



The Great American Outdoors Act, P.L. 116-152: Selected Provisions

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The Great American Outdoors Act—P.L. 116-152—established a new fund with [mandatory spending](#) authority to address deferred maintenance needs of five federal agencies. The law also made the deposits to an existing fund—the [Land and Water Conservation Fund \(LWCF\)](#)—[mandatory spending](#) and made other changes to the [LWCF Act](#). This Insight addresses some provisions of the new law.

National Parks and Public Land Legacy Restoration Fund

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 and buildings. 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, the backlog for [NPS](#) was reported at \$11.9 billion, [FS](#) at \$5.2 billion, [FWS](#) at \$1.3 billion, and [BLM](#) 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 major portion of DM is in transportation assets.

Most funding for agency DM has come from discretionary appropriations. The agencies also have mandatory spending authorities, including [transportation maintenance](#) funding.

P.L. 116-152 established a new mandatory fund to address DM for the five agencies (NPS, FS, FWS, BLM, and BIE). The fund is to 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 law 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 that it would not affect revenues that have been otherwise appropriated under federal law (e.g., under the [Gulf of Mexico Energy Security Act](#) [GOMESA] and the [Mineral Leasing Act](#)).

Of the amounts deposited each year in the fund (up to \$1.9 billion annually), NPS is to receive a 70% share, FS 15%, FWS 5%, BLM 5%, and BIE 5% for its schools. The agencies must use the funding for “priority deferred maintenance projects.” At least 65% of each agency’s funds is for “non-transportation projects.” In general, the President would submit lists of priority projects to Congress with annual budget justifications. Appropriations acts may specify an “alternate allocation.” If alternate allocations have not

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been enacted by the enactment date 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. Because the fund receives 50% of federal energy revenues deposited in the Treasury as miscellaneous receipts, these revenues would have to total \$3.8 billion in a given year for the cap to be reached. [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.

Land and Water Conservation Fund

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. Prior to P.L. 116-152, the money had been available only if appropriated in subsequent law and thus was considered discretionary spending. The annual appropriations generally were less than \$900 million, resulting in an unappropriated balance of approximately [\\$22 billion](#) through FY2019.

The LWCF Act sets out authorized purposes of the fund, relating to [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 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](#)." Congress typically has reviewed presidential budget requests for LWCF appropriations for agencies, accounts, and programs, and it has determined 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.

P.L. 116-152 made 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. The new law 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, P.L. 116-152 generally requires the President to submit annually to Congress "detailed account, program, and project allocations" for the full amount available. The law provides for alternate allocations by Congress under a procedure similar to that described above for DM.

Budgetary Implications of Great American Outdoors Act

P.L. 116-152 provides mandatory spending for activities that, in the past, have been funded with discretionary spending (i.e., through the [annual appropriations process](#)). As a result, such funding would no longer be considered within annual discretionary spending limits, such as the [statutory limits \(currently through FY2021\)](#) and the [appropriations subcommittee allocations under the Congressional Budget Act](#). The [Congressional Budget Office estimated](#) the law would increase mandatory spending outlays by

almost \$5.9 billion over six years (FY2020-FY2025) and almost \$17.3 billion over 11 years (FY2020-FY2030).

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