

HOUSE BILL No. 2553

By Committee on Federal and State Affairs

1-31

1 AN ACT concerning health care; enacting the health care compact.
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3 WHEREAS, The separation of powers, both between the branches of
4 the federal government and between federal and state authority, is essential
5 to the preservation of individual liberty; and

6 WHEREAS, The constitution creates a federal government of limited
7 and enumerated powers, and reserves to the states or to the people those
8 powers not granted to the federal government; and

9 WHEREAS, The federal government has enacted many laws that have
10 preempted state laws with respect to health care, and placed increasing
11 strain on state budgets, impairing other responsibilities such as education,
12 infrastructure, and public safety; and

13 WHEREAS, The member states seek to protect individual liberty and
14 personal control over health care decisions, and believe the best method to
15 achieve these ends is by vesting regulatory authority over health care in
16 the states; and

17 WHEREAS, By acting in concert, the member states may express and
18 inspire confidence in the ability of each member state to govern health
19 care effectively; and

20 WHEREAS, The member states recognize that consent of congress
21 may be more easily secured if the member states collectively seek consent
22 through an interstate compact; and

23 NOW THEREFORE, The member states hereto resolve, and by the
24 adoption into law under their respective state constitutions of this health
25 care compact, agree, as follows:
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27 *Be it enacted by the Legislature of the State of Kansas:*

28 Section 1. This section shall be known and may be cited as the health
29 care compact.

30 **THE HEALTH CARE COMPACT**
31 **ARTICLE I DEFINITIONS**

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33 As used in this compact, unless the context clearly indicates otherwise:

34 (a) "Commission" means the interstate advisory health care
35 commission.

36 (b) "Effective date" means the date upon which this compact shall

1 become effective for purposes of the operation of state and federal law in a
2 member state, which shall be the later of:

3 (1) The date upon which this compact shall be adopted under the laws
4 of the member state, and

5 (2) the date upon which this compact receives the consent of congress
6 pursuant to article I, section 10, of the United States constitution, after at
7 least two member states adopt this compact.

8 (c) "Health care" means care, services, supplies, or plans related to
9 the health of an individual and includes but is not limited to:

10 (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or
11 palliative care and counseling, service, assessment, or procedure with
12 respect to the physical or mental condition or functional status of an
13 individual or that affects the structure or function of the body;

14 (2) sale or dispensing of a drug, device, equipment or other item in
15 accordance with a prescription; and

16 (3) an individual or group plan that provides, or pays the cost of, care,
17 services or supplies related to the health of an individual, except any care,
18 services, supplies or plans provided by the United States department of
19 defense and United States department of veterans affairs, or provided to
20 Native Americans.

21 (d) "Member state" means a state that is signatory to this compact and
22 has adopted it under the laws of that state.

23 (e) "Member state base funding level" means a number equal to the
24 total federal spending on health care in the member state during federal
25 fiscal year 2010. On or before the effective date, each member state shall
26 determine the member state base funding level for its state, and that
27 number shall be binding upon that member state. The preliminary estimate
28 of member state base funding level for the state of Kansas is
29 \$6,985,000,000.

30 (f) "Member state current year funding level" means the member state
31 base funding level multiplied by the member state current year population
32 adjustment factor multiplied by the current year inflation adjustment
33 factor.

34 (g) "Member state current year population adjustment factor" means
35 the average population of the member state in the current year less the
36 average population of the member state in federal fiscal year 2010, divided
37 by the average population of the member state in federal fiscal year 2010,
38 plus 1. Average population in a member state shall be determined by the
39 United States census bureau.

40 (h) "Current year inflation adjustment factor" means the total gross
41 domestic product deflator in the current year divided by the total gross
42 domestic product deflator in federal fiscal year 2010. Total gross domestic
43 product deflator shall be determined by the bureau of economic analysis of

1 the United States department of commerce.

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3 ARTICLE II PLEDGE
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5 The member states shall take joint and separate action to secure the
6 consent of the United States congress to this compact in order to return the
7 authority to regulate health care to the member states consistent with the
8 goals and principles articulated in this compact. The member states shall
9 improve health care policy within their respective jurisdictions and
10 according to the judgment and discretion of each member states.

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12 ARTICLE III LEGISLATIVE POWER
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14 The legislatures of the member states have the primary responsibility to
15 regulate health care in their respective states.
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17 ARTICLE IV STATE CONTROL
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19 Each member state, within its state, may suspend by legislation the
20 operation of all federal laws, rules, regulations, and orders regarding health
21 care that are inconsistent with the laws and regulations adopted by the
22 member state pursuant to this compact. Federal and state laws, rules,
23 regulations, and orders regarding health care will remain in effect unless a
24 member state expressly suspends them pursuant to its authority under this
25 compact. For any federal law, rule, regulation, or order that remains in
26 effect in a member state after the effective date, that member state shall be
27 responsible for the associated funding obligations in its state.
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29 ARTICLE V FUNDING
30

31 (a) Each federal fiscal year, each member state shall have the right to
32 federal monies up to an amount equal to its member state current year
33 funding level for that federal fiscal year, funded by congress as mandatory
34 spending and not subject to annual appropriation, to support the exercise
35 of member state authority under this compact. This funding shall not be
36 conditional on any action of or regulation, policy, law, or rule being
37 adopted by the member state.

38 (b) By the start of each federal fiscal year, congress shall establish an
39 initial member state current year funding level for each member state,
40 based upon reasonable estimates. The final member state current year
41 funding level shall be calculated, and funding shall be reconciled by the
42 United States congress based upon information provided by each member
43 state and audited by the United States government accountability office.

1 ARTICLE VI INTERSTATE ADVISORY HEALTH CARE
2 COMMISSION
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4 (a) The interstate advisory health care commission is established. The
5 commission consists of members appointed by each member state through
6 a process to be determined by each member state. A member state may not
7 appoint more than two members to the commission and may withdraw
8 membership from the commission at any time. Each commission member
9 is entitled to one vote. The commission shall not act unless a majority of
10 the members are present, and no action shall be binding unless approved
11 by a majority of the commission's total membership.

12 (b) The commission may elect from among its membership a
13 chairperson. The commission may adopt and publish bylaws and policies
14 that are not inconsistent with this compact. The commission shall meet at
15 least once a year, and may meet more frequently.

16 (c) The commission may study issues of health care regulation that
17 are of particular concern to the member states. The commission may make
18 non-binding recommendations to the member states. The legislatures of
19 the member states may consider these recommendations in determining the
20 appropriate health care policies in their respective states.

21 (d) The commission shall collect information and data to assist the
22 member states in their regulation of health care, including assessing the
23 performance of various state health care programs and compiling
24 information on the prices of health care. The commission shall make this
25 information and data available to the legislatures of the member states.
26 Notwithstanding any other provision in this compact, no member state
27 shall disclose to the commission the health information of any individual,
28 nor shall the commission disclose the health information of any individual.

29 (e) The commission shall be funded by the member states as agreed
30 to by the member states. The commission shall have the responsibilities
31 and duties as may be conferred upon it by subsequent action of the
32 respective legislatures of the member states in accordance with the terms
33 of this compact.

34 (f) The commission shall not take any action within a member state
35 that contravenes any state law of that member state.
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37 ARTICLE VII CONGRESSIONAL CONSENT
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39 This compact shall be effective on its adoption by at least two member
40 states and consent of the United States congress. This compact shall be
41 effective unless the United States congress, in consenting to this compact,
42 alters the fundamental purposes of this compact, which are:

43 (a) To secure the right of the member states to regulate health care in

1 their respective states pursuant to this compact and to suspend the
2 operation of any conflicting federal laws, rules, regulations and orders
3 within their states; and

4 (b) to secure federal funding for member states that choose to invoke
5 their authority under this compact, as prescribed by article 5.

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7 ARTICLE VIII AMENDMENTS
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9 The member states, by unanimous agreement, may amend this compact
10 from time to time without the prior consent or approval of congress and
11 any amendment shall be effective unless, within one year, the congress
12 disapproves that amendment. Any state may join this compact after the
13 date on which congress consents to the compact by adoption into law
14 under its state constitution.

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16 ARTICLE IX WITHDRAWAL; DISSOLUTION
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18 Any member state may withdraw from this compact by adopting a law
19 to that effect, but no such withdrawal shall take effect until six months
20 after the governor of the withdrawing member state has given notice of the
21 withdrawal to the other member states. A withdrawing state shall be liable
22 for any obligations that it may have incurred prior to the date on which its
23 withdrawal becomes effective. This compact shall be dissolved upon the
24 withdrawal of all but one of the member states.

25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.