

Offered: 3/28/84
Referred: Judiciary

Original sponsors: Josephson, Ray,
Sturgulewski and Faiks

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR SENATE JOINT RESOLUTION NO. 36 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Relating to the proposal by Congress of
6 an amendment to the United States Con-
7 stitution to permit states to favor
8 certain residents of the states.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS the Supreme Court of the United States has held that the State
11 of Alaska may not establish a program for the distribution of benefits to
12 residents of a state that is based on the length of residency within the
13 state; and

14 WHEREAS the Supreme Court of the United States has held that the State
15 of Alaska under prior legislation could not reward citizens of the State of
16 Alaska based on the past contributions of those residents to the quality of
17 life within the state; and

18 WHEREAS the Supreme Court of the United States has held that the State
19 of Alaska's interest in creating a financial incentive for residents of the
20 state to establish and maintain their residence in the state is restricted,
21 constitutionally; and

22 WHEREAS the law of the State of Alaska involved did not concern an
23 entitlement of citizens of the United States based on need or a state-
24 funded program dependent on the receipt by the state of federal funding;
25 and

26 WHEREAS a state trial court has held a similar state program that is
27 also not based on need or dependent on the receipt by the state of federal
28 funding is unconstitutional under Fourteenth Amendment concepts; and

29 WHEREAS it has always been understood that the states were to be

1 granted under the American federal system the discretion to experiment in
2 the development of the programs that concern only the inhabitants of a
3 state; and

4 WHEREAS a clarification of these issues arising under the United
5 States Constitution will diminish future uncertainty and promote the role
6 of the states as laboratories without diminishing significant rights
7 granted under the United States Constitution; and

8 WHEREAS recent decisions have deprived states of that option in a
9 large area of legislative concern;

10 BE IT RESOLVED by the Alaska State Legislature that the Congress of
11 the United States is requested to propose and submit to the states for
12 their ratification an amendment to the Constitution of the United States in
13 essentially the following form:

14 Article . No provision of the Fourteenth Article of Amendment
15 to the United States Constitution shall operate to deprive or
16 deny to any state the right to offer a program to residents of
17 the state based on length of residency within the state if the
18 program is offered without regard to the need, economic condi-
19 tion, or means of the program's recipients and if no federal
20 funding is used to support the program or the institutions where
21 the program is offered or provided.

22 COPIES of this resolution shall be sent to the Secretary of the United
23 States Senate; the Clerk of the United States House of Representatives; and
24 the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators,
25 and the Honorable Don Young, U.S. Representative, members of the Alaska
26 delegation in Congress.