

3 Senate Joint
4 Resolution No. 59

5 SENATE JOINT RESOLUTION NO. 59 - By: Newberry and Jolley of the
6 Senate and Thompson of the House.

7 A Joint Resolution directing the Secretary of State to refer
8 to the people for their approval or rejection a proposed
9 amendment to the Oklahoma Constitution by adding a new
10 section to Article II to be designated as Section 37;
11 defining terms; prohibiting laws or rules that compel
12 entities to participate in any health care system;
13 permitting persons and employers to pay directly for health
14 care services; permitting health care providers to accept
15 direct payment for health care services; making it illegal
16 to prohibit the purchase or sale of health insurance in
17 private health care systems; clarifying scope of language;
18 providing ballot title; and directing filing.

19 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
20 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

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

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

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

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

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

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

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

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

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

21 2. A person or employer may pay directly for lawful health care
22 services and shall not be required to pay penalties or fines for
23 paying directly for lawful health care services. A health care

1 provider may accept direct payment for lawful health care services
2 and shall not be required to pay penalties or fines for accepting
3 direct payment from a person or employer for lawful health care
4 services.

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

9 D. This section shall not:

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

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

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BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure adds a new section of law to the State Constitution. It adds Section 37 to Article 2. It prohibits making a person use a health care system. It prohibits making an employer use a health care system. It prohibits making a health care provider provide treatment in a health care system. It allows a person to pay for treatment directly. It allows an employer to pay for treatment directly. It allows a health care provider to accept payment for treatment directly. It allows the purchase of health insurance in private health care systems. It allows the sale of health insurance in private health care systems.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES _____

AGAINST THE PROPOSAL – NO _____

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

COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated 2-11-10 - DO PASS, As Coauthored.