

# Union Calendar No. 159

108<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1945

[Report No. 108-272]

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2003

Mr. THOMPSON of California (for himself, Mr. SIMPSON, Mr. CUNNINGHAM, Mrs. TAUSCHER, Mr. GREENWOOD, Mr. WU, Ms. WOOLSEY, Mr. FARR, Mrs. DAVIS of California, Mr. STARK, Mr. MATSUI, Mr. SMITH of Washington, and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Resources

SEPTEMBER 16, 2003

Additional sponsors: Ms. ESHOO, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, and Mrs. CAPPS

SEPTEMBER 16, 2003

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

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on May 1, 2003]

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## A BILL

To authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration

projects in coastal waters and upland drainages, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. SALMON CONSERVATION AND SALMON HABITAT**  
7 **RESTORATION ASSISTANCE.**

8       *(a) REQUIREMENT TO PROVIDE ASSISTANCE.—Sub-*  
9 *ject to the availability of appropriations, the Secretary of*  
10 *Commerce shall provide financial assistance in accordance*  
11 *with this Act to qualified States and qualified tribal govern-*  
12 *ments for salmon conservation and salmon habitat restora-*  
13 *tion activities.*

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

17             *(1) shall allocate 90 percent among qualified*  
18 *States, in equal amounts; and*

19             *(2) shall allocate 10 percent among qualified*  
20 *tribal governments, in amounts determined by the*  
21 *Secretary.*

22       *(c) TRANSFER.—*

23             *(1) IN GENERAL.—The Secretary shall promptly*  
24 *transfer to a qualified State or qualified tribal gov-*

1 *ernment that has entered into a memorandum of un-*  
2 *derstanding under section 3(a) amounts allocated to*  
3 *the qualified State or qualified tribal government, re-*  
4 *spectively, under subsection (b) of this section.*

5 (2) *TRANSFERS TO QUALIFIED STATES.—The*  
6 *Secretary shall make the transfer to a qualified State*  
7 *under paragraph (1)—*

8 (A) *to the Washington State Salmon Recov-*  
9 *ery Board, in the case of amounts allocated to*  
10 *Washington;*

11 (B) *to the Oregon State Watershed En-*  
12 *hancement Board, in the case of amounts allo-*  
13 *cated to Oregon;*

14 (C) *to the California Department of Fish*  
15 *and Game for the California Coastal Salmon Re-*  
16 *covery Program, in the case of amounts allocated*  
17 *to California;*

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

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

22 (d) *REALLOCATION.—*

23 (1) *AMOUNTS ALLOCATED TO QUALIFIED*  
24 *STATES.—Amounts that are allocated to a qualified*  
25 *State for a fiscal year may be reallocated under sub-*

1 *section (b)(1) among the other qualified States, if the*  
2 *amounts remain unobligated at the end of the subse-*  
3 *quent fiscal year.*

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

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

13 (a) *MEMORANDA OF UNDERSTANDING.—*

14 (1) *IN GENERAL.—To receive assistance under*  
15 *this Act, a qualified State or qualified tribal govern-*  
16 *ment must enter into a memorandum of under-*  
17 *standing with the Secretary in accordance with this*  
18 *subsection.*

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

21 (A) *be consistent with other applicable Fed-*  
22 *eral laws;*

23 (B) *be consistent with the goal of salmon re-*  
24 *covery;*

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

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

6           (ii) *provide the greatest benefit to*  
7 *salmon conservation and salmon habitat*  
8 *restoration relative to the cost of the*  
9 *projects; and*

10          (iii) *conserve, and restore habitat,*  
11 *for—*

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

18           (II) *salmon that are given special*  
19 *protection under the laws or regula-*  
20 *tions of the qualified State or resolu-*  
21 *tions, ordinances, or regulations of the*  
22 *qualified tribal government, respec-*  
23 *tively;*

24           (D) *in the case of a memorandum of under-*  
25 *standing submitted by a qualified State or quali-*

1 *fied tribal government the jurisdiction of which,*  
2 *as of the date of the enactment of this Act, con-*  
3 *tains no area at which a salmon species referred*  
4 *to in subparagraph (C)(iii)(I) spawns—*

5 *(i) give priority to use of assistance for*  
6 *projects referred to in subparagraph (C)(i)*  
7 *and (ii) that contribute to proactive pro-*  
8 *grams to conserve and enhance species of*  
9 *salmon that intermingle with, or are other-*  
10 *wise related to, species referred to in sub-*  
11 *paragraph (C)(iii)(I), which may include*  
12 *(among other matters)—*

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

15 *(II) salmon supplementation and*  
16 *enhancement;*

17 *(III) salmon habitat restoration;*

18 *(IV) increasing economic opportu-*  
19 *nities for salmon fishermen; and*

20 *(V) national and international co-*  
21 *operative habitat programs; and*

22 *(ii) provide for revision of the memo-*  
23 *randum of understanding within one year*  
24 *after any date on which any salmon species*  
25 *that spawns in the qualified State is listed*

1           *as an endangered species or threatened spe-*  
2           *cies, proposed for such listing, or a can-*  
3           *didate for such listing, under the Endan-*  
4           *gered Species Act of 1973 (16 U.S.C. 1531*  
5           *et seq.);*

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

8           *(F) include measurable criteria by which*  
9           *such activities may be evaluated;*

10          *(G) require that activities carried out with*  
11          *such assistance shall—*

12                   *(i) be scientifically based;*

13                   *(ii) be cost effective;*

14                   *(iii) not be conducted on private land*  
15                   *except with the consent of the owner of the*  
16                   *land; and*

17                   *(iv) contribute to the conservation and*  
18                   *recovery of salmon;*

19          *(H) require that the qualified State or*  
20          *qualified tribal government maintain its aggre-*  
21          *gate expenditures of funds from non-Federal*  
22          *sources for salmon habitat restoration programs*  
23          *at or above the average level of such expenditures*  
24          *in the 2 fiscal years preceding the date of the en-*  
25          *actment of this Act; and*

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

5           (3) SOLICITATION OF COMMENTS.—In preparing  
6           a memorandum of understanding under this sub-  
7           section a qualified State should to the extent prac-  
8           ticable seek comments on the memorandum of under-  
9           standing from local governments in the qualified  
10          State.

11          (b) ELIGIBLE ACTIVITIES.—

12           (1) IN GENERAL.—Assistance under this Act  
13           may be used by a qualified State or by a qualified  
14           tribal government in accordance with a memorandum  
15           of understanding entered into by the government  
16           under subsection (a), to carry out or make grants to  
17           carry out, among other activities, the following:

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

23           (B) Salmon-related research, data collec-  
24           tion, and monitoring, salmon supplementation



1           *and enhancement, and salmon habitat restora-*  
2           *tion.*

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

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

10          *(E) Other activities related to salmon con-*  
11          *servation and salmon habitat restoration.*

12          *(F) In the case of a memorandum of under-*  
13          *standing regarding conservation and restoration*  
14          *in Washington or Idaho, other activities to pro-*  
15          *tect and restore Bull trout.*

16          *(G) In the case of a memorandum of under-*  
17          *standing regarding conservation and restoration*  
18          *in Oregon, other activities to protect and restore*  
19          *Lahontan cutthroat trout and Bull trout.*

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

23          *(c) USE OF ASSISTANCE FOR ACTIVITIES OUTSIDE OF*  
24          *JURISDICTION OF RECIPIENT.—Assistance under this sec-*  
25          *tion provided to a qualified State or qualified tribal govern-*

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

6 *(d) COST SHARING BY QUALIFIED STATES.—*

7 *(1) IN GENERAL.—A qualified State shall match*  
8 *25 percent of the amount of any financial assistance*  
9 *provided to the qualified State for a fiscal year under*  
10 *this Act, in the form of monetary contributions or in-*  
11 *kind contributions of services for projects carried out*  
12 *with such assistance. For purposes of this paragraph,*  
13 *monetary contributions by the State shall not be con-*  
14 *sidered to include funds received from other Federal*  
15 *sources.*

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

20 *(3) TREATMENT OF MONETARY CONTRIBU-*  
21 *TIONS.—For purposes of subsection (a)(2)(H), the*  
22 *amount of monetary contributions by a qualified*  
23 *State under this subsection shall be treated as expend-*  
24 *itures from non-Federal sources for salmon conserva-*  
25 *tion and salmon habitat restoration programs.*

1       (e) *COORDINATION OF ACTIVITIES.*—

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

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

12      (f) *LIMITATION ON ADMINISTRATIVE EXPENSES.*—

13              (1) *FEDERAL ADMINISTRATIVE EXPENSES.*—Of  
14      the amount made available under this Act each fiscal  
15      year, not more than 2 percent may be used by the  
16      Secretary for administrative expenses incurred in  
17      carrying out this Act.

18              (2) *STATE AND TRIBAL ADMINISTRATIVE EX-*  
19      *PENSES.*—Of the amount allocated under this Act to  
20      a qualified State or qualified tribal government each  
21      fiscal year, not more than 4 percent may be used by  
22      the qualified State or qualified tribal government, re-  
23      spectively, for administrative expenses incurred in  
24      carrying out this Act.

1 **SEC. 4. PUBLIC PARTICIPATION.**

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

7 (b) *QUALIFIED TRIBAL GOVERNMENTS.*—Each quali-  
8 fied tribal government receiving assistance under this Act  
9 shall hold public meetings to receive recommendations on  
10 the use of the assistance.

11 **SEC. 5. CONSULTATION NOT REQUIRED.**

12 Consultation under section 7 of the *Endangered Spe-*  
13 *cies Act of 1973 (16 U.S.C. 1531 et seq.)* shall not be re-  
14 quired based solely on the provision of financial assistance  
15 under this Act.

16 **SEC. 6. REPORTS.**

17 (a) *QUALIFIED STATES.*—Each qualified State shall,  
18 by not later than December 31 of each year, submit to the  
19 Committee on Commerce, Science, and Transportation of  
20 the Senate and the Committee on Resources of the House  
21 of Representatives an annual report on the use of financial  
22 assistance received by the qualified State under this Act.  
23 The report shall contain an evaluation of the success of this  
24 Act in meeting the criteria listed in section 3(a)(2).

25 (b) *SECRETARY.*—

1           (1) *ANNUAL REPORT REGARDING FINANCIAL AS-*  
2           *SISTANCE.—The Secretary shall, by not later than*  
3           *December 31 of each year, submit to the Committee*  
4           *on Commerce, Science, and Transportation of the*  
5           *Senate and the Committee on Resources of the House*  
6           *of Representatives an annual report on the use of fi-*  
7           *nancial assistance received by qualified States and*  
8           *qualified tribal governments under this Act. The re-*  
9           *port shall contain an evaluation of the success of this*  
10          *Act in meeting the criteria listed in section 3(a)(2).*

11          (2) *ANNUAL REPORT REGARDING MEMORANDA OF*  
12          *UNDERSTANDING.—The Secretary shall, by not later*  
13          *than one year after the date of the enactment of this*  
14          *Act, and annually thereafter—*

15                 (A) *review the memorandum of under-*  
16                 *standing under section 3(a) of each qualified*  
17                 *State and each qualified tribal government and*  
18                 *the review process of each qualified State and*  
19                 *each qualified tribal government salmon recovery*  
20                 *program; and*

21                 (B) *report on such review to the Committee*  
22                 *on Commerce, Science and Transportation of the*  
23                 *Senate and the Committee on Resources of the*  
24                 *House of Representatives, including rec-*  
25                 *ommendations of any means to make the State*

1            *or tribal programs more efficient for salmon re-*  
2            *covery.*

3 **SEC. 7. DEFINITIONS.**

4        *In this Act:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           (5) SECRETARY.—The term “Secretary” means  
24 the Secretary of Commerce.

1 **SEC. 8. REPORT REGARDING TREATMENT OF INTER-**  
2 **NATIONAL FISHERY COMMISSION PEN-**  
3 **SIONERS.**

4 *The President shall—*

5 *(1) determine the number of United States citi-*  
6 *zens who—*

7 *(A) served as employees of the International*  
8 *Pacific Salmon Fisheries Commission or the*  
9 *International North Pacific Fisheries Commis-*  
10 *sion; and*

11 *(B) worked in Canada in the course of em-*  
12 *ployment with that commission;*

13 *(2) calculate for each such employee the dif-*  
14 *ference between—*

15 *(A) the value, in United States currency, of*  
16 *the annuity payments made and to be made (de-*  
17 *termined by an actuarial valuation) by or on be-*  
18 *half of each such commission to the employee;*  
19 *and*

20 *(B) the value, in Canadian currency, of*  
21 *such annuity payments; and*

22 *(3) by not later than September 1, 2004, submit*  
23 *to the Committee on Resources of the House of Rep-*  
24 *resentatives and the Committee on Commerce, Science*  
25 *and Transportation of the Senate a report on the de-*



1 *terminations and calculations made under para-*  
2 *graphs (1) and (2).*

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4 *There is authorized to be appropriated \$200,000,000*  
5 *for each of the fiscal years 2004, 2005, and 2006 to carry*  
6 *out this Act. Funds appropriated under this section may*  
7 *remain until expended.*

8 **SEC. 10. SENSE OF THE CONGRESS REGARDING BIPAR-**  
9 **TISAN JULY 2000 GOALS.**

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

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1ST SESSION

**H. R. 1945**

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