

**SENATE AND HOUSE
JOINT JOURNAL SUPPLEMENT**

February 19, 1998

Thursday

No. 13

Address

by

The Honorable Ted Stevens

United States Senator

Before a Joint Session

of the

Second Session of the

Twentieth Alaska State Legislature

February 19, 1998

Juneau, Alaska

**Address to the Twentieth Alaska State Legislature
by Senator Ted Stevens**

Madam Speaker, Mr. President, members of the 20th Alaska Legislature, guests in the gallery and fellow Alaskan - Thank You for inviting me back.

Frank Murkowski's great address to you last month left me little to report - my talk with you will be about some of the things I've been working on and also about my hopes and fears for Alaska.

People talk about the "American Dream" - I prefer the "Alaska Dream." What other place on Earth has our unique combination of unmatched natural beauty; incomparable resource wealth; rich culture and such dynamic, positive people?

Those Alaskans who fought to forge a state out of this vast territory (and I humbly count myself in that group) did so because we were tired of the way things were done "outside." We sought to chart our own course and realize our own Alaska Dream for every Alaskan, urban or rural; rich or poor, Native or non-Native. We envisioned a seamless society.

Before speaking of issues, as a supporter of the Olympic movement I am proud to witness our young Alaskans competing for their dreams. Their tenaciousness, drive, and courage are truly a credit to our state.

In 2001 Alaskans will be able to participate in the Olympic dream. Our Olympics will be "Special Olympics." Six thousand athletes, coaches, family members and friends from more than 75 countries will come to these games, where athletes probably won't win many commercial endorsements but they will win our hearts. And, these games, if they come off as I expect they will, may set the stage for Alaska to host other Olympic games.

Getting the Special Olympics was a true Alaskan team effort. Now the organizers need your help. Governor Knowles, Speaker Phillips, and President Miller have pledged their support for a guarantee of up to \$4 million for these games. We are optimistic that this guarantee will not ever be used - the organizers have already raised \$3 million of the projected \$8 million budget. I urge you to enact legislation that will fully authorize this guarantee.

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This part of your session today is being carried live on the Internet with the help of public television's Gavel-to-Gavel and AT&T. I'm told this is a first. This medium holds great promise for Alaska. The Internet extends our borders and communicates in ways beyond imagination only a decade ago. I am committed to making the Internet accessible to all Alaskans at speeds comparable to the lower 48.

To do that for all of our communities, I'll continue to fight hard in Washington, D.C., to preserve "Universal Service." The Universal Service law I helped write requires every user of telecommunications throughout the nation to pay a little so that the same telecommunications services are available at reasonably comparable rates - whether you are in St. Augustine, Florida or St. Paul, Alaska.

The Internet - even your primary phone line if you do not have the Internet - would cost hundreds of dollars more per month in many of our communities without universal service. Fighting for improved Internet access and universal service in Alaska goes hand-in-hand. Don't be fooled by anyone who tells you differently.

Now to a few issues which demand our attention in Congress.

My first year at the helm of the Senate Appropriations Committee was productive for Alaska.

- We gave the Department of the Interior resources needed to quickly conduct the National Petroleum Reserve Environmental Impact Statement and proceed to leasing.
- We responded to the fisheries disaster in Bristol Bay with \$7 million in aid - available because of the Magnuson-Stevens amendments Don and I wrote to authorize disaster fisheries assistance.
- We increased funding to bring modern utilities to eliminate honey buckets in our smaller communities and provide electricity at prices people can afford.
- While supporting the gas pipeline, we made available millions of dollars for research of gas to liquids technology to try to break the logjam in getting our natural gas to market.

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- We funded 29 Alaska harbor projects; increased funding to protect wild fisheries resources, maintain public T.V. and radio service, upgrade the Alaska Railroad, and build new ferries and visitors centers.
- We increased funding for Alaska's schools, continued our aggressive immunization program, and enhanced child care facilities for our youngest Alaskans.

We did all this, and much more, while putting changes in place which will bring our national deficit down to zero for the first time in a generation.

I salute you in this Legislature for your efforts to do the same in Alaska. Making the tough budgetary choices today will serve Alaskans well - today and for generations to come.

President Clinton claimed to deliver Congress a balanced budget this year. Instead, he requested an explosion of new spending fueled with new or increased user fees and access fees (those are Washington's terms for taxes).

This administration proposes new fees on pilots and aviation; new fees for the use of navigational aids by cargo ships; and a one percent fee on the ex-vessel value of fish caught off our shores - that fee will be a heavy burden on Alaska since half the nation's fish are harvested off our shores.

I met with Commerce Secretary Daley just before traveling North and told him in my judgement the new fish fee was dead on arrival.

We'll work to eliminate the other taxes also and try to craft a budget which will preserve social security and Medicare rather than creating countless new programs to spend taxpayer's money.

My legislation to phase out factory trawlers in American waters is part of my Alaska Dream to Americanize our fisheries. In 1976 we thought we did that through the passage of the 200-mile limit law. We tried again in 1987, only to have a misinterpretation of the anti-reflagging act create a loophole so large many factory trawlers go through it - and foreign fishing investors took full advantage of that opportunity to try to regain control of Alaskan fisheries.

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My bill, the American Fisheries Act, will require all fishing vessels flying our American flag to be 75 percent U.S. owned. It would kick out of our waters foreign rebuilt factory trawlers that profited from the law's misinterpretation. This bill would also stop additional factory trawlers from entering our fisheries and would slowly phase out the existing large trawlers over time.

It will bring about a modest reduction in factory trawlers immediately - between 5 and 10 of the vessels that came through the foreign rebuild loophole and that were foreign owned as of last September would have to leave within 18 months.

The remaining 50 or so factory trawlers could stay in the fisheries for as long as they are useful, but eventually replaced by smaller vessels that are cleaner and more likely to be owner-operated.

Recently the factory trawler industry has been painting a rosy picture of its contributions to Alaska's economy. I hope they will continue to reach out to us. But we must not forget that this same industry fought our efforts to reduce waste, by catch and overfishing; fought community development quotas; and fought the North Pacific Council's efforts in 1992 to bring even 35 percent of North Pacific pollock to processors onshore.

When they tell you what they want to do now, ask them why it took my bill to convince them it was necessary to work things out with Alaskans.

Factory trawlers claim they fish clean; what they don't tell you is their discard rate in 1996 was over three times the discard rate of smaller catcher vessels in the mid-water pollock fishery. Factory trawlers discarded 41.8 million pounds of useable fish in that fishery alone in 1996.

When Greenpeace and I unite on an issue there are some uneasy stomachs in both camps. On this issue we agree though. We must begin to reduce the presence of factory trawlers and continue to demand that overfishing to maximize profits cease before these people cause the permanent collapse of the world's greatest fishery.

The Alaska Dream is also about spreading our wings and looking to the far east. It's about cementing our cultural and geographical ties with our Russian neighbors and maintaining our status as the "air crossroads of the world."

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In May, I hope to lead a congressional delegation and top representatives of the overseas private investment corporation, the export import bank, and other federal agencies to Sakhalin Island. This will be my second visit to that resource rich area. My goal is to ensure the Alaskan "know-how" is used in these new oil provinces. Exporting our knowledge, broadening our markets and stimulating employment for Alaska is the purpose of our trip. I would welcome a delegation from this Legislature, the Governor and Alaska businesses on this trip.

At my request, last year's foreign operations appropriation bill directed the State Department to target the Russian Far East in its new foreign aid program. We also directed the U.S.-Russian investment fund to develop and implement a small business loan program in Russia.

Don, Frank and I will work to protect Alaskan's right to chose our own schools, our own physicians, and to get the same tax treatment whether our children are at a day care facility or at home. ISTEA (the five-year highway bill), NATO expansion, Bosnia, and the effort to give our troops, both here and abroad, the support they need are other issues you may wish to discuss.

By the way, I can't mention Congressman Don Young without congratulating him for his 25 years of service in the House of Representatives. We all owe Don and his lovely wife Lu our thanks and much more.

My best friend said to me: "Again - are you going to ask the Legislature again to act on subsistence? You've done that every year since 1990 and they have never acted - why do you believe they will now?"

I told my friend: "I cannot believe Alaskans will allow the federal government to take back management of fish and game in Alaska."

It is not my intention to lecture you - and my experience as a trial lawyer, member of this Legislature and the Senate has led me into tough debates. After those debates, I know of no opponent who is not today a good friend. We believe in tough exchanges and deep personal friendships that abide despite differences.

So, I mean no offense to those of you who disagree.

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I've come to the realization that subsistence is a generational problem: my generation fought for statehood primarily to obtain control over our resources. We lived in a territory. The federal government appointed the judges, appointed the governor, controlled our communications, owned the railroad, defended fish traps, even required birth certificates in order to go south without a passport. We can tell you what it means to be dominated by the federal government. I mentioned "fish traps" to my staff and several of them said: "what are fish traps?" - that is a generation gap!

When I came to work in Fairbanks in 1953 our territory was totally controlled by the federal government. Federal management had almost destroyed our fish and game and put a cloud over just about every aspect of our lives. Perhaps you had to live through that time to realize how federal control galvanized our generation into seeking statehood.

As I look back, I have dedicated almost all of my entire adult life to that cause - it has been my Alaskan Dream and the passion of my career. Today, that dream is in peril.

The federal government stands ready to take over fish and game management in December. This won't be benign management and once dug in, I predict the feds will never relinquish management again. I expect federal management to be just plain hell for Alaskans.

Because of its trust responsibility to Native Americans, land managers will make decisions with that goal in mind. Despite the feelings of most Alaskan Natives that they want to be Alaskans and do not want ethnic management of fish and game which excludes their neighbors, there is increasing influence of extremists - both in the environmental and native communities - who will make their marks on management. The Sierra Club's desire to end all logging in national forests is coming closer to fruition with the administration's new roadless policy. Emboldened by these forces, any activity, even hunting on federal lands for subsistence needs could be in jeopardy. They want no guns on federal lands!

The parade of horrors is endless and it is real.

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In contrast, since statehood, Alaska's management of fish and game has been the envy of the world. Not one of our fisheries is endangered now, and we have moved to enhance game populations. In its zeal to manage, the federal government will shut down fisheries hundred of miles away from the source of perceived problems - as it did on the Columbia River in the Boalt case.

To enforce the federal subsistence law, the federal government plans to exercise extra territorial jurisdiction over state and Native corporation lands.

And refuge managers, some on only two year tours from the Lower 48, will be given authority to close off vast tracts of lands to Alaskans - subsistence and nonsubsistence users.

Think about it - the federal government has 800 numbers staffed by people in the Lower 48 when you need help or have to appeal their decisions.

You can call an 800 number to reserve a cabin on federal land - one Alaskan discovered that the Washington, D.C. company at the other end of the line did not know that the way to the cabin was along an avalanche area and it could not provide realistic advice to campers wishing to use the cabin.

You have to also call an 800 number for tax advice - at hearings before the government affairs committee when I was chairman there we learned that the IRS cannot answer all its phone calls. And the taxpayer who may reach a live person may not get accurate advice - and often Alaska taxpayers find that when they call the office is already closed.

Even under the best of circumstances, such as when the federal government actually sits down to address a specific Alaska issue, the federal government will never come to the table to speak for Alaskans.

Consider, for instance, what has just happened in the Yukon Flats National Wildlife Refuge. For years, the Department of the Interior and the Canadian government have been working with our Fish and Game Department, and the people of Fort Yukon to reintroduce Wood Bison to the Yukon Flats on lands owned by Beaver Village.

One only needs to go to the University of Alaska's great museum on the Fairbanks campus to learn that bison have been in Alaska for centuries.

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However, last December, the U.S. Fish and Wildlife Service reversed itself and stated that ethnographic materials which supported restoration of Wood Bison in Alaska were insufficient to meet federal standards and Wood Bison would not be allowed on Yukon Flats Refuge on lands belonging to the village of Beaver. The Federal Manager said bison were a non-indigenous species.

The effect of federal management is a wholesale shift away from Alaska-oriented management - and the loss of comprehensive state management will mean the local refuge manager will have the power and discretion to close a refuge to non-subsistence uses and even to subsistence uses. That is what the federal government proposed in draft regulations last December.

Those regulations will take effect on December 1 unless state law is modified. That December 1 deadline was agreed to in our negotiations with the Interior Department because it is after the votes from the November election are certified - after the people of Alaska could have a chance to vote on changes to prevent federal management.

It will also be two months after this Congress has adjourned for good. If no action is taken before Congress adjourns, federal management will commence. The Bipartisan Task Force, the Department of the Interior, and our Alaska delegation believe that the task force package is the best way to deal with this series of problems.

Since statehood, Congress has been interested in Native hunting and fishing. Every time that issue has come up in Congress, I have reframed it for members so there was one Alaska position that addressed subsistence on a non-ethnic basis. That was done with the tacit approval of the Alaska Native community. The Subsistence Task Force recommends that subsistence remain an Alaskan issue, not a Native issue. That is part of the dream of a seamless society in our young state.

If Alaskans want non-ethnic management of fish and game on all lands, our general law will give us that right if it provides a subsistence preference. Because of our state Supreme Court's decision, state management requires a change in our constitution. This change is to make the subsistence preference on state lands pursuant to a general Alaska law constitutional under Alaska's

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Constitution. If we do not make that change, the subsistence preference will apply to Federal and Native Lands, almost 70% of Alaska, by virtue of federal management under federal law.

In the years I've come before the Legislature and, in private, legislators have asked for modification of Title VIII of the 1980 Act or its repeal.

We have had many suggestions on how to achieve our goal without an amendment to Alaska's Constitution. Last Year, Senate Resources Chairman Rick Halford sent a letter suggesting repeal of Title VIII and an amendment to Alaska's Constitution to deal with subsistence. I discussed those ideas with Frank and Don and concluded that repeal of Title VIII was not feasible.

Chairman Halford's letter made a great point: in the "next fifty years when we don't have the senior delegation in the U.S. Senate to reverse the ridiculous action at the Ninth Circuit," federal management and court oversight "will be a burden the state could not bear."

Those of us in the delegation respect Chairman Halford's assessment. I am not unmindful that many of the issues we struggle with now arose before we obtained our current chairmanships - even with the seniority we have now it is difficult to deal with many of those issues because of opposition to changing basic decisions of the past. Title VIII is one of those issues.

I give great credit to Rick who does not hesitate to find a solution. The changes to the federal subsistence law I made last fall clarify the parameters for subsistence. As Senator Murkowski pointed out while he was here: "A full repeal of Title VIII is politically unrealistic because it would face a certain presidential veto." He was hopeful about our window of opportunity, though as I believe some of you are. He said, and I quote:

"Any proposed additional changes to ANILCA you feel are necessary, I will initiate hearings on. You have to act on changes to the state's subsistence law as well. I would anticipate holding hearings after those are basically done. Of course you know this will take a package from you and the Governor as well. Without that there is really no place to start, in my opinion."

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I discussed this package with Frank and Don before I left Washington - as chairmen of the Senate and House legislative committees. They will hold hearings on any package you and the Governor agree upon. Any further changes in Title VIII will be initiated only by their two legislative committees. And remember, whatever we do must be approved by the President.

You have the same route to take that I did - you must have the approval of the Governor for any change to be effective and I had to have the approval of the Secretary of the Interior before I could get congressional approval of changes to Title VIII. This is an issue that can only be resolved on a bipartisan basis - both in Juneau and Washington, D.C.

The history of fish and game management in Alaska since 1958 confirms this. To obtain statehood, Alaskans were required to agree to a number of provisions in the Statehood Act, including in the compact with the United States that we forever disclaim all right and title to any lands or other property including fishing rights held by the United States for itself or the Alaska Native people - and we had to acknowledge that all such lands or other property including fishing rights would remain under the absolute jurisdiction and control of the United States.

The debate continued after statehood, especially with respect to Native rights to land, land use, and fish and wildlife. In 1971, Congress settled the Alaska Native claims but left many issues unresolved. The basic understanding in 1971, however, was that if the State of Alaska was unable to address subsistence concerns in managing fish and wildlife on a non-ethnic basis, then the federal government would address them on an ethnic, Native only basis, using its powers under the "Indian clause" of the U.S. Constitution.

In long, acrimonious debates in the Congress I dedicated myself to the proposition that Alaskans wanted to manage these resources to assure that the supply would meet all our needs - and believed that the federal government would follow the path of least resistance and manage by rationing, if necessary, rather than make the effort to assure an adequate supply to meet all needs. I believe that all of us here agree on that - and that we want the federal government to stay out of our lives.

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You know the situation now: there is a moratorium in place on the complete federal takeover which will expire on December 1 of this year. We secured that moratorium in the final hour before the federal takeover primarily because of the bipartisan task force effort.

So, where does that leave us? I have urged past legislators to give Alaskans the opportunity to decide whether they want federal management. Last year, we won our third and final moratorium to delay the takeover. The administration made it clear that a simple moratorium would be vetoed, so working with the Interior Secretary and task force members we were able to adopt modifications to Title VIII.

If I had not added those provisions to the Interior Department appropriations bill there would be complete federal control today - from Juneau to Barrow and Adak to the Canadian border. There still are nine months to stop this takeover. I have done all I could do. Now, it is up to you.

The changes we made to the subsistence regime make it more understandable and acceptable to Alaskans.

My new amendments provide that federal courts shall apply the same standard of review of state interpretation of state law or regulation that federal courts apply to the federal process. State law or regulations can only be struck down if they are arbitrary, capricious, or contrary to federal law. This addressed the federal court case that flat out said the state's interpretation of ANILCA was not entitled to deference.

I also changed Title VIII to modify definitions - we defined "rural" and "rural community." Incidentally, the term "rural" came from the 1978 state law - it was not imposed on Alaskans by Congress.

And, my amendment specifically stated that the priority on federal lands is a "reasonable opportunity to take fish and wildlife" - and defined "reasonable opportunity" specifically stating that this does not guarantee fish and wildlife will be taken. This change also was drawn from state law, as part of the task force's bipartisan effort. We also defined "customary and traditional uses" to provide some guidance on when limits may be placed in other subsistence uses.

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All of these changes in Title VIII become effective only if the people of Alaska act before December 1 to restore state management of fish and game. If you do not permit Alaskans to vote, then those amendments long demanded by many in our state, will never take effect.

The winds of democracy blow strong in Alaska. Our constitution gives people the right to initiative, referendum and recall. But only two-thirds of this Senate and this House may initiate a constitutional amendment. Even the Governor is not involved in that process.

I've heard the debates and read the articles on the "public trust doctrine" I believe that concept - the Legislature, the Governor and all our judges should honor and respect it.

But to say that public trust should prevent the Legislature from allowing our people to vote on a constitutional amendment which would enable them to validate a law on subsistence cuts against my grain.

You know I do not support term limits. But, I voted for an amendment to our national constitution because I believe strongly that it is an issue that ultimately the voters must decide.

Amending our constitution should not be done lightly but we have done it 26 times, including the amendment to allow limited entry. To those who are reluctant to go that route, I can only say there are no perfect solutions to solve subsistence. The lawsuit you are pursuing is one avenue, but it cannot be used as a reason not to act. While litigation continues for years and years federal management will only intensify the problems that concern us all.

I wrote the 10th Amendment enforcement bill to try to give that amendment more weight in the courts. Subsistence had nothing to do with the 10th Amendment. Subsistence is about the federal government's ability to say how resources on its lands will be managed. The U.S. Constitution is very clear that the federal government has that right. The 10th Amendment reserves to the states or to the people themselves powers not delegated to the federal government - management of federal lands is a delegated power to the federal government.

As I said, I believe we all have the same goal.

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So, once again, I ask you to enact legislation to resume management of fish and game with a subsistence priority in the event of a limitation on taking and to submit a constitutional amendment to our constituents to approve or disapprove. Lay the disagreements before the Alaskan people and let them vote. They have the right to decide the subsistence issue. I have faith that Alaskans will look seriously at all the arguments and do what is right for Alaska.

Believe me, this is the last time I will ever make that request on subsistence to this legislature.

Thank you for your patience and your courtesy.