



Written by [Raven Clabough](#) on June 26, 2015

Rep. Introduces SCOTUScare Act to Force ObamaCare on High Court

Following the Supreme Court's monumentally controversial ruling on ObamaCare subsidies, Texas Republican Representative Brian Babin has decided to introduce legislation that would require the justices to enroll in the health insurance program.

The bill seeks to "amend Title I of the Patient Protection and Affordable Care Act to provide that only health plans made available by the Federal Government to Supreme Court Justices and staff are Exchange health plans."



Babin seeks to make a point after the Supreme Court's unexpected 6-3 ruling in *King v. Burwell* on Thursday that determined the language found within the healthcare law means something very different than is actually written.

The New American's Michael Tennant reports, "Although the law specifically states that refundable tax credits for the purchase of insurance are available only when coverage is bought on 'an exchange established by the state,' the majority — Chief Justice John Roberts along with Justices Anthony Kennedy, Stephen Breyer, Ruth Bader Ginsburg, Elena Kagan, and Sonia Sotomayor — found this phrase 'ambiguous.'"

Writing for the majority, Chief Justice John Roberts determined that despite the unbelievable clarity of the words "established by the state," the court should interpret the language in a way that is consistent with Congress' intent, which was to "improve health insurance markets, not to destroy them."

"The phrase 'an exchange established by the state' ... may be limited in its reach to state exchanges," Roberts argued. "But it is also possible that the phrase refers to all exchanges — both state and federal — at least for purposes of tax credits."

Justice Antonin Scalia wrote a 21-page dissent that has become as well known as the ruling itself wherein he accused the majority of rewriting the law to suit the interests of the federal government.

Justice Scalia notes that the majority ruling ultimately obfuscates the role of the Supreme Court and undermines the meaning of words in general. "Words no longer have meaning if an exchange that is not established by a state is 'established by the state,'" he remarked. "But normal rules of interpretation seem always to yield to the overriding principle of the present court: The Affordable Care Act must be saved."

"We should just start calling this law SCOTUScare," Scalia opined, remarking on the times the court has ruled favorably on the controversial portions of the healthcare law.

Seizing on Scalia's terminology, Representative Brian Babin (R-Texas) introduced the [SCOTUScare Act](#). "As the Supreme Court continues to ignore the letter of the law, it's important that these nine



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individuals understand the full impact of their decisions on the American people,” the freshman Republican said in a statement.

The latest ruling from the Supreme Court is not the first time the court has applied broad interpretations of the healthcare law’s language. In 2012, almost exactly three years ago, Justice Roberts wrote for the majority opinion of the court that the individual mandate is a valid exercise of Congress’ taxing power. “Simply put, Congress may tax and spend,” he wrote.

Part of what made that ruling so egregious is that the reasoning upholding the individual mandate as a tax directly contradicted statements made by the president himself in his public defense of his pet legislation. In an interview with George Stephanopoulos of ABC News in 2009, President Obama adamantly denied that the individual mandate was a tax. “I absolutely reject that notion,” the president said.

And still, the majority opinion wrote,`

The Affordable Care Act describes the payment as a “penalty,” not a “tax.” That label cannot control whether the payment is a tax for purposes of the Constitution, but it does determine the application of the Anti-Injunction Act. The Anti-Injunction Act therefore does not bar this suit.

Representative Babin notes the obvious efforts the Supreme Court has made to preserve the healthcare law, and believes the justices should be subjected to that law.

Politico observes that members of Congress and most of their staffers are already required to get their workplace health insurance through the exchanges and that Babin’s bill would add a similar requirement for the high court.

The laws says,

Notwithstanding any other provision of law, after the effective date of this subtitle, the only health plans that the Federal Government may make available to Members of Congress and congressional staff with respect to their service as a Member of Congress or congressional staff shall be health plans that are — (I) created under this Act (or an amendment made by this Act); or (II) offered through an Exchange established under this Act (or an amendment made by this Act). ([See Section 1312\(d\) of the law](#))

However, while it is true that members of Congress are subjected to ObamaCare like the rest of us, it’s worth noting that they also enjoy a regulatory fix that ultimately saves them thousands of dollars by allowing the federal government to subsidize their health plans.

Years ago, dozens of lawmakers had threatened to retire early or simply quit because of fears that their health insurance premiums would drastically increase as a result of a provision found in the healthcare law, the Grassley Amendment, which stated that the government may offer members of Congress and their staff only health insurance plans that are “created” in the bill or “offered through an exchange.”

Prior to ObamaCare, aides and lawmakers were covered under a very generous federal health insurance package whereby the government subsidizes approximately 75 percent of the premiums; however, by 2014, their health insurance costs would have skyrocketed.

As such, President Obama agreed to what was ultimately a congressional exemption from ObamaCare.

Market Watch reported at the time, “The Office of Personnel Management [OPM] now plans to rule that the government can continue to make a contribution to the healthcare premiums of the lawmakers and



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their staff, according to unnamed congressional sources and a White House official.”

CNS News opined that Americans in the private sector who purchased insurance through ObamaCare exchanges were only eligible for a subsidy if their income was below 400 percent of poverty, \$94,200 for a family of four, yet members of Congress making \$174,000 a year qualified for one.

In February of this year, Senator David Vitter (R-La.) sought to block Obama’s nomination of retired U.S. Navy Rear Adm. Earl Gay to serve as deputy director of the Office of Personnel Management because of OPM’s role in the Washington Exemption. “OPM created the Washington Exemption from Obamacare, and they still haven’t answered questions about how and why,” Vitter said in a statement.

Vitter also launched an investigation in February into Congress’ classification as a “small business” under ObamaCare.

“Allowing Congress — which employs nearly 16,000 individuals — to determine itself as a ‘small business’ doesn’t pass the common sense test. We need to know exactly how and why this was allowed to happen, so we can fix this injustice and eliminate Washington’s Obamacare Exemption,” said Vitter. “Washington insiders should be forced to live under Obamacare just like the rest of America without a special taxpayer funded subsidy.”

Representative Babin contends that the same can and should be said for Supreme Court justices, many of whom have clearly made it their goal to maintain the healthcare law. “By eliminating their exemption from Obamacare,” said Babin, “they will see firsthand what the American people are forced to live with!”



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