

By: Representative Flaggs

To: Rules

HOUSE CONCURRENT RESOLUTION NO. 140

1 A CONCURRENT RESOLUTION OPPOSING EFFORTS BY THE FEDERAL
2 GOVERNMENT TO TAKE A PORTION OF THE TOBACCO LAWSUIT SETTLEMENT
3 FUNDS OF THE STATE OF MISSISSIPPI AND OTHER STATES, AND SUPPORTING
4 THE ENACTMENT OF LEGISLATION BY CONGRESS THAT WOULD DENY THE
5 FEDERAL GOVERNMENT'S CLAIM TO ANY OF THE STATES' TOBACCO
6 SETTLEMENT FUNDS.

7 WHEREAS, on May 23, 1994, the Attorney General of the State
8 of Mississippi filed a lawsuit against the major tobacco companies
9 to recover the costs of past and future medical expenditures by
10 the state for smoking-related illnesses, which was the first
11 lawsuit of its kind in the nation; and

12 WHEREAS, few people in the business and legal communities
13 gave Mississippi's lawsuit much of a chance, because it relied
14 upon different and untested legal theories from those used in
15 previous lawsuits against the tobacco companies, and because the
16 tobacco industry had been very successful in defending against
17 previous challenges; and

18 WHEREAS, within the next few years, a number of other states
19 filed their own similar lawsuits against the tobacco industry, and
20 Mississippi led the national effort in encouraging and actively
21 participating in other states' negotiations with the tobacco
22 companies; and

23 WHEREAS, with all these lawsuits pending, the momentum began
24 to turn against the tobacco companies, so they decided to settle
25 with the states, beginning with Mississippi in July 1997 for \$3.36
26 Billion, then with Florida in August 1997 for \$11.2 Billion, with
27 Texas in January 1998 for \$15.3 Billion, with Minnesota in May
28 1998 for \$6.6 Billion, and finally with the remaining 46 states,

29 the District of Columbia and four territories in November 1998 for
30 \$206 Billion; and

31 WHEREAS, now that the states have succeeded in recovering
32 large sums of money from the tobacco industry, the federal
33 government is trying to claim a large portion of the states'
34 tobacco settlement funds for itself, asserting that current
35 Medicaid law requires the federal government to recover its share
36 of any funds collected by states on behalf of Medicaid clients
37 because federal funds were used for Medicaid expenditures; and

38 WHEREAS, the states took all of the risk and had little
39 outside support for their tobacco lawsuits, especially in the
40 beginning, and the federal government did not join in the states'
41 litigation or bring its own tobacco lawsuit on behalf of the
42 federal government, despite an early request to the United States
43 Department of Justice from the Mississippi Attorney General for
44 the department to do so; and

45 WHEREAS, the State of Mississippi strongly opposes any
46 attempts of the federal government to capture a portion of the
47 states' tobacco settlement funds, since they were secured solely
48 through the efforts of the states, which invested significant
49 time, energy and financial resources in their fight against one of
50 the nation's most powerful industries; and

51 WHEREAS, there is legislation now pending in Congress that
52 would amend the federal Medicaid statutes to deny the federal
53 government's claim to any share of the states' tobacco settlement
54 funds and allow the states to keep the full amount of their
55 settlement monies:

56 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
57 REPRESENTATIVES OF THE STATE OF MISSISSIPPI, THE SENATE CONCURRING
58 THEREIN, That we firmly oppose any efforts by the federal
59 government to take any portion of the tobacco lawsuit settlement
60 funds received and to be received by the State of Mississippi and
61 other states, and we strongly support the enactment of legislation
62 by Congress that would deny the federal government's claim to any
63 of the states' tobacco settlement funds.

64 BE IT FURTHER RESOLVED, That copies of this resolution be
65 furnished to each member of the Mississippi congressional

66 delegation, the Speaker of the United States House of
67 Representatives, the President of the United States Senate, the
68 Secretary of the United States Department of Health and Human
69 Services, and the Capitol Press Corps.