

5-3/23/99 Do Pass

RULES & ADMINISTRATION

FILED MAR 16 1999

5-4/6/99 Adopted

H. 4/15/99 Do Pass

1 SENATE CONCURRENT RESOLUTION NO. 11

2 BY IVERSON, GRONSTAL, and KRAMER

3 A Concurrent Resolution requesting the United

4 States Congress to prevent the federal govern-

5 ment from attempting to recoup Medicaid payments

6 from the state tobacco litigation settlement

7 agreement moneys, and to allow the states to

8 keep all settlement moneys, without offset.

9 WHEREAS, more than 40 states, including Iowa,

10 commenced litigation against tobacco manufacturers

11 asserting various claims for monetary, equitable, and

12 injunctive relief; and

13 WHEREAS, on November 23, 1998, 46 states, Puerto

14 Rico, the United States Virgin Islands, Guam, the

15 Northern Mariana Islands, and the District of Columbia

16 signed a settlement agreement relating to both pending

17 and potential litigation by the states against five

18 major tobacco manufacturers; and

19 WHEREAS, the state of Iowa was one of the states

20 that signed the settlement agreement; and

21 WHEREAS, the United States Department of Health and

22 Human Services has stated an opinion in testimony

23 before the United States Congress that the Health Care

24 Financing Administration is entitled to recoup funds

25 paid to the states as a result of the settlement

26 agreement, on the theory, in part, that the settlement

27 constitutes reimbursement for Medicaid payments made

28 due to tobacco-related illnesses, and that the federal

29 government has contributed money toward these Medicaid

30 expenditures; and

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

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

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

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

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

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

29 WHEREAS, the President and the United States
30 Department of Justice have recently announced that the

1 federal government would be filing their own lawsuit
2 against the tobacco industry to recover money spent by
3 the government on tobacco-related illnesses; NOW
4 THEREFORE,

5 BE IT RESOLVED BY THE SENATE, WITH THE HOUSE OF
6 REPRESENTATIVES CONCURRING, That the United States
7 Congress take all necessary actions in order to
8 prevent and resist any branch, department, agency, or
9 division of the federal government from seeking to
10 recoup any Medicaid funds related to the state tobacco
11 litigation settlement, or otherwise to claim any right
12 to any portion of the funds paid to any state as a
13 result of the state tobacco litigation settlement
14 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 Secretary of the Senate to
25 the President of the United States; the Secretary of
26 Health and Human Services, United States Department of
27 Health and Human Services; the Administrator of the
28 Health Care Financing Administration within the
29 Department of Health and Human Services; the President
30 of the Senate of the United States; the Speaker of the

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

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

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**HOUSE AMENDMENT TO
SENATE CONCURRENT RESOLUTION 11**

S-3497

1 Amend Senate Concurrent Resolution 11, as follows:
2 1. Page 4, line 6, by inserting after the word
3 "Legislatures" the following: "and the Council of
4 State Governments".

RECEIVED FROM THE HOUSE

S-3497 FILED APRIL 27, 1999

SENATE CONCURRENT RESOLUTION 11

H-1844

1 Amend Senate Concurrent Resolution 11, as follows:
2 1. Page 4, line 6, by inserting after the word
3 "Legislatures" the following: "and the Council of
4 State Governments".

By CONNORS of Polk

**H-1844 FILED APRIL 27, 1999
ADOPTED BY UNANIMOUS CONSENT**

(P. 1746)

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