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INSIGHT

The Great American Outdoors Act, H.R. 1957: Selected Provisions

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The Great American Outdoors Act—H.R. 1957, as passed by the Senate—would establish a new fund with mandatory spending authority to address deferred maintenance needs of five federal agencies. In addition, the bill would make the deposits to an existing fund—the Land and Water Conservation Fund (LWCF)—mandatory spending and make other changes to the LWCF Act. This Insight addresses some of the main provisions of this legislation.

Section 1 of H.R. 1957 provides the short title as the "Great American Outdoors Act." Section 2 pertains to the new deferred maintenance fund, and Section 3 relates to the LWCF.

"National Parks and Public Land Legacy Restoration Fund" (Section 2)

The Bureau of Land Management (BLM), Forest Service (FS), Fish and Wildlife Service (FWS), and National Park Service (NPS) maintain thousands of diverse assets, including roads, buildings, and others. Each agency has a backlog of deferred maintenance (DM), defined as maintenance not performed as needed and put off for a future time. For FY2018, NPS's backlog was reported at $11.9 billion, FS's at $5.2 billion, FWS's at $1.3 billion, and BLM's at $1.0 billion. Additionally, the Department of the Interior (DOI) reported DM of $1.8 billion for Indian Affairs, including the Bureau of Indian Education (BIE). For all the agencies except BIE, a sizeable portion of DM is in transportation assets.

Most current funding for agency DM comes from discretionary appropriations. The agencies also have some mandatory spending authorities, including (among others) transportation maintenance funding under the Fixing America's Surface Transportation Act.

H.R. 1957 would establish a new mandatory fund to address DM for the five agencies (NPS, FS, FWS, BLM, and BIE). The new fund would receive annual deposits for FY2021-FY2025 of 50% of all federal energy revenues (from oil, gas, coal, or renewable energy) credited as miscellaneous receipts to the Treasury, up to a cap of $1.9 billion annually. The bill states that it would not affect the disposition of revenues due to states, trust funds, or special funds (such as the LWCF and the Historic Preservation Fund) and also that it would not affect revenues that have been otherwise appropriated under federal law (for example, under the Gulf of Mexico Energy Security Act of 2006 [GOMESA] and the Mineral Leasing Act).

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Of the amounts deposited each year in the fund (up to $1.9 billion annually, as described above), NPS would receive a 70% share, FS 15%, FWS 5%, BLM 5%, and BIE 5% for its schools. The agencies would use the funding for "priority deferred maintenance projects." At least 65% of each agency's funds would be for "non-transportation projects." In general, the President would submit lists of priority projects to Congress in annual budget justifications. Appropriations acts may specify an "alternate allocation." If alternate allocations have not been enacted before enactment of the full-year appropriations for Interior, Environment, and Related Agencies, or if legislation containing alternate allocations of less than the full amount were enacted, the President would have the authority to allocate amounts. The meaning of these provisions may not be entirely clear; for instance, it is not entirely clear if the President must allocate the funds in accordance with the President's budget submission if Congress does not act or enacts less than the full amount.

It is unclear whether deposits to the DM fund would reach the $1.9 billion cap in each year. DOI revenue disbursement data show that Treasury miscellaneous receipts from natural resource extraction ranged annually from $2.2 billion to $8.2 billion for FY2010-FY2019. Future revenues would depend on factors including oil and gas prices, production levels, and federal leasing policies, among others. For example, future revenues could be affected by changes in oil prices and energy use patterns attributed to the Coronavirus Disease 2019 (COVID-19) pandemic.

"Permanent Full Funding of the Land and Water Conservation Fund" (Section 3)

Under the LWCF Act, $900 million is deposited annually into the LWCF. Nearly all of the revenue is derived from oil and gas leasing offshore. The money is available only if appropriated in subsequent law and is considered discretionary spending. The annual appropriations generally have been less than $900 million, resulting in an unappropriated balance of approximately $22 billion through FY2019. Under the LWCF Act, authorized purposes include federal land acquisition and outdoor recreation grants to states. Appropriations also have been provided for other programs.

The LWCF Act requires the President's annual budget to identify requirements from the fund, sets out "federal purposes" for which the President is to allot the appropriations "unless otherwise allotted in the appropriation Act making them available," and provides that not less than 40% of total monies are to be used for each of federal purposes and "financial assistance to states." In practice, Congress reviews presidential budget requests for LWCF appropriations for agencies, accounts, and programs, and it determines the total appropriation and the portion for each component.

The LWCF receives additional money (beyond the $900 million in the LWCF Act) under GOMESA. These appropriations are mandatory spending and can be used only for outdoor recreation grants to states.

H.R. 1957 would make the $900 million annual deposits into the fund under the LWCF Act mandatory spending (in addition to GOMESA mandatory appropriations). The monies would be available "to carry out the purposes of the Fund," including accounts and programs funded from the LWCF under P.L. 116-94. H.R. 1957 could be unclear as to whether it applies to the funding specifications in the explanatory material for P.L. 116-94.

To allocate the funds, the bill generally would require the President to submit annually to Congress "detailed account, program, and project allocations" for the full amount available. The bill provides for alternate allocations by Congress under a procedure similar to that described above for the DM section of the bill.

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