

CS FOR HOUSE JOINT RESOLUTION NO. 102(JUD)(fld H)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/29/98

Referred: Today's Calendar

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 may establish, consistent with the sustained yield principle, a preference for
14 subsistence uses of fish and wildlife that takes effect when a particular fish or wildlife
15 resource is not sufficient to reasonably accommodate all beneficial uses of the
16 resource. The preference shall be available to any individual resident who resides

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

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

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

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

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

21 (1) defines the term "public lands" to expressly exclude

22 (A) any and all State and private lands and waters, including
 23 any and all navigable waters; and

24 (B) any federal interest in waters arising under the navigational
 25 servitude or doctrine of reserved waters;

26 (2) waives federal jurisdiction, as provided or otherwise asserted under
 27 the Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, over
 28 any and all State and private lands and waters, including any and all navigable waters,
 29 in the State;

30 (3) repeals the jurisdiction of the federal courts under Title VIII, Alaska
 31 National Interest Lands Conservation Act (P.L. 96-487), as amended, to hear cases

1 arising from State management of fish and wildlife on State and private lands and
2 waters, including navigable waters, in the State; and

3 (4) acknowledges that the laws of the State that are in existence on
4 December 1, 1998, are consistent with provisions of federal law governing the
5 subsistence uses of fish and wildlife on federal public lands in the State.

6 (b) Subsections 4(b), 4(c), and 4(d) of Article VIII, regarding a preference for
7 subsistence uses of fish and wildlife, take effect on the day the legislature adopts a
8 resolution concurring with the governor's certification under (a) of this section.

9 (c) Subsections 4(b), 4(c), and 4(d) of Article VIII, regarding a preference for
10 subsistence uses of fish and wildlife, are repealed if a federal court issues a final
11 decision that the Congress of the United States exceeded the scope of its constitutional
12 authority by enacting as part of Title VIII, Alaska National Interest Lands
13 Conservation Act (P.L. 96-487), either

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

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

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

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

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

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