

YUKON RIVER SALMON ACT OF 1999

JUNE 25, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 1652]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1652) to establish the Yukon River Salmon Advisory Panel, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Yukon River Salmon Act of 1999”.

SEC. 2. YUKON RIVER SALMON PANEL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There shall be a Yukon River Salmon Panel (in this Act referred to as the “Panel”).

(2) FUNCTIONS.—The Panel shall—

(A) advise the Secretary of State regarding the negotiation of any international agreement with Canada relating to management of salmon stocks originating from the Yukon River in Canada;

(B) advise the Secretary of the Interior regarding restoration and enhancement of such salmon stocks; and

(C) perform other functions relating to conservation and management of such salmon stocks as authorized by this or any other Act.

(3) DESIGNATION AS UNITED STATES REPRESENTATIVES ON BILATERAL BODY.—The Secretary of State may designate the members of the Panel to be the United States representatives on any successor to the panel established by the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995, if authorized by any agreement establishing such successor.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Panel shall be comprised of six members, as follows:

(A) One member who is an official of the United States Government with expertise in salmon conservation and management, who shall be appointed by the Secretary of State.

(B) One member who is an official of the State of Alaska with expertise in salmon conservation and management, who shall be appointed by the Governor of Alaska.

(C) Four members who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River, who shall be appointed by the Secretary of State in accordance with paragraph (2).

(2) APPOINTEES FROM ALASKA.—(A) The Secretary of State shall appoint the members under paragraph (1)(C) from a list of at least 3 individuals nominated for each position by the Governor of Alaska.

(B) In making the nominations, the Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries.

(C) The Governor of Alaska may make appropriate nominations to allow for appointment of, and the Secretary of State shall appoint, under paragraph (1)(C)—

(i) at least one member who is qualified to represent the interests of Lower Yukon River fishing districts; and

(ii) at least one member who is qualified to represent the interests of Upper Yukon River fishing districts.

(D) At least one of the members appointed under paragraph (1)(C) shall be an Alaska Native.

(3) ALTERNATES.—(A) The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under paragraphs (1) (A) and (C), who meets the same qualifications, to serve in the absence of the Panel member.

(B) The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(1)(B), who meets the same qualifications, to serve in the absence of that Panel member.

(c) TERM LENGTH.—Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) REAPPOINTMENT.—Panel members and alternate Panel members shall be eligible for reappointment.

(e) DECISIONS.—Decisions of the Panel shall be made by the consensus of the Panel members appointed under subparagraphs (B) and (C) of subsection (b)(1).

(f) CONSULTATION.—In carrying out their functions, Panel members may consult with such other interested parties as they consider appropriate.

SEC. 3. ADVISORY COMMITTEE.

(a) APPOINTMENTS.—The Governor of Alaska may establish and appoint an advisory committee of not less than 8, but not more than 12, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the advisory committee members shall be Alaska Natives. Members of the advisory committee may attend all meetings of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the Panel.

(b) COMPENSATION.—The members of such advisory committee shall receive no compensation for their services.

(c) TERM LENGTH.—Members of such advisory committee shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) REAPPOINTMENT.—Members of such advisory committee shall be eligible for reappointment.

SEC. 4. EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel or to an advisory committee established under section 3.

SEC. 5. AUTHORITY AND RESPONSIBILITY.

(a) RESPONSIBLE MANAGEMENT ENTITY.—The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of any agreement with Canada regarding management of salmon stocks originating from the Yukon River in Canada.

(b) EFFECT OF DESIGNATION.—The designation under subsection (a) shall not be considered to expand, diminish, or otherwise change the management authority of the State of Alaska or the Federal Government with respect to fishery resources.

(c) **RECOMMENDATIONS OF PANEL.**—In addition to recommendations made by the Panel to the responsible management entities in accordance with any agreement with Canada regarding management of salmon stocks originating from the Yukon River in Canada, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of the Interior, the Department of Commerce, the Department of State, the North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

SEC. 6. ADMINISTRATIVE MATTERS.

(a) **COMPENSATION.**—Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS-15 of the General Schedule when engaged in the actual performance of duties.

(b) **TRAVEL AND OTHER NECESSARY EXPENSES.**—Travel and other necessary expenses shall be paid by the Secretary of the Interior for all Panel members, alternate Panel members, and members of any advisory committee established under section 3 when engaged in the actual performance of duties.

(c) **TREATMENT AS FEDERAL EMPLOYEES.**—Except for officials of the United States Government, all Panel members, alternate Panel members, and members of any advisory committee established under section 3 shall not be considered to be Federal employees while engaged in the actual performance of duties, 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. 7. YUKON RIVER SALMON STOCK RESTORATION AND ENHANCEMENT PROJECTS.

(a) **IN GENERAL.**—The Secretary of the Interior, in consultation with the Secretary of Commerce, may carry out projects to restore or enhance salmon stocks originating from the Yukon River in Canada and the United States.

(b) **COOPERATION WITH CANADA.**—If there is in effect an agreement between the Government of the United States and the Government of Canada for the conservation of salmon stocks originating from the Yukon River in Canada that includes provisions governing projects authorized under this section, then—

- (1) projects under this section shall be carried out in accordance with that agreement; and
- (2) amounts available for projects under this section—
 - (A) shall be expended in accordance with the agreement; and
 - (B) may be deposited in any joint account established by the agreement to fund such projects.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior to carry out this Act \$4,000,000 for each of fiscal years 2000, 2001, 2002, and 2003, of which—

- (1) such sums as are necessary shall be available each fiscal year for travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee established by paragraph C.2 of the memorandum of understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada (recorded January 28, 1985), and members of an advisory committee established and appointed under section 3, in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;
- (2) such sums as are necessary shall be available for the United States share of expenses incurred by the Joint Technical Committee and any panel established by any agreement between the Government of the United States and the Government of Canada for restoration and enhancement of salmon originating in Canada;
- (3) up to \$3,000,000 shall be available each fiscal year for activities by the Department of the Interior and the Department of Commerce for survey, restoration, and enhancement activities related to salmon stocks originating from the Yukon River in Canada, of which up to \$1,200,000 shall be available each fiscal year for Yukon River salmon stock restoration and enhancement projects under section 7(b); and
- (4) \$600,000 shall be available each fiscal year for cooperative salmon research and management projects in the portion of the Yukon River drainage located in the United States that are recommended by the Panel.

PURPOSE OF THE BILL

The purpose of H.R. 1652 is to establish the Yukon River Salmon Advisory Panel.

BACKGROUND AND NEED FOR LEGISLATION

Over a ten-year period beginning in 1985, the United States and Canada met to negotiate a long-term agreement for the conservation of salmon stocks originating from the Yukon River in Canada. The headwaters of the Yukon River are located in Canada, and fishermen from both the United States and Canada harvest salmon originating there. Concerns over the level of each country's harvest and the conservation of the stocks sparked the negotiations between the U.S. and Canada.

On February 3, 1995, the United States and Canada agreed, through an exchange of diplomatic notes, on an interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada. The interim agreement implemented provisions agreed to by the parties and allowed the institutional arrangements to commence while negotiations continued on a long-term arrangement. This agreement was scheduled to expire on December 31, 1997, but it was extended until March 1998 to allow for future negotiations. The negotiations were unsuccessful and the interim agreement expired.

The United States implemented the interim agreement through the enactment of the Fisheries Act of 1995 (Public Law 104-43, Section VII). The implementing legislation created the United States section of the Yukon River Salmon Panel and a U.S. Advisory Committee. The U.S. section of the Panel is comprised of six members—a Federal official, appointed by the Secretary of State; a State of Alaska official, appointed by its Governor; and four knowledgeable and experienced individuals, nominated by the Governor of Alaska and appointed by the Secretary of State. Out of these four individuals, one is required to represent the interests of the lower Yukon River Fishing Districts, one must represent the interests of the upper Yukon River Fishing Districts, and at least one Panel member must be an Alaskan Native. Each member serves a four-year term. The Act also created an Advisory Committee comprised of at least eight but no more than 12 individuals, with at least two members required to be Alaskan Natives. The Governor of Alaska appoints the Advisory Committee members, who serve two-year terms.

The Fisheries Act of 1995 authorized appropriations of \$4 million for each fiscal year to carry out the Agreement. Of this appropriation, not more than \$3 million was authorized for each fiscal year for the Department of the Interior and the Department of Commerce for survey, restoration, and enhancement activities. In addition, \$400,000 was authorized for fiscal years 1996-1999 for the Yukon River Restoration and Enhancement Fund. To date, \$200,000 has been appropriated annually for Yukon River Panel activities and \$400,000 for the joint Yukon River Restoration and Enhancement Fund. Panel activities covered under the appropriation include travel expenses of the Panel members, alternate Panel members, U.S. members of the Joint Technical Committee, and

members of the Advisory Committee when they are engaged in the actual performance of duties. The Restoration and Enhancement Fund is managed by the Panel. The Fund supports programs and directly associated research and management activities on either side of the U.S.-Canada border, based on recommendations by the Joint Technical Committee and are directed toward the restoration and enhancement of Canadian-origin salmon stocks.

Because the interim agreement has expired, it was unclear whether the Panel or the Advisory Committee, which were described in the interim agreement and created in the 1995 Act, were still viable. H.R. 1652 clarifies that the Panel and Advisory Committee remain in place to advise and recommend restoration and enhancement projects in lieu of an agreement. These Panel members and Advisory Committee members would also remain in place should a long-term agreement be implemented.

In addition, H.R. 1652 authorizes funds for restoration and enhancement projects on the U.S. side of the Yukon River. If there is an agreement in effect between the U.S. and the Canada, funds are also authorized for joint restoration and enhancement projects. The projects and funds should be carried out and expended in accordance with any future agreement reached between the two countries.

COMMITTEE ACTION

H.R. 1652 was introduced on April 29, 1999, by Congressmen Don Young (R-AK) and Jim Saxton (R-NJ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On March 11, 1999, the Subcommittee held a hearing on the interim agreement, the 1995 Yukon River Salmon Act, and the need to allow the U.S. section of the Yukon River Panel to function without an agreement with Canada. The Administration testified in support of these measures. On May 6, 1999, the Subcommittee met to mark up the bill. There were no amendments and the bill was ordered favorably reported to the Full Committee by voice vote. On June 9, 1999, the Full Resources Committee met to consider the bill. Mr. Saxton offered an amendment in the nature of a substitute which made technical changes requested by the Administration. It was adopted by voice vote. The bill, as amended, was then 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 "Yukon River Salmon Act of 1999."

Section 2. Yukon River Panel

This section establishes the Yukon River Panel, its membership, functions, and designation as United States representatives on any future bilateral body. Membership on the Panel includes a federal government official, an official of the State of Alaska, and four Alaskans who are knowledgeable and experienced with regard to

salmon fisheries on the Yukon River. The designation of alternates, term lengths, and the decision process are also described.

It is the intent of the Committee under section 2(a)(3) of H.R. 1652 that the Secretary of State, when negotiating an agreement with Canada, include in the agreement language that makes it clear that the Panel created in this legislation is the Panel to represent the United States in any future agreement with Canada on the conservation and management of Yukon River salmon stocks originating in Canada and the United States.

Section 3. Advisory Committee

This section establishes the Advisory Committee. The Governor of Alaska may establish and appoint an Advisory Committee of not less than eight, but not more than 12, individuals who are knowledgeable and experienced with regard to salmon fisheries on the Yukon River. Advisory Committee members receive no compensation. Term lengths are two years and members may be re-appointed.

Section 4. Exemption

This section clarifies that the Panel and Advisory Committee are exempt from the requirements of the Federal Advisory Committee Act.

Section 5. Authority and responsibility

This section directs that the State of Alaska Department of Fish and Game shall be named as the responsible management entity for the United States. It also requires that the Panel make recommendations to the responsible management entity. In addition, the Panel can also make recommendations to the Department of the Interior, Department of Commerce, the Department of State, the North Pacific Fishery Management Council, and other federal or State entities. This section also clarifies that all of the Panel's recommendations are advisory in nature.

Section 6. Administrative matters

This section allows the Panel members and its alternates to receive compensation when engaged in the actual performance of duties. Travel expenses will be paid for the Panel members, alternates and any Advisory Committee member when performing their duties. None of the Panel members, alternates, or Advisory Committee members shall be considered federal employees while engaged in their duties, except for injury compensation or tort claims liability.

Section 7. Yukon River salmon stock restoration and enhancement projects

This section authorizes the Secretary of the Interior, in consultation with the Secretary of Commerce, to carry out projects to restore or enhance Yukon River salmon stocks. If there is an agreement in effect between the United States and Canada, this section allows money to be used for projects on the Canadian side of the Yukon River. Projects under this section shall be carried out in accordance with the agreement, and amounts available for projects

shall be expended in accordance with the agreement and may be deposited in a joint account established by the agreement.

Section 8. Authorization of appropriations

This section authorizes an appropriation of \$4 million to the Secretary of the Interior for each of fiscal years 2000–2003. The authorization of appropriation allows for travel expenses for the Panel members, alternate Panel members, and United States members of the Joint Technical Committee to be covered. In addition, any expenses incurred by the United States section of the Joint Technical Committee are authorized to be covered. Up to \$3 million shall be available in each fiscal year for activities by the Department of the Interior and the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon stocks. Out of the \$3 million, up to \$1.2 million shall be available for projects under section 7(b) of the Act. In addition, \$600,000 is earmarked for projects in the portion of the Yukon River drainage located in the United States that are recommended by the Panel.

It is the Committee's intention that the \$600,000 be used only for United States projects and not to cover any of the administrative costs funded under paragraphs 1 and 2 of this section. In addition, any money appropriated under paragraph 3 of this section shall be used for both United States and Canadian projects. However, projects on the Yukon River originating in Canada will only be funded if there is an agreement in effect between the United States and Canada for the conservation and management of Yukon River salmon stocks.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The advisory committee authorized in H.R. 1652 is already authorized by existing law, and its functions could not be performed by one or more federal agencies nor by enlarging the mandate of another existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

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

COMPLIANCE WITH HOUSE RULE XIII

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

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

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

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1999.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1652, the Yukon River Salmon Act of 1999.

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

Sincerely,

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

Enclosure.

H.R. 1652—Yukon River Salmon Act of 1999

Summary: Assuming appropriation of the authorized amounts, CBO estimates that the federal government would spend about \$16 million over the next five years to implement H.R. 1652. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1652 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of states, local, or tribal governments.

H.R. 1652 would reauthorize the Yukon River Salmon Panel, which advises the Secretary of State on the negotiation of international agreements with Canada regarding management of certain salmon stocks from the Yukon River. This 6-member, salaried panel also advised the Secretaries of State, Commerce, and the Interior and other regulatory bodies on the conservation and management of such salmon stocks. The bill also would reauthorize a related advisory committee, an unpaid group of local citizens and other knowledgeable individuals who advise the panel.

Section 7 of the bill would authorize the Secretary of the Interior, in consultation with the Secretary of Commerce, to carry out projects to restore salmon stocks originating from the Yukon River in Canada and the United States. Section 8 would authorize the

appropriation of \$4 million for each of fiscal years 2000 through 2003 to carry out the legislation. Of this amount, \$3 million would be available to the Secretaries of Commerce and the Interior for surveys and restoration projects and \$0.6 million would be used for salmon research and management projects. The balance would cover administrative expenses such as panel salaries, travel expenses of the panel, the advisory committee, and the Joint Technical Committee established under a memorandum of understanding with Canada. Such costs also could include the United States' share of restoration costs that may be incurred under any future agreement between the U.S. and Canada.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1652 is shown in the following table. For purposes of this estimate, CBO assumes that the entire amounts authorized will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar programs. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority ¹	1	0	0	0	0	0
Estimated outlays	1	0	0	0	0	0
Proposed changes:						
Authorization level	0	4	4	4	4	0
Estimated outlays	0	3	4	4	4	1
Spending under H.R. 1652:						
Authorization level ¹	1	4	4	4	4	0
Estimated outlays	1	3	4	4	4	1

¹The 1999 level is the amount appropriated for that year.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: H.R. 1652 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Deborah Reis.

Estimate Approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

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