

## SENATE JOINT RESOLUTION NO. SJ1001

Noneconomic damages limitation-2.

Sponsored by: Joint Judiciary Interim Committee and Joint  
Labor, Health and Social Services Interim  
Committee

## A BILL

for

1 A JOINT RESOLUTION to amend the Wyoming Constitution to  
2 modify the prohibition against the legislature limiting the  
3 amount of damages that may be recovered for causing  
4 personal injury or death of any person.

5

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF WYOMING,  
7 two-thirds of all the members of the two houses, voting  
8 separately, concurring therein:

9

10 **Section 1.** The following proposal to amend Wyoming  
11 Constitution, Article 10, Section 4 is proposed for  
12 submission to the electors of the State of Wyoming at the  
13 next general election for approval or rejection to become  
14 valid as a part of the Constitution if ratified by a  
15 majority of the electors at the election:

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1       **Article 10, Section 4. Damages for personal injuries**  
2 **or death; worker's compensation.**

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4       (a) No law shall be enacted limiting the amount of  
5 damages to be recovered for causing the injury or death of  
6 any person.

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8       (b) Any section of this constitution to the contrary  
9 notwithstanding, for any civil action where a person  
10 alleges that a health care provider's or facility's act or  
11 omission in the provision of health care resulted in death  
12 or injury, the legislature may by general law limit the  
13 amount to be recovered from the physician or hospital for  
14 noneconomic loss resulting from the death or injury, unless  
15 the death or injury is adjudged to be the result of an act  
16 or omission of the health care provider or facility that,  
17 at minimum, constitutes gross negligence.

18  
19       (c) Any contract or agreement with any employee  
20 waiving any right to recover damages for causing the death  
21 or injury of any employee shall be void. As to all  
22 extrahazardous employments the legislature shall provide by  
23 law for the accumulation and maintenance of a fund or funds  
24 out of which shall be paid compensation as may be fixed by

1 law according to proper classifications to each person  
2 injured in such employment or to the dependent families of  
3 such as die as the result of such injuries, except in case  
4 of injuries due solely to the culpable negligence of the  
5 injured employee. The fund or funds shall be accumulated,  
6 paid into the state treasury and maintained in such manner  
7 as may be provided by law. Monies in the fund shall be  
8 expended only for compensation authorized by this section,  
9 for administration and management of the Worker's  
10 Compensation Act, debt service related to the fund and for  
11 workplace safety programs conducted by the state as  
12 authorized by law. The right of each employee to  
13 compensation from the fund shall be in lieu of and shall  
14 take the place of any and all rights of action against any  
15 employer contributing as required by law to the fund in  
16 favor of any person or persons by reason of the injuries or  
17 death. Subject to conditions specified by law, the  
18 legislature may allow employments not designated  
19 extrahazardous to be covered by the state fund at the  
20 option of the employer. To the extent an employer elects  
21 to be covered by the state fund and contributes to the fund  
22 as required by law, the employer shall enjoy the same  
23 immunity as provided for extrahazardous employments.

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1           **Section 2.**   That the Secretary of State shall endorse  
2 the following statement on the proposed amendment:

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4   This amendment would allow the Wyoming legislature to enact  
5 laws limiting the amount of noneconomic damages that could  
6 be awarded for injury or death caused by a health care  
7 provider or facility, unless the health care provider's or  
8 facility's act or omission that caused the injury or death  
9 was adjudged to constitute, at minimum, gross negligence.

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1                   **Section 3.**       The Wyoming Legislature approved 2004  
2 Budget Session Enrolled Joint Resolution No. 2, being  
3 original House Joint Resolution 11, proposing to amend  
4 Article 10, Section 4 of the Wyoming Constitution. It is  
5 the intent of the Legislature that both this Resolution and  
6 2004 Budget Session Enrolled Joint Resolution No. 2 shall  
7 be submitted to the electors of the State and that if both  
8 Resolutions are approved all language in each Resolution  
9 shall become part of the Constitution with the lettering of  
10 the subsection (b) as appearing in this Resolution being  
11 relettered as subsection (c) and subsection (c) as  
12 appearing in each Resolution being relettered as subsection  
13 (d).

14

15 (END)