

CS FOR HOUSE JOINT RESOLUTION NO. 102(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 5/28/98

Referred: Judiciary, Finance

Sponsor(s): HOUSE RESOURCES COMMITTEE

A RESOLUTION

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

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

5 * Section 1. Article VIII, sec. 4, Constitution of the State of Alaska, is amended to read:

6 Section 4. Sustained Yield. (a) Fish, forests, wildlife, grasslands, and all
7 other replenishable resources belonging to the State shall be utilized, developed, and
8 maintained on the sustained yield principle, subject to preferences among beneficial
9 uses.

10 * Sec. 2. Article VIII, sec, 4, Constitution of the State of Alaska, is amended by adding
11 new subsections to read:

12 (b) Except in areas designated by the legislature as nonsubsistence areas, the
13 legislature shall establish, consistent with the sustained yield principle, a preference for
14 subsistence uses of fish and wildlife that takes effect when a fish or wildlife resource
15 is not sufficient to accommodate all beneficial uses of the resource. The State may,
16 in times of shortage of a particular fish or wildlife resource, grant a preference for

1 subsistence uses of that fish or wildlife resource. The preference shall be available to
 2 any individual resident who resides within an area outside nonsubsistence areas as
 3 designated by the legislature and within an area in which the residents are determined
 4 to be customarily and traditionally dependent on the particular fish or wildlife resource,
 5 or who has demonstrated customary and traditional dependence on that particular fish
 6 or wildlife resource. Residents who do not reside within the area that is determined
 7 to be customarily and traditionally dependent on the particular fish or wildlife resource
 8 are rebuttably presumed not to qualify for the preference. The presumption shall be
 9 fully rebuttable so that a resident may qualify for the preference if customary and
 10 traditional dependence on the particular fish or wildlife resource is demonstrated.

11 (c) Except as provided in (b) of this section, the State may not grant a
 12 preference for subsistence uses of a fish or wildlife resource based exclusively or
 13 partly on a resident's place of residence.

14 (d) A preference established under (b) of this section shall not diminish the
 15 utilization of forests, grasslands, or other replenishable resources or mineral, water, or
 16 other natural resources of the State.

17 * **Sec. 3.** Article XV, Constitution of the State of Alaska, is amended by adding a new
 18 section to read:

19 **Section 29. Effective Date and Repeal of Subsistence Amendment.** (a) The
 20 governor shall certify the date that federal law governing subsistence uses of fish and
 21 wildlife on federal public lands in the State substantially complies with the following:

22 (1) defines the term "public lands" to expressly exclude State and
 23 private lands and waters, including navigable waters;

24 (2) waives federal jurisdiction over State and private lands and waters
 25 in the State;

26 (3) repeals the jurisdiction of the federal courts under Title VIII, Alaska
 27 National Interest Lands Conservation Act (P.L. 96-487), as amended, to hear cases
 28 arising from State management of fish and wildlife on State and private lands and
 29 waters, including navigable waters, in the State; and

30 (4) is consistent with Subsections 4(b), 4(c), and 4(d) of Article VIII.

31 (b) Subsections 4(b), 4(c), and 4(d) of Article VIII, regarding a preference for

1 subsistence uses of fish and wildlife, take effect on the day the legislature adopts a
2 resolution concurring with the governor's certification under (a) of this section.

3 (c) Subsections 4(b), 4(c), and 4(d) of Article VIII, regarding a preference for
4 subsistence uses of fish and wildlife, are repealed if a federal court in Alaska
5 Legislative Council v. Babbitt, Civil No. 1:98CV0069(JR), United States District Court
6 for the District of Columbia, issues a final decision that the Congress of the United
7 States exceeded the scope of its constitutional authority by enacting as part of Title
8 VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), either

9 (1) a rural resident preference for subsistence uses of fish and wildlife;
10 or

11 (2) a preemption of State authority over the management of fish and
12 wildlife on federal public lands in the State.

13 (d) For the purposes of (c) of this section, Subsections 4(b), 4(c), and 4(d) of
14 Article VIII are repealed on the day after the date of the final decision. The date of
15 the final decision is

16 (1) the date the time for appellate review of the decision expires
17 without request for appellate review; or

18 (2) for a final decision by the Supreme Court of the United States, the
19 date of the decision itself.

20 * **Sec. 4.** The amendments proposed by this resolution shall be placed before the voters of
21 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
22 State of Alaska, and the election laws of the state.