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SENATE

{ REPORT
115-423

RESTORE OUR PARKS ACT

DECEMBER 6, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 3172]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 3172) to amend title 54, United States Code, to establish, fund, and provide for the use of amounts in a National Park Service Legacy Restoration Fund to address the maintenance backlog of the National Park Service, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

“104908. National Park Service Legacy Restoration Fund.”.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Restore Our Parks Act”.

SEC. 2. NATIONAL PARK SERVICE LEGACY RESTORATION FUND.

(a) IN GENERAL.—Chapter 1049 of title 54, United States Code, is amended by adding at the end the following:

“104908. National park service legacy restoration fund

“(a) DEFINITIONS.—In this section:

“(1) FUND.—The term ‘Fund’ means the National Park Service Legacy Restoration Fund established by subsection (b).

“(2) PROJECT.—The term ‘project’ means the overall plan of remediation of deferred maintenance for an asset, which may include resolving directly related infrastructure deficiencies of the asset.

“(b) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ‘National Park Service Legacy Restoration Fund’.

“(c) DEPOSITS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for each of fiscal years 2019 through 2023, there shall be deposited in the Fund an amount equal to 50 percent of all energy development revenues due and payable to the United States from oil, gas, coal, or alternative or renewable energy development on Federal land and water that would otherwise be credited, covered, or deposited as miscellaneous receipts under Federal law.

“(2) MAXIMUM AMOUNT.—The amount deposited in the Fund under paragraph (1) shall not exceed \$1,300,000,000 for any fiscal year.

“(3) EFFECT ON OTHER REVENUES.—Nothing in this section affects the disposition of revenues that—

“(A) are due to the United States, special funds, trust funds, or States from mineral and energy development on Federal land and water; or

“(B) have been otherwise appropriated under Federal law, including the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432), the Mineral Leasing Act (30 U.S.C. 181 et seq.), and chapter 2003.

“(d) AVAILABILITY OF FUNDS.—Amounts deposited in the Fund shall be available to the Secretary without further appropriation or fiscal year limitation.

“(e) INVESTMENT OF AMOUNTS.—

“(1) IN GENERAL.—The Secretary may request the Secretary of the Treasury to invest any portion of the Fund that is not, as determined by the Secretary, required to meet the current needs of the Fund.

“(2) REQUIREMENT.—An investment requested under paragraph (1) shall be made by the Secretary of the Treasury in a public debt security—

“(A) with a maturity suitable to the needs of the Fund, as determined by the Secretary; and

“(B) bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(3) CREDITS TO FUND.—The income on investments of the Fund under this subsection shall be credited to, and form a part of, the Fund.

“(f) USE OF FUNDS.—Amounts in the Fund shall be used for the priority deferred maintenance needs of the Service, as determined by the Secretary, to carry out repair, restoration, or rehabilitation projects as follows:

“(1) Not less than 65 percent of amounts in the Fund shall be allocated for non-transportation projects, including—

“(A) historic structures, facilities, and other historic assets;

“(B) structures, facilities, and other nonhistoric assets that relate directly to the visitor experience, including—

“(i) access, including making facilities accessible to visitors with disabilities;

“(ii) health and safety; and

“(iii) recreation; and

“(C) administrative facilities, water and utility systems, and employee housing.

“(2) The remaining amounts in the Fund may be allocated to road, bridge, tunnel, or other transportation-related projects that may be eligible for funding made available to the Service through—

“(A) the transportation program under section 203 of title 23; or

“(B) any similar Federal land highway program administered by the Secretary of Transportation.

“(g) PROHIBITED USE OF FUNDS.—No amounts in the Fund shall be used

“(1) for land acquisition;

“(2) to supplant discretionary funding made available for the annually recurring facility operations, maintenance, and construction needs of the Service; or
 “(3) for bonuses for employees of the Federal Government that are carrying out this section.

“(h) SUBMISSION OF LIST OF PROJECTS TO CONGRESS.—As soon as practicable after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress—

“(1) a list of each project that—

“(A) as of the date of enactment of this section, is identified by the Secretary as a highest-priority deferred maintenance project of the Service; and

“(B) as of the date of the report, is ready to be commenced immediately; and

“(2) for any project identified under paragraph (1)(A) that is not ready to be commenced immediately, a schedule for the completion of all reviews with respect to the project (including the preparation of any environmental documents and historic preservation analyses) that are necessary to commence the project immediately.

“(i) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, as part of the annual budget submission of the President—

“(1) a report that describes, and provides an explanation for, any cost overruns or delays relating to deferred maintenance projects carried out using amounts from the Fund for the previous fiscal year; and

“(2) a list of projects for which the amounts in the Fund are allocated under this section, including a description and cost-benefit analysis of each project, after considering the list and schedules submitted under subsection (h).

“(j) PUBLIC DONATIONS.

“(1) IN GENERAL.—The Secretary and the Director may accept public cash or in-kind donations that advance efforts—

“(A) to reduce the deferred maintenance backlog of the Service; and

“(B) to encourage relevant public-private partnerships.

“(2) CREDITS TO FUND.—Any cash donations accepted under paragraph (1) shall be credited to, and form a part of, the Fund.

“(3) REPORTING.—Each donation received under paragraph (1) that is used for, or directly related to, the reduction of the deferred maintenance backlog of the Service shall be included with the annual budget submission of the President to Congress.

“(k) ANNUAL REPORTS.—Not later than 1 year after the date on which the first distributions are made from the Fund and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that describes, with respect to each project provided amounts from the Fund during the period covered by the report—

“(1) any progress with respect to the project, including a comparison of the progress with respect to other highest-priority deferred maintenance projects of the Service;

“(2) the expenditure of amounts from the Fund with respect to the project; and

“(3) the projected cyclic maintenance needs of the project on completion of the project.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1049 of title 54, United States Code, is amended by adding at the end the following:

“104908. National Park Service Legacy Restoration Fund.”.

SEC. 3. GAO STUDY.

Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study with respect to the implementation of the National Park Service Legacy Restoration Fund under section 104908 of title 54, United States Code (as added by section 2(a)) (referred to in this section as the “Fund”), including whether the Director of the National Park Service is, with respect to projects carried out using amounts from the Fund—

(A) properly estimating the cost for those projects;

(B) adhering to time schedules and cost projections for those projects;

(C) properly prioritizing deferred maintenance projects; and

(D) properly moving completed projects off of the high-priority deferred maintenance list of the National Park Service in a timely manner; and

(2) submit to Congress a report that describes the results of the study under paragraph (1).

PURPOSE

The purpose of S. 3172 is to amend title 54, United States Code, to establish, fund, and provide for the use of amounts in a National Park Service Legacy Restoration Fund to address the maintenance backlog of the National Park Service (NPS).

BACKGROUND AND NEED

On August 25, 1916, President Woodrow Wilson signed into law legislation commonly known as the Organic Act (Public Law 64–235, 39 Stat. 535; 54 U.S.C. 100101, 100301) establishing the NPS. The NPS administers the National Park System with an overarching purpose established in the Organic Act: “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” Since the establishment of the NPS, the National Park System has expanded from 35 national parks and monuments to 417 units encompassing more than 84 million acres in every State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands.

The National Park System is comprised of 28 different types of units or designations, including national parks, preserves, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, parkways, reserves, and scenic rivers and trails. The NPS also administers other programs that assist State, local, and tribal governments and private organizations and help protect the nation’s history, culture, recreational opportunities, and natural sites, including the National Register of Historic Places, National Heritage Areas, National Wild and Scenic Rivers, National Historic Landmarks, National Trails, and the Rivers, Trails, and Conservation Assistance Program.

Annual visitation to units of the National Park System has risen from approximately 273 million visitors in 2006 to nearly 331 million visitors in 2017, an increase of almost 58 million visitors. At the same time, park staffing levels have decreased slightly over the same period. The NPS has noted that increased attendance at parks over the years leading up to the Centennial celebrations put additional strain on park infrastructure. Meeting its mission of “preserv[ing] unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations” has become increasingly challenging for the agency given these constraints.

The NPS defines deferred maintenance (DM) as maintenance that was not done as scheduled or as needed. The “list” or estimate of items to be completed in the DM category are generally referred to as the “maintenance backlog.” As of September 30, 2017, this amount was estimated at \$11.6 billion for all park units nationwide. Although all federal land management agencies have some DM, the NPS has the largest backlog.

With a total estimated DM backlog of \$11.6 billion, the NPS generally categorizes these needs into transportation (paved roads and structures) and non-transportation needs. Currently, the backlog is nearly evenly split between these two categories, with \$5.9 billion in the transportation-related category, which includes items like

bridges, tunnels, paved parking areas, and paved roads and roadways. The other portion, or all other facilities, includes items like buildings, housing, campgrounds, waste water systems, water systems, monuments, towers, and interpretive media.

Unmet DM may damage park resources, compromise visitors' experiences in the parks, and jeopardize safety. For these reasons, NPS DM has been a topic of concern for Congress and for non-federal stakeholders. The congressionally-chartered National Park Foundation and local cooperating associations and friends groups also provide significant financial support to park units across the system. In addition to raising funds from philanthropic organizations, the NPS also uses hundreds of thousands of volunteers, whom have collectively volunteered millions of hours of service each year. These volunteers, just like friends groups, often work on DM needs. Finally, the NPS uses public-private partnerships and historic leasing authorities as a means to address the DM in some park units.

Annual appropriations have historically lagged below the annual DM amount reported to Congress. In recent years, Congress has undertaken a number of efforts to increase non-appropriated funding to address the NPS DM issue. These include the National Park Service Centennial Act (Public Law 114-289), which created a Centennial Challenge Fund and Second Century Endowment; Public Law 113-40 that provided mandatory funding from federal Helium sales for DM over two years; Public Law 113-235 that increased the authorization of appropriations ceiling for the Volunteers in Parks program, and Public Law 113-291, which provided a new means of enhancing private funding through donor recognition and the issuance of a commemorative coin to recognize the NPS Centennial.

Despite all of these efforts, the NPS DM backlog has continued to grow over time. As such, this issue has garnered significant interest from both the Administration and Members of Congress. The President's FY 2019 Budget includes a proposal for a Public Lands Infrastructure Fund to fund deferred maintenance needs in the National Park System, along with National Wildlife Refuges and Bureau of Indian Education Schools.

LEGISLATIVE HISTORY

S. 3172 was introduced by Senators Portman, Warner, Alexander, and King on June 28, 2018. The National Parks Subcommittee held a hearing on S. 3172 on July 11, 2018.

During the 114th Congress, the Committee reported S. 2012, the Energy Policy Modernization Act of 2016 (S. Rept. 114-138). Section 5001 of that bill established a National Park Service Maintenance and Revitalization Conservation Fund and credited it with \$150 million annually from revenues from Outer Continental Shelf oil and gas development. S. 2012 passed the Senate on a vote of 85-12 on April 20, 2016.

Identical language has been included in the 115th Congress in S. 1460, the Energy and Natural Resources Act of 2017, sponsored by Senators Murkowski and Cantwell. S. 1460 was placed on the Senate Calendar under Rule 14 on June 29, 2017 (Cal. 162).

Also during the 115th Congress, a number of bills were filed in both the Senate and the House of Representatives that would work

to reduce the maintenance backlog of the NPS. S. 3172, which was filed on June 28, 2018, by Senators Portman, Warner, Alexander, and King, includes language and concepts from several of these bills.

At its business meeting on October 2, 2018, the Committee on Energy and Natural Resources, on a recorded vote, ordered S. 3172 favorably reported as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority vote of a quorum present, recommends that the Senate pass S. 3172, if amended as described herein.

The roll call vote on reporting the measure was 19 yeas, 4 nays, as follows:

YEAS	NAYS
Ms. Murkowski	Mr. Barrasso
Mr. Flake *	Mr. Risch *
Mr. Daines	Mr. Lee
Mr. Gardner	Mr. Cassidy *
Mr. Alexander	
Mr. Hoeven *	
Mr. Portman	
Ms. Capito	
Ms. Cantwell	
Mr. Wyden *	
Mr. Sanders *	
Ms. Stabenow *	
Mr. Manchin	
Mr. Heinrich	
Ms. Hirono	
Mr. King	
Ms. Duckworth *	
Ms. Cortez Masto	
Ms. Smith	

* Indicates vote by proxy.

COMMITTEE AMENDMENT

During its consideration of S. 3172, the Committee adopted an amendment in the nature of the substitute offered by Senator Portman, which makes several changes to the legislation. These changes include adding a definitions section (subsection a); clarifying the language in the “deposits” section to better define the revenues to be deposited in the Fund; change from “high-priority” to “priority” deferred maintenance needs in the “Use of Funds” section, as well as an additional descriptor of repair, restoration, or rehabilitation projects in this section; the creation of a floor of not less than 65 percent of the amount of the amounts in the Funds to be allocated for non-transportation projects; rather than a strict 65/35 split on transportation/non-transportation projects, the new language allows the Secretary, at their discretion, to use remaining funds, beyond the floor of 65 percent, on transportation related projects, should they so choose; the addition of the prohibition of

bonuses for employees of the Federal Government to the Prohibited Use of Funds section; striking the original project approval language to avoid constitutional concerns and replacing it with a new “Submission to Congress” section.

The Committee further adopted second degree amendments during the hearing that impose additional reporting requirements on the Secretary. These amendments include a requirement to submit to relevant Congressional committees, as soon as practicable upon enactment, a list of each project that is identified by the Secretary as highest—priority deferred maintenance, and as of the date of the report, is ready to begin work, and for any project that may experience delays, a schedule for completion including a timeframe for necessary compliance work. An additional second degree amendment was adopted that requires the Secretary to submit to relevant Congressional committees, as part of the annual budget, a report that describes and provides an explanation for any cost overruns or delays relating to deferred maintenance projects carried out using amounts from the Fund for the previous fiscal year; and a list of projects for which the amounts in the Fund are allocated, including a description and a cost-benefit analysis of each project. The Committee further adopted a second degree amendment which requires that, not later than one year after the date on which the first distributions are made from the Fund and annually thereafter, the Secretary submit to the appropriate Congressional committees a report describing the amounts provided from the National Park Service Legacy Restoration Fund (Fund) for each project for the period covered, as well as any progress made on the project, including a comparison of the progress with respect to other highest-priority deferred maintenance projects of the Service, and the projected cyclic maintenance needs of the project upon completion. Finally, the Committee adopted a second degree amendment that requires the Comptroller General of the United States, not later than two years after enactment, to conduct a study with respect to implementation of the Fund, including whether the Director of the Park Service is, with respect to projects carried out using amounts from the Fund, properly estimating the cost for projects, adhering to time schedules and cost projections, properly prioritizing deferred maintenance projects, and properly moving completed projects off of the high-priority deferred maintenance list of the NPS in a timely manner.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Sec. 2. National Park Service Legacy Restoration Fund

Subsection (a) amends chapter 1049 of title 54, United States Code, by adding a new section at the end. This new section 104908 would establish the National Park Service Legacy Restoration Fund as follows:

New subsection (a) contains key definitions.

New subsection (b) establishes in the Treasury of the United States a fund, to be known as the “National Park Service Legacy Restoration Fund” (Fund).

New subsection (c) provides that for each of fiscal years 2019 through 2023, an amount would be deposited into the Fund equal to 50 percent of all federal energy development revenues from oil, gas, coal, or alternative, or renewable energy development on Federal land and water that would otherwise be credited, covered, or deposited as miscellaneous receipts under Federal law. The amount deposited into the Fund shall not exceed \$1,300,000,000 for any fiscal year. Nothing credited to the Fund shall affect the disposition of revenues that have otherwise been appropriated under Federal law, including special funds, trust funds, or States from mineral and energy development on Federal land and water; or have been otherwise appropriated under Federal law, including the Gulf of Mexico Energy Security Act of 2006, the Mineral Leasing Act, and the Land and Water Conservation Fund.

New subsection (d) provides that amounts deposited in the Fund shall be available to the Secretary of the Interior (Secretary) without further appropriation or fiscal year limitation.

New subsection (e) allows the Secretary to request the Secretary of the Treasury to invest any portion of the Fund that is not, as determined by the Secretary, required to meet the current needs of the Fund. Any investment requested by the Secretary shall be made by the Secretary of the Treasury in a public debt security with a maturity date suitable to the needs of the fund, as determined by the Secretary; and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. The income on investments of the Fund shall be credited to, and become part of, the Fund.

New subsection (f) provides that amounts in the Fund shall be used for the high priority deferred maintenance needs of the NPS, as determined by the Secretary, to carry out repair, restoration, or rehabilitation projects. Not less than 65 percent of amounts in the Fund shall be allocated for non-transportation projects, including historic structures, facilities, and other assets; access, including making facilities accessible to visitors with disabilities; health and safety; recreation; and administrative facilities, water and utility systems; and employee housing. The remaining amounts in the Fund may be allocated to road, bridge, tunnel, or other transportation-related projects that may be eligible for funding made available to the NPS through the transportation program under section 203 of title 23; or any similar Federal land highway program administered by the Secretary of Transportation.

New subsection (g) prohibits amounts in the Fund from being used for land acquisition; to supplant discretionary funding made available for the annually recurring facility operations, maintenance, and construction needs of the NPS; or for bonuses of employees of the Federal government that are carrying out this Fund.

New subsection (h) requires, as soon as practicable upon enactment, the Secretary submit to the appropriate committees of Congress a list of each project that, as of the date of enactment of this section, is identified by the Secretary as a highest-priority deferred maintenance project of the NPS; and as of the date of the report, is ready to be commenced immediately. For any project that is not ready for immediate commencement, the Secretary shall submit a schedule for the completion of all reviews with respect to the

project, including the preparation of any environmental documents and historic preservation analyses that are necessary to begin immediately.

New subsection (i) requires the Secretary to submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, as a part of the annual budget submission of the President, a report that describes, and provides an explanation for, any cost overruns or delays relating to deferred maintenance projects carried out using amounts from the Fund for the previous fiscal year; and a list of projects for which the amounts in the Fund are allocated under this section, including a description and cost-benefit analysis of each project.

New subsection (j) authorizes the Secretary and the Director of the NPS to accept public cash or in-kind donations that advance public efforts to reduce the deferred maintenance backlog of the NPS and encourage relevant public-private partnerships. Any cash donations accepted under this authority shall be credited to, and become a part of, the Fund. Each donation received under this authority that is used for, or directly related to, the reduction of the deferred maintenance backlog of the National Park Service shall be included with the annual budget submission of the President to Congress.

New subsection (k) requires the Secretary, not later than one year after the date on which the first distributions are made from the Fund and annually thereafter, to submit to the appropriate Congressional committees a report that describes, with respect to each project provided amounts from the Fund in the period covered by the report, any progress with respect to the project, including a comparison of the progress with respect to other highest-priority deferred maintenance projects of the National Park Service; the expenditure of amounts from the Fund with respect to the project; and the projected cyclic maintenance needs of the project upon completion.

Subsection (b) amends the table of sections for chapter 1049 of title 54, United States Code, by adding "104908. National Park Service Legacy Restoration Fund." at the end.

Sec. 3. GAO Study

Section 3 authorizes the Comptroller General of the United States, not later than two years after the date of enactment of the Act, to conduct a study with respect to the implementation of the Fund, including whether the Director of the NPS is, with respect to projects carried out using amounts from the Fund, properly estimating the cost for those projects; adhering to time schedules and cost projections for those projects; and properly moving completed projects off of the high-priority deferred maintenance list of the National Park Service in a timely manner. The Comptroller General shall submit a report to Congress that describes the results of this study in a timely manner.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

Summary: S. 3172 would require that proceeds from certain leases involving energy resources on public lands be deposited into a new fund in the Treasury. Under the bill, the National Park Service (NPS) could spend amounts in the fund without further appropriation, including interest credited to unspent balances, on deferred maintenance and infrastructure projects. The NPS also could accept and spend any cash or in-kind donations received from the public for such projects. CBO estimates that enacting S. 3172 would increase net direct spending by \$6.4 billion over the 2019–2028 period.

The bill also would require the Government Accountability Office to report on the NPS’s use of the fund. CBO estimates implementing that provision would cost less than \$500,000; such spending would be subject to the availability of appropriated funds.

Because enacting the bill would affect direct spending, pay-as-you-go procedures apply. The bill would not affect revenues.

CBO also estimates that enacting S. 3172 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

S. 3172 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 3172 is shown in the following table. The costs of the legislation fall within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019–2023	2019–2028	
INCREASES IN DIRECT SPENDING													
Estimated Budget Authority	1,300	1,333	1,373	1,409	1,422	122	92	66	39	19	6,837	7,175	
Estimated Outlays	0	26	92	289	622	963	1,221	1,248	1,112	794	1,029	6,397	

S. 3172 would require the Government Accountability Office to conduct a study. CBO estimates implementing that provision would cost less than \$500,000; such spending would be subject to the availability of appropriated funds.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the start of 2019.

CBO estimates that enacting S. 3172 would make \$7.2 billion in new budget authority available to the NPS for deferred maintenance and infrastructure projects; resulting outlays would total \$6.4 billion over the 2019–2028 period. Those funds would be available to the NPS without further appropriation.

Energy leases

S. 3172 would establish the National Park Service Legacy Restoration Fund in the Treasury and would deposit 50 percent of the proceeds received from federal offshore and onshore energy leases over the 2019–2023 period into that fund, subject to an annual limit of \$1.3 billion. Amounts in the fund would be available to the NPS for infrastructure projects, subject to various conditions, including a requirement that amounts available under current law for revenue sharing with states and other purposes not be affected.

CBO estimates that future proceeds from energy leases would be sufficient to allow \$1.3 billion to be deposited into the fund each fiscal year from 2019 through 2023. In CBO’s April 2018 baseline, CBO projects that gross offsetting receipts from offshore and on-

shore leases will total about \$40 billion over that five-year period. CBO estimates that approximately 55 percent of the gross receipts collected in 2018 will be distributed to states or allocated for other purposes under current law. Although that percentage could change, CBO anticipates that there will be more than the bill's limit of \$1.3 billion available, so that the maximum amount would be deposited each year.¹

Intragovernmental interest

S. 3172 would authorize the NPS to spend any interest credited to unspent balances in the fund. Under the bill, the Department of the Treasury would be authorized to pay interest on any balances that are not needed for current expenditures. Based on the projected spending patterns for the activities authorized by the bill (discussed below) and the economic assumptions underlying CBO's baseline projections, CBO estimates that implementing this provision would increase the amounts added to the fund by \$675 million over the 2019–2028 period.

Spending of funds

CBO expects that under S. 3172, amounts would be deposited into the fund at the end of a fiscal year and effectively would not be spent until the following year. Accordingly, CBO estimates that there would be no spending in 2019.

Using information from the NPS, CBO expects that initially the agency would hire additional staff for project management, planning, and design work. The bill would require that not less than 65 percent of amounts in the fund to be allocated toward nontransportation projects; however, CBO anticipates that projects funded would include a mix of transportation, water and utility, and restoration and reconstruction projects.² According to the NPS, the time from start to completion has ranged from 30 months (for smaller-scale projects) to five years (for transportation projects). Using information from the agency and based on historical spending patterns for similar activities, CBO estimates that spending from the fund would be comparatively slow in the early years and would peak over the 2024–2027 period as larger-scale projects were completed. Most projects would be completed by 2028, however we expect that the NPS would continue to spend any remaining balances in the fund after 2028.

Donations

S. 3172 would authorize the NPS to accept cash and in-kind donations; such collections are treated as reductions in direct spending. The donations would become part of the special fund and

¹The amounts deposited into the fund could be affected by factors (such as the mix of leases for offshore and onshore activities, which are distributed differently under current law) or by policy changes (for example, the authority to transfer certain proceeds from energy leases to the Land and Water Conservation Fund expired at the end of fiscal year 2018).

²The costs of individual projects depend on type and scale. For example, the NPS estimated the cost of deferred maintenance along the George Washington Memorial Parkway near Washington, D.C., at about \$475 million in 2015. (See Government Accountability Office, *National Park Service: Process Exists for Prioritizing Asset Maintenance Decisions, but Evaluation Could Improve Efforts*, GAO-17-136, December 2016, www.gao.gov/products/GAO-17-136.) The estimated cost to rehabilitate a campground at Yosemite National Park is \$1 million. More information about the NPS's projects is included in Department of the Interior, *Budget Justifications and Performance Information: Fiscal Year 2019, National Park Service* (February 2018), www.doi.gov/bpp/budget-justifications.

would be available to spend without further appropriation. CBO expects that donations would be offset by expenditures and that the net effect on direct spending would be negligible.

Uncertainty: CBO aims to produce cost estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. Spending could be higher or lower for several reasons:

- Prices or quantities of energy resources produced on federal lands could be significantly lower in the future than what CBO estimated in its baseline projections; in that case less money would be available for the infrastructure projects authorized by the bill. (If prices or quantities produced were significantly higher, no more money would be available for infrastructure projects because the amount that can be deposited into the fund is capped at \$1.3 billion each year through 2023.)
- The number, type, and scale of projects pursued by the NPS could be different than CBO estimated, so spending from the fund each year could be different.
- Finally, the amount of interest that would be credited to the fund could be different if the amount of deposits and spending as discussed in the first two points were different and if interest rates differ from the projections in CBO’s baseline.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 3172, THE RESTORE OUR PARKS ACT, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON OCTOBER 2, 2018

	By fiscal year, in millions of dollars—											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019-2023	2019-2028
NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	26	92	289	622	963	1,221	1,248	1,112	794	1,029	6,397

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 3172 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 3172 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO Estimate: On October 12, 2018, CBO transmitted a cost estimate for H.R. 6510, the Restore Our Parks and Public Lands Act, as ordered reported by the House Committee on Natural Resources on September 13, 2018. CBO estimates that enacting H.R. 6510 would increase direct spending by \$6.5 billion over the 2019–2028 period. The bills contain similar provisions; however, under H.R. 6510, amounts in the fund would be available for spending by other agencies within the Department of the Interior in addition to the NPS. Because CBO’s estimated rate of spending is different for the other agencies, CBO’s estimates of direct spending over the 2019–2028 period differ.

Estimate prepared by: Federal Costs: Janani Shankaran (National Park Service), Kathleen Gramp (energy receipts); Mandates: Zachary Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 3172. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 3172, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 3172, as ordered reported, does not contain congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the July 11, 2018, hearing on S. 3172 follows:

STATEMENT OF LENA MCDOWALL, DEPUTY DIRECTOR, MANAGEMENT AND ADMINISTRATION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 3172, the Restore Our Parks Act.

The Department supports S. 3172, which builds upon the collective efforts of Senators Portman, Warner, Alexander, and King. We appreciate that this bill combines the elements of both S. 751, the National Park Service Legacy Act, and S. 2509, the National Park Restoration Act, to accomplish the goal of providing mandatory funding to address the National Park Service's (NPS) deferred maintenance backlog and closely aligns with the Administration's Fiscal Year 2019 budget proposal to establish a dedicated fund.

S. 3172 would establish a separate account within the United States Treasury called the National Park Service Legacy Restoration Fund. This funding will help substantially reduce the NPS \$11.6 billion deferred maintenance backlog. Deposits to the Fund are authorized up to \$1.3 billion per year for five years through Fiscal Year 2023, and could total \$6.5 billion if full funding is achieved each

year. The bill requires 65% of funds to be used for buildings, utilities, and visitor facilities and 35% to be used for transportation projects. Along with the annual funding NPS receives from the Federal Highway Administration, this would provide greater transportation/non-transportation parity in funding, to approximately 50–50. Funds would come from all sources of federal energy development revenues, including both renewable and conventional sources (oil, gas, and coal), and not from taxpayer dollars. This aligns with the Administration’s “all-of-the-above” energy strategy.

The National Park Service Legacy Restoration Fund would not change or modify established revenue sharing payments to the States under the Mineral Leasing Act (MLA), the Gulf of Mexico Energy Security Act (GOMESA), or other statutes, nor would it affect deposits to other established funds, such as the Reclamation Fund, the Land and Water Conservation Fund (LWCF), or other dedicated uses of onshore and offshore revenues. These existing uses would receive all of their dedicated funding before the Fund receives anything. After all existing obligations are met, fifty percent of the revenue that would otherwise be deposited as miscellaneous receipts will be deposited into the Fund to address the NPS maintenance backlog.

The Fund also allows for public donations in the form of cash or in-kind donations. This allows the NPS to expand and encourage relevant public-private partnerships that work towards the reduction of the deferred maintenance backlog.

The Fund would be available for use, without further appropriation or fiscal year limitations, for the high-priority deferred maintenance needs that support critical infrastructure and visitor services, as determined by the Secretary of the Interior and the Director of the NPS. Funding could not be used for the acquisition of land. The bill also requires annual updates and reporting to Congress on the projects funded each year.

Currently, appropriated funds are the primary source of funding for deferred maintenance. However, as Secretary Zinke indicated earlier this year before the Senate Energy and Natural Resources Committee, we cannot rely solely on appropriated dollars to address this problem. Without a dedicated funding source, the deferred maintenance backlog will continue to grow. The backlog of projects at our national parks impacts park visitors’ access, recreational opportunities, and experiences. The network of roads, trails, restrooms, water treatment systems, drinking water, and visitor centers are aging and are exceeding a capacity they were often never designed to hold and support.

We greatly appreciate the effort of this Committee, Chairman Daines, Ranking Member King, Senators Alexander, Warner, and Portman and all your colleagues in Congress who have sought to craft real solutions to our

maintenance backlog and we look forward to working together with you as the bill is refined through the legislative process. The legislation we are discussing today reflects a bipartisan approach that the Administration believes is necessary to achieve our goals.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 54—NATIONAL PARK SERVICE AND RELATED PROGRAMS

Subtitle I—National Park Service

DIVISION A—ESTABLISHMENT AND GENERAL ADMINISTRATION

* * * * *

CHAPTER 1049—MISCELLANEOUS

- Sec.
 104901. Central warehouses at System units.
 104902. Services or other accommodations for public.
 104903. Care, removal, and burial of indigents.
 104904. Hire of work animals, vehicles, and equipment with or without personal services.
 104905. Preparation of mats for reproduction of photographs.
 104906. Protection of right of individuals to bear arms.
 104907. Limitation on extension or establishment of national parks in Wyoming.
 104908. *National Park Service Legacy Restoration Fund.*

* * * * *

“§ 104908. National park service legacy restoration fund

“(a) DEFINITIONS.—In this section:

“(1) FUND.—The term ‘Fund’ means the National Park Service Legacy Restoration Fund established by subsection (b).

“(2) PROJECT.—The term ‘project’ means the overall plan of remediation of deferred maintenance for an asset, which may include resolving directly related infrastructure deficiencies of the asset.

“(b) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ‘National Park Service Legacy Restoration Fund’.

“(c) DEPOSITS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for each of fiscal years 2019 through 2023, there shall be deposited in the Fund an amount equal to 50 percent of all energy devel-

opment revenues due and payable to the United States from oil, gas, coal, or alternative or renewable energy development on Federal land and water that would otherwise be credited, covered, or deposited as miscellaneous receipts under Federal law.

“(2) *MAXIMUM AMOUNT.*—The amount deposited in the Fund under paragraph (1) shall not exceed \$1,300,000,000 for any fiscal year.

“(3) *EFFECT ON OTHER REVENUES.*—Nothing in this section affects the disposition of revenues that—

“(A) are due to the United States, special funds, trust funds, or States from mineral and energy development on Federal land and water; or

“(B) have been otherwise appropriated under Federal law, including the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432), the Mineral Leasing Act (30 U.S.C. 181 et seq.), and chapter 2003.

“(d) *AVAILABILITY OF FUNDS.*—Amounts deposited in the Fund shall be available to the Secretary without further appropriation or fiscal year limitation.

“(e) *INVESTMENT OF AMOUNTS.*—

“(1) *IN GENERAL.*—The Secretary may request the Secretary of the Treasury to invest any portion of the Fund that is not, as determined by the Secretary, required to meet the current needs of the Fund.

“(2) *REQUIREMENT.*—An investment requested under paragraph (1) shall be made by the Secretary of the Treasury in a public debt security—

“(A) with a maturity suitable to the needs of the Fund, as determined by the Secretary; and

“(B) bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(3) *CREDITS TO FUND.*—The income on investments of the Fund under this subsection shall be credited to, and form a part of, the Fund.

“(f) *USE OF FUNDS.*—Amounts in the Fund shall be used for the priority deferred maintenance needs of the Service, as determined by the Secretary, to carry out repair, restoration, or rehabilitation projects as follows:

“(1) Not less than 65 percent of amounts in the Fund shall be allocated for non-transportation projects, including—

“(A) historic structures, facilities, and other historic assets;

“(B) structures, facilities, and other nonhistoric assets that relate directly to the visitor experience, including—

“(i) access, including making facilities accessible to visitors with disabilities;

“(ii) health and safety; and

“(iii) recreation; and

“(C) administrative facilities, water and utility systems, and employee housing.

“(2) The remaining amounts in the Fund may be allocated to road, bridge, tunnel, or other transportation-related projects

that may be eligible for funding made available to the Service through—

“(A) the transportation program under section 203 of title 23; or

“(B) any similar Federal land highway program administered by the Secretary of Transportation.

“(g) **PROHIBITED USE OF FUNDS.**—No amounts in the Fund shall be used—

“(1) for land acquisition;

“(2) to supplant discretionary funding made available for the annually recurring facility operations, maintenance, and construction needs of the Service; or

“(3) for bonuses for employees of the Federal Government that are carrying out this section.

“(h) **SUBMISSION OF LIST OF PROJECTS TO CONGRESS.**—As soon as practicable after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress—

“(1) a list of each project that—

“(A) as of the date of enactment of this section, is identified by the Secretary as a highest-priority deferred maintenance project of the Service; and

“(B) as of the date of the report, is ready to be commenced immediately; and

“(2) for any project identified under paragraph (1)(A) that is not ready to be commenced immediately, a schedule for the completion of all reviews with respect to the project (including the preparation of any environmental documents and historic preservation analyses) that are necessary to commence the project immediately.

“(i) **SUBMISSION TO CONGRESS.**—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, as part of the annual budget submission of the President—

“(1) a report that describes, and provides an explanation for, any cost overruns or delays relating to deferred maintenance projects carried out using amounts from the Fund for the previous fiscal year; and

“(2) a list of projects for which the amounts in the Fund are allocated under this section, including a description and cost-benefit analysis of each project, after considering the list and schedules submitted under subsection (h).

“(j) **PUBLIC DONATIONS.**—

“(1) **IN GENERAL.**—The Secretary and the Director may accept public cash or in-kind donations that advance efforts—

“(A) to reduce the deferred maintenance backlog of the Service; and

“(B) to encourage relevant public-private partnerships.

“(2) **CREDITS TO FUND.**—Any cash donations accepted under paragraph (1) shall be credited to, and form a part of, the Fund.

“(3) **REPORTING.**—Each donation received under paragraph (1) that is used for, or directly related to, the reduction of the deferred maintenance backlog of the Service shall be included with the annual budget submission of the President to Congress.

“(k) ANNUAL REPORTS.—Not later than 1 year after the date on which the first distributions are made from the Fund and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that describes, with respect to each project provided amounts from the Fund during the period covered by the report—

“(1) any progress with respect to the project, including a comparison of the progress with respect to other highest-priority deferred maintenance projects of the Service;

“(2) the expenditure of amounts from the Fund with respect to the project; and

“(3) the projected cyclic maintenance needs of the project on completion of the project.”.

* * * * *

