

HOUSE JOINT RESOLUTION NO. 37

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES SADDLER, Rauscher, Talerico, Kopp, LeDoux, Johnson

Introduced: 2/21/18

Referred: Resources, Judiciary

A RESOLUTION

1 **Relating to management of public land and resources in the state.**

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

3 **WHEREAS** Alaska entered the Union as a state on equal footing with the original 13
4 colonies and other states upon ratification in 1958 of the Alaska Statehood Act, establishing
5 by Compact with the citizens of Alaska fundamental principles regarding the transfer of
6 federal land into state ownership, as well as the terms and conditions for the management of
7 federal land, fish and wildlife, and the division of land-based and resource-based revenue in
8 the new state; and

9 **WHEREAS** the principles of equal footing and equal protection of the laws entitle the
10 state and its people to the same rights, duties, and privileges accorded to other states and to
11 citizens of those states; and

12 **WHEREAS**, in addition to the Alaska Statehood Act, a suite of federal laws presently
13 define the relative authorities and responsibilities for state and federal land and resources in
14 the state, including the Alaska Native Claims Settlement Act and the Alaska National Interest
15 Lands Conservation Act, which relate specifically to Alaska, and the General Mining Act of
16 1872, the Mineral Leasing Act of 1920, the National Wildlife Refuge System Administration

1 Act of 1966, and the Federal Land Policy and Management Act of 1976, which apply to all
2 states; and

3 **WHEREAS**, among the clear understandings documented in those Acts and others,
4 the state could acquire resource-rich land with the opportunity to study and develop it; share
5 in the revenue from the development of federal land; exercise state sovereignty over land and
6 resources, including the management of fish and wildlife and the submerged land that passed
7 to the state at statehood; have reasonable access to and across federal land, particularly when
8 necessary to use or access land owned by the state, Native corporations, and private
9 individuals; and engage in traditional activities on land retained by the federal government;
10 and

11 **WHEREAS**, under the Alaska National Interest Lands Conservation Act, particularly
12 secs. 101 and 1326, the federal government committed that no further large-scale
13 administrative designations would burden the land and users, and that undesignated federal
14 public land would be managed for multiple-use with the state sharing in the revenue derived
15 from activities and development; and

16 **WHEREAS** the federal government has repeatedly disregarded, misconstrued, and
17 abrogated the commitments contained in those Acts, denying the state's entitlement to land
18 granted at statehood by withdrawing land from selection, relegating the state to the back of
19 the line for land selections and transfers, and refusing to study, monitor, or develop resources
20 or provide certainty to the state on revenue sharing; and

21 **WHEREAS**, in contradiction of those Acts, the federal government frequently fails to
22 consider or accommodate the needs and interests of affected users of federal land in the state
23 by adopting prohibitive land-use classifications, plans, and decisions, sweeping policies,
24 permit programs, fees and costs, and direct restrictions on access to federal land for traditional
25 and customary uses, mining, subsistence, hunting and fishing, trapping, economic activities,
26 travel between communities, and recreation; and

27 **WHEREAS** state land and resource management, particularly management of fish
28 and wildlife and ownership of submerged land, were key elements of the Alaska Statehood
29 Act and were preserved in subsequent Acts, but have nonetheless been continuously
30 challenged and abrogated by unilateral federal action; and

31 **WHEREAS** those actions break faith with the people of Alaska and the laws

1 established to safeguard their interests, creating a reasonable doubt as to the state's ability to
2 rely upon the constancy of other federal commitments regarding land and resources in the
3 state; and

4 **WHEREAS** the state's limited recourse for seeking reversal of decades of iterative
5 losses and the demonstrated inability of federal agencies consistently to implement federal
6 law in the state have compelled the state to demand fundamentally new arrangements
7 concerning the resolution of navigable water and submerged land claims, adjudication of RS
8 2477 rights-of-way, apportionment of federal land, and management of land remaining in
9 federal hands; and

10 **WHEREAS** the state Citizens' Advisory Commission on Federal Management Areas
11 in Alaska has been monitoring these issues for decades, and, through its legally impaneled
12 subcommittee, the Alaska State Lands Advisory Group, has examined and discussed available
13 remedies, including work undertaken by other western states to resolve similar challenges,
14 and has recommended a draft petition establishing a legislative and executive action agenda
15 for the state to pursue with the federal government;

16 **BE IT RESOLVED** that the Alaska State Legislature appreciates the work of the
17 Citizens' Advisory Commission on Federal Management Areas in Alaska and the Alaska State
18 Lands Advisory Group, and the support given to their efforts to examine the federal-state
19 relationship on public land in the state by the Office of the Governor, the Department of Law,
20 the Department of Natural Resources, the Conference of Western Attorneys General, the
21 Alaska Congressional delegation, the American Lands Council, and other states; and be it

22 **FURTHER RESOLVED** that the Alaska State Legislature supports filing the petition
23 submitted by the Citizens' Advisory Commission on Federal Management Areas in Alaska,
24 including asking the federal government, in cooperation with state agencies, to dedicate the
25 resources necessary to facilitate the appropriate transfer of the remaining state land
26 entitlement to the state as provided by the Alaska Statehood Act, in order to bring the
27 important land selection process back on track; and be it

28 **FURTHER RESOLVED** that the Alaska State Legislature welcomes the transfer of
29 ownership or management of federal land to the state in parcels specifically negotiated
30 between the two parties, prioritizing expansion of the state's forest and state management of
31 mineral leasing and oversight; and be it

1 **FURTHER RESOLVED** that the Alaska State Legislature supports creating an
2 expedited process to resolve uncertainty in the adjudication of navigable waters, submerged
3 land, and RS 2477 rights-of-way; and be it

4 **FURTHER RESOLVED** that the Alaska State Legislature supports considering
5 filing with the federal judiciary appropriate amici curiae briefs that could result in transferring
6 management consent, control, or ownership of additional federal land to the state, with the
7 caveat that the state intends to maintain the status of certain conservation system units
8 previously established by federal legislation; and be it

9 **FURTHER RESOLVED** that the Alaska State Legislature recognizes that the state's
10 agreement under sec. 4 of the Alaska Statehood Act, stating the "said State and its people do
11 agree and declare that they forever disclaim all right and title to any lands or other property
12 not granted or confirmed to the State or its political subdivisions by or under the authority of
13 this Act, the right or title to which is held by the United States or is subject to disposition by
14 the United States, and to any lands or other property, (including fishing rights), the right or
15 title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is
16 held by the United States in trust for said natives," continues to be effective unless the United
17 States Congress or the federal judiciary finds that the equal protection of the laws or other
18 rights enjoyed by the state or the many states suborn or modify that agreement; and be it

19 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
20 Congress to reinstate and fund the Alaska Land Use Council established under Title XII of the
21 Alaska National Interest Lands Conservation Act as a group representing state and federal
22 land management agencies and Alaska Native corporations to consider cooperative land and
23 resource management agreements; and be it

24 **FURTHER RESOLVED** that the Alaska State Legislature urges the Governor to
25 enter into those agreements, with the caveat that any federal land use plan, regulation, policy,
26 or program that objectively serves to perpetuate reduced use and access, or that newly reduces
27 use and access, lacking express Congressional direction, shall be subject to state approval,
28 such as by ratification of the Alaska State Legislature, before taking effect; and be it

29 **FURTHER RESOLVED** that the Alaska State Legislature urges the federal
30 government and the state to establish and maintain a trust-beneficiary relationship on federal
31 land where revenue sharing is available, and urges that federal land management agencies be

1 required by the United States Congress or by Executive Order to work with the states to better
2 forecast resource revenue shared from federal land within the borders of the states, and, where
3 revenue is shared from development, to develop a greater trust relationship with the states and
4 greater fiduciary protections for the states; and be it

5 **FURTHER RESOLVED** that the Alaska State Legislature urges the Governor to
6 renew funding and support for the Citizens' Advisory Commission on Federal Management
7 Areas in Alaska and the state Alaska National Interest Lands Conservation Act
8 implementation program, and support state interdepartmental programs to assist in realizing
9 and protecting from further loss the promises of statehood, including defense of RS 2477
10 rights-of-way, easements, and navigable water through a rebuttable presumption of valid state
11 ownership; and be it

12 **FURTHER RESOLVED** that the Alaska State Legislature remains dedicated to
13 protecting the environment of the state and adjoining water, to maintaining our natural capital,
14 and to working with the federal government to establish greater certainty for Alaskans,
15 agencies, visitors, and resource development investors.

16 **COPIES** of this resolution shall be sent to the Honorable Donald J. Trump, President
17 of the United States; the Honorable Michael R. Pence, Vice President of the United States and
18 President of the U.S. Senate; the Honorable Ryan Zinke, United States Secretary of the
19 Interior; the Honorable Paul D. Ryan, Speaker of the U.S. House of Representatives; the
20 Honorable Nancy Pelosi, Minority Leader of the U.S. House of Representatives; the
21 Honorable Mitch McConnell, Majority Leader of the U.S. Senate; the Honorable Charles E.
22 Schumer, Minority Leader of the U.S. Senate; the Honorable Lisa Murkowski, Chair of the
23 U.S. Senate Committee on Energy and Natural Resources; the Honorable Dan Sullivan, U.S.
24 Senator, and the Honorable Don Young, U.S. Representative, members of the Alaska
25 delegation in Congress; and all other members of the 115th United States Congress.