

1 **CONCURRENT RESOLUTION APPROVING**
2 **SETTLEMENT OF LAWSUIT**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: David Clark

8 **LONG TITLE**

9 **General Description:**

10 This concurrent resolution of the Legislature and the Governor gives approval to the
11 Utah Department of Health to enter into a settlement agreement to resolve a pending
12 lawsuit.

13 **Highlighted Provisions:**

14 This resolution:

- 15 ▶ gives approval to the Utah Department of Health to execute a settlement agreement
- 16 with the Plaintiffs in the case of B.C.B.U, Inc., doing business as Rocky Mountain
- 17 Care-Bountiful, et al. v. State of Utah, Department of Health, Division of Health
- 18 Care Financing, Civil No. 020914469 (Third District Court).

19 **Special Clauses:**

20 None

22 *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

23 WHEREAS, the Utah Department of Health (UDOH) was sued in 2002 by several
24 commonly owned nursing homes in the Rocky Mountain group seeking recovery of
25 approximately \$16 million, plus interest, in additional reimbursement for the periods July 1,
26 1991 through December 31, 2002;

27 WHEREAS, multiple efforts by UDOH to have the case dismissed or decided by
28 summary judgment were rejected by the Court;

29 WHEREAS, to avoid the additional expense and uncertainty of a two-week jury trial,

30 the parties have entered into an agreement to resolve the case, subject to necessary federal and
31 state approvals;

32 WHEREAS, the federal Center for Medicare and Medicaid Services (CMS) agreed in
33 writing on October 25, 2006, to pay \$4,909,800 of the settlement amount;

34 WHEREAS, the state's share of the settlement is an additional \$2,090,200;

35 WHEREAS, Utah Code Section 63-38b-202 requires any settlement of more than
36 \$1,000,000 must be approved by the Governor and the Legislature before a government agency
37 may sign the agreement;

38 WHEREAS, on February 1, 2007, the Legislative Management Committee met and
39 heard testimony from the executive director of the Utah Department of Health, David N.
40 Sundwall, Attorney General Mark Shurtleff, and Assistant Attorney General Doug
41 Springmeyer;

42 WHEREAS, in that meeting, the Legislative Management Committee recommended
43 the settlement of this lawsuit as it had been proposed to them by the Attorney General;

44 WHEREAS, this concurrent resolution of the Legislature and Governor is necessary to
45 affirm their approval of UDOH entering into this settlement agreement; and

46 WHEREAS, the state's portion of this settlement, \$2,090,200, is to be allocated to the
47 Utah Department of Health to coordinate with federal matching funds through an appropriation
48 in a 2007 appropriations act:

49 NOW, THEREFORE, BE IT RESOLVED by the Legislature, the Governor concurring
50 therein, that the Utah Department of Health be approved to enter into a settlement agreement as
51 outlined and approved by the Legislative Management Committee in its February 1, 2007
52 meeting.