

ASSEMBLY JOINT RESOLUTION NO. 9—COMMITTEE ON WAYS AND MEANS

FEBRUARY 22, 1999

Referred to Concurrent Committees on Health and
Human Services and Ways and Means

SUMMARY—Urges Congress to prohibit federal recoupment of money recovered by states from tobacco settlement. (BDR R-1492)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Urging Congress to prohibit federal recoupment of the money recovered by the states from the tobacco settlement.

- 1 WHEREAS, Over the last decade, state governments initiated lawsuits
- 2 against the tobacco industry, asserting a variety of claims, but did not
- 3 include any claims for reimbursement of health care costs related to the use
- 4 of tobacco that were paid under the Medicaid program; and
- 5 WHEREAS, The lawsuits against the tobacco industry were initiated by
- 6 the states without any financial, technical or other assistance from any
- 7 branch or agency of the Federal Government, and no such assistance was
- 8 received at any stage of the litigation or settlement process; and
- 9 WHEREAS, In November of 1998, 46 states and the District of Columbia
- 10 agreed to settle their lawsuits against the major tobacco companies to
- 11 recover health care costs related to the use of tobacco; and
- 12 WHEREAS, The Attorneys General of these states carefully crafted these
- 13 agreements to reflect only state costs, direct damages, civil penalties,
- 14 disgorgement of profits, injunctive relief and other remedies appropriate
- 15 for the states; and
- 16 WHEREAS, States that entered into the settlement agreement, as well as
- 17 other states that entered into individual settlement agreements, have
- 18 planned for or have begun to plan for the allocation and expenditure of the
- 19 money received under those agreements, and in some cases have already
- 20 received and expended money under those agreements; and

1 WHEREAS, If the Secretary of Health and Human Services were to claim
2 that the settlement agreement of each of the states includes the existence of
3 specific Medicaid claims, arbitrarily assuming that some portion of the
4 settlement money received by the states is related to such Medicaid
5 recovery claims and seeking to recoup what is determined to be the federal
6 share of the money, the process would likely result in protracted and costly
7 litigation that would cause unnecessary conflict between the states and the
8 Federal Government and would delay or preclude states from using their
9 settlement money for the health and welfare of their residents; and

10 WHEREAS, The Hutchison-Graham Bill in the United States Senate and
11 H.R. 351 in the United States House of Representatives would amend the
12 Social Security Act to prohibit treating any money recovered from tobacco
13 companies as an overpayment for purposes of Medicaid, which would
14 prohibit recoupment by the Federal Government of the money from such
15 settlements; now, therefore, be it

16 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,
17 JOINTLY, That the members of the Nevada Legislature respectfully urge
18 United States Senators Harry Reid and Richard Bryan to cosponsor the
19 Hutchinson-Graham Bill and United States Representatives Shelly Berkley
20 and Jim Gibbons to cosponsor H.R. 351; and be it further

21 RESOLVED, That the Nevada Legislature calls upon the Congress of the
22 United States to pass the legislation necessary to prohibit recoupment by
23 the Federal Government of any of the money distributed to the states from
24 settlement agreements with the tobacco companies; and be it further

25 RESOLVED, That the Chief Clerk of the Assembly prepare and transmit
26 a copy of this resolution to the Vice President of the United States as the
27 presiding officer of the Senate, the Speaker of the House of
28 Representatives, each member of the Nevada Congressional Delegation
29 and the Secretary of Health and Human Services; and be it further

30 RESOLVED, That this act becomes effective upon passage and approval.