A JOINT RESOLUTION

1   proposing a constitutional amendment authorizing the legislature

2   to determine limits for noneconomic damages in medical or health

3   care liability claims and other claims.

4   BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5   SECTION 1. Article III, Texas Constitution, is amended by

6   adding Section 66 to read as follows:

7   Sec. 66. (a) In this section, "economic damages" means

8   compensatory damages for any pecuniary loss or damage. The term

9   does not include any loss or damage, however characterized, for

10   past, present, and future physical pain and suffering, mental

11   anguish and suffering, loss of consortium, loss of companionship

12   and society, disfigurement, or physical impairment.

13   (b) Notwithstanding any other provision of this

14   constitution, the legislature by statute may determine the limit of

15   liability for all damages and losses, however characterized, other

16   than economic damages, of a provider of medical or health care with

17   respect to treatment, lack of treatment, or other claimed departure

18   from an accepted standard of medical or health care or safety,

19   however characterized, that is or is claimed to be a cause of, or

20   that contributes or is claimed to contribute to, disease, injury,

21   or death of a person. This subsection applies without regard to

22   whether the claim or cause of action arises under or is derived from

23   common law, a statute, or other law, including any claim or cause of

24   action based or sounding in tort, contract, or any other theory or

1   any combination of theories of liability. The claim or cause of

2   action includes a medical or health care liability claim as defined

3   by the legislature.

4   (c) Notwithstanding any other provision of this

5   constitution, after January 1, 2005, the legislature by statute may

6   determine the limit of liability for all damages and losses,

7   however characterized, other than economic damages, in a claim or

8   cause of action not covered by Subsection (b) of this section. This

9   subsection applies without regard to whether the claim or cause of

10   action arises under or is derived from common law, a statute, or

11   other law, including any claim or cause of action based or sounding

12   in tort, contract, or any other theory or any combination of

13   theories of liability.

14   (d) The legislature may include in any statute passed under

15   this section a limitation of liability in the statute that:

16   (1) applies to each claim or cause of action, each

17   claimant, each provider, or a combination of one or more claims or

18   causes of action, claimants, or providers;

19   (2) applies to all damages and losses, other than

20   economic damages, sought with respect to the claim or cause of

21   action, an element of the damage or loss sought, or a combination of

22   those elements;

23   (3) is subject to increase or decrease over time by a

24   means or as otherwise specified by the legislature;

25   (4) is subject to or conditioned on an event or

26   requirement specified by the legislature; or

27   (5) applies to a claim or cause of action under either

1   Subsection (b) or (c) of this section that has not become vested in

2   a final judgment, including a claim or cause of action in a suit or

3   action pending on or before the effective date of a statute passed

4   under this section.

5   (e) Except as provided by Subsection (c) of this section,

6   this section applies to a law enacted by the 78th Legislature,

7   Regular Session, 2003, and to all subsequent regular or special

8   sessions of the legislature.

9   SECTION 2. This proposed constitutional amendment shall be

10 submitted to the voters at an election to be held November 4, 2003.

11 The ballot shall be printed to permit voting for or against the

12 proposition: "The constitutional amendment authorizing the

13 legislature to determine limitations on noneconomic damages."

14   SECTION 3. If a majority of the voters vote against this

15 proposed constitutional amendment, a court may not consider any

16 aspect of the vote for any purpose, in any manner, or to any extent.