

1 STATE OF OKLAHOMA

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

3 HOUSE JOINT
4 RESOLUTION 1084

By: Moore

5
6 AS INTRODUCED

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

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

24 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
Oklahoma by adding a new Section 38 to Article II thereof, to read
as follows:

A. 1. No agency of the state, or officer or employee of the
state, acting on behalf of the state, may engage in an activity that

1 aids any agency in the enforcement of those provisions of the
2 Patient Protection and Affordable Care Act of 2010 and any
3 subsequent federal act that amends the Patient Protection and
4 Affordable Care Act of 2010 that exceed the authority of the United
5 States Constitution.

6 2. The Legislature of the State of Oklahoma is empowered to
7 take all necessary actions to ensure that the provisions of this
8 subsection are adhered to by all agencies, departments and political
9 subdivisions of this state.

10 B. Whenever the Attorney General or any district attorney in
11 Oklahoma has reasonable cause to believe that a person or business
12 is being harmed by implementation of the Patient Protection and
13 Affordable Care Act and that proceedings would be in the public
14 interest, the Attorney General or any district attorney in Oklahoma
15 may bring an action in the name of the state against such person or
16 entity causing the harm to restrain by temporary restraining order,
17 temporary injunction, or permanent injunction the use of such
18 methods, act, or practice. Unless the Attorney General or any
19 district attorney in Oklahoma determines in writing that the
20 purposes of this section will be substantially impaired by delay in
21 instituting legal proceedings, the Attorney General or any district
22 attorney in Oklahoma shall, at least three (3) days before
23 instituting a legal proceeding as provided in this section, give
24 notice to the person or entity against whom the proceeding is

1 contemplated and give such person or entity an opportunity to
2 present reasons to the Attorney General or any district attorney in
3 Oklahoma why a proceeding should not be instituted. The action may
4 be brought in a court of competent jurisdiction. Whenever the court
5 issues a permanent injunction in connection with an action, which
6 has become final, the court shall award reasonable costs to the
7 state.

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

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

19 2. Neither the state nor a political subdivision including, but
20 not limited to, counties, municipalities, or special purpose
21 districts of the state may establish a health care exchange for the
22 purchase of health insurance.

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

1 districts of the state may participate in a health care exchange
2 established by a nonprofit organization.

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

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

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

18 BALLOT TITLE

19 Legislative Referendum No. _____ State Question No. _____

20 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

21 This measure amends the Oklahoma Constitution. It would add a
22 new Section 38 to Article 2. It would prohibit the State of
23 Oklahoma from aiding in the enforcement of the Patient
24 Protection and Affordable Care Act of 2010 (the "Act"). It

1 would permit the Attorney General or a district attorney to
2 bring a cause of action if he or she has reasonable cause to
3 believe that a person or business is being harmed by the
4 implementation of the Act. It would allow a resident taxpayer
5 to receive a tax deduction if a penalty is paid under the Act.
6 It would prohibit the state or a political subdivision from
7 establishing a health care exchange or participating in a health
8 care exchange established by a nonprofit organization. It would
9 prohibit the state from participating in a maternal, infant, and
10 early childhood in-home visitation program pursuant to the Act.

11 SHALL THE PROPOSAL BE APPROVED?

12 FOR THE PROPOSAL — YES _____

13 AGAINST THE PROPOSAL — NO _____

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

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