



AMENDMENT NO. _____

Calendar No. _____

Purpose: To provide for the establishment of a health care compact pilot program.

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AMENDMENT N^o 2877

By Lankford

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AMENDMENT intended to be proposed by Mr Lankford

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . HEALTH CARE COMPACT PILOT PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary of Health and
4 Human Services (referred to in this section as the “Sec-
5 retary”), acting through the Administrator of the Centers
6 for Medicare & Medicaid Services, shall establish a pilot
7 program to permit at least 5 States to enter into the
8 health care compact described in subsection (d).

9 (b) ELIGIBILITY.—To be eligible to participate in the
10 pilot program established under subsection (a), a State
11 shall certify to the Secretary, that—

1 (1) the State has, in a manner consistent with
2 that State's constitution, joined the Health Care
3 Compact on or before January 1, 2017;

4 (2) all funds transferred to the State under
5 subsection (f)(5) will be expended only on health
6 care as defined in subsection (f)(1)(D); and

7 (3) the State has appointed a member to the
8 Interstate Advisory Health Care Commission estab-
9 lished under subsection (f)(6).

10 (c) EXCLUSIONS TO COMPACT CONSENT.—Notwith-
11 standing the consent to the Health Care Compact granted
12 under this section, the powers granted to member States
13 under paragraphs (2), (3), and (4) of subsection (f) (the
14 Health Care Compact) shall not apply with regard to the
15 agencies described in subsection (d), and the Member
16 State Base Funding Level and Member State Current
17 Year Funding Level shall not include funds expended by
18 such agencies.

19 (d) EXCLUDED AGENCIES.—The agencies described
20 in this subsection are—

21 (1) the National Institutes for Health;

22 (2) the Centers for Disease Control and Preven-
23 tion; and

24 (3) the Food and Drug Administration.

1 (e) REQUEST FOR APPLICATIONS AND ANNOUNCE-
2 MENT OF DETERMINATIONS.—

3 (1) APPLICATIONS.—Not later than January 1,
4 2017, the Secretary shall publish a request for appli-
5 cations to participate in the program established
6 under subsection (a). The period for accepting such
7 applications shall close on June 30, 2017.

8 (2) DETERMINATIONS.—Not later than Decem-
9 ber 31, 2017, the Secretary shall notify States sub-
10 mitting applications under paragraph (1) of the de-
11 terminations of the Secretary with respect to such
12 applications.

13 (f) HEALTH CARE COMPACT.—The health care com-
14 pact described in this subsection is as follows:

15 (1) DEFINITIONS.—In this subsection:

16 (A) COMMISSION.—The term “Commis-
17 sion” means the Interstate Advisory Health
18 Care Commission established under paragraph
19 (6).

20 (B) COMPACT.—The term “Compact”
21 means the Compact described in this subsection
22 that is entered into by a State under the pro-
23 gram established under subsection (a).

24 (C) EFFECTIVE DATE.—The term “effec-
25 tive date” means the date upon which this

1 Compact shall become effective for purposes of
2 the operation of State and Federal law in a
3 Member State, which shall be the later of—

4 (i) the date upon which this Compact
5 shall be adopted under the laws of the
6 Member State; or

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

12 (D) HEALTH CARE.—The term “health
13 care” means care, services, supplies, or plans
14 related to the health of an individual and in-
15 cludes—

16 (i) preventive, diagnostic, therapeutic,
17 rehabilitative, maintenance, or palliative
18 care and counseling, service, assessment,
19 or procedure with respect to the physical
20 or mental condition or functional status of
21 an individual or that affects the structure
22 or function of the body;

23 (ii) sale or dispensing of a drug, de-
24 vice, equipment, or other item in accord-
25 ance with a prescription; and

1 (iii) an individual or group plan that
2 provides, or pays the cost of, care, services,
3 or supplies related to the health of an indi-
4 vidual;

5 except any care, services, supplies, or plans pro-
6 vided by the Department of Defense and De-
7 partment of Veteran Affairs, or provided to Na-
8 tive Americans.

9 (E) MEMBER STATE.—The term “member
10 State” means a State that has—

11 (i) an application for participation in
12 the program established under subsection
13 (a) approved by the Secretary; and

14 (ii) adopted the Compact under the
15 laws of that State.

16 (F) MEMBER STATE BASE FUNDING
17 LEVEL.—The term “member State base fund-
18 ing level” means a number equal to the total
19 Federal spending on health care in the member
20 State during Federal fiscal year 2010. On or
21 before the effective date, each member State
22 shall determine the member State base funding
23 level for its State, and that number shall be
24 binding upon that member State.

1 (G) MEMBER STATE CURRENT YEAR
2 FUNDING LEVEL.—The term “member State
3 current year funding level” with respect to a
4 member State, means the member State base
5 funding level multiplied by the member State
6 current year population adjustment factor mul-
7 tiplied by the current year inflation adjustment
8 factor for the State.

9 (H) MEMBER STATE CURRENT YEAR POP-
10 ULATION ADJUSTMENT FACTOR.—The term
11 “member State current year population adjust-
12 ment factor” with respect to a member State,
13 means the average population of the member
14 State in the current year less the average popu-
15 lation of the member State in Federal fiscal
16 year 2010, divided by the average population of
17 the member State in Federal fiscal year 2010,
18 plus 1. The average population in a member
19 State shall be determined by the United States
20 Census Bureau.

21 (I) CURRENT YEAR INFLATION ADJUST-
22 MENT FACTOR.—The term “current year infla-
23 tion adjustment factor” means the total gross
24 domestic product deflator in the current year
25 divided by the total gross domestic product

1 deflator in Federal fiscal year 2010. The total
2 gross domestic product deflator shall be deter-
3 mined by the Bureau of Economic Analysis of
4 the Department of Commerce.

5 (2) PLEDGE.—The member States shall take
6 joint and separate action under this Compact to re-
7 turn the authority to regulate health care to the
8 member States consistent with the goals and prin-
9 ciples articulated in this Compact. The member
10 States shall improve health care policy within their
11 respective jurisdictions and according to the judg-
12 ment and discretion of each of the member States.

13 (3) LEGISLATIVE POWER.—The legislatures of
14 the member States have the primary responsibility
15 to regulate health care in their respective States
16 under the Compact.

17 (4) STATE CONTROL.—Each member State,
18 within its State, may suspend by legislation the op-
19 eration of all Federal laws, rules, regulations, and
20 orders regarding health care that are inconsistent
21 with the laws and regulations adopted by the mem-
22 ber State pursuant to this Compact. Federal and
23 State laws, rules, regulations, and orders regarding
24 health care shall remain in effect unless a member
25 State expressly suspends such laws, rules, regula-

1 tions and orders pursuant to the authority provided
2 under this Compact. For any Federal law, rule, reg-
3 ulation, or order that remains in effect in a member
4 State under this paragraph after the effective date,
5 that member State shall be responsible for the asso-
6 ciated funding obligations in its State.

7 (5) FUNDING.—

8 (A) IN GENERAL.—Each Federal fiscal
9 year, each member State shall have the right to
10 Federal funds up to an amount equal to its
11 member State current year funding level for
12 that Federal fiscal year, provided by Congress
13 as mandatory spending and not subject to an-
14 nual appropriation, to support the exercise of
15 member State authority under this Compact.
16 Such funding shall not be conditional on any
17 action of or regulation, policy, law, or rule being
18 adopted by the member State.

19 (B) INITIAL FUNDING LEVEL.—By the be-
20 ginning of each Federal fiscal year, Congress
21 shall establish an initial member State current
22 year funding level for each member State, based
23 upon reasonable estimates. The final member
24 State current year funding level shall be cal-
25 culated, and funding shall be reconciled by Con-

1 gress based upon information provided by each
2 member State and audited by the Government
3 Accountability Office.

4 (6) INTERSTATE ADVISORY HEALTH CARE COM-
5 MISSION.—

6 (A) ESTABLISHMENT.—There shall be es-
7 tablished by the members States an Interstate
8 Advisory Health Care Commission to be com-
9 posed of members appointed by each member
10 State through a process to be determined by
11 each member State. A member State may not
12 appoint more than two members to the Com-
13 mission and may withdraw membership from
14 the Commission at any time. Each Commission
15 member shall be entitled to one vote. The Com-
16 mission shall not act unless a majority of the
17 members are present, and no action shall be
18 binding unless approved by a majority of the
19 Commission's total membership.

20 (B) CHAIRPERSON; BYLAWS; MEETINGS.—
21 The Commission shall elect from among its
22 membership a Chairperson. The Commission
23 may adopt and publish bylaws and policies that
24 are not inconsistent with the Compact. The

1 Commission shall meet at least once a year, and
2 may meet more frequently.

3 (C) STUDIES AND RECOMMENDATIONS.—

4 The Commission may study issues of health
5 care regulation that are of particular concern to
6 the member States. The Commission may make
7 non-binding recommendations to the member
8 States. The legislatures of the member States
9 may consider such recommendations in deter-
10 mining the appropriate health care policies in
11 their respective States.

12 (D) INFORMATION AND DATA.—The Com-
13 mission shall collect information and data to as-
14 sist the member States in their regulation of
15 health care, including assessing the perform-
16 ance of various State health care programs and
17 compiling information on the prices of health
18 care. The Commission shall make this informa-
19 tion and data available to the legislatures of the
20 member States. Notwithstanding any other pro-
21 vision in the Compact, no member State shall
22 disclose to the Commission the individually
23 identifiable health information of any indi-
24 vidual, nor shall the Commission disclose any
25 such health information of any individual.

1 (E) FUNDING.—The Commission shall be
2 funded by the member States as agreed to by
3 the member States. The Commission shall have
4 the responsibilities and duties as may be con-
5 ferred upon it by subsequent action of the re-
6 spective legislatures of the member States in
7 accordance with the terms of the Compact.

8 (F) LIMITATION.—The Commission shall
9 not take any action within a member State that
10 contravenes any State law of that member
11 State.