# $^{\tiny 106\text{TH CONGRESS}}_{\tiny 2D \ Session} \ H.\,R.\,2798$

## AN ACT

To authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes.

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## **AN ACT**

To authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, 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 "Pacific Salmon Recov-
5	ery Act''.
6	SEC. 2. SALMON CONSERVATION AND SALMON HABITAT
7	RESTORATION ASSISTANCE.
8	(a) Requirement To Provide Assistance.—Sub-
9	ject to the availability of appropriations, the Secretary of
10	Commerce shall provide financial assistance in accordance
11	with this Act to qualified States and qualified tribal gov-
12	ernments for salmon conservation and salmon habitat res-
13	toration activities.
14	(b) Allocation.—Of the amounts available to pro-
15	vide assistance under this section each fiscal year (after
16	the application of section 3(g)), the Secretary—
17	(1) shall allocate 85 percent among qualified
18	States, in equal amounts; and
19	(2) shall allocate 15 percent among qualified
20	tribal governments, in amounts determined by the
21	Secretary.
22	(c) Transfer.—
23	(1) IN GENERAL.—The Secretary shall prompt
24	ly transfer in a lump sum—

1	(A) to a qualified State that has submitted
2	a Conservation and Restoration Plan under sec-
3	tion 3(a) amounts allocated to the qualified
4	State under subsection (b)(1) of this section,
5	unless the Secretary determines, within 30 days
6	after the submittal of the plan to the Secretary,
7	that the plan is inconsistent with the require-
8	ments of this Act; and
9	(B) to a qualified tribal government that
10	has entered into a memorandum of under-
11	standing with the Secretary under section 3(b)
12	amounts allocated to the qualified tribal govern-
13	ment under subsection (b)(2) of this section.
14	(2) Transfers to qualified states.—The
15	Secretary shall make the transfer under paragraph
16	(1)(A)—
17	(A) to the Washington State Salmon Re-
18	covery Board, in the case of amounts allocated
19	to Washington;
20	(B) to the Oregon State Watershed En-
21	hancement Board, in the case of amounts allo-
22	cated to Oregon;
23	(C) to the California Department of Fish
24	and Game for the California Coastal Salmon

1	Recovery Program, in the case of amounts allo-
2	cated to California;
3	(D) to the Governor of Alaska, in the case
4	of amounts allocated to Alaska; and
5	(E) to the Office of Species Conservation,
6	in the case of amounts allocated to Idaho.
7	(d) Reallocation.—
8	(1) Amounts allocated to qualified
9	STATES.—Amounts that are allocated to a qualified
10	State for a fiscal year shall be reallocated under sub-
11	section (b)(1) among the other qualified States, if—
12	(A) the qualified State has not submitted
13	a plan in accordance with section 3(a) as of the
14	end of the fiscal year; or
15	(B) the amounts remain unobligated at the
16	end of the subsequent fiscal year.
17	(2) Amounts allocated to qualified trib-
18	AL GOVERNMENTS.—Amounts that are allocated to a
19	qualified tribal government for a fiscal year shall be
20	reallocated under subsection (b)(2) among the other
21	qualified tribal governments, if the qualified tribal
22	government has not entered into a memorandum of
23	understanding with the Secretary in accordance with
24	section 3(b) as of the end of the fiscal year.

## $1 \;\;$ Sec. 3. Receipt and use of assistance.

2	(a) QUALIFIED STATE SALMON CONSERVATION AND
3	RESTORATION PLAN.—
4	(1) In general.—To receive assistance under
5	this Act, a qualified State shall develop and submit
6	to the Secretary a Salmon Conservation and Salmon
7	Habitat Restoration Plan.
8	(2) Contents.—Each Salmon Conservation
9	and Salmon Restoration Plan shall, at a minimum—
10	(A) be consistent with other applicable
11	Federal laws;
12	(B) be consistent with the goal of salmon
13	recovery;
14	(C) except as provided in subparagraph
15	(D), give priority to use of assistance under this
16	section for projects that—
17	(i) provide a direct and demonstrable
18	benefit to salmon or their habitat;
19	(ii) provide the greatest benefit to
20	salmon conservation and salmon habitat
21	restoration relative to the cost of the
22	projects; and
23	(iii) conserve, and restore habitat,
24	for—
25	(I) salmon that are listed as en-
26	dangered species or threatened spe-

1	cies, proposed for such listing, or can-
2	didates for such listing, under the En-
3	dangered Species Act of 1973 (16
4	U.S.C. 1531 et seq.); or
5	(II) salmon that are given special
6	protection under the laws or regula-
7	tions of the qualified State;
8	(D) in the case of a plan submitted by a
9	qualified State in which, as of the date of the
10	enactment of this Act, there is no area at which
11	a salmon species referred to in subparagraph
12	(C)(iii)(I) spawns—
13	(i) give priority to use of assistance
14	for projects referred to in subparagraph
15	(C)(i) and (ii) that contribute to proactive
16	programs to conserve and enhance species
17	of salmon that intermingle with, or are
18	otherwise related to, species referred to in
19	subparagraph (C)(iii)(I), which may in-
20	clude (among other matters)—
21	(I) salmon-related research, data
22	collection, and monitoring;
23	(II) salmon supplementation and
24	enhancement;
25	(III) salmon habitat restoration;

1	(IV) increasing economic oppor-
2	tunities for salmon fishermen; and
3	(V) national and international co-
4	operative habitat programs; and
5	(ii) provide for revision of the plan
6	within one year after any date on which
7	any salmon species that spawns in the
8	qualified State is listed as an endangered
9	species or threatened species, proposed for
10	such listing, or a candidate for such list-
11	ing, under the Endangered Species Act of
12	1973 (16 U.S.C. 1531 et seq.);
13	(E) establish specific goals and timelines
14	for activities funded with such assistance;
15	(F) include measurable criteria by which
16	such activities may be evaluated;
17	(G) require that activities carried out with
18	such assistance shall—
19	(i) be scientifically based;
20	(ii) be cost effective;
21	(iii) not be conducted on private land
22	except with the consent of the owner of the
23	land; and
24	(iv) contribute to the conservation and
25	recovery of salmon;

1	(H) require that the qualified State main-
2	tain its aggregate expenditures of funds from
3	non-Federal sources for salmon habitat restora-
4	tion programs at or above the average level of
5	such expenditures in the 2 fiscal years pre-
6	ceding the date of the enactment of this Act
7	and
8	(I) ensure that activities funded under this
9	Act are conducted in a manner in which, and
10	in areas where, the State has determined that
11	they will have long-term benefits.
12	(3) Solicitation of comments.—In pre-
13	paring a plan under this subsection a qualified State
14	shall seek comments on the plan from local govern-
15	ments in the qualified State.
16	(b) Tribal MOU With Secretary.—
17	(1) In general.—To receive assistance under
18	this Act, a qualified tribal government shall enter
19	into a memorandum of understanding with the Sec-
20	retary regarding use of the assistance.
21	(2) Contents.—Each memorandum of under-
22	standing shall, at a minimum—
23	(A) be consistent with other applicable
24	Federal laws:

1	(B) be consistent with the goal of salmon
2	recovery;
3	(C) give priority to use of assistance under
4	this Act for activities that—
5	(i) provide a direct and demonstrable
6	benefit to salmon or their habitat;
7	(ii) provide the greatest benefit to
8	salmon conservation and salmon habitat
9	restoration relative to the cost of the
10	projects; and
11	(iii) conserve, and restore habitat,
12	for—
13	(I) salmon that are listed as en-
14	dangered species or threatened spe-
15	cies, proposed for such listing, or can-
16	didates for such listing, under the En-
17	dangered Species Act of 1973 (16
18	U.S.C. 1531 et seq.); or
19	(II) salmon that are given special
20	protection under the ordinances or
21	regulations of the qualified tribal gov-
22	ernment;
23	(D) in the case of a memorandum of un-
24	derstanding entered into by a qualified tribal
25	government for an area in which, as of the date

1	of the enactment of this Act, there is no area
2	at which a salmon species that is referred to in
3	subparagraph (C)(iii)(I) spawns—
4	(i) give priority to use of assistance
5	for projects referred to in subparagraph
6	(C)(i) and (ii) that contribute to proactive
7	programs described in subsection
8	(a)(2)(D)(i);
9	(ii) include a requirement that the
10	memorandum shall be revised within 1
11	year after any date on which any salmon
12	species that spawns in the area is listed as
13	an endangered species or threatened spe-
14	cies, proposed for such listing, or a can-
15	didate for such listing, under the Endan-
16	gered Species Act of 1973 (16 U.S.C.
17	1531 et seq.);
18	(E) establish specific goals and timelines
19	for activities funded with such assistance;
20	(F) include measurable criteria by which
21	such activities may be evaluated;
22	(G) establish specific requirements for re-
23	porting to the Secretary by the qualified tribal
24	government;

1	(H) require that activities carried out with
2	such assistance shall—
3	(i) be scientifically based;
4	(ii) be cost effective;
5	(iii) not be conducted on private land
6	except with the consent of the owner of the
7	land; and
8	(iv) contribute to the conservation or
9	recovery of salmon; and
10	(I) require that the qualified tribal govern-
11	ment maintain its aggregate expenditures of
12	funds from non-Federal sources for salmon
13	habitat restoration programs at or above the
14	average level of such expenditures in the 2 fis-
15	cal years preceding the date of the enactment
16	of this Act.
17	(c) ELIGIBLE ACTIVITIES.—
18	(1) In general.—Assistance under this Act
19	may be used by a qualified State in accordance with
20	a plan submitted by the State under subsection (a),
21	or by a qualified tribal government in accordance
22	with a memorandum of understanding entered into
23	by the government under subsection (b), to carry out
24	or make grants to carry out, among other activities,
25	the following:

1 (A) Watershed evaluation, assessment, and 2 planning necessary to develop a site-specific and 3 clearly prioritized plan to implement watershed 4 improvements, including for making multi-year grants. 6 (B) Salmon-related research, data collec-7 tion, and monitoring, salmon supplementation 8 and enhancement, and salmon habitat restora-9 tion. 10 (C) Maintenance and monitoring of 11 projects completed with such assistance. 12 (D)Technical training and education 13 projects, including teaching private landowners 14 about practical means of improving land and 15 water management practices to contribute to the conservation and restoration of salmon 16 17 habitat. 18 (E) Other activities related to salmon con-19 servation and salmon habitat restoration. 20 (2)UseFOR LOCAL AND REGIONAL 21 PROJECTS.—Funds allocated to qualified States 22 under this Act shall be used for local and regional 23 projects. 24 (d) Use of Assistance for Activities Outside

OF JURISDICTION OF RECIPIENT.—Assistance under this

- 1 section provided to a qualified State or qualified tribal
- 2 government may be used for activities conducted outside
- 3 the areas under its jurisdiction if the activity will provide
- 4 conservation benefits to naturally produced salmon in
- 5 streams of concern to the qualified State or qualified tribal
- 6 government, respectively.

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#### 7 (e) Cost Sharing by Qualified States.—

- (1) In GENERAL.—A qualified State shall match, in the aggregate, the amount of any financial assistance provided to the qualified State for a fiscal year under this Act, in the form of monetary contributions or in-kind contributions of services for projects carried out with such assistance. For purposes of this paragraph, monetary contributions by the State shall not be considered to include funds received from other Federal sources.
  - (2) Limitation on requiring matching for Each project.—The Secretary may not require a qualified State to provide matching funds for each project carried out with assistance under this Act.
- (3) TREATMENT OF MONETARY CONTRIBU-TIONS.—For purposes of subsection (a)(2)(H), the amount of monetary contributions by a qualified State under this subsection shall be treated as ex-

penditures from non-Federal sources for salmon con servation and salmon habitat restoration programs.

#### (f) Coordination of Activities.—

- (1) In General.—Each qualified State and each qualified tribal government receiving assistance under this Act is encouraged to carefully coordinate salmon conservation activities of its agencies to eliminate duplicative and overlapping activities.
- (2) Consultation.—Each qualified State and qualified tribal government receiving assistance under this Act shall consult with the Secretary to ensure there is no duplication in projects funded under this Act.
- (g) Limitation on Administrative Expenses.—
- (1) Federal administrative expenses.—Of the amount made available under this Act each fiscal year, not more than 1 percent may be used by the Secretary for administrative expenses incurred in carrying out this Act.
- (2) STATE AND TRIBAL ADMINISTRATIVE EX-PENSES.—Of the amount allocated under this Act to a qualified State or qualified tribal government each fiscal year, not more than 3 percent may be used by the qualified State or qualified tribal government,

- 1 respectively, for administrative expenses incurred in
- 2 carrying out this Act.

#### 3 SEC. 4. PUBLIC PARTICIPATION.

- 4 (a) QUALIFIED STATE GOVERNMENTS.—Each quali-
- 5 fied State seeking assistance under this Act shall establish
- 6 a citizens advisory committee or provide another similar
- 7 forum for local governments and the public to participate
- 8 in obtaining and using the assistance.
- 9 (b) Qualified Tribal Governments.—Each
- 10 qualified tribal government receiving assistance under this
- 11 Act shall hold public meetings to receive recommendations
- 12 on the use of the assistance.

#### 13 SEC. 5. CONSULTATION NOT REQUIRED.

- 14 Consultation under section 7 of the Endangered Spe-
- 15 cies Act of 1973 (16 U.S.C. 1531 et seq.) shall not be
- 16 required based solely on the provision of financial assist-
- 17 ance under this Act.

#### 18 SEC. 6. REPORTS.

- 19 (a) QUALIFIED STATES.—Each qualified State shall,
- 20 by not later than December 31 of each year, submit to
- 21 the Committee on Commerce, Science, and Transportation
- 22 of the Senate and the Committee on Resources of the
- 23 House of Representatives an annual report on the use of
- 24 financial assistance received by the qualified State under
- 25 this Act. The report shall contain an evaluation of the suc-

1 cess of this Act in meeting the criteria listed in section 2 3(a)(2).

#### 3 (b) Secretary.—

- (1) Annual report regarding qualified tribal governments under this Act in meeting the Secretary shall, by not later than December 31 of each year, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives an annual report on the use of financial assistance received by qualified tribal governments under this Act. The report shall contain an evaluation of the success of this Act in meeting the criteria listed in section 3(b)(2).
  - (2) BIANNUAL REPORT.—The Secretary shall, by not later than December 31 of the second year in which amounts are available to carry out this Act, and of every second year thereafter, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a biannual report on the use of funds allocated to qualified States under this Act. The report shall review programs funded by the States and evaluate the success

1	of this Act in meeting the criteria listed in section
2	3(a)(2).
3	SEC. 7. DEFINITIONS.
4	In this Act:
5	(1) Indian tribe.—The term "Indian tribe"
6	has the meaning given that term in section 4(e) of
7	the Indian Self-Determination and Education Assist-
8	ance Act (25 U.S.C. 450b(e)).
9	(2) QUALIFIED STATE.—The term "qualified
10	State" means each of the States of Alaska, Wash-
11	ington, Oregon, California, and Idaho.
12	(3) Qualified tribal government.—The
13	term "qualified tribal government" means—
14	(A) a tribal government of an Indian tribe
15	in Washington, Oregon, California, or Idaho
16	that the Secretary of Commerce, in consultation
17	with the Secretary of the Interior, determines—
18	(i) is involved in salmon management
19	and recovery activities under the Endan-
20	gered Species Act of 1973 (16 U.S.C.
21	1531 et seq.); and
22	(ii) has the management and organi-
23	zational capability to maximize the benefits
24	of assistance provided under this Act; and

1	(B) an Alaska Native village or regional or
2	village corporation as defined in or established
3	pursuant to the Alaska Native Claims Settle-
4	ment Act (43 U.S.C. 1601 et seq.) that the
5	Secretary of Commerce, in consultation with the
6	Secretary of the Interior, determines—
7	(i) is involved in salmon conservation
8	and management; and
9	(ii) has the management and organi-
10	zational capability to maximize the benefits
11	of assistance provided under this Act.
12	(4) Salmon.—The term "salmon" means any
13	naturally produced salmon or naturally produced
14	trout of the following species:
15	(A) Coho salmon (oncorhynchus kisutch).
16	(B) Chinook salmon (oncorhynchus
17	tshawytscha).
18	(C) Chum salmon (oncorhynchus keta).
19	(D) Pink salmon (oncorhynchus
20	gorbuscha).
21	(E) Sockeye salmon (oncorhynchus nerka).
22	(F) Steelhead trout (oncorhynchus
23	mykiss).
24	(G) Sea-run cutthroat trout (oncorhynchus
25	clarki clarki).

1	(H) For purposes of application of this Act
2	in Oregon—
3	(i) Lahontan cutthroat trout
4	(oncorhnychus clarki henshawi); and
5	(ii) Bull trout (salvelinus confluentus).
6	(I) For purposes of application of this Act
7	in Washington and Idaho, Bull trout (salvelinus
8	confluentus).
9	(5) Secretary.—The term Secretary means
10	the Secretary of Commerce.
11	SEC. 8. PACIFIC SALMON TREATY.
12	(a) Transboundary Panel Representation.—
13	(1) In General.—Section 3 of the Pacific
14	Salmon Treaty Act of 1985 (16 U.S.C. 3632) is
15	amended by redesignating subsections (f), (g), and
16	(h) in order as subsections (g), (h), and (i), and by
17	inserting after subsection (e) the following:
18	"(f) Transboundary Panel.—The United States
19	shall be represented on the transboundary Panel by seven
20	Panel members, of whom—
21	"(1) one shall be an official of the United
22	States Government with salmon fishery management
23	responsibility and expertise;

1	"(2) one shall be an official of the State of
2	Alaska with salmon fishery management responsi-
3	bility and expertise; and
4	"(3) five shall be individuals knowledgeable and
5	experienced in the salmon fisheries for which the
6	transboundary Panel is responsible.".
7	(2) Conforming amendments.—
8	(A) Subsection (g) of section 3 of the Pa-
9	cific Salmon Treaty Act of 1985 (16 U.S.C.
10	3632), as redesignated by paragraph (1) of this
11	subsection, is amended—
12	(i) by striking "and (e)(2)" and in-
13	serting " $(e)(2)$ , and $(f)(2)$ ";
14	(ii) by striking "and (e)(4)" and in-
15	serting " $(e)(4)$ , and $(f)(3)$ "; and
16	(iii) by striking "The appointing au-
17	thorities listed above" and inserting "For
18	the southern, northern, and Frazier River
19	Panels, the appointing authorities listed
20	above".
21	(B) Subsection (h)(2) of section 3 the Pa-
22	cific Salmon Treaty Act of 1985 (16 U.S.C.
23	3632), as redesignated by paragraph (1) of this
24	subsection, is amended by striking "and south-

1	ern" and inserting ", southern, and
2	transboundary".
3	(C) Section 9 of the Pacific Salmon Treaty
4	Act of 1985 (16 U.S.C. 3638) is amended by
5	striking "9(g)" and inserting "9(h)".
6	(b) Compensation and Expenses for United
7	STATES REPRESENTATIVES ON NORTHERN AND SOUTH-
8	ERN FUND COMMITTEES.—
9	(1) Compensation.—Section 11 of the Pacific
10	Salmon Treaty Act of 1985 (16 U.S.C. 3640) is
11	amended by redesignating subsections (c) and (d) in
12	order as subsections (d) and (e), and by inserting
13	after subsection (b) the following:
14	"(c) Compensation for Representatives on
15	NORTHERN FUND AND SOUTHERN FUND COMMIT-
16	TEES.—United States Representatives on the Pacific
17	Salmon Treaty Northern Fund Committee and Southern
18	Fund Committee who are not State or Federal employees
19	shall receive compensation at the minimum daily rate of
20	pay payable under section 5376 of title 5, United States
21	Code, when engaged in the actual performance of duties
22	for the United States Section or for the Commission.".
23	(2) Expenses.—Subsection (d) of such section,
24	as so redesignated, is amended by inserting "mem-
25	hers of the Northern Fund Committee members of

1	the Southern Fund Committee," after "Joint Tech-
2	nical Committee,".
3	(3) CLERICAL AMENDMENTS.—
4	(A) In general.—Section 11 of the Pa-
5	cific Salmon Treaty Act of 1985 (16 U.S.C.
6	5332) is amended—
7	(i) in subsection (a) by striking "at
8	the daily rate of GS-18 of the General
9	Schedule" and inserting "at the maximum
10	daily rate of pay payable under section
11	5376 of title 5, United States Code,"; and
12	(ii) in subsection (b) by striking "at
13	the daily rate of GS-16 of the General
14	Schedule" and inserting "at the minimum
15	daily rate of pay payable under section
16	5376 of title 5, United States Code,".
17	(B) APPLICATION.—The amendments
18	made by subparagraph (A) shall not apply to
19	Commissioners, Alternate Commissioners, Panel
20	Members, and Alternate Panel Members (as
21	those terms are used in section 11 of the Pa-
22	cific Salmon Treaty Act of 1985) appointed be-
23	fore the effective date of this subsection.
24	(c) Authorization of Appropriations.—

- 1 (1) CLERICAL AMENDMENT.—Section 623 of 2 the Departments of Commerce, Justice, and State, 3 the Judiciary, and Related Agencies Appropriations Act, 2000, as enacted by section 1000(a)(1), Divi-5 sion B of Public Law 106–113 (16 U.S.C. 3645) is 6 redesignated and moved so as to be section 16 of the Pacific Salmon Treaty Act of 1985. 7 8 AUTHORIZATION OF APPROPRIATIONS.— 9 Subsection (d) of such section is amended to read as 10 follows: 11 "(d) Authorization of Appropriations.—For 12 capitalizing the Northern Fund and Southern Fund estab-13 lished under the 1999 Pacific Salmon Treaty Agreement and related agreements, there are authorized to be appro-14 15 priated a total of \$75,000,000 for the Northern Fund and a total of \$65,000,000 for the Southern Fund for fiscal 16 years 2000, 2001, 2002, and 2003, for the implementation 17 18 of those agreements.". 19 SEC. 9. TREATMENT OF INTERNATIONAL FISHERY COMMIS-20 SION PENSIONERS. 21 For United States citizens who served as employees 22 of the International Pacific Salmon Fisheries Commission
- 23 and the International North Pacific Fisheries Commission
- (in this section referred to as the "Commissions") and

- 1 who worked in Canada in the course of employment with
- 2 those commissions, the President shall—
- 3 (1) calculate the difference in amount between
- 4 the valuation of the Commissions' annuity for each
- 5 employee's payment in United States currency and
- 6 in Canadian currency for past and future (as deter-
- 7 mined by an actuarial valuation) annuity payments;
- 8 and
- 9 (2) out of existing funds available for this pur-
- pose, pay each employee a lump-sum payment in the
- total amount determined under paragraph (1) to
- compensate each employee for past and future bene-
- fits resulting from the exchange rate inequity.
- 14 SEC. 10. AUTHORIZATION OF APPROPRIATIONS.
- 15 There are authorized to be appropriated
- 16 \$200,000,000 for each of the fiscal years 2001, 2002, and
- 17 2003 to carry out this Act. Funds appropriated under this
- 18 section may remain until expended.

Passed the House of Representatives September 18, 2000.

Attest:

Clerk.