



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

April 18, 2011

The Honorable Russell Pearce
Senate President
1700 W. Washington Street
Phoenix, AZ 85007

RE: Senate Bill 1592 (health care compact; funding)

Dear Senator Pearce:

Today I have vetoed Senate Bill 1592. This bill directs the Governor to enter into a specific compact with other states on behalf of the State of Arizona. By *directing* the Governor to sign a compact, Senate Bill 1592 violates the separation of powers requirement established by Article 3 of the Arizona Constitution.

I am also concerned with the structure of the compact, which would result in additional fiscal challenges for our health care system. I share your goals of state autonomy and control over personal health care decisions. As you know, I have been working closely with Secretary Sebelius on my Medicaid reform plan, which will allow Arizona greater flexibility and control over the state-federal Medicaid partnership. However, I believe it is important to ensure our citizens, especially our seniors, are not penalized simply by the state assuming that control.

I continue to support efforts toward a better partnership with the federal government, and state authority over important health care programs, and I look forward to working with you on reforms to that end that protect our citizens and improve our health care system.

Sincerely,

A handwritten signature in cursive script that reads "Janice K. Brewer".

Janice K. Brewer
Governor

cc: The Honorable Kirk Adams
The Honorable Nancy Barto

Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1592

AN ACT

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 38; RELATING TO A HEALTH CARE COMPACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, Arizona Revised Statutes, is amended by adding
3 chapter 38, to read:

4 CHAPTER 38

5 HEALTH CARE COMPACT

6 ARTICLE 1. HEALTH CARE COMPACT

7 36-3801. Adoption of compact; text of compact

8 THE GOVERNOR IS AUTHORIZED AND DIRECTED TO ENTER INTO A COMPACT ON
9 BEHALF OF THIS STATE WITH ANY OF THE UNITED STATES LAWFULLY JOINED IN THE
10 COMPACT IN A FORM SUBSTANTIALLY AS FOLLOWS:

11 ARTICLE I

12 FINDINGS AND DECLARATION OF POLICY

13 A. THE SEPARATION OF POWERS BETWEEN THE BRANCHES OF THE FEDERAL
14 GOVERNMENT AND BETWEEN FEDERAL AND STATE AUTHORITY IS ESSENTIAL TO THE
15 PRESERVATION OF INDIVIDUAL LIBERTY.

16 B. THE CONSTITUTION CREATES A FEDERAL GOVERNMENT OF LIMITED AND
17 ENUMERATED POWERS AND RESERVES TO THE STATES OR TO THE PEOPLE THOSE POWERS
18 NOT GRANTED TO THE FEDERAL GOVERNMENT.

19 C. THE FEDERAL GOVERNMENT HAS ENACTED MANY LAWS THAT HAVE PREEMPTED
20 STATE LAWS WITH RESPECT TO HEALTH CARE AND PLACED INCREASING STRAIN ON STATE
21 BUDGETS, IMPAIRING OTHER RESPONSIBILITIES SUCH AS EDUCATION, INFRASTRUCTURE
22 AND PUBLIC SAFETY.

23 D. THE MEMBER STATES SEEK TO PROTECT INDIVIDUAL LIBERTY AND CONTROL
24 OVER PERSONAL HEALTH CARE DECISIONS AND BELIEVE THE BEST METHOD TO SECURE
25 THAT CONTROL IS BY VESTING REGULATORY AUTHORITY OVER HEALTH CARE IN THE
26 STATES.

27 E. BY ACTING IN CONCERT, THE MEMBER STATES MAY EXPRESS AND INSPIRE
28 CONFIDENCE IN THE ABILITY OF EACH MEMBER STATE TO EFFECTIVELY GOVERN HEALTH
29 CARE.

30 F. THE MEMBER STATES RECOGNIZE THAT CONSENT OF THE UNITED STATES
31 CONGRESS MAY BE MORE EASILY SECURED IF MEMBER STATES COLLECTIVELY SEEK
32 CONSENT THROUGH AN INTERSTATE COMPACT.

33 ARTICLE II

34 DEFINITIONS

35 AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY INDICATES
36 OTHERWISE:

37 1. "COMMISSION" MEANS THE INTERSTATE ADVISORY HEALTH CARE COMMISSION.

38 2. "CURRENT YEAR INFLATION ADJUSTMENT FACTOR" MEANS THE TOTAL GROSS
39 DOMESTIC PRODUCT DEFLATOR IN THE CURRENT YEAR DIVIDED BY THE TOTAL GROSS
40 DOMESTIC PRODUCT DEFLATOR IN FEDERAL FISCAL YEAR 2010. TOTAL GROSS DOMESTIC
41 PRODUCT DEFLATOR SHALL BE DETERMINED BY THE UNITED STATES DEPARTMENT OF
42 COMMERCE, BUREAU OF ECONOMIC ANALYSIS.

1 3. "EFFECTIVE DATE" MEANS THE DATE ON WHICH THIS COMPACT BECOMES
2 EFFECTIVE FOR PURPOSES OF THE OPERATION OF STATE AND FEDERAL LAW IN A MEMBER
3 STATE, WHICH SHALL BE THE LATER OF EITHER:

4 (a) THE DATE ON WHICH THIS COMPACT IS ADOPTED UNDER THE LAWS OF THE
5 MEMBER STATE.

6 (b) THE DATE ON WHICH THIS COMPACT RECEIVES THE CONSENT OF CONGRESS
7 PURSUANT TO ARTICLE I, SECTION 10, CONSTITUTION OF THE UNITED STATES, AFTER
8 AT LEAST TWO MEMBER STATES ADOPT THIS COMPACT.

9 4. "HEALTH CARE" MEANS CARE, SERVICES, SUPPLIES OR PLANS RELATED TO
10 THE HEALTH OF AN INDIVIDUAL, EXCEPT ANY CARE, SERVICES, SUPPLIES OR PLANS
11 PROVIDED BY THE UNITED STATES DEPARTMENT OF DEFENSE AND THE UNITED STATES
12 DEPARTMENT OF VETERANS AFFAIRS, OR PROVIDED TO NATIVE AMERICANS, AND
13 INCLUDES, BUT IS NOT LIMITED TO:

14 (a) PREVENTIVE, DIAGNOSTIC, THERAPEUTIC, REHABILITATIVE, MAINTENANCE
15 OR PALLIATIVE CARE AND COUNSELING, SERVICE, ASSESSMENT OR PROCEDURE WITH
16 RESPECT TO THE PHYSICAL OR MENTAL CONDITION OR FUNCTIONAL STATUS OF AN
17 INDIVIDUAL OR THAT AFFECTS THE STRUCTURE OR FUNCTION OF THE BODY.

18 (b) SALE OR DISPENSING OF A DRUG, DEVICE, EQUIPMENT OR OTHER ITEM
19 PURSUANT TO A PRESCRIPTION.

20 (c) AN INDIVIDUAL OR GROUP PLAN THAT PROVIDES, OR PAYS THE COST OF,
21 CARE, SERVICES OR SUPPLIES RELATED TO THE HEALTH OF AN INDIVIDUAL.

22 5. "MEMBER STATE" MEANS A STATE THAT IS SIGNATORY TO THIS COMPACT AND
23 HAS ADOPTED IT UNDER THE LAWS OF THAT STATE.

24 6. "MEMBER STATE BASE FUNDING LEVEL" MEANS A NUMBER EQUAL TO THE TOTAL
25 FEDERAL SPENDING ON HEALTH CARE IN THE MEMBER STATE DURING FEDERAL FISCAL
26 YEAR 2010. ON OR BEFORE THE EFFECTIVE DATE, EACH MEMBER STATE SHALL
27 DETERMINE THE MEMBER STATE BASE FUNDING LEVEL FOR ITS STATE, AND THAT NUMBER
28 SHALL BE BINDING ON THAT MEMBER STATE. THE PRELIMINARY ESTIMATE OF MEMBER
29 STATE BASE FUNDING LEVEL FOR THIS STATE IS SIXTEEN BILLION TWO HUNDRED
30 SIXTY-SIX MILLION DOLLARS.

31 7. "MEMBER STATE CURRENT YEAR FUNDING LEVEL" MEANS THE MEMBER STATE
32 BASE FUNDING LEVEL MULTIPLIED BY THE MEMBER STATE CURRENT YEAR POPULATION
33 ADJUSTMENT FACTOR MULTIPLIED BY THE CURRENT YEAR INFLATION ADJUSTMENT FACTOR.

34 8. "MEMBER STATE CURRENT YEAR POPULATION ADJUSTMENT FACTOR" MEANS THE
35 AVERAGE POPULATION OF THE MEMBER STATE IN THE CURRENT YEAR LESS THE AVERAGE
36 POPULATION OF THE MEMBER STATE IN FEDERAL FISCAL YEAR 2010, DIVIDED BY THE
37 AVERAGE POPULATION OF THE MEMBER STATE IN FEDERAL FISCAL YEAR 2010, PLUS 1.
38 AVERAGE POPULATION IN A MEMBER STATE SHALL BE DETERMINED BY THE UNITED STATES
39 CENSUS BUREAU.

40 ARTICLE III
41 PLEDGE

42 THE MEMBER STATES SHALL TAKE JOINT AND SEPARATE ACTION TO SECURE THE
43 CONSENT OF THE UNITED STATES CONGRESS TO THIS COMPACT IN ORDER TO RETURN THE
44 AUTHORITY TO REGULATE HEALTH CARE TO THE MEMBER STATES CONSISTENT WITH THE
45 GOALS AND PRINCIPLES ARTICULATED IN THIS COMPACT. THE MEMBER STATES SHALL

1 IMPROVE HEALTH CARE POLICY WITHIN THEIR RESPECTIVE JURISDICTIONS AND
2 ACCORDING TO THE JUDGMENT AND DISCRETION OF EACH MEMBER STATE.

3 ARTICLE IV

4 LEGISLATIVE POWER

5 THE LEGISLATURES OF THE MEMBER STATES HAVE THE PRIMARY RESPONSIBILITY
6 TO REGULATE HEALTH CARE IN THEIR RESPECTIVE STATES.

7 ARTICLE V

8 STATE CONTROL

9 EACH MEMBER STATE, WITHIN ITS STATE, MAY SUSPEND BY LEGISLATION THE
10 OPERATION OF ALL FEDERAL LAWS, RULES, REGULATIONS AND ORDERS REGARDING HEALTH
11 CARE THAT ARE INCONSISTENT WITH THE LAWS AND RULES ADOPTED BY THE MEMBER
12 STATE PURSUANT TO THIS COMPACT. FEDERAL AND STATE LAWS, RULES, REGULATIONS
13 AND ORDERS REGARDING HEALTH CARE REMAIN IN EFFECT UNLESS A MEMBER STATE
14 EXPRESSLY SUSPENDS THEM PURSUANT TO ITS AUTHORITY UNDER THIS COMPACT. FOR
15 ANY FEDERAL LAW, RULE, REGULATION OR ORDER THAT REMAINS IN EFFECT IN A MEMBER
16 STATE AFTER THE EFFECTIVE DATE, THAT MEMBER STATE SHALL BE RESPONSIBLE FOR
17 THE ASSOCIATED FUNDING OBLIGATIONS IN ITS STATE.

18 ARTICLE VI

19 FUNDING

20 A. EACH FEDERAL FISCAL YEAR, EACH MEMBER STATE SHALL HAVE THE RIGHT TO
21 FEDERAL MONIES UP TO AN AMOUNT EQUAL TO ITS MEMBER STATE CURRENT YEAR FUNDING
22 LEVEL FOR THAT FEDERAL FISCAL YEAR, FUNDED BY CONGRESS AS MANDATORY SPENDING
23 AND NOT SUBJECT TO ANNUAL APPROPRIATION, TO SUPPORT THE EXERCISE OF MEMBER
24 STATE AUTHORITY UNDER THIS COMPACT. THIS FUNDING SHALL NOT BE CONDITIONAL ON
25 ANY ACTION OF OR REGULATION, POLICY, LAW OR RULE BEING ADOPTED BY THE MEMBER
26 STATE.

27 B. BY THE START OF EACH FEDERAL FISCAL YEAR, CONGRESS SHALL ESTABLISH
28 AN INITIAL MEMBER STATE CURRENT YEAR FUNDING LEVEL FOR EACH MEMBER STATE,
29 BASED ON REASONABLE ESTIMATES. THE FINAL MEMBER STATE CURRENT YEAR FUNDING
30 LEVEL SHALL BE CALCULATED, AND FUNDING SHALL BE RECONCILED BY THE UNITED
31 STATES CONGRESS BASED ON INFORMATION PROVIDED BY EACH MEMBER STATE AND
32 AUDITED BY THE UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.

33 ARTICLE VII

34 INTERSTATE ADVISORY HEALTH CARE COMMISSION

35 A. THE INTERSTATE ADVISORY HEALTH CARE COMMISSION IS ESTABLISHED. THE
36 COMMISSION CONSISTS OF MEMBERS APPOINTED BY EACH MEMBER STATE THROUGH A
37 PROCESS TO BE DETERMINED BY EACH MEMBER STATE. A MEMBER STATE MAY NOT
38 APPOINT MORE THAN TWO MEMBERS TO THE COMMISSION AND MAY WITHDRAW MEMBERSHIP
39 FROM THE COMMISSION AT ANY TIME. EACH COMMISSION MEMBER IS ENTITLED TO ONE
40 VOTE. THE COMMISSION SHALL NOT ACT UNLESS A MAJORITY OF THE MEMBERS ARE
41 PRESENT AND NO ACTION SHALL BE BINDING UNLESS APPROVED BY A MAJORITY OF THE
42 COMMISSION'S TOTAL MEMBERSHIP.

1 B. THE COMMISSION MAY ELECT FROM AMONG ITS MEMBERSHIP A CHAIRPERSON.
2 THE COMMISSION MAY ADOPT AND PUBLISH BYLAWS AND POLICIES THAT ARE NOT
3 INCONSISTENT WITH THIS COMPACT. THE COMMISSION SHALL MEET AT LEAST ONCE A
4 YEAR AND MAY MEET MORE FREQUENTLY.

5 C. THE COMMISSION MAY STUDY ISSUES OF HEALTH CARE REGULATION THAT ARE
6 OF PARTICULAR CONCERN TO THE MEMBER STATES. THE COMMISSION MAY MAKE
7 NONBINDING RECOMMENDATIONS TO THE MEMBER STATES. THE LEGISLATURES OF THE
8 MEMBER STATES MAY CONSIDER THESE RECOMMENDATIONS IN DETERMINING THE
9 APPROPRIATE HEALTH CARE POLICIES IN THEIR RESPECTIVE STATES.

10 D. THE COMMISSION SHALL COLLECT INFORMATION AND DATA TO ASSIST THE
11 MEMBER STATES IN THEIR REGULATION OF HEALTH CARE INCLUDING ASSESSING THE
12 PERFORMANCE OF VARIOUS STATE HEALTH CARE PROGRAMS AND COMPILING INFORMATION
13 ON THE COST OF HEALTH CARE. THE COMMISSION SHALL MAKE THIS INFORMATION AND
14 DATA AVAILABLE TO THE LEGISLATURES OF THE MEMBER STATES. NOTWITHSTANDING ANY
15 OTHER PROVISION OF THIS COMPACT, NO MEMBER STATE SHALL DISCLOSE TO THE
16 COMMISSION THE HEALTH INFORMATION OF ANY INDIVIDUAL, NOR SHALL THE COMMISSION
17 DISCLOSE THE HEALTH INFORMATION OF ANY INDIVIDUAL.

18 E. THE COMMISSION SHALL BE FUNDED BY THE MEMBER STATES AS AGREED TO BY
19 THE MEMBER STATES. THE COMMISSION SHALL HAVE THE RESPONSIBILITIES AND DUTIES
20 AS MAY BE CONFERRED ON IT BY SUBSEQUENT ACTION OF THE LEGISLATURES OF THE
21 MEMBER STATES CONSISTENT WITH THE TERMS OF THIS COMPACT.

22 F. THE COMMISSION SHALL NOT TAKE ANY ACTION WITHIN A MEMBER STATE THAT
23 CONTRAVENES ANY STATE LAW OF THAT MEMBER STATE.

24 ARTICLE VIII

25 CONGRESSIONAL CONSENT

26 THIS COMPACT SHALL BE EFFECTIVE ON ITS ADOPTION BY AT LEAST TWO MEMBER
27 STATES AND CONSENT OF THE UNITED STATES CONGRESS. THIS COMPACT SHALL BE
28 EFFECTIVE UNLESS THE UNITED STATES CONGRESS, IN CONSENTING TO THIS COMPACT,
29 ALTERS THE FUNDAMENTAL PURPOSES OF THIS COMPACT, WHICH ARE:

30 1. TO SECURE THE RIGHT OF THE MEMBER STATES TO REGULATE HEALTH CARE IN
31 THEIR RESPECTIVE STATES PURSUANT TO THIS COMPACT AND TO SUSPEND THE OPERATION
32 OF ANY CONFLICTING FEDERAL LAWS, RULES, REGULATIONS AND ORDERS WITHIN THEIR
33 STATES.

34 2. TO SECURE FEDERAL FUNDING FOR MEMBER STATES THAT CHOOSE TO INVOKE
35 THEIR AUTHORITY UNDER THIS COMPACT PURSUANT TO THE MANDATORY SPENDING FORMULA
36 PRESCRIBED BY ARTICLE VI.

37 ARTICLE IX

38 AMENDMENTS

39 THE MEMBER STATES, BY UNANIMOUS AGREEMENT, MAY AMEND THIS COMPACT FROM
40 TIME TO TIME WITHOUT THE PRIOR CONSENT OR APPROVAL OF CONGRESS AND ANY
41 AMENDMENT SHALL BE EFFECTIVE UNLESS, WITHIN ONE YEAR, THE CONGRESS
42 DISAPPROVES THAT AMENDMENT. ANY STATE MAY JOIN THIS COMPACT AFTER THE DATE
43 ON WHICH CONGRESS CONSENTS TO THE COMPACT BY ADOPTION INTO LAW UNDER ITS
44 STATE CONSTITUTION.

ARTICLE X
WITHDRAWAL AND DISSOLUTION

1
2
3 A MEMBER STATE MAY WITHDRAW FROM THIS COMPACT BY ADOPTING A LAW TO THAT
4 EFFECT, BUT NO SUCH WITHDRAWAL SHALL TAKE EFFECT UNTIL SIX MONTHS AFTER THE
5 GOVERNOR OF THE WITHDRAWING MEMBER STATE HAS GIVEN NOTICE OF THE WITHDRAWAL
6 TO THE OTHER MEMBER STATES. A WITHDRAWING STATE SHALL BE LIABLE FOR ANY
7 OBLIGATIONS THAT IT MAY HAVE INCURRED BEFORE THE DATE ON WHICH ITS WITHDRAWAL
8 BECOMES EFFECTIVE. THIS COMPACT IS DISSOLVED ON THE WITHDRAWAL OF ALL BUT
9 ONE OF THE MEMBER STATES.

Passed the House April 11, 2011,

by the following vote: 40 Ayes,

18 Nays, 2 Not Voting

[Signature]
Speaker of the House
Pro Tempore

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 3, 2011,

by the following vote: 21 Ayes,

05 Nays, 4 Not Voting

[Signature]
President of the Senate

Raeminia Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
12 day of April, 2011,

at 1:50 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this _____ day of

_____, 20____,

at **VETO** o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1592