

108TH CONGRESS  
1ST SESSION

# S. 536

To establish the National Invasive Species Council, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2003

Mr. DEWINE (for himself, Mr. LEVIN, Ms. COLLINS, Mr. REED, Mr. VOINOVICH, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish the National Invasive Species Council, 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 “National Invasive Spe-

5       cies Council Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) COUNCIL.—The term “Council” means the

9       National Invasive Species Council established by sec-

10      tion 4(a).

1           (2) INVASIVE SPECIES.—The term “invasive  
2 species” means a species—

3                   (A) that is nonnative to an ecosystem; and

4                   (B) the introduction of which to that eco-  
5 system causes or may cause harm to the envi-  
6 ronment, the economy, or human health.

7           (3) NATIONAL MANAGEMENT PLAN.—The term  
8 “National Management Plan” means the National  
9 Invasive Species Management Plan developed by the  
10 Council under section 6(a).

11           (4) SPECIES.—The term “species” means a cat-  
12 egory of taxonomic classification that—

13                   (A) ranks below a genus or subgenus; and

14                   (B) consists of related organisms capable  
15 of interbreeding.

16 **SEC. 3. LIMITATION ON FEDERAL ACTIONS.**

17           (a) IN GENERAL.—No Federal agency may author-  
18 ize, fund, or carry out any action that would likely cause  
19 or promote the introduction or spread of an invasive spe-  
20 cies in the United States or any other location, unless the  
21 head of the Federal agency, at the head of the agency’s  
22 sole discretion and in accordance with guidelines developed  
23 under subsection (b), determines that—

24                   (1) the benefits of the action under consider-  
25 ation clearly outweigh the potential harm to the en-

1 vironment, the economy, and human health caused  
2 by the introduction or spread of the invasive species;  
3 and

4 (2) all feasible and prudent measures to mini-  
5 mize risk of harm to the environment, the economy,  
6 and human health will be taken in carrying out the  
7 action.

8 (b) GUIDELINES.—The Council on Environmental  
9 Quality, in conjunction with the Council, shall develop  
10 guidelines for Federal agencies to use in analyzing actions  
11 under subsection (a).

12 **SEC. 4. NATIONAL INVASIVE SPECIES COUNCIL.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—There is established, as an  
15 independent entity in the executive branch, the Na-  
16 tional Invasive Species Council.

17 (2) DUTIES.—The Council shall provide leader-  
18 ship and coordination among Federal agencies, and  
19 between the Federal Government and State and  
20 local governments, with respect to efforts—

21 (A) to minimize the environmental, eco-  
22 nomic, and human health impacts caused by  
23 invasive species; and

24 (B) to reduce the threat of further inva-  
25 sions of invasive species.

1 (b) MEMBERSHIP.—

2 (1) IN GENERAL.—The Council shall consist  
3 of—

4 (A) the Secretary of the Interior;

5 (B) the Secretary of Agriculture;

6 (C) the Secretary of Commerce;

7 (D) the Secretary of State;

8 (E) the Secretary of the Treasury;

9 (F) the Secretary of Defense;

10 (G) the Secretary of Transportation;

11 (H) the Secretary of Health and Human  
12 Services;

13 (I) the Administrator of the Environmental  
14 Protection Agency;

15 (J) the Administrator of the United States  
16 Agency for International Development; and

17 (K) such additional members as are ap-  
18 pointed under paragraph (2).

19 (2) ADDITIONAL MEMBERS.—With the concur-  
20 rence of a majority of the members of the Council,  
21 the chairperson of the Council may appoint addi-  
22 tional members to the Council from among individ-  
23 uals who are officers or employees of the Federal  
24 Government with significant responsibilities con-  
25 cerning invasive species.

1 (c) CHAIRPERSON.—

2 (1) INITIAL CHAIRPERSON.—The Secretary of  
3 the Interior shall serve as chairperson of the Council  
4 for the 3-year period beginning on the date of enact-  
5 ment of this Act.

6 (2) SUBSEQUENT CHAIRPERSONS.—After the  
7 initial 3-year period described in paragraph (1), the  
8 chairperson shall rotate every 3 years among the fol-  
9 lowing members, in the following order:

10 (A) The Secretary of Agriculture.

11 (B) The Secretary of Commerce.

12 (C) The Secretary of the Interior.

13 (d) MEETINGS.—The Council shall meet at the call  
14 of the chairperson, but not less often than semiannually.

15 (e) EXECUTIVE DIRECTOR.—

16 (1) APPOINTMENT.—The President shall ap-  
17 point the Executive Director of the Council, by and  
18 with the advice and consent of the Senate.

19 (2) CONSULTATION.—Before appointing an in-  
20 dividual under paragraph (1), the President shall  
21 consult with—

22 (A) the Secretary of the Interior;

23 (B) the Secretary of Agriculture; and

24 (C) the Secretary of Commerce.

1           (3) QUALIFICATIONS.—An individual appointed  
2 as Executive Director of the Council shall have—

3           (A) legal or scientific experience and train-  
4 ing in the area of natural resources, ecology, or  
5 agriculture; and

6           (B) experience in dealing with public policy  
7 matters concerning aquatic and terrestrial  
8 invasive species.

9           (4) TERM.—The Executive Director of the  
10 Council shall serve for a term of 6 years.

11           (5) COMPENSATION.—The Executive Director  
12 shall be paid at the maximum rate of basic pay pre-  
13 scribed for level GS–15 of the General Schedule.

14 **SEC. 5. DUTIES.**

15           (a) IN GENERAL.—The Council shall ensure that the  
16 efforts of Federal agencies concerning invasive species are  
17 coordinated, effective, complementary, and cost-efficient.

18           (b) DUTIES.—To carry out subsection (a), the Coun-  
19 cil shall—

20           (1) coordinate with other organizations address-  
21 ing invasive species (such as the Federal Interagency  
22 Committee for the Management of Noxious and Ex-  
23 otic Weeds, the Aquatic Nuisance Species Task  
24 Force established under section 1201 of the Non-  
25 indigenous Aquatic Nuisance Prevention and Control

1 Act of 1990 (16 U.S.C. 4721), regional panels es-  
2 tablished under that Act, and the White House Of-  
3 fice of Science and Technology Policy) to implement  
4 the National Management Plan;

5 (2) develop recommendations for international  
6 cooperation between the Federal Government, State  
7 governments, and foreign countries on tools, policies,  
8 and methods to prevent the introduction and export  
9 of invasive species into and from, respectively, the  
10 United States;

11 (3) develop guidelines for Federal agency ef-  
12 forts to ensure that Federal programs concerning  
13 invasive species, including outreach programs, are  
14 coordinated with State, local, and tribal govern-  
15 ments;

16 (4) develop, in consultation with the Council on  
17 Environmental Quality and in accordance with the  
18 National Environmental Policy Act of 1969 (42  
19 U.S.C. 4321 et seq.), guidance for Federal agencies  
20 on prevention, control, and eradication of invasive  
21 species;

22 (5) establish and maintain a publicly accessible,  
23 coordinated, up-to-date information sharing system  
24 on invasive species that—

1 (A) allows the access to and exchange of  
2 information among Federal agencies and the  
3 public; and

4 (B) uses, to the maximum extent prac-  
5 ticable, the Internet;

6 (6) ensure that Federal agencies implement the  
7 plans, programs, and policies adopted by the Council  
8 in the National Management Plan through appro-  
9 priate actions, including working in cooperation with  
10 Federal agencies on development of budgets for the  
11 annual submission by the President to Congress of  
12 the budget of the United States Government under  
13 section 1105 of title 31, United States Code;

14 (7)(A) evaluate Federal programs that are like-  
15 ly to cause or promote the introduction or spread of  
16 invasive species in the United States; and

17 (B) recommend actions Federal agencies can  
18 take to minimize the risk of introductions or further  
19 spread of invasive species; and

20 (8) develop and submit to the appropriate com-  
21 mittees of Congress and the Director of the Office  
22 of Management and Budget an annual list of prior-  
23 ities, ranked in high, medium, and low categories, of  
24 Federal efforts and programs in prevention, eradi-

1 cation, control, and monitoring of, and research and  
2 outreach concerning, invasive species.

3 **SEC. 6. NATIONAL INVASIVE SPECIES MANAGEMENT PLAN.**

4 (a) DEVELOPMENT.—

5 (1) IN GENERAL.—The Council shall develop a  
6 National Invasive Species Management Plan that de-  
7 tails and recommends performance-oriented goals  
8 and specific measures of success for carrying out ac-  
9 tivities by Federal agencies relating to invasive spe-  
10 cies.

11 (2) DEVELOPMENT PROCESS.—The National  
12 Management Plan shall be developed through a pub-  
13 lic process and in consultation with Federal agen-  
14 cies, appropriate State and local entities, and other  
15 appropriate stakeholders.

16 (3) CONTENTS.—The National Management  
17 Plan shall include recommendations of effective,  
18 cost-efficient, environmentally sound, and science-  
19 based approaches for—

20 (A) preventing the introduction of invasive  
21 species, including approaches for identifying  
22 pathways by which invasive species are intro-  
23 duced and for minimizing the risk of introduc-  
24 tions via those pathways, which recommended  
25 approaches shall provide for—

- 1 (i) a process to evaluate risks associ-  
2 ated with the introduction and spread of  
3 invasive species; and
- 4 (ii) a coordinated and systematic risk-  
5 based process to identify, monitor, and  
6 interdict pathways that may be involved in  
7 the introduction of invasive species;
- 8 (B) cooperating with other countries to in-  
9 crease their capacity—
- 10 (i) to control invasive species; and  
11 (ii) to prevent the spread of invasive  
12 species across international borders;
- 13 (C) rapidly detecting and responding to in-  
14 cipient invasions of invasive species;
- 15 (D) managing new and established popu-  
16 lations of invasive species by—
- 17 (i) eradicating the invasive species; or  
18 (ii) controlling the spread of the  
19 invasive species;
- 20 (E) accurately and reliably monitoring new  
21 and established populations of invasive species;
- 22 (F) restoring native species and habitat  
23 conditions in ecosystems that have been invaded  
24 by invasive species;

1 (G) conducting research on the matters re-  
2 ferred to in subparagraphs (A) through (F);

3 (H) evaluating and documenting the im-  
4 pacts of invasive species on the environment,  
5 the economy, and human health;

6 (I) developing technologies to prevent the  
7 introduction and provide for the management of  
8 invasive species; and

9 (J) promoting public education on invasive  
10 species and the means to address invasive spe-  
11 cies.

12 (4) IDENTIFICATION OF NEEDED RE-  
13 SOURCES.—The National Management Plan shall  
14 identify the personnel, other resources, and addi-  
15 tional levels of coordination needed to achieve the  
16 goals included in the National Management Plan.

17 (b) EXISTING PLAN.—The National Invasive Species  
18 Management Plan of the Invasive Species Council adopted  
19 in 2001 shall be treated as the National Management Plan  
20 required under subsection (a) until the date of issuance  
21 of the National Management Plan under subsection (c)(1).

22 (c) ISSUANCE AND UPDATING OF NATIONAL MAN-  
23 AGEMENT PLAN.—The Council shall—

24 (1) not later than December 31, 2003, issue the  
25 National Management Plan;

1           (2) not later than December 31, 2005, and bi-  
2           ennially thereafter, update the National Manage-  
3           ment Plan; and

4           (3) concurrently with the process of updating  
5           the National Management Plan, evaluate and report  
6           to Congress on success in achieving the goals in-  
7           cluded in the National Management Plan.

8           (d) AGENCY REPORTS.—Not later than 18 months  
9           after the date of issuance of any update of the National  
10          Management Plan that recommends action by a Federal  
11          agency, the head of the Federal agency shall submit to  
12          Congress a report that—

13           (1) describes each of the recommended actions  
14           that the agency has not taken; and

15           (2) provides an explanation of why the action is  
16           not feasible.

17          **SEC. 7. INVASIVE SPECIES ADVISORY COMMITTEE.**

18          (a) ESTABLISHMENT.—

19           (1) IN GENERAL.—The Council shall maintain  
20           an advisory committee, to be known as the “Invasive  
21           Species Advisory Committee”, to provide information  
22           and advice for consideration by the Council.

23           (2) ORGANIZATION, FUNCTIONS, AND AUTHORI-  
24           TIES.—Except as otherwise provided in this section,  
25           the advisory committee shall be organized, perform

1 the functions, and have the authorities specified in  
2 the charter for the advisory committee signed by the  
3 Secretary of the Interior on October 30, 2001.

4 (b) APPOINTMENT.—Members of the advisory com-  
5 mittee shall be appointed by the chairperson of the Coun-  
6 cil, after consultation with the other members of the Coun-  
7 cil, from among individuals representing stakeholders with  
8 respect to Federal programs for minimizing the environ-  
9 mental, economic, and human health impacts caused by  
10 invasive species.

11 (c) FUNCTIONS.—In addition to the functions speci-  
12 fied in the charter referred to in subsection (a), the advi-  
13 sory committee shall recommend to the Council plans and  
14 actions at the regional, State, local, tribal, and ecosystem-  
15 based levels to achieve the goals of the National Manage-  
16 ment Plan.

17 (d) CONTINUING OPERATION OF EXISTING COM-  
18 MITTEE.—Any advisory committee appointed before the  
19 date of enactment of this Act in accordance with the char-  
20 ter referred to in subsection (a)(2) may continue in effect  
21 under this section.

22 **SEC. 8. BUDGET ANALYSIS AND SUMMARY.**

23 Not later than March 31, 2003, and March 31 of  
24 each year thereafter, the Director of the Office of Manage-  
25 ment and Budget shall prepare, and submit to Congress

1 and the Council, a budget analysis and summary of all  
2 Federal programs relating to invasive species.

3 **SEC. 9. EXISTING EXECUTIVE ORDER.**

4 Executive Order No. 13112, dated February 3, 1999  
5 (42 U.S.C. 4321 note; relating to invasive species), shall  
6 be of no effect.

7 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to carry out  
9 this Act \$2,000,000 for each of fiscal years 2004 through  
10 2006.

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