

By: Duncan

S.C.R. No. 2

SENATE CONCURRENT RESOLUTION

WHEREAS, A lawsuit filed December 20, 2010, against Rick Perry, Governor of the State of Texas; Thomas Suehs, Executive Commissioner of the Texas Health and Human Services Commission; and Chris Traylor, Commissioner of the Texas Department of Aging and Disability Services, in their official capacities (collectively, the "Defendants"), asserted claims under Title II of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, and several sections of Title XIX of the Social Security Act, including the Preadmission Screening and Resident Review provisions of the 1987 Nursing Home Reform Act; and

WHEREAS, The United States of America was granted leave to intervene in the lawsuit and filed a complaint against the State of Texas on September 20, 2012, asserting claims under Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA; and

WHEREAS, The Plaintiffs to the lawsuit are Eric Steward, by his next friend and mother, Lillian Minor; Linda Arizpe, by her next friend and guardian, Rudy Arizpe; Andrea Padron, by her next friend and guardian, Rosa Hudecek; Patricia Ferrer, by her next friend and mother, Petra Ferrer; Benny Holmes, by his next friend and guardian, Priscilla Holmes; Zackowitz Morgan, by his next friend and guardian, Sharon Barker; The Arc of Texas, Inc.; and the Coalition of Texans with Disabilities, Inc.; and Plaintiff-Intervenor is the United States of America

1 (collectively, the "Plaintiffs"); and

2 WHEREAS, In general terms, the litigation brought by the  
3 Plaintiffs concerns individuals with intellectual disabilities and  
4 related conditions residing in nursing facilities and at risk of  
5 admission to nursing facilities; and

6 WHEREAS, The parties to the lawsuit have entered into an  
7 Interim Agreement to resolve as many issues as possible related to  
8 the lawsuit for a limited time period while attempting to negotiate  
9 a Comprehensive Agreement to resolve the entire lawsuit; and

10 WHEREAS, The Interim Agreement will be effective when signed  
11 by all parties and will terminate on July 1, 2015; and

12 WHEREAS, Subdivision (2), Subsection (a), Section 111.003,  
13 Civil Practice and Remedies Code, requires the legislature to  
14 approve a settlement of a claim or action against this state if the  
15 settlement commits the state to a course of action that in  
16 reasonable probability will entail a continuing increased  
17 expenditure of state funds over subsequent state fiscal bienniums;  
18 and

19 WHEREAS, The Interim Agreement commits the State of Texas to  
20 a course of action that in reasonable probability will entail a  
21 continuing increased expenditure of state funds over subsequent  
22 state fiscal bienniums; and

23 WHEREAS, Any Comprehensive Agreement entered into by and  
24 between the parties will be submitted to the 84th Legislature of the  
25 State of Texas for approval; now, therefore, be it

26 RESOLVED, That the 83rd Legislature of the State of Texas,  
27 1st Called Session, hereby approve the Interim Agreement.