

By: Duncan

S.C.R. No. 2

CONCURRENT RESOLUTION

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

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

15 WHEREAS, The Plaintiffs to the lawsuit are Eric Steward, by  
16 his next friend and mother, Lillian Minor; Linda Arizpe, by her next  
17 friend and guardian, Rudy Arizpe; Andrea Padron, by her next friend  
18 and guardian, Rosa Hudecek; Patricia Ferrer, by her next friend and  
19 mother, Petra Ferrer; Benny Holmes, by his next friend and  
20 guardian, Priscilla Holmes; Zackowitz Morgan, by his next friend  
21 and guardian, Sharon Barker; The Arc of Texas, Inc.; and the  
22 Coalition of Texans with Disabilities, Inc.; and  
23 Plaintiff-Intervenor is the United States of America  
24 (collectively, the "Plaintiffs"); and

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

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

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

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

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

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

24 RESOLVED, That the 83rd Legislature of the State of Texas,  
25 1st Called Session, hereby approve the Interim Agreement.