

SENATE CONCURRENT RESOLUTION NO. 25
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR TAYLOR

Introduced: 2/8/02

Referred: Judiciary, Finance

A RESOLUTION

1 **Relating to the public trust for fish and wildlife in Alaska.**

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

3 **WHEREAS** fish and wildlife in Alaska are reserved to the people for common use by
4 the Constitution of the State of Alaska; and

5 **WHEREAS** the common use clause of the Constitution of the State of Alaska
6 incorporates certain trust principles guaranteeing access to fish and wildlife into the
7 constitution; and

8 **WHEREAS** the public trust imposed on fish and wildlife prevents the state from
9 granting exclusive rights or special privileges to fish and wildlife as was frequently the case in
10 ancient royal traditions; and

11 **WHEREAS** the public trust doctrine provides that the state holds fish and wildlife
12 resources in trust for public use and that government owes a fiduciary duty to manage those
13 resources for the common good of the public as beneficiary; and

14 **WHEREAS** the state has an obligation to manage fish and game resources to the
15 benefit of all in accord with its public trust duties; and

16 **WHEREAS** the Alaska State Legislature shall provide for the utilization,

1 development, and conservation of fish and wildlife belonging to the state for the maximum
2 benefit of the people of the state; and

3 **WHEREAS** the Alaska State Legislature is the trustee and the citizens of the state are
4 the beneficiaries of the public trust for fish and wildlife; and

5 **WHEREAS** the United States Congress has passed into law Title VIII of the Alaska
6 National Interest Lands Conservation Act (ANILCA), which establishes a preference to rural
7 residents of the state for subsistence uses of fish and wildlife on federal land in the state; and

8 **WHEREAS** the majority of residents of the state, who reside outside of rural areas,
9 are wholly excluded from participation in the subsistence preference established by ANILCA;
10 and

11 **WHEREAS** agencies of the federal government are seeking to extend the reach of the
12 rural subsistence preference under ANILCA to include fishery resources present in or passing
13 through certain portions of the navigable waters of the state; and

14 **WHEREAS** the federal subsistence preference serves to divide residents of the state
15 by providing access to fish and wildlife for subsistence uses to certain residents and denying
16 access to other residents based solely on where they reside in the state; and

17 **WHEREAS** the federal subsistence preference is inconsistent with common use of the
18 fish and wildlife resources of the state and with the trust principles underlying the public trust
19 doctrine; and

20 **WHEREAS** the inequitable allocation of access to fish and wildlife resources that is
21 inherent in the federal subsistence preference under Title VIII of ANILCA interferes with
22 common use management of those resources by the state; and

23 **WHEREAS** federal agencies are seeking to usurp the authority of the Alaska State
24 Legislature to manage fish and wildlife for sustained yield, common use, and the maximum
25 benefit of all of the people of the state in accordance with the public trust doctrine;

26 **BE IT RESOLVED** that the Alaska State Legislature, as trustee of the fish and
27 wildlife resources of the state, has a fiduciary duty to manage fish and wildlife in the best
28 interests of all of the people of the state in accordance with the public trust doctrine; and be it

29 **FURTHER RESOLVED** that the Alaska State Legislature must defend itself from
30 the intrusion of the federal agencies into the management of fish and wildlife in the state in
31 order to assure that fish and wildlife are managed for the best interests of all of the people of

1 the state; and be it

2 **FURTHER RESOLVED** by the Alaska State Legislature that it has the authority
3 under the Constitution of the State of Alaska and the duty as trustee of the public trust
4 resources of the state, and thus has standing, to bring an action in the federal courts to defend
5 the rights of the state as the owner of fish and wildlife in the state, the legislature as trustee of
6 public trust resources in the state, and the people of the state as beneficiaries of the public
7 trust from actions of federal agencies under provisions of Title VIII of the Alaska National
8 Interest Lands Conservation Act that are contrary to the public trust and that usurp state
9 authority to manage fish and wildlife; and be it

10 **FURTHER RESOLVED** that the Alaska State Legislature shall, through the
11 Legislative Council, bring an action in the federal courts challenging the actions of the United
12 States Congress in enacting Title VIII of the Alaska National Interest Lands Conservation Act
13 and the actions of the federal agencies in implementing the provisions of Title VIII of the
14 Alaska National Interest Lands Conservation Act.