

REFUGE ECOLOGY PROTECTION, ASSISTANCE, AND  
IMMEDIATE RESPONSE ACT

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OCTOBER 22, 2007.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. RAHALL, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 767]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 767) to protect, conserve, and restore native fish, wildlife, and their natural habitats at national wildlife refuges through cooperative, incentive-based grants to control, mitigate, and eradicate harmful nonnative species, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Refuge Ecology Protection, Assistance, and Immediate Response Act”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds the following:

(1) The National Wildlife Refuge System is the premier land conservation system in the world.

(2) Harmful nonnative species are the leading cause of habitat destruction in national wildlife refuges.

(3) More than 675 known harmful nonnative species are found in the National Wildlife Refuge System.

(4) Nearly 8 million acres of the National Wildlife Refuge System contain harmful nonnative species.

(5) The cost of early identification and removal of harmful nonnative species is dramatically lower than removing an established invasive population.

(6) The cost of the backlog of harmful nonnative species control projects that need to be carried out in the National Wildlife Refuge System is over \$361,000,000, and the failure to carry out such projects threatens the ability of the System to fulfill its basic mission.

(b) PURPOSE.—The purpose of this Act is to encourage partnerships among the United States Fish and Wildlife Service, other Federal agencies, States, Indian tribes, and other interests for the following objectives:

(1) To protect, enhance, restore, and manage a diversity of habitats for native fish and wildlife resources within the National Wildlife Refuge System through control of harmful nonnative species.

(2) To promote the development of voluntary State assessments to establish priorities for controlling harmful nonnative species that threaten or negatively impact refuge resources.

(3) To promote greater cooperation among Federal, State, and local land and water managers, and owners of private land, water rights, or other interests, to implement ecologically based strategies to eradicate, mitigate, and control harmful nonnative species that threaten or negatively impact refuge resources through a voluntary and incentive-based financial assistance grant program.

(4) To establish an immediate response capability to combat incipient harmful nonnative species invasions.

### SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Invasive Species Advisory Committee established by section 3 of Executive Order 13112, dated February 3, 1999.

(2) APPROPRIATE COMMITTEES.—The term “appropriate Committees” means the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) CONTROL.—The term “control” means, as appropriate, eradicating, suppressing, reducing, or managing harmful nonnative species from areas where they are present; taking steps to detect early infestations on at-risk native habitats; and restoring native species and habitats to reduce the effects of harmful nonnative species.

(4) ENVIRONMENTAL SOUNDNESS.—The term “environmental soundness” means the extent of inclusion of methods, efforts, actions, or programs to prevent or control infestations of harmful nonnative species, that—

(A) minimize adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems; and

(B) emphasize integrated management techniques.

(5) HARMFUL NONNATIVE SPECIES.—The term “harmful nonnative species” means, with respect to a particular ecosystem in a particular region, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem and has a demonstrable or potentially demonstrable negative environmental or economic impact in that region.

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

(7) NATIONAL MANAGEMENT PLAN.—The term “National Management Plan” means the management plan referred to in section 5 of Executive Order 13112 of February 3, 1999, and entitled “Meeting the Invasive Species Challenge”.

(8) REFUGE RESOURCES.—The term “refuge resources” means all lands and waters, including the fish and wildlife species and the ecosystems and habitats therein, that are owned and managed by the Federal Government through the United States Fish and Wildlife Service and located within the National Wildlife Refuge System administered under the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd et seq.), including any waterfowl production area.

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(10) 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, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any Indian tribe.

### SEC. 4. REFUGE ECOLOGY PROTECTION, ASSISTANCE, AND IMMEDIATE RESPONSE (REPAIR) GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may provide—

(1) a grant to any eligible applicant to carry out a qualified control project in accordance with this section; and

(2) a grant to any State to carry out an assessment project consistent with relevant State plans that have been developed in whole or in part for the con-

ervation of native fish, wildlife, and their habitats, and in accordance with this section, to—

- (A) identify harmful nonnative species that occur in the State that threaten or negatively impact refuge resources;
- (B) assess the needs to restore, manage, or enhance native fish and wildlife and their natural habitats and processes in the State to compliment activities to control, mitigate, or eradicate harmful nonnative species negatively impacting refuge resources;
- (C) identify priorities for actions to address such needs;
- (D) identify mechanisms to increase capacity building in a State or across State lines to conserve and protect native fish and wildlife and their habitats and to detect and control harmful nonnative species that might threaten or negatively impact refuge resources within the State; and
- (E) incorporate, where applicable, the guidelines of the National Management Plan.

The grant program under this section shall be known as the “Refuge Ecology Protection, Assistance, and Immediate Response Grant Program” or the “REPAIR Program”.

(b) FUNCTIONS OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary shall—

- (A) publish guidelines for and solicit applications for grants under this section not later than 6 months after the date of enactment of this Act;
- (B) receive, review, evaluate, and approve applications for grants under this section;
- (C) consult with the Advisory Committee on the projects proposed for grants under this section, including regarding the scientific merit, technical merit, feasibility, and priority of proposed projects for such grants; and
- (D) consult with the Advisory Committee regarding the development of the database required under subsection (j).

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate to another Federal instrumentality the authority of the Secretary under this section, other than the authority to approve applications for grants and make grants.

(c) FUNCTIONS OF THE ADVISORY COMMITTEE.—The Advisory Committee shall—

- (1) consult with the Secretary to create criteria and guidelines for grants under this section;
- (2) consult with the Secretary regarding whether proposed control projects are qualified control projects; and
- (3) carry out functions relating to monitoring control projects under subsection (j).

(d) ELIGIBLE APPLICANT.—To be an eligible applicant for purposes of subsection (a)(1), an applicant shall—

- (1) be a State, local government, interstate or regional agency, university, or private person;
- (2) have adequate personnel, funding, and authority to carry out and monitor or maintain a control project; and
- (3) have entered into an agreement with the Secretary or a designee of the Secretary, for a national wildlife refuge or refuge complex.

(e) QUALIFIED CONTROL PROJECT.—

(1) IN GENERAL.—To be a qualified control project under this section, a project shall—

- (A) control harmful nonnative species on the lands or waters on which it is conducted;
- (B) include a plan for monitoring the project area and maintaining effective control of harmful nonnative species after the completion of the project, that is consistent with standards for monitoring developed under subsection (j);
- (C) be conducted in partnership with a national wildlife refuge or refuge complex;
- (D) be conducted on lands or waters, other than national wildlife refuge lands or waters, that, for purposes of carrying out the project, are under the control of the eligible applicant applying for the grant under this section and on adjacent national wildlife refuge lands or waters administered by the United States Fish and Wildlife Service referred to in subparagraph (C), that are—
  - (i) administered for the long-term conservation of such lands and waters and the native fish and wildlife dependent thereon; and
  - (ii) managed to prevent the future reintroduction or dispersal of harmful nonnative species from the lands and waters on which the project is carried out; and

- (E) encourage public notice and outreach on control project activities in the affected community.
- (2) OTHER FACTORS FOR SELECTION OF PROJECTS.—In ranking qualified control projects, the Director may consider the following:
  - (A) The extent to which a project would address the operational and maintenance backlog attributed to harmful nonnative species on refuge resources.
  - (B) Whether a project will encourage increased coordination and cooperation among one or more Federal agencies and State or local government agencies or nongovernmental or other private entities to control harmful nonnative species threatening or negatively impacting refuge resources.
  - (C) Whether a project fosters public-private partnerships and uses Federal resources to encourage increased private sector involvement, including consideration of the amount of private funds or in-kind contributions to control harmful nonnative species or national wildlife refuge lands or non-Federal lands in proximity to refuge resources.
  - (D) The extent to which a project would aid the conservation of species that are listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
  - (E) Whether a project includes pilot testing or a demonstration of an innovative technology having the potential for improved cost-effectiveness in controlling harmful nonnative species.
  - (F) The extent to which a project considers the potential for unintended consequences of control methods on ecosystems and includes contingency measures.
- (f) DISTRIBUTION OF CONTROL GRANT AWARDS.—In making grants for control projects under this section the Secretary shall, to the greatest extent practicable, ensure—
  - (1) a balance of smaller and larger projects conducted with grants under this section; and
  - (2) an equitable geographic distribution of projects carried out with grants under this section, among all regions and States within which such projects are proposed to be conducted.
- (g) GRANT DURATION.—
  - (1) IN GENERAL.—Each grant under this section shall be to provide funding for the Federal share of the cost of a project carried out with the grant for up to 2 fiscal years.
  - (2) RENEWAL.—(A) If the Secretary, after reviewing the reports under subsection (h) regarding a control project, finds that the project is making satisfactory progress, the Secretary may renew a grant under this section for the project for an additional 3 fiscal years.
  - (B) The Secretary may renew a grant under this section to implement the monitoring and maintenance plan required for a control project under subsection (e)(1)(B) for up to 5 fiscal years after the project is otherwise completed.
- (h) REPORTING BY GRANTEE.—
  - (1) IN GENERAL.—(A) A grantee carrying out a control project with a grant under this section shall report to the Secretary every 24 months or at the expiration of the grant, whichever is of shorter duration.
  - (B) A State carrying out an assessment project with a grant under this section shall submit the assessment pursuant to subsection (a)(2) to the Secretary no later than 24 months after the date on which the grant is awarded.
  - (2) REPORT CONTENTS.—Each report under this subsection shall include the following information with respect to each project covered by the report:
    - (A) In the case of a control project—
      - (i) the information described in subparagraphs (B), (D), and (F) of subsection (k)(2);
      - (ii) specific information on the methods and techniques used to control harmful nonnative species in the project area; and
      - (iii) specific information on the methods and techniques used to restore native fish, wildlife, or their habitats in the project area.
    - (B) A detailed report of the funding for the grant and the expenditures made.
  - (3) INTERIM UPDATE.—Each grantee under subsection (h)(1)(A) of this section shall also submit annually a brief synopsis to the Secretary, either electronically or in writing, that includes—
    - (A) a chronological list of project progress; and
    - (B) use of awarded funds.
- (i) COST SHARING FOR PROJECTS.—

(1) FEDERAL SHARE.—Except as provided in paragraphs (2) and (3), the Federal share of the cost of a project carried out with a grant under this section shall not exceed 75 percent of such cost.

(2) INNOVATIVE TECHNOLOGY COSTS.—The Federal share of the incremental additional cost of including in a control project any pilot testing or a demonstration of an innovative technology described in subsection (e)(2)(E) shall be 85 percent.

(3) PROJECTS ON REFUGE LANDS OR WATERS.—The Federal share of the cost of the portion of a control project funded with a grant under this section that is carried out on national wildlife refuge lands or waters, including the cost of acquisition by the Federal Government of lands or waters for use for such a project, shall be 100 percent.

(4) APPLICATION OF IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of costs of a control project carried out with a grant under this section the fair market value of services or any other form of in-kind contribution to the project made by non-Federal interests that the Secretary determines to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the activity.

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

(j) MONITORING AND MAINTENANCE OF CONTROL GRANT PROJECTS.—

(1) REQUIREMENTS.—The Secretary, in consultation with the Advisory Committee, shall develop requirements for the monitoring and maintenance of a control project to ensure that the requirements under subsections (e)(1)(A) and (B) are achieved.

(2) DATABASE OF GRANT PROJECT INFORMATION.—The Secretary shall develop and maintain an appropriate database of information concerning control projects carried out with grants under this subsection, including information on project techniques, project completion, monitoring data, and other relevant information.

(3) USE OF EXISTING PROGRAMS.—The Secretary shall use existing programs within the Department of the Interior to create and maintain the database required under this subsection.

(4) PUBLIC AVAILABILITY.—The Secretary shall make the information collected and maintained under this subsection available to the public.

(k) REPORTING BY THE SECRETARY.—

(1) IN GENERAL.—The Secretary shall, by not later than 3 years after the date of the enactment of this Act and biennially thereafter in the report under section 8, report to the appropriate Committees on the implementation of this section.

(2) REPORT CONTENTS.—A report under paragraph (1) shall include an assessment of—

(A) trends in the population size and distribution of harmful nonnative species in the project area for each control project carried out with a grant under this section, and in the adjacent areas as defined by the Secretary;

(B) data on the number of acres of refuge resources and native fish and wildlife habitat restored, protected, or enhanced under this section, including descriptions of, and partners involved with, control projects selected, in progress, and completed under this section;

(C) trends in the population size and distribution in the project areas of native species targeted for restoration, and in areas in proximity to refuge resources as defined by the Secretary;

(D) an estimate of the long-term success of varying conservation techniques used in carrying out control projects with grants under this section;

(E) an assessment of the status of control projects carried out with grants under this section, including an accounting of expenditures by the United States Fish and Wildlife Service, State, regional, and local government agencies, and other entities to carry out such projects;

(F) a review of the environmental soundness of the control projects carried out with grants under this section;

(G) a review of efforts made to maintain an appropriate database of grants under this section; and

(H) a review of the geographical distribution of Federal money, matching funds, and in-kind contributions for control projects carried out with grants under this section.

(l) COOPERATION OF NON-FEDERAL INTERESTS.—The Secretary may not make a grant under this section for a control project on national wildlife refuge lands or lands in proximity to refuge resources before a non-Federal interest has entered into

a written agreement with a national wildlife refuge or refuge complex under which the non-Federal interest agrees to—

- (1) monitor and maintain the control project in accordance with the plan required under subsection (e)(1)(B); and
- (2) provide any other items of cooperation the Secretary considers necessary to carry out the project.

**SEC. 5. CREATION OF AN IMMEDIATE RESPONSE CAPABILITY TO HARMFUL NONNATIVE SPECIES.**

(a) **ESTABLISHMENT.**—The Secretary may provide financial assistance for a period of one fiscal year to enable an immediate response to outbreaks of harmful nonnative species that threaten or may negatively impact refuge resources that are at a stage at which rapid eradication or control is possible, and ensure eradication or immediate control of the harmful nonnative species.

(b) **REQUIREMENTS FOR ASSISTANCE.**—The Secretary shall provide assistance under this section, with the concurrence of the Governor of a State, to local and State agencies, universities, or nongovernmental entities for the eradication of an immediate harmful nonnative species threat only if—

- (1) there is a demonstrated need for the assistance;
- (2) the harmful nonnative species is considered to be an immediate threat to refuge resources, as determined by the Secretary; and
- (3) the proposed response to such threat—
  - (A) is technically feasible; and
  - (B) minimizes adverse impacts to the structure and function of national wildlife refuge ecosystems and adverse effects on nontarget species.

(c) **AMOUNT OF FINANCIAL ASSISTANCE.**—The Secretary shall determine the amount of financial assistance to be provided under this section with respect to an outbreak of a harmful nonnative species, subject to the availability of appropriations.

(d) **COST SHARE.**—The Federal share of the cost of any activity carried out with assistance under this section may be up to 100 percent.

(e) **MONITORING AND REPORTING.**—The Secretary shall require that persons receiving assistance under this section monitor and report on activities carried out with assistance under this section in accordance with the requirements that apply with respect to control projects carried out with assistance under section 4.

**SEC. 6. COOPERATIVE VOLUNTEER HARMFUL NON-NATIVE SPECIES MONITORING AND CONTROL PROGRAM.**

(a) **IN GENERAL.**—Consistent with the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (Public Law 105–242), the Secretary shall establish a cooperative volunteer harmful non-native species monitoring and control program to administer and coordinate projects implemented by volunteer or other civic organizations concerned with national wildlife refuges to address harmful non-native species that threaten national wildlife refuges or adjacent lands.

(b) **ELIGIBLE ACTIVITIES.**—Each project administered and coordinated under this section shall include one of the following activities:

- (1) Habitat surveys.
- (2) Detection and identification of new introductions or infestations of harmful nonnative species.
- (3) Harmful non-native species control projects.
- (4) Public education and outreach to increase awareness concerning harmful non-native species and their threat to the refuge system.

**SEC. 7. RELATIONSHIP TO OTHER AUTHORITIES.**

(a) **AUTHORITIES, ETC. OF SECRETARY.**—Nothing in this Act affects authorities, responsibilities, obligations, or powers of the Secretary under any other statute.

(b) **STATE AUTHORITY.**—Nothing in this Act preempts any provision or enforcement of State statute or regulation relating to the management of fish and wildlife resources within such State.

**SEC. 8. BIENNIAL REPORT.**

The Secretary shall prepare and submit to the Congress by not later than 2 years after the date of the enactment of this Act and biennially thereafter—

- (1) a comprehensive report summarizing all grant activities relating to invasive species initiated under this Act including—
  - (A) State assessment projects;
  - (B) qualified control projects;
  - (C) immediate response activities; and

- (D) projects identified in the Refuge Operations Needs database or the Service Asset and Maintenance Management System database of the United States Fish and Wildlife Service.
- (2) a list of grant priorities, ranked in high, medium, and low categories, for future grant activities in the areas of—
  - (A) early detection and rapid response;
  - (B) control, management, and restoration;
  - (C) research and monitoring;
  - (D) information management; and
  - (E) public outreach and partnership efforts; and
- (3) information required to be included under section 4(k).

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

- (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as may be necessary.
- (b) ALLOWANCE FOR IMMEDIATE RESPONSE.—Of the amounts appropriated to carry out this Act no more than 25 percent shall be available in any fiscal year for financial assistance under section 5.
- (c) CONTINUING AVAILABILITY.—Amounts appropriated under this Act may remain available until expended.
- (d) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or up to \$100,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

#### PURPOSE OF THE BILL

The purpose of H.R. 767 is to protect, conserve and restore native fish, wildlife, and their natural habitats at national wildlife refuges through cooperative, incentive-based grants to control, mitigate and eradicate harmful nonnative species, and for other purposes.

#### BACKGROUND AND NEED FOR LEGISLATION

The National Wildlife Refuge System (Refuge System) was established more than 100 years ago to protect important habitat areas vital to the conservation of fish and wildlife populations in the United States. Our nation's Refuge System protects and provides habitats for more than 700 bird species, 220 mammal species, 250 reptiles and amphibians, more than 1,000 fish, and a tremendous variety of plant and invertebrate species. Over the last 20 years, however, harmful nonnative or "invasive" species have taken root throughout the Refuge System. Infestations have diminished the quality of habitat, negatively affected native wildlife and plant species, and increased the operating costs of the U.S. Fish and Wildlife Service (the Service).

Examples of infestations of harmful nonnative species can be found at refuges around the country. At the Trempealeau National Wildlife Refuge in Wisconsin, sand prairie, wetland and bottomland forest habitats are threatened by several invasive plants, notably leafy spurge, purple loosestrife, quackgrass, smooth brome grass and black locust trees. These noxious plants seriously compromise the ecological integrity and biodiversity of this key refuge along the Mississippi Flyway. At the Aransas National Wildlife Refuge in Texas, the highly invasive Chinese tallow tree, which shades out native grasslands, prairies and brush lands, has destroyed more than 55,000 acres of bird and wildlife habitat important to nearly 400 species of migratory birds. At the Arthur R. Loxahatchee National Wildlife Refuge in Florida, two invasive plants Melaleuca and Old World climbing fern, have infested more than 80 percent of the refuge. Regrettably, numerous other examples illustrating

the disastrous harm to fish and wildlife and their habitats can be readily found throughout the Refuge System.

The Service has identified invasive species as a management priority. As expressed during a survey taken during the 2001 Conservation in Action Summit, refuge managers identified invasive species by a more than two-to-one margin as the most important environmental challenge facing the Refuge System. In 2004, the Service's Refuge System Threats and Conflicts database identified invasive species as the single most important threat. Furthermore, the Service's own 2006 Refuge Annual Performance Planning (RAPP) data estimated that at least two million acres of refuge lands were infested by invasive plants. The Service now estimates that 4,471 invasive animal populations and at least 675 harmful nonnative species can be found on eight million acres of the Refuge System. This latest estimate by the Service corroborates a similar 2001 estimate provided in the report released by The National Audubon Society, *Cooling the Hot Spots*. These estimates reinforce the explosive growth of this threat. They also serve to underscore the critical need for the Service to initiate and complete surveys throughout the Refuge System to identify invasive species infestations, monitor new outbreaks, and characterize and control invasive species pathways.

Funding shortfalls and competing environmental issues such as water rights, pollution and contaminants, and air quality, however, threaten to undermine the future of the Refuge System and the ability of the Service to address the growing threat of invasive species. The Service and the Cooperative Alliance for Refuge Enhancement estimate that there is nearly a \$2.8 billion backlog in the operations and maintenance budgets for the Refuge System. Funding shortages for operations limit the Service's ability to address emerging threats affecting refuges, notably infestations and colonizations by invasive species. The Service estimates that at present, the portion of the operations budget backlog attributed to invasive species is \$361 million. Unfortunately, the budget shortfall has limited the amount of funding the Service devotes to this activity. In fiscal year 2006, the Service spent just \$9.7 million on activities to address invasive species, or roughly 2.6 percent of the funding level required to address this threat. At this funding level, the Service was able to treat and map a total of 38,016 acres of refuge lands, or roughly 0.47 percent of the total estimated amount of lands infested by invasive species. In fiscal year 2007, the Service budgeted \$9.2 million for Refuge System invasive species activities, a slight decrease. Unfortunately, the Administration requested only \$8.6 for fiscal year 2008.

To strengthen and supplement support, the Service has adopted new management innovations. For example, the Service has developed Invasive Species Strike Teams as mobile units designed to rapidly respond to new invasive species infestations and to eradicate these outbreaks in specific geographic locations. To compensate for staffing cuts, the Service has also supported local volunteer or "Friends" organizations to initiate projects, such as mapping and monitoring of new and existing invasive species infestations. In general, the sum of these activities still falls far short of the need as identified in the RAPP data. Moreover, should present

trends in funding levels for the Refuge System hold, it is doubtful that these activities will persist in the foreseeable future.

Legislation to prioritize this issue within the Service and provide a framework to address the threat of invasive species on a landscape basis would be beneficial to fulfill the goals and objectives of the National Wildlife Refuge System Improvement Act (Public Law 105-57). Considering that invasive species move across the landscape irrespective of political subdivisions of land, any framework should encourage the development of long-term cooperative partnerships between the Service, the states, and non-federal partners to address the threat on both refuge lands and adjacent non-federal lands, especially associated invasive species migration pathways. Moreover, it is clear that new financial incentives are necessary to support activities to respond, monitor, control, manage and eradicate harmful nonnative species if we hope to control the spread of invasive species and protect the ecological integrity, biological diversity and environmental health of the Refuge System.

#### COMMITTEE ACTION

H.R. 767 was introduced on January 31, 2007 by Congressman Ron Kind (D-WI). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife and Oceans. The bill as introduced authorizes the Secretary of the Interior to provide under the Refuge Ecology Protection, Assistance, and Immediate Response (REPAIR) Grant Program (1) grants to any eligible applicant to carry out a qualified control project to control harmful nonnative species; (2) grants to any state to carry out an assessment project to identify harmful nonnative species, assess the needs to restore, manage, or enhance native fish, wildlife and habitats, identify priorities, and identify mechanisms to increase capacity building for native fish, wildlife, and habitats. The Secretary is required to consult with the Invasive Species Advisory Committee on grant proposals regarding the development of a database concerning control projects carried out with such REPAIR grants. The Secretary is also authorized to provide financial assistance to enable entities to immediately respond to new outbreaks of harmful nonnative species that threaten or may negatively impact refuge resources when eradication or control is possible. The Secretary is also directed to establish a Cooperative Volunteer Invasive Species Monitoring and Control Program to document and combat invasive species in national wildlife refuges.

On June 21, 2007, the Subcommittee held a hearing on the bill. On July 26, 2007, the Subcommittee met to mark up the bill. Congressman Ron Kind (D-WI) offered an amendment in the nature of a substitute to clarify the definition of refuge resources to include waterfowl production areas, limit the amount of financial assistance for immediate response in any fiscal year to 25 percent, revise the funding allowance for administrative expenses to mirror other matching grant programs, and make other minor technical corrections. The substitute was adopted by voice vote. The bill was then forwarded to the Full Committee.

On October 10, 2007, the Full Natural Resources Committee met to consider the bill. Congressman Kind offered an amendment in the nature of a substitute to make other technical and clarifying

changes to the bill requested by the Service and the States. In particular, the amendment inserted a savings clause regarding state authority to manage fish and wildlife resources, and a clarification that civic organizations, including organizations concerned with the Refuge System as defined in the National Wildlife Refuge System Volunteer and Community Partnership Act, would be eligible to participate in the cooperative volunteer program. The amendment was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 cites this Act as the “Refuge Ecology Protection, Assistance, and Immediate Response Act.”

##### *Section 2. Findings and purpose*

Section 2 establishes that harmful nonnative invasive species are a leading cause of habitat destruction in National Wildlife Refuges, a problem resulting in a control project backlog exceeding \$361 million. The Act encourages federal, state and private entities to help control harmful nonnative species in the Refuge System through development of voluntary state harmful nonnative species priority control assessments, an incentive-based financial assistance grant program promoting cooperative ecological control strategies, and establishes the capacity to take immediate responses to incipient invasions.

##### *Section 3. Definitions*

Section 3 defines key terms included within the text of the proposed legislation, including “advisory committee”, “control”, “environmental soundness”, “harmful nonnative species” and “refuge resources”.

##### *Section 4. Refuge ecology protection, assistance, and immediate response (REPAIR) grant program*

Section 4 authorizes the Secretary to provide grants to eligible applicants for qualified control projects and to states for assessment projects, by specific criteria. The Secretary is required, in consultation with the advisory committee, to publish guidelines and solicit applications for control projects within six months of enactment. Basic criteria for eligible applicants and control projects are provided as well as logistical grant details. Grants are initially approved for up to two fiscal years and percentage limits for government cost sharing are outlined. Deadlines regarding grantee reports on methods, technique, funding and expenditures are also set. Finally, the Secretary must ensure equal geographic distribution of grants, a balance between small and large grant projects, develop a database containing grant project information available to the public, and report to the Congress within three years after the date of enactment.

*Section 5. Creation of an immediate response capability to harmful nonnative species*

Section 5 enables the Secretary to provide financial assistance for immediate response to outbreaks of harmful nonnative species that can be controlled or eradicated. This assistance will only be administered if it is an immediate threat to refuge resources, and the proposed response is technically feasible and minimizes adverse impacts to the refuge ecosystem and non-target species. The amount of financial assistance is determined by the Secretary and is subject to the availability of appropriations.

*Section 6. Cooperative volunteer harmful nonnative species monitoring and control program*

Section 6 directs the Secretary to establish a cooperative volunteer harmful nonnative species monitoring and control program to administer and coordinate projects implemented by volunteers. Each project must include either habitat surveys, detection of new harmful nonnative species, control projects or public education and outreach.

*Section 7. Relationship to other authorities*

Section 7 clarifies that nothing in this act affects the authorities, responsibilities, obligations, or powers of the Secretary under other statutes nor does it preempt state regulation of the management of fish and wildlife resources within a state.

*Section 8. Biennial report*

Section 8 requires the Secretary to report to the Congress no later than two years after the implementation of the Act, and biennially thereafter, a summary of all grant activities and a list of grant priorities.

*Section 9. Authorization of appropriations*

Section 9 authorizes appropriations in such amounts as may be necessary to carry out this Act and the funds are to remain available until expended.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General performance goals and objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to protect, conserve and restore native fish, wildlife, and their natural habitats at national wildlife refuges through cooperative, incentive-based grants to control, mitigate and eradicate harmful nonnative species, and for other purposes.

4. Congressional Budget Office cost estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 767—Refuge Ecology Protection, Assistance, and Immediate Response Act*

Summary: H.R. 767 would authorize the U.S. Fish and Wildlife Service (USFWS) to provide financial assistance for projects that control, mitigate, or eradicate harm from nonnative species to national wildlife refuges and surrounding lands and waters. CBO estimates that implementing the bill would cost \$37 million in 2008 and \$257 million over the 2008–2012 period, assuming appropriation of the necessary amounts. H.R. 767 would not affect revenues or direct spending.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state or local governments to match federal assistance authorized by the bill would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 767 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— |      |      |      |      |
|--|---|------|------|------|------|
|  | 2008                                    | 2009 | 2010 | 2011 | 2012 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |   |      |      |      |      |
| Estimated Authorization Level .....          | 65                                      | 65   | 50   | 50   | 50   |
| Estimated Outlays .....                      | 37                                      | 60   | 60   | 50   | 50   |

Basis of estimate: H.R. 767 would authorize the USFWS to finance projects that help to address the harmful effects of nonnative

species on wildlife refuges. Under the bill, the USFWS would provide grants to:

- states to identify harmful species and assess the need for projects to restore native fish and wildlife habitat,
- states, local governments, universities, or other eligible applicants for projects to suppress, reduce, or eradicate nonnative species in wildlife refuges and on adjacent properties, and
- local and state agencies and nongovernmental entities to respond to immediate threats from harmful nonnative species.

Based on information provided by the Department of the Interior, the USFWS, the National Invasive Species Council, and the Fish and Wildlife Foundation, CBO estimates that fully funding the three grant programs authorized by H.R. 767 would require appropriations of nearly \$280 million over the 2008–2012 period. Of that amount, we estimate that the USFWS would need about \$30 million (over the first two years) for state assessments, \$10 million annually for immediate response grants, and \$40 million annually for species control projects. Assuming appropriation of those amounts, we estimate that discretionary outlays would increase by \$37 million in 2008 and \$257 million over the 2008–2012 period.

For this estimate, we assume that H.R. 767 will be enacted near the beginning of fiscal year 2008 and that the amounts estimated to be necessary will be appropriated for each year through 2012. Estimated outlays are based on historical spending patterns for similar grant programs carried out by the USFWS.

Intergovernmental and private-sector impact: H.R. 767 contains no intergovernmental or private-sector mandates as defined in UMRA; any costs to state or local governments to match federal assistance authorized by the bill would be incurred voluntarily.

Estimate prepared by: Federal costs: Deborah Reis; Impact on state, local, and tribal governments: Lisa Ramirez-Branum; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### EARMARK STATEMENT

H.R. 767 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.