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Resource Protection: A Comparison of H.R. 701/S. 2567 and Three Other Senate Bills (S. 25, S. 2123, and S. 2181) with Current Law

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ABSTRACT

Legislation to allocate revenues from Outer Continental Shelf (OCS) oil and gas activities for federal and state resource acquisition and protection, urban recreation, wildlife protection, and related purposes has passed the House and may be considered by the Senate. This report compares bills addressing these topics in a side-by-side format, including : (a) H.R. 701, which passed the House (amended) on May 11, 2000 and an identical Senate bill (S. 2567); (b) S. 2123, a bill that is identical to H.R. 701 as reported by the House Resources Committee; (c) S. 25 and S. 2181, two other Senate bills that also may receive further consideration; and (d) current law. Some provisions in these bills are also elements in the Clinton Administration's "Lands Legacy Initiative," proposed in its FY2000 and FY2001 budget submissions. Opponents worry that enacting these bills could increase pressure to expand development in the OCS, increase the rate at which the federal government acquires private lands, or remove significant funding decisions from the annual appropriations process. Supporters believe that more dependable federal funding in larger amounts for diverse resource protection purposes is long overdue, and argue that the revenues generated by depletion of one resource (development of offshore oil and gas) should be used to augment efforts to conserve other resources. This report may be updated as relevant bills move through the legislative process.

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Summary

This report compares H.R. 701, as passed by the House on May 11, 2000, by a vote of 315-102 (and identical legislation subsequently introduced in the Senate, S. 2567), and S. 25, S. 2123, and S. 2181 with current law in a side-by-side format. These bills would fund, largely without further appropriation, various land and resource acquisition and protection activities. With passage in the House, supporters are pressing the Senate to act. (To track the legislative process on these bills and related issues in more detail, see CRS Issue Brief IB10015, *Conserving Land Resources: Legislative Proposals in the 106th Congress*.)

These bills originated, in part, from efforts to provide higher and more certain funding for resource protection programs, from desires to fund the state grant portion of the Land and Water Conservation Fund (LWCF) and to fund the entire LWCF each year, and from an interest in dedicating a large portion of offshore oil and gas revenues to resource protection. Support for this legislation has grown and diversified as: (a) the budget deficit has been replaced with a surplus; (b) protecting natural resources has become viewed as part of efforts to address sprawl; (c) local pressure has expanded to secure federal funding for resource protection; and (d) efforts have strengthened to increase funding levels for an expanding list of federal resource protection programs. A key feature of these bills is to provide secure funding by bypassing the appropriations process. While strongly supported by the bills' advocates, this feature is opposed by those who hold other priorities for federal spending, want to limit overall federal spending, or believe such funding should be sought through the annual appropriations process. Opposition has also been raised by advocates of private property rights who fear that additional funding will lead to accelerated public acquisition of private lands.

The bills address numerous topics. All the bills would provide funds to coastal states and communities to mitigate impacts associated with offshore energy development, fund an urban program to develop recreation facilities, and provide funds for wildlife protection and restoration. All would fund the state grant portion of the LWCF at a guaranteed level, but only S. 25, and S. 2181 would also fund the federal LWCF at a guaranteed level. S. 25 is limited to the various several purposes, while S. 2181 funds two dozen programs. All funding for the proposals would come from revenues derived from Outer Continental Shelf (OCS) oil and gas activities, which now go into the federal treasury where they fund the general functions of the federal government. Some environmental interests worry that support for more funding could increase pressure to expand OCS activities into areas where moratoria are currently in place; each bill includes provisions to blunt such incentives.

The Administration's Lands Legacy Initiative, which was first proposed in January 1999, is not included in this comparison, since it was never developed as legislation. This initiative is being implemented primarily within the annual appropriations process. S. 2181 is most like the Lands Legacy proposals.

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Acronyms

BLM	Bureau of Land Management, an agency in DOI
CARA Fund	Conservation and Reinvestment Act Fund, created under H.R. 701/S. 2123
CRRRF	Coral Reef Resources Restoration Fund, created under S. 2123
CZMA	Coastal Zone Management Act (16 U.S.C. *et. seq.*)
DOI	Department of the Interior
E.O.	Executive Order
ESA	Endangered Species Act (16 U.S.C. 1530, *et. seq.*)
FACA	Federal Advisory Committee Act (5 U.S.C. App.)
FPP	Farmland Protection Program (16 U.S.C. 3830 *et seq.*)
FWS	U.S. Fish and Wildlife Service, an agency in DOI
LWCF Act	Land and Water Conservation Fund Act (16 U.S.C. 460*l*-4 *et. seq.*)
LWCF	Land and Water Conservation Fund
NFS	National Forest Service, an agency in USDA
NMFS	National Marine Fisheries Service, an agency in the National Oceanic and Atmospheric Administration, Department of Commerce
NPS	National Park Service, an agency in DOI
NWRS	National Wildlife Refuge System
OCCF	Ocean and Coast Conservation Fund, created under S. 2123
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1331 *et. seq.*)
OCSIAF	Outer Continental Shelf Impact Assistance Fund, created under S. 25 and S.2123
P-R	Pittman Robertson Act, more properly titled Federal Aid in Wildlife Restoration Act of Sept. 2, 1937 (16 U.S.C. 669 *et. seq.*)
PILT	Payment in Lieu of Taxes Program (16 U.S.C. 6901, *et. seq.*)
SRA	Species Recovery Agreements, created under H.R. 701/S. 2123
RRSF	Refuge Revenue Sharing Fund (16 U.S.C. 715s)
UPARR	Urban Park and Recreation Recovery Program (16 U.S.C. 2501 *et. seq.*)
USDA	U.S. Department of Agriculture
WCRP	Wildlife Conservation and Restoration Program, created under H.R. 701/S. 2123

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Resource Protection: A Comparison of H.R. 701/S. 2567 and Three Other Senate Bills (S. 25, S. 2123, and S. 2181) with Current Law

Introduction

Omnibus bills to greatly expand federal financial support for various land and resource protection, acquisition, and restoration programs have been introduced in the 106th Congress. In recent congressional sessions, legislation with multiple components and proposals for significant additional federal expenditures might have been less likely to receive serious consideration because of the budget deficit and the difficulty of offsetting any new spending with reductions elsewhere. But with the emergence of a budget surplus, endorsement (at least in concept) by a broad political constituency, and an apparent groundswell of grassroots support, these proposals are receiving greater congressional attention.

The House passed H.R. 701 on May 11, after 2 days of debate during which it considered 24 amendments and adopted 7 of them. H.R. 701 was cosponsored by more than 300 members and passed the House by a vote of 315-102. Passage was supported by a majority of both the Republicans and Democrats. The amendments and the technical corrections made after the bill was approved by the House Resources Committee change the bill in several potentially significant ways, which are discussed below in the text and identified in the side-by-side using a different font. With completion of action in the House, supporters of the legislation are pressing the Senate to act quickly so that the legislative process can be completed before the 106th Congress ends. The Senate Environment and Public Works Committee held a hearing on these proposals on May 24, at which it heard from 15 witnesses, including 7 Senators and Representatives.

Coverage of Report

This report compares existing law with H.R. 701, as passed by the House and an identical bill, S. 2567 that was subsequently introduced by Senator Boxer; S. 25, sponsored by Senator Landrieu; S. 2123, sponsored by Senator Landrieu and identical to H.R. 701 as reported by the House Resources Committee; and S. 2181, sponsored by Senator Bingaman. Each of these bills would create a new coastal energy impact assistance program, amend the Land and Water Conservation Fund Act of 1965 (LWCF Act), fund the Urban Park and Recreation Recovery Program, and increase

funding for wildlife conservation.[1] Some of the bills would fund different combinations of additional programs to protect natural and cultural resources, as well as permit an increase of payments to counties due to the presence of federal lands. How these bills equate with each other is shown in the table below.

Table 1. Relationship between Identical House and Senate Bills

House:	H.R. 701 (as introduced)	H.R. 701 (as reported)	H.R. 701 (as passed)	-----	-----
Senate:	-----	S. 2123	S. 2567	S. 25	S. 2181

These programs would be funded using revenue from Outer Continental Shelf (OCS) oil and gas activities in federal waters. Funding requirements for H.R. 701/S. 2567 and S. 2123 are estimated to be $2.85 billion annually, and the state in which the largest amount would be spent is California.[2] It is estimated that S. 25 would provide $1.4 billion, based on hypothetical OCS annual receipts of $2.8 billion, and the state in which the largest amount would be spent is Louisiana.[3] Funding requirements for S. 2181 are estimated to be approximately $2.9 billion annually, and the state in which the largest amount would be spent is California.

Other Legislative Proposals in the 106th Congress

Several other closely-related bills are not discussed further in this report. Two of these bills, S. 446, sponsored by Senator Boxer, and H.R. 798, sponsored by Representative George Miller, are identical. Their provisions draw on many components of the Clinton Administration "Lands Legacy Initiative," announced in January 1999 and submitted to Congress in the Administration's FY2000 and FY2001 budget requests.[4] However, Rep. Miller has cosponsored and voted for H.R. 701 and Sen. Boxer introduced one of the other bills compared in this report.[5]

Two other bills, H.R. 452 and S. 532, also have been introduced. H.R. 452, sponsored by Representative Campbell, would only amend the LWCF. This bill would take the LWCF off-budget, and would exempt this fund from any general

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[1]See the list of acronyms, which follows the summary, for fuller citations of the laws discussed in this report.

[2]Based on cost estimates posted on the Committee on Resources web site (www.house.gov/resources).

[3]Cost estimates prepared by Representative Miller's staff based on data provided by the Department of the Interior, February 23, 1999.

[4]See *Budget of the United States; Fiscal Year 2000*, Wash. D.C., U.S. Govt. Print. Off. p. 189-190. The Administration has not submitted actual legislation to authorize many of these proposals.

[5]Most recently, Senator Boxer stated at the May 24, 2000 hearing that she had introduced S. 2567 because she believes it would be the fastest way to pass legislation and was concerned that the legislative calender for this Congress was growing short. She also commented that she did not necessarily endorse all the provisions in H.R. 701, as passed. Representative Miller strongly supports H.R. 701

budget limitation. Also, it would require that at least half the annual LWCF funding be provided to the states. Current law requires that at least 40% go to federal agencies.

S. 532 is sponsored by Senator Feinstein. She described S. 532 as a "moderate alternative" to S. 446, which she supports. It would amend the LWCF Act and the Urban Parks and Recreation Recovery Program (UPARR). It would permanently appropriate the entire annual authorized amount, $900 million. It also would allocate 50% of this amount to federal agencies, 40% to states, and 10% to local governments through UPARR. This bill also would amend UPARR in several ways.

Forces Behind these Proposals

Widespread interest in and support of aspects of these legislative proposals may reflect the confluence of several interrelated factors. Various interests and combinations of interests have proposed changes in current laws and programs: (1) to fully fund the LWCF; (2) to address the increased backlog of pending federal land acquisitions that the LWCF addresses; (3) to increase overall resource protection funding; (4) to fund state programs for species that are not hunted, fished, threatened, or endangered; (5) to reduce the chronic underfunding of federal land payment programs to local governments; (6) to expand the ways that LWCF funds can be spent; (7) to address resource management needs in coastal areas, especially those affected by offshore energy development, and; (8) to allow states and counties to draw further on OCS revenues, which grew during the 1990s. The bills respond to each of these forces in different ways; some of the bills do not address some of the forces at all. Each of these elements are discussed below.

The Clinton Administration supports the general concepts behind these legislative proposals through its Lands Legacy Initiative. This initiative was first proposed with the FY2000 budget, and has been reintroduced with the FY2001 submission. As this initiative is proposed with the budget, the Administration must resubmit it each year within the budget requests for the Departments of the Interior, Commerce, and Agriculture. The FY 2001 proposal calls for almost a doubling of funding, to $1.4 billion for the more than 20 programs included in this initiative. The legislative proposals reviewed in this report include various combinations of the programs in the initiative.[6]

Overall support for these bills is widespread, and comes out of a large and diverse coalition of many interests. Members favoring the legislation frequently point out that more than 4,500 groups, from conservation organizations to governors and other public entities have expressed support for this legislation. Opponents counter that almost all of these groups would directly benefit if this legislation were enacted. While some probably want the overall legislation enacted, most interests benefit from one or more titles or programs rather than the entire bill.

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[6]For more information on this initiative, see CRS Issue Brief IB10015, *Conserving Land Resources: Legislative Proposals in the 106th Congress*, and for information on the funding levels for programs in the initiative, see CRS Report RS20471, *The Administration's Lands Legacy Initiative in the FY2001 Budget Proposal – A Fact Sheet*.

Fully Funding the LWCF. A growing number in Congress are advocating fully and predictably funding the LWCF.[7] Under current law, $900 million is authorized to be appropriated annually through FY2015. Unappropriated balances are available to be appropriated in subsequent years. Appropriations during the 1990s have averaged less than one third of the authorized level. Since the fund started in 1965, its accumulated authorization is more than $22.7 billion (through FY1999). However, only $10.4 billion has been appropriated, leaving a cumulative balance of $12.3 billion that was authorized but not appropriated. Since the early 1980s, OCS revenues have gone into the General Treasury and been used for other government functions.

All four bills guarantee the availability (and predictability) of funding without further appropriations for the various programs in the bills, with the exception of restrictions contained in (a) §5(g) of H.R. 701/S. 2567 regarding Social Security, Medicare and debt reduction, and (b) H.R. 701/S. 2567 and S. 2123 for the federal portion of LWCF. The goal of this language, which varies among the bills, is to enable programs to avoid the annual appropriations process. However, the procedural hurdles can be formidable.[8] Providing funding without further appropriations is already used for some natural resource programs such as sport fish and game restoration, acquisition of migratory bird habitat, reforestation, and some soil conservation programs. The language used in these bills and its possible effects are discussed in detail in the section below titled "*Federal Budget Implications*."

The current LWCF provides money for five purposes; one is the grant program for states for acquisition and development of recreation sites (administered by the National Park Service), and the others are for acquisitions for the National Forest System, the National Wildlife Refuge System, the National Park System, and areas authorized for recreation by the Secretary of the Interior (including lands managed by the Bureau of Land Management). The lack of funding for the state grant program starting in FY1995 led to hearings in the Senate and House in 1997. As pressure has increased to fund the state grants, it has also grown to fund two other federal programs; the Urban Park and Recreation Recovery Program and the Historic Preservation Act programs. The Historic Preservation Act, like the LWCF, is funded with OCS revenues, and has a significant unappropriated balance.

Backlog of Pending Land Acquisitions. Fully funding the LWCF would allow federal agencies to address a growing backlog of potential acquisitions. Resource protection advocates believe that the pressure to make additional acquisitions increases with growing population and expanding development, so limited funding has contributed to the expanding gap between available funds and possible acquisitions. Proponents of these proposals have cited federal agency data that the estimated backlog for acquisition is more than $10 billion. Opponents counter that the federal government should not be acquiring more land, that many of the places federal

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[7]For general background on the LWCF, see CRS Report 97-792 ENR, *Land and Water Conservation Fund: Current Status and Issues*, last updated on November 29, 1999.

[8]For more information, see CRS Report 97-684 GOV, *The Congressional Appropriations Process: an Introduction*, or CRS Report 97-947 GOV, *The Appropriations Process and the Congressional Budget Act*.

agencies are considering or already own do not have the values that warrant federal ownership, or that more funds should be devoted to maintenance or better management of lands already in federal ownership rather than additional purchases. The maintenance backlog has been estimated to be as high as more then $20 billion, according to material submitted during the FY2001 appropriations process by the Departments of the Interior and Agriculture, and has been growing.

Increasing Overall Resource Protection Funding. Various organizations supporting conservation have initiated campaigns to increase resource protection funding for programs that have received little or no funding in recent years. These campaigns seek to increase funding for non-game species that are not threatened or endangered (discussed below), farmland, and coastal resources, among others. These efforts have been pursued independently in appropriations and authorizing legislation, and have met with little success in recent years, especially when they have encountered arguments that the federal budget deficit needs to be reduced.

Funding State Programs For Non-Game Species. Funds for game and fished species already are provided through matching grants to support state programs under the Wildlife Restoration Program (also known as the Pittman-Robertson program) and the Sport Fish Restoration Program (also known as the Dingell-Johnson or Wallop-Breaux program). Both are permanently appropriated to the extent of receipts. More limited grants are also available for programs to conserve species listed as threatened and endangered under the ESA.

No similar program exists to support state conservation efforts for the vast majority of species, *i.e.*, those which are not hunted, fished, threatened, or endangered. For at least 20 years, Congress has considered such support, but lack of funding has always been the major obstacle. Recent efforts, particularly a lobbying effort called "Teaming with Wildlife", led by the International Association of Fish and Wildlife Agencies, have focused on enacting a tax on certain outdoor equipment to fund grants to states for conservation of non-game species. Congressional reluctance to create any new taxes has caused most of the wildlife interest groups to shift their efforts to seeking funding through these legislative proposals.

Increasing Federal Payments to Local Governments. Local governments have complained that federal payment programs that compensate them for the presence of federal land are inadequate. Lands owned by the federal government cannot be taxed by state and local governments. In some jurisdictions, federal lands are a significant fraction of total property, and therefore local governments have claimed financial harm as a result of their inability to collect property taxes on this portion of the land base. The lands of all four major federal land managing agencies, as well as of some smaller federal landowners, are subject to one or more payment programs to provide some measure of federal government compensation to local governments for the presence of their lands. Two of these payment programs are not permanently appropriated: (a) the Payments in Lieu of Taxes (PILT), affecting 11 categories of federally owned land, though the program is administered entirely by the

Bureau of Land Management; and (b) the Refuge Revenue Sharing Fund (RRSF), entirely for the National Wildlife Refuge System.[9]

Annual appropriations for both of these programs have fallen consistently below the amounts specified in the two laws' formulas. Counties now receive about 41% of the formula amounts for PILT and about 60% for RRSF. As a result of these shortfalls, local governments have repeatedly called on Congress to fund these programs at the full authorization levels, and these legislative proposals provide additional opportunities to make up this shortfall.

Expanding the Ways That LWCF Funds Can Be Spent. Federal agencies may use these funds only for land acquisition under current law. Federal agencies now identify an acquisition backlog exceeding $10 billion.[10] At the same time, some interests have sought to expand the purposes for which LWCF funds can be spent to address the growing backlog of maintenance and restoration needs on federally-owned lands. This backlog is estimated to be as high as $15 billion, and continues to grow. Supporters of broadening the uses of the fund argue that protecting and maintaining the resources already in federal ownership should be a higher priority than adding to the federal estate. Others argue that states and localities also should have greater flexibility in spending their state grants from the LWCF, such as also being able to use these funds to maintain or restore facilities, and point out that the Administration sought to provide strong guidance on how the FY2000 allocations could be spent.

LWCF funds also could provide more wide-spread resource protection, according to some, if they could be used to apply a range of policy tools that are less expensive alternatives to full-fee land acquisition (purchasing land outright). Two decades ago, it was widely believed that the only way to protect land or a resource adequately was to acquire full-fee title, and that federal acquisition would provide a more certain level of protection than ownership by other entities. Today, many forms of protection that are less than full-fee ownership, such as easements or alternatives to public ownership, are widely accepted under some circumstances, and most of the legislative proposals fund some of these forms under some circumstances. Also, ownership at state and local levels, and by private organizations such as land trusts, is more widely viewed as an effective protection option.

Offshore Energy Development and Coastal Effects. Interests in some coastal states, especially Louisiana, have increased the pressure to return a portion of the money currently paid to the federal government by private companies who lease and develop oil and gas resources on the OCS to states. These funds would be used to

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[9]RRSF is funded without further appropriations to the extent of receipts, but receipts are insufficient to fund the amounts in the formula. Thus, annual appropriation levels determine whether the full authorized formula is paid. For further information on RRSF, see CRS Rept. 90-192ENR, *Fish and Wildlife Service: Compensation to Local Governments*. For further information on PILT, see CRS Rept. 98-574ENR, *Payments in Lieu of Taxes (PILT): Somewhat Simplified*.

[10]Senate Committee on Energy and Natural Resources. *Fiscal Year 2000 Budget Request for the Department of the Interior*. Hearing, March 2, 1999. p. 31.

address the adverse onshore effects of these energy activities. Currently, adjacent states and communities do not directly receive any revenue from offshore oil and gas activities in federal waters. A program of loans and grants to coastal states to help them address impacts from offshore and coastal energy activities was briefly implemented through the federal coastal zone management program during the energy crisis in the late 1970s; however, it was ended when the crisis had passed.

Supporters of a payment program associated with OCS oil and gas activities point out that, in contrast, revenue from onshore energy production on federal lands is shared with most states as follows; 50% is allocated to the state in which the lease is located, 40% is earmarked for the Reclamation Fund, and 10% goes to the federal treasury.[11] In addition, state and local governments currently receive shared revenues from many activities, such as logging, grazing, and some mining, on the Forest Service, Bureau of Land Management, and Fish and Wildlife Service lands. The amount and percentage of the shares depends on the history of the land and the type of activities generating the revenues. Others may counter that some coastal states will have a large influx of new federal funds, and that provisions in bills are insufficient to insure that these funds are spent only for projects that are compatible with long-term management of coastal resources.

Growing OCS Revenues. The resource protection proposals in the bills would be funded from income derived from OCS energy activities, which averaged about $2.5 billion annually in the early 1990s, then increased rapidly to a record $5.1 billion in FY1997. Currently, those portions of OCS revenues that are not spent on LWCF are used for the general spending of the federal government. To the extent that they would be redirected under these proposals, they would no longer be available to fund other federal programs.

Advocates for these bills view the increase in OCS revenues through FY1997, combined with the change from federal budget deficit to surplus, as an opportunity to dedicate more money to the activities contained in these bills. However, OCS revenues subsequently declined to an estimated $3.3 billion in FY1999. This decline reflected record low prices for oil, affecting royalties and bonus bids for newly-leased tracts during the 1997-1999 period. Three questions about these proposals, if enacted, would arise if OCS revenues decline substantially: (1) How would program funding be reduced?; (2) Could other sources of funding to offset such reductions be located? and; (3) Could pressures to expand offshore leasing to increase revenues result, and if so, could they be contained?

Future OCS revenue levels are as uncertain as the future price of crude oil. Department of the Interior projections made internally to support its FY2001 budget submission are based on a much lower price scenario than the $30 per barrel world market price prevailing at the start of 2000 might suggest. For FY2000, the Department currently projects revenues of $3.55 billion; the FY2001 figure of $5.08 billion includes about $1.8 billion held in escrow from settlement of a border dispute

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[11]One exception is Alaska, where the state receives 90%, with 10% deposited in the federal treasury. The Reclamation Fund supports the Bureau of Reclamation's water resources projects.

with Alaska. In subsequent years, steadily declining revenues are forecast, reflecting lower prices and gradual depletion of OCS hydrocarbon fields. FY2002 is estimated to yield $3.33 billion, and this figure will fall to $2.01 billion in FY2010.[12] Analysts do not agree on either how fast or how far revenues will fall in the future.

Total OCS revenues may give an inaccurate impression of the amounts that will be available to fund these proposals. All the bills limit the source of revenues to fund these proposals to specified portions of the OCS that are currently producing in order to discourage expanding OCS activities to fund these programs. Many of the fields which will be sources of revenue to fund this suite of programs have been in production for decades, and the amounts extracted from some of these fields may start to decline. Over time, revenues generated from the segment of the OCS that will fund these programs may become a declining portion of the total revenue generated from all OCS production.

Funding the Proposals

All these bills would use revenues from offshore oil and gas fields under federal waters to fund the proposals. Section 3(12) of H.R. 701/ S. 2567 and S. 2123, §102 of S. 25, and §202(a) of S. 2181 would define qualified revenues to include all OCS revenues (royalty, rental, and bonus revenues) from oil and gas leases where the center of the lease lies within 200 miles of a state's coastline. All these bills would exclude monies paid to states that are derived from leases of deposits that lie in both state and federal lands offshore. The law that governs how these deposits are to be treated is in §8(g) of the Outer Continental Shelf Lands Act (OCSLA).

Section 5 of H.R. 701/ S. 2567 and S. 2123 would establish the Conservation and Reinvestment Act Fund (CARA Fund). The CARA Fund would receive a maximum of $2.825 billion annually from qualifying OCS revenues and previously undispersed funds, to be distributed in specified amounts among 7 programs. S. 25 would allocate funds for its programs as a percentage of OCS revenues; with 27% of these revenues being placed in a new coastal impact assistance fund, 16% (up to a ceiling of $900 million) being placed in the LWCF (including UPARR); and 7% being spent on wildlife conservation and restoration. S. 2181 allocates a total estimated at $2.9 billion annually from qualified OCS revenues, to be distributed among 24 different funds. Section 5(c) of H.R. 701/S. 2567 and S. 2123 would require that funding be reduced proportionately for each program if less than $ 2.825 billion is deposited, while S. 25 would not provide for a minimum level of funding. Section 5 (e) of H.R. 701/ S. 2567 and S. 2123 would require that any necessary OCS royalty refunds would be paid proportionately from the Fund. S. 25 has a similar provision in §203(a)(3), while S. 2181 does not address this possibility.

The CARA Fund would also generate additional revenue through interest earned, as described in §5(d), so that the total amount available to the fund is actually estimated to be slightly more than $3 billion annually. Interest would be earned by

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[12]Personal communication with Mineral Management Service budget staff, February 22, 2000.

depositing OCS revenues into the fund during a fiscal year, investing them appropriately, and paying them out the following year. Interest income, up to $200 million annually, would be dedicated to funding two federal programs that make payments to local governments, the Payment in Lieu of Taxes Program (PILT) and the Refuge Revenue Sharing Fund (RRSF), and interest earned on revenues dedicated to Title III (on wildlife) would go to implement the North American Wetlands Conservation Act.[13]

A potential major impediment to all these proposals has been how they would be treated under the budget caps. If Congress were required to offset these funds with savings elsewhere, enactment would be more difficult, as those who support the programs that would be reduced might oppose this legislation. Since most of the current OCS revenues are currently available to fund any federal government activity, opposition to these bills from those with concerns about the budget is likely to be significant. The Congressional Budget Office informed Resources Committee Chair Don Young in a letter that it believes that the Office of Management and Budget, which would make the final determination, would not "choose to adjust the caps" (require an offset) if H.R. 701/S. 2567 or S. 2123 were enacted "because creating new direct spending authority does not constitute a change in budgetary concepts or definitions."[14] H.R. 701/S. 2567 and S. 2123 would still be subject to enforcement provisions of the Budget Act by creating new mandatory spending. However, the rule (House Res. 497) for House consideration of H.R. 701 waived these procedural safeguards.

Where the Funds Would Go

Funds would be distributed among the recipient programs based on amounts and formulas in existing law or as specified in each bill. Table 2, on the next page, shows how the funds would be distributed by activity, and table 3, on the following page, shows the total funding that is forecast to be distributed, by state. These projections were affected, in some cases, by subsequent amendments; some of the amendments may have altered the allocation formulas or total revenues from the OCS.

H.R. 701/S. 2567, S. 2123, and S. 2181 would provide just over twice as much annually as S. 25, under the scenarios used to make these estimates. However, the patterns of distribution would vary, so that while monies flowing into some states would be about twice the amount under the larger bills as under the other, in others it would not. For example, $312 million would be spent in Louisiana under H.R. 701/S. 2567 and S. 2123, and more than two thirds of that amount (and the most of any state), $217 million, under S. 25, but only $77 million would be spent there under S. 2181. Under H.R. 701/S. 2567 and S. 2123, $324 million would be spent in California and $322 million would be spent in California under S. 2183. However, only $109 million would be spent there under S. 25. The states where the next largest amounts would be spent under each of the bills would be Texas, Alaska, and Florida.

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[13]Interest earned on Pittman-Robertson funds is currently directed to the North American Wetlands Conservation Program

[14]Letter to Rep. Don Young from Dan Crippen, Director of CBO, October 14, 1999.

Table 1. Funding by Topic or Program under each Proposal ($ in millions)

Topic or Program	H.R. 701/S. 2567/ S. 2123	S. 25[a]	S.2181
Land and Water Conservation Fund–Federal	$450[b]	$405	$450
Land and Water Conservation Fund–State	$450	$405	$450
Non-Federal Lands of Regional or National Interest			$125
Coastal Impact Assistance	$1,000	27% of OCS revenues	$100
Coastal Stewardship Program			$250
Wildlife Conservation and Restoration	$350	7% of OCS revenues	$350
Urban Park and Recreation Recovery Program	$125	$90	$75
Historic Preservation Fund	$100		$135
HPF – Battlefield Protection			$15
Land Restoration	$200		$150
Conservation Easements – Farm Land	$100		$50
Conservation Easements – Ranch Land			$50
Endangered Species Recovery	$50		$50
PILT & Refuge Revenue Sharing Fund	$200 or less		$300(variable); PILT only
Marine Enforcement Grants			$25
Fisheries Research and Management Grants			$75
Coral Reef Conservation			$30 (2 programs)
Urban and Community Forestry Assistance			$50
Forest Legacy Program			$50
Youth Conservation Corps			$60
Forest Service Rural Community Assistance			$50 (2 programs)

a. Amounts will vary under S. 25 since they are percentages of qualified OCS receipts, although the two LWCF accounts and the Urban Park and Recreation Recovery Program can not exceed the amounts shown in the table.

b. H.R. 701/S. 2567 would provide larger amounts for federal and state LWCF, as explained in the section titled *Overall Funding Levels for LWCF*, below.

Table 2. Estimated Distribution of Funding, by State ($ in millions)

State	H.R. 701/S. 2567 and S. 2123[a]	S. 25[b]	S.2181[c]	State	H.R. 701/S. 2567 and S. 2123	S. 25	S.2181
Alabama	53	36	43	Nebraska	16	9	27
Alaska	193	93	146	Nevada	51	8	54
Arizona	52	10	70	New Hampshire	16	8	33
Arkansas	21	6	25	New Jersey	60	30	64
California	324	109	322	New Mexico	39	8	62
Colorado	44	10	65	New York	101	51	89
Connecticut	24	11	32	North Carolina	47	20	53
Delaware	14	7	24	North Dakota	14	5	20
Florida	142	80	124	Ohio	55	24	59
Georgia	40	17	46	Oklahoma	17	7	25
Hawaii	32	10	56	Oregon	52	15	58
Idaho	39	8	50	Pennsylvania	50	21	65
Illinois	56	23	56	Rhode Island	17	8	25
Indiana	32	14	37	South Carolina	27	13	32
Iowa	15	6	20	South Dakota	17	6	26
Kansas	14	7	21	Tennessee	27	9	34
Kentucky	21	7	29	Texas	236	152	140
Louisiana	312	217	77	Utah	39	7	65
Maine	36	19	38	Vermont	9	3	21
Maryland	37	19	40	Virginia	51	19	59
Massachusetts	48	24	60	Washington	55	21	79
Michigan	60	27	55	West Virginia	20	9	26
Minnesota	36	17	41	Wisconsin	28	13	35
Mississippi	78	50	35	Wyoming	30	7	48
Missouri	32	14	39	Other[d]	172	37	74
Montana	48	10	62	**U.S. Total**	**3,021**	**1,400**	**2,887**

a Amendments to H.R. 701 on the floor change these estimates for H.R. 701/S. 2567, but no revisions have been posted. Estimates are from a table published by the Resources Committee on November 16, 1999, and available at the Committee website, www.house.gov/resources.

b Data prepared by staff of Representative George Miller from data provided by the Department of the Interior dated February 23, 1999.

c Data published by Senate Energy Committee minority staff, and available at the minority committee website, www.senate.gov/~energy.

d Includes funding for Territories, Native Americans, and the District of Columbia. In H.R. 701, also includes $100 million under Title VII for conservation easements.

Major Issues

A number of themes have become apparent in the controversies over the proposals encompassed in these bills: federal budget implications, property rights and federal ownership, OCS leasing moratoria, and federal land payments. Each of these issues is described below, emphasizing how they are addressed in the bills. The views of major interests also are identified.

Federal Budget Implications

All four bills guarantee the availability (and predictability) of funding without further appropriations for the various programs in the bills, with the exception of restrictions contained in (a) §5(g) of H.R. 701/S. 2567 regarding Social Security, Medicare and debt reduction, and (b) H.R. 701/S. 2567 and S. 2123 for the federal portion of LWCF. This feature of permanent appropriation is already enjoyed by some existing natural resource programs, *e.g.*, sport fish and game restoration, acquisition of migratory bird habitat, reforestation, and some soil conservation programs. Providing funds without further appropriations enables programs to avoid the annual appropriations process. To accomplish this, legislation typically contains the phrase "without further appropriation", or a similar phrase, thereby making available annually whatever amount is specified. Traditionally, appropriations and budget committees, as well as Members who strongly support congressional oversight of all spending, have strongly opposed this approach to funding. Moreover, procedural hurdles to passage of such proposals can be formidable. Some of the bills contain provisions which amend LWCF, leaving major portions intact, as well as supplementing its funding under annual CARA appropriations. All but one of the bills also contain sunset provisions, so that funding would cease in FY2016 unless Congress acted to extend the programs.

Debt Reduction, Social Security, and Medicare. Two provisions addressing these topics were added to H.R. 701 during consideration by the House. A new Section 5(g) of this bill contains a provision precluding the transfer of funds to the CARA Fund in any fiscal year unless a number of conditions are met. This provision, a floor amendment offered by Representative Shadegg, passed the House by 216-208 on Roll Call vote 163 on May 10. The CBO director must certify that enough "on-budget" surplus has been reserved to cause elimination of the publicly-held federal debt by 2013, and that there is not an "on budget" deficit for that year ("on-budget" refers to federal budget totals excluding the financial operations of Social Security and the postal service). In addition, the Social Security and Medicare Hospital Insurance (HI) trustees must certify that outlays from their respective trust funds will not exceed their revenues during the five fiscal-year period following each year of transfer. Since the most recent trustees' reports for the two programs (issued in March 2000) project that outlays will exceed the revenues in both programs at some point during the next 20 years, it is possible that this provision will preclude the transfer of funds to the CARA Fund during the latter part of the period in which it would be in effect.

However, if the term "revenues" (as used in the bill) refers only to the tax receipts of the programs (and not to the interest credited to the trust funds semi-annually), the trustees' reports suggest that outlays from the Social Security Disability Insurance (DI) Trust Fund would exceed its revenues somewhat earlier, in or around

FY 2007. For the HI Trust Fund, the same is projected to occur in FY 2009, and for the Social Security Old Age and Survivors Insurance (OASI) Trust Fund, it would happen sometime between 2015 and 2020.

Thus, at least in principle, Congress would not decide annually whether the CARA-supported programs would be funded in competition with all other discretionary spending. Rather, other discretionary spending would first become law in appropriations bills, and the results would then be measured against the goals in §5(g) for reducing the debt and protecting Social Security and Medicare. If the goals are met, the CARA programs would be funded automatically.[15] Based on current projections for the Social Security and Medicare trust funds, and barring major changes in economic conditions or enactment of legislation inhibiting achieving the goals of §5(g), it would appear that the CARA programs initially would be funded as proposed, but would begin to be at risk in roughly a decade, depending on the meaning of the term "revenues" in the bill.

A new Title VIII of H.R. 701was added as a floor amendment, proposed by Representative DeFazio and adopted by a recorded vote of 413-3 just before final passage. This title provides that no funds can be expended under the Act if doing so would diminish Social Security or Medicare benefit obligations. Representative Defazio characterized his amendment as an effort to strengthen the Shadegg amendment. This amendment appears to be a general safeguard only. As passed by the House, there are no explicit provisions in the bill altering Social Security or Medicare benefits, and none of the expenditures authorized under the bill would interact with the benefit calculations or administration of the Social Security or Medicare program as now provided under the Social Security Act. As a result, CARA expenditures are unlikely to be affected by this title.

Dual Funding for LWCF under H.R. 701. As approved by the House, the LWCF appears to provide potentially more, rather than less money, for federal land acquisition. Section 202 of H. R. 701/S/ 2567 amends §2(c) of the LWCF to provide $450 million annually for federal acquisition from the CARA fund. These funds would be subject to annual appropriations because language (§7) exempting these funds from the budget process was deleted as part of the technical corrections made after committee approval but prior to floor action. The annual appropriations process would apply as it does today.

In addition, §203 of this bill amends §3 of the LWCF to provide up to $900 million, under existing law[16], which is not repealed, subject to annual appropriations. As amended, $450 million of this total would be available for federal land acquisition, as §204 of the bill amends the LWCF Act to state that half the total will be available for federal purposes, and the other half will be provided to states as grants. This state competitive grants program in, §206(d), would allow states to submit proposals for projects of national or regional significance involving one or more states. This bill also adds a number of new controls limiting how any federal funds (whether through

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[15]The portion of CARA allocated to federal LWCF would continue to require action in annual appropriations bills, however.

[16]Current provisions of LWCF make it clear that $900 million goes from OCS revenues *to* the fund, but are somewhat vague about how much is authorized to be taken *from* it.

CARA or the LWCF as amended by CARA) can be spent and increases the role of Congress in making these decisions. These controls are discussed in the section titled *Property Rights,* below, and in the discussion on permancy of appropriations that follows.

Federal LWCF: Permanent or Not? As noted, one significant exception to mandatory spending is the funding for the federal portion of LWCF in S. 2123 and in H.R. 701/S.2567. S. 2123 will be discussed first, followed by H.R. 701/S. 2567, and finally S. 2181. The S. 2123 LWCF provisions first make $450 million from CARA[17] available "without further appropriation" for federal LWCF and then place several limits on spending. (See discussion on property rights, above.) How likely is it that the specified amount will actually be available, and how does that likelihood compare to the current situation? While many external factors (*e.g.*, deficits or surpluses, the state of the economy, tax cuts, interest rates, changes in federal land acquisition policy, etc.) could affect whether Congress would actually appropriate funds for federal land acquisition, three provisions of S. 2123 are particularly important to federal LWCF: §7; §203; and §205.[18]

In S. 2123, § 7 states that spending under CARA will not count as "new budget authority, outlays, receipts, or deficit or surplus" for the President's budget request, for the congressional budget, or for the Balanced Budget and Emergency Deficit Control Act of 1995, and is exempt from other specified limits on outlays. Section 203 makes CARA funds transferred to LWCF available "without further appropriation." Section 205 amends LWCF to require that the federal portion of CARA ($450 million) and any additional funding potentially added from LWCF alone "may not be obligated or expended by the Secretary of the Interior or the Secretary of Agriculture for any acquisition except those specifically referred to, and approved by Congress, in an Act making appropriations for the Department of the Interior or the Department of Agriculture, respectively." On their faces, §203 and §205 appear to contradict each other, with one requiring permanency, and the other requiring annual congressional action. While §205 does make the federal funds subject to annual appropriations, §7 greatly reduces any fiscal incentives to withhold the funding, since CARA spending would not count against the committee's total spending. This interpretation must be understood in the context of *current* processes.

Each appropriations subcommittee currently is allocated a fixed cap for spending under §302(b) of the Budget Act. Therefore, to the extent that the Interior Appropriations Subcommittees now allocate less spending to LWCF, more is available for any other program within their jurisdiction. (The fact that LWCF funds nominally come from OCS revenues is irrelevant to §302(b).) Also, at least since the early 1980s, the reports accompanying the appropriations acts have usually placed earmarks on the great majority of money spent for federal land acquisition under the

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[17]It also permanently appropriates current payments into LWCF from the sale of assets and from a motorboat fuels tax. Under current law, these funds, like all OCS funds, require annual appropriations. In FY1998, the combined total from these two sources of revenue was $2.02 million.

[18]The federal LWCF portion of these bills is much more likely to be influenced by such factors as budget deficits or surpluses than other parts of these bills since it would be considered discretionary spending, while the rest of the bill would be considered mandatory spending.

LWCF. While agencies are not necessarily bound by the report language that is not incorporated into the funding law, they may be constrained politically in what parcels they purchase.

If S. 2123 were to become law, §7 would separate all CARA funding from the Interior Subcommittee's §302(b) allocation. Any federal LWCF funding derived from CARA, from zero to $450 million, would have no effect on the Committee's funding for other programs. Thus, a major factor – perhaps *the* major factor – constraining current LWCF spending would not be present for CARA federal funds.[19] Since the Congress (and the Subcommittee) would still need to approve the acquisitions, it could continue to allocate funding according to its own priorities or requests from the Administration or other Members. Requests for increased federal land acquisition from Members might grow, since no other spending programs in the Subcommittees' jurisdiction would decrease if these requests were granted. The appropriations committees would retain the final choice over federal agency acquisitions.

In contrast, in H.R. 701/S. 2567, §7 was deleted. Given that the bill retains the requirement for approval by Congress, federal LWCF funding would be treated as it is now: it would be considered discretionary spending, and would count against the Interior Subcommittee's annual over all spending ceiling (the §302(b) allocation under the Budget Act).[20] It would continue to be subject to annual appropriations, and would likely vary from year to year, as it does under current law.[21] For federal LWCF, the chief budgetary differences between H.R. 701/S. 2567 and current law and practice are the following:

- Under current practice, the annual LWCF appropriation, both state and federal combined, has been limited to $900 million, plus the accumulated authorized but unappropriated balance, though actual funding levels have been substantially below $900 million for over a decade. Annual appropriations are also required under H.R. 701/S.2567 and are limited to $450 million from CARA. Potentially, another $450 million could be added. See the section above titled *Dual Funding for Federal LWCF under H.R. 701.*

- Currently, total federal LWCF spending is approved for all four agencies in the annual Interior appropriations bill, while "earmarks" are usually contained in the accompanying joint statement of managers (which is not usually made part of the law). Under H.R. 701/S 2567, both the agency totals and the earmarks would be in the appropriations bill itself, and hence clearly in law. While agencies currently may be politically constrained from moving funding from one project to another when projects are earmarked only in appropriations

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[19]If Congress chose to appropriate any funds under the pre-existing (non-CARA) provisions of LWCF, it could continue to do so, but such spending would be constrained by the §302(b) allocation.

[20]Personal communication with Deborah Reis, budget analyst, Congressional Budget Office, May 9, 2000.

[21]The new §5(g) affects funding not only for this portion of the bill but for the entire bill. For more on the effects of §5(g) see *Debt Reduction, Social Security, and Medicare* above. With the addition of §5(g), other factors besides budget and appropriations committee procedures could limit funding, not only for federal LWCF but for the entire bill.

reports, their freedom to do so would be eliminated if the earmarks were enacted in law.

Finally, the third Senate bill, S. 2181, takes a very different approach. For many of the programs that it funds without further appropriations – including federal LWCF – it requires that the Administration submit a list of priority projects to be funded with each year's budget submission to Congress. That list would be funded automatically 15 days after the congressional session adjourns, unless Congress enacts a different list of priorities. If Congress does enact a different list and those projects would cost less than the authorized amount, the difference would be automatically expended on the Administration's list of projects in order of priority. Under this system, specific funding levels are assured, and Congress could specify individual federal acquisitions if it chose to do so.

Farmland Protection Grants. Conservation easement provisions in all the bills except S. 25 would make certain private non-profit or charitable organizations eligible to compete with state and local governments for federal funds to purchase easements. These provisions would provide the first opportunity for organizations who meet these qualifications to compete directly with units of government for federal funds to protect resources. Competition between public and private organizations for federal grant funds occurs in some programs in other sectors, such as social programs, but has not existed in natural resource protection programs.

Sunset Provisions. H.R. 701 /S. 2567, S. 2123 and S. 25 sunset the entire Act on September 30, 2015. This is also the date on which authorization for placing additional OCS revenues in the LWCF would sunset under current law. S. 2181, by contrast, does not include a sunset date.

Property Rights

Advocates of private property owners' rights have raised concerns that the availability of additional funds will increase pressure to acquire more federal land, and that further acquisition is likely to center on areas where federal ownership is already concentrated. Section 10 of H.R. 701/S. 2567 and §11 of S. 2123 state that property rights will be respected, that property may not be taken without compensation, and that land uses on private land may not be regulated by federal agencies prior to acquisition unless authorized by Congress. The committee report indicates that regulation of private property must be "specifically authorized" by Congress.[22] S. 2181 includes no provisions to protect private property rights beyond the protections already in current law.

H.R. 701/S. 2567 contains several provisions in Title II that may respond to concerns about federal land acquisition and property rights. One change, made as a technical correction prior to House consideration and mentioned above, would retain the requirement that the federal portion of the LWCF be subject to annual appropriations. Current law and other changes in the various bills include:

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[22] It is not likely that exemption from regulation under the Clean Water Act or the Clean Air Act, for example, is intended, but the meaning of the provision is unclear.

- Under current law, each agency transmits a list of proposed acquisitions in its budget justification; the acquisitions directed in the congressional earmarks may or may not closely resemble agency priorities. Under §205 of H.R. 701/S. 2567, the Secretaries of Agriculture and Interior must submit a joint priority list, and Congress may change this list (in the appropriations bill). S. 2123 has similar provisions.
- Section 205 (d)(2) of H.R. 701/S. 2567 requires that property be acquired from willing sellers or be specifically approved by Congress. Current law does not prohibit use of federal LWCF funds in condemnation actions, though, reportedly, this practice is very rare. S. 25 forbids the use of the federal portion of LWCF funding for condemnation of private property.
- Section 205(e)(2)(B) of H.R. 701/S. 2567 directs the two Secretaries, in preparing their lists of proposed acquisitions, to: identify opportunities for consolidating holdings; identify opportunities for land exchanges and permanent easements as options to acquisitions; request permission to use adverse condemnation; and establish acquisition priorities based on several considerations.
- Section 205(e)(2)(C) of H.R. 701/S. 2567 requires both Secretaries to submit a list of lands eligible for disposal in appropriate land management plans, when they submit their acquisition priorities to Congress. The list of disposable lands would have to be updated as land management plans are updated. This provision, offered by Representative Doolittle as an amendment during committee markup, provides an annual opportunity to partially offset a higher rate of acquisition by requiring that federal agencies produce a list of lands under their control for which there is "no demonstrated compelling program need" that could be traded or sold. No such list is currently required.

H.R. 701/S. 2567, S. 2123 and S. 25 contain numerous other provisions that allow federal agencies using CARA funds to acquire land only after environmental analyses, public participation, specified notifications, and other processes. S. 25 also includes a provision in §203(b)(1) that requires federal agencies to spend two thirds of the LWCF monies they receive east of the 100th meridian. Nonetheless, these provisions have not assuaged property rights advocates, who are continuing to voice their concerns. In sum, H.R. 701/S. 2567 offers a package of protections to property owners that exceed those available in current law. These protections might be offset by authorizing more funds for federal acquisitions under the LWCF, but funding levels would still be controlled through the annual appropriations process.

OCS Leasing and Moratoria

Some environmental interests fear that this legislation would provide incentives to expand OCS activities. Much of the OCS total acreage is currently subject to a ban on new leasing and production because of concerns that sensitive marine and coastal environments could be damaged by OCS-related activities. With these bans in place, leases currently can be offered only in the Central and Western Gulf of Mexico and a few areas off Alaska. Three separate restrictions on leasing in environmentally sensitive areas currently exist:

- **Legislative Moratoria.** Starting in FY1982, Congress has included language in each annual Interior appropriations bill prohibiting the expenditure of funds for pre-leasing or leasing activity in designated environmentally sensitive areas.[23] In general, Congress has expanded the size of areas affected by this language from year to year.

- **Administrative Directive.** In 1990, President Bush barred the executive branch from conducting leasing or preleasing work on lands under legislative moratoria until 2000: in 1998, President Clinton extended that ban until 2012.

- **Interior Department 5-Year Leasing Plan.** The Minerals Management Service designates all tracts that may be offered for lease in 5 year plans. Each plan includes a schedule for each anticipated lease and a description of areas proposed for leasing; the current plan runs through 2002. The planning process, while not an actual ban, is used to decide where leasing will occur.

H.R. 701/S. 2567 and S. 2123 would address the moratorium issue in §3(12), by defining "qualified Outer Continental Shelf revenues" so as to exclude revenues from tracts in areas subject to a moratorium on January 1, 1999, unless the lease was issued before the moratorium was established and was in production on January 1, 1999. S. 2181 adopts a similar approach, but requires production to begin before January 1, 2000. S. 25 would address the moratorium in a new §701(12) to be added to the OCSLA, which states that this title, called the Coastal Conservation and Impact Assistance Act of 1998, is not to be interpreted "to repeal or modify any existing moratoria" or "to encourage the development of Federal OCS resources" into new areas.

A central concern is that these bills might undermine support for offshore moratoria by creating a constituency that desires or becomes accustomed to receiving OCS moneys. Were the OCS revenue stream subsequently to decline to the point that the authorized activities could not be fully funded, those accustomed to receiving funding might seek replenishment by supporting leasing of tracts that had been off-limits to development. Supporters of the underfunded programs and projects could come together as new pro-leasing constituencies.[24] They would have had such an opportunity periodically under §101(b)(2) of H.R. 701/S. 2123, which provided that the state shares for impact assistance be recalculated every 5 years. The House

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[23]Preleasing involves all the planning activities and analysis that are conducted prior to the actual sale of leases. These activities, which can take several years, are such a large commitment of resources that some believe that it would be difficult for the government to halt the lease process by the time that the sale is scheduled to occur, or to halt development after the sale. This has been a central issue in numerous court cases and administrative appeals under the Coastal Zone Management Act's federal consistency provision, which requires that all federal actions in or affecting the coastal zone of a state with a federally-approved program be consistent with that program.

[24]Analogous situations have occurred in rural communities that are dependent on mining or timber activities.

approved an amendment, sponsored by Representative Boehlert, deleting this provision.[25]

Some hold that the three approaches to moratoria already provide ample protection against leasing environmentally sensitive tracts. It is also asserted that producers' interest in OCS tracts is limited to those that can be economically developed; for would-be producers, environmental opposition is an economic drawback as well as a political and public relations liability. Others counter that the moratoria, while occurring in three places, are only temporary, having no permanent basis in law, and a new Administration or Congressional makeup could lead to change.

Funding for County Payments

As passed by the House, §5(d) of H.R. 701 (S. 2567) provides that PILT matching funds from CARA are available if the annual appropriation for PILT under the regular appropriations bill exceeds $100 million.[26] Thus, if Congress appropriates $99 million for PILT, no CARA funds are spent; if it appropriates $135 million for PILT, then an additional $135 million would be spent from CARA for PILT matching. For RRSF, CARA matching funds are available only if funds from other sources exceed $15 million.[27] If the total from the other sources were $15 million, CARA would provide an additional $15 million in matching money. However, the CARA add-on cannot bring the total spending on either program above the authorization level for that program. These levels were $301 million for PILT and $28 million for RRSF in FY1999. If the CARA add-on would provide more funding than authorized under either RRSF or PILT for that year, the excess funds would be available, first for the other program (RRSF or PILT), and second for other CARA programs. The entire $200 million available under §5(d) is not likely to be sufficient to provide for the full payment for these two programs in the future, if amounts made available in annual appropriations bills remain at current levels. This insufficiency would be exacerbated because PILT requires annual adjustments in its formula to compensate for inflation. Table 4 shows the result that would have occurred in FY1999 (the most recent fiscal year for which full data are available for both programs) had this version of §5(d) been in effect. As shown in the table, RRSF would have been funded at 100% of the formula, and PILT would have been funded at 84.8% of its formula.

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[25] The Boehlert amendment also added language requiring that the state plans used as a basis for describing how coastal impact funds would be spent should describe both how the plan will address environmental concerns, and how the state will evaluate the plan's effectiveness.

[26] The FY2000 appropriation was $135 million. Full funding for PILT would have required $303.7 million in FY1999 (the most recent year for which an estimate is available).

[27] Total annual and permanent appropriations under existing law for RRSF were $16.5 million in FY2000. Full funding for RRSF would have required $27.9 million in FY2000 (the most recent year for which an estimate is available).

Table 4. Amounts that would have been added under H.R. 701 (as passed by the House) to the Refuge Revenue Sharing Fund (RRSF) and Payments in Lieu of Taxes (PILT). ($ in thousands)

Program	FY1999 appropriation	FY1999 authorization	Amount that would have been added by H.R. 701	Unfunded authorization
RRSF	16,664	28,000	11,336[a]	0
PILT	125,000	301,182	130,328[b]	45,854

a. CARA could match the $16,664,000, but only $11,336,000 is needed to bring RRSF to full funding of the amount authorized in the formula. The additional $5,328,000 is therefore made available to the PILT portion of the CARA Fund match.
b. CARA provides a direct match of $125 million. Since this results in $250 million (still less than the full authorized amount in the formula), then the surplus of $5,328,000 from RRSF is transferred to PILT. The total ($255,328,000) would have left PILT funded at 84.8% of the authorized amount for FY1999, rather than at 41.0% as actually occurred.

S. 2123 would increase federal payments to local governments in jurisdictions where the federal government owns lands. Like H.R.701 as passed, §5(d) would use the interest on monies in the CARA Fund to create a matching fund for any appropriations that result from the annual appropriations process[28], up to a combined ceiling of $200 million for the two programs. But unlike that version, S. 2123 would have no required floor below which it would not operate. It is difficult to predict what effect this proposal may have on total PILT payments. Like the previous bill, it could encourage Congress to appropriate greater funds for PILT and RRSF, since each dollar would be matched by funds from this interest on CARA funds. However, Congress might respond by cutting the existing appropriations for these two programs (and using the savings in other programs under the jurisdiction of the same appropriations subcommittees), arguing that matching payments from CARA could make up the shortfall.

S. 25 contains no provisions concerning PILT or RRSF. S. 2181 has no provisions concerning RRSF, but it permanently appropriates from qualified OCS revenues such sums as may be necessary, to provide for full funding of PILT in Title X. In FY2001, this would be roughly $300 to $350 million.

[28]In the case of RRSF, from the existing small permanent appropriation as well.

Other Amendments to H.R. 701

The House approved four amendments to H.R. 701(and which appear in S. 2567) in addition to those mentioned above.

- An amendment offered by Representative Souder and approved by voice vote was inserted as a new §5(f) specifying that funds provided by this bill should supplement rather than "detract from" annual appropriations to the National Park Service.
- An amendment offered by Representative Regula and approved by voice vote was inserted as a new paragraph at the end of §206(b)(2) which limits access to LWCF side grants to states with a "dedicated land acquisition fund" funded through its budget process; funds for ineligible states will be reapportioned among the other states.
- An amendment offered by Representative Rick Hill and approved by voice vote was inserted as a new §211 that requires the Secretaries of the Interior and Agriculture to jointly issue a plan that will consolidate private and federal public lands in Montana, while insuring that any overall increase in federal holdings in the state is minimal.
- An amendment to Title VII offered by Representative Mark Udall, approved by recorded vote, added the Urban and Community Forestry Assistance Program to the list of federal programs eligible to receive funds under this title.

The House rejected the following amendments, which are described below as characterized by their sponsors:

- An amendment offered by Representative Regula to revise the coastal impact formula so that states allowing offshore drilling would receive most of the assistance;
- An amendment offered by Representative Radanovich to require the Fund to fully fund the PILT and refuge revenue sharing programs;
- An amendment offered by Representatives Tancredo and Pombo to eliminate the federal side of the LWCF and distribute those funds among other specified programs funded by this legislation;
- An amendment offered by Representative Chenoweth-Hage to prohibit using CARA funds to establish or manage any national monument designated after 1995 under the Antiquities Act of 1906;
- An amendment offered by Representative Pombo to ensure that private property owners would not be adversely affected if they became neighbors to the federal government because of this bill;
- An amendment offered by Representative John Peterson to require that all federal land purchases funded by CARA be located within established federal boundaries.
- An amendment offered by Representative Chambliss to make spending under this legislation discretionary rather than mandatory through FY2006 (the length of the current budget resolution);

- An amendment offered by Representative Chenoweth-Hage to delete a provision specifying impact aid to a specific California county;
- An amendment offered by Representatives Hastings and Regula to require that half the federal land acquisition money be used to maintain and manage land already owned by the federal government;
- An amendment offered by Representatives Sweeney and McHugh to allow local governments to object to federal and state projects funded by LWCF;
- An amendment offered by Representatives Simpson and Walden requiring that the federal government either dispose of an equal area of land or obtain state approval before acquiring land in states where the federal government owns more than 50% of the area.;
- An amendment offered by Representative Calvert to prohibit adverse condemnation for projects funded by impact assistance grants in Title I;
- An amendment offered by Representative Buyer to prohibit non-profit organizations from using federal funds to buy conservation easements;
- An amendment offered by Representative Chenoweth-Hage to block funding to private organizations and non-profit groups;
- An amendment offered by Representative Gibbons to allow BLM to auction land that it has identified for disposal;
- An amendment offered by Representative Ose to restrict funds to incorporated urban areas and areas that exceed a minimum population level; and
- An amendment offered by Representative Thornberry that combined elements of several amendments that had been considered separately and rejected.

General Provisions

The initial 11 sections of H.R. 701/S. 2567 and 12 sections of S. 2123 contain general provisions. S. 25 and S. 2181 do not have a similar set of sections with general provisions, although some comparable provisions are scattered throughout both bills. Section 3 of H.R. 701/S. 2567 and S. 2123 would define 14 terms; in S. 25 and S. 2181, many identical or very similar definitions are found in the sections in which they apply. S. 25 would define 13 terms in its coastal impact assistance title, while S. 2181 would define 2 terms in the comparable section, for example. These definitions are discussed in the relevant portions of the side-by-side analysis, which follows.

Section 4 of H.R. 701/ S. 2567 and S. 2123 would require each state to submit an annual report describing all funded projects and activities to the Secretary of Agriculture or Secretary of the Interior, as appropriate, by June 15. The Secretary of the Interior, in conjunction with the Secretary of Agriculture, would submit a report to Congress each January 1 summarizing those reports and documenting how all moneys from the CARA Fund have been spent. S. 25 and S. 2181 have reporting requirements in some titles, which are identified in the side-by-side analysis.

Section 5 of H.R. 701/S. 2567 and S. 2123 would create the CARA Fund. As discussed earlier, this Fund would receive up to $2.825 billion each year from OCS revenues starting in FY2001. If the total deposits would be less than $2.825 billion,

the amounts transferred to each of the 7 funded programs would be reduced proportionately. The only variation in funding is that H.R. 701/S. 2567 provide $100 million to the Secretary of Agriculture and $50 million to the Secretary of the Interior under Title VII, while S. 2123 provides all $150 million under that title to the Secretary of the Interior. Interest accrued by the CARA Fund, up to $200 million annually, would provide additional funds to supplement current annual appropriations for 3 existing programs: Payments in Lieu of Taxes (PILT); Refuge Revenue Sharing Fund (RRSF); and the North American Wetlands Conservation Fund. Any interest earned beyond that limit would be placed in the Fund. For PILT and RRSF, the language provides a matching fund for any other appropriations that may be provided for these programs, discussed above. Under H.R.701/S. 2567, this match would be available only if appropriations for each from other sources exceed specified minimum levels. (For more discussion, see *Funding for County Payments*, above.)This section also specifies that refunds of royalties to entities that hold offshore leases would be paid out of the CARA Fund. S. 25 addresses reductions in payments due to royalty refunds in each title of the bill. The refund subsection in H.R. 701/S. 2567 includes the National Park Service appropriations and social security and medicare solvency language (the Souder and Shadegg amendments, respectively), discussed above. S. 2181 does not address federal refunds.

Section 6 of H.R. 701/S. 2567 and S. 2123 would limit administrative expenses to no more than 2% of the amount made available for each program. No money from the Fund could be used to administer the wildlife provisions in Title III; the law which this title amends already provides funding for administration.

Section 7 of S. 2123 states that the receipts and disbursements of the CARA Fund, or any portion of it, would "not be counted" as new budget authority, outlays, receipts, or deficit or surplus, under the President's budget, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985. The receipts and disbursements would also be exempt from any general budget limitation. It was deleted from H.R. 701/S. 2567, and the effects of deleting it are discussed above, in *Federal Budget Implications*.

Section 7 of H.R. 701/S. 2567 and § 8 of S. 2123 would assign the Secretary of the Interior, in consultation with the Secretary of Agriculture, the lead in establishing record- keeping and auditing rules for state and local governments as they receive and spend these funds.

Section 8 of H.R. 701/S. 2567 and § 9 of S. 2123 would prohibit any state or local government from receiving funds under this Act if its expenditures for these programs decline from the preceding year, unless that reduction is the result of an across-the-board reduction that affects all State agencies. Funding provided to state and local governments would be used to supplement, and where ever possible, to increase the level of non-federal dollars that are committed to the programs. State or local governments would treat all CARA Fund monies as federal funds, and could not use these monies as their non-federal match for other federal programs. Under provisions added to H.R. 701/S. 2567, the Secretary would make this determination

by comparing proposed expenditures to expenditures from the second preceding fiscal year.

Section 9 of H.R. 701/S/ 2567 and § 10 of S. 2123 would terminate this law on September 30, 2015, which is the same date for the LWCF sunset under current law.

Section 10 of H.R. 701/S/ 2567 and § 11 of S. 2123 contain the private property provisions, discussed earlier.

Section 11 of H.R. 701/S. 2567 and § 12 of S. 2123 states that a beneficiary of federal assistance under the CARA Fund must recognize that assistance on a sign erected at an entrance or public focal point. The Secretary of the Interior would develop standards and guidelines for such signs.

The remainder of the report is a side-by-side comparison. H.R. 701/S. 2567 are listed together with S. 2123 in the first column, although H.R. 701 was amended in several ways before being approved by the House. The changes which make H.R. 701/S. 2567 different from S. 2123 are noted in a different font at the end of the appropriate entries. Some of these provisions have been described in more detail above.

Side by Side Comparison -- Provisions in H.R. 701 (as passed)/S. 2567, S. 25, S. 2123 and S. 2181 with Current Law

(Amendments to H.R. 701 appear in this font.)

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Impact Assistance and Coastal Conservation (Coastal Assistance) – Overview			
Provides permanently appropriated monies from the CARA Fund to coastal states to address 11 specified resource conservation purposes as laid out in their federally-approved Coastal State Conservation and Impact Assistance Plan, which they are required to prepare to be eligible.	Amends the OCSLA by adding a new Title VII.. Lists 12 findings that argue the merits of a coastal impact assistance program. Creates the Outer Continental Shelf Impact Assistance Fund (OCSIAF) and specifies 6 broad purposes for which these funds can be spent.	Provides permanently appropriated monies to coastal states for coastal impact assistance using the Outer Continental Shelf Impact Assistance Fund (OCSIAF) administered by the Sec. of the Interior, and for four purposes related to coastal and marine resource protection using the Ocean and Coast Conservation Fund (OCCF) administered by the Sec. of Commerce.	No similar provisions in law
Coastal Assistance – Definition of Terms			
Some of the key terms that are defined are *"coastal state", "coastal population", "coastal political subdivision","coastline", "leased tract", "outer continental shelf", "political subdivision",* and "*producing state*" (§3).	Terms and definitions are generally identical, or almost identical. Major differences are in the definitions of *"producing states"*, which is defined by maximum distance from a leased tract in H.R. 701, and by pipeline transport to an onshore processing facility in this bill and the distinction between *"eligible political subdivisions"* in this bill and *"coastal political subdivisions"* in H.R. 701 (§702 and §703(c)(3)).	Terms that are defined and added to §2 of the Outer Continental Shelf Lands Act include "*coastline*","*coastal state*", "*leased tract*", "*producing coastal state"*, and "*qualified Outer Continental Shelf revenues*." Qualified OCS revenues is a lengthy definition for all tracts within 200 miles of a state's coastline. Producing coastal state definition is nearly identical with the definition of "producing state" in H.R. 701; impact assistance is only available to producing coastal states (§202).	Many of the definitions are taken from current law, including OSCLA and CZMA.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance – Funding Source and Amount			
Permanently appropriates $1 billion annually from the CARA Fund through FY2015 for impact assistance and coastal conservation (§5(b)(1)).	Creates the OCSIAF (§703(a)(1)) and permanently appropriates 27% of revenues annually from OCS activities, as defined, to it (§703(a)).	Creates the OCSIAF and permanently appropriates $100 million of qualified OCS revenues to it annually. Creates the OCCF and permanently appropriates $365 million of qualified OCS revenues to it annually. Money in both funds remain available until spent. The OCCF provides $250 million for coastal stewardship grants, $25 million for cooperative enforcement of marine laws, $75 million for fisheries research and management grants, and $15 million for coral reef protection. Each budget submission will include a list of proposals that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the proposals from the Administration (§202(b)).	No similar provisions in law
Coastal Assistance – Moratorium			
Tracts are ineligible for leasing if they are in an area that was subject to a moratorium on January 1, 1999, unless they were leased earlier and were in production before Jan. 1, 1999 (§101(b)(2)).	One of the findings states that this title will not repeal or modify any existing moratorium nor should it be interpreted as an incentive to encourage OCS development where it is not currently occurring (§701(12)).	Same has H.R. 701, except that tracts had to be in production before Jan. 1, 2000 for the OCCF and Jan. 1, 1999 for the OCSIAF (§202(b)).	See discussion of legislative moratoria, administrative directives, and Interior Department 5 year Leasing Plan in the section of this report titled *Funding the Proposals*, above.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance – Allocation Among States			
Allocation among states is based: 50% on production within 200 miles of the state from the center of each leased tract; 25% on the relative length of the shoreline, and 25% on the relative coastal population (§101(b)(1)). Production will be recalculated every 5 years, and each state's share will be determined based on the inverse relationship between the closest point of the state coastline and the center of each tract (§101(b)(2)). All states with approved coastal zone management programs or making satisfactory progress toward approval will receive at least 0.5% of the total amount, and others will receive at least 0.25% of the amount. (Note: The only eligible states or territories currently without approved programs are Illinois and Indiana.) If a state receives an increase because its plan is approved or progressing satisfactorily, all other states will be reduced proportionally (§101(b)(3)). Payments will be made by Dec. 31 from revenues received the preceding year (§101(d)). Under H.R. 701 as passed, the provision to recalculate production every 5 years is deleted. (See discussion of *OCS Leasing and Moratoria.*)	The OCSIAF allocation formula and minimum state shares are the same as H.R. 701 (§703(c)). State shares will be determined the same way, but periodic recalculation is not mentioned. When royalty payments are refunded, 27% of the refunds would be drawn from this fund (§705(d)). Every "producing state", defined as states producing hydrocarbons offshore that were transported by pipeline to a processing facility in the state in FY1998, would have to receive at least as much as the largest allocation for a non-producing state (§703(c)(3)).	The OCSIAF allocation formula is the same as in H.R. 701, but limited to producing coastal states. Each state's share is inversely proportional to the distance between the center of each leased tract and the nearest port. Each producing state will receive at least $2 million annually. Allocation of the coastal stewardship portion of the OCCF among states is based: 50% on demonstrated conservation and protection needs; 25% on the relative length of shoreline; and 25% on the relative coastal population.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance–Allocation Within States			
Half the allocation to each state shall be allocated among coastal political subdivisions. Subdivisions having an oil refinery shall be treated as political subdivisions located 50 miles from the center of leased tracts (and are therefore eligible to receive more) (§101(c)).	Allocation is: 40% to the state; 40% to eligible political subdivisions; and 20% to other political subdivisions that have been determined by the Governor to be affected by OCS-related activities and are included in the state's plan. The 40% share to eligible political subdivisions would be allocated by formula: 50% based on the percentage of acreage within the state's coastal zone; 25% based on the relative proportion of coastal population; and 25% based on the distance to the center of the nearest leased OCS tract (§703(d)).	No similar provisions.	No similar provisions in law

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance– State Plans			
Funds provided to states with an approved Coastal State Conservation and Impact Assistance Plan (§101(a)(1)). Funds for states without approved plans are either retained in the CARA Fund or held in escrow if a state is appealing the disapproval of a plan (§101(a)(2)). Each participating state will submit a plan to the Sec. of the Interior, including plans of coastal political subdivisions in producing states, by April 1 of the year following enactment. (Note: Penalty for not completing a plan is not stated, but presumably is the loss of funds.) All plans must demonstrate public participation (§102 (a)). Four required plan elements are listed, as are schedules for submission, revision, and amendment (§102 (b)). Under H.R. 701 as passed, the required contents of the plans are altered to add a discussion of how environmental concerns will be addressed.	Requires states within 1 year of enactment to develop plans to show how they will use these funds. Plans are to be amended at least once every 5 years (§705(a)). A process for political subdivisions to receive approval for projects from the governor before the funds are allocated will be in the plan (§705(a)).	For the OCSIAF, producing coastal states are required to submit a plan which ensures that funds will be used only as permitted to the Sec. of the Interior each fiscal year prior to receiving any funds; the Sec. will consult with the Sec. of Commerce . For the OCCF, the Sec. of Commerce must fully approve a state plan which details how coastal stewardship funds will be spent, certifies that these expenditures will comply with relevant federal and state laws, and considers ways to assist local governments, non profit organizations, and public institutions to use these funds. States become eligible to receive funds when they submit an application as part of their plan (§202(b)).	No similar provisions in law

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance – Specified Uses of Fund			
Authorized uses of funds include: (1) data collection about coastal living marine resources; (2) conservation, restoration, enhancement or creation of coastal habitats; (3) enforcement of marine resource management laws; (4) fishery observer programs; (5) identification and control of exotic species; (6) cooperative fisheries planning between states; (7) preparing and implementing fishery or marine mammal management plans required by international agreement; (8) measuring tides and currents; (9) implementing federally-approved comprehensive conservation and management plans; (10) mitigating offshore and coastal impacts of OCS activities; and (11) initiating projects that promote education and training about coastal, ocean, and Great Lakes resources (§102(c)).	Authorized uses of funds include: (1) air and water quality, fish and wildlife, wetlands, outdoor recreation, coastal and estuarine activities (including shoreline protection and coastal restoration); (2) activities associated with coastal management or pollution control; (3) planning assistance and administrative costs to implement this title; (4) uses related to the OCSLA, including mitigating the impacts of activities on the OCS; and (5) depositing these funds into a state or political subdivision trust fund dedicated to uses consistent with this section (§704(a)).	OCSIAF may be used only to mitigate "adverse environmental impacts directly attributable" to OCS oil and gas development. Under the OCCF, the Sec. of Commerce will give priority to activities consistent with: (1) protecting estuarine and marine sanctuaries, coastal management, and coastal and marine fish habitat programs; (2) promoting coastal conservation, restoration, or water quality protection; or (3) addressing conservation needs created by seasonal population fluctuations. States may use these grants only to: (1) conserve coastal and marine habitats; (2) remove marine debris that adversely affects habitats; (3) monitor or reduce coastal pollution; (4) protect watersheds; (5) inventory and research habitats; (6) address conservation needs associated with transient populations; and (7) establish and study protected marine areas. (§202(b)).	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Coastal Assistance – Monitoring Activities			
States must agree to account for how the funds are spent, including fiscal controls, to be eligible to receive them (§101(a)(1)), and must report annually how these funds were spent (§4(a)). The Sec. of the Interior will use annual reports (§5) and audits to determine if all funds are being spent for the 11 specified purposes. If an expenditure is inconsistent, the recipient will not receive further grants until that amount is repaid to the CARA Fund (§102 (d)).	Requires each state to issue an annual report to the Sec. of the Interior and Congress by June 15 describing all projects and activities undertaken the previous fiscal year (§705(c)). Each Governor shall submit a report to the Sec. of the Interior and Congress describing all projects and activities funded under this program (§705(c). Political subdivisions receiving funds would be required to certify to the governor how they used those funds and the status of each project and activity within 60 days of the end of each fiscal year (§705(b)).	State reporting requirements same as S. 25 for both funds, except that OCSIAF reports are submitted to the Sec. of Commerce in addition to the Sec. of the Interior, and the OCCF reports are submitted to the Secretary of Commerce (§202(b)).	No similar provisions in law.
Land and Water Conservation Fund (LWCF) – Overview			
Authorizes appropriations from the CARA Fund to fund the LWCF, and to allocate those monies among federal agencies, states, and other eligible recipients. Funds from CARA for federal agencies would require annual appropriation actions; all other money from the Fund would be permanently appropriated. In addition, funding under the LWCF Act, up to $900 million annually, would remain available and could be appropriated.	Similar.	Similar, but it also adds a new matching state grant program, funded at $125 million a year, to conduct conservation projects on lands of regional or national interest.	Allocates appropriated funds, up to $900 million annually, to federal agencies to acquire lands for LWCF purposes and to states to acquire and develop lands for LWCF purposes.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Funding Source and Amount			
Authorizes appropriations of up to $900 million annually from the CARA Fund through FY2015 (§5(b)(2)). Also allows appropriations of up to an additional $900 million under existing law. OCS revenues will be used to equal the total amount needed for the Fund portion after proceeds from surplus property sales and motorboat fuel tax are deposited (§202).	Permanently appropriates 16% of the OCS revenues (including 16% of any royalty refunds) annually through FY2015 into the LWCF. Provides $900 million annually as a permanent appropriation (§203(b)) and requires appropriations only for those funds in excess of $900 million (§203(c)).	Permanently appropriates not less than $900 million annually from qualified OCS revenues (§102(b)). Deletes the LWCF sunset date of FY2015 (§102(a)). Each budget submission will include a list of proposals that will be funded 15 days after Congress adjourns, unless Congress approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals (§102(e)).	§2(c)(1) of the LWCFA of 1965 authorizes $900 million per year from the fund through FY2015. §2(c)(2) authorizes using OCS revenues to fully fund the LWCF, but §3 requires that funds must be appropriated annually.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Funding for Federal Purposes			
Allocates 50% of the funds for federal purposes (§204). The Secs. of the Interior and Agriculture must submit proposed acquisitions with the annual budget submission. Considerations in preparing the list include consolidating federal holdings, using land exchanges and easements instead of acquisition, factors used to establish priorities, and identifying properties owned by willing sellers who request adverse condemnation. Both Departments also must submit a list of surplus lands for which there remains no need. Each proposed acquisition is to include a statutory cite and an explanation of why this parcel was selected. Acquisition must be approved in appropriations legislation (§205). Under H.R. 701 as passed, the list of surplus lands is to be updated as land management plans are altered. A new section requires the Secs. of the Interior and Agriculture to issue a plan for the consolidation of public and private lands in Montana (§211).	Allocates 45% for federal purposes. Of that total, 25% goes to the Sec. of Agriculture to acquire property within the exterior boundaries of areas in the National Forest System (which includes national forests, national grasslands, and other designations) and certain other areas. The remaining 75% goes to the Sec. of the Interior to acquire property within the exterior boundaries of areas in the National Park or National Refuge System, or other land management units established by Congress.	Allocates 50% for federal purposes (§102(c)). At least $5 million will be provided annually to purchase easements for non-motorized access to public lands (§102(e)).	§5 allocates not less than 40% of the appropriated funds for federal programs. §7, which allows acquisition within the exterior boundaries of the National Park System, inholdings within the boundaries of national forests, and for National Wildlife Refuge System units, endangered species, and other wildlife areas, is not affected by these bills. §7(b) limits acquisition to authorized purchases, except under limited circumstances.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Geographic Restrictions			
No provisions.	Requires that at least two thirds of these funds must be spent east of the 100th meridian (§203(d)).	No provisions.	§7(a)(1) requires that not more than 15% of the land acquired for the National Forest System annually be west of the 100th meridian, unless specifically authorized.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Restrictions on Federal Spending			
The federal portion may only be spent on projects that are specifically approved in an annual appropriations act. Property may only be acquired from a willing seller *or* if acquisition is specifically approved by Congress. (Note: congressional approval would make condemnation available under 40 U.S.C. 257.) Funds may only be spent after the Secs. provide written notice of the proposal within 30 days of the submission of the list to each affected Member of Congress, Governor, and political subdivision, and to a widely-distributed newspaper. Where acquisition has not been specifically authorized in federal law, land may not be acquired with CARA Funds until all required actions, including any environmental documents, have been completed and the specified notices provided (§205). H.R. 701as passed drops the provision exempting all CARA spending from Budget Act restrictions that was §7. It now requires annual appropriations, making federal LWCF spending discretionary rather than mandatory, and continues budget procedures that may be obstacles to appropriations. (See discussion titled *Federal LWCF: Permanent or Not*?)	§203(d) prohibits the use of federal funds for condemnation.	No provisions.	No limitations in current law; however, each agency has regulations governing acquisitions using LWCF monies.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Cost Limitations for Federal Acquisitions			
No provisions.	A new provision is added to §7 that prohibits any federal land acquisition exceeding $5 million unless Congress recognizes it in the agency appropriations report, and the House Resources and Senate Energy and Natural Resources Committees approve it by resolution. (Note: This may be of questionable constitutionality.) (§203(m)).	No provision.	No limitations in current law.
LWCF – Funding for State and Local Purposes			
Allocates 50% of the funds to states (§204). These grants are apportioned 30% equally, and 70% based on population. No state can receive more than 10% of the total. All funds that are not awarded within 3 years will be reapportioned among the remaining states, and the 10% limit on the maximum that any state can receive will be waived for this reapportionment. Each state will make 50% of its annual grant, or an equivalent amount, available to local governments unless it documents to the Sec. a compelling justification to do otherwise each year (§206). Under H. R. 701 as passed, states must have a "dedicated land acquisition fund" funded through the state budget process; any funding intended for ineligible states will be reapportioned among other states (§206(b)(2)).	Allocates 45% to states under a formula apportioning 60% equally, 20% based on total population, and 20% based on urban population (§203(d)). Allows states to use funds for facility rehabilitation (§203(e)). Requires each state to make at least 50% of its apportionment available to local governments, unless it annually documents a compelling justification (§203(g)).	Allocates 50% to states (§102(c)). Allocates 80% of that total under a formula apportioning 60% equally, 20% based on total population, and 20% based on urban population (§102(d)). §102 adds a new §14 to the LWCF establishing a fund of $125 million annually to provide matching grants to states for conservation projects. Grants will be awarded competitively, with priority given to projects that protect ecosystems, involve collaboration with other entities, or complement programs on federal lands (§102).	§5 allocates not less than 40% of the appropriated funds for federal programs. §6(a), (b), and (c) apportion funds among the states for outdoor recreation planning, acquisition, and development. No state may receive more than 10%.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Areas that Constitute a State			
The District of Columbia would be treated as 1 state. Puerto Rico, the Virgin Islands, Guam, and American Samoa together would be treated as 1 state and would subdivide their share equally (§206). (Note: Commonwealth of the Northern Marianas is not made eligible.) Under H.R. 701 as passed, any amounts appropriated under the existing LWCF for state grants will be allocated under a competitive grant program for state projects with defined environmental benefits of national or regional significance (§206(d)).	No provisions.	No provisions.	The District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, together, are treated as 1 state (§6(b)(5)). A portion of the funds are allocated equally among states, and the remainder based on relative efficiency (§6(b)(1,2, and 3)).
LWCF – Tribes and Alaska Native Village Corporations Funding			
All federally-recognized Indian tribes and Alaska Native Village Corporations, combined, are treated as 1 state. Annual allocations are to be awarded through competitive grants. No single tribe or corporation may receive more than 10% of the total. Funds may be used only for planning and development (§206(b)).	Almost identical (§203(f)).	No provisions.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Administrative Costs			
Not more than 2% of the funds provided for an activity may be used to pay administrative expenses associated with that activity (§6). (Note: This provision applies to all programs supported by the CARA Fund.)	Not more than 2% of the fund may be used to pay administrative expenses, and any funds set aside for administrative expenses but not used by the end of the next fiscal year are to be apportioned among federal, state and local recipients using the same distribution formula (§203(d)).	No provisions.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – State Plans			
States must develop Action Plans, which assess the strategic needs and identify specific actions and priorities. Public input is required. The agenda must be developed within 5 years of enactment, identify actions over the next 4 years, and be updated at least once every 4 years. The governor must certify that preparation of the Plan includes an active public participation process. Plans shall consider all conservation and recreation providers and be correlated with other relevant plans, including recovery action programs for urban areas. Current state plans developed under LWCF will remain in effect until an action plan has been adopted or up to 5 years from the date of enactment (§207). States may use these funds for incidental costs related to acquisition, and for shelters where public safety is a concern (§208). Under H.R. 701 as passed, the agenda must be updated at least once every 5 years.	Requires each participant to develop a State Action Agenda that sets out that state's determination of needs, priorities, and criteria for projects. Each plan must be updated at least once every 4 years, include a wetlands priority plan, and incorporate urban recovery action plans developed for UPARR (§203(i)). Allows state plans already developed under LWCF to be used for up to 5 years after enactment (§203(j)).	No provisions.	§6(d) requires states to develop and maintain comprehensive outdoor recreation plans to be eligible to receive grants. Plans must have "ample" public participation and address wetlands. The Secretary of the Interior decides whether a state plan is adequate. §6(f) lists the requirements for federal approval of state projects. Federal funding is available to develop and maintain the plan. §6(d) and §6(e) describe eligible acquisition and development projects.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
LWCF – Conversion of Properties to Other Uses			
Properties that are no longer viable for recreation or conservation facility use because of changing demographics or contamination may be converted if a state can show that no reasonable or prudent alternative exists and substitute property of equal value or usefulness can be provided. Certain wetlands can be considered as reasonable equivalents (§209).	Nearly identical (§203(l)).	No provisions.	§6(f)(3) states properties on which LWCF funds have been spent may be converted to non-recreation uses if the Sec. agrees the change is in accord with the state plan and that the substituted property is of at least equal fair market value and equivalent usefulness and location. Wetlands are usually considered suitable replacement properties.
LWCF – Water Rights			
Protects existing water law and rights, including interstate compacts, the rights of states to any apportioned share of water, laws protecting water quality or disposal, or conferring of federal rights to water to any non-federal entity (§210).	No provisions.	No provisions.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Wildlife Conservation and Restoration – Overview			
Amends the Pittman-Robertson Act, also known as the P-R or Federal Aid in Wildlife Restoration, to create a new subprogram, the Wildlife Conservation and Restoration Program (WCRP). This program provides state grants for any wildlife species, whether game or non-game, using permanently appropriated CARA funds.	Title III is similar.	Title III is similar.	P -R provides formula grants to states and territories from permanently appropriated taxes on hunting equipment. Program benefits restricted to game species.
Wildlife Conservation and Restoration – Species Benefitted			
"Wildlife" includes all fauna (animals); thus, invertebrates (*e.g*, crayfish, snails, butterflies, etc.) could benefit. (Note: Plants are excluded from benefits by this definition, while non-native animals and captive indigenous animals raised for reintroduction are not excluded.) (§302(d)).	Identical (§304(d)).	Identical (§304(d)).	Game species only. (This program would continue unaltered.)
Wildlife Conservation and Restoration – Funding Source and Amount			
Permanently appropriates $350 million annually through FY2015 from the CARA Fund. (§5(b)(3)) and (§302 (1)).	Permanently appropriates 7% of OCS revenues as defined (§305, and §304(e)).	Identical to H.R. 701, except no time limit (§304).	Taxes on certain hunting equipment, guns, and archery equipment are permanently appropriated. (This program would continue unaltered.)

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Wildlife Conservation and Restoration – Eligible Entities			
States, the District, all 5 territories (§304(a)).	Identical (§306).	Identical (§306).	States. For the major portion of the P-R program, Guam, Northern Mariana Islands, Virgin Islands, American Samoa and Puerto Rico are also eligible. For the P-R subprogram on hunter safety, Puerto Rico is the only ineligible territory. District of Columbia is not eligible for any part of P-R.
Wildlife Conservation and Restoration – Matching Requirements			
Federal share not to exceed 75% of estimated cost of the projects or programs (§304(a)).	Federal share may reach up to 90% of cost of developing program and implementing its segments in initial 5 years after enactment, and up to 75% thereafter (§306).	Identical to S. 25 (§306).	Federal share of plans and projects not to exceed 75%. (This program would continue unaltered.)

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Wildlife Conservation and Restoration – Apportionment Among Eligible Entities			
Puerto Rico and the District: up to 0.5% each; Guam, American Samoa, Northern Marianas, and Virgin Islands, up to 0.1667% each; of the remainder, 1/3 in proportion to land area and 2/3 in proportion to human population. No state may receive more than 5%, nor less than 0.5% of the available amount (§304(a)). No specific portion is allocated to tribes and Alaska Native Corporations. Under H.R. 701 as passed, cooperation of state agencies with tribes and Native Corporations is added as a purpose to the program.	Identical (§306).	Identical (§306).	Complex formula based on population, state proportion of total land area of U.S., and state proportion of national hunting licenses; formula specifies upper and lower limits for state and territorial shares.
Wildlife Conservation and Restoration – Preventing Diversion of State Funds			
States cannot receive federal matching funds if they divert any revenues available for the conservation of wildlife as of 1/1/1999 from the designated state agency (§306).	Identical, except date is 1/1/1998 (§308).	Identical to S. 25 (§309).	License fees paid by hunters in that state may be used only for administration of that state's fish and game department.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Wildlife Conservation and Restoration – State Planning Requirements			
To be eligible, states must develop a WCRP and may use WCRP funds to plan the program. Required program features, including public participation, are specified. Limits federal share for developing and implementing state programs and their individual elements to 75%; limits each state to 10% allocation for wildlife-associated recreation (§304(a)).	Similar, but no limitation on recreation (§306).	Similar for planning of a WCRP, but no limit on spending on recreation (§306). Also, WCRP must contain provision for a Wildlife Conservation Strategy (WCS). WCS to be developed within 5 yr of first apportionment; Secretary approves WCS if it meets 7 specified standards concerning use of best available data, integrates data on declining species; identifies habitat types, threats to species, and research; determines needed conservation actions; provides for species monitoring; provides for review and revision of WCS; provides for coordination with other land managers and other parties; among other features. Consequences of failure to develop WCS is unclear.	States may apply to FWS for funding for individual projects or develop a comprehensive plan for multiple projects. (This program would continue unaltered.)
Wildlife Conservation and Restoration – Law Enforcement			
No specific provision, therefore appears to follow provision in current law forbidding use of funds for law enforcement.	Allows funding for state law enforcement, up to 10% of funding (§306).	Similar to S. 25, except limit is 5% (§308).	P-R does not permit funding for state law enforcement programs.
Wildlife Conservation and Restoration – Wildlife Conservation Education			
Makes wildlife conservation education eligible for funding; except that education programs "that promote or encourage opposition" to hunting, trapping, or fishing are ineligible (§305).	Similar, but there is no exception for education that might encourage opposition to hunting, trapping, or fishing (§306).	Similar to S. 25 (§305).	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Wildlife Conservation and Restoration – Federal Advisory Committee Act (FACA)			
Exempts federal agency coordination with state fish and wildlife agencies from FACA for all aspects of P-R and the similar Federal Aid in Sport Fish Restoration. Provision affects the existing programs under these 2 laws, as well as new P-R provisions in this amendment (§304(b)).	Essentially identical (§304(b)).	Identical to S. 25 (§307).	Advisory groups under these laws are currently subject to FACA
Urban Park and Recreation Recovery Program (UPARR) – Overview			
Provides permanently appropriated funds to assist local governments in revitalizing and maintaining their park and recreation systems.	Identical.	Similar.	Identical.
UPARR – Definitions and Eligibility			
Adds acquisition for and development of new recreation areas and facilities to the purposes for the program (§404). Adds new definition to §1004 of the Urban Park and Recreation Recovery Act of 1978 for "development grants" (§405). Amends §1005(a) by specifying three types of eligible urban areas based on amount of urbanization and concentration of population; current law does not define eligible areas by population concentration (§406).	Adds new definitions to §1004 of the Urban Park and Recreation Recovery Act of 1978 for "development grants" and "acquisition grants." (§204(a)). Amends §1005(a) by specifying four types of eligible urban areas based on amount of urbanization and concentration of population (difference with H.R. 701 is that S. 25 includes all central cities as defined in the most recent census) (§204(b)).	No provisions.	The Urban Park and Recreation Recovery Act of 1978 defines terms, including "rehabilitation grants," "innovation grants," "at-risk youth recreation grants," and "recovery action program grants."in §1004. §1005 defines established areas and establishes project priority criteria.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
UPARR – Funding Source and Amount			
Permanently appropriates $125 million annually through the CARA Fund (§5(b)(4)). Any funds not paid or obligated in 3 years shall be reapportioned among grant recipients. Limits development grants to 3% of the total; innovation grants to 10% of the total; and grants to any state to 15% of total. Requires Sec. to limit portion of grant that can be used for administration (§403).	Directs 10% of LWCF ($90 million) to be permanently appropriated to UPARR (§203 (d)).	Permanently appropriates $75 million annually from qualified OCS revenues, to be available until spent. Includes same percentage limits on grant categories and grants to states as H.R. 701 (§701).	§1013 authorized appropriations through FY1983, but the program received funding through FY1995.
UPARR – Conversion of Properties			
Amends §1010 of UPARR to define in greater detail the circumstances under which a property improved with funds under this Act can be converted to non-recreational uses (§410).	Nearly identical (§204(e)).	No provisions.	§1010 requires Secretarial approval before permitting conversion of property to non-recreational uses where UPARR funds were used.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
UPARR – Grants			
Expands §1006 of UPARR to add development as a purpose for using 70% matching grants and to be able to transfer these grants to other agencies and private non profit organizations who can provide assurances that recreation opportunities will be maintained. Only projects approved by the Sec. are eligible to receive payments (§408). Provisions for advanced payments would be deleted (§407).	Similar, but expands grant purpose further to add acquisition as well as development (§204(c)).	No provisions.	§1006 provides grants for rehabilitation and innovation, and advanced payments.
UPARR –Local and State Participation			
Amends §1008 of UPARR to make these provisions consistent with proposed changes in LWCF terminology and planning requirements, and to allow greater local flexibility and control of local programs (§409).	Identical (§204 (d))	No provisions.	§1007(a) requires local governments to articulate their commitment to improving and maintaining their park and recreation systems. §1008 provides additional matching funds as an incentive for state participation.
UPARR – Repeal of Existing Law			
Repeals §1015 of UPARR (§411).	Repeals §1014 (§204(f)).	No provisions.	§1015 contains sunset and reporting provisions. §1014 prohibits using these funds to acquire property.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Historic Preservation Fund – Allocation			
Permanently appropriates $100 million annually from the CARA Fund through 2015. At least half these funds are to be spent for preserving historic properties, with priority given to endangered historic properties (§501).	No similar provisions.	Permanently appropriates $150 million annually from qualified OCS revenues, to be available until spent. At least $75 million will fund existing historic preservation programs, $15 million will fund a new battlefield protection program, and the remainder (up to $60 million) will fund the state matching grant program, giving priority to preserving endangered historic properties.	§108 of the National Historic Preservation Act provides funding through 1997, and does not specify a priority for any of the funding activities. American Battlefield Protection Program authorized in §604 of P.L. 104-333.
Historic Preservation Fund – Use of Funds			
Expands the permitted uses to include national heritage areas or corridors that support historic preservation planning and development (§502).	No similar provisions.	Each budget request is to include a list of proposals that will be funded 15 days after Congress adjourns unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals. Priority for any additional spending for state, local and tribal programs recommended by the administration will be preservation of endangered historic properties (§501).	§114 lists the purposes for which states can spend these funds.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Historic Preservation Fund --Battlefield Protection			
No provisions.	No provisions.	Priority financial assistance for Civil War battlefield sites will be given to sites identified as Priority 1 in the Civil War Sites Advisory Commission Report. New funding authority, at $15 million a year without further appropriation, is added (§502).	§604 of P.L. 104-333 enacted the American Battlefield Protection Program to provide federal assistance at historic battlefields on American soil. Funding is authorized at $3 million annually for 10 years. Unobligated funds are returned to the U.S. Treasury.
Federal and Indian Lands Restoration (Land Restoration) – Overview			
Provides permanently appropriated funds on federal and Indian lands for restoration, protection of threatened resources, and protection of public health and safety (§601).	No similar provisions.	Provides permanently appropriated funds to National Park System units that are threatened by activities within or outside the park boundaries, or need restoration or stabilization.	A variety of existing programs may overlap these purposes, but are not permanently appropriated.
Land Restoration – Funding Source and Amount			
Permanently appropriates $200 million annually from the CARA Fund through 2015 (§5(b)(6)).	No similar provisions.	Permanently appropriates $150 million annually of qualified OCS revenues, to be available until spent (§601(a) and (b)).	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Land Restoration – Allocation of Appropriation			
60% to DOI for lands within NPS, NWRS, and public lands under BLM (allocation between agencies not specified); 30% to USDA for NFS; 10% to DOI for competitive grants for Indian tribes (§602(b)(2)).	No similar provisions.	All funds to National Park Service are to be used in the National Park System. Each budget proposal is to include a list of proposals that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals. No funds may be used for land acquisition, employee salaries, road or visitor center construction, routine maintenance, or projects funded by the fee demo program (§601(b)).	No similar provisions in law. (Any current funding for these purposes is appropriated annually.)
Land Restoration – Priority of Projects			
DOI and USDA prepare priority lists for use of funds, based on protection of significant resources, severity of damage or threats to resources, and protection of public health and safety. Projects must be consistent with any applicable federal land management plans (§603(c) and (d)).	No provisions.	Priority projects are identified in the park unit's general management plan, are authorized environmental restoration projects, or are identified as being needed to prevent immediate damage to park resources (§601(b)(5)(B).	No similar provisions in law.
Land Restoration – Competitive Grants to Indian Tribes			
DOI to administer grant program for tribes based on same priorities as above; no single tribe may receive more than 10% of the total grants for tribes in any fiscal year (§603(b)).	No provisions.	No provisions.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Land Restoration – Tracking Progress of Activities			
By the end of the first fiscal year that funds are available, DOI and USDA must establish a joint program to track activities funded by the title, and the extent of demonstrable results (§603(e)).	No provisions.	No provisions.	No similar provisions in law.
Conservation Easements – Overview			
Provides a dedicated funding source for purchase of permanent easements to the DOI to maintain traditional uses and prevent loss to public due to development inconsistent with these uses (Title VII, Subtitle A). H.R. 701 as passed, amends the Farmland Protection Program (FPP) enacted in §388 of the Federal Agricultural Improvement and Reform Act of 1996.	No provisions.	Provides permanently appropriated funds to purchase easements on farmland and ranch land (§802 and §803).	While easements may be purchased under many statutes, only the Migratory Bird Treaty Act has a permanent appropriation. The FPP provides grants to state and local governments that are implementing programs to purchase easements on farmland (§388 of P.L. 104-127).

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Conservation Easements – Funding Source and Amount			
Permanently appropriates $100 million annually to purchase easements from the CARA Fund through FY2015 (§5(b)(7)(A). H.R. 701 as passed, permanently appropriates $100 million annually to implement the FPP, Forest Legacy, and Urban and Community Forestry Assistance Programs The acreage cap for the FPP is deleted.	No similar provisions.	Permanently appropriates $50 million annually to the Sec. of Agriculture to implement the FPP, and $50 million annually to the Sec. of the Interior for the Ranchland Protection Fund from qualified OCS revenues; these funds remain available until spent (§802 and §803).	The FPP authorizes $35 million to purchase easements on between 170,000 acres and 340,000 acres (§388(a and c)). The Forest Legacy and Urban and Community Forestry Assistance Programs are permanently authorized with no appropriations ceilings.
Conservation Easements – Grant Program Eligibility			
DOI to provide grants to eligible participants to purchase conservation easements on land with prime, unique, or other productive uses (§704(a)). Eligible participants are states, local governments, Indian tribes, and conservation organizations meeting any of several specified criteria in the federal tax code (§704(c)). Any eligible participant may hold title to easement, and may enforce the conservation requirements of the easement (§704(d)). H.R. 701 as passed, amends the FPP to purchase either permanent easements, or partial or permanent easements in lands that are subject to a pending offer from state or local government.	No provisions.	Ranch land includes private or tribally owned range land, pasture land, grazed forest land, and hay land. Grants are made to state and local government agencies, tribes, and appropriate non profits for the federal share of purchasing permanent easements. These funds may only be spent with the land owner's consent. The easement holder may enforce its conservation requirements. The Attorney General of the state must certify, prior to making the grant available, that the easement will achieve the program purposes (§803(c)).	The FPP allows funds to be used by state or local governments to purchase partial or full easements on land that is subject to pending offers from a state or local government.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Conservation Easements – Federal Share			
Federal share of easement may not exceed 50% (§704(b)).	No provisions.	No provisions.	No similar provisions in law.
Conservation Easements – Certification			
Attorney general of the state must certify that, under that state's laws, the easement will achieve the conservation purpose and the terms of the grant (§704(e)).	No provisions.	No provisions.	No similar provisions in law.
Conservation Easements – Planning and Technical Assistance			
Land under these easements is subject to a conservation plan consistent with the terms or conditions of the easement (§704(f)). (Note: bill does not specify the plan contents, the preparer, nor any standards for the plan.) DOI may use up to 10% of the funds to provide supporting technical assistance (§704(g)). (Note: bill does not specify who may receive the assistance, or the form it would take.) H.R. 701 as passed, allows the Sec. of Agriculture to use up to 10% of the total for technical assistance (§704 (g)).	No provisions.	No provisions.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Endangered and Threatened Species Recovery (Species Recovery) – Overview			
Permanently appropriates dedicated funding for incentives program to FWS and NMFS for recovery of listed species and their habitat; intended to increase involvement by non-federal entities in recovery of listed species and their habitat (Title VII, Subtitle B).	No similar provisions.	Permanently appropriates dedicated funding to develop and carry out recovery agreements (RAs) (Title IV).	No similar provisions in law.
Species Recovery – Funding Source and Amount			
Permanently appropriates $50 million annually from the CARA Fund through FY2015 (§5(b)(7)(B)).	No similar provisions.	Similar to H.R. 701, but no ending date (§ 401(c)).	No similar provisions in law.
Species Recovery – Definitions			
Defines the terms "*endangered species*", "*threatened species*" (identically to current law), "*Secretary*" (of the Interior or Commerce, as appropriate under ESA), "*small landowner*", "*family farm*" and "*species recovery agreement*" (SRA) (§715). H.R. 701 as passed, deletes the definition of family farm.	No similar provisions.	Does not define "*endangered species*", "*threatened species*" "*family farm*", or "*small landowner.*" "*Secretary*" is defined as Interior only. "*Recovery agreement*" (RA) is defined as agreement entered into by the Sec. under §§(e) (should probably be §§(f)).	These terms are defined in various places in current law, such as within the ESA.
Species Recovery – Agreements			
Sec. may enter SRAs with "persons", an undefined term (§714). SRAs have a specified beginning and end (§714(b)(7)), and terminate if the Sec. certifies that a person has not complied with its terms (§714(b)(8)). (Note: the subtitle is silent regarding renewal of SRAs.)	No similar provisions.	Sec. may fund SRAs with "any person". No time limit specified nor any conditions that would cause cancellation (§401(d)).	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Species Recovery – Conditions and Restrictions on Recovery Agreements			
SRAs require "persons" (on his/her real property) to carry out activities not otherwise required by law that contribute to recovery and/or to refrain from carrying out otherwise legal activities that would inhibit recovery (§714(b)(1)). SRAs must specify recovery goals and measures for their attainment, and monitoring to measure annual progress (§714(b)(3),(4), and (5)). Sec. reviews proposed SRAs, and proposes any necessary modifications for compliance with §714; if SRA is compliant, Sec. "shall" enter into the agreement (§714(c)).	No similar provisions.	Similar requirements, but no specified mechanism to return non-qualifying proposals to landowner with request for modifications (§401(f)).	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Species Recovery – Financial Assistance			
The Sec. allocates financial assistance for approved SRAs annually or at some other agreed interval (§714(b)(9)). The Sec. must use the information from monitoring (§714(b)(5)) in disbursing financial assistance under the SRA (§714(d)). The Sec. may use the CARA Fund to assist persons in developing and implementing SRAs, under criteria that favor funding ESA recovery plans, contribute to recovery of listed species, and land owned by small landowners or family farmers. Actions already required under an ESA permit or other federal law are not eligible for assistance (§713(a)-(c)). Financial assistance under an SRA does not affect any payments a person may be eligible to receive under 3 specified conservation programs. However, there can be no payments for SRAs for carrying out the same activities under these 3 programs, unless the SRA requires additional financial or management obligations beyond those specified in the 3 programs (§713(d)). "Family farmers" are not included.	No similar provisions.	No requirement that Sec. use monitoring data in making allocations nor that assistance be provided at a specified interval. §401(e) prohibits funding for actions already required by law. No provision regarding effects on payments under other laws.	No similar provisions in law.

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Payments in Lieu of Taxes (PILT) and Refuge Revenue Sharing Fund (RRSF)– Overview			
Permanently appropriates funds up to $200 million, to provide full funding of payments to local governments for various categories of federal land under 31U.S.C., Ch. 69, and 16 U.S.C. 715s (§5(d) and (e)).	No similar provision.	Permanently appropriates "such moneys as are necessary" for full payment of PILT. (RRSF not included.) (Title X.)	31 U.S.C. Ch. 69 (PILT) and 16 U.S.C. 715s (RRSF) compensate local governments for presence of certain non-taxable federal lands. Both require annual appropriations (from general fund) for full payment of formulas.
PILT/RRSF – Source of Funds			
Interest from CARA Fund (§5(d)(1)and (2)).	No similar provision.	Directly from OCS revenues specified in 43 U.S.C. 1331(u), as amended by Title II (§1001).	PILT: annual appropriations from U.S. Treasury. RRSF: permanent appropriation of certain refuge revenues, plus annual appropriations.
PILT/RRSF – Ceiling on Appropriations			
The lesser of (a) $200 million or (b) amount appropriated under other provisions of law for PILT or RRSF (§5(d)(3)). No CARA match is available unless PILT appropriations from other sources are at least $100 million, and for RRSF, at least $15 million.	No similar provision.	Full amount authorized under formula in PILT law (which varies from year to year) (§1001).	Full amounts authorized under formulas in PILT and RRSF laws (which vary from year to year).

H.R. 701/S. 2567 and S. 2123	S. 25	S. 2181	Current Law
Protection of Social Security and Medicare Benefits			
H.R. 701 as passed, states that no funds can be expended under the Act if they would diminish Social Security or Medicare benefit obligations (New Title VIII). (Note: There are no explicit provisions in the bill altering Social Security or Medicare benefits. This provision, and other, potentially more significant social security and medicare provisions that were added to the general provisions in §5(g), are discussed in the subsection titled *Debt Reduction, Social Security, and Medicare*.)	No similar provisions.	No similar provisions.	No similar provisions in law.

H.R.701/ S. 2576 and S.2123	S. 25	S. 2181	Current Law
Other Programs			
Marine Cooperative Enforcement Grants			
No provisions.	No provisions.	States participating on interstate fisheries commissions can apply for $25 million in grants annually from the OCCF to implement cooperative enforcement agreements with the Sec. of Commerce, deputizing state employees to enforce federal marine resource-related laws. The Sec. will enter these agreements after receiving an application, and will equitably allocate the funds (§202(b)and (d)).	No similar provisions in law.
Fisheries Research and Management Grants			
No provisions	No provisions.	States participating on interstate marine fisheries commissions can apply for $75 million in grants annually from the OCCF to implement a sole-source research and management agreement to undertake projects. These projects must address critical needs identified in fishery management reports or plans that pertain to collecting and analyzing fishery data and information, and developing measures to promote cooperative or innovative fisheries management. Priority projects will include: (1) establishing observer programs; (2) cooperative research projects to meet national or regional management priorities; (3) projects to reduce harvesting capacity; (4) projects to identify ecosystem impacts of fishing; and (5) projects to identify, conserve, or restore fish habitat. Implementing procedures must be adopted within 90 days (§202(b) and (e)).	No similar provisions in law.

H.R.701/ S. 2576 and S.2123	S. 25	S. 2181	Current Law
Coral Reef Conservation Program (Coral Reefs) – Overview			
No provisions.	No provisions.	States can apply to the Sec. of Commerce for $25 million in grants annually from the OCCF to conserve and protect coral reefs (§202(b)). In addition, the Sec. of the Interior will provide $15 million annually from the Coral Reef Resources Restoration Fund (CRRRF) for financial grants for coral reef conservation on areas under the jurisdiction of DOI (§602).	No similar provisions in law.
Coral Reefs–Funding Source and Amount			
No provisions.	No provisions.	Permanently appropriates $15 million annually from the OCCF, to be available until spent. Also, permanently appropriates an additional $15 million annually from qualified OCS revenues to the CRRRF for specified species of coral. The Sec. of the Interior will submit a list of priority projects with the annual budget submission that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals (§602(a)(b) and (d)(2)). The CRRRF will be implemented within 180 days of enactment, after consultation with interested parties (§602(d)(8)).	No similar provisions in law.

H.R.701/ S. 2576 and S.2123	S. 25	S. 2181	Current Law
Coral Reefs – Allocation of Appropriations			
No provisions.	No provisions.	In implementing the CRRRF, the Sec. of the Interior will consult with the Coral Reefs Task Force (created in a June 11, 1998 E.O.) and others to set priorities for grants based on site-specific or comprehensive threats affecting coral ecosystems. Guidelines for reviewing and ranking proposals are specified (§602(d)(5,6, and 7)). At least 40% of the funds must be awarded for projects in the Pacific Ocean, at least 40% in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea, and the remainder for emerging priorities or threats (§602(d)(4). Any organization with demonstrated expertise in marine science or coral reef conservation is eligible (§602(d)(3)). Grants may not exceed 75% of the project cost; this cap can be waived if the project cost is less than $25,000. The non federal share can be in-kind contributions or other non-cash support (§602(2)).	No similar provisions in law.
Urban and Community Forestry Assistance			
No provisions	No provisions.	Permanently appropriates $50 million annually, to remain available until spent (§702).	The Cooperative Forestry Assistance Act of 1978 (P.L. 95-313) provides technical assistance and grants to local governments and non profit organizations in partnership with state forestry agencies to improve the health of and to sustainably manage urban forests.
Forest Legacy Fund			
No provisions.	No provisions.	Permanently appropriates $50 million annually, to remain available until spent (§801).	The Forest Legacy Program, enacted in §7(1) of the Cooperative Forestry Assistance Act of 1978 (P.L. 95-313) provides funds to acquire forest land, or interest in it, when it is threatened by conversion to non forest uses.

H.R.701/ S. 2576 and S.2123	S. 25	S. 2181	Current Law
Youth Conservation Corps Fund			
No provisions.	No provisions.	Permanently appropriates $60 million annually from qualified OCS revenues, to remain available until spent, to implement Titles I and II of the Youth Conservation Corps Act, subject to the requirements of those titles (§901).	The Youth Conservation Corps Act creates a program to employ people between the ages of 15 and 19 to assist the Departments of the Interior and Agriculture to develop, preserve, and maintain lands managed by the four major federal land management agencies.
Forest Service Rural Community Assistance			
No provisions.	No provisions.	Permanently appropriates $25 million annually from qualified OCS revenues, to remain available until spent, on a new Rural Development Program under the Cooperative Forestry Assistance Act of 1978 (P.L. 95-313). This program will provide technical assistance to rural communities to sustain rural development. Also, permanently appropriates $25 million annually, to be available until spent, for a new Forest Service Rural Community Assistance Fund, added to §2379 of the National Forest-Dependent Rural Communities Economic Diversification Act (P.L. 101-624) (§902).	The Cooperative Forestry Assistance Act of 1978 has five components to help rural communities strengthen, diversify, and expand their local economies.