HOUSE BILL No. 1232

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-46.5; IC 34-30-2-83.9.

Synopsis: Interstate compact on curing diseases. Establishes the solemn covenant of the states to award prizes for curing disease compact. Establishes responsibilities and duties within the compact. Provides for immunity for members, officers, executive director, employees, and representatives of the solemn covenant of states commission.

Effective: July 1, 2020.

Baird

January 13, 2020, read first time and referred to Statutory Committee on Interstate and International Cooperation.
HOUSE BILL No. 1232

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1. IC 16-18-2-66.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 66.3. "Compact", for purposes of IC 16-46.5, has the meaning set forth in IC 16-46.5-1-2.

2. IC 16-18-2-66.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 66.4. "Compacting state", for purposes of IC 16-46.5, has the meaning set forth in IC 16-46.5-1-3.

3. IC 16-18-2-249.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 249.8. "Non-compacting state", for purposes of IC 16-46.5, has the meaning set forth in IC 16-46.5-1-4.

4. IC 16-18-2-298.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 298.6. "Public health expenses", for purposes of IC 16-46.5, has the meaning set forth in
IC 16-46.5-1-5.

SECTION 5. IC 16-18-2-338.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 338.4. "State", for purposes of IC 16-46.5, has the meaning set forth in IC 16-46.5-1-6.

SECTION 6. IC 16-46.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

ARTICLE 46.5. SOLEMN COVENANT OF THE STATES TO AWARD PRIZES FOR CURING DISEASES COMPACT

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply to this article.

Sec. 2. "Compact" means the solemn covenant of the states to award prizes for curing diseases enacted in this article.

Sec. 3. "Compacting state" means either of the following:

(1) Any state that has enacted the compact and which has not withdrawn or been suspended as described in IC 16-46.5-14.

(2) The federal government in accordance with the commission's bylaws.

Sec. 4. "Noncompacting state" means any state or the federal government, if the state or federal government is not at the time a compacting state.

Sec. 5. "Public health expenses" means the amount of all costs paid by taxpayers in a specified geographic area relating to a particular disease.

Sec. 6. "State" means any state, district, or territory of the United States of America.

Chapter 2. Establishment of the Commission; Membership

Sec. 1. Upon the enactment of the compact by six (6) states, the compacting states shall establish the solemn covenant of states commission.

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

Sec. 3. Each compacting state shall be represented by one (1) member as selected by the compacting state. Each compacting state shall:

(1) determine the compacting state's member qualifications and period of service; and

(2) be responsible for any action to remove or suspend the state's member or to fill the member's position if the position
becomes vacant. Nothing in the compact shall be construed to affect a compacting state's authority regarding the qualification, selection, or service of the compacting state's own member.

Chapter 3. Powers of the Commission

Sec. 1. The commission shall have the following authority and power:

(1) To adopt bylaws and rules as described in IC 16-46.5-5 and IC 16-46.5-6. The bylaws and rules shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact.

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

(3) To make widely available a cure treatment or therapeutic protocol upon a prize winner claiming a prize and transferring any intellectual property necessary for the manufacture and distribution of the cure in accordance with section IC 16-46.5-6, including by arranging or contracting for the:

(A) manufacturing;
(B) production; or
(C) provision of any drug, serum, or other substance, device, or process;

provided that the commission does not market the cure or conduct any other activity regarding the cure not specifically authorized in the compact.

(4) To establish a selling price for the cure that shall be not more than the expenses for:

(A) the cure's manufacturing;
(B) the cure's distribution;
(C) the cure's licensing; and

(D) either:
   (i) any other necessary governmental requirements for compacting states; or
   (ii) those expenses plus any royalty fees, for noncompacting states.

The price shall not include the expenses of any other activities.

(5) In noncompact states and foreign countries, to establish and collect royalty fees imposed on manufacturers, producers,
and providers of any:
   (A) drug;
   (B) serum or other substance;
   (C) device; or
   (D) process;
used for a cure may be added to the sales price of the cure
pursuant to subdivision (4) if the royalty fees shall
cumulatively be not more than the estimated five (5) year
savings in public health expenses for that state or country, as
calculated by actuaries employed or contracted by the
commission.

(6) To do the following regarding the collected royalty fees:
   (A) Pay or reimburse expenses related to the payment of a
   prize, including:
      (i) employing or contracting actuaries to calculate
      annual taxpayer savings amounts in compacting states in
      accordance with IC 16-46.5-6-3(7)(C); and
      (ii) payment of interest and other expenses related to a
      loan obtained in accordance with IC 16-46.5-6-3(7)(F).
   (B) Annually disburse any amounts remaining after
   making payments or reimbursements under clause (A) as
   refunds to compacting states based on the percent of the
   state's prize obligation in relation to the total obligation
   amount of all compacting states.

(7) To bring and prosecute legal proceedings or actions in the
commission's name.

(8) To issue subpoenas requiring the attendance and
testimony of witnesses and the production of evidence.

(9) To establish and maintain offices.

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

(11) To hire employees, professionals, or specialists, and elect
or appoint officers, and to:
   (A) fix compensation;
   (B) define duties;
   (C) give appropriate authority to carry out the purposes of
   the compact;
   (D) determine qualifications; and
   (E) establish the commission's personnel policies and
programs concerning conflicts of interest, rates of
compensation, and qualifications of personnel.
(12) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety.

(13) To:
   (A) lease;
   (B) purchase;
   (C) accept appropriate gifts or donations of;
   (D) own;
   (E) hold;
   (F) improve; or
   (G) use;
any property, real, personal, or mixed, provided, that at all times the commission shall strive to avoid any appearance of impropriety.

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

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

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

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

(18) To establish a budget and make expenditures.

(19) To borrow money.

(20) To appoint committees, including management, legislative, and advisory committees comprised of members, state legislators or a state legislator's representatives, medical professionals, and other interested persons as may be designated by the commission.

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

(22) To adopt and use a corporate seal.

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

Chapter 4. Meetings and Voting
Sec. 1. The commission shall meet and take such actions as are
consistent with the compact, bylaws, and rules.

Sec. 2. A majority of the members of the commission shall constitute a quorum necessary in order to conduct business or take actions at meetings of the commission.

Sec. 3. Each member of the commission shall have the right and power to cast one (1) vote regarding matters determined or actions to be taken by the commission. Each member shall have the right and power to participate in the business and affairs of the commission.

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

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

Sec. 6. No decision of the commission concerning the approval of an award for a treatment or therapeutic process for the cure of a disease shall be effective unless two-thirds (2/3) of all members of the commission vote in favor of the decision.

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

Chapter 5. Bylaws

Sec. 1. The commission's bylaws must include the following:

(1) Establish the fiscal year of the commission.
(2) Provide reasonable procedures for appointing and electing members, and holding meetings of the management committee.
(3) Provide reasonable standards and procedures:
   (A) for the establishment and meetings of the other committees;
   (B) governing any general or specific delegation of any authority or function of the commission; and
   (C) for voting guidelines and procedures for commission decisions.
(4) Provide reasonable procedures for calling and conducting meetings of the commission that shall consist of:
   (A) requiring a quorum to be present;
   (B) ensuring reasonable advance notice of each meeting; and
   (C) providing for the right of citizens to attend a meeting
(5) Provide a list of matters about which the commission may go into executive session and require that a majority of all members of the commission vote to enter into an executive session. As soon as practicable, the commission shall make public:

(A) a copy of the vote to go into executive session, revealing the vote of each member with no proxy votes allowed; and
(B) the matter requiring executive session without identifying the actual issues or individuals involved.

(6) Establish the titles, duties, authority, and reasonable procedures for the election of the officers of the commission.

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

(8) Allow a mechanism for:

(A) the federal government to join as a compacting state; and
(B) foreign countries or subdivisions of those countries to join as liaison members by adopting the compact, provided that adopting countries or subdivisions shall not have voting power or the power to bind the commission in any way.

(9) Adopt a code of ethics to address permissible and prohibited activities of members and employees.

(10) Provide for the maintenance of the commission's books and records.

(11) Govern the acceptance of and accounting for donations, annual member dues, and other sources of funding, and establish the proportion of these funds to be allocated to prize amounts for treatments and therapeutic protocols that cure disease.

(12) Govern any fundraising efforts in which the commission wishes to engage.

(13) Provide a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and reserving of all its debts and
Chapter 6. Rules

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

(1) Effectively and efficiently achieve the purposes of this compact.

(2) Govern the methods, processes, and any other aspect for the:

   (A) research;

   (B) creation; and

   (C) testing;

   of a treatment, or therapeutic protocol for each disease, for which a prize may be awarded.

Sec. 2. (a) The commission shall also adopt rules establishing the criteria for defining and classifying the diseases for which prizes shall be awarded. The commission may define and classify subsets of diseases (for example, tubular carcinoma of the breast).

   (b) For purposes of section 3(1) and 3(3) of this chapter, a subset of a disease shall be considered one (1) disease. The commission may consult the most recent edition of the international classification of disease as published by the World Health Organization for other definitions agreed to by a two-thirds (2/3) vote of the commission.

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

   (1) At least ten (10) major diseases for which to create prizes, and shall be determined based on the following factors:

       (A) The severity of the disease to a human individual's overall health and well-being.

       (B) The survival rate or severity of impact of the disease.

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

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

       (A) Approval by the federal Food and Drug Administration or have otherwise obtained legal status for the compact to immediately contract to manufacture and distribute in the United States.

       (B) Except as provided in section 4 of this chapter, must yield a significant increase in survival concerning the diseases if early death is the usual outcome.
(C) Require less than one (1) year of the treatment or protocol to completely cure the disease.

(3) The procedure for determining the diseases for which to award prizes, that includes:
(A) the option to award prizes for more than ten (10) diseases that meet the above criteria, if agreed to by two-thirds (2/3) vote of the commission; and
(B) a requirement to update the list every three (3) years.

(4) The submission and evaluation procedures and guidelines, including the following:
(A) Filing and review procedures.
(B) A requirement that the person or entity submitting the cure bears the burden of proof in demonstrating that the treatment or therapeutic protocol meets the above criteria.
(C) Limitations preventing public access to treatment or protocol submissions.

(5) The estimated five (5) year public health savings that would result from a cure that shall be equal to the five (5) year public health expenses for each disease in each compacting state, and a procedure to update these expenses every three (3) years in conjunction with the requirements in subdivision (3). The estimated five (5) year public health savings amount shall be:
(A) calculated;
(B) estimated; and
(C) publicized;
every three (3) years by actuaries employed or contracted by the commission.

(6) The prize amount concerning cures for each disease that must be equal to:
(A) the most recent estimated total five (5) year savings in public health expenses for the disease as calculated in subdivision (5) in all of the compacting states;
(B) amounts donated by charities, individuals, and any other entities intended for the prize under this article; and
(C) any other factors that the commission deems appropriate.

(7) The prize distribution procedures and guidelines that include the following requirements:
(A) Upon acceptance of a cure, the prize winner shall transfer to the commission the patent and all related intellectual property for the manufacture and distribution
of the treatment or therapeutic protocol in exchange for
the prize, except in the case that the prize money is
considered by the commission to be too low, and that a
prize will be awarded only to the first person or entity that
submits a successful cure for a disease for which a prize
may be awarded.
(B) Donation amounts intended for the prize shall be kept
in a separate, interest bearing account maintained by the
commission and shall be the only account in which prize
money is kept.
(C) Each compacting state shall meet the following:
(i) Have the responsibility to pay annually the
compacting state's actual one (1) year savings in public
health expenses for the particular disease for which a
cure has been accepted.
(ii) Make the annual payment until the compacting state
has fulfilled the compacting state's prize responsibility as
established in subdivision (6). Each compacting state's
payment responsibility begins one (1) year after the date
the cure becomes widely available.
The commission shall employ or contract with actuaries to
calculate each state's actual one (1) year savings in public
health expenses at the end of each year to determine each
state's responsibility for the succeeding year.
(D) Allow compacting states to meet prize responsibilities
by any method, including the issuance of bonds or other
obligations with the principal and interest of those bonds
or obligations to be repaid only from revenue derived from
estimated public health expense savings from a cure to a
disease. If the compacting state does not make the revenue
available to repay some or all of the revenue bonds or
obligations issued, the owners or holders of those bonds or
obligations have no right to have excises or taxes levied to
pay the principal or interest on the bonds or obligations.
The revenue bonds and obligations are not a debt of the
issuing compacting state.
(E) Allow a compacting state to issue bonds or other debt
that are general obligations, under which the full faith and
credit, revenue, and taxing power of the state is pledged to
pay the principal and interest under those obligations, only
if authorized by the compacting state's constitution or, if
costitutional authorization is not required, by other law
of the compacting state.

(F) Upon acceptance of a cure, require the commission to obtain a loan from a financial institution in an amount equal to the most recently calculated total estimated five (5) year public health expenses for the disease in all compacting states, in accordance with subdivision (6). The commission reserves the right to continuously evaluate the cure in the interim and rescind a prize offer if the commission finds that the cure no longer meets the commission's criteria.

Sec. 4. The commission may award a prize for a treatment or therapeutic protocol that yields a survival rate that is less than what is established in the cure criteria through at least five (5) years after the treatment or protocol has ended. In this case, the prize amount awarded for that treatment or therapeutic protocol shall be reduced from the prize amount originally determined by the commission for a cure for that disease. The reduction shall be in proportion to the survival rate yielded by the treatment or protocol as compared to the survival rate established in the cure criteria.

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

(1) Establish the following regarding commission records:
   (A) Conditions and procedures for public inspection and copying of its information and official records, except any information and records involving the privacy of individuals or that would otherwise violate privacy laws under federal law and the laws of the compacting states.
   (B) Procedures for sharing with federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure.
   (C) Guidelines for entering into agreements with federal and state agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(2) Provide a process for commission review of submitted treatments and therapeutic protocols for curing diseases that includes the following:
   (A) An opportunity for an appeal, not later than thirty (30) days after a rejection of a treatment or protocol for prize consideration, to a review panel established under the commission's dispute resolution process.
(B) Commission monitoring and review of treatment and protocol effectiveness consistent with the cure criteria established by the commission for the particular disease.

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

(A) administrative review by a review panel appointed by the commission;
(B) judicial review of decisions issued after an administrative review; and
(C) qualifications to be appointed to a panel, due process requirements, including notice and hearing procedures, and any other procedure, requirement, or standard necessary to provide adequate dispute resolution.

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

Sec. 6. (a) Recognizing that the goal of the compact is to pool the potential savings of as many states and countries as possible to generate sufficient financial incentive to develop a cure of many of the world's most devastating diseases, the compact will respect the laws of each of these United States by adopting rules that establish ethical standards for research that shall be followed in order for a prize to be claimed.

(b) The compact, in the rules, shall establish a common set of ethical standards that embodies the laws and restrictions in each of the states so that to be eligible for claiming a prize the entity submitting a cure must not have violated any of the ethical standards in any one (1) of the fifty (50) states, whether the states have joined the compact or not. The compact will publish these common ethical standards along with specific criteria for a cure for each of the diseases the compact has targeted.

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

(d) On or before January 1 of each year, the compact shall review all state laws to determine if additional ethical standards have been enacted by any of the fifty (50) states and the federal
government. Any changes to the common ethical standards rules
based on new state laws shall be adopted and published by the
compact, but shall not take effect in cure criteria for a period of
three (3) years to allow for sufficient notice to researchers.

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

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

Sec. 9. If the commission exercises the commission's rulemaking
authority in a manner that is beyond the scope of the purpose of
this compact, or the powers granted under the compact, then the
rule shall be invalid and have no force and effect.

Chapter 7. Committees

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

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

(c) The committee shall have the authority and duties as may be
set forth in the commission's bylaws and rules, including the
following:

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

(2) Overseeing the offices of the commission.

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

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

(e) The management committee, subject to commission
approval, may appoint or retain an executive director for a period,
upon such terms and conditions, and for the compensation as the
committee determines. The executive director shall serve as
secretary to the commission, but shall not be a member of the
commission. The executive director shall hire and supervise such
other staff as may be authorized by the committee.
Sec. 2. (a) The commission may appoint advisory committees to monitor all operations related to the purposes of the compact and make recommendations to the commission. The manner of selection and term of any committee member shall be as set forth in the commission's bylaws and rules.

(b) The commission shall consult with an advisory committee, to the extent required by the commission's bylaws or rules, before doing any of the following:

(1) Approving cure criteria.
(2) Amending, enacting, or repealing any bylaw or rule.
(3) Adopting the commission's annual budget.
(4) Addressing any other significant matter or taking any other significant action.

Chapter 8. Finance

Sec. 1. (a) The commission annually shall establish a budget to pay or provide for the payment of its reasonable expenses.

(b) To fund the cost of initial operations, the commission may accept contributions and other forms of funding from the compacting states and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

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

Sec. 3. (a) The commission shall keep complete and accurate accounts of all of its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under the commission’s bylaws or rules.

(b) The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but not less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the commission.

(c) The commission shall make an annual report to the governors and legislatures of the compacting states, which shall include a report of the independent audit.

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

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

Chapter 9. Records

Sec. 1. (a) Except as to privileged records, data, and
information, the laws of any compacting state pertaining to
confidentiality or nondisclosure shall not relieve any member of
the duty to disclose any relevant records, data, or information to
the commission.

(b) Disclosure to the commission shall not be deemed to waive
or otherwise affect any confidentiality requirement. Except as
otherwise expressly provided in the compact, the commission shall
not be subject to the compacting state's laws pertaining to
confidentiality and nondisclosure with respect to records, data, and
information in its possession.

Sec. 2. Confidential information of the commission shall remain
confidential after the information is provided to any member. All
cure submissions received by the commission are confidential.

Chapter 10. Compliance

Sec. 1. (a) The commission shall notify a compacting state in
writing of any noncompliance with commission bylaws and rules.

(b) If a compacting state fails to remedy the compacting state's
noncompliance within the time specified in the notice, the
compacting state shall be deemed to be in default as set forth in
IC 16-46.5-14.

Chapter 11. Venue

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

Chapter 12. Qualified Immunity, Defense, and Indemnification

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

Sec. 2. (a) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of the person's commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities.

(b) Nothing in the compact or commission bylaws or rules shall be construed to prohibit a person from retaining the person's own counsel, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

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

Chapter 13. Compacting States, Effective Date, and Amendment

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

Sec. 2. The compact shall become effective and binding upon legislative enactment of the compact into law by two (2) compacting states. However, the commission shall only be established after six (6) states become compacting states. Thereafter, the compact shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

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

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

Chapter 14. Withdrawal, Default, and Expulsion

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

(1) Repealing the law enacting the compact in that state.
(2) Notifying the commission in writing of the intent to
withdraw on a date that is both of the following:
   (A) At least three (3) years after the date the notice is sent.
   (B) After the repeal takes effect.

(b) The effective date of withdrawal is the date described in
subsection (a)(2).

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

(d) The commission or management committee, as applicable,
shall notify the other compacting states of the introduction of the
legislation within ten (10) days of the commission's receipt of the
notice.

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

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

Sec. 2. (a) If the commission determines that any compacting
state has at any time defaulted in the performance of any of the
state's obligations or responsibilities under the compact or the
commission's bylaws or rules, then, after notice and hearing as set
forth in the bylaws, all rights, privileges, and benefits conferred by
this compact on the defaulting state shall be suspended from the
effective date of default as fixed by the commission.

(b) The grounds for default include failure of a compacting state
to perform its obligations or responsibilities, and any other
grounds designated in commission rules.

(c) The commission shall immediately notify the defaulting state
in writing of the suspension, pending cure of the default. The
commission shall stipulate the conditions and the time period
within which the defaulting state shall cure the state's default.

(d) If the defaulting state fails to cure the default within the time
period specified by the commission, the defaulting state shall be
expelled from the compact and all rights, privileges, and benefits
conferred by the compact shall be terminated from the effective
date of the expulsion.

(e) Any state that is expelled from the compact shall be liable for
any cure prize or prizes for three (3) years after the state's
removal. The commission shall also take appropriate legal action
to ensure that any compacting state that withdraws from the
compact remains liable for paying the state's responsibility toward
a prize for a cure that was accepted while the compacting state was
a member of the commission.

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

Sec. 3. (a) The compact dissolves effective upon the date of
either of the following:

(1) The withdrawal or expulsion of a compacting state, which
the withdrawal or expulsion reduces membership in the
compact to one (1) compacting state.

(2) The commission votes to dissolve the compact.

(b) Upon the dissolution of the compact:

(1) the compact becomes null and void and shall be of no
further force or effect; and

(2) the business and affairs of the commission shall be wound
up and any surplus funds shall be distributed in accordance
with the commission's bylaws.

However, the commission shall pay all outstanding prizes awarded
before the dissolution of the compact, as well as any other
outstanding debts and obligations incurred during the existence of
the compact. Any unawarded funds donated to be a part of a prize
shall be returned to the donor, along with any interest earned on
the amount.

Chapter 15. Severability and Construction

Sec. 1. The provisions of the compact shall be severable. If any
phrase, clause, sentence, or provision is deemed unenforceable, the
remaining provisions of the compact shall be enforceable.
Sec. 2. The provisions of the compact shall be liberally construed to effectuate the compact's purposes.

Chapter 16. Binding Effect of Compact and Other Laws

Sec. 1. Except as provided in section 2(b) of this chapter, nothing in this article prevents the enforcement of any other law of a compacting state.

Sec. 2. (a) All lawful actions of the commission, including all commission rules, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with the compact's terms.

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

(1) commit the full faith and credit or taxing power of the compacting state for the payment of prizes or other obligations under the compact; and

(2) make prize payment responsibilities or other obligations under the compact a debt of the compacting state.

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

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

SECTION 7. IC 34-30-2-83.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 83.9. IC 16-46.5-12-1 (Concerning members, officers, executive director, employees, and representatives of the solemn covenant of states commission).