108th CONGRESS

1st Session

S. 1193

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 5, 2003

Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Capital Construction Fund Qualified Withdrawal Act of 2003'.

SEC. 2. AMENDMENT OF THE MERCHANT MARINE ACT OF 1936 TO ENCOURAGE RETIREMENT OF CERTAIN FISHING VESSELS AND PERMITS.

(a) IN GENERAL- Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by adding at the end the following: `Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessels and related commercial fishing permits.'.

(b) New Qualified Withdrawals-

(1) IN GENERAL- Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended--

(A) by striking `for:' and inserting

`for--';

(B) by striking `vessel' in subparagraph (A) and inserting `vessel;';

(C) by striking `vessel, or' in subparagraph (B) and inserting `vessel;';

(D) by striking `vessel.' in subparagraph (C) and inserting `vessel;'; and

(E) by inserting after subparagraph (C) the following:

`(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b));

`(E) in the case of any such person or shareholder for whose benefit such fund was established with respect to any vessel operated in the fisheries of the United States, or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37) of such Code);

`(F) the payment of the net proceeds deposited into the fund from a sale described in subsection (b)(1)(C)(ii) to a person retiring related commercial fishing vessels and permits;

`(G) the acquisition of a vessel monitoring system as a safety improvement for a fishing vessel; or

`(H) the acquisition or construction of fishing gear designed to minimize or avoid bycatch as required under section 301(a)(9) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(9)).'.

(2) REDUCTION PROGRAM SALE PROCEEDS ALLOWED IN DETERMINING DEPOSIT CEILING- Section 607(b)(1)(C) of such Act (46 U.S.C. App. 1177(b)(1)(C)) is amended by striking `or (ii)' and inserting `(ii) the sale of any agreement vessel or fishing permit retired through the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)), or (iii)'.

(3) CERTAIN QUALIFIED WITHDRAWALS TREATED AS WITHDRAWN FROM THE CAPITAL ACCOUNT- Section 607(e)(2)(B) of such Act (46 U.S.C. App. 1177(e)(2)(B)) is amended by adding at the end `unless such portion represents gain from a sale described in subsection (b)(1)(C)(ii) and is withdrawn for any purpose provided under subparagraph (D), (E), or (F) of subsection (f)(1),'.

(4) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS- The Secretary of Commerce by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 607(f)(1)(F) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)(F)) retires the related commercial use of fishing

vessels and commercial fishery permits.

(c) Conforming Amendments-

(1) IN GENERAL- Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended--

(A) by striking `for:' and inserting

`for--';

(B) by striking `vessel, or' in subparagraph (B) and inserting `vessel;';

(C) by striking `vessel.' in subparagraph (C) and inserting `vessel;';

(D) by inserting after subparagraph (C) the following:

`(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a);

`(E) in the case of any person or shareholder for whose benefit such fund was established with respect to any vessel operated in the fisheries of the United States, or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3)) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37));

`(F) the payment of the net proceeds deposited into the fund from a sale described in subsection (a)(1)(C)(ii) to a person retiring related commercial fishing vessels and permits;

`(G) the acquisition of a vessel monitoring system as a safety improvement for a fishing vessel; or

`(H) the acquisition or construction of fishing gear designed to minimize or avoid bycatch as required under section 301(a)(9) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(9)).'.

(2) REDUCTION PROGRAM SALE PROCEEDS ALLOWED IN DETERMINING DEPOSIT CEILING- Section 7518(a)(1)(C) of such Code is amended by striking `or' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

`(ii) the sale of any agreement vessel or fishing permit retired through the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)), or'.

(3) CERTAIN QUALIFIED WITHDRAWALS TREATED AS WITHDRAWN FROM THE CAPITAL ACCOUNT- Section 7718(d)(2)(B) of such Code is amended by adding at the end `unless such portion represents gain from a sale described in subsection (a)(1)(C)(ii)

and is withdrawn for any purpose provided under subparagraph (D), (E), or (F) of subsection (e)(1),'.

(4) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS- The Secretary of the Treasury by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 7518(e)(1)(F) of the Internal Revenue Code of 1986 retires the related commercial use of fishing vessels and commercial fishery permits referred to therein.

(d) EFFECTIVE DATE- The amendments made by this section shall apply to withdrawals made after the date of enactment of this Act.

END

"small business concern" in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 4. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Consumer and Small Business Energy Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 20 members.

(2) APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(A) 2 shall represent consumer groups focusing on energy issues;

(B) 1 shall represent small businesses; and

(C) 1 shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 1 member from each of—

(A) the Energy Information Administration of the Department of Energy;

(B) the Federal Energy Regulatory Commission;

(C) the Federal Trade Commission; and

(D) the Commodities Future Trading Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERM.—A member shall be appointed for the life of the Commission.

(d) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(1) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(2) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(f) EXECUTIVE COMMITTEE.—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(g) INFORMATION AND ADMINISTRATIVE EXPENSES.—The Federal agencies specified in subsection (b)(3) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(h) DUTIES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(B) MATTERS TO BE STUDIED BY THE COMMISSION.—In conducting the study, the Commission shall—

(i) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(ii) examine the effects of price spikes on consumers and small businesses;

(iii) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(iv) consider—

(I) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(II) proposals for legislative action; and

(III) proposals for voluntary actions by energy consumers and the energy industry.

(2) REPORT.—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(i) TERMINATION.—

(1) DEFINITION OF LEGISLATIVE DAY.—In this subsection, the term "legislative day" means a day on which both Houses of Congress are in session.

(2) DATE OF TERMINATION.—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under subsection (h)(2).

By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2003. My friends and colleagues, Senator SMITH and Senator MURRAY, join me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. The Pacific Fishery Management Council has called for a 50 percent reduction in fishing capacity as part of their strategic plan for the recovery of the fishery. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the groundfish fishers' transition away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. It was conceived at a time when the federal government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fishing fleet is now over-capitalized. The CCF's usefulness has not kept up with the times, and now it exacerbates problems facing U.S. fisheries, including the West Coast groundfish fishery.

Now is the time to help fishers, who wish to do so, to leave the fleet.

In Oregon, the amounts in CCF accounts range from $10,000 to over $200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

I look forward to working with my colleagues to pass this legislation.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, and Mr. DOMENICI):

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators DOMENICI, LEAHY, GRASSLEY, and CANTWELL, to introduce the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example,