

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the chief corporate officers of the Maersk, Inc. and Sea-Land Service, Inc., the CSX Railroad, and the Norfolk Southern Railroad.

Signed May 27, 1999.

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**Joint Resolution No. 5**

**(Senate Joint Resolution No. 7)**

A Senate Joint Resolution concerning

**State Regulation of Self-Funded Employer-Based Health Plans**

FOR the purpose of requesting the United States Congress to amend the Employment Retirement Income Security Act of 1974 (ERISA) to authorize each state to monitor and to regulate self-funded employer-based health plans and to make a specific amendment to the ERISA; urging other state legislatures to enact a resolution similar to this resolution; and directing a copy of this resolution to be forwarded to certain individuals.

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

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

WHEREAS, ERISA effectively prohibits states from directly regulating many employer-based health plans because ERISA preempts state regulation of self-insured plans; and

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

WHEREAS, Between 1989 and 1993, the United States General Accounting Office estimates that the number of self-funded plan enrollees increased by about 6,000,000 individuals; and

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

WHEREAS, With the growth in the self-funding of health plans, states have lost regulatory oversight over a growing portion of the health market; and

WHEREAS, Recent federal court decisions have struck down state laws regulating insured health plans by expanding ERISA's current preemption of state laws regulating self-insured plans to laws relating to insured plans; and