

FIRST REGULAR SESSION

# SENATE BILL NO. 367

96TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATORS NIEVES AND STOUFFER.

Read 1st time February 28, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1791S.011

---

---

## AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the health care compact.

---

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.025, to read as follows:

**191.025. The Health Care Compact is enacted into law and entered into by the state as a party, and is of full force and effect between the state and any other states joining therein in accordance with the terms of the Compact, which such Compact is as follows:**

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

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

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

**"Effective Date" means 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 later of:**

**(a) the date upon which this Compact shall be adopted under the laws of the Member State; and**

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

18           **"Health care" means care, services, supplies, or plans related to**  
19 **an individual and includes but is not limited to:**

20           **(a) preventive, diagnostic, therapeutic, rehabilitative,**  
21 **maintenance, or palliative care and counseling, service, assessment, or**  
22 **procedure with respect to the physical or mental condition or**  
23 **functional status of an individual or that affects the structure or**  
24 **function of the body, and**

25           **(b) sale or dispensing of a drug, device, equipment, or other item**  
26 **in accordance with a prescription, and**

27           **(c) an individual or group plan that provides, or pays the cost of,**  
28 **care, services, or supplies related to the health of an individual, except**  
29 **any care, services, supplies, or plans provided by the United States**  
30 **Department of Defense and United States Department of Veteran**  
31 **Affairs, or provided to Native Americans.**

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

34           **"Member State Base Funding Level" means a number equal to the**  
35 **total Federal spending on Health Care in the Member State during**  
36 **Federal fiscal year 2010 as determined, on or before the Effective Date,**  
37 **by each Member State for their State. On or before the Effective Date,**  
38 **each Member State shall amend the entry in this table for its State, and**  
39 **that entry shall be binding upon that Member State. Differences in this**  
40 **table between Member States shall not prevent this Compact from**  
41 **acting as an effective, operational agreement between the Member**  
42 **States.**

43           **"Member State Current Year Funding Level" means the Member**  
44 **State Base Funding Level multiplied by the Member State Current Year**  
45 **Population Adjustment Factor multiplied by the Current Year Inflation**  
46 **Adjustment Factor.**

47           **"Member State Current Year Population Adjustment Factor"**  
48 **means the average population of the Member State in the current year**  
49 **less the average population of the Member State in Federal fiscal year**  
50 **2010, divided by the average population of the Member State in Federal**  
51 **fiscal year 2010, plus 1. Average population in a Member State shall be**  
52 **determined by the United States Census Bureau.**

**Sec. 2. Pledge. The Member States shall take joint and separate**  
2 **action to secure the consent of the United States Congress to this**

3 Compact in order to return the authority to regulate Health Care to the  
4 Member States, consistent with the goals and principles articulated in  
5 this Compact. The Member States shall improve Health Care policy  
6 within their respective jurisdictions and according to the judgment and  
7 discretion of each Member States.

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

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

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

9 (b) By the start of each Federal fiscal year, Congress shall  
10 establish an initial Member State Current Year Funding Level for each  
11 Member State, based upon reasonable estimates. The final Member  
12 State Current Year Funding Level shall be calculated, and funding shall  
13 be reconciled by the United States Congress based upon information  
14 provided by each Member State and audited by the United States  
15 Government Accountability Office.

Sec. 6. Interstate Advisory Health Care Commission. (a) The  
2 Interstate Advisory Health Care Commission is established. The  
3 Commission consists of members appointed by each Member State  
4 through a process to be determined by each Member State. A Member

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

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

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

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

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

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

37 (g) The Commission, with the unanimous consent of all  
38 Commission members, may enact rules regarding Health Care in the  
39 Member States; provided, that:

40 (i) before adopting, revising, or revoking a rule, the Commission  
41 shall allow persons to submit written data, facts, opinions, and

42 arguments, which information shall be public, provide an opportunity  
43 for an informal hearing, and transmit the proposed rule adoption,  
44 revision, or revocation to the legislatures of the Member States and  
45 release information with respect thereto to the public;

46 (ii) the Commission may enact no rule until thirty days after it  
47 transmits the proposed rule to the legislatures of the Member States  
48 and releases information with respect thereto to the public; and

49 (iii) if a majority of Member States expressly reject a rule, then  
50 such rule shall have no further force or effect in any Member State.

51 (h) The Chairperson, subject to the approval of the Commission  
52 in such cases as its bylaws may provide, shall appoint and remove or  
53 discharge such personnel as may be necessary for the performance of  
54 the Commission's function. Subject to the aforesaid approval, the  
55 Chairperson may fix their compensation and define their duties.

56 (i) The Chairperson, on behalf of, as trustee for, and with the  
57 approval of the Commission, may borrow, accept, or contract for the  
58 services of personnel from any Member State, or from any institution,  
59 person, firm or corporation; and may accept for any of the  
60 Commission's purposes and functions under this Compact any and all  
61 grants of money, equipment, supplies, materials, and services from any  
62 Member State or any subdivision or agency thereof or from any  
63 institution, person, firm or corporation any may receive and utilize the  
64 same.

65 (j) The Commission may establish and maintain one or more  
66 offices for the transacting of its business, and for such purposes the  
67 Chairperson, on behalf of, as trustee for, and with the approval of the  
68 Commission, may acquire, hold and dispose of real and personal  
69 property necessary to the performance of Commission.

70 (k) No tax levied or imposed by any Member State shall be  
71 deemed to apply to the property, transactions, or income of the  
72 Commission.

73 (l) The Commission may sue and be sued.

74 (m) The Commission may adopt and use a corporate seal and  
75 alter the same at pleasure.

76 (n) The Commission is not an "agency" for purposes of Title 5,  
77 Section 551(1) of the United States Code.

Sec. 7. Congressional Consent. This Compact shall be effective

2 upon its adoption by at least two Member States and consent of the  
3 United States Congress. This Compact shall be effective unless the  
4 United States Congress, in consenting to this Compact, alters the  
5 fundamental purposes of this Compact, which are:

6 (a) To secure the right of the Member States to regulate Health  
7 Care in their respective States pursuant to this Compact and to  
8 suspend the operation of any conflicting Federal laws, rules,  
9 regulations, and orders within their States; and

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

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

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

✓