

HOUSE CONCURRENT RESOLUTION NO. 14
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES NEUMAN, Keller

Introduced: 4/10/09
Referred: Resources

A RESOLUTION

1 **Relating to the sovereignty of the State of Alaska and the sovereign right of the State of**
2 **Alaska to manage the natural resources of Alaska.**

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

4 **WHEREAS** the State of Alaska is a sovereign state within the United States of
5 America, having entered the United States under the Alaska Statehood Act, which provides
6 that Alaska is a sovereign state of the United States on an equal footing with all other states;
7 and

8 **WHEREAS** the Alaska statehood compact guarantees that Alaska has the exclusive
9 authority to manage its fish and wildlife resources and that all submerged lands and fish are
10 the exclusive property of the State of Alaska; and

11 **WHEREAS** art. I, sec. 1, Constitution of the State of Alaska, declares that "all
12 persons are equal and entitled to equal rights, opportunities, and protection under the law";
13 and

14 **WHEREAS** art. VIII, sec. 3, Constitution of the State of Alaska, provides that the fish
15 and wildlife resources in Alaska are reserved to the people for common use; and

16 **WHEREAS** art. VIII, sec. 3, Constitution of the State of Alaska, incorporates the

1 public trust principles that require that all Alaskans, as beneficiaries of the public trust, be
2 treated impartially and without preference with regard to the use of assets of the public trust;
3 and

4 **WHEREAS** it is in the best interest of all Alaskans that the replenishable resources of
5 the state be biologically managed by the State of Alaska for abundance; and

6 **WHEREAS** the Constitution of the State of Alaska prohibits special privileges and
7 preferential allocations of natural resources based on race, color, creed, sex, national origin, or
8 residency; and

9 **WHEREAS** the United States Supreme Court in *New York v. United States*, 505 U.S.
10 144 (1992), ruled that the task of ascertaining the constitutional line between federal and state
11 power has given rise to many of the court's most celebrated cases and that, in those cases, the
12 division of authority between the federal government and the state requires specific inquiry
13 into whether a power exercised by the Congress has been given to the Congress in the
14 Constitution of the United States or whether the power is one that the Tenth Amendment to
15 the Constitution of the United States expressly reserves for the states; stated if a power is an
16 attribute of state sovereignty reserved by the Tenth Amendment to the Constitution of the
17 United States, it is necessarily a power that the Constitution of the United States did not
18 confer upon the Congress; and, specifically, found that "The question is not what power the
19 Federal Government ought to have, but what powers in fact have been given by the people";
20 and

21 **WHEREAS** the United States Supreme Court in *United States v. Alaska*, 521 U.S. 1
22 (1997), stated that the Alaska Statehood Act expressly provides that the Submerged Lands
23 Act applies to Alaska and that Alaska is entitled to ownership of submerged lands under the
24 equal footing doctrine and the Submerged Lands Act; and

25 **WHEREAS** ownership of submerged lands carries with it the power to control fishing
26 and other public uses of submerged lands and the superjacent waters, which is an essential
27 attribute of state sovereignty; and

28 **WHEREAS** the United States Supreme Court in *Printz v. United States*, 521 U.S. 898
29 (1997), ruled that the Constitution of the United States established a system of dual
30 sovereignty that bestows only discrete enumerated powers on the Congress, that all other
31 powers not delegated to the federal government by the Constitution of the United States are

1 reserved to the states or to the people, and that the Constitution of the United States does not
2 confer upon the Congress the power to regulate state governments, the power to require a
3 state to legislate in accordance with the direction of the Congress, or the power to compel a
4 state to implement administrative action; and

5 **WHEREAS** the supremacy clause makes the "law of the land" only those laws of the
6 United States that are made under and in conformity with the Constitution of the United
7 States; and

8 **WHEREAS** a legitimate dispute exists between the State of Alaska and the Congress
9 as to whether the Congress may require the State of Alaska to violate its own constitution; as
10 to whether the Congress of the United States has the authority to enact legislation that
11 authorizes federal agencies to manage or allocate submerged lands, fish, and wildlife in the
12 state by providing discriminatory allocation of the state's resources; and as to whether the
13 provisions of the Alaska National Interest Lands Conservation Act violate the sovereignty of
14 the State of Alaska and the Constitution of the United States;

15 **BE IT RESOLVED** that the Alaska State Legislature finds that a legitimate dispute
16 exists between the State of Alaska and the United States Congress as to whether the United
17 States Congress may interfere with state management and allocation of the state's resources
18 by mandating that the State of Alaska provide for discriminatory allocation of the state's fish
19 and wildlife resources, and as to whether the Congress may empower agencies of the federal
20 government to manage the resources of the sovereign State of Alaska and authorize the
21 discriminatory allocation of those resources; and be it

22 **FURTHER RESOLVED** that the Alaska State Legislature declares that it is the duty
23 of the Alaska State Legislature, the Governor of the State of Alaska, and each elected official
24 to uphold and defend the Constitution of the State of Alaska and the sovereignty of the State
25 of Alaska; and be it

26 **FURTHER RESOLVED** that the Alaska State Legislature finds that it is necessary to
27 defend the sovereignty of the State of Alaska by taking this dispute between the State of
28 Alaska and the Congress directly to the United States Supreme Court for final resolution; and
29 be it

30 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests
31 Governor Sarah Palin, on behalf of the State of Alaska, to take all measures necessary to

1 achieve final resolution of this dispute.