

# SENATE, No. 1966

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Enters New Jersey into Solemn Covenant of the States to Award Prizes for Curing Diseases.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT adopting the Solemn Covenant of the States to Award  
2 Prizes for Curing Diseases and supplementing Title 26 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. The State of New Jersey enacts and enters into the Solemn  
9 Covenant of the States to Award Prizes for Curing Diseases with all  
10 other jurisdictions that legally join in the covenant in the form  
11 substantially as follows:

12  
13 Article I. Definitions.

14  
15 1. As used in this compact:

16 "Compacting state" means either:

17 a. a state that has enacted the compact and which has not  
18 withdrawn or been suspended pursuant to Article XVI of the  
19 compact; or

20 b. the federal government in accordance with the commission's  
21 bylaws.

22 "Compact" means the Solemn Covenant of the States to Award  
23 Prizes for Curing Diseases enacted in this section.

24 "Non-compacting state" means any state or the federal  
25 government, if it is not at the time a compacting state.

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

29 "State" means any state, district, or territory of the United States  
30 of America.

31

32 Article II. Establishment of the Commission; Membership.

33

34 1. Upon the enactment of the covenant by six states, the  
35 compacting states shall establish the Solemn Covenant of the States  
36 Commission.

37

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

42

43 3. Each compacting state shall be represented by one member  
44 as selected by the compacting state. Each compacting state shall  
45 determine its member's qualifications and period of service and  
46 shall be responsible for any action to remove or suspend its member  
47 or to fill the member's position if it becomes vacant. Nothing in the

1 compact shall be construed to affect a compacting state's authority  
2 regarding the qualification, selection, or service of its own member.

3

4 Article III. Powers of the Commission.

5

6 The commission shall have the following powers:

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

11

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

17

18 3. To make widely available a cure treatment or therapeutic  
19 protocol for which a prize is awarded, including by arranging or  
20 contracting for the manufacturing, production, or provision of any  
21 drug, serum, or other substance, device, or process;

22

23 4. To establish and collect royalty fees imposed on  
24 manufacturers, producers, and providers in non-compacting states  
25 or foreign countries of any drug, serum, or other substance, device,  
26 or process used for a cure treatment or therapeutic protocol for  
27 which a prize is awarded, provided that the royalty fees for a  
28 particular state or country shall cumulatively be not more than the  
29 estimated five-year savings in public health expenses for that state  
30 or country, as calculated by actuaries employed or contracted by the  
31 commission;

32

33 5. To do the following regarding the collected royalty fees:

34 a. Pay or reimburse expenses related to the payment of a prize,  
35 which shall include employing or contracting actuaries to calculate  
36 the annual taxpayer savings amounts in compacting states in  
37 accordance with paragraph (3) of subsection g. of section 3 of  
38 Article VI, and payment of interest and other expenses related to a  
39 loan obtained in accordance with paragraph (6) of subsection g. of  
40 section 3 of Article VI; and

41 b. Annually disburse any amounts remaining after making  
42 payments or reimbursements under subsection a. of this section as  
43 refunds to compacting states based on the percent of the state's  
44 prize obligation in relation to the total obligation amount of all  
45 compacting states;

46

47 6. To bring and prosecute legal proceedings or actions in its  
48 name as the commission;

- 1       7. To issue subpoenas requiring the attendance and testimony  
2 of witnesses and the production of evidence;  
3
- 4       8. To establish and maintain offices;  
5
- 6       9. To borrow, accept, or contract for personnel services,  
7 including personnel services from employees of a compacting state;  
8
- 9       10. To hire employees, professionals, or specialists, and elect or  
10 appoint officers, and to fix their compensation, define their duties  
11 and give them appropriate authority to carry out the purposes of the  
12 compact, and determine their qualifications; and to establish the  
13 commission's personnel policies and programs relating to, among  
14 other things, conflicts of interest, rates of compensation, and  
15 qualifications of personnel;  
16
- 17       11. To accept any and all appropriate donations and grants of  
18 money, equipment, supplies, materials, and services, and to receive,  
19 utilize, and dispose of the same; provided that at all times the  
20 commission shall strive to avoid any appearance of impropriety;  
21
- 22       12. To lease, purchase, or accept appropriate gifts or donations  
23 of, or otherwise to own, hold, improve, or use, any property, real,  
24 personal, or mixed; provided that at all times the commission shall  
25 strive to avoid any appearance of impropriety;  
26
- 27       13. To sell, convey, mortgage, pledge, lease, exchange, abandon,  
28 or otherwise dispose of any property, real, personal, or mixed;  
29
- 30       14. To monitor compacting states for compliance with the  
31 commission's bylaws and rules;  
32
- 33       15. To enforce compliance by compacting states with the  
34 commission's bylaws and rules;  
35
- 36       16. To provide for dispute resolution among compacting states  
37 or between the commission and those who submit treatments and  
38 therapeutic protocols for the cure of disease for consideration;  
39
- 40       17. To establish a budget and make expenditures;  
41
- 42       18. To borrow money;  
43
- 44       19. To appoint committees, including management, legislative,  
45 and advisory committees comprised of members, state legislators or  
46 their representatives, medical professionals, and such other  
47 interested persons as may be designated by the commission;

1       20. To establish annual membership dues for compacting states;

2

3       21. To adopt and use a corporate seal; and

4

5       22. To perform such other functions as may be necessary or  
6 appropriate to achieve the purposes of this compact.

7

8       Article IV. Meetings and Voting.

9

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

12

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

16

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

21

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

26

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

30

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

35

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

38

39      Article V. Bylaws.

40

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

45

46      1. Establishing the fiscal year of the commission;

- 1       2. Providing reasonable procedures for appointing and electing  
2 members, as well as holding meetings, of the management  
3 committee;  
4
- 5       3. Providing reasonable standards and procedures:
  - 6       a. For the establishment and meetings of other committees;
  - 7       b. Governing any general or specific delegation of any  
8 authority or function of the commission; and
  - 9       c. Voting guidelines and procedures for commission decisions;  
10
- 11      4. Providing reasonable procedures for calling and conducting  
12 meetings of the commission that shall consist of requiring a quorum  
13 to be present, ensuring reasonable advance notice of each such  
14 meeting and providing for the right of citizens to attend each such  
15 meeting with enumerated exceptions designed to protect the  
16 public's interest and the privacy of individuals;  
17
- 18      5. Providing a list of matters about which the commission may  
19 go into executive session, and providing that the commission may  
20 not enter into executive session except upon the vote of a majority  
21 of all members of the commission. As soon as practicable, the  
22 commission shall make available to the public:
  - 23      a. A copy of the vote to go into executive session, revealing the  
24 vote of each member with no proxy votes allowed; and
  - 25      b. The matter requiring executive session, without identifying  
26 the actual issues or individuals involved;  
27
- 28      6. Establishing the titles, duties, authority, and reasonable  
29 procedures for the election of the officers of the commission;  
30
- 31      7. Providing reasonable standards and procedures for the  
32 establishment of the personnel policies and programs of the  
33 commission. Notwithstanding any civil service or other similar  
34 laws of any compacting state, the commission's bylaws shall  
35 exclusively govern the personnel policies and programs of the  
36 commission;  
37
- 38      8. Allowing a mechanism for:
  - 39      a. The federal government to join as a compacting state; and
  - 40      b. Foreign countries or subdivisions of those countries to join  
41 as liaison members by adopting the compact; provided that adopting  
42 countries or subdivisions shall not have voting power or the power  
43 to bind the commission in any way;  
44
- 45      9. Adopting a code of ethics to address permissible and  
46 prohibited activities of members and employees;

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

3

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

8

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

11

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

16

17       Article VI. Rules.

18

19       1. The commission shall adopt rules to effectively and  
20 efficiently achieve the purposes of this compact.

21

22       2. The commission shall also adopt rules establishing the  
23 criteria for defining and classifying the diseases for which prizes  
24 shall be awarded. The commission may consult the most recent  
25 edition of the International Classification of Diseases as published  
26 by the World Health Organization or other definitions agreed to by  
27 a two-thirds vote of the commission.

28

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

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

33           (1) The severity of the disease to a human individual's overall  
34 health and well-being;

35           (2) The survival rate or severity of impact of the disease; and

36           (3) The public health expenses and treatment expenses for the  
37 disease;

38       b. The criteria a treatment or therapeutic protocol shall meet in  
39 order to be considered a cure for any of the diseases for which a  
40 prize may be awarded, which shall include the following  
41 requirements:

42           (1) The treatment or therapeutic protocol shall yield a 95 percent  
43 survival rate through at least five years after the treatment or  
44 therapeutic protocol has ended; and

45           (2) The course of the treatment or therapeutic protocol is one  
46 year or less;

47       c. The procedure for determining the diseases for which to  
48 award prizes, which includes the option to award prizes for more

1 than 10 diseases that meet the criteria set forth in subsection a. of  
2 this section, if agreed to by two-thirds vote of the commission, and  
3 a requirement to update the list of diseases established pursuant to  
4 subsection a. of this section every three years;

5 d. The submission and evaluation procedures and guidelines,  
6 including filing and review procedures, and limitations preventing  
7 public access to treatment or therapeutic protocol submissions;

8 e. The estimated five-year public health expenses for each  
9 disease in each compacting state and a procedure to update these  
10 expenses every three years in conjunction with the requirements set  
11 forth in subsection c. of this section. The estimated five-year public  
12 health expenses amount shall be calculated, estimated, and  
13 publicized every three years by actuaries employed or contracted by  
14 the commission;

15 f. The prize amount with respect to cures for each disease,  
16 which shall be equal to the most recent estimated total five-year  
17 savings in public health expenses for the disease as calculated in  
18 subsection e. of this section in all of the compacting states; amounts  
19 donated by charities, individuals, and any other entities intended for  
20 the prize under the compact; and any other factors that the  
21 commission deems appropriate; and

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

24 (1) Upon acceptance of a cure, the prize winner shall transfer to  
25 the commission the patent and all related intellectual property for  
26 the treatment or therapeutic protocol in exchange for the prize,  
27 except in the case that the prize money is considered by the  
28 commission to be too low, and that a prize will be awarded only to  
29 the first person or entity that submits a successful cure for a disease  
30 for which a prize may be awarded;

31 (2) Donation amounts intended for the prize shall be kept in a  
32 separate, interest-bearing account maintained by the commission.  
33 The account shall be the only account in which prize money is kept;

34 (3) Each compacting state shall have the responsibility to pay  
35 annually the compacting state's actual one-year savings in public  
36 health expenses for the particular disease for which a cure has been  
37 accepted. The compacting state shall make such an annual payment  
38 until it has fulfilled its prize responsibility as established in  
39 subsection f. of this section. Each compacting state's payment  
40 responsibility begins one year after the date the cure becomes  
41 widely available. The commission shall employ or contract  
42 actuaries to calculate each state's actual one-year savings in public  
43 health expenses at the end of each year to determine each state's  
44 responsibility for the succeeding year;

45 (4) Compacting states may meet prize responsibilities by any  
46 method including the issuance of bonds or other obligations, with  
47 the principal and interest of those bonds or obligations to be repaid  
48 only from revenue derived from estimated public health expense

1 savings from a cure for a disease. If the compacting state does not  
2 make such revenue available to repay some or all of the revenue  
3 bonds or obligations issued, the owners or holders of those bonds or  
4 obligations have no right to have excises or taxes levied to pay the  
5 principal or interest on the bonds or obligations. The revenue bonds  
6 and obligations are not a debt of the issuing compacting state;

7 (5) A compacting state may issue bonds or other debt that are  
8 general obligations, under which the full faith and credit, revenue,  
9 and taxing power of the state is pledged to pay the principal and  
10 interest under those obligations, only if authorized by the  
11 compacting state's constitution or, if constitutional authorization is  
12 not required, by other law of the compacting state; and

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

21

22 4. The commission shall also adopt rules that do the following:

23 a. Establish the following with regard to commission records:

24 (1) Conditions and procedures for public inspection and copying  
25 of its information and official records, except such information and  
26 records that involve the privacy of individuals or would otherwise  
27 violate privacy laws under federal law and the laws of the  
28 compacting states;

29 (2) Procedures for sharing with federal and state agencies,  
30 including law enforcement agencies, records and information  
31 otherwise exempt from disclosure; and

32 (3) Guidelines for entering into agreements with federal and  
33 state agencies to receive or exchange information or records subject  
34 to nondisclosure and confidentiality provisions;

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

38 (1) An opportunity for an appeal, not later than 30 days after a  
39 rejection of a treatment or therapeutic protocol for prize  
40 consideration, to a review panel established under the commission's  
41 dispute resolution process;

42 (2) Commission monitoring and review of treatment and  
43 therapeutic protocol effectiveness consistent with the cure criteria  
44 established by the commission for the particular disease; and

45 (3) Commission reconsideration, modification, or withdrawal of  
46 approval of a treatment or therapeutic protocol for prize  
47 consideration for failure to continue to meet the cure criteria  
48 established by the commission for the particular disease;

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

6 (1) Administrative review by a review panel appointed by the  
7 commission;

8 (2) Judicial review of decisions issued after an administrative  
9 review; and

10 (3) Qualifications to be appointed to a panel, due process  
11 requirements, including notice and hearing procedures, and any  
12 other procedure, requirement, or standard necessary to provide  
13 adequate dispute resolution; and

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

18

19 5. Recognizing that the goal of the compact is to pool the  
20 potential savings of as many states and countries as possible to  
21 generate sufficient financial incentive to develop a cure for many of  
22 the world's most devastating diseases, the compact will respect the  
23 laws of each of these United States by adopting rules that establish  
24 ethical standards for research that shall be followed in order for a  
25 prize to be claimed. The compact, in the rules, shall establish a  
26 common set of ethical standards that embodies the laws and  
27 restrictions in each of the states so that to be eligible for claiming a  
28 prize the entity submitting a cure shall not have violated any of the  
29 ethical standards in any one of the 50 states, whether the states have  
30 joined the compact or not. The compact shall publish these  
31 common ethical standards along with the specific criteria for a cure  
32 for each of the diseases the compact has targeted.

33 So long as a researcher follows the common ethical standards in  
34 effect at the time the research is done, an entity presenting a cure  
35 will be deemed to have followed the standards. On or before  
36 January 1 of each year, the compact shall review all state laws to  
37 determine if additional ethical standards have been enacted by any  
38 of the 50 states or the federal government. Any changes to the  
39 common ethical standards rules based on new state laws shall be  
40 adopted and published by the compact, but shall not take effect in  
41 cure criteria for a period of three years to allow for sufficient notice  
42 to researchers.

43

44 6. All rules may be amended as the commission sees necessary.

45

46 7. All rules shall be adopted pursuant to a rule-making process  
47 that conforms to the Model State Administrative Procedure Act of

1 1981 by the Uniform Law Commissioners, as amended, as may be  
2 appropriate to the operations of the commission.

3

4 8. In the event the commission exercises its rulemaking  
5 authority in a manner that is beyond the scope of the purpose of this  
6 compact, or the powers granted hereunder, then such rule shall be  
7 invalid and have no force and effect.

8

9 Article VII. Committees.

10

11 1. Management Committee.

12 a. The commission may establish a management committee  
13 comprised of no more than 14 members when 26 states enact the  
14 compact.

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

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

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

23 (2) Overseeing the offices of the commission; and

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

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

30 e. The management committee, subject to commission  
31 approval, may appoint or retain an executive director for such  
32 period, upon such terms and conditions, and for such compensation,  
33 as the committee determines. The executive director shall serve as  
34 secretary to the commission, but shall not be a member of the  
35 commission. The executive director shall hire and supervise such  
36 other staff as may be authorized by the committee.

37

38 2. Advisory Committees.

39 The commission may appoint advisory committees to monitor all  
40 operations related to the purposes of the compact and make  
41 recommendations to the commission, provided that the manner of  
42 selection and term of any committee member shall be as set forth in  
43 the commission's bylaws and rules. The commission shall consult  
44 with an advisory committee, to the extent required by the  
45 commission's bylaws or rules, before doing any of the following:

46 a. Approving cure criteria;

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

48 c. Adopting the commission's annual budget; or

1 d. Addressing any other significant matter or taking any other  
2 significant action.

3

4 Article VIII. Finance.

5

6 1. The commission annually shall establish a budget to pay or  
7 provide for the payment of its reasonable expenses. To fund the  
8 cost of initial operations, the commission may accept contributions  
9 and other forms of funding from the compacting states and other  
10 sources. Contributions and other forms of funding from other  
11 sources shall be of such a nature that the independence of the  
12 commission concerning the performance of its duties shall not be  
13 compromised.

14

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

17

18 3. The commission shall keep complete and accurate accounts  
19 of all of its internal receipts, including grants and donations, and  
20 disbursements of all funds under its control. The internal financial  
21 accounts of the commission shall be subject to the accounting  
22 procedures established under the commission's bylaws or rules.  
23 The financial accounts and reports including the system of internal  
24 controls and procedures of the commission shall be audited  
25 annually by an independent certified public accountant. Upon the  
26 determination of the commission, but not less frequently than every  
27 three years, the review of the independent auditor shall include a  
28 management and performance audit of the commission. The  
29 commission shall make an annual report to the governors of the  
30 compacting states, which shall include a report of the independent  
31 audit. The commission's internal accounts shall not be confidential  
32 and such materials shall be shared with any compacting state upon  
33 request; provided, however, that any work papers related to any  
34 internal or independent audit and any information subject to the  
35 compacting states' privacy laws, shall remain confidential.

36

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

40

41 Article IX. Records.

42

43 Except as to privileged records, data, and information, the laws  
44 of any compacting state pertaining to confidentiality or  
45 nondisclosure shall not relieve any member of the duty to disclose  
46 any relevant records, data, or information to the commission,  
47 provided that disclosure to the commission shall not be deemed to  
48 waive or otherwise affect any confidentiality requirement, and

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

8  
9 Article X. Compliance.

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

16  
17 Article XI. Venue.

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

23  
24 Article XII. Qualified Immunity, Defense, and Indemnification.

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

39  
40 2. The commission shall defend any member, officer, executive  
41 director, employee, or representative of the commission in any civil  
42 action seeking to impose liability arising out of any actual or  
43 alleged act, error, or omission that occurred within the scope of the  
44 person's commission employment, duties, or responsibilities, or that  
45 such person had a reasonable basis to believe occurred within the  
46 scope of commission employment, duties, or responsibilities;  
47 provided that nothing in the compact or commission bylaws or rules  
48 shall be construed to prohibit that person from retaining the

1 person's own counsel; and further provided that the actual or  
2 alleged act, error, or omission did not result from that person's  
3 intentional or willful and wanton misconduct.

4  
5 3. The commission shall indemnify and hold harmless any  
6 member, officer, executive director, employee, or representative of  
7 the commission for the amount of any settlement or judgment  
8 obtained against the person arising out of any actual or alleged act,  
9 error, or omission that occurred within the scope of the person's  
10 commission employment, duties, or responsibilities, or that such  
11 person had a reasonable basis for believing occurred within the  
12 scope of commission employment, duties, or responsibilities;  
13 provided that the actual or alleged act, error, or omission did not  
14 result from the intentional or willful and wanton misconduct of that  
15 person.

16  
17 Article XIII. Compacting States, Effective Date, and  
18 Amendment.

19  
20 1. Any state is eligible to become a compacting state.

21  
22 2. The compact shall become effective and binding upon  
23 legislative enactment of the compact into law by two compacting  
24 states; provided, the commission shall only be established after six  
25 states become compacting states. Thereafter, the compact shall  
26 become effective and binding as to any other compacting state upon  
27 enactment of the compact into law by that state.

28  
29 3. Amendments to the compact may be proposed by the  
30 commission for enactment by the compacting states. No  
31 amendment shall become effective and binding until all compacting  
32 states enact the amendment into law.

33  
34 Article XIV. Withdrawal, Default, and Expulsion.

35  
36 1. Withdrawal.

37 a. Once effective, the compact shall continue in force and  
38 remain binding on each and every compacting state; provided that a  
39 compacting state may withdraw from the compact by doing both of  
40 the following:

41 (1) repealing the law enacting the compact in that state; and

42 (2) Notifying the commission in writing of the intent to  
43 withdraw on a date that is both of the following:

44 (a) at least three years after the date the notice is sent; and

45 (b) after the repeal takes effect.

46 b. The effective date of withdrawal is the date described in  
47 paragraph (2) of subsection a. of this section.

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

6 d. The commission or management committee, as applicable,  
7 shall notify the other compacting states of the introduction of such  
8 legislation within 10 days after its receipt of notice thereof.

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

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

18

19 2. Default.

20 a. If the commission determines that any compacting state has  
21 at any time defaulted in the performance of any of its obligations or  
22 responsibilities under the compact or the commission's bylaws or  
23 rules, then, after notice and a hearing as set forth in the bylaws, all  
24 rights, privileges, and benefits conferred by this compact on the  
25 defaulting state shall be suspended from the effective date of default  
26 as fixed by the commission. The grounds for default include failure  
27 of a compacting state to perform its obligations or responsibilities,  
28 and any other grounds designated in commission rules. The  
29 commission shall stipulate the conditions and the time period within  
30 which the defaulting state shall cure its default. If the defaulting  
31 state fails to cure the default within the time period specified by the  
32 commission, the defaulting state shall be expelled from the compact  
33 and all rights, privileges, and benefits conferred by the compact  
34 shall be terminated from the effective date of the expulsion. Any  
35 state that is expelled from the compact shall be liable for any cure  
36 prize or prizes for three years after its removal. The commission  
37 shall also take appropriate legal action to ensure that any  
38 compacting state that withdraws from the compact remains liable  
39 for paying its responsibility towards a prize for a cure that was  
40 accepted while the compacting state was a member of the  
41 commission.

42 b. The expelled state shall be required to reenact the compact  
43 in order to become a compacting state.

44

45 3. Dissolution of Compact.

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

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

4 (2) The commission votes to dissolve the compact.

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

15

16 Article XV. Severability and Construction.

17

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

21

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

24

25 Article XVI. Binding Effect of Compact and Other Laws.

26

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

30

31 2. Binding Effect of the Compact.

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

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

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

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

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

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

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

10  
11 2. The Governor shall execute the compact on behalf of this  
12 State and perform any other acts that may be deemed requisite to its  
13 formal ratification and promulgation.

14  
15 3. a. The Governor, with the advice and consent of the Senate,  
16 shall appoint the New Jersey member to the commission established  
17 pursuant to Article II of the Solemn Covenant of the States to  
18 Award Prizes for Curing Diseases. The position of the commission  
19 member shall be placed within the Department of Health for  
20 administrative purposes.

21 b. Except as may be otherwise provided under Article II of the  
22 compact, the member shall serve until the appointment of a  
23 successor in the manner provided in subsection a. of this section,  
24 and shall, at a minimum, have a background and expertise related to  
25 communicable diseases and the public health.

26 c. The New Jersey member of the commission shall serve  
27 without compensation, but shall be reimbursed for any actual and  
28 necessary expenses incurred in the performance of the member's  
29 commission duties.

30  
31 4. This act shall take effect immediately.

32  
33  
34 STATEMENT

35  
36  
37 This bill enters New Jersey into the Solemn Covenant of the  
38 States to Award Prizes for Curing Diseases (compact). The purpose  
39 of the compact is to pool monies from the member states to award  
40 prizes for developing cures for certain diseases that represent a  
41 significant risk to the public health as well as a significant public  
42 expense.

43 The compact becomes effective once two states adopt legislation  
44 enacting the compact. Once six states enter the compact, the  
45 member states will form a commission, which will comprise one  
46 representative from each member state. The commission will have  
47 various powers necessary to implement and administer the  
48 provisions of the compact, including the power to adopt bylaws and

1 rules; receive and review applications for prizes; make disease cures  
2 widely available, including entering into contracts to manufacture  
3 or produce the cure; establish and collect royalty fees associated  
4 with the cure; and monitor compliance with compact requirements  
5 by member states. Each member will have one vote on the  
6 commission, and a majority vote by the total membership is  
7 required to take most official action, although a vote by two-thirds  
8 of the members is required to take certain specified actions,  
9 including awarding prizes under the compact. The commission is to  
10 meet at least once per year and establish annual membership dues  
11 that will be based on the percentage of each member state's  
12 population in relation to the total population of all member states.  
13 Generally, commission meetings will be open to the public, but the  
14 commission may go into executive session to discuss certain  
15 matters if authorized under the bylaws to be developed by the  
16 commission.

17 The commission will establish rules for the purposes of  
18 designating the diseases that will be eligible for a prize. The  
19 commission is to create a list of at least 10 major diseases based on  
20 the severity of the disease and the public expenses associated with  
21 the disease, and create criteria upon which the cure for the disease  
22 will be measured which, at a minimum, is to include a 95 percent  
23 survival rate through at least five years after the cure is  
24 administered, and a course of treatment using the cure that lasts no  
25 more than one year. The list is to be updated at least once every  
26 three years. The commission may, by a two-thirds vote, expand the  
27 list to include more than 10 diseases.

28 The commission will be required to employ or contact with  
29 actuaries to determine the estimated five-year public health  
30 expenses for each disease included in the list. Prizes will be equal  
31 to the most recent estimated total five-year savings in public health  
32 expenses for the disease in all member states, plus any amount  
33 donated for inclusion in the prize by any entity. An entity awarded  
34 a prize under the compact will be required to transfer to the  
35 commission the patent and all related intellectual property for the  
36 cure in exchange for the prize money, unless the commission  
37 determines the amount of the prize is too low. Only one prize may  
38 be awarded for each listed disease. Once a prize is awarded, the  
39 commission is to take out a loan equal to the prize amount, which  
40 loan will be repaid by the member states through five annual  
41 payments equal to that state's one-year savings from curing the  
42 disease. Member states may meet their prize obligations by issuing  
43 bonds or other obligations that are to be repaid through revenue  
44 derived from public health savings. The commission may rescind a  
45 prize if it determines the cure no longer meets the commission's  
46 criteria for a prize award. The commission is to establish a dispute  
47 resolution process to appeal award decisions as well as to resolve  
48 disputes between member states. No entity will be eligible for a

1 prize award if the entity has violated the ethical standards of any  
2 state the United States, regardless of whether the state is a member  
3 of the compact. The commission is to develop ethical standards  
4 reflective of the laws concerning ethical standards in place under  
5 federal law and the laws of in all 50 states.

6 Once 26 states have joined the compact, the commission will be  
7 authorized to establish a management committee comprising no  
8 more than 14 members representing the member states with the  
9 highest total public health expenses. The management committee  
10 will have the authority over the day-to-day affairs of the  
11 commission as well as coordinating communications and activities  
12 with various governmental entities. The commission may also, at  
13 any time, appoint advisory committees to monitor operations related  
14 to the purposes of the compact and to assist the commission in  
15 developing cure criteria, promulgating or revising rules and bylaws,  
16 adopting an annual budget, and addressing other matters of  
17 significance to the commission.

18 The compact includes certain recordkeeping requirements for the  
19 commission, sets forth confidentiality requirements, provides for  
20 annual internal reviews and independent audits of the commission's  
21 finances and internal controls, provides for periodic management  
22 and performance audits, requires annual reporting to the governors  
23 of the member states, and provides for qualified immunity, defense,  
24 and indemnification for the members, officers, and employees of  
25 the commission in relation to their official duties. The compact  
26 further establishes requirements for the voluntary withdrawal and  
27 mandatory expulsion of member states and procedures for the  
28 dissolution of the compact. The provisions of the compact are  
29 severable, and the compact specifies that nothing in its provisions is  
30 to be construed to impair the operation of any law of a member  
31 state.

32 The bill provides that the New Jersey member of the commission  
33 is to be appointed by the Governor with the advice and consent of  
34 the Senate. Except as may be contraindicated by the compact, the  
35 member will serve until the appointment of a successor, and is to  
36 have a background and expertise in communicable diseases and the  
37 public health. The member will serve without compensation but  
38 may be reimbursed for reasonable expenses incurred in connection  
39 with the member's duties with the commission. For administrative  
40 purposes, the member position will be placed in the Department of  
41 Health.

42 Legislation adopting the compact has been enacted in Ohio and  
43 introduced in at least 10 other states, including Hawaii, Iowa,  
44 Indiana, Kentucky, Maryland, Rhode Island, South Carolina,  
45 Tennessee, Virginia, and West Virginia.