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## Legislative Proposals for a National Park Service Deferred Maintenance Fund

Congress has debated ways to address the National Park Service's (NPS's) substantial backlog of *deferred maintenance*—maintenance that was not performed as scheduled or as needed. NPS's maintenance backlog has grown over the past two decades and is estimated for FY2017 at \$11.6 billion. Because unaddressed maintenance needs may harm park resources, detract from visitors' enjoyment of the parks, and pose safety threats, the backlog has been an ongoing issue of concern for some Members of Congress and other stakeholders. Legislative interest has focused primarily on additional federal funding sources to address the backlog, although some stakeholders have suggested that the backlog could be meaningfully reduced without major federal funding increases—for example, by reprioritizing current uses of NPS discretionary appropriations, improving the agency's capital investment strategies, or increasing the role of nonfederal partners in park funding and management.

### Legislative Proposals for an NPS Fund

Multiple bills in the 115<sup>th</sup> Congress would establish a special fund to address NPS deferred maintenance. H.R. 6510 was ordered reported from committee on September 13, 2018. Several other bills—S. 3172, H.R. 5210, H.R. 2584, and S. 1460 (Section 5101)—have received hearings in the 115<sup>th</sup> Congress. Additional bills, such as S. 2509, S. 751, and H.R. 2863 (Section 3), have been introduced but have not seen committee action.

All these proposals would draw on revenues from energy development on offshore and/or onshore federal lands as the primary source of funding to address the backlog. Depending on the particular funding source specified in a given bill, these revenues may be derived from both conventional and renewable natural resources, including oil, gas, coal, wind, solar, and others. Federal energy revenues are collected under a variety of laws, at several stages of the development process. For example, companies may pay bonus bids to secure leases for energy development, rents on energy leases prior to production, and royalties during production.

Federal energy revenues currently are disbursed to multiple recipients under various laws. Some of the revenues are shared with states and tribes; other portions go to federal funds, including the Land and Water Conservation Fund (LWCF; 54 U.S.C. §§200301 et seq.), the Reclamation Fund (43 U.S.C. §§391 et seq.), and the Historic Preservation Fund (54 U.S.C. §§300101 et seq.). After these and other distributions, the remainder of federal energy revenues are deposited in the General Fund of the Treasury as miscellaneous receipts. Many of the NPS funding bills would draw the monies for NPS deferred

maintenance from the energy revenues that are credited to the Treasury as miscellaneous receipts after other distributions are made.

The bills would provide different funding amounts to NPS for different periods of time. For example, H.R. 6510 (as ordered reported) and S. 3172 would provide 50% of federal energy revenues that remain after other distributions, up to \$1.3 billion annually, for five years. H.R. 5210 would provide fluctuating amounts depending on the extent to which total federal energy revenues exceeded certain thresholds specified in the bill, with a maximum total deposit of \$18 billion collectively over 10 years. S. 1460 would provide \$150 million annually without an end date, and H.R. 2584 would provide amounts ranging from \$50 million to \$500 million annually through FY2047. The legislative proposals also differ in other ways, such as whether they would provide funding to NPS only or to other agencies as well, whether the funds would be available only if appropriated or without further legislative action, and how NPS would prioritize maintenance projects to be addressed.

### Budget and Appropriations Issues

The various bills would provide appropriations from the NPS fund either directly or subject to subsequent appropriations. Budget enforcement requirements could present procedural hurdles for these funding proposals. Under H.R. 6510 (as ordered reported) and most of the other bills, the funding—drawn from revenues that otherwise would be credited as miscellaneous Treasury receipts—would be available to NPS and/or other agencies without the need for further appropriations (i.e., as direct, or mandatory, spending). These bills therefore presumably would be scored as increasing mandatory spending. Given existing budget rules, they presumably would be subject to certain budget points of order if not offset. None of the bills in their current forms contain spending offsets, although offsets could be added through amendments to the bills or as part of a broader lands package.

In contrast, S. 1460 (Section 5101) would create an NPS fund in which amounts would be available to NPS only to the extent appropriated in annual discretionary appropriations laws. Although this approach would avoid budget enforcement requirements associated with mandatory spending, any monies appropriated from the NPS fund in annual appropriations laws would count against limits to discretionary spending, such as the statutory limits established under the Budget Control Act (P.L. 112-25).

Some stakeholders have contended that NPS maintenance projects, which often require multiyear investments, are hampered by the agency's heavy reliance on discretionary appropriations, which are uncertain from year to year. These stakeholders seek greater funding certainty through mandatory appropriations for NPS deferred maintenance. Others contend that discretionary funding provides an important level of congressional oversight over each year's funding that would not be present if funds were provided outside that annual process.

### Tradeoffs in Uses of Energy Revenues

All the bills described above share the basic concept of addressing deferred maintenance through federal energy development revenues, as noted. Supporters of the proposals have expressed the broad principle that federal land conservation and maintenance are appropriate uses of monies derived from federal land development. In this respect, supporters have likened the proposed NPS deferred maintenance funding to other congressionally mandated uses of federal energy revenues related to conservation purposes, such as the LWCF and the Historic Preservation Fund. Supporters have emphasized that the proposals are structured so as not to reduce revenue amounts shared with the states or funds for other federal programs that draw on energy revenues. They have pointed out that, based on past years' revenues, amounts remaining after currently mandated distributions would allow for a meaningful impact on NPS's backlog.

Opponents of proposals to use federal energy revenues for an NPS deferred maintenance fund have cited varying reasons. Some support using these revenues for other federal programs and purposes benefiting the nation. Other stakeholders have questioned the concept of funding NPS maintenance with energy revenues on the basis of environmental concerns, particularly related to the potential contributions of fossil fuel development to climate change. They have expressed concern that this approach may incentivize activities whose climate impacts would have negative consequences for parks over time. Concerns have centered especially on proposals (H.R. 5210 and S. 2509) that would condition NPS funding on the extent to which energy revenues exceed certain thresholds.

Still others have contended that energy revenues currently going to the Treasury, a majority of which come from offshore energy development, should be shared in higher proportions with coastal states, given costs incurred by these states to support extraction industries and to address environmental challenges such as wetland loss. They point out that coastal states receive a lower share of offshore revenues than is provided to states hosting onshore federal energy production. Some Members of Congress, along with the Obama and Trump Administrations, have countered with the view that revenues generated in federal waters belong equally to all Americans and that their distribution should reflect national needs regardless of geographic location.

### Is a Deferred Maintenance Fund Needed?

NPS currently uses a number of different funding sources to address deferred maintenance, including discretionary

appropriations, allocations from the Department of Transportation, park entrance fees, and donations. The agency does not aggregate the total amount it receives and uses each year for deferred maintenance, but agency officials, as well as some Members and other stakeholders, have stated repeatedly that available funding has been inadequate to meet maintenance needs. In recent years, Congress has increased NPS's discretionary appropriations to address deferred maintenance. NPS has stated that these funding increases, although helping the agency with some of its most urgent needs, have been insufficient to address the total problem.

Although many observers agree that further action is needed, not all support addressing deferred maintenance through overall NPS funding increases. For instance, some recommend reorienting existing funding to prioritize deferred maintenance over other purposes. In particular, some Members have suggested that Congress appropriate more funds for unmet NPS maintenance needs and less from the LWCF for NPS land acquisition and/or that Congress amend the LWCF Act to expressly authorize or require use of LWCF funds for deferred maintenance. For more information on the LWCF Act, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*.

Some observers also have suggested that NPS deferred maintenance could be at least partially reduced through improved asset management strategies. NPS has taken a number of steps over the past two decades to improve its asset management systems and strategies. The Government Accountability Office, in its report GAO-17-136, has recommended further improvements. H.R. 1577 would require an evaluation of NPS's Capital Investment Strategy, including a determination of whether the strategy is achieving its intended outcomes and any recommendations for changes.

Other recommendations that might not require additional federal funding have included those to incentivize private donations to NPS, to address obstacles to NPS asset disposal, or to increase the role of nonfederal partners in park maintenance and management, among others. Some Members of Congress have expressed a preference for actions along these lines, whereas other Members, along with both the Obama and Trump Administrations, have questioned whether changes that do not include a significant funding increase would be sufficient to address a backlog that stands at multiple billions of dollars.

### Further Reading

For additional information on NPS deferred maintenance, see CRS Report R44924, *The National Park Service's Maintenance Backlog: Frequently Asked Questions*; and CRS Report R43997, *Deferred Maintenance of Federal Land Management Agencies: FY2007-FY2016 Estimates and Issues*.

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