

113TH CONGRESS
1ST SESSION

H. CON. RES. 45

Expressing the sense of Congress that President Barack Obama has violated section 3 of article II of the Constitution by refusing to enforce the employer mandate provisions of the Patient Protection and Affordable Care Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2013

Mr. GARRETT submitted the following concurrent resolution; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, the Judiciary, Natural Resources, House Administration, Rules, and Appropriations, 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

CONCURRENT RESOLUTION

Expressing the sense of Congress that President Barack Obama has violated section 3 of article II of the Constitution by refusing to enforce the employer mandate provisions of the Patient Protection and Affordable Care Act.

Whereas section 1 of article I of the Constitution states that “All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives”;

Whereas section 3 of article II of the Constitution states that the President “shall take Care that the Laws be faithfully executed”, which imposes a duty upon the President to enforce the law, regardless of difficulty of enforcement or displeasure with the statute;

Whereas the Patient Protection and Affordable Care Act was signed into law by President Barack Obama on March 23, 2010;

Whereas such Act contains a provision commonly referred to as the “employer mandate”, which requires businesses that employ 50 or more full-time employees to provide health insurance to its employees upon threat of financial penalty;

Whereas section 1513(d) of such Act states that the employer mandate “shall apply to months beginning after December 31, 2013”;

Whereas the executive branch announced on July 2, 2013, that it would unilaterally delay the enforcement of the employer mandate until January 2015;

Whereas the principle of separation of powers is a constitutional safeguard of liberty as asserted by James Madison in Federalist No. 47 in which he stated, “The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny”; and

Whereas the executive branch’s unilateral decision to delay the implementation of a law sets a dangerous precedent under which legislation that is enacted through the passage of that legislation by the democratically elected Members of Congress and the signing of that legislation into law by the President will no longer have the force

of law and will instead be relegated to having the status of a mere recommendation, which the President may choose to ignore: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That it is the sense of Congress that—

3 (1) President Barack Obama has violated sec-
4 tion 3 of article II of the Constitution by refusing
5 to enforce the employer mandate provisions of the
6 Patient Protection and Affordable Care Act;

7 (2) the perpetuation of republican government
8 depends upon the rule of law;

9 (3) the executive branch, which has no constitu-
10 tional authority to write or rewrite law at whim, has
11 invaded upon the exclusive legislative power of Con-
12 gress;

13 (4) the Patient Protection and Affordable Care
14 Act has proven to be unworkable; and

15 (5) such Act should be repealed by Congress
16 immediately.

○