

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 373

As Recommended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 373 would, if enacted, adopt the Interstate Health Care Compact in Kansas. Among the findings stated in the Compact's preamble: 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. The Compact's articles include or address: Pledge, Legislative Power, State Control, Funding, Interstate Advisory Health Care Commission, Congressional Consent, Amendments, and Withdrawal and Dissolution. The Compact would become effective upon its adoption by at least two Member States and the consent of the U.S. Congress. Member States would be permitted to withdraw from the Compact by enacting legislation to that effect and with notification by the Governor.

Article IV of the Compact asserts the Member State's authority to suspend, by legislation, the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Additionally, under Article V, Member States would have the right to Federal monies up to an amount equal to its Member State Current Year Funding Level for that Federal fiscal year; this funding, the Compact language states, would not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill, under Article II, defines the term “Health Care” and specifies the term would not apply to military, veterans, or Native American health care, plans, or services. The term “Member State Current Year Funding Level” would be the base funding level (FFY 2010 Kansas: \$6,985,000) multiplied by the Current Year Inflation Adjustment Factor.

Under Article VI, an Interstate Advisory Health Care Commission would be established. The Commission would consist of members appointed by each Member State through a process to be determined by each Member State. The Commission would study issues of Health Care are regulation that are of particular concern to Member States and make non-binding recommendations to the Member States. The Commission would be funded by the Member States, as agreed to by the Member States.

Member States, under Article IX, would be allowed to withdraw from the Compact by adopting a law to that effect, but the withdrawal could not take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States.

Background

The Interstate Health Care Compact, introduced as SB 373 and HB 2520, is an initiative of the Health Care Compact Alliance, a 501(c)(4) organization. In November 2011, the Health Care Compact was adopted by the American Legislative Exchange Council (ALEC) as model legislation. As of the publication date of this supplemental note, four states have adopted language allowing for entry into the Compact and legislation is being considered or has recently been considered in an additional 14 states. Additionally, the Compact legislation has been vetoed in two states.

The bill was introduced at the request of the Health Care Compact Alliance whose representatives indicated the bill is about governance reform, not policy reform, and joining with

other states to petition Congress to consent to an interstate health care compact. The Compact would allow member states the opportunity to bring health care decisions closer to home by allowing state legislatures to set health care policy that is best suited to their individual states, as it relates to non-military health care goods and services. The national field director for the Compact highlighted reasons for the Compact and how the Compact would work. Among those reasons cited, health care is too large and complex to manage at a federal level. A private citizen also testified in support of the bill at the Senate Committee hearing.

A private citizen and representatives of the AARP-Kansas and Kansas Advocates for Better Care (KABC) testified in opposition to the bill. The AARP representative stated the bill would jeopardize security and the choice and benefits for seniors and people with disabilities in Kansas who rely on the Medicare program for their health care coverage. The KABC representative noted the requirements of Medicare and Medicaid that ensure adequate health care and protections are attached to federal funding and if Kansas opts out of these programs and oversight, this choice also would result in opting out of reasonable health care standards and protections.

The fiscal note prepared by the Division of the Budget states if two Member States were to adopt the Interstate Health Care Compact and the U.S. Congress consents to its creation, Kansas would continue to receive federal monies and Medicaid Program expenditures could change. The fiscal note also states the Kansas Department of Health and Environment has yet to respond for a fiscal note on the bill. An estimate of the fiscal effect of this bill is not yet determined. Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor's Budget Report*. Similarly, the fiscal effect of the identical Compact bill before the House (HB 2520) has not yet been determined.