

110TH CONGRESS  
2D SESSION

# S. 3085

To require the Secretary of the Interior to establish a cooperative watershed management program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 5, 2008

Mr. TESTER (for himself, Mr. CRAPO, Mr. BAUCUS, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To require the Secretary of the Interior to establish a cooperative watershed management program, 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 “Cooperative Watershed  
5 Management Act of 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AFFECTED STAKEHOLDER.**—The term “af-  
9 fected stakeholder” means an entity that signifi-

1 cantly affects, or is significantly affected by, the  
2 quality or quantity of water in a watershed, as de-  
3 termined by the Secretary.

4 (2) GRANT RECIPIENT.—The term “grant re-  
5 cipient” means an eligible management entity that  
6 the Secretary has selected to receive a grant under  
7 section 3(c)(2).

8 (3) MANAGEMENT GROUP.—The term “man-  
9 agement group” means a self-sustaining, cooperative  
10 watershed-wide management group that—

11 (A) is comprised of each affected stake-  
12 holder of the watershed that is the subject of  
13 the management group;

14 (B) incorporates the perspectives of a di-  
15 verse array of stakeholders;

16 (C) is designed to be carried out as a  
17 grassroots, nonregulatory entity to address local  
18 water availability and quality issues within the  
19 watershed that is the subject of the manage-  
20 ment group; and

21 (D) is capable of managing in a sustain-  
22 able manner the water resources of the water-  
23 shed that is the subject of the management  
24 group and improving the functioning condition  
25 of rivers and streams through—

- 1 (i) water conservation;
- 2 (ii) improved water quality;
- 3 (iii) ecological resiliency; and
- 4 (iv) the reduction of water conflicts.

5 (4) PROGRAM.—The term “program” means  
6 the cooperative watershed management program es-  
7 tablished by the Secretary under section 3(a).

8 (5) SECRETARY.—The term “Secretary” means  
9 the Secretary of the Interior.

10 **SEC. 3. PROGRAM.**

11 (a) ESTABLISHMENT.—Not later than 180 days after  
12 the date of enactment of this Act, the Secretary shall es-  
13 tablish a program, which shall be known as the “coopera-  
14 tive watershed management program”, under which the  
15 Secretary shall provide grants to eligible management en-  
16 tities—

17 (1) to form a management group;

18 (2) to enlarge a management group, of which  
19 the eligible management entity is a member; or

20 (3) to conduct 1 or more projects in accordance  
21 with the goals of a management group, of which the  
22 eligible management entity is a member.

23 (b) ELIGIBILITY.—To be eligible to receive a grant  
24 under this section, an eligible management entity shall be  
25 comprised of each affected stakeholder of the watershed

1 that is the subject of the eligible management entity, in-  
2 cluding to the maximum extent practicable—

3 (1) representatives of private interests, includ-  
4 ing representatives of—

5 (A) hydroelectric production;

6 (B) livestock grazing;

7 (C) timber production;

8 (D) land development;

9 (E) recreation or tourism;

10 (F) irrigated agricultural production; and

11 (G) the environment;

12 (2) any Federal agency that has authority with  
13 respect to the watershed, including not less than 1  
14 representative of—

15 (A) the Department of Agriculture;

16 (B) the Department of the Interior; and

17 (C) the National Oceanic and Atmospheric  
18 Administration;

19 (3) any State or local agency that has authority  
20 with respect to the watershed; and

21 (4) any member of an Indian tribe that owns  
22 land within the watershed or has land in the water-  
23 shed held in trust.

24 (c) APPLICATION.—

1           (1) ESTABLISHMENT OF APPLICATION PROC-  
2           ESS; CRITERIA.—Not later than 1 year after the  
3           date of enactment of this Act, the Secretary shall es-  
4           tablish—

5                   (A) an application process under which  
6                   each eligible management entity may apply for  
7                   a grant under this section; and

8                   (B) criteria for consideration of the appli-  
9                   cation of each eligible management entity.

10           (2) APPLICATION PROCESS.—To be eligible to  
11           receive a grant under this section, an eligible man-  
12           agement entity shall submit to the Secretary an ap-  
13           plication in accordance with the application process  
14           and criteria established by the Secretary under para-  
15           graph (1).

16           (d) DISTRIBUTION OF GRANT FUNDS.—

17                   (1) IN GENERAL.—In distributing grant funds  
18                   under this section, the Secretary shall comply with  
19                   paragraph (2).

20                   (2) FUNDING PROCEDURE.—

21                           (A) FIRST PHASE.—

22                                   (i) IN GENERAL.—During the first  
23                                   phase of a grant established under this  
24                                   subparagraph, the Secretary may provide  
25                                   to a grant recipient a grant in an amount

1 of not greater than \$100,000 each year for  
2 a period of not more than 3 years.

3 (ii) MANDATORY USE OF FUNDS.—A  
4 grant recipient that receives funds through  
5 a grant during the first phase shall use the  
6 funds—

7 (I) to establish or enlarge a man-  
8 agement group;

9 (II) to develop a mission state-  
10 ment for the management group; and

11 (III) to develop project concepts.

12 (iii) ANNUAL DETERMINATION OF  
13 ELIGIBILITY.—

14 (I) DETERMINATION.—For each  
15 year of the first phase, not later than  
16 270 days after the date on which a  
17 grant recipient first receives grant  
18 funds for the year, the Secretary shall  
19 determine whether the grant recipient  
20 has made sufficient progress during  
21 the year to justify additional funding.

22 (II) EFFECT OF DETERMINA-  
23 TION.—If the Secretary determines  
24 under subclause (I) that the progress  
25 of a grant recipient during the year

1 covered by the determination justifies  
2 additional funding, the Secretary shall  
3 provide to the grant recipient grant  
4 funds for the year following the year  
5 during which the determination was  
6 made.

7 (iv) ADVANCEMENT CONDITIONS.—A  
8 grant recipient shall not be eligible to re-  
9 ceive grant funds during the second phase  
10 described in subparagraph (B) until the  
11 date on which the Secretary determines  
12 that the management group established by  
13 the grant recipient is—

14 (I) fully formed, including the  
15 drafting and approval of articles of in-  
16 corporation and bylaws governing the  
17 organization; and

18 (II) fully functional, including  
19 holding regular meetings, having  
20 reached a consensus on the mission of  
21 the group, and having developed  
22 project concepts.

23 (B) SECOND PHASE.—

24 (i) IN GENERAL.—During the second  
25 phase of a grant established under this

1           subparagraph, the Secretary may provide  
2           to a grant recipient a grant in an amount  
3           of not greater than \$1,000,000 each year  
4           for a period of not more than 4 years.

5           (ii) MANDATORY USE OF FUNDS.—A  
6           grant recipient that receives funds through  
7           a grant under the second phase shall use  
8           the funds to carry out watershed manage-  
9           ment projects.

10          (iii) ANNUAL DETERMINATION OF  
11          ELIGIBILITY.—

12                (I) DETERMINATION.—For each  
13                year of the second phase, not later  
14                than 270 days after the date on which  
15                a grant recipient first receives grant  
16                funds for the year, the Secretary shall  
17                determine whether the grant recipient  
18                has made sufficient progress during  
19                the year to justify additional funding.

20                (II) EFFECT OF DETERMINA-  
21                TION.—If the Secretary determines  
22                under subclause (I) that the progress  
23                of a grant recipient during the year  
24                covered by the determination justifies  
25                additional funding, the Secretary shall



1 provide to the grant recipient grant  
2 funds for the year following the year  
3 during which the determination was  
4 made.

5 (iv) ADVANCEMENT CONDITION.—A  
6 grant recipient shall not be eligible to re-  
7 ceive grant funds during the third phase  
8 described in subparagraph (C) until the  
9 date on which the Secretary determines  
10 that the grant recipient has—

11 (I) completed each requirement  
12 with respect to each year of the sec-  
13 ond phase; and

14 (II) demonstrated that 1 or more  
15 pilot projects of the grant recipient  
16 have resulted in demonstrable im-  
17 provements in the functioning condi-  
18 tion of at least 1 river or stream in  
19 the watershed.

20 (C) THIRD PHASE.—

21 (i) FUNDING LIMITATION.—

22 (I) IN GENERAL.—Except as pro-  
23 vided in subclause (II), during the  
24 third phase of a grant established  
25 under this subparagraph, the Sec-

1           retary may provide to a grant recipi-  
2           ent a grant in an amount of not  
3           greater than \$5,000,000 for a period  
4           of not more than 5 years.

5                   (II) EXCEPTION.—The Secretary  
6           may provide to a grant recipient a  
7           grant in an amount that is greater  
8           than the amount described in sub-  
9           clause (I) if the Secretary determines  
10          that the grant recipient is capable of  
11          using the additional amount to  
12          achieve an appropriate increase in an  
13          economic, social, or environmental  
14          benefit that could not otherwise be  
15          achieved by the grant recipient  
16          through the amount described in sub-  
17          clause (I).

18                   (ii) MANDATORY USE OF FUNDS.—A  
19          grant recipient that receives funds through  
20          a grant under the third phase shall use the  
21          funds to carry out not less than 1 water-  
22          shed management project of the grant re-  
23          cipient.

1           (3) PERMISSIVE USE OF FUNDS.—A grant re-  
2           cipient that receives funds through a grant under  
3           this section may use the funds—

4                   (A) to pay for—

5                           (i) the administrative costs of the  
6                           management group of the grant recipient;

7                           (ii) the salary of not more than 1 full-  
8                           time employee of the management group of  
9                           the grant recipient; and

10                          (iii) any legal fees of the grant recipi-  
11                          ent arising from the establishment of the  
12                          management group of the grant recipient;

13                   (B) to fund—

14                           (i) studies of the watershed that is  
15                           managed by the management group of the  
16                           grant recipient; and

17                           (ii) any project—

18                                   (I) described in the mission state-  
19                                   ment of the management group of the  
20                                   grant recipient; and

21                                   (II) to be carried out by the  
22                                   management group of the grant re-  
23                                   cipient to achieve any goal of the  
24                                   management group;

1 (C) to carry out demonstration projects re-  
2 lating to water conservation or alternative water  
3 uses; and

4 (D) to expand a management group that is  
5 established by the grant recipient.

6 (4) REQUIREMENT OF CONSENSUS OF MEM-  
7 BERS OF MANAGEMENT GROUP.—A management  
8 group of a grant recipient may not use grant funds  
9 for any initiative of the management group unless  
10 the group reaches a consensus decision.

11 (e) COST SHARE.—

12 (1) PLANNING.—The Federal share of the cost  
13 of any activity of a management group of a grant  
14 recipient relating to any use required under sub-  
15 section (d)(2)(A)(ii) shall be 100 percent.

16 (2) PROJECTS CARRIED OUT UNDER SECOND  
17 PHASE.—

18 (A) IN GENERAL.—Subject to subpara-  
19 graph (B), the Federal share of the costs of any  
20 activity of a management group of a grant re-  
21 cipient relating to a watershed management  
22 project described in subsection (d)(2)(B)(ii)  
23 shall not exceed 60 percent of the total costs of  
24 the watershed management project.

1 (B) LIMITATION.—To pay for any costs re-  
2 relating to administrative expenses incurred for a  
3 watershed management project described in  
4 subsection (d)(2)(B)(ii), a management group  
5 of a grant recipient may use grant funds in an  
6 amount not greater than the lesser of—

7 (i) \$100,000; or

8 (ii) 20 percent of the total amount of  
9 the Federal share provided to the manage-  
10 ment group to carry out the watershed  
11 management project.

12 (C) FORM OF NON-FEDERAL SHARE.—The  
13 non-Federal share under subparagraph (A) may  
14 be in the form of any in-kind contributions.

15 (3) PROJECTS CARRIED OUT UNDER THIRD  
16 PHASE.—

17 (A) IN GENERAL.—Subject to subpara-  
18 graph (B), the Federal share of the costs of any  
19 activity of a management group of a grant re-  
20 cipient relating to a watershed management  
21 project described in subsection (d)(2)(C)(ii)  
22 shall not exceed 50 percent of the total costs of  
23 the watershed management project.

24 (B) LIMITATION.—To pay for any costs re-  
25 relating to administrative expenses with respect

1 to a watershed management project described  
2 in subsection (d)(2)(C)(ii), a management  
3 group of a grant recipient may use grant funds  
4 in an amount not greater than the lesser of—

5 (i) \$100,000; or

6 (ii) 20 percent of the total amount of  
7 the Federal share provided to the manage-  
8 ment group to carry out the watershed  
9 management project.

10 (C) FORM OF NON-FEDERAL SHARE.—The  
11 non-Federal share under subparagraph (A) may  
12 be in the form of any in-kind contributions.

13 (f) ANNUAL REPORTS.—

14 (1) IN GENERAL.—Not later than 1 year after  
15 the date on which a management group of a grant  
16 recipient first receives funds through a grant under  
17 this section, and annually thereafter, in accordance  
18 with paragraph (2), the management group shall  
19 submit to the Secretary a report that describes, for  
20 the period covered by the report, the progress of the  
21 management group with respect to the duties of the  
22 management group.

23 (2) REQUIRED DEGREE OF DETAIL.—The con-  
24 tents of an annual report required under paragraph  
25 (1) shall contain a degree of detail that is sufficient

1 to enable the Secretary to complete each report re-  
2 quired under subsection (g), as determined by the  
3 Secretary.

4 (g) REPORT.—Not later than 5 years after the date  
5 of enactment of this Act, and every 5 years thereafter,  
6 the Secretary shall submit to the appropriate committees  
7 of Congress a report that describes—

8 (1) the manner by which the program enables  
9 the Secretary—

10 (A) to address water conflicts;

11 (B) to conserve water; and

12 (C) to improve water quality; and

13 (2) each benefit that is achieved through the  
14 administration of the program, including, to the  
15 maximum extent practicable, a quantitative analysis  
16 of each economic, social, and environmental benefit.

17 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
18 are authorized to be appropriated to carry out this sec-  
19 tion—

20 (1) \$2,000,000 for each of fiscal years 2008  
21 and 2009;

22 (2) \$5,000,000 for fiscal year 2010;

23 (3) \$10,000,000 for fiscal year 2011; and

- 1 (4) \$20,000,000 for each of fiscal years 2012
- 2 through 2020.

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