

103^D CONGRESS
1ST SESSION

H. R. 1749

To amend the Land and Water Conservation Fund Act of 1965 to increase the ability of State and local governments to protect and enhance open spaces, enhance the capability of State and local governments to provide recreational opportunities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1993

Mr. SMITH of New Jersey (for himself, Mr. HUFFINGTON, Mr. ROBERTS, Mr. RAVENAL, Mr. LAROCCHO, Mrs. MINK, Mr. SENSENBRENNER, Mr. SERRANO, Mr. PALLONE, Mr. HUGHES, Mr. TORRICELLI, Mr. MACHTLEY, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Land and Water Conservation Fund Act of 1965 to increase the ability of State and local governments to protect and enhance open spaces, enhance the capability of State and local governments to provide recreational opportunities, 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 “Community Enhance-
5 ment Act of 1993”.

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

2 (a) FINDINGS.—The Congress finds that—

3 (1) the population of the United States contin-
4 ues to expand and the availability of open space con-
5 tinues to decrease in many regions of the Nation, es-
6 pecially near large metropolitan areas;

7 (2) State governments and local communities
8 are increasingly hard-pressed to provide adequate
9 funding for recreation;

10 (3) State governments and local communities
11 have not received funding as intended under the
12 original Land and Water Conservation Fund Act in
13 which 60 percent of appropriated funds was ex-
14 pected to be dedicated to State and local purposes;

15 (4) the recreation and open space needs of
16 State governments and local communities have
17 changed and now represent a more dynamic and
18 fluid environment that requires greater flexibility in
19 the ways in which Federal funds can be used by the
20 States and communities;

21 (5) absent a secure base of funding, State and
22 local budgets are inadequate under current economic
23 circumstances to support the existing outdoor recre-
24 ation infrastructure established by such Act or to ex-
25 pand State and local recreational resources to meet
26 the population increases and changing demographic

1 configurations of citizens seeking outdoor recreation
2 opportunities;

3 (6) the States have not received an equitable
4 proportion of funding sufficient for their outdoor
5 recreation purposes as Congress intended in order to
6 encourage State and local action consistent with the
7 State's pivotal role in providing public outdoor recre-
8 ation;

9 (7) the public is increasingly supportive of link-
10 ing the protection of natural, historic, and cultural
11 resources;

12 (8) in addition to the benefits of outdoor recre-
13 ation on public health that are recognized by the
14 Land and Water Conservation Fund Act of 1965
15 (16 U.S.C. 460l-4 and following), outdoor recreation
16 and the availability of open space within urban areas
17 are effective in lowering vandalism and juvenile
18 crime, and provide healthy environments for public
19 accommodation, enjoyment, and exercise;

20 (9) urban and land use planners urgently rec-
21 ommend the increased use of "green spaces" in ur-
22 banized areas in order to mitigate environmental
23 and population impacts and protect surface and sub-
24 surface waters and wetlands that occur in or near
25 large populated areas; and

1 (10) the population of the United States contin-
2 ues to expand and the availability of open space con-
3 tinues to decrease in many regions of the United
4 States, especially near large metropolitan areas.

5 (b) PURPOSE.—It is the purpose of this Act to in-
6 crease assistance to States, local governments, and private
7 nonprofit organizations to carry out measures to protect
8 and preserve the recreational, environmental, natural, sce-
9 nic, historic, and cultural resources of areas of local, State,
10 regional, and interstate significance, for the benefit of
11 present and future generations of Americans.

12 **SEC. 3. FINANCIAL ASSISTANCE TO STATES.**

13 (a) STATE SHARE.—Section 5 of the Land and
14 Water Conservation Fund Act of 1965 (16 U.S.C. 460–
15 7) is amended—

16 (1) by inserting “(a)” before “ALLOCA-
17 TION.—”; and

18 (2) by adding the following new subsection at
19 the end thereof:

20 “(b) STATE ALLOCATION.—(1) Except as provided in
21 paragraph (2), for the fiscal year 1994 and thereafter not
22 less than the following percentage of appropriations from
23 the fund shall be available for purposes of providing finan-
24 cial assistance to States under section 6:

Fiscal Year	Minimum Allocation for Assistance to States
1994	30 percent
1995	40 percent
1996 and thereafter	50 percent”.

1 “(2) Paragraph (1) shall be applicable in fiscal year
2 1993 and thereafter only to the extent that compliance
3 with such paragraph does not have the effect of reducing
4 the amount of funds appropriated for Federal purposes
5 under section 7 in the fiscal year concerned below the total
6 amount appropriated for Federal purposes under section
7 7 in fiscal year 1992.”.

8 (b) USES OF STATE ASSISTANCE.—Section 6 of the
9 Land and Water Conservation Fund Act of 1965 (16
10 U.S.C. 460l–8) is amended as follows:

11 (1) MATCHING REQUIREMENTS.—In the first
12 sentence of subsection (c), by striking out the period
13 and inserting in lieu thereof the following: “, except
14 as otherwise provided in this subsection and sub-
15 section (h). Payments to States may cover not more
16 than 75 percent of the cost of acquisition of lands,
17 waters, and interests therein which (1) are within
18 the boundaries of units of the Wild and Scenic Riv-
19 ers System, (2) are within designated corridors of
20 scenic or historic trail components of the National
21 Trails System, or (3) are necessary or appropriate to
22 protect national historic landmarks or national natu-
23 ral landmarks. Payments to States may also cover

1 not more than 75 percent of the cost of revising
2 comprehensive State outdoor recreation plans to con-
3 form to the requirements of subsection (d)(2).”.

4 (2) PRIVATE NONPROFIT ORGANIZATIONS.—In
5 paragraph (2) of subsection (f), by striking out the
6 period at the end thereof and inserting the following:
7 “or to a qualified nonprofit organization, if such pri-
8 vate nonprofit organizations (A) meet and comply
9 with such guidelines for the receipt and use of such
10 funds as may be prescribed by the Secretary, includ-
11 ing providing full accountability for the use of such
12 funds, and (B) utilize such funds only in association
13 with the acquisition of lands, the development of fa-
14 cilities, or for programs related to planning and co-
15 ordination functions, all as approved in writing by
16 the funds grantor. Funds may also be transferred
17 from political subdivisions or other appropriate pub-
18 lic agencies to qualified nonprofit organizations. No
19 such funds may be used by a private nonprofit orga-
20 nization for administrative expenses. In the case of
21 funds used for acquisition, the recipient organization
22 shall itself hold, or shall convey in perpetuity in a
23 timely manner, such interest as it may have to an
24 appropriate recipient, as determined by the funds
25 grantor, for public benefit. For purposes of this

1 paragraph, the term ‘qualified nonprofit organiza-
2 tion’ means an organization qualified for exemption
3 from income taxes under section 501(c)(3) of the In-
4 ternal Revenue Code of 1986 which includes among
5 its purposes the conservation of open space or the
6 providing of, or enhancement or protection of, out-
7 door recreation opportunities.’’.

8 (3) DEVELOPMENT FUNDS.—Strike out the
9 colon and all that follows in subsection (e)(2) and
10 insert a period and the following: “For purposes of
11 this Act, the term ‘outdoor recreation facilities’ may
12 include sheltered facilities. Not more than 10 per-
13 cent of the total amount allocated to any State
14 under subsection (b) in any one fiscal year may be
15 used for development of sheltered facilities and for
16 non-routine maintenance of any facilities acquired
17 and developed with financial assistance under this
18 section. Nothing in the preceding sentence shall be
19 construed to authorize the use of funds provided
20 under this section for any other maintenance.’’.

21 (4) ADDITIONAL PROVISIONS.—Add the follow-
22 ing new subsection at the end thereof:

23 “(h) LOCAL PLANNING ASSISTANCE.—Notwithstand-
24 ing the provisions of subsection (c), any county or other
25 political subdivision of a State which is qualified to be a

1 recipient of funds allocated to the States from this Act
2 for acquisition purposes, may receive funds to cover not
3 more than 50 percent of the cost of developing a local
4 plan, or revising an existing plan, to retain land for recre-
5 ation and open space preservation purposes. Such plan
6 shall address specific needs and priorities for land con-
7 servation and recreation development. Such plan shall be
8 developed or revised by providing ample opportunity for
9 public participation in accordance with the provisions of
10 subsection (d). Following official adoption of such plan
11 and through September 30, 1997, such county or other
12 governmental entity may receive funds to cover not more
13 than 60 percent of the cost of the acquisition of lands,
14 waters or interests therein in accordance with the provi-
15 sions of such officially adopted plan.”.

16 (5) INDIAN TRIBES AND ALASKA NATIVE VIL-
17 LAGE CORPORATIONS.—In paragraph (5) of sub-
18 section (b), by inserting “(A)” after “(5)” and by
19 adding the following at the end thereof:

20 “(B)(i) For purposes of paragraph (1), feder-
21 ally recognized Indian tribes and Alaska Native Vil-
22 lage Corporations (as defined in section 3(j) of the
23 Alaska Native Claims Settlement Act (43 U.S.C.
24 1602(j)) shall be treated collectively as one State
25 and shall receive shares of the apportionment under

1 paragraph (1) in accordance with a competitive
2 grant program established by the Secretary by rule.
3 Such rule shall assure that no single tribe or village
4 corporation receives funds under such program in
5 any fiscal year which exceeds 10 percent of the total
6 amount made available in that fiscal year to all
7 tribes and village corporations pursuant to the ap-
8 portionment under paragraph (1). Funds received by
9 an Indian tribe or village corporation under this sub-
10 paragraph may be expended only for the purposes
11 specified in subsection (a) (1) and (3).

12 “(ii) In each fiscal year, in lieu of receiving
13 funds under clause (i), a tribe or Village Corporation
14 may establish, by written agreement with the State
15 in which the tribe or Corporation is located, the
16 right of the tribe or Village Corporation to compete
17 for a portion of the funds made available to the
18 State pursuant to this section. Any tribe or corpora-
19 tion which enters into an agreement under this
20 clause shall not be included as part of the collective
21 allocation under clause (i) or within the 10 percent
22 limitation referred to in clause (i). Each State’s
23 comprehensive statewide outdoor recreation plan
24 shall describe any agreement entered into pursuant
25 to this clause.”.

1 **SEC. 4. STATEWIDE COMPREHENSIVE OUTDOOR RECRE-**
2 **ATION PLANS.**

3 Section 6(d) of the Land and Water Conservation
4 Fund Act of 1965 (16 U.S.C. 460l-8(d)) is amended by
5 inserting “(1)” immediately after the subsection heading,
6 by redesignating paragraphs (1), (2), (3) and (4) as sub-
7 paragraphs (A), (B), (C), and (D), respectively, and by
8 adding the following at the end thereof:

9 “(2) For fiscal year 1995 and thereafter, each state-
10 wide outdoor recreation plan shall contain each of the
11 following:

12 “(A) A brief description of Federal and State
13 activities that adversely affect open space and rec-
14 reational resources in the State.

15 “(B) A brief and concise evaluation of the ex-
16 tent, in general, to which local zoning or the lack of
17 zoning contributes to degradation of State and local
18 projects funded with assistance provided under this
19 Act.”.

20 **SEC. 5. OPEN SPACE PRESERVATION.**

21 The Land and Water Conservation Fund Act of 1965
22 (16 U.S.C. 460l-4 and following) is amended by adding
23 the following new title at the end thereof:

1 **“TITLE III—OPEN SPACE**
2 **PRESERVATION**

3 **“SEC. 301. ESTABLISHMENT.**

4 “There is hereby established a program to provide
5 Federal assistance to States, counties, municipalities, re-
6 gional or interstate governments, or an agency thereof,
7 private nonprofit organizations, or any combination there-
8 of, to carry out programs and projects to provide public
9 benefit through the protection or establishment of the
10 following:

11 “(1) Greenways, which shall be linear parks or
12 open spaces linking natural and cultural features
13 within or near metropolitan areas. Such linear open
14 spaces may be established along a natural or other
15 existing corridor. Such linked strip or linear parks
16 designated as parkways or greenbelts shall provide
17 for outdoor recreation and may additionally provide
18 natural or landscaped alternative transportation
19 routes, wildlife habitat, improvement of air and
20 water quality, increased flood control, and other at-
21 tributes of open space important to human health
22 and welfare.

23 “(2) Urban Open Space Preserves, which shall
24 be open spaces with natural, rural, or agricultural
25 character within large metropolitan areas. Such des-

1 ignated open spaces shall provide recreational oppor-
2 tunities and may additionally increase social, aes-
3 thetic, and environmental qualities of neighborhoods
4 and communities, and may provide wildlife habitat,
5 and migration corridors, improve air quality, in-
6 crease protection from floods and other natural haz-
7 ards, conserve agricultural or forest resources, create
8 community buffers or enable the maintenance of
9 other attributes of open space important to human
10 health and welfare.

11 **“SEC. 302. STUDIES.**

12 “(a) GENERAL AUTHORITY.—Pursuant to an author-
13 ization by Act of Congress, the Secretary of the Interior,
14 or the Secretary of the Interior in cooperation with the
15 Secretary of Agriculture, shall carry out such studies
16 under this section as are hereafter authorized by the Con-
17 gress for the purpose of evaluating the extent to which
18 Federal assistance under section 303 for areas specified
19 in any such congressional authorization would further the
20 objectives specified in paragraph (1) or (2) of section 301
21 as well as whether such assistance would—

22 “(1) maximize cooperation between govern-
23 mental and private entities;

24 “(2) permit or enhance the linking of other ex-
25 isting or potential open space units; and

1 “(3) demonstrate the values of open space and
2 reduce the social and economic pressures threatening
3 the continued availability of open space resources.

4 A study under this section shall be carried out by the Sec-
5 retary in consultation with interested local, State, and
6 interstate agencies, public and private organizations, and
7 concerned landowners and land users. The Secretary shall
8 have authority to contract with an appropriate State
9 agency to conduct such studies.

10 “(b) ITEMS INCLUDED IN STUDY.—Each study of an
11 area pursuant to this section shall include each of the
12 following:

13 “(1) A map of the study area.

14 “(2) A statement of or strategy for developing
15 a statement of goals and policies to guide the future
16 of the area under study.

17 “(3) A description of the characteristics of the
18 area which make the proposed area worthy of assist-
19 ance under section 303. Such description shall in-
20 clude a summary of any comments submitted by any
21 government agency, public or private organization,
22 or affected landowner or land user.

23 “(4) An analysis of the current status of public
24 and private land ownership and an analysis of cur-
25 rent public and private land use within the area, in-

1 including an assessment of the attitudes of landowners
2 and local officials toward present and future uses of
3 the study area.

4 “(5) An analysis of measures which have been
5 or may be taken by Federal, State, and local govern-
6 ments, and by all other private and public entities
7 to protect, preserve, and enhance, the recreational,
8 environmental, natural, aesthetic, historic, and cul-
9 tural values of the area, and the associated costs.

10 “(6) An analysis of economic and social benefits
11 and costs which may result from current and alter-
12 native land use scenarios.

13 “(7) A public involvement plan.

14 “(8) A strategy for identifying sources of reve-
15 nues and assistance to aid in the future manage-
16 ment or protection of the area.

17 “(c) SUBMISSION TO CONGRESS; OTHER STUDIES.—

18 Upon his completion of any study carried out by the Sec-
19 retary under this section, the Secretary shall submit such
20 study to Congress. Any study initiated and conducted by
21 any State or local government or by any nonprofit organi-
22 zation regarding the preservation of an open space area
23 referred to in section 301 may be submitted to the Sec-
24 retary in lieu of a study conducted by the Secretary. Un-
25 less the Secretary finds, after notice and public hearing,

1 that such study has not been carried out in consultation
2 with interested local, State, and interstate agencies, public
3 and private organizations, and landowners and land users
4 concerned or that the study is not generally consistent
5 with subsections (a) and (b) of this section, the Secretary
6 shall submit such study to the Congress, together with any
7 comments which the Secretary deems appropriate within
8 6 months after his receipt thereof.

9 **“SEC. 303. OPEN SPACE PROTECTION ASSISTANCE.**

10 “(a) IN GENERAL.—Following receipt of a study sub-
11 mitted under section 302 regarding the need for Federal
12 financial assistance to preserve and protect any open space
13 area described in section 301 the Congress may authorize
14 appropriations to the Secretary of the Interior to be ex-
15 pended by the Secretary or by the Secretary in cooperation
16 with the Secretary of Agriculture to provide assistance in
17 the form of grants to States, counties, municipalities, re-
18 gional or interstate governments, or an agency thereof, or
19 private nonprofit organizations, or any combination there-
20 of, to carry out programs and projects designed to pre-
21 serve and protect such area.

22 “(b) PRIVATE NONPROFIT ORGANIZATIONS.—Fed-
23 eral assistance may be provided to a qualified nonprofit
24 organization (as defined in the provisions of section
25 6(f)(2)) if such organization meets and complies with the

1 same requirements as specified in section 6(f)(2) for quali-
2 fied organizations receiving funds under those provisions.

3 “(c) MATCHING REQUIREMENTS.—Assistance under
4 this title shall cover not more than 50 percent of the cost
5 of projects that are undertaken. The remaining share of
6 the cost shall be borne by the recipient in a manner and
7 with such funds or services as shall be satisfactory to the
8 Secretary. No payment may be made to any recipient for
9 or on account of any cost or obligation incurred or any
10 service rendered prior to the date of approval of this
11 title.”.

12 **SEC. 6. LOANS FOR RECREATION AND OPEN SPACE PRO-**
13 **TECTION.**

14 The Land and Water Conservation Fund Act of 1965
15 (16 U.S.C. 4601–4 and following), as amended by section
16 5, is further amended by adding the following new title
17 after title III:

18 **“TITLE IV—EMERGENCY RECRE-**
19 **ATION AND OPEN SPACE PRO-**
20 **TECTION LOAN FUND**

21 **“SEC. 401. EMERGENCY RECREATION AND OPEN SPACE**
22 **PROTECTION LOAN FUND.**

23 “(a) LOAN ASSISTANCE.—In addition to the alloca-
24 tion under section 5(a) for Federal purposes under section
25 7, and the allocation under section 5(b) for financial as-

1 sistance to States under section 6, of the amounts avail-
2 able in the fund for fiscal years after fiscal year 1993,
3 such sums as may be necessary are authorized to be ap-
4 propriated to finance the subsidy costs of not more than
5 \$250,000,000 in direct loans made by the Secretary of the
6 Interior for purposes as provided in this section.

7 “(b) ADMINISTRATIVE PROVISIONS.—No loan, in-
8 cluding any renewal or extension thereof, shall be made
9 under this section for a period exceeding 30 years. Each
10 such loan shall bear interest at a rate determined by the
11 Secretary of the Treasury taking into consideration the
12 current average market yield on outstanding marketable
13 obligations of the United States with remaining periods
14 of maturity comparable to the average maturity of such
15 loan, adjusted to the nearest one-half of 1 percent, less
16 not to exceed 4 percent per year. The recipient of each
17 such loan shall be required to pay to the Secretary a one
18 percent loan origination fee at the time the loan is made.
19 No loan may be made under this section unless the Sec-
20 retary determines that there is a reasonable assurance of
21 repayment. No loan may be made under this section unless
22 the financial assistance provided pursuant to such loan is
23 not otherwise available to the recipient from private lend-
24 ers or from other sources within the necessary time frame
25 and in a manner which, in the opinion of the Secretary,

1 will permit the timely accomplishment of the project for
2 which such loan is made or which cannot be obtained for
3 reasonable terms.

4 “(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The
5 Secretary may make loans under this section to States,
6 counties, municipalities, special districts, regional or inter-
7 state governments or an agency thereof if the Secretary
8 determines that the recreational resources associated with
9 the loan request are of vital significance to the community
10 and are in imminent danger of damage or when an oppor-
11 tunity to address a severe recreation deficiency will be
12 foregone. Such loans may be made available for—

13 “(1) any project or program which would pro-
14 vide outdoor recreation through acquisition of land,
15 waters, or interest in land or water, or development
16 of basic outdoor recreation facilities to serve the gen-
17 eral public, or which provide public benefit, or

18 “(2) project costs which are nonrecurring or
19 nonroutine and which are required for the construc-
20 tion, rehabilitation and maintenance of public rec-
21 reational facilities.

22 Entities with public facilities eligible for funds under this
23 provision shall demonstrate to the Secretary that the work
24 funded is necessary in order to meet vital recreational
25 needs without which, in the opinion of the Secretary, the

1 health and welfare of the public will be adversely impacted.

2 No funds shall be available under this section for routine

3 operation and maintenance expenses.

4 Funds available through this loan program may not be

5 used for planning purposes.

6 “(d) SPECIAL PROVISIONS.—Funding under this sec-

7 tion shall be available for up to 100 percent of the costs

8 of the program or project for which such funding is pro-

9 vided, but, in selecting projects to be funded, the Secretary

10 shall give a priority to those projects for which there is

11 partial funding from one or more other sources and to

12 projects which involve private contributions, including con-

13 tributions in kind.

14 “(e) ADVISORY BOARD.—The Secretary shall estab-

15 lish an advisory board to assist in the selection of projects

16 to receive assistance under this section, and to assure the

17 terms and conditions of agreement for the loan are mon-

18 itored and maintained. The advisory board shall review all

19 applications for assistance submitted under this section in

20 a timely manner as required to support the intent of the

21 provisions of this section and make recommendations to

22 the Secretary regarding the funding of such projects. The

23 Board shall act on each eligible request no more than 60

24 days from receipt of the application. The Secretary shall

25 respond within 30 days of the Board’s recommendation

1 through either award of the loan or notification to the ap-
2 plicant that an assistance will not be made. No project
3 shall receive assistance under this section until the Sec-
4 retary has received the recommendations of the advisory
5 board. The Secretary has the authority to promulgate such
6 regulations as may be required to carry out the provisions
7 of this title.”.

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