

Calendar No. 556

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2d Session }

SENATE

{ REPORT
113-251 }

REVITALIZING THE ECONOMY OF FISHERIES
IN THE PACIFIC ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1275



SEPTEMBER 10, 2014.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1275]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1275) to direct the Secretary of Commerce to issue a fishing capacity reduction loan to refinance the existing loan funding the Pacific Coast groundfish fishing capacity reduction program, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 1275 would direct the Secretary of Commerce to issue a fishing capacity reduction loan to refinance the existing loan funding the Pacific Coast groundfish fishing capacity reduction program.

BACKGROUND AND NEEDS

The Pacific Coast groundfish fishery, also referred to as the West Coast groundfish fishery, is a multi-species fishery for various species of rockfish and flatfish, Pacific whiting, sablefish, lingcod, Pacific cod, and several species of skates and sharks. The fishery is one of the oldest fisheries on the West Coast, with commercial harvesting of rockfish having begun in California in the first half of the 19th century. In the late 19th and early 20th centuries, as demand for fish began to grow, commercial fishing operations expanded to other groundfish species such as halibut and sablefish.

Trawling has been the dominant method of harvest in the fishery for the past several decades. Historically, domestic landings from the fishery averaged roughly 30,000 metric tons annually until the

early 1970s when landings began to steadily increase. Several factors contributed to this trend. The Fishery Conservation and Management Act of 1976 (subsequently renamed the Magnuson-Stevens Fishery Conservation and Management Act) was signed into law on April 13, 1976. A central purpose of that Act was to regulate, and ultimately eliminate, foreign commercial fishing activity in the waters contiguous to the territorial seas of the United States, and to “Americanize” fisheries through a number of fishing and vessel construction programs and incentives. These programs and incentives produced significant growth in domestic commercial fishing. In 1978, fishing grounds in Canadian waters were closed to U.S. fishermen, bringing added fishing pressure on U.S. groundfish stocks from Washington State trawlers that had previously trawled off the coast of British Columbia. By 1982, when the fishery management plan for the groundfish fishery was first implemented by the Pacific Fishery Management Council, total domestic landings from the fishery had soared to 116,000 metric tons, valued at the time at \$71.5 million.

The substantial buildup of harvesting capacity that occurred in the 1970s and 1980s greatly exceeded the sustainable production capacity of the groundfish resource. The number of trawlers in the fishery rose from 286 to 472 in just the three-year period from 1977 through 1979. Additionally, technological improvements in navigation and fish-finding equipment significantly increased the efficiency of the fleet.

By 1991, foreign trawl fleets were completely driven out and the entire West Coast groundfish fishery was fished by U.S. fishermen. U.S. shore-based processing facilities had continued to expand up to that time, and landings had continued to reach new highs. In just a few years, the groundfish fishery had gone from harvesting generally healthy, even under-fished, stocks to fishing at or beyond maximum sustainable yield on many species. While harvest regulations were put in place to address the depletion of fish stocks, nothing in the Pacific Council’s conservation and management measures addressed the problem of excess harvesting capacity, a problem with long-term negative economic, as well as species conservation, implications.

In the late 1980s, fishing industry representatives began working with the Pacific Council to develop a limited entry management regime for the groundfish fishery, in order to begin to address the problem of excess harvest capacity. As a result of these efforts, a license limitation plan was put in place for the fishery, effective on January 1, 1994. Despite these measures, owing both to declining values and low abundance, ex-vessel revenue from groundfish landings continued to decrease. In 1994, 14,800 metric tons of rockfish were landed from the fishery, with a value of \$19.3 million. By 2000, landings of rockfish were down to only 2,800 metric tons with a value of \$5.3 million.

On January 26, 2000, the Secretary of Commerce declared a fishery disaster in the West Coast groundfish fishery, citing low stock abundance, an overcapitalized fleet, and historically overfished stocks as contributing factors. Congress appropriated \$5 million in relief, which was apportioned among the States of California, Oregon, and Washington. In 2003, to address the long-term problem of the overcapitalized groundfish fleet, Congress established the

Pacific Coast groundfish fishing capacity reduction program, and directed the issuance of a \$35.7 million, 30-year “buyback” loan to remove vessels from the fishery. The interest rate of the buyback loan is fixed at 6.97 percent and the loan is paid back through a fee of up to 5 percent of the value of groundfish that is landed from the fishery. The Committee understands that the current principal owed on the loan is \$27,540,000, and that the principal is currently being paid back at roughly \$30,000 per month, though this value increases as the loan matures.

As a result of several different factors, including the transition of the commercial fishery to individual fishing quotas, the cost recovery fees associated with Individual Fishing Quota programs, fees owed for at-sea observers, and the requirement to pay 5 percent of the value of groundfish landings to repay the buyback loan, commercial West Coast groundfish fishermen are facing up to an 18 percent reduction in their total gross revenue for the foreseeable future. This threat to their financial viability comes just as landings and values are beginning to go up as a result of improved conservation and management measures in the fishery.

There is a clear need to refinance the current buy-back loan so that participants in the West Coast groundfish fishery can afford the terms of repayment and the Federal Government can recoup its investment.

SUMMARY OF PROVISIONS

S. 1275 would, if enacted, require the Secretary of Commerce to issue a loan to refinance the existing debt obligation funding the West Coast groundfish fishery capacity reduction program. It would change the loan term from 30 years to 45 years and have the effect of lowering the annual interest rate on the loan from 6.97 percent to roughly 3.5 percent. It would also set a maximum of 3 percent on the landing fees collected for repayment of the loan, prescribe certain requirements regarding the calculation and accuracy of the landing fees, and impose a 75-day deadline to conduct a referendum of fishery participants to agree to the terms of the refinanced loan.

LEGISLATIVE HISTORY

S. 1275, the REFI Pacific Act, was introduced by Senator Cantwell on July 10, 2013, with Senators Begich, Boxer, Feinstein, Merkley, Murray, and Wyden as original cosponsors, and referred to the Committee on Commerce, Science, and Transportation. On April 9, 2014, the Committee met in open Executive Session and, by a voice vote, ordered S. 1275 reported with an amendment in the nature of a substitute.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1275—Revitalizing the Economy of Fisheries in the Pacific Act

Summary: S. 1275 would direct the Secretary of Commerce, upon an affirmative vote in a referendum, to amend the terms for repayment of an advance made by the government in 2003 to buy back fishing permits in the Pacific Coast fishery for groundfish. The bill also would set a new limit on fees that are assessed on members of the affected fishery to repay the advance.

CBO estimates that implementing S. 1275 would increase direct spending by \$7 million over the 2015–2024 period; therefore, pay-as-you-go procedures apply. CBO estimates that implementing S. 1275 would have an insignificant effect on spending subject to appropriation; enacting the bill would not affect revenues.

S. 1275 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1275 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—												2015– 2019	2015– 2024
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024				
CHANGES IN DIRECT SPENDING														
Estimated Budget Authority	7	0	0	0	0	0	0	0	0	0	0	7	7	
Estimated Outlays	7	0	0	0	0	0	0	0	0	0	0	7	7	

Basis of estimate: S. 1275 would direct the Secretary of Commerce to hold a referendum that would allow eligible members of a Pacific Coast fishery to vote to assess themselves at a lower rate to repay an advance that the government made in 2003. At that time, the National Marine Fisheries Service (NMFS) provided \$46 million in funds to buy out certain fishing permits in an effort to remove excess fishing capacity in the fishery. Of that amount, \$36 million was considered a loan to the remaining members of the Pacific Coast fishery, which was made after a referendum in which eligible members of the fishery agreed to assess themselves to repay the advance based on the value of the catch (“ex-vessel” value) in the affected fishery.

Direct spending

Assuming that the lower rate for assessments would be approved in the referendum, and based on information from NMFS, CBO expects that enacting S. 1275 would result in a change in cash flows associated with the advance made to fishery members in 2003. Under current law, CBO expects the members of the fishery to remit about \$2.5 million per year to fully repay the advance under the original terms. Under S. 1275, CBO expects the annual assessment would fall to about \$1.5 million and that the advance would be repaid over the next 45 years (compared with 30 years under current law).

Consistent with the way the original advance and subsequent repayments have been treated in the budget, CBO considers those effects to be a modification to the terms of an existing loan.¹ Hence,

¹ Although the original advance was treated as a loan in the budget, CBO considers that treatment inappropriate. Under the Federal Credit Reform Act, a direct loan is defined as a dis-

the net cost to the government is measured as the difference between the discounted present value of the stream of assessment payments anticipated under current law and the stream of payments that would occur under the bill. Because the payments would be stretched out over a longer period of time, their value to the government on a present-value basis would be smaller. Therefore, CBO estimates that enacting S. 1275 would increase the cost of the original advance by \$7 million, which would be recorded in the budget in the year of enactment. Because the modification to the repayment agreement can be made without a subsequent appropriation, the cost of this legislation would be an increase in direct spending.

Spending subject to appropriation

The bill would direct the Secretary of Commerce to conduct a referendum that would allow members of the affected fishery to agree to a new, lower assessment rate to repay the advance. Based on information from NMFS, CBO estimates that the costs of conducting that referendum would not be significant.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1275 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON APRIL 9, 2014

	By fiscal year, in millions of dollars—													2014– 2019	2014– 2024
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024				
	NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	7	0	0	0	0	0	0	0	0	0	7	7		

Intergovernmental and private-sector impact: S. 1275 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Susan Willie; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

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

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

bursement of funds to a nonfederal borrower under a contract that requires repayment. A disbursement by the government should not be considered a direct loan, however, if the duty to repay the government arises from an exercise of sovereign power, tort liability, or some other noncontractual obligation.

Therefore, in CBO's view, such an advance should be recorded as an outlay when it is made, and the subsequent stream of annual repayments should be shown in the budget on a cash basis as federal revenues because the requirement to pay the assessment is compulsory. The government's sovereign power is used to establish and enforce this assessment, which must be paid by all members of the fishery regardless of how they voted in the referendum. If the 2003 advance had been recorded in the budget to reflect these circumstances, then the proposed change to the repayment schedule under S. 1275 would be reflected in the budget as a change in revenues.

NUMBER OF PERSONS COVERED

S. 1275 as reported does not create any new programs or impose any new regulatory requirements, and therefore would not subject any individuals or businesses to new regulations.

ECONOMIC IMPACT

Enactment of S. 1275 is not expected to have any adverse impact on the Nation's economy. Failure to authorize the refinancing of the West Coast groundfish fishery buyback loan on manageable terms for participants in the fishery would likely cause participants to exit the fishery, resulting in lost jobs and economic productivity and a reduced likelihood that the Federal Government's buyback loan would be repaid.

PRIVACY

S. 1275 would not impact the personal privacy of individuals.

PAPERWORK

S. 1275 would have no impact in paperwork requirements for individuals or businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the legislation may be cited as the "Revitalizing the Economy of Fisheries in the Pacific Act" or the "REFI Pacific Act".

Section 2. Findings; purpose

This section would set forth findings of Congress and provide that the purpose of the legislation is to refinance the Pacific Coast groundfish fishing capacity reduction program to protect and conserve the West Coast groundfish fishery and the coastal economies in California, Oregon, and Washington that rely on it.

Section 3. Refinancing of Pacific Coast groundfish fishing capacity reduction program

Subsection (a) of this section would require the Secretary of Commerce, upon receipt of such assurances as the Secretary considers appropriate to protect the interests of the United States, to issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the West Coast groundfish fishery implemented under section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003 (title II of division B of Public Law 108-7; 117 Stat. 80).

Subsection (b) would provide that, except as otherwise provided in this section, the Secretary shall issue the loan under this section

in accordance with subsections (b) through (e) of section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a) and sections 53702 and 53735 of title 46, United States Code.

Subsection (c) would provide generally that, notwithstanding section 53735(c)(4) of title 46, United States Code, a loan under this section shall have a maturity that expires at the end of the 45-year period beginning on the date of issuance of the loan. Notwithstanding this general requirement, if there is an outstanding balance on the loan after the period described in paragraph (1) of subsection (c), it would permit the Secretary to extend the loan under the terms provided in this section.

Subsection (d) would provide that, notwithstanding section 312(d)(2)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(d)(2)(B)), the fee established by the Secretary with respect to a loan under this section shall not exceed 3 percent of the ex-vessel value of the harvest from each fishery for where the loan is issued.

Subsection (e) would provide generally that, notwithstanding section 53702(b)(2) of title 46, United States Code, the annual rate of interest an obligor shall pay on a direct loan obligation under this section is the percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan. It would also provide that an individual who holds a subloan under the loan authorized by this section shall receive the interest rate described above on the subloan, and may pay off the subloan at any time notwithstanding the loan term specified in subsection (c).

Subsection (f) would prescribe certain requirements regarding the ex-vessel landing fees charged for repayment of the loan made under this section. It would require that the Secretary shall set the ex-vessel landing fee as low as possible, based on recent landings value in the fishery, to meet the requirements of loan repayment; that the Secretary set the fee upon issuance of the loan in accordance with the 60-day deadline established *infra*; and that the Secretary set the fee on a regular interval not to exceed every 5 years, beginning on the date of issuance of the loan. Not later than 60 days after the date of issuance of the loan under this section, the Secretary would be required to recalculate the ex-vessel landing fee based on the most recent value of the fishery.

Subsection (g) would provide that there is authorized to be appropriated to the Secretary of Commerce to carry out this section an amount equal to 1 percent of the amount of the loan authorized under this section for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

Section 4. Deadline for referenda

This section would provide that, not later than 75 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall have completed the referenda under section 600.1010 of title 50, Code of Federal Regulations.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

