

# GENERAL ASSEMBLY OF VIRGINIA -- 1999 SESSION

ENROLLED

## HOUSE JOINT RESOLUTION NO. 552

*Memorializing the Congress of the United States to either enact meaningful patient protections at the federal level with respect to employer self-funded plans or, in the absence of such federal action, amend the Employee Retirement Income Security Act (ERISA) of 1974 to grant authority to all individual states to monitor and regulate self-funded, employer-based health plans.*

Agreed to by the House of Delegates, February 23, 1999

Agreed to by the Senate, February 18, 1999

WHEREAS, the McCarran-Ferguson Act, passed by the Congress of the United States in 1945, established a statutory framework whereby responsibility for regulating the insurance industry was left largely to the states; and

WHEREAS, the Employee Retirement Income Security Act (ERISA) of 1974 significantly altered this concept by creating a federal framework for regulating employer-based health, pension and welfare-benefit plans; and

WHEREAS, the provisions of ERISA prevent states from directly regulating most employer-based health plans that are not deemed to be "insurance" for purposes of federal laws; and

WHEREAS, available data suggests that self-funding of employer-based health plans is increasing at a significant rate, among both large and small businesses; and

WHEREAS, between 1989 and 1993, the General Accounting Office estimates that the number of self-funded plan enrollees increased by about six million; and

WHEREAS, approximately 40-50 percent of the employer-based health plans are presently self-funded by employers, who retain most or all of the financial risk for their respective health plans; and

WHEREAS, as self-funding of health plans has grown, states have lost regulatory oversight of this growing portion of the health insurance market; and

WHEREAS, the federal government has been slow to enact meaningful patient protections such as mechanisms for the recovery of benefits due plan participants, recovery of compensatory damages from the fiduciary caused by its failure to pay benefits due under the plan, enforcement of the plan-participant's rights under the terms of the plan, assurance of timely payment, and clarification of the plan-participant's rights to future benefits under the terms of the plan; and

WHEREAS, in the absence of federal patient protections, state-level action is needed; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Congress of the United States be urged to either enact meaningful patient protections at the federal level with respect to employer self-funded plans or, in the absence of such federal action, amend the Employee Retirement Income Security Act (ERISA) of 1974 to grant authority to all individual states to monitor and regulate self-funded, employer-based health plans; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of the United States Department of Labor, the Congressional Delegation of Virginia, and to the presiding officer of each house of each state's legislative body so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

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