A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new Section 13 to Article XXIII; prohibiting limitation for certain economic loss; modifying recovery limitation on certain noneconomic damages; establishing exceptions to limitation on certain recovery; requiring certain findings of fact or general verdict; establishing procedures for entering of certain judgment; prohibiting certain jury instruction; defining terms; providing for applicability to certain actions; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 57TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendments to the Oklahoma Constitution by adding a new Section 13 to Article XXIII to read as follows:

Section 13. A. In any civil action arising from a claimed bodily injury, the amount of compensation which the trier of fact
may award a plaintiff for economic loss shall not be subject to any limitation.

B. Except as provided in subsection C of this section, in any civil action arising from a claimed bodily injury, the amount of compensation which a trier of fact may award a plaintiff for noneconomic loss shall not exceed Three Hundred Fifty Thousand Dollars ($350,000.00), regardless of the number of parties against whom the action is brought or the number of actions brought. The Legislature is hereby authorized to increase, but not decrease, the maximum amount that may be awarded for noneconomic loss as established pursuant to this subsection.

C. Notwithstanding subsection B of this section, there shall be no limit on the amount of noneconomic damages which the trier of fact may award the plaintiff in a civil action arising from a claimed bodily injury resulting from negligence if the judge and jury finds, by clear and convincing evidence, that the defendant’s acts or failures to act were:

1. In reckless disregard for the rights of others;
2. Grossly negligent;
3. Fraudulent; or
4. Intentional or with malice.

D. In the trial of a civil action arising from claimed bodily injury, if the verdict is for the plaintiff, the court, in a nonjury trial, shall make findings of fact, and the jury, in a trial by
jury, shall return a general verdict accompanied by answers to
interrogatories, which shall specify all of the following:

1. The total compensatory damages recoverable by the plaintiff;
2. That portion of the total compensatory damages representing
the plaintiff’s economic loss;
3. That portion of the total compensatory damages representing
the plaintiff’s noneconomic loss; and
4. If alleged, whether the conduct of the defendant was or
   amounted to:
   a. reckless disregard for the rights of others,
   b. gross negligence,
   c. fraud, or
   d. intentional or malicious conduct.

E. In any civil action to recover damages arising from claimed
bodily injury, after the trier of fact makes the findings required
by subsection D of this section, the court shall enter judgment in
favor of the plaintiff for economic damages in the amount determined
pursuant to paragraph 2 of subsection D of this section, and subject
to paragraph 4 of subsection D of this section, the court shall
enter a judgment in favor of the plaintiff for noneconomic damages.
Except as provided in subsection C of this section, in no event
shall a judgment for noneconomic damages exceed the maximum
recoverable amounts set forth in subsection B of this section.
Subsection B of this section shall be applied in a jury trial only
after the trier of fact has made its factual findings and
determinations as to the amount of the plaintiff’s damages.

F. In any civil action arising from claimed bodily injury which
is tried to a jury, the jury shall not be instructed with respect to
the limit on noneconomic damages set forth in subsection B of this
section, nor shall counsel for any party nor any witness inform the
jury or potential jurors of such limitations.

G. This section shall not apply to actions brought under The
Governmental Tort Claims Act or actions for wrongful death.

H. As used in this section:

1. “Bodily injury” means actual physical injury to the body of
a person and sickness or disease resulting therefrom;

2. “Economic damages” means any type of pecuniary harm
including, but not limited to:

a. all wages, salaries or other compensation lost as a
result of a bodily injury that is the subject of a
civil action,

b. all costs incurred for medical care or treatment,
rehabilitation services, or other care, treatment,
services, products or accommodations as a result of a
bodily injury that is the subject of a civil action,
or

c. any other costs incurred as a result of a bodily
injury that is the subject of a civil action;
3. “Fraudulent” or “fraud” means “actual fraud” as defined pursuant to Section 58 of Title 15 of the Oklahoma Statutes;

4. “Gross negligence” means the want of slight care and diligence;

5. “Malice” involves hatred, spite or ill will, or the doing of a wrongful act intentionally without just cause or excuse;

6. “Noneconomic damages” means nonpecuniary harm that arises from a bodily injury that is the subject of a civil action, including damages for pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, education, disfigurement, mental anguish and any other intangible loss; and

7. “Reckless disregard of another’s rights” shall have the same meaning as willful and wanton conduct and shall mean that the defendant was either aware, or did not care, that there was a substantial and unnecessary risk that his, her or its conduct would cause serious injury to others. In order for the conduct to be in reckless disregard of another’s rights, it must have been unreasonable under the circumstances and there must have been a high probability that the conduct would cause serious harm to another person.

I. This section shall apply to civil actions filed on or after the date the amendment goes into effect.
SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____  State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would amend the Oklahoma Constitution by adding a new Section 13 to Article 23. It prohibits a limit on economic damages in a civil action. It creates a limit on noneconomic damages in a civil action. It creates court procedures for awarding damages.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES __________

AGAINST THE PROPOSAL — NO __________

SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.
Passed the Senate the 12th day of March, 2020.

__________________________
Presiding Officer of the Senate

Passed the House of Representatives the ___ day of ________,
2020.

__________________________
Presiding Officer of the House of Representatives