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REPORT
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PACIFIC SALMON RECOVERY ACT

JUNE 12, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 1157]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1157) 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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1157 is to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, California, Idaho, Oregon and Washington for salmon habitat restoration projects in coastal waters and upland drainages.

BACKGROUND AND NEED FOR LEGISLATION

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, moves into the ocean and then returns to fresh water when it is time to spawn. These anadromous fish migrate many miles, from river to ocean and back. Along the way they encounter dams, predators, commercial and recreational harvest, and changing ocean conditions, all of which can cause salmon mortality.

The National Marine Fisheries Service (NMFS), within the National Oceanic and Atmospheric Administration of the Department of Commerce, has management authority over salmon in the re-

gion. To date, the Northwest region of NMFS has identified 58 Evolutionary Significant Units (ESUs) on the West Coast. ESUs can be protected under the Endangered Species Act. Of the 58 ESUs, 26 salmon species are currently listed as either endangered or threatened, one is proposed to be listed, and five are candidate species under the Endangered Species Act.

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 per State for each of six years for salmon conservation and enhancement projects at local and regional levels within each State. The President responded to the Governors' request by including $100 million in his Fiscal Year 2000 budget request to Congress 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 Act for Fiscal Year 2000 included $58 million for salmon habitat restoration, stock enhancement, and research. 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.

In the 106th Congress, Congressman Mike Thompson (D–CA) introduced H.R. 2798 to authorize the appropriations to the States for this salmon recovery program. The legislation passed the House twice, once as a stand alone bill and again as part of H.R. 5086, a bill including a number of fish and wildlife provisions. The Senate did not act on either measure. However, the omnibus appropriation bill for Fiscal Year 2001 authorized $90 million for the States of Alaska, California, Oregon and Washington through Fiscal Year 2003 for coastal salmon restoration programs. The bill appropriated $90 million to the States for Fiscal Year 2001.

Congressman Thompson reintroduced H.R. 2798 in the 107th Congress as H.R. 1157. The bill would authorize appropriations of $200 million to the States of Alaska, California, Idaho, Oregon and Washington for Fiscal Years 2002–2004. Tribes in each of the States are also qualified to receive funds. The States and Tribes are required to match the funds they receive. The money appropriated would go toward projects which would restore and conserve endangered and threatened salmon, steelhead, sea-run cutthroat trout and their habitat. In addition, Lahontan cutthroat trout and bull trout habitat restoration will receive funding in Oregon as will bull trout habitat in Washington and Oregon. The bill requires annual reports to Congress from the States and the Secretary of Commerce for the Tribes on the use of funds.

When H.R. 1157 is considered on the House Floor, the Committee intends to offer an amendment to the bill which addresses some concerns raised regarding funding outlays as part of the grant program and also which repairs a small direct spending problem. In addition, Congressman Don Young (R–AK) had filed in Committee but did not offer an amendment to strike Section 8 of the bill and clarifies a definition of "qualified tribal government". The proposed Committee amendment would execute this amend-

ment. The amendment will significantly reduce the fiscal impact of H.R. 1157.

COMMITTEE ACTION

H.R. 1157 was introduced on March 21, 2001, 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 16, 2001, the Full Resources Committee met to consider the bill. The Subcommittee on Fisheries Conservation, Wildlife and Oceans was discharged from further consideration of the bill by unanimous consent. The bill was ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the short title of the Act 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 authorized under this Act.

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) allocates 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 determine a State Conservation and Restoration Plan's consistency with the Act, 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 Act, 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 the Fiscal Year or have not obligated the federal funds after two Fiscal 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 by the end of the Fiscal 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 Restoration 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 salmon listed under the Endangered Species Act through projects that benefit salmon and its habitat. For States that at the date of enactment of H.R. 1157 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 Memorandums 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 States' current programs as the basis for their Salmon Conservation and Restoration Plan.

The Committee also encourages the Secretary to expeditiously approve permits under Sections 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 U.S. Fish and Wildlife Service with regard to the issuance of permits to protect salmon. The agencies should coordinate so that the activities funded under this Act can have the greatest benefit on salmon and their habitat.

The Committee's intention with the cost effectiveness requirement is not to mandate 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 Act. It is also important for the States to use the federal funds available under this Act 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 Restoration Plan.

Subsection (b) states that qualified Tribal governments are required to enter into an MOU with the Secretary to receive assistance under the Act. 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 average level of such expenditures in the two Fiscal Years preceding the date of enactment of the Act.

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) of this section.

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 Conservation and Restoration Plan as administrative expenses.

Section 4. Public participation

Section 4 requires each qualified State 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 Act. Qualified Tribal governments are required to hold public meetings to receive recommendations on the use of assistance provided under this Act.

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 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.

Section 6. Reports

Section 6 requires qualified States to report annually to Congress on the use of assistance and compliance with the Act. In addition, the Secretary is required to report annually to Congress on qualified Tribal governments' use of assistance and compliance with the

Act. 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 Act.

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 a 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 Act.

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; and sea-run cutthroat trout. For the State of Oregon the term also includes Lahontan cutthroat trout. Bull trout is included in this term for Oregon, Washington and Idaho.

Section 8. Pacific Salmon Treaty

Section (a) authorizes representation on the Transboundary Panel of the Pacific Salmon Commission as part of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3632).

Section (b) authorizes expenses and compensation for United States representatives on the Northern and Southern fund Committees.

Section (c) authorizes total appropriations of $75 million for the Northern Fund and $65 million for the Southern Fund for Fiscal Years 2001 through 2004.

Section 9. Treatment of International Fishery Commission pensioners

This section affects U.S. citizens who served as employees of the International Pacific Salmon Fisheries Commission and the Internal North Pacific Fisheries Commission and who worked in Canada in their course of employment. The President is required to calculate the difference between the valuation of the Commissions' annuity for each employee in U.S. currency and in Canadian currency for the past and future annuity payments. Employees are to be compensated out of existing funds for any differences found.

Section 10. Authorization of appropriations

Section 10 authorizes an appropriation of $200 million annually for Fiscal Years 2002 through 2004.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Re-

sources' 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, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of Section 9 of the bill would result in increased direct spending, but that the cost of the payments would be less than $500,000. However, the Committee intends to amend this provision of the bill during Floor consideration to eliminate the direct spending issue.

3. *General Performance Goals and Objectives.* As required under clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

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, June 8, 2001.

Hon. JAMES V. HANSEN,
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. 1157, the Pacific Salmon Recovery Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Melissa Zimmerman.

Sincerely,

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

Enclosure.

H.R. 1157—Pacific Salmon Recovery Act

Summary: H.R. 1157 would authorize funding for salmon conservation programs in the Pacific Northwest. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1157 would cost the federal government $510 million over the next five years. The bill would increase direct spending by mandating lump-sum payments to retirees of certain former international commissions, so pay-as-you-go procedures would apply. But CBO estimates that the cost of these payments would be less than $500,000. H.R. 1157 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 1157 would establish a grant program under the National Oceanic and Atmospheric Administration (NOAA) for salmon conservation and habitat restoration projects. For this purpose, the bill would authorize appropriations of $200 million for each of fiscal years 2002, 2003, and 2004. The bill also would extend the existing authorization of appropriations to the Pacific Salmon Commission. Specifically, the legislation would authorize the appropriation of $75 million for the Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund and $65 million for the Southern Boundary Restoration and Enhancement Fund for each fiscal year through 2004. A portion of the $340-million annual total is authorized under current law for 2002 and 2003. Finally, the bill would direct the President of the United States to provide additional retirement funds to former employees of the defunct International Pacific Salmon Fisheries Commission and International North Pacific Fisheries Commission.

Estimated cost to the Federal Government: The bill would increase the authorization levels for conservation and restoration grants by $100 million in 2002 and 2003. It would also eliminate an existing $30 million authorization for grants for local economic assistance for 2002. Consequently, the net increase in grant funding under the bill would be $70 million in 2002. The estimated budgetary impact of H.R. 1157 is shown in the following table. The costs of this legislation would fall within budget function 300 (natural resources and environment).

	By fiscal years, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law for Pacific Salmon programs:						
Authorization level [1]	140	270	240	0	0	0
Estimated outlays	100	254	247	74	33	0
Proposed changes:						
Authorization level	0	70	100	340	0	0
Estimated outlays [2]	0	137	133	273	−33	0
Spending under H.R. 1157:						
Authorization level	140	340	340	340	0	0
Estimated outlays	100	391	380	347	0	0

[1] The 2001 level is the amount appropriated for that year for activities similar to those authorized by H.R. 1157. The levels for 2002 and 2003 are the amounts authorized for these purposes by Title VI of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001.

[2] We estimate that implementing H.R. 1157 would reduce outlays in 2005 by $33 million because the bill would mandate that conservation and restoration grants be paid to states and tribes more rapidly than expected under current law.

Basis of estimate: H.R. 1157 would authorize appropriations to benefit salmon conservation programs of the Pacific Salmon Com-

mission, state conservation agencies in Alaska, Washington, Oregon, California, and Idaho, and Indian tribes in those states. For this estimate, CBO assumes that the full amounts authorized by H.R. 1157 will be appropriated and transferred to each eligible entity in each fiscal year. The estimate of outlays reflects the bill's requirement that grant money be paid in a lump sum to each eligible state or tribe once it submits a satisfactory conservation plan to NOAA.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Acts sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Section 9 would increase direct spending by requiring the federal government to make a payment to the retirees of two defunct international fisheries commissions. The payment would be the difference between the retirement benefits that they currently receive in Canadian dollars from an international pension society, and what those benefits would be if paid in U.S. dollars without accounting for the difference in the value of these currencies. The lump-sum payments would be equal to the difference in the exchange rate for these currencies for all past and estimated future retirement benefits. Based on information provided by the Department of State and the eligible retirees, CBO estimates that enacting section 9 would cost the federal government less than $500,000 in fiscal year 2002 or 2003.

Estimated impact on State, local, and tribal governments: H.R. 1157 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 and Melissa Zimmerman; impact on State, local and tribal governments: Victoria Heid Hall; impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy 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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PACIFIC SALMON TREATY ACT OF 1985

SEC. 3. UNITED STATES SECTION.

(a)* * *

* * * * * * *

(f) TRANSBOUNDARY PANEL.—The United States shall be represented on the transboundary Panel by seven Panel members, of whom—

(1) one shall be an official of the United States Government with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska with salmon fishery management responsibility and expertise; and

(3) five shall be individuals knowledgeable and experienced in the salmon fisheries for which the transboundary Panel is responsible.

[(f)**]** *(g)* The United States shall be represented on the Transboundary Panel by seven panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) five shall be individuals knowledgeable and experienced in the salmon fisheries for which the Transboundary Panel is responsible.

[(g)**]** *(h)* PANEL APPOINTMENTS.—Panel members described in subsections (c)(2), (c)(3), (d)(2), and (e)(2) shall be appointed by the Governor of the applicable State. Panel members described in subsections (c)(4) and (e)(3) shall be appointed by the Secretary of the Interior from lists of nominations provided by the appropriate treaty Indian tribes. All other Panel members shall be appointed by the Secretary: *Provided,* That at least one member of the northern Panel shall be a voting member of the North Pacific Fishery Management Council, at least one member of the southern Panel shall be a voting member of the Pacific Fishery Management Council; and the Panel members described in subsections (c)(5), (d)(3), and (e)(4) shall be appointed from lists of nominations provided by the Governors of the applicable States. For the northern, southern, and Fraser River panels, the appointing authorities listed above may also designate an alternate Panel member, meeting the same qualifications and having the same term of office, to service in the absence of a Panel member appointed under this subsection. Panel members and alternate Panel members, other than the southern Panel member described in subsection (c)(5), shall serve four-year terms; except that the Secretary of State shall designate one-half of the initial appointments to each Panel as serving two-year terms. The southern Panel member described in subsection (c)(5) and the corresponding alternate shall each be appointed for one-year terms; the first such member shall be appointed from the commercial sector and an alternate shall be appointed from the recreational sector, with the alternate succeeding to the member position in the subsequent year; thereafter the member and alternate positions shall rotate between the commercial and recreational sectors on an annual basis. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Panel members and alter-

nates shall be eligible for reappointment and may attend all meetings of the relevant United States Panel Section.

[(h)] *(i)* VOTING REQUIREMENTS.—(1) * * *

* * * * * * *

(i) CONSULTATION.—In carrying out their functions under the Treaty, the Commissioners and Panel members may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. 1 et seq.) shall not apply.

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SEC. 11. ADMINISTRATIVE MATTERS.

(a) Commissioners and Alternate Commissioners who are not State or Federal employees shall receive compensation [at the daily rate of GS–18 of the General Schedule] *at the maximum daily rate of pay payable under section 5376 of title 5, United States Code,* when engaged in the actual performance of duties for the United States Section or for the Commission.

(b) Panel Members and Alternate Panel Members who are not State or Federal employees shall receive compensation [at the daily rate of GS–16 of the General Schedule] *at the minimum daily rate of pay payable under section 5376 of title 5, United States Code,* when engaged in the actual performance of duties for the United States Section or for the Commission.

(c) COMPENSATION FOR REPRESENTATIVES ON NORTHERN FUND AND SOUTHERN FUND COMMITTEES.—United States Representatives on the Pacific Salmon Treaty Northern Fund Committee and Southern Fund Committee who are not State or Federal employees shall receive compensation at the minimum daily rate of pay payable under section 5376 of title 5, United States Code, when engaged in the actual performance of duties for the United States Section or for the Commission.

[(c)] *(d)* Travel and other necessary expenses shall be paid for all United States Commissioners, Alternate Commissioners, Panel Members, Alternate Panel Members, members of the Joint Technical Committee, *members of the Northern Fund Committee, members of the Southern Fund Committee,* and members of the Advisory Committee when engaged in the actual performance of duties for the United States Section or for the Commission.

[(d)] *(e)* Except for officials of the United States Government, such individuals shall not be considered to be Federal employees while engaged in the actual performance of duties for the United States Section or for the Commission, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

* * * * * * *

SEC. 16. (a) NORTHERN FUND AND SOUTHERN FUND.—

(1) As provided in the June 30, 1999, Agreement of the United States and Canada on the Treaty Between the Government of the United States and the Government of Canada Concerning Pacific Salmon, 1985 (hereafter referred to as the "1999 Pacific Salmon Treaty Agreement") there are hereby established a Northern Boundary and Transboundary Rivers Restoration

and Enhancement Fund (hereafter referred to as the "Northern Fund") and a Southern Boundary Restoration and Enhancement Fund (hereafter referred to as the "Southern Fund") to be held by the Pacific Salmon Commission. The Northern Fund and Southern Fund shall be invested in interest bearing accounts, bonds, securities, or other investments in order to achieve the highest annual yield consistent with protecting the principal of each Fund. Income from investments made pursuant to this paragraph shall be available until expended, without appropriation or fiscal year limitation, for programs and activities relating to salmon restoration and enhancement, salmon research, the conservation of salmon habitat, and implementation of the Pacific Salmon Treaty and related agreements. Amounts provided by grants under this subsection may be held in interest bearing accounts prior to the disbursement of such funds for program purposes, and any interest earned may be retained for program purposes without further appropriation. The Northern Fund and Southern Fund are subject to the laws governing Federal appropriations and funds and to unrestricted circulars of the Office of Management and Budget. Recipients of amounts from either Fund shall keep separate accounts and such records as are reasonably necessary to disclose the use of the funds as well as to facilitate effective audits.

(2) FUND MANAGEMENT.—

(A) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Northern Fund pursuant to paragraph (1) shall be administered by a Northern Fund Committee, which shall be comprised of three representatives of the Government of Canada, and three representatives of the United States. The three United States representatives shall be the United States Commissioner and Alternate Commissioner appointed (or designated) from a list submitted by the Governor of Alaska for appointment to the Pacific Salmon Commission and the Regional Administrator of the National Marine Fisheries Service for the Alaska Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area from Cape Caution, Canada to Cape Suckling, Alaska may be approved for funding by the Northern Fund Committee.

(B) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Southern Fund pursuant to paragraph (1) shall be administered by a Southern Fund Committee, which shall be comprised of three representatives of Canada and three representatives of the United States. The United States representatives shall be appointed by the Secretary of Commerce: one shall be selected from a list of three qualified individuals submitted by the Governors of the States of Washington and Oregon; one shall be selected from a list of three qualified individuals submitted by the treaty Indian tribes (as defined by the Secretary of Commerce); and one shall be the Regional Administrator of the National Marine Fisheries Service for the Northwest Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the

geographic area south of Cape Caution, Canada, may be approved for funding by the Southern Fund Committee.

(b) PACIFIC SALMON TREATY IMPLEMENTATION.—(1) None of the funds authorized by this section for implementation of the 1999 Pacific Salmon Treaty Agreement shall be made available until each of the following conditions to the 1999 Pacific Salmon Treaty Agreement has been fulfilled—

(A) stipulations are revised and court orders requested as set forth in the letter of understanding of the United States negotiators dated June 22, 1999. If such orders are not requested by December 31, 1999, this condition shall be considered unfulfilled; and

(B) a determination is made that—

(i) the entry by the United States into the 1999 Pacific Salmon Treaty Agreement;

(ii) the conduct of the Alaskan fisheries pursuant to the 1999 Pacific Salmon Treaty Agreement, without further clarification or modification of the management regimes contained therein; and

(iii) the decision by the North Pacific Fisheries Management Council to continue to defer its management authority over salmon to the State of Alaska are not likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended, in any fishery subject to the Pacific Salmon Treaty.

(2) If the requests for orders in subparagraph (1)(A) are withdrawn after December 31, 1999, or if such orders are not entered by March 1, 2000, amounts in the Northern Fund and the Southern Fund shall be transferred to the general fund of the United States Treasury.

(3) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce shall determine whether Southern United States fisheries are likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended, before the Secretary of Commerce may initiate or reinitiate consultation on Alaska fisheries under such Act.

(4) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce may not initiate or reinitiate consultation on Alaska fisheries under section 7 of Public Law 93–205, as amended, until—

(A) the Pacific Salmon Commission has had a reasonable opportunity to implement the provisions of the 1999 Pacific Salmon Treaty Agreement, including the harvest responses pursuant to paragraph 9, chapter 3 of Annex IV to the Pacific Salmon Treaty; and

(B) he determines, in consultation with the United States Section of the Pacific Salmon Commission, that implementation actions under the 1999 Agreement will not return escapements as expeditiously as possible to maximum sustainable yield or other biologically-based escapement objectives agreed to by the Pacific Salmon Commission.

(5) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Com-

mittee on Resources of the House of Representatives of his intent to initiate or reinitiate consultation on Alaska fisheries.

(6)(A) For purposes of this section, "Alaska fisheries" means all directed Pacific salmon fisheries off the coast of Alaska that are subject to the Pacific Salmon Treaty.

(B) For purposes of this section, "Southern United States fisheries" means all directed Pacific salmon fisheries in Washington, Oregon, and the Snake River basin of Idaho that are subject to the Pacific Salmon Treaty.

(c) IMPROVED SALMON MANAGEMENT.—Section 3(g) of Public Law 99–5, as amended, is amended—

(1) in paragraph (1) by striking "The" and inserting "Except as provided in paragraph (2), the";

(2) by inserting after paragraph (1) the following new paragraph:

"(2) A decision of the United States Section with respect to any salmon fishery regime covered by chapter 1 or 2 (except paragraph 4 of chapter 2) of Annex IV to the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of the United States Commissioner appointed from the list submitted by the Governor of Alaska pursuant to subsection (a). A decision of the United States Section with respect to any salmon fishery regime covered by chapter 4, 5 (except paragraph 2(b) of chapter 5), or 6 of the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of both the United States Commissioner appointed from the list submitted by the Governors of Washington and Oregon pursuant to subsection (a) and the United States Commissioner appointed from the list submitted by the treaty Indian tribes of the State of Idaho, Oregon, or Washington pursuant to subsection (a). Before a decision of the United States Section is made under this paragraph, the voting Commissioner or Commissioners shall consult with the Commissioner who is an official of the United States Government under subsection (a)"; and

(3) by renumbering the existing paragraphs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For capitalizing the Northern Fund and Southern Fund established under the 1999 Pacific Salmon Treaty Agreement and related agreements, there are authorized to be appropriated a total of $75,000,000 for the Northern Fund and a total of $65,000,000 for the Southern Fund for fiscal years 2001, 2002, 2003, and 2004, for the implementation of those agreements.

SECTION 623 OF THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

[SEC. 623. (a) NORTHERN FUND AND SOUTHERN FUND.—

[(1) As provided in the June 30, 1999, Agreement of the United States and Canada on the Treaty Between the Government of the United States and the Government of Canada Concerning Pacific Salmon, 1985 (hereafter referred to as the "1999 Pacific Salmon Treaty Agreement") there are hereby established a Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund (hereafter referred to as the "Northern Fund") and a Southern Boundary Restoration

and Enhancement Fund (hereafter referred to as the "Southern Fund") to be held by the Pacific Salmon Commission. The Northern Fund and Southern Fund shall be invested in interest bearing accounts, bonds, securities, or other investments in order to achieve the highest annual yield consistent with protecting the principal of each Fund. Income from investments made pursuant to this paragraph shall be available until expended, without appropriation or fiscal year limitation, for programs and activities relating to salmon restoration and enhancement, salmon research, the conservation of salmon habitat, and implementation of the Pacific Salmon Treaty and related agreements. Amounts provided by grants under this subsection may be held in interest bearing accounts prior to the disbursement of such funds for program purposes, and any interest earned may be retained for program purposes without further appropriation. The Northern Fund and Southern Fund are subject to the laws governing Federal appropriations and funds and to unrestricted circulars of the Office of Management and Budget. Recipients of amounts from either Fund shall keep separate accounts and such records as are reasonably necessary to disclose the use of the funds as well as to facilitate effective audits.

[(2) FUND MANAGEMENT.—

[(A) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Northern Fund pursuant to paragraph (1) shall be administered by a Northern Fund Committee, which shall be comprised of three representatives of the Government of Canada, and three representatives of the United States. The three United States representatives shall be the United States Commissioner and Alternate Commissioner appointed (or designated) from a list submitted by the Governor of Alaska for appointment to the Pacific Salmon Commission and the Regional Administrator of the National Marine Fisheries Service for the Alaska Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area from Cape Caution, Canada to Cape Suckling, Alaska may be approved for funding by the Northern Fund Committee.

[(B) As provided in the 1999 Pacific Salmon Treaty Agreement, amounts made available from the Southern Fund pursuant to paragraph (1) shall be administered by a Southern Fund Committee, which shall be comprised of three representatives of Canada and three representatives of the United States. The United States representatives shall be appointed by the Secretary of Commerce: one shall be selected from a list of three qualified individuals submitted by the Governors of the States of Washington and Oregon; one shall be selected from a list of three qualified individuals submitted by the treaty Indian tribes (as defined by the Secretary of Commerce); and one shall be the Regional Administrator of the National Marine Fisheries Service for the Northwest Region. Only programs and activities consistent with the purposes in paragraph (1) which affect the geographic area south of Cape Caution,

Canada may be approved for funding by the Southern Fund Committee.

[(b) PACIFIC SALMON TREATY IMPLEMENTATION.—(1) None of the funds authorized by this section for implementation of the 1999 Pacific Salmon Treaty Agreement shall be made available until each of the following conditions to the 1999 Pacific Salmon Treaty Agreement has been fulfilled—

[(A) stipulations are revised and court orders requested as set forth in the letter of understanding of the United States negotiators dated June 22, 1999. If such orders are not requested by December 31, 1999, this condition shall be considered unfulfilled; and

[(B) a determination is made that—

[(i) the entry by the United States into the 1999 Pacific Salmon Treaty Agreement;

[(ii) the conduct of the Alaskan fisheries pursuant to the 1999 Pacific Salmon Treaty Agreement, without further clarification or modification of the management regimes contained therein; and

[(iii) the decision by the North Pacific Fisheries Management Council to continue to defer its management authority over salmon to the State of Alaska are not likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended, in any fishery subject to the Pacific Salmon Treaty.

[(2) If the requests for orders in subparagraph (1)(A) are withdrawn after December 31, 1999, or if such orders are not entered by March 1, 2000, amounts in the Northern Fund and the Southern Fund shall be transferred to the general fund of the United States Treasury.

[(3) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce shall determine whether Southern United States fisheries are likely to cause jeopardy to, or adversely modify designated critical habitat of, any salmonid species listed under Public Law 93–205, as amended, before the Secretary of Commerce may initiate or reinitiate consultation on Alaska fisheries under such Act.

[(4) During the term of the 1999 Pacific Salmon Treaty Agreement, the Secretary of Commerce may not initiate or reinitiate consultation on Alaska fisheries under section 7 of Public Law 93–205, as amended, until—

[(A) the Pacific Salmon Commission has had a reasonable opportunity to implement the provisions of the 1999 Pacific Salmon Treaty Agreement, including the harvest responses pursuant to paragraph 9, chapter 3 of Annex IV to the Pacific Salmon Treaty; and

[(B) he determines, in consultation with the United States Section of the Pacific Salmon Commission, that implementation actions under the 1999 Agreement will not return escapements as expeditiously as possible to maximum sustainable yield or other biologically-based escapement objectives agreed to by the Pacific Salmon Commission.

[(5) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the

Committee on Resources of the House of Representatives of his intent to initiate or reinitiate consultation on Alaska fisheries.

[(6)(A) For purposes of this section, "Alaska fisheries" means all directed Pacific salmon fisheries off the coast of Alaska that are subject to the Pacific Salmon Treaty.

[(B) For purposes of this section, "Southern United States fisheries" means all directed Pacific salmon fisheries in Washington, Oregon, and the Snake River basin of Idaho that are subject to the Pacific Salmon Treaty.

[(c) IMPROVED SALMON MANAGEMENT.—Section 3(g) of Public Law 99–5, as amended, is amended—

[(1) in paragraph (1) by striking "The" and inserting "Except as provided in paragraph (2), the";

[(2) by inserting after paragraph (1) the following new paragraph:

["(2) A decision of the United States Section with respect to any salmon fishery regime covered by chapter 1 or 2 (except paragraph 4 of chapter 2) of Annex IV to the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of the United States Commissioner appointed from the list submitted by the Governor of Alaska pursuant to subsection (a). A decision of the United States Section with respect to any salmon fishery regime covered by chapter 4, 5 (except paragraph 2(b) of chapter 5), or 6 of the Pacific Salmon Treaty of 1985 shall be taken upon the affirmative vote of both the United States Commissioner appointed from the list submitted by the Governors of Washington and Oregon pursuant to subsection (a) and the United States Commissioner appointed from the list submitted by the treaty Indian tribes of the State of Idaho, Oregon, or Washington pursuant to subsection (a). Before a decision of the United States Section is made under this paragraph, the voting Commissioner or Commissioners shall consult with the Commissioner who is an official of the United States Government under subsection (a)"; and

[(3) by renumbering the existing paragraphs.

[(d)(1) PACIFIC SALMON TREATY.—

[(A) For capitalizing the Northern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of $75,000,000.

[(B) For capitalizing the Southern Fund there is authorized to be appropriated in fiscal years 2000, 2001, 2002, and 2003 a total of $65,000,000.

[(C) To provide economic adjustment assistance to fishermen pursuant to the 1999 Pacific Salmon Treaty Agreement, there is authorized to be appropriated in fiscal years 2000, 2001, and 2002 a total of $30,000,000.

[(2) PACIFIC COASTAL SALMON RECOVERY.—

[(A) For salmon habitat restoration, salmon stock enhancement, and salmon research, including the construction of salmon research and related facilities, there is authorized to be appropriated for each of fiscal years 2000, 2001, 2002, and 2003, $90,000,000 to the States of Alaska, Washington, Oregon, and California. Amounts appropriated pursuant to this subparagraph shall be made available as direct payments. The State of Alaska may allocate a portion of any funds it receives under this subsection to eligible activities outside Alaska.

[(B) For salmon habitat restoration, salmon stock enhancement, salmon research, and supplementation activities, there is authorized to be appropriated in each of fiscal years 2000, 2001, 2002, and 2003, $10,000,000 to be divided between the Pacific Coastal tribes (as defined by the Secretary of Commerce) and the Columbia River tribes (as defined by the Secretary of Commerce).]

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