

STATE OF ALASKA
THE LEGISLATURE

1995

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Legislative
Resolve No.
26



Requesting the Congress to amend the Alaska National Interest Lands Conservation Act to clarify that the term "public lands" means only federal land and water and that any extension of federal jurisdiction onto adjacent land and water is expressly prohibited.

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

WHEREAS the State of Alaska entered into the Union on an equal footing with all other states, and the Statehood Compact specifically granted authority over fish and wildlife to the State of Alaska; and

WHEREAS the issue of fisheries management was one of the most prominent justifications for statehood; and

WHEREAS the State of Alaska contends that the Statehood Compact cannot be legally modified by either party without the consent of the other party; and

WHEREAS the Congress and the President of the United States are presently embarking on a campaign to return rights and authority to the states; and

WHEREAS Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA; P.L. 96-487), enacted in 1980, grants a subsistence priority on federal public land in Alaska; and

WHEREAS the Secretary of the Interior and the Secretary of Agriculture have threatened unilateral federal preemption of state fish and wildlife management on state and private land and

water in Alaska; and

WHEREAS the State of Alaska, the federal government, and other parties are attempting to sort out the complexities of the federal law related to jurisdictional issues created by ANILCA; and

WHEREAS the legal process for developing a final resolution to the jurisdictional questions is extremely slow, and major social and economic disruption is imminent if the federal government continues on a course to illegally and unconstitutionally preempt state management of fish and wildlife; and

WHEREAS the Congress specifically declined to grant preemption authority to the Secretary of the Interior and the Secretary of Agriculture in ANILCA; and

WHEREAS the Congress specifically reemphasized that the jurisdiction and authority of the state were to be maintained; and

WHEREAS the Alaska State Legislature is confident that the Alaska delegation in the Congress and the people of Alaska would never have agreed to the final compromise ANILCA package had they been advised that ANILCA contained provisions to allow federal preemption of all state fish and wildlife management in Alaska; and

WHEREAS the federal agencies and some parties are arguing in recent court cases concerning state/federal jurisdiction that federal reserved water rights and the navigational servitude provide legal basis for a claim of federal title to land and resources; and

WHEREAS this interpretation of federal laws related to federal reserved water rights and the navigational servitude is contrary to all existing related laws and policies adopted by the Congress and threatens to undermine existing reserved water rights and navigable waters policies that are critical to all western states;

BE IT RESOLVED that the Alaska State Legislature respectfully and urgently requests the Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to clarify that the original intent of the Congress was not to violate the Statehood Compact or to preempt state management of fish and wildlife in Alaska; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests that the Congress amend ANILCA to clarify that the definition of "public lands" means only federal public land and water; and be it

FURTHER RESOLVED that, while the federal courts are resolving the federal/state

conflicts created by Title VIII of ANILCA, the Alaska State Legislature respectfully requests that the Congress amend ANILCA to expressly prohibit preemption of state jurisdiction on state and private land and water unless specifically authorized by the Congress and the State of Alaska; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests the Congress to clarify that neither ANILCA nor another federal law provides authority for the federal agencies to claim title to resources or land through federal reserved water rights or through the navigational servitude; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests the Alaska delegation in Congress to oppose any other amendments to ANILCA until the Congress takes action to confirm state management and to limit the definition of "public lands."

COPIES of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.