

HJR

102



CS FOR HOUSE JOINT RESOLUTION NO. (107L )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SPECIAL SESSION

BY

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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) The legislature shall establish, consistent with the sustained yield principle,  
13 a preference for subsistence uses of fish and wildlife that takes effect when a fish or  
14 wildlife resource is not sufficient to accommodate all beneficial uses of the resource.

1 Notwithstanding any other section of this constitution, the State may, in times of  
 2 shortage of a particular fish or wildlife resource, grant a preference for subsistence  
 3 uses of that fish or wildlife resource. The preference shall be available to any  
 4 individual resident who resides within the area that is determined to be customarily and  
 5 traditionally dependent on the particular fish or wildlife resource or who has  
 6 demonstrated customary and traditional dependence on that particular fish or wildlife  
 7 resource. Residents who do not reside within the area that is determined to be  
 8 customarily and traditionally dependent on the particular fish or wildlife resource are  
 9 rebuttably presumed not to qualify for the preference. The presumption shall be fully  
 10 rebuttable so that a resident may qualify for the preference if customary and traditional  
 11 dependence on the particular fish or wildlife resource is demonstrated.

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

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

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

20 **Section 29. Effective Date and Repeal of Subsistence Amendment.** (a)  
 21 Subsections 4(b), 4(c), and 4(d) of Article VIII, regarding a preference for subsistence  
 22 uses of fish and wildlife, take effect on the day following the date that the governor  
 23 certifies that federal law governing subsistence uses of fish and wildlife on federal  
 24 public lands in the State

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

27 (2) waives federal jurisdiction over State and private lands and waters  
 28 in the State;

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

1 waters, including navigable waters, in the State; and

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

3 (b) 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 (c) For the purposes of (b) 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.

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AMENDMENT # *W*

Page 2 Line 22 delete "governor" and insert "legislature, by concurrent resolution,"

Page 2 Line 24 insert "substantially complies with the following:"

HOUSE RESOURCES STANDING COMMITTEE

*Passes*

DATE: 5-28

ISSUE: \_\_\_\_\_

	YEA	NAY	PRESENT
Representative Barnes	✓		
Representative Dyson		✓	
Representative Green	✓		
<del>Representative Joule</del>			
Representative Masek	✓		
<del>Representative Nicholia</del>			
Representative Williams		✓	
Co-Chairman Hudson		✓	
Co-Chairman Ogan	✓		
<b>TOTALS:</b>			

HOUSE RESOURCES STANDING COMMITTEE

DATE: 5-28

ISSUE: Move HJR 102

	YEA	NAY	PRESENT
7 Representative Barnes	✓		
1 Representative Dyson	✓		
2 Representative Green	✓		
3 Representative Joule		✓	
4 Representative Masek	✓		
5 Representative Nicholia		✓	
6 Representative Williams			
8 Co-Chairman Hudson	✓		
9 Co-Chairman Ogan	✓		
<b>TOTALS:</b>			