

103D CONGRESS
1ST SESSION

S. 1526

To improve the management of Indian fish and wildlife and gathering resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 27), 1993

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To improve the management of Indian fish and wildlife and gathering resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE AND TABLE OF CONTENTS

4 SECTION 1. (a) SHORT TITLE.—This Act may be
5 cited as the “Indian Fish and Wildlife Resources Manage-
6 ment Act of 1993”.

7 (b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings

Sec. 102. Purpose.

Sec. 103. Definitions.

TITLE II—INDIAN FISH AND WILDLIFE PROGRAMS

- Sec. 201. Management of Indian Fish, Wildlife and Gathering Resources.
 Sec. 202. Education in Indian Fish and Wildlife Resource Management.
 Sec. 203. Indian Fish Hatchery Assistance Program.

TITLE III—INDIAN BISON CONSERVATION AND MANAGEMENT

- Sec. 301. Indian Bison Conservation Program.
 Sec. 302. Indian Bison Ranching Demonstration Projects.

TITLE IV—NATIVE HAWAIIAN COMMUNITY-BASED FISHERIES DEMONSTRATION PROJECTS

- Sec. 401. Findings.
 Sec. 402. Purposes.
 Sec. 403. Definitions.
 Sec. 404. Native Hawaiian Community-Based Fisheries Demonstration
 Projects.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Regulations.
 Sec. 602. Severability.
 Sec. 603. Trust Responsibility.
 Sec. 604. Treaty Obligations.

1 TITLE I—GENERAL PROVISIONS

2 FINDINGS

3 SEC. 101. The Congress finds and declares that—

4 (1) the United States and Indian tribes have a
 5 government-to-government relationship;

6 (2) the United States has a trust responsibility
 7 to protect, conserve, and manage Indian fish and
 8 wildlife and gathering resources consistent with the
 9 treaty rights of Indian tribes;

10 (3) the United States trust responsibility ex-
 11 tends to all Federal agencies and departments and
 12 absent a clear expression of congressional intent to
 13 the contrary, the United States has a duty to admin-
 14 ister Federal fish and wildlife conservation laws in

1 a manner consistent with its fiduciary obligation to
2 honor and protect the treaty rights of Indian tribes;

3 (4) Federal statutes and regulations affecting
4 Indian fish and wildlife resources and tribal resource
5 management activities shall be interpreted in accord-
6 ance with the trust responsibility set forth in this
7 Act;

8 (5) fish and wildlife resources located on Indian
9 lands, in adjacent regional resource management
10 areas, and on ceded territory on which treaty rights
11 have been retained continue to provide sustenance,
12 cultural enrichment, and economic support for In-
13 dian tribes, and support the maintenance of eco-
14 nomic stability by enabling gainful employment in
15 resource management occupations;

16 (6) Indian tribal governments retain jurisdic-
17 tion over hunting and fishing activities on Indian
18 lands;

19 (7) Indian tribal governments serve as co-man-
20 agers of fish and wildlife resources with other tribal
21 governments, State governments and the Federal
22 government, sharing management responsibilities for
23 fish and wildlife resources as a function of treaties,
24 statutes, and judicial decrees;

1 (8) since time immemorial, Indian cultures, reli-
2 gious beliefs and customs have been centered around
3 their relationships with fish, wildlife and gathering
4 resources, and Indian people have relied on these re-
5 sources for food, shelter, clothing, tools and trade;

6 (9) Indian fish and wildlife resources are renew-
7 able and manageable natural resources that are
8 among the most valuable tribal assets and which are
9 vital to the well-being of Indian people;

10 (10) Indian lands contain millions of acres of
11 natural lakes, woodlands, and impoundments, thou-
12 sands of perennial streams, and tens of millions of
13 acres of wildlife habitat;

14 (11) Indian fish and wildlife programs contrib-
15 ute significantly to the conservation and enhance-
16 ment of fish, wildlife and gathering resources, in-
17 cluding those resources which are classified as
18 threatened and endangered;

19 (12) Federal, State, and tribal fish hatcheries
20 produce tens of millions of salmon, steelhead, wall-
21 eye and other fish species annually, benefitting both
22 Indian and non-Indian sport and commercial fish-
23 eries in the United States and Canada, and serving
24 Indian subsistence and ceremonial needs;

1 (13) comprehensive and improved management
2 of Indian fish and wildlife resources will yield great-
3 er economic returns, enhance Indian self-determina-
4 tion, strengthen tribal self-governance, promote em-
5 ployment opportunities, and improve the social, cul-
6 tural and economic well-being of Indian and neigh-
7 boring communities;

8 (14) amongst the wildlife resources upon which
9 Indian people have traditionally relied for a principle
10 source of subsistence is the American bison, a pri-
11 mary wildlife specie of the Great Plains ecosystem
12 which continues to contribute spiritual, cultural, and
13 economic benefits to many Indian tribes through
14 tribal bison ranching activities;

15 (15) the United States has an obligation to pro-
16 vide assistance to Indian tribes to—

17 (A) enable integrated management and
18 regulation of hunting, fishing, trapping and
19 gathering activities on Indian lands, including
20 the protection, conservation and enhancement
21 of resource populations and habitats upon
22 which the meaningful exercise of Indian rights
23 depend;

24 (B) maintain fish hatcheries and other fa-
25 cilities and structures required for the prudent

1 management, enhancement and mitigation of
2 fish and wildlife resources; and

3 (16) existing Federal laws and programs do not
4 assure the adequate protection and management of
5 Indian fish and wildlife resources, nor gathering of
6 natural resources nor do they sufficiently address or
7 meet the operation and maintenance needs of tribal
8 fish production facilities.

9 PURPOSES

10 SEC. 102. The purposes of this Act are—

11 (1) to reaffirm and protect Indian hunting,
12 fishing, trapping and gathering rights, and to pro-
13 vide for the conservation, prudent management, en-
14 hancement, orderly development and wise use of the
15 resources upon which the meaningful exercise of In-
16 dian rights depend;

17 (2) to enhance and maximize tribal capability
18 and flexibility in managing fish and wildlife re-
19 sources for the continuing benefit of Indian people,
20 and in co-managing shared resources for the benefit
21 of the Nation, in a manner consistent with the exer-
22 cise of Indian hunting, fishing, trapping and gather-
23 ing rights and the United States' trust responsibility
24 to honor Indian treaty rights and protect Indian re-
25 sources;

1 (3) to support the Federal policy of Indian self-
2 determination and tribal self-governance by authoriz-
3 ing and encouraging government-to-government rela-
4 tions and cooperative agreements amongst Federal,
5 State, local and tribal governments, as well as inter-
6 national agencies and commissions responsible for
7 multi-jurisdictional fish and wildlife resource deci-
8 sion making;

9 (4) to authorize and establish Indian bison
10 ranching demonstration projects that may be admin-
11 istered by Indian tribal governments pursuant to the
12 Indian Self-Determination and Education Act to
13 meet tribal bison ranching and management needs,
14 and to train Indian people in bison management
15 techniques;

16 (5) to authorize and establish an Indian Fish
17 Hatchery Assistance Program that may be adminis-
18 tered by Indian tribal governments pursuant to the
19 Indian Self-Determination and Education Act to
20 meet Indian hatchery needs and fulfill tribal co-man-
21 agement responsibilities; and

22 (6) to authorize and establish an Indian Fish
23 and Wildlife Resource Management Education As-
24 sistance Program to promote and develop full tribal

1 technical capability and competence in managing
2 fish and wildlife resource programs.

3 DEFINITIONS

4 SEC. 103. For the purposes of this Act—

5 (1) The term “Bureau” means the Bureau of
6 Indian Affairs within the United States Department
7 of the Interior.

8 (2) The term “ceded territory” means land
9 ceded to the United States by treaty upon which the
10 treating tribe or tribes retain hunting, fishing and
11 gathering rights.

12 (3) The term “co-management” means a proc-
13 ess involving two or more recognized governmental
14 or governmentally-chartered authorities having
15 rights to, jurisdiction over, or responsibilities for the
16 management or use of a fish or wildlife resource
17 during some phase of its life cycle.

18 (4) The term “cooperative agreement” means a
19 written agreement entered into by two or more par-
20 ties agreeing to work together or actively protect,
21 conserve, enhance, restore or otherwise manage fish
22 and wildlife resources.

23 (5) The term “Indian fish hatchery” means any
24 single- or multi-purpose facility which is engaged in
25 the spawning, hatching, rearing, holding, caring for

1 or stocking of fish including related research and di-
2 agnostic fish health facilities and which is—

3 (A) owned or operated by an Indian tribe
4 or the Bureau of Indian Affairs, or by the
5 United States Fish and Wildlife Service on In-
6 dian lands, or

7 (B) is owned or operated by a government
8 agency pursuant to Federal statute and has as
9 a purpose, the mitigation or recovery of fish re-
10 sources subject to treaty rights as determined
11 by a federal court.

12 (6) The term “fish hatchery maintenance”
13 means work that is required at periodic intervals to
14 prolong the life of a fish hatchery and its compo-
15 nents and associated equipment, and to prevent the
16 need for premature replacement or repair.

17 (7) The term “fish hatchery rehabilitation”
18 means noncyclical work that is required to address
19 the physical deterioration and functional obsoles-
20 cence of a fish hatchery building, structure or other
21 facility component, or to repair damage resulting
22 from aging, natural phenomena and other causes, in-
23 cluding work to repair, modify, or improve facility
24 components to enhance their original function, the
25 application of technological advances, and the re-

1 placement or acquisition of capital equipment, such
2 as, among others, fish distribution tanks, vehicles,
3 and standby generators.

4 (8) The term "forest land management activ-
5 ity" has the same meaning given to such term by
6 section 304(4) of the Indian Forest Resources Man-
7 agement Act (25 U.S.C. 3103(4)).

8 (9) The term "Indian" means a member of an
9 Indian tribe as defined in section 4 of the Indian
10 Self-Determination and Education Assistance Act
11 (25 U.S.C. 450b).

12 (10) The term "Indian fish and wildlife organi-
13 zation" means a tribal or multi-tribal commission,
14 authority, or other body for the purpose of rep-
15 resenting or coordinating tribal interests in pursuing
16 resource management or rights protection goals and
17 strategies.

18 (11) The term "Indian fish and wildlife re-
19 source" means any species of animal or plant life for
20 which Indians have a right to fish, hunt, trap or
21 gather for subsistence, ceremonial, recreational or
22 commercial purposes, or for which an Indian tribal
23 government has management or co-management re-
24 sponsibilities.

1 (12) The term "Indian lands" means all lands
2 within the limits of any Indian reservation, public
3 domain Indian allotments, all other lands title to
4 which is either held in trust by the United States for
5 the benefit of any Indian tribe or individual or held
6 by any Indian tribe or individual subject to a restric-
7 tion by the United States against alienation, all de-
8 pendent Indian communities, and all land owned by
9 an Indian tribe, including land owned by an Alaska
10 Native village or an Alaska Native corporation.

11 (13) The term "Indian reservation" means res-
12 ervations established pursuant to treaties, Acts of
13 Congress or Executive orders, public domain Indian
14 allotments, and Indian lands in the State of Okla-
15 homa.

16 (14) The term "Indian tribe" means any Indian
17 tribe, band, nation, rancheria, pueblo, or other orga-
18 nized dependent Indian group or community which
19 is recognized as eligible for the special programs and
20 services provided by the United States to Indians be-
21 cause of their status as Indians.

22 (15) The term "integrated resource manage-
23 ment plan" means the plan developed pursuant to
24 the process used by tribal governments to assess
25 available resources and to provide identified com-

1 prehensive management objectives that include qual-
2 ity of life, production goals and landscape descrip-
3 tions of all designated resources that may include,
4 but are not limited to, water, fish, wildlife, forestry,
5 agriculture, minerals, and recreation, as well as com-
6 munity and municipal resources, and may include
7 any previously-adopted tribal codes and plans related
8 to such resources.

9 (16) The term "regional resource management
10 areas" means those areas in which an Indian tribe
11 has a right to fish, hunt, gather or trap for subsist-
12 ence, ceremonial or commercial purposes, or in
13 which an Indian tribe has management or co-man-
14 agement responsibilities.

15 (17) The term "resource management activi-
16 ties" means all activities performed in managing In-
17 dian fish, wildlife, gathering, and related outdoor
18 recreation and resources; including, but not limited
19 to—

20 (A) implementation and enforcement of
21 tribal fish and wildlife codes, ordinances, and
22 regulations;

23 (B) development of integrated resource
24 management plans for Indian lands or regional

1 resource management areas, surveys, or inven-
2 tories;

3 (C) population and life history investiga-
4 tions;

5 (D) harvest management and use studies;

6 (E) fish production and hatchery manage-
7 ment;

8 (F) judicial services;

9 (G) co-management activities with federal,
10 state, local or tribal governments or inter-
11 national agencies:

12 (H) public use management;

13 (I) information management;

14 (J) public relations and general adminis-
15 tration;

16 (K) mitigation for habitat loss; and

17 (L) rehabilitation, restoration and en-
18 hancement of fish and wildlife habitat.

19 The term "resource management activities"
20 does not include forest land or agricultural manage-
21 ment activities.

22 (18) The term "Secretary" means the Secretary
23 of the Interior.

24 (19) The term "tribal bison ranching dem-
25 onstration projects" means any activity undertaken

1 by an Indian tribe which relates to the production,
2 rearing, holding, management, or preservation of
3 bison, including training in bison ranching manage-
4 ment techniques.

5 (20) The term "tribal co-management" means
6 the sharing of decision-making and management re-
7 sponsibilities with one or more tribal governments in
8 local, regional, national and international fish and
9 wildlife resource management processes.

10 (21) The term "tribal organization" has the
11 meaning given to such term by section 4 of the In-
12 dian Self-Determination and Education Assistance
13 Act (25 U.S.C. 450b), including Indian fish and
14 wildlife organizations.

15 TITLE II—INDIAN FISH AND WILDLIFE

16 PROGRAMS

17 MANAGEMENT OF INDIAN FISH, WILDLIFE AND

18 GATHERING RESOURCES

19 SEC. 201. (a) MANAGEMENT OBJECTIVES.—Consist-
20 ent with the provisions of the Indian Self-Determination
21 and Education Assistance Act (25 U.S.C. 450b et seq.),
22 the Secretary shall support tribal administration of Indian
23 fish and wildlife resource management activities to achieve
24 the following objectives:

1 (1) To carry out the government-to-government
2 relationship between Indian tribal governments and
3 the United States in the management of Indian fish
4 and wildlife resources.

5 (2) To protect Indian hunting, fishing, and
6 gathering rights guaranteed to Indian tribes by the
7 United States through treaty, statute, Executive
8 order, or court decree.

9 (3) To provide for the development and en-
10 hancement of the capacities of Indian tribal govern-
11 ments to manage Indian fish and wildlife resources.

12 (4) To protect, conserve and enhance Indian
13 fish and wildlife resources that are important to the
14 subsistence, cultural enrichment, and economic de-
15 velopment of Indian communities.

16 (5) To promote the development and use of In-
17 dian fish and wildlife resources for the maximum
18 benefit of Indian people, by managing Indian re-
19 sources in accordance with tribally-developed inte-
20 grated resource management plans which provide co-
21 ordination for the comprehensive management of all
22 natural resources.

23 (6) To selectively develop and increase produc-
24 tion of certain fish and wildlife resources.

1 (7) To authorize and support tribal co-manage-
2 ment or cooperative activities in local, regional, na-
3 tional or international decision-making processes and
4 forums.

5 (8) To develop and increase production of fish,
6 wildlife and bison resources so as to better meet In-
7 dian subsistence, ceremonial, recreational and com-
8 mercial needs.

9 (b) MANAGEMENT PROGRAM.—(1) In order to
10 achieve the objectives set forth in subsection (a), the Sec-
11 retary, in full consultation with Indian tribes and tribal
12 organizations, shall establish the Indian Fish and Wildlife
13 Resource Management Program which shall be adminis-
14 tered consistent with the provisions of the Indian Self-De-
15 termination and Education Assistance Act (25 U.S.C. 450
16 et seq.).

17 (2) The Secretary shall promote tribal management
18 of Indian fish, wildlife, trapping and gathering resources,
19 and implementation of this Act, through contracts, cooper-
20 ative agreements, or grants under the Indian Self-Deter-
21 mination and Education Assistance Act (25 U.S.C. 450
22 et seq.), or other Federal laws.

23 (3) The Secretary, upon the request of any Indian
24 tribe or tribal organization, shall enter into a contract, co-
25 operative agreement, or a grant under the Indian Self-De-

1 termination and Education Assistance Act, with the tribe
2 or tribal organization to plan, conduct, or administer any
3 program of the Department of the Interior, or portion
4 thereof which affects Indian fish and wildlife resources
5 and which is currently administered by the Secretary with-
6 out regard to the agency or office of the Department of
7 the Interior or the organizational level within the depart-
8 ment.

9 (4) The Secretary shall, upon the request of an In-
10 dian tribe or tribal organization, enter into a cooperative
11 agreement with the tribe or tribal organization on any
12 management issue affecting Indian fish and wildlife re-
13 sources.

14 (c) MANAGEMENT ACTIVITIES.—Indian fish and
15 wildlife resource management activities carried out under
16 the program established in subsection (b) may include, but
17 shall not be limited to—

18 (1) the development, implementation, and en-
19 forcement of tribal codes, ordinances, and regula-
20 tions;

21 (2) the development and implementation of re-
22 source and management plans, surveys, and inven-
23 tories;

24 (3) the conduct of fish and wildlife population
25 and life history investigations, habitat investigations,

1 habitat restoration, harvest management, and use
2 studies;

3 (4) fish production and hatchery management;

4 (5) the development of tribal conservation pro-
5 grams, including employment and training of tribal
6 conservation enforcement officers; and

7 (6) participation in joint or cooperative man-
8 agement of fish and wildlife resources on a regional
9 basis with Federal, State, tribal, and local or inter-
10 national authorities.

11 (d) SURVEY AND REPORT.—

12 (1) The Secretary is authorized to enter into
13 contracts or provide grants to Indian tribes or tribal
14 organizations under the authority of the Indian Self-
15 Determination and Education Assistance Act (25
16 U.S.C. 450 et seq.) for the purpose of developing a
17 report to the Congress based on a survey of each In-
18 dian reservation that shall include, but not be lim-
19 ited to—

20 (A) a review of existing tribal codes, ordi-
21 nances, and regulations governing the manage-
22 ment of fish and wildlife resources;

23 (B) an assessment of the need to update
24 and revise tribal codes, ordinances, and regula-

1 tions governing tribal fish and wildlife resource
2 protection and use;

3 (C) a determination and documentation of
4 the needs for tribal conservation officers, tribal
5 fisheries and wildlife biologists, and other pro-
6 fessionals to administer Indian fish and wildlife
7 resource management programs;

8 (D) an assessment of the need to provide
9 training to and develop curricula for Indian fish
10 and wildlife resource personnel, including tribal
11 conservation officers, which incorporate law en-
12 forcement, fish and wildlife conservation, identi-
13 fication and resource management principles
14 and techniques; and

15 (E) a determination and documentation of
16 the condition of Indian fish and wildlife re-
17 sources.

18 (2) Within one year of the date of enactment of
19 this Act, the Secretary shall submit to the Congress
20 a report which includes the results of the survey con-
21 ducted under the authority of subsection (1) of this
22 section.

23 (e) INDIAN FISH AND WILDLIFE RESOURCE MAN-
24 AGEMENT PLANS.—

1 (1) To meet the management objectives set
2 forth in subsection (a), an Indian fish and wildlife
3 resource management plan shall be developed and
4 implemented as follows:

5 (A) Pursuant to a self-determination con-
6 tract or self governance compact under the In-
7 dian Self-Determination and Education Assist-
8 ance Act, an Indian tribe may develop or imple-
9 ment an Indian fish and wildlife management
10 plan. Subject to the provisions of subparagraph
11 (C), the tribe shall have broad discretion in de-
12 signing and carrying out the planning process.

13 (B) If a tribe elects not to contract the de-
14 velopment or implementation of a plan, the Sec-
15 retary shall develop or implement the plan in
16 close consultation with the affected tribe.

17 (C) Whether developed directly by the tribe
18 or by the Secretary, the plan shall—

19 (i) determine the condition of fish and
20 wildlife resources and habitat conditions,

21 (ii) identify specific tribal fish and
22 wildlife resource goals and objectives,

23 (iii) establish management objectives
24 for the resources,

- 1 (iv) define critical values of the Indian
2 tribe and its members and provide identi-
3 fied comprehensive management objectives,
4 (v) be developed through public meet-
5 ings,
6 (vi) use the public meeting records,
7 existing survey documents, reports, and
8 other research from Federal agencies and
9 tribal community colleges, and
10 (vii) be completed within three years
11 of the initiation of activity to establish the
12 plan.

13 (2) Indian fish and wildlife management plans
14 developed and approved under this section shall gov-
15 ern the management and administration of Indian
16 fish and wildlife resources by the Bureau and the In-
17 dian tribal government.

18 (f) TRIBAL MANAGEMENT IN REGIONAL RESOURCE
19 MANAGEMENT AREAS.—

20 (1) REVIEW.—To achieve the objectives set
21 forth in section 201(a), and consistent with the pro-
22 visions of the Indian Self-Determination and Edu-
23 cation Assistance Act, the Secretary shall review ex-
24 isting programs involving the management of multi-
25 jurisdictional fish, wildlife and gathering resources

1 in regional resource management areas, for the pur-
2 pose of determining the need for Indian representa-
3 tion, program adequacy and staffing needs to appro-
4 priately represent the interests of member tribes.

5 (2) REPORT.—Within one year of the date of
6 enactment of this Act, the Secretary shall submit a
7 report to the Congress based upon the review con-
8 ducted under subsection (1) of this section assessing
9 fish and wildlife program adequacy and staffing
10 needs, and the condition of fish and wildlife re-
11 sources in regional resource management areas.

12 (g) ASSISTANCE.—The Secretary is authorized to
13 provide financial and technical assistance to enable Indian
14 tribes to—

15 (1) update and revise tribal codes, ordinances,
16 and regulations governing tribal fish and wildlife re-
17 source protection and use;

18 (2) employ tribal conservation officers, tribal
19 fisheries and wildlife biologists, and other profes-
20 sionals to administer Indian fish and wildlife re-
21 source management programs; and

22 (3) provide training for Indian fish and wildlife
23 resource personnel including tribal conservation offi-
24 cers under a curricula that incorporates law enforce-

1 ment, fish and wildlife conservation, identification
2 and resource management principles and techniques.

3 EDUCATION IN INDIAN FISH AND WILDLIFE RESOURCE

4 MANAGEMENT

5 SEC. 202. (a) SCHOLARSHIP PROGRAM.—

6 (1) The Secretary is authorized to grant fish
7 and wildlife management scholarships to Indians en-
8 rolled in accredited programs for post-secondary and
9 graduate fish and wildlife resource management-re-
10 lated fields of study as full-time students.

11 (2) A recipient of a fish and wildlife manage-
12 ment scholarship shall be required to enter into an
13 obligated service agreement in which the recipient
14 agrees to accept employment with an Indian tribe, a
15 tribal organization, with the Bureau of Indian Af-
16 fairs, or with the United States Fish and Wildlife
17 Service for one year for each year the recipient re-
18 ceived scholarship assistance following completion of
19 the recipient's course of study.

20 (3) The Secretary shall not deny scholarship as-
21 sistance under this subsection solely on the basis of
22 an applicant's scholastic achievement if the applicant
23 has been admitted to and remains in good standing
24 in an accredited post-secondary or graduate institu-
25 tion.

1 (b) FISH AND WILDLIFE EDUCATION OUTREACH.—

2 The Secretary shall conduct, with the full and active par-
3 ticipation of Indian tribes, a fish and wildlife and gather-
4 ing resource education outreach program to explain and
5 stimulate interest in all aspects of Indian fish and wildlife
6 management and to generate interest in careers as fish-
7 eries or wildlife biologists or management.

8 (c) POSTGRADUATE RECRUITMENT.—The Secretary

9 shall establish and maintain a program to attract profes-
10 sional Indian fish or wildlife biologists who have graduated
11 from post-secondary or graduate schools for employment
12 by Indian tribes, tribal organizations, the Bureau of In-
13 dian Affairs, or the United States Fish and Wildlife Serv-
14 ice in exchange for the Secretary's assumption of all or
15 a portion of the employee's outstanding student loans, de-
16 pending upon the period of employment involved.

17 (d) FISH AND WILDLIFE BIOLOGIST INTERN PRO-
18 GRAM.—

19 (1) The Secretary shall, with the full and active
20 participation of Indian tribes, establish a Fish and
21 Wildlife Resources Intern Program for at least 20
22 Indian fish and wildlife intern positions. Such posi-
23 tions shall be in addition to the forester intern posi-
24 tions authorized in section 314(a) of the National
25 Indian Forest Resources Management Act (25

1 U.S.C. 3113(a)). Individuals selected as interns shall
2 be enrolled full-time in approved post-secondary or
3 graduate schools in curricula leading to advanced de-
4 grees in fish or wildlife resource management-related
5 fields.

6 (2) The Secretary shall pay all costs for tuition,
7 books, fees and living expenses incurred by Indian
8 fish and wildlife interns while attending approved
9 study programs.

10 (3) An Indian fish and wildlife resource intern
11 shall be required to enter into an obligated service
12 agreement to serve in a professional fish or wildlife
13 management-related capacity with an Indian tribe or
14 tribal organization, or with the Bureau of Indian Af-
15 fairs, or with a United States Fish and Wildlife
16 Service program serving or benefitting Indian fish
17 and wildlife resources, for one year for each year of
18 education for which the Secretary pays the intern's
19 educational costs under this subsection (2).

20 (4) An Indian fish and wildlife resource intern
21 shall be required to report for service to his or her
22 employing entity during any break in attendance at
23 school of more than 3 weeks duration. Time spent
24 in such service shall be counted toward satisfaction
25 of the intern's obligated service agreement.

1 (e) COOPERATIVE EDUCATION PROGRAM.—

2 (1) The Secretary shall maintain a cooperative
3 education program for the purpose of recruiting
4 promising Indian students who are enrolled in sec-
5 ondary schools, tribally controlled community col-
6 leges, and other post-secondary or graduate schools
7 for employment as professional fisheries or wildlife
8 biologists or other related professional positions with
9 an Indian tribe, tribal organization, the Bureau of
10 Indian Affairs, or with the United States Fish and
11 Wildlife Service serving or benefitting Indian lands.

12 (2) Under the program authorized in subsection
13 (1), the Secretary shall pay all costs for tuition,
14 books and fees of an Indian student who is enrolled
15 in a course of study at an educational institution
16 with which the Secretary has entered into a coopera-
17 tive agreement, and who is interested in a career
18 with an Indian tribe, tribal organization, the Bureau
19 of Indian Affairs, or with the United States Fish
20 and Wildlife Service serving or benefitting Indian
21 lands.

22 (3) Financial need shall not be a requirement
23 to receive assistance under the program authorized
24 in subsection (1).

1 (4) A recipient of assistance under the program
2 authorized in subsection (1) shall be required to
3 enter into an obligated service agreement to serve as
4 a professional fish or wildlife biologist or other relat-
5 ed professional with an Indian tribe, tribal organiza-
6 tion, the Bureau of Indian Affairs, or the United
7 States Fish and Wildlife Service, for one year for
8 each year that the Secretary pays the recipient's
9 education costs pursuant to paragraph (2).

10 (f) ADEQUACY OF PROGRAMS.—The Secretary shall
11 provide administrative oversight of the programs described
12 in this section until a sufficient number of personnel are
13 available to administer Indian fish and wildlife resource
14 management programs on Indian lands and resource man-
15 agement areas.

16 (g) OBLIGATED SERVICE; BREACH OF CONTRACT.—

17 (1) OBLIGATED SERVICE.—Where an individual
18 enters into an agreement for obligated service in re-
19 turn for financial assistance under any provision of
20 this section, the Secretary shall adopt such regula-
21 tions as are necessary to provide for an offer of em-
22 ployment to the recipient of such assistance as re-
23 quired by such provision. Where an offer of employ-
24 ment is not reasonably made, the regulations shall
25 provide that such service shall no longer be required.

1 (2) BREACH OF CONTRACT.—Where an individ-
2 ual fails to accept a reasonable offer of employment
3 in fulfillment of such obligated service or unreason-
4 ably terminates or fails to perform the duties of such
5 employment, the Secretary shall require a repayment
6 of the financial assistance provided, pro rated for
7 the amount of time of obligated service that was per-
8 formed, together with interest on such amount which
9 would be payable if at the time the amounts were
10 paid they were loans bearing interest at the maxi-
11 mum legal prevailing rate, as determined by the Sec-
12 retary of the Treasury.

13 INDIAN FISH HATCHERY ASSISTANCE PROGRAM

14 SEC. 203. (a) PROGRAM.—The Secretary, with full
15 and active participation of Indian tribes, shall establish
16 and administer an Indian Fish Hatchery Assistance Pro-
17 gram to produce and distribute fish of the species, strain,
18 number, size and quality to assist Indian tribes to develop
19 tribal hatcheries and enhance fisheries resources on Indian
20 lands to meet resource needs, including but not limited
21 to, Indian subsistence, ceremonial and commercial fish-
22 eries needs.

23 (b) REPORT.—Within one year of the date of enact-
24 ment of this Act, the Secretary, with the full and active
25 participation of Indian tribes, shall submit a report to the
26 Congress identifying the facilities which comprise the In-

1 dian Fish Hatchery Program, the maintenance, rehabilita-
2 tion, and construction needs of such facilities, and provid-
3 ing a plan for their administration and cost-effective oper-
4 ation.

5 (c) FISH HATCHERY MAINTENANCE AND REHABILI-
6 TATION.—Within one year of the date of the enactment
7 of this Act, the Secretary, with the full and active partici-
8 pation of Indian tribes, shall submit a report to the Con-
9 gress identifying maintenance and rehabilitation needs of
10 the facilities that comprise the Indian Fish Hatchery As-
11 sistance Program, identifying criteria and procedures to
12 be used in evaluating and ranking fish hatchery mainte-
13 nance and rehabilitation project proposals submitted by
14 Indian tribes.

15 (d) CONTRACTING.—Upon the request of any Indian
16 tribe, the Secretary shall enter into a contract or annual
17 funding agreement with the tribe pursuant to an Indian
18 Self-Determination Education and Assistance Act con-
19 tract, cooperative agreement, or grant, to plan, conduct
20 and administer the Indian Fish Hatchery Assistance Pro-
21 gram, or portions thereof.

22 (e) FISH HATCHERY OPERATING AGREEMENTS.—
23 For hatcheries defined under section 103(5)(B), within
24 one year of the date of the enactment of this Act, the enti-
25 ties owning or operating such hatcheries shall enter into

1 agreements with the Secretary and the affected Indian
2 tribes specifying the manner in which each hatchery facil-
3 ity shall be operated so as to mitigate or recover Indian
4 fish resources subject to treaty fishing rights.

5 TITLE III—INDIAN BISON CONSERVATION AND
6 MANAGEMENT

7 INDIAN BISON CONSERVATION PROGRAM

8 SEC. 301. (a) The Secretary is authorized to enter
9 into contracts with or make grants to Indian tribes and
10 tribal organizations to develop and maintain an Indian
11 Bison Conservation Program to meet tribal subsistence,
12 ceremonial, commercial, and resource needs.

13 (b) A program established under the authority of this
14 section shall provide for the preservation, restoration, pro-
15 duction, care and management of bison.

16 (c) Funds provided under this section may be used
17 to—

- 18 (1) develop and implement bison management
19 plans, surveys, and inventories;
- 20 (2) conduct research on bison populations and
21 habitat;
- 22 (3) undertake habitat restoration; and
- 23 (4) develop range ecology and conservation pro-
24 grams.

1 INDIAN BISON RANCHING DEMONSTRATION PROJECTS

2 SEC. 302. (a) The Secretary, with the full and active
3 participation of Indian tribes, shall establish Indian Bison
4 Ranching Demonstration Projects to support Indian tribes
5 in their initiation, management, and maintenance of bison
6 ranching operations to meet tribal subsistence, ceremonial,
7 commercial, and resource needs.

8 (b) Within 24 months of the date of enactment of
9 this Act, the Secretary, with the full and active participa-
10 tion of Indian tribes, shall submit a report to the Congress
11 assessing the effectiveness of the Indian Bison Ranching
12 Demonstration Projects.

13 (c) Within 18 months of the date of enactment of
14 this Act, the Secretary shall, with the full and active par-
15 ticipation of Indian tribes, submit a report to the Congress
16 identifying criteria and procedures to be used in evaluat-
17 ing and ranking bison ranching operation maintenance
18 and rehabilitation project proposals submitted by Indian
19 tribes.

20 TITLE IV—NATIVE HAWAIIAN COMMUNITY-
21 BASED FISHERIES DEMONSTRATION PROJECTS

22 FINDINGS

23 SEC. 401. The Congress finds that—

24 (1) Native Hawaiians comprise a distinct and
25 unique indigenous people with a historical continuity

1 to the original inhabitants of the Hawaiian archipel-
2 ago whose society was organized as a nation prior to
3 1893;

4 (2) at the time of the arrival of the first non-
5 indigenous people in 1778, the Native Hawaiian peo-
6 ple lived in a highly-organized, self-sufficient, sub-
7 sistence society based on a communal land tenure
8 system with a sophisticated language, culture, and
9 religion;

10 (3) as inhabitants of an archipelago, the Native
11 Hawaiian people have, since time immemorial, relied
12 on their surrounding fishery resources for basic sub-
13 sistence, economic, social, cultural, and spiritual sus-
14 tenance;

15 (4) the protection and preservation of Native
16 Hawaiian traditional fisheries practices including the
17 management and conservation of fisheries resources,
18 and enforcement of conservation measures, and the
19 adaption of such traditional practices consistent with
20 modern management and conservation principles,
21 are vital to the well-being of the Native Hawaiian
22 people;

23 (5) Native Hawaiians have distinct rights rec-
24 ognized by federal law as beneficiaries of the Hawai-
25 ian Homes Commission Act of 1920 (42 Stat. 108)

1 and of the Act entitled "An Act to provide for the
2 admission of the State of Hawaii into the Union",
3 approved March 18, 1959 (73 Stat. 4);

4 (6) the United States trust responsibility for
5 the lands set aside for the benefit of Native Hawai-
6 ians has never been extinguished; and

7 (7) the Federal policy of self-determination and
8 self-governance is recognized to extend to all Native
9 Americans, including Native Hawaiians.

10 PURPOSES

11 SEC. 402. The purposes of this title are—

12 (1) to support and reaffirm Native Hawaiian
13 self-determination for the management, conserva-
14 tion, enforcement, and economic enhancement of tra-
15 ditional Native Hawaiian fisheries;

16 (2) to reaffirm and protect Native Hawaiian
17 fishing rights, and to provide for the planning, man-
18 agement, conservation, enhancement, orderly devel-
19 opment and wise use of the resources upon which
20 the meaningful exercise of such rights depends;

21 (3) to encourage communications and coopera-
22 tive agreements between State, Federal, and Native
23 Hawaiian entities responsible for multi-jurisdictional
24 fish resource decision-making; and

25 (4) to authorize and establish Native Hawaiian
26 community-based fisheries demonstration projects.

DEFINITIONS

1
2 SEC. 403. For purposes of this title:

3 (1) The term "fishery" means the harvest and
4 use of one or more stocks of marine fish found in
5 the waters surrounding the area that now comprises
6 the State of Hawaii.

7 (2) The term "Native Hawaiian" means any in-
8 dividual who is a descendant of the aboriginal Poly-
9 nesian people who, prior to 1778, occupied and exer-
10 cised sovereignty and self-determination in the area
11 that now comprises the State of Hawaii.

12 (3) The term "Native Hawaiian community-
13 based entity" means any entity or organization
14 which is composed primarily of Native Hawaiian
15 members from a specific community, which assists in
16 the social, cultural and economic development of the
17 Native Hawaiians in that community, and whose
18 stated purpose includes the protection and preserva-
19 tion of Native Hawaiian traditional fisheries prac-
20 tices.

21 (4) The term "Western Pacific Fishery Man-
22 agement Council" means the regional Council estab-
23 lished by section 302 of the Magnuson Fishery Con-
24 servation and Management Act with authority over
25 the fisheries in the Federal waters of the Exclusive

1 Economic Zone surrounding American Samoa,
2 Guam, the State of Hawaii and the Commonwealth
3 of the Northern Mariana Islands.

4 (5) Unless otherwise indicated, all other defini-
5 tions contained in section 103 shall apply to this
6 title.

7 NATIVE HAWAIIAN COMMUNITY-BASED FISHERIES

8 DEMONSTRATION PROJECTS

9 SEC. 404. (a) DEMONSTRATION PROJECTS AUTHOR-
10 ITY.—The Secretary shall make a direct grant to the
11 Western Pacific Fishery Management Council (“Council”)
12 in order that the Council may provide funding to Native
13 Hawaiian community-based entities for the purpose of es-
14 tablishing at least three, but not more than five, dem-
15 onstration projects to foster and promote the self-deter-
16 mination of Native Hawaiian communities over the man-
17 agement, conservation, enforcement and economic en-
18 hancement of Native Hawaiian fisheries.

19 (b) DUTIES AND RESPONSIBILITIES OF WESTERN
20 PACIFIC FISHERY MANAGEMENT COUNCIL.—The West-
21 ern Pacific Fishery Management Council shall—

22 (1) award, administer, and exercise oversight
23 responsibility over the grants authorized under this
24 title to qualified Native Hawaiian community-based
25 entities; and

1 (2) submit an annual report to the Congress as-
2 sessing the status and progress of the demonstration
3 projects, including any obstacles experienced by the
4 demonstration projects which have impeded the pur-
5 poses of this title.

6 (c) USE OF FUNDS.—Demonstration projects funded
7 under this section shall foster and promote the self-deter-
8 mination of Native Hawaiian communities over the man-
9 agement, conservation, enforcement and economic en-
10 hancement of Native Hawaiian fisheries, and may include,
11 but not be limited to—

12 (1) the identification and application of tradi-
13 tional Native Hawaiian fishery management prac-
14 tices on a community-wide basis;

15 (2) the planning, development and application
16 of community-based enforcement plans in order to
17 protect and conserve off-shore and ocean resources,
18 and to enforce existing applicable State and Federal
19 laws, in cooperation with State and Federal entities;

20 (3) the development of community-based eco-
21 nomic enhancement fishery projects; and

22 (4) research, community education, and mate-
23 rials, including equipment, necessary to accomplish
24 the purposes of the demonstration projects under
25 this title.

1 (d) ADMINISTRATIVE COSTS.—No more than 7 per-
2 cent of the funds appropriated to carry out the provisions
3 of this title for any fiscal year may be used for administra-
4 tive purposes by the Western Pacific Fishery Management
5 Council.

6 (e) TECHNICAL ASSISTANCE.—In order to carry out
7 the purposes of this title, State and Federal agencies, in-
8 cluding the Western Pacific Fishery Management Council,
9 are authorized to assist the Native Hawaiian community-
10 based demonstration projects in meeting their technical
11 assistance and management needs, as determined by the
12 affected Native Hawaiian communities.

13 TITLE V—AUTHORIZATION OF
14 APPROPRIATIONS

15 There are authorized to be appropriated such sums
16 as may be necessary to carry out the purposes of this Act.

17 TITLE VI—MISCELLANEOUS PROVISIONS
18 REGULATIONS

19 SEC. 601. Except as otherwise provided by this Act,
20 the Secretary shall promulgate final regulations for the
21 implementation of this Act within 18 months following the
22 date of the enactment of this Act. All regulations promul-
23 gated pursuant to this Act shall be developed by the Sec-
24 retary with the full and active participation of the Indian
25 tribes.

SEVERABILITY

1

2 SEC. 602. If any provision of this Act, or the applica-
3 tion of any provision of this Act to any person or cir-
4 cumstance, is held invalid, the application of such provi-
5 sion or circumstance and the remainder of this Act shall
6 not be affected thereby.

7

TRUST RESPONSIBILITY

8 SEC. 603. (a) In any departmental action which af-
9 fects Indian fish and wildlife resources, the Secretary shall
10 fully consult with and seek the participation of Indian
11 tribes in a manner consistent with the Federal trust re-
12 sponsibility and the government-to-government relation-
13 ship between Indian tribes and the Federal Government.

14 (b) Nothing in this Act shall be construed to diminish
15 or expand the trust responsibility of the United States for
16 Indian natural resources, or any legal obligation or remedy
17 resulting therefrom.

18

TREATY OBLIGATIONS

19 SEC. 604. Nothing in this Act shall be construed to
20 diminish or adversely affect the rights of Indian tribes es-
21 tablished in existing Indian treaties or other Federal laws
22 or court decrees.

○