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LONG ISLAND SOUND RESTORATION AND STEWARDSHIP ACT

JULY 16, 2012.—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. 2018]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2018) 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 do pass.

GENERAL STATEMENT AND BACKROUND

The Long Island Sound Restoration and Stewardship Act reauthorizes the Long Island Sound Restoration Act (33 U.S.C. 1269) and Long Island Sound Stewardship Act (33 U.S.C. 1269 note; Public Law 109–359), including extending the Long Island Sound Grants and Long Island Sound Stewardship grants from 2012 until 2016.

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

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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 (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.

S. 2018 was introduced by Senators Gillibrand, Schumer, Lieberman, and Blumenthal on December 16, 2011 to provide continued support to the efforts of New York, Connecticut, and various other federal, state and local agencies and organizations dedicated to restoring Long Island Sound.

The bill modifies the Long Island Sound authorization to require the Study to engage in increased public education and awareness of the health and water quality of the Sound. The bill also includes a number of requirements to increase the oversight and accountability of the programs, including biennial reporting requirements and an annual budget plan from the President.µ In addition, the bill increases coordination among the numerous agencies operating in and around the Sound.

OBJECTIVES OF THE LEGISLATION

The Long Island Sound Restoration and Stewardship Act 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 adds new reporting requirements and budgeting requirements to increase accountability.

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 to direct the Long Island Sound Office (Office) to assist the Study with implementation of the Comprehensive Conservation and Management Plan (Plan) through the assessment of vulnerabilities in the watershed, development and implementation of adaptation strategies to reduce vulnerabilities, and identification and assessment of impacts of sea level rise on water quality, habitat, and infrastructure in the Long

Island Sound. This section also directs the Office to support planning efforts in the Long Island Sound.

Section 2 directs the Office to assist with public awareness and education on ecological health and water quality conditions monitoring the progress toward meeting the identified goals, actions, and schedules of the Plan.

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 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 2016, 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 2016.

Section 3 also reauthorizes the Long Island Sound Stewardship Grants at $25 million each year through 2016. These authorizations maintain the current authorized levels each year for an additional 5 years.

LEGISLATIVE HISTORY

Senator Kirsten E. Gillibrand introduced the Long Island Sound Restoration and Stewardship Act, which was co-sponsored by Senators Schumer, Lieberman, and Blumenthal, on December 16, 2011. The bill was received, read twice and referred to the Committee on Environment and Public Works.

On June 21, 2012, the Full Committee met to consider a number of bills including S. 2018. During this meeting, the Committee considered S. 2018 and the bill was ordered to be reported favorably by voice vote.

HEARINGS

In the 111th Congress, 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. 2018 on June 21, 2012. The bill was ordered to be reported favorably 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. 2018 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. 2018 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."

JUNE 28, 2012.

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. 2018, 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. 2018—Long Island Sound Restoration and Stewardship Act

Summary: S. 2018 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 $254 million over the 2013–2017 period.

This legislation would authorize the appropriation of $40 million annually over the 2013–2016 period for EPA to implement the Long Island Sound comprehensive conservation and management plan. S. 2018 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 to procure and enhance sites within the Long Island Sound ecosystem, and to cover administrative costs. (Such grants are referred to in the bill as Long Island Sound Stewardship grants.)

In addition, this legislation would extend the authority to appropriate funding through 2016 for EPA to operate the Office of the Management Conference of the Long Island Sound Study.

Pay-as-you-go procedures do not apply to S. 2018 because it would not affect direct spending or revenues.

S. 2018 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. 2018 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—					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Grants to Support Long Island Sound Comprehensive Conservation and Management Plan:						
Authorization Level	40	40	40	40	0	160
Estimated Outlays	18	34	40	40	22	154
Long Island Sound Stewardship Grants:						
Authorization Level	25	25	25	25	0	100
Estimated Outlays	11	21	25	25	14	96
Office of the Management Conference of the Long Island Sound Study:						
Estimated Authorization Level	1	1	1	1	0	4
Estimated Outlays	1	1	1	1	0	4
Total Changes:						
Estimated Authorization Level	66	66	66	66	0	264
Estimated Outlays	30	56	66	66	36	254

Basis of estimate: For this estimate, CBO assumes that S. 2018 will be enacted near the beginning of fiscal year 2013, that the specified and necessary amounts will be appropriated in each year starting in 2013, and that outlays will follow historical spending patterns for the existing programs. In addition, CBO estimates that about $4 million would be needed over the next four 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. 2018 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: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy 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 en-

closed 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

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 methodologies 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 changing temperatures and sea levels 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—**]**

(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

(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

* * * * * * *

(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 watershed 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 Is-

land 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.

* * * * * * *

PUBLIC LAW 109–359

THIS ACT MAY BE CITED AS THE "LONG ISLAND SOUND STEWARDSHIP ACT OF 2006".

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) IN GENERAL.— * * *

* * * * * * *

(g) TERMINATION OF ADVISORY COMMITTEE.—The Advisory Committee shall terminate on December 31, **[**2011**]** *2016*.

(h) NONAPPLICABILITY OF FACA.—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 Administrator shall publish and make available to the public on the Internet and in paper form—

(1) not later than 1 year after the date of enactment of this Act, a report that—

(A) * * *

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(b) ADVISORY COMMITTEE.—

(1) REPORT.—For each of fiscal years 2007 through **[**2011**]** *2016*, 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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