

**HJR**

**29**

# Bill History/Action Display



BILL: HJR 29

SHORT TITLE: CONST AM: SUBSISTENCE FISHING AND HUNTING

BILL VERSION:

SPONSOR(S): REPRESENTATIVE(S)DYSON

CURRENT STATUS: (H) RES

STATUS DATE: 01/14/02

THEN JUD, FIN

HEARING: (H) RES Mar 27 1:00 PM CAPITOL 124 TELECONFERENCE

TITLE: Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of fish and wildlife.

Full Text

No Fiscal Notes Available

Committee Action with Bill History

Jrn-Date	Jrn-Page	Action
01/14/02	<u>1946</u>	(H) PREFILE RELEASED 1/4/02
01/14/02	<u>1946</u>	(H) READ THE FIRST TIME - REFERRALS
01/14/02	<u>1946</u>	(H) RES, JUD, FIN
01/14/02	<u>1946</u>	(H) REFERRED TO RESOURCES

Similar Subject Match or Exact Subject Match  
CONSTITUTIONAL AMENDMENTS  
FISH & GAME (BOTH)  
SUBSISTENCE

Bill Root:  Display Bill Root



TO REPORT PROBLEMS WITH BASIS INQUIRY

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## REPRESENTATIVE FRED DYSON

### HJR 29

#### SPONSOR STATEMENT

#### *A Constitutional amendment to protect Subsistence Activities for all Alaskans*

Updated: March 22, 2002

Contact: Representative Fred Dyson's office, (907) 465-2199

A workable solution to Alaska's subsistence dilemma has been presented to us some time ago, and has lain buried in the tailing piles of previous attempts to solve this vexing and divisive issue.

Former legislator, Mark Hanley, said three years ago that the Clinton/Knowles/Babbit Subsistence Solution (C/K/BS) did not protect many rural subsistence users in that towns like Barrow, Dillingham, and Bethel are close to being ruled "Urban" under Federal guidelines. In addition, the C/K/BS provides almost nothing for "urban" natives or other urban Alaskans. To my knowledge no one followed up on this observation. Last year I introduced HJR 11 to amend our State Constitution to make it clear that Alaskan's believe that "in times of shortages, the highest and best use of fish and wildlife resources is real subsistence."

When Former Governor Jay Hammond suggested in August of this past year that the rural preference Federal requirement could be met by giving "local" people the subsistence priority during times of shortage it seemed like a genius solution. I talked to several native leaders and friends and they liked it too. This idea is essentially the same as the Hickel commission came up with a decade ago.

I spent an afternoon visiting with Gov. Hammond about this and he recommended inserting the Hanley/ Hammond concept into a new resolution. HJR29, the Hammond/Hickel/Hanley Subsistence Solution, is the result.

#### WHY IT SHOULD WORK

The new leadership in the Department of the Interior (DOI) should be able to accept and defend the concept that this solution allows rural people to have the priority subsistence access to fish and game IN THEIR AREA. If the DOI agrees, they should then stop and reverse the Federal take-over of our game management.

Our congressional delegation should be in a much better position to negotiate changes to ANILCA definitions and provisions because

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Alaskans will have demonstrated their support of authentic subsistence uses of fish and game by putting a very high priority on subsistence in our most fundamental document, our constitution.

Alaskan native elders and activists should be supportive because the Hammond/Hickel/Hanley Subsistence Solution, (3H2S? ©) is a significant NET GAIN in subsistence protection in that it protects subsistence users near the larger bush communities and allows for urban natives to practice subsistence if they have a demonstrable historic pattern of doing so. Finally the Eklutna people in my district will no longer be disqualified from subsistence fishing in their own 1000 year old fish camp. The plight of the Eklutna people is an absurd example of how flawed the C/K/BS allocation of subsistence rights is.

Urban, Non Native, and Constitutional protection enthusiasts like myself, should be comforted by a constitutional amendment that does not do great damage to our precious "Equal access, Equal protection" clauses in our State Constitution.

#### PROBLEMS AND UNRESOLVED ISSUES

While something like the Hammond/Hickel/Hanley Subsistence Solution (HJR 29) should get us started on solving this Gordian knot that is tearing parts of the Alaskan population apart, it does not solve all potential problems.

Commercial fishing interests will be concerned that the primacy of the subsistence users under this proposal might mean that all commercial fishing would be shut down until the needs and demands of the last subsistence user on the last creek in a drainage was met. This is a valid concern. My position is that that this very real problem is *better dealt with under Alaskan Management* than by the Federal Government.

This constitutional amendment will not solve the problems of inadequate definitions of "subsistence" and "customary and traditional" under ANILCA. Once again, with the 3H2S constitutional amendment in place, our powerful congressional delegation should be in an excellent position to negotiate more clear and fair ANILCA definitions. With our own Drue Pearce and Cam Tooley as advisors, Gail Norton of the Department of Interior should be in a position to facilitate a workable solution.

This solution also does not guarantee that Alaska's administration of subsistence will be out from under Federal Court Jurisdiction or that the issue of who has control over "submerged lands" and "reserved water rights" will be rectified.

These issues will probably be resolved in subsequent court decisions. BUT... HJR 29 IMPLEMENTING THE HAMMOND/HICKEL/HANLEY SUBSISTENCE SOLUTION GETS US STARTED. IF THE LEGISLATURE PUTS SOMETHING LIKE THIS CONSTITUTIONAL AMENDMENT ON THE BALLOT, I AM CONFIDENT THE ALASKA PEOPLE WILL PASS IT OVERWHELMINGLY. WITH THE STATE CONSTITUTIONAL ISSUE BEHIND US, WE CAN SIT DOWN TOGETHER TO MAKE AUTHENTIC SUBSISTENCE RIGHTS WORK FOR EVERY ALASKAN.

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## Representative Fred Dyson

FOR IMMEDIATE RELEASE: Sept. 28, 2001

CONTACT: Rep. Fred Dyson: 694-6683

### Rep. Dyson Offers Subsistence Solution

#### Ensures Knowles Team Can Consider Hammond, Hickel, Hanley Ideas

(ANCHORAGE) – Rep. Fred Dyson (R-Eagle River) today proposed a constitutional amendment addressing subsistence rights for both urban and rural Alaskans, and called on the Knowles Administration's subsistence task force to consider the proposal as it drafts an amendment for a likely special legislative session.

"Some of Alaska's best minds have been grappling with the subsistence dilemma for years, and previous governors have already produced solid options that deserve attention," said Dyson. "My amendment echoes language proposed by Jay Hammond, Wally Hickel and former Rep. Mark Hanley, and I want Knowles' task force to consider their ideas, as well."

The subsistence preference Dyson lays out in his proposed amendment would kick in whenever the harvestable surplus of fish or game in a game management unit (GMU) was less than the five-year average subsistence harvest. At that point, subsistence would become the highest-priority use, and subsistence priority would be allotted to those living within that GMU and to those who could show a five-year history of using or depending on the resource in that area.

"The genius of this approach is that it makes subsistence uses of wild resources the 'highest and best use' during times of shortage, and it gives the people the priority in their local area," Dyson said. "This solution is similar in concept to proposals made by the Hickel Commission a decade ago, by Mark Hanley three years ago, and by Jay Hammond in the Daily News in August."

Dyson said his amendment addresses Native concerns by enhancing and protecting local subsistence rights in urban and rural areas alike, and by eliminating the risk that subsistence rights would erode away from growing communities like Barrow or Bethel under a strictly "rural" subsistence preference. It should also reassure urban, non-Native residents and civil liberties advocates who value the Alaska Constitution's equal protection and equal access guarantees, which were threatened under efforts by Knowles and former Interior Secretary Bruce Babbitt to change state law to match federal mandate.

"By meeting the technical rural preference requirements in the Alaska National Interests Lands Conservation Act, this amendment would also make it easier for Alaska's Congressional delegation to win the minor changes in ANILCA we need to bring a final solution to one of Alaska's most divisive and pressing issues," Dyson said. "I hope that Governor Knowles will see the benefit of having his people consider this amendment as they draft their language."

Knowles has charged a hand-picked, 11-member panel with drafting a rural priority amendment that he will present to the Legislature in a special subsistence session he plans to call this fall.

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