

Union Calendar No. 467

106TH CONGRESS
2^D SESSION

H. R. 2798

[Report No. 106-806]

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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. THOMPSON of California (for himself, Mr. YOUNG of Alaska, Mr. GEORGE MILLER of California, Ms. DUNN, Mr. HINCHEY, Mr. HERGER, Mr. DEFazio, Mr. METCALF, Mr. DOOLEY of California, Mr. DOOLITTLE, Mr. UDALL of Colorado, Mr. POMBO, Mr. UDALL of New Mexico, Mr. WU, Ms. WOOLSEY, Ms. HOOLEY of Oregon, Mr. BAIRD, Mr. WALDEN of Oregon, Mr. BLUMENAUER, Mr. DICKS, Ms. ESHOO, Mr. STARK, Ms. PELOSI, and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 6, 2000

Additional sponsors: Mr. GALLEGLY, Mr. GREENWOOD, Mr. DIXON, Mrs. CAPPS, Mr. KUYKENDALL, Mr. BILBRAY, Mr. CUNNINGHAM, Mr. CALVERT, Mr. LEWIS of California, Mr. MCKEON, Mr. RADANOVICH, Mr. HORN, Mrs. BONO, Mr. HUNTER, Mr. CONDIT, Mr. SHERMAN, Mr. MATSUI, Mr. FILNER, Ms. SANCHEZ, Mrs. NAPOLITANO, Ms. LOFGREN, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. FARR of California, Ms. LEE, Ms. MILLENDER-McDONALD, Mr. BECERRA, Mr. BERMAN, Mr. MARTINEZ, Ms. WATERS, Mr. WAXMAN, Mr. REYES, Mr. McDERMOTT, Mr. ROGAN, Mr. INSLEE, and Mr. SMITH of Washington

SEPTEMBER 6, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]
[For text of introduced bill, see copy of bill as introduced on August 5, 1999]

A BILL

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

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 Recovery*
5 *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 govern-*
12 *ments for salmon conservation and salmon habitat restora-*
13 *tion activities.*

14 *(b) ALLOCATION.—Of the amounts available to provide*
15 *assistance under this section each fiscal year (after the ap-*
16 *plication of section 3(g)), the Secretary—*

17 *(1) shall allocate 85 percent among qualified*
18 *States, in equal amounts; and*

1 (2) shall allocate 15 percent among qualified
2 tribal governments, in amounts determined by the
3 Secretary.

4 (c) TRANSFER.—

5 (1) IN GENERAL.—The Secretary shall promptly
6 transfer—

7 (A) to a qualified State that has submitted
8 a Conservation and Restoration Plan under sec-
9 tion 3(a) amounts allocated to the qualified
10 State under subsection (b)(1) of this section, un-
11 less the Secretary determines, within 30 days
12 after the submittal of the plan to the Secretary,
13 that the plan is inconsistent with the require-
14 ments of this Act; and

15 (B) to a qualified tribal government that
16 has entered into a memorandum of under-
17 standing with the Secretary under section 3(b)
18 amounts allocated to the qualified tribal govern-
19 ment under subsection (b)(2) of this section.

20 (2) TRANSFERS TO QUALIFIED STATES.—The
21 Secretary shall make the transfer under paragraph
22 (1)(A)—

23 (A) to the Washington State Salmon Recov-
24 ery Board, in the case of amounts allocated to
25 Washington;

1 (B) to the Oregon State Watershed En-
2 hancement Board, in the case of amounts allo-
3 cated to Oregon;

4 (C) to the California Salmon Recovery
5 Fund, in the case of amounts allocated to Cali-
6 fornia;

7 (D) to the Governor of Alaska, in the case
8 of amounts allocated to Alaska; and

9 (E) to the Office of Species Conservation, in
10 the case of amounts allocated to Idaho.

11 (d) REALLOCATION.—

12 (1) AMOUNTS ALLOCATED TO QUALIFIED
13 STATES.—Amounts that are allocated to a qualified
14 State for a fiscal year shall be reallocated under sub-
15 section (b)(1) among the other qualified States, if—

16 (A) the qualified State has not submitted a
17 plan in accordance with section 3(a) as of the
18 end of the fiscal year; or

19 (B) the amounts remain unobligated at the
20 end of the subsequent fiscal year.

21 (2) AMOUNTS ALLOCATED TO QUALIFIED TRIBAL
22 GOVERNMENTS.—Amounts that are allocated to a
23 qualified tribal government for a fiscal year shall be
24 reallocated under subsection (b)(2) among the other
25 qualified tribal governments, if the qualified tribal

1 *government has not entered into a memorandum of*
2 *understanding with the Secretary in accordance with*
3 *section 3(b) as of the end of the fiscal year.*

4 **SEC. 3. RECEIPT AND USE OF ASSISTANCE.**

5 *(a) QUALIFIED STATE SALMON CONSERVATION AND*
6 *RESTORATION PLAN.—*

7 *(1) IN GENERAL.—To receive assistance under*
8 *this Act, a qualified State shall develop and submit*
9 *to the Secretary a Salmon Conservation and Salmon*
10 *Habitat Restoration Plan.*

11 *(2) CONTENTS.—Each Salmon Conservation and*
12 *Salmon Restoration Plan shall, at a minimum—*

13 *(A) be consistent with other applicable Fed-*
14 *eral laws;*

15 *(B) be consistent with the goal of salmon re-*
16 *covery;*

17 *(C) except as provided in subparagraph*
18 *(D), give priority to use of assistance under this*
19 *section for projects that—*

20 *(i) provide a direct and demonstrable*
21 *benefit to salmon or their habitat;*

22 *(ii) provide the greatest benefit to*
23 *salmon conservation and salmon habitat*
24 *restoration relative to the cost of the*
25 *projects; and*

1 (iii) conserve, and restore habitat,
2 for—

3 (I) salmon that are listed as en-
4 dangered species or threatened species,
5 proposed for such listing, or candidates
6 for such listing, under the Endangered
7 Species Act of 1973 (16 U.S.C. 1531
8 et seq.); or

9 (II) salmon that are given special
10 protection under the laws or regula-
11 tions of the qualified State;

12 (D) in the case of a plan submitted by a
13 qualified State in which, as of the date of the en-
14 actment of this Act, there is no area at which a
15 salmon species referred to in subparagraph
16 (C)(iii)(I) spawns—

17 (i) give priority to use of assistance for
18 projects referred to in subparagraph (C)(i)
19 and (ii) that contribute to proactive pro-
20 grams to conserve and enhance species of
21 salmon that intermingle with, or are other-
22 wise related to, species referred to in sub-
23 paragraph (C)(iii)(I), which may include
24 (among other matters)—

- 1 (I) salmon-related research, data
2 collection, and monitoring;
- 3 (II) salmon supplementation and
4 enhancement;
- 5 (III) salmon habitat restoration;
- 6 (IV) increasing economic opportu-
7 nities for salmon fishermen; and
- 8 (V) national and international co-
9 operative habitat programs; and
- 10 (ii) provide for revision of the plan
11 within one year after any date on which
12 any salmon species that spawns in the
13 qualified State is listed as an endangered
14 species or threatened species, proposed for
15 such listing, or a candidate for such listing,
16 under the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.);
- 18 (E) establish specific goals and timelines for
19 activities funded with such assistance;
- 20 (F) include measurable criteria by which
21 such activities may be evaluated;
- 22 (G) require that activities carried out with
23 such assistance shall—
- 24 (i) be scientifically based;
- 25 (ii) be cost effective;

1 (iii) not be conducted on private land
2 except with the consent of the owner of the
3 land; and

4 (iv) contribute to the conservation and
5 recovery of salmon;

6 (H) require that the qualified State main-
7 tain its aggregate expenditures of funds from
8 non-Federal sources for salmon habitat restora-
9 tion programs at or above the average level of
10 such expenditures in the 2 fiscal years preceding
11 the date of enactment of this Act; and

12 (I) ensure that activities funded under this
13 Act are conducted in a manner in which, and in
14 areas where, the State has determined that they
15 will have long-term benefits.

16 (3) SOLICITATION OF COMMENTS.—In preparing
17 a plan under this subsection a qualified State shall
18 seek comments on the plan from local governments in
19 the qualified State.

20 (b) TRIBAL MOU WITH SECRETARY.—

21 (1) IN GENERAL.—To receive assistance under
22 this Act, a qualified tribal government shall enter
23 into a memorandum of understanding with the Sec-
24 retary regarding use of the assistance.

1 (2) *CONTENTS.*—*Each memorandum of under-*
2 *standing shall, at a minimum—*

3 (A) *be consistent with other applicable Fed-*
4 *eral laws;*

5 (B) *be consistent with the goal of salmon re-*
6 *covery;*

7 (C) *give priority to use of assistance under*
8 *this Act for activities that—*

9 (i) *provide a direct and demonstrable*
10 *benefit to salmon or their habitat;*

11 (ii) *provide the greatest benefit to*
12 *salmon conservation and salmon habitat*
13 *restoration relative to the cost of the*
14 *projects; and*

15 (iii) *conserve, and restore habitat,*
16 *for—*

17 (I) *salmon that are listed as en-*
18 *dangered species or threatened species,*
19 *proposed for such listing, or candidates*
20 *for such listing, under the Endangered*
21 *Species Act of 1973 (16 U.S.C. 1531 et*
22 *seq.); or*

23 (II) *salmon that are given special*
24 *protection under the ordinances or reg-*

1 *ulations of the qualified tribal govern-*
2 *ment;*

3 *(D) in the case of a memorandum of under-*
4 *standing entered into by a qualified tribal gov-*
5 *ernment for an area in which, as of the date of*
6 *the enactment of this Act, there is no area at*
7 *which a salmon species that is referred to in sub-*
8 *paragraph (C)(iii)(I) spawns—*

9 *(i) give priority to use of assistance for*
10 *projects referred to in subparagraph (C)(i)*
11 *and (ii) that contribute to proactive pro-*
12 *grams described in subsection (a)(2)(D)(i);*

13 *(ii) include a requirement that the*
14 *memorandum shall be revised within one*
15 *year after any date on which any salmon*
16 *species that spawns in the area is listed as*
17 *an endangered species or threatened species,*
18 *proposed for such listing, or a candidate for*
19 *such listing, under the Endangered Species*
20 *Act of 1973 (16 U.S.C. 1531 et seq.);*

21 *(E) establish specific goals and timelines for*
22 *activities funded with such assistance;*

23 *(F) include measurable criteria by which*
24 *such activities may be evaluated;*

1 (G) *establish specific requirements for re-*
2 *porting to the Secretary by the qualified tribal*
3 *government;*

4 (H) *require that activities carried out with*
5 *such assistance shall—*

6 (i) *be scientifically based;*

7 (ii) *be cost effective;*

8 (iii) *not be conducted on private land*
9 *except with the consent of the owner of the*
10 *land; and*

11 (iv) *contribute to the conservation or*
12 *recovery of salmon; and*

13 (I) *require that the qualified tribal govern-*
14 *ment maintain its aggregate expenditures of*
15 *funds from non-Federal sources for salmon habi-*
16 *tat restoration programs at or above the average*
17 *level of such expenditures in the 2 fiscal years*
18 *preceding the date of enactment of this Act.*

19 (c) *ELIGIBLE ACTIVITIES.—*

20 (1) *IN GENERAL.—Assistance under this Act*
21 *may be used by a qualified State in accordance with*
22 *a plan submitted by the State under subsection (a),*
23 *or by a qualified tribal government in accordance*
24 *with a memorandum of understanding entered into*
25 *by the government under subsection (b), to carry out*

1 or make grants to carry out, among other activities,
2 the following:

3 (A) Watershed evaluation, assessment, and
4 planning necessary to develop a site-specific and
5 clearly prioritized plan to implement watershed
6 improvements, including for making multi-year
7 grants.

8 (B) Salmon-related research, data collec-
9 tion, and monitoring, salmon supplementation
10 and enhancement, and salmon habitat restora-
11 tion.

12 (C) Maintenance and monitoring of projects
13 completed with such assistance.

14 (D) Technical training and education
15 projects, including teaching private landowners
16 about practical means of improving land and
17 water management practices to contribute to the
18 conservation and restoration of salmon habitat.

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

21 (2) *USE FOR LOCAL AND REGIONAL PROJECTS.*—
22 Funds allocated to qualified States under this Act
23 shall be used for local and regional projects.

24 (d) *USE OF ASSISTANCE FOR ACTIVITIES OUTSIDE OF*
25 *JURISDICTION OF RECIPIENT.*—Assistance under this sec-

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

7 *(e) COST SHARING BY QUALIFIED STATES.—*

8 *(1) IN GENERAL.—A qualified State shall match,*
9 *in the aggregate, the amount of any financial assist-*
10 *ance provided to the qualified State for a fiscal year*
11 *under this Act, in the form of monetary contributions*
12 *or in-kind contributions of services for projects car-*
13 *ried out with such assistance. For purposes of this*
14 *paragraph, monetary contributions by the State shall*
15 *not be considered to include funds received from other*
16 *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 expend-*

1 *itures from non-Federal sources for salmon conserva-*
2 *tion and salmon habitat restoration programs.*

3 *(f) COORDINATION OF ACTIVITIES.—*

4 *(1) IN GENERAL.—Each qualified State and each*
5 *qualified tribal government receiving assistance under*
6 *this Act is encouraged to carefully coordinate salmon*
7 *conservation activities of its agencies to eliminate du-*
8 *plivative and overlapping activities.*

9 *(2) CONSULTATION.—Each qualified State and*
10 *qualified tribal government receiving assistance under*
11 *this Act shall consult with the Secretary to ensure*
12 *there is no duplication in projects funded under this*
13 *Act.*

14 *(g) LIMITATION ON ADMINISTRATIVE EXPENSES.—*

15 *(1) FEDERAL ADMINISTRATIVE EXPENSES.—Of*
16 *the amount made available under this Act each fiscal*
17 *year, not more than 1 percent may be used by the*
18 *Secretary for administrative expenses incurred in*
19 *carrying out this Act.*

20 *(2) STATE ADMINISTRATIVE EXPENSES.—Of the*
21 *amount allocated under this Act to a qualified State*
22 *or qualified tribal government each fiscal year, not*
23 *more than 3 percent may be used by the qualified*
24 *State or qualified tribal government, respectively, for*

1 *administrative expenses incurred in carrying out this*
2 *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 quali-*
10 *fied tribal government receiving assistance under this Act*
11 *shall hold public meetings to receive recommendations on*
12 *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 re-*
16 *quired based solely on the provision of financial assistance*
17 *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 the*
21 *Committee on Commerce, Science, and Transportation of*
22 *the Senate and the Committee on Resources of the House*
23 *of Representatives an annual report on the use of financial*
24 *assistance received by the qualified State under this Act.*

1 *The report shall contain an evaluation of the success of this*
2 *Act in meeting the criteria listed in section 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 Resources*
9 *of the House of Representatives an annual report on*
10 *the use of financial assistance received by qualified*
11 *tribal governments under this Act. The report shall*
12 *contain an evaluation of the success of this Act in*
13 *meeting the criteria listed in section 3(b)(2).*

14 (2) *BIANNUAL REPORT.—The Secretary shall, by*
15 *not later than December 31 of the second year in*
16 *which amounts are available to carry out this Act,*
17 *and of every second year thereafter, submit to the*
18 *Committee on Commerce, Science, and Transpor-*
19 *tation of the Senate and the Committee on Resources*
20 *of the House of Representatives a biannual report on*
21 *the use of funds allocated to qualified States under*
22 *this Act. The report shall review programs funded by*
23 *the States and evaluate the success of this Act in*
24 *meeting the criteria listed in section 3(a)(2).*

1 **SEC. 7. DEFINITIONS.**

2 *In this Act:*

3 (1) *INDIAN TRIBE.*—*The term “Indian tribe” has*
4 *the meaning given that term in section 4(e) of the In-*
5 *dian Self-Determination and Education Assistance*
6 *Act (25 U.S.C. 450b(e)).*

7 (2) *QUALIFIED STATE.*—*The term “qualified*
8 *State” means each of the States of Alaska, Wash-*
9 *ington, Oregon, California, and Idaho.*

10 (3) *QUALIFIED TRIBAL GOVERNMENT.*—*The term*
11 *“qualified tribal government” means—*

12 (A) *a tribal government of an Indian tribe*
13 *in Washington, Oregon, California, or Idaho*
14 *that the Secretary of Commerce, in consultation*
15 *with the Secretary of the Interior, determines—*

16 (i) *is involved in salmon management*
17 *and recovery activities under the Endan-*
18 *gered Species Act of 1973 (16 U.S.C. 1531*
19 *et seq.); and*

20 (ii) *has the management and organiza-*
21 *tional capability to maximize the benefits of*
22 *assistance provided under this Act; and*

23 (B) *an Alaska Native village or regional or*
24 *village corporation as defined in or established*
25 *pursuant to the Alaska Native Claims Settlement*
26 *Act (43 U.S.C. 1601 et seq.) that the Secretary*

1 of Commerce, in consultation with the Secretary
2 of the Interior, determines—

3 (i) is involved in salmon conservation
4 and management; and

5 (ii) has the management and organiza-
6 tional capability to maximize the benefits of
7 assistance provided under this Act.

8 (4) SALMON.—The term “salmon” means any
9 naturally produced salmon or naturally produced
10 trout of the following species:

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

12 (B) Chinook salmon (*oncorhynchus*
13 *tshawytscha*).

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

15 (D) Pink salmon (*oncorhynchus gorbuscha*).

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

17 (F) Steelhead trout (*oncorhynchus mykiss*).

18 (G) Sea-run cutthroat trout (*oncorhynchus*
19 *clarki clarki*).

20 (H) For purposes of application of this Act
21 in Oregon—

22 (i) Lahontan cutthroat trout
23 (*oncorhynchus clarki henshawi*); and

24 (ii) Bull trout (*salvelinus confluentus*).

1 (5) *SECRETARY.*—*The term Secretary means the*
2 *Secretary of Commerce.*

3 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

4 *There are authorized to be appropriated \$200,000,000*
5 *for each of the fiscal years 2001, 2002, and 2003 to carry*
6 *out this Act. Funds appropriated under this section may*
7 *remain until expended.*

Union Calendar No. 467

106TH CONGRESS
2D SESSION

H. R. 2798

[Report No. 106-806]

A BILL

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

SEPTEMBER 6, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed