

**SENATE BILL No. 373**

By Committee on Financial Institutions and Insurance

2-2

---

1 AN ACT concerning public health care; relating to the interstate health  
2 care compact.

3  
4 WHEREAS, The separation of powers, both between the branches of  
5 the federal government and between federal and state authority, is essential  
6 to the preservation of individual liberty; and

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

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

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

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

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

24 NOW THEREFORE, The member states hereto resolve, and by the  
25 adoption into law under their respective state constitutions of this health  
26 care compact, agree, as follows:

27  
28 *Be it enacted by the Legislature of the State of Kansas:*

29 Section 1. This act may be known and cited as the interstate health  
30 care compact.

31 THE INTERSTATE HEALTH CARE COMPACT

32 ARTICLE I

33 DEFINITIONS

34 As used in this Compact, unless the context clearly indicates otherwise:

35 (a) "Commission" means the Interstate Advisory Health Care  
36 Commission.

1 (b) "Effective Date" means the date upon which this Compact shall  
2 become effective for purposes of the operation of State and Federal law in  
3 a Member State, which shall be the later of:

4 (1) the date upon which this Compact shall be adopted under the laws  
5 of the Member State, and

6 (2) the date upon which this Compact receives the consent of  
7 Congress pursuant to Article I, Section 10, of the United States  
8 Constitution, after at least two Member States adopt this Compact.

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

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

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

17 (3) an individual or group plan that provides, or pays the cost of, care,  
18 services, or supplies related to the health of an individual, except any care,  
19 services, supplies, or plans provided by the United States Department of  
20 Defense and United States Department of Veterans Affairs, or provided to  
21 Native Americans.

22 (d) "Member State" means a State that is signatory to this Compact  
23 and has adopted it under the laws of that State.

24 (e) "Member State Base Funding Level" means a number equal to the  
25 total Federal spending on Health Care in the Member State during Federal  
26 fiscal year 2010. On or before the Effective Date, each Member State  
27 shall determine the Member State Base Funding Level for its State, and  
28 that number shall be binding upon that Member State. The preliminary  
29 estimate of Member State Base Funding Level for the State of Kansas is  
30 \$6,985,000,000.

31 (f) "Member State Current Year Funding Level" means the Member  
32 State Base Funding Level multiplied by the Member State Current Year  
33 Population Adjustment Factor multiplied by the Current Year Inflation  
34 Adjustment Factor.

35 (g) "Member State Current Year Population Adjustment Factor"  
36 means the average population of the Member State in the current year less  
37 the average population of the Member State in Federal fiscal year 2010,  
38 divided by the average population of the Member State in Federal fiscal  
39 year 2010, plus 1. Average population in a Member State shall be  
40 determined by the United States Census Bureau.

41 (h) "Current Year Inflation Adjustment Factor" means the Total Gross  
42 Domestic Product Deflator in the current year divided by the Total Gross  
43 Domestic Product Deflator in Federal fiscal year 2010. Total Gross

1 Domestic Product Deflator shall be determined by the Bureau of  
2 Economic Analysis of the United States Department of Commerce.

## 3 ARTICLE II

### 4 PLEDGE

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  
7 the authority to regulate Health Care to the Member States consistent with  
8 the goals and principles articulated in this Compact. The Member States  
9 shall improve Health Care policy within their respective jurisdictions and  
10 according to the judgment and discretion of each Member State.

## 11 ARTICLE III

### 12 LEGISLATIVE POWER

13 The legislatures of the Member States have the primary responsibility  
14 to regulate Health Care in their respective States.

## 15 ARTICLE IV

### 16 STATE CONTROL

17 Each Member State, within its State, may suspend by legislation the  
18 operation of all federal laws, rules, regulations, and orders regarding  
19 Health Care that are inconsistent with the laws and regulations adopted by  
20 the Member State pursuant to this Compact. Federal and State laws, rules,  
21 regulations, and orders regarding Health Care will remain in effect unless a  
22 Member State expressly suspends them pursuant to its authority under this  
23 Compact. For any federal law, rule, regulation, or order that remains in  
24 effect in a Member State after the Effective Date, that Member State shall  
25 be responsible for the associated funding obligations in its State.

## 26 ARTICLE V

### 27 FUNDING

28 (a) Each Federal fiscal year, each Member State shall have the right  
29 to Federal monies up to an amount equal to its Member State Current Year  
30 Funding Level for that Federal fiscal year, funded by Congress as  
31 mandatory spending and not subject to annual appropriation, to support the  
32 exercise of Member State authority under this Compact. This funding shall  
33 not be conditional on any action of or regulation, policy, law, or rule being  
34 adopted by the Member State.

35 (b) By the start of each Federal fiscal year, Congress shall establish  
36 an initial Member State Current Year Funding Level for each Member  
37 State, based upon reasonable estimates. The final Member State Current  
38 Year Funding Level shall be calculated, and funding shall be reconciled by  
39 the United States Congress based upon information provided by each  
40 Member State and audited by the United States Government  
41 Accountability Office.

## 42 ARTICLE VI

### 43 INTERSTATE ADVISORY HEALTH CARE COMMISSION

1 (a) The Interstate Advisory Health Care Commission is established.  
2 The Commission consists of members appointed by each Member State  
3 through a process to be determined by each Member State. A Member  
4 State may not appoint more than two members to the Commission and  
5 may withdraw membership from the Commission at any time. Each  
6 Commission member is entitled to one vote. The Commission shall not act  
7 unless a majority of the members are present, and no action shall be  
8 binding unless approved by a majority of the Commission's total  
9 membership.

10 (b) The Commission may elect from among its membership a  
11 Chairperson. The Commission may adopt and publish bylaws and policies  
12 that are not inconsistent with this Compact. The Commission shall meet at  
13 least once a year, and may meet more frequently.

14 (c) The Commission may study issues of Health Care regulation that  
15 are of particular concern to the Member States. The Commission may  
16 make non-binding recommendations to the Member States. The  
17 legislatures of the Member States may consider these recommendations in  
18 determining the appropriate Health Care policies in their respective States.

19 (d) The Commission shall collect information and data to assist the  
20 Member States in their regulation of Health Care, including assessing the  
21 performance of various State Health Care programs and compiling  
22 information on the prices of Health Care. The Commission shall make this  
23 information and data available to the legislatures of the Member States.  
24 Notwithstanding any other provision in this Compact, no Member State  
25 shall disclose to the Commission the health information of any individual,  
26 nor shall the Commission disclose the health information of any  
27 individual.

28 (e) The Commission shall be funded by the Member States as agreed  
29 to by the Member States. The Commission shall have the responsibilities  
30 and duties as may be conferred upon it by subsequent action of the  
31 respective legislatures of the Member States in accordance with the terms  
32 of this Compact.

33 (f) The Commission shall not take any action within a Member State  
34 that contravenes any State law of that Member State.

## 35 ARTICLE VII

### 36 CONGRESSIONAL CONSENT

37 This Compact shall be effective on its adoption by at least two Member  
38 States and consent of the United States Congress. This Compact shall be  
39 effective unless the United States Congress, in consenting to this Compact,  
40 alters the fundamental purposes of this Compact, which are:

41 (a) To secure the right of the Member States to regulate Health Care  
42 in their respective States pursuant to this Compact and to suspend the  
43 operation of any conflicting federal laws, rules, regulations, and orders

1 within their States; and

2 (b) To secure Federal funding for Member States that choose to  
3 invoke their authority under this Compact, as prescribed by Article 5  
4 above.

5 ARTICLE VIII  
6 AMENDMENTS

7 The Member States, by unanimous agreement, may amend this  
8 Compact from time to time without the prior consent or approval of  
9 Congress and any amendment shall be effective unless, within one year,  
10 the Congress disapproves that amendment. Any State may join this  
11 Compact after the date on which Congress consents to the Compact by  
12 adoption into law under its State Constitution.

13 ARTICLE IX  
14 WITHDRAWAL; DISSOLUTION

15 Any Member State may withdraw from this Compact by adopting a law  
16 to that effect, but no such withdrawal shall take effect until six months  
17 after the Governor of the withdrawing Member State has given notice of  
18 the withdrawal to the other Member States. A withdrawing State shall be  
19 liable for any obligations that it may have incurred prior to the date on  
20 which its withdrawal becomes effective. This Compact shall be dissolved  
21 upon the withdrawal of all but one of the Member States.

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