

1 SB258
2 135319-2
3 By Senators Reed, Ward, Orr, Allen, Beason, Waggoner, Pittman,
4 Taylor, Whatley, Brewbaker, Scofield, Glover, McGill,
5 Holtzclaw, Williams and Marsh
6 RFD: Health
7 First Read: 08-FEB-12

2
3
4
5
6
7
8 SYNOPSIS: This bill would establish the Health Care
9 Compact and would secure the consent of the United
10 States Congress to return the authority to regulate
11 health care to the member states to the compact.

12 This bill would establish the Interstate
13 Advisory Health Care Commission, and would provide
14 for membership, duties, and terms of office.

15 This bill would provide for funding to
16 support the exercise of member state authority
17 pursuant to the compact.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to health care regulation; to establish the
24 Health Care Compact; to secure the consent of the United
25 States Congress to return the authority to regulate health
26 care to the member states to the compact; to establish the
27 Interstate Advisory Health Care Commission, to provide for

1 membership, duties, and terms of office; and to provide for
2 funding.

3 Whereas, the separation of powers, both between the
4 branches of the Federal government and between Federal and
5 State authority, is essential to the preservation of
6 individual liberty; and

7 Whereas, the Constitution creates a Federal
8 government of limited and enumerated powers, and reserves to
9 the States or to the people those powers not granted to the
10 Federal government; and

11 Whereas, the Federal government has enacted many
12 laws that have preempted State laws with respect to Health
13 Care, and placed increasing strain on State budgets, impairing
14 other responsibilities such as education, infrastructure, and
15 public safety; and

16 Whereas, the Member States seek to protect
17 individual liberty and personal control over Health Care
18 decisions, and believe the best method to achieve these ends
19 is by vesting regulatory authority over Health Care in the
20 States; and

21 Whereas, by acting in concert, the Member States may
22 express and inspire confidence in the ability of each Member
23 State to govern Health Care effectively; and

24 Whereas, the Member States recognize that consent of
25 Congress may be more easily secured if the Member States
26 collectively seek consent through an interstate compact; and

1 NOW THEREFORE, the Member States hereto resolve, and
2 by the adoption into law under their respective State
3 Constitutions of this Health Care Compact, agree, as follows:
4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Definitions. As used in this Compact,
6 unless the context clearly indicates otherwise:

7 (1) COMMISSION. The Interstate Advisory Health Care
8 Commission.

9 (2) EFFECTIVE DATE. The date upon which this Compact
10 shall become effective for purposes of the operation of State
11 and Federal law in a Member State, which shall be the later
12 of:

13 a. The date upon which this Compact shall be adopted
14 under the laws of the Member State.

15 b. The date upon which this Compact receives the
16 consent of Congress pursuant to Article I, Section 10, of the
17 United States Constitution, after at least two Member States
18 adopt this Compact.

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

22 a. Preventive, diagnostic, therapeutic,
23 rehabilitative, maintenance, or palliative care and
24 counseling, service, assessment, or procedure with respect to
25 the physical or mental condition or functional status of an
26 individual or that affects the structure or function of the
27 body, and

1 b. Sale or dispensing of a drug, device, equipment,
2 or other item in accordance with a prescription, and

3 c. An individual or group plan that provides, or
4 pays the cost of, care, services, or supplies related to the
5 health of an individual,

6 Except any care, services, supplies, or plans
7 provided by the United States Department of Defense and United
8 States Department of Veteran Affairs, or provided to Native
9 Americans.

10 (4) MEMBER STATE. A State that is signatory to this
11 Compact and has adopted it under the laws of that State.

12 (5) MEMBER STATE BASE FUNDING LEVEL. A number equal
13 to the total Federal spending on Health Care in the Member
14 State during Federal fiscal year 2010. On or before the
15 Effective Date, each Member State shall determine the Member
16 State Base Funding Level for its State, and that number shall
17 be binding upon that Member State. The preliminary estimate of
18 Member State Base Funding Level for the State of Alabama is
19 thirteen billion eight hundred eighty million dollars
20 (\$13,880,000,000).

21 (6) MEMBER STATE CURRENT YEAR FUNDING LEVEL. The
22 Member State Base Funding Level multiplied by the Member State
23 Current Year Population Adjustment Factor multiplied by the
24 Current Year Inflation Adjustment Factor.

25 (7) MEMBER STATE CURRENT YEAR POPULATION ADJUSTMENT
26 FACTOR. The average population of the Member State in the
27 current year less the average population of the Member State

1 in Federal fiscal year 2010, divided by the average population
2 of the Member State in Federal fiscal year 2010, plus 1.
3 Average population in a Member State shall be determined by
4 the United States Census Bureau.

5 (8) CURRENT YEAR INFLATION ADJUSTMENT FACTOR. The
6 Total Gross Domestic Product Deflator in the current year
7 divided by the Total Gross Domestic Product Deflator in
8 Federal fiscal year 2010. Total Gross Domestic Product
9 Deflator shall be determined by the Bureau of Economic
10 Analysis of the United States Department of Commerce.

11 Section 2. Pledge. The Member States shall take
12 joint and separate action to secure the consent of the United
13 States Congress to this Compact in order to return the
14 authority to regulate Health Care to the Member States
15 consistent with the goals and principles articulated in this
16 Compact. The Member States shall improve Health Care policy
17 within their respective jurisdictions and according to the
18 judgment and discretion of each Member State.

19 Section 3. Legislative Power. The legislatures of
20 the Member States have the primary responsibility to regulate
21 Health Care in their respective States.

22 Section 4. State Control. Each Member State, within
23 its State, may suspend by legislation the operation of all
24 federal laws, rules, regulations, and orders regarding Health
25 Care that are inconsistent with the laws and regulations
26 adopted by the Member State pursuant to this Compact. Federal
27 and State laws, rules, regulations, and orders regarding

1 Health Care will remain in effect unless a Member State
2 expressly suspends them pursuant to its authority under this
3 Compact. For any federal law, rule, regulation, or order that
4 remains in effect in a Member State after the Effective Date,
5 that Member State shall be responsible for the associated
6 funding obligations in its State.

7 Section 5. Funding. (a) Each Federal fiscal year,
8 each Member State shall have the right to Federal monies up to
9 an amount equal to its Member State Current Year Funding Level
10 for that Federal fiscal year, funded by Congress as mandatory
11 spending and not subject to annual appropriation, to support
12 the exercise of Member State authority under this Compact.
13 This funding shall not be conditional on any action of or
14 regulation, policy, law, or rule being adopted by the Member
15 State.

16 (b) By the start of each Federal fiscal year,
17 Congress shall establish an initial Member State Current Year
18 Funding Level for each Member State, based upon reasonable
19 estimates. The final Member State Current Year Funding Level
20 shall be calculated, and funding shall be reconciled by the
21 United States Congress based upon information provided by each
22 Member State and audited by the United States Government
23 Accountability Office.

24 Section 6. Interstate Advisory Health Care
25 Commission. (a) The Interstate Advisory Health Care Commission
26 is established. The Commission consists of members appointed
27 by each Member State through a process to be determined by

1 each Member State. A Member State may not appoint more than
2 two members to the Commission and may withdraw membership from
3 the Commission at any time. Each Commission member is entitled
4 to one vote. The Commission shall not act unless a majority of
5 the members are present, and no action shall be binding unless
6 approved by a majority of the Commission's total membership.

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

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

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

1 (e) The Commission shall be funded by the Member
2 States as agreed to by the Member States. The Commission shall
3 have the responsibilities and duties as may be conferred upon
4 it by subsequent action of the respective legislatures of the
5 Member States in accordance with the terms of this Compact.

6 (f) The Commission shall not take any action within
7 a Member State that contravenes any State law of that Member
8 State.

9 Section 7. Congressional Consent. This Compact shall
10 be effective on its adoption by at least two Member States and
11 consent of the United States Congress. This Compact shall be
12 effective unless the United States Congress, in consenting to
13 this Compact, alters the fundamental purposes of this Compact,
14 which are:

15 (a) To secure the right of the Member States to
16 regulate Health Care in their respective States pursuant to
17 this Compact and to suspend the operation of any conflicting
18 federal laws, rules, regulations, and orders within their
19 States; and

20 (b) To secure Federal funding for Member States that
21 choose to invoke their authority under this Compact, as
22 prescribed by Section 5 above.

23 Section 8. Amendments. The Member States, by
24 unanimous agreement, may amend this Compact from time to time
25 without the prior consent or approval of Congress and any
26 amendment shall be effective unless, within one year, the
27 Congress disapproves that amendment. Any State may join this

1 Compact after the date on which Congress consents to the
2 Compact by adoption into law under its State Constitution.

3 Section 9. Withdrawal; Dissolution. Any Member State
4 may withdraw from this Compact by adopting a law to that
5 effect, but no such withdrawal shall take effect until six
6 months after the Governor of the withdrawing Member State has
7 given notice of the withdrawal to the other Member States. A
8 withdrawing State shall be liable for any obligations that it
9 may have incurred prior to the date on which its withdrawal
10 becomes effective. This Compact shall be dissolved upon the
11 withdrawal of all but one of the Member States.

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