

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1687

To promote the effective and efficient use of Federal grant assistance provided to State governments to carry out certain environmental programs and activities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To promote the effective and efficient use of Federal grant assistance provided to State governments to carry out certain environmental programs and activities, 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 “Environmental Flexible  
5 Funding Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1           (1) the magnitude, causes, and interrelationship  
2 of environmental pollution are far more significant  
3 than previously estimated;

4           (2) because, in recent years, the requirements  
5 under Federal law to address pollution have ex-  
6 panded, State and local governments have greater  
7 economic burdens in meeting the Federal require-  
8 ments;

9           (3) the nature and extent of environmental  
10 problems vary among and within States;

11           (4) Federal financial assistance to help remedi-  
12 ate environmental pollution is limited;

13           (5) grant programs that are in effect on the  
14 date of enactment of this Act are generally restricted  
15 to funding specific categories of activities, without  
16 regard to the particular conditions of individual  
17 States or the relative importance of the activities  
18 within a State; and

19           (6) a single program designed to deal with all  
20 forms of environmental pollution within a geographic  
21 area may be more effective than a number of pro-  
22 grams that address specific components of pollution.

23           (b) PURPOSES.—The purposes of this Act are to—

1           (1) promote more effective and efficient use of  
2 Federal, State, and local funds with respect to the  
3 control of pollution;

4           (2) enable a State to adapt programs of Fed-  
5 eral assistance to meet the particular environmental  
6 needs of the State;

7           (3) help alleviate the impact of Federal require-  
8 ments by enabling States to integrate and target  
9 Federal assistance from a variety of funding sources  
10 into a single program to address priority problems  
11 if the integration of the assistance into the program  
12 furthers the goals and objectives of the programs for  
13 which the assistance was initially provided; and

14           (4) facilitate the funding of environmental pro-  
15 grams that address multiple sources of pollution  
16 within a geographic area.

17 **SEC. 3. DEFINITIONS.**

18 As used in this Act:

19           (1) ADMINISTRATOR.—The term “Adminis-  
20 trator” means the Administrator of the Environ-  
21 mental Protection Agency.

22           (2) AREA OF ENVIRONMENTAL CONCERN.—The  
23 term “area of environmental concern” includes air,  
24 drinking water, pesticides, solid and hazardous

1 waste, toxics, and water quality (as defined and de-  
2 termined by the Administrator).

3 (3) ENVIRONMENTAL MEDIUM GRANT.—The  
4 term “environmental medium grant” means a grant  
5 made pursuant to the grant program established  
6 under section 4(a).

7 (4) GOVERNOR OF A STATE.—The term “Gov-  
8 ernor of a State” means the Governor of a State, or  
9 if the State does not have a Governor, the equivalent  
10 official of the State.

11 (5) INDIVIDUAL GRANT PROGRAM AUTHOR-  
12 ITY.—The term “individual grant program author-  
13 ity” means an individual grant program authority  
14 described in section 4(a)(2). The term does not in-  
15 clude any authority for a grant made to a State  
16 for—

17 (A) capitalization for the establishment of  
18 an environmental loan fund.

19 (6) MULTI-MEDIA ENVIRONMENTAL GRANT.—  
20 The term “multi-media environmental grant” means  
21 a grant made pursuant to the grant program estab-  
22 lished under section 4(b).

23 (7) STATE.—The term “State” means each of  
24 the 50 States, the District of Columbia, the Com-  
25 monwealth of Puerto Rico, the Commonwealth of the

1 Northern Mariana Islands, the United States Virgin  
2 Islands, Guam, American Samoa, the Republic of  
3 the Marshall Islands, the Federated States of Micro-  
4 nesia, and the Republic of Palau (until such time as  
5 the Compact of Free Association is ratified). The  
6 term shall include, to the extent allowable by law—

7 (A) an interstate agency that has jurisdic-  
8 tion over 2 or more States and is established  
9 pursuant to an agreement or compact that is  
10 approved by Congress to carry out the control  
11 of pollution (as defined and determined by the  
12 Administrator); or

13 (B) an entity that is—

14 (i) established by a cooperative agree-  
15 ment between 2 or more States to carry  
16 out the control of pollution (as defined and  
17 determined by the Administrator); and

18 (ii) approved by the Administrator.

19 (8) STATE AGENCY.—The term “State agency”  
20 means an entity of a State that is designated by the  
21 Governor of a State as having primary responsibility  
22 for carrying out the laws of the State relating to pol-  
23 lution prevention, control, and abatement.

24 **SEC. 4. GRANT PROGRAMS.**

25 (a) ENVIRONMENTAL MEDIUM GRANTS.—

1 (1) IN GENERAL.—

2 (A) ESTABLISHMENT OF PROGRAM.—As  
3 soon as practicable after the date of enactment  
4 of this Act, the Administrator shall, in consulta-  
5 tion with the Governors of States and by regu-  
6 lation, establish an environmental medium  
7 grant program. Notwithstanding any other pro-  
8 vision of law, for each fiscal year, from the  
9 amounts made available to the Administrator to  
10 make grants to States under the individual  
11 grant program authorities specified in para-  
12 graph (2), the Administrator may make a con-  
13 solidated grant to any State with respect to  
14 which the Governor or the head of a State  
15 agency submits an application that is approved  
16 by the Administrator, in lieu of awarding the  
17 funds as individual grants that would otherwise  
18 be awarded to the State under the individual  
19 grant program authorities specified in para-  
20 graph (2), to fund eligible programs and activi-  
21 ties relating to pollution prevention, control,  
22 and abatement and related environmental ac-  
23 tivities of a State.

24 (B) ADMINISTRATION BY STATE.—Except  
25 as otherwise provided in this Act, in carrying

1 out the consolidated grant program under this  
2 subsection, a State may exercise the individual  
3 authorities that the State may exercise under  
4 the individual grant program authorities, and to  
5 the extent required to carry out this Act, may  
6 transfer authority to an appropriate State agen-  
7 cy.

8 (C) USE OF GRANTS.—Under the grant  
9 program, grants shall be awarded to address  
10 the pollution prevention, control, and abatement  
11 problems and related environmental problems of  
12 one area of environmental concern on a state-  
13 wide basis, in accordance with a priority work  
14 plan that meets the requirements of paragraph  
15 (4) and that is developed by the appropriate of-  
16 ficial of the State pursuant to such paragraph.

17 (2) INDIVIDUAL GRANT PROGRAM AUTHORI-  
18 TIES.—The individual grant program authorities  
19 specified in this paragraph include the following  
20 grant program authorities granted to States under  
21 the following provisions of Federal environmental  
22 law:

23 (A) AIR PROGRAMS.—Sections 103(b),  
24 105, 106, and 112 of the Clean Air Act (42  
25 U.S.C. 7403(b), 7405, 7406, and 7412, respec-

1           tively) and section 306 of the Toxic Substances  
2           Control Act (15 U.S.C. 2666).

3           (B) DRINKING WATER PROGRAMS.—Sec-  
4           tions 1427, 1428, 1443, and 1465 of the Public  
5           Health Service Act (42 U.S.C. 300h-6, 300h-  
6           7, 300j-2, and 300j-25, respectively).

7           (C) PESTICIDES.—Section 23 of the Fed-  
8           eral Insecticide, Fungicide, and Rodenticide Act  
9           (7 U.S.C. 136u).

10          (D) SOLID AND HAZARDOUS WASTE PRO-  
11          GRAMS.—Sections 2007, 3011, and 4008 of the  
12          Solid Waste Disposal Act (42 U.S.C. 6916,  
13          6931, and 6948, respectively).

14          (E) TOXIC SUBSTANCES PROGRAMS.—Sec-  
15          tions 10, 28, and 403 of the Toxic Substances  
16          Control Act (15 U.S.C. 2609, 2627, and 2683,  
17          respectively).

18          (F) WATER QUALITY.—Sections 104(b),  
19          104(g), 106, 205(j), 314(b), 319, 320, and  
20          604(b) of the Federal Water Pollution Control  
21          Act (33 U.S.C. 1254(b), 1254(g), 1256,  
22          1285(j), 1324(b), 1329, 1330, and 1384(b), re-  
23          spectively).

1 (G) OTHER PROVISIONS.—Any other relat-  
2 ed provision of Federal environmental law that  
3 the Administrator considers to be appropriate.

4 (3) APPLICATION.—An application submitted  
5 pursuant to paragraph (1) by the Governor of a  
6 State or the head of a State agency shall be in such  
7 form, and contain such information, as the Adminis-  
8 trator determines appropriate and shall, at a mini-  
9 mum, include—

10 (A) a description of the programs and ac-  
11 tivities to be carried out by the State with  
12 funds made available under the grant that is  
13 the subject of the application;

14 (B) a statement concerning how the pro-  
15 grams and activities specified in subparagraph  
16 (A) will promote the goals and objectives of the  
17 priority work plan of the State developed pursu-  
18 ant to paragraph (4);

19 (C) for each program or activity listed pur-  
20 suant to subparagraph (A), a description of—

21 (i) the objectives of the program or  
22 activity; and

23 (ii) measurable performance criteria  
24 to be applied to the program or activity;

1 (D) a statement of the proposed distribu-  
2 tion of funds made available under the grant  
3 among activities and programs, including an  
4 order of priorities;

5 (E) a statement concerning how the dis-  
6 tribution of funds of the State will adequately  
7 address the requirements under the individual  
8 grant authorities covered under the environ-  
9 mental medium grant; and

10 (F) an identification of the State agency  
11 that will—

12 (i) carry out the programs and activi-  
13 ties specified in subparagraph (A);

14 (ii) monitor the use of funds made  
15 available under the grant that is the sub-  
16 ject of the application; and

17 (iii) report to the Administrator on  
18 the use of the funds.

19 (4) PRIORITY WORK PLAN.—

20 (A) IN GENERAL.—As part of a grant ap-  
21 plication, the Governor of the State or the head  
22 of the State agency of the State shall submit a  
23 priority work plan to the Administrator. The  
24 priority work plan shall be for a period of 1 or  
25 more years. The plan shall—

1 (i) be developed—

2 (I) in accordance with guidance  
3 issued by the Administrator pursuant  
4 to subparagraph (B); and

5 (II) with appropriate public no-  
6 tice and opportunity for review and  
7 comment; and

8 (ii) include a description of—

9 (I) the environmental problems to  
10 be addressed by the work plan;

11 (II) the proposed strategy of the  
12 State to address the problems speci-  
13 fied in subclause (I), including the  
14 goals and objectives of the State relat-  
15 ing to the strategy;

16 (III) priority actions to be taken  
17 pursuant to the work plan; and

18 (IV) the expected outputs and re-  
19 sults in terms of effects on the envi-  
20 ronment to be accomplished pursuant  
21 to the work plan.

22 (B) GUIDANCE.—As soon as practicable  
23 after the date of enactment of this Act, the Ad-  
24 ministrator shall issue guidance for priority

1 work plans prepared pursuant to this para-  
2 graph.

3 (5) ELIGIBLE PROGRAMS AND ACTIVITIES.—

4 Any program or activity that is eligible to receive  
5 funding under a grant that would otherwise be  
6 awarded to a State under individual grant program  
7 authorities, but for this subsection, shall be consid-  
8 ered to be an eligible program or activity for the  
9 purposes of this subsection.

10 (6) AMOUNT OF GRANT.—The amount of a  
11 grant awarded to a State under this subsection shall  
12 not exceed the total amount of grants that would  
13 otherwise be awarded to the State under individual  
14 grant program authorities, but for this subsection.

15 (7) COST-SHARING.—

16 (A) IN GENERAL.—Notwithstanding any  
17 other provision of law, including any require-  
18 ment of individual grant program authorities  
19 that would otherwise apply but for this sub-  
20 section, the Federal share of each program or  
21 activity that receives funding from a grant  
22 awarded pursuant to this subsection shall not  
23 exceed 50 percent of the cost of the program or  
24 activity.

1 (B) NON-FEDERAL SHARE.—Except as  
2 otherwise provided by law, as a condition of re-  
3 ceiving a grant under this subsection, the State  
4 shall pay a non-Federal share from non-Federal  
5 sources.

6 (C) EXCESS CONTRIBUTIONS.—Any  
7 amount of funds contributed from non-Federal  
8 sources that is in excess of the non-Federal  
9 share required to be contributed pursuant to  
10 subparagraph (B) may not—

11 (i) be considered to be funds contrib-  
12 uted pursuant to subparagraph (B); and

13 (ii) be subject to Federal auditing re-  
14 quirements that would otherwise apply to  
15 funds contributed pursuant to such sub-  
16 paragraph.

17 (8) LIMITATIONS AND CONDITIONS ON USE OF  
18 FUNDS.—Notwithstanding any other provision of  
19 law, including any limitation or condition of the use  
20 of funds under any individual grant program author-  
21 ity that would otherwise apply but for this sub-  
22 section, a State that receives a grant under this sub-  
23 section may use funds made available pursuant to  
24 this subsection for financial assistance to individuals  
25 only to the extent that the assistance is related to

1 the costs of eligible programs and activities. The Ad-  
2 ministrator may not attach any other condition or  
3 limitation to the use of the grant funds.

4 (9) SATISFACTORY PROGRESS.—With respect to  
5 a State, the Administrator may reduce the amount  
6 of a grant or disapprove a grant application submit-  
7 ted pursuant to paragraph (3) if the Administrator  
8 determines that—

9 (A) for a preceding fiscal year, the State  
10 has failed to make satisfactory progress in  
11 achieving the performance measures stated in  
12 an application for a grant awarded to the State  
13 under this subsection; and

14 (B) on the basis of information available to  
15 the Administrator concerning the reliability and  
16 achievability of the performance measures re-  
17 ferred to in subparagraph (A), the measures  
18 that the State failed to achieve are reliable and  
19 achievable.

20 (10) REPORTING REQUIREMENTS.—Not later  
21 than 120 days after the end of the 1-year period of  
22 a grant made to a State pursuant to this subsection,  
23 the appropriate official of the State agency specified  
24 in paragraph (3)(F) shall submit to the Adminis-  
25 trator a report on the principal activities and

1 achievements of the State accomplished with funds  
2 made available pursuant to the grant program under  
3 this subsection. The report shall compare the  
4 achievements referred to in the preceding sentence  
5 to—

6 (A) the measurable performance criteria  
7 described in the application of the State submit-  
8 ted pursuant to paragraph (3); and

9 (B) the goals and objectives specified in  
10 the priority work plan pursuant to paragraph  
11 (4)(a)(II) and the expected results specified in  
12 the priority work plan of the State pursuant to  
13 paragraph (4)(a)(ii)(IV).

14 (b) MULTI-MEDIA ENVIRONMENTAL GRANT.—

15 (1) IN GENERAL.—As soon as practicable after  
16 the date of enactment of this Act, the Administrator  
17 shall, by regulation, establish a multi-media environ-  
18 mental grant program. Notwithstanding any other  
19 provision of law, the Administrator may make a  
20 grant to each State that submits an application that  
21 is approved by the Administrator to assist the State  
22 in designing, developing, and carrying out pollution  
23 prevention, control, and abatement programs and ac-  
24 tivities and other related environmental programs

1 and activities that affect 2 or more areas of environ-  
2 mental concern.

3 (2) APPLICATIONS.—An application for a grant  
4 under this subsection shall be made in the same  
5 manner as prescribed under subsection (a)(3).

6 (3) PRIORITY WORK PLAN.—A priority work  
7 plan submitted as part of an application made under  
8 this subsection shall meet the requirements for a  
9 priority work plan developed under subsection  
10 (a)(4).

11 (4) ELIGIBLE PROGRAMS AND ACTIVITIES.—  
12 The Administrator shall designate programs and ac-  
13 tivities that shall be eligible to receive funding under  
14 this subsection and shall include programs and ac-  
15 tivities for—

16 (A) designing and conducting environ-  
17 mental risk assessments;

18 (B) environmental education;

19 (C) enhancing the capacity of a State to  
20 support environmental programs;

21 (D) enhancing the capacity of a State to  
22 support a geographical approach to environ-  
23 mental control programs and activities;

24 (E) promoting source reduction, including  
25 activities authorized under section 6605 of the

1 Pollution Prevention Act of 1990 (42 U.S.C.  
2 13104); and

3 (F) pollution prevention, control, and  
4 abatement.

5 (5) FEDERAL SHARE.—Except as otherwise  
6 provided by law, the percentage amount of Federal  
7 share of a grant awarded under this subsection shall  
8 not exceed the amount specified in subsection  
9 (a)(7)(A).

10 (6) SATISFACTORY PROGRESS.—Subsection  
11 (a)(9) shall apply to a grant or application for a  
12 grant made by a State under this subsection in the  
13 same manner as such subsection applies to a grant  
14 made under subsection (a).

15 (7) REPORTING REQUIREMENTS.—The report-  
16 ing requirements under subsection (a)(10) shall  
17 apply to the Governor of a State that receives a  
18 grant under this subsection in the same manner as  
19 the requirements apply to the Governor of a State  
20 that receives a grant under subsection (a).

21 (c) GOVERNORS' DISCRETIONARY AUTHORITY.—Not-  
22 withstanding any other provision of law, on the request  
23 of a Governor of a State, the Administrator may transfer  
24 an amount not to exceed 20 percent of the amount that  
25 would otherwise be awarded to the State pursuant to indi-

1 vidual grant authorities or a grant to the State under sub-  
2 section (a) or (b) and award the funds as a supplemental  
3 amount that shall be subject to the same requirements as  
4 any other amounts awarded pursuant to—

5 (1) a grant authorized under the individual  
6 grant authorities specified in subsection (a)(2);

7 (2) an environmental medium grant awarded  
8 pursuant to subsection (a); or

9 (3) a multi-media environmental grant awarded  
10 pursuant to subsection (b).

11 (d) REQUEST FOR INFORMATION.—The Adminis-  
12 trator may request such information, data, and reports as  
13 the Administrator considers necessary to—

14 (1) review an application submitted under this  
15 section for approval or disapproval;

16 (2) evaluate progress made under a grant  
17 awarded pursuant to this section; or

18 (3) prepare a report that the Administrator is  
19 required to prepare under section 5.

20 (e) NO REDUCTION IN AMOUNTS.—In no case shall  
21 the award of a grant to a State pursuant to this section  
22 result in a reduction of the total amount of funds awarded  
23 by the Administrator to a State as grants for conducting  
24 environmental programs and activities. Except as ex-  
25 pressly provided otherwise, nothing in this section is in-

1 tended to reduce or supplant the obligation of a State to  
2 pay a non-Federal share of a grant awarded by the Admin-  
3 istrator to the State for conducting an environmental pro-  
4 gram or activity.

5 (f) APPLICABILITY.—This section shall apply begin-  
6 ning with the first full fiscal year following the date of  
7 issuance by the Administrator of the regulations establish-  
8 ing an environmental medium grant program under sub-  
9 section (a)(1).

10 **SEC. 5. REPORT TO CONGRESS.**

11 Not later than 5 years after the date of enactment  
12 of this Act, the Administrator, in cooperation with the  
13 States, shall submit a report to Congress concerning the  
14 grant programs established under this Act. The report  
15 shall include such recommendations for changes in the  
16 grant programs as the Administrator considers appro-  
17 priate.

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