

114TH CONGRESS
1ST SESSION

S. 1036

To require the Secretary of the Interior and the Secretary of Agriculture to provide certain Western States assistance in the development of statewide conservation and management plans for the protection and recovery of sage-grouse species, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2015

Mr. GARDNER (for himself, Mr. HATCH, Mr. HELLER, Mr. CRAPO, Mr. RISCH, Mr. ENZI, Mr. LEE, Mr. DAINES, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Secretary of the Interior and the Secretary of Agriculture to provide certain Western States assistance in the development of statewide conservation and management plans for the protection and recovery of sage-grouse species, 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 “Sage-Grouse Protec-
5 tion and Conservation Act”.

1 **SEC. 2. GREATER SAGE-GROUSE PROTECTION AND CON-**
2 **SERVATION MEASURES.**

3 (a) PURPOSES.—The purposes of this section are—

4 (1) to allow States—

5 (A) to determine the appropriate manage-
6 ment of sage-grouse species according to State-
7 created conservation and management plans
8 that address the key threats to sage-grouse spe-
9 cies and the habitat of sage-grouse species with-
10 in the States; and

11 (B) to demonstrate that those Statewide
12 plans can protect and recover sage-grouse spe-
13 cies within the States; and

14 (2) to require the Secretary to implement rec-
15 ommendations contained in Statewide plans for the
16 management of sage-grouse species and the habitat
17 of sage-grouse species on Federal land.

18 (b) DEFINITIONS.—In this section:

19 (1) COVERED WESTERN STATE.—The term
20 “covered Western State” means each of the States
21 of California, Colorado, Idaho, Montana, Nevada,
22 North Dakota, Oregon, South Dakota, Utah, Wash-
23 ington, and Wyoming.

24 (2) NATIONAL FOREST SYSTEM LAND.—The
25 term “National Forest System land” means the
26 Federal land within the National Forest System, as

1 described in section 11(a) of the Forest and Range-
2 land Renewable Resources Planning Act of 1974 (16
3 U.S.C. 1609(a)).

4 (3) PUBLIC LAND.—The term “public land”
5 has the meaning given the term “public lands” in
6 section 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702).

8 (4) SAGE-GROUSE SPECIES.—The term “sage-
9 grouse species” means—

10 (A) the greater sage-grouse (*Centrocercus*
11 *urophasianus*) (including all distinct population
12 segments); and

13 (B) the Gunnison sage-grouse
14 (*Centrocercus minimus*).

15 (5) SECRETARY.—The term “Secretary”
16 means—

17 (A) the Secretary of Agriculture, with re-
18 spect to National Forest System land; and

19 (B) the Secretary of the Interior, with re-
20 spect to public land.

21 (6) STATEWIDE PLAN.—The term “Statewide
22 plan” means a conservation and management plan
23 or plans developed and submitted to the Secretary
24 by a covered Western State for the protection and
25 recovery of any sage-grouse species and the habitat

1 of the sage-grouse species within the covered West-
2 ern State in response to invitations from the Sec-
3 retary of the Interior in December 2011 to submit
4 to the Secretary those plans.

5 (c) PARTICIPATION IN STATE PLANNING PROCESS.—

6 (1) LIST OF DESIGNEES.—

7 (A) IN GENERAL.—Not later than 30 days
8 after that date of receipt from a covered West-
9 ern State of a notice described in subparagraph
10 (B), the Secretary shall provide to the Governor
11 of the covered Western State a list of designees
12 of the Department of the Interior or the De-
13 partment of Agriculture, as applicable, who will
14 represent the Secretary in assisting in the de-
15 velopment and implementation of the Statewide
16 plan.

17 (B) DESCRIPTION OF NOTICE.—

18 (i) IN GENERAL.—A notice referred to
19 in subparagraph (A) is a notice that a cov-
20 ered Western State—

21 (I) is initiating, or has previously
22 initiated, development of a Statewide
23 plan in accordance with clause (ii); or

1 (II) has previously submitted to
2 the Secretary a Statewide plan in ac-
3 cordance with clause (ii).

4 (ii) CONTENTS.—A notice under this
5 subparagraph shall include—

6 (I) an invitation to the Secretary
7 to participate in the development or
8 implementation of the Statewide plan
9 of the applicable covered Western
10 State; and

11 (II) a statement that the covered
12 Western State—

13 (aa) has prepared or will
14 prepare, by not later than 1 year
15 after the date of submission of
16 the notice, a Statewide plan that
17 will protect and manage sage-
18 grouse species and the habitat of
19 sage-grouse species to the point
20 that designation of sage-grouse
21 species as a threatened or endan-
22 gered species under the Endan-
23 gered Species Act of 1973 (16
24 U.S.C. 1531 et seq.) is no longer

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necessary in the covered Western State; and

(bb) will—

(AA) collect monitoring data such as sage-grouse species population trends, fuel reduction, predator control, invasive species control, the condition of sage-grouse species habitat, or other parameters that address the primary threats to sage-grouse species in the covered Western State to address how the threats identified in the Statewide plan are being reduced and how the objectives identified in the Statewide plan are being met; and

(BB) provide to the Secretary relevant data regarding the health of sage-grouse species populations, the condition of sage-grouse

1 species habitat, and activi-
2 ties relating to the imple-
3 mentation of the Statewide
4 plan on an annual basis
5 under this section.

6 (iii) TIMING.—To be eligible to par-
7 ticipate in a planning process under this
8 section, not later than 120 days after the
9 date of enactment of this Act, a covered
10 Western State shall submit to the Sec-
11 retary a notice described in subparagraph
12 (B).

13 (2) ACCESS TO INFORMATION.—Not later than
14 60 days after the date of receipt from a covered
15 Western State of a notice described in paragraph
16 (1)(B), the Secretary shall provide to the covered
17 Western State all relevant scientific data, research,
18 and information regarding sage-grouse species and
19 habitat within the covered Western State for use by
20 appropriate State personnel to assist the covered
21 Western State in the development and implementa-
22 tion of the Statewide plan.

23 (d) RECOGNITION OF STATEWIDE PLAN.—Notwith-
24 standing any other provision of law or equity, if the Sec-
25 retary receives from a covered Western State a Statewide

1 plan by the date that is 1 year after the date of receipt
2 of a notice under subsection (c)(1) from the covered West-
3 ern State, the Secretary shall—

4 (1) when taking any action that could impact
5 the sage-grouse species or the habitat of the species,
6 manage all public land and National Forest System
7 land within the covered Western State in accordance
8 with the Statewide plan for a period of not less than
9 6 years, beginning on the date of submission to the
10 Secretary of the Statewide plan in accordance with
11 this section;

12 (2) annually—

13 (A) review the Statewide plan using the
14 best available science and data, using the objec-
15 tives and goals contained in the Statewide plan
16 as a measure of success; and

17 (B) provide to the Governor of the covered
18 Western State recommendations regarding im-
19 provement of the Statewide plan;

20 (3) use the Statewide plan as the basis for all
21 relevant determinations under the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

23 (4) permit and assist the covered Western State
24 to implement adaptive management, if required by
25 the Statewide plan, to respond to sage-grouse spe-

1 cies conditions as indicated by monitoring data, me-
2 teorological conditions, or fire or other events neces-
3 sitating adaptation of the Statewide plan;

4 (5) require the covered Western State to submit
5 to the Secretary annual reports regarding the imple-
6 mentation of the Statewide plan, including relevant
7 data regarding—

8 (A) actions carried out pursuant to the
9 Statewide plan; and

10 (B) population trends, fuel reductions,
11 predator control, invasive species control, the
12 condition of sage-grouse habitat, and other pa-
13 rameters that address the primary threats to
14 sage-grouse species in the covered Western
15 State;

16 (6) require the covered Western State—

17 (A) to monitor appropriate sage-grouse
18 species and habitat data for a period of not less
19 than 5 years, beginning on the date of submis-
20 sion of the Statewide plan; and

21 (B) to submit to the Secretary, not later
22 than 6 years after the date of submission of the
23 Statewide plan and in accordance with applica-
24 ble scientific protocols, a report that includes—

1 (i) a description of the status of im-
2 plementation of the Statewide plan and
3 progress made in achieving the objectives
4 and goals of the Statewide plan, including
5 relevant data regarding sage-grouse species
6 population trends, fuel reductions, predator
7 control, invasive species control, the condi-
8 tion of sage-grouse species habitat, and
9 other parameters that address the primary
10 threats to sage-grouse in the covered West-
11 ern State;

12 (ii) an estimate of additional time
13 needed, if any, for implementation of the
14 Statewide plan; and

15 (iii) necessary modifications to the
16 Statewide plan to enhance the achievement
17 of the objectives and goals of the Statewide
18 plan; and

19 (7) assist the covered Western State in moni-
20 toring and collecting relevant data on Federal land
21 to assess sage-grouse species population trends, fuel
22 reductions, predator control, invasive species control,
23 the condition of sage-grouse species habitat, and
24 other parameters that address the primary threats
25 to sage-grouse in the covered Western State.

1 (e) SECRETARIAL ACTIONS.—Notwithstanding any
2 other provision of law, not later than 30 days after the
3 date of receipt of a Statewide plan under this section, and
4 annually thereafter during the period in which the Sec-
5 retary determines that the applicable covered Western
6 State is implementing the Statewide plan, the Secretary
7 shall—

8 (1) take necessary steps to maintain or restore
9 the candidate species status for any sage-grouse spe-
10 cies in the covered Western State under the Endan-
11 gered Species Act of 1973 (16 U.S.C. 1531 et seq.),
12 for a period of not less than 6 years—

13 (A) to allow for appropriate monitoring
14 and collection of data; and

15 (B) to assess the achievement of the objec-
16 tives of the Statewide plan;

17 (2) stay any land use planning activities relat-
18 ing to Federal management of sage-grouse species
19 on public land or National Forest System land with-
20 in the covered Western State;

21 (3) take immediate action to amend all Federal
22 land use plans under the Federal Land Policy and
23 Management Act of 1976 (43 U.S.C. 1701 et seq.)
24 and the Forest and Rangeland Renewable Resources
25 Planning Act of 1974 (16 U.S.C. 1600 et seq.) to

1 comply with the Statewide plan with respect to that
2 covered Western State;

3 (4) manage all public land and National Forest
4 System land with habitat for any sage-grouse species
5 in the covered Western State in a manner consistent
6 with sections 102(a)(12) and 103(c) of the Federal
7 Land Policy and Management Act of 1976 (43
8 U.S.C. 1701(a)(12), 1702(c)) and section 4 of the
9 Forest and Rangeland Renewable Resources Plan-
10 ning Act of 1974 (16 U.S.C. 1602);

11 (5) immediately reverse any withdrawals or
12 land use restrictions carried out for purposes of pro-
13 tecting or conserving sage-grouse on public land or
14 National Forest System land that are not consistent
15 with a Statewide plan; and

16 (6) use State annual reports regarding the im-
17 plementation of the Statewide plans submitted to the
18 Secretary under subsection (d)(5) to prepare the an-
19 nual Candidate Notice of Review of the Secretary
20 pursuant to section 4 of the Endangered Species Act
21 of 1973 (16 U.S.C. 1533).

22 (f) EXISTING STATE PLANS.—The Secretary shall—

23 (1) give effect to a Statewide conservation and
24 management plan for the protection and recovery of
25 sage-grouse species within a covered Western State

1 that is submitted by the covered Western State and
2 approved or endorsed by the United States Fish and
3 Wildlife Service before the date of enactment of this
4 Act; and

5 (2) for purposes of subsections (d) and (e),
6 treat such a plan as a Statewide plan in accordance
7 with that subsection.

8 (g) ACTIONS PURSUANT TO NEPA.—An action pro-
9 posed to be carried out pursuant to the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in
11 a covered Western State may not be denied or restricted
12 solely on the basis of the presence or protection of sage-
13 grouse species in the covered Western State, if the action
14 is consistent with the Statewide plan of the covered West-
15 ern State.

16 (h) AUTHORITY TO EXTEND PLAN IMPLEMENTA-
17 TION.—On review of the report of a covered Western State
18 under subsection (d)(6)(B), the Secretary may extend the
19 provisions of this Act for a period not to exceed an addi-
20 tional 6 years with the consent of the covered Western
21 State.

22 **SEC. 3. RANGELAND FIRE PREVENTION, MANAGEMENT,**
23 **AND RESTORATION.**

24 The Secretary of the Interior shall for a period of
25 not less than 6 years, beginning on the date of enactment

1 of this Act, fully implement the order of the Secretary
2 numbered 3336 and dated January 5, 2015, to prevent
3 and suppress rangeland fire and restore sagebrush land-
4 scapes impacted by fire across the Western United States,
5 including controlling the spread of invasive species in land-
6 scapes impacted by fire.

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