

HOUSE JOINT RESOLUTION NO. 15

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES LYNN, Foster, Heinze, Holm, Wilson, Dahlstrom

Introduced: 3/10/03

Referred: Judiciary

A RESOLUTION

1 **Relating to the United States Court of Appeals for the Ninth Circuit, to its decision**
2 **concerning the Pledge of Allegiance, and to removing Alaska from the jurisdiction of the**
3 **Ninth Circuit.**

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

5 **WHEREAS** this country was established on a basis of religious freedom by our
6 founding fathers, many of whom were deeply religious; and

7 **WHEREAS** the Pledge of Allegiance was written by Francis Bellamy, a Baptist
8 minister, and was first published in the September 8, 1892, issue of Youth's Companion; and

9 **WHEREAS**, in 1954, the United States Congress added the words "under God" to the
10 Pledge of Allegiance; and

11 **WHEREAS** President Eisenhower, in adding these words, said "These words will
12 remind Americans that despite our great physical strength we must remain humble. They will
13 help us to keep constantly in our minds and hearts the spiritual and moral principles which
14 alone give dignity to man, and upon which our way of life is founded."; and

15 **WHEREAS**, in 1954, the United States Congress believed it was acting

1 constitutionally when it revised the Pledge of Allegiance; and

2 **WHEREAS** patriotic songs, engravings on United States legal tender, engravings on
3 federal buildings, and the Preamble to the Constitution of the State of Alaska also contain
4 general references to "God"; and

5 **WHEREAS**, in accordance with decisions of the United States Supreme Court, public
6 school students cannot be forced to recite the Pledge of Allegiance without violating their
7 First Amendment rights; and

8 **WHEREAS**, despite this history, a three-judge panel of the United States Court of
9 Appeals for the Ninth Circuit in the case of *Newdow v. U.S. Congress*, held in 2002 that the
10 phrase "under God" in the Pledge of Allegiance violates the separation of church and state;
11 and

12 **WHEREAS**, over the objections of nine of 24 judges, the Ninth Circuit Court of
13 Appeals rejected a request to reconsider its decision and, in a slightly modified form, let stand
14 the two to one decision of the panel; and

15 **WHEREAS** the United States Court of Appeals for the Ninth Circuit encompasses the
16 States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and
17 Washington, as well as the Commonwealth of the Northern Marianas Islands and Guam; and

18 **WHEREAS** the United States Court of Appeals for the Ninth Circuit oversees nearly
19 one-fifth of the population of the United States, and has nearly twice as many judges as the
20 next largest circuit court; and

21 **WHEREAS** the Ninth Circuit was reversed five of the first six times it was reviewed
22 in the October 2002 term, including three unanimous and per curiam reversals; and

23 **WHEREAS** cases involving crucial federal legislation affecting Alaska exclusively,
24 such as the Alaska Native Claims Settlement Act and the Alaska National Interest Lands
25 Conservation Act, require great familiarity with such legislation to properly adjudicate, due to
26 the great complexity of the legislation; and

27 **WHEREAS** a Ninth Circuit judge cannot attain the necessary familiarity with federal
28 legislation affecting Alaska because a Ninth Circuit judge may only sit on a panel in Alaska
29 once every 10 years, as a result of the extraordinary size of the court; and

30 **WHEREAS** this unfamiliarity has resulted in decisions such as the 1996 Ninth Circuit
31 decision in *Alaska v. Native Village of Venetie*, which caused great political turmoil in

1 Alaska before being unanimously reversed by the United States Supreme Court;

2 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests the United
3 States Congress to divide the United States Court of Appeals for the Ninth Circuit into two
4 more circuit courts in order to resolve the problems caused by its size, or to take other action
5 that results in the removal of Alaska from the jurisdiction of that court; and be it

6 **FURTHER RESOLVED** that the Alaska State Legislature strongly supports review
7 by the United States Supreme Court of the decision by the United States Court of Appeals for
8 the Ninth Circuit in *Newdow v. U.S. Congress* and urges the United States Department of
9 Justice to vigorously seek that review so that the constitutionality of the words "under God" in
10 the Pledge of Allegiance is reaffirmed.

11 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
12 of the United States; the Honorable Richard B. Cheney, Vice-President of the United States
13 and President of the U.S. Senate; the Honorable Ted Stevens, President Pro Tempore of the
14 U.S. Senate and member of the Alaska delegation in Congress; the Honorable J. Dennis
15 Hastert, Speaker of the U.S. House of Representatives; the Honorable John Ashcroft,
16 Attorney General of the United States; all Justices of the United States Supreme Court; and to
17 the Honorable Lisa Murkowski, U.S. Senator, and the Honorable Don Young, U.S.
18 Representative, members of the Alaska delegation in Congress.