

Control of Texas' health care system would revert to state under proposal from Rep. Lois Kolkhorst challenging Obamacare

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By Mark Lisher



Rep. Lois Kolkhorst has filed a bill asking that Texas join other states in wresting control of their health care systems from the federal government.

In **House Bill 5** by **Kolkhorst**, R-Brenham, Texas becomes the eighth state in which legislators are using Constitutional grounds to form interstate health care compacts that would supersede the authority of the U.S. Department of Health and Human Services to determine how states run their health care programs.

Within the past week lawmakers in Georgia and Colorado filed similar bills. Arizona, Montana, North Dakota and Tennessee followed Missouri's

lead in calling for legislative support for compact agreements.

"For too long, we've watched the federal government struggle to control how public health care assistance is delivered," Kolkhorst said in a release issued today. "Forming a compact with fellow states will bring decisions closer to home. There's a feeling that states will be the best innovators of health care reform, especially if President Obama's Affordable Care Act continues to be found unconstitutional by the courts."

Kolkhorst's bill asks that the federal government fund its portion of health care in Texas through a block grant free of the mandates for how the money is spent.

"One of the major priorities of the bill is to seek a block grant from the federal government so that our state can better predict costs and can better serve the people who rely on public health services," she said.

At the end of January, **Rep. Tryon Lewis**, R-Odessa, filed **House Bill 1008** that applied the same interstate compact principles solely to Medicaid, the insurance program for the poor. At the time, Lewis told the **Washington Times** he filed the bill in the hopes that states would join together to force the federal government to acknowledge that change was necessary.

"If that many partners come to them and say we can't pay for this anymore, we've got to change, I think the likelihood is high that something could be done," Lewis said, "because otherwise the states may have to say we can't [afford Medicaid], because we can't, and then all the burden would go on the federal government."

A 170 percent increase in the cost of Medicaid since 2000 in Texas was a chief impetus for the compact bill, according to Kolkhorst. The largest public health care program in the state is on its way to overwhelming the entire state budget, according to **a study done by the Cato Institute** for the conservative Texas Public Policy Foundation.

Arlene Wohlgemuth, director of the Foundation's Center for Health Care Policy, who has been advocating in this legislative session for free market alternatives in health care, said today the health care compact is her priority for Texas.

It is the Foundation's Center for Tenth Amendment Studies that laid some of the Constitutional groundwork for the interstate compact movement. While interstate compacts have been largely used by state to negotiate matters of commerce and transportation there was no legal reason not to apply them to health care, center fellows Mario Loyola and Ted Cruz said. Cruz is a candidate for Kay Bailey Hutchison's U.S. Senate seat and former Texas solicitor general.

"The compact would provide that member States are free to choose their preferred model for health care policy; that they may opt out of Obamacare entirely; that they may choose to receive federal Medicaid funds as block grants without strings attached; and would otherwise accommodate maximum state flexibility," a report issued in November by Cruz and Loyola, titled "Reclaiming the Constitution: Towards an Agenda for State Action," said.

"The compact would contain a 'notwithstanding' clause providing that the operation of any federal law contrary to the

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provisions of the compact is suspended as to the signatory States. Congressional consent would be sought, and once obtained, would transform the compact into federal law.”

However legal, feasible and attractive, the support of interstate compacts by conservatives including tea party members is certain to gather opposition by those who see them as a legal circumvention of the Congressional votes that produced the [Patient Protection and Affordable Care Act](#).

As pointed out by [The Weekly Standard](#), success with compacts would threaten the entire power structure of Washington, a threat that has been successfully thrown back many times before.

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