

Calendar No. 735

108TH CONGRESS
2D SESSION**H. R. 1964****[Report No. 108–376]**

IN THE SENATE OF THE UNITED STATES

NOVEMBER 22, 2003

Received

DECEMBER 9, 2003

Read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 28, 2004

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]**AN ACT**

To assist the States of Connecticut, New Jersey, New York,
and Pennsylvania in conserving priority lands and nat-
ural resources in the Highlands region, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Highlands Conserva-
5 tion Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following—

3 (1) The Highlands region is a physiographic
4 province that encompasses more than 2,000,000
5 acres extending from eastern Pennsylvania through
6 the States of New Jersey and New York to north-
7 western Connecticut.

8 (2) The Highlands region is an environmentally
9 unique area that—

10 (A) provides clean drinking water to over
11 15,000,000 people in metropolitan areas in the
12 States of Connecticut, New Jersey, New York,
13 and Pennsylvania;

14 (B) provides critical wildlife habitat, in-
15 cluding habitat for 247 threatened and endan-
16 gered species;

17 (C) maintains an important historic con-
18 nection to early Native American culture, colo-
19 nial settlement, the American Revolution, and
20 the Civil War;

21 (D) contains recreational resources for 14
22 million visitors annually;

23 (E) provides other significant ecological,
24 natural, tourism, recreational, educational, and
25 economic benefits; and

1 (F) provides homeownership opportunities
2 and access to affordable housing that is safe,
3 clean, and healthy.

4 (3) An estimated 1 in 12 citizens of the United
5 States live within a 2-hour drive of the Highlands
6 region.

7 (4) More than 1,400,000 residents live in the
8 Highlands region.

9 (5) The Highlands region forms a greenbelt ad-
10 jacent to the Philadelphia-New York City-Hartford
11 urban corridor that offers the opportunity to pre-
12 serve water, forest and agricultural resources, wild-
13 life habitat, recreational areas, and historic sites,
14 while encouraging sustainable economic growth and
15 development in a fiscally and environmentally sound
16 manner.

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

19 (A) reduce the availability and quality of
20 water;

21 (B) reduce air quality;

22 (C) fragment the forests;

23 (D) destroy critical migration corridors
24 and forest habitat; and

1 ~~(E)~~ result in the loss of recreational oppor-
2 tunities and scenic, historic, and cultural re-
3 sources.

4 ~~(7)~~ The water, forest, wildlife, recreational, ag-
5 ricultural, and cultural resources of the Highlands
6 region, in combination with the proximity of the
7 Highlands region to the largest metropolitan areas
8 in the United States, make the Highlands region na-
9 tionally significant.

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

12 ~~(A)~~ the New York-New Jersey Highlands
13 Regional Study conducted by the Forest Service
14 in 1990;

15 ~~(B)~~ the New York-New Jersey Highlands
16 Regional Study: 2002 Update conducted by the
17 Forest Service;

18 ~~(C)~~ the bi-State Skylands Greenway Task
19 Force Report;

20 ~~(D)~~ the New Jersey State Development
21 and Redevelopment Plan;

22 ~~(E)~~ the New York State Open Space Con-
23 servation Plan;

24 ~~(F)~~ the Connecticut Green Plan: Open
25 Space Acquisition FY 2001–2006;

1 (G) the open space plans of the State of
2 Pennsylvania; and

3 (H) other open space conservation plans
4 for States in the Highlands region.

5 (9) The Highlands region includes or is adja-
6 cent to numerous parcels of land owned by the Fed-
7 eral Government or federally designated areas that
8 protect, conserve, or restore resources of the High-
9 lands region, including—

10 (A) the Wallkill River National Wildlife
11 Refuge;

12 (B) the Shawanagunk Grasslands Wildlife
13 Refuge;

14 (C) the Morristown National Historical
15 Park;

16 (D) the Delaware and Lehigh Canal Cor-
17 ridors;

18 (E) the Hudson River Valley National
19 Heritage Area;

20 (F) the Delaware River Basin;

21 (G) the Delaware Water Gap National
22 Recreation Area;

23 (H) the Upper Delaware Scenic and Rec-
24 reational River;

25 (I) the Appalachian National Scenic Trail;

1 ~~(J)~~ the United States Military Academy at
2 West Point, New York;

3 ~~(K)~~ the Highlands National Millenium
4 Trail;

5 ~~(L)~~ the Great Swamp National Wildlife
6 Refuge;

7 ~~(M)~~ the proposed Crossroads of the Revo-
8 lution National Heritage Area;

9 ~~(N)~~ the proposed Musconetecong National
10 Scenic and Recreational River in New Jersey;
11 and

12 ~~(O)~~ the Farmington River Wild and Scenic
13 Area in Connecticut.

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

18 ~~(11)~~ The States of Connecticut, New Jersey,
19 New York, and Pennsylvania, and units of local gov-
20 ernment in the Highlands region have the primary
21 responsibility for protecting, conserving, preserving,
22 restoring and promoting the resources of the High-
23 lands region.

24 ~~(12)~~ Because of the longstanding Federal prae-
25 tice of assisting States in creating, protecting, con-

1 serving, and restoring areas of significant natural
2 and cultural importance, and the national signifi-
3 cance of the Highlands region, the Federal Govern-
4 ment should, in partnership with the Highlands
5 States and units of local government in the High-
6 lands region, protect, restore, and preserve the
7 water, forest, agricultural, wildlife, recreational and
8 cultural resources of the Highlands region.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are as follows:

11 (1) To recognize the importance of the water,
12 forest, agricultural, wildlife, recreational and cultural
13 resources of the Highlands, and the national signifi-
14 cance of the Highlands region to the United States.

15 (2) To authorize the Secretary of the Interior
16 to work in partnership with the Secretary of Agri-
17 culture to provide financial assistance to the High-
18 lands States to preserve and protect high priority
19 conservation lands in the Highlands region.

20 (3) To continue the ongoing Forest Service pro-
21 grams in the Highlands region to assist the High-
22 lands States, local units of government and private
23 forest and farm landowners in the conservation of
24 lands and natural resources in the Highlands region.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **HIGHLANDS REGION.**—The term “High-
4 lands region” means the physiographic province, de-
5 fined by the Reading Prong and ecologically similar
6 adjacent upland areas, that encompasses more than
7 2,000,000 acres extending from eastern Pennsyl-
8 vania through the States of New Jersey and New
9 York to northwestern Connecticut.

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

12 (A) the State of Connecticut;

13 (B) the State of New Jersey;

14 (C) the State of New York;

15 (D) the State of Pennsylvania; and

16 (E) any agency or department of any
17 Highlands State.

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

1 the land through a partnership with the Federal
2 Government.

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

9 ~~(5) STUDY.—~~The term “study” means the New
10 York-New Jersey Highlands Regional Study con-
11 ducted by the Forest Service in 1990.

12 ~~(6) UPDATE.—~~The term “update” means the
13 New York-New Jersey Highlands Regional Study:
14 2002 Update conducted by the Forest Service.

15 **SEC. 5. LAND CONSERVATION PARTNERSHIP PROJECTS IN**
16 **THE HIGHLANDS REGION.**

17 ~~(a) SUBMISSION OF PROPOSED PROJECTS.—~~Annu-
18 ally, the Governors of the Highlands States, with input
19 from pertinent units of local government and the public,
20 may jointly identify land conservation partnership projects
21 in the Highlands region that shall be proposed for Federal
22 financial assistance and submit a list of those projects to
23 the Secretary of the Interior.

24 ~~(b) CONSIDERATION OF PROJECTS.—~~The Secretary
25 of the Interior, in consultation with the Secretary of Agri-

1 culture, shall annually submit to Congress a list of those
 2 land conservation partnership projects submitted under
 3 subsection (a) that are eligible to receive financial assist-
 4 ance under this section.

5 (c) ELIGIBILITY CONDITIONS.—To be eligible for fi-
 6 nancial assistance under this section for a land conserva-
 7 tion partnership project, a non-Federal entity shall enter
 8 into an agreement with the Secretary of the Interior
 9 that—

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

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

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

18 (4) provides that, if the non-Federal entity con-
 19 verts, uses, or disposes of the land conservation
 20 partnership project for a purpose inconsistent with
 21 the purpose for which the assistance was provided,
 22 as determined by the Secretary of the Interior, the
 23 United States may seek specific performance of the
 24 conditions of financial assistance in accordance with
 25 paragraph (3) in Federal court and shall be entitled

1 to reimbursement from the non-Federal entity in an
 2 amount that is, as determined at the time of conver-
 3 sion, use, or disposal, the greater of—

4 (A) the total amount of the financial as-
 5 sistance provided for the project by the Federal
 6 Government under this section; or

7 (B) the amount by which the financial as-
 8 sistance increased the value of the land or in-
 9 terest in land; and

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

13 (A) Important Areas portion of the Forest
 14 Service study.

15 (B) Conservation Focal Areas portion of
 16 the Forest Service update.

17 (C) Conservation Priorities portion of the
 18 update.

19 (D) Lands identified as having higher or
 20 highest resource value in the Conservation Val-
 21 ues Assessment portion of the update.

22 (d) NON-FEDERAL SHARE REQUIREMENT.—The
 23 Federal share of the cost of carrying out a land conserva-
 24 tion partnership project under this section shall not exceed

1 50 percent of the total cost of the land conservation part-
 2 nership project.

3 (c) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There is
 4 authorized to be appropriated to the Secretary of the Inte-
 5 rior from the general funds of the Treasury or the Land
 6 and Water Conservation Fund to carry out this section
 7 \$10,000,000 for each of the fiscal years 2005 through
 8 2014. Amounts appropriated pursuant to this authoriza-
 9 tion of appropriations shall remain available until ex-
 10 pended.

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

13 (a) ~~IN GENERAL.~~—In order to meet the land resource
 14 goals of, and the scientific and conservation challenges
 15 identified in, the study, update, and any future study that
 16 the Forest Service may undertake in the Highlands region,
 17 the Secretary of Agriculture, acting through the Chief of
 18 the Forest Service and in consultation with the Chief of
 19 the National Resources Conservation Service, shall con-
 20 tinue to assist the Highlands States, local units of govern-
 21 ment, and private forest and farm landowners in the con-
 22 servation of lands and natural resources in the Highlands
 23 region.

24 (b) ~~DUTIES.~~—The Forest Service shall—

(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.

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

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

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

4 (b) **LIABILITY.**—Nothing in this Act shall be con-
 5 strued to create any liability, or to have any effect on any
 6 liability under any other law, of any private property
 7 owner with respect to any persons injured on such private
 8 property.

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

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

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

23 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. PURPOSES.**

2 *The purposes of this Act are—*

3 *(1) to recognize the importance of the water, for-*
4 *est, agricultural, wildlife, recreational, and cultural*
5 *resources of the Highlands region, and the national*
6 *significance of the Highlands region to the United*
7 *States;*

8 *(2) to authorize the Secretary of the Interior to*
9 *work in partnership with the Secretary of Agriculture*
10 *to provide financial assistance to the Highlands*
11 *States to preserve and protect high priority conserva-*
12 *tion land in the Highlands region; and*

13 *(3) to continue the ongoing Forest Service pro-*
14 *grams in the Highlands region to assist the High-*
15 *lands States, local units of government, and private*
16 *forest and farm landowners in the conservation of*
17 *land and natural resources in the Highlands region.*

18 **SEC. 3. DEFINITIONS.**

19 *In this Act:*

20 *(1) HIGHLANDS REGION.—The term “Highlands*
21 *region” means the area depicted on the map entitled*
22 *“The Highlands Region”, dated June 2004, including*
23 *the list of municipalities included in the Highlands*
24 *region, and maintained in the headquarters of the*
25 *Forest Service in Washington, District of Columbia.*

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

3 (A) *the State of Connecticut;*

4 (B) *the State of New Jersey;*

5 (C) *the State of New York; and*

6 (D) *the State of Pennsylvania.*

7 (3) *LAND CONSERVATION PARTNERSHIP*
8 *PROJECT*.—The term “*land conservation partnership*
9 *project*” means a land conservation project—

10 (A) *located in the Highlands region;*

11 (B) *identified by the Forest Service in the*
12 *Study, the Update, or any subsequent Pennsyl-*
13 *vania and Connecticut Update as having high*
14 *conservation value; and*

15 (C) *in which a non-Federal entity acquires*
16 *land or an interest in land from a willing seller*
17 *to permanently protect, conserve, or preserve the*
18 *land through a partnership with the Federal*
19 *Government.*

20 (4) *NON-FEDERAL ENTITY*.—The term “*non-Fed-*
21 *eral entity*” means—

22 (A) *any Highlands State; or*

23 (B) *any agency or department of any High-*
24 *lands State with authority to own and manage*

1 *land for conservation purposes, including the*
 2 *Palisades Interstate Park Commission.*

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

6 (6) *UPDATE.*—*The term “Update” means the*
 7 *New York-New Jersey Highlands Regional Study:*
 8 *2002 Update conducted by the Forest Service.*

9 (7) *PENNSYLVANIA AND CONNECTICUT UP-*
 10 *DATE.*—*The term “Pennsylvania and Connecticut*
 11 *Update” means a report to be completed by the Forest*
 12 *Service that identifies areas having high conservation*
 13 *values in the States of Connecticut and Pennsylvania*
 14 *in a manner similar to that utilized in the Study*
 15 *and Update.*

16 **SEC. 4. LAND CONSERVATION PARTNERSHIP PROJECTS IN**
 17 **THE HIGHLANDS REGION.**

18 (a) *SUBMISSION OF PROPOSED PROJECTS.*—*Each*
 19 *year, the governors of the Highlands States, with input*
 20 *from pertinent units of local government and the public,*
 21 *may—*

22 (1) *jointly identify land conservation partner-*
 23 *ship projects in the Highlands region from land iden-*
 24 *tified as having high conservation values in the*
 25 *Study, the Update, or the Pennsylvania and Con-*

1 *necticut Update that shall be proposed for Federal fi-*
 2 *nancial assistance; and*

3 *(2) submit a list of those projects to the Sec-*
 4 *retary of the Interior.*

5 *(b) CONSIDERATION OF PROJECTS.—Each year, the*
 6 *Secretary of the Interior, in consultation with the Secretary*
 7 *of Agriculture, shall submit to Congress a list of the land*
 8 *conservation partnership projects submitted under sub-*
 9 *section (a)(2) that are eligible to receive financial assistance*
 10 *under this section.*

11 *(c) ELIGIBILITY CONDITIONS.—To be eligible for fi-*
 12 *nancial assistance under this section for a land conserva-*
 13 *tion partnership project, a non-Federal entity shall enter*
 14 *into an agreement with the Secretary of the Interior that—*

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

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

19 *(3) describes the management objectives for the*
 20 *land that will ensure permanent protection and use*
 21 *of the land for the purpose for which the assistance*
 22 *will be provided;*

23 *(4) provides that, if the non-Federal entity con-*
 24 *verts, uses, or disposes of the land conservation part-*
 25 *nership project for a purpose inconsistent with the*

1 *purpose for which the assistance was provided, as de-*
2 *termined by the Secretary of the Interior, the United*
3 *States—*

4 *(A) may seek specific performance of the*
5 *conditions of financial assistance in accordance*
6 *with paragraph (3) in Federal court; and*

7 *(B) shall be entitled to reimbursement from*
8 *the non-Federal entity in an amount that is, as*
9 *determined at the time of conversion, use, or dis-*
10 *posal, the greater of—*

11 *(i) the total amount of the financial*
12 *assistance provided for the project by the*
13 *Federal Government under this section; or*

14 *(ii) the amount by which the financial*
15 *assistance increased the value of the land or*
16 *interest in land; and*

17 *(5) provides that land conservation partnership*
18 *projects will be consistent with areas identified as*
19 *having high conservation value in—*

20 *(A) the Important Areas portion of the*
21 *Study;*

22 *(B) the Conservation Focal Areas portion of*
23 *the Update;*

24 *(C) the Conservation Priorities portion of*
25 *the Update;*

(e) *AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior \$10,000,000 for each of fiscal years 2005 through 2014, to remain available until expended.*

(a) IN GENERAL.—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

1 *forest and farm landowners in the conservation of land and*
2 *natural resources in the Highlands region.*

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

4 *(1) in consultation with the Highlands States,*
5 *undertake other studies and research in the Highlands*
6 *region consistent with the purposes of this Act, in-*
7 *cluding a Pennsylvania and Connecticut Update;*

8 *(2) communicate the findings of the Study and*
9 *Update and maintain a public dialogue regarding*
10 *implementation of the Study and Update; and*

11 *(3) assist the Highland States, local units of gov-*
12 *ernment, individual landowners, and private organi-*
13 *zations in identifying and using Forest Service and*
14 *other technical and financial assistance programs of*
15 *the Department of Agriculture.*

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

20 **SEC. 6. PRIVATE PROPERTY PROTECTION AND LACK OF**
21 **REGULATORY EFFECT.**

22 *(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this*
23 *Act—*

1 (1) *requires a private property owner to permit*
2 *public access (including Federal, State, or local gov-*
3 *ernment access) to private property; or*

4 (2) *modifies any provision of Federal, State, or*
5 *local law with regard to public access to, or use of,*
6 *private land.*

7 (b) *LIABILITY.—Nothing in this Act creates any liabil-*
8 *ity, or has any effect on liability under any other law, of*
9 *a private property owner with respect to any persons in-*
10 *jured on the private property.*

11 (c) *RECOGNITION OF AUTHORITY TO CONTROL LAND*
12 *USE.—Nothing in this Act modifies any authority of Fed-*
13 *eral, State, or local governments to regulate land use.*

14 (d) *PARTICIPATION OF PRIVATE PROPERTY OWN-*
15 *ERS.—Nothing in this Act requires the owner of any private*
16 *property located in the Highlands region to participate in*
17 *the land conservation, financial, or technical assistance or*
18 *any other programs established under this Act.*

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

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[Report No. 108-376]

AN ACT

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.

SEPTEMBER 28, 2004

Reported with an amendment