

BY REP. TAYLOR, Barnes, Collins, C.Davis, Furnace, Hanley, Hudson, Leman, Martin, Miller, Pettyjohn, Phillips, Rieger, Sharp, Shultz, Zawacki, Ulmer, Larson

1 IN THE HOUSE

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HOUSE CONCURRENT RESOLUTION NO. 68

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

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Relating to the subsistence priority

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required under the Alaska National

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Interest Lands Conservation Act.

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

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WHEREAS the Alaska National Interest Lands Conservation Act (ANILCA)

10 requires subsistence uses to be given priority on federal land in Alaska

11 over the taking of subsistence resources for other purposes; and

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WHEREAS under ANILCA only rural residents are entitled to the subsis-

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tence priority; and

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WHEREAS the Alaska Supreme Court held in McDowell v. State, 785 P.2d 1

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(Alaska 1989), that the state law granting a subsistence priority to rural

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residents violates secs. 3, 15, and 17 of art. VIII of the state constitu-

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tion; and

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WHEREAS the court did not discuss other grounds advanced by appellants

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in McDowell v. State, including the challenge based on the equal protection

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and due process clauses of the United States Constitution; and

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WHEREAS, unless the state implements the subsistence preference, the

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federal government is required under ANILCA to take over subsistence re-

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source management on federal land from the state; and

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WHEREAS the subsistence priority in ANILCA cannot be complied with

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under the state constitution and may violate the federal constitution;

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BE IT RESOLVED by the Alaska State Legislature that the Governor is

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respectfully requested to file an action in federal court on behalf of the

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State of Alaska challenging the constitutionality of the subsistence prior-

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ity under ANILCA and requesting that the federal government be enjoined

1 from assuming management over subsistence resources on federal land in
2 Alaska; and be it

3 FURTHER RESOLVED that the Department of Law is requested to arrange to
4 have the challenge handled by a private attorney or law firm through con-
5 tract.