

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4449**

BY DELEGATES WAXMAN, KURCABA, FOLK, HAMRICK,

FOSTER, MCCUSKEY, SUMMERS, IHLE, TRECOST,

HANSHAW AND KESSINGER

[Introduced February 9, 2016; Referred

to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter,  
 2 designated §4A-1-1, §4A-2-1, §4A-3-1, §4A-3-2, §4A-3-3, §4A-3-4, §4A-4-1, §4A-4-2,  
 3 §4A-4-3, §4A-4-4, §4A-4-5, §4A-4-6, §4A-4-7, §4A-4-8, §4A-4-9, §4A-5-1, §4A-5-2, §4A-  
 4 5-3, §4A-6-1, §4A-6-2, §4A-6-3, §4A-6-4, §4A-6-5, §4A-6-6, §4A-6-7, §4A-6-8, §4A-6-9,  
 5 §4A-7-1, §4A-7-2, §4A-7-3, §4A-7-4, §4A-7-5, §4A-7-6, §4A-7-7, §4A-7-8, §4A-7-9, §4A-  
 6 7-10, §4A-7-11, §4A-8-1, §4A-8-2, §4A-8-3, §4A-9-1, §4A-9-2, §4A-10-1, §4A-10-2, §4A-  
 7 10-3, §4A-10-4, §4A-10-5, §4A-10-6 and §4A-10-7, all relating to creating the Compact  
 8 for a Balanced Budget; providing a declaration of policy, purpose and intent; defining  
 9 terms; providing for Compact membership and withdrawal; providing for a Compact  
 10 Commission and Compact Administrator; providing for a resolution applying for a  
 11 Constitutional Convention; providing for the appointment of delegates, their instructions  
 12 and limitations; providing for convention rules; providing a prohibition on ultra vires  
 13 convention; providing for a resolution prospectively ratifying a balanced budget  
 14 amendment; providing for the construction, enforcement, venue and severability; and  
 15 providing effective dates a termination date.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 chapter, designated §4A-1-1, §4A-2-1, §4A-3-1, §4A-3-2, §4A-3-3, §4A-3-4, §4A-4-1, §4A-4-2,  
 3 §4A-4-3, §4A-4-4, §4A-4-5, §4A-4-6, §4A-4-7, §4A-4-8, §4A-4-9, §4A-5-1, §4A-5-2, §4A-5-3,  
 4 §4A-6-1, §4A-6-2, §4A-6-3, §4A-6-4, §4A-6-5, §4A-6-6, §4A-6-7, §4A-6-8, §4A-6-9, §4A-7-1,  
 5 §4A-7-2, §4A-7-3, §4A-7-4, §4A-7-5, §4A-7-6, §4A-7-7, §4A-7-8, §4A-7-9, §4A-7-10, §4A-7-11,  
 6 §4A-8-1, §4A-8-2, §4A-8-3, §4A-9-1, §4A-9-2, §4A-10-1, §4A-10-2, §4A-10-3, §4A-10-4, §4A-10-  
 7 5, §4A-10-6 and §4A-10-7, all to read as follows:

## **CHAPTER 4A. COMPACT FOR A BALANCED BUDGET.**

### **ARTICLE 1. DECLARATION OF POLICY, PURPOSE AND INTENT.**

**§4A-1-1. Declaration of policy, purpose and intent.**

1        Whereas, every state enacting, adopting and agreeing to be bound by the Compact for a  
 2 Balanced Budget intends to ensure that their respective Legislature’s use of the power to originate  
 3 a Balanced Budget Amendment under Article V of the Constitution of the United States will be  
 4 exercised conveniently and with reasonable certainty as to the consequences thereof.

5        Now, therefore, in consideration of their expressed mutual promises and obligations, be it  
 6 enacted by every state enacting, adopting and agreeing to be bound by the Compact for a  
 7 Balanced Budget, and resolved by each of their respective Legislatures, as the case may be, to  
 8 exercise herewith all of their respective powers as set forth herein notwithstanding any law to the  
 9 contrary.

**ARTICLE 2. DEFINITIONS.****§4A-2-1. Definitions.**

1        For the purposes of this chapter:

2        “Compact” means the “Compact for a Balanced Budget” i.e., the entity of this chapter.

3        “Convention” means the convention for proposing amendments organized by the Compact  
 4 under Article V of the Constitution of the United States and, where contextually appropriate to  
 5 ensure the terms of the Compact are not evaded, any other similar gathering or body, which might  
 6 be organized as a consequence of Congress receiving the application set out in the Compact and  
 7 claim authority to propose or effectuate any amendment, alteration or revision to the Constitution  
 8 of the United States. This term does not encompass a convention for proposing amendments  
 9 under Article V of the Constitution of the United States that is organized independently of the  
 10 Compact based on the separate and distinct application of any state.

11        “State” means one of the several states of the United States. Where contextually  
 12 appropriate, the term “State” includes all of its branches, departments, agencies, political  
 13 subdivisions, and officers and representatives acting in their official capacity.

14        “Member State” means a state that has enacted, adopted and agreed to be bound to the

15 Compact. For any state to qualify as a Member State with respect to any other state under the  
16 Compact, each state must have enacted, adopted and agreed to be bound by substantively  
17 identical compact legislation.

18 “Compact Notice Recipients” means the Archivist of the United States, the President of  
19 the United States, the President of the United States Senate, the Office of the Secretary of the  
20 United States Senate, the Speaker of the United States House of Representatives, the Office of  
21 the Clerk of the United States House of Representatives, the chief executive officer of each state,  
22 and the presiding officer(s) of each house of the Legislatures of the several states. All notices  
23 required by the Compact shall be by U.S. Certified Mail, return receipt requested, or an equivalent  
24 or superior form of notice, such as personal delivery documented by evidence of actual receipt.

25 “Balanced Budget Amendment” means the following:

26 (1) Total outlays of the government of the United States may not exceed total receipts of  
27 the government of the United States at any point in time unless the excess of outlays over receipts  
28 is financed exclusively by debt issued in strict conformity with this article.

29 (2) Outstanding debt may not exceed authorized debt, which initially shall be an amount  
30 equal to one hundred five percent of the outstanding debt on the effective date of this article.  
31 Authorized debt may not be increased above its aforesaid initial amount unless the increase is  
32 first approved by the legislatures of the several states as provided in subdivision (3) of this  
33 definition.

34 (3) From time to time, Congress may increase authorized debt to an amount in excess of  
35 its initial amount set by subdivision (2) of this definition only if it first publicly refers to the  
36 legislatures of the several states an unconditional, single subject measure proposing the amount  
37 of the increase, in such form as provided by law, and the measure is thereafter publicly and  
38 unconditionally approved by a simple majority of the legislatures of the several states, in such  
39 form as provided respectively by state law; provided that no inducement requiring an expenditure  
40 or tax levy shall be demanded, offered or accepted as a quid pro quo for the approval. If the

41 approval is not obtained within sixty calendar days after referral then the measure shall be  
42 deemed disapproved and the authorized debt shall thereby remain unchanged.

43 (4) Whenever the outstanding debt exceeds ninety-eight percent of the debt limit set by  
44 subdivision (2) of this definition, the President shall enforce the limit by publicly designating  
45 specific expenditures for impoundment in an amount sufficient to ensure outstanding debt may  
46 not exceed the authorized debt. Said impoundment becomes effective thirty days thereafter,  
47 unless Congress first designates an alternate impoundment of the same or greater amount by  
48 concurrent resolution, which becomes immediately effective. The failure of the President to  
49 designate or enforce the required impoundment is an impeachable misdemeanor. Any purported  
50 issuance or incurrence of any debt in excess of the debt limit set by subdivision two of this  
51 definition is void.

52 (5) No bill that provides for a new or increased general revenue tax may become law  
53 unless approved by a two-thirds roll call vote of the whole number of each chamber of Congress.  
54 However, this requirement does not apply to any bill that provides for a new end user sales tax  
55 which would completely replace every existing income tax levied by the government of the United  
56 States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an  
57 existing general revenue tax.

58 (6) For purposes of this article, "debt" means any obligation backed by the full faith and  
59 credit of the government of the United States; "outstanding debt" means all debt held in any  
60 account and by any entity at a given point in time; "authorized debt" means the maximum total  
61 amount of debt that may be lawfully issued and outstanding at any single point in time under this  
62 article; "total outlays of the government of the United States" means all expenditures of the  
63 government of the United States from any source; "total receipts of the government of the United  
64 States" means all tax receipts and other income of the government of the United States, excluding  
65 proceeds from its issuance or incurrence of debt or any type of liability; "impoundment" means a  
66 proposal not to spend all or part of a sum of money appropriated by Congress; and "general

67 revenue tax” means any income tax, sales tax, or value-added tax levied by the government of  
68 the United States excluding imposts and duties.

69 (7) This article is immediately operative upon ratification, self-enforcing, and Congress  
70 may enact conforming legislation to facilitate enforcement.”

### **ARTICLE 3. COMPACT MEMBERSHIP AND WITHDRAWAL.**

#### **§4A-3-1. Compact governs member states.**

1 The Compact governs each Member State to the fullest extent permitted by their  
2 respective Constitutions, superseding and repealing any conflicting or contrary law.

#### **§4A-3-2. Obligations of member states.**

1 By becoming a Member State, each state offers, promises and agrees to perform and  
2 comply strictly in accordance with the terms and conditions of the Compact, and has made the  
3 offer, promise and agreement in anticipation and consideration of, and in substantial reliance  
4 upon, the mutual and reciprocal performance and compliance by each other current and future  
5 Member State, if any. Accordingly, in addition to having the force of law in each Member State  
6 upon its respective effective date, the Compact and each of its articles contractually binds each  
7 Member State when: (1) At least one other state has likewise become a Member State by enacting  
8 substantively identical legislation adopting and agreeing to be bound by the Compact; and (2)  
9 notice of the state’s Member State status is or has been seasonably received by the Compact  
10 Administrator, if any, or otherwise by the chief executive officer of each other Member State.

#### **§4A-3-3. Member state status.**

1 For purposes of determining Member State status under the Compact, as long as all other  
2 provisions of the Compact remain identical and operative on the same terms, legislation enacting,  
3 adopting and agreeing to be bound by the Compact shall be deemed and regarded as  
4 “substantively identical” with respect to the other legislation enacted by another state  
5 notwithstanding: (1) Any difference in section two, article four of this chapter with specific regard  
6 to the respectively enacting state’s own method of appointing its member to the Commission; (2)

7 any difference in section five of that article with specific regard to the respectively enacting state's  
 8 own obligation to fund the Commission; (3) any difference in sections one and two, article six of  
 9 this chapter with specific regard to the number and identity of each delegate respectively  
 10 appointed on behalf of the enacting state, provided that no more than three delegates may attend  
 11 and participate in the Convention on behalf of any state; or (4) any difference in section seven,  
 12 article ten of this chapter with specific regard to the respectively enacting as to whether section  
 13 one, article five of this chapter shall survive termination of the Compact, and thereafter become a  
 14 continuing resolution of the legislature of the state applying to Congress for the calling of a  
 15 convention of the states under Article V of the Constitution of the United States, under the terms  
 16 and limitations as may be specified by the state.

**§4A-3-4. Withdrawal of member states.**

1 When fewer than three-fourths of the states are Member States, any Member State may  
 2 withdraw from the Compact by enacting appropriate legislation, as determined by state law, and  
 3 giving notice of the withdrawal to the Compact Administrator, if any, or otherwise to the chief  
 4 executive officer of each other Member State. A withdrawal does not affect the validity or  
 5 applicability of the compact with respect to remaining Member States, provided that there remain  
 6 at least two states. However, once at least three-fourths of the states are Member States, then  
 7 no Member State may withdraw from the Compact prior to its termination absent unanimous  
 8 consent of all Member States.

**ARTICLE 4. COMPACT COMMISSION AND COMPACT ADMINISTRATOR.**

**§4A-4-1. Nature of the Compact Commission.**

1 The Compact Commission ("Commission") is hereby established. It has the power and  
 2 duty: (1) To appoint and oversee a Compact Administrator; (2) to encourage States to join the  
 3 Compact and Congress to call the Convention in accordance with the Compact; (3) to coordinate  
 4 the performance of obligations under the Compact; (4) to oversee the Convention's logistical  
 5 operations as appropriate to ensure the Compact governs its proceedings; (5) to oversee the

6 defense and enforcement of the Compact in appropriate legal venues; (6) to request funds and  
7 to disburse those funds to support the operations of the Commission, Compact Administrator, and  
8 Convention; and (7) to cooperate with any entity that shares a common interest with the  
9 Commission and engages in policy research, public interest litigation or lobbying in support of the  
10 purposes of the Compact. The Commission only has the implied powers as are essential to  
11 carrying out these express powers and duties. It may take no action that contravenes or is  
12 inconsistent with the Compact or any law of any state that is not superseded by the Compact. It  
13 may adopt and publish corresponding bylaws and policies.

**§4A-4-2. Commission membership.**

1 The Commission initially consists of three unpaid members. Each Member State may  
2 appoint one member to the Commission through an appointment process to be determined by  
3 their respective chief executive officer until all positions on the Commission are filled. Positions  
4 shall be assigned to appointees in the order in which their respective appointing states became  
5 Member States. The bylaws of the Commission may expand its membership to include  
6 representatives of additional Member States and to allow for modest salaries and reimbursement  
7 of expenses if adequate funding exists.

**§4A-4-3. Commission action.**

1 Each Commission member is entitled to one vote. The Commission may not act unless a  
2 majority of its appointed membership is present, and no action is binding unless approved by a  
3 majority of the Commission's appointed membership. The Commission shall meet at least once  
4 a year, and may meet more frequently.

**§4A-4-4. First order of business.**

1 The Commission shall at the earliest possible time elect from among its membership a  
2 Chairperson, determine a primary place of doing business, and appoint a Compact Administrator.

**§4A-4-5. Funding.**

3 The Commission and the Compact Administrator's activities shall be funded exclusively

4 by each Member State, as determined by their respective state law, or by voluntary donations.

**§4A-4-6. Compact administrator.**

1 The Compact Administrator has the power and duty: (1) To timely notify the states of the  
2 date, time and location of the Convention; (2) to organize and direct the logistical operations of  
3 the Convention; (3) to maintain an accurate list of all Member States, their appointed delegates,  
4 including contact information; and (4) to formulate, transmit, and maintain all official notices,  
5 records, and communications relating to the Compact. The Compact Administrator shall only have  
6 the implied powers as are essential to carrying out these express powers and duties; and may  
7 take no action that contravenes or is inconsistent with the Compact or any law of any state that is  
8 not superseded by the Compact. The Compact Administrator serves at the pleasure of the  
9 Commission and must keep the Commission seasonably apprised of the performance or  
10 nonperformance of the terms and conditions of the Compact. Any notice sent by a Member State  
11 to the Compact Administrator concerning the Compact is adequate notice to each other Member  
12 State provided that a copy of the notice is seasonably delivered by the Compact Administrator to  
13 each other Member State's respective chief executive officer.

**§4A-4-7. Notice of key events.**

1 Upon the occurrence of each of the following described events, or otherwise as soon as  
2 possible, the Compact Administrator shall immediately send the following notices to all Compact  
3 notice recipients, together with certified conforming copies of the chaptered version of the  
4 Compact as maintained in the statutes of each Member State: (1) Whenever any state becomes  
5 a Member State, notice of that fact shall be given; (2) once at least three-fourths of the states are  
6 Member States, notice of that fact shall be given together with a statement declaring that the  
7 Legislatures of at least two-thirds of the several states have applied for a convention for proposing  
8 amendments under Article V of the Constitution of the United States, petitioning Congress to call  
9 the Convention contemplated by the Compact, and further requesting cooperation in organizing  
10 the same in accordance with the Compact; (3) once Congress has called the Convention

11 contemplated by the Compact, and whenever the date, time and location of the Convention has  
12 been determined, notice of that fact shall be given together with the date, time and location of the  
13 Convention and other essential logistical matters; (4) upon approval of the Balanced Budget  
14 Amendment by the Convention, notice of that fact shall be given together with the transmission  
15 of certified copies of the approved proposed amendment and a statement requesting Congress  
16 to refer the same for ratification by three-fourths of the Legislatures of the several states under  
17 Article V of the Constitution of the United States (however, in no event may any proposed  
18 amendment other than the Balanced Budget Amendment be transmitted); and (5) when any  
19 Article of the Compact prospectively ratifying the Balanced Budget Amendment is effective in any  
20 Member State, notice of the same shall be given together with a statement declaring the  
21 ratification and further requesting cooperation in ensuring that the official record confirms and  
22 reflects the effective corresponding amendment to the Constitution of the United States. However,  
23 whenever any Member State enacts appropriate legislation, as determined by the laws of the  
24 respective state, withdrawing from the Compact, the Compact Administrator shall immediately  
25 send certified conforming copies of the chaptered version of the withdrawal legislation as  
26 maintained in the statutes of each withdrawing Member State, solely to each chief executive  
27 officer of each remaining Member State, giving notice of the withdrawal.

**§4A-4-8. Cooperation.**

1 The Commission, Member States and Compact Administrator shall cooperate with each  
2 other and give each other mutual assistance in enforcing the Compact and shall give the chief  
3 law-enforcement officer of each other Member State any information or documents that are  
4 reasonably necessary to facilitate the enforcement of the Compact.

**§4A-4-9. Effective date.**

1 This article does not take effect until there are at least two Member States.

**ARTICLE 5. RESOLUTION APPLYING FOR CONVENTION.**

**§4A-5-1. Calling of a convention for the ratification of a balanced budget amendment.**

1 Be it resolved, as provided in Article V of the Constitution of the United States, the  
 2 Legislature of each Member State herewith applies to Congress for the calling of a convention for  
 3 proposing amendments limited to the subject matter of proposing for ratification the Balanced  
 4 Budget Amendment.

**§4A-5-2. Ratification by the states.**

1 Congress is further petitioned to refer the Balanced Budget Amendment to the states for  
 2 ratification by three-fourths of their respective Legislatures.

**§4A-5-3. Effective date.**

1 This article does not take effect until at least three-fourths of the several states are Member  
 2 States.

**ARTICLE 6. DELEGATE APPOINTMENT, LIMITATIONS AND INSTRUCTIONS.**

**§4A-6-1. Number of delegates.**

1 West Virginia has three delegates to represent its sovereign interests at the Convention.

**§4A-6-2. Identity of delegates.**

1 The Governor, Speaker of the House of Delegates, and President of the Senate, who are  
 2 servng on the enactment date of the legislation by which West Virginia is enacting, adopting and  
 3 agreeing to be bound by the Compact, or their respective designee, as identified in a sworn  
 4 affidavit executed by the officer, are each appointed in an individual capacity as its sole and  
 5 exclusive delegates. A majority vote of the delegation shall serve to decide any issue at the  
 6 Convention on behalf of West Virginia.

**§4A-6-3. Replacement or recall of delegates.**

1 A delegate appointed hereunder may be replaced or recalled by the Legislature of his or  
 2 her respective state at any time for good cause, such as criminal misconduct or the violation of  
 3 the Compact. If replaced or recalled, any delegate previously appointed hereunder must  
 4 immediately vacate the Convention and return to their respective state's capitol.

**§4A-6-4. Oath.**

1       The power and authority of a delegate under this Article may only be exercised after the  
2 Convention is first called by Congress in accordance with the Compact and the appointment is  
3 duly accepted by the appointee publicly taking the following oath or affirmation: "I do solemnly  
4 swear (or affirm) that I accept this appointment and will act strictly in accordance with the terms  
5 and conditions of the Compact for a Balanced Budget, the Constitution of the State I represent,  
6 and the Constitution of the United States. I understand that violating this oath (or affirmation)  
7 forfeits my appointment and may subject me to other penalties as provided by law."

**§4A-6-5. Term.**

1       The term of a delegate hereunder commences upon acceptance of appointment and  
2 terminates upon the permanent adjournment of the Convention, unless shortened by recall,  
3 replacement or forfeiture under this Article. Upon expiration of the term, any person formerly  
4 serving as a delegate must immediately withdraw from and cease participation at the Convention,  
5 if any is proceeding.

**§4A-6-6. Delegate authority.**

1       (a) The power and authority of any delegate appointed hereunder is strictly limited: (1) To  
2 introducing, debating, voting upon, proposing and enforcing the Convention Rules specified in the  
3 Compact, as needed to ensure those rules govern the Convention; and (2) to introducing,  
4 debating, voting upon, and rejecting or proposing for ratification the Balanced Budget  
5 Amendment. All actions taken by any delegate in violation of this section are void ab initio.

6       (b) No delegate of any Member State may introduce, debate, vote upon, reject or propose  
7 for ratification any Constitutional amendment at the Convention unless: (1) The Convention Rules  
8 specified in the Compact govern the Convention and their actions; and (2) the Constitutional  
9 amendment is the Balanced Budget Amendment.

10       (c) The power and authority of any delegate at the Convention does not include any power  
11 or authority associated with any other public office held by the delegate. Any person appointed to  
12 serve as a delegate shall take a temporary leave of absence, or otherwise shall be deemed

13 temporarily disabled, from any other public office held by the delegate while attending the  
 14 Convention, and may not exercise any power or authority associated with any other public office  
 15 held by the delegate, while attending the Convention. All actions taken by any delegate in violation  
 16 of this section are void ab initio.

**§4A-6-7. Order of business.**

1 Before introducing, debating, voting upon, rejecting or proposing for ratification any  
 2 Constitutional amendment at the Convention, each delegate of every Member State must first  
 3 ensure the Convention Rules in the Compact govern the Convention and their actions. Every  
 4 delegate and each Member State must immediately vacate the Convention and notify the  
 5 Compact Administrator by the most effective and expeditious means if the Convention Rules in  
 6 the Compact are not adopted to govern the Convention and their actions.

**§4A-6-8. Forfeiture of appointment.**

1 If any Member State or delegate violates any provision of the Compact, then every  
 2 delegate of that Member State immediately forfeits his or her appointment, and shall immediately  
 3 cease participation at the Convention, vacate the Convention, and return to his or her respective  
 4 state's capitol.

**§4A-6-9. Expenses.**

1 A delegate appointed hereunder is entitled to reimbursement of reasonable expenses for  
 2 attending the Convention from his or her respective Member State. No delegate may accept any  
 3 other form of remuneration or compensation for service under the Compact.

**ARTICLE 7. CONVENTION RULES.**

**§4A-7-1. Nature of the convention.**

1 The Convention shall be organized, construed and conducted as a body exclusively  
 2 representing and constituted by the several States.

**§4A-7-2. Agenda of the convention.**

1 The agenda of the Convention shall be entirely focused upon and exclusively limited to

2 introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget  
3 Amendment under the Convention Rules specified in this Article and in accordance with the  
4 Compact. It shall not be in order for the Convention to consider any matter that is outside the  
5 scope of this agenda.

**§4A-7-3. Delegate identity and procedure.**

1 States shall be represented at the Convention through duly appointed delegates. The  
2 number, identity and authority of delegates assigned to each state shall be determined by the  
3 Compact in the case of Member States or, in the case of states that are not Member States, by  
4 their respective state laws. However, to prevent disruption of proceedings, no more than three  
5 delegates may attend and participate in the Convention on behalf of any state. A certified  
6 chaptered conforming copy of the Compact, together with government-issued photographic proof  
7 of identification, shall suffice as credentials for delegates of Member States. Any commission for  
8 delegates of states that are not Member States shall be based on their respective state laws, but  
9 it shall furnish credentials that are at least as reliable as those required of Member States.

**§4A-7-4. Voting.**

1 Each state represented at the Convention has one vote, exercised by the vote of that  
2 state's delegate in the case of states represented by one delegate, or, in the case of any state  
3 that is represented by more than one delegate, by the majority vote of that state's respective  
4 delegates.

**§4A-7-5. Quorum.**

1 A majority of the several states of the United States, each present through its respective  
2 delegate in the case of any state that is represented by one delegate, or through a majority of its  
3 respective delegates, in the case of any state that is represented by more than one delegate,  
4 shall constitute a quorum for the transaction of any business on behalf of the Convention.

**§4A-7-6. Action by the convention.**

1 The Convention may only act as a committee of the whole, chaired by the delegate

2 representing the first state to have become a Member State, if that state is represented by one  
3 delegate, or otherwise by the delegate chosen by the majority vote of that state's respective  
4 delegates. The transaction of any business on behalf of the Convention, including the designation  
5 of a Secretary, the adoption of parliamentary procedures and the rejection or proposal of any  
6 Constitutional amendment, requires a quorum to be present and a majority affirmative vote of  
7 those states constituting the quorum.

**§4A-7-7. Emergency suspension and relocation of the convention.**

1 In the event that the Chair of the Convention declares an emergency due to disorder or  
2 an imminent threat to public health and safety prior to the completion of the business on the  
3 Agenda, and a majority of the states present at the Convention do not object to the declaration,  
4 further Convention proceedings shall be temporarily suspended, and the Commission shall  
5 subsequently relocate or reschedule the Convention to resume proceedings in an orderly fashion  
6 in accordance with the terms and conditions of the Compact with prior notice given to the Compact  
7 Notice Recipients.

**§4A-7-8. Parliamentary procedure.**

1 In adopting, applying and formulating parliamentary procedure, the Convention shall  
2 exclusively adopt, apply or appropriately adapt provisions of the most recent editions of Robert's  
3 Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary  
4 Procedure. In adopting, applying or adapting parliamentary procedure, the Convention shall  
5 exclusively consider analogous precedent arising within the jurisdiction of the United States.  
6 Parliamentary procedures adopted, applied or adapted pursuant to this section shall not obstruct,  
7 override or otherwise conflict with the Compact.

**§4A-7-9. Transmittal.**

1 Upon approval of the Balanced Budget Amendment by the Convention to propose for  
2 ratification, the Chair of the Convention shall immediately transmit certified copies of the approved  
3 proposed amendment to the Compact Administrator and all Compact Notice Recipients, notifying

4 them respectively of the approval and requesting Congress to refer the same for ratification by  
5 the states under Article V of the Constitution of the United States. However, in no event shall any  
6 proposed amendment other than the Balanced Budget Amendment be transmitted as aforesaid.

**§4A-7-10. Transparency.**

1 Records of the Convention, including the identities of all attendees and detailed minutes  
2 of all proceedings, shall be kept by the Chair of the Convention or Secretary designated by the  
3 Convention. All proceedings and records of the Convention shall be open to the public upon  
4 request subject to reasonable regulations adopted by the Convention that are closely tailored to  
5 preventing disruption of proceedings under this Article.

**§4A-7-11. Adjournment of the convention.**

1 The Convention shall permanently adjourn upon the earlier of twenty-four hours after  
2 commencing proceedings under this Article or the completion of the business on its Agenda.

**ARTICLE 8. PROHIBITION ON ULTRA VIRES CONVENTION.**

**§4A-8-1. Congressional action required.**

1 Member States shall not participate in the Convention unless: (1) Congress first calls the  
2 Convention in accordance with the Compact; and (2) the Convention Rules of the Compact are  
3 adopted by the Convention as its first order of business.

**§4A-8-2. Void ab initio actions.**

1 Any proposal or action of the Convention is void ab initio and issued by a body that is  
2 conducting itself in an unlawful and ultra vires fashion if that proposal or action: (1) Violates or  
3 was approved in violation of the Convention Rules or the delegate instructions and limitations on  
4 delegate authority specified in the Compact; (2) purports to propose or effectuate a mode of  
5 ratification that is not specified in Article V of the Constitution of the United States; or (3) purports  
6 to propose or effectuate the formation of a new government. All Member States are prohibited  
7 from advancing or assisting in the advancement of any proposal or action.

**§4A-8-3. Ratification.**

1 Member States shall not ratify or otherwise approve any proposed amendment, alteration  
2 or revision to the Constitution of the United States, which originates from the Convention, other  
3 than the Balanced Budget Amendment.

**ARTICLE 9. RESOLUTION PROSPECTIVELY RATIFYING THE BALANCED  
BUDGET AMENDMENT.**

**§4A-9-1. Adoption.**

1 Each Member State, by and through its respective Legislature, hereby adopts and ratifies  
2 the Balanced Budget Amendment.

**§4A-9-2. Effective date.**

1 This article does not take effect until Congress effectively refers the Balanced Budget  
2 Amendment to the states for ratification by three-fourths of the Legislatures of the several states  
3 under Article V of the Constitution of the United States.

**ARTICLE 10. CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY.**

**§4A-10-1. Enacting legislation.**

1 To the extent that the effectiveness of the Compact or any of its articles or provisions  
2 requires the alteration of local legislative rules, drafting policies, or procedure to be effective, the  
3 enactment of legislation enacting, adopting and agreeing to be bound by the Compact shall be  
4 deemed to waive, repeal, supersede, or otherwise amend and conform all the rules, policies or  
5 procedures to allow for the effectiveness of the Compact to the fullest extent permitted by the  
6 Constitution of any affected Member State.

**§4A-10-2. Date and Location of the Convention.**

1 Unless otherwise specified by Congress in its call, the Convention shall be held in Dallas,  
2 Texas and commence proceedings at 9:00 a.m. Central Standard Time on the sixth Wednesday  
3 after the latter of the effective date of Article V of the Compact or the enactment date of the  
4 Congressional resolution calling the Convention.

**§4A-10-3. Additional powers and duties.**

1           In addition to all other powers and duties conferred by state law which are consistent with  
2 the terms and conditions of the Compact, the chief law-enforcement officer of each Member State  
3 is empowered to defend the Compact from any legal challenge, as well as to seek civil mandatory  
4 and prohibitory injunctive relief to enforce the Compact; and shall take such action whenever the  
5 Compact is challenged or violated.

**§4A-10-4. Exclusive venue.**

1           The exclusive venue for all actions in any way arising under the Compact shall be in the  
2 United States District Court for the Northern District of Texas or the courts of the state of Texas  
3 within the jurisdictional boundaries of the foregoing district court. Each Member State shall submit  
4 to the jurisdiction of the courts with respect to the actions. However, upon written request by the  
5 chief law-enforcement officer of any Member State, the Commission may elect to waive this  
6 provision for the purpose of ensuring an action proceeds in the venue that allows for the most  
7 convenient and effective enforcement or defense of the Compact. Any waiver shall be limited to  
8 the particular action to which it is applied and not construed or relied upon as a general waiver of  
9 this provision. The waiver decisions of the Commission under this provision shall be final and  
10 binding on each Member State.

**§4A-10-5. Effective date.**

1           The effective date of the Compact and any of its articles is the latter of: (1) The date of  
2 any event rendering the same effective according to its respective terms and conditions; or (2)  
3 the earliest date otherwise permitted by law.

**§4A-10-6. Nonseverability.**

1           Article eight of this chapter is nonseverable prior to termination of the Compact. However,  
2 if any other phrase, clause, sentence or provision of the Compact, or the applicability of any other  
3 phrase, clause, sentence or provision of the Compact to any government, agency, person or  
4 circumstance, is declared in a final judgment to be contrary to the Constitution of the United

5 States, contrary to the state Constitution of any Member State, or is otherwise held invalid by a  
6 court of competent jurisdiction, the phrase, clause, sentence or provision shall be severed and  
7 held for naught, and the validity of the remainder of the Compact and the applicability of the  
8 remainder of the Compact to any government, agency, person or circumstance shall not be  
9 affected. Furthermore, if the Compact is declared in a final judgment by a court of competent  
10 jurisdiction to be entirely contrary to the state Constitution of any Member State or otherwise  
11 entirely invalid as to any Member State, the Member State shall be deemed to have withdrawn  
12 from the Compact, and the Compact shall remain in full force and effect as to any remaining  
13 Member State. Finally, if the Compact is declared in a final judgment by a court of competent  
14 jurisdiction to be wholly or substantially in violation of Article I, Section 10, of the Constitution of  
15 the United States, then it shall be construed and enforced solely as reciprocal legislation enacted  
16 by the affected Member State(s).

**§4A-10-7. Termination.**

1 The Compact shall terminate and be held for naught when the Compact is fully performed  
2 and the Constitution of the United States is amended by the Balanced Budget Amendment.  
3 However, notwithstanding anything to the contrary set forth in the Compact, in the event the  
4 amendment does not occur within seven years after the first state passes legislation enacting,  
5 adopting and agreeing to be bound to the Compact, the Compact shall terminate as follows: (1)  
6 The Commission shall dissolve and wind up its operations within ninety days thereafter, with the  
7 Compact Administrator giving notice of the dissolution and the operative effect of this section to  
8 the Compact Notice Recipients; and (2) upon the completed dissolution of the Commission, the  
9 Compact shall be deemed terminated, repealed, void ab initio, and held for naught.

NOTE: The purpose of this bill is to create the Compact for a Balanced Budget. The bill provides a declaration of policy, purpose and intent. The bill defines terms. The bill provides for Compact membership and withdrawal. The bill provides for a Compact Commission and Compact Administrator. The bill provides for a resolution applying for a Constitutional Convention. The bill provides for the appointment of delegates, their instructions and

limitations. The bill provides for convention rules. The bill provides a prohibition on ultra vires convention. The bill provides for a resolution prospectively ratifying a balanced budget amendment. The bill provides for the construction, enforcement, venue and severability. The bill providing effective dates a termination date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.