By the Committee on Budget; and Senators Haridopolos, Lynn, Wise, Gaetz, Dean, Benacquisto, Hays, Fasano, Bennett, Diaz de la Portilla, Oelrich, Negron, Storms, Evers, Flores, Simmons, Jones, Gardiner, Garcia, Alexander, Latvala, Altman, Thrasher, Detert, Norman, Richter, Dockery, and Bogdanoff

Senate Joint Resolution

A joint resolution proposing the creation of Section 28 of Article I of the State Constitution, relating to health care services.

Be It Resolved by the Legislature of the State of Florida:

That the following creation of Section 28 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE I
DECLARATION OF RIGHTS

SECTION 28. Health care services.—
(a) To preserve the freedom of all residents of the state to provide for their own health care:

(1) A law or rule may not compel, directly or indirectly, any person or employer to purchase, obtain, or otherwise provide for health care coverage.

(2) A person or an employer may pay directly for lawful health care services and may not be required to pay penalties or taxes for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and may not be required to pay penalties or taxes for accepting direct payment from a person or an employer for lawful health care services.

(b) The private market for health care coverage of any lawful health care service may not be abolished by law or rule.
(c) This section does not:

(1) Affect which health care services a health care provider is required to perform or provide.

(2) Affect which health care services are permitted by law.

(3) Prohibit care provided pursuant to general law relating to workers’ compensation.

(4) Affect laws or rules in effect as of March 1, 2010.

(5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or an employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or an employer for lawful health care services, except that this section may not be construed to prohibit any negotiated provision in any insurance contract, network agreement, or other provider agreement contractually limiting copayments, coinsurance, deductibles, or other patient charges.

(6) Affect any general law passed by a two-thirds vote of the membership of each house of the legislature after the effective date of this section, if the law states with specificity the public necessity that justifies an exception from this section.

(d) As used in this section, the term:

(1) “Compel” includes the imposition of penalties or taxes.

(2) “Direct payment” or “pay directly” means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

(3) “Health care system” means any public or private entity
whose function or purpose is the management of, processing of,
enrollment of individuals for, or payment, in full or in part,
for health care services, health care data, or health care
information for its participants.

(4) “Lawful health care services” means any health-related
service or treatment, to the extent that the service or
treatment is permitted or not prohibited by law or regulation at
the time the service or treatment is rendered, which may be
provided by persons or businesses otherwise permitted to offer
such services.

(5) “Penalties or taxes” means any civil or criminal
penalty or fine, tax, salary or wage withholding or surcharge,
or named fee with a similar effect established by law or rule by
an agency established, created, or controlled by the government
which is used to punish or discourage the exercise of rights
protected under this section. For purposes of this section only,
the term “rule by an agency” may not be construed to mean any
negotiated provision in any insurance contract, network
agreement, or other provider agreement contractually limiting
copayments, coinsurance, deductibles, or other patient charges.

BE IT FURTHER RESOLVED that the following title and
statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE I, SECTION 28

HEALTH CARE SERVICES.—Proposing an amendment to the State
Constitution to prohibit laws or rules from compelling any
person or employer to purchase, obtain, or otherwise provide for
health care coverage; permit a person or an employer to purchase
lawful health care services directly from a health care
provider; permit a health care provider to accept direct payment
from a person or an employer for lawful health care services;
exempt persons, employers, and health care providers from
penalties and taxes for paying directly or accepting direct
payment for lawful health care services; and prohibit laws or
rules from abolishing the private market for health care
coverage of any lawful health care service. Specifies that the
amendment does not affect which health care services a health
care provider is required to perform or provide; affect which
health care services are permitted by law; prohibit care
provided pursuant to general law relating to workers’
compensation; affect laws or rules in effect as of March 1,
2010; affect the terms or conditions of any health care system
to the extent that those terms and conditions do not have the
effect of punishing a person or an employer for paying directly
for lawful health care services or a health care provider for
accepting direct payment from a person or an employer for lawful
health care services; or affect any general law passed by two-
thirds vote of the membership of each house of the Legislature,
passed after the effective date of the amendment, provided such
law states with specificity the public necessity justifying the
exceptions from the provisions of the amendment. The amendment
expressly provides that it may not be construed to prohibit
negotiated provisions in insurance contracts, network
agreements, or other provider agreements contractually limiting
copayments, coinsurance, deductibles, or other patient charges.