

Introduced by

Representatives Kasper, Headland, Keiser, Ruby

Senators Klein, Wardner

1 A concurrent resolution to create and enact a new section to article XI of the Constitution of  
2 North Dakota, relating to freedom of choice in health care.

3 **STATEMENT OF INTENT**

4 This measure would prohibit any law from compelling any individual to purchase health  
5 insurance or compelling any individual, employer, or health care provider to participate in any  
6 health care system, would allow an individual or employer to pay directly for health care service,  
7 and would allow a health care provider to accept direct payment for health care services.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**  
9 **SENATE CONCURRING THEREIN:**

10 That the following proposed new section to article XI of the Constitution of North Dakota is  
11 agreed to and must be submitted to the qualified electors of North Dakota at the primary  
12 election in 2012, in accordance with section 16 of article IV of the Constitution of North Dakota.

13 **SECTION 1.** A new section to article XI of the Constitution of North Dakota is created and  
14 enacted as follows:

- 15 1. A law or rule may not compel any individual to purchase any individual or group health  
16 insurance policy or product or compel any individual, employer, or health care provider  
17 to participate in any health care system. An individual or an employer may pay directly  
18 for lawful health care services and may not be required to pay a penalty or fine for  
19 paying directly for lawful health care services. A health care provider may accept direct  
20 payment for lawful health care services and may not be required to pay a penalty or  
21 fine for accepting direct payment from an individual or employer for lawful health care  
22 services. Subject to reasonable and necessary rules that do not substantially limit  
23 options, the purchase or sale of health insurance in a private health care system may  
24 not be prohibited by law.
- 25 2. This section does not:

- 1           a. Affect which health care services a health care provider is required to perform or  
2           provide.
- 3           b. Affect which health care services are permitted by law.
- 4           c. Prohibit care provided under the workers' compensation laws of this state.
- 5           d. Affect law or rules in place on the effective date of this measure.
- 6           e. Affect the terms or conditions of any health care system to the extent those terms  
7           or conditions do not have the effect of punishing an individual or employer for  
8           paying directly for lawful health care services or a health care provider for  
9           accepting direct payment from an individual or employer for lawful health care  
10          services.
- 11          f. Prohibit the establishment of a state court order for support of a child which  
12          includes health insurance coverage or other medical support provisions, or the  
13          enforcement of that order, and does not affect or prohibit any law or rule relating  
14          to that order.
- 15          3. For the purposes of this section:
- 16           a. "Compel" includes imposing a penalty or fine.
- 17           b. "Direct payment" or "pay directly" means payment for lawful health care services  
18           without a public or private third party, not including an employer, paying for any  
19           portion of the service.
- 20           c. "Health care system" means any public or private entity that has the function or  
21           purpose of managing, processing, or enrolling individuals for or payment for  
22           health care services, data, or information for its participants.
- 23           d. "Lawful health care services" means any health-related service or treatment to  
24           the extent the service or treatment is permitted or not prohibited by law which  
25           may be provided by individuals or health care providers authorized to provide the  
26           service or treatment.
- 27           e. "Penalty or fine" means any civil or criminal penalty or fine, tax, salary or wage  
28           withholding or surcharge, or any other fee with a similar effect which is  
29           established by law or rule by a government agency and which is used to punish  
30           or discourage the exercise of rights protected under this section.