

THE HOUSE OF REPRESENTATIVES  
Wednesday, March 10, 2010

ENGROSSED

Senate Joint

Resolution No. 59

ENGROSSED SENATE JOINT RESOLUTION NO. 59 - By: NEWBERRY, JOLLEY, SYKES, COFFEE, BROGDON, BRANAN, SCHULZ, STANISLAWSKI, FORD, BROWN, ALDRIDGE, BARRINGTON, LAMB, BINGMAN, RUSSELL, JUSTICE, MARLATT AND COATES of the Senate and THOMPSON of the House.

[ Oklahoma Constitution - new section - health care system - ballot title - directing filing ]

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

1 SECTION 1. The Secretary of State shall refer to the people for their approval or  
2 rejection, as and in the manner provided by law, the following proposed amendment to  
3 Article II of the Oklahoma Constitution by adding a new Section 37 to read as follows:

4 Section 37. A. For purposes of this section:

5 1. "Compel" shall include penalties or fines;

6 2. "Direct payment or pay directly" means payment for lawful health care services  
7 without a public or private third party, not including an employer, paying for any portion  
8 of the service;

ESJR 59

1           3. “Health care system” means any public or private entity whose function or  
2 purpose is the management of, processing of, enrollment of individuals for or payment  
3 for, in full or in part, health care services or health care data or health care information  
4 for its participants;

5           4. “Lawful health care services” means any health-related service or treatment to  
6 the extent that the service or treatment is permitted or not prohibited by law or  
7 regulation that may be provided by persons or businesses otherwise permitted to offer  
8 such services; and

9           5. “Penalties or fines” means any civil or criminal penalty or fine, tax, salary or  
10 wage withholding or surcharge or any named fee with a similar effect established by law  
11 or rule by a government-established, -created or -controlled agency that is used to punish  
12 or discourage the exercise of rights protected under this section.

13           B. To preserve the freedom of Oklahomans to provide for their health care:

14           1. A law or rule shall not compel, directly or indirectly, any person, employer or  
15 health care provider to participate in any health care system; and

16           2. A person or employer may pay directly for lawful health care services and shall  
17 not be required to pay penalties or fines for paying directly for lawful health care  
18 services. A health care provider may accept direct payment for lawful health care  
19 services and shall not be required to pay penalties or fines for accepting direct payment  
20 from a person or employer for lawful health care services.

1 C. Subject to reasonable and necessary rules that do not substantially limit a  
2 person's options, the purchase or sale of health insurance in private health care systems  
3 shall not be prohibited by law or rule.

4 D. This section shall not:

- 5 1. Affect which health care services a health care provider or hospital is required to
- 6 perform or provide;
- 7 2. Affect which health care services are permitted by law;
- 8 3. Prohibit care related to workers' compensation;
- 9 4. Affect laws or rules in effect as of January 1, 2010; or
- 10 5. Affect the terms or conditions of any health care system to the extent that those
- 11 terms and conditions do not have the effect of punishing a person or employer for paying
- 12 directly for lawful health care services or a health care provider or hospital for accepting
- 13 direct payment from a person or employer for lawful health care services.

14 SECTION 2. The Ballot Title for the proposed Constitutional amendment as set  
15 forth in SECTION 1 of this resolution shall be in the following form:

16 BALLOT TITLE

17 Legislative Referendum No. \_\_\_\_ State Question No. \_\_\_\_

18 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

19 This measure adds a new section of law to the State Constitution. It adds Section  
20 37 to Article 2. It prohibits making a person use a health care system. It prohibits  
21 making an employer use a health care system. It prohibits making a health care  
22 provider provide treatment in a health care system. It allows a person to pay for

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 treatment directly. It allows an employer to pay for treatment directly. It allows a  
2 health care provider to accept payment for treatment directly. It allows the  
3 purchase of health insurance in private health care systems. It allows the sale of  
4 health insurance in private health care systems.

5 SHALL THE PROPOSAL BE APPROVED?

6 FOR THE PROPOSAL — YES \_\_\_\_\_

7 AGAINST THE PROPOSAL — NO \_\_\_\_\_

8 SECTION 3. The President Pro Tempore of the Senate shall, immediately after the  
9 passage of this resolution, prepare and file one copy thereof, including the Ballot Title set  
10 forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney  
11 General.

12 DIRECT TO CALENDAR.