

The Health Care Compact

1 *Whereas*, the separation of powers, both between the branches of the Federal government
2 and between Federal and State authority, is essential to the preservation of individual
3 liberty;

4 *Whereas*, the Constitution creates a Federal government of limited and enumerated
5 powers, and reserves to the States or to the people those powers not granted to the
6 Federal government;

7 *Whereas*, the Federal government has enacted many laws that have preempted State
8 laws with respect to Health Care, and placed increasing strain on State budgets, impairing
9 other responsibilities such as education, infrastructure, and public safety;

10 *Whereas*, the Member States seek to protect individual liberty and personal control over
11 Health Care decisions, and believe the best method to achieve these ends is by vesting
12 regulatory authority over Health Care in the States;

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

15 *Whereas*, the Member States recognize that consent of Congress may be more easily
16 secured if the Member States collectively seek consent through an interstate compact;

17 NOW THEREFORE, the Member States hereto resolve, and by the adoption into law
18 under their respective State Constitutions of this Health Care Compact, agree, as follows:

19 **Sec. 1. Definitions.** As used in this Compact, unless the context clearly indicates
20 otherwise:

21 "Commission" means the Interstate Advisory Health Care Commission.

22 "Effective Date" means the date upon which this Compact shall become effective for
23 purposes of the operation of State and Federal law in a Member State, which shall be the
24 later of:

25 a) the date upon which this Compact shall be adopted under the laws of the
26 Member State, and

27 b) the date upon which this Compact receives the consent of Congress
28 pursuant to Article I, Section 10, of the United States Constitution, after at
29 least two Member States adopt this Compact.

30 "Health Care" means care, services, supplies, or plans related to the health of an individual
31 and includes but is not limited to:

32 (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and
33 counseling, service, assessment, or procedure with respect to the physical or mental
34 condition or functional status of an individual or that affects the structure or function of the
35 body, and

The Health Care Compact

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

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

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

8 "Member State" means a State that is signatory to this Compact and has adopted it under
9 the laws of that State.

10 "Member State Base Funding Level" means a number equal to the total Federal spending
11 on Health Care in the Member State during Federal fiscal year 2010. On or before the
12 Effective Date, each Member State shall determine the Member State Base Funding Level
13 for its State, and that number shall be binding upon that Member State. The preliminary
14 estimate of Member State Base Funding Level for the State of [STATE NAME] is
15 [ESTIMATE FROM TABLE].

16 "Member State Current Year Funding Level" means the Member State Base Funding Level
17 multiplied by the Member State Current Year Population Adjustment Factor multiplied by
18 the Current Year Inflation Adjustment Factor.

19 "Member State Current Year Population Adjustment Factor" means the average population
20 of the Member State in the current year less the average population of the Member State
21 in Federal fiscal year 2010, divided by the average population of the Member State in
22 Federal fiscal year 2010, plus 1. Average population in a Member State shall be
23 determined by the United States Census Bureau.

24 "Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product
25 Deflator in the current year divided by the Total Gross Domestic Product Deflator in
26 Federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by
27 the Bureau of Economic Analysis of the United States Department of Commerce.

28 **Sec. 2. Pledge.** The Member States shall take joint and separate action to secure the
29 consent of the United States Congress to this Compact in order to return the authority to
30 regulate Health Care to the Member States consistent with the goals and principles
31 articulated in this Compact. The Member States shall improve Health Care policy within
32 their respective jurisdictions and according to the judgment and discretion of each Member
33 States.

34 **Sec. 3. Legislative Power.** The legislatures of the Member States have the primary
35 responsibility to regulate Health Care in their respective States.

The Health Care Compact

1 **Sec. 4. State Control.** Each Member State, within its State, may suspend by legislation
2 the operation of all federal laws, rules, regulations, and orders regarding Health Care that
3 are inconsistent with the laws and regulations adopted by the Member State pursuant to
4 this Compact. Federal and State laws, rules, regulations, and orders regarding Health
5 Care will remain in effect unless a Member State expressly suspends them pursuant to its
6 authority under this Compact. For any federal law, rule, regulation, or order that remains in
7 effect in a Member State after the Effective Date, that Member State shall be responsible
8 for the associated funding obligations in its State.

9 **Sec. 5. Funding.**

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

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

22 **Sec. 6. Interstate Advisory Health Care Commission.**

23 (a) The Interstate Advisory Health Care Commission is established. The Commission
24 consists of members appointed by each Member State through a process to be
25 determined by each Member State. A Member State may not appoint more than two
26 members to the Commission and may withdraw membership from the Commission at any
27 time. Each Commission member is entitled to one vote. The Commission shall not act
28 unless a majority of the members are present, and no action shall be binding unless
29 approved by a majority of the Commission's total membership.

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

34 (c) The Commission may study issues of Health Care regulation that are of particular
35 concern to the Member States. The Commission may make non-binding recommendations
36 to the Member States. The legislatures of the Member States may consider these
37 recommendations in determining the appropriate Health Care policies in their respective
38 States.

The Health Care Compact

1 (d) The Commission shall collect information and data to assist the Member States in their
2 regulation of Health Care, including assessing the performance of various State Health
3 Care programs and compiling information on the prices of Health Care. The Commission
4 shall make this information and data available to the legislatures of the Member States.
5 Notwithstanding any other provision in this Compact, no Member State shall disclose to
6 the Commission the health information of any individual, nor shall the Commission
7 disclose the health information of any individual.

8 (e) The Commission shall be funded by the Member States as agreed to by the Member
9 States. The Commission shall have the responsibilities and duties as may be conferred
10 upon it by subsequent action of the respective legislatures of the Member States in
11 accordance with the terms of this Compact.

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

14 **Sec. 7. Congressional Consent.** This Compact shall be effective on its adoption by at
15 least two Member States and consent of the United States Congress. This Compact shall
16 be effective unless the United States Congress, in consenting to this Compact, alters the
17 fundamental purposes of this Compact, which are:

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

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

23 **Sec. 8. Amendments.** The Member States, by unanimous agreement, may amend this
24 Compact from time to time without the prior consent or approval of Congress and any
25 amendment shall be effective unless, within one year, the Congress disapproves that
26 amendment. Any State may join this Compact after the date on which Congress consents
27 to the Compact by adoption into law under its State Constitution.

28 **Sec. 9. Withdrawal; Dissolution.** Any Member State may withdraw from this Compact by
29 adopting a law to that effect, but no such withdrawal shall take effect until six months after
30 the Governor of the withdrawing Member State has given notice of the withdrawal to the
31 other Member States. A withdrawing State shall be liable for any obligations that it may
32 have incurred prior to the date on which its withdrawal becomes effective. This Compact
33 shall be dissolved upon the withdrawal of all but one of the Member States.

The Health Care Compact

1 The following table lists estimated Member State Base Funding Level for each State:

STATE	MEMBER STATE BASE FUNDING LEVEL	STATE	MEMBER STATE BASE FUNDING LEVEL
Alabama	\$13,880,000,000	Montana	\$2,330,000,000
Alaska	\$1,438,000,000	Nebraska	\$4,144,000,000
Arizona	\$16,266,000,000	Nevada	\$3,991,000,000
Arkansas	\$8,727,000,000	New Hampshire	\$2,920,000,000
California	\$109,102,000,000	New Jersey	\$25,579,000,000
Colorado	\$8,907,000,000	New Mexico	\$6,010,000,000
Connecticut	\$12,174,000,000	New York	\$78,319,000,000
Delaware	\$2,336,000,000	North Carolina	\$24,644,000,000
Florida	\$58,876,000,000	North Dakota	\$1,657,000,000
Georgia	\$21,556,000,000	Ohio	\$35,043,000,000
Hawaii	\$3,081,000,000	Oklahoma	\$10,344,000,000
Idaho	\$2,988,000,000	Oregon	\$9,149,000,000
Illinois	\$40,048,000,000	Pennsylvania	\$47,448,000,000
Indiana	\$16,785,000,000	Rhode Island	\$4,316,000,000
Iowa	\$8,453,000,000	South Carolina	\$11,144,000,000
Kansas	\$6,985,000,000	South Dakota	\$1,922,000,000
Kentucky	\$13,836,000,000	Tennessee	\$21,840,000,000
Louisiana	\$15,957,000,000	Texas	\$60,434,000,000
Maine	\$3,540,000,000	Utah	\$4,102,000,000
Maryland	\$13,994,000,000	Vermont	\$1,966,000,000
Massachusetts	\$29,085,000,000	Virginia	\$15,301,000,000
Michigan	\$29,466,000,000	Washington	\$15,497,000,000
Minnesota	\$13,348,000,000	West Virginia	\$6,372,000,000
Mississippi	\$9,648,000,000	Wisconsin	\$21,888,000,000
Missouri	\$18,669,000,000	Wyoming	\$1,104,000,000

2 This table is not intended to be included in the compact language itself, but rather as a
 3 reference for each State to include in the definition of Member State Base Funding Level.

HEALTH CARE COMPACT

FREQUENTLY ASKED QUESTIONS

Q. What is an interstate compact?

An interstate compact is an agreement between 2 or more states. When individuals or corporation reach an agreement, they create a contract. When states reach agreement on something, they create a compact.

When an interstate compact is approved by Congress, it becomes federal law, and supersedes previous federal law. There are over 200 interstate compacts in existence, 90 of which have been approved by Congress.

Interstate compacts predate the US Constitution. They are very powerful legal tools to enable states to collaborate.

Q. Does the Health Care Compact impose a particular health care system on the member states?

No. Each state is free to choose its own health care policy solution. Health care policy is about **who and what is covered**. The Health Care Compact is about **who decides**.

The Health Care Compact is silent on the sort of health care regulatory regime a state must adopt. Some states may be attracted to a more regulated system built around accountable care organizations. Other states may decide to implement a single-payer system. Still others may create a consumer-oriented, market-based regime. And some may choose to experiment with hybrid systems.

Even the role of the state itself may vary considerably. Some states, particularly less populous ones, may choose to promulgate all of their health care regulation at the state level. Others, perhaps the larger ones, may choose to push authority and responsibility further downstream, to the county level.

The point here is that the Health Care Compact will take the authority and responsibility for health care regulation from the federal government and move it, lock, stock, and barrel, to the states.

Can states put in place health care systems of their choosing?

Yes.

Does the Health Care Compact impose anything immediately?

No. It simply transfers decision-making power and control of funds from the federal government to the states.

If you're doing this, why are you sending money to the feds in the first place?

The Constitution grants taxing authority to the federal government, and the money they are collecting is pursuant to their legal authority. The Health Care Compact is a governance reform, not a tax reform.

Q. What would prevent the administration from hindering the implementation of the Health Care Compact after Congress ratifies it? (i.e. through regulatory expansion, etc.)

Federal law defines the administration's scope of activity. Because the Health Care Compact transfers authority to the states, health care laws enacted by states under the Health Care Compact supersede federal regulations. This means that even if future administrations take action, states can simply pass laws that supersede those regulations. Congress still retains the ultimate control, and can pass laws that undermine state regulation. However, the compact states have a strong blocking position in Congress, minimizing the potential for troublesome meddling.

Q. How does the Health Care Compact relate to free markets (i.e. buying insurance across state lines)?

The Health Care Compact allows any number of potential reforms, including the creation of market-based systems or sale of insurance across state lines. What eventually gets passed will be up to citizens and their state legislators.

Q. What happens to the money that is saved, if any?

The savings, up to the amount of current state health care funding, go to the state. Here's how it works. Texas, for example, gets about \$46 billion from the federal government for health care, and spends about \$9 billion of its own tax money, for a total of \$55 billion. If Texas is able to save 10% of this cost by enacting its own reform program, the total expenses fall to \$49.5 billion. This reduces state expenditures on health care from \$9 billion to \$3.5 billion. The \$5.5 billion of savings can then be used on other state programs, or returned to taxpayers through lower taxes.

Q. If the President doesn't need to sign the compact, isn't it worse to try to get him to sign it knowing that he probably won't?

This is a tactical question that cannot be answered with certainty at this time. We believe that the states should reserve the right to proceed immediately after Congress consents. However, if it appears that the President is prepared to sign the Health Care Compact, that would be the optimal solution, as it avoids the uncertainty associated with the inevitable litigation that would follow if presentment is avoided.

Q. Can we use interstate compacts for other issues besides health care?

Yes. Every incursion of the federal government into areas that are not specifically enumerated in the Constitution could be restored to the states using the interstate compact approach.

Q. Where can I find more information?

The Health Care Compact Alliance website:
<http://healthcarecompact.org/>

Q. How many states have already approved the Compact?

The Health Care Compact is now law in four states: Georgia, Oklahoma, Missouri, and Texas.



Daniel Tripp
President

300 Hickory Lane
Mauldin, SC 29662
Cell (803) 979-1951
Fax (800) 862-7696
dt@groundgamehq.com

Policy Perspective

Shield of Federalism: Interstate Compacts in Our Constitution

by Ted Cruz
Senior Fellow, Center for
Tenth Amendment Studies

Mario Loyola
Director, Center for Tenth
Amendment Studies

Key Points

- As shields, interstate compacts can protect areas of State regulation from federal power.
- Interstate compacts allow States to initiate changes in federal law.
- Interstate compacts are one way that states, working together, can reassert their proper role within the Constitution's balance of federalism.

Introduction

The American Republic is facing one of the greatest challenges of our history. In Washington, Republicans and Democrats alike have indulged the runaway spending and regulatory overreach of a federal government that continues to expand the scope of its powers unabated. The Patient Protection and Affordable Care Act ("Obama Care") marks a dramatic new milestone in that expansion. Americans are starting to realize that restoring and protecting self-government requires a return to our founding principles of limited government and local control.

As this nationwide movement gathers momentum, Americans are searching for tools to restore the Constitution's founding principles. Among the most promising is the interstate compact. Its power as a constitutional device to regulate a multitude of regional issues has already been demonstrated: More than 200 interstate compacts are currently in force. And yet, as this paper shows, that power remains largely unexploited.

Under our Constitution, interstate compacts that regulate matters within the enumerated powers of the federal government require congressional consent. That consent can be express (an affirmative majority vote in Congress) or even implied by congressional acquiescence. In the case of express congressional consent, historically that has been accomplished through either a bill or a resolution that typically has been presented to the President for his signature into law.

Critically, once Congress consents to an interstate compact, the compact carries the force of federal law, trumping all prior federal and state law.

Few issues have energized citizens nationally more than the recent federal healthcare legislation – seen by many as a federal power-grab at the expense of state authority and individual liberty. An interstate healthcare compact would present a powerful vehicle for the States to confront Obama Care directly.

Two insights give force to this Policy Perspective, a legal insight and a political insight. First, legally, the problem confronted by most state efforts against federal healthcare legislation is that, under the Supremacy Clause, federal law preempts state law. However, with congressional consent, an interstate compact *is federal law*. Hence, it can supersede all prior federal law – including Obama Care. Second, politically, if States enter into an interstate compact, it becomes very difficult for their elected congressional representatives to deny them consent. It is one thing to vote in the abstract for federal legislation; it is quite another to tell your home-state constituents that you will not respect their views and expressed desire not to be bound by Obama Care.

More broadly, in the decades ahead, interstate compacts could gain increasing use as a shield against federal overreach. With congressional consent, federalized interstate compacts could shield entire areas of state regulation from the power of the federal government. This Policy

900 Congress Avenue
Suite 400
Austin, TX 78701
(512) 472-2700 Phone
(512) 472-2728 Fax
www.TexasPolicy.com

In the decades ahead, interstate compacts could gain increasing use as a shield against federal overreach.

Perspective explores the history and law of interstate compacts, with particular focus on federalized interstate compacts.

Interstate Compacts in Constitutional History

The interstate compact has a long history in America. During the colonial period, interstate compacts were used to regulate inter-colonial affairs. Two centuries later, more than 200 interstate compacts are in force, woven invisibly into the fabric of our society. The Port Authority of New York and New Jersey is an interstate compact; so is the Washington Metropolitan Area Transportation Authority that runs the subways and buses in our Nation's capital; so are a myriad of agreements that regulate criminal background checks, environmental standards, and education benefits, across state lines.

Interstate compacts were born of the uniquely Anglo-American tradition of common law and respect for the solemn obligation of contract—that tradition which has proved such a bountiful source of strength for the American Republic. Indeed, they are at one level just ordinary contracts, governed by the same common law of contracts that applies to private transactions. Historically, because they were agreements among governments, which could bind future governments, they had a quasi-constitutional force. In this sense, both the Articles of Confederation and the Constitution of the United States can be seen as a form of interstate compact.

Both the contractual and quasi-constitutional dimensions of the interstate compact survive to this day. The Constitution expressly provides for them, in Article I, Sec. 10: "No State shall, without the Consent of Congress ... enter into any Agreement or Compact with another State." This provi-

sion has been very narrowly construed. The Supreme Court has been loath to strike down interstate compacts generally, and has not in fact required congressional consent in many cases. Congressional consent has generally been required only when necessary "in order to check any infringement of the rights of the national government."¹

Interstate compacts have tended to fall into one of three categories.² First and most traditional is the compact dealing with border questions among States. Second is the advisory compact, which is usually set up to study a question and make recommendations. Third is the regulatory compact, which has come into increasing prominence in the last century. The most important for our purposes, regulatory compacts run the gamut of policy areas, from regional transportation to crime, radioactive waste, and environmental regulation.

Regulatory compacts usually (but not always) establish a regional agency of some kind. These vary as much in size and function as the compacts themselves, from three-person commissions to the Washington Metropolitan Area Transit Authority, which employs 10,000 people. The key thing to note about these agencies is that they (like the compacts which create them) "are neither federal in nature nor state in scope. Administrative compacts have created powerful governing commissions appropriately described as a "third tier" of government, a tier that occupies that space between the sphere of federal authority and the sphere of individual state authority."³

Legal Effect of Interstate Compacts

Impact of interstate compacts on state law.

In keeping with their general purpose, the most basic effect of an interstate compact is to bind the member States. As one court put it, "The law of interstate compacts as interpreted by the U.S. Supreme Court is clear that interstate compacts are the highest form of state statutory law, having precedence over conflicting state statutes."⁴ Indeed, an interstate compact necessarily involves a giving up of some state sovereignty by entering into a restraining arrangement with other States. For this reason, courts have imposed limits on what the States can do with compacts: The "reserved powers" doctrine holds that certain attributes of sovereignty cannot be contracted away.⁵ Courts have also held that the

surrender of a State's power in a compact must be "in terms too plain to be mistaken."⁶ These limitations, however, are mere caveats to bear in mind when considering the fact that interstate compacts not only trump existing state law, they bind all future state governments. Most compacts provide for withdrawal and dissolution; but they are otherwise deemed permanent.⁷

Federalism and interstate compacts with congressional consent.

From the point of view of federalism the most important effect of interstate compacts is on federal law—and on the balance of federal-state powers. Here a crucial distinction must be drawn between those interstate compacts that require congressional consent and those that do not. Courts have typically required congressional consent for two kinds of compacts: first, when the compact would change the balance of power between States and the federal government or diminish the power of the federal government; and second, where the compact intrudes on an area of specific federal authority. If the area of regulation is federally preempted, congressional consent is generally required.

Congressional consent transforms interstate compacts into federal law.

In *Cuyler v. Adams* (1981) the Supreme Court said: "[W]here Congress has authorized the States to enter into a cooperative agreement, and where the subject matter of that agreement is an appropriate subject for congressional legislation, the consent of Congress transforms the States' agreement into federal law under the Compact Clause."⁸ A moment's reflection suffices to see the enormous power that this gives interstate compacts within our constitutional system. Note that in *Cuyler* the issue was the effect of congressional consent given in advance to interstate compacts "for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal law and policies"⁹ Some commentators have expressed concern that interstate compacts that go further than implementing the precise terms of a *prior* congressional approval stand on questionable ground. Regardless, the merits of those concerns, it is abundantly clear that congressional approval given to an already existing interstate compact "transforms the States' agreement into federal law under the Compact Clause."

An interstate compact cannot impact federal law beyond the borders of the member States. But just how deeply a compact

Just how deeply a compact can intrude on federal law has not been precisely established, chiefly because compacts generally try to have as little impact as possible on federal law, in order to eliminate potential political hurdles in Congress.

can intrude on federal law has not been precisely established, chiefly because compacts generally have tried to have as little impact as possible on federal law, in order to eliminate potential political hurdles in Congress. The outer boundaries have not been explored. But we can assume, and proponents should argue, that interstate compacts can cut a considerable swathe into federal law—assuming that congressional consent is given to do so. This is because, "[w]hen it approves a compact, Congress arguably exercises the legislative power that the compact threatens to encroach upon and declares that the compact is consistent with Congress's power in that area. [...] Congress, in effect, consents to the states' intruding on its traditional domain."¹⁰

Thus, congressional consent transforms a compact into a "law of the Union," as Justice McLean put it in the seminal *Pennsylvania v. Wheeling* (1852).¹¹ Most of the federal cases involving interstate compacts turned on fairly minor questions of federal law; but if a congressionally approved interstate compact can trump pre-existing federal law on a minor issue there is no legal bar to its doing so on a major issue as well. Hence the importance of the "law of the Union" doctrine as applied in cases such as *McKenna v. Washington Metropolitan Area Transit Authority* (D.C. Cir. 1987).¹²

In *McKenna*, the plaintiff sued for wrongful death on the basis of the Federal Employers' Liability Act (FELA) after her husband (an employee of WMATA) was killed in an accident while on the job. The Court of Appeals for the D.C. Circuit ruled that FELA was unavailable to her because the WMATA Compact has its own liability scheme and specifically provides (in sec. 77 of the Compact) that its transit services "shall [...] be exempt from all rules, regulation and orders of [...]"

The interstate compact is the one tool through which the States as States can directly initiate changes to federal statutory law.

the United States otherwise applicable to such transit[....]" The court also pointed to sec. 5 of the Compact, which provides that "the applicability of the laws of the United States, and the rules, regulations, and order promulgated thereunder, relating to or affecting transportation under the Compact ... is suspended, except as otherwise specified in the Compact, to the extent that such laws, rules regulations and orders are inconsistent with or in duplication of the provisions of the Compact."

Such compact provisions, and court decisions confirming them, have not drawn a great deal of attention, but they suggest that interstate compacts have enormous unexplored potential to shape the contours of federal power and of federalism. As one commentator noted (proposing a Pacific States environmental regulatory compact after the Exxon Valdez spill in 1989), "the states have never used an interstate compact explicitly to circumvent existing federal regulations. There does not seem to be any obstacle, however to using the interstate compact in this manner."¹³

One treatise notes the evolving uses of interstate compacts and the potential for further expansion:

Today, interstate compacts govern a wide variety of issue areas, ranging from health, education, taxation and transportation to corrections, child welfare, energy, and the environment to name just a few[....] The substantive breadth of these initiatives clearly demonstrates that the interstate compact mechanism may be readily adapted for use in almost any field. The possibilities are truly limitless, and as recent developments suggest, the range of subjects covered by such agreements is likely to continue growing in the years to come.¹⁴

One interesting possibility is that, because Congress may consent in advance to a compact, it may perhaps delegate the equivalent of administrative rulemaking authority to any regulatory body established by the compact. Thus, in the abstract, the interstate compact has as much potential as a "policymaking" device as the regulatory agencies of the federal government.

Congressional consent and presentment.

Although no court has so held, a strong argument can be made that presentment is required for congressional consent. As an initial matter, the text of the Compact Clause (Art. I, Section 10) requires only the "consent" of Congress, and makes no reference to the President. Moreover, as noted in Cuyler, the Supreme Court's cases establish that "Congress may consent to an interstate compact by authorizing joint state action in advance or by giving expressed or implied approval to an agreement the States have already joined." And if Congress can consent impliedly, through mere acquiescence, then a credible argument could be made that Congress may also consent by means of a form intermediate between express legislation and implied acquiescence, such as a concurrent resolution expressing consent, without the need for presentment to the President.

However, as a matter of historical practice, in virtually every case, express congressional consent has taken the form of an act of Congress, signed by the President. Both the second and third clauses of Art. I, Section 7 (Presentment) of the Constitution provide a strong basis for arguing that the President's signature is required for congressional consent.¹⁶ Indeed, President Franklin Roosevelt vetoed at least two resolutions of congressional consent presented to him for signature: one, related to fisheries, in 1939, and another, the Republican River Compact (later adopted in modified form) in 1942. On the basis of these two examples, one commentator writes, "[w]hen congress gives its consent to a compact by an act or joint resolution, it is subject to Presidential veto."¹⁷ No Court has ever so held, and the Compact Clause is silent on the issue, but as one comentator urges, "[u]sage has brought the President into the compact process."¹⁸

If it were litigated, the matter would be largely one of first impression for the federal courts, because no interstate compact has ever been challenged for insufficient congressional consent on the grounds that the claimed consent lacked the signature of the President.

Even assuming that presentment to the President is in fact required, however, the interstate compact is a powerful device for shaping the balance of state and federal power. If it were adopted by a number of States and consented to by Congress, a President would face perilous challenges refusing to allow an interstate compact to go into effect. And a federalized compact (whatever the form of consent) has full force of federal law. It is the one tool through which the States as States can directly initiate changes to federal law.

Withdrawal of congressional consent; legislative modification.

Subsequent legislation can modify or withdraw congressional consent. In cases where the compact impinges on preempted federal regulatory area, and therefore required congressional consent to start with, the operative federal law can subsequently be modified by Congress.

Technical and Tactical Considerations

Several observations bear keeping in mind.

- Congressional consent can take a variety of forms. Congress can consent to an existing compact (after-the-fact) either through resolution or legislation. Courts have held that it can consent to a compact in advance, and its consent can be inferred from its acquiescence to a compact, as occurred in the classic case of *Virginia v. Tennessee* (1893).¹⁹ The deference courts have shown to clear statements of congressional consent suggests a flexibility that may have significant unexploited potential.
- Congressional consent can be conditional and limited in any way Congress sees fit. In cases where this is a concern, the compact can expressly provide that it will go into effect only when Congress consents unconditionally.
- Congressional consent can also delegate wide powers to the compact, including the power to change the terms of the compact subsequently. The Washington Metropolitan Area Transit Regulation Compact provides: "This Compact may be amended from time to time without the prior consent or approval of the Congress of the United States and any amendment shall be effective unless, within one year, the Congress disapproves that amendment." If Congress had consented to that provision of the compact, the compact would have allowed subsequent state legislative action to change federal law *without further congressional action*.²⁰ Critics will charge an impermissible delegation

of legislative authority—but interstate compacts have at least as much latitude in this respect as federal regulatory agencies, which routinely set rules without violating the doctrine of non-delegation.

- Interstate compacts have been launched and adopted in a variety of ways. Here are some examples:
 - *Port Authority of NY/NJ*: The governor of each state appointed three commissioners each to a commission to study the question of regional mobility and commerce. The commissioners reported back several years later with a draft compact. The compact was quickly ratified by the States and approved by Congress.
 - *Interstate Compact on the Placement of Children*: New York's Joint Legislative Committee on Interstate Cooperation studied the question at length. Eventually it proposed a draft, and the draft was quickly passed by 12 legislatures.
 - *Emergency Management Assistance Compact*: The Southern Governors' Association endorsed the need for a compact to facilitate mutual disaster assistance among states facing hurricanes and other natural disasters. The SGA established a working group which took about a year to propose a draft compact. The plan was signed by SGA members, who began presenting it to their legislatures.
 - *National Crime Prevention and Privacy Compact*: The NCPPC was formed to facilitate criminal backgrounds checks across borders. The proposal took shape over 15 years under the auspices of a national umbrella organization, and it was finally formalized in coordination with the FBI. Congress endorsed it, and it then passed in the States.

Conclusion: Interstate Compacts as "Shields" for the States

One of the founding pillars of our Constitution is the idea of dual sovereignty—the supremacy of the federal government as to issues of national concern, and the primacy of the States as to matters of state and local concern. But as the national economy has developed and become more integrated, and as communities have grown into thriving metropolitan areas

that spill across state lines, the federal government has steadily expanded in scope and power, to a point that today calls into question the very idea of federalism. With the loss of many of the meaningful constraints on the power of the federal government, the original distinction between a federal government whose powers are “few and definite” and state governments whose powers are “numerous and indefinite” (as James Madison put the matter in Federalist No. 45) has been substantially diminished. Hence, one result of the expansion of the federal government has been to blur the distinction between national issues and local ones, which in turn has facilitated the further expansion of federal power.

Interstate compacts have great potential to help reestablish the crucial boundary of dual sovereignty—if not just where the Framers intended, then at least enough to restore a meaningful separation between national matters and local ones, and meaningful limits on federal power. The fact that congressional consent gives the interstate compact the status of federal law means that, in effect, the federal government would be consenting to carve out—from the scope of its own ever-expanding powers—an area within which the States can retain substantial authority. In this way, “compacts can effectively preempt federal interference into matters that are traditionally within the purview of states but that have regional or national implications.”²¹

One promising avenue may be to conceive of a compact for a particular area of legislation—say health care—and provide for a “thin” set of reciprocal legislative provisions (the compact) which would include a clause to the effect that “the operation of federal laws not consistent with state laws and regulations adopted pursuant to this compact will be suspended.” The compact would provide that within certain parameters the States would be free to legislate as they chose. Such a compact would function as a “thin shield compact” to carve out an area of regulation from the power of the federal government, and leave States free to regulate according to their preferences under the umbrella. Such a compact would require congressional consent, which would then give it the status of federal law.

Used in this way, interstate compacts can help clarify and strengthen the limitations on the federal government’s enumerated powers. They can thereby restore a meaningful distinction between matters of national concern and matters of local concern—the essence of federalism in our Constitution. ★

Endnotes

- ¹ J. Story, Commentaries on the Constitution of the United States § 1403, p. 264 (T. Cooley ed. 1873).
- ² Caroline Broun, et al., *The Evolving Use and the Changing Role of Interstate Compacts: A Practitioner's Guide*, pp. 12 and passim (American Bar Association 2007).
- ³ Broun, at 15.
- ⁴ Broun, at 20, citing *Doe v. Ward*, 124 F.Supp.2d 900, 914. (W.D. Pa. 2000), citing *McComb v. Wambauch*, 934 F.2d 474, 479 (3d Cir. 1991).
- ⁵ Just as, for individuals, certain constitutional rights—e.g., freedom from slavery—cannot be waived.
- ⁶ *Jefferson Branch Bank v. Skelly*, 66 U.S. 436 (1862).
- ⁷ Jill Elaine Hasday, "Interstate Compacts in a Democratic Society: The Problem of Permanency," 49 *Fa. L. Rev.* 1 (January 1997). The author notes:

Even if compacts are the product of deliberative, collective self-determination [...] they severely hamper the people's ability to continue to guide their own fate by strictly limiting a party state's power to respond to changing preferences and circumstances. At the heart of the meaning of compacts, this tension has gone essentially unexplored by compact writers, who instead expound on the advantages of finality and hail compacts as augmenting the voice of the citizenry as they empower the states.

Id. at 3.

- ⁸ 449 U.S. 433, 440 (1981).
- ⁹ 4 U.S.C. § 112(a).
- ¹⁰ Broun, at 41.
- ¹¹ 54 U.S. 518, 566.
- ¹² 829 F.2d 186.
- ¹³ Marlissa S. Brigggett, "State Supremacy in the Federal Realm: The Interstate Compact", 18 *B.C. Envtl. Aff. L. Rev.* 751, 765 (1991).
- ¹⁴ Broun, at 180.
- ¹⁵ 449 U.S. at 441, citing *Virginia v. Tennessee*, 148 U.S. 503 (1893) (where Congress, for judicial administration and taxing purposes, demarcated the border of districts adjacent to the boundary agreed in the compact as if that was the official boundary for all purposes, it effectively consents to the compact for purposes of the Compact Clause).
- ¹⁶ The full text of Art. I, Section 7 is:

All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

- ¹⁷ Joseph F. Zimmermann, *Interstate Relations: The Neglected Dimension of Federalism* 39 (1996).
- ¹⁸ Frederick L. Zimmerman, *The Law and Use of Interstate Compacts* 24 (1961). See also, Frederick L. Zimmermann & Mitchell Wendell, *The Law and Use of Interstate Compacts* 16-17 (1976) ("Congressional consent to interstate compacts may be granted by an act of Congress or a joint resolution setting out the compact's terms.") (cited in Note, "Charting No Man's Land: Applying Jurisdictional and Choice of Law Doctrines to Interstate Compacts", 111 *Harv. L. Rev.* 1991, 1993-94 (1998) and Kevin J. Heron, "The Interstate Compact in Transition: From Cooperative State Action to Congressionally Coerced Agreements", 60 *St. John's L. Rev.* 1, 16 (1985)); and Frederick L. Zimmermann & Mitchell Wendell, *The Interstate Compact Since 1925*, at 94 (1951). ("The Compact Clause itself requires only the consent of Congress, but 'settled usage' has granted the President veto power over consent").
- ¹⁹ 148 U.S. 503
- ²⁰ Broun, at 56.
- ²¹ Broun, at 27.

About the Authors

Ted Cruz served as Solicitor General for the State of Texas—the chief appellate lawyer for the State— from 2003 to 2008. He was the first Hispanic Solicitor General in Texas, and when appointed, was the youngest Solicitor General in the United States. Ted has authored more than 80 U. S. Supreme Court briefs and presented 38 oral arguments, including eight before the U.S. Supreme Court. He has been named by Texas Lawyer magazine as one of the “25 Greatest Texas Lawyers of the Past Quarter Century,” by American Lawyer magazine as one of the “50 Best Litigators under 45 in America,” and by National Law Journal as one of the “50 Most Influential Minority Lawyers in America.” A graduate of Princeton University and Harvard Law School, Ted previously served as a law clerk to Chief Justice William H. Rehnquist on the U.S. Supreme Court; as Domestic Policy Advisor to President George W. Bush on the 2000 Bush-Cheney Campaign; and as Associate Deputy Attorney General at the U.S. Department of Justice.

Ted currently serves as a Senior Fellow at the Texas Public Policy Foundation, where he leads the Center for Tenth Amendment Studies, and from 2004–09 he served as an Adjunct Professor of Law at the University of Texas Law School, where he taught U.S. Supreme Court Litigation.

Mario Loyola joined the Foundation in July 2010 as Director of the Center for Tenth Amendment Studies and an in-house policy expert within the Armstrong Center for Energy & the Environment.

Mario began his career in corporate finance law. Since 2003, he has focused on public policy, dividing his time between government service and research and writing at prominent policy institutes. He served in the Pentagon as a special assistant to the Under Secretary of Defense for Policy, and on Capitol Hill as counsel for foreign and defense affairs to the U.S. Senate Republican Policy Committee. Mario has also worked as a state policy advisor for Senator Kay Bailey Hutchison.

Mario has written extensively for national and international publications, including features for National Review and The Weekly Standard, and op-eds in The Wall Street Journal. He has appeared on The Glenn Beck Show, CNN International, BBC Television, Radio America, and more.

Mario received a B.A. in European history from the University of Wisconsin–Madison and a J.D. from Washington University School of Law.

About the Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute.

The Foundation’s mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by hundreds of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.



THE DAILY CALLER

Health Care Compact would free states from IPAB

By Eric O'Keefe 08/05/2011

Are you in favor of allowing a committee of unaccountable and unelected bureaucrats to dictate the personal health care decisions of millions of American seniors?

In an Orwellian twist, the most powerful committee created by the recent health care law is called the "Independent Payment Advisory Board" (IPAB). The board is independent all right — independent of accountability. But it is certainly *not* "advisory." All decisions are final and they carry the force of law, unless Congress is able to mount an override.

Last week, Congress held several hearings about IPAB and its controversial authorities. IPAB will be responsible for cutting payment rates for doctors and for determining which Medicare treatments are too wasteful or expensive. Because of its broad authority and its lack of accountability to voters, IPAB has begun to receive a great deal of public and political scrutiny.

IPAB will consist of 15 unelected bureaucrats, all appointed by the president. These appointments do not require Senate confirmation. Once the commission forms, it will begin making recommendations to "reduce the per capita rate of growth in Medicare spending." According to the new health care law, these recommendations from IPAB will automatically become law, unless Congress overrides the recommendation with a three-fifths majority in both the House and the Senate.

The commission will have a profound impact on the U.S. health care system, and seniors in particular. Surveys of doctors reveal that many physicians already limit the number of Medicare patients they will see because of the low reimbursement rates. IPAB's future cuts may make it difficult for seniors with Medicare to find a doctor.

One of the primary reasons for IPAB opposition is its lack of accountability and transparency. The board's unelected officials will be given broad discretion to make cuts for physician reimbursements and use "comparative-effectiveness research" to determine which drugs should be funded. As is true of all unelected bureaucrats, the IPAB commissioners will never have to give an accounting of their decisions to the voters.

As the federal government has expanded and amassed new powers, a growing number of state officials and voters have sought solutions at the state level. In the area of health care policy, more states are searching for solutions that meet their own unique needs, rather than relying on one-size-fits-all programs designed in Washington, D.C. Last year, a grassroots coalition formed to shift health care decision-making authority from Washington, D.C. to the states. The coalition,

known as the Health Care Compact Alliance, supports an interstate compact as a device that allows states to regain control of health care decisions.

The Health Care Compact would empower states to create their own Medicare and Medicaid programs, free from the arbitrary decisions of unelected bureaucrats in Washington, D.C., including those on the powerful IPAB commission. States participating in the Health Care Compact will be given the authority to design their own health care programs, but will continue to receive their portion of federal health care dollars.

The Health Care Compact is already law in Georgia, Oklahoma, Missouri and Texas, and has been introduced in state legislatures in Ohio, Michigan, Tennessee, Colorado, South Carolina and Louisiana. Once Congress approves the compact, it will carry the full force of federal law and will trump the federal Health and Human Services regulations, as well as the recommendations of IPAB. States that choose to participate in the Health Care Compact will be given autonomy over health care policy.

Empowering unaccountable and unelected officials with expansive authority to legislate — as IPAB does — moves us away from self-governance. The Health Care Compact, on the other hand, will yield greater transparency and accountability by returning decision-making authority to elected officials in the states, and to the people they represent.

Eric O'Keefe is the chairman of the Health Care Compact Alliance and CEO of the Sam Adams Alliance.

Article printed from The Daily Caller: <http://dailycaller.com>

URL to article: <http://dailycaller.com/2011/08/05/health-care-compact-would-free-states-from-ipab/>

TOP STORY IIII

SATURDAY, APRIL 30, 2011

Interstate compacts offer new weapon against health care plan

By Christine Vestal, Stateline Staff Writer

Governors who oppose the national health care act have no shortage of strategies they are willing to try—federal lawsuits aimed at overturning it, state statutes barring its implementation, an attempt at congressional repeal.



But another way around the controversial law may be emerging that, while it sounds far-fetched, theoretically could trump all others: a so-called interstate health care compact that would invoke a little-known clause in the U.S. Constitution.

Here's how it would work: At least two states would agree to sign a joint agreement taking full responsibility for all health care policy within their borders. If the agreement is approved by Congress, the states that sign up would be given a block grant equal to the total of their federal health care funding for the prior year, including Medicare and Medicaid, with no strings attached. Other states could join later. The states would then work together or separately to develop homegrown health care policies that they believe meet their residents' needs.

Related Stateline stories

- Medicaid explained: How would block grants work?
- For some states, health care waivers are a big deal
- Health care budgets in critical condition

This couldn't happen right away. The concept has little chance of approval in the Democratic Senate, and, while scholars differ on the president's role in these matters, it would likely need President Obama's signature—which it wouldn't get. The idea also has met with vehement opposition from patients' groups and consumer advocates who say leaving health care policy to states would perpetuate extreme differences in quality of care and eliminate any accountability for the way states spend federal health dollars.

Still, interstate compacts do have a grounding in the U.S. Constitution, or at least in interpretations of the constitutional language. Article I, Section 10 provides that "no State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State." It doesn't expressly say that they can do it if Congress consents, but courts have read it to imply such permission hundreds of times.

More than 200 interstate compacts are in existence today, many of them dealing with transportation, geographic boundaries and fishing and water rights. The “compact clause” has in fact been used to supersede federal law in some instances. But no compact has ever been approved by Congress that would essentially nullify a federal law, as the health care compact would.

The founders of the compact movement—Texas construction magnate Leo Linbeck III and Wisconsin investor Eric O’Keefe—admit the approach is novel. But they argue that it attacks the real problem with the nation’s health care system—too much federal bureaucracy. Because of that, members of the Tea Party Patriots, a grassroots organization working to shrink federal government, have become the movement’s foot soldiers. The Patriots have been active on the issue in at least 30 states since January.

So far, only one state, Georgia, has enacted a law agreeing to join a compact—Republican Governor Nathan Deal signed it April 20. Two days earlier, Arizona Governor Jan Brewer, a Republican, vetoed a compact bill, saying she agreed with the concept of state autonomy in health care, but was already working with the Obama administration to get more control over the federal-state Medicaid program that has swamped the state’s budget.

Shooting for next year

Democratic governors Jay Nixon of Missouri and Brian Schweitzer of Montana have compact bills on their desks, and others are under consideration in Florida, Louisiana, Oklahoma, South Carolina, Texas and Tennessee. If even one of those bills becomes law, the constitutional minimum of two states would allow the process of seeking congressional approval to begin. Still,

O’Keefe says he wants “a nice long list of states” before taking the proposal to Congress. “We got a late start this year,” he says, “so we’ll be making a big push next year.”

Every state that signs on to a compact must pass it in identical form. Partly for that reason, the model legislation currently being circulated around legislatures contains very few specifics about health care. It is simply a pledge to work with other states to get congressional approval to take over health care policies, backed by a federal block grant. The compact encourages interstate collaboration and information sharing, but does not require it. If a compact were approved, each state would be free to adopt whatever form of health care system it wanted.

“We don’t want to shift from a one-size-fits-all federal program to a one-size-fits-all compact,” says O’Keefe. “It’s not about taking a market-based approach. A lot of people in the organization believe in that, including me. But this is about who should be dealing with health care.”

While a compact would give the states joining it a great deal of freedom in designing health care programs, it would impose a burden on them in other ways. States in the compact could no longer count on federal help in the event of a pandemic or other public health disaster. Likewise, they could not expect a federal bailout if the country goes into a deep recession

again. Compact states would be left on their own with only a modest annual adjustment to their block grant to account for inflation and population growth.

“It’s interesting that the states that are most interested in the concept are the ones where the federal government already spends most of its health care dollars and will spend even more under the Affordable Care Act,” says Linda Blumberg, a health care expert with the Urban Institute. “That means their residents have the most to lose.” In general, those are the poorest states in the country.

Supporters of the compact idea say it isn’t just about skirting the national health care law. They insist they want to take a broader approach to the nation’s health care problems by moving control over health care policy from Washington to state governments. They argue that the proposal is in line with the Obama administration’s recent challenge to states to come up with their own health care plans.

Critics aren’t buying that. They believe the main reason any state would join the compact would be in order to spend less money providing health care to its citizens. “The problem,” says consumer advocate Anne Dunkelberg, who is fighting the compact bill in Texas, “is that when states say they want more flexibility to develop their own plans, we have to assume they want cuts.”

Contact Christine Vestal at cvestal@pewtrusts.org

Comment on this story in the space below by registering with Stateline.org.

ISSUES AND TOPICS ▄▄▄

Issues: Health Care

COMMENTS (0) ▄▄▄

There are no comments yet, would you like to add one?

(c) 2009. The Pew Charitable Trusts. All rights reserved.



Print this page Close

Deal signs health compact bill into law

By Aaron Gould Sheinin and Carrie Teegardin
The Atlanta Journal-Constitution

5:14 p.m. Wednesday, April 20, 2011

Georgia could join with other states to try to assert control over health policy under legislation Gov. Nathan Deal signed into law Wednesday.

Deal signed House Bill 461, which allows states to work together on health care through a legal compact — a measure that could make it possible for them to avoid implementation of the federal health care law. But, since any compact requires congressional approval, many see Georgia's move as largely symbolic.

"Georgia is the first state to have this health care compact legislation signed into law," Deal said in a statement sent to The Atlanta Journal-Constitution. "A large majority of Georgians believe that we here are better equipped to manage our state's health care needs than a one-size-fits-all plan under 'Obamacare.'"

Similar measures have been introduced in 12 states. Arizona is the only other state, though, that has had a compact bill win approval in both chambers of its legislature.

While Georgia lawmakers embraced the compact legislation, they never took a floor vote on a bill to begin planning for a Georgia-run insurance exchange. The federal health care law calls for every state to have an exchange — a new marketplace where individuals and small businesses could shop for health coverage and gain access to subsidies. The federal law requires most Americans to have health insurance starting in 2014.

Deal sought a bill to begin planning for an exchange, since the alternative is an exchange that would be designed and run by the Obama administration. The bill had wide support from health care providers, the insurance industry and consumer advocates. But Deal pulled the bill off the agenda this year after tea party activists raised last-minute objections to it.

Debbie Dooley, co-coordinator of the Georgia Tea Party Patriots, praised Deal for signing the compact bill.

Dooley said the bill could become more than a symbolic gesture. "You don't know," she said. "We could have great success getting Congress to pass it. We know it would pass the House."

Deal said the compact idea is part of the state's effort to find "creative, free-market solutions to our health care challenges."

"There are positive alternatives to 'Obamacare,' and we will continue to bring these ideas to the forefront for debate across this nation," he said.

While a compact would have to be approved by the House and Senate, experts disagree on whether it must be approved by the president.

Cindy Zeldin, executive director of Georgians for a Healthy Future, a nonprofit that generally supports overhauling the health care system and backed the federal law, said the new state law will have no practical impact because it won't be approved by Washington.

"I think it is odd that the exchange, which would have a huge impact on consumers, was abandoned so easily and this became a priority even though it won't have any effect on consumers or Georgians at all," she said.

Deal, in an interview last week, said Republicans several years ago proposed health care exchanges and the bill he pulled this year was "an opportunity to do what the federal government has never been able to do, and that is provide a marketplace for small businesses to pool their employee base and reduce the cost of health insurance."

Deal believes there is still time for that to be done but that "it's going to take an education" for opponents to see the benefits.

State insurance exchanges would open for business in 2014. But states must have their marketplaces ready to go in 2013, which would require the General Assembly to pass legislation to create an exchange next year.

Find this article at:

<http://www.ajc.com/news/georgia-politics-elections/deal-signs-health-compact-918391.html>

 Print this page  Close



THE ASSOCIATED PRESS April 21, 2011, 10:34AM ET

Texas House passes health care compact bill

AUSTIN, TEXAS

The Texas House has passed a bill that would allow the state to enter into a health care "compact" with like-minded states.

The bill, passed on a 102-46 vote, was a slap at federal control of health care. Lawmakers in several other states, fueled by tea party anger at Washington, are considering similar initiatives.

The bill would require at least one state partner and approval from the U.S. Congress before going into effect. Proponents said the bill would help Texas stretch its health dollars further and deal with spiraling costs. Critics said it would remove a key federal safety net and cut back on already strapped programs that help the poor and elderly. The legislation faces a final procedural hurdle before it can move to the Senate.



SUBSCRIBE NOW AND SAVE 85%

CLICK HERE

- Nashville Public Radio - <http://wpln.org> -

Health Care Compact Moves in the State House

By Blake Farmer
WPLN News
April 6, 2011

Tennessee Republicans foresee a day when federal health care programs go broke. So they're backing a proposal under which the state could take over such programs. A bill described as the "healthcare compact" passed a House subcommittee Tuesday.

Representative Mark White of Memphis says it's a straightforward offer for Tennessee to join with other states to file a big request to the federal government. When it's health care programs become too expensive to run from Washington, the states will ask for the money and run their own programs.

"It will allow us to draw all the money the federal government will give us anyway Just draw it down in a big grant, a big block And then we figure it's right around twenty-two billion dollars we would just take that money and design our own health care program."

The idea is similar to one coming out of Washington to save trillions of dollars. In a budget proposal put forward by Republicans Tuesday, block grants are used to cut costs and give states more autonomy in running their Medicaid programs.

As for the state legislation, Tennessee Democrats oppose the health care compact, calling it an attack on President Obama's health care reform. The bill now goes to the House Health Committee.

Web Extra

The bill is [HB 369 White/SB 326 Beavers](#), health care compact.

In the Senate, the bill has been amended and sent to the Senate Finance Committee.

The same [amendment](#) (identical to Senate wording) was added in the House subcommittee.

Printed from: <http://wpln.org/?p=25676>

Copyright © 2009 Nashville Public Radio. All rights reserved.