

PACIFIC SALMON RECOVERY ACT

SEPTEMBER 6, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 2798]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2798) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pacific Salmon Recovery Act”.

SEC. 2. SALMON CONSERVATION AND SALMON HABITAT RESTORATION ASSISTANCE.

(a) REQUIREMENT TO PROVIDE ASSISTANCE.—Subject to the availability of appropriations, the Secretary of Commerce shall provide financial assistance in accordance with this Act to qualified States and qualified tribal governments for salmon conservation and salmon habitat restoration activities.

(b) ALLOCATION.—Of the amounts available to provide assistance under this section each fiscal year (after the application of section 3(g)), the Secretary—

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

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

(c) TRANSFER.—

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

(A) to a qualified State that has submitted a Conservation and Restoration Plan under section 3(a) amounts allocated to the qualified State under subsection (b)(1) of this section, unless the Secretary determines, within 30 days after the submittal of the plan to the Secretary, that the plan is inconsistent with the requirements of this Act; and

(B) to a qualified tribal government that has entered into a memorandum of understanding with the Secretary under section 3(b) amounts allocated to the qualified tribal government under subsection (b)(2) of this section.

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

(A) to the Washington State Salmon Recovery Board, in the case of amounts allocated to Washington;

(B) to the Oregon State Watershed Enhancement Board, in the case of amounts allocated to Oregon;

(C) to the California Salmon Recovery Fund, in the case of amounts allocated to California;

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

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

(d) REALLOCATION.—

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

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

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

(2) AMOUNTS ALLOCATED TO QUALIFIED TRIBAL GOVERNMENTS.—Amounts that are allocated to a qualified tribal government for a fiscal year shall be reallocated under subsection (b)(2) among the other qualified tribal governments, if the qualified tribal government has not entered into a memorandum of understanding with the Secretary in accordance with section 3(b) as of the end of the fiscal year.

SEC. 3. RECEIPT AND USE OF ASSISTANCE.

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

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

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

(A) be consistent with other applicable Federal laws;

(B) be consistent with the goal of salmon recovery;

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

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

(ii) provide the greatest benefit to salmon conservation and salmon habitat restoration relative to the cost of the projects; and

(iii) conserve, and restore habitat, for—

(I) salmon that are listed as endangered species or threatened species, proposed for such listing, or candidates for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(II) salmon that are given special protection under the laws or regulations of the qualified State;

(D) in the case of a plan submitted by a qualified State in which, as of the date of the enactment of this Act, there is no area at which a salmon species referred to in subparagraph (C)(iii)(I) spawns—

(i) give priority to use of assistance for projects referred to in subparagraph (C)(i) and (ii) that contribute to proactive programs to conserve and enhance species of salmon that intermingle with, or are otherwise related to, species referred to in subparagraph (C)(iii)(I), which may include (among other matters)—

(I) salmon-related research, data collection, and monitoring;

(II) salmon supplementation and enhancement;

(III) salmon habitat restoration;

(IV) increasing economic opportunities for salmon fishermen; and

(V) national and international cooperative habitat programs; and

(ii) provide for revision of the plan within one year after any date on which any salmon species that spawns in the qualified State is listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

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

- (F) include measurable criteria by which such activities may be evaluated;
 - (G) require that activities carried out with such assistance shall—
 - (i) be scientifically based;
 - (ii) be cost effective;
 - (iii) not be conducted on private land except with the consent of the owner of the land; and
 - (iv) contribute to the conservation and recovery of salmon;
 - (H) require that the qualified State maintain its aggregate expenditures of funds from non-Federal sources for salmon habitat restoration programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act; and
 - (I) ensure that activities funded under this Act are conducted in a manner in which, and in areas where, the State has determined that they will have long-term benefits.
- (3) SOLICITATION OF COMMENTS.—In preparing a plan under this subsection a qualified State shall seek comments on the plan from local governments in the qualified State.
- (b) TRIBAL MOU WITH SECRETARY.—
- (1) IN GENERAL.—To receive assistance under this Act, a qualified tribal government shall enter into a memorandum of understanding with the Secretary regarding use of the assistance.
 - (2) CONTENTS.—Each memorandum of understanding shall, at a minimum—
 - (A) be consistent with other applicable Federal laws;
 - (B) be consistent with the goal of salmon recovery;
 - (C) give priority to use of assistance under this Act for activities that—
 - (i) provide a direct and demonstrable benefit to salmon or their habitat;
 - (ii) provide the greatest benefit to salmon conservation and salmon habitat restoration relative to the cost of the projects; and
 - (iii) conserve, and restore habitat, for—
 - (I) salmon that are listed as endangered species or threatened species, proposed for such listing, or candidates for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
 - (II) salmon that are given special protection under the ordinances or regulations of the qualified tribal government;
 - (D) in the case of a memorandum of understanding entered into by a qualified tribal government for an area in which, as of the date of the enactment of this Act, there is no area at which a salmon species that is referred to in subparagraph (C)(iii)(I) spawns—
 - (i) give priority to use of assistance for projects referred to in subparagraph (C)(i) and (ii) that contribute to proactive programs described in subsection (a)(2)(D)(i);
 - (ii) include a requirement that the memorandum shall be revised within one year after any date on which any salmon species that spawns in the area is listed as an endangered species or threatened species, proposed for such listing, or a candidate for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
 - (E) establish specific goals and timelines for activities funded with such assistance;
 - (F) include measurable criteria by which such activities may be evaluated;
 - (G) establish specific requirements for reporting to the Secretary by the qualified tribal government;
 - (H) require that activities carried out with such assistance shall—
 - (i) be scientifically based;
 - (ii) be cost effective;
 - (iii) not be conducted on private land except with the consent of the owner of the land; and
 - (iv) contribute to the conservation or recovery of salmon; and
 - (I) require that the qualified tribal government maintain its aggregate expenditures of funds from non-Federal sources for salmon habitat restoration programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.
- (c) ELIGIBLE ACTIVITIES.—
- (1) IN GENERAL.—Assistance under this Act may be used by a qualified State in accordance with a plan submitted by the State under subsection (a), or by a qualified tribal government in accordance with a memorandum of under-

standing entered into by the government under subsection (b), to carry out or make grants to carry out, among other activities, the following:

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

(B) Salmon-related research, data collection, and monitoring, salmon supplementation and enhancement, and salmon habitat restoration.

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

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

(E) Other activities related to salmon conservation and salmon habitat restoration.

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

(d) **USE OF ASSISTANCE FOR ACTIVITIES OUTSIDE OF JURISDICTION OF RECIPIENT.**—Assistance under this section provided to a qualified State or qualified tribal government may be used for activities conducted outside the areas under its jurisdiction if the activity will provide conservation benefits to naturally produced salmon in streams of concern to the qualified State or qualified tribal government, respectively.

(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 CONTRIBUTIONS.**—For purposes of subsection (a)(2)(H), the amount of monetary contributions by a qualified State under this subsection shall be treated as expenditures 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 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, respectively, for administrative expenses incurred in carrying out this Act.

SEC. 4. PUBLIC PARTICIPATION.

(a) **QUALIFIED STATE GOVERNMENTS.**—Each qualified State seeking assistance under this Act shall establish a citizens advisory committee or provide another similar forum for local governments and the public to participate in obtaining and using the assistance.

(b) **QUALIFIED TRIBAL GOVERNMENTS.**—Each qualified tribal government receiving assistance under this Act shall hold public meetings to receive recommendations on the use of the assistance.

SEC. 5. CONSULTATION NOT REQUIRED.

Consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not be required based solely on the provision of financial assistance under this Act.

SEC. 6. REPORTS.

(a) **QUALIFIED STATES.**—Each qualified State 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 the qualified State under this Act. The report shall contain an evaluation of the success of this Act in meeting the criteria listed in section 3(a)(2).

(b) **SECRETARY.**—

(1) **ANNUAL REPORT REGARDING QUALIFIED TRIBAL GOVERNMENTS.**—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 of this Act in meeting the criteria listed in section 3(a)(2).

SEC. 7. DEFINITIONS.

In this Act:

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

(2) **QUALIFIED STATE.**—The term “qualified State” means each of the States of Alaska, Washington, Oregon, California, and Idaho.

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

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

(i) is involved in salmon management and recovery activities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act; and

(B) an Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that the Secretary of Commerce, in consultation with the Secretary of the Interior, determines—

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

(ii) has the management and organizational capability to maximize the benefits of assistance provided under this Act.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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

PURPOSE OF THE BILL

The purpose of H.R. 2798, as introduced, is to authorize the Secretary of Commerce to provide financial assistance to the States of

Alaska, Washington, Oregon, and California for salmon restoration projects in coastal waters and upland drainages.

BACKGROUND AND NEED FOR LEGISLATION

The salmon populations on the West Coast have been in steady decline for a number of years, and the States are interested in working to help rebuild salmon populations through habitat restoration and stock rebuilding programs. H.R. 2798 authorizes the appropriations needed and gives the States and affected Indian tribes the opportunity to make a difference through local projects to help rebuild dwindling salmon populations.

In the Pacific Northwest there are steelhead and cutthroat trout and five species of salmon (chinook, coho, chum, sockeye, and pink). Pacific salmon and steelhead trout are anadromous fish whose life cycle starts in fresh water. The fish then move into the ocean and then return to fresh water when it is time to spawn. Under the Endangered Species Act (ESA), the Secretary of Commerce, through the National Marine Fisheries Service (NMFS), is responsible for protecting endangered or threatened ocean-going fish and marine animals.

The ESA allows listing of "distinct population segments" of vertebrates as endangered or threatened; after listing, these species are eligible for special protections. NMFS bases its salmon Evolutionary Significant Unit (ESU) classifications on salmon genetics and life history traits. NMFS reviews the biological information of species when considering an ESA listing to determine the merits of the listing and if the species is an ESU. To date, the Northwest region of NMFS has identified 58 ESU on the West Coast. Of the 58 ESUs, 25 salmon species are currently listed as either endangered or threatened, two are proposed to be listed, and six are candidate species.

On October 14, 1998, the Governors of Alaska, California, Oregon, and Washington sent a letter to the Clinton Administration proposing a coast-wide Pacific salmon restoration and conservation fund which would include \$50 million for each State for each of six years for salmon conservation and enhancement projects at local and regional levels. The President responded to the Governors' request by including \$100 million in his Fiscal Year 2000 budget request for a Pacific Coastal Salmon Recovery Fund. In addition to the four States, the President included the coastal Tribes of California, Oregon, and Washington. The Commerce, Justice, and State Appropriations for Fiscal Year 2000 included \$58 million for salmon habitat restoration, stock enhancement, and research. Under this program, the four Pacific coastal States and the coastal Tribes received funding (\$18 million for Washington, \$14 million for Alaska, \$9 million for Oregon, \$9 million for California, \$6 million for the coastal Tribes, and \$2 million for the Columbia River Tribes).

COMMITTEE ACTION

H.R. 2798 was introduced on August 5, 1999, by Congressman Mike Thompson (D-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On May 18, 2000, the Subcommittee held a hearing on H.R. 2798. On July 20, 2000, the Subcommittee met to mark up H.R. 2798. An amendment to in-

clude Idaho as a qualified State and to clarify that salmon conservation was also a purpose of the bill was offered by Congressman Mike Simpson (R-ID). The amendment was adopted by voice vote. The bill was then ordered favorably reported to the Full Committee by voice vote. On July 26, 2000, the Full Resources Committee met to consider H.R. 2798. An amendment to clarify the State matching requirement provisions of federal funds was offered by Congressman Don Young (R-AK). An amendment to add lahontan cutthroat trout and bull trout for purposes of application of the bill in Oregon was offered by Congressman Peter DeFazio (D-OR). Both amendments were adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the short title of the bill as the “Pacific Salmon Recovery Act”.

Section 2. Salmon conservation and salmon habitat restoration assistance.

Section 2 outlines how the Secretary of Commerce will dispense the funds appropriated under this bill.

Subsection (a) specifies that the Secretary of Commerce is required to provide assistance to qualified States and qualified tribal governments for salmon conservation and salmon habitat restoration projects.

Subsection (b) lays out the amounts to be given to qualified States and qualified tribal governments. The States will receive equal shares of the 85 percent of the funds appropriated to the States. Tribal governments will receive 15 percent of the annual appropriation and the Secretary will determine eligibility and the specific allocations for the Tribes.

Subsection (c) states that the Secretary shall promptly transfer funds to qualified States that have submitted Conservation and Restoration Plans and qualified tribal governments that have entered into a Memorandum of Understanding (MOU) with the Secretary.

In addition, this subsection gives the Secretary 30 days to make a determination on a State Plan’s consistency with the bill, but this subsection does not provide the Secretary with veto authority over a State’s Plan. If the Secretary finds a Plan inconsistent with the bill, the Secretary shall notify the State and when the State rectifies the inconsistency the Secretary shall promptly transfer the funds to that State.

Subsection (d) outlines how the Secretary will reallocate funds in cases where one or more States have not submitted a Conservation and Restoration Plan or have not obligated their funds within a specific amount of time. For those States that have not submitted a Conservation and Restoration Plan by the end of one year or have not obligated the federal funds after two years, the Secretary will reallocate the funds to those other States which have submitted Conservation and Restoration Plans. The Secretary will also reallocate a qualified tribal government’s allocation among the

other qualified tribal governments if it has not entered into an MOU after one year.

The Committee does not intend for the Secretary to make a consistency finding on a State's Salmon Conservation and Restoration Plan at the end of the fiscal year. The Committee's intent is for the Secretary to acknowledge that a State has submitted its Plan and for those that have not, reallocate the funds.

Section 3. Receipt and use of assistance

Subsection (a) states that a qualified State is required to submit a Salmon Conservation and Salmon Habitat Restoration Plan (the Plan) to the Secretary to receive assistance. The Plan must be consistent with other applicable federal laws, be consistent with the goal of salmon recovery, and give priority to listed salmon through projects that benefit salmon and its habitat. For States that at the date of enactment do not have listed salmon that spawn in that State, the use of the assistance also must conserve salmon and its habitat, but can also be used for salmon-related research, data collection and monitoring, salmon supplementation and enhancement, salmon habitat restoration, increasing economic opportunities for salmon fishermen and national and international cooperative habitat programs. If after the date of enactment a species of salmon does become listed in that State, the Plan must be revised within one year to give priority to projects targeted to the newly-listed species. A State which did not have any listed species on the date of enactment but does have salmon which become listed at a later point may continue to use its funds for other salmon-related research, data collection and monitoring, salmon supplementation and enhancement, salmon habitat restoration, increasing economic opportunities for salmon fishermen and national and international cooperative habitat programs.

The States will be required to establish specific goals and timelines for activities funded and include measurable criteria to evaluate those activities. Activities should be scientifically based, cost effective, conducted on private land only with the consent of the landowner, and contribute to the conservation and recovery of salmon.

The Committee understands that the States, other than Idaho, currently have Memoranda of Understanding with the Secretary regarding the use of Fiscal Year 2000 appropriated funds for salmon recovery. The Committee envisions the States using these MOUs and any of the State's current programs as the basis for its Plan.

The Committee believes that these State projects will be beneficial to the environment and does not expect that a programmatic environmental impact statement or an environmental impact statement for each State will be required. The Committee would encourage the Secretary upon completing the analysis under the National Environmental Policy Act to make a determination that no environmental impact statement is required.

The Committee also encourages the Secretary to expeditiously approve permits received under section 7 and 10 of the Endangered Species Act for State projects that will benefit salmon and its habitat. The Committee would also like to see some coordination between NMFS and the Fish and Wildlife Service of the Department

of the Interior with regard to the issuance of permits to protect fish life. It is a cumbersome process for the States to have to get duplicative permits from each agency. The agencies should coordinate so that the activities funded under this bill can have the greatest benefit on salmon and their habitat.

The Committee's intention with the cost effectiveness requirement is not a formal economic cost benefit analysis, but more of a subjective weighing of costs and benefits and a generalized public interest test.

The Committee believes it is very important that the States continue to fund projects using State funds. The Committee has therefore required the States to continue to maintain the aggregate expenditures of funds from non-federal sources for salmon habitat restoration programs at or above the average level of such expenditures in the two fiscal years preceding the date of enactment of the bill. It is also important for the States to use the federal funds available under this bill on activities that are conducted in a manner in which and in areas where the activities will have long-term benefits. In addition, States should take care to not fund projects in areas where adjacent or nearby development projects will erode or undo the benefits of the restoration project.

The Committee supports the funding of local and regional State projects to conserve and restore salmon and their habitat and to ensure local participation. Therefore, the Committee has required qualified States to solicit comments from local governments when developing its Salmon Conservation and Salmon Habitat Restoration Plan.

Subsection (b) states that qualified tribal governments are required to enter into a Memorandum of Understanding with the Secretary to receive assistance under the bill. The MOU must be consistent with other applicable federal laws, be consistent with the goal of salmon recovery, and give priority to listed salmon through projects that benefit salmon and their habitat. Qualified tribal governments that, on the date of enactment, do not have listed salmon that spawn in the State in which the Indian tribe is located should use the assistance to conserve salmon and their habitat, but may also use the funds for salmon related research, data collection and monitoring, salmon supplementation and enhancement, salmon habitat restoration, increasing economic opportunities for salmon fishermen and national and international cooperative habitat programs. If after the date of enactment a species of salmon does become listed in that State, the MOU must be revised within one year to account for the new listed species.

The qualified tribal governments should establish specific goals and timelines for activities funded and include measurable criteria to evaluate those activities. The MOU should contain specific requirements for reporting to the Secretary. Activities funded should be scientifically based, cost effective, conducted on private land only with the consent of the landowner, and contribute to the conservation and recovery of salmon.

The Committee believes that qualified tribal governments should continue to fund projects using tribal funds. Therefore, the Committee has required the qualified tribal governments to continue to maintain the aggregate expenditures of funds from non-federal sources for salmon habitat restoration programs at or above the av-

erage level of such expenditures in the two fiscal years preceding the date of enactment of the bill.

Subsection (c) outlines the use of funds. Qualified States and qualified tribal governments are authorized to make grants for the following: watershed evaluation, assessment and planning; salmon related research; data collection; monitoring; salmon supplementation and enhancement and salmon habitat restoration; maintenance and monitoring of projects; technical training and education projects; and other activities related to salmon conservation and salmon habitat restoration. Funds allocated must be used for local and regional projects.

Subsection (d) states that assistance may be used by qualified States and qualified tribal governments for activities outside the areas under their jurisdiction if the activities provide conservation benefits to naturally produced salmon in streams of concern.

The Committee's intent is to promote the recovery of naturally produced salmon. However, projects that will benefit a natural run of salmon that is mixed with an artificially enhanced run of salmon would still qualify for assistance.

Subsection (e) requires States to match, in the aggregate, financial assistance provided to the qualified State for a fiscal year. The States can match the funds in the form of monetary contributions or in-kind contribution of services for projects carried out with such assistance. States may not include funds received from other federal sources as matching funds. The Secretary is prohibited from requiring States to provide matching funds on a project by project basis. The qualified States can count the matching funds as a part of the aggregate expenditures of funds from non-federal sources required under subsection (a)(2)(H).

Subsection (f) encourages qualified States and qualified tribal governments to carefully coordinate salmon conservation activities to eliminate duplicative and overlapping activities. The States and tribal governments are also required to consult with the Secretary to avoid the duplication of projects.

Subsection (g) limits the amount of administrative overhead. The Secretary is limited to not more than one percent for administrative expenses. States and tribal governments are limited to three percent for administrative expenses. States may include the cost of holding public meetings related to projects or the development of the Plan as administrative expenses.

Section 4. Public participation

Section 4 requires qualified States to establish a citizens advisory committee or other forum for local governments and the public to participate in obtaining and using assistance provided under this bill. Qualified tribal governments are required to hold public meetings to receive recommendations on the use of assistance provided under this bill.

The Committee does not intend for a State which has process for public participation to create a new public participation process, but should include the existing process in its Salmon Conservation and Salmon Habitat Restoration Plan.

Section 5. Consultation not required

Section 5 states that consultation under section 7 of the Endangered Species Act is not required based solely on the provision of financial assistance under this bill.

Section 6. Reports

Section 6 requires qualified States to report annually to Congress on the use of assistance and compliance with the bill. In addition, the Secretary is required to report annually to Congress on qualified tribal government's use of assistance and compliance with the bill. The Secretary is also required to report biennially to Congress on the use of assistance by the qualified States.

Section 7. Definitions

Section 7 defines various terms in the bill.

The term "Indian tribe" has the same meaning as that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

The term "qualified State" means each of the States of Alaska, California, Idaho, Oregon and Washington.

The term "qualified tribal government" means a tribal government of an Indian tribe in California, Idaho, Oregon, and Washington or an Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that the Secretary of Commerce in consultation with the Secretary of the Interior determines is involved in salmon management and recovery activities under the Endangered Species Act of 1973 and has the management and organization capability to maximize the benefits of assistance provided under this bill.

The term "salmon" means any naturally produced salmon or naturally produced trout of the following species: coho salmon; chinook salmon; chum salmon; pink salmon; sockeye salmon; steelhead trout; sea-run cutthroat trout. In the State of Oregon, the term also includes two additional species: lahontan cutthroat trout and bull trout.

Section 8. Authorization of appropriations

Section 8 authorizes an appropriation of \$200 million annually for each of Fiscal Years 2001 through 2003.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 28, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2798, the Pacific Salmon Recovery Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2798—Pacific Salmon Recovery Act

Summary: Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 2798 would cost the federal government \$600 million over the next three years. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 2798 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 2798 would authorize the Secretary of Commerce to provide grants for salmon conservation and habitat restoration projects. For this purpose, the bill would authorize appropriations of \$200 million for each of fiscal years 2001, 2002, and 2003. The funds

would be divided among the states of Alaska, Washington, Oregon, California, and Idaho and the Indian tribes in those states.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2798 is shown in the following table. The costs of this legislation would fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority ¹	58	0	0	0	0	0
Estimated Outlays	19	20	19	0	0	0
Proposed Changes:						
Authorization Level	0	200	200	200	0	0
Estimated Outlays	0	200	200	200	0	0
Spending Under H.R. 2798:						
Authorization Level ¹	58	200	200	200	0	0
Estimated Outlays	19	220	219	200	0	0

¹The 2000 level is the amount appropriated for that year for similar grants to Alaska, California, Oregon, and Washington and several Indian tribes in those states. The grants were made under a one-year authorization for salmon recovery grants contained in Public Law 106-113, the Consolidated Appropriations Act, 2000.

Basis of estimate: For this estimate, CBO assumes that H.R. 2798 will be enacted at the beginning of fiscal year 2001 and that the full amounts authorized will be appropriated for each year. CBO further assumes that each of the eligible states and tribes will submit the necessary plans and agreements in 2001. The estimate of outlays reflects the bill's requirement that money be transferred promptly to each eligible state and tribe once the department has approved its plan.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 2798 contains no intergovernmental mandates as defined in UMRA. The bill would benefit Alaska, California, Idaho, Oregon, and Washington, and tribal governments located in those states, by authorizing the Secretary of Commerce to grant them funds for salmon conservation and habitat restoration.

Estimated impact on the private sector: The bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local and Tribal Governments: Victoria Heid Hall; Impact on the Private Sector: Sarah Sitarek.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.