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SENATE

{ REPORT
{ 111-298

LONG ISLAND SOUND RESTORATION AND STEWARDSHIP ACT OF 2010

SEPTEMBER 20, 2010.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 3119]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 3119) to amend and reauthorize certain provisions relating to Long Island Sound restoration and stewardship, having considered the same, reports favorably thereon and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The Long Island Sound Restoration and Stewardship Act of 2010 reauthorizes the Long Island Sound Restoration Act (33 U.S.C. 1269) and Long Island Stewardship Act (33 U.S.C. 1269 note; Public Law 109-359) at \$200 million and \$125, respectively over 5 years. These authorizations match the current authorization levels for the two programs.

The authorizations support various projects to restore and preserve the Long Island Sound and its ecosystems including; upgrades to wastewater facilities, wetland protection and restoration, non-point source pollution control and abatement projects.

Long Island Sound, which borders New York and Connecticut, is a 1,320 square mile estuary of the Atlantic Ocean. The Long Island Sound watershed stretches from Quebec, Canada through Vermont, New Hampshire, Massachusetts and parts of Connecticut on its northern end, and New York and parts of Connecticut on its western and southern ends. Nearly 9 million people call the Long Island

Sound watershed home, with 4 million living along the Sound itself.

In 1985, after decades of evidence of a decline in water quality and depleted oxygen levels, Congress created the Long Island Sound Study to identify threats to the Sound's health and engage in planning for remediation. In 1994, the Study released a Comprehensive Conservation and Management Plan (Plan), approved under section 320 of the Clean Water Act—the National Estuary Program, to restore and protect the Sound. The cleanup plan includes actions to address hypoxia, reduce toxic substances and pathogens, and restore natural habitats. By 1998, the States of New York and Connecticut and the EPA adopted the reduction plan with a goal of 58.5% nitrogen reduction by 2014. In 2001, the Total Maximum Daily Load for the Sound was approved by the EPA. In 2006, identifying more opportunities to enhance the health of the Sound, Congress passed the Long Island Sound Stewardship Act, which targets coastal habitat and ecosystem restoration, public access, and land use projects to enhance the health of the natural and recreational resources of the Sound.

Introduced by Senator Kirsten E. Gillibrand on March 16, 2010 with her fellow Long Island Sound Senators, Christopher J. Dodd, Joseph I. Lieberman, and Charles E. Schumer, the Long Island Sound Restoration and Stewardship Act further supports the efforts of the EPA, New York, Connecticut, and various other federal, state and local agencies and organizations dedicated to restoring Long Island Sound.

OBJECTIVES OF THE LEGISLATION

The Long Island Sound Restoration and Stewardship Act of 2010 reauthorizes the Long Island Sound Restoration Act (33 U.S.C. 1269) and Long Island Stewardship Act (33 U.S.C. 1269 note; Public Law 109–359) and supports new reporting requirements, budgeting requirements and a new pilot project for natural remediation technologies to assist and enhance ongoing restoration and remediation programs in the Sound.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 notes that this act may be cited as the “Long Island Sound Restoration and Stewardship Act”

Section 2. Amendments

Section 2 amends 33 USC Sec. 1269 (Long Island Sound) to expand the areas of focus of the Long Island Sound Study to account for the impacts of climate change on the watershed and resource management and to authorize the Study's participation in planning initiatives related to the Long Island Sound. Although the Committee sees the Long Island Sound Study as an appropriate forum for planning activities, as described in this section, it is not the Committee's intent that the EPA provide the resources to support work that is traditionally funded by other Federal agencies. This section also directs the EPA Long Island Sound Office (Office) to increase public awareness and education on ecological health and water quality conditions.

Section 2 changes the federal share for Long Island Sound grants from “50” to “60” to mirror the Stewardship grant program.

Section 2 includes new requirements that the Office submit biennial reports to Congress outlining progress in carrying out the Comprehensive Conservation and Management Plan (Plan) and progress to meeting the goals contained in the Plan. The report must also include modifications to the Plan, recommendations, priority actions, and outline coordination among various federal agencies and the states.

Section 2 requires the President to submit an annual crosscut budget on Long Island Sound funding.

Section 2 requires federal agencies to coordinate efforts in the Long Island Sound. Agencies that occupy lands in the Long Island Sound watershed are required to participate in watershed planning efforts, and ensure that management of the agency’s land in the watershed is consistent with any requirements set forth in the Plan.

Section 2 also amends the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public law 109–359) to extend the authorization through 2015, and exempts the Advisory Committee and any board, committee, or other group established under this law from the Federal Advisory Committee Act.

Section 3. Reauthorization

Section 3 reauthorizes the Long Island Sound Grants under the Long Island Sound Restoration Act at \$40 million each year through 2015.

Section 3 also reauthorizes the Long Island Sound Stewardship Grants at \$25 million each year through 2015. These authorizations maintain the current authorized levels each year for an additional 5 years.

Section 4. Nutrient bioextraction pilot project

Section 4 authorizes \$1 million for a pilot project to demonstrate the use of natural filtration technologies including sea plants and shellfish to remove nutrients from the system.

Section 4 also requires that 5 years after the date of enactment, the Administrator shall submit a report to Congress outlining the results of the pilot project.

LEGISLATIVE HISTORY

Senator Kirsten E. Gillibrand introduced the Long Island Sound Restoration and Stewardship Act of 2010 on March 16, 2010, which was co-sponsored by Senators Christopher Dodd, Joseph Lieberman, and Charles Schumer. The bill was received, read twice and referred to the Committee on Environment and Public Works.

On June 30, 2010, the Full Committee met to consider a number of bills including S. 3119. During this meeting, the Committee considered S. 3119 and adopted an amendment in the nature of a substitute offered by Senator Gillibrand that added additional reporting requirements, modified the scope of the Long Island Sound Study, added an authorization for a nutrient bioextraction pilot project and made technical corrections. S. 3119 was ordered to be reported with an amendment in the nature of a substitute favorably by voice vote.

HEARINGS

On February 24, 2010, the Full Senate Committee on Environment and Public Works and the Subcommittee on Water and Wildlife held a joint hearing on legislative approaches to protecting Great Water Bodies (i.e., Lake Tahoe, Puget Sound, Long Island Sound, Columbia River Basin, and the Great Lakes). The hearing included a discussion of efforts to restore the Long Island Sound.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 3119 on June 30, 2010. The bill was ordered to be reported favorably with an amendment in the nature of a substitute by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 3119 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee noted that the Congressional Budget Office (CBO) has found, "S. 3119 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments."

JULY 14, 2010.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3119, the Long Island Sound Restoration and Stewardship Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 3119—Long Island Sound Restoration and Stewardship Act

Summary: S. 3119 would require the Long Island Sound office of the Environmental Protection Agency (EPA) to study the impact of climate change on the Long Island Sound watershed and develop strategies to increase public education about that area. Assuming appropriation of the necessary amounts, CBO estimates that implementing this legislation would cost \$285 million over the 2011–2015 period.

This legislation would authorize the appropriation of \$40 million annually over the 2011–2015 period for EPA to implement the Long Island Sound comprehensive conservation and management plan. S. 3119 also would authorize the appropriation of \$25 million

annually over that same period for EPA to provide grants to states and local governments, nonprofit organizations, and private landowners for the procurement and enhancement of sites within the Long Island Sound ecosystem, and to cover the committee's administrative costs. (Such grants are referred to as Long Island Sound Stewardship grants in the bill.)

In addition, S. 3119 would authorize the appropriation of \$1 million to fund a pilot project to demonstrate methods to remove nitrogen and phosphorus from the Long Island Sound watershed. Finally, this legislation would extend the authority to appropriate funding through 2015 for EPA to operate the Office of the Management Conference of the Long Island Sound Study.

Pay-as-you-go procedures would not apply to S. 3119 because it would not affect direct spending or revenues.

S. 3119 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3119 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Grants to Support Long Island Sound Comprehensive Conservation and Management Plan:						
Authorization Level	40	40	40	40	40	200
Estimated Outlays	18	34	40	40	40	172
Long Island Sound Stewardship Grants:						
Authorization Level	25	25	25	25	25	125
Estimated Outlays	11	21	25	25	25	107
Nutrient Bioextraction Pilot Project:						
Authorization Level	1	0	0	0	0	1
Estimated Outlays	1	0	0	0	0	1
Office of the Management Conference of the Long Island Sound Study:						
Estimated Authorization Level	1	1	1	1	1	5
Estimated Outlays	1	1	1	1	1	5
Total Changes:						
Estimated Authorization Level	67	66	66	66	66	331
Estimated Outlays	31	56	66	66	66	285

Basis of estimate: For this estimate, CBO assumes that S. 3119 will be enacted near the beginning of fiscal year 2011, that specified amounts will be appropriated in each year starting in 2011, and that outlays will follow historical spending patterns for the existing programs. In addition, CBO estimates that about \$5 million would be needed over the next five years to operate the Office of the Management Conference of the Long Island Sound Study.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 3119 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. States would benefit from grants authorized in the bill. Any costs to those governments would be incurred voluntarily as a condition of federal assistance.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

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

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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 *italic*, existing law in which no change is proposed is shown in roman:

* * * * *

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) * * *

* * * * *

SEC. 119. LONG ISLAND SOUND.—(a) The Administrator shall continue the Management Conference of the Long Island Sound Study (hereinafter referred to as the “Conference”) as established pursuant to section 320 of this Act, and shall establish an office (hereinafter referred to as the “Office”) to be located on or near Long Island Sound.

[(b) ADMINISTRATION AND STAFFING OF OFFICE.—The Office shall]

(b) OFFICE.—

(1) ESTABLISHMENT.—*The Administrator shall—*

(A) *continue to carry out the conference study; and*

(B) *establish an office, to be located on or near Long Island Sound.*

(2) ADMINISTRATION AND STAFFING.—*The Office shall”; be headed by a Director, who shall be detailed by the Administrator, following consultation with the Administrators of EPA regions I and II, from among the employees of the Agency who are in civil service. The Administrator shall delegate to the Director such authority and detail such additional staff as may be necessary to carry out the duties of the Director under this section.*

(c) DUTIES OF THE OFFICE.—The Office shall assist the [Management Conference of the Long Island Sound Study] *conference study* in carrying out its goals. Specifically, the Office shall—

(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 320 of this Act, including efforts to establish, within the process for granting watershed general permits, a system for promoting innovative methodolo-

gies and technologies that are cost-effective and consistent with the goals of the Plan;

(2) conduct or commission studies deemed necessary for strengthened implementation of the Comprehensive Conservation and Management Plan including, but not limited to—

(A) population growth and the adequacy of wastewater treatment facilities【,】;

(B) the use of biological methods for nutrient removal in sewage treatment plants【,】;

(C) contaminated sediments, and dredging activities【,】;

(D) nonpoint source pollution abatement and land use activities in the Long Island Sound watershed【,】;

(E) wetland protection and restoration【,】;

(F) atmospheric deposition of acidic and other pollutants into Long Island Sound【,】;

(G) water quality requirements to sustain fish, shellfish, and wildlife populations, and the use of indicator species to assess environmental quality【,】;

(H) State water quality programs, for their adequacy pursuant to implementation of the Comprehensive Conservation and Management Plan【, and】;

(I) options for long-term financing of wastewater treatment projects and water pollution control programs【.】;

(J) *the impacts of climate change on the Long Island Sound watershed, including—*

(i) the identification and assessment of vulnerabilities in the watershed;

(ii) the development and implementation of adaptation strategies to reduce those vulnerabilities; and

(iii) the identification and assessment of the impacts of sea level rise on water quality, habitat, and infrastructure in Long Island Sound; and

(K) *planning initiatives for Long Island Sound that identify the areas that are most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, or preserve critical ecosystem services to meet economic, environmental, security, or social objectives;*

(3) coordinate the grant, research and planning programs authorized under this section;

【(4) coordinate activities and implementation responsibilities with other Federal agencies which have jurisdiction over Long Island Sound and with national and regional marine monitoring and research programs established pursuant to the Marine Protection, Research, and Sanctuaries Act;】

(4) develop and implement strategies to increase public education and awareness with respect to the ecological health and water quality conditions of Long Island Sound;

(5) provide administrative and technical support to the conference study;

(6) collect and make available to the public (*including on the Internet*) publications, and other forms of information the conference study determines to be appropriate, relating to the environmental quality of Long Island Sound;

[(7) not more than two years after the date of the issuance of the final Comprehensive Conservation and Management Plan for Long Island Sound under section 320 of this Act, and biennially thereafter, issue a report to the Congress which—

(A) summarizes the progress made by the States in implementing the Comprehensive Conservation and Management Plan;

(B) summarizes any modifications to the Comprehensive Conservation and Management Plan in the twelve-month period immediately preceding such report; and

(C) incorporates specific recommendations concerning the implementation of the Comprehensive Conservation and Management Plan; and]

(7) monitor the progress made toward meeting the identified goals, actions, and schedules of the Comprehensive Conservation and Management Plan, including through the implementation and support of a monitoring system for the ecological health and water quality conditions of Long Island Sound; and

* * * * *

(d) GRANTS.—(1) The Administrator is authorized to make grants for projects and studies which will help implement the Long Island Sound Comprehensive Conservation and Management Plan. Special emphasis shall be given to implementation, research and planning, enforcement, and citizen involvement and education.

(2) State, interstate, and regional water pollution control agencies, and other public or nonprofit private agencies, institutions, and organizations held to be eligible for grants pursuant to this subsection.

(3) Citizen involvement and citizen education grants under this subsection shall not exceed 95 per centum of the costs of such work. All other grants under this subsection shall not exceed [50 per centum]60 percent of the research, studies, or work. All grants shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.

(e) ASSISTANCE TO DISTRESSED COMMUNITIES.—

(1) ELIGIBLE COMMUNITIES.—For the purposes of this subsection, a distressed community is any community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

(2) PRIORITY.—In making assistance available under this section for the upgrading of wastewater treatment facilities, the Administrator may give priority to a distressed community.

(f) REPORT.—

(1) IN GENERAL.—*Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and biennially thereafter, the Director of the Office, in consultation with the Governor of each Long Island Sound State, shall submit to Congress a report that—*

(A) summarizes and assesses the progress made by the Office and the Long Island Sound States in implementing the Long Island Sound Comprehensive Conservation and Management Plan, including an assessment of the progress made toward meeting the performance goals and milestones contained in the Plan;

(B) assesses the key ecological attributes that reflect the health of the ecosystem of the Long Island Sound watershed;

(C) describes any substantive modifications to the Long Island Sound Comprehensive Conservation and Management Plan made during the 2-year period preceding the date of submission of the report;

(D) provides specific recommendations to improve progress in restoring and protecting the Long Island Sound watershed, including, as appropriate, proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan;

(E) identifies priority actions for implementation of the Long Island Sound Comprehensive Conservation and Management Plan for the 2-year period following the date of submission of the report; and

(F) describes the means by which Federal funding and actions will be coordinated with the actions of the Long Island Sound States and other entities.

(2) **PUBLIC AVAILABILITY.**—The Administrator shall make the report described in paragraph (1) available to the public, including on the Internet.

(g) **ANNUAL BUDGET PLAN.**—The President shall submit, together with the annual budget of the United States Government submitted under section 1105(a) of title 31, United States Code, information regarding each Federal department and agency involved in the protection and restoration of the Long Island Sound watershed, including—

(1) an interagency crosscut budget that displays for each department and agency—

(A) the amount obligated during the preceding fiscal year for protection and restoration projects and studies relating to the watershed;

(B) the estimated budget for the current fiscal year for protection and restoration projects and studies relating to the watershed; and

(C) the proposed budget for succeeding fiscal years for protection and restoration projects and studies relating to the watershed; and

(2) a summary of any proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan for the following fiscal year.

(h) **FEDERAL ENTITIES.**—

(1) **COORDINATION.**—The Administrator shall coordinate the actions of all Federal departments and agencies that impact water quality in the Long Island Sound watershed in order to improve the water quality and living resources of the watershed.

(2) **METHODS.**—In carrying out this section, the Administrator, acting through the Director of the Office, may—

(A) enter into interagency agreements; and

(B) make intergovernmental personnel appointments.

(3) **FEDERAL PARTICIPATION IN WATERSHED PLANNING.**—A Federal department or agency that owns or occupies real property, or carries out activities, within the Long Island Sound wa-

tershed shall participate in regional and subwatershed planning, protection, and restoration activities with respect to the watershed.

(4) CONSISTENCY WITH COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN.—To the maximum extent practicable, the head of each Federal department and agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall ensure that the property and all activities carried out by the department or agency are consistent with the Long Island Sound Comprehensive Conservation and Management Plan (including any related subsequent agreements and plans).

[(f)](i) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Administrator for the implementation of this section, other than subsection (d), such sums as may be necessary for each of the fiscal years 2001 through 2010.

(2) There is authorized to be appropriated to the Administrator for the implementation of subsection (d) not to exceed \$40,000,000 for each of fiscal years 2001 through 2010.

Long Island Sound Stewardship Act of 2006

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SEC. 2. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds that—

(1) * * *

* * * * *

SEC. 8. LONG ISLAND SOUND STEWARDSHIP ADVISORY.

(a) **ESTABLISHMENT.**—There is established a committee to be known as the “Long Island Sound Stewardship Advisory Committee”.

(b) **MEMBERSHIP.**—

(1) * * *

* * * * *

(g) **TERMINATION OF ADVISORY COMMITTEE.**—The Advisory Committee shall terminate on December 1, **[2011]2015**.

(h) **NONAPPLICABILITY OF FACAs.**—*The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—*

(1) the Advisory Committee; or

(2) any board, committee, or other group established under this Act.

* * * * *

SEC. 9. REPORTS.

(a) **ADMINISTRATOR.**—The Public information Administrator shall publish and make available to the public on the Internet and in paper form—

(1) * * *

* * * * *

(b) **ADVISORY COMMITTEE.**—

(1) **REPORT.**—For each of fiscal years 2007 through **[2011]2015**, the Advisory Committee shall submit to the Administrator and the decisionmaking body of the Long Island

Sound Study Management Conference established under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330), an annual report that contains—

* * * * *

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There is authorized to be appropriated to the Administrator \$25,000,000 for each of fiscal years 2007 through 2011 to carry out this Act, including for—

- [(1) acquisition of land and interests in land;
- [(2) development and implementation of site management plans;
- [(3) site enhancements to reduce threats or promote stewardship; and
- [(4) administrative expenses of the Advisory Committee and the Administrator.]

[(b)](a) USE OF FUNDS.—Amounts made available to the Administrator [under this section each] *to carry out this Act for a* fiscal year shall be used by the Administrator after reviewing the recommendations included in the annual reports of the Advisory Committee under section 9.

[(c)](b) AUTHORIZATION OF GIFTS, DEVISES, AND BEQUESTS FOR SYSTEM.—In furtherance of the purpose of this Act, the Administrator may accept and use any gift, devise, or bequest of real or personal property, proceeds there from, or interests therein, to carry out this Act. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are considered by the Administrator to be in accordance with law and compatible with the purpose for which acceptance is sought.

[(d)](c) LIMITATION ON ADMINISTRATIVE COSTS.—Of the amount available each fiscal year to carry out this Act, not more than 8 percent may be used for administrative costs.

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