

SENATE BILL 326

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 33; Title 63; Title 68 and Title 71, relative to a  
health care compact.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 1, is amended by adding the following as a new part, to be appropriately designated:

68-1-2601.

By this part, Tennessee shall become a party to the health care compact in accordance with the terms of the compact. "Compact" means the health care compact.

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, even though Health Care regulation is properly the authority and responsibility of the States; 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 is by vesting regulatory authority over Health Care in the States; and

WHEREAS, by acting in concert, the member states may express and inspire confidence in the ability of each member state to effectively govern Health Care; and

WHEREAS, the member states recognize that consent of Congress may be more easily secured if the member states collectively seek consent through an interstate compact;

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

Section 1. Definitions. For purposes of this compact:

(1) "Member state" shall refer to a state that is signatory to this compact and has adopted it under the laws of that state.

(2) "Effective date" shall refer to the date upon which this compact shall become effective for purposes of the operation of state and federal law in a member state, which shall be the latter of:

(A) The date upon which this compact shall be adopted under the laws of the member state;

(B) The date upon which this compact receives the consent of Congress pursuant to Article I, Section 10, of the Constitution, such consent itself requiring this Compact to have been adopted by at least two (2) member states.

(3) "Health care" shall refer to the definition of "health care" in title 45, part 160, section 103 of the Code of Federal Regulations in effect on January 1, 2011, except goods and services provided by the department of defense and veterans administration.

(4) "Commission" shall refer to the interstate advisory health care commission.

Section 2. Pledge. All member states pledge themselves to take joint and separate action to secure the consent of Congress to this compact. All member states further pledge themselves to improve health care policy within their respective jurisdictions and according to the judgment and discretion of each member state.

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

Section 4. State Control. By consenting to this compact, Congress agrees that each member state shall have the authority to enact state laws that supersede any and all federal laws regarding health care within its state. Federal and state law regarding health care will remain in effect unless a member state expressly invokes its authority under this compact.

Section 5. Funding. Each member state shall have the right to federal funds, funded by Congress as mandatory spending pursuant to the formula described in Attachment A, to support the exercise of member state authority under this compact. This funding shall not be conditional on any action, regulation, policy, law, or rule of any kind of the member state.

Section 6. Interstate Advisory Health Care Commission. The member states hereby create the interstate advisory health care commission.

(a) The commission shall consist of members appointed by each member state through a process to be determined by the laws of each member state. No state may appoint more than two (2) members to the commission, and at any time a member state may withdraw its members from the commission. Each member of the commission shall be entitled to one (1) vote. The commission shall not act unless a majority of the members are present, and no action shall be

binding on the commission unless approved by a majority of the total number of members.

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

(c) The commission shall collect information and data to assist the member states in their regulation of health care, including, but not limited to, assessing the performance of various state health care programs and compiling information on the cost of health care. The commission shall make this information and data available to the legislatures of the member states.

(d) The commission may study the issues of health care regulation of particular concern to the member states, such as the elimination of interstate barriers to the provision of health care. After careful consideration, the commission may make nonbinding recommendations to the member states. The legislatures of the member states may then consider these recommendations in determining the appropriate health care policy in their respective states.

(e) Member states shall fund the commission as the member states may agree. The commission shall have all the responsibilities and duties set forth herein, and such additional responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the member states in accordance with the terms of this compact.

Section 7. Congressional Consent. This compact shall be effective upon its adoption by the member states and consent of congress in a form that is consistent with the purposes of this compact:

(a) To secure the right of the member states to regulate health care in their respective states and to supersede any conflicting federal law within their states; and

(b) To secure federal funding for member states that choose to invoke their authority under this compact, pursuant to the mandatory spending formula described in Attachment A.

Section 8. Amendments. This compact may be amended by agreement among the member states and adoption of such agreement into the laws of the member states. By consenting to this compact, Congress also consents to any amendments that directly or indirectly impact the regulation of health care in the member states. For all other amendments, further consent of Congress is expressly required. Variations in Attachment A between member states will not prevent this compact from acting as an effective, operational agreement between the states.

Section 9. Withdrawal; Dissolution. Any member state may withdraw from this compact by adopting a law to that effect. This compact shall be dissolved upon the withdrawal of all but one (1) of the member states.

## ATTACHMENT A FUNDING

These amounts are estimated federal expenditures on Health Care in each State for fiscal year 2010. Prior to joining this Compact, a Member State shall determine actual 2010 numbers and replace these estimates.

STATE	F <sub>s,2009</sub>	STATE	F <sub>s,2009</sub>
Alabama	\$9,746,000,000	Montana	\$2,431,000,000
Alaska	\$1,201,000,000	Nebraska	\$4,065,000,000
Arizona	\$14,701,000,000	Nevada	\$4,638,000,000
Arkansas	\$8,369,000,000	New Hampshire	\$3,068,000,000
California	\$72,454,000,000	New Jersey	\$19,632,000,000
Colorado	\$8,451,000,000	New Mexico	\$5,663,000,000
Connecticut	\$8,646,000,000	New York	\$57,396,000,000
Delaware	\$2,220,000,000	North Carolina	\$23,150,000,000
Florida	\$45,826,000,000	North Dakota	\$1,565,000,000
Georgia	\$18,440,000,000	Ohio	\$29,246,000,000
Hawaii	\$2,998,000,000	Oklahoma	\$9,142,000,000
Idaho	\$3,401,000,000	Oregon	\$8,789,000,000
Illinois	\$26,456,000,000	Pennsylvania	\$34,434,000,000
Indiana	\$15,152,000,000	Rhode Island	\$3,017,000,000
Iowa	\$7,579,000,000	South Carolina	\$11,727,000,000
Kansas	\$6,223,000,000	South Dakota	\$1,930,000,000
Kentucky	\$11,885,000,000	Tennessee	\$16,389,000,000
Louisiana	\$12,078,000,000	Texas	\$46,389,000,000
Maine	\$4,398,000,000	Utah	\$4,234,000,000
Maryland	\$11,639,000,000	Vermont	\$1,822,000,000
Massachusetts	\$17,302,000,000	Virginia	\$15,486,000,000
Michigan	\$24,261,000,000	Washington	\$14,055,000,000
Minnesota	\$12,280,000,000	West Virginia	\$5,991,000,000
Mississippi	\$8,486,000,000	Wisconsin	\$13,080,000,000
Missouri	\$15,676,000,000	Wyoming	\$1,147,000,000

Each year, the amount to be received by a Member State shall be calculated by adjusting for changes in population and inflation according to the following formula:

$$F_{s,t} = F_{s,2010} * (1 + (P_{s,t} - P_{s,2010}) / P_{2010}) * G_t / G_{2010}$$

Where:  $F_{s,t}$  is total federal Health Care funding in state  $s$  during in year  $t$   
 $P_{s,t}$  is the average population of state  $s$  during year  $t$  as determined by the Census Bureau  
 $G_t$  is the Total Gross Domestic Product Deflator in year  $t$  as determined by the Bureau of Economic Research.

A preliminary funding level shall be established for each Member State by Congress based upon estimates, with final funding levels calculated and reconciled based upon reports provided by each Member State and audited by the General Accounting Office.

SECTION 2. This act shall take effect on becoming law, the public welfare requiring it.