

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

September 11, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff— Terry Camp and Holly Baker
Subcommittee on Federal Lands (x6-7736)

Markup: **H.R. 6510 (Rep. Rob Bishop)**, To establish, fund, and provide for the use of amounts in a National Park Service and Public Lands Legacy Restoration Fund to address the maintenance backlog of the National Park Service, United States Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Education, and for other purposes.
September 13, 2018, 10:15 PM; 1324 Longworth House Office Building

H.R. 6510, Restore Our Parks and Public Lands Act

Summary of the Bill

H.R. 6510, introduced by Representative Rob Bishop (R-UT-01), would establish the National Park Service and Public Lands Legacy Restoration Fund. This bipartisan bill provides mandatory funding to address the deferred maintenance backlog of the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and Bureau of Indian Education. The new fund will receive 50 percent of unallocated revenue paid to the federal government from energy production on federal lands, including renewable energy, up to \$1.3 billion annually.

Cosponsors

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Background

Federal land management agencies are facing a deferred maintenance backlog that is exhausting agency budgets and negatively impacting visitor access, enjoyment, and safety on federal public lands. The Department of the Interior's (DOI) total deferred maintenance backlog currently stands at \$16 billion.¹ Although the National Park Service (NPS) backlog of \$11.6 billion makes up the majority of the DOI's total, the Fish and Wildlife Service (FWS) and the Bureau of Land Management (BLM) also have significant maintenance backlogs.² FWS has an

¹ NPS. "National Park Service Asset Inventory Summary" Data as of September 30, 2017.

https://www.nps.gov/subjects/plandesignconstruct/upload/FY17-Asset-Inventory-Summary-AIS-Servicewide_Report_508-3.pdf

² DOI Press Release. "President's \$11.7 Billion Proposed FY2019 Budget for Interior". February 12, 2018.

<https://www.doi.gov/pressreleases/presidents-117-billion-proposed-fy-2019-budget-interior-includes-legislation>.

estimated deferred maintenance backlog of \$1.4 billion.³ The BLM's total is estimated at \$810 million, which has increased 65 percent over the past decade.⁴

The Bureau of Indian Education (BIE) serves 47,000 students in 23 States. Although many of the schools are controlled and operated by the tribes, the BIE is responsible for the maintenance of facilities, which comprise 169 school buildings and 14 dormitories. The estimated deferred maintenance backlog for BIE schools is \$634 million.⁵

The deferred maintenance backlog of the NPS has long been an issue of interest to lawmakers, federal agencies, and the public. Attention to the problem and the need for a solution has grown as cost estimates for addressing the backlog have increased to nearly \$12 billion in recent years.⁶ Among other management challenges, the deferred maintenance backlog negatively impacts visitor access, enjoyment, and safety on public lands.⁷



(Grand Canyon Pipeline – Photo Credit: NPS)

³ "U.S. Fish and Wildlife Service FY2019 Budget in Brief." U.S. Fish and Wildlife Service. Accessed March 1, 2018. https://www.doi.gov/sites/doi.gov/files/uploads/fy2019_bib_bh059.pdf.

⁴ Vincent, Carol Hardy. "Deferred Maintenance of Federal Land Management Agencies: FY2007-FY2016." April 25, 2017. <https://fas.org/sgp/crs/misc/R43997.pdf>.

⁵ All BIE statistics from: The Department of the Interior, FY2019 Budget https://edit.doi.gov/sites/doi.gov/files/uploads/fy2019_bib_dh005.pdf.

⁶ National Park Service, Planning, Design and Construction Management, NPS Deferred Maintenance Reports <https://www.nps.gov/subjects/plandesignconstruct/defermain.htm>.

⁷The Department of the Interior, FY2019 Budget https://edit.doi.gov/sites/doi.gov/files/uploads/fy2019_bib_dh005.pdf.



(Joshua Tree National Park – Photo Credit: Nathan Rott/NPR)

Funding to address agency maintenance backlogs comes from discretionary appropriations and other sources. However, as the federal estate expands, existing infrastructure ages, and visitation increases, federal land managers are increasingly unable to fund necessary repairs. The cost to repair facilities often increases exponentially with time compounding the problem. Many agencies are actively working to address the shortfall through alternative strategies. NPS, for example, is utilizing a holistic funding model that includes accepting philanthropic donations, utilizing volunteers, partnering with friends' groups, expanding private concessions operations, partnering with States to apply for transportation grants, and approving private leasing properties.

Despite efforts to address deferred maintenance through alternative funding sources and improved asset management, the backlog has grown considerably over the past decade. From Fiscal Year (FY) 2006 through FY2015, NPS spent roughly \$10.5 billion on maintenance projects, and yet the backlog still increased by \$1.7 billion as of FY2016.⁸ Therefore, there is a significant need for innovative, substantial, and effective solutions to the deferred maintenance backlog problem.

Leveraging revenue from federal energy leasing to support conservation of public land is not a novel concept. Receipts derived from energy leasing are invested in the Reclamation Fund, the Land and Water Conservation Fund (LWCF), the Historic Preservation Fund (HPF), and coastal restoration through the Gulf of Mexico Energy Security Act (GOMESA) funds. The National Park Service and Public Lands Legacy Restoration Fund expands this funding

⁸ Government Accountability Office. "National Park Service: Process Exists for Prioritizing Asset Maintenance Decisions, but Evaluation Could Improve Efforts." GAO-17-136. Dec 13, 2016. <http://www.gao.gov/assets/690/681581.pdf>.

mechanism to assist land management agencies and BIE schools, but does not divert funding from these other accounts.

The new Fund would receive mandatory funding for the deferred maintenance needs at our national parks, refuges, BLM sites, and BIE schools. The Fund draws from all sources of federal energy revenue including onshore and offshore development and alternative and renewable energy sources such as solar, wind, geothermal, and hydropower. This Fund will enable the land management agencies to launch a targeted effort to aggressively reduce the deferred maintenance backlog with a dedicated funding stream, while ensuring existing revenue structures remain intact and fulfilled.

Overview of the Fund

- The Fund will receive 50 percent of receipts from all sources of federal energy development revenue not otherwise allocated for other purposes
- Protects payments to existing recipient States, GOMESA, LWCF, Reclamation Fund, and all other existing uses of onshore and offshore revenues
- Deposits to the fund are authorized for five years (revenue from FY2019 to FY2023)
- Total deposits are capped at \$1.3 billion annually
- Amounts in the Fund cannot be used for land acquisition
- Addresses high-priority deferred maintenance projects of NPS, FWS, BLM, and BIE schools
- Projects will be submitted annually to Congress for approval
- The Fund may also receive donations from the private sector

The bill is consistent with the President's FY2019 DOI budget proposal that calls upon Congress to establish a Public Lands Infrastructure Fund to help address and make long-overdue repairs and improvements to facilities on federal lands.⁹

The Subcommittee on Federal Lands held a hearing on two similar bills that address the deferred maintenance backlog (H.R. 2584 and H.R. 5120) on March 20, 2018,¹⁰ as well as conducted an oversight hearing on the Department of the Interior's maintenance backlog on March 6, 2018.¹¹

Similar legislation has been introduced in the Senate (S. 3172) by Senator Rob Portman (R-OH).

⁹ The Department of the Interior, FY2019 Interior Budget in Brief
<https://www.doi.gov/budget/appropriations/2019/highlights>

¹⁰ <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=404182>

¹¹ <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=404079>

Key Provisions of H.R. 6510

Section 1. Short Title.

This Act may be cited as the Restore Our Parks and Public Lands Act.

Section. 2. National Park Service and Public Lands Legacy Restoration Fund.

Subsection (a) establishes the Fund.

Subsection (b):

1. Deposits into the Fund 50% of all energy revenue due to the United States from oil, gas, coal, alternative, and renewable energy development on federal land and water, not otherwise allocated to other funds. Deposits these monies for five fiscal years from 2019-2023.
2. Sets the maximum amount that can be deposited into the Fund in any fiscal year at \$1.3 billion.
3. Enactment of the bill and implementing the Fund will not affect:
 - A. Revenues due to the United States, special funds, trust funds, or States
 - B. Revenues designated for the Gulf of Mexico Energy Security Act (GOMESA), the Mineral Leasing Act, or the Land and Water Conservation Fund (LWCF).

Subsection (c) provides that amounts deposited in the Fund are available to the Secretary of the Interior without further appropriation or fiscal year limitation.

Subsection (d) provides that amounts in the Fund may be invested by the Secretary of the Treasury (at the request of the Secretary of the Interior), with investment income becoming part of the Fund.

Subsection (e) provides that amounts in the Fund shall be used as follows:

4. 80% allocated to NPS for high-priority maintenance needs, of which—
 - A. 65% will be used for historic structures and facilities; non-historic assets that directly relate to visitor access, recreation, health and safety; and visitor facilities, water and utility systems, and employee housing
 - B. 35% will be used for transportation-related projects
5. 10% allocated to FWS to address the national refuge system maintenance backlog
6. 5% allocated to BLM to address public access and recreation backlog
7. 5% allocated to BIE for school construction and deferred maintenance backlogs.

Subsection (f) provides that no amounts in the Fund will be used for land acquisition or to supplant discretionary funding for facility operations, construction and maintenance.

Subsection (g) provides that each agency will submit a prioritized list of projects to be funded to the Appropriations Committees of the House and Senate annually as part of the budget submission process.

Subsections (h) and (i) provides that Congress will review the agency's submissions and approve an allocation of amounts (a provision is included for continuing resolutions).

Subsection (j) provides that the Secretary of the Interior is authorized to accept cash and in-kind donations, and to encourage public-private partnerships to reduce the maintenance backlogs at NPS, FWS, BLM and BIE school construction. Donations will be included with the annual budget submission to Congress and deposited into the Fund.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The Administration supports H.R. 6510.

Anticipated Amendments

Chairman Bishop will offer an amendment in the nature of a substitute (ANS). The ANS incorporates technical comments from DOI, including:

- Clarifying that monies for the Fund would come from those revenues that would otherwise be deposited as miscellaneous receipts.
- Modifying the 65/35 split in the National Park Service "Use of Funds" provisions to address NPS concerns with practical implementation issues that may result.
- Clarifying that the Fund and use of the Fund should be directed by the Secretary of the Interior and the Director of each agency.
- Simplifying the notice provisions of the legislation.

Effect on Current Law (Ramseyer)

None.