

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### House Bill 2818

FISCAL  
NOTE

BY DELEGATE GRAVES

[Introduced March 02, 2021; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §16-5AA-1, relating to enacting the “Solemn Covenant of the States to Award  
 3 Prizes for Curing Diseases” Compact.

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

**ARTICLE 5AA. SOLEMN COVENANT OF THE STATES TO AWARD PRIZES FOR  
 CURING DISEASES.**

**§16-5AA-1. Solemn Covenant of the States to Award Prizes for Curing Diseases.**

1 This section enacting the “Solemn Covenant of the States to Award Prizes for Curing  
 2 Diseases” Compact shall be read as:

3 “Article I. Definitions

4 For purposes of this compact:

5 1. “Compacting state” means either of the following:

6 a. Any state that has enacted the compact and which has not withdrawn or been  
 7 suspended pursuant to Article XIV of the compact;

8 b. The federal government in accordance with the commission’s bylaws.

9 2. “Compact” means the Solemn Covenant of the States to Award Prizes for Curing  
 10 Diseases enacted in this section.

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

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

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

16 Article II. Establishment of the Commission; Membership

17 1. Upon the enactment of the compact by six states, the compacting states shall establish  
 18 the Solemn Covenant of States Commission.

19           2. The commission is a body corporate and politic and an instrumentality of each of the  
20 compacting states and is solely responsible for its liabilities, except as otherwise specifically  
21 provided in the compact.

22           3. Each compacting state shall be represented by one member as selected by the  
23 compacting state. Each compacting state shall determine its member's qualifications and period  
24 of service and shall be responsible for any action to remove or suspend its member or to fill the  
25 member's position if it becomes vacant. Nothing in the compact may be construed to affect a  
26 compacting state's authority regarding the qualification, selection, or service of its own member.

27           Article III. Powers of the Commission

28           1. To adopt bylaws and rules pursuant to Articles V and VI of the compact, which shall  
29 have the force and effect of law and shall be binding in the compacting states to the extent and  
30 in the manner provided in the compact;

31           2. To receive and review in an expeditious manner treatments and therapeutic protocols  
32 for the cure of disease submitted to the commission and to award prizes for submissions that  
33 meet the commission's standards for a successful cure treatment or therapeutic protocol;

34           3. To make widely available a cure treatment or therapeutic protocol upon a prize winner  
35 claiming a prize and transferring any intellectual property necessary for the manufacture and  
36 distribution of the cure in accordance with section 3.g.i. of Article VI, including by arranging or  
37 contracting for the manufacturing, production, or provision of any drug, serum, or other substance,  
38 device, or process, provided that the commission does not market the cure or conduct any other  
39 activity regarding the cure not specifically authorized in the compact;

40           4. To establish a selling price for the cure, which may be not more than the expenses for  
41 the cure's manufacturing, distribution, licensing, and any other necessary governmental  
42 requirements for compacting states, or those expenses plus any royalty fees, for noncompacting  
43 states; the price may not include the expenses of any other activities;

44           5. In noncompacting states and foreign countries, to establish and collect royalty fees

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

51 6. To do the following regarding the collected royalty fees:

52 a. Pay or reimburse expenses related to the payment of a prize, which shall include  
53 employing or contracting actuaries to calculate annual taxpayer savings amounts in compacting  
54 states in accordance with section 3.g.iii. of Article VI, and payment of interest and other expenses  
55 related to a loan obtained in accordance with section 3.g.vi. of Article VI;

56 b. Annually disburse any amounts remaining after making payments or reimbursements  
57 under section 6.a. of this article as refunds to compacting states based on the per cent of the  
58 state's prize obligation in relation to the total obligation amount of all compacting states;

59 7. To bring and prosecute legal proceedings or actions in its name as the commission;

60 8. To issue subpoenas requiring the attendance and testimony of witnesses and the  
61 production of evidence;

62 9. To establish and maintain offices;

63 10. To borrow, accept, or contract for personnel services, including personnel services  
64 from employees of a compacting state;

65 11. To hire employees, professionals, or specialists, and elect or appoint officers, and to  
66 fix their compensation, define their duties and give them appropriate authority to carry out the  
67 purposes of the compact, and determine their qualifications; and to establish the commission's  
68 personnel policies and programs relating to, among other things, conflicts of interest, rates of  
69 compensation, and qualifications of personnel;

70 12. To accept any and all appropriate donations and grants of money, equipment,

71 supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that  
72 at all times the commission shall strive to avoid any appearance of impropriety;

73 13. To lease, purchase, or accept appropriate gifts or donations of, or otherwise to own,  
74 hold, improve, or use, any property, real, personal, or mixed; provided, that at all times the  
75 commission shall strive to avoid any appearance of impropriety;

76 14. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
77 of any property, real, personal, or mixed;

78 15. To monitor compacting states for compliance with the commission's bylaws and rules;

79 16. To enforce compliance by compacting states with the commission's bylaws and rules;

80 17. To provide for dispute resolution among compacting states or between the commission  
81 and those who submit treatments and therapeutic protocols for the cure of disease for  
82 consideration;

83 18. To establish a budget and make expenditures;

84 19. To borrow money;

85 20. To appoint committees, including management, legislative, and advisory committees  
86 comprised of members, state legislators or their representatives, medical professionals, and such  
87 other interested persons as may be designated by the commission;

88 21. To establish annual membership dues for compacting states, which shall be used for  
89 daily expenses of the commission and not for interest or prize payments;

90 22. To adopt and use a corporate seal;

91 23. To perform such other functions as may be necessary or appropriate to achieve the  
92 purposes of this compact.

#### 93 Article IV. Meetings and Voting

94 1. The commission shall meet and take such actions as are consistent with the compact,  
95 bylaws, and rules.

96 2. A majority of the members of the commission shall constitute a quorum necessary in

97 order to conduct business or take actions at meetings of the commission.

98 3. Each member of the commission shall have the right and power to cast one vote  
99 regarding matters determined or actions to be taken by the commission. Each member shall have  
100 the right and power to participate in the business and affairs of the commission.

101 4. A member shall vote in person or by such other means as provided in the commission's  
102 bylaws. The commission's bylaws may provide for members' participation in meetings by  
103 telephone or other means of communication.

104 5. The commission shall meet at least once during each calendar year. Additional  
105 meetings shall be held as set forth in the commission's bylaws.

106 6. No decision of the commission with respect to the approval of an award for a treatment  
107 or therapeutic process for the cure of a disease shall be effective unless two-thirds of all the  
108 members of the commission vote in favor thereof.

109 7. Guidelines and voting requirements for all other decisions of the commission shall be  
110 established in the commission's bylaws.

111 Article V. Bylaws

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

115 1. Establishing the fiscal year of the commission;

116 2. Providing reasonable procedures for appointing and electing members, as well as  
117 holding meetings, of the management committee;

118 3. Providing reasonable standards and procedures:

119 a. For the establishment and meetings of other committees;

120 b. Governing any general or specific delegation of any authority or function of the  
121 commission; and

122 c. Voting guidelines and procedures for commission decisions.

123 4. Providing reasonable procedures for calling and conducting meetings of the  
124 commission that shall consist of requiring a quorum to be present, ensuring reasonable advance  
125 notice of each such meeting and providing for the right of citizens to attend each such meeting  
126 with enumerated exceptions designed to protect the public's interest and the privacy of  
127 individuals.

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

131 a. A copy of the vote to go into executive session, revealing the vote of each member with  
132 no proxy votes allowed; and

133 b. The matter requiring executive session, without identifying the actual issues or  
134 individuals involved.

135 6. Establishing the titles, duties, authority, and reasonable procedures for the election of  
136 the officers of the commission;

137 7. Providing reasonable standards and procedures for the establishment of the personnel  
138 policies and programs of the commission. Notwithstanding any civil service or other similar laws  
139 of any compacting state, the commission's bylaws shall exclusively govern the personnel policies  
140 and programs of the commission;

141 8. Allowing a mechanism for:

142 a. The federal government to join as a compacting state; and

143 b. Foreign countries or subdivisions of those countries to join as liaison members by  
144 adopting the compact; provided that adopting countries or subdivisions may not have voting  
145 power or the power to bind the commission in any way.

146 9. Adopting a code of ethics to address permissible and prohibited activities of members  
147 and employees;

148 10. Providing for the maintenance of the commission's books and records;

149 11. Governing the acceptance of and accounting for donations, annual member dues, and  
150 other sources of funding and establishing the proportion of these funds to be allocated to prize  
151 amounts for treatments and therapeutic protocols that cure disease;

152 12. Governing any fund-raising efforts in which the commission wishes to engage; and

153 13. Providing a mechanism for winding up the operations of the commission and the  
154 equitable disposition of any surplus funds that may exist after the termination of the compact after  
155 the payment and reserving of all its debts and obligations.

156 Article VI. Rules

157 1. The commission shall adopt rules to do the following:

158 a. Effectively and efficiently achieve the purposes of this compact;

159 b. Govern the methods, processes, and any other aspect of the research, creation, and  
160 testing of a treatment or therapeutic protocol for each disease for which a prize may be awarded.

161 2. The commission shall also adopt rules establishing the criteria for defining and  
162 classifying the diseases for which prizes shall be awarded. The commission may define and  
163 classify subsets of diseases, for example, tubular carcinoma of the breast. For purposes of  
164 sections 3.a. and c. of this article, a subset of a disease shall be considered one disease. The  
165 commission may consult the most recent edition of the international classification of disease as  
166 published by the world health organization or other definitions agreed to by a two-thirds vote of  
167 the commission.

168 3. The commission shall also adopt rules regarding prizes for curing diseases that  
169 establish the following:

170 a. At least 10 major diseases for which to create prizes, which shall be determined based  
171 on the following factors:

172 i. The severity of the disease to a human individual's overall health and well-being;

173 ii. The survival rate or severity of impact of the disease;

174 iii. The public health expenses and treatment expenses for the disease.



175 b. The criteria a treatment or therapeutic protocol must meet in order to be considered a  
176 cure for any of the diseases for which a prize may be awarded, which shall include the following  
177 requirements:

178 i. It must be approved by the federal Food and Drug Administration or have otherwise  
179 obtained legal status for the compact to immediately contract to manufacture and distribute in the  
180 United States;

181 ii. Except as provided in section 4. of this article, it must yield a significant increase in  
182 survival with respect to the diseases if early death is the usual outcome;

183 iii. It requires less than one year of the treatment or protocol to completely cure the  
184 disease.

185 c. The procedure for determining the diseases for which to award prizes, which includes  
186 the option to award prizes for more than 10 diseases that meet the above criteria, if agreed to by  
187 two-thirds vote of the commission, and a requirement to update the list every three years.

188 d. The submission and evaluation procedures and guidelines, including filing and review  
189 procedures, a requirement that the person or entity submitting the cure bears the burden of proof  
190 in demonstrating that the treatment or therapeutic protocol meets the above criteria, and  
191 limitations preventing public access to treatment or protocol submissions.

192 e. The estimated five-year public health savings that would result from a cure, which shall  
193 be equal to the five-year public health expenses for each disease in each compacting state, and  
194 a procedure to update these expenses every three years in conjunction with the requirements in  
195 section 3.c. of this article. The estimated five-year public health savings amount shall be  
196 calculated, estimated, and publicized every three years by actuaries employed or contracted by  
197 the commission.

198 f. The prize amount with respect to cures for each disease, which shall be equal to the  
199 most recent estimated total five-year savings in public health expenses for the disease as  
200 calculated in section 3.e. of this article in all of the compacting states; amounts donated by

201 charities, individuals, and any other entities intended for the prize under Article I of the compact;  
202 and any other factors that the commission deems appropriate.

203 g. The prize distribution procedures and guidelines, which shall include the following  
204 requirements:

205 i. Upon acceptance of a cure, the prize winner shall transfer to the commission the patent  
206 and all related intellectual property for the manufacture and distribution of the treatment or  
207 therapeutic protocol in exchange for the prize, except in the case that the prize money is  
208 considered by the commission to be too low, and that a prize will be awarded only to the first  
209 person or entity that submits a successful cure for a disease for which a prize may be awarded.

210 ii. Donation amounts intended for the prize shall be kept in a separate, interest-bearing  
211 account maintained by the commission. This account shall be the only account in which prize  
212 money is kept.

213 iii. Each compacting state shall have the responsibility to pay annually the compacting  
214 state's actual one-year savings in public health expenses for the particular disease for which a  
215 cure has been accepted. The compacting state shall make such an annual payment until it has  
216 fulfilled its prize responsibility as established in section 3.f. of this article. Each compacting state's  
217 payment responsibility begins one year after the date the cure becomes widely available. The  
218 commission shall employ or contract with actuaries to calculate each state's actual one-year  
219 savings in public health expenses at the end of each year to determine each state's responsibility  
220 for the succeeding year.

221 iv. Compacting states may meet prize responsibilities by any method including the  
222 issuance of bonds or other obligations, with the principal and interest of those bonds or obligations  
223 to be repaid only from revenue derived from estimated public health expense savings from a cure  
224 to a disease. If the compacting state does not make such revenue available to repay some or all  
225 of the revenue bonds or obligations issued, the owners or holders of those bonds or obligations  
226 have no right to have excises or taxes levied to pay the principal or interest on them. The revenue

227 bonds and obligations are not a debt of the issuing compacting state.

228 v. A compacting state may issue bonds or other debt that are general obligations, under  
229 which the full faith and credit, revenue, and taxing power of the state is pledged to pay the principal  
230 and interest under those obligations, only if authorized by the compacting state's constitution or,  
231 if constitutional authorization is not required, by other law of the compacting state.

232 vi. Upon acceptance of a cure, the commission shall obtain a loan from a financial  
233 institution in an amount equal to the most recently calculated total estimated five-year public  
234 health expenses for the disease in all compacting states, in accordance with section 3.f. of this  
235 article. The commission reserves the right to continuously evaluate the cure in the interim and  
236 rescind a prize offer if the commission finds that the cure no longer meets the commission's  
237 criteria.

238 4. The commission may award a prize for a treatment or therapeutic protocol that yields a  
239 survival rate that is less than what is established in the cure criteria through at least five years  
240 after the treatment or protocol has ended. In that case, the prize amount awarded for that  
241 treatment or therapeutic protocol shall be reduced from the prize amount originally determined by  
242 the commission for a cure for that disease. The reduction shall be in proportion to the survival  
243 rate yielded by that treatment or protocol as compared to the survival rate established in the cure  
244 criteria.

245 5. The commission also shall adopt rules that do the following:

246 a. Establish the following regarding commission records:

247 i. Conditions and procedures for public inspection and copying of its information and  
248 official records, except such information and records involving the privacy of individuals or would  
249 otherwise violate privacy laws under federal law and the laws of the compacting states;

250 ii. Procedures for sharing with federal and state agencies, including law enforcement  
251 agencies, records and information otherwise exempt from disclosure;

252 iii. Guidelines for entering into agreements with federal and state agencies to receive or

253 exchange information or records subject to nondisclosure and confidentiality provisions.

254 b. Provide a process for commission review of submitted treatments and therapeutic  
255 protocols for curing diseases that includes the following:

256 i. An opportunity for an appeal, not later than 30 days after a rejection of a treatment or  
257 protocol for prize consideration, to a review panel established under the commission's dispute  
258 resolution process;

259 ii. Commission monitoring and review of treatment and protocol effectiveness consistent  
260 with the cure criteria established by the commission for the particular disease;

261 iii. Commission reconsideration, modification, or withdrawal of approval of a treatment or  
262 protocol for prize consideration for failure to continue to meet the cure criteria established by the  
263 commission for the particular disease.

264 c. Establish a dispute resolution process to resolve disputes or other issues under the  
265 compact that may arise between two or more compacting states or between the commission and  
266 individuals or entities who submit treatments and therapeutic protocols to cure diseases, which  
267 process shall provide for:

268 i. Administrative review by a review panel appointed by the commission;

269 ii. Judicial review of decisions issued after an administrative review; and

270 iii. Qualifications to be appointed to a panel, due process requirements, including notice  
271 and hearing procedures, and any other procedure, requirement, or standard necessary to provide  
272 adequate dispute resolution.

273 d. Establish and impose annual member dues on compacting states, which shall be  
274 calculated based on the percentage of each compacting state's population in relation to the  
275 population of all the compacting states.

276 6. Recognizing that the goal of the compact is to pool the potential savings of as many  
277 states and countries as possible to generate sufficient financial incentive to develop a cure for  
278 many of the world's most devastating diseases, the compact will respect the laws of each of these

279 United States by adopting rules that establish ethical standards for research that shall be followed  
280 in order for a prize to be claimed. The compact, in the rules, shall establish a common set of  
281 ethical standards that embodies the laws and restrictions in each of the states so that to be eligible  
282 for claiming a prize the entity submitting a cure must not have violated any of the ethical standards  
283 in any one of the 50 states, whether the states have joined the compact or not. The compact will  
284 publish these common ethical standards along with the specific criteria for a cure for each of the  
285 diseases the compact has targeted.

286 So long as a researcher follows the common ethical standards in effect at the time the  
287 research is done, an entity presenting a cure will be deemed to have followed the standards. On  
288 or before January1 of each year, the compact shall review all state laws to determine if additional  
289 ethical standards have been enacted by any of the 50 states and the federal government. Any  
290 changes to the common ethical standards rules based on new state laws shall be adopted and  
291 published by the compact, but may not take effect in cure criteria for a period of three years to  
292 allow for sufficient notice to researchers.

293 7. All rules may be amended as the commission sees necessary.

294 8. All rules shall be adopted pursuant to a rule-making process that conforms to the model  
295 state administrative procedure act of 1981 by the uniform law commissioners, as amended, as  
296 may be appropriate to the operations of the commission.

297 9. If the commission exercises its rule-making authority in a manner that is beyond the  
298 scope of the purpose of this compact, or the powers granted hereunder, then such rule shall be  
299 invalid and have no force and effect.

## 300 Article VII. Committees

### 301 1. Management Committee

302 a. The commission may establish a management committee comprised of not more than  
303 14 members when 26 states enact the compact.

304 b. The committee shall consist of those members representing compacting states whose

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

306 c. The committee shall have such authority and duties as may be set forth in the  
307 commission's bylaws and rules, including:

308 i. Managing authority over the day-to-day affairs of the commission in a manner consistent  
309 with the commission's bylaws and rules and the purposes of the compact:

310 ii. Overseeing the offices of the commission; and

311 iii. Planning, implementing, and coordinating communications and activities with state,  
312 federal, and local government organizations in order to advance the goals of the compact.

313 d. The commission annually shall elect officers for the committee, with each having such  
314 authority and duties as may be specified in the commission's bylaws and rules.

315 e. The management committee, subject to commission approval, may appoint or retain an  
316 executive director for such period, upon such terms and conditions, and for such compensation  
317 as the committee determines. The executive director shall serve as secretary to the commission,  
318 but may not be a member of the commission. The executive director shall hire and supervise such  
319 other staff as may be authorized by the committee.

## 320 2. Advisory Committees

321 The commission may appoint advisory committees to monitor all operations related to the  
322 purposes of the compact and make recommendations to the commission; provided that the  
323 manner of selection and term of any committee member shall be as set forth in the commission's  
324 bylaws and rules. The commission shall consult with an advisory committee, to the extent required  
325 by the commission's bylaws or rules, before doing any of the following:

326 a. Approving cure criteria;

327 b. Amending, enacting, or repealing any bylaw or rule;

328 c. Adopting the commission's annual budget;

329 d. Addressing any other significant matter or taking any other significant action.

330 Article VIII. Finance

331 1. The commission annually shall establish a budget to pay or provide for the payment of  
332 its reasonable expenses. To fund the cost of initial operations, the commission may accept  
333 contributions and other forms of funding from the compacting states and other sources.  
334 Contributions and other forms of funding from other sources shall be of such a nature that the  
335 independence of the commission concerning the performance of its duties may not be  
336 compromised.

337 2. The commission shall be exempt from all taxation in and by the compacting states.

338 3. The commission shall keep complete and accurate accounts of all of its internal receipts,  
339 including grants and donations, and disbursements of all funds under its control. The internal  
340 financial accounts of the commission shall be subject to the accounting procedures established  
341 under the commission's bylaws or rules. The financial accounts and reports including the system  
342 of internal controls and procedures of the commission shall be audited annually by an  
343 independent certified public accountant. Upon the determination of the commission, but not less  
344 frequently than every three years, the review of the independent auditor shall include a  
345 management and performance audit of the commission. The commission shall make an annual  
346 report to the governors and legislatures of the compacting states, which shall include a report of  
347 the independent audit. The commission's internal accounts may not be confidential and such  
348 materials may be shared with any compacting state upon request provided, however, that any  
349 work papers related to any internal or independent audit and any information subject to the  
350 compacting states' privacy laws, shall remain confidential.

351 4. No compacting state shall have any claim or ownership of any property held by or vested  
352 in the commission or to any commission funds held pursuant to the provisions of the compact.

#### 353 Article IX. Records

354 Except as to privileged records, data, and information, the laws of any compacting state  
355 pertaining to confidentiality or nondisclosure may not relieve any member of the duty to disclose  
356 any relevant records, data, or information to the commission; provided, that disclosure to the

357 commission may not be considered to waive or otherwise affect any confidentiality requirement;  
358 and further provided, that, except as otherwise expressly provided in the compact, the  
359 commission may not be subject to the compacting state's laws pertaining to confidentiality and  
360 nondisclosure with respect to records, data, and information in its possession. Confidential  
361 information of the commission shall remain confidential after such information is provided to any  
362 member. All cure submissions received by the commission are confidential.

363 Article X. Compliance

364 The commission shall notify a compacting state in writing of any noncompliance with  
365 commission bylaws and rules. If a compacting state fails to remedy its noncompliance within the  
366 time specified in the notice, the compacting state shall be deemed to be in default as set forth in  
367 Article XIV.

368 Article XI. Venue

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

372 Article XII. Qualified Immunity, Defense, and Indemnification

373 1. The members, officers, executive director, employees, and representatives of the  
374 commission shall be immune from suit and liability, either personally or in their official capacity,  
375 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
376 or arising out of any actual or alleged act, error, or omission that occurred, or that such person  
377 had a reasonable basis for believing occurred within the scope of the person's commission  
378 employment, duties, or responsibilities; provided, that nothing in section 1. of this article shall be  
379 construed to protect any such person from suit or liability for any damage, loss, injury, or liability  
380 caused by the intentional or willful and wanton misconduct of that person.

381 2. The commission shall defend any member, officer, executive director, employee, or  
382 representative of the commission in any civil action seeking to impose liability arising out of any



383 actual or alleged act, error, or omission that occurred within the scope of the person's commission  
384 employment, duties, or responsibilities, or that such person had a reasonable basis for believing  
385 occurred within the scope of commission employment, duties, or responsibilities; provided, that  
386 nothing in the compact or commission bylaws or rules shall be construed to prohibit that person  
387 from retaining his or her own counsel; and provided further, that the actual or alleged act, error,  
388 or omission did not result from that person's intentional or willful and wanton misconduct.

389 3. The commission shall indemnify and hold harmless any member, officer, executive  
390 director, employee, or representative of the commission for the amount of any settlement or  
391 judgment obtained against the person arising out of any actual or alleged act, error, or omission  
392 that occurred within the scope of the person's commission employment, duties, or responsibilities,  
393 or that such person had a reasonable basis for believing occurred within the scope of commission  
394 employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission,  
395 did not result from the intentional or willful and wanton misconduct of that person.

396 Article XIII. Compacting States, Effective Date, and Amendment

397 1. Any state is eligible to become a compacting state.

398 2. The compact shall become effective and binding upon legislative enactment of the  
399 compact into law by two compacting states; provided, the commission shall only be established  
400 after six states become compacting states. Thereafter, the compact shall become effective and  
401 binding as to any other compacting state upon enactment of the compact into law by that state.

402 3. Amendments to the compact may be proposed by the commission for enactment by the  
403 compacting states. No amendment may become effective and binding until all compacting states  
404 enact the amendment into law.

405 4. If funding is requested or required, the legislative authority of each compacting state  
406 shall be responsible for making the appropriations it determines necessary to pay for the costs of  
407 the compact, including annual member dues and prize distributions.

408 Article XIV. Withdrawal, Default, and Expulsion

409 1. Withdrawal

410 a. Once effective, the compact shall continue in force and remain binding upon each and  
411 every compacting state; provided, that a compacting state may withdraw from the compact by  
412 doing both of the following:

413 i. Repealing the law enacting the compact in that state;

414 ii. Notifying the commission in writing of the intent to withdraw on a date that is both of the  
415 following:

416 I. At least three years after the date the notice is sent;

417 II. After the repeal takes effect.

418 b. The effective date of withdrawal is the date described in section 1.a.ii. of this article.

419 c. The member representing the withdrawing state shall immediately notify the  
420 management committee in writing upon the introduction of legislation in that state repealing the  
421 compact. If a management committee has not been established, the member shall immediately  
422 notify the commission.

423 d. The commission or management committee, as applicable, shall notify the other  
424 compacting states of the introduction of such legislation within ten days after its receipt of notice  
425 thereof.

426 e. The withdrawing state is responsible for all obligations, duties and liabilities incurred  
427 through the effective date of withdrawal, including any obligations, the performance of which  
428 extend beyond the effective date of withdrawal. The commission's actions shall continue to be  
429 effective and be given full force and effect in the withdrawing state.

430 f. Reinstatement following a state's withdrawal shall become effective upon the effective  
431 date of the subsequent enactment of the compact by that state.

432 2. Default

433 a. If the commission determines that any compacting state has at any time defaulted in  
434 the performance of any of its obligations or responsibilities under the compact or the commission's

435 bylaws or rules, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and  
436 benefits conferred by this compact on the defaulting state shall be suspended from the effective  
437 date of default as fixed by the commission. The grounds for default include failure of a compacting  
438 state to perform its obligations or responsibilities, and any other grounds designated in  
439 commission rules. The commission shall immediately notify the defaulting state in writing of the  
440 suspension pending cure of the default. The commission shall stipulate the conditions and the  
441 time period within which the defaulting state shall cure its default. If the defaulting state fails to  
442 cure the default within the time period specified by the commission, the defaulting state shall be  
443 expelled from the compact and all rights, privileges, and benefits conferred by the compact shall  
444 be terminated from the effective date of the expulsion. Any state that is expelled from the compact  
445 shall be liable for any cure prize or prizes for three years after its removal. The commission shall  
446 also take appropriate legal action to ensure that any compacting state that withdraws from the  
447 compact remains liable for paying its responsibility towards a prize for a cure that was accepted  
448 while the compacting state was a member of the commission.

449 b. The expelled state must reenact the compact in order to become a compacting state.

450 3. Dissolution of Compact

451 a. The compact dissolves effective upon the date of either of the following:

452 i. The withdrawal or expulsion of a compacting state, which withdrawal or expulsion  
453 reduces membership in the compact to one compacting state;

454 ii. The commission votes to dissolve the compact.

455 b. Upon the dissolution of the compact, the compact becomes null and void and shall be  
456 of no further force or effect, and the business and affairs of the commission shall be wound up  
457 and any surplus funds shall be distributed in accordance with the commission's bylaws, provided,  
458 that the commission shall pay all outstanding prizes awarded before the dissolution of the  
459 compact, as well as any other outstanding debts and obligations incurred during the existence of  
460 the compact. Any unawarded funds donated to be a part of a prize shall be returned to the donor,

461 along with any interest earned on the amount.

462 Article XV. Severability and Construction

463 1. The provisions of the compact shall be severable; and if any phrase, clause, sentence,  
464 or provision is deemed unenforceable, the remaining provisions of the compact shall be  
465 enforceable.

466 2. The provisions of the compact shall be liberally construed to effectuate its purposes.

467 Article XVI. Binding Effect of Compact and Other Laws

468 1. Other Laws: Nothing herein prevents the enforcement of any other law of a compacting  
469 state, except as provided in section 2.b. of this article.

470 2. Binding Effect of the Compact

471 a. All lawful actions of the commission, including all commission rules, are binding upon  
472 the compacting states.

473 b. All agreements between the commission and the compacting states are binding in  
474 accordance with their terms.

475 c. Except to the extent authorized by the compacting state's constitution or, if constitutional  
476 authorization is not required, by other law of the compacting state, such state, by entering into the  
477 compact does not:

478 i. Commit the full faith and credit or taxing power of the compacting state for the payment  
479 of prizes or other obligations under the compact;

480 ii. Make prize payment responsibilities or other obligations under the compact a debt of  
481 the compacting state.

482 d. Upon the request of a party to a conflict over the meaning or interpretation of  
483 commission actions, and upon a majority vote of the compacting states, the commission may  
484 issue advisory opinions regarding the meaning or interpretation in dispute.

485 e. In the event any provision of the compact exceeds the constitutional limits imposed on  
486 any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by that

487 provision upon the commission shall be ineffective as to that compacting state, and those  
488 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be  
489 exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are  
490 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” Compact.

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