

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Introduced**

## **Senate Bill 555**

BY SENATORS TAKUBO AND BALDWIN

[Introduced January 21, 2020; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §16-60-1, §16-60-2, §16-60-3, §16-60-4, §16-60-5, §16-60-6, §16-60-7, §16-  
 3 60-8, §16-60-9, §16-60-10, §16-60-11, §16-60-12, §16-60-13, §16-60-14, §16-60-15, and  
 4 §16-60-16, all relating to enacting the Solemn Covenant of the States to Award Prizes for  
 5 Curing Diseases Compact; and providing for its creation and operation.

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

**ARTICLE 60. SOLEMN COVENANT OF THE STATES TO AWARD PRIZES FOR  
 CURING DISEASES COMPACT.**

**§16-60-1. Definitions.**

1 For purposes of this compact:

2 “Compacting state” means either of the following:

3 (A) Any state that has enacted the compact and which has not withdrawn or been  
 4 suspended pursuant to §16-60-14 of this code;

5 (B) The federal government in accordance with the commission’s bylaws.

6 “Compact” means the Solemn Covenant of the States to Award Prizes for Curing Diseases  
 7 enacted in this article.

8 “Noncompacting state” means any state or the federal government, if it is not at the time  
 9 a compacting state.

10 “Public health expenses” means the amount of all costs paid by taxpayers in a specified  
 11 geographic area relating to a particular disease.

12 “State” means any state, district, or territory of the United States of America.

**§16-60-2. Establishment of the commission; membership.**

1 (a) Upon the enactment of the compact by six states, the compacting states shall establish  
 2 the Solemn Covenant of States Commission.

3 (b) The commission is a body corporate and politic and an instrumentality of each of the

4 compacting states and is solely responsible for its liabilities, except as otherwise specifically  
5 provided in the compact.

6 (c) Each compacting state shall be represented by one member as selected by the  
7 compacting state. Each compacting state shall determine its member's qualifications and period  
8 of service and is responsible for any action to remove or suspend its member or to fill the  
9 member's position if it becomes vacant. This compact does not affect a compacting state's  
10 authority regarding the qualification, selection, or service of its own member.

**§16-60-3. Powers of the commission.**

1 The commission has authority:

2 (1) To adopt bylaws and rules pursuant to §16-60-5 and §16-60-6 of this code, which shall  
3 have the force and effect of law and are binding in the compacting states to the extent and in the  
4 manner provided in the compact;

5 (2) To receive and review in an expeditious manner treatments and therapeutic protocols  
6 for the cure of disease submitted to the commission and to award prizes for submissions that  
7 meet the commission's standards for a successful cure treatment or therapeutic protocol;

8 (3) To make widely available a cure treatment or therapeutic protocol upon a prize winner  
9 claiming a prize and transferring any intellectual property necessary for the manufacture and  
10 distribution of the cure in accordance with §16-6-6(c)(7)(A) of this code, including by arranging or  
11 contracting for the manufacturing, production, or provision of any drug, serum, or other substance,  
12 device, or process, provided that the commission does not market the cure or conduct any other  
13 activity regarding the cure not specifically authorized in the compact;

14 (4) To establish a selling price for the cure, which may not be more than the expenses for  
15 the cure's manufacturing, distribution, licensing, and any other necessary governmental  
16 requirements for compacting states, or those expenses plus any royalty fees, for noncompacting  
17 states; the price may not include the expenses of any other activities;

18 (5) In noncompacting states and foreign countries, to establish and collect royalty fees

19 imposed on manufacturers, producers, and providers of any drug, serum, or other substance,  
20 device, or process used for a cure treatment or therapeutic protocol, for which a prize is awarded;  
21 royalty fees may be added to the sales price of the cure pursuant to subsection (4) of this section;  
22 provided that the royalty fees shall cumulatively be not more than the estimated five-year savings  
23 in public health expenses for that state or country, as calculated by actuaries employed or  
24 contracted by the commission;

25 (6) To do the following regarding the collected royalty fees:

26 (A) Pay or reimburse expenses related to the payment of a prize, which shall include  
27 employing or contracting actuaries to calculate annual taxpayer savings amounts in compacting  
28 states in accordance with §16-60-6(c)(7)(C) of this code, and payment of interest and other  
29 expenses related to a loan obtained in accordance with §16-60-6(c)(7)(D) of this code; and

30 (B) Annually disburse any amounts remaining after making payments or reimbursements  
31 under subdivision (1), subsection (f) of this section as refunds to compacting states based on the  
32 percent of the state's prize obligation in relation to the total obligation amount of all compacting  
33 states;

34 (7) To bring and prosecute legal proceedings or actions in its name as the commission;

35 (8) To issue subpoenas requiring the attendance and testimony of witnesses and the  
36 production of evidence;

37 (9) To establish and maintain offices;

38 (10) To borrow, accept, or contract for personnel services, including personnel services  
39 from employees of a compacting state;

40 (11) To hire employees, professionals, or specialists, and elect or appoint officers, and to  
41 fix their compensation, define their duties and give them appropriate authority to carry out the  
42 purposes of the compact, and determine their qualifications; and to establish the commission's  
43 personnel policies and programs relating to, among other things, conflicts of interest, rates of  
44 compensation, and qualifications of personnel;

45 (12) To accept any and all appropriate donations and grants of money, equipment,  
 46 supplies, materials, and services, and to receive, use, and dispose of the same: *Provided*, that at  
 47 all times the commission shall strive to avoid any appearance of impropriety;

48 (13) To lease, purchase, or accept appropriate gifts or donations of, or otherwise to own,  
 49 hold, improve, or use, any property, real, personal, or mixed: *Provided*, that at all times the  
 50 commission shall strive to avoid any appearance of impropriety;

51 (14) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
 52 of any property, real, personal, or mixed;

53 (15) To monitor compacting states for compliance with the commission’s bylaws and rules;

54 (16) To enforce compliance by compacting states with the commission’s bylaws and rules;

55 (17) To provide for dispute resolution among compacting states or between the  
 56 commission and those who submit treatments and therapeutic protocols for the cure of disease  
 57 for consideration;

58 (18) To establish a budget and make expenditures;

59 (19) To borrow money;

60 (20) To appoint committees, including management, legislative, and advisory committees  
 61 comprised of members, state legislators or their representatives, medical professionals, and such  
 62 other interested persons as may be designated by the commission;

63 (21) To establish annual membership dues for compacting states, which shall be used for  
 64 daily expenses of the commission and not for interest or prize payments;

65 (22) To adopt and use a corporate seal; and

66 (23) To perform such other functions as may be necessary or appropriate to achieve the  
 67 purposes of this compact.

**§16-60-4. Meetings and voting.**

1 (a) The commission shall meet and take such actions as are consistent with the compact,  
 2 bylaws, and rules.

3 (b) A majority of the members of the commission is a quorum necessary in order to  
4 conduct business or take actions at meetings of the commission.

5 (c) Each member of the commission has the right and power to cast one vote regarding  
6 matters determined or actions to be taken by the commission. Each member has the right and  
7 power to participate in the business and affairs of the commission.

8 (d) A member shall vote in person or by other means as provided in the commission's  
9 bylaws. The commission's bylaws may provide for members' participation in meetings by  
10 telephone or other means of communication.

11 (e) The commission shall meet at least once during each calendar year. Additional  
12 meetings shall be held as set forth in the commission's bylaws.

13 (f) No decision of the commission with respect to the approval of an award for a treatment  
14 or therapeutic process for the cure of a disease is effective unless two thirds of all the members  
15 of the commission vote in favor thereof.

16 (g) Guidelines and voting requirements for all other decisions of the commission shall be  
17 established in the commission's bylaws.

**§16-60-5. Bylaws.**

1 The commission shall, by a majority vote of all the members of the commission, prescribe  
2 bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and  
3 exercise the powers, of the compact, including, but not limited to:

4 (1) Establishing the fiscal year of the commission;

5 (2) Providing reasonable procedures for appointing and electing members, as well as  
6 holding meetings, of the management committee;

7 (3) Providing reasonable standards and procedures:

8 (A) For the establishment and meetings of other committees;

9 (B) Governing any general or specific delegation of any authority or function of the  
10 commission; and

11 (C) Voting guidelines and procedures for commission decisions.

12 (4) Providing reasonable procedures for calling and conducting meetings of the  
13 commission that shall consist of requiring a quorum to be present, ensuring reasonable advance  
14 notice of each such meeting and providing for the right of citizens to attend each such meeting  
15 with enumerated exceptions designed to protect the public's interest and the privacy of  
16 individuals.

17 (5) Providing a list of matters about which the commission may go into executive session  
18 and requiring a majority of all members of the commission vote to enter into such session. As  
19 soon as practicable, the commission shall make public:

20 (A) A copy of the vote to go into executive session, revealing the vote of each member  
21 with no proxy votes allowed; and

22 (B) The matter requiring executive session, without identifying the actual issues or  
23 individuals involved.

24 (6) Establishing the titles, duties, authority, and reasonable procedures for the election of  
25 the officers of the commission;

26 (7) Providing reasonable standards and procedures for the establishment of the personnel  
27 policies and programs of the commission. Notwithstanding any civil service or other similar laws  
28 of any compacting state, the commission's bylaws shall exclusively govern the personnel policies  
29 and programs of the commission;

30 (8) Allowing a mechanism for:

31 (A) The federal government to join as a compacting state; and

32 (B) Foreign countries or subdivisions of those countries to join as liaison members by  
33 adopting the compact; provided that adopting countries or subdivisions shall not have voting  
34 power or the power to bind the commission in any way.

35 (9) Adopting a code of ethics to address permissible and prohibited activities of members  
36 and employees;

- 37           (10) Providing for the maintenance of the commission’s books and records;
- 38           (11) Governing the acceptance of and accounting for donations, annual member dues,
- 39 and other sources of funding and establishing the proportion of these funds to be allocated to
- 40 prize amounts for treatments and therapeutic protocols that cure disease;
- 41           (12) Governing any fund-raising efforts in which the commission wishes to engage; and
- 42           (13) Providing a mechanism for winding up the operations of the commission and the
- 43 equitable disposition of any surplus funds that may exist after the termination of the compact after
- 44 the payment and reserving of all its debts and obligations.

**§16-60-6. Rules.**

- 1           (a) The commission shall adopt rules to do the following:
- 2           (1) Effectively and efficiently achieve the purposes of this compact;
- 3           (2) Govern the methods, processes, and any other aspect of the research, creation, and
- 4 testing of a treatment or therapeutic protocol for each disease for which a prize may be awarded.
- 5           (b) The commission shall also adopt rules establishing the criteria for defining and
- 6 classifying the diseases for which prizes shall be awarded. The commission may define and
- 7 classify subsets of diseases, for example, tubular carcinoma of the breast. For purposes of
- 8 subdivisions (1) and (3), subsection (c) of this section, a subset of a disease shall be considered
- 9 one disease. The commission may consult the most recent edition of the international
- 10 classification of disease as published by the world health organization or other definitions agreed
- 11 to by a two-thirds vote of the commission.
- 12           (c) The commission shall also adopt rules regarding prizes for curing diseases that
- 13 establish the following:
- 14           (1) At least 10 major diseases for which to create prizes, which shall be determined based
- 15 on the following factors:
- 16           (A) The severity of the disease to a human individual’s overall health and well-being;
- 17           (B) The survival rate or severity of impact of the disease;

18 (C) The public health expenses and treatment expenses for the disease.

19 (2) The criteria a treatment or therapeutic protocol must meet in order to be considered a  
20 cure for any of the diseases for which a prize may be awarded, which shall include the following  
21 requirements:

22 (A) It must be approved by the federal Food and Drug Administration or have otherwise  
23 obtained legal status for the compact to immediately contract to manufacture and distribute in the  
24 United States;

25 (B) Except as provided in subsection (d) of this section, it must yield a significant increase  
26 in survival with respect to the diseases if early death is the usual outcome;

27 (C) It requires less than one year of the treatment or protocol to completely cure the  
28 disease.

29 (3) The procedure for determining the diseases for which to award prizes, which includes  
30 the option to award prizes for more than 10 diseases that meet the above criteria, if agreed to by  
31 two-thirds vote of the commission, and a requirement to update the list every three years.

32 (4) The submission and evaluation procedures and guidelines, including filing and review  
33 procedures, a requirement that the person or entity submitting the cure bears the burden of proof  
34 in demonstrating that the treatment or therapeutic protocol meets the above criteria, and  
35 limitations preventing public access to treatment or protocol submissions.

36 (5) The estimated five-year public health savings that would result from a cure, which shall  
37 be equal to the five-year public health expenses for each disease in each compacting state, and  
38 a procedure to update these expenses every three years in conjunction with the requirements in  
39 subdivision (3), subsection (c) of this section. The estimated five-year public health savings  
40 amount shall be calculated, estimated, and publicized every three years by actuaries employed  
41 or contracted by the commission.

42 (6) The prize amount with respect to cures for each disease, which shall be equal to the  
43 most recent estimated total five-year savings in public health expenses for the disease as

44 calculated in subdivision (5), subsection (c) of this section in all of the compacting states; amounts  
45 donated by charities, individuals, and any other entities intended for the prize under §16-60-1 of  
46 this code; and any other factors that the commission deems appropriate.

47 (7) The prize distribution procedures and guidelines, which shall include the following  
48 requirements:

49 (A) Upon acceptance of a cure, the prize winner shall transfer to the commission the patent  
50 and all related intellectual property for the manufacture and distribution of the treatment or  
51 therapeutic protocol in exchange for the prize, except in the case that the prize money is  
52 considered by the commission to be too low, and that a prize will be awarded only to the first  
53 person or entity that submits a successful cure for a disease for which a prize may be awarded.

54 (B) Donation amounts intended for the prize shall be kept in a separate, interest-bearing  
55 account maintained by the commission. This account shall be the only account in which prize  
56 money is kept.

57 (C) Each compacting state shall have the responsibility to pay annually the compacting  
58 state's actual one-year savings in public health expenses for the particular disease for which a  
59 cure has been accepted. The compacting state shall make such an annual payment until it has  
60 fulfilled its prize responsibility as established in subdivision (6), subsection (c) of this section. Each  
61 compacting state's payment responsibility begins one year after the date the cure becomes widely  
62 available. The commission shall employ or contract with actuaries to calculate each state's actual  
63 one-year savings in public health expenses at the end of each year to determine each state's  
64 responsibility for the succeeding year.

65 (D) Compacting states may meet prize responsibilities by any method including the  
66 issuance of bonds or other obligations, with the principal and interest of those bonds or obligations  
67 to be repaid only from revenue derived from estimated public health expense savings from a cure  
68 to a disease. If the compacting state does not make such revenue available to repay some or all  
69 of the revenue bonds or obligations issued, the owners or holders of those bonds or obligations

70 have no right to have excises or taxes levied to pay the principal or interest on them. The revenue  
71 bonds and obligations are not a debt of the issuing compacting state.

72 (E) A compacting state may issue bonds or other debt that are general obligations, under  
73 which the full faith and credit, revenue, and taxing power of the state is pledged to pay the principal  
74 and interest under those obligations, only if authorized by the compacting state's constitution or,  
75 if constitutional authorization is not required, by other law of the compacting state.

76 (F) Upon acceptance of a cure, the commission shall obtain a loan from a financial  
77 institution in an amount equal to the most recently calculated total estimated five-year public  
78 health expenses for the disease in all compacting states, in accordance with subdivision (6),  
79 subsection (c) of this section. The commission reserves the right to continuously evaluate the  
80 cure in the interim and rescind a prize offer if the commission finds that the cure no longer meets  
81 the commission's criteria.

82 (d) The commission may award a prize for a treatment or therapeutic protocol that yields  
83 a survival rate that is less than what is established in the cure criteria through at least five years  
84 after the treatment or protocol has ended. In that case, the prize amount awarded for that  
85 treatment or therapeutic protocol shall be reduced from the prize amount originally determined by  
86 the commission for a cure for that disease. The reduction shall be in proportion to the survival  
87 rate yielded by that treatment or protocol as compared to the survival rate established in the cure  
88 criteria.

89 (e) The commission also shall adopt rules that do the following:

90 (1) Establish the following regarding commission records:

91 (A) Conditions and procedures for public inspection and copying of its information and  
92 official records, except such information and records involving the privacy of individuals or would  
93 otherwise violate privacy laws under federal law and the laws of the compacting states;

94 (B) Procedures for sharing with federal and state agencies, including law-enforcement  
95 agencies, records and information otherwise exempt from disclosure;

96 (C) Guidelines for entering into agreements with federal and state agencies to receive or  
97 exchange information or records subject to nondisclosure and confidentiality provisions.

98 (2) Provide a process for commission review of submitted treatments and therapeutic  
99 protocols for curing diseases that includes the following:

100 (A) An opportunity for an appeal, not later than 30 days after a rejection of a treatment or  
101 protocol for prize consideration, to a review panel established under the commission's dispute  
102 resolution process;

103 (B) Commission monitoring and review of treatment and protocol effectiveness consistent  
104 with the cure criteria established by the commission for the particular disease;

105 (C) Commission reconsideration, modification, or withdrawal of approval of a treatment or  
106 protocol for prize consideration for failure to continue to meet the cure criteria established by the  
107 commission for the particular disease.

108 (3) Establish a dispute resolution process to resolve disputes or other issues under the  
109 compact that may arise between two or more compacting states or between the commission and  
110 individuals or entities who submit treatments and therapeutic protocols to cure diseases, which  
111 process shall provide for:

112 (A) Administrative review by a review panel appointed by the commission;

113 (B) Judicial review of decisions issued after an administrative review; and

114 (C) Qualifications to be appointed to a panel, due process requirements, including notice  
115 and hearing procedures, and any other procedure, requirement, or standard necessary to provide  
116 adequate dispute resolution.

117 (4) Establish and impose annual member dues on compacting states, which shall be  
118 calculated based on the percentage of each compacting state's population in relation to the  
119 population of all the compacting states.

120 (f)(1) Recognizing that the goal of the compact is to pool the potential savings of as many  
121 states and countries as possible to generate sufficient financial incentive to develop a cure for

122 many of the world's most devastating diseases, the compact will respect the laws of each of these  
123 United States by adopting rules that establish ethical standards for research that shall be followed  
124 in order for a prize to be claimed. The compact, in the rules, shall establish a common set of  
125 ethical standards that embodies the laws and restrictions in each of the states so that to be eligible  
126 for claiming a prize the entity submitting a cure must not have violated any of the ethical standards  
127 in any one of the 50 states, whether the states have joined the compact or not. The compact will  
128 publish these common ethical standards along with the specific criteria for a cure for each of the  
129 diseases the compact has targeted.

130 (2) So long as a researcher follows the common ethical standards in effect at the time the  
131 research is done, an entity presenting a cure will be deemed to have followed the standards. On  
132 or before January 1 of each year, the compact shall review all state laws to determine if additional  
133 ethical standards have been enacted by any of the 50 states and the federal government. Any  
134 changes to the common ethical standards rules based on new state laws shall be adopted and  
135 published by the compact, but do not take effect in cure criteria for a period of three years to allow  
136 for sufficient notice to researchers.

137 (g) All rules may be amended as the commission sees necessary.

138 (h) All rules shall be adopted pursuant to a rule-making process that conforms to the model  
139 state Administrative Procedure Act of 1981 by the Uniform Law Commissioners, as amended, as  
140 may be appropriate to the operations of the commission.

141 (i) In the event the commission exercises its rule-making authority in a manner that is  
142 beyond the scope of the purpose of this compact, or the powers granted hereunder, then such  
143 rule is invalid and has no force and effect.

#### **§16-60-7. Committees.**

1 (a)(1) The commission may establish a management committee comprised of not more  
2 than 14 members when 26 states enact the compact.

3 (2) The committee shall consist of those members representing compacting states whose

4 total public health expenses of all of the established diseases are the highest.

5 (3) The committee has the authority and duties as may be set forth in the commission's  
6 bylaws and rules, including:

7 (A) Managing authority over the day-to-day affairs of the commission in a manner  
8 consistent with the commission's bylaws and rules and the purposes of the compact:

9 (B) Overseeing the offices of the commission; and

10 (C) Planning, implementing, and coordinating communications and activities with state,  
11 federal, and local government organizations in order to advance the goals of the compact.

12 (4) The commission annually shall elect officers for the committee, with each having such  
13 authority and duties as may be specified in the commission's bylaws and rules.

14 (5) The management committee, subject to commission approval, may appoint or retain  
15 an executive director for such period, upon such terms and conditions, and for such compensation  
16 as the committee determines. The executive director serves as secretary to the commission, but  
17 is not a member of the commission. The executive director shall hire and supervise such other  
18 staff as may be authorized by the committee.

19 (b) The commission may appoint advisory committees to monitor all operations related to  
20 the purposes of the compact and make recommendations to the commission. The manner of  
21 selection and term of any committee member shall be as set forth in the commission's bylaws  
22 and rules. The commission shall consult with an advisory committee, to the extent required by the  
23 commission's bylaws or rules, before doing any of the following:

24 (1) Approving cure criteria;

25 (2) Amending, enacting, or repealing any bylaw or rule;

26 (3) Adopting the commission's annual budget; and

27 (4) Addressing any other significant matter or taking any other significant action.

**§16-60-8. Finance.**

1 (a) The commission annually shall establish a budget to pay or provide for the payment of

2 its reasonable expenses. To fund the cost of initial operations, the commission may accept  
3 contributions and other forms of funding from the compacting states and other sources.  
4 Contributions and other forms of funding from other sources shall be of such a nature that the  
5 independence of the commission concerning the performance of its duties shall not be  
6 compromised.

7 (b) The commission shall be exempt from all taxation in and by the compacting states.

8 (c) The commission shall keep complete and accurate accounts of all of its internal  
9 receipts, including grants and donations, and disbursements of all funds under its control. The  
10 internal financial accounts of the commission shall be subject to the accounting procedures  
11 established under the commission's bylaws or rules. The financial accounts and reports including  
12 the system of internal controls and procedures of the commission shall be audited annually by an  
13 independent certified public accountant. Upon the determination of the commission, but not less  
14 frequently than every three years, the review of the independent auditor shall include a  
15 management and performance audit of the commission. The commission shall make an annual  
16 report to the governors and legislatures of the compacting states, which shall include a report of  
17 the independent audit. The commission's internal accounts shall not be confidential and such  
18 materials may be shared with any compacting state upon request provided, however, that any  
19 work papers related to any internal or independent audit and any information subject to the  
20 compacting states' privacy laws, shall remain confidential.

21 (d) No compacting state shall have any claim or ownership of any property held by or  
22 vested in the commission or to any commission funds held pursuant to the provisions of the  
23 compact.

**§16-60-9. Records.**

1 Except as to privileged records, data, and information, the laws of any compacting state  
2 pertaining to confidentiality or nondisclosure does not relieve any member of the duty to disclose  
3 any relevant records, data, or information to the commission. Disclosure to the commission does

4 not waive or otherwise affect any confidentiality requirement. Except as otherwise expressly  
5 provided in the compact, the commission is not subject to the compacting state's laws pertaining  
6 to confidentiality and nondisclosure with respect to records, data, and information in its  
7 possession. Confidential information of the commission shall remain confidential after such  
8 information is provided to any member. All cure submissions received by the commission are  
9 confidential.

**§16-60-10. Compliance.**

1 The commission shall notify a compacting state in writing of any noncompliance with  
2 commission bylaws and rules. If a compacting state fails to remedy its noncompliance within the  
3 time specified in the notice, the compacting state shall be deemed to be in default as set forth in  
4 §16-60-14 of this code.

**§16-60-11. Venue.**

1 Venue for any judicial proceedings by or against the commission shall be brought in the  
2 appropriate court of competent jurisdiction for the geographical area in which the principal office  
3 of the commission is located.

**§16-60-12. Qualified immunity, defense, and indemnification.**

1 (a) The members, officers, executive director, employees, and representatives of the  
2 commission are immune from suit and liability, either personally or in their official capacity, for any  
3 claim for damage to or loss of property or personal injury or other civil liability caused by or arising  
4 out of any actual or alleged act, error, or omission that occurred, or that such person had a  
5 reasonable basis for believing occurred within the scope of the person's commission employment,  
6 duties, or responsibilities. This subsection does not protect any such person from suit or liability  
7 for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct  
8 of that person.

9 (b) The commission shall defend any member, officer, executive director, employee, or  
10 representative of the commission in any civil action seeking to impose liability arising out of any

11 actual or alleged act, error, or omission that occurred within the scope of the person's commission  
12 employment, duties, or responsibilities, or that such person had a reasonable basis for believing  
13 occurred within the scope of commission employment, duties, or responsibilities. The compact or  
14 commission bylaws or rules do not prohibit that person from retaining his or her own counsel if  
15 the actual or alleged act, error, or omission did not result from that person's intentional or willful  
16 and wanton misconduct.

17 (c) The commission shall indemnify and hold harmless any member, officer, executive  
18 director, employee, or representative of the commission for the amount of any settlement or  
19 judgment obtained against the person arising out of any actual or alleged act, error, or omission  
20 that occurred within the scope of the person's commission employment, duties, or responsibilities,  
21 or that such person had a reasonable basis for believing occurred within the scope of commission  
22 employment, duties, or responsibilities, if the actual or alleged act, error, or omission, did not  
23 result from the intentional or willful and wanton misconduct of that person.

**§16-60-13. Compacting states, effective date, and amendment.**

1 (a) Any state is eligible to become a compacting state.

2 (b) The compact shall become effective and binding upon legislative enactment of the  
3 compact into law by two compacting states, except that the commission may only be established  
4 after six states become compacting states. Thereafter, the compact shall become effective and  
5 binding as to any other compacting state upon enactment of the compact into law by that state.

6 (c) Amendments to the compact may be proposed by the commission for enactment by  
7 the compacting states. No amendment becomes effective and binding until all compacting states  
8 enact the amendment into law.

9 (d) If funding is requested or required, the legislative authority of each compacting state is  
10 responsible for making the appropriations it determines necessary to pay for the costs of the  
11 compact, including annual member dues and prize distributions.

**§16-60-14. Withdrawal, default, and expulsion.**

1           (a)(1) Once effective, the compact shall continue in force and remain binding upon each  
2 and every compacting state. A compacting state may withdraw from the compact by doing both  
3 of the following:

4           (A) Repealing the law enacting the compact in that state; and

5           (B) Notifying the commission in writing of the intent to withdraw on a date that is both of  
6 the following:

7           (i) At least three years after the date the notice is sent; and

8           (ii) After the repeal takes effect.

9           (2) The effective date of withdrawal is the date described in this subsection.

10           (3) The member representing the withdrawing state shall immediately notify the  
11 management committee in writing upon the introduction of legislation in that state repealing the  
12 compact. If a management committee has not been established, the member shall immediately  
13 notify the commission.

14           (4) The commission or management committee, as applicable, shall notify the other  
15 compacting states of the introduction of such legislation within 10 days after its receipt of notice  
16 thereof.

17           (5) The withdrawing state is responsible for all obligations, duties and liabilities incurred  
18 through the effective date of withdrawal, including any obligations, the performance of which  
19 extend beyond the effective date of withdrawal. The commission's actions shall continue to be  
20 effective and be given full force and effect in the withdrawing state.

21           (6) Reinstatement following a state's withdrawal shall become effective upon the effective  
22 date of the subsequent enactment of the compact by that state.

23           (b)(1) If the commission determines that any compacting state has at any time defaulted  
24 in the performance of any of its obligations or responsibilities under the compact or the  
25 commission's bylaws or rules, then, after notice and hearing as set forth in the bylaws, all rights,  
26 privileges, and benefits conferred by this compact on the defaulting state shall be suspended from

27 the effective date of default as fixed by the commission. The grounds for default include failure of  
28 a compacting state to perform its obligations or responsibilities, and any other grounds designated  
29 in commission rules. The commission shall immediately notify the defaulting state in writing of the  
30 suspension pending cure of the default. The commission shall stipulate the conditions and the  
31 time period within which the defaulting state shall cure its default. If the defaulting state fails to  
32 cure the default within the time period specified by the commission, the defaulting state shall be  
33 expelled from the compact and all rights, privileges, and benefits conferred by the compact shall  
34 be terminated from the effective date of the expulsion. Any state that is expelled from the compact  
35 shall be liable for any cure prize or prizes for three years after its removal. The commission shall  
36 also take appropriate legal action to ensure that any compacting state that withdraws from the  
37 compact remains liable for paying its responsibility towards a prize for a cure that was accepted  
38 while the compacting state was a member of the commission.

39 (2) The expelled state must reenact the compact in order to become a compacting state.

40 (c)(1) The compact dissolves effective upon the date of either of the following:

41 (A) The withdrawal or expulsion of a compacting state, which withdrawal or expulsion  
42 reduces membership in the compact to one compacting state; or

43 (B) The commission votes to dissolve the compact.

44 (2) Upon the dissolution of the compact, the compact becomes null and void and shall be  
45 of no further force or effect, and the business and affairs of the commission shall be wound up  
46 and any surplus funds shall be distributed in accordance with the commission's bylaws, except  
47 that the commission shall pay all outstanding prizes awarded before the dissolution of the  
48 compact, as well as any other outstanding debts and obligations incurred during the existence of  
49 the compact. Any unawarded funds donated to be a part of a prize shall be returned to the donor,  
50 along with any interest earned on the amount.

**§16-60-15. Severability and construction.**

1 (a) The provisions of the compact are severable; and if any phrase, clause, sentence, or

2 provision is deemed unenforceable, the remaining provisions of the compact is enforceable.

3 (b) The provisions of the compact shall be liberally construed to effectuate its purposes.

**§16-60-16. Binding effect of compact and other laws.**

1 (a) This compact does not prevent the enforcement of any other law of a compacting state,  
2 except as provided in subdivision (2), subsection (b) of this section.

3 (b)(1) All lawful actions of the commission, including all commission rules, are binding  
4 upon the compacting states.

5 (2) All agreements between the commission and the compacting states are binding in  
6 accordance with their terms.

7 (3) Except to the extent authorized by the compacting state's constitution or, if  
8 constitutional authorization is not required, by other law of the compacting state, such state, by  
9 entering into the compact does not:

10 (A) Commit the full faith and credit or taxing power of the compacting state for the payment  
11 of prizes or other obligations under the compact;

12 (B) Make prize payment responsibilities or other obligations under the compact a debt of  
13 the compacting state.

14 (4) Upon the request of a party to a conflict over the meaning or interpretation of  
15 commission actions, and upon a majority vote of the compacting states, the commission may  
16 issue advisory opinions regarding the meaning or interpretation in dispute.

17 (5) In the event any provision of the compact exceeds the constitutional limits imposed on  
18 any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by that  
19 provision upon the commission shall be ineffective as to that compacting state, and those  
20 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be  
21 exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are  
22 delegated by law in effect at the time the compact becomes effective.

NOTE: The purpose of this bill is to enact the Solemn Covenant of the States to Award Prizes for Curing Diseases.

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