

108TH CONGRESS  
2D SESSION

# S. 2691

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2004

Referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## AN ACT

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”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) Long Island Sound is a national treasure of  
4 great cultural, environmental, and ecological impor-  
5 tance;

6 (2) 8,000,000 people live within the Long Is-  
7 land Sound watershed and 28,000,000 people (ap-  
8 proximately 10 percent of the population of the  
9 United States) live within 50 miles of Long Island  
10 Sound;

11 (3) activities that depend on the environmental  
12 health of Long Island Sound contribute more than  
13 \$5,000,000,000 each year to the regional economy;

14 (4) the portion of the shoreline of Long Island  
15 Sound that is accessible to the general public (esti-  
16 mated at less than 20 percent of the total shoreline)  
17 is not adequate to serve the needs of the people liv-  
18 ing in the area;

19 (5) existing shoreline facilities are in many  
20 cases overburdened and underfunded;

21 (6) large parcels of open space already in public  
22 ownership are strained by the effort to balance the  
23 demand for recreation with the needs of sensitive  
24 natural resources;

25 (7) approximately  $\frac{1}{3}$  of the tidal marshes of  
26 Long Island Sound have been filled, and much of

1 the remaining marshes have been ditched, dyked, or  
 2 impounded, reducing the ecological value of the  
 3 marshes; and

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

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

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) ADAPTIVE MANAGEMENT.—The term  
 15 “adaptive management” means a scientific proc-  
 16 ess—

17 (A) for—

18 (i) developing predictive models;

19 (ii) making management policy deci-  
 20 sions based upon the model outputs;

21 (iii) revising the management policies  
 22 as data become available with which to  
 23 evaluate the policies; and

1 (iv) acknowledging uncertainty, com-  
 2 plexity, and variance in the spatial and  
 3 temporal aspects of natural systems; and

4 (B) that requires that management be  
 5 viewed as experimental.

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

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

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

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

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

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

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

23 (i) that is in the Region; and

24 (ii) that is—

- 1 (I) Federal, State, local, or tribal  
2 land or water;  
3 (II) land or water owned by a  
4 nonprofit organization; or  
5 (III) privately owned land or  
6 water.

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

10 (A) has explicit goals, methods, and cri-  
11 teria;

12 (B) produces feasible, repeatable, and de-  
13 fensible results;

14 (C) provides for consideration of natural,  
15 physical, and biological patterns,

16 (D) addresses reserve size, replication,  
17 connectivity, species viability, location, and pub-  
18 lic recreation values;

19 (E) uses geographic information systems  
20 technology and algorithms to integrate selection  
21 criteria; and

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

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

4   **SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE**  
5           **REGION.**

6           (a) ESTABLISHMENT.—There is established in the  
7   States the Long Island Sound Stewardship Initiative Re-  
8   gion.

9           (b) BOUNDARIES.—The Region shall encompass the  
10   immediate coastal upland and underwater areas along  
11   Long Island Sound, including those portions of the Sound  
12   with coastally influenced vegetation, as described on the  
13   map entitled the “Long Island Sound Stewardship Re-  
14   gion” and dated April 21, 2004.

15   **SEC. 5. LONG ISLAND SOUND STEWARDSHIP ADVISORY**  
16           **COMMITTEE.**

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

20           (b) CHAIRPERSON.—The Chairperson of the Com-  
21   mittee shall be the Director of the Long Island Sound Of-  
22   fice of the Environmental Protection Agency, or a designee  
23   of the Director.

24           (c) MEMBERSHIP.—

25           (1) COMPOSITION.—

1 (A) APPOINTMENT OF MEMBERS.—

2 (i) IN GENERAL.—The Chairperson  
3 shall appoint the members of the Com-  
4 mittee in accordance with this subsection  
5 and section 320(c) of the Federal Water  
6 Pollution Control Act (33 U.S.C. 1330(c)).

7 (ii) ADDITIONAL MEMBERS.—In addi-  
8 tion to the requirements described in  
9 clause (i), the Committee shall include—

10 (I) a representative from the Re-  
11 gional Plan Association;

12 (II) a representative of the ma-  
13 rine trade organizations; and

14 (III) a representative of private  
15 landowner interests.

16 (B) REPRESENTATION.—In appointing  
17 members to the Committee, the Chairperson  
18 shall consider—

19 (i) Federal, State, and local govern-  
20 ment interests;

21 (ii) the interests of nongovernmental  
22 organizations;

23 (iii) academic interests; and

24 (iv) private interests.

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

5           (d) TERM; VACANCIES.—

6           (1) TERM.—

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

9           (B) MULTIPLE TERMS.—A person may be  
 10          appointed as a member of the Committee for  
 11          more than 1 term.

12          (2) VACANCIES.—A vacancy on the Committee  
 13          shall—

14          (A) be filled not later than 90 days after  
 15          the vacancy occurs;

16          (B) not affect the powers of the Com-  
 17          mittee; and

18          (C) be filled in the same manner as the  
 19          original appointment was made.

20          (3) STAFF.—

21          (A) IN GENERAL.—The Chairperson of the  
 22          Committee may appoint and terminate per-  
 23          sonnel as necessary to enable the Committee to  
 24          perform the duties of the Committee.

1 (B) PERSONNEL AS FEDERAL EMPLOY-  
2 EES.—

3 (i) IN GENERAL.—Any personnel of  
4 the Committee who are employees of the  
5 Committee shall be employees under sec-  
6 tion 2105 of title 5, United States Code,  
7 for purposes of chapters 63, 81, 83, 84,  
8 85, 87, 89, and 90 of that title.

9 (ii) MEMBERS OF COMMITTEE.—  
10 Clause (i) does not apply to members of  
11 the Committee.

12 (e) INITIAL MEETING.—Not later than 30 days after  
13 the date on which all members of the Committee have been  
14 appointed, the Committee shall hold the initial meeting of  
15 the Committee.

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

19 (g) QUORUM.—A majority of the members of the  
20 Committee shall constitute a quorum, but a lesser number  
21 of members may hold hearings.

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

23 The Committee shall—

24 (1) consistent with the guidelines described in  
25 section 8—

1 (A) evaluate applications from government  
2 or nonprofit organizations qualified to hold con-  
3 servation easements for funds to purchase land  
4 or development rights for stewardship sites;

5 (B) evaluate applications to develop and  
6 implement management plans to address  
7 threats;

8 (C) evaluate applications to act on oppor-  
9 tunities to protect and enhance stewardship  
10 sites; and

11 (D) recommend that the Administrator  
12 award grants to qualified applicants;

13 (2) recommend guidelines, criteria, schedules,  
14 and due dates for evaluating information to identify  
15 stewardship sites;

16 (3) publish a list of sites that further the pur-  
17 poses of this Act, provided that owners of sites shall  
18 be—

19 (A) notified prior to the publication of the  
20 list; and

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

22 (4) raise awareness of the values of and threats  
23 to these sites; and

24 (5) leverage additional resources for improved  
25 stewardship of the Region.

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

2 (a) HEARINGS.—The Committee may hold such hear-  
3 ings, meet and act at such times and places, take such  
4 testimony, and receive such evidence as the Committee  
5 considers advisable to carry out this Act.

6 (b) INFORMATION FROM FEDERAL AGENCIES.—

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

11 (2) PROVISION OF INFORMATION.—

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

17 (B) ADMINISTRATION.—The furnishing of  
18 information by a Federal agency to the Com-  
19 mittee shall not be considered a waiver of any  
20 exemption available to the agency under section  
21 552 of title 5, United States Code.

22 (C) INFORMATION TO BE KEPT CONFIDEN-  
23 TIAL.—

24 (i) IN GENERAL.—For purposes of  
25 section 1905 of title 18, United States  
26 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) INITIAL SITES.—

3 (1) IDENTIFICATION.—

4 (A) IN GENERAL.—The Committee shall  
5 identify 20 initial Long Island Sound steward-  
6 ship sites that the Committee has determined—

7 (i)(I) are natural resource-based  
8 recreation areas; or

9 (II) are exemplary natural areas with  
10 ecological value; and

11 (ii) best promote the purposes of this  
12 Act.

13 (B) EXEMPTION.—Sites described in sub-  
14 paragraph (A) are not subject to the site identi-  
15 fication process described in subsection (d).

16 (2) EQUITABLE DISTRIBUTION OF FUNDS FOR  
17 INITIAL SITES.—In identifying initial sites under  
18 paragraph (1), the Committee shall exert due dili-  
19 gence to recommend an equitable distribution of  
20 funds between the States for the initial sites.

21 (b) APPLICATION FOR IDENTIFICATION AS A STEW-  
22 ARDSHIP SITE.—Subsequent to the identification of the  
23 initial stewardship sites under subsection (a), owners of  
24 sites may submit applications to the Committee in accord-  
25 ance with subsection (c) to have the sites identified as  
26 stewardship sites.

1       (c) IDENTIFICATION.—The Committee shall review  
2 applications submitted by owners of potential stewardship  
3 sites to determine whether the sites shall be identified as  
4 exhibiting values consistent with the purposes of this Act.

5       (d) SITE IDENTIFICATION PROCESS.—

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

10                   (A) public access;

11                   (B) community support;

12                   (C) areas with high population density;

13                   (D) environmental justice (as defined in  
14 section 385.3 of title 33, Code of Federal Regu-  
15 lations (or successor regulations));

16                   (E) connectivity to existing protected areas  
17 and open spaces;

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

19                   (G) other criteria developed by the Com-  
20 mittee.

21           (2) NATURAL AREAS WITH ECOLOGICAL  
22 VALUE.—The Committee shall identify additional  
23 natural areas with ecological value and potential as  
24 stewardship sites—

1 (A) based on measurable conservation tar-  
2 gets for the Region; and

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

6 (i) ecological uniqueness;

7 (ii) species viability;

8 (iii) habitat heterogeneity;

9 (iv) size;

10 (v) quality;

11 (vi) connectivity to existing protected  
12 areas and open spaces;

13 (vii) land cover;

14 (viii) scientific, research, or edu-  
15 cational value;

16 (ix) threats; and

17 (x) other criteria developed by the  
18 Committee.

19 (3) PUBLICATION OF LIST.—After completion  
20 of the site identification process, the Committee  
21 shall—

22 (A) publish in the Federal Register a list  
23 of sites that further the purposes of this Act;  
24 and

1 (B) prior to publication of the list, provide  
2 to owners of the sites to be published—

3 (i) a notification of publication; and

4 (ii) an opportunity to decline inclusion  
5 of the site of the owner on the list.

6 (4) DEVIATION FROM PROCESS.—

7 (A) IN GENERAL.—The Committee may  
8 identify as a potential stewardship site, a site  
9 that does not meet the criteria in paragraph (1)  
10 or (2), or reject a site selected under paragraph  
11 (1) or (2), if the Committee—

12 (i) selects a site that makes signifi-  
13 cant ecological or recreational contribu-  
14 tions to the Region;

15 (ii) publishes the reasons that the  
16 Committee decided to deviate from the sys-  
17 tematic site selection process; and

18 (iii) before identifying or rejecting the  
19 potential stewardship site, provides to the  
20 owners of the site the notification of publi-  
21 cation, and the opportunity to decline in-  
22 clusion of the site on the list published  
23 under paragraph (3)(A), described in para-  
24 graph (3)(B).

1           (5) PUBLIC COMMENT.—In identifying potential  
 2       stewardship sites, the Committee shall consider pub-  
 3       lic comments.

4       (e) GENERAL GUIDELINES FOR MANAGEMENT.—

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

8                (A) definition of strategic goals;

9                (B) definition of policy options for methods  
 10      to achieve strategic goals;

11               (C) establishment of measures of success;

12               (D) identification of uncertainties;

13               (E) development of informative models of  
 14      policy implementation;

15               (F) separation of the landscape into geo-  
 16      graphic units;

17               (G) monitoring key responses at different  
 18      spatial and temporal scales; and

19               (H) evaluation of outcomes and incorpora-  
 20      tion into management strategies.

21       (2) APPLICATION OF ADAPTIVE MANAGEMENT  
 22      FRAMEWORK.—The Committee shall apply the  
 23      adaptive management framework to the process for  
 24      updating the list of recommended stewardship sites.

1 **SEC. 9. REPORTS.**

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

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

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

9 (3) the recommendations of the Committee for  
10 such legislation and administrative actions as the  
11 Committee considers appropriate; and

12 (4) in accordance with subsection (b), the rec-  
13 ommendations of the Committee for the awarding of  
14 grants.

15 (b) GENERAL GUIDELINES FOR RECOMMENDA-  
16 TIONS.—

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

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

23 (B) purchase of relevant property rights of  
24 the site; or

25 (C) entering into any other binding legal  
26 arrangement that ensures that the values of the

1 site are sustained, including entering into an  
2 arrangement with a land manager or owner to  
3 develop or implement an approved management  
4 plan that is necessary for the conservation of  
5 natural resources.

6 (2) EQUITABLE DISTRIBUTION OF FUNDS.—

7 The Committee shall exert due diligence to rec-  
8 ommend an equitable distribution of funds between  
9 the States.

10 (c) ACTION BY THE ADMINISTRATOR.—

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

14 (A) review the recommendations of the  
15 Committee; and

16 (B) take actions consistent with the rec-  
17 ommendations of the Committee, including the  
18 approval of identified stewardship sites and the  
19 award of grants, unless the Administrator  
20 makes a finding that any recommendation is  
21 unwarranted by the facts.

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

1 (A) assesses the current resources of and  
2 threats to Long Island Sound;

3 (B) assesses the role of the Long Island  
4 Sound Stewardship Initiative in protecting  
5 Long Island Sound;

6 (C) establishes guidelines, criteria, sched-  
7 ules, and due dates for evaluating information  
8 to identify stewardship sites;

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

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

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

16 (G) shall be updated at least every other  
17 year, except that information on funding and  
18 any new stewardship sites identified shall be  
19 published more frequently.

20 **SEC. 10. PRIVATE PROPERTY PROTECTION.**

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

23 (1) requires any private property owner to allow  
24 public access (including Federal, State, or local gov-  
25 ernment access) to the private property; or

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

5       (b) LIABILITY.—Approval of the Long Island Sound  
6       Stewardship Initiative Region does not create any liability,  
7       or have any effect on any liability under any other law,  
8       of any private property owner with respect to any person  
9       injured on the private property.

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

13       (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS  
14       IN THE LONG ISLAND SOUND STEWARDSHIP INITIATIVE  
15       REGION.—Nothing in this Act requires the owner of any  
16       private property located within the boundaries of the Re-  
17       gion to participate in or be associated with the Initiative.

18       (e) EFFECT OF ESTABLISHMENT.—

19           (1) IN GENERAL.—The boundaries approved for  
20       the Region represent the area within which Federal  
21       funds appropriated for the purpose of this Act may  
22       be expended.

23           (2) REGULATORY AUTHORITY.—The establish-  
24       ment of the Region and the boundaries of the Re-  
25       gion does not provide any regulatory authority not

1 in existence on the date of enactment of this Act on  
2 land use in the Region by any management entity,  
3 except for such property rights as may be purchased  
4 from or donated by the owner of the property (in-  
5 cluding the Federal Government or a State or local  
6 government, if applicable).

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There is authorized to be appro-  
9 priated to carry out this Act \$25,000,000 for each of fiscal  
10 years 2006 through 2013.

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

- 15 (1) acquisition of land and interests in land;
- 16 (2) development and implementation of site  
17 management plans;
- 18 (3) site enhancements to reduce threats or pro-  
19 mote stewardship; and
- 20 (4) administrative expenses of the Committee.

21 (c) FEDERAL SHARE.—The Federal share of the cost  
22 of an activity carried out using any assistance or grant  
23 under this Act shall not exceed 75 percent of the total  
24 cost of the activity.

1 **SEC. 12. LONG ISLAND SOUND AUTHORIZATION OF APPRO-**  
2 **PRIATIONS.**

3 Section 119(f) of the Federal Water Pollution Con-  
4 trol Act (33 U.S.C. 1269(f)) is amended by striking  
5 “2005” each place it appears and inserting “2009”.

6 **SEC. 13. TERMINATION OF COMMITTEE.**

7 The Committee shall terminate on December 31,  
8 2013.

Passed the Senate October 11, 2004.

Attest: EMILY J. REYNOLDS,  
*Secretary.*