

118TH CONGRESS
1ST SESSION

S. 1358

To amend the Water Resources Development Act of 1992 and the Flood Control Act of 1968 to provide for provisions relating to collection and retention of user fees at recreation facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mr. CRAMER (for himself and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Water Resources Development Act of 1992 and the Flood Control Act of 1968 to provide for provisions relating to collection and retention of user fees at recreation facilities, 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 “Lake Access Keeping
5 Economies Strong Act” or the “LAKES Act”.

1 **SEC. 2. CHALLENGE COST-SHARING PROGRAM FOR MAN-**
 2 **AGEMENT OF RECREATION FACILITIES.**

3 Section 225 of the Water Resources Development Act
 4 of 1992 (33 U.S.C. 2328) is amended—

5 (1) by redesignating subsections (a) through (d)
 6 as subsections (b) through (e), respectively;

7 (2) by inserting before subsection (b) (as so re-
 8 designated) the following:

9 “(a) **DEFINITIONS.**—In this section:

10 “(1) **NON-FEDERAL PUBLIC ENTITY.**—The term
 11 ‘non-Federal public entity’ means a non-Federal
 12 public entity as defined in the document of the
 13 Corps of Engineers entitled ‘Implementation Guid-
 14 ance for Section 1155 of the Water Resources Devel-
 15 opment Act of 2016 (WRDA 2016), Management of
 16 Recreation Facilities’ and dated April 4, 2018.

17 “(2) **PRIVATE NONPROFIT ENTITY.**—The term
 18 ‘private nonprofit entity’ means an organization that
 19 is described in section 501(c) of the Internal Rev-
 20 enue Code of 1986 and exempt from taxation under
 21 section 501(a) of that Code.”;

22 (3) in subsection (b) (as so redesignated), by
 23 striking the subsection designation and heading and
 24 all that follows through “The Secretary” and insert-
 25 ing the following:

26 “(b) **AUTHORIZATION.**—The Secretary”;

1 (4) in subsection (c) (as so redesignated)—

2 (A) by striking the subsection designation
3 and heading and all that follows through “To
4 implement” and inserting the following:

5 “(c) COOPERATIVE AGREEMENTS.—

6 “(1) IN GENERAL.—To implement”;

7 (B) in paragraph (1) (as so designated), by
8 striking “non-Federal public and private enti-
9 ties” and inserting “non-Federal public entities
10 and private nonprofit entities”; and

11 (C) by adding at the end the following:

12 “(2) REQUIREMENTS.—Before entering into an
13 agreement under paragraph (1), the Secretary shall
14 ensure that the non-Federal public entity or private
15 nonprofit entity has the authority and capability—

16 “(A) to carry out the terms of the agree-
17 ment; and

18 “(B) to pay damages, if necessary, in the
19 event of a failure to perform.”;

20 (5) by striking subsection (d) (as so redesign-
21 ated) and inserting the following:

22 “(d) USER FEES.—

23 “(1) COLLECTION OF FEES.—

24 “(A) IN GENERAL.—The Secretary may
25 allow a non-Federal public entity or private

1 nonprofit entity that has entered into an agree-
2 ment pursuant to subsection (c) to collect user
3 fees for the use of developed recreation sites
4 and facilities, whether developed or constructed
5 by that entity or the Department of the Army.

6 “(B) USE OF VISITOR RESERVATION SERV-
7 ICES.—

8 “(i) IN GENERAL.—A non-Federal
9 public entity or a private nonprofit entity
10 described in subparagraph (A) may use, to
11 manage fee collections and reservations
12 under this section, any visitor reservation
13 service that the Secretary has provided for
14 by contract or interagency agreement, sub-
15 ject to such terms and conditions as the
16 Secretary determines to be appropriate.

17 “(ii) TRANSFER.—The Secretary may
18 transfer to a non-Federal public entity or
19 a private nonprofit entity described in sub-
20 paragraph (A), or cause to be transferred
21 by another Federal agency, user fees re-
22 ceived by the Secretary or other Federal
23 agency under a visitor reservation service
24 described in clause (i) for recreation facili-
25 ties and natural resources managed by the

1 non-Federal public entity or private non-
2 profit entity.

3 “(2) USE OF FEES.—

4 “(A) IN GENERAL.—A non-Federal public
5 entity or private nonprofit entity that collects
6 user fees under paragraph (1)—

7 “(i) may retain up to 100 percent of
8 the fees collected, as determined by the
9 Secretary; and

10 “(ii) notwithstanding section
11 210(b)(4) of the Flood Control Act of
12 1968 (16 U.S.C. 460d–3(b)(4)), shall use
13 any retained amount for operation, mainte-
14 nance, and management activities related
15 to recreation and natural resources at the
16 water resource development project at
17 which the fee is collected.

18 “(B) REQUIREMENTS.—The use by a non-
19 Federal public entity or private nonprofit entity
20 of user fees collected under paragraph (1)
21 shall—

22 “(i) be limited to activities covered by
23 an agreement between the entity and the
24 Secretary;

1 “(ii) remain subject to the direction
2 and oversight of the Secretary; and

3 “(iii) not affect any existing third
4 party property interests, leases, or agree-
5 ments with the Secretary.

6 “(3) TERMS AND CONDITIONS.—The authority
7 of a non-Federal public entity or private nonprofit
8 entity under this subsection shall be subject to such
9 terms and conditions as the Secretary determines
10 necessary to protect the interests of the United
11 States.”; and

12 (6) in subsection (e) (as so redesignated), in the
13 first sentence, by striking “non-Federal public and
14 private entities” and inserting “non-Federal public
15 entities, private nonprofit entities, and other private
16 entities”.

17 **SEC. 3. RETENTION OF RECREATION FEES.**

18 (a) IN GENERAL.—Section 210(b) of the Flood Con-
19 trol Act of 1968 (16 U.S.C. 460d–3(b)) is amended—

20 (1) by striking paragraph (4) and inserting the
21 following:

22 “(4) DEPOSIT INTO TREASURY ACCOUNT.—All
23 fees collected under this subsection shall—

24 “(A) be deposited in a special account in
25 the Treasury; and

1 “(B) be available for use, without further
2 appropriation, for the operation and mainte-
3 nance of recreation sites and facilities under the
4 jurisdiction of the Secretary of the Army, sub-
5 ject to the condition that not less than 80 per-
6 cent of fees collected at a specific recreation site
7 are utilized at that site.”; and

8 (2) by adding at the end the following:

9 “(5) SUPPLEMENT, NOT SUPPLANT.—Fees col-
10 lected under this subsection—

11 “(A) shall be in addition to annual appro-
12 priated funding provided for the operation and
13 maintenance of recreation sites and facilities
14 under the jurisdiction of the Secretary of the
15 Army; and

16 “(B) shall not be used as a basis for re-
17 ducing annual appropriated funding for those
18 purposes.”.

19 (b) SPECIAL ACCOUNTS.—Amounts in the special ac-
20 count for the Corps of Engineers described in section
21 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C.
22 460d–3(b)(4)) (as in effect on the day before the date of
23 enactment of this Act) that are unobligated on that date
24 shall—

1 (1) be transferred to the special account estab-
2 lished under section 210(b)(4) of the Flood Control
3 Act of 1968 (16 U.S.C. 460d-3(b)(4)) (as amended
4 by subsection (a)(1)); and

5 (2) be available to the Secretary for operation
6 and maintenance of any recreation sites and facili-
7 ties under the jurisdiction of the Secretary, without
8 further appropriation.

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