

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 418

Introduced by Murman, 38; Blood, 3; Bostar, 29; Briese, 41; Cavanaugh, J., 9; Clements, 2; Day, 49; Dorn, 30; Erdman, 47; Flood, 19; Geist, 25; Gragert, 40; Halloran, 33; Lowe, 37; Pansing Brooks, 28; Slama, 1; Walz, 15.

Read first time January 14, 2021

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to public health; to adopt the Solemn Covenant
- 2 of the States to Award Prizes for Curing Diseases compact.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Article I.

2 Definitions

3 For purposes of this compact:

4 1. Compacting state means either of the following:

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6 withdrawn or been suspended pursuant to Article XIV of the compact;

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

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

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

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

16 5. State means any state, district, or territory of the United
17 States of America.

18 Article II.

19 Establishment of the Commission; Membership

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

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

26 3. Each compacting state shall be represented by one member as
27 selected by the compacting state. Each compacting state shall determine
28 its member's qualifications and period of service and shall be
29 responsible for any action to remove or suspend its member or to fill the
30 member's position if it becomes vacant. Nothing in the compact shall be
31 construed to affect a compacting state's authority regarding the

1 qualification, selection, or service of its own member.

2 Article III.

3 Powers of the Commission

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

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

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

20 4. To establish a selling price for the cure, which shall be not
21 more than the expenses for the cure's manufacturing, distribution,
22 licensing, and any other necessary governmental requirements for
23 compacting states, or those expenses plus any royalty fees, for
24 noncompacting states; the price shall not include the expenses of any
25 other activities;

26 5. In noncompacting states and foreign countries, to establish and
27 collect royalty fees imposed on manufacturers, producers, and providers
28 of any drug, serum, or other substance, device, or process used for a
29 cure treatment or therapeutic protocol, for which a prize is awarded;
30 royalty fees may be added to the sales price of the cure pursuant to
31 section 4 of this article; provided that the royalty fees shall

1 cumulatively be not more than the estimated five-year savings in public
2 health expenses for that state or country, as calculated by actuaries
3 employed or contracted by the commission;

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

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

11 b. Annually disburse any amounts remaining after making payments or
12 reimbursements under section 6.a. of this article as refunds to
13 compacting states based on the percent of the state's prize obligation in
14 relation to the total obligation amount of all compacting states;

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

17 8. To issue subpoenas requiring the attendance and testimony of
18 witnesses and the production of evidence;

19 9. To establish and maintain offices;

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

22 11. To hire employees, professionals, or specialists, and elect or
23 appoint officers, and to fix their compensation, define their duties and
24 give them appropriate authority to carry out the purposes of the compact,
25 and determine their qualifications; and to establish the commission's
26 personnel policies and programs relating to, among other things,
27 conflicts of interest, rates of compensation, and qualifications of
28 personnel;

29 12. To accept any and all appropriate donations and grants of money,
30 equipment, supplies, materials, and services, and to receive, utilize,
31 and dispose of the same; provided that at all times the commission shall

1 strive to avoid any appearance of impropriety;

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

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

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

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

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

15 18. To establish a budget and make expenditures;

16 19. To borrow money;

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

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

24 22. To adopt and use a corporate seal;

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

27 Article IV.

28 Meetings and Voting

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

31 2. A majority of the members of the commission shall constitute a

1 quorum necessary in order to conduct business or take actions at meetings
2 of the commission.

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

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

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

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

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

20 Article V.

21 Bylaws

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

26 1. Establishing the fiscal year of the commission;

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

29 3. Providing reasonable standards and procedures:

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

31 b. Governing any general or specific delegation of any authority or

1 function of the commission; and

2 c. Voting guidelines and procedures for commission decisions.

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

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

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

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

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

19 7. Providing reasonable standards and procedures for the
20 establishment of the personnel policies and programs of the commission.
21 Notwithstanding any civil service or other similar laws of any compacting
22 state, the commission's bylaws shall exclusively govern the personnel
23 policies and programs of the commission;

24 8. Allowing a mechanism for:

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

26 b. Foreign countries or subdivisions of those countries to join as
27 liaison members by adopting the compact; provided that adopting countries
28 or subdivisions shall not have voting power or the power to bind the
29 commission in any way.

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

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

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

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

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

13 Article VI.

14 Rules

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

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

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

20 2. The commission shall also adopt rules establishing the criteria
21 for defining and classifying the diseases for which prizes shall be
22 awarded. The commission may define and classify subsets of diseases, for
23 example, tubular carcinoma of the breast. For purposes of sections 3.a.
24 and c. of this article, a subset of a disease shall be considered one
25 disease. The commission may consult the most recent edition of the
26 international classification of diseases as published by the world health
27 organization or other definitions agreed to by a two-thirds vote of the
28 commission.

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

31 a. At least ten major diseases for which to create prizes, which

1 shall be determined based on the following factors:

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

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

5 iii. The public health expenses and treatment expenses for the
6 disease.

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

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

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

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

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

22 d. The submission and evaluation procedures and guidelines,
23 including filing and review procedures, a requirement that the person or
24 entity submitting the cure bears the burden of proof in demonstrating
25 that the treatment or therapeutic protocol meets the above criteria, and
26 limitations preventing public access to treatment or protocol
27 submissions.

28 e. The estimated five-year public health savings that would result
29 from a cure, which shall be equal to the five-year public health expenses
30 for each disease in each compacting state, and a procedure to update
31 these expenses every three years in conjunction with the requirements in

1 section 3.c. of this article. The estimated five-year public health
2 savings amount shall be calculated, estimated, and publicized every three
3 years by actuaries employed or contracted by the commission.

4 f. The prize amount with respect to cures for each disease, which
5 shall be equal to the most recent estimated total five-year savings in
6 public health expenses for the disease as calculated in section 3.e. of
7 this article in all of the compacting states; amounts donated by
8 charities, individuals, and any other entities intended for the prize;
9 and any other factors that the commission deems appropriate.

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

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

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

22 iii. Each compacting state shall have the responsibility to pay
23 annually the compacting state's actual one-year savings in public health
24 expenses for the particular disease for which a cure has been accepted.
25 The compacting state shall make such an annual payment until it has
26 fulfilled its prize responsibility as established in section 3.f. of this
27 article. Each compacting state's payment responsibility begins one year
28 after the date the cure becomes widely available. The commission shall
29 employ or contract with actuaries to calculate each state's actual one-
30 year savings in public health expenses at the end of each year to
31 determine each state's responsibility for the succeeding year.

1 iv. Compacting states may meet prize responsibilities by any method
2 including the issuance of bonds or other obligations, with the principal
3 and interest of those bonds or obligations to be repaid only from revenue
4 derived from estimated public health expense savings from a cure to a
5 disease. If the compacting state does not make such revenue available to
6 repay some or all of the revenue bonds or obligations issued, the owners
7 or holders of those bonds or obligations have no right to have excises or
8 taxes levied to pay the principal or interest on them. The revenue bonds
9 and obligations are not a debt of the issuing compacting state.

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

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

23 4. The commission may award a prize for a treatment or therapeutic
24 protocol that yields a survival rate that is less than what is
25 established in the cure criteria through at least five years after the
26 treatment or protocol has ended. In that case, the prize amount awarded
27 for that treatment or therapeutic protocol shall be reduced from the
28 prize amount originally determined by the commission for a cure for that
29 disease. The reduction shall be in proportion to the survival rate
30 yielded by that treatment or protocol as compared to the survival rate
31 established in the cure criteria.

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

2 a. Establish the following regarding commission records:

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

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

10 iii. Guidelines for entering into agreements with federal and state
11 agencies to receive or exchange information or records subject to
12 nondisclosure and confidentiality provisions.

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

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

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

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

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

31 i. Administrative review by a review panel appointed by the

1 commission;

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

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

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

12 6. Recognizing that the goal of the compact is to pool the potential
13 savings of as many states and countries as possible to generate
14 sufficient financial incentive to develop a cure for many of the world's
15 most devastating diseases, the compact will respect the laws of each of
16 these United States by adopting rules that establish ethical standards
17 for research that shall be followed in order for a prize to be claimed.
18 The compact, in the rules, shall establish a common set of ethical
19 standards that embodies the laws and restrictions in each of the states
20 so that to be eligible for claiming a prize the entity submitting a cure
21 must not have violated any of the ethical standards in any one of the
22 fifty states, whether the states have joined the compact or not. The
23 compact will publish these common ethical standards along with the
24 specific criteria for a cure for each of the diseases the compact has
25 targeted.

26 So long as a researcher follows the common ethical standards in
27 effect at the time the research is done, an entity presenting a cure will
28 be deemed to have followed the standards.

29 On or before January 1 of each year, the compact shall review all
30 state laws to determine if additional ethical standards have been enacted
31 by any of the fifty states and the federal government. Any changes to the

1 common ethical standards rules based on new state laws shall be adopted
2 and published by the compact, but shall not take effect in cure criteria
3 for a period of three years to allow for sufficient notice to
4 researchers.

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

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

10 9. In the event the commission exercises its rule-making authority
11 in a manner that is beyond the scope of the purpose of this compact, or
12 the powers granted hereunder, then such rule shall be invalid and have no
13 force and effect.

14 Article VII.

15 Committees

16 1. Management Committee

17 a. The commission may establish a management committee comprised of
18 not more than fourteen members when twenty-six states enact the compact.

19 b. The committee shall consist of those members representing
20 compacting states whose total public health expenses of all of the
21 established diseases are the highest.

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

24 i. Managing authority over the day-to-day affairs of the commission
25 in a manner consistent with the commission's bylaws and rules and the
26 purposes of the compact;

27 ii. Overseeing the offices of the commission; and

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

31 d. The commission annually shall elect officers for the committee,

1 with each having such authority and duties as may be specified in the
2 commission's bylaws and rules.

3 e. The management committee, subject to commission approval, may
4 appoint or retain an executive director for such period, upon such terms
5 and conditions, and for such compensation as the committee determines.
6 The executive director shall serve as secretary to the commission, but
7 shall not be a member of the commission. The executive director shall
8 hire and supervise such other staff as may be authorized by the
9 committee.

10 2. Advisory Committees

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

- 18 a. Approving cure criteria;
19 b. Amending, enacting, or repealing any bylaw or rule;
20 c. Adopting the commission's annual budget;
21 d. Addressing any other significant matter or taking any other
22 significant action.

23 Article VIII.

24 Finance

25 1. The commission annually shall establish a budget to pay or
26 provide for the payment of its reasonable expenses. To fund the cost of
27 initial operations, the commission may accept contributions and other
28 forms of funding from the compacting states and other sources.
29 Contributions and other forms of funding from other sources shall be of
30 such a nature that the independence of the commission concerning the
31 performance of its duties shall not be compromised.

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

3 3. The commission shall keep complete and accurate accounts of all
4 of its internal receipts, including grants and donations, and
5 disbursements of all funds under its control. The internal financial
6 accounts of the commission shall be subject to the accounting procedures
7 established under the commission's bylaws or rules. The financial
8 accounts and reports including the system of internal controls and
9 procedures of the commission shall be audited annually by an independent
10 certified public accountant. Upon the determination of the commission,
11 but not less frequently than every three years, the review of the
12 independent auditor shall include a management and performance audit of
13 the commission. The commission shall make an annual report to the
14 governors and legislatures of the compacting states, which shall include
15 a report of the independent audit.

16 The commission's internal accounts shall not be confidential and
17 such materials may be shared with any compacting state upon request
18 provided, however, that any work papers related to any internal or
19 independent audit and any information subject to the compacting states'
20 privacy laws, shall remain confidential.

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

24 Article IX.

25 Records

26 Except as to privileged records, data, and information, the laws of
27 any compacting state pertaining to confidentiality or nondisclosure shall
28 not relieve any member of the duty to disclose any relevant records,
29 data, or information to the commission; provided, that disclosure to the
30 commission shall not be deemed to waive or otherwise affect any
31 confidentiality requirement; and further provided, that, except as

1 otherwise expressly provided in the compact, the commission shall not be
2 subject to the compacting state's laws pertaining to confidentiality and
3 nondisclosure with respect to records, data, and information in its
4 possession. Confidential information of the commission shall remain
5 confidential after such information is provided to any member. All cure
6 submissions received by the commission are confidential.

7 Article X.

8 Compliance

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

14 Article XI.

15 Venue

16 Venue for any judicial proceedings by or against the commission
17 shall be brought in the appropriate court of competent jurisdiction for
18 the geographical area in which the principal office of the commission is
19 located.

20 Article XII.

21 Qualified Immunity, Defense, and Indemnification

22 1. The members, officers, executive director, employees, and
23 representatives of the commission shall be immune from suit and
24 liability, either personally or in their official capacity, for any claim
25 for damage to or loss of property or personal injury or other civil
26 liability caused by or arising out of any actual or alleged act, error,
27 or omission that occurred, or that such person had a reasonable basis for
28 believing occurred within the scope of the person's commission
29 employment, duties, or responsibilities; provided, that nothing in
30 section 1. of this article shall be construed to protect any such person
31 from suit or liability for any damage, loss, injury, or liability caused

1 by the intentional or willful and wanton misconduct of that person.

2 2. The commission shall defend any member, officer, executive
3 director, employee, or representative of the commission in any civil
4 action seeking to impose liability arising out of any actual or alleged
5 act, error, or omission that occurred within the scope of the person's
6 commission employment, duties, or responsibilities, or that such person
7 had a reasonable basis for believing occurred within the scope of
8 commission employment, duties, or responsibilities; provided, that
9 nothing in the compact or commission bylaws or rules shall be construed
10 to prohibit that person from retaining his or her own counsel; and
11 provided further, that the actual or alleged act, error, or omission did
12 not result from that person's intentional or willful and wanton
13 misconduct.

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

24 Article XIII.

25 Compacting States, Effective Date, and Amendment

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

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

1 state.

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

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

9 Article XIV.

10 Withdrawal, Default, and Expulsion

11 1. Withdrawal

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

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

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

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

19 II. After the repeal takes effect.

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

22 c. The member representing the withdrawing state shall immediately
23 notify the management committee in writing upon the introduction of
24 legislation in that state repealing the compact.

25 If a management committee has not been established, the member shall
26 immediately notify the commission.

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

30 e. The withdrawing state is responsible for all obligations, duties
31 and liabilities incurred through the effective date of withdrawal,

1 including any obligations, the performance of which extend beyond the
2 effective date of withdrawal. The commission's actions shall continue to
3 be effective and be given full force and effect in the withdrawing state.

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

7 2. Default

8 a. If the commission determines that any compacting state has at any
9 time defaulted in the performance of any of its obligations or
10 responsibilities under the compact or the commission's bylaws or rules,
11 then, after notice and hearing as set forth in the bylaws, all rights,
12 privileges, and benefits conferred by this compact on the defaulting
13 state shall be suspended from the effective date of default as fixed by
14 the commission. The grounds for default include failure of a compacting
15 state to perform its obligations or responsibilities, and any other
16 grounds designated in commission rules. The commission shall immediately
17 notify the defaulting state in writing of the suspension pending cure of
18 the default. The commission shall stipulate the conditions and the time
19 period within which the defaulting state shall cure its default. If the
20 defaulting state fails to cure the default within the time period
21 specified by the commission, the defaulting state shall be expelled from
22 the compact and all rights, privileges, and benefits conferred by the
23 compact shall be terminated from the effective date of the expulsion. Any
24 state that is expelled from the compact shall be liable for any cure
25 prize or prizes for three years after its removal. The commission shall
26 also take appropriate legal action to ensure that any compacting state
27 that withdraws from the compact remains liable for paying its
28 responsibility towards a prize for a cure that was accepted while the
29 compacting state was a member of the commission.

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

1 3. Dissolution of Compact

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

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

7 ii. The commission votes to dissolve the compact.

8 b. Upon the dissolution of the compact, the compact becomes null and
9 void and shall be of no further force or effect, and the business and
10 affairs of the commission shall be wound up and any surplus funds shall
11 be distributed in accordance with the commission's bylaws, provided, that
12 the commission shall pay all outstanding prizes awarded before the
13 dissolution of the compact, as well as any other outstanding debts and
14 obligations incurred during the existence of the compact. Any unawarded
15 funds donated to be a part of a prize shall be returned to the donor,
16 along with any interest earned on the amount.

17 Article XV.

18 Severability and Construction

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

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

24 Article XVI.

25 Binding Effect of Compact and Other Laws

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

29 2. Binding Effect of the Compact

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

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

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

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

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

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

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