

CS FOR SENATE JOINT RESOLUTION NO. 19(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/11/95

Referred: Rules

Sponsor(s): SENATORS MILLER, Pearce, Green, Taylor, Halford

REPRESENTATIVES Toohey, Bunde, Ogan

A RESOLUTION

**1 Requesting the Congress to amend the Alaska National Interest Lands Conservation
2 Act to clarify that the term "public lands" means only federal land and water
3 and that any extension of federal jurisdiction onto adjacent land and water is
4 expressly prohibited.**

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

6 WHEREAS the State of Alaska entered into the Union on an equal footing with all other
**7 states, and the Statehood Compact specifically granted authority over fish and wildlife to the
8 State of Alaska; and**

9 WHEREAS the issue of fisheries management was one of the most prominent
10 justifications for statehood; and

11 WHEREAS the State of Alaska contends that the Statehood Compact cannot be legally
12 modified by either party without the consent of the other party; and

13 WHEREAS the Congress and the President of the United States are presently embarking
14 on a campaign to return rights and authority to the states; and

15 WHEREAS Title VIII of the Alaska National Interest Lands Conservation Act
16 (ANILCA; P.L. 96-487), enacted in 1980, grants a subsistence priority on federal public land

1 in Alaska; and

2 **WHEREAS** the Secretary of the Interior and the Secretary of Agriculture have
3 threatened unilateral federal preemption of state fish and wildlife management on state and
4 private land and water in Alaska; and

5 **WHEREAS** the State of Alaska, the federal government, and other parties are attempting
6 to sort out the complexities of the federal law related to jurisdictional issues created by
7 ANILCA; and

8 **WHEREAS** the legal process for developing a final resolution to the jurisdictional
9 questions is extremely slow, and major social and economic disruption is imminent if the federal
10 government continues on a course to illegally and unconstitutionally preempt state management
11 of fish and wildlife; and

12 **WHEREAS** the Congress specifically declined to grant preemption authority to the
13 Secretary of the Interior and the Secretary of Agriculture in ANILCA; and

14 **WHEREAS** the Congress specifically reemphasized that the jurisdiction and authority
15 of the state were to be maintained; and

16 **WHEREAS** the Alaska State Legislature is confident that the Alaska delegation in the
17 Congress and the people of Alaska would never have agreed to the final compromise ANILCA
18 package had they been advised that ANILCA contained provisions to allow federal preemption
19 of all state fish and wildlife management in Alaska; and

20 **WHEREAS** the federal agencies and some parties are arguing in recent court cases
21 concerning state/federal jurisdiction that federal reserved water rights and the navigational
22 servitude provide legal basis for a claim of federal title to land and resources; and

23 **WHEREAS** this interpretation of federal laws related to federal reserved water rights and
24 the navigational servitude is contrary to all existing related laws and policies adopted by the
25 Congress and threatens to undermine existing reserved water rights and navigable waters policies
26 that are critical to all western states;

27 **BE IT RESOLVED** that the Alaska State Legislature respectfully and urgently requests
28 the Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to
29 clarify that the original intent of the Congress was not to violate the Statehood Compact or to
30 preempt state management of fish and wildlife in Alaska; and be it

31 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests that the
32 Congress amend ANILCA to clarify that the definition of "public lands" means only federal

1 public land and water; and be it

2 **FURTHER RESOLVED** that, while the federal courts are resolving the federal/state
3 conflicts created by Title VIII of ANILCA, the Alaska State Legislature respectfully requests that
4 the Congress amend ANILCA to expressly prohibit preemption of state jurisdiction on state and
5 private land and water unless specifically authorized by the Congress and the State of Alaska;
6 and be it

7 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
8 Congress to clarify that neither ANILCA nor another federal law provides authority for the
9 federal agencies to claim title to resources or land through federal reserved water rights or
10 through the navigational servitude; and be it

11 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
12 Alaska delegation in Congress to oppose any other amendments to ANILCA until the Congress
13 takes action to confirm state management and to limit the definition of "public lands."

14 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
15 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker
16 of the U.S. House of Representatives; the Honorable Strom Thurmond, President Pro tempore
17 of the U.S. Senate; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and to the
18 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
19 Don Young, U.S. Representative, members of the Alaska delegation in Congress.