

SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 7

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR WARD

Introduced: 3/13/99

Referred: HESS, Finance

A RESOLUTION

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

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

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

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

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

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

16 WHEREAS the federal government declined to bring its own action to assert a claim

1 for the federal money it spent for the treatment of smoking-related illnesses in Alaska and
2 provided no assistance to the state during the litigation or during settlement negotiations; and

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

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

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

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

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

14 **FURTHER RESOLVED** that the Twenty-First Alaska State Legislature respectfully
15 urges the President of the United States to direct the Health Care Finance Administration to
16 review the facts related to the tobacco settlement with the State of Alaska and refrain from
17 taking steps to pursue recoupment of dollars to which the federal government is not entitled.

18 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
19 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
20 of the U.S. Senate; the Honorable Donna E. Shalala, Secretary of the U.S. Department of
21 Health and Human Services; the Honorable Trent Lott, Majority Leader of the U.S. Senate;
22 the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; and to the
23 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
24 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.