

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

September 12, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff – Chris Marklund
Subcommittee on Federal Lands (x6-7736)

Markup: **H.R. 502 (Rep. Raul Grijalva)**, To permanently reauthorize the Land and Water Conservation Fund.
September 13, 2018 at 10:45 AM; 1324 Longworth House Office Building

Summary of the Bill

H.R. 502, introduced by Representative Raul Grijalva (D-AZ-03), amends current law to permanently authorize the Land and Water Conservation Fund. The bill also requires that no less than 1.5% of the annual funding amount or \$10 million, whichever is greater, be used to secure recreational public access to existing federal public land for hunting, fishing, and other recreational purposes.

Cosponsors

[232 Cosponsors](#)

Background

Federal Land Ownership

The federal government currently owns and manages 640 million acres of surface land accounting for 28% of the land in the country.¹ The majority of this land is located in the Western United States. In Alaska, 61.3% of the state is federally owned and 46.4% of the 11 Western States are owned by the federal government. In contrast, only 4.2% of all other states are federally owned.² Of the total federal land, 95% of it is owned by four federal land management agencies. The breakdown is as follows:³

Bureau of Land Management (BLM): 248 million acres or 38.8% of all federal land

¹ Katie Hoover. *The Federal Land Management Agencies*. (CRS In Focus No. IF10585). Washington, DC: Congressional Research Service, 2018.

² Carol Hardy Vincent et. al. *Federal Land Ownership: Overview and Data*. (CRS Report No. R42346). Washington, DC: Congressional Research Service, 2017.

³ Katie Hoover. *The Federal Land Management Agencies*. (CRS In Focus No. IF10585). Washington, DC: Congressional Research Service, 2018.

United States Forest Service (USFS): 193 million acres or 30.1% of all federal land

U.S. Fish and Wildlife Service (FWS): 89 million acres or 14% of all federal land

National Park Service (NPS): 80 million acres or 12.5% of all federal land

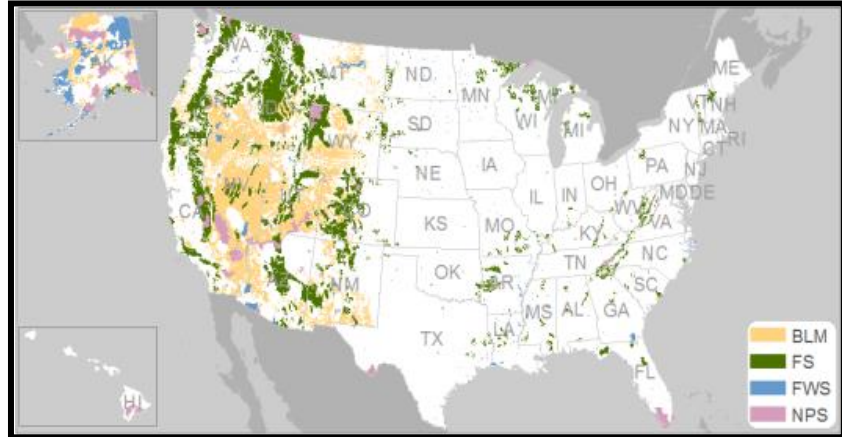


Figure 1: Map of Federal Land, 2018
Source: Congressional Research Service

Land and Water Conservation Fund

The Land and Water Conservation Fund Act of 1965 (Act, Public Law 88-578) was enacted to preserve, develop, and ensure public access to outdoor recreation resources by establishing the Land and Water Conservation Fund (LWCF) in the Treasury as a funding source for federal and State grant programs.⁴ The fund has generally been used to fund: federal land acquisition; State matching grant programs to assist in recreational planning, acquiring State lands and waters, and developing outdoor recreational facilities; and other federal programs with outdoor recreation purposes. Since the establishment of the LWCF, approximately \$40 billion has been deposited into the fund, but only \$18.4 billion has been appropriated, leaving an unappropriated balance of \$21.6 billion in the LWCF.⁵ Of the \$18.4 billion that has been appropriated from the LWCF, \$11.2 billion has gone to federal land acquisition, \$4.7 billion has been given to States through grant programs, and \$2.6 billion has been used to fund other government recreation programs.⁶

The LWCF is authorized at \$900 million annually under the Act, however these monies cannot be spent unless appropriated by Congress. Money going into the fund comes from three specific sources: the federal motorboat fuel tax, surplus property taxes, and revenues from oil and gas leases on the Outer Continental Shelf (OCS). The fund has historically accumulated the majority of its money from OCS leases, and since the beginning of the fund in Fiscal Year 1965, 95% of credited LWCF money has come from OCS leases.⁷ The LWCF also receives money under the Gulf of Mexico Energy Security Act of 2006 (GOMESA, Public Law 109-432). Under GOMESA, additional monies from OCS leasing accrue in the fund and can only be used for

⁴ Carol Hardy Vincent. *Land and Water Conservation Fund (LWCF): Frequently Asked Questions Related to Provisions Scheduled to Expire on September 30, 2018*. (CRS In Focus No. IF10323). Washington, DC: Congressional Research Service, 2018.

⁵ Ibid.

⁶ Ibid.

⁷ Carol Hardy Vincent. *Land and Water Conservation Fund: Overview, Funding History, and Issues*. (CRS Report No. RL33531). Washington, DC: Congressional Research Service, 2018.

State grants to support outdoor recreation.⁸ Unlike other monies credited to the fund, GOMESA additions are not subject to appropriation.

Federal land acquisition funds have been allocated unevenly between the BLM, USFS, FWS, and NPS. Proponents of federal land acquisition through LWCF state that it has improved the efficiency of federal land management by cleaning up checkerboard land ownership patterns, preventing development of ‘open space,’ and enhancing access to federal lands by the public. This argument is true of a great deal of federal land where State, county, tribal and private lands are all intermixed. However, others would argue that rather than appropriating millions of dollars for the federal government to acquire these lands, Congress should instead encourage and facilitate land exchanges, whether done administratively or by Congress, to clean up and consolidate land ownership patterns. Despite the arguments of LWCF proponents, the federal land acquisition program has sometimes negatively impacted States and localities in significant ways including: lost tax revenue and neglected management of federal lands.

Another piece of LWCF is the stateside program, administered by NPS, and arguably the most popular LWCF program. The stateside program is comprised of traditional State grants provided to States, including the District of Columbia and U.S. territories, for recreation planning, acquisition of lands and waters, and facility development. The grants require a match and many stateside projects are highlighted by members of Congress and Senators when they discuss LWCF and its successes.

In recent years, a portion of the LWCF appropriation has also been provided for federal purposes other than land acquisition. CRS notes that as “there is no set of “other purposes” specified to be funded from LWCF, Presidents have sought funds for a variety of purposes and Congress has chosen which, if any, other purposes to fund from LWCF. Since Fiscal Year 1998, the LWCF has been used for a broad array of other purposes, including USFS highway rehabilitation and maintenance, the Historic Preservation Fund, the Payments in Lieu of Taxes program, USFS State and Private Forestry programs, such as the Forest Legacy Program, FWS State and Tribal Wildlife Grants, FWS Cooperative Endangered Species Grants, and the American Battlefield Protection Program.”⁹

Authorization for the LWCF is set to expire on September 30, 2018.

Major Provisions/Analysis of H.R. 502

- Amends the Land and Water Conservation Fund Act of 1965 to permanently authorize the Land and Water Conservation Fund.
- Requires that no less than 1.5% of the annual authorized funding amount, or \$10 million, whichever is greater, be used for projects that secure recreational public access to existing federal public land for hunting, fishing, and other recreational purposes.

⁸ Ibid.

⁹ Carol Hardy Vincent. Land and Water Conservation Fund: Overview, Funding History, and Issues (CRS Report No. RL33531). Washington, DC: Congressional Research Service, 2014.

Cost

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

Administration Position

The Administration's position is currently unknown.

Anticipated Amendments

An amendment in the nature of a substitute (ANS) offered by Chairman Bishop is expected. The ANS would do the following:

- Permanently Reauthorize the Land and Water Conservation Fund.
- Requires that 40 percent of all funds made available for LWCF be allocated to Federal purposes and that 40 percent of all funds made available for LWCF be allocated to stateside programs.
- Includes LWCF parity for territories and the District of Columbia.
- Requires that the greater of 3% or \$20 million of LWCF funds be made available for priority projects identified by the Secretaries of the Interior and Agriculture that maintain or increase public access to public lands for hunting, fishing, and other outdoor recreational activities.

Effect on Current Law (Ramseyer)