

HOUSE JOINT RESOLUTION NO. 66

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 3/30/98

Referred: Judiciary, Finance

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to**
2 **subsistence uses of fish and wildlife by residents; and providing for an effective**
3 **date and repeal of the subsistence amendment.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** Article VIII, Constitution of the State of Alaska, is amended by adding a new
6 section to read:

7 **Section 19. Subsistence.** The legislature may, consistent with the sustained
8 yield principle and during times of shortage, provide a preference to and among
9 residents in the taking of fish and wildlife for subsistence uses based on proximity to
10 the resource and dependence on fish and wildlife.

11 * **Sec. 2.** Article XV, Constitution of the State of Alaska, is amended by adding a new
12 section to read:

13 **Section 29. Effective Date and Repeal of Amendment.** (a) Section 19 of
14 Article VIII, regarding subsistence uses of fish and wildlife by residents, takes effect
15 on the day following the date that the governor certifies that federal law governing
16 subsistence uses of fish and wildlife on federal public lands in the State

1 (1) affirms the sovereignty of the State over State land and water and
2 for the management of fish and wildlife in the State;

3 (2) defines the term "public lands" to expressly exclude State and
4 private land and water, including navigable waters;

5 (3) prohibits federal preemption of State management of fish and
6 wildlife on State and private land and navigable waters in the State;

7 (4) expressly waives or renounces all claims to authority for
8 management of fish and wildlife on State and private land and water that may arise
9 under the navigational servitude doctrine or the doctrine of reserved water rights;

10 (5) defines the terms "rural," "customary and traditional," and
11 "customary trade" to be consistent with the laws of the State;

12 (6) either repeals the federal regional advisory councils established
13 under Title VIII of the Alaska National Interest Lands Conservation Act (P.L. 96-487)
14 or amends the powers and functions of the councils so that the councils serve only as
15 advisors to managers of fish and wildlife;

16 (7) repeals sec. 801(b)(4) of the Alaska National Interest Lands
17 Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating
18 to management by the Secretary of the Interior of fish and wildlife for subsistence uses
19 on all federal public lands in Alaska;

20 (8) repeals sec. 801(b)(5) of the Alaska National Interest Lands
21 Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating
22 to the application of the federal subsistence priority on federal public lands to
23 navigable waters in which the United States has reserved water rights;

24 (9) repeals sec. 814 of the Alaska National Interest Lands Conservation
25 Act (P.L. 96-487), as amended, relating to the adoption of federal regulations as
26 necessary and appropriate to implement Title VIII of the Alaska National Interest
27 Lands Conservation Act;

28 (10) amends Title VIII of the Alaska National Interest Lands
29 Conservation Act (P.L. 96-487), as amended, as necessary to limit subsistence uses and
30 the preference for subsistence uses to fish and wildlife;

31 (11) amends Title VIII of the Alaska National Interest Lands

1 Conservation Act (P.L. 96-487), as amended, to eliminate references to co-management
2 agreements; and

3 (12) affirms that the laws of the State are consistent with provisions of
4 federal law, as amended in accordance with (1) - (11) of this subsection, governing the
5 subsistence uses of fish and wildlife on federal public land in the State.

6 (b) Section 19 of Article VIII is repealed if

7 (1) within one year from the date that voter approval of the ballot
8 proposition for the amendments proposed by this resolution was certified by the
9 lieutenant governor, the governor does not make the certification described in (a) of
10 this section;

11 (2) the State is determined by a federal agency or federal court to be
12 substantially out of compliance with federal law governing the subsistence uses of fish
13 and wildlife on federal public lands in the State; or

14 (3) a federal court issues a final judgment that any provision of Title
15 VIII of the Alaska National Interest Lands Conservation Act (P.L. 96-487), as
16 amended, or the manner in which Title VIII of the Alaska National Interest Lands
17 Conservation Act has been interpreted, enforced, or attempted to be enforced, violates
18 the Constitution of the United States or any other federal law.

19 * **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of
20 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
21 State of Alaska, and the election laws of the state.