



CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

June 29, 2000

**S. 1911**

**Atlantic Highly Migratory Species Conservation Act of 1999**

*As ordered reported by the Senate Committee on Commerce, Science, and Transportation  
on April 13, 2000*

**SUMMARY**

S. 1911 would limit longline fishing in over 160,000 square miles of U.S. ocean waters and would establish civil and criminal penalties for violations of this limitation. The bill also would direct the Secretary of Commerce to buy out the owners of 68 specified fishing vessels. The Secretary would offer between \$125,000 and \$450,000 to purchase the fishing permits or licenses associated with each vessel. The bill would require the remaining longline fishing vessels to carry monitoring devices when fishing in restricted areas.

S. 1911 would authorize buyouts totaling up to \$25 million—\$15 million of this sum would be subject to appropriation, and \$10 million would come from direct spending authority provided by the bill. The bill would establish fees on recreational fishing vessels and on swordfish dealers to recover \$10 million in buyout costs plus interest. Finally, the bill would authorize the appropriation of about \$6 million to purchase monitoring devices, and for research on reducing the bycatch mortality of migrating fish.

CBO estimates that implementing S. 1911 would cost \$21 million over the 2001-2004 period, assuming appropriation of the necessary amounts. We also estimate that enacting the bill would increase direct spending by \$10 million in 2001; but that starting in 2001, this direct spending cost would be partially offset by fees paid by owners of recreational fishing vessels. We estimate those fees would total about \$5 million over the 2001-2005 period and additional amounts in subsequent years. The bill would increase revenues by imposing charges on swordfish dealers totaling \$2 million over the 2001-2005 period and additional amounts in subsequent years. Finally, S. 1911 would affect direct spending and receipts by establishing new criminal and civil penalties, but those changes would probably be insignificant. Because S. 1911 would affect direct spending and receipts, pay-as-you-go procedures would apply.

S. 1911 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The states affected by the bill could spend a total of about \$5 million over the 2001-2005 period if they elect to cover a share of the federal government's costs for buyouts. Any state contributions would be voluntary. The bill would impose private-sector mandates, but CBO estimates that the total direct costs of those mandates would not exceed the annual threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation) for any of the first five years that the mandates are in effect.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1911 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					
	2000	2001	2002	2003	2004	2005
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level	0	21	0	0	0	0
Estimated Outlays	0	19	1	a	a	0
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority	0	9	-1	-1	-1	-1
Estimated Outlays	0	9	-1	-1	-1	-1
<b>CHANGES IN REVENUES</b>						
Estimated Revenues	0	a	a	a	a	a
a. Less than \$500,000 a year.						

## BASIS OF ESTIMATE

Implementing S. 1911 would cost about \$21 million in discretionary spending over the 2001-2004 period, primarily for buyouts. CBO estimates that enacting S. 1911 would lead to a net increase in direct spending of about \$5 million over the 2001-2005 period, and would increase revenues by about \$2 million over the same period.

## Spending Subject to Appropriation

S. 1911 would authorize additional discretionary spending for buyouts, monitoring devices for fishing vessels, and fish research.

**Buyouts.** S. 1911 would authorize \$15 million to be appropriated to the Secretary of Commerce to make buyout offers to owners of certain fishing vessels that would be adversely affected by the fishing restrictions in the bill. CBO estimates that \$25 million would be necessary to complete all such buyouts. (Section 7 would make \$10 million available for this purpose without further appropriation—see Direct Spending discussion below.)

**Monitoring devices and research.** S. 1911 would authorize the appropriation of \$6 million to purchase fishing vessel monitoring devices and to conduct research on reducing the bycatch mortality of migrating fish. Based on the historical spending pattern of similar programs at the National Oceanic and Atmospheric Administration (NOAA), CBO estimates that implementing these provisions would cost about \$4 million in 2001 and a total of \$6 million over the 2001-2004 period.

## Direct Spending and Revenues

S. 1911 would increase direct spending and revenues by directing the Secretary of Commerce to make buyouts without further appropriation, by imposing new fees and charges, and by establishing new civil and criminal penalties.

**Buyouts.** S. 1911 would direct the Secretary to use up to \$10 million for buyouts in addition to any appropriations provided for this purpose. Based on the number of vessels likely to accept such offers, CBO estimates this provision would increase direct spending by \$10 million in 2001.

The bill would authorize the appropriation of \$100,000 for buyout assistance that is characterized as a loan subject to the Federal Credit Reform Act. Under Credit Reform, a direct loan is defined as a disbursement of funds to a nonfederal borrower under a contract that requires the repayment. A disbursement cannot 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 noncontract obligation. S. 1911 would require swordfish dealers and owners of recreational fishing vessels to repay these buyout funds, but it would do so through an exercise of sovereign power, not through loan repayment contracts. Therefore, we do not believe that the buyout assistance in this provision would constitute a loan program.

**Fees on recreational fishing vessels.** S. 1911 would establish a \$25 fee on owners of vessels more than 18 feet in length who wish to engage in recreational fishing in an area that would be restricted under the bill. This fee would remain in place until NOAA collects \$5 million plus interest. The bill would give states the option to eliminate the fee on recreational fishing vessels in that state by paying the state's share of the \$5 million as specified in the bill. Based on information from states that would be affected by this bill, CBO expects no state would choose this option. Based on the number of vessels that would be affected by the bill, CBO estimates this provision would increase offsetting receipts, and thereby lower direct spending, by about \$1 million a year.

**Charges on swordfish dealers.** S. 1911 would require the Secretary of Commerce to charge swordfish dealers up to 5 cents per pound of Atlantic swordfish sold. Based on the annual catch of Atlantic swordfish and the number of vessel owners that are likely to accept a buyout offer, CBO estimates that such charges would increase governmental receipts (revenues) by less than \$500,000 each year, or about \$2 million over the 2001-2005 period. This charge would continue until the Secretary of Commerce collects \$5 million plus interest.

**Criminal fines and seizure of assets.** S. 1911 would create new criminal fines for violations of longline fishing laws. Because those prosecuted and convicted under S. 1911 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending would not be significant.

Persons prosecuted and convicted under the bill also could be subject to the seizure of certain assets (including vessels, gear, and cargo) by the federal government. Proceeds from the sale of such assets would be deposited into the Assets Forfeiture Fund and spent from that fund, mostly in the same year. Thus, enacting S. 1911 could increase both revenues deposited into the fund and direct spending from the fund. However, CBO estimates that any increased revenues or spending would be negligible.

**Civil fines.** The bill also would provide for civil penalties against anyone who uses a commercial fishing vessel in violation of the bill's provision. Payments of these civil penalties would be recorded as governmental receipts to the Treasury. CBO expects that any increase in civil fines as a result of this provision would not be significant.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

---

	By Fiscal Year, in Millions of Dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	9	-1	-1	-1	-1	0	0	0	0	0
Changes in receipts	0	0	0	0	0	0	0	0	0	0	0

---

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 1911 contains no intergovernmental mandates as defined in UMRA. Under this bill, the affected states (Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas) may elect to cover a share of the federal government's payments to certain permit holders as compensation for longline fishing limitations. Total state costs (called the "recreational share") could be as much as \$5 million. The bill specifies each state's share of the total based on the state's percentage of the coastline adjacent to areas closed to fishing and the number of marine anglers in the state. If a state chooses not to pay the recreational share of the federal compensation program, the bill would direct the Secretary of Commerce to charge vessels registered in that state that wish to engage in certain recreational fishing a fee for an annual fishery conservation permit.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 1911 would impose private-sector mandates on owners of commercial and recreational fishing vessels and swordfish dealers that participate in the migratory species fisheries in the Atlantic and the Gulf of Mexico. CBO estimates that the total direct costs of those mandates would not exceed the annual threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation) for any of the first five years that the mandates are in effect.

First, the bill would close parts of the Atlantic Ocean to longline commercial fishing. Owners of commercial vessels that operate in those fisheries would be forced to move their

operations or close their businesses. According to the National Marine Fisheries Service (NMFS), about 900 commercial vessels would be affected to some degree by the fishery closures. According to NMFS, the total gross revenues of vessels in the affected fisheries was almost \$30 million in 1998. Thus, CBO estimates that the cost of complying with this mandate, measured in lost net income, would be well below the private-sector threshold.

S. 1911 also would establish a program to compensate the owners of commercial vessels that would be most affected by that mandate. The program would be set up to buy back the commercial fishing permits of 68 vessel owners identified in the bill. Vessel owners accepting such a buyout would lose eligibility for that vessel to participate in any commercial fishery or to transfer it to foreign control. According to industry sources, the owners of the vast majority of eligible vessels would participate in the buyout program.

Second, the bill would impose a mandate on swordfish dealers by requiring them to pay the federal government 5 cents per pound for Atlantic swordfish sold to fund a share of the buyout program. The fee would begin one year after enactment and remain in effect until the dealers have paid a total of about \$5 million. CBO estimates that the direct cost of this mandate would amount to a total of about \$2 million over the 2001-2005 period.

Third, the bill would impose a mandate by requiring owners of recreational vessels exceeding 18 feet who fish in the affected fisheries to have a federal fishery conservation permit. Owners of such vessels would be required to pay an annual permit fee of \$25; and the fee would remain in effect until a total of about \$5 million had been paid to fund the remaining share of the buyout program. CBO estimates that owners of recreational vessels would incur costs of about \$1 million each year from 2001 through 2005 to comply with this mandate. If recreational vessels are registered in a state that chooses to pay a share of the buyout program funding as designated in the bill, the annual permit for those recreational vessels would be free.

Last, the bill would require longline vessels that continue to operate in areas subject to closure under the bill to carry vessel monitoring devices. CBO estimates the direct cost of complying with this mandate would be over \$2 million in 2001. S. 1911 would make the federal government responsible for any costs attributable to the purchase and installation of those devices and would authorize appropriations to cover those costs. The bill provides that, in the event that the Congress failed to appropriate adequate funds for this program, the requirement to carry such devices would have no effect.

**ESTIMATE PREPARED BY:**

Federal Costs: Mark Hadley

Impact on State, Local, and Tribal Governments: Victoria Heid Hall

Impact on the Private Sector: Natalie Tawil

**ESTIMATE APPROVED BY:**

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis