

111TH CONGRESS
2D SESSION

S. 3063

To direct the Secretary of the Interior to provide loans to certain organizations in certain States to address habitats and ecosystems and to address and prevent invasive species.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2010

Mr. REID (for himself, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mrs. FEINSTEIN, Mr. MERKLEY, Ms. MURKOWSKI, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Secretary of the Interior to provide loans to certain organizations in certain States to address habitats and ecosystems and to address and prevent invasive species.

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 “Invasive Species Emer-
5 gency Response Fund Act”.

1 **SEC. 2. PURPOSES.**

2 The purpose of this Act is to encourage partnerships
3 among Federal and State agencies, Indian tribes, aca-
4 demic institutions, and public and private stakeholders—

5 (1) to prevent against the introduction and
6 spread of harmful invasive species;

7 (2) to protect, enhance, restore, and manage a
8 variety of habitats for native plants, fish, and wild-
9 life; and

10 (3) to establish early detection and rapid re-
11 sponse capabilities to combat incipient harmful
12 invasive species.

13 **SEC. 3. INVASIVE SPECIES EMERGENCY RESPONSE FUND.**

14 (a) DEFINITIONS.—In this section:

15 (1) ECOSYSTEM.—The term “ecosystem”
16 means an area, considered as a whole, that contains
17 living organisms that interact with each other and
18 with the non-living environment.

19 (2) ELIGIBLE STATE.—The term “eligible
20 State” means any State located in Region 4, as de-
21 termined by the Census Bureau.

22 (3) FUND.—The term “Fund” means the
23 Invasive Species Emergency Response Fund estab-
24 lished by subsection (b).

25 (4) INDIAN TRIBE.—The term “Indian tribe”
26 has the meaning given the term in section 4 of the

1 Indian Self-Determination Act and Education As-
2 sistance Act (25 U.S.C. 450b).

3 (5) INTRODUCTION.—The term “introduction”,
4 with respect to a species, means the intentional or
5 unintentional escape, release, dissemination, or
6 placement of the species into an ecosystem as a re-
7 sult of human activity.

8 (6) INVASIVE SPECIES.—The term “invasive
9 species” means a species—

10 (A) that is nonnative to a specified eco-
11 system; and

12 (B) the introduction to an ecosystem of
13 which causes, or may cause, harm to—

14 (i) the economy;

15 (ii) the environment; or

16 (iii) human, animal, or plant health.

17 (7) QUALIFIED ORGANIZATION.—

18 (A) IN GENERAL.—The term “qualified or-
19 ganization” means an organization that—

20 (i) submits an application for a
21 project in an eligible State; and

22 (ii) demonstrates an effort to ad-
23 dress—

24 (I) a certain invasive species; or

1 (II) a certain habitat or eco-
2 system impacted by an invasive spe-
3 cies.

4 (B) INCLUSIONS.—The term “qualified or-
5 ganization” includes any individual rep-
6 resenting, or any combination of—

- 7 (i) public or private stakeholders;
8 (ii) Federal agencies;
9 (iii) Indian tribes;
10 (iv) State land, forest, or fish wildlife
11 management agencies;
12 (v) academic institutions; and
13 (vi) other organizations, as the Sec-
14 retary determines to be appropriate.

15 (8) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (9) STAKEHOLDER.—The term “stakeholder”
18 includes—

19 (A) State, tribal, and local governmental
20 agencies;

21 (B) the scientific community; and

22 (C) nongovernmental entities, including en-
23 vironmental, agricultural, and conservation or-
24 ganizations, trade groups, commercial interests,
25 and private landowners.

1 (b) ESTABLISHMENT OF FUND.—There is estab-
 2 lished in the Treasury of the United States a revolving
 3 fund, to be known as the “Invasive Species Emergency
 4 Response Fund”, consisting of—

5 (1) such amounts as are appropriated to the
 6 Fund pursuant to subsection (h); and

7 (2) interest earned on investments of amounts
 8 in the Fund under subsection (e).

9 (c) EXPENDITURES FROM FUND.—

10 (1) IN GENERAL.—Subject to paragraph (2), on
 11 request by the Secretary, the Secretary of the Treas-
 12 ury shall transfer from the Fund to the Secretary
 13 such amounts as the Secretary determines are nec-
 14 essary to provide loans under subsection (f)(1).

15 (2) ADMINISTRATIVE EXPENSES.—Of the
 16 amounts in the Fund—

17 (A) not more than 5 percent shall be avail-
 18 able for each fiscal year to pay the administra-
 19 tive expenses of the Department of the Interior
 20 to carry out this section;

21 (B) not more than 5 percent shall be avail-
 22 able for each fiscal year to pay the administra-
 23 tive expenses of offices of the Governors of eli-
 24 gible States to carry out this section; and

1 (C) not more than 10 percent shall be
2 available for each fiscal year to pay the admin-
3 istrative expenses of a qualified organization to
4 carry out this section.

5 (d) TRANSFERS OF AMOUNTS.—

6 (1) IN GENERAL.—The amounts required to be
7 transferred to the Fund under this section shall be
8 transferred at least monthly from the general fund
9 of the Treasury to the Fund on the basis of esti-
10 mates made by the Secretary of the Treasury.

11 (2) ADJUSTMENTS.—Proper adjustment shall
12 be made in amounts subsequently transferred to the
13 extent prior estimates were in excess of or less than
14 the amounts required to be transferred.

15 (e) INVESTMENT OF AMOUNTS.—

16 (1) IN GENERAL.—The Secretary of the Treas-
17 ury shall invest such portion of the Fund as is not,
18 in the judgment of the Secretary of the Treasury,
19 required to meet current withdrawals.

20 (2) INTEREST BEARING OBLIGATIONS.—Invest-
21 ments may be made only in interest-bearing obliga-
22 tions of the United States.

23 (f) USE OF FUND.—

24 (1) LOANS.—

1 (A) IN GENERAL.—The Secretary shall use
2 amounts in the Fund to provide loans to quali-
3 fied organizations to prevent and remediate the
4 impacts of invasive species on habitats and eco-
5 systems.

6 (B) ELIGIBILITY.—

7 (i) IN GENERAL.—To be eligible to re-
8 ceive a loan under this paragraph, a quali-
9 fied organization shall submit to the Gov-
10 ernor of the eligible State in which the
11 project of the qualified organization is lo-
12 cated an application at such time, in such
13 manner, and containing such information
14 as may be required by application require-
15 ments established by the Secretary, after
16 taking into account the recommendations
17 of the Governors of eligible States.

18 (ii) GUBERNATORIAL RECOMMENDA-
19 TIONS.—In reviewing the applications
20 under clause (i), the Governor may rec-
21 ommend to the Secretary for approval any
22 application of a qualified organization
23 under clause (i) if the Governor determines
24 that the qualified organization is carrying
25 out or will carry out a project—

1 (I) designed to fully assess long-
2 term comprehensive severity of the
3 problem or potential problem ad-
4 dressed by the project;

5 (II) that uses early detection and
6 response mechanisms that seek to pre-
7 vent—

8 (aa) the introduction or
9 spread of invasive species from
10 outside the United States into an
11 eligible State; or

12 (bb) the spread of an estab-
13 lished invasive species into an eli-
14 gible State;

15 (III) to prevent the regrowth or
16 reintroduction of an invasive species,
17 to the extent to which the qualified
18 organization has achieved progress
19 with respect to reduction or elimi-
20 nation of the invasive species;

21 (IV) in rare or unique habitats,
22 such as—

23 (aa) desert terminal lakes;

24 (bb) rivers that feed desert
25 terminal lakes;

1 (cc) desert springs;
2 (dd) alpine lakes;
3 (ee) old growth forest eco-
4 systems; and

5 (ff) special land allocations,
6 such as wilderness, wilderness
7 management areas, research nat-
8 ural areas, and experimental for-
9 ests;

10 (V) that is likely to prevent or re-
11 solve a problem relating to invasive
12 species;

13 (VI) to remediate the spread of
14 aquatic invasive species within impor-
15 tant bodies of water, as determined by
16 the Secretary (including the Colorado
17 River);

18 (VII) to remediate the spread of
19 terrestrial invasive species within im-
20 portant forest ecosystems, including
21 wilderness, wilderness management
22 areas, research natural areas, and ex-
23 perimental forests;

24 (VIII) to assess and promote
25 wildfire management strategies, in-

1 crease the supply of native plant ma-
2 terials, and reintroduce native plant
3 species intended to limit or mitigate
4 the impacts of invasive species;

5 (IX) to assess and reduce
6 invasive species-related changes in
7 wildlife habitat and aquatic, terres-
8 trial, and arid ecosystems;

9 (X) to assess and reduce negative
10 economic impacts and other impacts
11 associated with control methods and
12 the restoration of a native ecosystem;

13 (XI) to improve the overall ca-
14 pacity of the United States to address
15 invasive species;

16 (XII) to promote cooperation and
17 participation between States that have
18 common interests regarding invasive
19 species;

20 (XIII) that addresses or en-
21 hances the efforts of qualified organi-
22 zations, States, or landscape-level ini-
23 tiatives that have invasive species re-
24 sponsibility, authority, or prevention,

1 remediation and control strategies,
2 and applicable plans in place; or

3 (XIV) to educate the public re-
4 garding the negative effects of
5 invasive species, to help prevent and
6 mitigate the introduction and spread
7 of invasive species into or near high-
8 risk aquatic, terrestrial, and arid eco-
9 systems.

10 (iii) TRANSMISSION TO THE SEC-
11 RETARY.—The Governor shall transmit to
12 the Secretary all applications received by
13 the Governor under clause (i).

14 (C) SENSE OF CONGRESS REGARDING
15 MULTISTATE COMPACTS.—It is the sense of
16 Congress that—

17 (i) Governors of States should enter
18 into multistate compacts in coordination
19 with qualified organizations to prevent, ad-
20 dress, and remediate against the spread of
21 animals, plants, or pathogens, or aquatic,
22 wetland, or terrestrial invasive species;

23 (ii) the Secretary should give special
24 consideration to multistate compacts de-
25 scribed in clause (i) in reviewing loan so-

1 licitations and applications of the States
2 and qualified organizations that are parties
3 to the compacts; and

4 (iii) if a multistate compact is entered
5 into under clause (i), the Governors of all
6 States that are parties to the compact
7 should combine to repay to the Secretary
8 of the Treasury a total combined amount
9 equal to not less than 25 percent of the
10 amount of the loan provided under this Act
11 (including interest at a rate less than or
12 equal to the market interest rate).

13 (D) PETITIONS.—

14 (i) ACTION BY GOVERNOR.—Not later
15 than 30 days after the receipt of an appli-
16 cation recommended for approval by the
17 Secretary under subparagraph (B)(ii), the
18 Governor of an eligible State shall submit
19 to the Secretary, on behalf of all qualified
20 organizations, a petition, together with
21 copies of the recommended application, to
22 receive a loan under this paragraph.

23 (ii) APPROVAL.—Not later than 30
24 days after the date of receipt of a petition
25 under clause (i), the Secretary, at the sole

1 discretion of the Secretary, may approve
2 the petition.

3 (iii) ACTION ON APPROVAL.—Not
4 later than 30 days after the date of ap-
5 proval of a petition under clause (ii) or the
6 approval by the Secretary of an application
7 otherwise transmitted by a Governor under
8 subparagraph (B)(iii), the Secretary shall
9 provide to the qualified organization a loan
10 under this paragraph.

11 (E) PRIORITY.—In providing loans under
12 this paragraph, the Secretary shall give priority
13 to applications of qualified organizations car-
14 rying out, or that will carry out, more than 1
15 project described in subparagraph (B)(ii).

16 (2) REQUIREMENTS.—

17 (A) LOAN REPAYMENT.—

18 (i) IN-KIND CONSIDERATION.—With
19 respect to loan repayment under clause
20 (ii), the Secretary may accept, in lieu of
21 monetary payment, in-kind contributions in
22 such form and such quantity as may be ac-
23 ceptable to the Secretary, including con-
24 tributions in the form of—

1 (I) maintenance, remediation,
 2 prevention, alteration, repair, im-
 3 provement, or restoration (including
 4 environmental restoration) activities
 5 for approved projects; and

6 (II) such other services as the
 7 Secretary considers to be appropriate.

8 (ii) REPAYMENT.—Subject to clause
 9 (iii), not later than 10 years after the date
 10 on which a qualified organization receives
 11 a loan under paragraph (1), the qualified
 12 organization shall repay to the Secretary of
 13 the Treasury an amount equal to not less
 14 than 25 percent of the amount of the loan
 15 (including interest at a rate less than or
 16 equal to the market interest rate).

17 (iii) WAIVER.—Not more frequently
 18 than once every 5 years, the Secretary, in
 19 consultation with the Secretary of the
 20 Treasury, may waive the requirements
 21 under clauses (i) and (ii) with respect to 1
 22 qualified organization.

23 (B) LONG-TERM MANAGEMENT AND REME-
 24 DIATION STRATEGIES.—The Secretary shall en-
 25 sure that no loan provided under paragraph (1)

1 is used to carry out a long-term management or
2 remediation strategy, unless the Governor or
3 applicable qualified organization demonstrates
4 either or both a reliable funding stream and in-
5 kind contributions to carry out the strategy
6 over the duration of the project.

7 (3) RENEWAL.—After reviewing the reports
8 under subsection (g), if the Secretary, in consulta-
9 tion with the Governor of each affected State, deter-
10 mines that a project is making satisfactory progress,
11 the Secretary may renew the loan provided under
12 this subsection for a period of not more than 3 addi-
13 tional fiscal years.

14 (g) REPORTS.—

15 (1) REPORTS TO SECRETARY.—For each year
16 during which a qualified organization receives a loan
17 under subsection (f), the qualified organization, in
18 conjunction with the Governor of the eligible State
19 in which the qualified organization is primarily lo-
20 cated, shall submit to the Secretary a report describ-
21 ing each project (including the results of the project)
22 carried out by the qualified organization using the
23 loan during that year.

24 (2) REPORT TO CONGRESS.—Not later than
25 September 30, 2011, and annually thereafter

1 through September 30, 2015, the Secretary shall
2 submit a report describing the total loan amount re-
3 quested by each eligible State during the preceding
4 fiscal year and the total amount of the loans pro-
5 vided under subsection (f)(1) to each eligible State
6 during that fiscal year, and an evaluation on effec-
7 tiveness of the Fund and the potential to expand the
8 Fund to other regions, to—

9 (A) the Committees on Appropriations,
10 Energy and Natural Resources, and Environ-
11 ment and Public Works of the Senate; and

12 (B) the Committees on Appropriations and
13 Natural Resources of the House of Representa-
14 tives.

15 (3) REPORT BY BORROWER.—

16 (A) IN GENERAL.—Each qualified organi-
17 zation that receives a loan under subsection
18 (f)(1) shall submit to the Secretary a report de-
19 scribing the use of the loan and the success
20 achieved by the qualified organization—

21 (i) not less frequently than once each
22 year until the date of expiration of the
23 loan; or

24 (ii) if the loan expires before the date
25 that is 1 year after the date on which the

1 loan is provided, at least once during the
2 term of the loan.

3 (B) INTERIM UPDATE.—In addition to the
4 reports required under subparagraph (A), each
5 qualified organization that receives a loan under
6 subsection (f)(1) shall submit to the Secretary,
7 electronically or in writing, a report describing
8 the use of the loan and the success achieved by
9 the qualified organization, expressed in chrono-
10 logical order with respect to the date on which
11 each project was initiated—

12 (i) not less frequently than once every
13 180 days until the date of expiration of the
14 loan; or

15 (ii) if the loan expires before the date
16 that is 180 days after the date on which
17 the loan is provided, on the date on which
18 the term of the loan is 50 percent com-
19 pleted.

20 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the Fund \$80,000,000
22 for each of fiscal years 2011 through 2015.

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