

**HEALTHCARE COMPACT**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Bradley M. Daw

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**LONG TITLE**

**General Description:**

This bill enacts a Health Care Compact.

**Highlighted Provisions:**

This bill:

- ▶ adopts the Health Care Compact;
- ▶ defines terms;
- ▶ joins an interstate Advisory Health Care Commission; ~~§~~ [and] ~~§~~
- ▶ pledges to take joint and separate action to secure the consent of the United States

Congress to the compact in order to return the authority to regulate health care to the member states, consistent with the goals and principles articulated in the compact ~~§~~ [·] ; and

▶ sunsets the compact on July 1, ~~§~~ [2017] [2013] 2014 ~~§~~ . ~~§~~

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

~~§~~ **AMENDS:**

63I-1-263, as last amended by Laws of Utah 2011, Chapters 199, 370, 408, and 411 ~~§~~

**ENACTS:**

**63M-1-2507**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

~~§~~ **Section 1. Section 63I-1-263 is amended to read:** ~~§~~



S.B. 208

26b **§→63I-1-263. Repeal dates, Titles 63A to 63M.**

26c (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any  
26d public school district which chooses to participate, is repealed July 1, 2016.

26e (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

26f (3) Section 63C-8-106, rural residency training program, is repealed July 1, 2015.

26g (4) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed  
26h July 1, 2014.

26i (5) Subsection 63G-6-502(5)(b)(ii) authorizing certain transportation agencies to award a  
26j contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

26k (6) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

26l (7) The Resource Development Coordinating Committee, created in Section 63J-4-501, is  
26m repealed July 1, 2015.

26n (8) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

26o (9) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed  
26p January 1, 2021.

26q (b) Subject to Subsection (9)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for  
26r certain persons in recycling market development zones, are repealed for taxable years beginning on or  
26s after January 1, 2012.

26t (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

26u (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
26v 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2012; or

26w (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the  
26x expenditure is made on or after January 1, 2012.

26y (d) Notwithstanding Subsections (9)(b) and (c), a person may carry forward a tax credit in  
26z accordance with Section 59-7-610 or 59-10-1007 if:

26aa (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

26ab (ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or  
26ac 59-10-1007, the machinery or equipment is purchased on or before December 31, 2011; or

26ad (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the  
26ae expenditure is made on or before December 31, 2011.

26af (10) ~~Ĥ→~~ (a) ~~←Ĥ~~ Section 63M-1-2507, Health Care Compact is repealed on July 1, ~~Ĥ→~~ [2017]  
26af1 [2013] 2014.

26af2 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

26af3 (A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection  
26af4 (10)(b)(ii), and by January 1, 2013 develop and recommend criteria for the Legislature to use to  
26af5 negotiate the terms of the Health Care Compact; and

26af6 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member  
26af7 states that the Legislature determines are appropriate after considering the recommendations of the

26af8 **Health System Reform Task Force.**

26af9 **(ii) The Health System Reform Task Force shall evaluate and develop criteria for**  
 26af10 **the Legislature regarding:**

26af11 **(A) the impact of the Supreme Court ruling on the Affordable Care Act;**

26af12 **(B) whether Utah is likely to be required to implement any part of the Affordable Care Act**  
 26af13 **prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014,**

26af14 **(C) whether the compact's current funding formula, based on adjusted 2010 state**  
 26af15 **expenditures, is the best formula for Utah and other state compact members to use for establishing the**  
 26af16 **block grants from the federal government;**

26af17 **(D) whether the compact's calculation of current year inflation adjustment factor, without**  
 26af18 **consideration of the regional medical inflation rate in the current year, is adequate to protect the state**  
 26af19 **from increased costs associated with administering a state based Medicaid and a state based Medicare**  
 26af20 **program;**

26af21 **(E) whether the state has the flexibility it needs under the compact to implement and fund**  
 26af22 **state based initiatives, or whether the compact requires uniformity across member states that does not**  
 26af23 **benefit Utah;**

26af24 **(F) whether the state has the option under the compact to refuse to take over the federal**  
 26af25 **Medicare program;**

26af26 **(G) whether a state based Medicare program would provide better benefits to the elderly and**  
 26af27 **disabled citizens of the state than a federally run Medicare program;**

26af28 **(H) whether the state has the infrastructure necessary to implement and administer a better**  
 26af29 **state based Medicare program; [and]**

26af30 **(I) whether the compact appropriately delegates policy decisions between the legislative and**  
 26af31 **executive branches of government regarding the development and implementation of the compact with**  
 26af32 **other states and the federal government [;] ; and**

26af33 **(J) the impact on public health activities, including communicable disease surveillance and**  
 26af34 **epidemiology. ←Ĥ**

26ag **(11) The Crime Victim Reparations Board, created in Section 63M-7-504, is repealed July 1,**  
 26ah **2017.**

26ai **[~~(11)~~] (12) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is**  
 26aj **repealed July 1, 2011.**

26ak **[~~(12)~~] (13) Title 63M, Chapter 9, Families, Agencies, and Communities Together**  
 26al **for Children and Youth At Risk Act, is repealed July 1, 2016.**

26am **[~~(13)~~] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2012. ←Ŝ**  
 27 **Section 1. Section 63M-1-2507 is enacted to read:**

28 **63M-1-2507. The Health Care Compact.**

29 The Health Care Compact is hereby enacted and entered into with all other jurisdictions  
30 that legally join in the compact, which is, in form, substantially as follows:

31 **Health Care Compact**

32 Whereas, the separation of powers, both between the branches of the federal  
33 government and between federal and state authority, is essential to the preservation of  
34 individual liberty;

35 Whereas, the Constitution creates a federal government of limited and numerated  
36 powers, and reserves to the states or to the people those powers not granted to the federal  
37 government;

38 Whereas, the federal government has enacted many laws that have preempted state laws  
39 with respect to health care, and placed increasing strain on state budgets, impairing other  
40 responsibilities such as education, infrastructure, and public safety;

41 Whereas, the member states seek to protect individual liberty and personal control over  
42 health care decisions, and believe the best method to achieve these ends is by vesting  
43 regulatory authority over health care in the states;

44 Whereas, by acting in concert, the member states may express and inspire confidence in  
45 the ability of each member state to govern health care effectively; and

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

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

50 **Sec. 1. Definitions.**

51 As used in this compact, unless the context clearly indicates otherwise:

52 (1) "Commission" means the Interstate Advisory Health Care Commission.

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

55 (a) the date upon which this compact shall be adopted under the laws of the member  
56 state, and

57 (b) the date upon which this compact receives the consent of Congress pursuant to  
58 Article I, Section 10, of the United States Constitution, after at least two member states adopt

59 this compact.

60 (3) "Health care" means care, services, supplies, or plans related to the health of an  
61 individual and includes but is not limited to:

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

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

68 (c) an individual or group plan that provides, or pays the cost of, care, services, or  
69 supplies related to the health of an individual, except any care, services, supplies, or plans  
70 provided by the United States Department of Defense and United States Department of Veteran  
71 Affairs, or provided to Native Americans.

72 (4) "Member state" means a state that is signatory to this compact and has adopted it  
73 under the laws of that state.

74 (5) "Member state base funding level" means a number equal to the total federal  
75 spending on health care in the member state during federal fiscal year 2010. On or before the  
76 effective date, each member state shall determine the member state base funding level for its  
77 state, and that number shall be binding upon that member state. The preliminary estimate of  
78 member state base funding level for the state of Utah is \$4,102,000,000.

79 (6) "Member state current year funding level" means the member state base funding  
80 level multiplied by the member state current year population adjustment factor multiplied by  
81 the current year inflation adjustment factor.

82 (7) "Member state current year population adjustment factor" means the average  
83 population of the member state in the current year less the average population of the member  
84 state in federal fiscal year 2010, divided by the average population of the member state in  
85 federal fiscal year 2010, plus 1. Average population in a member state shall be determined by  
86 the United States Census Bureau.

87 (8) "Current year inflation adjustment factor" means the total gross domestic product  
88 deflator in the current year divided by the total gross domestic product deflator in federal fiscal  
89 year 2010. Total gross domestic product deflator shall be determined by the Bureau of

90 Economic Analysis of the United States Department of Commerce.

91 **Sec. 2. Pledge.**

92 The member states shall take joint and separate action to secure the consent of the  
93 United States Congress to this compact in order to return the authority to regulate health care to  
94 the member states consistent with the goals and principles articulated in this compact. The  
95 member states shall improve health care policy within their respective jurisdictions and  
96 according to the judgment and discretion of each member state.

97 **Sec. 3. Legislative Power.**

98 The legislatures of the member states have the primary responsibility to regulate health  
99 care in their respective states.

100 **Sec. 4. State Control.**

101 Each member state, within its state, may suspend by legislation the operation of all  
102 federal laws, rules, regulations, and orders regarding health care that are inconsistent with the  
103 laws and regulations adopted by the member state pursuant to this compact. Federal and state  
104 laws, rules, regulations, and orders regarding health care will remain in effect unless a member  
105 state expressly suspends them pursuant to its authority under this compact. For any federal  
106 law, rule, regulation, or order that remains in effect in a member state after the effective date,  
107 that member state shall be responsible for the associated funding obligations in its state.

108 **Sec. 5. Funding.**

109 (a) Each federal fiscal year, each member state shall have the right to federal monies up  
110 to an amount equal to its member state current year funding level for that federal fiscal year,  
111 funded by Congress as mandatory spending and not subject to annual appropriation, to support  
112 the exercise of member state authority under this compact. This funding shall not be  
113 conditional on any action of or regulation, policy, law, or rule being adopted by the member  
114 state.

115 (b) By the start of each federal fiscal year, Congress shall establish an initial member  
116 state current year funding level for each member state, based upon reasonable estimates. The  
117 final member state current year funding level shall be calculated, and funding shall be  
118 reconciled by the United States Congress based upon information provided by each member  
119 state and audited by the United States Government Accountability Office.

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

121 (a) The Interstate Advisory Health Care Commission is established. The commission  
122 consists of members appointed by each member state through a process to be determined by  
123 each member state. A member state may not appoint more than two members to the  
124 commission and may withdraw membership from the commission at any time. Each  
125 commission member is entitled to one vote. The commission shall not act unless a majority of  
126 the members are present, and no action shall be binding unless approved by a majority of the  
127 commission's total membership.

128 (b) The commission may elect from among its membership a chairperson. The  
129 commission may adopt and publish bylaws and policies that are not inconsistent with this  
130 compact. The commission shall meet at least once a year, and may meet more frequently.

131 (c) The commission may study issues of health care regulation that are of particular  
132 concern to the member states. The commission may make non-binding recommendations to  
133 the member states. The legislatures of the member states may consider these recommendations  
134 in determining the appropriate health care policies in their respective states.

135 (d) The commission shall collect information and data to assist the member states in  
136 their regulation of health care, including assessing the performance of various state health care  
137 programs and compiling information on the prices of health care. The commission shall make  
138 this information and data available to the legislatures of the member states. Notwithstanding  
139 any other provision in this compact, no member state shall disclose to the commission the  
140 health information of any individual, nor shall the commission disclose the health information  
141 of any individual.

142 (e) The commission shall be funded by the member states as agreed to by the member  
143 states. The commission shall have the responsibilities and duties as may be conferred upon it  
144 by subsequent action of the respective legislatures of the member states in accordance with the  
145 terms of this compact.

146 (f) The commission shall not take any action within a member state that contravenes  
147 any state law of that member state.

148 **Sec. 7. Congressional Consent.**

149 This compact shall be effective on its adoption by at least two member states and  
150 consent of the United States Congress. This compact shall be effective unless the United States  
151 Congress, in consenting to this compact, alters the fundamental purposes of this compact.

152 which are:

153 (a) to secure the right of the member states to regulate health care in their respective  
 154 states pursuant to this compact and to suspend the operation of any conflicting federal laws,  
 155 rules, regulations, and orders within their states; and

156 (b) to secure federal funding for member states that choose to invoke their authority  
 157 under this compact, as prescribed by Section 5 of this compact.

158 **Sec. 8. Amendments.**

159 The member states, by unanimous agreement, may amend this compact from time to  
 160 time without the prior consent or approval of Congress and any amendment shall be effective  
 161 unless, within one year, the Congress disapproves that amendment. Any state may join this  
 162 compact after the date on which Congress consents to the compact by adoption into law under  
 163 its state constitution.

164 **Sec. 9. Withdrawal; Dissolution.**

165 Any member state may withdraw from this compact by adopting a law to that effect, but  
 166 no such withdrawal shall take effect until six months after the governor of the withdrawing  
 167 member state has given notice of the withdrawal to the other member states. A withdrawing  
 168 state shall be liable for any obligations that it may have incurred prior to the date on which its  
 169 withdrawal becomes effective. This compact shall be dissolved upon the withdrawal of all but  
 170 one of the member states.

170a **§→ Sec. 10. Sunset. ←§**

170b **§→ This compact sunsets on July 1, 2017. ←§**

**Legislative Review Note**  
 as of 2-7-12 8:42 AM

**Office of Legislative Research and General Counsel**