

106TH CONGRESS
1ST SESSION

S. 532

To provide increased funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Programs, to resume the funding of the State grants program of the Land and Water Conservation Fund, and to provide for the acquisition and development of conservation and recreation facilities and programs in urban areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1999

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide increased funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Programs, to resume the funding of the State grants program of the Land and Water Conservation Fund, and to provide for the acquisition and development of conservation and recreation facilities and programs in urban areas, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Public Land and
3 Recreation Investment Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the Land and Water Conservation Fund Act
7 of 1965 (16 U.S.C. 460l–4 et seq.) has been critical
8 in acquiring land to protect America’s national
9 parks, forests, wildlife refuges, and public land in all
10 50 States from potential development and in improv-
11 ing recreational opportunities for all Americans;

12 (2) the Land and Water Conservation Fund has
13 helped to preserve nearly 7,000,000 acres of Ameri-
14 ca’s most special places, from the California Desert
15 to the Everglades, in part by providing grants that
16 have helped States purchase over 2,000,000 acres of
17 parkland and open space;

18 (3) although amounts in the Land and Water
19 Conservation Fund are meant to be used only for
20 conservation and recreation purposes, since 1980
21 Congress and the President have diverted much of
22 this vital funding for deficit reduction and other
23 budgetary purposes;

24 (4) because of chronic shortages in funding for
25 the Land and Water Conservation Fund, the backlog
26 of Federal acquisition needs now totals over

1 \$10,000,000,000; the backlog includes key wetlands,
2 watersheds, wilderness, and wildlife habitat and im-
3 portant historic, cultural, and recreational sites;

4 (5) the findings of the 1995 National Biological
5 Service study entitled “Endangered Ecosystems of
6 the United States: A Preliminary Assessment of
7 Loss and Degradation” demonstrate the need to es-
8 calate conservation measures that protect the Na-
9 tion’s wildlands and wildlife habitats;

10 (6) lack of funding for the State grants portion
11 of the Land and Water Conservation Fund has ham-
12 pered State and local efforts to protect parklands,
13 coastlines, habitat areas, and open space from devel-
14 opment;

15 (7) recreation needs in America’s cities have
16 been neglected, in part because the Urban Park and
17 Recreation Recovery Act of 1978 (16 U.S.C. 2501
18 et seq.) has not been funded since 1995;

19 (8) at the same time that Federal investment in
20 conservation and recreation has shrunk, demand for
21 outdoor recreation has skyrocketed: visits to our
22 public lands have increased dramatically in recent
23 years, and the national survey on recreation and the
24 environment conducted by the Forest Service indi-

1 cates substantial growth in most outdoor activities;
2 and

3 (9) increased investment in conservation and
4 recreation is essential to maintaining America's envi-
5 ronmental quality and high quality of life.

6 **SEC. 3. PURPOSES.**

7 The purposes of this Act are—

8 (1) to ensure that funding is available without
9 further Act of appropriation to the Land and Water
10 Conservation Fund and the Urban Park and Recre-
11 ation Recovery Program;

12 (2) to protect the Nation's parklands, wildlife
13 habitat, and recreational resources;

14 (3) to revive the State grants portion of the
15 Land and Water Conservation Fund; and

16 (4) to ensure that local governments and Indian
17 tribes receive a fair share of proceeds from the Land
18 and Water Conservation Fund.

19 **SEC. 4. LAND AND WATER CONSERVATION FUND.**

20 (a) APPROPRIATIONS.—Section 3 of the Land and
21 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
22 6) is amended—

23 (1) by striking “SEC. 3. APPROPRIATIONS.—
24 Moneys” and inserting the following:

1 **“SEC. 3. APPROPRIATIONS.**

2 “(a) IN GENERAL.—Moneys”;

3 (2) by striking the third sentence; and

4 (3) by adding at the end the following:

5 “(b) PERMANENT APPROPRIATION.—There is appro-
6 priated out of the fund to carry out this Act \$900,000,000
7 for each fiscal year, to remain available until expended.”.

8 (b) ALLOCATION OF FUND.—Section 5 of the Land
9 and Water Conservation Fund Act of 1965 (16 U.S.C.
10 460l–7) is amended—

11 (1) by striking the first, second, and third sen-
12 tences and inserting the following:

13 “(a) IN GENERAL.—Of amounts annually available to
14 carry out this Act for any fiscal year—

15 “(1) 40 percent shall be allocated for financial
16 assistance to States under section 6, of which not
17 less than 50 percent shall be directed to local gov-
18 ernments to provide natural areas, open space, park-
19 land, wildlife habitat, and recreation areas;

20 “(2) 50 percent shall be allocated for Federal
21 purposes under section 7; and

22 “(3) 10 percent shall be allocated for grants to
23 local governments under the Urban Park and Recre-
24 ation Recovery Act of 1978 (16 U.S.C. 2501 et
25 seq.).”; and

1 (2) by striking “There shall be” and inserting
2 the following:

3 “(b) SPECIAL ACCOUNT.—There shall be”.

4 (c) FINANCIAL ASSISTANCE TO STATES.—

5 (1) IN GENERAL.—Section 6 of the Land and
6 Water Conservation Fund Act of 1965 (16 U.S.C.
7 460l–8) is amended—

8 (A) in subsection (b)—

9 (i) in paragraph (1), by striking
10 “forty per centum” and all that follows
11 through “twenty per centum” and insert-
12 ing “30 percent of the first \$225,000,000
13 and 20 percent”; and

14 (ii) by adding at the end the follow-
15 ing:

16 “(6) INDIAN TRIBES.—

17 “(A) DEFINITION.—In this paragraph, the
18 term ‘Indian tribe’ means an Indian or Alaska
19 Native tribe, band, nation, pueblo, village, or
20 community that the Secretary of the Interior
21 recognizes as an Indian tribe under section 104
22 of the Federally Recognized Indian Tribe List
23 Act of 1994 (25 U.S.C. 479a–1).

24 “(B) APPORTIONMENT.—For the purposes
25 of paragraph (1), the Indian tribes—

1 “(i) shall be treated collectively as 1
2 State; and

3 “(ii) shall receive shares of their col-
4 lective apportionment under that para-
5 graph in amounts to be determined by the
6 Secretary of the Interior.

7 “(C) OTHER TREATMENT.—For all other
8 purposes of this title, each Indian tribe shall be
9 treated as a State, except that—

10 “(i) an Indian tribe shall not be re-
11 quired to direct 50 percent of the financial
12 assistance provided under this Act to local
13 governments; and

14 “(ii) an Indian tribe may use financial
15 assistance provided under this Act only if
16 the Indian tribe provides assurances, sub-
17 ject to the approval of the Secretary, that
18 the Indian tribe will maintain conservation
19 and recreation opportunities to the public
20 at large in perpetuity on land and facilities
21 funded under this Act.

22 “(D) LIMITATION.—For any fiscal year, no
23 single Indian tribe shall receive more than 10
24 percent of the total amount made available

1 under paragraph (1) to all Indian tribes, collec-
 2 tively.”;

3 (B) by striking subsection (d) and insert-
 4 ing the following:

5 “(d) STATE ACTION AGENDAS.—

6 “(1) IN GENERAL.—To qualify for financial as-
 7 sistance under this section, a State, in consultation
 8 with local subdivisions, nonprofit and other private
 9 organizations, and interested citizens, shall prepare
 10 and submit to the Secretary a State action agenda
 11 for recreation, open space, and conservation that
 12 identifies the State’s recreation, open space, and
 13 conservation needs and priorities.

14 “(2) REQUIREMENTS.—A State action
 15 agenda—

16 “(A) shall take into account long-term
 17 recreation, open space, and conservation needs
 18 (including preservation of habitat for threat-
 19 ened and endangered species and other species
 20 of conservation concern) but focus on actions
 21 that can be funded over a 4-year period;

22 “(B) shall be updated every 4 years and
 23 approved by the Governor;

1 “(C) shall be considered in an active public
 2 involvement process that includes public hear-
 3 ings around the State;

4 “(D) shall take into account activities and
 5 priorities of managers of conservation land,
 6 open space, and recreation land in the State, in-
 7 cluding Federal, regional, local, and nonprofit
 8 agencies; and

9 “(E) to the extent practicable, shall be co-
 10 ordinated with other State, regional, and local
 11 plans for parks, recreation, open space, and
 12 wetland conservation.

13 “(3) USE OF RECOVERY ACTION PLANS.—A
 14 State shall use recovery action plans developed by
 15 local governments under section 1007 of the Urban
 16 Park and Recreation Recovery Act of 1978 (16
 17 U.S.C. 2506) as a guide in formulating the conclu-
 18 sions and action items contained in the State action
 19 agenda.”; and

20 (C) by striking subsection (f)(3) and in-
 21 serting the following:

22 “(3) CONVERSION OF USE OF PROPERTY.—

23 “(A) IN GENERAL.—No property acquired
 24 or developed with assistance under this section
 25 may be converted to a use other than use for

1 recreation, open space, or conservation without
 2 the approval of the Secretary.

3 “(B) APPROVAL.—

4 “(i) IN GENERAL.—The Secretary
 5 may approve a conversion of use of prop-
 6 erty under subparagraph (A) if the State
 7 demonstrates that—

8 “(I) no prudent or feasible alter-
 9 native to conversion of the use of the
 10 property exists;

11 “(II) because of changes in de-
 12 mographics, the property is no longer
 13 viable for use for recreation, open
 14 space, or conservation; or

15 “(III) the property must be
 16 abandoned because of environmental
 17 contamination that endangers public
 18 health or safety.

19 “(ii) SUBSTITUTION OF OTHER PROP-
 20 erty.—

21 “(I) IN GENERAL.—Conversion
 22 of the use of property shall satisfy any
 23 condition that the Secretary considers
 24 necessary to ensure that—

1 “(aa) the substituted prop-
 2 erty is property in the State that
 3 is of at least equal market value
 4 and reasonably equivalent useful-
 5 ness and location; and

6 “(bb) the use of the sub-
 7 stituted property for recreation,
 8 open space, or conservation is
 9 consistent with the State action
 10 agenda.

11 “(II) WETLAND AREAS.—A wet-
 12 land area or interest in a wetland area
 13 (as identified in the wetland provi-
 14 sions of the State action agenda) that
 15 is proposed to be acquired as a suit-
 16 able substitute property and that is
 17 otherwise acceptable to the Secretary
 18 shall be considered to be of reasonably
 19 equivalent usefulness to the property
 20 proposed for conversion.”.

21 (2) TRANSITION PROVISION.—Any comprehen-
 22 sive statewide outdoor recreation plan developed by
 23 a State under section 6(d) of the Land and Water
 24 Conservation Fund Act of 1965 (16 U.S.C. 460l–
 25 8(d)) before the date that is 5 years after the date

1 of enactment of this Act shall remain in effect in the
 2 State until a State action agenda has been adopted
 3 in accordance with the amendment made by para-
 4 graph (1), but not later than 5 years after the date
 5 of enactment of this Act.

6 (3) CONFORMING AMENDMENTS.—

7 (A) Section 6 of the Land and Water Con-
 8 servation Fund Act of 1965 (16 U.S.C. 460l–
 9 8(e)) is amended—

10 (i) in subsection (e)—

11 (I) in the matter preceding para-
 12 graph (1), by striking “State com-
 13 prehensive plan” and inserting “State
 14 action agenda”; and

15 (II) in paragraph (1), by striking
 16 “, or wetland areas and interests
 17 therein as identified in the wetlands
 18 provisions of the comprehensive plan”;
 19 and

20 (ii) in subsection (f)(3)—

21 (I) in the second sentence, by
 22 striking “then existing comprehensive
 23 statewide outdoor recreation plan”
 24 and inserting “State action agenda”;
 25 and

1 (II) by striking “: *Provided,*” and
2 all that follows.

3 (B) Section 32(e) of the Bankhead-Jones
4 Farm Tenant Act (7 U.S.C. 1011(e)) is amend-
5 ed in the last proviso of the first paragraph by
6 striking “existing comprehensive statewide out-
7 door recreation plan found adequate for pur-
8 poses of the Land and Water Conservation
9 Fund Act of 1965 (78 Stat. 897)” and insert-
10 ing “State action agenda required by section 6
11 of the Land and Water Conservation Fund Act
12 of 1965 (16 U.S.C. 460l–8)”.

13 (C) Section 102(a)(2) of the National His-
14 toric Preservation Act (16 U.S.C. 470b(a)(2))
15 is amended by striking “comprehensive state-
16 wide outdoor recreation plan prepared pursuant
17 to the Land and Water Conservation Fund Act
18 of 1965 (78 Stat. 897)” and inserting “State
19 action agenda required by section 6 of the Land
20 and Water Conservation Fund Act of 1965 (16
21 U.S.C. 460l–8)”.

22 (D) Section 8(a) of the National Trails
23 System Act (16 U.S.C. 1247(a)) is amended in
24 the first sentence—

(i) by striking “comprehensive statewide outdoor recreation plans” and inserting “State action agendas”; and

(ii) by inserting “of 1965 (16 U.S.C. 460l–4 et seq.)” after “Fund Act”.

(E) Section 11(a)(2) of the National Trails System Act (16 U.S.C. 1250(a)(2)) is amended by striking “(relating to the development of Statewide Comprehensive Outdoor Recreation Plans)” and inserting “(16 U.S.C. 460l–8) (relating to the development of State action agendas”.

(F) Section 11 of the Wild and Scenic Rivers Act (16 U.S.C. 1282) is amended—

(i) in subsection (a)—

(I) by striking “comprehensive statewide outdoor recreation plans” and inserting “State action agendas”; and

(II) by striking “(78 Stat. 897)” and inserting “(16 U.S.C. 460l–4 et seq.)”; and

(ii) in subsection (b)(2)(B), by striking “(relating to the development of statewide comprehensive outdoor recreation

1 plans)” and inserting “(16 U.S.C. 460l–8)
 2 (relating to the development of State ac-
 3 tion agendas”.

4 (G) Section 1008 of the Urban Park and
 5 Recreation Recovery Act of 1978 (16 U.S.C.
 6 2507) is amended in the last sentence by strik-
 7 ing “statewide comprehensive outdoor recre-
 8 ation plans” and inserting “State action agen-
 9 das required by section 6 of the Land and
 10 Water Conservation Fund Act of 1965 (16
 11 U.S.C. 460l–8)”.

12 (H) Section 206(d) of title 23, United
 13 States Code, is amended—

14 (i) in paragraph (1)(B), by striking
 15 “statewide comprehensive outdoor recre-
 16 ation plan required by the Land and Water
 17 Conservation Fund Act of 1965 (16 U.S.C.
 18 460l–4 et seq.)” and inserting “State ac-
 19 tion agenda required by section 6 of the
 20 Land and Water Conservation Fund Act of
 21 1965 (16 U.S.C. 460l–8)”;

22 (ii) in paragraph (2)(D)(ii), by strik-
 23 ing “statewide comprehensive outdoor
 24 recreation plan that is required by the
 25 Land and Water Conservation Fund Act of

1 1965 (16 U.S.C. 460l–4 et seq.)” and in-
 2 serting “State action agenda that is re-
 3 quired by section 6 of the Land and Water
 4 Conservation Fund Act of 1965 (16 U.S.C.
 5 460l–8)”.

6 (I) Section 202(c)(9) of the Federal Land
 7 Policy and Management Act of 1976 (43 U.S.C.
 8 1712(c)(9)) is amended by striking “statewide
 9 outdoor recreation plans developed under the
 10 Act of September 3, 1964 (78 Stat. 897), as
 11 amended” and inserting “State action agendas
 12 required by section 6 of the Land and Water
 13 Conservation Fund Act of 1965 (16 U.S.C.
 14 460l–8)”.

15 (d) FEDERAL PURPOSES.—Section 7 of the Land and
 16 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
 17 9) is amended by adding at the end the following:

18 “(d) PRIORITY ACQUISITIONS.—

19 “(1) IN GENERAL.—As part of the annual
 20 budget request under section 1105 of title 31,
 21 United States Code, for each fiscal year, the Presi-
 22 dent shall submit a list of priority acquisitions for
 23 expenditure of the Federal allocation under this sec-
 24 tion.

1 “(2) CONSULTATION.—The Federal priority list
2 shall be prepared in consultation with the Secretary
3 of Agriculture and the Secretary of the Interior.

4 “(3) CONSIDERATIONS.—In preparing the pri-
5 ority list, the agency heads shall consider—

6 “(A) the potential adverse impacts that
7 might result if the acquisition were not under-
8 taken;

9 “(B) the availability of appraisals of land,
10 water, or interests in land or water and other
11 information necessary to complete the acquisi-
12 tion in a timely manner;

13 “(C) the conservation and recreational val-
14 ues that the acquired land, water, or interest in
15 land or water will provide; and

16 “(D) any other factors that the agency
17 heads consider appropriate.

18 “(4) USE OF FUNDS.—An agency head shall ex-
19 pend funds appropriated for a fiscal year for acquisi-
20 tions in the order of priority specified in the budget
21 request unless Congress, in the general appropria-
22 tion Act for the fiscal year, specifies a different
23 order of priority or list of priorities.”.

1 **SEC. 5. URBAN PARK AND RECREATION RECOVERY PRO-**
 2 **GRAM.**

3 (a) DEFINITIONS.—Section 1004 of the Urban Park
 4 and Recreation Recovery Act of 1978 (16 U.S.C. 2503)
 5 is amended—

6 (1) in subsection (j), by striking “and” at the
 7 end;

8 (2) in subsection (k), by striking the period at
 9 the end and inserting a semicolon; and

10 (3) by adding at the end the following:

11 “(l) ‘acquisition grant’ means a matching capital
 12 grant to a general purpose local government to cover the
 13 direct and incidental costs of purchasing new parkland to
 14 be permanently dedicated for public conservation and
 15 recreation; and

16 “(m) ‘development and construction grant’ means a
 17 matching capital grant to a general purpose local govern-
 18 ment to cover costs of development and construction of
 19 existing or new neighborhood recreation sites, including
 20 indoor and outdoor recreation facilities.”.

21 (b) ELIGIBILITY OF GENERAL PURPOSE LOCAL GOV-
 22 ERNMENTS.—Section 1005 of the Urban Park and Recre-
 23 ation Recovery Act of 1978 (16 U.S.C. 2504) is amended
 24 by striking “SEC. 1005.” and all that follows through sub-
 25 section (a) and inserting the following:

1 **“SEC. 1005. ELIGIBILITY.**

2 “(a) ELIGIBILITY OF GENERAL PURPOSE LOCAL
3 GOVERNMENTS.—

4 “(1) ELIGIBILITY LIST.—Not later than 120
5 days after the date of enactment of this paragraph
6 and periodically thereafter, the Secretary shall pub-
7 lish in the Federal Register—

8 “(A) a list of general purpose local govern-
9 ments eligible for assistance under this Act; and

10 “(B) a description of the criteria used in
11 determining eligibility.

12 “(2) CRITERIA.—The criteria for determining
13 eligibility shall be based on factors that the Sec-
14 retary determines are related to—

15 “(A) deteriorated recreational facilities or
16 systems;

17 “(B) economic distress; and

18 “(C) lack of recreational opportunity.”.

19 (c) GRANTS.—The Urban Park and Recreation Re-
20 covery Act of 1978 is amended by striking section 1006
21 (16 U.S.C. 2505) and inserting the following:

22 **“SEC. 6. GRANTS.**

23 “(a) IN GENERAL.—The Secretary may provide an
24 acquisition grant, development and construction grant, in-
25 novation grant, or rehabilitation grant to a general pur-
26 pose local government on approval by the Secretary of an

1 application made by the chief executive officer of the local
2 government.

3 “(b) FEDERAL SHARE.—The Federal share of a
4 project undertaken with a grant under subsection (a) shall
5 not exceed 70 percent.

6 “(c) TRANSFER OF GRANT.—

7 “(1) IN GENERAL.—With the consent of the
8 Secretary, and if consistent with an approved appli-
9 cation, an acquisition grant, development and con-
10 struction grant, innovation grant, or rehabilitation
11 grant may be transferred in whole or in part to a
12 special purpose local government, private nonprofit
13 agency or political subdivision, or regional park au-
14 thority.

15 “(2) ASSURANCES.—A transferee of a grant
16 shall provide an assurance that the transferee will
17 maintain public conservation and recreation opportu-
18 nities in perpetuity at facilities funded with the
19 grant funds.

20 “(d) GRANT PAYMENTS.—

21 “(1) ADVANCE APPROVAL.—Payment of a grant
22 under subsection (a) may be made only for a project
23 that the Secretary has approved in advance.

24 “(2) PROGRESS PAYMENTS.—Payment of a
25 grant under subsection (a) may be made from time

1 to time in keeping with the rate of progress toward
 2 completion of a project, on a reimbursable basis.”.

3 (d) CONVERSION OF USE OF PROPERTY.—The
 4 Urban Park and Recreation Recovery Act of 1978 is
 5 amended by striking section 1010 (16 U.S.C. 2509) and
 6 inserting the following:

7 **“SEC. 1010. CONVERSION OF USE OF PROPERTY.**

8 “(a) IN GENERAL.—No property acquired, improved,
 9 or developed under this title may be converted to a use
 10 other than use for public recreation without the approval
 11 of the Secretary.

12 “(b) APPROVAL.—

13 “(1) IN GENERAL.—The Secretary may approve
 14 a conversion of use of property under subsection (a)
 15 if the grant recipient demonstrates that—

16 “(A) no prudent or feasible alternative to
 17 conversion of the use of the property exists;

18 “(B) because of changes in demographics,
 19 the property is no longer viable for use for
 20 recreation; or

21 “(C) the property must be abandoned be-
 22 cause of environmental contamination that en-
 23 dangers public health or safety.

24 “(2) SUBSTITUTION OF OTHER PROPERTY.—
 25 Conversion of the use of property shall satisfy any

1 condition that the Secretary considers necessary to
2 ensure that—

3 “(A) the substituted property is of at least
4 equal market value and reasonably equivalent
5 usefulness and location; and

6 “(B) the use of the substituted property
7 for recreation is consistent with the current
8 recreation recovery action program.”.

9 (e) LIMITATION ON USE OF FUNDS.—Section 1014
10 of the Urban Park and Recreation Recovery Act of 1978
11 (16 U.S.C. 2513) is repealed.

○