

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Joint Resolution No. 59, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Newberry

Newberry-JM-FS-Req#3743
2/22/2010 3:50 PM

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

FLOOR SUBSTITUTE
FOR
SENATE JOINT
RESOLUTION NO. 59

By: Newberry and Jolley of the
Senate

and

Thompson of the House

FLOOR SUBSTITUTE

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new section to Article II to be designated as Section 37; defining terms; prohibiting laws or rules that compel entities to participate in any health care system; permitting persons and employers to pay directly for health care services; permitting health care providers to accept direct payment for health care services; making it illegal to prohibit the purchase or sale of health insurance in private health care systems; authorizing the Legislature to repeal, modify, or waive certain provisions; clarifying scope of language; providing ballot title; and directing filing.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law,

1 the following proposed amendment to Article II of the Oklahoma
2 Constitution by adding a new Section 37 to read as follows:

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

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

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

8 3. "Health care system" means any public or private entity
9 whose function or purpose is the management of, processing of,
10 enrollment of individuals for or payment for, in full or in part,
11 health care services or health care data or health care information
12 for its participants;

13 4. "Lawful health care services" means any health-related
14 service or treatment to the extent that the service or treatment is
15 permitted or not prohibited by law or regulation that may be
16 provided by persons or businesses otherwise permitted to offer such
17 services; and

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

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

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

4 2. A person or employer may pay directly for lawful health care
5 services and shall not be required to pay penalties or fines for
6 paying directly for lawful health care services. A health care
7 provider may accept direct payment for lawful health care services
8 and shall not be required to pay penalties or fines for accepting
9 direct payment from a person or employer for lawful health care
10 services.

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

15 D. The provisions of this section may be repealed, modified, or
16 waived by passage of a bill or joint resolution to that effect. If
17 the Governor vetoes such bill or joint resolution, the procedure
18 shall be the same for the veto of any other bill or joint
19 resolution.

20 E. This section shall not:

21 1. Affect which health care services a health care provider or
22 hospital is required to perform or provide;

23 2. Affect which health care services are permitted by law;

24 3. Prohibit care related to workers' compensation;

1 4. Affect laws or rules in effect as of January 1, 2010;

2 5. Affect the terms or conditions of any health care system to
3 the extent that those terms and conditions do not have the effect of
4 punishing a person or employer for paying directly for lawful health
5 care services or a health care provider or hospital for accepting
6 direct payment from a person or employer for lawful health care
7 services; or

8 6. Apply to children in the custody of the state.

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

12 BALLOT TITLE

13 Legislative Referendum No. _____ State Question No. _____

14 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

15 This measure adds a new section of law to the State
16 Constitution. It adds Section 37 to Article 2. It prohibits
17 making persons or employers use a health care system. It
18 prohibits making a health care provider provide treatment in a
19 health care system. It allows a person or an employer to pay
20 for treatment directly. It allows a health care provider to
21 accept payment for treatment directly. It allows a person to
22 buy health insurance in private health care systems. It allows
23 the sale of health insurance in private health care systems.

1 The Senate and House may change, remove or waive any provisions
2 of this section of the State Constitution.

3 SHALL THE PROPOSAL BE APPROVED?

4 FOR THE PROPOSAL — YES _____

5 AGAINST THE PROPOSAL — NO _____

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

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