

CS FOR SENATE CONCURRENT RESOLUTION NO. 25(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 2/22/02

Referred: Resources

Sponsor(s): SENATOR TAYLOR

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**, as a consequence of Alaska Statehood, the federal government's
4 authority to manage wildlife resources within Alaska was extinguished, and thereafter the title
5 to and ownership of all wildlife resources became the sole property of the people of Alaska;
6 and

7 **WHEREAS** fish and wildlife resources in Alaska are specifically reserved to the
8 people for common use by art. VIII, Constitution of the State of Alaska, which incorporates
9 trust principles guaranteeing all Alaskans access to fish and wildlife resources; and

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

12 **WHEREAS** the public trust doctrine provides that the trustee of the public trust for
13 fish and wildlife resources has the affirmative fiduciary duty to protect and manage, and
14 provide for the utilization of, these resources for the maximum benefit of the Alaska
15 beneficiaries without special privilege; and

16 **WHEREAS** the legislature's public trust obligation and public trust duties are

1 affirmative duties that cannot be abandoned and require the trust assets to be defended; and

2 **WHEREAS** the United States Congress has passed into law the Alaska National
3 Interest Lands Conservation Act (ANILCA), which establishes a preference to rural residents
4 of Alaska trust resources for subsistence uses of fish and wildlife and other renewable
5 resources on federal land in the state without regard to resource abundance; and

6 **WHEREAS** the majority of residents of the state, who reside outside of rural areas,
7 are wholly excluded from participation in the federal subsistence preference, based solely on
8 where they reside in the state; and

9 **WHEREAS** agencies of the federal government have adopted regulations extending
10 the reach of the ANILCA preference to include allocating wildlife resources on state lands
11 and to fishery resources present in Alaska's marine and coastal waters and certain portions of
12 Alaska's navigable waterways; and

13 **WHEREAS** the ANILCA subsistence preference violates the trust responsibility to
14 manage the fish and wildlife resources of the state for the benefit of all beneficiaries and has
15 been unanimously held to be without authority on state lands and navigable waters by the
16 Alaska Supreme Court; and

17 **WHEREAS** the inequitable harvest and allocation of Alaska's fish and wildlife
18 resources that the ANILCA subsistence preference regulations have implemented constitute
19 an illegal taking, allocation, and misappropriation of Alaska fish and wildlife resources to
20 which the federal government does not have title or ownership; and

21 **WHEREAS** federal agencies are illegally usurping the authority of the Alaska State
22 Legislature to manage fish and wildlife resources for sustained yield, common use, and the
23 maximum benefit of all of the people of the state, in accordance with the public trust doctrine;

24 **BE IT RESOLVED** that the Alaska State Legislature, as trustee of the fish and
25 wildlife resources for the people of Alaska, has a fiduciary duty to protect and defend the
26 assets of the public trust for the maximum benefit of all the people of the state in accordance
27 with the public trust doctrine; and be it

28 **FURTHER RESOLVED** that the Alaska State Legislature, as trustee for the citizen
29 beneficiaries of Alaska, shall defend Alaskans from further illegal allocations by the intrusion
30 of the federal agencies into the management of Alaska's fish and wildlife resources in order to
31 protect the people of Alaska and assure that Alaska's fish and wildlife resources are managed

1 for maximum benefit of all of the people of the state; and be it

2 **FURTHER RESOLVED** by the Alaska State Legislature that it has the authority
3 under art. VIII, Constitution of the State of Alaska, and the duty as trustee for 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 common owners of Alaska's fish and wildlife resources from the federal
6 subsistence regulations and other actions of federal agencies brought under color of the
7 Alaska National Interest Lands Conservation Act that are contrary to the public trust and that
8 usurp the authority of the State of Alaska to conserve, manage, and allocate fish and wildlife
9 resources; 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 federal subsistence
12 regulations and the Alaska National Interest Lands Conservation Act and other actions of the
13 federal agencies in implementing the provisions of the Alaska National Interest Lands
14 Conservation Act.