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Land and Water Conservation Fund: Overview, Funding History, and Issues

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Summary

The Land and Water Conservation Fund (LWCF) Act of 1965 was enacted to help preserve, develop, and ensure access to outdoor recreation facilities to strengthen the health of U.S. citizens. The law created the Land and Water Conservation Fund in the U.S. Treasury as a funding source to implement its outdoor recreation goals.

The LWCF has been used for three general purposes. First, it has been the principal source of monies for land acquisition for outdoor recreation by four federal agencies—the Forest Service, National Park Service, Fish and Wildlife Service, and Bureau of Land Management. Second, the LWCF provides "financial assistance to states" by authorizing a matching grant program to assist states in recreational planning, acquiring recreational lands and waters, and developing outdoor recreational facilities. There are two components to this "stateside" program: the traditional formula state grants and the more recent competitive state grants. Third, beginning in FY1998, LWCF has been used to fund other federal programs with natural resource-related purposes, such as the Forest Legacy program of the Forest Service and grants under the Cooperative Endangered Species Conservation Fund of the Fish and Wildlife Service.

Under the LWCF Act, the fund is authorized to accrue $900 million annually from multiple sources. However, nearly all of the revenue is derived from oil and gas leasing in the Outer Continental Shelf (OCS). The LWCF receives *additional* money under more recent legislation (P.L. 109-432, "GOMESA"). Throughout the history of the LWCF, $40.9 billion in revenues have accrued under both the LWCF Act and GOMESA.

Congress determines the level of discretionary funding for the three LWCF purposes through the annual appropriations process. These discretionary appropriations have fluctuated widely since the origin of the program. In addition, any funds deposited under GOMESA are mandatory appropriations for the state grant program. Mandatory appropriations were relatively small from FY2009 to FY2017. They increased substantially beginning in FY2018 and are expected to remain relatively high over at least the next decade.

Less than half of the $40.9 billion in total revenues that have accrued in the LWCF have been appropriated ($18.9 billion), leaving an unappropriated balance of approximately $22.0 billion in the fund. FY2001 marked the highest funding ever, with appropriations from the LWCF exceeding the authorized level by reaching nearly $1 billion. For FY2019, the most recent fiscal year, the total appropriation was $506.6 million (with $435.0 million in discretionary funds and $71.6 million in mandatory funds).

The $18.9 billion appropriated through the history of the program has been allocated unevenly among federal land acquisition (60%), the state grant program (26%), and other purposes (14%). Similarly, federal land acquisition funds have been allocated unevenly among the four agencies.

Recent Congresses have considered a variety of issues pertaining to the LWCF, through authorizing and appropriations legislation and other debates. The 116th Congress enacted several changes to the LWCF Act (in P.L. 116-9, Section 3001), including to make permanent annual deposits to the fund of $900 million and to specify portions of funding for "financial assistance to states" and land acquisitions that foster access to federal lands for recreation. Other issues remain under debate. A recurring question is the optimal level of funding for LWCF overall and its individual components. Other questions involve whether to provide additional mandatory appropriations to the LWCF; authorize LWCF funds for other programs or purposes, such as maintenance of agency lands and assets; and alter the formula for traditional stateside grants or legislatively establish criteria for competitive grants, among others.

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Introduction

The Land and Water Conservation Fund (LWCF) Act of 1965 was enacted to help preserve, develop, and ensure access to outdoor recreation resources.[1] A main goal of the law was to facilitate participation in recreation and strengthen the "health and vitality" of U.S. citizens. The law sought to accomplish this goal by "providing funds" for federal land acquisition and for federal assistance to states for outdoor recreation, including for recreation planning, acquisition of lands and waters, and development of recreation facilities. The law created the Land and Water Conservation Fund in the Treasury as a funding source to implement its outdoor recreation goals.

Currently, the fund receives $900 million annually under the LWCF Act, but these credited monies cannot be spent unless appropriated by Congress (i.e., constituting discretionary appropriations). The level of discretionary appropriations has varied widely since the origin of the fund in 1965.

Although the LWCF Act initially did not specify the authorized level of funding, the law has been amended several times to specify and provide increasing levels of authorizations. The authorization was raised to $900 million for FY1978 and has remained at this level. In 2019, Congress made permanent provisions of the LWCF Act that provide for $900 million in revenues to be deposited in the fund annually.[2] Before this change, the authority for the fund to accrue $900 million annually had expired.[3]

To reach the $900 million annual total, the fund accrues revenues from three specific sources, including the federal motorboat fuel tax and surplus property sales. The fund accumulates the majority of its revenues from oil and gas leases on the Outer Continental Shelf (OCS).

The LWCF receives additional money (beyond the $900 million) under the Gulf of Mexico Energy Security Act of 2006 (GOMESA),[4] and these appropriations are mandatory.[5] Under GOMESA, the fund accrues revenue from certain OCS leasing, and these monies can be used only for grants to states for outdoor recreation. These mandatory appropriations had been relatively small through FY2017, but increased substantially in FY2018 and FY2019 and are expected to remain relatively high at least over the next decade.

In addition to making permanent the $900 million in annual revenue deposits, the 116th Congress enacted other changes to the LWCF Act. These changes included specifying the share of the funding for "financial assistance to states" and for federal acquisitions that foster access to federal lands for recreation, as discussed below. Congress continues to debate whether to make additional alterations to the operation of the fund. Alterations under discussion include whether to make all or a portion of the appropriations under the LWCF Act mandatory (rather than discretionary) and

[1] Act of September 3, 1964; P.L. 88-578, 78 Stat. 897. 54 U.S.C. §§200301 et seq. The text of the law had been codified at 16 U.S.C. §§460*l*-4 et seq. It was recodified under P.L. 113-287 to 54 U.S.C. §§200301 et seq.

[2] This change was enacted in P.L. 116-9 (§3001) on March 12, 2019, as codified at 54 U.S.C. §200302.

[3] The authority for the Land and Water Conservation Fund (LWCF) to accrue $900 million annually had expired after September 30, 2015, but was later extended to September 30, 2018, through the enactment of P.L. 114-113 (Division O, §801) on December 18, 2015. The authority again expired after September 30, 2018, before being made permanent through the enactment of P.L. 116-9 (§3001) on March 12, 2019. Information on the expiration of this provision is included in CRS In Focus IF11198, *Land and Water Conservation Fund (LWCF): Frequently Asked Questions*, by Carol Hardy Vincent and Bill Heniff Jr. The potential impact of an expiration of this provision is discussed in CRS In Focus IF10323, *Land and Water Conservation Fund (LWCF): Frequently Asked Questions Related to Provisions Scheduled to Expire on September 30, 2018*, by Carol Hardy Vincent and Bill Heniff Jr.

[4] Gulf of Mexico Energy Security Act of 2006 (GOMESA), P.L. 109-432, Division C, §105.

[5] The authority for the LWCF to accrue revenues under GOMESA does not have an expiration date.

whether amend the law to authorize the fund to be used for different purposes (e.g., maintenance). These questions are being debated by authorizing committees and during consideration of the annual Interior appropriations legislation.

Perennial congressional issues include (1) deciding the total appropriation for federal land acquisition, determining the level of acquisition funds for each of the four agencies, and identifying which lands should be acquired; (2) deciding the level of funding for the state grant program and the extent to which the grants should be competitive; and (3) determining what, if any, purposes other than federal land acquisition and state grants should be funded through LWCF and at what level. The primary context for debating these issues traditionally has been the annual Interior appropriations legislation.

How the Fund Works

The LWCF is not a true trust fund as is generally understood in the private sector. For instance, the fund is credited with revenues totaling $900 million annually under the LWCF Act, but these credited monies cannot be spent unless appropriated by Congress, as noted. Further, interest is not accrued on the accumulated unappropriated balance that has been credited to the LWCF. While some supporters assert that the LWCF was originally intended to be a revolving fund, whereby the money would be maintained in an account separate from the General Treasury that could accrue interest, this has not been the case. Although the LWCF Act has been amended, the fund's basic purpose has not been altered. Over time, notable amendments have raised the authorization ceiling, made the ceiling permanent at $900 million, and mandated that offshore oil and gas leasing revenues should make up any shortfall from other specified financing sources, among other changes.

From FY1965 through FY2019, about $40.9 billion has been credited to the LWCF under both the LWCF Act and GOMESA. To date, nearly all of the monies have accrued to the fund under the LWCF Act. Specifically, of the $40.9 billion that has accrued from FY1965 to FY2019, an estimated $264.4 million was derived from receipts under GOMESA.

Of the total credited to the LWCF, less than half—$18.9 billion—has been appropriated, leaving an unappropriated balance of approximately $22.0 billion in the fund.[6] To date, nearly all of the appropriations have been discretionary funds provided under the LWCF Act. Specifically, of the $18.9 billion that has been appropriated from FY1965 to FY2019, an estimated $146.6 million was mandatory funding under GOMESA.[7] (See **Figure 1**.[8])

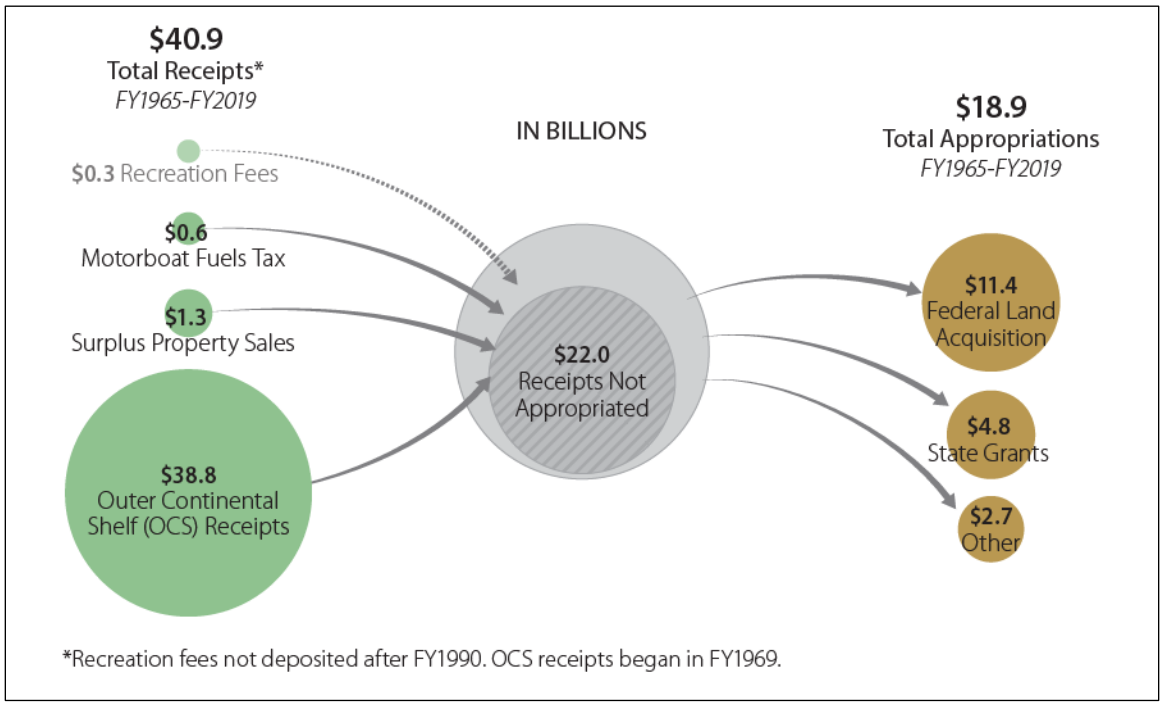
[6] Figures on total receipts, total appropriations, and the unappropriated balance were derived primarily from data provided by the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

[7] Under GOMESA, receipts credited to the LWCF in one year are appropriated from the LWCF in the following year. For this reason, the receipts through FY2019 (of $264.4 million) are higher than the appropriations through FY2019 (of $146.6 million).

[8] In this figure and throughout this report, amounts may not sum to totals shown due to rounding.

Figure 1. LWCF Total Receipts and Appropriations, FY1965-FY2019

(in billions of dollars, not adjusted for inflation)



Source: Graphic created by the Congressional Research Service (CRS). The primary source for the data is the Department of the Interior (DOI) Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Notes: OCS receipts and appropriations for state grants reflect monies derived under the Gulf of Mexico Energy Security Act of 2006 (GOMESA; P.L. 109-432, Division C, §105). Recreation fees were not deposited into the fund after FY1990 and are thus shown differently from other revenues that currently accrue to the fund.

Purposes of LWCF Appropriations

Appropriations from LWCF have been made for three general purposes: (1) federal acquisition of land and waters and interests therein,[9] (2) the state grants for recreational planning; acquiring recreational lands, waters, or related interests; and developing outdoor recreational facilities; and (3) related purposes.[10] Each year, Congress determines the total appropriations from the fund, and the amount provided for each of these three general categories.

Division Between Federal and State Purposes

As amended in 2019, the LWCF Act states that of the total made available through appropriations or deposits under GOMESA, not less than 40% is to be used for "federal purposes" and not less than 40% is to be used to provide "financial assistance to states."[11] The 2019 amendments reinstated an explicit provision of funding for states and, for the first time, identified the total

[9] An interest in land is something less than full ownership, such as an easement or mineral, timber, or water rights.

[10] Hereinafter, these categories of funding often are referred to respectively as (1) federal land acquisition, (2) the stateside program, and (3) other purposes.

[11] 54 U.S.C. §200304. This text was enacted in P.L. 116-9 (§3001) on March 12, 2019.

funding as including GOMESA revenues. The "federal purposes" in the LWCF Act essentially relate to land acquisition.[12] The "financial assistance to states" program set out in the LWCF Act provides for state grants for outdoor recreation (as referenced above).[13] As noted, appropriations from the LWCF have been provided for additional programs and activities, including other federal programs and types of grants to states (as discussed in the "Other Purposes" section below).

Provisions of the LWCF Act providing for a distribution of funding between federal and state activities have evolved over time. As enacted in 1964, the law generally had provided for the appropriations from the LWCF to be 60% for state purposes and 40% for federal purposes. The 1964 law stated that "in the absence of a provision to the contrary in the Act making an appropriation from the fund," the appropriation from the fund was to be 60% for state purposes and 40% for federal purposes. It further specified that during the first five years in which appropriations were made from the fund, the President could vary these percentages by not more than 15 percentage points to meet the needs of states and the federal government.

In 1976, the LWCF Act was amended to state that not less than 40% of the appropriations from the fund were to be available for federal purposes. The amendment removed the text specifying 60% of the appropriations for state purposes.[14] In the conference report on the bill (S. 327), conferees expressed that "Generally, appropriations should continue to reflect the 60-40 allocation established by the Act." However, they noted the "inflexibility" of this division because "States may sometimes be unable to provide the amounts necessary to match their share of the appropriations from the fund," and thus might not be able to use their funding in a given year. In that case, additional funding should be provided to the federal agencies for acquisition in order "to preserve and protect" areas for future generations, according to the conferees.[15] At the time of the 1976 amendment, funds were being appropriated for federal land acquisition and the stateside program. Funding for other purposes did not occur until FY1998. Following the 1976 changes, no subsequent amendments were enacted on the federal/state funding distribution until 2019.

Federal Land Acquisition

The LWCF is the principal source of funds for federal acquisition of lands. Most federal lands are acquired (and managed) by four agencies—the Forest Service (FS) in the Department of Agriculture, and the National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior (DOI). These four agencies manage about 95% of all federally owned lands.[16] Of these agencies, the FWS has another significant source of acquisition funding. Specifically, under the Migratory Bird Conservation Fund the FWS has a permanently appropriated source of funding for land acquisition.[17] The BLM

[12] 54 U.S.C. §200306.

[13] 54 U.S.C. §200305.

[14] These 1976 changes were contained in P.L. 94-422.

[15] See H.Rept. 94-1468 on S. 327, p. 16.

[16] For an overview of these agencies, see CRS In Focus IF10585, *The Federal Land Management Agencies*, by Katie Hoover. For information on the extent of federal land ownership by these agencies and the Department of Defense, see CRS Report R42346, *Federal Land Ownership: Overview and Data*, by Carol Hardy Vincent, Laura A. Hanson, and Carla N. Argueta.

[17] For more information on the Migratory Bird Conservation Fund, see the FWS land acquisition section of CRS Report RL34273, *Federal Land Ownership: Acquisition and Disposal Authorities*, by Carol Hardy Vincent et al.

also has authority to keep the proceeds of certain land sales and use them for subsequent acquisitions and other purposes.

The LWCF Act provides that "unless otherwise allotted in the appropriation Act making them available," appropriations from the fund for federal purposes are to be allotted by the President for certain activities.[18] These activities include land acquisition in recreation areas administered by the Secretary of the Interior for recreational purposes; land acquisition in national park, national forest, and national wildlife refuge system units; and land acquisitions that foster access to federal land for recreational purposes.[19] In practice, the appropriations acts typically specify the federal purposes for which the funds are to be used.

In many respects, the process for appropriating funds for federal land acquisition is similar from year to year. The Administration's annual budget submission for each of the four major federal land management agencies generally identifies lands (or interests in lands) each agency seeks to acquire with LWCF funds. Each agency chooses among many potential options in making its annual request, through a three-level process involving identification and prioritization of acquisition projects by field, regional, and headquarters offices. In the past, the agencies used their own criteria and processes to identify and prioritize acquisition project requests. In 2019, Congress enacted common criteria for the agencies to take into account in considering which lands to acquire. These criteria include the significance and urgency of the acquisition, management efficiencies and cost savings, geographic distribution, land threats, and recreational value.[20]

In the past, the Administration sometimes sought a portion of funding for certain types of acquisitions, such as those that would facilitate access to federal lands for recreation and sportsmen.[21] In 2019, Congress amended the LWCF Act to specify that a certain amount or percentage of LWCF appropriations are to be used each year for acquisitions that facilitate recreational access to federal lands. Relatedly, Congress directed the agencies to develop priority lists of acquisitions to facilitate access for hunting, fishing, recreational shooting, or other outdoor recreation purposes.[22]

In some years, the Administration has not sought funding for individual land acquisition projects in the annual budget submissions to Congress, as was the case in the Trump Administration's annual budget submissions for each of FY2018-FY2020. Nevertheless, for each of FY2018-FY2020, Congress directed the Trump Administration to submit prioritized acquisition project lists for consideration during the appropriations process, and project lists were subsequently submitted to Congress. For instance, in the joint explanatory statement accompanying the FY2019 Interior appropriations law, conferees directed agencies to "continue their longstanding process of identifying and prioritizing potential Federal land acquisition projects in anticipation of program appropriations as consistent with previous years." Conferees further directed the agencies to submit prioritized acquisition project lists for FY2020, by the earlier of March 1,

[18] 54 U.S.C. §200306(a).

[19] The LWCF Act also identifies "capital costs" for recreation and fish and wildlife at water resources development projects as a federal purpose.

[20] P.L. 116-9 (§3001) enacted on March 12, 2019, and codified at 54 U.S.C. §200306(d).

[21] For example, such funding was sought by the Obama Administration and appropriated for FY2017 (among other years).

[22] Specifically, the law provided for not less than $15.0 million or 3% of amounts made available for expenditure each year (under 54 U.S.C. §200303), whichever is greater, to be used for recreational public access. See P.L. 116-9 (§3001) enacted on March 12, 2019, and codified at 54 U.S.C. §200306(c).

2019, or 30 days after their budget submissions.[23] In accordance with this direction, the Administration sent project lists for each of the four agencies, ranging from 8 acquisitions for BLM to 25 acquisitions for the FS.

Congress reviews agency acquisition requests, determines the total acquisition funding for each agency, and decides on the portion of funding (if any) for requested types of acquisition (e.g., access for recreation and sportsmen). Congress also typically identifies (in appropriations report language) the level of funding for each acquisition project sought by the Administration.

The LWCF Act restricts appropriations to those acquisitions that have been previously authorized by law. However, it allows LWCF appropriations to be used for pre-acquisition work where "authorization is imminent and where substantial monetary savings could be realized."[24]

Appropriations laws typically provide that LWCF funds for land acquisition remain available until expended, meaning the funds can be carried over from fiscal year to fiscal year. Often an appropriation is not used in the fiscal year provided, because the process for completing a land acquisition has many components and often takes more than one year. These components generally include an appraisal of the value of the parcels, evaluations of the resources contained within the parcels, and title research.

The Administration typically seeks, and appropriations laws have typically provided, a portion of each agency's acquisition funding for one or more related activities. For instance, funds have been provided for acquisition management, costs of land exchanges, and acquisition of lands within the boundaries of federal land units ("inholdings") that may become available throughout the year. Further, in some cases funds have been appropriated for "emergencies" or "hardships," for acquisition of lands from an owner who must sell quickly and where the agency determines there is a need to purchase the lands quickly.[25]

Stateside Program

Another portion of the LWCF consists of grants to states (including the District of Columbia and U.S. territories) for outdoor recreation purposes. Grants are provided for outdoor recreation purposes only rather than for indoor facilities, such as community centers. Under law, federal payments to states generally are limited to 50% or less of a project's total costs. The state project sponsor bears the remaining cost.

There are two types of grants: traditional (formula) and competitive. Both programs are administered by the NPS. Under the traditional grant program, both discretionary and mandatory appropriations are divided among states by the Secretary of the Interior (acting through the NPS). Under the competitive grant program, begun in FY2014, the NPS awards discretionary grants to urbanized areas meeting certain criteria. Under both grant programs, states may "sub-award" grants to state agencies, local units of government, and federally recognized Indian tribes.

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[23] H.Rept. 116-9, Conference Report to Accompany H.J.Res. 31, *Making Further Continuing Appropriations for the Department of Homeland Security for Fiscal Year 2019 and for Other Purposes*, p. 708.

[24] 54 U.S.C. §200306(b).

[25] In addition, in FY2019 and in other recent years, a portion of the NPS appropriation has been specified for the American Battlefield Protection Program for grants for nonfederal acquisition of lands (and interests) in eligible battlefields. For additional information on these acquisition grants, see the NPS website at http://www.nps.gov/abpp/grants/grants.htm. Also in FY2019 and in other recent years, a portion of the FWS appropriation has been specified for Highlands Conservation Act grants, which provide federal matching funds for land acquisition by a state entity for land protection in partnership with the federal government. For additional information on these grants, see the U.S. government grants website at https://www.grants.gov/web/grants/search-grants.html?keywords=highlands.

Traditional Formula State Grants

The traditional grant program provides matching grants to states for outdoor recreation planning, acquisition of lands and waters, and facility development. More than 42,000 grants have been provided throughout the history of the program (since FY1965), with a majority used for developing new recreation facilities or redeveloping older facilities. Acquisitions funded through LWCF state grants must remain in recreation use in perpetuity, unless the Secretary of the Interior approves of the conversion of the land to another use and acceptable replacement lands are substituted. Conversions occur due to changing state or local needs, such as to use park lands to build schools, widen roads, and develop civic facilities. The NPS approves roughly 50-75 conversions yearly nationwide, typically involving a portion of the area funded with an LWCF state grant.

The Secretary of the Interior apportions the appropriation for state grants in accordance with a formula set out in the LWCF Act.[26] The formula calls for a portion of the appropriation to be divided equally among the states.[27] The remaining appropriation is to be apportioned based on need, as determined by the Secretary.[28] Under law, the determination of need is to include the population of the state relative to the population of the United States, the use of outdoor recreation resources within a state by people outside the state, and the federal resources and programs within states. In current practice, population is the biggest factor in determining state need. No state can receive more than 10% of the total appropriation.

Discretionary appropriations for traditional state grants typically are included in the annual Interior appropriations law, without earmarks or other directions to the NPS to guide how these funds should be distributed or spent. Appropriations laws provide for these funds to be available until expended. However, under the LWCF Act, states have up to three years to use the appropriations—the federal fiscal year in which the apportionment is made and the next two fiscal years. It is rare for a state not to use the money during this time, according to the NPS. Under law, the Secretary is to reapportion among states any amount that is not paid or obligated during the three-year period.[29]

In addition, mandatory appropriations are provided for the traditional state grants only. Specifically, under GOMESA, 12.5% of the revenues from certain OCS leasing in the Gulf of Mexico is directed to the stateside program to be used in accordance with the terms of the LWCF Act. States generally can receive up to $125.0 million in annual stateside appropriations through FY2056, except that the maximum is $162.5 million for each of FY2021 and FY2022. The money is to be in addition to any discretionary amounts appropriated by Congress for the LWCF.

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[26] 54 U.S.C. §200305(b).

[27] Specifically, the law provides that 40% of the first $225.0 million, 30% of the next $275.0 million, and 20% of all additional appropriations are to be apportioned equally among the states. Previously, the LWCF Act had provided that the District of Columbia and the territories be considered one state under this allocation. This provision was removed in 2019 by the enactment of P.L. 116-9 (§3001) on March 12, 2019.

[28] The apportionment among states (including the District of Columbia and U.S. territories), for FY2002 through FY2016, is on the NPS website at https://www.nps.gov/subjects/lwcf/statefundingstatus.htm. The apportionment among states for FY2017 is on the DOI website at https://www.doi.gov/pressreleases/secretary-zinke-announces-943-million-states-parks-and-outdoor-recreation-through-land. The apportionment of mandatory appropriations for FY2018 is on the NPS website at https://www.nps.gov/orgs/1207/secretary-zinke-announces-over-61-million-for-states-to-support-parks-and-outdoor-recreation.htm. The apportionment of discretionary appropriations for FY2018 is on the DOI website at https://www.doi.gov/pressreleases/secretary-zinke-announces-100-million-support-state-parks-and-outdoor-recreation.

[29] 54 U.S.C. §200305(b)(4)).

These funds also are available until expended but are subject to reapportionment among states (under the LWCF Act) if not paid or obligated after three years.

To be eligible for a grant, a state must prepare and update a statewide outdoor recreation plan. This plan must address the needs and opportunities for recreation and include a program for reaching recreational goals. It generally does not include specific projects. Under law, the plan is required to be approved by the Secretary; this responsibility has been delegated to the NPS. The states award their grant money through a competitive, open project selection process based on their recreation plans and their own priorities and selection criteria. They can use the money for state projects or for pass-through to localities or tribes. States send their ranked projects to the NPS for formal approval and obligation of grant money.[30]

Competitive State Grants

In FY2014, Congress first appropriated a portion of the LWCF (discretionary) stateside funds for a new nationally competitive outdoor recreation grant program to be developed by the NPS. Congress has continued to fund a competitive program each year, with funding increasing from $3.0 million in FY2014 to $20.0 million in FY2019. Currently, the NPS's "Outdoor Recreation Legacy Partnership Program" provides grants to states for land acquisition and development for outdoor recreation projects that are in or serve densely settled areas with populations of 50,000 or more.[31] Priority is given to communities that are underserved in terms of outdoor recreation opportunities and that have sizable populations who are economically disadvantaged. Under the 2018 grant announcement, other factors for project selection include the extent to which the projects directly connect people to the outdoors; create jobs; engage community members; involve public-private partnerships; and require coordination among the public, government, and private sector.[32] The NPS expected to issue between 25 and 35 grants (in total) with a combined sum of $13.3 million,[33] with individual grants ranging from $250,000 to $750,000. In addition to meeting the requirements in the grant announcement, projects are required to comply with the LWCF Act and other program requirements that apply to the traditional state grants. Such requirements include a nonfederal funding match (generally of at least 50% of project costs), and land use for outdoor recreation in perpetuity except with the approval of the Secretary of the Interior, as discussed above.

Other Purposes

As noted above, the LWCF Act lists the federal purposes to which the President is to allot LWCF funds "unless otherwise allotted in the appropriation Act making them available."[34] A portion of the LWCF appropriation has been provided for other federal purposes (i.e., other than land

[30] For more information on the stateside program, see the *Land and Water Conservation Fund State Assistance Program: Federal Financial Assistance Manual* on the NPS website at https://www.nps.gov/subjects/lwcf/upload/lwcf_manual.pdfhttps://www.nps.gov/subjects/lwcf/upload/lwcf_manual.pdf.

[31] Urbanized areas consisting of 50,000 people or more are identified by the Bureau of the Census as part of the decennial census. The most recent list, following the 2010 census, was published in the *Federal Register* on March 27, 2012, at https://www.federalregister.gov/documents/2012/03/27/2012-6903/qualifying-urban-areas-for-the-2010-census.

[32] An April 13, 2018, grant announcement is on the U.S. government grants website at https://www.grants.gov/web/grants/search-grants.html?keywords=outdoor%20recreation%20legacy.

[33] This total reflects an appropriation of $12.0 million for FY2017 and some unused funds from FY2016.

[34] 54 U.S.C. §200306(a).

acquisition) in FY1998 and each year since FY2000. Because 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. For instance, for FY2008, President George W. Bush sought LWCF funds for 11 programs within the FWS, FS, and other agencies, and Congress provided funding for two of these programs. Since FY1998, the LWCF has been used for an array of other purposes related to lands and resources, such as maintenance of agency facilities (including deferred maintenance), the Historic Preservation Fund, the Payments in Lieu of Taxes program, the FS Forest Legacy program, FWS State and Tribal Wildlife grants, and FWS Cooperative Endangered Species grants. Since FY2008, however, funds have been appropriated annually for grants under two "other" programs: Forest Legacy, and the Cooperative Endangered Species Conservation Fund.[35]

Funding History

Overview of Total (Discretionary and Mandatory) Appropriations, FY1965-FY2019

Nearly all of the $18.9 billion appropriated throughout the history of the LWCF was discretionary funding. Specifically, $146.6 million (0.8%) of the total was mandatory funding under GOMESA, as noted above.

The $18.9 billion appropriated through FY2019 has been unevenly allocated among federal land acquisition, the stateside program, and other purposes, as shown in **Figure 2**. The largest portion of the total—$11.4 billion (60%)—has been appropriated for federal land acquisition. The four federal land management agencies have received differing portions of this $11.4 billion. Specifically, the NPS has received $4.7 billion (41%); the FS, $3.1 billion (27%); the FWS, $2.5 billion (22%); and the BLM, $1.0 billion (9%).[36]

The stateside program has received the second-largest portion of LWCF appropriations—$4.8 billion (26% of the total). In the early years, more funds generally went to the stateside program than to land acquisition of the four federal agencies combined. For instance, stateside appropriations exceeded federal land acquisition appropriations during 12 of the 16 years from FY1965 to FY1980. After the mid-1980s, the stateside program declined as a portion of total LWCF appropriations, and received no appropriations (except for program administration) from FY1996 through FY1999. Over the last 20 years (FY2000-FY2019), the program received less than 20% of each year's total LWCF appropriations, except in FY2002 and FY2005 and during the most recent four years (FY2016-FY2019). Of these years, the largest percentage of funds for the stateside program was 39% for FY2019, in part due to the relatively large mandatory

[35] Although these two programs also received LWCF funding before FY2008, they are the only two "other" programs that have received LWCF appropriations since that year. For information on "other purposes" funded by LWCF throughout its history, see CRS Report R44121, *Land and Water Conservation Fund: Appropriations for "Other Purposes,"* by Carol Hardy Vincent.

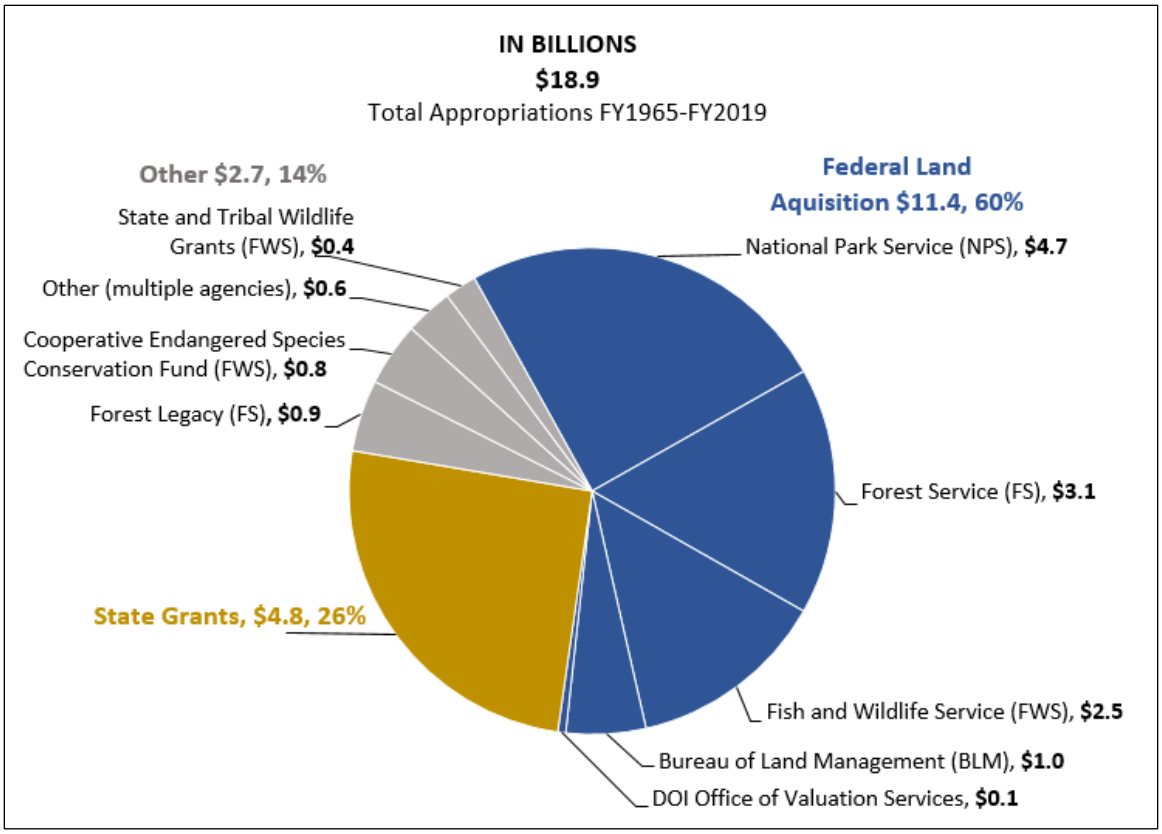
[36] Another $0.1 billion (1%) of the total appropriations for federal land acquisition was provided to other agencies or offices (e.g., to the Office of the DOI Secretary, for land appraisal services).

appropriation in that year.[37] Over the last 10 years (FY2010-FY2019), stateside funding has averaged 23% of total appropriations for the LWCF.[38]

Other purposes have received the remaining portion of total LWCF appropriations—$2.7 billion (14%). No funds were provided for other purposes until FY1998. By contrast, 27% of total LWCF appropriations from FY1998 through FY2019 have been for other purposes. The FWS and FS have received the largest shares: about $1.4 billion and $1.0 billion, respectively, of the $2.7 billion appropriated for other purposes since FY1998.

Figure 2. LWCF Total Appropriations by Type and Agency, FY1965-FY2019

(in billions of dollars, not adjusted for inflation)



Source: Graphic created by CRS. The primary source for the data is the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Note: State grants reflect monies appropriated under the Gulf of Mexico Energy Security Act of 2006 (GOMESA; P.L. 109-432, Division C, §105).

[37] The stateside program received $124.0 million (29%) of the LWCF discretionary appropriations for FY2019 ($435.0 million), but $195.6 million (39%) of total LWCF appropriations (discretionary and mandatory) for FY2019 ($506.6 million).

[38] Discretionary appropriations for the stateside program were 20% of LWCF discretionary appropriations from FY2010 to FY2019. Discretionary and mandatory appropriations for the stateside program were 23% of total LWCF appropriations (discretionary and mandatory) during this 10-year period.

Overview of Mandatory Appropriations, FY2009-FY2019

Mandatory appropriations totaling $146.6 million were provided to the LWCF stateside program during an 11-year period—FY2009-FY2019. Of this total, $8.4 million was first appropriated to the stateside program in FY2009, from proceeds from OCS leasing collected in FY2008.[39] Thereafter, disbursements to the stateside program decreased, exceeding $1 million in only one other year through FY2017. The appropriation for FY2018 increased significantly—to $62.6 million—as a result of additional revenue from expansion of the qualified program areas in the Gulf of Mexico. (See **Table 1** and **Figure 3**.) The estimated appropriation for FY2019—$71.6 million—also was high relative to the prior years, and DOI anticipates that mandatory appropriations will remain high in the coming years. For instance, the NPS estimated appropriations to the stateside program at between $113 million and $125 million for each year from FY2020 through FY2025.[40] However, these estimates are subject to change, based on actual collections.

Table 1. LWCF Annual Mandatory Appropriations, FY2009-FY2019

(in millions of dollars, not adjusted for inflation)

Fiscal Year	Mandatory Appropriations
2009	$8.4
2010	0.9
2011	0.3
2012	0.1
2013	0.1
2014	1.4
2015	0.8
2016	0.1
2017	0.3
2018	62.6
2019	71.6

Source: Annual budget justifications of the NPS at https://www.nps.gov/aboutus/budget.htm.

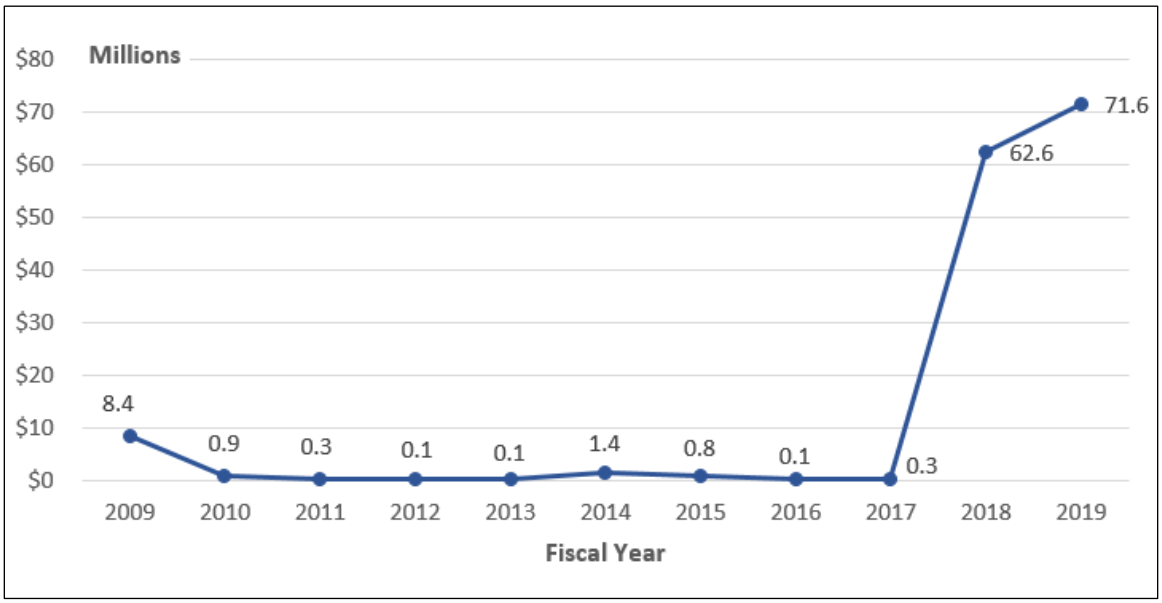
Notes: Under GOMESA, OCS receipts collected in one fiscal year are appropriated from the LWCF in the following fiscal year. This table shows the year in which the monies were appropriated. Figures are actual except that the FY2019 figure is estimated. Dollars represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation.

[39] OCS receipts collected in one fiscal year are appropriated from the LWCF in the following fiscal year.

[40] U.S. Department of the Interior, *Office of the Secretary and Department-Wide Programs, Budget Justifications and Performance Information, Fiscal Year 2020*, p. MLR-15, at https://www.doi.gov/sites/doi.gov/files/uploads/fy2020_os_budget_justification.pdf.

Figure 3. LWCF Annual Mandatory Appropriations, FY2009-FY2019

(in millions of dollars, not adjusted for inflation)



Source: Graphic created by CRS. This data was taken from the annual budget justification of the NPS at https://www.nps.gov/aboutus/budget.htm.

Notes: Under GOMESA, OCS receipts collected in one fiscal year are appropriated from the LWCF in the following fiscal year. This graphic shows the year in which the monies were appropriated. Figures are actual except that the FY2019 figure is estimated. Dollars represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation.

Overview of Discretionary Appropriations, FY1965-FY2019

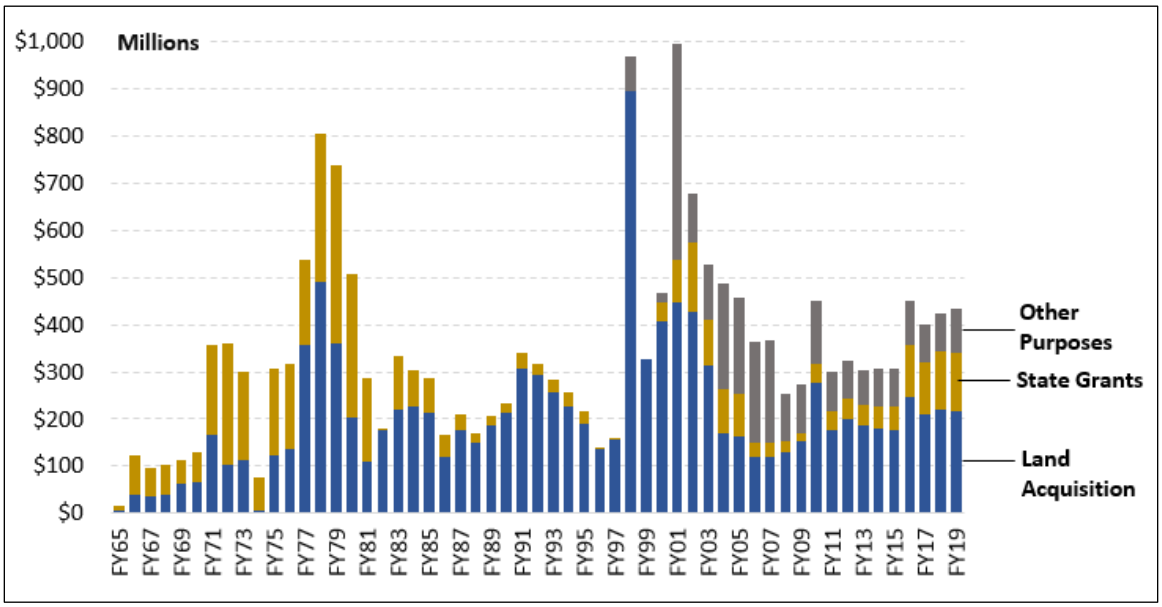
Annual discretionary appropriations from the LWCF have fluctuated widely since the origin of the program more than 50 years ago. (See **Figure 4** and **Table 2**.) From the origin of the LWCF in FY1965 until FY1998, the discretionary total seldom reached $400 million, surpassing this level only in four years. Specifically, from FY1977 to FY1980, funding varied between $509 million (in FY1980) and $805 million (in FY1978), and averaged $647 million annually. By contrast, annual discretionary appropriations reached or exceeded $400 million in 12 of the 22 most recent years—FY1998 through FY2019.

In FY1998, LWCF discretionary appropriations spiked—to $969 million—from the FY1997 level of $159 million. FY1998 was the first year that LWCF appropriations exceeded the level the fund was authorized to accumulate in a given year ($900 million).[41] The total included $270 million in the usual funding titles for land acquisition by the four federal land management agencies; an additional $627 million in a separate title, funding both the acquisition of the Headwaters Forest in California and New World Mine outside Yellowstone National Park; and $72 million for other purposes.

[41] The LWCF had accumulated receipts sufficient to cover an appropriation exceeding the annual authorization. Specifically, in 1997 the LWCF had a balance of $11.9 billion in unappropriated receipts, which represented the difference between the receipts into the fund and the appropriations from the fund since its creation. Appropriations also exceeded the authorized level in FY2001.

Figure 4. LWCF Annual Discretionary Appropriations, FY1965-FY2019

(in millions of dollars, not adjusted for inflation)



Source: Graphic created by CRS. The primary source for the data is the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Notes: The graph does not reflect $76 million provided for the transition quarter from July 1, 1976, to September 30, 1976, due to a change by Congress to the fiscal year calendar. Amounts shown represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation.

Table 2. LWCF Annual Discretionary Appropriations by Type, FY1965-FY2019

(in millions of dollars, not adjusted for inflation)

Fiscal Year	Land Acquisition	State Grants	Other Purposes	Total
1965	$6	$10	$0	$16
1966	38	84	0	122
1967	36	59	0	95
1968	40	64	0	104
1969	64	48	0	112
1970	66	65	0	131
1971	168	189	0	357
1972	102	259	0	362
1973	113	187	0	300
1974	5	71	0	76
1975	122	186	0	307
1976	136	181	0	317[a]
1977	356	182	0	538
1978	491	314	0	805
1979	361	376	0	737

Fiscal Year	Land Acquisition	State Grants	Other Purposes	Total
1980	202	307	0	509
1981	108	180	0	289
1982	176	4	0	180
1983	220	115	0	335
1984	227	75	0	302
1985	213	74	0	287
1986	121	47	0	168
1987	176	35	0	211
1988	150	20	0	170
1989	186	20	0	206
1990	212	20	0	231
1991	308	33	0	342
1992	294	23	0	317
1993	256	28	0	284
1994	228	28	0	256
1995	189	28	0	217
1996	137	1	0	138
1997	158	1	0	159
1998	896	1	72	969
1999	328	0	0	328
2000	406	41	20	467
2001	449	90	456	995[b]
2002	429	144	105	677
2003	313	97	118	529
2004	170	94	225	488
2005	164	91	203	459
2006	120	30	213	363
2007	120	30	216	366
2008	129	25	101	255
2009	152	19	104	275
2010	278	40	132	450
2011	177	40	84	301
2012	199	45	78	322
2013	187	43	74	303
2014	180	48	78	306
2015	178	48	80	306
2016	247	110	93	450
2017	209	110	81	400

Fiscal Year	Land Acquisition	State Grants	Other Purposes	Total
2018	220	124	81	425
2019	218	124	93	435

Sources: The primary source for the data is the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Notes: Figures do not reflect $76 million provided for the transition quarter from July 1, 1976, to September 30, 1976. Also, dollars represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation.

a. The FY1976 total appropriation was approximately $393 million including the $76 million for the transition quarter.

b. This figure includes approximately $153 million of Forest Service appropriations in law that were not "warranted" from LWCF, and thus were not officially recorded as taken from this fund. The Government Accountability Office defines warrant as "An official document that the Secretary of the Treasury issues upon enactment of an appropriation that establishes the amount of moneys authorized to be withdrawn from the central accounts that the Department of the Treasury maintains." See U.S. Government Accountability Office, *A Glossary of Terms Used in the Federal Budget Process*, September 2005, p. 101, http://www.gao.gov/new.items/d05734sp.pdf. Excluding the $153 million that was not warranted, the FY2001 LWCF total was approximately $842 million.

Another spike occurred in FY2001, when discretionary appropriations again exceeded the authorized level and totaled nearly $1 billion. This record level of funding was provided partly in response to President Clinton's Lands Legacy Initiative, which sought $1.4 billion for 21 resource protection programs, including the LWCF. It also was provided in response to some congressional interest in securing increased and more certain funding for the LWCF. The 106th Congress considered legislation to fully fund the LWCF and to make it operate like a private-sector trust fund. Such proposals sought to divert offshore oil and gas revenues to a Conservation and Reinvestment Act (CARA) Fund and to permanently appropriate receipts credited to the LWCF, among other related purposes. When it became clear that CARA legislation would not be enacted, Congress included aspects of the legislation in the FY2001 Interior and Related Agencies Appropriations law (P.L. 106-291).[42]

Over the last 10 years (FY2010-FY2019), LWCF discretionary appropriations began with a period high of $450.4 million in FY2010, then declined to roughly $300 million to $322 million through FY2015. In contrast, since FY2016, the appropriations have been between $400 million and $450 million, and they ended the period with $435.0 million for FY2019. The FY2010 high was about half the authorized level, and the $435.0 million for FY2019 was nearly half the authorized level. (See **Table 3** for annual discretionary appropriations, and the portions for acquisition of each agency, the stateside program, and other purposes, over the last 10 years.)

The land acquisition total ranged from a low of $176.8 million in FY2011 to a high of $277.9 million in FY2010. In addition to FY2010, the portion dedicated to land acquisition for all agencies was at least $200 million for the four most recent fiscal years (FY2016-FY2019), and most recently it was $217.7 million in FY2019.

[42] These provisions established the Conservation Spending Category (CSC), with the LWCF as a major component in the CSC. The CSC provisions set a target for total funding for all the component programs in FY2001 at $1.6 billion, including $1.2 billion through Interior appropriations and $400 million through Department of Commerce appropriations. Under law, the target was to increase each year until it reached $2.4 billion in FY2006. However, Congress generally did not use the CSC structure in appropriating funds to the LWCF and related programs.

During this 10-year period, appropriations for the stateside program fluctuated between $39.9 million for FY2011 and $124.0 million for each of FY2018 and FY2019. The appropriation for each of the first six fiscal years (FY2010-FY2015) ranged between $40 and $48 million. In contrast, the appropriation for each of the last four fiscal years (FY2016-FY2019) was between $110 and $124 million. Moreover, the appropriation for each of the last two years (FY2018-FY2019) was more than triple the appropriation for each of the first two years (FY2010-FY2011).

The appropriations for other purposes were at their highest in the first year of the period, with $132.5 million in FY2010. Thereafter they did not exceed $100 million. They ranged between $74 million and $93 million, ending with $93.3 million in FY2019, the second highest amount during the 10-year period.

Table 3. LWCF Annual Discretionary Appropriations by Type and Agency, FY2009-FY2019

(in millions of dollars, not adjusted for inflation)

Purpose	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
Land Acquisition										
Bureau of Land Management	$29.7	$22.0	$22.3	$21.2	$19.5	$19.7	$38.6	$31.4	$24.9	$26.5
Fish and Wildlife Service	86.3	54.9	54.6	50.8	54.4	47.5	68.5	60.0	63.8	65.2
National Park Service	86.3	54.9	57.0	52.8	50.0	50.8	63.7	52.0	56.9	44.4
Forest Service	63.5	32.9	52.5	49.8	43.5	47.5	63.4	54.4	64.3	72.6
DOI OVS[a]	12.1	12.1	12.7	12.0	12.2	12.0	12.6	11.0	10.2	9.0
Total Land Acquisition	*277.9*	*176.8*	*199.1*	*186.6*	*179.6*	*177.6*	*246.9*	*208.8*	*220.3*	*217.7*
State Grants	40.0	39.9	44.9	42.6	48.1	48.1	110.0	110.0	124.0	124.0
Other Purposes	132.5	83.8	78.3	74.2	78.4	80.4	93.1	81.1	80.7	93.3
Total	**$450.4**	**$300.5**	**$322.3**	**$303.3**	**$306.0**	**$306.1**	**$450.0**	**$400.0**	**$425.0**	**$435.0**

Sources: The primary source for the data is the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Notes: Dollars represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation. Figures reflect any reductions due to the use of prior-year funds.

a. OVS is the Office of Valuation Services. Figures reflect appropriations from LWCF to DOI Departmental Management for land acquisition appraisal services.

Both the dollar amount and percentage of LWCF appropriations provided to other purposes have varied widely since FY1998, as shown in **Table 4**. The dollar value of the appropriations for other purposes was much higher in FY2001 than any other year, when these appropriations were used to fund programs in the Clinton Administration's Lands Legacy Initiative. The highest percentage of funds provided for other purposes (59%) occurred in FY2006 and FY2007, in response to President George W. Bush's request for funding for an array of other programs. In some years, Congress has appropriated significantly less for other purposes than the Administration has requested. For instance, for FY2008 the Bush Administration sought $313.1 million for other purposes of a total request of $378.7 million. Congress appropriated $101.3 million for other purposes of a total appropriation of $255.1 million.

Table 4. LWCF Discretionary Appropriations for Other Purposes, FY1998-FY2019

(in millions of dollars, not adjusted for inflation)

Fiscal Year	LWCF Total Discretionary Appropriations	Appropriations for Other Purposes	Other Purposes as % of Discretionary Appropriations
FY1998	$969.1	$72.0	7%
FY1999	328.2	0	0
FY2000	466.9	20.0	4
FY2001	995.4[a]	456.0	46
FY2002	677.2	104.6	15
FY2003	528.9	118.4	22
FY2004	488.1	224.7	46
FY2005	459.0	203.5	44
FY2006	362.8	213.1	59
FY2007	366.1	216.1	59
FY2008	255.1	101.3	40
FY2009	275.3	104.1[b]	38
FY2010	450.4	132.5	29
FY2011	300.5	83.8	28
FY2012	322.3	78.3	24
FY2013	303.3	74.2	24
FY2014	306.0	78.4	26
FY2015	306.1	80.4	26
FY2016	450.0	93.1	21
FY2017	400.0	81.1	20
FY2018	425.0	80.7[c]	19
FY2019	435.0	93.3	21

Sources: The primary source for the data is the DOI Office of Budget. Additional sources of information include the annual DOI *Budget in Brief* and congressional documents accompanying the annual Interior appropriations bill.

Notes: Dollars represent the appropriations in the fiscal years indicated and thus are not adjusted for inflation.

a. This figure includes approximately $153 million of Forest Service appropriations in law that were not "warranted" from LWCF.

b. This figure has been reduced by $8.0 million due to the use of prior-year funds.

c. This figure has been reduced by $5.9 million due to the use of prior-year funds.

Issues for Congress

Through authorizing and appropriations legislation, hearings, and other debates, Congress has considered an array of issues related to the LWCF. Several of these issues are discussed below, including those that were addressed in provisions of recently enacted legislation—P.L. 116-9.

Changes Enacted in P.L. 116-9

Permanent Reauthorization of Revenue Provisions

The 116th and other recent Congresses debated whether to extend provisions of the LWCF Act that allowed $900 million in revenues to be deposited annually in the LWCF (through a particular fiscal year) and, if so, whether to authorize a short, long, or permanent extension. In 2019, the 116th Congress made these revenue deposits permanent, as noted above.[43]

The revenue deposit provisions originally contained long-term expiration dates of roughly 25 years and later contained a short-term expiration of 3 years. As enacted in 1964, the LWCF Act had established June 30, 1989, as the general end date for revenues to accrue to the LWCF; in 1976, this date was changed to *September* 30, 1989.[44] In 1987, the general end date for revenues to accrue to the fund was changed from September 30, 1989, to September 30, 2015.[45] Later in 2015, after the expiration of this provision, the general end date for revenues to accrue to the fund was changed from September 30, 2015, to September 30, 2018.[46] Following its expiration, this provision was made permanent in 2019.

In favor of a permanent or relatively long-term extension, LWCF advocates asserted that the program has successfully protected valuable lands and resources across the nation for more than 50 years and provided lands and infrastructure needed for public health, recreation, and tourism. They contended that continuity and stability of the land protection and recreational opportunities that LWCF supports are important national goals that will help communities attract businesses, new residents, and tourists. They noted the sufficiency of LWCF's dedicated funding stream for supporting the program.

Other Members and stakeholders proposed a short-term extension or expiration of the revenue provisions, on the grounds that LWCF had sufficient funds to meet the nation's land acquisition and recreation needs for many years to come. They pointed to the relatively large balance of unappropriated monies in the LWCF that Congress could appropriate, as well as to the substantial levels of mandatory funding that would be derived for the stateside program under GOMESA. Some advocated for structural reforms of the program before a long-term extension could be viable, such as reforms to direct funding away from federal land acquisition and to other activities, such as maintenance of federal lands and facilities or programs that support states. Still others favored depositing the OCS revenues in the General Fund of the Treasury (rather than in the LWCF) to support federal activities generally or specific priority programs.

Specify Stateside Share of Funding

The 116th and earlier Congresses considered whether to amend the LWCF Act to specify a portion of the appropriations for the stateside program and, if so, what amount would be optimal. As noted, in 2019, the 116th Congress amended the LWCF Act to specify funding for "financial assistance to states" of "not less than 40%" of the total made available through appropriations or

[43] This change was enacted in P.L. 116-9 (§3001) on March 12, 2019, as codified at 54 U.S.C. §200302.

[44] The LWCF Act (P.L. 88-578) had established June 30, 1989, as the general end date for revenues to accrue to the LWCF. In 1976, the date of *June* 30, 1989, was changed to *September* 30, 1989, apparently to reflect the new start of the fiscal year (on October 1).

[45] §5201(f), P.L. 100-203, the Omnibus Budget Reconciliation Act of 1987, enacted December 22, 1987.

[46] Title VIII, Division O, P.L. 114-113, the Consolidated Appropriations Act, 2016, enacted December 18, 2015.

deposits under GOMESA.[47] Provisions of the LWCF Act on the share of funding for state and federal activities have changed throughout the act's history.

The level of discretionary appropriations for the stateside program likely will be of continued interest in part due to the substantial increase in mandatory funding under GOMESA, beginning in FY2018. In some past years, Congress and/or the Administration did not support funds, or supported relatively low levels of funds, for new stateside grants. Cited reasons have included that state and local governments have alternative sources of funding for parkland acquisition and development, the current program could not adequately measure performance or demonstrate results, the federal government supports states through other natural resource programs, and large federal deficits require a focus on core federal responsibilities.

Stateside supporters contend that the program contributes significantly to statewide recreation planning, state leadership in protection and development of recreation resources, and long-term outdoor recreation in areas that are readily accessible to communities. They see the program as a way to help fiscally constrained local governments and leverage state and local funds for recreation. Further, advocates assert that investments in recreation save money in other areas; for instance, they say that these investments promote healthier lifestyles and thus save health care expenditures.[48] Some prefer state acquisition (and development) of lands with LWCF funds over federal acquisition of lands.

Specify Recreational Access Funding

The 116th Congress, as well as previous Congresses, discussed whether to amend the LWCF Act to set aside a portion of federal acquisition funding to facilitate access to federal lands for recreational purposes. As noted earlier, in 2019, the 116th Congress amended the law to set an annual threshold for such acquisitions—not less than $15.0 million or 3% of amounts made available for expenditure (under 54 U.S.C. §200303), whichever is greater.[49]

Most federal lands are accessible to the public, but some areas have limited access or are unavailable to the public. This is sometimes the case because private or state lands, or geographical features such as mountains or rivers, limit or block public access. Proponents of enhanced recreational access sought to amend the LWCF Act to specify funding for related federal acquisitions. The focus was on acquisition of lands and interests (e.g., easements and rights of way) that support access for hunting and fishing, among other recreational pursuits. Proponents cited insufficient opportunity for recreating in some areas and broader health, economic, and other values of recreating on public lands.

Opposition to such a set-aside may have been related to concerns about the extent of federal land ownership, preferences for prioritizing LWCF for other purposes, or satisfaction that the agencies are sufficiently prioritizing recreational access. According to BLM testimony in 2015, for instance, "nearly 100 percent of LWCF funding over the past several years has been used for projects that enhance public access for recreation."[50] For the Forest Service, for example, 39 of

[47] This change was enacted in P.L. 116-9 (§3001) on March 12, 2019, as codified at 54 U.S.C. §200304(b).

[48] As an example of testimony supporting increased funding for the stateside program, see Prepared Statement of Administrator, Wyoming State Parks Administrator and Vice President of the National Association of State Park Directors Domenic Bravo, in U.S. Congress, House Committee on Natural Resources, Subcommittee on Federal Lands, *Federal Land Acquisition and its Impacts on Communities and the Environment*, hearing, 114th Cong., 1st sess., April 15, 2015, pp. 1-2.

[49] This change was enacted in P.L. 116-9 (§3001) on March 12, 2019, as codified at 54 U.S.C. §200306(c).

[50] Statement of Bureau of Land Management's Deputy Director for Operations Steve Ellis, in U.S. Congress, Senate

the 40 acquisitions completed in FY2014 with LWCF funding provided improved access or legal access where none existed, according to agency testimony in 2015.[51] However, the extent to which agencies prioritize acquisition funding for recreational access might vary among all agencies and from year to year.

Current Issues

Level of Funding

There continue to be differing opinions as to the optimal level of LWCF appropriations. The LWCF has broad support from resource protection advocates, many of whom seek stable and predictable funding through consistent levels of appropriations. Most of these advocates seek higher appropriations in general. For instance, for several years the Obama Administration proposed appropriations of $900 million for LWCF. Some advocates have specific priorities, such as higher acquisition funding for one of the four federal agencies, the state grant program, or a particular site or area. Advocates of higher federal land acquisition funding promote a strong federal role in acquiring and managing sensitive areas and natural resources.

In contrast, there is broad opposition to the LWCF based on varied concerns, with opponents generally seeking reduced levels of funds for LWCF. Some opponents seek to reduce the size of the federal estate and minimize further federal acquisition of land either generally or at specific sites, especially in the West, where federal ownership is already concentrated. Other concerns involve preferences for private land ownership or state and local ownership and management of resources, potential impacts of federal land ownership on uses of private lands, and reduced local tax revenues that result from public ownership. For instance, in the past, the House Committee on the Budget supported reducing the federal estate and giving state and local governments more control of resources within their boundaries.[52] Others have sought LWCF reductions as part of a broader focus on reducing the federal deficit.

Mandatory vs. Discretionary Appropriations

Some advocates of higher LWCF funding seek partial or full permanent appropriations of monies under the LWCF Act. For instance, the Obama Administration proposed $900 million for LWCF for FY2017 through a combination of discretionary ($475.0 million) and mandatory ($425.0 million) appropriations. Further, the Obama Administration proposed amending the LWCF Act to appropriate mandatory funding of $900 million annually beginning in FY2018.[53] As attributes of the mandatory approach, advocates cite the certainty and predictability of program funding generally and in particular in fostering the ability of agencies to undertake multiyear, large-scale,

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Committee on Energy and Natural Resources, *Legislative Hearing on S. 556, the Bipartisan Sportsmen's Act of 2015*, hearing, 114th Cong., 1st sess., March 12, 2015, p. 6, http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=f46d20ea-6d78-4c4a-a582-2881bbb5abca.

[51] Testimony of the Forest Service's Deputy Chief for National Forest System Leslie Weldon, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Legislative Hearing on S. 556, the Bipartisan Sportsmen's Act of 2015*, hearing, 114th Cong., 1st sess., March 12, 2015, pp. 5-6, http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=f46d20ea-6d78-4c4a-a582-2881bbb5abca.

[52] House Committee on the Budget, *Concurrent Resolution on the Budget—Fiscal Year 2016*, H.Rept. 114-47 on H.Con.Res. 27, p. 119. The committee's reports on budget resolutions for subsequent fiscal years (FY2017-FY2019) expressed a similar view.

[53] U.S. Dept. of the Interior, *Fiscal Year 2017: The Interior Budget in Brief*, p. DH-68, at https://www.doi.gov/budget. Proposals to establish mandatory funding for the LWCF also have been introduced in the 116th and prior Congresses.

and collaborative acquisitions.[54] They also note the existence of a dedicated funding stream for LWCF at the authorized level of $900 million and the original intent of Congress that revenues to the fund be used for the LWCF Act's purposes. Questions have included how to offset any new permanent appropriations and how to allocate permanent appropriations among different LWCF programs and purposes.

Proponents of discretionary appropriations support retaining Congress's authority to determine annually the level of funding needed for LWCF overall and for the various program components. They note that through the discretionary process, the need for LWCF appropriations can be assessed in comparison with other natural resource programs and broader governmental needs. This approach also has been valued as providing recurring opportunities for program oversight. For instance, in the past, the House Committee on the Budget supported keeping land acquisition funding as discretionary to allow for regular oversight.[55]

Maintenance vs. Acquisition

There are differing opinions as to how LWCF funds should be used. Some Members and others have asserted that maintaining (and rehabilitating) the land and facilities that federal agencies already own should take priority over further acquisitions. For instance, in an opening statement in 2015, the chair of the Senate Committee on Energy and Natural Resources expressed interest in shifting "the federal focus away from land acquisition, particularly in Western states, toward maintaining and enhancing the accessibility and quality of the resources that we have."[56] Some cite the deferred maintenance needs of the agencies as a higher priority than acquisition, and one that requires funding through additional sources, including LWCF.[57] As an example, the Trump Administration did not initially seek funding for individual acquisitions by agencies in FY2019, asserting that at a time when DOI has "billions of dollars in deferred maintenance, land acquisitions are lower priority activities than maintaining ongoing operations and maintenance."[58]

Supporters of retaining a strong LWCF role in acquisition cite a continued need to preserve iconic resources and provide additional opportunities for public recreation and other land uses. They assert economic benefits of federal land ownership and improvements of federal land management through consolidation of ownership.[59] In addition, since federal agencies cannot use

[54] Testimony of Deputy Secretary of the Interior Michael Connor, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Hearing on the Reauthorization and Potential Reforms to the Land and Water Conservation Fund (LWCF)*, hearing, 114th Cong., 1st sess., April 22, 2015, http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=9a8c795c-f8fe-4168-af7c-1a89ff5a3fee.

[55] House Committee on the Budget, *Concurrent Resolution on the Budget—Fiscal Year 2019*, H.Rept. 115-816 on H.Con.Res. 128, p. 46. The committee's reports on budget resolutions for earlier fiscal years (e.g., FY2016-FY2018) expressed a similar view.

[56] Statement of Senator Lisa Murkowski, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Hearing on the Reauthorization and Potential Reforms to the Land and Water Conservation Fund (LWCF)*, hearing, 114th Cong., 1st sess., April 22, 2015, http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=9a8c795c-f8fe-4168-af7c-1a89ff5a3fee.

[57] For information on the deferred maintenance estimates of the land management agencies over 10 years, see CRS Report R43997, *Deferred Maintenance of Federal Land Management Agencies: FY2009-FY2018 Estimates and Issues*, by Carol Hardy Vincent. For details on NPS deferred maintenance, see CRS Report R44924, *The National Park Service's Maintenance Backlog: Frequently Asked Questions*, by Laura B. Comay.

[58] Office of Management and Budget, *An American Budget: Major Savings and Reforms, Fiscal Year 2019*, p. 56.

[59] See, for example, Host of *Fresh Tracks* and *On Your Own Adventures* Randy Newberg, in U.S. Congress, House Committee on Natural Resources, Subcommittee on Federal Lands, *Federal Land Acquisition and its Impacts on Communities and the Environment*, hearing, 114th Cong., 1st sess., April 15, 2015, pp. 2-4.

LWCF funds for maintenance, some supporters of this priority favor more funding to other accounts that can be used for maintenance while retaining the LWCF for acquisitions.[60] Such accounts are within the land management agency budgets as well as within the Department of Transportation (for roads).

Stateside Program

Whether to change the apportionment of funds under the stateside program has been debated. Under the traditional state grant program, a portion of the appropriation is to be distributed equally among the states. The percentage varies depending on the total amount of appropriations, but it has been 40% in recent years.[61] Further, under the LWCF Act, the Secretary of the Interior has discretion to apportion the balance based on need, and population has been the biggest factor in determining need. Questions include whether to alter the portion of funding that is distributed equally among states and the factors for allocating the balance.

Since FY2014, Congress has approved a portion of the state grant funds for a competitive grant program. The extent to which the state grant program should be competitive is of ongoing interest. Questions include whether to establish a competitive program in law, which criteria should be used in any competitive program, and whether to authorize mandatory appropriations under GOMESA to be used for a competitive program. Currently, the GOMESA monies are used only for the traditional grant program.[62]

Other Programs

Congress is examining whether purposes other than federal land acquisition and stateside grants should be authorized in the LWCF Act and appropriated from the fund. As discussed above, whether to authorize the fund for maintenance is an area of focus. Some Presidents and Members of Congress have sought to channel LWCF funding to an array of land protection purposes. For instance, the George W. Bush Administration requested LWCF funds for cooperative conservation programs through which federal land managers partner with other landowners to protect natural resources and improve recreation on lands under diverse ownership. The Obama Administration also supported the use of LWCF funds for other purposes, although generally fewer than the Bush Administration.[63] Some proposals seek to enhance funding for programs that benefit states, such as grants under the Cooperative Endangered Species Conservation Fund and the Forest Legacy Program, among others. These proposals could shift resources from federal lands to state grant programs.

[60] Statement of Senator Maria Cantwell, in U.S. Congress, Senate Committee on Energy and Natural Resources, *Hearing on the Reauthorization and Potential Reforms to the Land and Water Conservation Fund (LWCF)*, hearing, 114th Cong., 1st sess., April 22, 2015, p. 3, http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=9a8c795c-f8fe-4168-af7c-1a89ff5a3fee.

[61] See 54 U.S.C. §200305(b)(1).

[62] P.L. 109-432, Division C, §105(a)(2)(B).

[63] Past legislative proposals also would have provided LWCF funding to a more diverse programs and activities. As examples from the 115th Congress, H.R. 343 would have authorized the Secretary of Housing and Urban Development to use LWCF funding to provide financial assistance to entities to carry out park and infrastructure projects. H.R. 5170 would have authorized LWCF funding for deferred maintenance, critical infrastructure, visitor services, and clean-up efforts on FS, NPS, FWS, and BLM lands; the Payments in Lieu of Taxes Program; and promotion of off-shore energy exploration, innovation, and education, among other activities.

A factor in the debate has been the unappropriated balance in the fund and whether to allow these funds to be used for broader purposes than those currently authorized. Traditional fund beneficiaries and others have expressed concern about expanding the uses of appropriations, particularly if that expansion is accompanied by reductions in the amount available for federal land acquisition or state grants. Proponents of funding other programs assert that the sizeable unappropriated balance in the LWCF would be sufficient to cover the traditional purposes under the LWCF Act as well as additional ones.

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