

107TH CONGRESS
1ST SESSION

H. R. 1157

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2001

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

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—

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
5 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
16 the conservation and restoration of salmon
17 habitat.

18 (E) Other activities related to salmon con-
19 servation and salmon habitat restoration.

20 (2) USE FOR 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
25 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.

7 (e) COST SHARING BY QUALIFIED STATES.—

8 (1) IN GENERAL.—A qualified State shall
9 match, in the aggregate, the amount of any financial
10 assistance provided to the qualified State for a fiscal
11 year under this Act, in the form of monetary con-
12 tributions or in-kind contributions of services for
13 projects carried out with such assistance. For pur-
14 poses of this paragraph, monetary contributions by
15 the State shall not be considered to include funds re-
16 ceived from other Federal sources.

17 (2) LIMITATION ON REQUIRING MATCHING FOR
18 EACH PROJECT.—The Secretary may not require a
19 qualified State to provide matching funds for each
20 project carried out with assistance under this Act.

21 (3) TREATMENT OF MONETARY CONTRIBU-
22 TIONS.—For purposes of subsection (a)(2)(H), the
23 amount of monetary contributions by a qualified
24 State under this subsection shall be treated as ex-

penditures from non-Federal sources for salmon conservation 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 EXPENSES.—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.—

4 (1) ANNUAL REPORT REGARDING QUALIFIED
5 TRIBAL GOVERNMENTS.—The Secretary shall, by not
6 later than December 31 of each year, submit to the
7 Committee on Commerce, Science, and Transpor-
8 tation of the Senate and the Committee on Re-
9 sources of the House of Representatives an annual
10 report on the use of financial assistance received by
11 qualified tribal governments under this Act. The re-
12 port shall contain an evaluation of the success of
13 this Act in meeting the criteria listed in section
14 3(b)(2).

15 (2) BIENNIAL REPORT.—The Secretary shall,
16 by not later than December 31 of the second year
17 in which amounts are available to carry out this Act,
18 and of every second year thereafter, submit to the
19 Committee on Commerce, Science, and Transpor-
20 tation of the Senate and the Committee on Re-
21 sources of the House of Representatives a biennial
22 report on the use of funds allocated to qualified
23 States under this Act. The report shall review pro-
24 grams 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) a village corporation as defined in or
2 established pursuant to the Alaska Native
3 Claims Settlement Act (43 U.S.C. 1601 et seq.)
4 that the Secretary of Commerce, in consultation
5 with the Secretary of the Interior, determines—

6 (i) is involved in salmon conservation
7 and management; and

8 (ii) has the management and organi-
9 zational capability to maximize the benefits
10 of assistance provided under this Act.

11 (4) SALMON.—The term “salmon” means any
12 naturally produced salmon or naturally produced
13 trout of the following species:

14 (A) Coho salmon (*oncorhynchus kisutch*).

15 (B) Chinook salmon (*oncorhynchus*
16 *tshawytscha*).

17 (C) Chum salmon (*oncorhynchus keta*).

18 (D) Pink salmon (*oncorhynchus*
19 *gorbuscha*).

20 (E) Sockeye salmon (*oncorhynchus nerka*).

21 (F) Steelhead trout (*oncorhynchus*
22 *mykiss*).

23 (G) Sea-run cutthroat trout (*oncorhynchus*
24 *clarki clarki*).

1 (H) For purposes of application of this Act
2 in Oregon—

- 3 (i) Lahontan cutthroat trout
4 (*oncorhynchus 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. REPORT REGARDING TREATMENT OF INTER-**
12 **NATIONAL FISHERY COMMISSION PEN-**
13 **SIONERS.**

14 The President shall—

15 (1) determine the number of United States citi-
16 zens who—

17 (A) served as employees of the Inter-
18 national Pacific Salmon Fisheries Commission
19 or the International North Pacific Fisheries
20 Commission; and

21 (B) worked in Canada in the course of em-
22 ployment with that commission;

23 (2) calculate for each such employee the dif-
24 ference between—

1 (A) the value, in United States currency,
2 of the annuity payments made and to be made
3 (determined by an actuarial valuation) by or on
4 behalf of each such commission to the em-
5 ployee; and

6 (B) the value, in Canadian currency, of
7 such annuity payments; and

8 (3) by not later than September 1, 2001, sub-
9 mit to the Committee on Resources of the House of
10 Representatives and the Committee on Commerce,
11 Science and Transportation of the Senate a report
12 on the determinations and calculations made under
13 paragraphs (1) and (2).

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated
16 \$200,000,000 for each of the fiscal years 2002, 2003, and
17 2004 to carry out this Act. Funds appropriated under this
18 section may remain until expended.

19 **SEC. 10. SENSE OF CONGRESS; REQUIREMENT REGARDING**
20 **NOTICE.**

21 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
22 AND PRODUCTS.—In the case of any equipment or prod-
23 ucts that may be authorized to be purchased with financial
24 assistance provided under this Act, it is the sense of the
25 Congress that entities receiving such assistance should, in

1 expending the assistance, purchase only equipment and
2 products made in the United States.

3 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
4 providing financial assistance under this Act, the Sec-
5 retary shall provide to each recipient of the assistance a
6 notice describing the statement made in subsection (a) by
7 the Congress.

8 (c) REPORT.—Any entity that receives funds under
9 this Act shall report any expenditures of such funds on
10 items made outside of the United States to the Congress
11 within 180 days of the expenditure.

12 **SEC. 11. SENSE OF THE CONGRESS REGARDING BIPAR-**
13 **TISAN JULY 2000 GOALS.**

14 It is the sense of the Congress that the Congress sup-
15 ports the bipartisan July 2000 goals, objectives, and rec-
16 ommendations of the Governors of Idaho, Montana, Or-
17 egon and Washington to protect and restore salmon and
18 other aquatic species to sustainable and harvestable levels
19 while meeting the requirements of the Endangered Species
20 Act of 1973, the Clean Water Act, the Pacific Northwest
21 Electric Power Planning and Conservation Act, tribal
22 treaty rights, and executive orders and while taking into
23 account the need to preserve a sound economy in Alaska,
24 California, Idaho, Montana, Oregon, and Washington.

1 **SEC. 12. REPORT ON EFFECTS ON PACIFIC SALMON**
2 **STOCKS OF CERTAIN TIMBER HARVESTING**
3 **IN CANADA.**

4 The Secretary, in conjunction with other Federal
5 agencies, shall by not later than December 31 of each year
6 report to the Congress to the best of the ability of the
7 Secretary regarding the effects on Pacific Salmon stocks
8 of timber harvesting on publicly owned lands in British
9 Columbia.

Passed the House of Representatives June 13, 2001.

Attest: **JEFF TRANDAHL,**
Clerk.