

116TH CONGRESS
1ST SESSION

H. RES. 14

Authorizing the Speaker, on behalf of the House of Representatives, to intervene, otherwise appear, or take any other steps in the case of *Texas v. United States*, and in any appellate proceedings arising from such case, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. ALLRED (for himself, Mr. PALLONE, Mr. NEAL, Mr. SCOTT of Virginia, Mr. NADLER, Mr. HOYER, Mr. CLYBURN, Mr. MCGOVERN, and Ms. PELOSI) submitted the following resolution; which was referred to the Committee on Rules, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Authorizing the Speaker, on behalf of the House of Representatives, to intervene, otherwise appear, or take any other steps in the case of *Texas v. United States*, and in any appellate proceedings arising from such case, and for other purposes.

Whereas Texas, Wisconsin, Alabama, Arkansas, Arizona, Florida, Georgia, Indiana, Kansas, Louisiana, Governor Paul LePage of Maine, Mississippi (by and through Governor Phil Bryant), Missouri, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, Utah, and West Virginia have filed suit in the United States Dis-

trict Court for the Northern District of Texas, arguing that the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 119) is unconstitutional and should be enjoined by asserting that the Act’s requirement to maintain minimum essential coverage (commonly known as the “individual responsibility provision”) in section 5000A(a) of the Internal Revenue Code of 1986, is unconstitutional following the amendment of that provision by the Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018 (Public Law 115–97) (commonly known as the “Tax Cuts and Jobs Act”);

Whereas these State and individual plaintiffs also seek to strike down the entire Patient Protection and Affordable Care Act as not severable from the individual responsibility provision;

Whereas, on June 7, 2018, the Department of Justice refused to defend the constitutionality of the amended individual responsibility provision, despite the well-established duty of the Department to defend Federal statutes where reasonable arguments can be made in their defense;

Whereas the Department of Justice not only refused to defend the amended individual responsibility provision, but affirmatively argued that this provision is unconstitutional and that the provisions of the Patient Protection and Affordable Care Act guaranteeing issuance of health insurance coverage regardless of health status or pre-existing conditions (commonly known as the “guaranteed issue provision”) found in sections 2702, 2704, and 2705(a) of the Public Health Service Act (42 U.S.C. 300gg–1, 300gg–3, 300gg–4(a)) and prohibitions on discriminatory premium rates (commonly known as the

“community rating provision”) found in sections 2701 and 2705(b) of the Public Health Service Act (42 U.S.C. 300gg(a)(1), 300gg–4(b)) must now be struck down as not severable from the individual responsibility provision;

Whereas the district court recently held that the individual responsibility provision is unconstitutional and that all of the remaining provisions of the Patient Protection and Affordable Care act are inseverable and therefore invalid;

Whereas up to 133 million nonelderly Americans have some type of preexisting health condition, such as, but not limited to, diabetes, high cholesterol, cancer, arthritis, and asthma, that could affect their insurance;

Whereas prior to the Patient Protection and Affordable Care Act and the enactment of protections such as guaranteed issue and community rating, millions of Americans were denied health insurance coverage, were unable to obtain coverage of necessary medical services, or were priced out of the individual market due to preexisting conditions;

Whereas without such protections for preexisting conditions, millions of Americans could once again lose access to affordable, comprehensive health insurance;

Whereas more than 13 million Americans who gained coverage in States that expanded Medicaid eligibility under the Patient Protection and Affordable Care Act could lose coverage if the Act were struck down in its entirety;

Whereas more than 2 million young adults who gained coverage under a provision of the Patient Protection and Affordable Care Act allowing individuals under the age of 26 to stay on their parents’ insurance could lose coverage if the Act were struck down in its entirety;

Whereas more than 8.9 million low and middle-income Americans who received tax credits averaging \$520 per month to help pay for health insurance in the individual market under the Patient Protection and Affordable Care Act could lose coverage if the Act were struck down in its entirety;

Whereas an estimated 105 million Americans who now enjoy coverage without lifetime limits due to the Patient Protection and Affordable Care Act could once again face lifetime limits on their benefits if the Act were struck down in its entirety; and

Whereas nearly 12 million Medicare beneficiaries who received an average of \$2,200 in savings on prescription drugs due to the closing of the Medicare prescription drug donut hole under the Patient Protection and Affordable Care Act would face rising drug costs if the Act were struck down in its entirety: Now, therefore, be it

1 *Resolved,*

2 **SECTION 1. AUTHORIZING LEGAL ACTION BY HOUSE.**

3 (a) AUTHORIZATION.—The Speaker, on behalf of the
 4 House of Representatives, is authorized to intervene, oth-
 5 erwise appear, or take any other steps in the case of *Texas*
 6 v. *United States*, No. 4:18–cv–00167–O (N.D. Tex.) and
 7 in any appellate proceedings arising from such case. The
 8 Speaker, in consultation with the Bipartisan Legal Advi-
 9 sory Group, is also authorized to intervene, otherwise ap-
 10 pear, or take any other steps in any other cases involving
 11 the Patient Protection and Affordable Care Act to protect
 12 the institutional interests of the House and to defend such

1 Act, the amendments made by such Act to other provisions
2 of law, and any amendments to such provisions, including
3 the provisions ensuring affordable health coverage for
4 those with preexisting conditions.

5 (b) ROLE OF GENERAL COUNSEL.—The Office of
6 General Counsel of the House of Representatives, at the
7 direction of the Speaker, shall represent the House in any
8 litigation pursuant to this title. The Office of General
9 Counsel may employ the services of outside counsel, in-
10 cluding pro bono counsel, or other experts for this pur-
11 pose.

12 (c) REPORTS ON AMOUNTS EXPENDED.—The chair
13 of the Committee on House Administration shall cause to
14 be printed in the Congressional Record a statement setting
15 forth the aggregate amounts expended by the Office of
16 General Counsel on outside counsel and other experts pur-
17 suant to this title on a quarterly basis, and such statement
18 shall be submitted for printing not more than 30 days
19 after the expiration of each such quarter.

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