

(1) S.J. Res. 15, A bill to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

(2) S. 374, A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River.

(3) S. 113, A bill to modify the date as of which certain tribal land of the Lytton Rancheria is deemed to be held in trust.

(4) S. 881, A bill to compensate the Spokane Tribe of Indians for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

(5) S. 449, A bill to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and persons born after Dec. 18, 1971, and for other purposes.

(6) H.R. 797/S. 475, A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other acts to improve housing programs for Indians.

(7) S. 623, A bill to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, UT, and for other purposes.

(8) S. 598, A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing.

(9) S. , A bill to condemn certain subsurface rights to land held trust by the State of Arizona, and convey subsurface rights held by BLM, for the Pascua Yaqui Tribe.

(10) S. , A bill to authorize funding for the National Indian Gaming Commission.

(11) S. 1239, A bill to authorize the use of Indian Health Service funds to pay Medicare Part D premiums on behalf of Indians.

(12) S. 1231, A bill to provide initial funding for the National Fund for Excellence in American Indian Education previously established by Congress.

(13) S. , A bill to require former Federal employees who are employed by tribes to adhere to conflict of interest rules.

(14) S. , A bill to amend the Tribally Controlled Community College and Universities Assistance Act.

Those wishing additional information may contact the Indian Affairs Committee.

#### RED TIDE EMERGENCY RELIEF ACT OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate pro-

ceed to the immediate consideration of S. 1316 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1316) to authorize the Small Business Administration to provide emergency relief to shellfish growers affected by toxic red tide losses.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, today Senator SNOWE and I have introduced a bill to help a group of nearly 300 fishermen, known as aquaculturists, who are falling through the cracks of the Government's disaster assistance programs. Right now these businesses are prohibited from receiving SBA disaster loans, and they are eligible for USDA disaster loans only under limited circumstances.

To our dismay, we have learned that SBA has come across this dilemma many times in the past, most recently last year in Connecticut, and yet no one at that agency has ever tried to coordinate with the Department of Agriculture. To make matters worse, the SBA waited two weeks to let us know that they wouldn't be able to serve all our small businesses. So even in those cases in which these harmed small businesses would be eligible for loans from the USDA, hundreds of small businesses are left waiting for the Secretary of Agriculture to go through the same hoops to certify a disaster and make that agency's disaster loans available. I appreciate all the Farm Service Agency has done to expedite the process, and compliment their staff for being so responsive. However, this isn't right.

Our State has been hit by the worst case of red tide in more than 30 years. These small business owners have seen their income disappear because they can't sell their inventory. With no income they can't pay their bills, invest in seeds to plant future crops, and they can't afford to maintain their current crops. They need access to these low-cost loans to help them makes ends meet until the Government opens the shores and declares shellfish once again safe to eat.

Businesses in trouble can't, and shouldn't have to, wait for this redtape to be resolved. To make sure this doesn't happen in the future, I am joining Senator SNOWE to make it possible for aquaculturists to be eligible for SBA economic injury disaster loans. This will complement what the Department of Agriculture's Farm Services Agency can offer in disaster loans. I want to also assure my colleagues that businesses are only eligible for loans through the SBA or Farm Service Agency but not both. This is already prohibited by law, and the agencies have in place procedures to protect against misuse. I than Senator SNOWE for working with me to help our fishermen hurting from red tide.

I ask unanimous consent that an article on this problem be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

#### SHELLFISH GROWERS FEEL SNUBBED BY "RED TIDE" LOAN PROGRAM

(By Michael Kunzelman)

BOSTON.—Shellfish grower Barbara Austin has been out of work, just like hundreds of shellfishermen, ever since a toxic "red tide" closed shellfishing areas across the state earlier this month.

The difference is that she and nearly 300 other aquaculturists aren't eligible for the same low-interest loans to help them weather the financial storm.

Austin, of Wellfleet, pursued a loan from the Small Business Administration before learning they're reserved for the state's roughly 1,500 shellfishermen. The state's 287 licensed aquaculturists, who plant and harvest shellfish, aren't eligible because the SBA considers them farmers, not fishermen.

Austin said the rule was "kind of a slap in the face."

"If they're going to make offers like this, they should have been clear about what they're really offering," she said Tuesday.

In response, members of the state's congressional delegation Tuesday sent a letter to Agriculture Secretary Mike Johanns, urging him to make emergency financial assistance available to aquaculturists and fish farmers in eight Massachusetts counties.

Democratic Sen. Edward M. Kennedy, who also spearheaded a letter to Federal Emergency Management Agency Director Michael Brown asking him to meet with the delegation, said FEMA should coordinate the federal disaster relief for those affected by the red tide.

The shellfishermen, said Sen. John Kerry, D-Mass., "shouldn't be blocked from receiving low interest loans because of bureaucratic red tape."

The SBA's enforcement of an "obscure rule" was a surprise, said Mark Forest, district director for U.S. Rep. William Delahunt, D-Mass.

"Obviously, we are not pleased," Forest said. "We're working to get the problem fixed quickly."

Efforts to reach SBA regional director William Leggerio weren't immediately successful Tuesday.

On June 9, Gov. Mitt Romney declared a state of emergency and asked the SBA for disaster assistance for the shellfishing industry, which is losing an estimated \$3 million a week. Less than a week later, the SBA announced that it would offer loans of up to \$1.5 million with a 4 percent interest rate.

Other forms of financial assistance could be available soon. The state also is asking for disaster aid from the Federal Emergency Management Agency.

In the meantime, most of the shellfish beds shut down along the coast of Massachusetts will remain closed for at least four to five more weeks, state shellfish biologist Michael Hickey said Tuesday.

Hickey said the size and intensity of the toxic algae bloom is dropping in the waters off the North Shore and Cape Cod, but it could take two more weeks for the bloom to completely disappear. After that, he added, it would take two to three more weeks before shellfish beds can reopen.

"The good news is that areas we do have open are safe. The shellfish on the market is safe. The beaches are safe," Hickey said. "The bad news is, it's not over. (The bloom) is not going to be over for another couple of weeks."

The red tide algae contaminates shellfish such as clams and mussels, making them unsafe for people and animals to eat. The outbreak is the region's worst since 1972.

Mr. McCONNELL. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1316) was read the third time and passed, as follows:

S. 1316

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Red Tide Emergency Relief Act of 2005”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) shellfish growers, known as “aquaculturists”, from the Schoodic Peninsula in Maine to Buzzards Bay in Massachusetts have suffered substantial economic injury due to the worst occurrence of toxic algae bloom, known as “Red Tide”, along the New England Coast since 1972;

(2) toxins produced by the Red Tide algae contaminate shellfish like clams and mussels, making them unsafe for people and animals to eat, forcing the extended closure of shellfish beds along contaminated areas.

(3) hundreds of shellfish growers have been affected by the Red Tide, and losses industrywide are estimated at \$3 million a week; and

(4) shellfish growers are currently considered to be agricultural enterprises, and are therefore ineligible for economic injury disaster loans available to other small business concerns through the Small Business Administration;

(5) shellfish growers are only eligible for emergency loans through the Farm Service Agency of the Department of Agriculture under limited circumstances;

(6) the Small Business Act should be amended to make shellfish growers eligible for emergency small business assistance, as a complement to assistance otherwise offered through Federal programs.

#### SEC. 3. AUTHORITY TO PROVIDE DISASTER ASSISTANCE TO AQUACULTURE ENTERPRISES.

Section 18(b)(1) of the Small Business Act (15 U.S.C. 647(b)(1)) is amended—

(1) by striking “aquaculture,”; and

(2) by inserting before the semicolon at the end “, other than aquaculture”.

#### PARTNERS FOR FISH AND WILDLIFE ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 134, S. 260.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 260) to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments.

[Strike the parts shown in black brackets and insert the part shown in italic.]

S. 260

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Partners for Fish and Wildlife Act”.

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) approximately 60 percent of fish and wildlife in the United States are on private land;

(2) it is imperative to facilitate private landowner-centered and results-oriented efforts that promote efficient and innovative ways to protect and enhance natural resources;

(3) there is no readily available source of technical biological information that the public can access to assist with the application of state-of-the-art techniques to restore, enhance, and manage fish and wildlife habitats;

(4) a voluntary cost-effective program that leverages public and private funds to assist private landowners in the conduct of state-of-the-art fish and wildlife habitat restoration, enhancement, and management projects is needed;

(5) durable partnerships working collaboratively with willing private landowners to implement on-the-ground projects has led to the reduction of endangered species listings;

(6) Executive Order No. 13352 (69 Fed. Reg. 52989) directs the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency to pursue new cooperative conservation programs involving the collaboration of Federal, State, local, and tribal governments, private for-profit and non-profit institutions, non-governmental entities, and individuals;

(7) since 1987, the Partners for Fish and Wildlife Program has exemplified cooperative conservation as an innovative, voluntary partnership program that helps private landowners restore wetland and other important fish and wildlife habitat; and

(8) through 33,103 agreements with private landowners, the Partners for Fish and Wildlife Program has accomplished the restoration of 677,000 acres of wetland, 1,253,700 acres of prairie and native grasslands, and 5,560 miles of riparian and in-stream habitat since 1987, demonstrating much of that success since only 2001.

(b) PURPOSE.—The purpose of this Act is to provide for the restoration, enhancement, and management of fish and wildlife habitats on private land through the Partners for Fish and Wildlife Program, a program that works with private landowners to conduct cost-effective habitat projects for the benefit of fish and wildlife resources in the United States.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **FEDERAL TRUST SPECIES.**—The term “Federal trust species” means migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern.

(2) **HABITAT ENHANCEMENT.**—

(A) **IN GENERAL.**—The term “habitat enhancement” means the manipulation of the physical, chemical, or biological characteristics of a [native] habitat to change a specific function or seral stage of the [native] habitat.

(B) **INCLUSIONS.**—The term “habitat enhancement” includes—

(i) an activity conducted to increase or decrease a specific function for the purpose of benefiting species, including—

(I) increasing the hydroperiod and water depth of a stream or wetland beyond what would naturally occur;

(II) improving waterfowl habitat conditions;

(III) establishing water level management capabilities for native plant communities;

(IV) creating mud flat conditions important for shorebirds; and

(V) cross fencing or establishing a rotational grazing system on native range to improve grassland nesting bird habitat conditions; and

(ii) an activity conducted to shift a native plant community successional stage, including—

(I) burning an established native grass community to reduce or eliminate invading brush or exotic species;

(II) brush shearing to set back early successional plant communities; and

(III) forest management that promotes a particular seral stage.

(C) **EXCLUSIONS.**—The term “habitat enhancement” does not include regularly scheduled and routine maintenance and management activities, such as annual mowing or spraying of unwanted vegetation.

(3) **HABITAT ESTABLISHMENT.**—The term “habitat establishment” means the manipulation of physical, chemical, or biological characteristics of a project site to create and maintain habitat that did not previously exist on the project site, including construction of—

(A) shallow water impoundments on non-hydric soils; and

(B) side channel spawning and rearing habitat.

(4) **HABITAT IMPROVEMENT.**—The term “habitat improvement” means restoring [or artificially providing], *enhancing, or establishing* physiographic, hydrological, or disturbance conditions necessary to establish or maintain native plant and animal communities, including periodic manipulations to maintain intended habitat conditions on completed project sites.

(5) **HABITAT RESTORATION.**—

(A) **IN GENERAL.**—The term “habitat restoration” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning the majority of natural functions to the lost or degraded native habitat.

(B) **INCLUSIONS.**—The term “habitat restoration” includes—

(i) an activity conducted to return a project site, to the maximum extent practicable, to the ecological condition that existed prior to the loss or degradation, including—

(I) removing tile drains or plugging drainage ditches in former or degraded wetland;

(II) returning meanders and sustainable profiles to straightened streams;

(III) burning grass communities heavily invaded by exotic species to reestablish native grass and plant communities; and

(IV) planting plant communities that are native to the project site;

(ii) if restoration of a project site to its original ecological condition is not practicable, an activity that repairs 1 or more of the original habitat functions and that involve the use of native vegetation, including—

(I) the installation of a water control structure in a swale on land isolated from overbank flooding by a major levee to simulate natural hydrological processes; and

(II) the placement of streambank or instream habitat diversity structures in streams that cannot be restored to original conditions or profile; and

(iii) removal of a disturbing or degrading element to enable the native habitat to reestablish or become fully functional.

(6) **PRIVATE LAND.**—

(A) **IN GENERAL.**—The term “private land” means any land that is not owned by the