As usual, two Houses differ on DoI appropriations

If and when House and Senate appropriators sit down to negotiate the details of a fiscal year 2015 Interior and Related Agencies appropriations bill, they will begin far apart on two crucial issues – emergency fire-fighting money and payments-in-lieu of taxes (PILT) money.

The different approaches mean the Senate would set aside more than $900 million for other programs than the House.

The leaders of the Senate subcommittee on Interior and Related Agencies August 1 published a discussion draft of a fiscal year 2015 spending bill that differs on fire and PILT with a bill (HR 5171) the House Appropriations Committee approved July 15. And the two differ substantially on conservation spending, particularly the Land and Water Conservation Fund (LWCF).

The Senate drafters - Senate subcommittee on Interior and Related Agencies Chairman Jack Reed (D-R.I.) and ranking subcommittee Republican Lisa Murkowski (R-Alaska) - did not include in their draft $470 million to pay back fiscal 2014 fire fighting costs. The House subcommittee did include the $470 million.

Not only did Reed and Murkowski recommend the fiscal 2014 emergency fire payback (now grown to $615 million from the original $470 million), they also included a rider that in the future would transfer emergency fire-fighting expenses out of appropriations bills and into a disaster-funding account.

As for PILT the Senate draft does not include money for the program in fiscal 2015, again unlike the House Appropriations Committee. The House

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panel would extend PILT by a year through Sept. 30, 2015, and put up $442 million for it.

By not including the fire payback and PILT payments the Senate subcommittee draft has more than $900 million to spend on other programs than the House committee.

Because of the great disparity between the Senate subcommittee draft and the House committee bill, appropriators may not strike a final agreement before the fiscal year begins October 1, so one or more continuing resolutions may be needed.

With more money available in the senators’ draft in fiscal 2015 than the House subcommittee, Reed and Murkowski would increase allocations to conservation programs above levels approved by the House panel. For instance the Senate subcommittee proposed $137 million more for federal land acquisition than did the House committee, $186 million to $49 million.

For the state side of LWCF Reed and Murkowski’s draft recommends $48 million, the same as for fiscal 2014 and $2 million more than the $46 million the House committee approved in HR 5171.

A Land and Water Conservation Fund Coalition praised Reed and Murkowski. “Although it does not include funding at LWCF’s full $900 million authorized level, this legislation would provide an increase over current-year spending to meet a broad array of conservation needs,” said The Wilderness Society’s Alan Rowsome, who cochairs the coalition. “This important down payment brings us closer to our goal of fully funding America’s most important conservation program.”

The National Parks Conservation Association (NPCA) also praised Reed and Murkowski but worried about the possibility of another budget sequestration. A previous sequestration in early 2013 reduced spending by $85 billion government-wide and by $218 million for the Park Service.

“As the National Park System prepares for its Centennial, this is the final year of the budget truce reached after the government shutdown that temporarily ended the damaging budget sequester,” said Craig Obey, senior NPCA vice president for government affairs. “It is critically important that Congress pass this bill, begin working with the administration early next year to prevent another devastating round of sequester cuts to national parks, and make a real investment in restoring and renewing America’s national parks for their next 100 years of service and beyond.”

**Three other bills:** In addition to the Interior and Related Agencies bill Congress has failed to move these other outdoor-related measures:

**ENERGY AND WATER:** The House approved its bill (HR 4923) July 10 and included a provision that would bar implementation of a June 2 proposed Obama administration rule on waters that should be subject to Section 404 wetland permits. The administration proposal would broaden substantially the kinds of water bodies subject to the permit requirement. No Senate bill has begun to move yet.

**TRANSPORTATION:** The House approved its bill (HR 4575) June 10 that would bar the use of regional grant money called TIGER for recreation and trails projects. The Senate Appropriations Committee approved its version of a bill (S 2438) June 5 without the trails limitation.

**AGRICULTURE:** The House Appropriations Committee approved its bill (HR 4800) June 4 and the Senate Appropriations Committee approved its bill (S 2389) May 22. Neither bill has progressed beyond that.

**Centennial:** Like the Republican-dominated House Appropriations Committee the senators recommended extra money for the Park Service in anticipation of its Centennial in 2016, as requested by the Obama administration. However, the House committee approved $5 million more - $30 million for NPS operations and $10 million for matching endowment grants compared to the senators’ $25 million
for NPS operations and $10 million for endowments. (See related article on possible tensions between LWCF and the Park Service Centennial on page 7.)

The $10 million would be used as a Centennial Challenge program that would have nonfederal partners match appropriations dollar-for-dollar.

The Obama administration in its March 4 fiscal 2015 budget request asked Congress in total for between $647 million and $847 million in new money for the Park Service Centennial, depending on who is estimating. Of that $40 million would be appropriated and the rest put up by authorizing committees.

The $40 million in the House and $35 million in the Senate in appropriations would be followed by a second prong – authorizing legislation that would provide up to $400 million per year from a new Congressional Centennial initiative. Finally, in the third prong NPS could compete for some of $200 million per year in government-wide Opportunity, Growth and Security Initiative money.

Of the House committee’s appropriated $40 million, $30 million would be used to support operations, said a House committee report. “The Committee recognizes the importance of this historic national celebration and is committed to its success,” the report said. “Accordingly, the Committee is providing $30 million, as requested, within the National Park Service Operations account to support the Centennial Initiative and related efforts to address the Service’s deferred maintenance backlog.”

Of the $10 million to be set aside for the Challenge program, the House committee warned the Park Service not to try to use it for regular operations. “The Committee reminds the Service that the amount provided for the Centennial Challenge is intended to supplement funding for core operations. The Committee expects the Service to fully fund day-to-day operational costs of the parks through its core operations accounts,” said the panel’s report.

FLREA: Like the House bill Reed and Murkowski would extend a federal recreation area fee law for one year until Sept. 30, 2016. Theoretically, that would give Congress time to revise or extend the existing law, the Federal Lands Recreation Enhancements Act of 2004 (FLREA).

Led by the House subcommittee on Public Lands and its chair Rob Bishop (R-Utah), the House Appropriations Committee July 30 approved a five-year rec fee extension bill (HR 5204). (See following article.)

The counterpart Senate subcommittees on National Parks and on Public Lands have been less active on FLREA than the House panel. The former chairman of the Senate Energy Committee, Sen. Ron Wyden (D-Ore.), had been committed to acting this year but he has ceded the chairmanship to Sen. Mary Landrieu (D-La.), who has expressed little interest in the subject.

Riders: Sens. Reed and Murkowski did not include in their discussion draft a number of riders approved by the House Appropriations Committee in HR 5171.

The senators excluded from their bill House riders that would: forbid EPA from completing a proposed June 2 rule that would reduce carbon emissions from existing power plants, a plan that environmentalists say would be a boon to the national parks; forbid EPA from completing a proposed May 29 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act; forbid any federal agency from attempting to transfer water rights to the federal government on renewal of a permit; and block implementation of a National Ocean Policy proposed by the Obama administration.

However, the subcommittee leaders did include one rider not in the House bill – designation of a Blackstone River Valley National Heritage Area in Rhode Island. Right, subcommittee chairman Jack Reed is from Rhode Island.

Public input: A coalition of
major outdoor groups ranging from conservationists to the recreation industry called on the Senate appropriators to do pretty much what Reed and Murkowski recommended. That is, support the Park Service Centennial, extend FLREA and shift some fire-fighting costs out of the appropriations bill.

Said the groups in a letter to Reed and Murkowski about the fire funding, “We are further concerned that a significant constraint on the Interior appropriations allocation is the expectation that the allocation fund wildfire suppression; we recognize this undermines the subcommittee’s ability to fund national parks and other important programs and agencies. For national parks, insufficient funding has impacted rangers, visitor services, and the maintenance and preservation of our natural and historic resources.”

The coalition concluded, “Accordingly, we urge you to work with your colleagues to pass the Wildfire Disaster Funding Act and respectfully request that you consider including this critical bill in the Senate FY15 Interior appropriations bill and negotiate its inclusion in a final funding vehicle.”

The 27 groups included such varied organizations as the Association of Partners for Public Lands, the Coalition of National Park Service Retirees, the National Park Hospitality Association, and the Outdoor Industry Association.

Some numbers: The following numbers compare the Senate subcommittee recommendations for fiscal 2015 with the House committee’s HR 5171 and fiscal 2014.

LWCF FEDERAL: In total the senators recommended $186 million for federal land acquisition, compared to $49 million by the House committee and $187 million in a fiscal 2014 appropriations law.

LWCF STATE: The senators recommended $48 million, compared to $46 million by the House committee and $48 million in the fiscal 2014 appropriations law.

PARK SERVICE OPERATIONS: The senators recommended $2.279 billion, compared to $2.269 billion by the House committee and $2.237 billion in fiscal 2014.

PARK SERVICE RECREATION AND PRESERVATION: The senators recommended $63.1 million, compared to $52 million by the House committee and $52 million in fiscal 2014. (The big difference lies in National Heritage Area spending, a subset of rec and pres, as follows.)

NATIONAL HERITAGE AREAS: The senators recommended $20.3 million, compared to $9.2 million by the House committee and $18.4 million in the fiscal 2014 appropriation. Said explanatory notes accompanying the Senate draft, “The recommendation once again emphatically rejects the administration’s proposal to reduce funding for national heritage areas. This proposed funding reduction would have a particularly acute impact since the Service is in the process of approving management plans for newer areas which allow them access to additional funding to implement their restoration and recreation programs.” The administration had recommended the $9.2 million favored by the House committee.

PARK SERVICE CONSTRUCTION: The senators recommended $138 million, compared to $138 million by the House committee and $138 million in fiscal 2014.

PARK SERVICE HISTORIC PRESERVATION: The senators recommended $66.4 million, compared to $56 million by the House committee and $56 million in fiscal 2014.

EISENHOWER COMMISSION: The senators recommended $1 million to keep the controversial commission in business, compared to no money in the House bill and $1 million in fiscal 2014.

STATE WILDLIFE CONSERVATION GRANTS: The senators recommended $58.7 million, compared to $58.7 million by the House committee and $58.7 million in fiscal 2014.
NATIONAL FOREST SYSTEM: The senators recommended $1.464 billion, compared to $1.497 billion by the House committee and $1.497 billion in fiscal 2014.

NATIONAL FOREST RECREATION: The senators recommended $259 million, compared to $263.9 million by the House committee and $261.7 in fiscal 2014.

NATIONAL FOREST TRAILS MAINTENANCE AND CONSTRUCTION: The senators recommended $77.5 million, compared to $86.8 million in the House committee bill and $75 million in fiscal 2014.

BLM RESOURCE MANAGEMENT: The senators recommended $957 million, compared to $957 million by the House committee and $957 million in fiscal 2014.

BLM RECREATION MANAGEMENT: The senators recommended $68.5 million, compared to $63.9 million by the House committee and $66.9 million in fiscal 2014.

BLM LANDSCAPE SYSTEM MANAGEMENT: The senators recommended $34 million, compared to $30.8 million by the House committee and $31.8 million in fiscal 2014.

WILDLIFE REFUGE MANAGEMENT: The senators recommended $475 million, compared to $477 million by the House committee and $477 million in fiscal 2014.

Backcountry users fear new fees in Bishop’s rec bill

Critics and supporters of a House committee-passed federal recreation fee bill (HR 5204) differ fundamentally on the measure’s impact on fees for additional sites.

Critics such as the Western Slope No-Fee Coalition, which represents backcountry visitors, say the bill would allow the Forest Service and the Bureau of Land Management (BLM) to charge a fee for virtually any area they wished.

Kitty Benzar, president of the coalition, said minimal requirements in the bill for the two standard fees (day use and amenity) would be less rigorous than under existing law. (Benzar says she has no quarrel with entrance fees to major federal sites, such as national parks.)

“The Day Use fee could be charged any place that is within a half mile of any kind of toilet – even a porta-potty or stinky outhouse,” she told us. “In addition, any place that is not near a toilet but that is a ‘special place’ (not defined) could require a permit and fee for entry. Bottom line: There would not be any place, or any activity, for which a fee cannot be charged.”

After Benzar itemized the areas the bill says day use fees could be charged (such as designated parking or trash collection), she said, “Taken as a whole this would allow the BLM and Forest Service to require payment of a fee for every trailhead, river put-in, lakefront, or other access point into undeveloped areas.”

But bill supporter Derrick Crandall, president of the American Recreation Coalition, disagreed with Benzar’s conclusions on new fees and said HR 5204 would impose one huge new limit on them – a requirement for Congressional approval.

“The Forest Service can’t just put in a new fee at a trailhead because it would require Congressional approval,” he said. “And Congress probably won’t approve new fees even when they are community supported.”

Besides, he said, “The spirit of the bill and the legislative history are very clear that Congress does not want backcountry fees unless they are obvious and there are special facilities there.”

Indeed HR 5204 does contain Sec. 4(l) that would require Congressional approval of new “or increased” fees.

Benzar maintained that backcountry users still face excessive fees. “First of all, the fee sites currently in place greatly exceed what is reasonable and necessary. For example the Northwest
Forest Pass, which requires a fee for parking at nearly every trailhead in Washington and Oregon. This amounts to a fee to go for a walk in the woods, and that will never be acceptable. So I cannot support locking them in as currently configured.”

“Second, the need for an ‘Act of Congress’ to approve new and additional sites could be accomplished via appropriations rider, and probably would be. Easily done,” she added.

What happens next to the bill approved July 30 by the House Natural Resources Committee is not clear. The measure, which would revise a federal lands recreation fee program and extend it through December 2020, normally would go directly to the House floor.

However, Benzar fears the House will insert it as a rider in a fiscal year 2015 Interior and Related Agencies bill that the House Appropriations Committee approved July 15. (The appropriators did include in their money bill an extension of the existing fee law through Dec. 8, 2016, to give Congress time to move HR 5204).

A House Natural Resources Committee spokesman would only say, ‘The next steps for this legislation (floor action or anything else) will be decided by House leadership – following the legislative process.’

There is another major player still to be heard from – the Obama administration. It is expected to criticize, if not oppose, HR 5204 because the measure would usurp agency authority to assess fees at additional sites because of the Congressional approval requirement. And it is understood the administration is disappointed that the bill does not add the Corps of Engineers to the federal program.

The present law, the Federal Lands Recreation Enhancements Act of 2004 (FLREA), is scheduled to expire on Dec. 8, 2015.

The format of the 40-page bill is logical although the details can be tricky. It lays out day use fees for BLM and the Forest Service; entrance fees for national parks, national wildlife refuges and Bureau of Reclamation areas; recreation fees for all agencies; special use fees such as off-highway vehicles and snowmobiles; passes; and distribution of revenues (most money returned to agencies).

The measure had originally been scheduled for committee mark-up for July 16 but Bishop and ranking House subcommittee on Public Lands Democrat Raúl Grijalva (D-Ariz.) held off for two weeks in order to gain maximum bipartisan support.

Bishop and Grijalva attempted to strike a deal on several unresolved issues, some of which may not yet be settled. Particularly nettlesome are discounts for senior citizens age 62 or older. For $10 now seniors can buy a lifetime America The Beautiful Pass into all national parks and other land management agency sites. The standard America the Beautiful fee is $80 per year.

Some outdoor policy players have suggested a $40 lifetime pass for seniors, others have suggested an increase in the age to begin the pass, and others have suggested just giving seniors a simple percentage discount each year.

HR 5204 punts on the issue, calling instead for a study by the Departments of Interior and Agriculture.

In another contentious area HR 5204 may have resolved a concern expressed by outfitters that an original Bishop draft bill could be interpreted as requiring outfitters operating with special recreation permits to pay broad federal maintenance costs. The debated provision would do that by levying a cost recovery charge against each permit. HR 5204 deleted most of the controversial cost recovery provisions.

In a third contentious area all interests – backcountry users, outfitters, concessioners, etc. – had complained that recreation advisory commissions had not worked, because they
were cumbersome and bureaucratic. HR 5204 eliminates them.

As for the Corps of Engineers the original draft Bishop bill included the agency in the program but HR 5204 does not.

The counterpart Senate subcommittee on National Parks and subcommittee on Public Lands have been less active than the House panel. The former chairman of the Senate Energy Committee, Sen. Ron Wyden (D-Ore.), had been committed to acting this year but he has ceded the chairmanship to Sen. Mary Landrieu (D-La.), who has expressed little interest in the subject.

Thus far, the major players in the game, except for forest recreation users, have generally supported Bishop’s initiative. The players include the Obama administration, industry, outfitters and environmentalists.

A coalition of national park supporters praised the version of HR 5204 before the committee. “Congressman Bishop’s legislation helps preserve a vital part of the funding stream for our national parks and other federal lands however, the coalition will continue to work with Congress to make adjustments to the bill as it moves through the legislative process,” said Craig Obey, senior vice president of government affairs for the National Parks Conservation Association and chair of the coalition. “Without reauthorization, the National Park Service would lose an amount equivalent to the recent budget sequester, further depleting already strained park budgets and reducing visitor opportunities as the National Park System nears its centennial in 2016.”

Background: FLREA, as enacted on Dec. 8, 2004, as PL 108-447, Section 804, was only good for 10 years. An interim appropriations law (PL 113-46 of Oct. 16, 2013) extended it through Dec. 8, 2015. The law produces about $270 million per year in fee revenues and most of the money is used to improve recreation facilities.

The Park Service brings in from fees about $179 million per year, or about eight percent of its recreation budget; the Forest Service takes in about $66 million, or 25 percent of its recreation budget; the Bureau of Land Management receives $18 million, or 25 percent of its recreation budget; the Fish and Wildlife Service grosses $5 million, or one percent of its recreation budget; and the Bureau of Reclamation receives less than $1 million.

Is administration favoring LWCF at Centennial expense?

The Obama administration has made no secret about the high priority it places on renewal of the Land and Water Conservation Fund (LWCF) before the program expires at the end of fiscal year 2015.

But that priority has prompted concern among some Park Service advocates that the administration is giving less support to the upcoming Park Service Centennial in 2016 than they would like.

“We’re not seeing the Centennial as a priority above the (NPS Director) Jon Jarvis level,” said Derrick Crandall, counsel to the National Park Hospitality Association. “He’s trying hard. We had hoped this White House would be more interested. The Secretary (of Interior Sally Jewell) understandably has put a priority on renewing the Land and Water Conservation Fund.”

For the record the Obama administration in March came out foursquare behind an ambitious Park Service Centennial initiative. It asked Congress in a fiscal year 2015 budget request for between $647 million and $847 million in new money for the Centennial, depending on who is estimating.

Craig Obey, senior vice president of government affairs for the National Parks Conservation Association, said that proposal demonstrates administration support for the Centennial. Of Crandall’s concerns he told us, “I don't see that. I see an
administration proposal to spend over a billion dollars over the next three years (in new money) for the National Park Service. That’s a good place to start and I know Secretary Jewell went to bat for it in the Park Service budget.”

Obey did say he shared Crandall’s frustration that the administration did not propose a significant increase for federal land roads in its fiscal 2015 transportation budget request. National park roadwork constitutes a large percentage of a $12 billion agency maintenance backlog.

Although Obey said the secretary has promoted the Centennial, Jewell has in public of late concentrated on other issues, beginning with LWCF, but also including Indian assistance and energy development.

For instance on the LWCF front, she met with Sen. Richard Burr (R-N.C.) August 6 in North Carolina to celebrate accomplishments of LWCF. Burr not only backs renewal of LWCF but also gives the renewal campaign Republican leadership.

Jewell launched a mini-campaign in support of LWCF July 7 at a press conference, promising to visit red and blue states. She complained that Congress has failed to appropriate $18 billion for LWCF over the last half-century. The $18 billion has been posted into the account from offshore oil and gas royalties.

The Coalition of National Park Service Retirees (CNSPR) takes the long view. In a statement it provided us on possible conflicting conservation priorities in the administration, the coalition said, “CNPSR does not look at how national elected officials are focusing on the Centennial anniversary of the National Park Service, but rather on whether they are supporting the National Park System in their words, actions and with meaningful funding.”

Centennial: In its March 4 fiscal 2015 budget request the Obama administration asked Congress for between $647 million and $847 million in new direct appropriations and the rest in new programmatic spending from authorizing committees.

Congressional appropriators are doing their part. The leaders of the Senate subcommittee on Interior Appropriations August 1 outlined a draft fiscal 2015 spending bill that supports the Centennial, much as the House Appropriations Committee approved in its counterpart bill (HR 5171) July 15. However, the House committee approved $5 million more – $30 million for NPS operations and $10 million for matching endowment grants compared to the senators’ $25 million for NPS operations and $10 million for endowments.

Although appropriators are on board, authorizing committees have done very little about the Centennial. When Sen. Ron Wyden (D-Ore.) chaired the Senate Energy Committee he expressed some enthusiasm for the Centennial but his replacement Sen. Mary Landrieu (D-La.) has not.

A summary of the administration’s authorization request, prepared by the National Parks Conservation Association’s John Garder, director for budget and appropriations, begins with a $55 million appropriations hike and counts $192 million in Land and Water Conservation Fund appropriations.

It then enumerates the new authorizations requested by the administration, including a $100 million Centennial Challenge, a $200 million deferred maintenance fund, a second $100 million deferred maintenance account for the Centennial, a portion of $100 million from a Centennial Land Management Investment Fund, and a portion of $100 million Opportunity Growth & Security Initiative.

The concessioners’ counsel Crandall worried that nothing is now happening on the Hill. “We’re just not seeing the leadership emerge in Congress,” he said.

LWCF extension: The renewal of LWCF presents a bit more immediate challenge for Congress than the Centennial because the fund is due to
expire at the end of September 2015, and the Centennial is expected to be a long-term event beginning in 2016.

There is considerable ferment about renewing LWCF. As we reported in the last issue of *FPR* legislators from both political parties joined with conservationists July 23 to reinvigorate a reauthorization campaign.

Importantly, the enthusiastic legislators included energy committee chair Landrieu. Her committee may be called on to fashion a new law. Landrieu has made energy development paramount in the energy committee, and, coincidentally, offshore oil and gas revenues have paid the LWCF bill for the last 50 years. And it may in the future.

Although a significant number of senators from both sides of the aisle not only support LWCF but also have endorsed its renewal, the political outlook for a new, stronger law is a bit cloudy.

By itself LWCF stands little chance in the House, where western Republican critics of the program hold sway in the House Natural Resources Committee.

Perhaps LWCF’s best opportunity lies in a possible package of legislation, and then after the November 4 elections. Now Senate Finance Committee Chairman Wyden is reportedly considering such a package that would reauthorize LWCF in combination with reauthorizing county assistance programs such as Secure Rural Schools and payments-in-lieu of taxes.

Former Sen. Max Baucus (D-Mont.) introduced stand-alone legislation (S 338) last year that would also extend LWCF at $900 million per year in guaranteed money. The money would continue to come from offshore oil and gas revenues.

Meanwhile, the House continues to hammer LWCF in annual appropriations bills, while the Senate is a little more generous. On July 15 the House Appropriations Committee approved a fiscal year 2015 Interior and Related Agencies appropriations bill that would reduce federal land acquisition by $138 million, from $187 million in fiscal 2014 to $49 million in fiscal 2015. It would appropriate $46 million for the state side of LWCF, or $2 million less than a fiscal 2014 appropriation. The program is authorized to spend up to $900 million per year.

Leaders of the Senate subcommittee on Interior and Related Agencies August 1 proposed $137 million more for federal land acquisition than did the House committee, $186 million to $49 million.

For the state side of LWCF the senators’ draft recommends $48 million, $2 million more than the $46 million the House committee approved in HR 5171.

**Temporary highway measure insures another 2015 crisis**

Without comment President Obama August 8 signed into law (PL 113-159) legislation that will keep surface transportation programs going for a few more months.

But only through May 31 of next year. And that, said Secretary of Transportation Anthony Foxx, guarantees another crisis next spring when the temporary money runs out.

"While Congress may be able to wait until May, the country cannot," he said. "Americans deserve a multi-year transportation bill that provides the certainty that businesses and communities deserve, creates jobs, and makes necessary policy updates to lay the foundation for lasting economic growth."

Surface transportation money of course is crucial to park and rec programs because the current law allocates about $720 million per year to an umbrella Transportation Alternatives Program. It in turn allocates money for such individual programs as Recreational Trails, Transportation Enhancements, Scenic Byways, and Safe Routes to School.
There is some optimism that Congressional Republicans will agree next year to some user fees – not taxes, but user fees – to supplement the gasoline tax as an instrument to pay for the Highway Trust Fund. That fund pays the bulk of surface transportation costs. Democrats are usually more willing than Republicans to increase the gasoline tax above its current 18.4 cents per gallon.

One key player, Sen. James Inhofe (R-Okla.), was widely quoted last week as saying in a speech to the Western Arkansas Regional Intermodal Transportation Authority that user fees may be in the works.

"Coming up between now and May, you’ll see a new funding mechanism that is going to change how we are funding our roads and highways," Inhofe reportedly said. "This is not an announcement on my part, because I still maintain opposition to any new tax increases, however it’s more of a user fee than a tax increase."

"User fee" is widely read in the transportation business as code for a levy on drivers based on miles driven, a vehicle miles traveled fee, although some people call it a tax.

If Democrats and Republicans don’t come up with a substantial amount of money for a new, multi-year surface transportation law, the Transportation Alternatives Program (TAP) could be in trouble.

That’s because when the short-term fix bill was on the Senate floor July 29 Sen. Mike Lee (R-Utah) introduced an amendment that would have repealed TAP. The greater goal of the Lee amendment, voted down 28-to-69, was to turn most responsibility for surface transportation over to the states. It would have reduced the gasoline tax from 18.4 cents per gallon to 3.7 cents.

Lee described his amendment as a positive for trail advocates because it would allow communities to put their highway money into whatever projects they wished. "Under the Transportation Empowerment Act (the name of his amendment), Americans could finally enjoy the local infrastructure they want. More environmentally conscious States and towns could finally have the flexibility to invest in more green transit projects and bike lanes," he said.

Congress is acting now on transportation money because (1) the existing surface transportation law expires at the end of September and (2), worse, the Highway Trust Fund that pays for surface transportation from gasoline taxes is about to run out of money.

The Senate is ahead of the House on a multi-year authorization bill. The Senate Environment and Public Works (EPW) Committee approved such legislation (S 2322) May 15 that would extend the existing law, Moving Ahead for Progress in the 21st Century (PL 112-141 of July 6), for two years. Sen. Barbara Boxer (D-Calif.) chairs the committee.

But EPW doesn’t pay the bills. The House Ways and Means Committee does and it put together the interim patch that adds $11 billion to the pot to keep surface transportation programs alive through May 31.

Boxer’s House counterpart, House Transportation Committee Chairman Bill Shuster (R-Pa.), has made little progress writing a longer-term authorization bill. No draft bill has been introduced.

Politics enters the debate in a big way. Senate Democrats want Congress to act now on a multi-year bill while they are still in control. Senate Republicans want to delay things until the next Congress when they might be in charge. If Republicans do take over, they may be tempted in 2015 to eliminate outdoor program funding from MAP-21, as the Lee proposal would.

Transportation spending for recreation and trails is also under attack in the House. On June 10 the House approved a fiscal year 2015 appropriations bill (HR 4745) that would bar the use of regional grant money called TIGER for recreation and trails
projects. Although rec and trails money was dropped from TIGER by the House, several members pointed out that such projects serve as economic engines for local communities.

The short-term fix law, PL 113–159, gives the Highway Trust Fund an $11 billion boost, primarily by jiggering with employee pension programs.

Civilization pressing in on Grand Canyon at two sites

Two development proposals pose the most serious threats to Grand Canyon National Park in its 95-year history, park officials say.

In addition a reopened uranium mine has begun operations that environmentalists say threatens water in the area.

On top of that the Park Service this month solicited bids for a concessioner to assume a major, 15-year contract to administer facilities on the park’s South Rim.

Park officials consider the most serious threat a proposed Tusayan development in the gateway community of Tusayan. The Stilo Development Group, backed by Italian investors, has already gained approval of the city.

Separately, the Navajo Indian tribe has proposed a development east of the South Rim consisting of restaurants, hotels and shops on tribal land. But, to the horror of park supporters, the tribe has also proposed the construction of a Grand Canyon Escalade gondola down to the canyon floor.

However, there is some debate about who owns the portion of the canyon floor the tribe has targeted – the Navajos or the federal government.

Finally, Energy Fuels Resources April 23 proposed the continuation of uranium mining at its Pinenut mine on Bureau of Land Management (BLM) property near the park, prompting environmentalists on July 29 to ask BLM to order a suspension of operations. They say the mine poses a threat to area water.

The Park Service is well aware of the two proposed developments next to the park and Superintendent Dave Uberuaga has asked the backers to fully inform the Park Service on the size and scale of the undertakings before proceeding.

Of the Tusayan proposal, “The superintendent has met numerous occasions with the developer,” said spokeswoman Maureen Oltrogge. “We have asked for thorough briefings but we still don’t have the specifics on where development is going to go.”

As for the Navajo plan, Uberuaga is waiting for the details of a proposal. At the same time Uberuaga’s spokeswoman Oltrogge said, “We recognize the tribe can develop their lands. They have economic needs. The superintendent is working with the tribe to find ways to develop without impacting National Park Service lands.”

For both developments the park’s concerns are similar, Oltrogge said, impacts on proposed wilderness, impacts on cultural resources, noise and, most importantly, water.

While the Park Service is wrestling with those external threats it is at the same time trying to renew a huge South Rim concessions contract with Xanterra Parks & Resorts, Inc., or find a new concessioner.

The park posted a prospectus August 11 for a 15-year contract encompassing six lodging facilities, including El Tovar, as well as food services and transportation. The park first proposed the contract a year ago but received no bids, ostensibly because it asked bidders to pay more than $150 million for facility improvements made by concessioners over the years, so-called leasehold surrender interest.

NPS changed the prospectus to reduce the cost of the improvements to $57 million, but hiked the franchise fees from the current 3.8 percent to 14 percent. NPS may have to eat about $100
million in leasehold surrender interest in the latest prospectus, Oltrogge said.

Bids are due by October 8 for the contract which is scheduled to begin Feb. 1, 2015.

Here are summaries of the projects near Grand Canyon:

TUSAYAN DEVELOPMENT: The Stilo Development Group has won approval of the city of Tusayan for a project that includes 2,200 homes and three million square feet of business space. The developer has acquired private land within the Kaibab National Forest adjacent to the park and has been trying to gain approval of its project for two decades.

The Park Service fears the development would quadruple the town’s demand for water, putting pressure on water now used to sustain the environment in the park. But the developer says it has obtained a supply of water from the rights held by a nearby rancher.

NAVAJO DEVELOPMENT: The Navajo Indians would construct restaurants and hotels on Indian land just east of the Southern Rim. The development would feature a gondola that would bring tourists to the valley floor. The proponents say that few tourists have the fitness or energy to trek to the canyon floor, and this would provide access to them.

At issue is who owns the sides of the canyon. The tribe says it has historical rights to the land down to the high-water mark. But NPS says the federal government owns the land.

URANIUM MINE: Energy Fuels Resources is attempting to continue uranium operations on the Pinenut mine that has been in operation off-and-on for three decades. The miner in April notified the federal government it intends to continue mining.

But environmental groups, including the Grand Canyon Trust, say the project would violate the company’s plan of operations. Besides, the groups say the withdrawal from new uranium mining of one million acres of federal land near the park invalidates the company’s mining claims.

On Jan. 18, 2013, then Secretary of Interior Ken Salazar withdrew the million acres managed by BLM and the Kaibab National Forest for 20 years near Grand Canyon. While the withdrawal grandfathered existing mining claims, the environmentalists say that in order to qualify for grandfather status, the claims must pass through a complex validity test. And they say the Energy Fuels claims have not.

Congressmen have different plans for Yosemite expansion

The idea seems pretty simple—accept two donations of private land totaling 1,575 acres to expand Yosemite National Park’s western boundaries.

But in this age of partisan discord that idea has become quite complicated. Two House members from California have introduced very different bills to carry out the expansion.

One measure (HR 1677) from Rep. Jim Costa (D-Calif.) is straightforward. It would simply authorize NPS to accept the donations—one from a consortium of doctors who bought land for development but now can’t develop it and one from the Pacific Forest Trust.

The other bill (HR 5397) from Rep. Tom McClintock (R-Calif.), who actually represents Yosemite, would also authorize NPS to accept the donations. But McClintock includes four provisions in his measure not in the Costa proposal. They would:

* require the federal government to sell 1,575 acres so that the measure would not add land to the federal base,

* authorize all recreational uses on the acquired land that are now authorized elsewhere in Yosemite,

* require hazardous fuels treatment (timber sales or prescribed
burns) on the acquired land within one year of acquisition, and

* forbid the use of eminent domain to acquire the lands.

Said McClintock on introducing his bill August 1, “In acquiring this land, it is important that the public have an explicit guarantee of access, that the land be properly managed and that taxpayers be protected from excessive costs. In my discussions with the (House) Natural Resources Committee, it has been clear that a successful bill must include these principles.”

Sen. Diane Feinstein (D-Calif.) has introduced a counterpart to the Costa bill (S 781) and the Senate Energy Committee held a hearing on it July 31, 2013. If the Senate passes the Feinstein bill, it may die in the House because of McClintock’s different proposal.

And McClintock has on his side House subcommittee on Public Lands Chairman Rob Bishop (R-Utah). Bishop was quoted in a McClintock release, “HR 5397 meets the concerns heard by the House Subcommittee on Public Lands and Environmental Regulation over land management issues involving the Department of Interior. This is exactly the kind of innovative approach toward which our subcommittee has worked, and I commend the author for collaborating closely with it on developing this measure.”

McClintock has been a thorn in the side of the Park Service since he was first elected in 2009. McClintock has been a vociferous critic of a proposed Yosemite Valley Plan, charging that it cut out too much developed recreation. However, a final plan completed by NPS February 14 retained most of those recreation activities, to McClintock’s general satisfaction.

As McClintock noted on introducing his park expansion bill August 1, “Recent attempts to restrict traditional activities like horseback riding, mountain biking and camping make this provision critical for long-term public use of this land.”

One tract targeted for acquisition covers 793 acres and is owned by the Pacific Forest Trust and was appraised 10 years ago at $2.1 million. The other tract covers 782 acres and is owned by a consortium of several doctors.

**DoI finds fault with broadly-backed land trade measure**

The Interior Department last month objected to virtually every provision in a bill (HR 4901) to authorize the transfer of state inholdings within federal conservation areas to states. That, despite broad support for the legislation from Republicans, Democrats, states and conservationists.

Under HR 4901, in return for transferring inholdings to the federal government, the states would obtain public lands of equal value that the states could put to work making money for local schools. Instead of a traditional land exchange the feds would “relinquish” the inholdings.

The lead sponsors – Reps. Rob Bishop (R-Utah) and Peter DeFazio (D-Ore.) – said as many as 2 million acres of state land are trapped within conservation areas and can’t be developed.

The bill would authorize relinquishment of state lands within national parks, national monuments, national conservation areas, national grasslands, wilderness areas, wilderness study areas and national wildlife refuges.

Bureau of Land Management BLM Deputy Director Steve Ellis, who had the unenviable job of presenting the Interior Department’s case, questioned everything from the possible inequity of land deals to conflicts with existing law to short time limits. He presented his testimony at a July 29 hearing on HR 4901 before the House subcommittee on Public Lands.

For instance, of a provision that would allow states to pay additional costs in exchange for land value, Ellis said “the Administration is concerned
that language in the legislation allowing states to assume additional costs in return for land value could result in the Federal government receiving dramatically less land value than would otherwise be the case."

He also questioned whether the Arizona state constitution would be violated. "Not surprisingly there are issues to be considered in H.R. 4901 that affect a single state," he said in prepared testimony. "For example, Arizona’s state constitution requires that state lands may only be disposed of through auction to the highest bidder or by exchange with other governmental entities. Because this bill does not provide for exchanges, but rather relinquishment and selection, it would appear that this could vitiate any benefit Arizona might receive from H.R. 4901."

And Ellis objected to time limits in HR 4901, such as a requirement that the federal government make a decision on a state application within three years. "The personnel the BLM would need to process these land transfers are the same personnel currently employed in a wide variety of other vital land management issues, including oil and gas leasing and monitoring, as well as processing renewable energy and transmission rights-of-way applications, and land use authorizations for community needs to name just a few," he said. Thus, employees could be pulled away from other necessary functions.

Bishop, who chairs the House subcommittee on Public Lands that held the July 29 hearing, was clearly impatient with the administration’s objections.

After describing a land exchange in Utah that took five years to consummate, he said, “Something has to change. What we are doing now is not working and continuing on the status quo means it won’t work in the future. Is the department willing to think creatively on this?”

Responded Ellis, “We are willing to work with you and the committee and Mr. DeFazio on the legislation. (But) the agency would require that we follow uniform appraisal standards and our laws.”

State officials are ready to go now. Said Arizona State Land Commissioner Vanessa Hickman at the House subcommittee hearing, “The mechanism of relinquishment and selection has been utilized previously by Congress and should not be difficult to implement. Under HR 4901, states owning lands within federal conservation designations would simply deed the lands back to the United States, subject to any existing rights.”

The environmental group The Wilderness Society was also on board. The society’s Paul Spitler, director of wilderness campaigns, said the relinquishment and trade procedure envisioned by the bill was preferable to land exchange laws.

He said the bill would help protect conservation areas and provide states with revenues. "The inclusion of these lands in Federal conservation areas is detrimental both to the states, and to the Federal government,” Spitler said. "The development of these lands is often difficult due to their remote location, leaving states fewer opportunities to secure additional revenue. Further, the development of these inholdings could undermine the protected areas within which they are located."

Under existing law – the Federal Land Policy and Management Act (FLPMA) – a proposed exchange of land between the feds and any entity must undergo a long, difficult and expensive process.

HR 4901, again applying only to inholdings within conservation lands, would expedite the process by authorizing a ‘summary appraisal’ for land with a market value of less than $300 per acre.

Under HR 4901 any one of 13 western states could transfer to the federal government land grant parcels within conservation areas and select “unappropriated” public lands as compensation. Valid existing rights
would be honored by both parties. The provision would apply to the 11 western states plus North Dakota and South Dakota.

If HR 4901 were enacted, exchanges of public lands in non-conservation areas would continue to be governed by FLPMA.

Democratic senators back Canyonlands monument status

Fourteen Democratic senators last month asked President Obama to designate a 1.8 million-acre Canyonlands National Monument in southern Utah, to the scorn of Utah Gov. Gary Herbert (R).

This is the most recent national confrontation over the potential unilateral designation of national monuments by the President.

The Democrats, led by Sen. Dick Durbin (D-Ill.), told the President that the area surrounding Canyonlands National Park was in danger from unspecified “numerous threats.” The Bureau of Land Management (BLM) manages those threatened lands.

Environmentalists such as the Southern Utah Wilderness Alliance are more specific about the threats. “Greater Canyonlands is large, but its size is no defense against the threats it faces,” said the alliance. “Proposed oil and gas drilling, tar sands exploration, and potash development – some of which would be within sight and sound of Canyonlands National Park – would carve up this wild landscape, harming air and water quality, fragmenting wildlife habitat, and degrading spectacular scenery.”

The senators said the economic benefits of recreation would help Utah. “Finally, the economic value of protected landscapes in the West, and especially in Utah, is significant and growing. The outdoor recreation economy is a sustainable one, worth more than $5 billion annually in Utah and more than $646 billion nationwide. American public lands that receive protection help drive economic growth,” the Democrats said in a July 30 letter to the President.

On August 5 Herbert wrote the Democratic senators and said that instead of turning to President Obama for help they should work with Rep. Rob Bishop (R-Utah) in the preparation of legislation to (1) protect valued conservation lands in southern Utah while (2) setting aside land for development. Bishop calls that effort the Public Lands Initiative.

Herbert told the senators, “Knowing that we share a goal to preserve Utah’s unsurpassed natural beauty, I invite you to consider supporting Representative Bishop’s Public Lands Initiative. His approach would be comprehensive and more politically palatable than a national monument designation.”

The Canyonlands dispute spearheads a national campaign by conservationists to persuade Obama to designate dozens of national monuments across the West from federal land. The recommended tool is the Antiquities Act of 1906 that authorizes a President to designate monuments, but only from public lands, not state or private ones.

The Wilderness Society said it has identified 25 wilderness and conservation bills that are hung up in Congress and said Obama should step up and designate those areas as national monuments.

Obama acquiesced recently when on May 21 he established a 500,000-acre Organ Mountains-Desert Peaks National Monument in New Mexico, despite the objections of the local Congressman, Rep. Stevan Pearce (R-N.M.) However, New Mexico’s two senators do endorse the protection of BLM-managed land in Doña Ana County.

Republican senators and House members have introduced numerous bills in this Congress that would require either Congressional approval or a state’s approval for the designation of national monuments.

For instance, ranking Senate Energy Committee Democrat Lisa Murkowski
(R-Alaska) July 15 introduced a bill (S 2608) to curb Presidential authority. Murkowski said she would make any such designation under the Antiquities Act of 1906 subject to prior approval of Congress as well as approval of each state legislature within 100 miles. Murkowski would also require a prior environmental review.

House GOP puts border patrol access in immigration bill

Although the underlying House immigration legislation eventually failed last month, it did include a tough provision granting the border patrol access to, and the right to build infrastructure on, public lands.

In that the immigration legislation (HR 5230) is still a hot topic – despite the failure of lead bills in both the House and Senate – the border access issue could be revived in September. The counterpart Senate bill does not include the border-access provision.

The House bill with the access provision did not fail because it was too rigorous, it failed July 31 because conservatives said it was too lenient toward illegal immigrants.

The access provision was, or is, straightforward: It would waive 16 environmental laws if the U.S. Border Customs and Border Protection Agency desired access to any public lands within 100 miles of the southwestern border of the United States. Those laws include the Wilderness Act, the National Environmental Policy Act, the National Park Organic Act, the National Historic Preservation Act and the Antiquities Act.

The bill would allow customs access for construction of roads, construction of barriers, vehicle travel, installation of communications equipment and “deployment of tactical infrastructure.”

Said House Judiciary Committee Chairman Bob Goodlatte (R-Va.), an architect of the bill, “(W)hile I was in the Rio Grande Valley earlier this month, Border Patrol agents cited administration-created restrictions that bar them access to Federal lands as a significant stumbling block to securing the border. One of the more important provisions of this bill gives Border Patrol agents access to Federal lands so that they can stop drug traffickers, human smugglers, and unlawful immigrants from exploiting these gaps along the border.”

In a veto message the Office of Management and Budget objected to the waiver of “important environmental protections for the National Parks, National Monuments, and other public lands within 100 miles of the border for Customs and Border Protection activities.”

Similarly, Dan Kills, borderlands program coordinator for the Sierra Club’s Grand Canyon Chapter, objected to the provision. “Border Patrol already abuses its authority to drive off-road in our national parks and wilderness areas, and it is causing irreparable harm to the environment,” he said.

“There are more than 10,500 miles of renegade roads and vehicle tracks tearing up Arizona’s wilderness in Cabeza Prieta National Wildlife Refuge and Organ Pipe Cactus National Monument alone. The vast majority of these impacts are from Border Patrol. Border Patrol doesn’t need more authority; they need better training on how to protect natural areas and cultural resources.”

Legislative variations on the border access theme have been around the House and Senate for years. Last year the Senate on June 27, 2013, approved a bill (S 744) that would have allowed Customs to operate on federal lands in Arizona, prior to preparation of environmental documentation. The activities would be limited to motorized patrols and the deployment of equipment.

Separately, prior to Senate action Sen. Mike Lee (R-Utah) introduced an amendment (SA 1207) similar to the provision in the new House bill that would give Customs broad access to the border. No vote was taken on SA 1207.
A Senate counterpart bill (S 2648) to the House immigration bill from House Appropriations Committee Chair Barbara Mikulski (D-Md.) does not address Customs access, sticking instead to coping with immigrant children and emergency fire money. Senate Republicans said the measure went too far in helping immigrants and defeated it in a procedural vote 50-to-44. Sixty votes were required to proceed.

Notes

**Feds consider Cascades grizzlies.**

Led by the National Park Service, federal agencies and the State of Washington will consider over the next three years the possibility of the restoration of grizzly bears in the North Cascades Ecosystem. No grizzly bears have been sighted for years in the 9,800 square miles of the North Cascades in the United States. A few have been sighted in the 3,800 square miles of the ecosystem in Canada. The grizzly bear was designated as a threatened species in the lower 48 states in 1975. The Park Service announced August 21 that it will work with other federal agencies and the State of Washington over the next three years to prepare an EIS on possible reintroduction of the bear to the North Cascades. The ecosystem includes North Cascades National Park, Ross Lake National Recreation Area, Lake Chelan National Recreation Area, Okanogan-Wenatchee National Forest, and Mt. Baker-Snoqualmie National Forest. Park Service Director Jonathan B. Jarvis said reintroduction is not a done deal. “The National Park Service and our partners in this effort haven’t made any decisions about the bear’s restoration at this time as federal law requires us to look at a range of options, including not restoring grizzlies to the area,” he said. The grizzly had lived in the North Cascades for thousands of years before disappearing in recent decades. “This is huge news, for the Pacific Northwest and for grizzly bears,” said Joe Scott of Conservation Northwest. “It marks the potential turning point in the decade’s long decline of the last grizzly bears remaining on the U.S. West Coast. Without recovery efforts, these bears may soon be gone forever. This week’s announcement renews hope that this wilderness icon will roam the North Cascades for generations to come.”

**Open Fields grants set.**

The Department of Agriculture said August 7 that nine states and one Indian tribe will receive grants under an Open Fields program, also known as the Voluntary Public Access and Habitat Incentive Program (VPA-HIP). The $20 million is to be used by states and tribe for projects that make private lands available to hunters and anglers. The Pennsylvania Game Commission will receive the most money in fiscal year 2014, $6 million. The Confederated Tribes and Bands of the Yakima Nation will receive the least, $131,000. Congress put up the $20 million for VPA-HIP in a Farm Bill that President Obama signed into law (PL 113-79) February 7. It authorizes conservation programs tied to agriculture for the next five years. According to the Congressional Budget Office the Farm Bill will distribute $28.2 billion to conservation programs over the five years, beginning with $5.4 billion in this fiscal year 2014 and increasing to $5.8 billion in fiscal 2018. VPA-HIP is administered by the Natural Resources Conservation Service. Also receiving grants are agencies within the governments of Arizona, Georgia, Illinois, Iowa, Michigan, Montana, South Dakota and Texas.

**NPS toys with Pullman park.**

The National Park Service, which had already identified the Pullman Historic District in Chicago as a site of national significance, hinted August 21 that it would make a fine national park. NPS Director Jonathan B. Jarvis himself met with community activists at a meeting in Chicago to discuss the merits of designating Pullman as a national park unit. “It energizes me to see how engaged and committed the community in and around Pullman is to the idea of including this site in our National Park System,” said Jarvis. “As the National Park Service looks toward our centennial in 2016, sites like Pullman also offer opportunities for more Americans to visit parks that are close to home and that allow them to discover the stories of our shared history that resonate on a personal level.” The Pullman site was a planned industrial town built by
industrialist George Pullman between 1880 and 1884. Unlike other company towns it was considered open, uncrowded and sanitary. In 2013 NPS completed a reconnaissance survey that determined the site held national significance. Congress must act to designate new national park units, unless a property is federally owned. In that case the President can designate a national monument under the Antiquities Act of 1906. Sen. Richard Durbin (D-Ill.) and Rep. Robin Kelly (D-Ill.) have introduced legislation (S 1962, HR 3929) to establish the Pullman site as a unit of the National Park System. No hearings have been held on the bills yet.

**New FS planning advisors named.**
The Department of Agriculture August 12 named 21 members from the public to a new iteration of a Forest Service planning rule advisory committee. The new Planning Rule Advisory Committee is to offer guidance to the Forest Service on the implementation of an April 9, 2012, nationwide planning rule that in turn guides each forest in writing individual forest planning rules. The members come from 14 different categories ranging from the public-at-large to the timber industry to scientists. An original iteration of an advisory committee submitted its report to the Forest Service on Nov. 21, 2013. That panel’s recommendations appear to be less controversial than the rule itself. They simply flesh out the Forest Service’s own strategy for implementation. The individual forest plans, required by the National Forest Management Act, govern virtually all uses in the national forests. The Forest Service said the new rule will be tested out in these eight units of the National Forest System: the Nez Perce-Clearwater National Forest in Idaho, the Chugach National Forest in Alaska, the Cibola National Forest in New Mexico, El Yunque National Forest in Puerto Rico and California’s Inyo, Sequoia and Sierra National Forests. The Forest Service provides information on the planning rule and the advisory committee at: [http://www.fs.usda.gov/main/planningrule/home](http://www.fs.usda.gov/main/planningrule/home)

**Conference calendar**

**SEPTEMBER**


**OCTOBER**


