

# Issue Brief for Congress

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## **Protecting Natural Resources and Managing Growth: Issues in the 107<sup>th</sup> Congress**

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## Protecting Natural Resources and Managing Growth: Issues in the 107<sup>th</sup> Congress

### SUMMARY

The House Resources Committee reported omnibus legislation (H.R. 701), known as CARA, to expand protection of natural resources; it could also benefit efforts to manage growth and constrain sprawl shortly before the end of the 107<sup>th</sup> Congress (H.Rept. 107-758, pt. 1). Versions of the bill were introduced, but not considered, in the Senate. Earlier, the 106<sup>th</sup> Congress had considered this legislation. The House passed H.R. 701 and the Senate Energy and Natural Resources Committee reported its version (S.Rept. 106-413).

All these bills would have used about \$45 billion in revenues from Outer Continental Shelf oil and gas activities over 15 years to fund land and easement acquisition, wildlife protection, and restoration, and protection of many resources.

This legislation attracted bipartisan support from those who view expanded resource protection as a response to sprawl, from state and local interests who seek additional federal funding, and from wildlife and recreation advocates who believe that resource activities have been chronically underfunded. Opposition came from those who worry about protecting personal property rights and expanding federal land ownership. Others opposed use of permanent appropriations, a component of some versions, because they would prefer to spend funds for other purposes, want to limit overall spending, or want all funding to be appropriated annually.

The Bush Administration has been largely silent on this topic. By contrast, the Clinton Administration had endorsed many elements in these bills. Also, it proposed appropriating funds at much higher levels annually for a

similar array of programs in its Lands Legacy Initiative in FY2000 and FY2001 appropriations. In FY2001, after the Senate failed to act on CARA, Congress and the Administration agreed to a framework for increased funding through the appropriations process in a multi-year lands legacy program in the FY2001 Interior appropriations legislation. This agreement creates the Conservation Spending Category and sets a ceiling that increases annually for 5 years for a suite of resource protection programs funded through Interior Appropriations. This suite is similar to those under the jurisdiction of Interior Appropriations that would have been funded through CARA, with increases that could total up to \$12 billion over 6 years. (The Category also includes coastal and ocean programs under the jurisdiction of Commerce Appropriations.)

For FY2001, the total appropriation in what Congress has labeled the Conservation Spending Category (CSC) was \$1.68 billion through Interior (\$1.2 billion) and Commerce Appropriations (\$0.47 billion), while in FY20-02 it was \$1.76 billion through Interior (\$1.32 billion) and Commerce Appropriations (\$0.44 billion). For FY2003, the Administration requested essentially level funding at \$1.318 billion for programs in Interior appropriations in the CSC, and a decline to \$0.35 billion for programs in Commerce appropriations.

There was no congressional effort to complete legislative action during the waning days of the 107<sup>th</sup> Congress. This may be attributable to a combination of the projected large budget surplus being replaced by a deficit, the lack of a Bush Administration position, and changes in national spending priorities since 9/11.

## MOST RECENT DEVELOPMENTS

*The House Resources Committee reported H.R. 701 on October 16, 2002 (H.Rept. 107-758, pt. 1). This omnibus legislation, known as CARA, would increase funding to more than \$3 billion annually for acquisition of land, restoration and protection of wildlife, coastal resources, urban parks, historic sites, public and Indian lands, and acquisition of easements. In the Senate, Senator Murkowski and Senator Landrieu both introduced versions of CARA (S. 1318 and S. 1328, respectively). The Bush Administration did not take a position on CARA legislation.*

*Congress is funding many of the programs in the CARA proposal through the Conservation Spending Category (CSC). Total CSC funding increased from \$1.68 billion in FY2001 to \$1.76 billion in FY2002. For FY2003, the Administration requested virtually the same total funding as FY2002, and Congress anticipated completing action on these appropriations very early in the 108<sup>th</sup> Congress.*

## BACKGROUND AND ANALYSIS

The 108<sup>th</sup> Congress may continue to consider managing growth and related resource protection issues, like its predecessors, on three distinct fronts: (1) monitoring state and local governments as they addressed suburban sprawl and related growth issues; (2) considering omnibus legislation, commonly referred to as CARA, to spend almost \$3 billion annually over each of the next 15 years of Outer Continental Shelf oil and gas revenues to fund a variety of resource protection programs; and (3) providing increased annual appropriations to selected programs funded by the Interior and Commerce appropriations, called the Conservation Spending Category (CSC). Many of the programs that would have been funded under CARA and are funded under the CSC (mostly at lower funding levels than in CARA) could be used to address issues associated with managing growth. However, the next Congress may be less interested in these issues because the projected large budget surplus has been replaced by a projected deficit, the Bush Administration has not taken a strong position either in favor of or against these proposals; and national spending priorities have changed since the September 11, 2001 terrorist attacks.

### **Assisting Efforts to Address Sprawl and Manage Growth**

In recent years, some Members of Congress and the Clinton Administration were interested in addressing growth management and sprawl issues, but the current Bush Administration has expressed less interest in these issues. These issues often include major resource protection components and may include many other topics as well. Many of these issues are most visible and of greatest concern at the local level. Local governments who respond to these issues often determine that one of the benefits of protecting valued resources, including farmland, forests and other resources is that it helps control sprawl and manage patterns of growth. Managing growth involves searching for ways in which federal programs can be used to reduce, rather than increase, a host of expanding undesirable attributes, such as loss of agricultural land or open space, the decline of neighborhoods in

older cities, or increased traffic congestion and commuting time, while giving higher priority to policies and funding choices that foster desirable conditions.

Growth management and sprawl issues emerge periodically. Interest has been high recently, and many states and localities have been attempting to use various public policies to deal with these issues for the past several years. Maryland received considerable publicity when it recently acted on these issues. It adopted the Clinton Administration moniker, "smart growth," when it enacted legislation in 1997. Under this legislation, state road and sewer project spending to assist development is being concentrated both to revitalize approved urban areas and to curb sprawl by minimizing public spending in other areas. In addition, more than \$70 million is to be used by 2002 to purchase development rights on land with high environmental value. Reports suggest that recent actions by Governor Glendening to protect land just before his term ends are being questioned by many who are concerned with projected state budget deficits. Maryland is just one of many states in which growing deficits are likely to dampen growth management activities that have significant costs. (For a survey of recent state efforts to address sprawl, see CRS Report RL31656, *Survey of Recent State Policies to Manage Growth and Protect Open Space*.)

The CRS survey, prepared under contract by the LBJ School of Public Policy at the University of Texas, and other recent studies show that many current efforts to deal with sprawl and manage growth emphasize incentives and disincentives to encourage desirable choices. By contrast, most earlier efforts were based on regulation and enforcement. For example, Oregon's urban growth boundaries, which have been in place for about 25 years and are viewed as a model by some other jurisdictions, are relatively rigid as the lines that denote these boundaries are difficult to adjust. By contrast, Maryland's new program emphasizes the use of financial incentives and disincentives to encourage preferred actions at desired locations. A similar change to a more flexible approach can be seen in resource protection where more funds and efforts are devoted to protection or restoration using easements and other mechanisms that cost less than full fee acquisition.

The issues addressed by these initiatives have important economic dimensions. The costs associated with resource protection and measures of what protection is worth to individuals have been widely discussed (and disputed). The costs associated with managing growth and addressing sprawl are even more controversial. Advocates of growth management cite the costs of providing new services, such as schools and transportation, in growing areas while existing services in areas of declining population are underused. However, others say that many of these costs are overstated and that the offsetting savings are not properly accounted for. Analysis of the costs change with scale; costs (and savings) may be quite different at a regional scale than at a community scale, so the scale at which government is organized to provide services can strongly influence how it approaches these responsibilities.

In addition to the many actions the public sector may initiate, one proliferating response in the private sector is the creation of land trusts, which protect valued resources that are threatened with undesirable change, such as those caused by sprawl. A recent survey conducted by the Land Trust Alliance (a group in Washington that represents about two-thirds of the land trusts) found more than 1,200 trusts operating in all 50 states and protecting more than 17.5 million acres, an area larger than West Virginia. The Nature Conservancy, which is the largest and perhaps the best known of these trusts, protects more than 8 million

acres; most land trusts work to protect resources in a relatively small area. Local and regional trusts now protect more than 6.2 million acres. Trusts are now using easements rather than acquisition to protect nearly 2.6 million acres. This is a nearly five-fold increase over the past decade, but still a small portion of the land protected by trusts.

All land protection efforts are not necessarily directly linked to traditional environmental interests and organizations, to purchasing land, or to sprawl. Two groups involving commercial ranching interests that have received considerable attention for their land protection and restoration activities are the Malpai Borderlands Group along the Mexican border with New Mexico and Arizona and the Colorado Cattleman's Association.

Some Members of Congress have responded to these resource protection and growth management interests by creating groups of Members who represent concerned constituencies. In the House, Representative Blumenauer created a Livable Communities Task Force within the Democratic Caucus in early 1998. Its stated objectives include recognizing the role the federal government has played in affecting community livability and promoting partnerships where the federal government works with local governments to achieve a community vision. A press release from Representative Blumenauer's office listed 53 members and 10 bills it endorses on topics ranging from commuting by bicycles to creating land conservation incentives.

In the Senate, Senators Jeffords and Levin announced the formation of a bipartisan Senate Smart Growth Task Force on January 13, 1999. The Task Force now has 24 members from both Chambers and both parties. Objectives of this Task Force are to investigate federal policies that curtail the quality of life in communities and regions, and to promote federal policies and programs that assist and complement state and local efforts to promote "smart growth". These Senators have received 3 reports from the General Accounting Office since April 1999. The initial report concluded that federal policies do contribute to sprawl, although the data to determine the extent and magnitude of the federal influence is not available; the second report, released in September 2000, found many local governments are pursuing a variety of strategies to manage growth; and the third report, released October 2001, concluded that federal incentives could be used to promote land use patterns that protect air and water quality.

Resource protection advocates have been pressing to increase overall federal funding levels for a mix of resource protection programs and increase the consistency of funding from year to year. The traditional source of federal funding to support federal, state, and local efforts to acquire natural resources is primarily the Land and Water Conservation Fund (LWCF). Annual appropriations to LWCF have been unpredictable from year to year. They were greatly reduced in the early and mid 1990s, as the Clinton Administration and Congress struggled to reduce the deficit, but have been rising steadily more recently. Further, the grants to states portion of the LWCF, which had received about one-third of all appropriated funds since the law was implemented in 1965, was not funded from FY1995 through FY2000 but received \$41 million in FY2000 and higher amounts since. Other generally newer and more focused federal resource protection programs address wetlands, migratory bird habitat, farmland, and the like using various approaches in addition to acquisition. Also, a portion of these funds have been appropriated for purposes other than traditional land acquisition programs in recent years. The expenditure of LWCF funds by either federal agencies or states has not to date involved consideration of the patterns of growth or sprawl.

(For more information on the LWCF, see CRS Report 97-792, *Land and Water Conservation Fund: Current Status and Issues*, last updated January 28, 2002.)

## The CARA Proposals

Interest in addressing these LWCF funding problems and related resource protection funding issues led to the introduction of three bills late in the 105<sup>th</sup> Congress (H.R. 4467 sponsored by Representative Gephardt, H.R. 4717 sponsored by Representative Don Young, and S. 2566 sponsored by Senator Landrieu). These bills would have funded the LWCF using permanent appropriations rather than the annual appropriations process, and revitalized the state grants program. In addition, the bills introduced by Representative Young and Senator Landrieu also would have: provided funds to coastal states to address impacts from offshore energy development; funded the Urban Park and Recreation Recovery Program (UPARR), which had not been funded since FY1995; and increased funding for the Federal Aid in Wildlife Restoration Act (also known as the Pittman-Robertson Act). Both bills enjoyed some bipartisan support and were reintroduced, with some changes, early in the 106<sup>th</sup> Congress (H.R. 701 and S. 25).

**Legislative Activity in the House (106<sup>th</sup> Congress).** As passed by the House, H.R. 701, or CARA would have appropriated \$2.825 billion annually from revenues derived from offshore oil and gas activities. All the funds except the federal portion of the LWCF would have been permanently appropriated and have bypassed the annual appropriation process. All purposes, authorized through FY2015 (and annual funding levels) included:

- ! Impact Assistance and Coastal Conservation (\$1 billion);
- ! Land and Water Conservation Fund Revitalization (\$900 million);
- ! Wildlife Conservation and Restoration Fund (\$350 million);
- ! Urban Park and Recreation Recovery Program (UPARR)(\$125 million);
- ! Historic Preservation Fund (\$100 million);
- ! Federal and Indian Lands Restoration (\$200 million);
- ! Conservation Easements and Species Recovery (\$150 million); and
- ! Payment In-Lieu of Taxes (PILT) and Refuge Revenue Sharing (\$200 million).

The House approved H.R. 701 on May 11, 2000, after 2 days of debate, during which it adopted 7 amendments. H.R. 701 had 315 cosponsors and was approved by a vote of 315-102. During the debate, supporters generally argued for the benefits of additional resource protection through multiple programs, especially at a time of growing budget surpluses. Opponents argued against removing this funding from the annual appropriations process, accelerating acquisition of land by the federal government, and increasing intrusion by the government on the lives of private citizens. The bill the House considered also contained some significant technical revisions made after the full committee had passed it, including:

- ! dropping the budget waiver language by deleting §7, so that the federal LWCF funding would remain subject to annual appropriations while most of the other programs funded under the bill would be mandatory spending, and not considered in the annual appropriations process;
- ! replacing a proposed new \$100 million Interior Department conservation easement program in Title VII with funding for two existing easement

programs in the Department of Agriculture, the Farmland Protection Program and the Forest Legacy Program; and

- ! requiring that appropriators provide more than \$100 million for Payment in Lieu of Taxes and \$15 million for refuge revenue sharing before additional funds provided by H.R. 701 for these programs would be made available.

The seven amendments the House approved would have:

- ! reduced incentives for new offshore oil and gas drilling;
- ! added a statement that funding under this legislation should supplement, and not replace, annual appropriations to the National Park Service;
- ! allowed money to be shifted to the CARA Fund annually only after the Congressional Budget Office has certified that Social Security and Medicare are solvent for the next 5 years and that the surplus will be sufficient to retire the federal debt by 2013;
- ! provided these funds only to states with a dedicated land acquisition fund;
- ! required the Secretaries of the Interior and Agriculture to develop of a statewide plan for federal land acquisition and disposal in Montana;
- ! added the Urban and Community Forestry Program to the programs that receive funding under Title VII, easements; and
- ! added a new Title VIII stating that spending on this legislation would not diminish the Social Security or Medicare Trust Funds.

**Legislative Activity in the Senate (106<sup>th</sup> Congress).** As reported by the Senate Energy and Natural Resources Committee, the substitute version of H.R. 701 would have appropriated an estimated \$2.99 billion annually through FY2016 (S.Rept. 106-413). Unlike the House-passed bill, all the funds would have been discretionary spending, because they only would have become available after Congress approved the Administration's list of proposed federal land acquisitions under LWCF. The programs that would have been funded differ from the House-passed bill. Programs it would have funded (and annual funding levels) were:

- ! Coastal Impact Assistance (\$430 million);
- ! Coastal Conservation (\$350 million);
- ! Coral Reef Protection (\$25 million)
- ! Land and Water Conservation Fund (\$900 million);
- ! Wildlife Conservation and Restoration Fund (\$350 million);
- ! Urban Park and Recreation Recovery Program (\$75 million);
- ! Urban and Community Forestry Program (\$50 million);
- ! Historic Preservation Fund (\$150 million);
- ! National Park and Indian Lands Restoration (\$125 million);
- ! Forest Legacy Program (\$50 million);
- ! Farm and Ranch land Protection Program (\$50 million);
- ! Cooperative Forestry Rural Development Program (\$25 million);
- ! Forest-Dependent Rural Community Assistance Program (\$25 million);
- ! Youth Conservation Corps Programs (\$60 million); and
- ! Payment In-Lieu of Taxes (variable, estimated at \$325 million)



There were other differences between the two bills. The two bills funded programs at different dollar amounts; for example, the House-passed bill provided \$1 billion for coastal impact assistance and coastal conservation while the Senate bill provided \$780 million. The Senate bill used different language to limit incentives to expand offshore oil and gas production. It used different formulas to distribute funds under some of its programs, and it has much less detailed language on aspects of public involvement for planning and distribution of funds at the state and local levels. (For a comparison of H.R. 701, as passed by the House with the substitute H.R. 701, as approved by the Senate Committee on Energy and Natural Resources, see the updated version of CRS Report RL30444, dated January 17, 2001, and titled *Conservation and Reinvestment Act (CARA): A Comparison of Current Versions of H.R. 701 with Current Law.*)

**Related Proposals (106<sup>th</sup> Congress).** Several more limited bills were introduced in both Chambers, but no action was taken on any them. For example, H.R. 452, introduced Representative Tom Campbell, would have moved the LWCF off budget and required that at least 50% of each year's funding is provided to the state grant program. S. 532, introduced by Senator Feinstein would have provided a secure source of funding for the LWCF including the state grants program, and also the Urban Parks and Recreation Recovery Program. Senator Lieberman introduced S. 1573, which was designed to spread the CARA funding more evenly among the 50 states. Also, identical bills that mirrored the Administration's FY2000 Lands Legacy Initiative, except that these bills would have permanently appropriated funding FY2015, were introduced by Senator Boxer (S. 446) and Representative Miller (H.R. 798).

In addition, other versions of CARA were introduced in the Senate during the 106<sup>th</sup> Congress. S. 2123, sponsored by Senator Landrieu, was identical to H.R. 701 as reported in the House. S. 2181, sponsored by Senator Bingaman, would have funded many of the programs that were in the Clinton Administration's Lands Legacy Initiative. S. 2567, sponsored by Senator Boxer, was identical to H.R. 701 as passed by the House.

**Activity in the 107th Congress.** Representative Young of Alaska reintroduced CARA legislation, securing the same number for the bill in this Congress. The new H.R. 701 was similar to the version that passed the House in many ways. Funding would have been mandatory so long as it did not reduce social security and medicare benefits, and totaled \$3.135 billion. It would have created a fund from Outer Continental Shelf oil and gas revenues to support the following programs (at the annual funding levels and changes from the bill passed in the 106<sup>th</sup> Congress) :

- ! Coastal impact assistance and conservation (\$1 billion);
- ! LWCF revitalization (\$900 million);
- ! Wildlife conservation and restoration (\$350 million);
- ! Urban Park and Recreation Recovery Program (\$125 million);
- ! Historic Preservation Fund (\$160 million, an increase from \$100 million);
- ! Federal and Indian land restoration (\$200 million);
- ! Endangered and threatened species recovery (\$50 million); and
- ! Payment In-Lieu of Taxes and Refuge Revenue Sharing Programs (\$350 million, an increase from \$200 million).

Other changes from the bill that passed in the 106<sup>th</sup> Congress include deleting provisions that would have provided \$100 million annually for farmland protection and forestry programs administered by the Department of Agriculture, providing \$10 million from the \$160 million appropriated to the Historic Preservation Fund for the Maritime Heritage Program, and changing the wildlife conservation and restoration provisions to reflect amendments to the Pittman-Robertson Act that were enacted after the House had passed H.R. 701.

The House Resources Committee held a hearing on June 20, 2001. It then amended and approved the bill on July 25, by a vote of 29-12, after defeating most of the amendments that were offered, including ones that would have limited the effect of the bill on private property rights. Bill supporters have signed up almost 240 cosponsors, including a majority of the committee members. A report to the House was finally filed more than a year later, on October 16, 2002 (H.Rept. 107-758, pt. 1). Related bills were introduced in the Senate on August 2 by Senator Murkowski (S. 1318) and Senator Landrieu (S. 1328). S. 1318 is identical to S. 25, introduced at the start of the 106<sup>th</sup> Congress by Senator Landrieu. S. 1328 is identical to the bill that the House approved in the 106<sup>th</sup> Congress, H.R. 701. The Senate took no further action.

## The Clinton Administration's Lands Legacy Initiative

**FY2000.** The Clinton Administration first proposed to respond to various resource protection pressures, especially sprawl and growth management question, by increasing funding for selected programs through its "Lands Legacy Initiative" in January 1999. It then included these proposals in its FY2000 budget submission. Some of these proposals would have required authorizing legislation, but it did not submit any draft bills. It sought increases to a total of more than \$1 billion for almost 2 dozen programs administered by the Department of the Interior (\$579 million), the Department of Agriculture (\$268 million), and the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) (\$183 million). This would have been an increase of \$540 million, in total, from FY1999 funding.

Congress rejected many of these proposals and partially funded most others. In total, it provided \$727 million for these programs, an increase of \$268 million from FY1999. The House and Senate Interior Appropriations Committees both opposed the initiative. While the normal appropriations process did not result in substantial funding for these proposals, negotiations on the Consolidated Appropriations for FY2000 (H.R. 3194), which combined five appropriations bills, resulted in providing an additional \$197.5 million to implement aspects of the Initiative in a separate Subtitle VI of the Interior Appropriations. Most of these funds were for land acquisition. The Forest Service received \$81 million and agencies in the Department of the Interior received the remaining \$116.5 million. All but \$35 million were earmarked. The legislation required that the remaining funds – \$15 million for the Forest Service, and at least \$20 million for the Department of the Interior agencies – could be spent only after being approved by the House and Senate Appropriations Committees. (The committees released the funds in March 2000.)

**FY2001.** The Clinton Administration slightly revised the components of its lands legacy proposal in FY2001, replacing three programs with three others. It sought an overall increase of \$673 million, to \$1.4 billion. Added programs included a Coastal Impact

Assistance Fund, grants to states for non-game wildlife, and the Pacific Salmon Recovery Fund. The first two of these added programs were also components in the pending CARA legislation, so the revised initiative moved closer to the CARA proposal. The initiative, as proposed, would have provided \$735 million to the Department of the Interior, \$429 million to the National Oceanic and Atmospheric Administration in the Department of Commerce, and \$236 million to the Department of Agriculture. As in FY2000, no authorizing legislation was included with the package.

More specifically, the Lands Legacy Initiative, as proposed in FY2001, would have:

- ! Funded federal land acquisition through the LWCF, including lands in several specified areas, such as the Florida Everglades and the Northern Forest. The estimated cost was \$450 million, an increase of \$25 million.
- ! Provided grants to states to acquire land through the LWCF state grant program. The estimated cost was \$150 million, an increase of \$109 million.
- ! Provided matching grants to states through the Department of the Interior to develop open space and “smart growth” management strategies. The estimated cost was \$50 million; this proposal went unfunded in FY2000.
- ! Initiated a new revolving loan fund at the Department of Agriculture to support acquisition of land and easements in rural areas based on “smart growth” principles. The estimated cost was \$6 million.
- ! Expand funding for other programs, including the Cooperative Endangered Species Conservation Fund, the North American Wetlands Conservation Fund, the State Non-Game Wildlife Grants, and two forestry programs. The estimated cost was \$295 million, a increase of \$196 million.
- ! Provided matching grants and technical assistance to restore urban parks. The estimated cost was \$20 million, an increase of \$18 million.
- ! Increased funding for the Marine Sanctuaries Program. The estimated cost was \$35 million, an increase of \$10 million.
- ! Increased matching grants to state coastal zone management programs to address the effects of growing population, runoff, and deteriorating coastal habitats. The estimated cost was \$157 million, an increase of \$95 million.
- ! Improved management at the 25 sites in the Estuarine Research Reserve System. The estimated cost was \$20 million, an increase of \$8 million.
- ! Expanded a NOAA coral reef protection and restoration program. The estimated cost was \$15 million, an increase of \$9 million.
- ! Enacted a new program to fund efforts to minimize environmental risks from coastal development. The estimated cost was \$100 million.
- ! Increased funding for the Pacific Coastal Salmon Recovery Fund. The estimated cost was \$100 million, an increase of \$42 million.

The Interior and Commerce appropriations bills initially provided far less funding than the Clinton Administration had requested. For example, the Administration had sought \$450 million for federal land acquisition under the LWCF, but the House provided \$184 million and the Senate Appropriations Committee \$180 million.

As Congress was finishing its actions on the FY2001 Interior Appropriations, however, congressional appropriators and the Administration agreed to fund the Lands Legacy Initiative in FY2001 and for a total of 6 years through the annual appropriations process as

a shorter and less expensive alternative to CARA. For FY2001, the Interior Appropriations conference committee added a new Title VIII that provided \$686 million for Lands Legacy programs beyond what was already provided in the normal agency appropriations for these programs, for a total of \$1.2 billion. The FY2001 funding through Interior Appropriations (P.L. 106-291) was divided as follows:

- ! \$540 million for federal and state LWCF;
- ! \$300 million for state and other conservation programs;
- ! \$160 million for urban and historic preservation programs;
- ! \$150 million for public land maintenance and facility rehabilitation; and
- ! \$50 million for the payment-in-lieu-of-taxes program.

Title VIII funds these programs in increasing amounts for the next 5 years, rising to \$2.4 billion in the 6<sup>th</sup> year. Interior programs could receive a total of up to \$12 billion over the 6 years. However, all funds each year will have to be provided through the annual appropriations process; none of the funding is mandatory, as supporters of CARA had sought. To protect these funds from being used for other purposes, the legislation uses what proponents characterize as a “fencing structure” to separate these funds from other Interior appropriations and to separate each of the five categories listed above from each other. This fencing structure applies only to the first \$1.6 billion (of which \$1.2 billion is in Interior appropriations), and would not affect increases in future years. Also, any funds not appropriated in one year could be appropriated in a subsequent year.

The agreement also called for an additional \$400 million to be provided for coastal and marine programs in the Commerce Appropriations. The language, in Title IX of Commerce Appropriations for FY2001 (P.L. 106-554) actually provided \$470 million. However, \$50 million of this total is for a state grants program administered by an agency in the Department of the Interior rather than any agency funded through Commerce Appropriations. Also, the Commerce Appropriations legislation did not address funding beyond FY2001. The FY2001 funding was divided as follows:

- ! \$150 million for coastal impact assistance;
- ! \$135 million for ocean, coastal, and conservation programs;
- ! \$135 million for National Oceanic and Atmospheric Administration programs; and
- ! \$50 million for grants to states for wildlife conservation and restoration programs based on a state wildlife conservation plan.

**Status in the 107<sup>th</sup> Congress.** The Bush Administration’s budget request for FY2002 made no mention of the Lands Legacy Initiative or the CSC, but it did call for full funding of the LWCF at \$900 million, split equally between the state grant program and federal agency land acquisition. The Administration proposed to earmark \$50 million of the federal portion to a new grant program administered by the U.S. Fish and Wildlife Service (FWS) that states could use as an incentive for landowners who are willing to include wildlife considerations in their land management practices. It also proposed that an additional \$10 million from the amount provided to the FWS be used to establish a new stewardship program to provide grants to local and private groups engaged on local, private, and voluntary land and wildlife conservation efforts. Therefore, after these earmarks to the FWS, it would have provided \$390 million for federal land acquisition.

Interior appropriators continued using the CSC framework when providing FY2002 funding . It lowered the total for state grants from \$450 million to \$144 million, while supporting the request for federal acquisition of \$390 million. Congress reduced the earmark to the FWS from \$60 million to \$50 million, then added \$85 million to fund state wildlife grants using LWCF monies. The Interior appropriations conference committee report summarized that Congress provided \$708 million for LWCF.

The Interior portion of the CSC includes numerous other programs in addition to the LWCF and those supported using LWCF funds. In total, the Administration had requested funding totaling \$1.26 billion, an increase of \$257 billion from the preceding year. Congress provided a total of \$1.32 billion. Examples where Congress provided more than the Administration requested include: the Administration requested no funding for Fish and Wildlife Service state grants, but Congress provided \$85 million; the Administration requested \$15 million for the North America Wetlands Conservation Program, but Congress provided \$44 million; and the Administration requested no funding for the Urban Parks and Recreation Recovery Grants, but Congress provided \$30 million.

CSC programs funded through Commerce appropriations, which includes coastal management, estuarine and marine sanctuaries, and Pacific salmon recovery, among others, received \$439 million. This amount is a large increase over the Administration request of \$284 million. However, there is no further discussion of the CSC in either the FY2002 legislation or either committee report.

For FY2003 appropriations, the Bush Administration request again did not use the CSC framework. When the program requests are added together, the total is \$1.318 billion for programs funded through Interior appropriations. This is not directly comparable with earlier years, however, as it includes \$49.5 million for the Forest Service's Forest Stewardship which was not included in the CSC in earlier years. The LWCF portion of the CSC would include \$335 million for the federal land acquisition programs, \$200 million for the state grants program (which includes \$50 million for a proposed Cooperative Conservation Initiative), and \$374 million to fund other conservation programs. The House and Senate both responded by providing a total of \$1.44 billion for Interior appropriations programs. For programs funded through Commerce appropriation, the request totals \$348 million. These programs are now being funded through a continuing resolution , and congressional leaders have promised to move quickly to complete action earlier in the 108<sup>th</sup> Congress (For a table comparing the request amounts and appropriation, by program, in FY2000, FY2001, FY2002, and the FY2003 request, and a more detailed discussion of these initiatives, see CRS Report RS20471, *The Conservation Spending Category: Funding for Natural Resource Protection.*)

## Major Points of Debate

The CARA proposal (H.R. 701) had 244 co-sponsors in the 107<sup>th</sup> Congress. Two other versions of the proposal have been introduced in the Senate, where no action has been taken. Both Chambers supported higher overall funding levels in FY2002 for the composite of programs that were in the Lands Legacy Initiative in FY2001, and higher levels than the Bush administration had requested, with the exception of full funding for LWCF.

In this setting, many issues that were raised earlier are likely to resurface in the 108<sup>th</sup> Congress. Central issues would be the degree and nature of federal government involvement in managing growth, which has been largely dealt with at the local level, with state involvement in some instances, and how federal programs contribute to both exacerbating and solving growth-related problems. Some opponents of CARA and the Initiative believe that the federal government has little to contribute to solving this suite of problems or should not involve itself, and opposed Clinton Administration efforts to create a much stronger federal presence. Others counter that the federal government already plays a major role through its policies and programs, whether intended or not, and that the Clinton Administration efforts had the potential to help address them. Some also stated that a stronger federal role may be most useful where issues are regional and cut across many jurisdictions.

Both CARA and the Lands Legacy Initiative attracted bipartisan support, although some initially viewed the Initiative as partisan, and saw endorsement of this proposal as support for the Democratic agenda. In fact, the division between supporters and opponents is more by region than by party affiliation. Some congressional Republicans, especially from the Northeast or suburban areas, supported efforts at managing growth that include resource protection dimensions. Some Republican governors strongly advocated addressing sprawl issues. And some congressional Democrats from rural areas have questioned the need for federal action. In the House, about 200 Democrats were joined by more than 110 Republicans as cosponsors of CARA in the 106<sup>th</sup> Congress.

The CARA proposals and the Lands Legacy Initiative both combined rural, suburban, urban and resource protection activities in packages that were designed to have broad appeal. The congressional debate explored this appeal primarily in economic terms. Many interests, including conservation and environmental groups, supported providing more funds for federal resource protection and restoration efforts. These interests believed that some portion of the forecast budget surplus should have been spent on these efforts, reversing the trend of recent years when funding had been limited in the name of deficit reduction.

Opponents raised several economic issues as well. Some believed that the surplus should be spent in other ways, such as giving priority to Social Security, tax cuts, or deficit reduction. Others saw these efforts as expanding and empowering the federal government, by giving it more money and thereby weakening individual and property rights. This concern centered on enabling the federal government to purchase more private lands, especially in the West. Another economic perspective that some opponents raised was that growth is largely the manifestation of a free economy at work, which they viewed as preferable to greater government intrusion.

Debate over the CARA proposals brought several issues into clearer focus. One was how funding should be treated in the appropriations process. The House-passed bill would have taken funding for almost all programs off budget and out of the annual appropriations process, thus guaranteeing full funding each year unless OCS revenues fell short. Full funding without having to negotiate the annual appropriations process was very attractive to program proponents who said that their programs, while meritorious, had been unable to compete with other spending priorities in recent years. Appropriators and others who believed that most federal spending should have been reviewed and justified each year opposed this approach, saying that it reduced both budget discipline and the array of budget

options available for Congress. Opposition also came from others who had different priorities for federal spending, who wanted to limit overall federal spending, or who wanted to see less federal land acquisition in the future.

A second issue was what portion of CARA or the Initiative should be returned to coastal states supporting OCS activities to ameliorate some of the adverse environmental effects. Supporters stated that the legislation would have made the relationship between offshore energy extraction and coastal states more like that in the federal programs that provide funds to on-shore communities in which resources are extracted from federal lands. (The Department of the Interior estimated that under both the House and Senate bills, the largest amounts would be spent in California and Louisiana, while the smallest amounts would be spent in less populated states that are located away from the coast and have little federal land, such as Vermont, Kansas, Iowa, and North Dakota.) But others expressed concerns about the types of projects that would be permitted or about the large amount of funds that would suddenly become available for these kinds of projects in a few states. They were also concerned that lower revenues from offshore oil and gas activities might not sustain authorized spending levels, increasing pressure to expand these activities, regardless of any legislative protections or prohibitions.

If the 108<sup>th</sup> Congress considers these issues, it will do so in a setting that is changing in at least three ways. First, the anticipated change from a projected surplus to a projected deficit has probably made it far more difficult to enact the CARA legislation, as OCS revenues will be viewed as needed even more in the general treasury. Second, the economic downturn has also adversely affected the financial condition of many state and local governments who have less financial and other resources to devote to amenity values and quality of life issues. Third, many of the states will have new governors, and it is unclear whether they will have different views on these issues than their predecessors, some of whom were among the most aggressive in addressing these issues. For example, the new Maryland governor seems unlikely to continue Governor Glendening's smart growth initiatives; he may end them, or he may modify them.

## LEGISLATION

Numerous bills that would address aspects of growth and sprawl issues were introduced in the 107<sup>th</sup> Congress. The bills listed below are but a small sample of these.

### **H.R. 701 (Young of Alaska)**

Uses royalties from Outer Continental Shelf oil and gas production to establish a fund to meet specified outdoor conservation and recreation needs. Introduced February 14, 2001; referred to Committee on Resources. Hearing held June 20, 2001. Resource Committee approved H.R. 701, amended, on July 25, 2001. Reported, October 16, 2002. (H.Rept. 107-758, pt.1).

**H.R. 1381 (Udall of Colorado)**

Authorizes \$100 million a year through FY2007 to provide federal matching grants to preserve open space by acquiring conservation easements. Introduced April 3, 2001; referred to Committee on Resources.

**H.R. 1433 (Blumenauer)/S. 975 (Chafee)**

Authorizes the Secretary of Housing and Urban Development to make grants to states and others to develop or update land use planning legislation to improve urban development and the quality of life. H.R. 1433 introduced April 4, 2001; referred to Committees on Financial Service and on Resources; S. 975 introduced May 25, 2001; referred to Committee on Environment and Public Works.

**H.R. 1739 (Udall of Colorado)**

Requires the Council on Environmental Quality to conduct a study on urban sprawl and smart growth, and to ensure that federal agencies consider urban sprawl when preparing environmental reviews required under the National Environmental Policy Act of 1969. Introduced May 3, 2001; referred to Committees on Resources and on Energy and Commerce.

**S. 1318 (Murkowski)**

Uses royalties from Outer Continental Shelf oil and gas production to establish a fund to provide coastal impact assistance to state and local governments, and to meet specified outdoor conservation and recreation needs. Introduced August 2, 2001; referred to Committee on Energy and Natural Resources.

**S. 1328 (Landrieu)**

Uses royalties from Outer Continental Shelf oil and gas production to establish a fund to meet specified outdoor conservation and recreation needs. Introduced August 2, 2001; referred to Committee on Energy and Natural Resources.

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