

## HIGHLANDS CONSERVATION ACT

NOVEMBER 17, 2003.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 1964]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1964) to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Highlands Conservation Act”.

#### SEC. 2. FINDINGS.

Congress finds the following—

- (1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.
- (2) The Highlands region is an environmentally unique area that—
  - (A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;
  - (B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;
  - (C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;
  - (D) contains recreational resources for 14 million visitors annually;
  - (E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and
  - (F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy.
- (3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.
- (4) More than 1,400,000 residents live in the Highlands region.

(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner.

(6) Continued population growth and land use patterns in the Highlands region—

- (A) reduce the availability and quality of water;
- (B) reduce air quality;
- (C) fragment the forests;
- (D) destroy critical migration corridors and forest habitat; and
- (E) result in the loss of recreational opportunities and scenic, historic, and cultural resources.

(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

(8) The national significance of the Highlands region has been documented in—

- (A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;
- (B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;
- (C) the bi-State Skylands Greenway Task Force Report;
- (D) the New Jersey State Development and Redevelopment Plan;
- (E) the New York State Open Space Conservation Plan;
- (F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;
- (G) the open space plans of the State of Pennsylvania; and
- (H) other open space conservation plans for States in the Highlands region.

(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, or restore resources of the Highlands region, including—

- (A) the Wallkill River National Wildlife Refuge;
- (B) the Shawanagunk Grasslands Wildlife Refuge;
- (C) the Morristown National Historical Park;
- (D) the Delaware and Lehigh Canal Corridors;
- (E) the Hudson River Valley National Heritage Area;
- (F) the Delaware River Basin;
- (G) the Delaware Water Gap National Recreation Area;
- (H) the Upper Delaware Scenic and Recreational River;
- (I) the Appalachian National Scenic Trail;
- (J) the United States Military Academy at West Point, New York;
- (K) the Highlands National Millenium Trail;
- (L) the Great Swamp National Wildlife Refuge;
- (M) the proposed Crossroads of the Revolution National Heritage Area;
- (N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and
- (O) the Farmington River Wild and Scenic Area in Connecticut.

(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region.

(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, protect, restore, and preserve the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

### SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

(2) To authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation lands in the Highlands region.

(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) **HIGHLANDS REGION.**—The term “Highlands region” means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) **HIGHLANDS STATE.**—The term “Highlands State” means—

- (A) the State of Connecticut;
- (B) the State of New Jersey;
- (C) the State of New York;
- (D) the State of Pennsylvania; and
- (E) any agency or department of any Highlands State.

(3) **LAND CONSERVATION PARTNERSHIP PROJECT.**—The term “land conservation partnership project” means a land conservation project located within the Highlands region identified as having high conservation value by the Forest Service in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of permanently protecting, conserving, or preserving the land through a partnership with the Federal Government.

(4) **NON-FEDERAL ENTITY.**—The term “non-Federal entity” means any Highlands State, or any agency or department of any Highlands State with authority to own and manage land for conservation purposes, including the Palisades Interstate Park Commission.

(5) **STUDY.**—The term “study” means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

(6) **UPDATE.**—The term “update” means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

#### SEC. 5. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

(a) **SUBMISSION OF PROPOSED PROJECTS.**—Annually, the Governors of the Highlands States, with input from pertinent units of local government and the public, may jointly identify land conservation partnership projects in the Highlands region that shall be proposed for Federal financial assistance and submit a list of those projects to the Secretary of the Interior.

(b) **CONSIDERATION OF PROJECTS.**—The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall annually submit to Congress a list of those land conservation partnership projects submitted under subsection (a) that are eligible to receive financial assistance under this section.

(c) **ELIGIBILITY CONDITIONS.**—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;

(2) identifies the source of funds to provide the non-Federal share required under subsection (d);

(3) describes the management objectives for the land that will assure permanent protection and use of the land for the purpose for which the assistance will be provided;

(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(A) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(B) the amount by which the financial assistance increased the value of the land or interest in land; and

(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in the following:

- (A) Important Areas portion of the Forest Service study.
- (B) Conservation Focal Areas portion of the Forest Service update.
- (C) Conservation Priorities portion of the update.
- (D) Lands identified as having higher or highest resource value in the Conservation Values Assessment portion of the update.

(d) **NON-FEDERAL SHARE REQUIREMENT.**—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section \$10,000,000 for each of the fiscal years 2005 through 2014. Amounts appropriated pursuant to this authorization of appropriations shall remain available until expended.

**SEC. 6. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.**

(a) **IN GENERAL.**—In order to meet the land resource goals of, and the scientific and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

(b) **DUTIES.**—The Forest Service shall—

(1) in consultation with the Highlands States, undertake other studies and research as appropriate in the Highlands region consistent with the purposes of this Act;

(2) communicate the findings of the study and update and maintain a public dialogue regarding implementation of the study and update; and

(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section \$1,000,000 for each of the fiscal years 2005 through 2014.

**SEC. 7. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.**

(a) **ACCESS TO PRIVATE PROPERTY.**—Nothing in this Act shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; and

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) **LIABILITY.**—Nothing in this Act shall be construed to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) **RECOGNITION OF AUTHORITY TO CONTROL LAND USE.**—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) **PARTICIPATION OF PRIVATE PROPERTY OWNERS.**—Nothing in this Act shall be construed to require the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this Act.

(e) **PURCHASE OF LANDS OR INTERESTS IN LANDS FROM WILLING SELLERS ONLY.**—Funds appropriated to carry out this Act shall be used to purchase lands or interests in lands only from willing sellers.

Amend the title so as to read:

A bill to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

**PURPOSE OF THE BILL**

The purpose of H.R. 1964, as reported, is to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

The Northeastern Highlands is a geographic region that encompasses over two million acres stretching from western Connecticut across the Lower Hudson River Valley and northern New Jersey into east central Pennsylvania. About 1.4 million people live in the Highlands Region, which is adjacent to one of the most populous metropolitan areas of the United States, and is the source of the region's drinking water. The Region is also home to a number of endangered species and cultural landmarks.

The overall purpose of the Highlands Conservation Act is to promote conservation of critical natural resources and priority conservation lands identified in the U.S. Forest Service's update of the New York-New Jersey Highlands Regional Study and state open space plans. As reported, the bill would authorize \$10 million annually over ten years for land conservation partnership projects, and \$1 million a year over ten years for U.S. Forest Service studies and technical assistance to private landowners and local communities.

## COMMITTEE ACTION

H.R. 1964 was introduced on May 6, 2003, by Congressman Rodney Frelinghuysen (R-NJ). The bill was referred to the Committee on Resources, and additionally to the Committee on Agriculture. With the Committee on Resources, the bill was referred to the Subcommittee on National Parks, Recreation and Public Lands. The Subcommittee on National Parks, Recreation, and Public Lands held a hearing on the bill on June 17, 2003. On October 29, 2003, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Recreation and Public Lands was discharged from further consideration of the bill by unanimous consent. Congressman Richard Pombo (R-CA) offered an amendment in the nature of a substitute that: (1) eliminated the Office of Highlands Stewardship and accompanying regulatory processes; (2) reduced the authorization of appropriation from \$25 million annually to \$10 million annually over ten years; (3) identified within the Highlands region lands having high conservation value, thereby focusing conservation on only those resources that are most important; (4) clarified that the bill would not establish a wholly new programmatic category of land use; and (5) assured landowners located within the Highlands Region that private property rights will be protected by including safeguards for those landowners. The amendment was adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

## CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 6, 2003.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1964, the Highlands Conservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 1964—Highlands Conservation Act*

Summary: H.R. 1964 would authorize the appropriation of \$11 million annually for fiscal years 2005 through 2014 for land preservation in the highlands area of the eastern United States. Most of this funding would be used by the Department of the Interior (DOI) to provide grants to four specified states: Pennsylvania, New York, New Jersey, and Connecticut. The eligible states would use the grant funds to acquire land or other real property interests. About

\$1 million annually would finance U.S. Forest Service activities in the highlands area.

CBO estimates that implementing H.R. 1964 would cost \$44 million through 2008 (and an additional \$66 million over the 2009–2014 period), assuming appropriation of the authorized amounts. Enacting the bill would not affect revenues or direct spending.

H.R. 1964 contains no intergovernmental or private-sector mandates defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1964 over the 2004–2008 period is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level .....	0	11	11	11	11
Estimated Outlays .....	0	11	11	11	11

Basis of estimate: For this estimate, CBO assumes that the amounts authorized will be appropriated for each fiscal year. Of the \$11 million authorized for each year, \$10 million would be used by DOI for matching grants to finance land protection projects in the eligible states. The remaining \$1 million would be used by the Forest Service to continue its research of the area and its assistance to the four states. No specific amounts were appropriated for these purposes for fiscal years 2003 and 2004. Estimated outlays are based on historical spending patterns for similar programs.

Intergovernmental and private-sector impact: H.R. 1964 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the states of Connecticut, New Jersey, New York, and Pennsylvania because it would authorize federal assistance for conservation projects in those states. Any costs they might incur to comply with the conditions of that assistance would be voluntary.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.