

appropriate Federal district court if the Attorney General has reasonable cause to believe that—

(i) any public entity or LTSS insurance provider, including a group of public entities or LTSS insurance providers, is engaged in a pattern or practice of violations of this Act; or

(ii) any individual, including a group, has been subjected to a violation of this Act and the violation raises an issue of general public importance.

(2) **AUTHORITY OF COURT.**—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this Act—

(i) granting temporary, preliminary, or permanent relief; and

(ii) requiring the modification of a policy, practice, or procedure, or the provision of an alternative method of providing LTSS;

(B) may award such other relief as the court considers to be appropriate, including damages to individuals described in subsection (a)(2), when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the public entity or LTSS insurance provider in an amount—

(i) not exceeding \$100,000 for a first violation; and

(ii) not exceeding \$200,000 for any subsequent violation.

(3) **SINGLE VIOLATION.**—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the public entity or LTSS insurance provider has engaged in more than one violation of this Act shall be counted as a single violation.

#### SEC. 9. CONSTRUCTION.

For purposes of construing this Act—

(1) section 4(b)(11) shall be construed in a manner that takes into account its similarities with section 302(b)(2)(A)(ii) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12182(b)(2)(A)(ii));

(2) the first sentence of section 6(b)(5)(A) shall be construed in a manner that takes into account its similarities with section 35.105(a) of title 28, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act);

(3) section 7 shall be construed in a manner that takes into account its similarities with section 807(a) of the Civil Rights Act of 1968 (42 U.S.C. 3607(a));

(4) section 8(a)(2) shall be construed in a manner that takes into account its similarities with section 308(a)(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12188(a)(1)); and

(5) section 8(d)(1)(B) shall be construed in a manner that takes into account its similarities with section 308(b)(1)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12188(b)(1)(B)).

By Mrs. FEINSTEIN (for herself, Ms. HARRIS, Ms. WARREN, Mr. MENENDEZ, and Mr. MARKEY):

S. 127. A bill to direct the Secretary of Veterans Affairs to seek to enter into an agreement with the city of Vallejo, California, for the transfer of Mare Island Naval Cemetery in Vallejo, California, and for other purposes; to the Committee on Veterans' Affairs.

Mrs. FEINSTEIN. Mr. President, today I am proud to reintroduce the Mare Island Naval Cemetery Transfer Act, which would transfer control of the Mare Island Naval Cemetery from

the City of Vallejo in California to the Department of Veterans Affairs (VA) where it belongs.

The Mare Island Naval Cemetery is the oldest military cemetery on the West Coast. Opened in 1856, it was originally part of Mare Island Naval Shipyard, the first U.S. naval base established on the Pacific Ocean. The historic cemetery is the final resting place for 860 veterans and their loved ones, including three Medal of Honor recipients. Anna Arnold Key, the daughter of Francis Scott Key, is also buried there, next to her husband who fought in the War of 1812. After the base closed in 1996, the nearby City of Vallejo assumed control of the naval property and cemetery.

Unfortunately, the city doesn't have the necessary funds to properly care for the cemetery. The city is also ineligible for VA support since it's not part of the State or Federal government. The maintenance, therefore, is left to volunteers with limited resources who lack the expertise necessary to maintain this historic cemetery.

The cemetery has fallen into disrepair and is no longer a fitting tribute to the brave men and women buried there. Gravestones are toppled over, broken, or sinking into the ground. Plants and weeds are overgrown, and water is pooling due to the lack of proper drainage. The cemetery's current condition requires urgent action to restore the gravestones and grounds to a respectable condition. Our bill would accomplish this by transferring control to the VA's National Cemetery Administration.

The transfer would not only allow the VA to restore the cemetery, but also ensure it's maintained for future generations to pay their respects to the heroes buried there. I want to thank Congressman MIKE THOMPSON (D-CA) for leading this effort in the House. Passing this bill would be a small, but important, token of our gratitude to the veterans to whom we owe so much.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 18—AUTHORIZING THE SENATE LEGAL COUNSEL TO REPRESENT THE SENATE IN TEXAS V. UNITED STATES NO. 4:18-CV-00167-O (N.D. TEX.)

Mr. MANCHIN (for himself, Ms. ROSEN, Mr. CASEY, Mr. TESTER, Mr. BROWN, Ms. CORTEZ MASTO, Mr. WARNER, Mr. VAN HOLLEN, Ms. BALDWIN, Ms. CANTWELL, Mr. WHITEHOUSE, Mr. REED, Ms. HARRIS, Ms. HIRONO, Ms. DUCKWORTH, Mr. WYDEN, Ms. HASSAN, Mr. KING, Mr. MARKEY, Mr. SCHUMER, Mr. LEAHY, Mrs. MURRAY, Mr. UDALL, Mr. DURBIN, Ms. SMITH, Mr. BOOKER, Mr. BLUMENTHAL, Mr. BENNET, Ms. KLOBUCHAR, Mr. COONS, Mr. SCHATZ, Mr. MENENDEZ, Mr. JONES, Mr. HEINRICH, Ms. STABENOW, Ms. WARREN, Mr. MURPHY, Mr. KAINE, Mr. SANDERS, Mrs.

GILLIBRAND, Mrs. SHAHEEN, Mr. MERKLEY, Mr. PETERS, Mr. CARDIN, Mrs. FEINSTEIN, Ms. SINEMA, and Mr. CARPER) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 18

Whereas Texas, Wisconsin, Alabama, Arkansas, Arizona, Florida, Georgia, Indiana, Kansas, Louisiana, Paul LePage (Governor of Maine), Mississippi (by and through Governor Phil Bryant), Missouri, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, Utah, West Virginia, and individual plaintiffs have filed suit in the United States District Court for the Northern District of Texas, arguing that the Patient Protection and Affordable Care Act (Public Law 111-148; 124 Stat. 119) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152; 124 Stat. 1029) are unconstitutional and should be enjoined, by asserting that the requirement under those Acts to maintain minimum essential coverage (commonly known as the "individual responsibility provision") in section 5000A 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; 131 Stat. 2054) (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 it affirmatively argued that this provision is unconstitutional and that the provisions of the Patient Protection and Affordable Care Act guaranteeing issuance of insurance coverage regardless of health status or pre-existing conditions (commonly known as the "guaranteed issue provision"), sections 2702, 2704, and 2705(a) of the Public Health Service Act (42 U.S.C. 300gg-1, 300gg-3, 300gg-4(a)), and prohibiting discriminatory premium rates (commonly known as the "community rating provision"), 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; and

Whereas the district court in *Texas v. United States*, No. 4:18-cv-00167-O (N.D. Tex.) issued an order on December 14, 2018 declaring that the individual responsibility provision in section 5000A of the Internal Revenue Code of 1986 is unconstitutional and that all the provisions of the Patient Protection and Affordable Care Act are not severable and therefore are invalid: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the Senate in *Texas v. United States*, No. 4:18-cv-00167-O (N.D. Tex.), including seeking to—

(1) intervene as a party in the matter and any appellate or related proceedings; and

(2) defend all provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, the amendments made by those Acts to other provisions of law, and any amendments to such provisions, including

the provisions ensuring affordable health coverage for those with pre-existing conditions.

#### AUTHORITY FOR COMMITTEES TO MEET

Mr. CORNYN. Mr. President, I have 2 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

##### COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, January 15, 2019, at 9:30 a.m., to conduct a hearing on the nomination of William Pelham Barr, of Virginia, to be Attorney General, Department of Justice.

##### SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Tuesday, January 15, 2019, at 2:30 p.m., to conduct a closed hearing.

#### PRIVILEGES OF THE FLOOR

Mr. CASEY. I ask unanimous consent that Rahmon Ross of my staff be granted floor privileges for today's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR WEDNESDAY, JANUARY 16, 2019

Mr. MCCONNELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Wednesday, January 16; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that following leader remarks, the Senate resume consideration of S.J. Res. 2, with the time until 12:30 p.m. equally divided between the two leaders or their designees; finally, notwithstanding the provisions of rule XXII, the cloture vote with respect to S.J. Res. 2 occur at 12:30 p.m., tomorrow, and if cloture is not invoked, S.J. Res. 2 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of our Democratic colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### MEDICARE

Mr. CASEY. Madam President, I rise to talk about the Medicare Program and in particular a news story that came to our attention this past week-end.

This is the headline from a story dated January 11, late in the day, and it is by The Hill newspaper. You will not be able to see it from a distance, but the headline reads: "Trump officials consider allowing Medicaid block grants for states."

Here is what just the first two short paragraphs outline. The story begins as follows:

The Trump administration is considering moving forward with a major conservative change to Medicaid by allowing States to get block grants for the program, sources say.

Capping the amount of money that the federal government spends on the health insurance program for the poor through a block grant has long been a conservative goal. It was a controversial part of the ObamaCare repeal debate in 2017, with much of the public rallying against cuts to Medicaid.

After the failure of that repeal effort, the Trump administration is now considering issuing guidance to states encouraging them to apply for caps on federal Medicaid spending in exchange for additional flexibility on how they run the program, according to people familiar with the discussions.

I will not read the rest of the story, and I will not enter the whole story into the RECORD because folks can look it up, and there are other stories as well that cover this same news. So, in a sense, it is a big new development, but it is an old story.

It is an old story of Members of Congress and the administration coming together to try to make changes to the Medicaid Program. In this case, it differs only slightly in that, so far at least, this seems to be an initiative that is an administration-led initiative. We are not aware of any—as far as I know—congressional involvement, but it is not all that much different, right? It is the same thing.

We had a long debate in 2017 about whether we should not only repeal the Affordable Care Act but thereby do two things to Medicaid—one is to end over time Medicaid expansion, and second would be to have cuts to Medicaid that would result from this same idea, the so-called block granting of Medicaid.

I believe we litigated—if we can use that word in a legislative sense—that in 2017. The repeal bill did not pass the Senate in the summer of 2017. There were other attempts that didn't come to a vote on full repeal. Then we had an election in 2018. Healthcare was a major part of that debate, most of it centering on protections for pre-existing conditions and other consumer protections in the law.

If you look at the last 2 years, we had one-party rule in Washington—Republican President, House, and Senate. There were major efforts by the admin-

istration and by both majorities in the Houses of Congress to make substantial changes to Medicaid, and it did not happen. So failing all those attempts, now the administration, I would assume, is trying to do it secretly but, now exposed, wants to make changes to Medicaid by way of granting waivers and inviting States to, in essence, change Medicaid at the State level.

This initiative will not affect Pennsylvania—or it is highly unlikely to affect Pennsylvania in the near term. So this is about major parts of the country but not every State. It is a bad idea, in short order, because what this block granting means is benefits get cut.

It is very simple. When you cut a program that is focused on healthcare for low-income children, healthcare coverage for those with disabilities, children and adults, and helping seniors have the benefit of skilled care in a nursing home—that is another benefit of Medicaid—you are talking about benefits being cut over time. Maybe there will be more cuts in one State versus the other, depending upon the nature of the waiver and the particulars of the program in that State, but it is going to be cutting Medicaid. It is a bad idea, and I think the American people understand that, especially after the debate in 2017. It is a bad idea, and I think the American people understand that.

Maybe there are some folks who didn't really appreciate Medicaid; probably a lot of them in Washington didn't appreciate Medicaid before the 2017 and 2018 debates. Maybe there are folks who weren't paying attention for a lot of years and didn't realize the scope of Medicaid, didn't realize it covers 70 million Americans. I know that is why some Republican-elected officials in the Congress are very hostile to it; they think it covers too many people. But after 2017, those who were misinformed or had forgotten or just were never aware of the benefits of Medicaid got a real good reminder because of the debate we had. That was one positive outgrowth of that long and difficult debate on healthcare generally—the Affordable Care Act specifically—but also, by extension, Medicaid.

A proposal like this to block-grant Medicaid, which was proposed numerous times here in the Congress over the last couple of years, hurts basically those three groups of Americans. It hurts kids, hurts people with disabilities, and hurts our seniors.

I think the part of it that people tend to forget is that this program helps middle-class families as well. If you have a disability, your income might be higher than low income, but you get the benefit of Medicaid. A lot of middle-class families have a loved one in a nursing home who would not be able to afford that kind of long-term care without the benefit of Medicaid. A lot of those families are middle class.

When it comes to children, of course, it is for children from low-income families, but those children are getting