

STATE OF ALASKA  
THE LEGISLATURE

1999

Source

SCS CSHJR 12(FIN)

Legislative  
Resolve No.

5



Relating to federal claims against funds obtained by settlement of state tobacco litigation.

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

**WHEREAS** the State of Alaska, taking all of the risks inherent in litigation, brought suit against major cigarette and smokeless tobacco manufacturers based on state antitrust and consumer protection claims solely to collect the state's smoking-related expenditures; and

**WHEREAS** none of the claims asserted by the state were based on a Medicaid recoupment statute or included the assertion of claims based on federal law for the federal government's tobacco-related Medicaid expenditures; and

**WHEREAS** the State of Alaska entered into a settlement agreement in state court based on state antitrust and consumer protection law claims with cigarette and smokeless tobacco companies for \$669,000,000 on November 23, 1998; and

**WHEREAS** the federal government, through the Health Care Finance Administration, has asserted that it is entitled to a significant share of the state settlement on the basis that it represents the federal share of Medicaid costs; and

**WHEREAS** the federal government declined to bring its own action to assert a claim for the federal money it spent for the treatment of smoking-related illnesses in Alaska and provided no assistance to the state during the litigation or during settlement negotiations; and

**WHEREAS** the federal government asserts that it is authorized and obligated, under the Social Security Act, to collect its share of any settlement funds attributed to Medicaid; and

**WHEREAS** the state tobacco lawsuit was brought for violation of state law under state law theories and the state lawsuit did not make any federal claims; and

**WHEREAS** the state bore all the risk and expense in the litigation brought in state court and settled without any assistance from the federal government; and

**WHEREAS** the state is entitled to all of the funds negotiated in the tobacco settlement agreement without any federal claim;

**BE IT RESOLVED** that the Twenty-First Alaska State Legislature respectfully requests the Congress to enact and the President to sign legislation to prohibit any federal claim against money obtained by settlement of state tobacco litigation; and be it

**FURTHER RESOLVED** that the Twenty-First Alaska State Legislature respectfully urges the President of the United States to direct the Health Care Finance Administration to refrain from taking steps to pursue recoupment of dollars.

**COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Donna E. Shalala, Secretary of the U.S. Department of Health and Human Services; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable Kay Bailey Hutchison, U.S. Senator from Texas; 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.