 2003 through 2007, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.

COST AND BUDGET CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 7, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 144, the Noxious Weed Control Act of 2003.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

S. 144—Noxious Weed Control Act of 2003

Summary: S. 144 would direct the Secretary of the Interior to establish a program to provide grants to states and Indian tribes to support projects to control or eradicate noxious weeds on public and private lands. CBO estimates that the proposed program would cost $3 million in 2003 and $278 million over the 2003–2008 period, assuming appropriation of the authorized amounts. The bill would not affect direct spending or revenues.

S. 144 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any costs incurred by those governments to comply with the conditions of this assistance would be voluntary.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 144 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					
	2003	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	100	100	100	100	100	0
Estimated Outlays	3	20	35	60	80	80

Basis of estimate: S. 144 would authorize the appropriation of $100 million a year over the 2003–2007 period for the Secretary of the Interior to make grants to states and Indian tribes to fund projects to study, control, or eradicate noxious weeds on public and private lands. Based on information from the Department of the Interior, CBO estimates that implementing this bill would cost $3 million in 2003 and $278 million over the 2003–2008 period, with additional spending occurring in later years. For this estimate, we assume S. 144 will be enacted by the middle of fiscal year 2003 and that authorized amounts would be provided as specified by the bill. Estimates of outlays are based on historical spending patterns for similar activities.

Intergovernmental and private-sector impact: S. 144 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any costs incurred by those governments to comply with the conditions of this assistance would be voluntary.

Estimate prepared by: Federal Costs: Megan Carroll, Impact on State, Local, and Tribal Governments: Majorie Miller, Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Paul R. Cullinan, Chief for Human Resources Cost Estimates Unit, Budget Analysis Division.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 144. The bill is not a regulatory measures in the sense of impos-

ing Government-estimated standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 144, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 5, 2003, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 144. These reports had not been received at the time the report on S. 144 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rule of the Senate, the Committee notes that no changes in existing law are made by the bill S. 144, as ordered reported.

○