

108TH CONGRESS
2D SESSION

S. 2691

To establish the Long Island Sound Stewardship Initiative.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2004

Mr. LIEBERMAN (for himself, Mrs. CLINTON, Mr. DODD, and Mr. SCHUMER)
introduced the following bill; which was read twice and referred to the
Committee on Environment and Public Works

A BILL

To establish the Long Island Sound Stewardship Initiative.

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 “Long Island Sound
5 Stewardship Act of 2004”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) Long Island Sound is a national treasure of
9 great cultural, environmental, and ecological impor-
10 tance;

1 (2) 8,000,000 people live within the Long Is-
2 land Sound watershed and 28,000,000 people (ap-
3 proximately 10 percent of the population of the
4 United States) live within 50 miles of Long Island
5 Sound;

6 (3) activities that depend on the environmental
7 health of Long Island Sound contribute more than
8 \$5,000,000,000 each year to the regional economy;

9 (4) the portion of the shoreline of Long Island
10 Sound that is accessible to the general public (esti-
11 mated at less than 20 percent of the total shoreline)
12 is not adequate to serve the needs of the people liv-
13 ing in the area;

14 (5) existing shoreline facilities are in many
15 cases overburdened and underfunded;

16 (6) large parcels of open space already in public
17 ownership are strained by the effort to balance the
18 demand for recreation with the needs of sensitive
19 natural resources;

20 (7) approximately $\frac{1}{3}$ of the tidal marshes of
21 Long Island Sound have been filled, and much of
22 the remaining marshes have been ditched, dyked, or
23 impounded, reducing the ecological value of the
24 marshes; and

1 (8) much of the remaining exemplary natural
2 landscape is vulnerable to further development.

3 (b) PURPOSE.—The purpose of this Act is to estab-
4 lish the Long Island Sound Stewardship Initiative to iden-
5 tify, protect, and enhance sites within the Long Island
6 Sound ecosystem with significant ecological, educational,
7 open space, public access, or recreational value through
8 a bi-State network of sites best exemplifying these values.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ADAPTIVE MANAGEMENT.—The term
12 “adaptive management” means a scientific proc-
13 ess—

14 (A) for—

15 (i) developing predictive models;

16 (ii) making management policy deci-
17 sions based upon the model outputs;

18 (iii) revising the management policies
19 as data become available with which to
20 evaluate the policies; and

21 (iv) acknowledging uncertainty, com-
22 plexity, and variance in the spatial and
23 temporal aspects of natural systems; and

24 (B) that requires that management be
25 viewed as experimental.

1 (2) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (3) COMMITTEE.—The term “Committee”
5 means the Long Island Sound Stewardship Advisory
6 Committee established by section 5(a).

7 (4) REGION.—The term “Region” means the
8 Long Island Sound Stewardship Initiative Region es-
9 tablished by section 4(a).

10 (5) STATES.—The term “States” means the
11 States of Connecticut and New York.

12 (6) STEWARDSHIP SITE.—The term “steward-
13 ship site” means a site that—

14 (A) qualifies for identification by the Com-
15 mittee under section 8; and

16 (B) is an area of land or water or a com-
17 bination of land and water—

18 (i) that is in the Region; and

19 (ii) that is—

20 (I) Federal, State, local, or tribal
21 land or water;

22 (II) land or water owned by a
23 nonprofit organization; or

24 (III) privately owned land or
25 water.

1 (7) SYSTEMATIC SITE SELECTION.—The term
2 “systematic site selection” means a process of select-
3 ing stewardship sites that—

4 (A) has explicit goals, methods, and cri-
5 teria;

6 (B) produces feasible, repeatable, and de-
7 fensible results;

8 (C) provides for consideration of natural,
9 physical, and biological patterns,

10 (D) addresses reserve size, replication,
11 connectivity, species viability, location, and pub-
12 lic recreation values;

13 (E) uses geographic information systems
14 technology and algorithms to integrate selection
15 criteria; and

16 (F) will result in achieving the goals of
17 stewardship site selection at the lowest cost.

18 (8) THREAT.—The term “threat” means a
19 threat that is likely to destroy or seriously degrade
20 a conservation target or a recreation area.

21 **SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE**
22 **REGION.**

23 (a) ESTABLISHMENT.—There is established in the
24 States the Long Island Sound Stewardship Initiative Re-
25 gion.

1 (b) BOUNDARIES.—The Region shall encompass the
2 immediate coastal upland and underwater areas along
3 Long Island Sound, including those portions of the Sound
4 with coastally influenced vegetation, as described on the
5 map entitled the “Long Island Sound Stewardship Re-
6 gion” and dated April 21, 2004.

7 **SEC. 5. LONG ISLAND SOUND STEWARDSHIP ADVISORY**
8 **COMMITTEE.**

9 (a) ESTABLISHMENT.—There is established a com-
10 mittee to be known as the “Long Island Sound Steward-
11 ship Advisory Committee”.

12 (b) CHAIRPERSON.—The Chairperson of the Com-
13 mittee shall be the Director of the Long Island Sound Of-
14 fice of the Environmental Protection Agency, or a designee
15 of the Director.

16 (c) MEMBERSHIP.—

17 (1) COMPOSITION.—

18 (A) APPOINTMENT OF MEMBERS.—

19 (i) IN GENERAL.—The Chairperson
20 shall appoint the members of the Com-
21 mittee in accordance with this subsection
22 and section 320(c) of the Federal Water
23 Pollution Control Act (33 U.S.C. 1330(c)).

1 (ii) ADDITIONAL MEMBERS.—In addi-
2 tion to the requirements described in
3 clause (i), the Committee shall include—

4 (I) a representative from the Re-
5 gional Plan Association;

6 (II) a representative of the ma-
7 rine trade organizations; and

8 (III) a representative of private
9 landowner interests.

10 (B) REPRESENTATION.—In appointing
11 members to the Committee, the Chairperson
12 shall consider—

13 (i) Federal, State, and local govern-
14 ment interests;

15 (ii) the interests of nongovernmental
16 organizations;

17 (iii) academic interests; and

18 (iv) private interests.

19 (2) DATE OF APPOINTMENTS.—Not later than
20 180 days after the date of enactment of this Act, the
21 appointment of all members of the Committee shall
22 be made.

23 (d) TERM; VACANCIES.—

24 (1) TERM.—

1 (A) IN GENERAL.—A member shall be ap-
2 pointed for a term of 4 years.

3 (B) MULTIPLE TERMS.—A person may be
4 appointed as a member of the Committee for
5 more than 1 term.

6 (2) VACANCIES.—A vacancy on the Committee
7 shall—

8 (A) be filled not later than 90 days after
9 the vacancy occurs;

10 (B) not affect the powers of the Com-
11 mittee; and

12 (C) be filled in the same manner as the
13 original appointment was made.

14 (3) STAFF.—

15 (A) IN GENERAL.—The Chairperson of the
16 Committee may appoint and terminate per-
17 sonnel as necessary to enable the Committee to
18 perform the duties of the Committee.

19 (B) PERSONNEL AS FEDERAL EMPLOY-
20 EES.—

21 (i) IN GENERAL.—Any personnel of
22 the Committee who are employees of the
23 Committee shall be employees under sec-
24 tion 2105 of title 5, United States Code,

1 for purposes of chapters 63, 81, 83, 84,
2 85, 87, 89, and 90 of that title.

3 (ii) MEMBERS OF COMMITTEE.—

4 Clause (i) does not apply to members of
5 the Committee.

6 (e) INITIAL MEETING.—Not later than 30 days after
7 the date on which all members of the Committee have been
8 appointed, the Committee shall hold the initial meeting of
9 the Committee.

10 (f) MEETINGS.—The Committee shall meet at the
11 call of the Chairperson, but no fewer than 4 times each
12 year.

13 (g) QUORUM.—A majority of the members of the
14 Committee shall constitute a quorum, but a lesser number
15 of members may hold hearings.

16 **SEC. 6. DUTIES OF THE COMMITTEE.**

17 The Committee shall—

18 (1) consistent with the guidelines described in
19 section 8—

20 (A) evaluate applications from government
21 or nonprofit organizations qualified to hold con-
22 servation easements for funds to purchase land
23 or development rights for stewardship sites;

1 (B) evaluate applications to develop and
2 implement management plans to address
3 threats;

4 (C) evaluate applications to act on oppor-
5 tunities to protect and enhance stewardship
6 sites; and

7 (D) recommend that the Administrator
8 award grants to qualified applicants;

9 (2) recommend guidelines, criteria, schedules,
10 and due dates for evaluating information to identify
11 stewardship sites;

12 (3) publish a list of sites that further the pur-
13 poses of this Act, provided that owners of sites shall
14 be—

15 (A) notified prior to the publication of the
16 list; and

17 (B) allowed to decline inclusion on the list;

18 (4) raise awareness of the values of and threats
19 to these sites; and

20 (5) leverage additional resources for improved
21 stewardship of the Region.

22 **SEC. 7. POWERS OF THE COMMITTEE.**

23 (a) HEARINGS.—The Committee may hold such hear-
24 ings, meet and act at such times and places, take such

1 testimony, and receive such evidence as the Committee
2 considers advisable to carry out this Act.

3 (b) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Committee may secure
5 directly from a Federal agency such information as
6 the Committee considers necessary to carry out this
7 Act.

8 (2) PROVISION OF INFORMATION.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (C), on request of the Chairperson of the
11 Committee, the head of a Federal agency shall
12 provide the information requested by the Chair-
13 person to the Committee.

14 (B) ADMINISTRATION.—The furnishing of
15 information by a Federal agency to the Com-
16 mittee shall not be considered a waiver of any
17 exemption available to the agency under section
18 552 of title 5, United States Code.

19 (C) INFORMATION TO BE KEPT CONFIDEN-
20 TIAL.—

21 (i) IN GENERAL.—For purposes of
22 section 1905 of title 18, United States
23 Code—

1 (I) the Committee shall be con-
2 sidered an agency of the Federal Gov-
3 ernment; and

4 (II) any individual employed by
5 an individual, entity, or organization
6 that is a party to a contract with the
7 Committee under this Act shall be
8 considered an employee of the Com-
9 mittee.

10 (ii) PROHIBITION ON DISCLOSURE.—
11 Information obtained by the Committee,
12 other than information that is available to
13 the public, shall not be disclosed to any
14 person in any manner except to an em-
15 ployee of the Committee as described in
16 clause (i), for the purpose of receiving, re-
17 viewing, or processing the information.

18 (c) POSTAL SERVICES.—The Committee may use the
19 United States mails in the same manner and under the
20 same conditions as other agencies of the Federal Govern-
21 ment.

22 (d) DONATIONS.—The Committee may accept, use,
23 and dispose of donations of services or property that ad-
24 vance the goals of the Long Island Sound Stewardship Ini-
25 tiative.

1 **SEC. 8. STEWARDSHIP SITES.**

2 (a) APPLICATION FOR IDENTIFICATION AS A STEW-
3 ARDSHIP SITE.—Subsequent to the identification of the
4 initial stewardship sites under subsection (c), owners of
5 sites may submit applications to the Committee in accord-
6 ance with subsection (d) to have the sites identified as
7 stewardship sites.

8 (b) IDENTIFICATION.—The Committee shall review
9 applications submitted by owners of potential stewardship
10 sites to determine whether the sites shall be identified as
11 exhibiting values consistent with the purposes of this Act.

12 (c) INITIAL SITES.—

13 (1) IDENTIFICATION.—

14 (A) IN GENERAL.—The Committee shall
15 identify 20 initial Long Island Sound steward-
16 ship sites from applications to the Committee
17 that the Committee has determined—

18 (i)(I) are natural resource-based
19 recreation areas; or

20 (II) are exemplary natural areas with
21 ecological value; and

22 (ii) best promote the purposes of this
23 Act.

24 (B) EXEMPTION.—Applications described
25 in subparagraph (A) are not subject to the site

1 identification process described in subsection
2 (d).

3 (2) **EQUITABLE DISTRIBUTION OF FUNDS FOR**
4 **INITIAL SITES.**—In identifying initial sites under
5 paragraph (1), the Committee shall exert due dili-
6 gence to recommend an equitable distribution of
7 funds between the States for the initial sites.

8 (d) **SITE IDENTIFICATION PROCESS.**—

9 (1) **NATURAL RESOURCE-BASED RECREATION**
10 **AREAS.**—The Committee shall identify additional
11 recreation areas with potential as stewardship sites
12 using a selection technique that includes—

13 (A) public access;

14 (B) community support;

15 (C) areas with high population density;

16 (D) environmental justice (as defined in
17 section 385.3 of title 33, Code of Federal Regu-
18 lations (or successor regulations));

19 (E) connectivity to existing protected areas
20 and open spaces;

21 (F) cultural, historic, and scenic areas; and

22 (G) other criteria developed by the Com-
23 mittee.

24 (2) **NATURAL AREAS WITH ECOLOGICAL**
25 **VALUE.**—The Committee shall identify additional

1 natural areas with ecological value and potential as
2 stewardship sites—

3 (A) based on measurable conservation tar-
4 gets for the Region; and

5 (B) following a process for prioritizing new
6 sites using systematic site selection, which shall
7 include—

8 (i) ecological uniqueness;

9 (ii) species viability;

10 (iii) habitat heterogeneity;

11 (iv) size;

12 (v) quality;

13 (vi) connectivity to existing protected
14 areas and open spaces;

15 (vii) land cover;

16 (viii) scientific, research, or edu-
17 cational value;

18 (ix) threats; and

19 (x) other criteria developed by the
20 Committee.

21 (3) DEVIATION FROM PROCESS.—

22 (A) IN GENERAL.—The Committee may
23 identify as a potential stewardship site, a site
24 that does not meet the criteria in paragraph (1)

1 or (2) or reject a site selected under paragraph
2 (1) or (2), if the Committee—

3 (i) chooses a site that makes signifi-
4 cant ecological or recreational contribu-
5 tions to the Region; and

6 (ii) publishes the reasons that the
7 Committee decided to deviate from the sys-
8 tematic site selection process.

9 (4) PUBLIC COMMENT.—In identifying potential
10 stewardship sites, the Committee may consider pub-
11 lic comments.

12 (e) GENERAL GUIDELINES FOR MANAGEMENT.—

13 (1) IN GENERAL.—The Committee shall use an
14 adaptive management framework to identify the best
15 policy initiatives and actions through—

16 (A) definition of strategic goals;

17 (B) definition of policy options for methods
18 to achieve strategic goals;

19 (C) establishment of measures of success;

20 (D) identification of uncertainties;

21 (E) development of informative models of
22 policy implementation;

23 (F) separation of the landscape into geo-
24 graphic units;

1 (G) monitoring key responses at different
2 spatial and temporal scales; and

3 (H) evaluation of outcomes and incorpora-
4 tion into management strategies.

5 (2) APPLICATION OF ADAPTIVE MANAGEMENT
6 FRAMEWORK.—The Committee shall apply the
7 adaptive management framework to the process for
8 updating the list of recommended stewardship sites.

9 **SEC. 9. REPORTS.**

10 (a) IN GENERAL.—For each of fiscal years 2006
11 through 2013, the Committee shall submit to the Adminis-
12 trator an annual report that contains—

13 (1) a detailed statement of the findings and
14 conclusions of the Committee since the last report;

15 (2) a description of all sites recommended by
16 the Committee to be approved as stewardship sites;

17 (3) the recommendations of the Committee for
18 such legislation and administrative actions as the
19 Committee considers appropriate; and

20 (4) in accordance with subsection (b), the rec-
21 ommendations of the Committee for the awarding of
22 grants.

23 (b) GENERAL GUIDELINES FOR RECOMMENDA-
24 TIONS.—

1 (1) IN GENERAL.—The Committee shall rec-
2 ommend that the Administrator award grants to
3 qualified applicants to help to secure and improve
4 the open space, public access, or ecological values of
5 stewardship sites, through—

6 (A) purchase of the property of the site;

7 (B) purchase of relevant property rights of
8 the site; or

9 (C) entering into any other binding legal
10 arrangement that ensures that the values of the
11 site are sustained, including entering into an
12 arrangement with a land manager or owner to
13 develop or implement an approved management
14 plan that is necessary for the conservation of
15 natural resources.

16 (2) EQUITABLE DISTRIBUTION OF FUNDS.—
17 The Committee shall exert due diligence to rec-
18 ommend an equitable distribution of funds between
19 the States.

20 (c) ACTION BY THE ADMINISTRATOR.—

21 (1) IN GENERAL.—Not later than 90 days after
22 receiving a report under subsection (a), the Adminis-
23 trator shall—

24 (A) review the recommendations of the
25 Committee; and

1 (B) take actions consistent with the rec-
2 ommendations of the Committee, including the
3 approval of identified stewardship sites and the
4 award of grants, unless the Administrator
5 makes a finding that any recommendation is
6 unwarranted by the facts.

7 (2) REPORT.—Not later than 1 year after the
8 date of enactment of this Act, the Administrator
9 shall develop and publish a report that—

10 (A) assesses the current resources of and
11 threats to Long Island Sound;

12 (B) assesses the role of the Long Island
13 Sound Stewardship Initiative in protecting
14 Long Island Sound;

15 (C) establishes guidelines, criteria, sched-
16 ules, and due dates for evaluating information
17 to identify stewardship sites;

18 (D) includes information about any grants
19 that are available for the purchase of land or
20 property rights to protect stewardship sites;

21 (E) accounts for funds received and ex-
22 pended during the previous fiscal year;

23 (F) shall be made available to the public
24 on the Internet and in hardcopy form; and

1 (G) shall be updated at least every other
2 year, except that information on funding and
3 any new stewardship sites identified shall be
4 published more frequently.

5 **SEC. 10. PRIVATE PROPERTY PROTECTION.**

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

8 (1) requires any private property owner to allow
9 public access (including Federal, State, or local gov-
10 ernment access) to the private property; or

11 (2) modifies any provision of Federal, State, or
12 local law with regard to public access to or use of
13 private property, except as entered into by voluntary
14 agreement of the owner or custodian of the property.

15 (b) LIABILITY.—Approval of the Long Island Sound
16 Stewardship Initiative Region does not create any liability,
17 or have any effect on any liability under any other law,
18 of any private property owner with respect to any person
19 injured on the private property.

20 (c) RECOGNITION OF AUTHORITY TO CONTROL LAND
21 USE.—Nothing in this Act modifies the authority of Fed-
22 eral, State, or local governments to regulate land use.

23 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
24 IN THE LONG ISLAND SOUND STEWARDSHIP INITIATIVE
25 REGION.—Nothing in this Act requires the owner of any

1 private property located within the boundaries of the Re-
2 gion to participate in or be associated with the Initiative.

3 (e) EFFECT OF ESTABLISHMENT.—

4 (1) IN GENERAL.—The boundaries approved for
5 the Region represent the area within which Federal
6 funds appropriated for the purpose of this Act may
7 be expended.

8 (2) REGULATORY AUTHORITY.—The establish-
9 ment of the Region and the boundaries of the Re-
10 gion does not provide any regulatory authority not
11 in existence on the date of enactment of this Act on
12 land use in the Region by any management entity,
13 except for such property rights as may be purchased
14 from or donated by the owner of the property (in-
15 cluding the Federal Government or a State or local
16 government, if applicable).

17 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—There is authorized to be appro-
19 priated to carry out this Act \$40,000,000 for each of fiscal
20 years 2006 through 2013.

21 (b) USE OF FUNDS.—For each fiscal year, funds
22 made available under subsection (a) shall be used by the
23 Administrator, after reviewing the recommendations of the
24 Committee submitted under section 9, for—

25 (1) acquisition of land and interests in land;

1 (2) development and implementation of site
2 management plans;

3 (3) site enhancements to reduce threats or pro-
4 mote stewardship; and

5 (4) administrative expenses of the Committee.

6 (c) FEDERAL SHARE.—The Federal share of the cost
7 of an activity carried out using any assistance or grant
8 under this Act shall not exceed 75 percent of the total
9 cost of the activity.

10 **SEC. 12. LONG ISLAND SOUND AUTHORIZATION OF APPRO-**
11 **PRIATIONS.**

12 Section 119(f) of the Federal Water Pollution Con-
13 trol Act (33 U.S.C. 1269(f)) is amended by striking
14 “2005” each place it appears and inserting “2009”.

15 **SEC. 13. TERMINATION OF COMMITTEE.**

16 The Committee shall terminate on December 31,
17 2013.

○