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INSIGHT

Legacy Restoration Fund for Deferred Maintenance: 119th Congress Reauthorization Bills

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The Great American Outdoors Act (GAOA; P.L. 116-152) established the National Parks and Public Land Legacy Restoration Fund (LRF; 54 U.S.C. Chapter 2004), with dedicated funding to address deferred maintenance (DM) of five agencies: the Bureau of Indian Education (BIE), Bureau of Land Management (BLM), National Park Service (NPS), and U.S. Fish and Wildlife Service (FWS), all in the Department of the Interior (DOI), and the Forest Service (FS) in the Department of Agriculture. These agencies have faced multibillion-dollar DM backlogs in recent years, with NPS's backlog being the largest. Total DM for the five agencies was estimated at $46.2 billion for FY2025, the most recent estimate available. The GAOA provided for the LRF to receive deposits of up to $1.9 billion annually from FY2021 through FY2025 to address agency DM. For additional background, see CRS In Focus IF12888, *The Great American Outdoors Act (GAOA): Frequently Asked Questions*.

Two measures in the 119th Congress would authorize deposits to the LRF for FY2027-FY2031: H.R. 9250, as ordered reported by the House Committee on Natural Resources, and S. 1547, as reported by the Senate Committee on Energy and Natural Resources. (Hereinafter, references to H.R. 9250 are to the version ordered reported; see the House Committee on Natural Resources' website. References to S. 1547 are to the reported version.) These bills also would change the sources of deposits to the fund and would address the distribution and use of monies, streamlining projects, and accuracy of DM data, among other issues.

Amounts and Sources of LRF Deposits

Under the GAOA, for each of FY2021-FY2025, the LRF received deposits equal to 50% of all federal onshore and offshore energy development revenues (from oil, gas, coal, and renewable energy) credited as miscellaneous receipts in the preceding fiscal year, up to an annual cap of $1.9 billion. The money was available without further appropriation (i.e., as mandatory spending). H.R. 9250 and S. 1547 would provide deposits to the LRF for FY2027-FY2031, retaining the $1.9 billion annual cap and mandatory spending authority. Deposits into the fund for FY2027-FY2031 would come from three sources: (1) collections from increased NPS fees for foreign or nonresident visitors; (2) receipts from licensing certain

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DOI intellectual property; and (3) amounts equal to 50% of specified *onshore* energy revenues (whereas FY2021-FY2025 amounts were based on both onshore and offshore energy revenues).

Issues could include trade-offs in using certain receipts for the LRF versus other purposes (e.g., under current law, most NPS visitor fees—including those from foreign/nonresident visitors—are retained at the collecting park). The sufficiency of funding sources for the authorized amounts could be another consideration. For instance, S. 1547 specifies that the energy-related funding would be based on *onshore* energy revenues credited in the Treasury as *miscellaneous receipts*. Because most onshore energy revenues (as opposed to offshore energy revenues) are not credited as miscellaneous receipts, it may be uncertain whether amounts equal to 50% of onshore energy miscellaneous receipts would yield the annual maximum, even with the other new funding sources. For FY2021-FY2025, offshore miscellaneous receipts contributed to reaching the annual maximum. H.R. 9250, as ordered reported, would base the amounts on 50% of *all* onshore energy revenues (not just those credited as miscellaneous receipts), which could be more likely to yield the maximum, based on recent years' receipts.

Agency Allocations and Project Selection Criteria

Both bills would retain provisions of current law that allocate 70% of annual LRF funding to NPS, 15% to FS, and 5% each to BLM, FWS, and BIE. Some may support these allocations as appropriate based on the size of each agency's backlog, whereas others may seek different allocations for a particular agency's needs. The funding would be used for "priority deferred maintenance" as defined in the bills. As under the GAOA, for agencies other than BIE, both bills would mandate that certain funding (different percentages in each bill) be reserved for "non-transportation" projects. (The BIE funding is specified for schools.) Considerations may include the proportion of transportation versus non-transportation assets on each agency's DM list (available for the DOI agencies and FS), as well as other funding sources for transportation-related DM.

Following the GAOA's enactment, committee hearings examined the agencies' project selection criteria, including concerns about the geographic distribution of selected projects and the distribution of funds to larger and smaller projects. S. 1547 and H.R. 9250 would require agencies (other than BIE) to achieve a "reasonable balance" between projects at higher- and lower-visitation units. Both bills also would require agencies to solicit project suggestions from state governors and contain other prioritization criteria (similar but not identical between the bills). The bills also have similar provisions on agency submission of project lists and allocation by Congress and/or the President.

Streamlining Project Implementation

Some Members have raised concerns about the time and cost involved for LRF projects to meet procedural requirements such as those of the National Environmental Policy Act (NEPA). H.R. 9250 and S. 1547 would direct agencies to adopt any applicable NEPA categorical exclusions and use "all other available procedures to expedite environmental review." Both bills would set timelines for some project steps. S. 1547, but not H.R. 9250, would allow the agencies to enter into noncompetitive procurement contracts for LRF projects with certain "uniquely positioned" entities (e.g., state or local governments). Congress may assess potential advantages or disadvantages of expediting procedures.

Deferred Maintenance Data

In oversight hearings on the LRF, some observers questioned whether agency DM data have been sufficiently consistent and accurate to inform congressional assessments of the LRF's effectiveness. H.R. 9250 and S. 1547 would require the agencies to establish "clear, quantifiable, and standardized metrics [for calculating DM] across each covered agency" and to meet other data criteria. It could be unclear whether the provisions might limit the agencies in terms of modifying their methodologies—and, correspondingly, revising DM data—as some agencies have done (e.g., for transportation assets). Congress may weigh trade-offs between agency flexibility to change methodologies versus maintaining data consistency.

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