

ATLANTIC COASTAL FISHERIES ACT OF 2000

SEPTEMBER 6, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 4840]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4840) to reauthorize the Atlantic Coastal Fisheries Cooperative Management Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Atlantic Coastal Fisheries Act of 2000”.

SEC. 2. REAUTHORIZATION OF ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 811 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5108) is amended to read as follows:

“SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—To carry out this title, there are authorized to be appropriated \$10,000,000 for each of fiscal years 2001 through 2005.

“(b) COOPERATIVE STATISTICS PROGRAM.—Amounts authorized under subsection (a) may be used by the Secretary to support the Commission’s cooperative statistics program.

“(c) REPORTS.—

“(1) ANNUAL REPORT TO THE SECRETARY.—The Secretary shall require, as a condition of providing financial assistance under this title, that the Commission and each State receiving such assistance submit to the Secretary an annual report that provides a detailed accounting of the use of the assistance.

“(2) BIENNIAL REPORTS TO THE CONGRESS.—The Secretary shall submit biennial reports to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the use of Federal assistance provided to the Commission and the States under this title. Each biennial report shall evaluate the success of such assistance in implementing this title.”

(b) TECHNICAL CORRECTIONS.—

(1) IN GENERAL.—Such Act is amended—

(A) in section 802(3) (16 U.S.C. 5101(3)) by striking “such resources in” and inserting “such resources is”; and

(B) by striking section 812 and the second section 811.

(2) AMENDMENTS TO REPEAL NOT AFFECTED.—The amendments made by paragraph (1)(B) shall not affect any amendment or repeal made by the sections struck by that paragraph.

(3) SHORT TITLE REFERENCES.—Such Act is further amended by striking “Magnuson Fishery” each place it appears and inserting “Magnuson-Stevens Fishery”.

PURPOSE OF THE BILL

The purpose of H.R. 4840 is to reauthorize the Atlantic Coastal Fisheries Cooperative Management Act.

BACKGROUND AND NEED FOR LEGISLATION

The Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA, Public Law 103–206) is modeled after the highly successful Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) to improve the management of coastal fisheries along the Atlantic Coast. The ACFCMA encourages States to cooperate on fisheries management through the Atlantic States Marine Fisheries Commission. The ACFCMA establishes a procedure under which the Secretary of Commerce is authorized to impose a federal fishing moratorium in waters of States that violate interstate fishery management guidelines.

The Atlantic States Marine Fishery Commission (ASMFC) is an interstate commission that was established by interstate compact in 1942 to coordinate the management efforts of the States on the Atlantic Coast for a variety of interjurisdictional fisheries. The ASMFC is composed of representatives from Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia. The interstate plans developed by ASMFC establish guidelines for State regulations to reduce harvest pressure in coastal waters. The ASMFC has developed fishery management plans for several Atlantic coastal fisheries, including striped bass, American lobster, bluefish, shad, herring, summer flounder and horseshoe crabs.

The procedure for enforcing the fishery management plans is as follows: (1) the ASMFC develops coastal fishery management plans identifying State requirements and establishing a timetable for implementation; (2) the ASMFC monitors State efforts and notifies the Secretaries of Commerce and the Interior if a State fails to comply; (3) the Secretary of Commerce reviews and makes a finding on whether the State’s failure to comply threatened the conservation of the involved fishery; (4) upon an affirmative finding, the Secretary would impose a federally-enforced moratorium for that fishery within the waters of the offending State; and (5) the moratorium would be lifted when the State came into compliance with the applicable plan. The infrequently used moratorium has been extremely effective at ensuring State compliance with the plans.

H.R. 4840 authorizes appropriations of \$10 million a year to the Secretary of Commerce to carry out the ACFCMA each year for five years, for a total of \$50 million. A large portion of these dollars support the ASMFC’s cooperative statistics program, which includes a database of harvest information shared by the federal and State governments. H.R. 4840 also makes several technical and

clarifying amendments. This legislation requires that the ASMFC submit annual reports to the Secretary of Commerce regarding the use of federal assistance received under the ACFCMA. The Secretary of Commerce will submit a biannual report to Congress describing the effectiveness of appropriations at meeting the purposes of the ACFCMA.

COMMITTEE ACTION

H.R. 4840 was introduced on July 12, 2000, by Congressman Jim Saxton (R-NJ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife, and Oceans. On July 20, 2000, the Subcommittee met to mark up the bill. Congressman Saxton offered an amendment to require annual reports on the use of appropriations under the ACFCMA. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the Full Committee by unanimous consent. On July 26, 2000, the Full Resources Committee met to consider the bill. No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of Rule X and clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **Government Reform Oversight Findings.** Under clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 14, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4840, the Atlantic Coastal Fisheries Act of 2000.

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

Sincerely,

ARLENE HOLEN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4840—Atlantic Coastal Fisheries Act of 2000

Summary: H.R. 4840 would authorize appropriations to implement the Atlantic Coastal Fisheries Cooperative Management Act during the 2001–2005 period. The bill also would allow the Secretary of Commerce to use a portion of the authorized amounts for the cooperative statistics program of the Atlantic States Marine Fisheries Commission. Finally, H.R. 4840 would require the Secretary of Commerce to submit biennial reports to the Congress on the effectiveness of that assistance authorized under the bill.

CBO estimates that implementing H.R. 4840 would cost \$7 million in 2001 and \$46 million over the 2001–2005 period. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 4840 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 impact of H.R. 4840 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				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	10	10	10	10	10
Estimated Outlays	7	9	10	10	10

Basis of Estimate: For this estimate, CBO assumes that H.R. 4840 will be enacted near the start of fiscal year 2001 and that the authorized amounts will be appropriated for each year.

H.R. 4840 would authorize the appropriation of \$10 million annually to implement the Atlantic Coastal Fisheries Cooperative Management Act over the 2001–2005 period. Based on spending rates for similar activities, CBO estimates that implementing this provision would cost \$7 million in 2001 and \$46 million over the 2001–2005 period.

Based on information from the Department of Commerce, CBO estimates that submitting the biennial reports required by the bill would cost less than \$500,000 annually.

Pay-as-You-Go Considerations: None.

Estimate Impact on State, Local, and Tribal Governments: H.R. 4840 contains no intergovernmental mandates as defined in UMRA. The bill would require that, as a condition of federal financial assistance provided under the Atlantic Coastal Fisheries Cooperative management Act, the Atlantic States Marine Fisheries Commission and each state receiving assistance report to the Secretary of Commerce about how the assistance was used.

Estimated Impact on the Private Sector: The bill contains no new private-sector mandates as defined in UMRA.

Estimate Prepared by: Federal Costs: Ken Johnson. Impact on State, Local, and Tribal Governments: Victoria Heid Hall. Impact on the Private Sector: Sara Sitarek.

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

Compliance With Public Law 104-4: This bill contains no unfunded mandates.

Preemption of State, Local or Tribal Law: This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 italics, existing law in which no change is proposed is shown in roman):

ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT

* * * * *

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) * * *

* * * * *

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources [in] *is* frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

* * * * *

SEC. 803. DEFINITIONS.

In this title, the following definitions apply:

(1) * * *

* * * * *

(5) The term “Councils” means Regional Fishery Management Councils established under section 302 of the [Magnuson

Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1852).

* * * * *

SEC. 804. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERY MANAGEMENT.

(a) * * *

(b) FEDERAL REGULATION IN EXCLUSIVE ECONOMIC ZONE.—(1) In the absence of an approved and implemented fishery management plan under the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) compatible with the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.).

* * * * *

SEC. 807. SECRETARIAL ACTION.

(a) * * *

* * * * *

(f) CIVIL AND CRIMINAL PENALTIES.—(1) Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty as provided by section 308 of the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) is guilty of an offense punishable as provided by section 309 (a)(1) and (b) of the [Magnuson Fishery] *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 8159 (a)(1) and (b)).

(g) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that

is unlawful under subsection (e), shall be subject to forfeiture to the United States as provided in section 310 of the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1860).

* * * * *

(h) ENFORCEMENT.—A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act. The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

* * * * *

SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.

(a) PERMITS.—Notwithstanding any provision of the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobster in the following areas designated as Federal waters, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(1) * * *

* * * * *

(b) ENFORCEMENT.—The exemption from Federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the [Magnuson Fishery] *Magnuson-Stevens Fishery Conservation and Management Act* (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

* * * * *

[SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

[To carry out the provisions of this title, there are authorized to be appropriated \$3,000,000 for fiscal year 1994, \$5,000,000 for fiscal year 1995, and \$7,000,000 for fiscal year 1996, and \$7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.]

SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

(a) *IN GENERAL.*—*To carry out this title, there are authorized to be appropriated \$10,000,000 for each of fiscal years 2001 through 2005.*

(b) *COOPERATIVE STATISTICS PROGRAM.*—*Amounts authorized under subsection (a) may be used by the Secretary to support the Commission's cooperative statistics program.*

(c) *REPORTS.*—

(1) *ANNUAL REPORT TO THE SECRETARY.*—*The Secretary shall require, as a condition of providing financial assistance under this title, that the commission and each State receiving such assistance submit to the Secretary an annual report that provides a detailed accounting of the use of the assistance.*

(2) *BIENNIAL REPORTS TO THE CONGRESS.*—*The Secretary shall submit biennial reports to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the use of Federal assistance provided to the Commission and the States under this title. Each biennial report shall evaluate the success of such assistance in implementing this title.*

[SEC. 812. ATLANTIC STRIPED BASS CONSERVATION ACT.

[Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is repealed.]

[SEC. 811. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

[Section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) is amended by inserting “, and \$600,000 for each of the fiscal years 1994 and 1995,” immediately after “and 1993.”]