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Report for Congress

Conservation and Reinvestment Act (CARA) (H.R. 701) and a Related Initiative in the 106th Congress

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ABSTRACT

Legislation to allocate revenues from Outer Continental Shelf (OCS) oil and gas activities for federal and state resource acquisition and protection, urban recreation, wildlife protection, and related purposes passed the House on May 11, 2000 and was approved by the Senate Committee on Energy and Natural Resources on July 25, 2000, but no further action was taken. This report compares these two bills with current law. The two versions contain some significant differences. The bulk of the House version is permanently funded, while the Senate version is considered discretionary spending. Opponents worried that enacting these bills could increase the rate at which the federal government acquires private lands, increase pressure to expand development in the OCS, or (in the case of the House bill) remove significant funding decisions from the annual appropriations process. Supporters believed that more dependable federal funding in larger amounts for diverse resource protection purposes was long overdue, and argued that the revenues generated by depletion of one resource (development of offshore oil and gas) should be used to augment efforts to conserve other resources. Many programs that would have been funded in these bills were also in the Clinton Administration's "Lands Legacy Initiative", which is reviewed in an appendix. Congress approved a $1.6 billion version of this initiative in FY2001 Interior and Commerce appropriations (which is not permanently funded) after it became clear that CARA would not be enacted. This report will not be updated.

Conservation and Reinvestment Act (CARA) (H.R. 701) and a Related Initiative in the 106th Congress

Summary

This report compares H.R. 701, as passed by the House and H.R. 701, as approved by the Senate Committee on Energy and Natural Resources, with current law. These bills, often referred to as the Conservation and Reinvestment Act (CARA), would have funded various resource acquisition and protection activities. The two versions contain some significant differences. Both bills (and numerous related bills) originated, in part, from efforts to: (1) provide higher and more certain funding for resource protection programs; (2) fund the state grant portion or the entire LWCF each year; and (3) dedicate a large portion of offshore oil and gas revenues to resource protection. Support for this legislation spread as: (1) the budget deficit was replaced with a surplus; (2) protecting natural resources became viewed as part of efforts to address sprawl; (3) local pressure to secure federal funding for resource protection expanded; and (4) efforts to increase funding to federal resource protection programs strengthened.

Both bills addressed numerous topics. The House-passed version provided just over $3 billion, including interest, to fund 9 program areas, while Senate committee version provided just under $3 billion to 15 program areas. Examples of activities that would have been funded under both bills include: new programs for coastal areas to mitigate impacts associated with offshore energy development and for wildlife protection and restoration; and an urban program to develop recreation facilities. All funding would have come from Outer Continental Shelf (OCS) oil and gas revenues, which now fund the general functions of the federal government.

A key feature of the House version was to bypass the annual appropriations process for most programs. While strongly supported by the bills' advocates, this feature was opposed by those who favored other priorities for federal spending, wanted to limit overall federal spending, or believed such funding should be sought through the annual appropriations process. Opposition was also raised by advocates of private property rights who feared that additional funding would accelerate public acquisition of private lands, as well as some environmental interests who worried that support for more funding could increase pressure to expand OCS activities.

The Clinton Administration's Lands Legacy Initiative, which was first proposed in January 1999, is reviewed in an appendix to this report. The Administration had submitted this proposal with the FY2000 and FY2001 budgets, and it became an alternative to CARA for FY2001 after it became apparent the CARA would not be enacted. The Administration never developed this initiative as free-standing legislation. It is different from CARA in many fundamental ways; it is not a multi-year program, it is not tied to OCS revenues, it does not use permanent appropriations, and the appropriations committees will have to agree on funding levels for each of these programs every year. (To track related issues, see Issue Brief IB10015, *Managing Growth and Related Issues in the 107th Congress*.)

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Acronyms

BLM	Bureau of Land Management, an agency in DOI
CARA Fund	Conservation and Reinvestment Act Fund, created under H.R. 701
CFAA	Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102, *et seq.*)
CBO	Congressional Budget Office
CZMA	Coastal Zone Management Act (16 U.S.C. *et. seq.*)
DOI	Department of the Interior
E.O.	Executive Order
ESA	Endangered Species Act (16 U.S.C. 1530, *et. seq.*)
FACA	Federal Advisory Committee Act (5 U.S.C. App.)
FPP	Farmland Protection Program (16 U.S.C. 3830 *et seq.*)
FWS	U.S. Fish and Wildlife Service, an agency in DOI
LWCF Act, LWCFA	Land and Water Conservation Fund Act (16 U.S.C. 460*l*-4 *et. seq.*)
LWCF	Land and Water Conservation Fund
NFS	National Forest Service, an agency in USDA
NMFS	National Marine Fisheries Service, an agency in the National Oceanic and Atmospheric Administration, Department of Commerce
NPS	National Park Service, an agency in DOI
NWRS	National Wildlife Refuge System
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1331 *et. seq.*)
P-R	Pittman-Robertson Act, more properly titled Federal Aid in Wildlife Restoration Act of Sept. 2, 1937 (16 U.S.C. 669 *et. seq.*)
PILT	Payment in Lieu of Taxes Program (16 U.S.C. 6901, *et. seq.*)
SRA	Species Recovery Agreements, created under H.R. 701/S. 2123
RRSF	Refuge Revenue Sharing Fund (16 U.S.C. 715s)
UPARR	Urban Park and Recreation Recovery Program (16 U.S.C. 2501 *et. seq.*)
USDA	U.S. Department of Agriculture
WCRP	Wildlife Conservation and Restoration Program, created under H.R. 701

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Introduction

The 106th Congress considered numerous omnibus bills to greatly expand federal financial support for various land and resource protection, acquisition, and restoration programs. In recent congressional sessions, legislation with multiple components and proposals for significant additional federal expenditures might have been less likely to receive serious consideration because of the budget deficit and the difficulty of offsetting any new spending with reductions elsewhere. But with the emergence of a budget surplus, endorsement (at least in concept) by a broad political constituency, and an apparent groundswell of grassroots support, these proposals received greater congressional attention.

The House passed H.R. 701 on May 11, 2000, after 2 days of debate during which it adopted 7 of the 24 amendments that it considered. H.R. 701 was cosponsored by 315 members and passed the House by a vote of 315-102. Passage was supported by a majority of both Republican and Democratic Members. After completion of action in the House, supporters of the legislation pressed the Senate to act. The Senate Energy and Natural Resources Committee held a hearing on several alternative proposals on May 24. It approved a substitute version of H.R. 701 on July 25 by a vote of 13-7, after several days of often contentious debate. Numerous amendments were proposed, but none that were characterized as more than technical corrections were adopted. The substitute version generally combined provisions in H.R. 701 as passed in the House with provisions in a bill that had been introduced by the ranking minority member, Senator Bingaman, S. 2181. The committee filed its report, with minority views, on September 14, 2000 (S. Report 106-413). No further action was taken.

Coverage of Report

This report compares existing law with H.R. 701, as passed by the House(HP) and H.R. 701, as reported by the Senate Energy and Natural Resources Committee (SCR). Both versions, also known as the Conservation and Reinvestment Act (CARA), would have created a new fund, the CARA Fund. Both bills would have created and funded a new coastal energy impact assistance program, amended and funded the Land and Water Conservation Fund (LWCF), funded the Urban Park and Recreation Recovery Program and the Historic Preservation Fund, increased funding for wildlife conservation, funded land restoration and easement programs, and funded

the Payment in Lieu of Taxes (PILT) Program.[1] The SCR version would also have funded additional programs to protect natural and cultural resources.

Revenue from Outer Continental Shelf (OCS) oil and gas activities in federal waters would have funded these programs. Funding requirements for both versions of H.R. 701 were estimated to approach $3 billion, and H.R. 701(HP) would have accrued additional interest as well. The largest amount would have been spent in California ($331 million under the House bill and $327 million under the Senate bill).[2]

Other Legislative Proposals in the 106th Congress

Several other closely-related bills are identified in this section, but not discussed further in this report. The first omnibus bill introduced in the 106th Congress, S. 25 sponsored by Senator Landrieu, would have funded 4 programs using percentages of total OCS revenues rather than specified dollar amounts.[3] Subsequently, Senator Landrieu introduced S. 2123, which was identical to H.R. 701, as reported by the House Resources Committee. Senator Boxer's S. 446 was identical to H.R. 798, sponsored by Representative George Miller. Provisions in these bills drew on many components of the Clinton Administration "Lands Legacy Initiative," announced in January 1999 and discussed in the appendix. However, Representative Miller cosponsored and voted for H.R. 701 and Senator Boxer introduced a subsequent bill, S. 2567, which was identical to H.R. 701(HP).[4] Another bill that was similar to the Clinton Administration proposal was S. 2181, sponsored by Senator Bingaman. Several elements of S. 2181 were incorporated into the SCR version of H.R. 701.

Two other bills more limited in the topics they would address, H.R. 452 and S. 532, also were introduced. H.R. 452, sponsored by Representative Campbell, would have only amended the LWCF. This bill would have taken the LWCF off-budget, and exempted this fund from any general budget limitation. Also, it would have required that at least half the annual LWCF funding be provided to the states. Current law requires that at least 40% go to federal agencies.

S. 532 was sponsored by Senator Feinstein. She described S. 532 as a "moderate alternative" to S. 446, which she supported. It would have amended the LWCF Act and the Urban Parks and Recreation Recovery Program (UPARR). It

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[1]See the list of acronyms, which follows the summary, for fuller citations of the laws discussed in this report.

[2]Based on draft cost estimates prepared by the Department of the Interior's Office of Policy Analysis, dated September 9, 2000.

[3]Most of these bills are discussed in greater detail in earlier versions of this CRS report, RL30444, when it was possible that they would be a vehicle for further legislative action. Also, more detail on the House-passed version of H.R. 701, including all the amendments considered and adopted, can be found in the June 12 version.

[4]Senator Boxer stated at the May 24, 2000 Senate Energy and Natural Resources Committee hearing that she had introduced S. 2567 because she believed it would be the fastest way to pass legislation, and was concerned that the legislative calendar was growing short. She also commented that she did not necessarily endorse all the provisions in H.R. 701/S.2567.

would have permanently appropriated the entire annual authorized amount, $900 million. It also would have allocated 50% of this amount to federal agencies, 40% to states, and 10% to local governments through UPARR. This bill also would have amended UPARR in several ways.

Forces Behind these Proposals

Widespread interest in and support of aspects of CARA may have reflected the confluence of several interrelated factors. Various interests and combinations of interests proposed changes in current laws and programs: (1) to fully fund the LWCF; (2) to address the increased backlog of pending federal land acquisitions that the LWCF addresses and expand the ways that LWCF funds can be spent; (3) to increase overall resource protection funding; (4) to fund state programs for species that are not hunted, fished, threatened, or endangered; (5) to reduce the chronic underfunding of federal land payment programs to local governments; (6) to address resource management needs in coastal areas, especially those affected by offshore energy development; and, (7) to allow states and counties to draw further on OCS revenues, which grew during the 1990s. Both bills responded to each of these forces, some times in different ways.

The Clinton Administration expressed support for the general concepts behind these legislative proposals through its Lands Legacy Initiative. This initiative was first proposed with the FY2000 budget, and was resubmitted, slightly altered, with the FY2001 submission. As this initiative is a component of the budget, it must be reconsidered each year by the appropriate appropriations subcommittees. The FY 2001 proposal called for almost a doubling of funding for the Lands Legacy Initiative, to $1.4 billion for more than 20 programs. The House and Senate versions of CARA would have funded many of the programs in the initiative. The initiative is reviewed in greater detail in the appendix.[5]

Overall support for CARA was widespread, and came out of a large and diverse coalition of many interests. Members favoring the legislation frequently pointed out that more than 4,500 groups, from conservation organizations to governors and other public entities had expressed support for this legislation. Opponents countered that support shows the magnitude and diversity of the "pork" this legislation would fund as almost all of these groups would have directly benefitted if this legislation had been enacted. While some probably wanted the overall legislation enacted, most interests would have benefited from one or more titles or programs rather than the entire bill.

Fully Funding the LWCF. A growing number in Congress have been advocating fully and predictably funding the LWCF.[6] Under current law, $900 million is authorized to be appropriated annually through FY2015. Unappropriated

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[5]For more information on this initiative, see CRS Issue Brief IB10015, *Conserving Land Resources: Legislative Proposals in the 106th Congress*. For information on the funding levels for programs in the initiative, see CRS Report RS20471, *The Administration's Lands Legacy Initiative in the FY2001 Budget Proposal – A Fact Sheet*.

[6]For general background on the LWCF, see CRS Report 97-792 ENR, *Land and Water Conservation Fund: Current Status and Issues*, last updated on November 29, 1999.

balances are available to be appropriated in subsequent years. Appropriations during the 1990s have averaged less than one third of the authorized level. Since the fund started in 1965, its accumulated authorization is more than $23.7 billion through FY2000. However, only $11.4 billion has been appropriated, leaving a cumulative balance of $12.3 billion that was authorized but not appropriated. Since the early 1980s, OCS revenues have gone into the General Treasury and funded other government functions.

The current LWCF provides money for five purposes; one is the grant program for states for acquisition and development of recreation sites (administered by the National Park Service), and the others are for acquisitions for the National Forest System, the National Wildlife Refuge System, the National Park System, and areas authorized for recreation by the Secretary of the Interior (including lands managed by the Bureau of Land Management). The lack of funding for the state grant program starting in FY1995 led to hearings in the Senate and House in 1997. As pressure has increased to fund the state grants, it has also grown to fund two other federal programs: the Urban Park and Recreation Recovery Program and the Historic Preservation Act programs. The Historic Preservation Act, like the LWCF, is funded with OCS revenues, and has a significant unappropriated balance.

Backlog of Pending Land Acquisitions and Limits on Spending LWCF Funds. Fully funding the LWCF would allow federal agencies to address a growing backlog of potential acquisitions. Resource protection advocates believe that the pressure to make additional acquisitions increases with growing population and expanding development, so limited funding has contributed to the expanding gap between available funds and possible acquisitions. Proponents of these proposals have cited federal agency data that the estimated backlog for acquisition is more than $10 billion. Opponents counter that the federal government should not be acquiring more land, that many of the places federal agencies are considering or already own do not have the values that warrant federal ownership, or that more funds should be devoted to maintenance or better management of lands already in federal ownership rather than additional purchases. The maintenance backlog has been estimated to be as high as more then $20 billion, according to material submitted during the FY2001 appropriations process by the Departments of the Interior and Agriculture. While the size of the backlog may be in question, all agree that it has been growing. Some would also like to give states and localities greater flexibility to use these funds to maintain and restore facilities.

Increasing Overall Resource Protection Funding. Various organizations supporting conservation have initiated campaigns to increase resource protection funding for programs that have received little or no funding in recent years. These campaigns seek to increase funding for non-game species that are not threatened or endangered (discussed below), farmland, and coastal resources, among others. These efforts have been pursued independently in appropriations and authorizing legislation, and have met with little success in recent years, especially when they have encountered arguments that the federal budget deficit needs to be reduced.

Funding State Programs For Non-Game Species. Funds for game and fished species already are provided through matching grants to support state programs

under the Wildlife Restoration Program (also known as the Pittman-Robertson program) and the Sport Fish Restoration Program (also known as the Dingell-Johnson or Wallop-Breaux program). Both are permanently appropriated to the extent of receipts. More limited grants are also available for programs to conserve species listed as threatened and endangered under the ESA.

No similar program exists to support state conservation efforts for the vast majority of species, *i.e.*, those which are not hunted, fished, threatened, or endangered. For at least 20 years, Congress has considered such support, but lack of funding has always been the major obstacle. Recent efforts, particularly a lobbying effort called "Teaming with Wildlife", led by the International Association of Fish and Wildlife Agencies, have focused on enacting a tax on certain outdoor equipment to fund grants to states for conservation of non-game species. Congressional reluctance to create any new taxes has caused most of the wildlife interest groups to shift their efforts to seeking funding through these legislative proposals.

Increasing Federal Payments to Local Governments. Local governments have complained that federal payment programs that compensate them for the presence of federal land are inadequate. Lands owned by the federal government cannot be taxed by state and local governments. In some jurisdictions, federal lands are a significant fraction of total property, and therefore local governments have claimed financial harm as a result of their inability to collect property taxes on this portion of the land base. The lands of all four major federal land managing agencies, as well as of some smaller federal landowners, are subject to one or more payment programs to provide some measure of federal government compensation to local governments for the presence of their lands. Two of these payment programs are not permanently appropriated: (a) the Payments in Lieu of Taxes (PILT), affecting 11 categories of federally owned land, though the program is administered entirely by the Bureau of Land Management; and (b) the Refuge Revenue Sharing Fund (RRSF), entirely for the National Wildlife Refuge System.[7]

Annual appropriations for both of these programs have fallen consistently below the amounts specified in the two laws' formulas. Counties now receive about 41% of the formula amounts for PILT and about 60% for RRSF. As a result of these shortfalls, local governments have repeatedly called on Congress to fund these programs at the full authorization levels, and these legislative proposals provide additional opportunities to make up this shortfall.

Offshore Energy Development and Coastal Effects. Interests in some coastal states, especially Louisiana, have increased the pressure to return a portion of the money currently paid to the federal government by private companies who lease and develop oil and gas resources on the OCS to the affected states. These

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[7]RRSF is funded without further appropriations to the extent of receipts, but receipts are insufficient to fund the amounts in the formula. Thus, annual appropriation levels determine whether the full authorized formula is paid. For further information on RRSF, see CRS Rept. 90-192ENR, *Fish and Wildlife Service: Compensation to Local Governments*. For further information on PILT, see CRS Rept. 98-574ENR, *Payments in Lieu of Taxes (PILT): Somewhat Simplified*.

funds would be used to address the adverse onshore effects of these energy activities. Currently, adjacent states and communities do not directly receive any revenue from offshore oil and gas activities in federal waters. A program of loans and grants to coastal states to help them address impacts from offshore and coastal energy activities was briefly implemented through the federal coastal zone management program during the energy crisis in the late 1970s; however, it was ended when that crisis had passed.

Supporters of a payment program associated with OCS oil and gas activities point out that, in contrast, revenue from onshore energy production on federal lands is shared with most states as follows; 50% is allocated to the state in which the lease is located, 40% is earmarked for the Reclamation Fund, and 10% goes to the federal treasury.[8] In addition, state and local governments currently receive shared revenues from many activities, such as logging, grazing, and some mining, on the Forest Service, Bureau of Land Management, and Fish and Wildlife Service lands. The amount and percentage of the shares depends on the history of the land and the type of activities generating the revenues. Others may counter that some coastal states will have a large influx of new federal funds, and that provisions in bills are insufficient to insure that these funds are spent only for projects that are compatible with long-term management of coastal resources.

Growing OCS Revenues. Federal revenues derived from OCS energy activities averaged about $2.5 billion annually in the early 1990s, then increased rapidly to a record $4.8 billion in FY1997, and have been declining more recently. Currently, those portions of OCS revenues that are not spent on LWCF or the Historic Preservation Fund are used for the general spending of the federal government. To the extent that they would be redirected under these proposals, they would no longer be available to fund other federal programs.

Advocates for these bills view the increase in OCS revenues through FY1997, combined with the change from federal budget deficit to surplus, as an opportunity to dedicate more money to the activities contained in these bills. However, OCS revenues subsequently declined to$3.3 billion in FY1999. This decline reflected record low prices for oil, affecting royalties and bonus bids for newly-leased tracts during the 1997-1999 period. Three questions about these proposals, if enacted, would arise if OCS revenues decline substantially: (1) How would program funding be reduced?; (2) Could other sources of funding to offset such reductions be located? and; (3) Could pressures to expand offshore leasing to increase revenues result, and if so, could they be contained?

Future OCS revenue levels are as uncertain as the future price of crude oil, as the rapid changes in retail prices during the past 6 months graphically demonstrate. Department of the Interior projections made internally to support its FY2001 budget submission are based on a much lower price scenario than the $30 per barrel world market price prevailing at the start of 2000 might suggest. For FY2000, the

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[8]One exception is Alaska, where the state receives 90%, with 10% deposited in the federal treasury. The Reclamation Fund supports the Bureau of Reclamation's water resources projects.

Department not states revenues totaled almost $4.5 billion; earlier it had estimated the total would be $3.55 billion. In subsequent years, steadily declining revenues are forecast, reflecting lower prices and gradual depletion of OCS hydrocarbon fields. FY2002 is estimated to yield $3.33 billion, and this figure will fall to $2.01 billion in FY2010.[9] The current run-up in prices may alter this picture drastically. Analysts do not agree on whether the current increase in wellhead prices could delay that decline in revenues, once it begins, and how fast or how far revenues will fall in the future. Further, any shifts in energy policy in the future could alter these estimates.

Total OCS revenues may give an inaccurate impression of the amounts that would have been available to fund these proposals. Both bills limited the source of revenues to fund these proposals to specified portions of the OCS that are currently producing in order to discourage expanding OCS activities to fund these programs. Many of the fields which would have been sources of revenue to fund this suite of programs have been in production for decades, and the amounts extracted from some of these fields may start to decline. Over time, revenues generated from the segment of the OCS that would have funded these programs may become a declining portion of the total revenue generated from all OCS production; no estimates was released on what portion would have been available to fund CARA, especially in the out years of the program.

Funding the Proposals

Both bills would have used revenues from offshore oil and gas fields under federal waters to fund the proposals. Section 3(12) of H.R. 701(HP) and §101 of H.R. 701(SCR) would have defined qualified revenues to include all OCS revenues (royalty, rental, and bonus revenues) from oil and gas leases where the center of the lease lies within 200 miles of a state's coastline. These provisions would have excluded monies paid to states that are derived from leases of deposits that lie in both state and federal lands offshore. The law that governs how these deposits would have been treated is in §8(g) of the Outer Continental Shelf Lands Act (OCSLA).

Section 5 of H.R. 701(HP) and §2 of H.R. 701(SCR) would have established the Conservation and Reinvestment Act Fund (CARA Fund). Under the House bill, the CARA Fund would have received a maximum of $2.825 billion annually from qualifying OCS revenues and previously undispersed funds, to be distributed in specified amounts among 7 programs. The Senate version would have allocated $2.99 billion annually from qualified OCS revenues to 15 specified program areas. Section 5(c) of H.R. 701(HP) and §2(e) of H.R. 701(SCR) would have required that funding be reduced proportionately for each program if less than the authorized amount is deposited into the Fund. Section 5(e) of H.R. 701(HP) would have required that any necessary OCS royalty refunds be paid proportionately from the Fund; the Senate bill did not address this topic.

Under the House bill, the CARA Fund would have also generated additional revenue through interest earned, as described in §5(d), so that the total amount

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[9]Personal communication with Mineral Management Service budget staff, February 22, 2000.

available to the fund was actually estimated to be slightly more than $3 billion annually. Interest would have been earned by depositing OCS revenues into the Fund during a fiscal year, investing them appropriately, and paying them out the following year. Interest income, up to $200 million annually, would have been dedicated to funding two federal programs that make payments to local governments, the Payment in Lieu of Taxes Program (PILT) and the Refuge Revenue Sharing Fund (RRSF), and interest earned on revenues dedicated to Title III (on wildlife) would have gone to implement the North American Wetlands Conservation Act.[10]

A potential major impediment to these proposals was how they would have been treated under the budget caps. If Congress had been required to offset these funds with savings elsewhere, enactment would have been more difficult, as those who support the programs that would have been reduced might oppose this legislation. Since most of the current OCS revenues are available to fund any federal government activity, opposition to these bills from those with concerns about the overall budget was also anticipated. The Congressional Budget Office informed Resources Committee Chair Don Young in a letter that it believed that the Office of Management and Budget, which would make the final determination, would not "choose to adjust the caps" (require an offset) if H.R. 701 were enacted "because creating new direct spending authority does not constitute a change in budgetary concepts or definitions."[11] H.R. 701 would have still been subject to enforcement provisions of the Budget Act by creating new mandatory spending. However, the rule (House Res. 497) for House consideration of H.R. 701 waived these procedural safeguards.

Where the Funds Would Have Gone

Funds would have been distributed among the recipient programs based on amounts and formulas in existing law or as specified in each bill. Table 1, on the next page, shows how the funds would have been distributed by activity, and table 2, on the following page, shows the total funding that was forecast to be distributed, by state.

Both versions of H.R. 701 would have provided about the same total amount of money. However, the pattern of distribution among programs would have varied because the program funding levels under the 2 bills were different for most programs, as shown in table 1. The largest difference was that H.R. 701(HP) would have provided $1 billion for coastal assistance, while H.R. 701(SCR) would have provided $805 million for a different mix of coastal and marine programs. The other major difference is that H.R. 701(SCR) would have funded programs that were not included in H.R. 701(HP), and some of the programs in both bills would have received more funding under the House version.

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[10]Interest earned on Pittman-Robertson funds is currently directed to the North American Wetlands Conservation Program

[11]Letter to Rep. Don Young from Dan Crippen, Director of CBO, October 14, 1999.

Table 1. Funding by Topic or Program under each Proposal ($ in millions)

Topic or Program	House Version	Senate Version
Land and Water Conservation Fund–Federal	$450[a]	$450
Land and Water Conservation Fund–State	$450	$450
Coastal Impact Assistance	$1,000	$430
Coastal Stewardship Program	Not Applicable	$250
Wildlife Conservation and Restoration	$350	$350
Urban Park and Recreation Recovery Program	$125	$75
Historic Preservation Fund (HPF)	$100	$135
HPF – Battlefield Protection	Not Applicable	$15
Land Restoration	$200	$125
Conservation Easements – Farm Land	$100	$25[b]
Conservation Easements – Ranch Land	Not Applicable	$25
Endangered Species Recovery	$50	$50
PILT & Refuge Revenue Sharing Fund (PILT only in H.R. 701 (SCR)	$200 or less[c]	such sums as necessary: est. to be $325
Cooperative Forestry	Not Applicable	$25
Fisheries Research and Management Grants	Not Applicable	$100
Coral Reef Conservation	Not Applicable	$25
Urban and Community Forestry Assistance	Not Applicable	$50
Forest Legacy Program	Not Applicable	$50
Youth Conservation Corps	Not Applicable	$60
Forest Service Rural Community Assistance	Not Applicable	$25

a. The House-passed version of H.R. 701might have provided larger amounts for federal and state LWCF, as explained in the section titled *Overall Funding Levels for LWCF*, below.
b. The Senate version provided $50 million for farmland and ranchland. In the table, it is assumed that this amount would have been split equally.
c. CBO estimates that only $ 53 million would have been available in interest for PILT in 2002.

The pattern of distribution among states would also have varied. Under both bills, the same five states (California, Louisiana, Texas, Alaska, and Florida), all defined as "producing states," would have received more than $100 million per year. California would have received the largest amount, about 11% of the total. H.R. 701(HP) provided a larger percent of the total to the largest recipients, while 10 states would have received less than $20 million annually. Only 4 states would have received less than $20 million annually under H.R. 701 (SCR).

Table 2. Estimated Distribution of Funding, by State ($ in millions)

State	House Version[a]	Senate Version[a]	State	House Version	Senate Version
Alabama	53.3	74.4	Nebraska	17.7	21.5
Alaska	163.3	167.3	Nevada	53.5	45.9
Arizona	59.6	64.4	New Hampshire	18.3	27.8
Arkansas	21.2	21.3	New Jersey	58.1	48.4
California	331.1	326.9	New Mexico	43.0	56.2
Colorado	52.2	58.9	New York	99.6	73.6
Connecticut	22.6	25.6	North Carolina	47.6	45.6
Delaware	13.1	20.4	North Dakota	16.3	15.6
Florida	140.7	150.1	Ohio	52.4	50.9
Georgia	42.7	40.5	Oklahoma	18.5	22.0
Hawaii	32.5	39.6	Oregon	53.1	50.5
Idaho	42.4	45.8	Pennsylvania	54.3	52.4
Illinois	56.5	49.2	Rhode Island	15.2	21.1
Indiana	31.3	32.1	South Carolina	28.2	27.7
Iowa	15.5	16.9	South Dakota	17.0	20.5
Kansas	16.1	18.6	Tennessee	26.6	27.1
Kentucky	20.8	22.6	Texas	235.2	194.9
Louisiana	299.8	174.3	Utah	45.4	57.3
Maine	35.6	36.4	Vermont	11.6	16.9
Maryland	37.0	34.2	Virginia	51.8	52.9
Massachusetts	47.6	45.4	Washington	61.4	65.8
Michigan	58.4	51.2	West Virginia	17.8	23.0
Minnesota	39.5	38.4	Wisconsin	32.2	31.5
Mississippi	75.1	82.0	Wyoming	33.2	42.4
Missouri	32.5	32.7	Other[b]	175.3	169.5
Montana	52.3	60.0	**U.S. Total**	**3,076.5**	**2,990.0**

a Estimates prepared by Department of the Interior's Office of Policy Analysis, labeled "draft" and dated September 6, 2000.

b Included funding for Program Administration, Territories, Native Americans, and the District of Columbia. House-passed H.R. 701also included $9.3 million under Title V for the Historic Preservation Fund and $28.9 million for the North American Wetlands Conservation Act.

Major Issues

A number of themes became apparent in the controversies over the proposals encompassed in these bills: federal budget implications, property rights and federal ownership, OCS leasing moratoria, and federal land payments. Each of these issues

is described below, emphasizing how they were addressed in the bills. The views of major interests also are identified.

Federal Budget Implications

Both bills appear to guarantee the availability (and predictability) of funding without further appropriations for all the programs funded by the CARA Fund. However, much of this guarantee is contradicted by restrictions contained in (a) provisions in both bills designed to protect Social Security and Medicare as well as assist in debt reduction, (b) provisions in H.R. 701(HP) to augment Congressional control over the federal portion of LWCF; and (c) §2(f) of H.R. 701(SCR), affecting not only the federal portion of the LWCF but the entire CARA Fund. This feature of permanent appropriation is already enjoyed by some existing natural resource programs, *e.g.*, sport fish and game restoration, acquisition of migratory bird habitat, reforestation, and some soil conservation programs; however its use is not widespread. Providing funds without further appropriation enables programs to avoid the annual appropriations process. To accomplish this, legislation typically contains the phrase "without further appropriation," or a similar phrase, thereby making available annually whatever is specified in the legislation creating the fund. Traditionally, appropriations and budget committees, as well as Members who strongly support congressional oversight of all spending, have strongly opposed this approach to funding. Moreover, procedural hurdles to passage of such proposals can be formidable.

In addition, both bills contain provisions which would have amended LWCF, leaving major portions intact. Both bills also contained sunset provisions, so that funding would have ceased in FY2016 unless Congress acted to extend the programs.

Debt Reduction, Social Security, and Medicare. Two provisions addressing these topics are in H.R. 701(HP), and similar provisions are found in H.R.701(SCR) as well (see discussion below). Section 5(g) of H.R.701(HP) contained a provision precluding the transfer of funds to the CARA Fund in any fiscal year unless a number of conditions are met.[12] The director of the Congressional Budget Office (CBO) would have been required to certify that enough "on-budget" surplus had been reserved to cause elimination of the publicly held federal debt by 2013, and that there was not an "on-budget" deficit for that year. ("On-budget" refers to federal budget totals excluding the financial operations of Social Security and the postal service). In addition, the Social Security and Medicare Hospital Insurance (HI) trustees would have been required to certify that outlays from their respective trust funds would not exceed their revenues during the five years following each year of transfer. Since the most recent trustees' reports for the two programs (issued in March 2000) projected that outlays will exceed the revenues in both programs at some point during the next 20 years, it is possible that this provision would have precluded the transfer of funds to the CARA Fund during the latter part of the period in which it would have been in effect.

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[12]This subsection, a floor amendment offered by Representative Shadegg, passed the House by 216-208 on Roll Call vote 163 on May 10.

However, if the term "revenues" (as used in the bill) referred only to the tax receipts of both programs (and excludes the interest credited to the trust funds semi-annually), the trustees' reports suggested that outlays from the Social Security Disability Insurance (DI) Trust Fund would exceed its revenues somewhat earlier, in or around FY 2007. For the HI Trust Fund, the same was projected to occur in FY 2009, and for the Social Security Old Age and Survivors Insurance (OASI) Trust Fund, it would happen sometime between 2015 and 2020.

Thus, for H.R. 701(HP) at least in principle, Congress would not have decided annually whether the CARA-supported programs would be funded in competition with all other discretionary spending. Rather, other discretionary spending would have first become law in appropriations bills, and the results would have then been measured against the goals in §5(g) for reducing the debt and protecting Social Security and Medicare. If the goals would have been met, the CARA programs would have been funded automatically; however, the portion of CARA allowed to federal LWCF would have continued to require action in annual appropriations bills. Based on current projections for the Social Security and Medicare trust funds, and barring major changes in economic conditions or enactment of legislation inhibiting achieving the goals of §5(g), it appears that the CARA programs initially would have been funded as proposed, but would have approached being at risk in roughly a decade, depending on the meaning of the term "revenues" in the bill.

A new Title VIII of H.R. 701(HP) was added pursuant to a motion to recommit with instructions by Representative DeFazio and adopted by a recorded vote of 413-3 just before final passage. This title would have provided that no funds can be expended under the Act if doing so would diminish Social Security or Medicare benefit obligations. Representative DeFazio characterized his motion as an effort to strengthen the Shadegg amendment. As passed by the House, there are no explicit provisions in the bill that would have altered Social Security or Medicare benefits, and none of the expenditures authorized under the bill would have interacted with the benefit calculations or administration of the Social Security or Medicare program as now provided under the Social Security Act. As a result, CARA expenditures would have been unlikely to be affected by this title.

In H.R.701(SCR), §8 required (a) the Director of CBO to report on specific aspects of progress to eliminate public debt by 2013, and on whether an on-budget surplus exists for the current fiscal year; (b) the Social Security trustees to report on the relation of Social Security revenues and outlays for the succeeding 5 years; and (c) the Medicare trustees to report on the relation of Medicare revenues and outlays for the succeeding 5 years. Nothing in the section required any action that would depend on these reports, so the reports would have had no direct effect on CARA spending. At the same time, §9 of this bill had the same language concerning diminution of the benefit obligations of the Social Security and Medicare trust funds that was found in H.R. 701(HP). As noted above, this wording left CARA funding unaffected. However, §9 also provided that CARA would not have been funded in years in which "there is not an on-budget surplus." Section 8 implied that this determination would have been made by the Director of CBO, but the two sections were not explicitly linked. A decision by the Budget Committees or Appropriations Committees could have been sufficient to determine the status of the surplus. Regardless of who would have made the determination, as noted above for somewhat

similar language, CARA funding could ultimately could have taken a back seat to all other federal funding if the Senate Committee bill had become law.

Is Funding Permanent or Not? Both bills attempted to provide control of spending for federal land acquisitions under LWCF via the money transferred from CARA. However, the attempts to do so had broader consequences. How likely is it that the specified amount would have actually been available, and how did that likelihood compare to the current situation? In the House version, the control would have resulted in CBO scoring three programs (federal LWCF, and the PILT and RRSF add-ons) as discretionary, and therefore their funding would have faced many of the same hurdles it does now. All of the remaining programs in the bill would have been funded without further appropriation. In the Senate version, the control would have cast the entire bill as discretionary spending, even though the phrase "without further appropriation" was found throughout the bill. As discretionary spending, they would have all required action in annual appropriations bills. First the House and then the Senate bills are discussed below.

The House Bill: Federal LWCF, PILT, and RRSF. Under current procedures, each appropriations subcommittee is allocated a fixed amount for spending under §302(b) of the Budget Act. Therefore, to the extent that the Interior Appropriations Subcommittees now allocate less spending to LWCF, more is available for any other program within their jurisdiction. (The fact that LWCF funds nominally come from OCS revenues is irrelevant to §302(b).) Also, at least since the early 1980s, the reports accompanying the appropriations acts have usually placed earmarks on the great majority of money spent for federal land acquisition under the LWCF. While agencies are not necessarily bound by report language that is not incorporated into the funding law, they may be constrained politically in what parcels they purchase.

If H.R.701(HP) had become law, many external factors (*e.g.*, deficits or surpluses, the state of the economy, tax cuts, interest rates, changes in federal land acquisition policy, etc.) could have affected whether Congress would have actually appropriated funds for federal land acquisition, but §205 of H.R. 701(HP) was particularly important to federal LWCF.

This section required annual approval by Congress for all federal land acquisition under CARA. Therefore, federal LWCF funding would have been treated as it is now: it would have been considered discretionary spending (unlike the other programs funded by CARA),[13] and might have been scored under the Interior Subcommittee's annual over-all spending ceiling (the §302(b) allocation under the Budget Act.) It would have continued to be subject to annual appropriations, as it is under current law.[14] (Historically, there have been very substantial variations in funding.)

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[13]Personal communication with Deborah Reis, budget analyst, Congressional Budget Office, May 9, 2000.

[14]The new §5(g) (the Social Security and Medicare provisions) affects funding not only for this portion of the bill but for the entire bill. For more on the effects of §5(g) see *Debt Reduction, Social Security, and Medicare* above. With the addition of §5(g), other factors besides budget and appropriations committee procedures could have limited funding, not only

(continued...)

Therefore, for federal LWCF, the chief budgetary differences between H.R. 701(HP) and current law and practice would have been the following:

- Annual appropriations under H.R. 701(HP) would have been limited to $450 million from CARA, and could have been less. Potentially, another $450 million could have been added via CARA to current LWCF federal acquisition. (See the section below titled *Dual Funding for Federal LWCF under H.R. 701(HP).*) Whether Congress would have actually chosen to spend more than the CARA portion is debatable.

- Under H.R. 701(HP), both the agency totals and the earmarks would have been in the appropriations bill itself, and hence clearly in law. While agencies currently may be politically constrained from moving funding from one project to another when projects are earmarked only in appropriations reports, their freedom to do so would have been eliminated if the earmarks were enacted in law.

For the provisions on Payments in Lieu of Taxes (PILT) and the Refuge Revenue Sharing Fund (RRSF), CBO similarly scored the CARA match provided in §5(d) as discretionary spending, since funding would have been contingent on congressional action, *i.e.*, providing at least a certain minimum amount in annual appropriations bills (H.Rept. 106-499, Part I, p. 51-53). For FY2002, CBO estimated $53 million in CARA funds would have been available for these two funds; the amount was scored as discretionary spending, and was therefore subject to the §302(b) allocations. An appreciable change in certainty in the funding of these two programs would therefore have been unlikely.

The Senate Provisions: All Funding Affected. While the funds for federal land acquisition would have been available "without further appropriation" under H.R. 701(SCR), §207(b) further provided that "No money shall be obligated or expended for Federal land acquisition purposes under this section unless approved in an Act making appropriations." Therefore, the funding for federal LWCF would have been considered discretionary, and any spending of these CARA funds would have counted against the Interior Appropriations Subcommittee's §302(b) allocations, as in the House version.

Moreover, the Senate Committee's §2(f) required that no CARA funds for any other programs in the bill be transferred unless Congress makes the full $450 million available for federal land acquisition in that year.[15] All funding in the bill would have been considered discretionary, and *all* of it subject to §302(b) allocations, since Congress would have had to act to enable the funds to be spent. The practical effect would have been that each of the programs contained in H.R. 701(SCR) was hardly different from an ordinary authorization. While supporters of the various programs

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[14](...continued)
for federal LWCF but for the entire bill.

[15]If OCS revenues would have been insufficient for full funding of the bill, the bill required all CARA programs to be reduced proportionately. In such a case, Congress would have to appropriate the full (but reduced) amount for federal LWCF before the rest of the bill could have been funded, also proportionately reduced.

sought "assured funding" for the various aspects of the bill, it would appear that H.R. 701(SCR) did not achieve that goal for any of the titles.

At the same time, the control Congress would have retained over spending in these programs is somewhat complex: once $450 million would have been appropriated for federal land acquisition, all of the remaining programs would have been fully funded. However, Congress could have picked and chosen among them to favor funding some programs over others, via restrictions and amendments in appropriations bills. It is unclear what advantage these changes would have offered over a simple authorization of each of these programs.

Clearly, supporters of all other aspects of this bill sought to ensure that the federal LWCF program was fully funded, probably resulting in substantial pressure on Congress to do so. All funding for the entire bill would have risen or fallen on whether Congress appropriated the full $450 million. In light of the constraints on allocations under the Budget Act, it is unclear whether the pressure to do so would have been sufficient.

Dual Funding for LWCF under H.R. 701 (HP). As approved by the House, the LWCF provisions might appear to have provided potentially less money for federal land acquisition: current law allows annual appropriations up to $900 million per year, plus any backlog of authorized but unappropriated funds, but CARA provided an appropriation of only $450 million for federal land acquisition. Yet, a closer analysis reveals that more money, in theory, might have been spent. Section 202 of H. R. 701(HP) amended §2(c) of the LWCF to provide $450 million annually for federal acquisition from the CARA fund. These funds would have been subject to annual appropriations.[16]

In addition, §203 of this bill amended §3 of the LWCF to provide up to $900 million, under existing law[17], subject to annual appropriations. It continued with a reference to amounts transferred from CARA. In its analysis (H.Rept. 106-499, Part I, p. 50-51), the Congressional Budget Office (CBO) scored these amounts as two separate items. In other words, it scored the $900 million from LWCF and $900 million from CARA for a total of $1.8 billion(both ½ federal and ½ state). Of the total, $450 million (for states) would have been available without further appropriation, while the remaining $1.35 billion was scored as discretionary spending, potentially $900 million of it available for federal land acquisition, and $450 million for state LWCF programs.[18] If past appropriations for federal land acquisition is any guide, it is highly doubtful that Interior Appropriations Subcommittees would have chosen to allocate so large a fraction of their §302(b) allocations to federal land acquisitions.

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[16]For a funding history of the LWCF, see CRS Report 97-792, *Land and Water Conservation Fund: Current Status and Issues.*

[17]Current provisions of LWCF make it clear that $900 million goes from OCS revenues *to* the fund, but are somewhat vague about how much is authorized to be taken *from* it.

[18]Additional discretionary spending would have been provided for payments from interest on CARA funds for PILT and for RRSF. See *Funding for County Payments*, below.

This bill also added new controls limiting how any federal funds (whether through CARA or the LWCF as amended by CARA) could have been spent and increased the role of Congress in making these decisions. These controls are discussed in the section titled *Property Rights*, below, and in the discussion on permanency of appropriations above.

H.R.701(SCR) had somewhat different language in its §202(b). It did not appropriate an *additional* $900 million, and instead made the $900 million in the fund (from CARA, plus 2 other relatively minor sources) available for expenditure. Thus $900 million would have been available, but subject to §2(f). (See discussion, above.) Of this, $450 million would have been available for federal land acquisition.

Much has been made of the "backlog" of over $12 billion in authorized but unappropriated funds for LWCF. Neither bill stated whether funds to address this backlog could or could not be appropriated in future Interior appropriations bills.

Property Rights

Advocates of private property owners' rights raised concerns that the availability of additional funds would have increased pressure to acquire more federal land, and that further acquisition would have been likely to center on areas where federal ownership is already concentrated. Section 10 of H.R. 701(HP) and §6 of H.R. 701(SCR) both state that property may not be taken without compensation, and that land uses on private land may not be regulated by federal agencies prior to acquisition unless authorized by Congress. The bills used somewhat different language to make these statements. The House Resources Committee report stated that regulation of private property must be "specifically authorized" by Congress.[19]

H.R. 701(HP) contained several provisions in Title II that may have responded to concerns about federal land acquisition and property rights. One change, made as a technical correction prior to House floor consideration and mentioned above, would have retained the requirement that the federal portion of the LWCF be subject to annual appropriations. The Senate version also required an annual appropriation for the federal portion of LWCF for specified acquisitions, but the language in §2(f) could have placed considerable pressure on Congress to complete this task quickly, as no money would have been released to the other CARA Fund programs until full funding was provided. Current law and other changes in the various bills include:

- Under current law, each agency transmits a list of proposed acquisitions in its budget justification; the acquisitions directed in the congressional earmarks may or may not closely resemble agency priorities. Under §205 of H.R. 701(HP) and §206 of H.R. 701(SCR), the Secretaries of Agriculture and

[19] It is not likely that exemption from regulation under the Clean Water Act or the Clean Air Act, for example, was intended, but just how broadly the language would have been interpreted is unclear.

Interior would have been required to submit a joint priority list, and Congress could have changed this list (in the appropriations bill).

- Section 205 of H.R. 701(HP) and §207 of H.R. 701(SCR) required that property be acquired from willing sellers or be specifically approved by Congress. Current law does not prohibit use of federal LWCF funds in condemnation actions, though, reportedly, this practice is very rare.
- Section 205 of H.R. 701(HP) and §207 of H.R. 401(SCR), using different legislative language, directed the two Secretaries, in preparing their lists of proposed acquisitions, to identify opportunities for consolidating holdings; identify opportunities for land exchanges and permanent easements as alternatives to acquisitions. The House version established acquisition priorities based on several specified considerations, while the Senate version relied on "best professional judgement."
- Section 205 of H.R. 701(HP) required both Secretaries to submit a list of lands eligible for disposal in appropriate land management plans when they submit their acquisition priorities to Congress. The list of disposable lands would have to be updated as land management plans are updated. This provision, offered by Representative Doolittle as an amendment during committee markup, would have provided an annual opportunity to partially offset a higher rate of acquisition by requiring that federal agencies produce a list of lands under their control for which there is "no demonstrated compelling program need" that could be traded or sold. H.R. 701(SCR) did not have a similar provision.

H.R. 701(HP) contained numerous other provisions that laid out in considerable detail the procedures – environmental analyses, public participation, specified notifications, and other processes – that federal agencies would have followed when they were using CARA funds to acquire land. Nonetheless, these provisions did not assuage property rights advocates, who continued to voice their concerns.

In sum, H.R. 701(HP) offered a package of protections to property owners that exceed those available in current law, and the House version was somewhat stronger than the Senate version. These protections might have been offset by authorizing more funds for federal acquisitions under the LWCF, but funding levels would still have been controlled through the appropriations process in both bills. Nonetheless, H.R. 701(HP) and H.R. 701(SCR) were opposed by several groups concerned over possible increases in federal land acquisition and property rights issues.

OCS Leasing and Moratoria

Some environmental interests feared that this legislation would provide incentives to expand OCS activities. Much of the OCS total acreage is currently subject to a ban on new leasing and production because of concerns that sensitive marine and coastal environments could be damaged by OCS-related activities. With these bans in place, leases currently can be offered only in the Central and Western Gulf of Mexico and a few areas off Alaska. Three separate restrictions on leasing in environmentally sensitive areas currently exist:

- **Legislative Moratoria.** Starting in FY1982, Congress has included language in each annual Interior appropriations bill prohibiting the expenditure of funds for pre-leasing or leasing activity in designated environmentally sensitive areas.[20] In general, Congress has expanded the size of areas affected by this language from year to year.

- **Administrative Directive.** In 1990, President Bush barred the executive branch from conducting leasing or preleasing work on lands under legislative moratoria until 2000: in 1998, President Clinton extended that ban until 2012.

- **Interior Department 5-Year Leasing Plan.** The Minerals Management Service designates all tracts that may be offered for lease in 5 year plans. Each plan includes a schedule of major steps leading up to each anticipated lease and a description of areas proposed for leasing; the current plan runs through 2002. The process of developing the 5 year plan, while not an actual ban, is used to decide where leasing will occur.

H.R. 701(HP) addressed the moratorium issue in §3(12), by defining "qualified Outer Continental Shelf revenues" so as to exclude revenues from tracts in areas subject to a moratorium on January 1, 1999, unless the lease was issued before the moratorium was established and was in production on January 1, 1999; the Senate version was nearly the same, but the deadlines are one year later, in 2000.

A central concern was that these bills might undermine support for offshore moratoria by creating a constituency that desired or became accustomed to receiving OCS moneys. Were the OCS revenue stream to decline to the point that the authorized activities could not have been fully funded, those accustomed to receiving funding might have sought replenishment by supporting leasing of tracts that had been off-limits to development. Supporters of the underfunded programs and projects could come together as new pro-leasing constituencies.[21]

Some held that the three approaches to moratoria already provided ample protection against leasing environmentally sensitive tracts. It was also asserted that producers' interest in OCS tracts is limited to those that can be economically developed; for would-be producers, environmental opposition is an economic drawback as well as a political and public relations liability. Others countered that the moratoria, while occurring in three places, would be only temporary, having no

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[20]Preleasing involves all the planning activities and analysis that are conducted prior to offering tracts for lease. These activities can take several years and are such a large commitment of resources that some believe that it would be difficult, as a practical matter, to halt the lease process by the time that the sale is scheduled, or to halt development after the sale. This has been a central issue in numerous court cases and administrative appeals under the Coastal Zone Management Act's federal consistency provision, which requires that all federal actions in or affecting the coastal zone be consistent with a state's program.

[21]Analogous situations have occurred in rural communities that are dependent on mining or timber activities.

permanent basis in law, and a new Administration or congressional makeup could lead to change.

Funding for County Payments

Section 5(d) of H.R. 701(HP) provided that PILT matching funds from CARA would be available if the annual appropriation for PILT under the regular appropriations bill exceeded $100 million.[22] Thus, if Congress appropriated $99 million for PILT, no CARA funds would have been spent; if it appropriated $135 million for PILT, then an additional $135 million would have been spent from CARA for PILT matching. For RRSF, CARA matching funds would be available only if funds from other sources exceeded $15 million.[23] If the total from the other sources were $15 million, CARA would have provided an additional $15 million in matching money. However, the CARA add-on could not have brought the total spending on either program above the authorization level for that program. These levels were $301 million for PILT and $28 million for RRSF in FY1999. If the CARA add-on would have provided more funding than authorized under either RRSF or PILT for that year, the excess funds would have been available, first for the other program (RRSF or PILT), and second for other CARA programs. The entire $200 million available under §5(d) was not likely to be sufficient to provide for the full payment for these two programs in the future, if amounts made available in annual appropriations bills remained at current levels.[24] This insufficiency would have been exacerbated because PILT requires annual adjustments in its formula to compensate for inflation. Table 3 shows the result that would have occurred in FY1999 (the most recent fiscal year for which full data are available for both programs) had §5(d) of H.R. 701(HP) been in effect. As shown in the table, RRSF would have been funded at 100% of the formula, and PILT would have been funded at 84.8% of its formula.

Because of the funding mechanism found in the House bill, both the amount appropriated in the annual appropriations bill, plus the CARA add-on would have been counted as discretionary spending under the Budget Act, and both would therefore have been scored under the §302(b) allocations for the Interior Appropriations Subcommittees. Thus, as a practical matter, it is unclear whether CARA would have resulted in any additional spending for PILT or RRSF, as the program was proposed in H.R. 701(HP).

H.R. 701(SCR), in §2(b)(15) and §2(c) and (d), would have appropriated such sums as may be necessary to fund the PILT program to the full authorized amount. It contained no funds for RRSF. (See Table 3 for the effects if H.R. 701(SCR) had been law in FY1999.) It should be noted that RRSF is under the jurisdiction of a

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[22]The FY2000 appropriation was $135 million. Full funding for PILT would have required $303.7 million in FY1999 (the most recent year for which an estimate is available).

[23]Total annual and permanent appropriations under existing law for RRSF were $16.5 million in FY2000. Full funding for RRSF would have required $27.9 million in FY2000 (the most recent year for which an estimate is available).

[24]CBO (H.Rept. 106-499, Part I, p. 50) estimates that about $53 million is the amount that would be available in FY2002 for discretionary spending for these two programs combined.

different Senate committee, and the omission may well reflect a desire to avoid a jurisdictional dispute, rather than an opposition to full funding of the much smaller RRSF. If so, the RRSF provisions of the House might have prevailed if the bill had reached conference.

This funding would have been considered discretionary, due to §2(f) of the Senate bill; therefore the actual appropriation would have been subject to many of the same constraints it now is.

Table 3. Amounts that would have been added under both versions of H.R. 701 to the Refuge Revenue Sharing Fund (RRSF) and Payments in Lieu of Taxes (PILT). ($ in thousands)

Funding Level	RRSF	PILT
FY1999 Appropriation	16,664	125,000
FY1999 Authorization	28,000	301,182
Amount that would have been added by H.R. 701 (HP)[c]	11,336[a]	130,328[b]
Resulting unfunded authorization under H.R. 701 (HP)	0	45,854
Amount that would have been added by H.R. 701 (SCR)	0	301,182[d]
Resulting unfunded authorization under H.R. 701 (SCR)	11,336	0

a. In this version, CARA could have matched the $16,664,000, but only $11,336,000 was needed to bring RRSF to full funding of the amount authorized in the formula. The additional $5,328,000 was therefore made available to the PILT portion of the CARA Fund match.

b. CARA provide a direct match of $125 million. Since this results in $250 million (still less than the full authorized amount in the formula), then the surplus of $5,328,000 from RRSF would have been transferred to PILT. The total ($255,328,000) would have left PILT funded at 84.8% of the authorized amount for FY1999, rather than at 41.0% as actually occurred.

c. Since the funds would be discretionary, both for the annual appropriation and the CARA add-on, availability of the entire amount would have depended on action by Congress each year.

d. In this version, the entire authorized level for PILT would have been funded by CARA, but these funds would have been subject to appropriation, per §2(f).

Side by Side Comparison of Provisions in the House-Passed Version and the Senate Committee-Reported Version of H.R. 701 with Current Law

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
General Provisions		
The CARA Fund		
Creates the CARA Fund of $2.825 billion annually, and allocates that amount to 8 listed programs. If total deposits are less than $2.825 billion, the amounts transferred to each program would be reduced proportionately. Interest accrued by the Fund, up to $200 million annually, will be used to supplement annual appropriations for 3 programs: Payments in Lieu of Taxes (PILT); Refuge Revenue Sharing Fund (RRSF); and North American Wetlands Conservation Fund. Any additional interest would be placed in the Fund (§5). (Note: Water rights are addressed in the LWCF provisions (§210).)	Creates the CARA fund of just under $3 billion, and allocates that amount to 15 listed programs. If total deposits are insufficient, the amount transferred to each program is reduced proportionately. Funds for all other programs will be made available only after funds have been appropriated for federal land acquisition under the LWCF. State and local governments may only use these funds to acquire land from willing sellers, "to the extent practicable". CARA does not affect any water rights (§2).	No similar provisions in law.
Administrative Expense Limits		
No more than 2% of the amount made available for each program may be used to pay administrative expenses. No money from the Fund may be used to administer the wildlife provisions in Title III; the law which this title amends already provides funds for administration (§6).	No general limits on administrative expenses. Limits set for some programs; maximum allowable rates vary from program to program.	The analogous current laws have varying provisions addressing administrative expenses.
Record Keeping by Federal Agencies		
The Sec. of the Interior, in coordination with the Sec. of Agriculture, is to establish record-keeping and auditing rules for state and local governments that receive and spend these funds (§7).	Similar, except also includes the Sec. of Commerce (§3).	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
State Reporting Requirements		
Requires each state to submit an annual report describing all funded activities and projects to the Sec. of Agriculture or the Interior, as appropriate, by June 15. The Sec. of the Interior will submit a report to Congress every Jan. 1 summarizing these reports and documenting how all moneys from the CARA Fund have been spent (§4).	Similar, except: includes Sec. of Commerce; no date is specified for state and local submissions; and all submissions are to discuss all acquisitions and "the circumstances surrounding each acquisition" (§4).	No similar provisions in law.
State and Local Recipient Requirements		
State and local governments are prohibited from receiving support in a subsequent year if their financial support for these programs decline from the second preceding year, unless that reduction is part of an across-the-board reduction. State and local governments are to use CARA funds to supplement, and where possible, to increase the amount of non-federal monies that are committed to programs. State and local governments must treat all CARA monies as federal funds, and can not use these monies as a non-federal match for other programs (§8).	Similar, but gives the Sec. who makes the grant to state and local government the authority to determine whether their commitment is sufficient (§5). (Note: The bill does not include any criteria for making that judgement.)	No similar provisions in law. However, see *Wildlife Conservation and Restoration* , below, on diversion of funds.
Private Property Provisions		
Private property may not be taken without just compensation. CARA funds may not be used to acquire any interest in land or apply any regulation until authorized by Congress (§10).	Private property may not be taken without just compensation. This legislation does not create any new authority for federal agencies to apply regulations on private lands (§6).	No similar provisions in any of the specific laws amended by CARA, though such property rights are protected under the constitution and other more general laws.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
CARA Funding and Federal Budget Debt/Surplus Conditions		
CARA can be funded only after the Congressional Budget Office certifies that the federal debt is being reduced on a specified schedule and that revenues for Social Security and medicare over the next 5 years will cover anticipated outlays (§5(g)).	Similar, except the Congressional Budget Office report must be submitted to Congress by Feb. 1 each year (§8).	No similar provisions in law. Social security and medicare are mandatory spending.
Signage		
Beneficiaries of CARA monies must recognize that assistance on a sign erected at an entry or focal point. The Sec. of the Interior would develop the necessary standards and guidelines (§11).	Similar (§7).	No similar provisions in law.
CARA Sunset Date		
The law terminates on September 30, 2015 (§9).	The Fund receives deposits through FY2015, and allocates monies to the specified programs through FY2016 (§2 (a) and (b)).	The LWCF terminates Sept. 30, 2015 (16 U.S.C. 4601-5).
Impact Assistance and Coastal Conservation (Coastal Assistance) – Overview		
Provides $1 billion annually in permanently appropriated monies from the CARA Fund to coastal states to address 11 specified resource conservation purposes as laid out in their federally-approved Coastal State Conservation and Impact Assistance Plan, which they are required to prepare to be eligible.	Subject to §2(f), appropriates from the CARA Fund $430 million annually to "*producing coastal states*" for coastal impact assistance, $250 million for coastal stewardship, and $100 million for cooperative fisheries programs. Specifies planning requirements and limits on how funds may be spent. The Sec. of the Interior will administer the coastal impact portion, and the Sec. of Commerce will administer the remainder.	No similar provisions in law

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Coastal Assistance – Definition of Terms		
Some of the key terms that are defined are *"coastal state"*, "*coastal population"*, "*coastal political subdivision*", "*coastline"*, "*leased tract"*, "*outer continental shelf"*, "*political subdivision"*, and "*producing state*" (§3).	Terms that are defined and added to §2 of the Outer Continental Shelf Lands Act (OCSLA), or to the new sections 31 and 32 that this bill would add to the OCSLA include "*coastal population*, "*coastal political subdivision"*, "*coastline*","*coastal state*", "*leased tract*", "*producing coastal state"*, and "*qualified Outer Continental Shelf revenues*." All definitions common to both bills are identical or nearly identical.	Many of the definitions are taken from current law, including OCSLA and CZMA.
Coastal Assistance – Funding Source and Amount		
Permanently appropriates $1 billion annually from the CARA Fund through FY2015 for impact assistance and coastal conservation (§5(b)(1)).	Subject to §2(f), appropriates from the CARA Fund $430 million annually to *producing coastal states* for coastal impact assistance, $250 million for coastal stewardship, and $100 million for cooperative fisheries programs. The fisheries program includes at least $25 million for implementing cooperative fisheries enforcement agreements and the remainder for cooperative research and management activities. Each budget submission will include a list of proposals that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the proposals from the Administration (§102 and §103).	No similar provisions in law

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Coastal Assistance – Moratorium		
Tracts are ineligible for leasing if they are in an area that was subject to a moratorium on Jan. 1, 1999, unless they were leased earlier and were in production before Jan. 1, 1999 (§3 (12) and (§101(b)(2)).	Same, except both dates are Jan. 1, 2000 (§101).	See discussion of legislative moratoria, administrative directives, and Interior Department 5 year Leasing Plan in the section of this report titled *Funding the Proposals*, above.
Coastal Assistance – Allocation Among States		
Allocation among states is based: 50% on production within 200 miles of the state from the center of each leased tract; 25% on the relative length of the shoreline, and 25% on the relative coastal population (§101(b)(1)). Each state's share will be determined based on the inverse relationship between the closest point of the state coastline and the center of each tract (§101(b)(2)). All states with approved coastal zone management programs or making satisfactory progress toward approval will receive at least 0.5% of the total amount, and others will receive at least 0.25% of the amount. (Note: The only eligible states or territories currently without approved programs are Illinois and Indiana.) If a state receives an increase because its plan is approved or progressing satisfactorily, all other states will be reduced proportionally (§101(b)(3)). Payments will be made by Dec. 31 from revenues received the preceding year (§101(d)).	All producing states will divide $245 million equally for coastal impact assistance, and split the remaining $185 million based on a ratio of revenues generated off its coast to all eligible revenues. This ratio will be recalculated every 5 years. Coastal stewardship funds will be allocated based : 50% equally; 25% on the relative length of shoreline; and 25% on the relative coastal population. Cooperative fisheries funds will be awarded in response to applications, with at least 25% of the total for cooperative enforcement agreements, and up to 5% reserved for federal technical and administrative expenses (§102 and §103).	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Coastal Assistance–Allocation Within States		
Half the allocation to each state shall be allocated among coastal political subdivisions. Subdivisions having an oil refinery shall be treated as political subdivisions located 50 miles from the center of leased tracts (and are therefore eligible to receive more) (§101(c)).	Each producing state will allocate 20% of its coastal impact assistance among political subdivisions, based: 25% on coastal population; 25% on coast line miles; and 50% on relative distance from leased tracts. Population and distance from tracts treated differently in Louisiana.	No similar provisions in law
Coastal Assistance – State Plans		
Funds provided to states with an approved Coastal State Conservation and Impact Assistance Plan (§101(a)(1)). Funds for states without approved plans are either retained in the CARA Fund or held in escrow if a state is appealing the disapproval of a plan (§101(a)(2)). Each participating state will submit a plan to the Sec. of the Interior, including plans of coastal political subdivisions in producing states, by April 1 of the year following enactment. (Note: Penalty for not completing a plan is not stated, but presumably is the loss of funds.) All plans must demonstrate public participation (§102 (a)). Five required plan elements are listed, including a discussion of how environmental concerns will be addressed, as are schedules for submission, revision, and amendment (§102 (b)).	For coastal impact assistance, eligible states are required to submit a plan to the Sec. of the Interior which lists how states and political subdivisions will use the funds. Bill specifies 6 uses. Plan amendments must be approved or rejected within 90 days. Funds not distributed because of failure to approve a plan may be redistributed among other eligible states, or held in escrow for the state if it is attempting to submit an approvable plan (§102). (Note: this provision also applies to coastal stewardship portion.) Coastal stewardship requires a state plan to be submitted by July 1, 2001, and to be updated every 5 years. Plan must be approved before funds can be dispersed. Bill specifies the plan's contents and the 10 permitted uses (§103). Cooperative fisheries grants may be allocated to states to implement projects in specified topics, with priority given to projects that address 7 topics (§103).	No similar provisions in law

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Coastal Assistance – Specified Uses of Fund		
Authorized uses of funds include: (1) data collection about coastal living marine resources; (2) conservation, restoration, enhancement or creation of coastal habitats; (3) enforcement of marine resource management laws; (4) fishery observer programs; (5) identification and control of exotic species; (6) cooperative fisheries planning between states; (7) preparing and implementing fishery or marine mammal management plans required by international agreement; (8) measuring tides and currents; (9) implementing federally-approved comprehensive conservation and management plans; (10) mitigating offshore and coastal impacts of OCS activities; and (11) initiating projects that promote education and training about coastal, ocean, and Great Lakes resources (§102(c)).	Coastal impact assistance funds may be used for: (a) all purposes under coastal stewardship; (b) wetland protection and improvement projects; (c) mitigating damage to natural resources; (d) administrative costs; (e) implementing certain federally approved conservation plans; and (f) funding onshore infrastructure and public service projects that mitigate OCS impacts (limited to 23% of available funds under program) (§102). Coastal stewardship funds may be used for: (a) activities consistent with specified coastal and marine programs; (b) protecting and improving coastal and marine habitats; (c) improving water quality from coastal non point sources; (d) multiple jurisdictional watershed protection; (e) research and monitoring coastal and marine environments; (f) addressing environmental impacts of coastal population fluctuations; (g) coastal erosion; (h) invasive species; (i) assisting local communities to protect coastal and marine environments; and j) promoting research and education about marine resources (§103). Cooperative fisheries research and management programs give priority to projects that: (a) establish observer programs; (b) foster cooperative public-private research; (c) reduce harvesting capacity; (d) identify ecosystem impacts of fishing; (e) develop sustainable aquaculture; and (f) improve coastal fisheries (§103).	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Coastal Assistance – Monitoring Activities		
States must agree to account for how the funds are spent, including fiscal controls, to be eligible to receive them (§101(a)(1)), and must report annually how these funds were spent (§4(a)). The Sec. of the Interior will use annual reports (§5) and audits to determine if all funds are being spent for the 11 specified purposes. If an expenditure is inconsistent, the recipient will not receive further grants until that amount is repaid to the CARA Fund (§102 (d)).	Under the coastal impact assistance and coastal stewardship programs, if funds are used for inconsistent purposes, states must either repay them or obligate funds for eligible uses before additional funds are provided (§102 and §103). (Note: The cooperative fisheries programs include no monitoring requirements.)	No similar provisions in law.
Land and Water Conservation Fund (LWCF) – Overview		
Authorizes appropriations from the CARA Fund to fund the LWCF, and allocates those monies among federal agencies, states, and other eligible recipients. Funds from CARA for federal agencies would require annual appropriation actions; most other money from the Fund would be permanently appropriated. In addition, funding under the LWCF Act, up to $900 million annually, would remain available and could be appropriated.	Similar, but the CARA program funding replaces the LWCF funding, rather than being in addition to it.	Allocates appropriated funds, up to $900 million annually, to federal agencies to acquire lands for LWCF purposes and to states to acquire and develop lands for LWCF purposes. Backlog (over $12 billion) of authorized funding may be available for appropriation.
LWCF – Funding Source and Amount		
Authorizes appropriations of up to $900 million annually from the CARA Fund through FY2015 (§5(b)(2)), of which $450 million for state grants is permanently appropriated. Also allows appropriations of up to an additional $900 million. OCS revenues will be used to equal the total amount needed for the Fund portion after proceeds from surplus property sales and motorboat fuel tax are deposited (§202).	Subject to §2(f), appropriates from the CARA Fund $900 million annually. The unappropriated balance currently in the LWCF is available, if appropriated (§202(b)).	§2(c)(1) of the LWCFA of 1965 authorizes $900 million per year from the fund through FY2015. §2(c)(2) authorizes using OCS revenues to fully fund the LWCF, but §3 requires that funds must be appropriated annually.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – Funding for Federal Purposes		
Allocates 50% of the funds for federal purposes (§204). The Secs. of the Interior and Agriculture must submit proposed acquisitions with the annual budget submission to appropriations and authorization committees. Considerations in preparing the list include consolidating federal holdings, using land exchanges and easements instead of acquisition, factors used to establish priorities, and identifying properties owned by willing sellers who request adverse condemnation. Both Departments also must submit a list of surplus lands for which there remains no need, to be updated as management plans are altered. Each proposed acquisition is to include a statutory citation and an explanation of why this parcel was selected. Acquisition must be approved in appropriations legislation (§205). The Secs. of the Interior and Agriculture must issue a plan for the consolidation of public and private lands in Montana (§211).	Allocates same amount (§202(c)). Identical, except: developing the acquisition list relies on best professional judgement; the acquisition list is to be submitted to the authorizing committees and, in the Senate, the Committee on Energy and Natural Resources will submit a priority list to the appropriations committee by May 1 each year; and funds may be used for pre-acquisition under certain circumstances (§207). (Note: This bill does not address surplus lands or include the Montana provisions.)	§5 allocates not less than 40% of the appropriated funds for federal programs. §7, which allows acquisition within the exterior boundaries of the National Park System, inholdings within the boundaries of national forests, and for National Wildlife Refuge System units, endangered species, and other wildlife areas, is not affected by these bills. §7(b) limits acquisition to authorized purchases, except under limited circumstances.
LWCF – Geographic Restrictions		
No provisions.	No provisions.	§7(a)(1) requires that not more than 15% of the land acquired for the National Forest System annually be west of the 100th meridian, unless specifically authorized.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – Restrictions on Federal Spending		
The federal portion may only be spent on projects that are specifically approved in an annual appropriations act. Property may only be acquired from a willing seller or if acquisition is specifically approved by Congress. (Note: congressional approval would make condemnation available under 40 U.S.C. 257.) Funds may only be spent after the Secs. provide written notice of the proposal within 30 days of the submission of the list to each affected Member of Congress, Governor, and political subdivision, and to a widely-distributed newspaper. Where acquisition has not been specifically authorized in federal law, land may not be acquired with CARA Funds until all required actions, including any environmental documents, have been completed and the specified notices provided (§205). Funding for federal LWCF requires annual appropriations, making this spending discretionary rather than mandatory. (See discussion titled *Federal LWCF: Permanent or Not*?)	Similar provisions, except the written notice requirements are replaced by a consultation requirement.	No limitations in current law; however, each agency has regulations governing acquisitions using LWCF monies. Condemnation authority is usually available to the agencies, but they report that they rarely use it.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – Funding for State and Local Purposes		
Allocates 50% of the funds to states (§204). These grants are apportioned 30% equally, and 70% based on population. No state can receive more than 10% of the total. All funds that are not awarded within 3 years will be reapportioned among the remaining states, and the 10% limit on the maximum that any state can receive will be waived for this reapportionment. Each state will make at least 50% of its annual grant amount available to local governments unless it documents to the Sec. a compelling justification each year (§206). States must have a "dedicated land acquisition fund" funded through the state budget process; any funding intended for ineligible states will be reapportioned among other states (§206(b)(2)). Any amounts appropriated under the existing LWCF for state grants (as opposed to the CARA Fund) will be allocated under a competitive grant program for projects with nationally or regionally significant environmental benefits (§206(d)).	Similar, except: apportions 60% equally and 40% based on total population (§203(b)); each state will make at least 25% of its annual grant amount available to local governments unless it documents a compelling justification not to each year (§203(b)); and purposes for which states can spend these funds are expanded to include facility rehabilitation (§203)(a).	§5 allocates not less than 40% of the appropriated funds for federal programs. §6(a), (b), and (c) apportion funds among the states for outdoor recreation planning, acquisition, and development. No state may receive more than 10% of the annual appropriation for state programs.
LWCF – Areas that Constitute a State		
The District of Columbia would be treated as 1 state. Puerto Rico, the Virgin Islands, Guam, and American Samoa together would be treated as 1 state and would subdivide their share equally (§206).	Same, except Commonwealth of the Northern Mariana Islands is included with Puerto Rico and the other entities (§203(b)	The District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, together, are treated as 1 state (§6(b)(5)). A portion of the funds are allocated equally among states, and the remainder based on relative efficiency (§6(b)(1,2, and 3)).

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – Tribes and Alaska Native Village Corporations Funding		
All federally-recognized Indian tribes and Alaska Native Village Corporations, combined, are treated as 1 state. Annual allocations are to be awarded through competitive grants. No single tribe or corporation may receive more than 10% of the total. Funds may be used only for planning and development (§206(b)).	Almost identical (§203(b)).	No similar provisions in law.
LWCF – Administrative Costs		
Not more than 2% of the funds provided for an activity may be used to pay administrative expenses associated with that activity (§6). (Note: This provision applies to all programs supported by the CARA Fund.)	Not more than 4% of the total may be deducted by the Sec. for administrative expenses (§203(b)).	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – State Plans		
States must develop Action Plans, which assess the strategic needs and identify specific actions and priorities. Public input is required. The agenda must be developed within 5 years of enactment, identify actions over the next 4 years, and be updated at least once every 5 years. The governor must certify that preparation of the Plan includes an active public participation process. Plans shall consider all conservation and recreation providers and be correlated with other relevant plans, including recovery action programs for urban areas. Current state plans developed under LWCF will remain in effect until an action plan has been adopted or up to 5 years from the date of enactment (§207). States may use these funds for incidental costs related to acquisition, and for shelters where public safety is a concern (§208).	Almost identical, except plan is required before any funds are awarded (§204 and §205).	§6(d) requires states to develop and maintain comprehensive outdoor recreation plans to be eligible to receive grants. Plans must have "ample" public participation and address wetlands. The Secretary of the Interior decides whether a state plan is adequate. §6(f) lists the requirements for federal approval of state projects. Federal funding is available to develop and maintain the plan. §6(d) and §6(e) describe eligible acquisition and development projects.
LWCF – Conversion of Properties to Other Uses		
Properties that are no longer viable for recreation or conservation facility use because of changing demographics or contamination may be converted if a state can show that no reasonable or prudent alternative exists and substitute property of equal value or usefulness can be provided. Certain wetlands within the state can be considered as reasonable equivalents (§209).	Similar, except wetlands language is not included (§209).	§6(f)(3) states properties on which LWCF funds have been spent may be converted to non-recreation uses if the Sec. agrees the change is in accord with the state plan and that the substituted property is of at least equal fair market value and equivalent usefulness and location. Wetlands are usually considered suitable replacement properties.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
LWCF – Water Rights		
Protects existing water law and rights, including interstate compacts, the rights of states to any apportioned share of water, laws protecting water quality or disposal, or conferring of federal rights to water to any non-federal entity (§210).	Water rights are not affected by any provision in this legislation (§2(h)). (Note: Applies to all programs funded by CARA; no water rights language in the LWCF title.)	No similar provisions in law.
Wildlife Conservation and Restoration – Overview		
Amends the Pittman-Robertson Act, also known as the P-R or Federal Aid in Wildlife Restoration, to create a new subprogram, the Wildlife Conservation and Restoration Program (WCRP). This program provides state grants for any wildlife species, whether game or non-game, using permanently appropriated CARA funds.	Title III is similar; subject to the funding requirement in §2(f).	P -R provides formula grants to states and territories from permanently appropriated taxes on hunting equipment. Program benefits restricted to game species.
Wildlife Conservation and Restoration – Species Benefitted		
"Wildlife" includes all fauna (animals); thus, invertebrates (*e.g*, crayfish, snails, butterflies, etc.) could benefit. (Note: Plants are excluded from benefits by this definition, while non-native animals and captive indigenous animals raised for reintroduction are not excluded.) (§302(d)).	Identical (§301(b)).	Game species only. (This program would continue unaltered.)
Wildlife Conservation and Restoration – Funding Source and Amount		
Permanently appropriates $350 million annually through FY2015 from the CARA Fund. (§5(b)(3)) and (§302 (1)).	Similar, except limit is FY2016 (§2(b)(5)); appropriates funds subject to §2(f)).	Taxes on certain hunting equipment, guns, and archery equipment are permanently appropriated. (This program would continue unaltered.)

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Wildlife Conservation and Restoration – Eligible Entities		
States, the District, and all 5 territories (§304(a)).	Similar, except federally-recognized Indian tribes are also eligible (§303).	States. For the major portion of the P-R program, Guam, Northern Mariana Islands, Virgin Islands, American Samoa and Puerto Rico are also eligible. For the P-R subprogram on hunter safety, Puerto Rico is the only ineligible territory. District of Columbia is not eligible for any part of P-R.
Wildlife Conservation and Restoration – Matching Requirements		
Federal share not to exceed 75% of estimated cost of the projects or programs (§304(a)).	Similar; federal limit is 75% (§303).	Federal share of plans and projects not to exceed 75%. (This program would continue unaltered.)
Wildlife Conservation and Restoration – Apportionment Among Eligible Entities		
Puerto Rico and the District: up to 0.5% each; Guam, American Samoa, Northern Marianas, and Virgin Islands, up to 0.1667% each; of the remainder, 1/3 in proportion to land area and 2/3 in proportion to human population. No state may receive more than 5%, nor less than 0.5% of the available amount (§304(a)). No specific portion is allocated to tribes and Alaska Native Corporations (§304). Cooperation of state agencies with tribes and Native Corporations is added as a program purpose (§301(3)).	Puerto Rico and the District: up to 0.5% each; Guam, American Samoa, Northern Marianas, and Virgin Islands, up to 0.25% each; federally recognized tribes, up to 2.25% (1/3 based on land area and 2/3 based on population of tribe; 5% maximum for any tribe). The remainder is divided among the states (1/3 in proportion to land area and 2/3 in proportion to human population). No state may receive more than 5%, nor less than 1% of the available amount (§303).	Complex formula based on population, state proportion of total land area of U.S., and state proportion of national hunting licenses; formula specifies upper and lower limits for state and territorial shares.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Wildlife Conservation and Restoration – Preventing Diversion of State Funds		
States cannot receive federal matching funds if they divert any revenues available for the conservation of wildlife as of 1/1/1999 from the designated state agency (§306).	CARA funds must supplement rather than replace funds from sport fish and wildlife restoration programs. (Note: The bill does not identify any requirements for non-diversion of funds for existing state programs. Consequences of non-compliance not specified.) (§302(2)).	License fees paid by hunters in that state may be used only for administration of that state's fish and game department.
Wildlife Conservation and Restoration – State Planning Requirements		
To be eligible, states must develop a WCRP and may use WCRP funds to plan the program. Required program features, including public participation, are specified. Limits federal share for developing and implementing state programs and their individual elements to 75%; limits each state to 10% allocation for wildlife-associated recreation (§304(a)).	Very similar. Includes 10% limit on wildlife-associated recreation and 10% limit on law enforcement (§303). Also, plan must contain provision for a Wildlife Conservation Strategy (WCS), to be developed within 5 yr of first apportionment; Secretary approves WCS if it meets 7 specified standards concerning use of best available data, integrates data on declining species; identifies habitat types, threats to species, and research; determines needed conservation actions; provides for species monitoring; provides for review and revision of WCS; provides for coordination with other land managers and other parties; among other features. (Note: Consequences of failure to develop WCS are unclear.)	States may apply to FWS for funding for individual projects or develop a comprehensive plan for multiple projects. (This program would continue unaltered.)
Wildlife Conservation and Restoration – Law Enforcement		
No specific provision, therefore appears to follow provision in current law forbidding use of funds for law enforcement.	Funding limit is 10% (§303).	P-R does not permit funding for state law enforcement programs.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Wildlife Conservation and Restoration – Wildlife Conservation Education		
Makes wildlife conservation education eligible for funding; except that education programs "that promote or encourage opposition" to hunting, trapping, or fishing are ineligible (§305).	Makes wildlife conservation education eligible for funding (§303).	No similar provisions in law.
Wildlife Conservation and Restoration – Federal Advisory Committee Act (FACA)		
Exempts federal agency coordination with state fish and wildlife agencies from FACA for all aspects of P-R and the similar Federal Aid in Sport Fish Restoration. Provision affects the existing programs under these 2 laws, as well as new P-R provisions in this amendment (§304(b)).	No similar provisions.	Advisory groups under these laws are currently subject to FACA.
Urban Park and Recreation Recovery Program (UPARR) – Overview		
Provides permanently appropriated funds to assist local governments in revitalizing and maintaining their park and recreation systems.	Similar, except appropriation subject to §2(f).	Similar, except funds are not permanently appropriated.
UPARR – Definitions and Eligibility		
Adds acquisition for and development of new recreation areas and facilities to the purposes for the program (§404). Adds new definition to §1004 of the Urban Park and Recreation Recovery Act of 1978 for "development grants" (§405). Amends §1005(a) by specifying three types of eligible urban areas based on amount of urbanization and concentration of population; current law does not define eligible areas by population concentration (§406).	Expanded program purposes are the same (§402). Development grant language is similar (§403). Amended eligible areas language is almost identical (§404).	The Urban Park and Recreation Recovery Act of 1978 defines terms, including "rehabilitation grants," "innovation grants," "at-risk youth recreation grants," and "recovery action program grants."in §1004. §1005 defines established areas and establishes project priority criteria.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
UPARR – Funding Source and Amount		
Permanently appropriates $125 million annually through the CARA Fund (§5(b)(4)). Any funds not paid or obligated in 3 years shall be reapportioned among grant recipients. Limits development grants to 3% of the total; innovation grants to 10% of the total; and grants to any state to 15% of total. Requires Sec. to set limit on portion of grant that can be used for administration (§403).	Subject to §2(f), appropriates from the CARA Fund $75 million annually. Same language, except limits federal administrative portion to 4% of total, and limits administrative expenses of grant recipients to 25% of total (§401).	§1013 authorized appropriations through FY1983, but the program received funding through FY1995.
UPARR – Conversion of Properties		
Amends §1010 of UPARR to define in greater detail the circumstances under which a property improved with funds under this Act can be converted to non-recreational uses (§410).	Almost identical (§408).	§1010 requires Secretarial approval before permitting conversion of property to non-recreational uses where UPARR funds were used.
UPARR – Grants		
Expands §1006 of UPARR to add development as a purpose for using 70% matching grants and to be able to transfer these grants to other agencies and private non-profit organizations who can provide assurances that recreation opportunities will be maintained. Only projects approved by the Sec. are eligible to receive payments (§407).	References to rehabilitation and innovation in §1006 are deleted (§405).	§1006 provides grants for rehabilitation and innovation, and advanced payments.
UPARR –Local and State Participation		
Amends §1007(a) to include development (§408). Amends §1008 of UPARR to make these provisions consistent with proposed changes in LWCF terminology and planning requirements, and to allow greater local flexibility and control of local programs (§409).	Identical (§408 and §409).	§1007(a) requires local governments to articulate their commitment to improving and maintaining their park and recreation systems. §1008 provides additional matching funds as an incentive for state participation.
UPARR – Repeal of Existing Law		

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Repeals §1015 of UPARR (§411).	Repeals §1014 and §1015 (§409).	§1014 prohibits using these funds to acquire property. §1015 contains sunset and reporting provisions.
Historic Preservation Fund – Allocation		
Permanently appropriates $100 million annually from the CARA Fund through 2015. At least half these funds are to be spent for preserving historic properties, with priority given to endangered historic properties (§501).	Subject to §2(f), appropriates from the CARA Fund $150 million annually: $75 million for state, local, and tribal historic preservation grant programs; $15 million for the battlefield protection program; and $60 million for federal preservation efforts. At least 50% of the preservation amount will be used for preserving endangered or historic properties and archeological sites, giving priority to threatened sites (§501).	§108 of the National Historic Preservation Act provides funding through 1997, and does not specify a priority for any of the funding activities. American Battlefield Protection Program authorized in §604 of P.L. 104-333.
Historic Preservation Fund – Use of Funds		
Expands the permitted uses to include national heritage areas or corridors that support historic preservation planning and development (§502).	Each budget request is to include a list of proposals that will be funded 15 days after Congress adjourns unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals for the $75 million in grants and $60 million for federal activities, with priority given for the preservation of endangered historic properties or archeological sites (§501).	§114 lists the purposes for which states can spend these funds.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Historic Preservation Fund – Battlefield Protection		
No provisions.	Priority financial assistance for Civil War battlefield sites will be given to sites identified as Priority 1 in the Civil War Sites Advisory Commission Report. New funding authority, at $15 million a year, subject to §2(f), is added, and the authorized level of $3 million annually and the sunset provision of Nov. 12, 2006 are deleted (§502).	§604 of P.L. 104-333 enacted the American Battlefield Protection Program to provide federal assistance at historic battlefields on American soil. Funding is authorized at $3 million annually for 10 years. Unobligated funds are returned to the U.S. Treasury.
Federal and Indian Lands Restoration (Land Restoration) – Overview		
Provides permanently appropriated funds on federal and Indian lands for restoration, protection of threatened resources, and protection of public health and safety (§601).	Provides appropriated funds to National Park System units that are threatened by activities within or outside the park boundaries, or need restoration or stabilization, and to Indian tribes to restore degraded lands.	A variety of existing programs may overlap these purposes, but are not permanently appropriated.
Land Restoration – Funding Source and Amount		
Permanently appropriates $200 million annually from the CARA Fund through 2015 (§5(b)(6)).	Subject to §2(f), appropriates from the CARA Fund $100 million annually to the NPS and $25 million annually to Indian tribes (§601(a) and §602(a)).	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Land Restoration – Allocation of Appropriation		
60% to DOI for lands within NPS, NWRS, and public lands under BLM (allocation between agencies not specified); 30% to USDA for NFS; 10% to DOI for competitive grants for Indian tribes (§602(b)(2)).	NPS funds are to be used to stabilize or restore resources in National Park System units. Each budget submission is to include a list of proposals that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals. No funds may be used for land acquisition, employee salaries, road or visitor center construction, routine maintenance, or projects funded by the fee demo program (§601(b)).	No similar provisions in law. (Any current funding for these purposes is appropriated annually.)
Land Restoration – Priority of Projects		
DOI and USDA prepare priority lists for use of funds, based on protection of significant resources, severity of damage or threats to resources, and protection of public health and safety. Projects must be consistent with any applicable federal land management plans (§603(c) and (d)).	Priority projects are identified in the park unit's general management plan, are authorized environmental restoration projects, or are identified as being needed to prevent immediate damage to park resources (§601(c).	No similar provisions in law.
Land Restoration – Competitive Grants to Indian Tribes		
DOI to administer grant program for tribes based on same priorities as above; no single tribe may receive more than 10% of the total grants for tribes in any fiscal year (§603(b)).	Similar (§602b).	No similar provisions in law.
Land Restoration – Tracking Progress of Activities		
By the end of the first full fiscal year that funds are available, DOI and USDA must establish a joint program to track funded activities and accomplishments (§603(e)).	No provisions.	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Conservation Easements – Overview		
Subtitle A provides a dedicated funding source for purchase of permanent easements to USDA under the Farmland Protection Program (FPP) enacted in §388 of the Federal Agricultural Improvement and Reform Act of 1996.	Provides appropriated funds to purchase easements on farmland and ranch land (§802 and §803).	While easements may be purchased under many statutes, only the Migratory Bird Treaty Act has a permanent appropriation. The FPP provides grants to state and local governments that are implementing programs to purchase easements on farmland (§388 of P.L. 104-127).
Conservation Easements – Funding Source and Amount		
Permanently appropriates $100 million annually to purchase easements under the FPP, Forest Legacy, and Urban and Community Forestry Assistance Programs from the CARA Fund through FY2015 (§5(b)(7)(A). The acreage cap for the FPP is deleted. (Note: Bill language does not identify how funds are to be divided among the three programs.)	Identical, except: limited to the FPP; and, subject to §2(f), appropriates $50 million annually, and these funds remain available until spent (§802 and §803).	The FPP authorizes $35 million to purchase easements on between 170,000 acres and 340,000 acres (§388(a) and (c)). The Forest Legacy and Urban and Community Forestry Assistance Programs are permanently authorized with no appropriations ceilings.
Conservation Easements – Grant Program Eligibility		
Sec. of Agriculture is authorized to provide grants to eligible participants to purchase conservation easements on land with prime, unique, or other productive uses. Eligible participants are states, local governments, Indian tribes, and conservation organizations meeting any of several specified criteria in the federal tax code. Any eligible participant may hold title to easement, and may enforce the conservation requirements of the easement. Monies spent under the FPP may be used to purchase either permanent easements, or partial or permanent easements in lands that are subject to a pending offer from state or local government (§701).	Identical, except that program is redefined to include ranch land (§701). (Note: Ranch land is not defined.)	The FPP allows funds to be used by state or local governments to purchase partial or full easements on land that is subject to pending offers from a state or local government.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Endangered and Threatened Species Recovery (Species Recovery) – Overview		
Permanently appropriates dedicated funding for incentives program to FWS and NMFS for recovery of listed species and their habitat; intended to increase involvement by non-federal entities in recovery of listed species and their habitat (Title VII, Subtitle B).	No provisions.	No similar provisions in law.
Species Recovery – Funding Source and Amount		
Permanently appropriates $50 million annually from the CARA Fund through FY2015 (§5(b)(7)(B)).	No provisions.	No similar provisions in law.
Species Recovery – Definitions		
Defines the terms "*endangered species"*, *"threatened species"* (identically to current law), *"Secretary"* (of the Interior or Commerce, as appropriate under ESA), *"small landowner"*, and "*species recovery agreement*" (SRA) (§715).	No provisions.	These terms are defined in various places in current law, such as within the ESA.
Species Recovery Agreements		
Sec. may enter SRAs with "persons", an undefined term (§714). SRAs have a specified beginning and end (§714(b)(7)), and terminate if the Sec. certifies that a person has not complied with its terms (§714(b)(8)). (Note: the subtitle is silent regarding renewal of SRAs.)	No provisions.	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Species Recovery – Conditions and Restrictions on Recovery Agreements		
SRAs require "persons" (on their real property) to carry out activities not otherwise required by law that contribute to recovery and/or to refrain from carrying out otherwise legal activities that would inhibit recovery (§714(b)(1)). SRAs must specify recovery goals and measures for their attainment, and monitoring to measure annual progress (§714(b)(3),(4), and (5)). Sec. reviews proposed SRAs, and proposes any necessary modifications for compliance with §714; if SRA is compliant, Sec. "shall" enter into the agreement (§714(c)).	No provisions.	No similar provisions in law.
Species Recovery – Financial Assistance		
The Sec. allocates financial assistance for approved SRAs annually or at some other agreed interval (§714(b)(9)). The Sec. must use the information from monitoring (§714(b)(5)) in disbursing financial assistance under the SRA (§714(d)). The Sec. may use the CARA Fund to assist persons in developing and implementing SRAs, under criteria that favor funding ESA recovery plans, contribute to recovery of listed species, and land owned by small landowners. Actions already required under an ESA permit or other federal law are not eligible for assistance (§713(a)-(c)). Financial assistance under an SRA does not affect any payments a person may be eligible to receive under 3 specified conservation programs. However, there can be no payments for SRAs for carrying out the same activities under these 3 programs, unless the SRA requires additional financial or management obligations beyond those specified in the 3 programs (§713(d)).	No provisions.	No similar provisions in law.

H.R. 701 (House Passed)	H.R. 701 (Senate Committee Reported)	Current Law
Payments in Lieu of Taxes (PILT) and Refuge Revenue Sharing Fund (RRSF)– Overview		
Appropriates funds up to $200 million, to provide full funding of payments to local governments for various categories of federal land under 31U.S.C., Ch. 69, and 16 U.S.C. 715s (§5(d) and (e)). Counts as discretionary spending under Budget Act	Appropriates, subject to §2(f) "such moneys as are necessary" for full payment of PILT. (RRSF not included.) (Title X.)	31 U.S.C. Ch. 69 (PILT) and 16 U.S.C. 715s (RRSF) compensate local governments for presence of certain non-taxable federal lands. Both require annual appropriations (from general fund) for full payment of formulas.
PILT/RRSF – Source of Funds		
Interest from CARA Fund (§5(d)(1)and (2)).	Directly from OCS revenues specified in 43 U.S.C. 1331(u), as amended by Title II (§1001).	PILT: annual appropriations from U.S. Treasury. RRSF: permanent appropriation of certain refuge revenues, plus annual appropriations.
PILT/RRSF – Ceiling on Appropriations		
The lesser of (a) $200 million or (b) amount appropriated under other provisions of law for PILT or RRSF (§5(d)(3)). No CARA match is available unless PILT appropriations from other sources are at least $100 million, and for RRSF, at least $15 million.	Full amount authorized under formula in PILT law (which varies from year to year) (§1001).	Full amounts authorized under formulas in PILT and RRSF laws (which vary from year to year).
Protection of Social Security and Medicare Benefits		
H.R. 701 as passed, states that no funds can be expended under the Act if they would diminish Social Security or Medicare benefit obligations (New Title VIII). (Note: There are no explicit provisions in the bill altering Social Security or Medicare benefits. This provision, and other, potentially more significant Social Security and Medicare provisions that were added to the general provisions in §5(g), are discussed in the subsection titled *Debt Reduction, Social Security, and Medicare.*)	Similar provisions (§8 and §9). §9 limits CARA funding if there is not an on-budget surplus. See discussion above titled *Debt Reduction, Social Security, and Medicare.*	No similar provisions in law.

H.R.701 (House passed)	H.R. 701 (Senate Committee Reported)	Current Law
Other Programs		
Coral Reef Conservation Program (Coral Reefs) – Overview		
No provisions.	Sec. of Commerce and Sec. of the Interior will each administer $12.5 million to fund activities to conserve and protect coral reefs. Applies to all coral reef areas in U.S., including those in political entities in free association.	No similar provisions in law.
Coral Reefs–Funding Source and Amount		
No provisions.	Subject to §2(f), appropriates from the CARA Fund $25 million annually, to be available until spent. The Sec. of the Interior and Sec. of Commerce will submit a list of priority projects with the annual budget submission that will be funded 15 days after Congress adjourns, unless it approves an alternative list; if that list is less than the authorized amount, the remainder will be spent on the Administration's proposals (§104(f)). Funds may not be used to acquire full or partial interest in lands (§104 (d)).	No similar provisions in law.
Coral Reefs – Allocation of Appropriations		
No provisions.	Funds may be used to: (a) enhance or improve coral reef management; (b) monitor and survey; (c) develop coral reef management strategies; (d) conduct education programs; and (e) enforce laws. Priority is to be given to the most critical environmental need. (§104(d)). Grant recipients may include resource management entities in states, territories or free association entities, or educational or non-governmental organizations with demonstrated expertise in marine science or coral (§104(d)(6)). Groups to be consulted in implementing this provision are listed (§104(e)).	No similar provisions in law.
Urban and Community Forestry Assistance		

H.R.701 (House passed)	H.R. 701 (Senate Committee Reported)	Current Law
§9 of the CFAA listed as 1 of the 3 programs to be funded under the Farmland Protection subtitle (§5(b)(7)) and (§702(2)).	Subject to §2(f), appropriates from the CARA Fund $50 million annually to fund §9 of the Cooperative Forestry Assistance Act of 1978 (CFAA) (§2(b)(7).	§9 of the CFAA provides financial, technical, and other assistance and grants to local governments and non profit organizations in partnership with state forestry agencies to improve the health of urban forests and to sustainably manage them.

H.R.701 (House passed)	H.R. 701 (Senate Committee Reported)	Current Law
Forest Legacy Fund		
Listed as 1 of the 3 programs to be funded under the Farmland Protection subtitle (§5(b)(7)) and (§702(2).	Subject to §2(f), appropriates from the CARA Fund $50 million annually, to remain available until spent. (Note: The bill includes no other language beyond authorizing the funding.)	§7 of the CFAA provides funds to acquire forest land, or interest in it, when it is threatened by conversion to non-forest uses.
Youth Conservation Corps Fund		
No provisions.	Subject to §2(f), appropriates $60 million annually from the CARA Fund, to be equally divided between the Chief of the Forest Service and the Sec. of the Interior and to remain available until spent, to implement Titles I and II of the Youth Conservation Corps Act, subject to the requirements of those titles (§2(b)(14)).	The Youth Conservation Corps Act (P.L. 91-378) creates a program to employ people between the ages of 15 and 19 to assist the Departments of the Interior and Agriculture to develop, preserve, and maintain lands managed by the four major federal land management agencies.
Other Forestry Assistance Programs		
No provisions.	Subject to §2(f), appropriates from the CARA Fund $25 million annually to remain available until spent, for a new rural development program, added as §21 to the CFAA. This program will provide technical assistance to rural communities to sustain rural development (§2(b)(21) and §702). Subject to §2(f), appropriates from the CARA Fund $25 million annually to implement the Rural Community Assistance Fund, enacted as §2379 of the 1996 Federal Agricultural Improvement and Reform Act (§2(b)(13)). (Note: The bill includes no other language beyond authorizing the funding.)	The CFAA has 5 components to help rural communities strengthen, diversify, and expand their local economies; this language would add a new program.. The Rural Community Assistance Fund provides education and technical assistance to revitalize forest-dependent communities by creating jobs, raising income levels, and increasing public revenues.
Non-Federal Lands of Regional or National Interest		
No provisions.	The Sec. of the Interior is to make grants for up to 50% of the total cost to states to conserve non-federal lands of clear regional or national interest because of natural, cultural, historical, or recreational values. Six priorities are specified for awarding grants. Projects where the grant would exceed $1 million must be authorized by Congress (§703). (Note: Appropriations of such funds as may be necessary are authorized, and these funds would not come from the CARA Fund.)	No similar provisions in law.

H.R.701 (House passed)	H.R. 701 (Senate Committee Reported)	Current Law
Mapping Conservation Easements		
No provisions.	The Sec. of the Interior will map all conservation easements to protect wetlands acquired by the Fish and Wildlife Service before 1977 within 4 years of enactment (§704). (Note: No funds are authorized to implement this provision.)	No similar provisions in law.

Appendix – The Clinton Administration's Lands Legacy Initiative

The Clinton Administration proposed higher funding for various natural resource protection programs through its "Lands Legacy Initiative," first announced in January 1999. It then included these proposals in its FY2000 and FY2001 budget submissions. From the first year to the second, the programs included in this initiative changed somewhat and the total amount requested increased. Some of these proposals would have required authorization as well as appropriations, but no draft legislative language accompanied the proposals either year. In FY2000, the initiative was not directly linked to the CARA proposals, but in FY2001, it replaced CARA after it became clear that CARA legislation would not be enacted.

FY2000

The Clinton Administration sought increases for more than 20 line items in the budgets of three Departments. The funding would have provided more than $1 billion, divided among the Department of the Interior (DOI)($579 million), the Department of Agriculture (USDA)($268 million), and the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA)($183 million). This would have been a total increase of $540 million from FY1999 funding for these programs.

Congress rejected many of these proposals and partially funded most others. In total, it provided $727 million for these programs, an increase of $268 million from FY1999. The House and Senate Interior Appropriations Committees both opposed the initiative. The House listed several "troubling" aspects of the proposal in the committee report (drafted but not filed), noting that most of the funds would not go to federal agencies, that a large federal maintenance backlog would not be addressed, and that some funds would be spent on purposes that are not related to the LWCF activities of the federal agencies. The Senate Appropriations Committee commented in its report (S. Rept. 106-99) that funding the proposals would change the purposes of the LWCF in many ways. The Committee stated that a minority of the LWCF funding would be spent for purposes currently funded through it and called for authorizing these changes before funds were appropriated. The report also stated that the Committee supported many existing programs that the Administration proposed increased funding for, but at lower funding levels.

While the normal appropriations process did not result in substantial funding for the Clinton Administration proposals, negotiations on the Consolidated Appropriations for FY2000 (H.R. 3194), which combined five appropriations bills that were not enacted individually, resulted in providing an additional $197.5 million to implement aspects of the Lands Legacy Initiative in a separate Subtitle VI of the Interior Appropriations. Most of these funds were for land acquisition. The Forest Service (located in the Agriculture Department, but funded in the Interior Appropriations) received $81 million, of which $61 million was allocated to the Baca Ranch acquisition and $5 million to the Forest Legacy Program. Agencies in the Department of the Interior received the remaining $116.5 million, with $20 million earmarked to the LWCF state grant program, $5 million for maintenance in the

National Park System, $10 million for restoring the Elwha River ecosystem, up to $35 million for state grants for land acquisition in Florida, up to $19.5 million to acquire mineral rights in the Grand Staircase-Escalante National Monument, up to $5 million to protect the California Desert, and up to $2 million to protect the Rhode Island National Wildlife Refuge Complex. The legislation also requires that expenditures of the remaining unearmarked funds -- $15 million for the Forest Service, and at least $20 million for the Department of the Interior agencies -- must be approved by the House and Senate Appropriations Committees before they could occur; the list of proposals was submitted in December and the funds were released in early 2000.

The state grant program under the LWCF received $40 million for FY2000 from the regular appropriation and the Title VI appropriation, combined (plus $1 million for program administration). This program had not been funded since FY1995, and states and localities had been actively seeking these funds. On February 14, the Administration announced the distribution of funds. The press release noted that states must match these funds, and that they could be used to "acquire land or easements," but did not mention that they also could be used for development. California received the most money, almost $3.2 million. The next highest state was Texas, with slightly less than $1 million. Wyoming received the least, $341,000.

FY2001

The Administration slightly revised the components of its initiative in FY2001, replacing three programs with three others. It sought an overall increase of $673 million, to $1.4 billion. Added programs included a Coastal Impact Assistance Fund, the Pacific Salmon Recovery Fund, and grants to states for non-game wildlife, all programs that would have been funded through various CARA proposals. The proposal would have provided $735 million to DOI, $429 million to NOAA, and $236 million to USDA. As in FY2000, no authorizing legislation was included with the package.

More specifically, the Lands Legacy Initiative, as proposed in FY2001, would:

- Fund federal land acquisition through the LWCF, including lands in southern California, the New Jersey-New York watershed, Florida Everglades, Civil War battlefields, the Lewis and Clark trail, lower Mississippi River delta, the Northern Forest, and the Chesapeake Bay watershed. The cost would be $450 million, an increase of $25 million.
- Provide grants to states and localities to acquire land through the state-side grant program under the LWCF. Funding for development projects would be limited. The cost would be $150 million, an increase of $109 million.
- Provide matching grants to states through the Department of the Interior to develop open space and "smart growth" management strategies. The cost would be $50 million; this proposal went unfunded last year.
- Initiate a new revolving loan fund at the Department of Agriculture to support acquisition of land and easements in rural areas based on "smart growth"

principles. The cost would be $6 million; this program was not authorized last year.

- Expand funding for other programs, including the Cooperative Endangered Species Conservation Fund, the Forest Legacy Program, Urban and Community Forestry Program grants, the North American Wetlands Conservation Fund, and State Non-Game Wildlife Grants. The cost would be $295 million, a increase of $196 million.
- Provide matching grants and technical assistance for the restoration of parks in economically-distressed urban areas under the Urban Parks and Recreation Recovery Program. The cost would be $20 million, an increase of $18 million.
- Increase funding for the Marine Sanctuaries Program to strengthen protection at the 12 designated sites. The cost would be $35 million, an increase of $10 million from FY2000.
- Increase funding through matching grants for state coastal zone management programs help states and communities address the "significant and costly impacts" of growing population, polluted runoff, and deteriorating coastal habitats. The cost would be $157 million, an increase of $95 million.
- Improve management at the 25 sites in the Estuarine Research Reserve System. The cost would be $20 million, an increase of $8 million.
- Expand a NOAA program to protect coral reefs from pollution and other human impacts, restore injured reefs and develop a coral nursery. The cost would be $15 million, an increase of $9 million.
- Enact a new coastal impact assistance program to fund efforts to minimize environmental risks from coastal development. The cost would be $100 million.
- Increase support for the Pacific Coastal Salmon Recovery Fund, which helps states, local government and Tribes undertake fishery recovery activities. The cost would be $100 million, an increase of $42 million.

Congress initially responded through the regular appropriations process by providing much less funding than the Clinton Administration had requested in the Interior and Commerce appropriations funding bills. For example, the Administration requested $450 million for federal land acquisition under the LWCF, but the House provided $184 million and the Senate Appropriations Committee provided $180 million. (For a table comparing the FY2000 request, the FY2000 appropriation, and the FY2001 request by program, see CRS Report RS20471, *The Administration's Lands Legacy Initiative in the FY2001 Budget Proposal – A Fact Sheet*.)

As Congress was finishing its actions on the FY2001 Interior Appropriations, however, congressional appropriators and the Administration reached an agreement to fund the Lands Legacy Initiative for 6 years through the annual appropriations process. Members of Congress described this agreement as a shorter and less expensive alternative to CARA. The Interior Appropriations conference committee added a new Title VIII on land conservation with two parts. One part of this title provides $686 million for Lands Legacy programs in FY2001 in addition to what is already provided in the normal agency appropriations for these programs, making the total appropriation for these programs $1.2 billion. The amount is divided as follows:

- $540 million for federal and state LWCF;
- $300 million for state and other conservation programs;
- $160 million for urban and historic preservation programs;
- $150 million for public land maintenance and facility rehabilitation; and
- $50 million for the payment-in-lieu-of-taxes program (an additional $400 million to fund NOAA programs in FY2001 only is provided through Commerce Appropriations and discussed below) .

The second part proposes to fund these programs, increasing the total amount by $200 million annually, for the next 5 years. Interior (and Commerce) programs could receive a total of up to $12 billion over the 6 years. However, all funds each year will have to be provided through the annual appropriations process; none of the funding is mandatory, as supporters of CARA had sought. To protect these funds from being used for other purposes, the legislation uses what proponents characterize as a "fencing structure" to separate these funds from other Interior appropriations and to separate each of the five categories listed above from each other. This fencing structure applies only to the first $1.6 billion, and would not apply to any increases in future years. Also, any funds not appropriated in one year could be appropriated in a subsequent year. The FY2001 Commerce Appropriations do not contain any provisions that are comparable to this second part.

The agreement, however, called for an additional $400 million to be provided for coastal and marine programs in FY2001 in the Commerce Appropriations. The language, in Title IX of P.L. 106-554, actually provides $420 million. The FY2001 funding would be divided as follows:

- $150 million for coastal impact assistance;
- $135 million for ocean, coastal, and conservation programs (all earmarked); and
- $135 million for National Oceanic and Atmospheric Administration programs (NOAA is to submit a spending plan for these funds to the appropriations committees by February 28, 2001).