A PROPOSITION to amend the constitution of the state of Kansas by adding a new article 16 thereto, concerning health care.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection. The constitution of the state of Kansas is amended by adding a new article 16 thereto to read as follows:

"Article 16. – HEALTH CARE

§1. Health care. (a) To preserve the freedom of Kansans to provide for their health care:

(1) A law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system or purchase health insurance.

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

(b) Subject to reasonable and necessary rules that do not substantially limit a person’s options, the purchase or sale of private health insurance or the participation in private health care systems shall not be prohibited 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 the provisions relating
to workers compensation.
“(4) Prohibit care provided pursuant to the provisions relating
to state employee benefit programs.
“(5) Affect laws or rules in effect as of August 1, 2009.
“(6) 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 or penalizing a person or employer for paying directly
for lawful health care services or a health care provider or hospital
for accepting direct payment from a person or employer for lawful
health care services.
“(d) For the purposes of this section:
“(1) “Compel” includes penalties or fines.
“(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 for, in full or in part,
health care services or 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 that may be
provided by persons or businesses otherwise permitted to offer
such services.
“(5) “Penalties or fines” means any civil or criminal penalty
or fine, tax, salary or wage withholding or surcharge or any named
fee with a similar effect established by law or rule by a government
established, created or controlled agency that is used to punish or
discourage the exercise of rights protected under this section.”

Sec. 2. The following statement shall be printed on the ballot with
the amendment as a whole:

“Explanatory statement. The purpose of this health care freedom
amendment is to preserve constitutionally the right and freedom
of Kansans to provide for their health care. This proposition
would not affect which health care services a health care
provider or hospital is required to perform or provide; would
not affect which health care services are permitted by law;
would not prohibit care provided pursuant to the general
provisions relating to workers compensation; would not prohibit
care pursuant to the provisions relating to state employee
benefit programs; would not affect laws or rules in effect as of August 1, 2009; or would not 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 employer for paying directly for lawful health care services. Nothing in this amendment is meant to discourage anyone from purchasing health insurance.

“A vote for this proposition would preserve constitutionally the right of a person, employer or health care provider to be free from laws or rules compelling participation in any health care system; preserve constitutionally the right of a person or employer to purchase lawful health care services directly from a health care provider; preserve constitutionally the right of a health care provider to accept direct payment from a person or employer for lawful health care services; and preserve constitutionally the right to have the ability to purchase or sell health insurance in private health care systems.

“A vote against this proposition would provide for no constitutional right of a person, employer or health care provider to be free from laws and rules compelling participation in any health care system; would provide for no constitutional right of a person or employer to purchase lawful health care services directly from a health care provider; would provide for no constitutional right of a health care provider to accept direct payment from a person or employer for lawful health care services; and would provide for no constitutional right to have the ability to purchase or sell health insurance in private health care systems.”

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in November in the year 2012 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.