

SESSION OF 2010

**SUPPLEMENTAL NOTE ON HOUSE CONCURRENT
RESOLUTION NO. 5032**

As Recommended by House Committee on
Health and Human Services

Brief*

HCR 5032 would amend the State Constitution by adding a new Article 16. The purpose of the new constitutional article, which concerns health care, would be to preserve the freedom of Kansans to provide for their health care. Article 16 would include the following protections:

- No law or rule would compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system or to purchase health insurance;
- Any person or employer could pay directly for lawful health care services and would not be required to pay penalties or fines for paying directly for lawful health care services; and
- Any health care provider could accept direct payment for lawful health care services and would not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

The constitutional amendment would not affect which health care services a health care provider or hospital would be required to perform or provide. The amendment would not affect which health care services are permitted by law and would not prohibit care provided through the Workers Compensation Program or state employee benefit programs. The amendment would not affect laws or rules in effect as of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

August 1, 2009. Additionally, the amendment would not affect the terms or conditions of any health care system as long as they do not punish or penalize any person or employer for paying directly for lawful health care services or punish or penalize a health care provider or hospital for accepting direct payment for lawful health care services.

If the Concurrent Resolution is approved by two-thirds of the members of the Senate and two-thirds of the members of the House of Representatives, the proposed constitutional amendment would be submitted to the electors of the State at the November 2010 general election unless a special election is called at a sooner date by a concurrent resolution of the Legislature. Language to be included on the election ballot is included in the resolution.

Background

The resolution incorporates model language from the American Legislative Exchange Council's (ALEC) model legislation, "Freedom of Choice in Health Care Act." According to testimony at the time of the Committee's meeting, this legislation has been filed or announced in 35 states. A similar resolution, SCR 1626, has been introduced in the Kansas Senate.

The sponsors of HCR 5032 are Representatives Landwehr, Mast, Jack, Schwab, A. Brown, Brunk, Carlson, Crum, DeGraaf, Faber, Fund, George, Goico, Gordon, Grange, Hermanson, M. Holmes, Horst, Huebert, Kelley, Kerschen, Kiegerl, Kinzer, Knox, McLeland, Merrick, Morrison, Neufeld, O'Brien, O'Neal, Olson, Patton, Peck, Powell, Prescott, Proehl, Rhoades, Seiwert, Siegfried, Suellentrop, Vickrey, B. Wolf, and Yoder.

The proponents of the resolution who presented testimony at a joint meeting of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee were Senator Mary Pilcher-Cook, Senator Tim

Huelskamp, Representative Peggy Mast, a representative of the Association of American Physicians and Surgeons, a representative of the Coalition of Citizen Advocacy Groups Supporting State Sovereignty, a constitutional scholar, a psychiatric physician, and private citizens. Written testimony in support of the resolution was submitted by representatives of ALEC, Americans For Prosperity-Kansas, the Kansas Chamber, and the Kansas Cooperative Council. Neutral testimony was provided by a Show-Me Institute analyst and a local psychologist.

The opponent to the resolution at the Committee's meeting was Senator David Haley.

A fiscal note was not available on the resolution at the time of the Committee's meeting.