

1 nated development and growth by both the public and
2 private sectors;

3 (2) traditionally, such landscapes have been pro-
4 posed for direct public acquisition and management, but
5 such a means for their protection is too costly to be
6 applied equitably nationwide and is often inappropriate
7 since it needlessly eliminates private land ownerships
8 and uses which are frequently an integral part of the
9 value of such landscapes;

10 (3) public pressures for the protection of outstand-
11 ing landscapes are being increasingly manifested through
12 the introduction of a variety of legislative proposals for
13 special areas with special provisions that are beyond the
14 traditional scope of existing Federal programs; and

15 (4) consequently, a uniform and equitable system
16 is needed for protecting and enhancing the ecological,
17 scenic, cultural, historic, and recreational values of these
18 and other areas, through a partnership between the
19 Federal Government and the appropriate State and local
20 governments, together with a partnership between the
21 governmental sector as a whole and the private sector
22 within such areas, in ways that are affordable, fair, and
23 permanent.

24

PURPOSE

25

SEC. 3. It is the purpose of this Act—

1 (1) to increase, within existing funding levels of
2 the Land and Water Conservation Fund program and
3 through other appropriate Federal programs, the op-
4 portunities to protect significant landscapes possessing
5 outstanding ecological, scenic, cultural, historic, or rec-
6 reational characteristics, and to provide for their enjoy-
7 ment and use by a larger segment of the American
8 public;

9 (2) to establish the framework for a new local-
10 State-Federal partnership, with each government, and
11 the private sector, contributing to the partnership in
12 accordance with its inherent capabilities, for the identifi-
13 cation, planning, financing, and management of such
14 landscapes for which large-scale direct public acquisition
15 is inappropriate, unnecessary, and not cost effective;

16 (3) to provide a means by which these areas can
17 be managed as living landscapes wherein private owner-
18 ships, existing communities, and traditional land uses
19 can be maintained, even as their outstanding public
20 values are protected; and

21 (4) substantially to increase the cost-effectiveness
22 of conserving natural and cultural resources, by provid-
23 ing an alternative to predominant reliance on fee
24 acquisition and Federal planning, development, and
25 management.

NATIONAL RESERVES SYSTEM

1

2 SEC. 4. There is hereby established the National Re-
3 serves System which shall consist of landscapes of outstand-
4 ing ecological, scenic, cultural, historic, or recreational sig-
5 nificance which are designated "National Reserves" in ac-
6 cordance with the provisions of this Act.

7

NATIONAL RESERVES COUNCIL

8 SEC. 5. (a) There is hereby established a National Re-
9 serves Council (hereinafter referred to as the "Council")
10 which shall be composed of the following members—

11

(1) Secretary of the Interior;

12

(2) Secretary of Agriculture;

13

(3) Secretary of Commerce;

14

(4) Secretary of Defense;

15

(5) Secretary of Transportation;

16

(6) Secretary of Housing and Urban Develop-

17

ment;

18

(7) Secretary of Energy;

19

(8) Administrator of the Environmental Protection

20

Agency; and

21

(9) Chairman of the Council on Environmental

22

Quality.

23

(b) Each member of the Council may designate an

24

alternate to serve in his or her place on the Council.

25

(c) The Secretary of the Interior (hereinafter referred

1 to as the "Secretary") shall serve as Chairman of the Coun-
2 cil, and is authorized to appoint and fix the compensation of
3 an executive director, and such additional staff as the Secre-
4 tary deems necessary. The executive director may be selected
5 without regard to the provisions of title 5, United States
6 Code, governing appointments in the competitive service,
7 and without regard to chapter 51 and subchapter III of
8 chapter 53 of such title relating to classification and General
9 Schedule pay rates, but at rates not in excess of the maximum
10 rate for GS-18 of the General Schedule under section 5332
11 of such title.

12 (d) The duties of the Council shall be—

13 (1) to receive and evaluate proposals for feasibility
14 studies of prospective National Reserve Planning Areas,
15 which may be submitted by a Member of Congress, the
16 Secretary, the Governor of a State, two or more units
17 of local government within a proposed Area, or as
18 memorialized by one or more houses of a State leg-
19 islature;

20 (2) to cause feasibility studies to be carried out to
21 determine if, based on the criteria set forth in section 6,
22 the area qualifies for consideration as a National Reserve
23 Planning Area;

24 (3) based on the feasibility studies described in
25 paragraph (2), to recommend to the Congress that cer-

1 tain areas be designated as National Reserve Planning
2 Areas as provided in section 7;

3 (4) to review management programs for prospec-
4 tive National Reserves to determine whether they meet
5 the guidelines established pursuant to section 8 (a) and
6 other conditions and requirements of this Act, and to
7 make recommendations to the Secretary on the approval
8 or disapproval of such programs as provided in section
9 8 (b) ;

10 (5) to monitor and make recommendations to the
11 Secretary on the management and eligibility for assist-
12 ance of National Reserves and on the administration of
13 the National Reserves System as provided in section 10;
14 and

15 (6) to assure consistency and coordination of Fed-
16 eral programs within National Reserve Planning Areas
17 and components of the National Reserves System as pro-
18 vided in section 7 (b) and 9 (b) .

19 CRITERIA FOR NATIONAL RESERVES PLANNING AREAS

20 SEC. 6. (a) In recommending that an area be desig-
21 nated as a National Reserve Planning Area, the Council
22 shall determine that—

23 (1) the area is a coherent landscape of sufficient
24 size and importance to be judged outstanding in terms

1 of its ecological, scenic, cultural, historic, or recreational
2 values;

3 (2) the area could best be protected, for reasons
4 of cost, land ownership and use, or other factors, by
5 means of a variety of land management techniques as
6 opposed to predominant reliance on fee acquisition of
7 the area; and

8 (3) the area contains a mix of private and public
9 or quasi-public land ownerships, wherein the public or
10 quasi-public ownership, in the form of existing parks,
11 historic sites, natural areas and the like, contributes to
12 its overall landscape quality.

13 (b) The Council shall also determine that there is
14 sufficient interest on the part of local governments and
15 citizens in the area of a prospective National Reserve to
16 warrant its designation as a National Reserve Planning
17 Area.

18 (c) Before recommending that an area be designated
19 as a National Reserve Planning Area, the Council shall
20 further determine that a State or local planning and man-
21 agement agency (hereinafter referred to as the "agency")
22 has been established, except as provided in subsection (d).
23 Such agency shall, except as provided in subsection (d), be

1 required to have the authority as a unit of State or local
2 government or as a multijurisdictional body, to—

3 (1) carry out land use and conservation planning
4 in the area of the prospective National Reserve;

5 (2) negotiate with jurisdictions lying within or on
6 the borders of the prospective National Reserve in order
7 to establish detailed boundaries for the prospective Na-
8 tional Reserve, and directly to request their State legisla-
9 ture to resolve any dispute;

10 (3) acquire, by condemnation and otherwise, lands
11 and interests in lands within the prospective National
12 Reserve;

13 (4) establish and enforce development standards
14 and issue permits in accordance with such standards for
15 developments within the prospective National Reserve
16 which have reservewide significance, and to establish
17 and enforce interim development standards during the
18 period between the designation of an area as a National
19 Reserve Planning Area and its designation as a National
20 Reserve;

21 (5) develop recreational facilities and carry out
22 programs within the prospective National Reserve;

23 (6) coordinate management of the prospective
24 National Reserve with governmental and nongovern-

1 mental entities managing land or structures in the public
2 interest within the prospective National Reserve;

3 (7) coordinate and assure the consistency of local,
4 State, and Federal programs and management policies
5 within the prospective National Reserve; and

6 (8) insure maximum feasible public participation in
7 the planning and management of the prospective Na-
8 tional Reserve.

9 (d) The Secretary, with the concurrence of a majority
10 of the Council, may waive the establishment of an agency
11 for a period of not to exceed thirty-six months after the
12 designation of an area as a National Reserve Planning Area.
13 The Secretary may also waive any authority required under
14 subsection (c) if such authority can be effectively exercised
15 through cooperative agreements with existing State or local
16 entities possessing such authority within the National Re-
17 serve Planning Area. Any such waiver shall be conditioned
18 on the Secretary having received written assurance by the
19 Governor of the affected State that the establishment of
20 such an Agency, together with the requisite authorities
21 directly or indirectly to be conferred upon it, shall be accom-
22 plished before the completion of the planning process, and
23 that interim development standards will be established and
24 enforced as required in subsection (c) (4).

1 DESIGNATION OF NATIONAL RESERVE PLANNING AREAS

2 SEC. 7. (a) If the Council determines pursuant to section
3 5 (d) (3) that an area meets the criteria in section 6 and
4 other requirements of this Act, the Council shall recommend
5 to the Congress that such area be designated as a National
6 Reserve Planning Area.

7 (b) When an area is designated by the Congress as a
8 National Reserve Planning Area, no department or agency
9 of the Federal Government shall assist, by loan, grant,
10 license, or otherwise, in projects that would have a direct
11 and adverse effect on the values for which the area was
12 designated, as determined by the Secretary, in conjunction
13 with the Council.

14 (c) In any case in which the Congress has designated
15 a National Reserve Planning Area, the Secretary is author-
16 ized to provide financial, technical, and other assistance to
17 the agency, or, as provided in section 6 (d), State, for the
18 development of a management program for the area. Such
19 assistance, including grants and technical and other planning
20 services and assistance, to any agency or State shall not
21 exceed 75 per centum of the cost of developing the manage-
22 ment program for any prospective National Reserve, and
23 in no case shall exceed, in the aggregate, \$500,000. No
24 such assistance shall be available to any such agency or State
25 in connection with a National Reserve Planning Area after

1 the expiration of the thirty-six-month period following its
2 designation.

3 (d) The Pine Barrens, an area located in the State of
4 New Jersey and described by the "land and water line"
5 appearing at plate D of a Bureau of Outdoor Recreation
6 report entitled "New Jersey Pine Barrens: Concepts for
7 Preservation", published in 1976, is hereby designated as
8 a National Reserve Planning Area for purposes of this Act,
9 and as such shall be eligible for planning grants, technical
10 assistance, and Federal program coordination as provided
11 in this Act.

12 NATIONAL RESERVE MANAGEMENT PROGRAMS

13 SEC. 8. (a) The Secretary shall, by regulation, estab-
14 lish guidelines for the use of agencies, or, as provided in sec-
15 tion 6 (d), States, in developing management programs for
16 prospective National Reserves. The guidelines shall cover,
17 but not be limited to, the following planning components of
18 a management program—

19 (1) a statement of the public values of the area to
20 be protected and enhanced by its designation as a Na-
21 tional Reserve, together with the general goals and pol-
22 icies which the agency believes will best protect and
23 enhance such values;

24 (2) a map of the area, delineating the boundaries
25 of the prospective National Reserve;

1 (3) a local participation plan, which describes how
2 local officials and citizens will participate in the planning
3 and implementation of the management program;

4 (4) a comprehensive land use and conservation
5 plan for the prospective National Reserve which (A)
6 considers and, as appropriate, details the application of a
7 variety of land management techniques, including, but
8 not limited to, fee acquisition of strategic sites, purchase
9 of land for resale or leaseback with restrictions, public
10 access agreements with private landowners, conservation
11 easements and other interests in land, transfer of devel-
12 opment rights, various forms of compensable regulation,
13 development standards and permit systems, and any
14 other method of land management which will help meet
15 the goals and carry out the policies of the management
16 program; and (B) recognizes existing economic activi-
17 ties within the prospective National Reserve, and pro-
18 vides for the protection and enhancement of such activi-
19 ties as farming, forestry, proprietary recreational facili-
20 ties, and those indigenous industries and commercial and
21 residential developments which are consistent with the
22 public values of the area;

23 (5) a program coordination and consistency plan,
24 which details the ways in which local, State, and Fed-
25 eral programs and policies may best be coordinated to

1 promote the goals and policies of the management pro-
2 gram, and which details how land and structures man-
3 aged by governmental or nongovernmental entities in
4 the public interest within the prospective National Re-
5 serve may be integrated into the program;

6 (6) a public use plan, including, where appropri-
7 ate, necessary facilities and activities; and

8 (7) a financial plan, together with a cash flow
9 timetable, which (A) details the cost of implementing
10 the management program including the components
11 described in paragraphs (3), (4), (5), and (6), pay-
12 ments in lieu of taxes, general administrative costs, and
13 any anticipated extraordinary or continuing costs; and
14 (B) details the sources of revenue for covering such
15 costs, including, but not limited to, grants, donations,
16 and loans from local, State, and Federal departments
17 and agencies, and from the private sector.

18 (b) Within twenty-four months of the designation of
19 an area as a National Reserve Planning Area, the agency
20 shall submit to the Secretary a management program based
21 on the guidelines established pursuant to subsection (a).
22 The Secretary, in conjunction with the Council, shall review
23 such management program. If the management program
24 meets the guidelines established pursuant to subsection (a),
25 and the other conditions and requirements set forth in the

1 Act, the Secretary shall notify the agency of his approval of
2 such management program. If the Secretary, in conjunction
3 with the Council, determines that such program does not
4 meet such guidelines, or other conditions and requirements,
5 he shall notify the agency, in writing, to that effect, within
6 thirty days following his determination. Such notification
7 shall inform the agency that it has one hundred and eighty
8 days from the date of such notification within which to
9 comply with such guidelines, conditions, or requirements, as
10 the case may be, and shall inform the agency, in detail, as
11 to the reason or reasons such program was disapproved.
12 The agency is authorized, at any time within the one-hun-
13 dred-and-eighty-day period following the receipt of such
14 notification of disapproval, to submit a revised management
15 program. If, in the opinion of the Secretary, such manage-
16 ment program, as resubmitted, does not meet such guidelines,
17 conditions, or requirements, the Secretary is authorized,
18 with the approval of the Council, to give final disapproval
19 to such management plan, or extend to the agency
20 additional time for revising such program so as to comply
21 with such guidelines, conditions, or requirements, except
22 that in no event shall a management program for a prospec-
23 tive National Reserve be approved after the expiration of
24 the thirty-six month period following the date on which the
25 National Reserve Planning Area was designated.

1 (c) If the agency fails to obtain approval of a manage-
2 ment program within thirty-six months after the designation
3 of an area as a National Reserve Planning Area, the Secre-
4 tary is authorized to assess the costs of planning incurred by
5 the United States in connection therewith and to reduce any
6 moneys otherwise available to the affected State under the
7 Land and Water Conservation Fund program by such
8 amount.

9 (d) The Secretary shall continuously monitor the plan-
10 ning of management programs in each and all National Re-
11 serve Planning Areas designated pursuant to this Act.

12 DESIGNATION OF NATIONAL RESERVES

13 SEC. 9. (a) Within the ninety-day period following the
14 date of approval by the Secretary of a management program
15 submitted to him by an agency for a prospective National
16 Reserve, the Secretary shall, in a written report, recommend
17 to the Congress that the area be designated as a National
18 Reserve and included in the National Reserves System. Such
19 report shall include all pertinent details, including an esti-
20 mate of costs to the Federal Government for the implemen-
21 tation and administration of such management program for
22 each of the five fiscal years following the establishment of
23 such National Reserve, together with an estimate of con-
24 tinuing costs to the Federal Government for such program.

1 A copy of the agency's management program shall accom-
2 pany such report to the Congress.

3 (b) Except as otherwise specifically provided by the
4 law designating a National Reserve, all heads of Federal
5 departments and agencies which have programs significantly
6 affecting such National Reserve shall take such action as may
7 be necessary to assure that their programs, projects, direct
8 and indirect investments, and other activities are consistent
9 with and enhance such management program. The Secre-
10 tary, in conjunction with the Council, shall coordinate the
11 process required by this subsection. In the event of a dispute
12 or other disagreement among or between the Secretary, the
13 head of any other Federal department or agency, the agency,
14 or Governor of a State concerning the interpretation of this
15 subsection, or otherwise arising in connection with this sub-
16 section, such dispute or disagreement shall be resolved by the
17 Council.

18 (c) (1) The Secretary and heads of such other Federal
19 departments and agencies as are appropriate are authorized
20 to provide assistance in the form of grants, loans, licenses,
21 and permits to agencies for the purpose of implementing
22 management programs for components of the National Re-
23 serves System. Where grants are provided, they may be
24 used for—

25 (A) acquisition of land or interests in land, includ-

1 ing, but not limited to, fee acquisition of strategic sites
2 within a National Reserve, lump-sum or periodic pay-
3 ments to landowners for the right of public access to
4 areas within the National Reserve, and costs of con-
5 servation easements or other interests in land;

6 (B) other forms of compensation to landowners,
7 including grants to assist in defraying costs arising out
8 of litigation in connection with the management of such
9 National Reserve;

10 (C) payments in lieu of taxes to local governments
11 within the National Reserve in cases where stringent
12 regulation or other activity has reduced overall revenues
13 to such government from taxes imposed on real property,
14 except that in no event shall any such grant be available
15 for purposes of this paragraph unless such payments in
16 lieu of taxes will evenly decline in amount over a five-
17 year period with no such payments to be made to such
18 local government in connection with such Reserve after
19 the expiration of such fifth year, and in no event shall
20 such payments in lieu of taxes duplicate other payments
21 in lieu of taxes received by such local government under
22 any other Federal or State program;

23 (D) special development projects for public recrea-
24 tion or natural, cultural, and historical programs; and

1 (E) defraying extraordinary expenses incurred by
2 such agency.

3 (2) Unless otherwise expressly prohibited by the law
4 establishing a National Reserve, and if provided for in the
5 approved management program for such National Reserve,
6 the Secretary is authorized to acquire, by purchase with
7 donated or appropriated funds, condemnation, exchange,
8 donation, or otherwise, lands or interests in lands, for sub-
9 sequent transfer to the agency for administration as part of
10 the National Reserve. The Secretary is authorized to convey,
11 by appropriate instrument, any such land or interest so
12 acquired to such agency. Such transfer shall be without con-
13 sideration, but any such instrument of conveyance shall con-
14 tain a provision pursuant to which the title to such land or
15 interest so conveyed shall, in accordance with the provisions
16 of section 10 (b), immediately revert to the United States
17 upon notification by the Secretary to such agency, in writing,
18 to the effect that the agency is in default of its obligations
19 under this or any other Federal law relating to the admin-
20 istration of such National Reserve.

21 (3) For the purpose of making grants to any agency
22 for the implementation of a management program pursuant
23 to paragraph (1) and for land acquisition and transfer pur-
24 suant to paragraph (2), the Secretary is authorized to take
25 such action as may be necessary to establish a National Re-

1 serves System Fund. Moneys in such fund shall be available
2 without fiscal year limitation. Such fund shall be adminis-
3 tered by the Secretary and shall consist of such amounts as
4 are appropriated to it pursuant to section 11 (a) .

5 (d) (1) In any case in which the management program
6 for a component of the National Reserve System provides
7 for the purchase and resale or leaseback of lands with restric-
8 tions on use, the Secretary is authorized to provide interest-
9 free loans for this purpose from a revolving fund established
10 pursuant to paragraph (2) .

11 (2) For the purpose of making loans pursuant to para-
12 graph (1), the Secretary is authorized to take such action
13 as may be necessary to establish a revolving fund. Moneys in
14 any such revolving fund shall be available without fiscal year
15 limitation. Any such revolving fund shall be administered
16 by the Secretary and shall consist of such amounts as are
17 appropriated to it pursuant to section 11 (a) . The Secretary
18 shall make every effort to insure that maximum proceeds
19 from sales or leases pursuant to paragraph (1) are realized
20 so that the fund is replenished to the extent possible. Any
21 such revolving fund shall be retired as soon as practicable
22 and any moneys in the fund at the time of its retirement shall
23 be returned to the part of the Land and Water Conservation
24 Fund which has been earmarked for purposes of carrying out
25 this Act pursuant to section 11 (a) .

REVIEW, REPORTS, AND PENALTIES

1
2 SEC. 10. (a) The agency managing any National Re-
3 serve shall continuously review and, as appropriate and with
4 the approval of the Secretary, revise its management pro-
5 gram. Such agency shall remain eligible for assistance under
6 section 9 (c) , if, in the opinion of the Secretary—

7 (1) the criteria relating to the quality of the land-
8 scape set forth in section 6 (a) continue to be met;

9 (2) the criteria relating to the eligibility of an
10 agency set forth in section 6 (c) or (d) continue to be
11 met;

12 (3) the agency has made no decision, by omission
13 or commission, which significantly vitiates its approved
14 management program;

15 (4) the agency reports on its activities and accom-
16 plishments on at least an annual basis to the Secretary
17 for the five-calendar-year period following the date of
18 the establishment of the National Reserve, and on a
19 biennial basis thereafter ; and

20 (5) the agency permits, on a continuing basis, the
21 Secretary or his designee to monitor all meetings and
22 business of the agency at any time and in any manner
23 the Secretary shall determine.

24 (b) The Secretary, in conjunction with the Council,
25 shall conduct a continuing review of the management of each

1 National Reserve. If, at any time, the Secretary determines
2 that the values of a National Reserve have been significantly
3 vitiated by external events or by dereliction of the manage-
4 ment agency, he may, after giving notice and the opportu-
5 nity for a hearing, temporarily withhold, and recommend
6 to heads of other Federal departments and agencies that they
7 withhold, the disbursement of funds to such agency. If the
8 Secretary determines that the circumstances leading to the
9 withholding of such funds have been corrected, the Secretary
10 shall resume such funding and shall so notify heads of other
11 Federal departments and agencies as appropriate. If the
12 Secretary finds, after a hearing and with the concurrence of
13 the Council, that there is little likelihood that the cause for
14 such withholding of funds to an agency can or will be cor-
15 rected, the Secretary shall, with the approval of a majority
16 of the members of the Council, recommend to the Congress
17 that the offending National Reserve be deauthorized and
18 removed from the National Reserves System. Upon the
19 enactment of any deauthorizing legislation, all lands and
20 other interests acquired with Federal funds within such Re-
21 serve shall revert to the United States for such disposition
22 as the Congress may provide. The Secretary may further
23 recommend to the Congress the enactment of legislation the
24 effect of which would be to retain moneys otherwise due any
25 such State, where such Reserve is located, from the Land and

1 Water Conservation Fund until an amount equal to the
2 amount of federally appropriated funds expended for such
3 National Reserve have been returned to the United States.

4 (c) The Secretary shall, on an annual basis, report to
5 the Congress, in writing, concerning the administration of
6 this Act, except that upon the expiration of the fourth year
7 following such date of enactment, the Secretary shall submit
8 a comprehensive report which shall contain a detailed assess-
9 ment of the administration of this Act, together with his
10 recommendations as to the procedural and budgetary
11 changes he believes should be made. Each such report shall,
12 prior to its submission to the Congress, be submitted to the
13 Council for its consideration. Any comments and recom-
14 mendations of the Council or member thereof shall accom-
15 pany any such report when submitted to the Congress.

16 AUTHORIZATION FOR APPROPRIATIONS

17 SEC. 11. (a) For the purpose of carrying out the provi-
18 sions of this Act relating to the implementation of manage-
19 ment programs pursuant to section 9 (c) and (d), there
20 are authorized to be appropriated, for the fiscal year ending
21 September 30, 1978, and each fiscal year thereafter, from
22 the Land and Water Conservation Fund established pursuant
23 to the Land and Water Conservation Fund Act of 1965, to
24 the National Reserves System Fund, established pursuant
25 to section 9 (c) (3) and any revolving fund established pur-

1 suant to section 9 (d) (2), an amount, which shall not
2 exceed, in the aggregate, 15 per centum of the amounts in
3 such Land and Water Conservation Fund not otherwise
4 specifically earmarked by Congress for other State or Federal
5 purposes.

6 (b) For the purpose of carrying out the other provi-
7 sions of this Act, including feasibility studies pursuant to
8 section 5 (d) (2), planning assistance pursuant to
9 section 7 (c), administrative costs, salaries, and expenses,
10 there are authorized to be appropriated such sums as may be
11 necessary.

95TH CONGRESS
1ST SESSION

S. 2306

A BILL

To establish a national system of reserves for the protection of outstanding ecological, scenic, historic, cultural, and recreational landscapes, and for other purposes.

By Mr. WILLIAMS and Mr. CASE

NOVEMBER 4 (legislative day, NOVEMBER 1), 1977
Read twice and referred to the Committee on Energy
and Natural Resources