



H.J.Res. 43 - Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by Secretary of Health and Human Services relating to compliance with title X requirements by project recipients in selecting subrecipients (Rep. Black, R-TN)

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FLOOR SCHEDULE:

Expected to be considered on February 16, 2017, under a closed [rule](#).

TOPLINE SUMMARY:

[H.J. Res. 43](#) would use the [Congressional Review Act](#) to provide for the disapproval of the Health and Human Services [rule](#) that effectively requires states to fund abortion providers like Planned Parenthood through Title X grants.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Title X provides federal grants for family planning and reproductive health services primarily to the uninsured or low income individuals. In December of 2016, President Obama finalized a rule which prohibited states from refusing to give federal Title X grant funding to clinics that provide abortions. This rule was seen by many as an attempt by the Obama administration to require states to provide funding to Planned Parenthood. Prior to the December rule, states had the ability to provide Title X funds at their discretion, and could choose to only provide grant funding to healthcare providers that did not provide abortion services.

This joint resolution would disapprove of, and provide for the nullification of, the HHS rule that essentially requires states to use Title X money to fund abortion providers, including Planned Parenthood. Conservatives have long held that the federal government should not be in the abortion business, including by recently passing the [No Taxpayer Funding for Abortion and Abortion Insurance Full Disclosure Act](#).

Prior to the rule going into effect, at least 13 states had [taken](#) action to defund Planned Parenthood at some point on their own. Currently, five states would be impacted by the rule, including Oklahoma, Tennessee, Kansas, Arkansas, and Ohio. Disapproving of this rule would once again give states the ability to use Title X money for other health care providers, including community health centers and hospitals.

The [Congressional Review Act](#) provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In [order](#) for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115th Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

A fact sheet from the Pro-Life Caucus can be found [here](#).

OUTSIDE GROUPS IN SUPPORT:

Key-scoring:

- [National Right to Life](#)
- [March for Life Action](#)
- [Family Research Council](#)
- Concerned Women for America
- Heritage Action for America

Supporting:

- [Susan B. Anthony List](#)
- US Conference of Catholic Bishops (USCCB)
- Ethics and Religious Liberty Commission (ERLC)
- [Christian Medical Association](#)
- Catholic Medical Association
- American Association of Pro-Life Obstetricians and Gynecologists
- Faith and Freedom Coalition

- Liberty Counsel Action
- Focus on the Family
- Live Action
- CareNet
- Life Legal Defense Foundation
- Life Issues Institute
- Radiance Foundation
- Bound4LIFE International
- American Life League
- STOPP International
- National Black Pro-Life Union
- Anglicans for Life
- Presbyterians Pro-Life, Research, Education, and Care, Inc.
- Population Research Institute
- Council for Citizens Against Government Waste

COMMITTEE ACTION:

H.J. Res. 43 was introduced on January 30, 2017, and was referred to the House Committee on the Energy and Commerce.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the authority to enact this legislation pursuant to the following: Article I, Section 8, Clause 1 of the U.S. Constitution.

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