

## HOUSE BILL No. 2553

By Committee on Federal and State Affairs

1-31

---

1 AN ACT concerning health care; enacting the health care compact.

2  
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:

26  
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

32  
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.

2  
3 ARTICLE II PLEDGE  
4

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.

11  
12 ARTICLE III LEGISLATIVE POWER  
13

14 The legislatures of the member states have the primary responsibility to  
15 regulate health care in their respective states.  
16

17 ARTICLE IV STATE CONTROL  
18

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.  
28

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.

ARTICLE VI INTERSTATE ADVISORY HEALTH CARE  
COMMISSION

(a) The interstate advisory health care commission is established. The commission consists of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the commission and may withdraw membership from the commission at any time. Each commission member is entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

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

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

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

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

(f) The commission shall not take any action within a member state that contravenes any state law of that member state.

ARTICLE VII CONGRESSIONAL CONSENT

This compact shall be effective on its adoption by at least two member states and consent of the United States congress. This compact shall be effective unless the United States congress, in consenting to this compact, alters the fundamental purposes of this compact, which are:

(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.

6  
7 ARTICLE VIII AMENDMENTS  
8

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.

15  
16 ARTICLE IX WITHDRAWAL; DISSOLUTION  
17

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.