111TH CONGRESS
2D Session

S. 3594

To amend the Magnuson-Stevens Fishery Conservation and Management Act to mitigate the economic impact of the transition to sustainable fisheries on fishing communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2010

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to mitigate the economic impact of the transition to sustainable fisheries on fishing communities, and for other purposes.

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 “Fishery Conservation
5 Transition Act”.
6 SEC. 2. TRANSITION TO SUSTAINABLE FISHERIES.
7 (a) IN GENERAL.—Within 180 days after the close
8 of fishing year 2010 (within the meaning given that term
in the Magnuson-Stevens Fishery conservation and Management Act (16 U.S.C. 1802 et seq.), the Secretary of Commerce shall determine, with respect to each fishery for which a fishery management plan that meets the requirements of section 303(a)(15) of that Act (16 U.S.C. 1853(a)(15)) is in effect that contains a complete prohibition on the retention of stocks subject to overfishing within the fishery for the entire fishing season, whether the prohibition is sufficient to prevent or end overfishing for the stocks, or stocks undergoing overfishing, to which it applies.

(b) Remedial Action.—If the Secretary determines that the prohibition contained in such a fishery management plan is not sufficient to prevent or end overfishing for the stocks to which it applies, the Secretary may authorize retention of fish that are not undergoing overfishing within that fishery, notwithstanding that discard mortality of stocks for which retention is prohibited may be inconsistent with provisions on ending or preventing overfishing, if, within 90 days after a determination by the Secretary under subsection (a), the Regional Fishery Management Council with jurisdiction over the fishery implements—

(1) measures to minimize bycatch and bycatch mortality to the extent practicable;
(2) an enhanced data collection requirement, such as an electronic logbook data collection system, for recreational, for hire, and commercial fishers;

(3) a program of on-board observers for charter, for-hire, and commercial fishers that will monitor and collect data on bycatch and bycatch mortality in multispecies fisheries with prohibitions on retention on one or more species in the fisheries; and

(4) in coordination with the Secretary, other measures to ensure accountability of the fishery, including those that will substantially contribute to addressing data gaps in stock assessments.

(e) ADDITIONAL REQUIREMENTS.—The Secretary shall take such action as may be necessary to ensure that, with respect to any stock subject to overfishing in a fishery to which a determination under subsection (b) applies—

(1) a monitoring and research program to monitor the recovery of the affected stocks of fish is implemented for the fishery within 1 year after the date of enactment of this Act;

(2) a stock assessment for the overfished species within the affected stocks of fish is initiated, taking into account relevant life history of the stock, within 6 months after the date on which the Secretary makes such a determination; and
(3) the Regional Fishery Management Council with jurisdiction over the affected fishery submits a report to Congress and the Secretary detailing a long-term plan for reducing discard mortality of the affected stocks of fish to which a determination under subsection (a) applies within 2 years after the date of enactment of this Act.

(d) FURTHER ACTION REQUIRED.—If the Secretary determines that—

(1) the Regional Fishery Management Council with jurisdiction over a fishery has complied with the requirements of paragraphs (b) and (c), and

(2) the fishery management plan’s prohibition on the retention of stocks subject to overfishing continues to be insufficient to prevent or end overfishing for those stocks,

the Secretary shall take such action as may be necessary to end overfishing for the stocks to which the prohibition applies before the end of fishery year 2015.

SEC. 3. ECONOMIC ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 208 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891b) is amended—

(1) by striking “and” after the semicolon in subsection (b)(6);
(2) by striking “materia.” in subsection (b)(7)
and inserting “materia; and”;

(3) by adding at the end of subsection (b) the
following:

“(8) the economic assistance program under
subsection (f).”;

(4) by striking “and” after the semicolon in
subsection (e)(2)(A);

(5) by striking “section.” in subsection
(e)(2)(B) and inserting “section; and”;

(6) by adding at the end of subsection (e)(2)
the following:

“(C) fees collected under permit programs
for a fishery significantly affected by a prohibi-
tion on the retention of stocks to end or prevent
overfishing.”; and

(7) by adding at the end thereof the following:

“(f) ECONOMIC ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Secretary shall estab-
lish an economic assistance program to assist rec-
reational and commercial fishery participants, fish-
ing industries, and fishing communities significantly
affected by a prohibition on the retention of stocks
to end or prevent overfishing or rebuild overfished
stocks and use amounts in the Fund to provide such assistance.

“(2) CRITERIA FOR ASSISTANCE.—In the administration of the program, the Secretary shall develop criteria for prioritizing economic assistance requests, including consideration of the conservation and management history of the fishery, the sustainability of conservation and management approaches, the magnitude of the economic impact of the retention prohibition, and community and social impacts.

“(3) APPLICATION PROCESS.—The Secretary shall develop an application process to determine eligibility for economic assistance under the program and shall consult with States whose recreational and commercial fishery participants, fishing industries, or fishing communities have been affected by the prohibition. Any person or community seeking assistance under the program shall submit an application at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(4) STATE MATCHING FUNDS.—The Federal share of assistance provided under the program to recreational and commercial fishery participants, fishing industries, or fishing communities may not
exceed 75 percent. Before granting assistance under
the program, the Secretary shall consult with the
State in which the recipient is located and request
that the State provide matching funds. The Sec-
retary may waive, in whole or in part, the matching
requirement under this paragraph.”.

SEC. 4. AUTHORITY TO ACT.

(a) Clarification of Emergency Authority.—
Section 305(e) of the Magnuson-Stevens Fishery Con-
servation and Management Act (16 U.S.C. 1855(e)) is
amended by adding at the end the following:

“(4) For purposes of this section, an emergency is
a situation that results from recent, unforeseen, or re-
cently discovered circumstances that present serious con-
servation or management problems in the fishery, includ-
ing ecological, economic, social, or public health interests.
An emergency may include increasing or decreasing a
catch limit, or modifying a time or area closure or reten-
tion prohibition in response to new science or stock assess-
ment information, but only if such action is needed to ad-
dress serious conservation or management problems in the
fishery.”.
SEC. 5. FISHERY STUDIES AND REPORTS.

STATUS OF FISHERY REPORT.—Section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended—

(1) by inserting “(A)” before “The Secretary”;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii); and

(3) by adding at the end the following:

“(B) In the review, the Secretary shall consider—

“(i) a stock assessment conducted pursuant to subsection (e);

“(ii) an analysis of the local, regional, and national social and economic impacts on fishing communities and industries directly and indirectly related to the fishery; and

“(iii) fishery management measures to enhance the sustainability of stocks of fish that are overfished, and an evaluation of alternative management approaches that may be implemented to enhance such sustainability.

“(C) Stock assessment updates for each stock of fish that is overfished or undergoing overfishing shall be conducted at 2 year intervals, and a full stock assessment pursuant to subsection (e) shall be conducted no less frequently than once every 5 years.
“(D) The Secretary shall include a summary of reviews conducted under subparagraph (A) in the report required by paragraph (1) of this subsection. To the extent possible, the Secretary shall include in the report recommendations for actions that could be taken to encourage the sustainable management of stocks of fish listed in the Fish Stocks Sustainability Index.”

(b) Assessment of Current Management Measures.—

(1) In general.—The Secretary of Commerce shall conduct a study, in cooperation with the National Academy of Sciences, to determine if current fishery management measures for stocks in a multi-species fishery yield the most productive use of marine resources while effectively conserving sustainable populations and a healthy marine ecosystem. The study shall include—

(A) the identification of the statutory and regulatory impediments to achieving the maximum sustainable yield from the entire fishery;

(B) the identification of fishery independent environmental stressors on the fishery;

(C) the economic value derived from the yield in the fishery; and
(D) alternative fishery management measures and technologies which would result in increased economic and harvest yields consistent with sound conservation.

(2) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources containing the Secretary's findings, conclusions, and recommendations.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out the provisions of this Act and the amendments made by this Act.