

HIGHLANDS CONSERVATION REAUTHORIZATION ACT
OF 2021

APRIL 25, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 2793]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2793) to reauthorize the Highlands Conservation Act, to authorize States to use funds from that Act for administrative purposes, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is 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 Reauthorization Act of 2021”.

SEC. 2. REAUTHORIZATION OF THE HIGHLANDS CONSERVATION ACT.

The Highlands Conservation Act (Public Law 108-421; 118 Stat. 2375) is amended—

(1) in section 3—

(A) by amending paragraph (1) to read as follows:

“(1) HIGHLANDS REGION.—The term ‘Highlands region’ means—

“(A) the area depicted on the map entitled ‘The Highlands Region’, dated June 2004, updated after the date of enactment of the Highlands Conservation Reauthorization Act of 2021 to comprise each municipality included on the list of municipalities included in the Highlands region as of that date of enactment, and maintained in the headquarters of the Forest Service in Washington, District of Columbia; and

“(B) a municipality approved by the Director of the United States Fish and Wildlife Service under section 4(e).”;

(B) in paragraph (3), by amending subparagraph (B) to read as follows:

“(B) identified by a Highlands State as having high conservation value using the best available science and geographic information systems; and”;

- (C) in paragraph (4)(A), by striking “; or” and inserting “, including a political subdivision thereof; or”; and
- (D) by striking paragraphs (5) through (7);
- (2) in section 4—
- (A) in subsection (a)(1), by striking “in the Study” and all that follows through the end of the paragraph and inserting “using the best available science and geographic information systems; and”;
- (B) in subsection (c), by amending paragraph (5) to read as follows:
- “(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in accordance with the purposes described in section 2 in the Highlands region.”;
- (C) in subsection (e), by striking “fiscal years 2005 through 2021” and inserting “fiscal years 2022 through 2028”;
- (D) by redesignating subsection (e) as subsection (g); and
- (E) by inserting after subsection (d) the following:
- “(e) REQUEST FOR INCLUSION OF ADDITIONAL MUNICIPALITY.—The Director of the United States Fish and Wildlife Service may, at the request of a Highlands State, with the concurrence of the municipality, approve the inclusion of a municipality within the State as part of the Highlands region.
- “(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—
- “(1) FEDERAL ADMINISTRATION.—The Secretary of the Interior may not expend more than \$300,000 for the administration of this Act in each fiscal year.
- “(2) STATE ADMINISTRATION.—A State that receives funds under this section for a land conservation partnership project may not use more than 5 percent of the funds to administer the land conservation partnership project.”;
- (3) in section 5—
- (A) in subsection (a), by striking “the Study, Update, and any future study that the Forest Service may undertake in”;
- (B) in subsection (b)—
- (i) in paragraph (1), by striking “, including a Pennsylvania and Connecticut Update”; and
- (ii) in paragraph (2), by striking “the findings” and all that follows through the end of the paragraph and inserting “with stakeholders regarding implementation of the program; and”;
- (C) in subsection (c), by striking “2005 through 2014” and inserting “2022 through 2028”; and
- (4) in section 6, by adding at the end the following:
- “(f) APPRAISAL METHODOLOGY.—
- “(1) IN GENERAL.—With respect to an appraisal related to a land acquisition carried out under this Act, a Highlands State shall use an appraisal methodology approved by the Secretary of the Interior.
- “(2) ALTERNATIVE APPRAISAL METHODOLOGY.—A Highlands State may petition the Secretary of the Interior to consider an alternative appraisal methodology when there is a conflict, in any Highlands State, between—
- “(A) an appraisal methodology approved by the Secretary of the Interior under paragraph (1); and
- “(B) applicable State law.”.

PURPOSE OF THE BILL

The purpose of H.R. 2793 is to reauthorize the Highlands Conservation Act and to authorize States to use funds from that Act for administrative purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Highlands area covers 3.4 million acres in Connecticut, New Jersey, New York, and Pennsylvania. The deciduous and coniferous forests, streams, and lakes of the Highlands yield benefits and resources to millions of Americans and thousands of plant and animal species. One in nine Americans lives within a two-hour drive of the Highlands,¹ and millions benefit from its clean water, clean

¹See *Highlands Conservation Act Grant Program, About Us*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/program/highlands-conservation-act-grant/about-us> (last visited Apr.11, 2022), of which the above text is largely excerpts.

air, forested habitats, and recreational and cultural resources. In 2004, the Highlands Conservation Act² was signed into law, establishing a program under the Land and Water Conservation Fund for state agencies to purchase and conserve land in the Highlands from willing sellers. In addition, it authorized the Fish and Wildlife Service (FWS) and the U.S. Forest Service (USFS) to provide financial assistance to the Highland states, local governments, non-profits, and private forest and farm landowners to conserve the land and natural resources of the Highlands region. Since the Act's passage, more than \$20 million in federal funds, matched by \$44.3 million in non-federal funds, has been awarded to permanently protect 12,776 acres of land.³ The program's authorization expired in 2014, but funds have still been appropriated each year.

H.R. 2793 will improve upon the well-known land conservation partnership projects funded by the Highlands Conservation Act Grant Program and reauthorize the FWS program through 2028 at \$10 million per year. There is a limitation on administrative expenses for FWS at \$300,000 per year and 5% of received funds for each state's administration. The bill updates the list of included municipalities and information on which geographic areas are ecologically connected. It also includes a petition process for states to nominate new areas to be included in the Highlands region so that they are eligible to receive assistance under the Highlands Conservation Act. The petition process will remain open on a rolling basis to eliminate possible bottlenecks. The bill will also enable the Highland States to determine areas of high conservation value using the best available science and geographic information systems. Finally, the bill would authorize \$1 million annual through 2028 for the USFS to assist states with the conservation of private farms and forests.

COMMITTEE ACTION

H.R. 2793 was introduced on April 22, 2021, by Representative Sean Patrick Maloney (D-NY). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Oceans, and Wildlife. On July 29, 2021, the Subcommittee held a hearing on the bill. On January 19, 2022, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Chair Raúl M. Grijalva (D-AZ) offered an amendment. The amendment was agreed to by unanimous consent. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Oceans, and Wildlife held on July 29, 2021.

²Pub. L. No.108-421, 118 Stat. 2375 (2004), <https://uscode.house.gov/statviewer.htm?volume=118&page=2375> (not codified).

³*Highlands Conservation Act Grant Program, About Us*, *supra* note 1.

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 Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. COST OF LEGISLATION AND THE CONGRESSIONAL BUDGET ACT. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 10, 2022.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2793, the Highlands Conservation Reauthorization Act of 2021.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 2793, Highlands Conservation Reauthorization Act of 2021			
As ordered reported by the House Committee on Natural Resources on January 19, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	37	77
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 2793 would authorize the appropriation of \$10 million annually over the 2022–2028 period for the U.S. Fish and Wildlife Service (USFWS) to award grants to Connecticut, New Jersey, New York, and Pennsylvania for the acquisition and conservation of land within the Highlands Region. The bill also would authorize

the appropriation of \$1 million annually over the 2022–2028 period for the Forest Service to assist those states with conservation of farms and forests on private land.

For this estimate, CBO assumes that the bill will be enacted late in fiscal year 2022 and that the authorized amounts will be provided each year. Using information from USFWS and based on historical spending patterns for similar activities, CBO estimates that implementing H.R. 2793 would cost \$37 million over the 2022–2026 period and \$40 million after 2026.

In 2021, USFWS allocated \$10 million from the Land and Water Conservation Fund for grants to states for acquisition and conservation of land in the Highlands Region. (Amounts in the fund are available to USFWS and other land management agencies without further appropriation.) CBO estimates that if the bill was enacted, amounts authorized to be provided in subsequent appropriation acts would be additional to amounts allocated from the fund; thus, enacting H.R. 2793 would have no effect on that direct spending.

The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2793

	By fiscal year, millions of dollars—											2022– 2026	2022– 2031	
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031				
Increases in Spending Subject to Appropriation														
U.S. Fish and Wildlife Service:														
Authorization	10	10	10	10	10	10	10	0	0	0	50	70		
Estimated Outlays	*	5	8	10	10	10	10	10	45	2	33	70		
Forest Service:														
Authorization	1	1	1	1	1	1	1	0	0	0	5	7		
Estimated Outlays	*	1	1	1	1	1	1	1	0	0	4	7		
Total Changes:														
Authorization	11	11	11	11	11	11	11	0	0	0	55	77		
Estimated Outlays	*	6	9	11	11	11	11	11	5	2	37	77		

* = between zero and \$500,000.

On February 25, 2022, CBO transmitted a cost estimate for S. 753, the Highlands Conservation Reauthorization Act of 2021, as ordered reported by the Senate Committee on Energy and Natural Resources on November 18, 2021. The two bills are similar; however, S. 753 would authorize the appropriation of \$10 million more each year for USFWS than H.R. 2793. CBO’s cost estimate for each bill reflects the difference in the authorized amounts.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to reauthorize the Highlands Conservation Act and to authorize States to use funds from that Act for administrative purposes.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, this bill contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. § 6104 does not identify other programs as related to the Highlands Conservation program (CFDA No. 15.667) reauthorized by this bill.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill’s purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

HIGHLANDS CONSERVATION ACT

* * * * *

SEC. 3. DEFINITIONS.

In this Act:

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

(1) *HIGHLANDS REGION.*—*The term “Highlands region” means—*

(A) the area depicted on the map entitled “The Highlands Region”, dated June 2004, updated after the date of enactment of the Highlands Conservation Reauthorization Act of 2021 to comprise each municipality included on the list of

municipalities included in the Highlands region as of that date of enactment, and maintained in the headquarters of the Forest Service in Washington, District of Columbia; and

(B) a municipality approved by the Director of the United States Fish and Wildlife Service under section 4(e).

(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; and
- (D) the State of Pennsylvania.

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

(A) located in the Highlands region;

[(B) identified by the Forest Service in the Study, the Update, or any subsequent Pennsylvania and Connecticut Update as having high conservation value; and]

(B) identified by a Highlands State as having high conservation value using the best available science and geographic information systems; and

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

(4) NON-FEDERAL ENTITY.—The term “non-Federal entity” means—

(A) any Highlands State[; or], *including a political subdivision thereof; or*

(B) 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.

[(7) PENNSYLVANIA AND CONNECTICUT UPDATE.—The term “Pennsylvania and Connecticut Update” means a report to be completed by the Forest Service that identifies areas having high conservation values in the States of Connecticut and Pennsylvania in a manner similar to that utilized in the Study and Update.]

SEC. 4. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

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

(1) jointly identify land conservation partnership projects in the Highlands region from land identified as having high conservation values [in the Study, the Update, or the Pennsylvania and Connecticut Update that shall be proposed for Fed-

eral financial assistance; and] *using the best available science and geographic information systems; and*

(2) submit a list of those projects to the Secretary of the Interior.

(b) CONSIDERATION OF PROJECTS.—Each year, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall submit to Congress a list of the land conservation partnership projects submitted under subsection (a)(2) 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 under subsection (d);

(3) describes the management objectives for the land that will ensure 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—

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

(B) 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—

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

(ii) 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—

[(A) the Important Areas portion of the Study;

[(B) the Conservation Focal Areas portion of the Update;

[(C) the Conservation Priorities portion of the Update;

[(D) land identified as having higher or highest resource value in the Conservation Values Assessment portion of the Update; and

[(E) land identified as having high conservation value in the Pennsylvania and Connecticut Update.]

(5) *provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in accordance with the purposes described in section 2 in the Highlands region.*

(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) *REQUEST FOR INCLUSION OF ADDITIONAL MUNICIPALITY.*—The Director of the United States Fish and Wildlife Service may, at the request of a Highlands State, with the concurrence of the municipality, approve the inclusion of a municipality within the State as part of the Highlands region.

(f) *LIMITATION ON ADMINISTRATIVE EXPENSES.*—

(1) *FEDERAL ADMINISTRATION.*—The Secretary of the Interior may not expend more than \$300,000 for the administration of this Act in each fiscal year.

(2) *STATE ADMINISTRATION.*—A State that receives funds under this section for a land conservation partnership project may not use more than 5 percent of the funds to administer the land conservation partnership project.

[(e)] (g) *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 2021] *fiscal years 2022 through 2028*, to remain available until expended.

SEC. 5. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

(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 forest and farm landowners in the conservation of land 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 in the Highlands region consistent with the purposes of this Act[, including a Pennsylvania and Connecticut Update];

(2) communicate [the findings of the Study and Update and maintain a public dialogue regarding implementation of the Study and Update; and] *with stakeholders regarding implementation of the program; 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 fiscal years [2005 through 2014] *2022 through 2028*.

SEC. 6. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

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

(1) requires a private property owner to permit public access (including Federal, State, or local government access) to private property; or

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

(b) **LIABILITY.**—Nothing in this Act creates any liability, or has any effect on liability under any other law, of a private property owner with respect to any persons injured on the private property.

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

(d) **PARTICIPATION OF PRIVATE PROPERTY OWNERS.**—Nothing in this Act requires 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 LAND OR INTERESTS IN LAND FROM WILLING SELLERS ONLY.**—Funds appropriated to carry out this Act shall be used to purchase land or interests in land only from willing sellers.

(f) **APPRAISAL METHODOLOGY.**—

(1) *IN GENERAL.*—*With respect to an appraisal related to a land acquisition carried out under this Act, a Highlands State shall use an appraisal methodology approved by the Secretary of the Interior.*

(2) *ALTERNATIVE APPRAISAL METHODOLOGY.*—*A Highlands State may petition the Secretary of the Interior to consider an alternative appraisal methodology when there is a conflict, in any Highlands State, between—*

(A) an appraisal methodology approved by the Secretary of the Interior under paragraph (1); and
(B) applicable State law.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

None.

