

1 HB109
2 145630-2
3 By Representative Ball
4 RFD: Ways and Means General Fund
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ENROLLED, An Act,

Relating to health care regulation; to establish the Health Care Compact; to secure the consent of the United States Congress to return the authority to regulate health care to the member states to the compact; to establish the Interstate Advisory Health Care Commission, to provide for membership, duties, and terms of office; and to provide for funding.

Whereas, the separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty; and

Whereas, the Constitution creates a federal government of limited and enumerated powers, and reserves to the states or to the people those powers not granted to the federal government; and

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

Whereas, the member states seek to protect individual liberty and personal control over health care decisions, and believe the best method to achieve these ends

1 is by vesting regulatory authority over health care in the
2 states; and

3 Whereas, by acting in concert, the member states may
4 express and inspire confidence in the ability of each member
5 state to govern health care effectively; and

6 Whereas, the member states recognize that consent of
7 Congress may be more easily secured if the member states
8 collectively seek consent through an interstate compact; and

9 Now therefore, the member states hereto resolve, and
10 by the adoption into law under their respective state
11 constitutions of this health care compact, agree, as follows:
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Definitions. As used in this compact,
14 unless the context clearly indicates otherwise:

15 (1) COMMISSION. The Interstate Advisory Health Care
16 Commission.

17 (2) EFFECTIVE DATE. The date upon which this compact
18 shall become effective for purposes of the operation of state
19 and federal law in a member state, which shall be the later
20 of:

21 a. The date upon which this compact shall be adopted
22 under the laws of the member state.

23 b. The date upon which this compact receives the
24 consent of Congress pursuant to Article I, Section 10, of the

1 United states Constitution, after at least two member states
2 adopt this compact.

3 (3) HEALTH CARE. Care, services, supplies, or plans
4 related to the health of an individual and includes, but is
5 not limited to:

6 a. Preventive, diagnostic, therapeutic,
7 rehabilitative, maintenance, or palliative care and
8 counseling, service, assessment, or procedure with respect to
9 the physical or mental condition or functional status of an
10 individual or that affects the structure or function of the
11 body.

12 b. Sale or dispensing of a drug, device, equipment,
13 or other item in accordance with a prescription.

14 c. An individual or group plan that provides, or
15 pays the cost of, care, services, or supplies related to the
16 health of an individual.

17 Except any care, services, supplies, or plans
18 provided by the United States Department of Defense and United
19 States Department of Veteran Affairs, or provided to Native
20 Americans.

21 (4) MEMBER STATE. A state that is signatory to this
22 compact and has adopted it under the laws of that state.

23 (5) MEMBER STATE BASE FUNDING LEVEL. A number equal
24 to the total federal spending on health care in the member
25 state during federal fiscal year 2010. On or before the

1 effective date, each member state shall determine the member
 2 state base funding level for its state, and that number shall
 3 be binding upon that member state. The preliminary estimate of
 4 member state base funding level for the State of Alabama is
 5 thirteen billion eight hundred eighty million dollars
 6 (\$13,880,000,000).

7 (6) MEMBER STATE CURRENT YEAR FUNDING LEVEL. The
 8 member state base funding level multiplied by the member state
 9 current year population adjustment factor multiplied by the
 10 current year inflation adjustment factor.

11 (7) MEMBER STATE CURRENT YEAR POPULATION ADJUSTMENT
 12 FACTOR. The average population of the member state in the
 13 current year less the average population of the member state
 14 in federal fiscal year 2010, divided by the average population
 15 of the member state in federal fiscal year 2010, plus 1.
 16 Average population in a member state shall be determined by
 17 the United States Census Bureau.

18 (8) CURRENT YEAR INFLATION ADJUSTMENT FACTOR. The
 19 total gross domestic product deflator in the current year
 20 divided by the total gross domestic product deflator in
 21 federal fiscal year 2010. Total gross domestic product
 22 deflator shall be determined by the Bureau of Economic
 23 Analysis of the United States Department of Commerce.

24 Section 2. Pledge. The member states shall take
 25 joint and separate action to secure the consent of the United

1 States Congress to this compact in order to return the
2 authority to regulate health care to the member states
3 consistent with the goals and principles articulated in this
4 compact. The member states shall improve health care policy
5 within their respective jurisdictions and according to the
6 judgment and discretion of each member state.

7 Section 3. Legislative Power. The legislatures of
8 the member states have the primary responsibility to regulate
9 health care in their respective states.

10 Section 4. State control. Each member state, within
11 its state, may suspend by legislation the operation of all
12 federal laws, rules, regulations, and orders regarding health
13 care that are inconsistent with the laws and regulations
14 adopted by the member state pursuant to this compact. Federal
15 and state laws, rules, regulations, and orders regarding
16 health care shall remain in effect unless a member state
17 expressly suspends them pursuant to its authority under this
18 compact. For any federal law, rule, regulation, or order that
19 remains in effect in a member state after the effective date,
20 that member state shall be responsible for the associated
21 funding obligations in its state.

22 Section 5. Funding. (a) Each federal fiscal year,
23 each member state shall have the right to federal monies up to
24 an amount equal to its member state current year funding level
25 for that federal fiscal year, funded by Congress as mandatory

1 spending and not subject to annual appropriation, to support
2 the exercise of member state authority under this compact.
3 This funding shall not be conditional on any action of or
4 regulation, policy, law, or rule being adopted by the member
5 state.

6 (b) By the start of each federal fiscal year,
7 Congress shall establish an initial member state current year
8 funding level for each member state, based upon reasonable
9 estimates. The final member state current year funding level
10 shall be calculated, and funding shall be reconciled by the
11 United States Congress based upon information provided by each
12 member state and audited by the United States Government
13 Accountability Office.

14 Section 6. Interstate Advisory Health Care
15 Commission. (a) The Interstate Advisory Health Care Commission
16 is established. The commission consists of members appointed
17 by each member state through a process to be determined by
18 each member state. A member state may not appoint more than
19 two members to the commission and may withdraw membership from
20 the commission at any time. Each commission member is entitled
21 to one vote. The commission may not act unless a majority of
22 the members are present, and no action shall be binding unless
23 approved by a majority of the commission's total membership.

24 (b) The commission may elect from among its
25 membership a chair. The commission may adopt and publish

1 bylaws and policies that are not inconsistent with this
2 compact. The commission shall meet at least once a year, and
3 may meet more frequently.

4 (c) The commission may study issues of health care
5 regulation that are of particular concern to the member
6 states. The commission may make nonbinding recommendations to
7 the member states. The legislatures of the member states may
8 consider these recommendations in determining the appropriate
9 health care policies in their respective states.

10 (d) The commission shall collect information and
11 data to assist the member states in their regulation of health
12 care, including assessing the performance of various state
13 health care programs and compiling information on the prices
14 of health care. The commission shall make this information and
15 data available to the legislatures of the member states.

16 Notwithstanding any other provision in this compact, no member
17 state shall disclose to the commission the health information
18 of any individual, nor shall the commission disclose the
19 health information of any individual.

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

1 (f) The commission may not take any action within a
 2 member state that contravenes any state law of that member
 3 state.

4 Section 7. Congressional consent. This compact shall
 5 be effective on its adoption by at least two member states and
 6 consent of the United States Congress. This compact shall be
 7 effective unless the United States Congress, in consenting to
 8 this compact, alters the fundamental purposes of this compact,
 9 which are:

10 (1) To secure the right of the member states to
 11 regulate health care in their respective states pursuant to
 12 this compact and to suspend the operation of any conflicting
 13 federal laws, rules, regulations, and orders within their
 14 states.

15 (2) To secure federal funding for member states that
 16 choose to invoke their authority under this compact, as
 17 prescribed by Section 5.

18 Section 8. Amendments. The member states, by
 19 unanimous agreement, may amend this compact from time to time
 20 without the prior consent or approval of Congress and any
 21 amendment shall be effective unless, within one year, the
 22 Congress disapproves that amendment. Any state may join this
 23 compact after the date on which Congress consents to the
 24 compact by adoption into law under its state Constitution.

1 Section 9. Withdrawal; dissolution. Any member state
2 may withdraw from this compact by adopting a law to that
3 effect, but no such withdrawal shall take effect until six
4 months after the governor of the withdrawing member state has
5 given notice of the withdrawal to the other member states. A
6 withdrawing state shall be liable for any obligations that it
7 may have incurred prior to the date on which its withdrawal
8 becomes effective. This compact shall be dissolved upon the
9 withdrawal of all but one of the member states.

10 Section 10. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.

