

MAR 19 1999

Laid Over Under Rule 25

1 HOUSE CONCURRENT RESOLUTION NO. 14

2 BY CORBETT, SIEGRIST, and SCHRADER

3 (COMPANION TO SCR 11)

4 A Concurrent Resolution requesting the United
5 States Congress to prevent the federal govern-
6 ment from attempting to recoup Medicaid payments
7 from the state tobacco litigation settlement
8 agreement moneys, and to allow the states to
9 keep all settlement moneys, without offset.

10 WHEREAS, more than 40 states, including Iowa,
11 commenced litigation against tobacco manufacturers
12 asserting various claims for monetary, equitable, and
13 injunctive relief; and

14 WHEREAS, on November 23, 1998, 46 states, Puerto
15 Rico, the United States Virgin Islands, Guam, the
16 Northern Mariana Islands, and the District of Columbia
17 signed a settlement agreement relating to both pending
18 and potential litigation by the states against five
19 major tobacco manufacturers; and

20 WHEREAS, the state of Iowa was one of the states
21 that signed the settlement agreement; and

22 WHEREAS, the United States Department of Health and
23 Human Services has stated an opinion in testimony
24 before the United States Congress that the Health Care
25 Financing Administration is entitled to recoup funds
26 paid to the states as a result of the settlement
27 agreement, on the theory, in part, that the settlement
28 constitutes reimbursement for Medicaid payments made
29 due to tobacco-related illnesses, and that the federal
30 government has contributed money toward these Medicaid

Here 14

1 expenditures; and

2 WHEREAS, the states that commenced litigation
3 sought to obtain relief based on differing theories in
4 each state, including claims based in equity, and
5 claims seeking damages under state laws, including
6 consumer protection and antitrust laws, in order to
7 further state policies regarding public health,
8 including policies adopted to achieve a significant
9 reduction in smoking by youth; and

10 WHEREAS, recovery of prior Medicaid expenditures
11 was therefore only one theory among many advanced by
12 certain states seeking recovery from tobacco
13 companies; and

14 WHEREAS, in the Iowa lawsuit, the common law claims
15 for relief seeking recovery of state Medicaid
16 expenditures arising from tobacco-related illnesses
17 had previously been dismissed from the state's
18 lawsuit; and

19 WHEREAS, the settlement contained no admission of
20 liability or allocation of settlement of proceeds
21 based on any particular theory used by any state, nor
22 any mention of Medicaid or federal recoupment of any
23 settlement moneys; and

24 WHEREAS, these state lawsuits commenced, proceeded,
25 and concluded without the assistance, participation,
26 or intervention of any branch, department, agency, or
27 division of the federal government; and

28 WHEREAS, the states assumed all risks and costs
29 associated with litigation of these suits; and

30 WHEREAS, the President and the United States

1 Department of Justice have recently announced that the
2 federal government would be filing their own lawsuit
3 against the tobacco industry to recover money spent by
4 the government on tobacco-related illnesses; NOW
5 THEREFORE,

6 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE
7 SENATE CONCURRING, That the United States Congress
8 take all necessary actions in order to prevent and
9 resist any branch, department, agency, or division of
10 the federal government from seeking to recoup any
11 Medicaid funds related to the state tobacco litigation
12 settlement, or otherwise to claim any right to any
13 portion of the funds paid to any state as a result of
14 the state tobacco litigation settlement agreement; and

15 BE IT FURTHER RESOLVED, That the United States
16 Congress take all measures necessary to allow the
17 states to keep all moneys paid to the states, without
18 offset, under the provisions of the state tobacco
19 litigation settlement agreement; and

20 BE IT FURTHER RESOLVED, That the United States
21 Congress should support HR 351 and S 346, which would
22 prohibit federal recoupment efforts; and

23 BE IT FURTHER RESOLVED, That a copy of this
24 resolution be sent by the Chief Clerk of the House of
25 Representatives to the President of the United States;
26 the Secretary of Health and Human Services, United
27 States Department of Health and Human Services; the
28 Administrator of the Health Care Financing
29 Administration within the Department of Health and
30 Human Services; the President of the Senate of the

1 United States; the Speaker of the House of
2 Representatives of the United States; members of
3 Iowa's congressional delegation; the Governor of Iowa;
4 and the Attorney General of Iowa; and

5 BE IT FURTHER RESOLVED, That a copy of this
6 resolution be delivered to the National Conference of
7 State Legislatures for distribution to its members.

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