

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 54th Legislature (2014)

4   HOUSE JOINT  
5   RESOLUTION 1084

By: Moore of the House

and

Dahm of the Senate

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7  
8  
9                               AS INTRODUCED

10           A Joint Resolution directing the Secretary of State  
11           to refer to the people for their approval or  
12           rejection a proposed amendment to the Constitution of  
13           the State of Oklahoma by adding a new Section 38 to  
14           Article II; prohibiting state from aiding in the  
15           enforcement of certain federal act; permitting  
16           certain individuals to bring certain action;  
17           requiring certain notice; permitting certain tax  
18           deduction by residents; prohibiting state from  
19           establishing a health care exchange; prohibiting  
20           state from participating in health care exchange  
21           established by nonprofit organization; declaring  
22           certain insurance contract as void and unenforceable;  
23           prohibiting state from participating in certain in-  
24           home visitation program pursuant to certain act;  
          providing ballot title; and directing filing.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

1 Oklahoma by adding a new Section 38 to Article II thereof, to read  
2 as follows:

3       A. 1. No agency of the state, or officer or employee of the  
4 state, acting on behalf of the state, may engage in an activity that  
5 aids any agency in the enforcement of those provisions of the  
6 Patient Protection and Affordable Care Act of 2010 and any  
7 subsequent federal act that amends the Patient Protection and  
8 Affordable Care Act of 2010 that exceed the authority of the United  
9 States Constitution.

10       2. The Legislature of the State of Oklahoma is empowered to  
11 take all necessary actions to ensure that the provisions of this  
12 subsection are adhered to by all agencies, departments and political  
13 subdivisions of this state.

14       B. Whenever the Attorney General or any district attorney in  
15 Oklahoma has reasonable cause to believe that a person or business  
16 is being harmed by implementation of the Patient Protection and  
17 Affordable Care Act and that proceedings would be in the public  
18 interest, the Attorney General or any district attorney in Oklahoma  
19 may bring an action in the name of the state against such person or  
20 entity causing the harm to restrain by temporary restraining order,  
21 temporary injunction, or permanent injunction the use of such  
22 methods, act, or practice. Unless the Attorney General or any  
23 district attorney in Oklahoma determines in writing that the  
24 purposes of this section will be substantially impaired by delay in

1 instituting legal proceedings, the Attorney General or any district  
2 attorney in Oklahoma shall, at least three (3) days before  
3 instituting a legal proceeding as provided in this section, give  
4 notice to the person or entity against whom the proceeding is  
5 contemplated and give such person or entity an opportunity to  
6 present reasons to the Attorney General or any district attorney in  
7 Oklahoma why a proceeding should not be instituted. The action may  
8 be brought in a court of competent jurisdiction. Whenever the court  
9 issues a permanent injunction in connection with an action, which  
10 has become final, the court shall award reasonable costs to the  
11 state.

12 C. An Oklahoma resident taxpayer who is subjected to a tax by  
13 the Internal Revenue Code under 26 U.S.C., Section 5000A of the  
14 Patient Protection and Affordable Care Act shall receive a tax  
15 deduction in the exact amount of the taxes or penalty paid the  
16 federal government pursuant to 26 U.S.C., Section 5000A. The tax  
17 deduction allowed by this section must be used in the year the  
18 federal tax or penalty is paid.

19 D. 1. For purposes of this section, "health care exchange"  
20 means an American Health Benefit Exchange established by any state  
21 or political subdivision of a state, as provided for in the Patient  
22 Protection and Affordable Care Act of 2010.

23 2. Neither the state nor a political subdivision including, but  
24 not limited to, counties, municipalities, or special purpose

1 districts of the state may establish a health care exchange for the  
2 purchase of health insurance.

3 3. Neither the state nor a political subdivision including, but  
4 not limited to, counties, municipalities, or special purpose  
5 districts of the state may participate in a health care exchange  
6 established by a nonprofit organization.

7 4. A health insurance contract purchased or established in  
8 violation of this section is void and shall not be enforced by the  
9 courts of this state.

10 E. No agency, department, or other state entity, including but  
11 not limited to the State Department of Health, may authorize an  
12 employee, contractor, vendor, or any other person acting on its  
13 behalf to conduct or participate in an involuntary maternal, infant,  
14 and early childhood in-home visitation pursuant to Section 2951 of  
15 the Patient Protection and Affordable Care Act of 2010 and any  
16 subsequent federal act that amends that section or that may refer to  
17 an entity or a process established pursuant to the Patient  
18 Protection and Affordable Care Act of 2010.

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

22 BALLOT TITLE

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

24 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

1 This measure amends the Oklahoma Constitution. It would add a  
2 new Section 38 to Article 2. It would prohibit the State of  
3 Oklahoma from aiding in the enforcement of the Patient  
4 Protection and Affordable Care Act of 2010 (the "Act"). It  
5 would permit the Attorney General or a district attorney to  
6 bring a cause of action if he or she has reasonable cause to  
7 believe that a person or business is being harmed by the  
8 implementation of the Act. It would allow a resident taxpayer  
9 to receive a tax deduction if a penalty is paid under the Act.  
10 It would prohibit the state or a political subdivision from  
11 establishing a health care exchange or participating in a health  
12 care exchange established by a nonprofit organization. It would  
13 prohibit the state from participating in a maternal, infant, and  
14 early childhood in-home visitation program pursuant to the Act.  
15 SHALL THE PROPOSAL BE APPROVED?

16 FOR THE PROPOSAL — YES \_\_\_\_\_

17 AGAINST THE PROPOSAL — NO \_\_\_\_\_

18 SECTION 3. The Chief Clerk of the House of Representatives,  
19 immediately after the passage of this act, shall prepare and file  
20 one copy thereof, including the Ballot Title set forth in SECTION 2  
21 hereof, with the Secretary of State and one copy with the Attorney  
22 General.

23 COMMITTEE REPORT BY: COMMITTEE ON STATES' RIGHTS, dated 02/26/2014 -  
24 DO PASS, As Coauthored.