

SENATE JOINT RESOLUTION NO. 16

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 3/12/99

Referred: Resources

A RESOLUTION

1 **Requesting the United States Congress to amend Title VIII of the Alaska National**
2 **Interest Lands Conservation Act.**

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

4 **WHEREAS** provisions of Title VIII of the Alaska National Interest Lands
5 Conservation Act (ANILCA; P.L. 96-487) arbitrarily divide the residents of Alaska into groups
6 based on the population and economic characteristics of the communities where they live; and

7 **WHEREAS** the purpose of this division is to discriminatorily provide access to and
8 allocation of the fish and wildlife of Alaska for subsistence uses without regard to the
9 individual resident's traditional or historic use of or need to engage in subsistence uses of fish
10 and wildlife; and

11 **WHEREAS** such allocations of the fish and wildlife resources of Alaska are contrary
12 to the principles of the public trust doctrine and of the common use of and equal access to fish
13 and wildlife that are inherent rights of all Alaskans guaranteed by the Constitution of the State
14 of Alaska; and

15 **WHEREAS** the common use and equal access provisions of the Constitution of the
16 State of Alaska bar the state from complying with the provisions of Title VIII of ANILCA;

1 and

2 **WHEREAS** the Secretary of the Interior and the Secretary of Agriculture have relied
3 on provisions of Title VIII of ANILCA to attempt to preempt state authority over management
4 and allocation of fish and wildlife on public land and navigable water in Alaska; and

5 **WHEREAS** the Secretary of the Interior and the Secretary of Agriculture require that
6 the State of Alaska amend its constitution to conform to the provisions of Title VIII of
7 ANILCA as a precondition to the relinquishment of authority over subsistence uses of fish and
8 wildlife on public land and navigable water in Alaska; and

9 **WHEREAS** the Alaska State Legislature has steadfastly resisted pressure from federal
10 agencies to amend the Constitution of the State of Alaska to conform to federal legislation that
11 does not recognize the principles of the public trust doctrine and of the common use of and
12 equal access to state-owned or state-managed natural resources; and

13 **WHEREAS** the United States Supreme Court in *Scott v. Sanford*, 60 U.S. 393 (1856),
14 ruled that the property clause of the United States Constitution cannot be used to destroy or
15 to impair in any way the civil and political rights of citizens of the United States or to provide
16 the power to establish inequalities among those citizens by creating privileges in one class of
17 citizens by the disenfranchisement of other classes by degrading them from a position they
18 previously occupied; and

19 **WHEREAS** the United States Supreme Court ruled in *United States v. Alaska*, 521
20 U.S. 1 (1997), that the Alaska Statehood Compact expressly provides that the Submerged
21 Lands Act applies to Alaska and that the State of Alaska is entitled to the benefits of both the
22 equal footing doctrine and the Submerged Lands Act, which carries with it the power to
23 control fishing and other public uses of these lands and waters, which is an essential attribute
24 of state sovereignty; and

25 **WHEREAS** the United States Supreme Court has ruled in *Printz v. United States*, 521
26 U.S. 98 (1997), that the United States Constitution established a system of "dual sovereignty"
27 that provides to the Congress only discrete enumerated powers, that all other powers not
28 delegated to the United States by the United States Constitution are reserved to the states
29 respectively or to the people, that, as such, the United States Constitution does not confer
30 upon the Congress the power to regulate state governments or the power to require a state
31 either to legislate according to the direction of the Congress or to implement administrative

1 action, and, moreover, that the Supremacy Clause is applicable only to laws of the United
2 States that are made in accordance with and in conformity with the United States Constitution;
3 and

4 **WHEREAS** the Alaska State Legislature acknowledges and wholeheartedly supports
5 all efforts of the Congress to eliminate blatant and onerous federal intrusions into the affairs
6 of sovereign states;

7 **BE IT RESOLVED** that the Alaska State Legislature respectfully and ardently
8 requests the Congress to revise Title VIII of the Alaska National Interest Lands Conservation
9 Act to incorporate the principles of the public trust doctrine and of the common use of and
10 equal access to fish and wildlife resources for subsistence uses; and be it

11 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the
12 Congress to mandate that the Secretary of the Interior and the Secretary of Agriculture return
13 authority for management of subsistence uses of fish and wildlife in Alaska to the State of
14 Alaska.

15 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
16 of the United States and President of the U.S. Senate; the Honorable J. Dennis Hastert,
17 Speaker of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of
18 the U.S. Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
19 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
20 delegation in Congress.