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Bullard
3/14/18

CS FOR SENATE JOINT RESOLUTION NO. 13()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS STEDMAN, Wilson

A RESOLUTION

**Urging the United States Congress to amend the Marine Mammal Protection Act;
urging certain federal agencies to permit Alaska Native organizations and the Alaska
Department of Fish and Game to co-manage, take, and study sea otters; and urging the
United States Secretary of the Interior to review evidence and waive certain provisions
of the moratorium on taking sea otters.**

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

WHEREAS, between 1965 and 1969, the Alaska Department of Fish and Game
reintroduced approximately 400 sea otters in six different locations in Southeast Alaska's
coastal waterways without a long-term management plan; and

WHEREAS, in the absence of a management plan, the sea otter population in
southern Southeast Alaska's coastal waters has grown at an alarming rate; while 5,800 sea
otters were observed in 2003, an aerial survey conducted by the United States Fish and
Wildlife Service in 2012 estimated the population at over 27,712, an apparent population
growth rate of 13 percent each year, placing the 2018 population at an estimated 51,058; and

WHEREAS the federal government, which is responsible for protecting marine

1 mammals under the Marine Mammal Protection Act (16 U.S.C. 1361 - 1423h) has not
2 established an effective and ecologically balanced management plan for sea otters that serves
3 to protect Southeast Alaska's coastal marine ecosystem and shellfish resources that are
4 adversely affected by sea otters; and

5 **WHEREAS** a growing sea otter population is contributing to ecological imbalances
6 and diminished human subsistence and commercial harvests of Alaska shellfish resources;
7 and

8 **WHEREAS** the reintroduced sea otter population has proliferated without
9 management, consuming unquantified yet significant volumes of crab, abalone, urchins, sea
10 cucumbers, clams, and other shellfish resources on which Southeast Alaska's human residents
11 rely; and

12 **WHEREAS** the drastic population growth of the reintroduced sea otters and the
13 current population density of sea otters has, in some areas, depleted shellfish stocks so
14 severely that human subsistence, sport, personal use, and commercial harvest of shellfish is
15 not permitted because of unsustainably depleted shellfish resources; and

16 **WHEREAS** many residents of the state's coastal communities depend, directly or
17 indirectly, on the abundance and harvest of fisheries resources; and

18 **WHEREAS** the state's coastal communities face substantial challenges in developing
19 economic opportunities for their residents; and

20 **WHEREAS**, because revenue from harvests of the state's fisheries resources
21 contributes significantly to the economies of the state's coastal communities, residents of
22 these communities are sensitive to situations that threaten the harvest of fisheries resources;
23 and

24 **WHEREAS** Alaska Natives have harvested sea otters since time immemorial; and

25 **WHEREAS** the Marine Mammal Protection Act denies Alaska Natives their
26 customary and traditional practice of selling intact sea otter pelts; and

27 **WHEREAS** the Marine Mammal Protection Act permits Alaska Natives to harvest
28 sea otters for subsistence and for purposes of creating and selling authentic Alaska Native
29 handicrafts and clothing, if the sea otters are harvested in a manner that is not wasteful; and

30 **WHEREAS**, under the Marine Mammal Protection Act, Alaska Natives may sell
31 certain handicrafts and clothing made with sea otter pelts; and

1 **WHEREAS**, to take a sea otter in the state, current federal law requires an individual
2 to reside along the North Pacific or Arctic Ocean coasts and to either possess 25 percent
3 Alaska Native blood quantum or be enrolled under the Alaska Native Claims Settlement Act,
4 and there will be fewer individuals who meet those requirements in the future; and

5 **WHEREAS** the legal import of language in the Marine Mammal Protection Act,
6 which cites "authentic Native articles of handicraft and clothing" and "significantly altered,"
7 may not be clear to Alaska Native hunters and craftspeople; and

8 **WHEREAS** the United States Fish and Wildlife Service has failed to develop a
9 management plan for sea otters in consultation with any Alaska Native organization, even
10 though Alaska Native organizations have approached the service about developing a
11 management plan; and

12 **WHEREAS** implementation of a sustainable sea otter management plan would
13 maintain sea otter populations at a level that allows for ecological balance in the state's coastal
14 shellfish habitat and provide for expanded economic activity in the state's coastal regions; and

15 **WHEREAS** the State of Alaska is a model for the successful and sustainable
16 management and harvest of fish and game resources and is best situated to manage sea otters
17 along the state's coast; and

18 **WHEREAS**, after the Alaska Department of Fish and Game, the National Marine
19 Fisheries Service is the next best situated state or federal agency to manage the state's sea
20 otter population because the agency already manages other marine mammals and fishery
21 resources that are being adversely affected by sea otters; and

22 **WHEREAS**, under the Marine Mammal Protection Act, the United States Secretary
23 of the Interior is permitted to enter into cooperative agreements with Alaska Native
24 organizations to conserve marine mammals and provide co-management of subsistence
25 resources by Alaska Natives, and an agreement could include a management plan for the
26 harvest of sea otters that also protects shellfish resources adversely affected by an
27 unsustainable sea otter population; and

28 **WHEREAS**, rather than the United States Fish and Wildlife Service managing sea
29 otters in a manner that allows for ecological balance and human harvest of fishery resources,
30 the United States Fish and Wildlife Service has a record of protecting sea otters to the
31 detriment of other fishery resources and human needs, resulting in a situation in which the

1 fishery resources that sea otters feed are imperiled and the sea otter population itself placed at
2 risk of collapse;

3 **BE IT RESOLVED** that the Alaska State Legislature urges the United States
4 Secretary of the Interior, in consultation with the federal Marine Mammal Commission, to
5 review current data and scientific evidence relating to sea otter abundance and the detrimental
6 effects of sea otters in Southeast Alaska under 16 U.S.C. 1371(a)(3)(A), and, after reviewing
7 the evidence, waive the requirements of 16 U.S.C. 1371 to allow the taking of sea otters in
8 Southeast Alaska; and be it

9 **FURTHER RESOLVED** that the Alaska State Legislature urges the appropriate
10 federal agencies to work with the Alaska Department of Fish and Game and Southeast
11 Alaska's Native and non-Native leaders to establish a plan for sea otter management that will
12 maintain a balance between sustainable human harvest of shellfish resources and the region's
13 reintroduced sea otter population; and be it

14 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
15 Congress to transfer responsibility for sea otter management in the state from the United
16 States Department of the Interior to the Alaska Department of Fish and Game under 16 U.S.C.
17 1379, or, if not to the Alaska Department of Fish and Game, to the National Marine Fisheries
18 Service in the United States Department of Commerce; and be it

19 **FURTHER RESOLVED** that the Alaska State Legislature urges state and federal
20 agencies, in developing a management plan, actively to consider how the plan may expand
21 and enhance small businesses and provide other economic opportunities for Southeast
22 Alaska's residents; and be it

23 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
24 Congress to amend the Marine Mammal Protection Act to provide for an ecologically
25 balanced sea otter management regime instead of protecting sea otters at the expense of
26 marine ecosystems and fishery resources; expand the scope of allowable uses for harvest of
27 sea otters; permit any Alaska Native residing in the state who is a member of a federally
28 recognized tribe under 25 U.S.C. 5130 or who is enrolled under the Alaska Native Claims
29 Settlement Act, to take sea otters; provide that "authentic native articles of handicrafts and
30 clothing" under 16 U.S.C. 1379 include sea otter pelts that may be sold without restriction;
31 and allow the Alaska Department of Fish and Game or an Alaska Native organization

1 authorized under a cooperative agreement with the United States Secretary of the Interior or
2 the National Marine Fisheries Service to co-manage subsistence uses of sea otters, including
3 the authority to permit the sale and foreign export of sea otter pelts; and be it

4 **FURTHER RESOLVED** that, when an Alaska Native organization or the Alaska
5 Department of Fish and Game certifies to the United States Secretary of the Interior or the
6 National Marine Fisheries Service, in writing, that a sea otter population poses a threat to
7 Alaska Native subsistence resources and that the population may withstand higher levels of
8 taking without becoming unsustainable, and the Alaska Native organization or the department
9 provides a management plan for the study and taking of the sea otters designed to protect
10 fishery resources used for subsistence purposes, the Alaska State Legislature urges the United
11 States Secretary of the Interior or the National Marine Fisheries Service to issue a scientific
12 permit to the department or Alaska Native organization to carry out the management plan; and
13 be it

14 **FURTHER RESOLVED** that the Alaska State Legislature urges that the scientific
15 permit issued by the United States Secretary of the Interior or the National Marine Fisheries
16 Service

17 (1) authorize the Alaska Department of Fish and Game or an Alaska Native
18 organization to take as many sea otters as is necessary to protect subsistence fisheries
19 resources;

20 (2) grant the department or Alaska Native organization the authority to
21 administer the management plan, including the plan's amendment or modification, as
22 circumstances, including changes in the sustainability of the sea otter population or fisheries
23 resources within the same ecosystem, may dictate; and

24 (3) permit the department to delegate all or part of the agency's management
25 authority to an Alaska Native organization.

26 **COPIES** of this resolution shall be sent to the Honorable Paul D. Ryan, Speaker of
27 the U.S. House of Representatives; the Honorable Orrin Hatch, President pro tempore of the
28 U.S. Senate; the Honorable Ryan Zinke, United States Secretary of the Interior; and the
29 Honorable Lisa Murkowski and the Honorable Dan Sullivan, U.S. Senators, and the
30 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.