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HOUSE BILL 669

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

**RELATING TO PROBATION AND PAROLE; ENACTING THE INTERSTATE
COMPACT FOR ADULT OFFENDER SUPERVISION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**The Interstate Compact for Adult Offender Supervision is
enacted into law and entered into on behalf of New Mexico with
any and all other states legally joining therein in a form
substantially as follows:**

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

Article I – Purpose

**A. The compacting states to this interstate
compact recognize that each state is responsible for the
supervision of adult offenders in the community and is
authorized pursuant to the bylaws and rules of this compact to
travel across state lines both to and from each compacting**

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1 state in such a manner as to track the location of offenders,
2 transfer supervision authority in an orderly and efficient
3 manner and, when necessary, return offenders to the
4 originating jurisdictions. The compacting states also
5 recognize that congress, by enacting the Crime Control Act, 4
6 U.S.C. Section 112, 1965, has authorized and encouraged
7 compacts for cooperative efforts and mutual assistance in the
8 prevention of crime.

9 B. It is the purpose of this compact and the
10 interstate commission created hereunder, through means of
11 joint and cooperative action among the compacting states:

12 (1) to provide the framework for the
13 promotion of public safety and protection of the rights of
14 victims in the community through the control and regulation of
15 the interstate movement of offenders;

16 (2) to provide for the effective tracking,
17 supervision and rehabilitation of these offenders by the
18 sending and receiving states; and

19 (3) to equitably distribute the costs,
20 benefits and obligations of the compact among the compacting
21 states.

22 C. In addition, this compact will:

23 (1) create an interstate commission that will
24 establish uniform procedures to manage the movement between
25 states of adults placed under community supervision and

1 released to the community under the jurisdiction of courts,
2 paroling authorities, corrections or other criminal justice
3 agencies and that will promulgate rules to achieve the purpose
4 of this compact;

5 (2) ensure an opportunity for input and
6 timely notice to victims and to jurisdictions as to where
7 defined offenders are authorized to travel or to relocate
8 across state lines;

9 (3) establish a system of uniform data
10 collection, access to information on active cases by
11 authorized criminal justice officials and regular reporting of
12 compact activities to heads of state councils, state
13 executive, judicial and legislative branches and criminal
14 justice administrators;

15 (4) monitor compliance with rules governing
16 interstate movement of offenders and initiate interventions to
17 address and correct noncompliance; and

18 (5) coordinate training and education
19 regarding regulations of interstate movement of offenders for
20 officials involved in such activity.

21 D. The compacting states recognize that there is
22 no "right" of any offender to live in another state and that
23 duly accredited officers of a sending state may at all times
24 enter a receiving state and there apprehend and retake any
25 offender under supervision subject to the provisions of this

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1 compact and bylaws and rules promulgated hereunder.

2 E. It is the policy of the compacting states that
3 the activities conducted by the interstate commission created
4 herein are the formation of public policies and are therefore
5 public business.

6 Article II – Definitions

7 As used in this compact, unless the context clearly requires a
8 different construction:

9 A. "adult" means both individuals legally
10 classified as adults and juveniles treated as adults by court
11 order, statute or operation of law;

12 B. "bylaws" mean those bylaws established by the
13 interstate commission for its governance or for directing or
14 controlling the interstate commission's actions or conduct;

15 C. "compact" means the Interstate Compact for
16 Adult Offender Supervision;

17 D. "compact administrator" means the individual in
18 each compacting state appointed pursuant to the terms of this
19 compact responsible for the administration and management of
20 the state's supervision and transfer of offenders subject to
21 the terms of this compact, the rules adopted by the interstate
22 commission and policies adopted by the state council under
23 this compact;

24 E. "compacting state" means any state that has
25 enacted the enabling legislation for this compact;

1 F. "commissioner" means the voting representative
2 of each compacting state appointed pursuant to Article III of
3 this compact;

4 G. "interstate commission" means the interstate
5 commission for adult offender supervision established by this
6 compact;

7 H. "member" means the commissioner of a compacting
8 state or his designee, who shall be a person officially
9 connected with the commissioner;

10 I. "non-compacting state" means any state that has
11 not enacted the enabling legislation for this compact;

12 J. "offender" means an adult placed under or
13 subject to supervision as the result of the commission of a
14 criminal offense and released to the community under the
15 jurisdiction of courts, paroling authorities, corrections or
16 other criminal justice agencies;

17 K. "person" means any individual, corporation,
18 business enterprise or other legal entity, either public or
19 private;

20 L. "rules" means acts of the interstate
21 commission, duly promulgated pursuant to Article VIII of this
22 compact, substantially affecting interested parties in
23 addition to the interstate commission, which shall have the
24 force and effect of law in the compacting states;

25 M. "state" means a state of the United States, the

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1 District of Columbia and any other territorial possessions of
2 the United States; and

3 N. "state council" means the resident members of
4 the state council for interstate adult offender supervision
5 created by each compacting state under Article IV of this
6 compact.

7 Article III – The Compact Commission

8 A. The compacting states hereby create the
9 "interstate commission for adult offender supervision". The
10 interstate commission shall be a body corporate and joint
11 agency of the compacting states. The interstate commission
12 shall have all the responsibilities, powers and duties set
13 forth herein, including the power to sue and be sued and such
14 additional powers as may be conferred upon it by subsequent
15 action of the respective legislatures of the compacting states
16 in accordance with the terms of this compact. The interstate
17 commission shall consist of commissioners selected and
18 appointed by resident members of a state council for
19 interstate adult offender supervision for each state. In
20 addition to the commissioners who are the voting
21 representatives of each state, the interstate commission shall
22 include individuals who are not commissioners but who are
23 members of interested organizations; such non-commissioner
24 members must include a member of the national organizations of
25 governors, legislators, state chief justices, attorneys

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1 general and crime victims. All non-commissioner members of
2 the interstate commission shall be ex-officio, nonvoting
3 members. The interstate commission may provide in its bylaws
4 for such additional, ex-officio, nonvoting members as it deems
5 necessary.

6 B. Each compacting state represented at any
7 meeting of the interstate commission is entitled to one vote.
8 A majority of the compacting states shall constitute a quorum
9 for the transaction of business, unless a larger quorum is
10 required by the bylaws of the interstate commission. The
11 interstate commission shall meet at least once each calendar
12 year. The chairperson may call additional meetings and, upon
13 the request of twenty-seven or more compacting states, shall
14 call additional meetings. Public notice shall be given of all
15 meetings and meetings shall be open to the public.

16 C. The interstate commission shall establish an
17 executive committee that shall include commission officers,
18 members and others as shall be determined by the bylaws. The
19 executive committee shall have the power to act on behalf of
20 the interstate commission during periods when the interstate
21 commission is not in session, with the exception of rulemaking
22 and amendment to the compact. The executive committee shall
23 oversee the day-to-day activities managed by the executive
24 director and interstate commission staff, administer
25 enforcement and compliance with the provisions of the compact

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1 and its bylaws as directed by the interstate commission and
2 perform other duties as directed by the interstate commission
3 or set forth in the bylaws.

4 Article IV – The State Council

5 Each compacting state shall create a "state council for
6 interstate adult offender supervision" that shall be
7 responsible for the appointment of the commissioner who shall
8 serve on the interstate commission from that state. Each
9 state council shall appoint as its commissioner the compact
10 administrator from that state to serve on the interstate
11 commission in such capacity under or pursuant to applicable
12 law of the compacting state. While each compacting state may
13 determine the membership of its own state council, its
14 membership must include at least one representative from the
15 legislative, judicial and executive branches of government and
16 victims groups and its compact administrator. Each compacting
17 state retains the right to determine the qualifications of the
18 compact administrator who shall be appointed by the state
19 council or by the governor in consultation with the
20 legislature and the judiciary. In addition to appointment of
21 its commissioner to the interstate commission, each state
22 council shall exercise oversight and advocacy concerning its
23 participation in interstate commission activities and other
24 duties as may be determined by each compacting state,
25 including development of policy concerning operations and

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1 procedures of the compact within that state.

2 Article V – Powers and ~~Commission~~ of the Interstate

3 The interstate commission shall have the following powers:

4 A. to adopt a seal and suitable bylaws governing
5 the management and operation of the interstate commission;

6 B. to promulgate rules that shall have the force
7 and effect of statutory law and shall be binding in the
8 compacting states to the extent and in the manner provided in
9 this compact;

10 C. to oversee, supervise and coordinate the
11 interstate movement of offenders subject to the terms of this
12 compact and any bylaws adopted and rules promulgated by the
13 interstate commission;

14 D. to enforce compliance with compact provisions
15 and interstate commission rules and bylaws, using all
16 necessary and proper means, including the use of judicial
17 process;

18 E. to establish and maintain offices;

19 F. to purchase and maintain insurance and bonds;

20 G. to borrow, accept or contract for services of
21 personnel, including members and their staffs;

22 H. to establish and appoint committees and hire
23 staff that it deems necessary for the carrying out of its
24 functions, including an executive committee as required by
25 Article III that shall have the power to act on behalf of the

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1 interstate commission in carrying out its powers and duties
2 hereunder;

3 I. to elect or appoint such officers, attorneys,
4 employees, agents or consultants and to fix their
5 compensation, define their duties and determine their
6 qualifications; and to establish the interstate commission's
7 personnel policies and programs relating to, among other
8 things, conflicts of interest, rates of compensation and
9 qualifications of personnel;

10 J. to accept any and all donations and grants of
11 money, equipment, supplies, materials and services and to
12 receive, utilize and dispose of same;

13 K. to lease, purchase, accept contributions or
14 donations of, or otherwise to own, hold, improve or use any
15 property, real, personal or mixed;

16 L. to sell, convey, mortgage, pledge, lease,
17 exchange, abandon or otherwise dispose of any property, real,
18 personal or mixed;

19 M. to establish a budget and make expenditures and
20 levy dues as provided in Article X of this compact;

21 N. to sue and be sued;

22 O. to provide for dispute resolution among
23 compacting states;

24 P. to perform such functions as may be necessary
25 or appropriate to achieve the purposes of this compact;

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1 Q. to report annually to the legislatures,
2 governors, judiciary and state councils of the compacting
3 states concerning the activities of the interstate commission
4 during the preceding year. The reports shall also include any
5 recommendations that may have been adopted by the interstate
6 commission;

7 R. to coordinate education, training and public
8 awareness regarding the interstate movement of offenders for
9 officials involved in such activity; and

10 S. to establish uniform standards for the
11 reporting, collecting and exchanging of data.

12 Article VI – Organization and Operation of the Interstate
13 Commission

14 A. The interstate commission shall, by a majority
15 of the members, within twelve months of the first interstate
16 commission meeting, adopt bylaws to govern its conduct as may
17 be necessary or appropriate to carry out the purposes of the
18 compact, including:

19 (1) establishing the fiscal year of the
20 interstate commission;

21 (2) establishing an executive committee and
22 such other committees as may be necessary;

23 (3) providing reasonable standards and
24 procedures:

25 (a) for the establishment of

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1 committees; and

2 (b) for any general or specific
3 delegation of any authority or function of the interstate
4 commission;

5 (4) providing reasonable procedures for
6 calling and conducting meetings of the interstate commission
7 and ensuring reasonable notice of each such meeting;

8 (5) establishing the titles and
9 responsibilities of the officers of the interstate commission;

10 (6) providing reasonable standards and
11 procedures for the establishment of the personnel policies and
12 programs of the interstate commission. Notwithstanding any
13 civil service or other similar laws of any compacting state,
14 the bylaws shall exclusively govern the personnel policies and
15 programs of the interstate commission;

16 (7) providing a mechanism for winding-up the
17 operations of the interstate commission and for the equitable
18 return of any surplus funds that may exist upon the
19 termination of the compact after the payment and reserving of
20 all of its debts and obligations;

21 (8) providing transition rules for "start-up"
22 administration of the compact; and

23 (9) establishing standards and procedures for
24 compliance and technical assistance in carrying out the
25 compact.

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1 B. The interstate commission shall, by a majority
2 of the members, elect from among its members a chairperson and
3 a vice chairperson, each of whom shall have such authorities
4 and duties as may be specified in the bylaws. The chairperson
5 or, in his absence or disability, the vice chairperson, shall
6 preside at all meetings of the interstate commission. The
7 officers so elected shall serve without compensation or
8 remuneration from the interstate commission; provided that,
9 subject to the availability of budgeted funds, the officers
10 shall be reimbursed for any actual and necessary costs and
11 expenses incurred by them in the performance of their duties
12 and responsibilities as officers of the interstate commission.
13 The interstate commission shall, through its executive
14 committee, appoint or retain an executive director for such
15 period, upon such terms and conditions and for such
16 compensation as the interstate commission may deem
17 appropriate. The executive director shall serve as secretary
18 to the interstate commission, and hire and supervise such
19 other staff as may be authorized by the interstate commission,
20 but shall not be a member.

21 C. The interstate commission shall maintain its
22 corporate books and records in accordance with the bylaws.

23 D. The members, officers, executive director and
24 employees of the interstate commission shall be immune from
25 suit and liability, either personally or in their official

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1 capacity, for any claim for damage to or loss of property or
2 personal injury or other civil liability caused or arising out
3 of any actual or alleged act, error or omission that occurred
4 within the scope of interstate commission employment, duties
5 or responsibilities; provided that nothing in this paragraph
6 shall be construed to protect any such person from suit or
7 liability for any damage, loss, injury or liability caused by
8 the intentional or willful and wanton misconduct of any such
9 person. The interstate commission shall defend the
10 commissioner of a compacting state, or his representatives or
11 employees or the interstate commission's representatives or
12 employees, in any civil action seeking to impose liability,
13 arising out of any actual or alleged act, error or
14 omission that occurred within the scope of interstate
15 commission employment, duties or responsibilities, or that the
16 defendant had a reasonable basis for believing occurred within
17 the scope of interstate commission employment, duties or
18 responsibilities; provided that the actual or alleged act,
19 error or omission did not result from intentional wrongdoing
20 on the part of such person. The interstate commission shall
21 indemnify and hold the commissioner of a compacting state, the
22 appointed designee or employees or the interstate commission's
23 representatives or employees, harmless in the amount of any
24 settlement or judgment obtained against such persons arising
25 out of any actual or alleged act, error or omission that

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1 occurred within the scope of interstate commission employment,
2 duties or responsibilities, or that such persons had a
3 reasonable basis for believing occurred within the scope of
4 interstate commission employment, duties or responsibilities;
5 provided that the actual or alleged act, error or omission did
6 not result from gross negligence or intentional wrongdoing on
7 the part of such person.

8 Article VII – Activities of the Interstate

9 Commission

10 A. The interstate commission shall meet and take
11 such actions as are consistent with the provisions of this
12 compact.

13 B. Except as otherwise provided in this compact
14 and unless a greater percentage is required by the bylaws, in
15 order to constitute an act of the interstate commission such
16 act shall have been taken at a meeting of the interstate
17 commission and shall have received an affirmative vote of a
18 majority of the members present.

19 C. Each member of the interstate commission shall
20 have the right and power to cast a vote to which that
21 compacting state is entitled and to participate in the
22 business and affairs of the interstate commission. A member
23 shall vote in person on behalf of the compacting state and
24 shall not delegate a vote to another compacting state.

25 However, a state council shall appoint another authorized

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1 representative, in the absence of the commissioner from that
2 state, to cast a vote on behalf of the compacting state at a
3 specified meeting. The bylaws may provide for members'
4 participation in meetings by telephone or other means of
5 telecommunication or electronic communication. Any voting
6 conducted by telephone, or other means of telecommunication or
7 electronic communication shall be subject to the same quorum
8 requirements of meetings where members are present in person.

9 D. The interstate commission shall meet at least
10 once during each calendar year. The chairperson of the
11 interstate commission may call additional meetings at any time
12 and, upon the request of a majority of the members, shall call
13 additional meetings.

14 E. The interstate commission's bylaws shall
15 establish conditions and procedures under which the interstate
16 commission shall make its information and official records
17 available to the public for inspection or copying. The
18 interstate commission may exempt from disclosure any
19 information or official records to the extent they would
20 adversely affect personal privacy rights or proprietary
21 interests. In promulgating such rules, the interstate
22 commission may make available to law enforcement agencies
23 records and information otherwise exempt from disclosure, and
24 may enter into agreements with law enforcement agencies to
25 receive or exchange information or records subject to non-

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1 disclosure and confidentiality provisions.

2 F. Public notice shall be given of all meetings
3 and all meetings shall be open to the public, except as set
4 forth in the rules or as otherwise provided in the compact.
5 The interstate commission shall promulgate rules consistent
6 with the principles contained in the federal Government in the
7 Sunshine Act, 5 U.S.C. Section 552(b), as may be amended. The
8 interstate commission and any of its committees may close a
9 meeting to the public where it determines by a two-thirds'
10 vote that a meeting would be likely to:

- 11 (1) relate solely to the interstate
12 commission's internal personnel practices and procedures;
- 13 (2) disclose matters specifically exempted
14 from disclosure by statute;
- 15 (3) disclose trade secrets or commercial or
16 financial information that is privileged or confidential;
- 17 (4) involve accusing any person of a crime,
18 or formally censuring any person;
- 19 (5) disclose information of a personal nature
20 where disclosure would constitute a clearly unwarranted
21 invasion of personal privacy;
- 22 (6) disclose investigatory records compiled
23 for law enforcement purposes;
- 24 (7) disclose information contained in or
25 related to examination, operating or condition reports

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1 prepared by, or on behalf of or for the use of, the interstate
2 commission with respect to a regulated entity for the purpose
3 of regulation or supervision of such entity;

4 (8) disclose information, the premature
5 disclosure of which would significantly endanger the life of a
6 person or the stability of a regulated entity; or

7 (9) specifically relate to the interstate
8 commission's issuance of a subpoena or its participation in a
9 civil action or proceeding.

10 G. For every meeting closed pursuant to this
11 provision, the interstate commission's chief legal officer
12 shall publicly certify that, in his opinion, the meeting may
13 be closed to the public, and shall reference each relevant
14 exemptive provision. The interstate commission shall keep
15 minutes that shall fully and clearly describe all matters
16 discussed in any meeting and shall provide a full and accurate
17 summary of any actions taken, and the reasons therefor,
18 including a description of each of the views expressed on any
19 item and the record of any roll-call vote, reflected in the
20 vote of each member on the question. All documents considered
21 in connection with any action shall be identified in the
22 minutes.

23 H. The interstate commission shall collect
24 standardized data concerning the interstate movement of
25 offenders as directed through its bylaws and rules, which

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1 shall specify the data to be collected, the means of
2 collection and data exchange and reporting requirements.

3 Article VIII – Rulemaking Functions of the Interstate
4 Commission

5 A. The interstate commission shall promulgate
6 rules in order to effectively and efficiently achieve the
7 purposes of the compact, including transition rules governing
8 administration of the compact during the period in which it is
9 being considered and enacted by the states. Rulemaking shall
10 occur pursuant to the criteria set forth in this article and
11 the bylaws and rules adopted pursuant thereto. Such
12 rulemaking shall substantially conform to the principles of
13 the federal Administrative Procedure Act, 5 U.S.C. Section 551
14 et seq., and the federal Advisory Committee Act, 5 U.S.C.
15 Section 1 et seq., as may be amended. All rules and
16 amendments shall become binding as of the date specified in
17 each rule or amendment.

18 B. If a majority of the legislatures of the
19 compacting states rejects a rule, by enactment of a statute or
20 resolution in the same manner used to adopt the compact, then
21 such rule shall have no further force and effect in any
22 compacting state.

23 C. When promulgating a rule, the interstate
24 commission shall:

- 25 (1) publish the proposed rule stating with

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1 particularity the text of the rule that is proposed and the
2 reason for the proposed rule;

3 (2) allow persons to submit written data,
4 facts, opinions and arguments, which information shall be
5 publicly available;

6 (3) provide an opportunity for an informal
7 hearing; and

8 (4) promulgate a final rule and its effective
9 date, if appropriate, based on the rulemaking record.

10 D. Not later than sixty days after a rule is
11 promulgated, any interested person may file a petition in the
12 United States district court for the District of Columbia or
13 in the federal district court where the interstate
14 commission's principal office is located for judicial review
15 of such rule. If the court finds that the interstate
16 commission's action is not supported by substantial evidence,
17 as defined in the Administrative Procedure Act, in the
18 rulemaking record, the court shall hold the rule unlawful and
19 set it aside. Subjects to be addressed within twelve months
20 after the first meeting must at a minimum include:

21 (1) notice to victims and opportunity to be
22 heard;

23 (2) offender registration and compliance;

24 (3) violations or returns;

25 (4) transfer procedures and forms;

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- 1 (5) eligibility for transfer;
2 (6) collection of restitution and fees from
3 offenders;
4 (7) data collection and reporting;
5 (8) the level of supervision to be provided
6 by the receiving state;
7 (9) transition rules governing the operation
8 of the compact and the interstate commission during all or
9 part of the period between the effective date of the compact
10 and the date on which the last eligible state adopts the
11 compact; and
12 (10) mediation, arbitration and dispute
13 resolution.

14 E. The existing rules governing the operation of
15 the previous compact superseded by this compact shall be null
16 and void twelve months after the first meeting of the
17 interstate commission created hereunder.

18 F. Upon determination by the interstate commission
19 that an emergency exists, it may promulgate an emergency rule
20 that shall become effective immediately upon adoption,
21 provided that the usual rulemaking procedures provided
22 hereunder shall be retroactively applied to said rule as
23 soon as reasonably possible, in no event later than ninety
24 days after the effective date of the rule.

25 Article IX – Oversight, Enforcement, and Dispute

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1 Resolution by the Interstate Commission

2 A. The interstate commission shall oversee the
3 interstate movement of adult offenders in the compacting
4 states and shall monitor such activities being administered in
5 non-compacting states that may significantly affect compacting
6 states. The courts and executive agencies in each compacting
7 state shall enforce this compact and shall take all actions
8 necessary and appropriate to effectuate the compact's purposes
9 and intent. In any judicial or administrative proceeding in a
10 compacting state pertaining to the subject matter of this
11 compact that may affect the powers, responsibilities or
12 actions of the interstate commission, the interstate
13 commission shall be entitled to receive all service of process
14 in any such proceeding and shall have standing to intervene in
15 the proceeding for all purposes.

16 B. The compacting states shall report to the
17 interstate commission on issues or activities of concern to
18 them and cooperate with and support the interstate commission
19 in the discharge of its duties and responsibilities. The
20 interstate commission shall attempt to resolve any disputes or
21 other issues that are subject to the compact and that may
22 arise among compacting states and non-compacting states. The
23 interstate commission shall enact a bylaw or promulgate a rule
24 providing for both mediation and binding dispute resolution
25 for disputes among the compacting states.

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1 C. The interstate commission, in the reasonable
2 exercise of its discretion, shall enforce the provisions of
3 this compact using any or all means set forth in Section B of
4 Article XII of this compact.

5 Article X – Finance

6 A. The interstate commission shall pay or provide
7 for the payment of the reasonable expenses of its
8 establishment, organization and ongoing activities.

9 B. The interstate commission shall levy on and
10 collect an annual assessment from each compacting state to
11 cover the cost of the internal operations and activities of
12 the interstate commission and its staff that must be in a
13 total amount sufficient to cover the interstate commission's
14 annual budget as approved each year. The aggregate annual
15 assessment amount shall be allocated based upon a formula to
16 be determined by the interstate commission, taking into
17 consideration the population of the compacting state and the
18 volume of interstate movement of offenders in each compacting
19 state and shall promulgate a rule binding upon all compacting
20 states that governs said assessment.

21 C. The interstate commission shall not incur any
22 obligations of any kind prior to securing the funds adequate
23 to meet the same; nor shall the interstate commission pledge
24 the credit of any of the compacting states, except by and with
25 the authority of the compacting state.

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1 D. The interstate commission shall keep accurate
2 accounts of all receipts and disbursements. The receipts and
3 disbursements of the interstate commission shall be subject to
4 the audit and accounting procedures established under its
5 bylaws. However, all receipts and disbursements of funds
6 handled by the interstate commission shall be audited yearly
7 by a certified or licensed public accountant and the report of
8 the audit shall be included in and become part of the annual
9 report of the interstate commission.

10 Article XI – Compacting States, Effective Date and Amendment

11 A. Any state is eligible to become a compacting
12 state. The compact shall become effective and binding upon
13 legislative enactment of the compact into law by no less than
14 thirty-five of the states. The initial effective date shall
15 be the later of July 1, 2001, or upon enactment into law by
16 the thirty-fifth state. Thereafter it shall become effective
17 and binding, as to any other compacting state, upon enactment
18 of the compact into law by that state. The governors of
19 non-compacting states or their designees will be invited to
20 participate in interstate commission activities on a
21 non-voting basis prior to adoption of the compact by all
22 states and territories of the United States.

23 B. Amendments to the compact may be proposed by
24 the interstate commission for enactment by the compacting
25 states. No amendment shall become effective and binding upon

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1 the interstate commission and the compacting states unless and
2 until it is enacted into law by unanimous consent of the
3 compacting states.

4 Article XII – Withdrawal, Default, Termination
5 and Judicial Enforcement

6 A. Once effective, the compact shall continue in
7 force and remain binding upon each and every compacting state;
8 provided that a compacting state may withdraw from the compact
9 by enacting a statute specifically repealing the statute that
10 enacted the compact into law. The effective date of
11 withdrawal is the effective date of the repeal. The
12 withdrawing state shall immediately notify the chairperson of
13 the interstate commission in writing upon the introduction of
14 legislation repealing this compact in the withdrawing state.
15 The interstate commission shall notify the other compacting
16 states of the withdrawing state's intent to withdraw within
17 sixty days of its receipt thereof. The withdrawing state is
18 responsible for all assessments, obligations and liabilities
19 incurred through the effective date of withdrawal, including
20 any obligations, the performance of which extend beyond the
21 effective date of withdrawal. Reinstatement following
22 withdrawal of any compacting state shall occur upon the
23 withdrawing state reenacting the compact or upon such later
24 date as determined by the interstate commission.

25 B. If the interstate commission determines that

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1 any compacting state has at any time defaulted in the
2 performance of any of its obligations or responsibilities
3 under this compact, the bylaws or any duly promulgated rules,
4 the interstate commission may impose any or all of the
5 following penalties:

6 (1) fines, fees and costs in such amounts as
7 are deemed to be reasonable as fixed by the interstate
8 commission;

9 (2) remedial training and technical
10 assistance as directed by the interstate commission; and

11 (3) suspension and termination of membership
12 in the compact. Suspension shall be imposed only after all
13 other reasonable means of securing compliance under the bylaws
14 and rules have been exhausted. Immediate notice of suspension
15 shall be given by the interstate commission to the governor,
16 the chief justice or chief judicial officer of the state, the
17 majority and minority leaders of the defaulting state's
18 legislature and the state council.

19 The grounds for default include failure of a compacting
20 state to perform such obligations or responsibilities imposed
21 upon it by this compact, interstate commission bylaws or duly
22 promulgated rules. The interstate commission shall
23 immediately notify the defaulting state in writing of the
24 penalty imposed by the interstate commission on the defaulting
25 state pending a cure of the default. The interstate

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1 commission shall stipulate the conditions and the time period
2 within which the defaulting state must cure its default. If
3 the defaulting state fails to cure the default within the time
4 period specified by the interstate commission, in addition to
5 any other penalties imposed herein, the defaulting state may
6 be terminated from the compact upon an affirmative vote of a
7 majority of the compacting states, and all rights, privileges
8 and benefits conferred by this compact shall be terminated
9 from the effective date of suspension. Within sixty days of
10 the effective date of termination of a defaulting state, the
11 interstate commission shall notify the governor, the chief
12 justice or chief judicial officer and the majority and
13 minority leaders of the defaulting state's legislature and the
14 state council of such termination. The defaulting state is
15 responsible for all assessments, obligations and liabilities
16 incurred through the effective date of termination, including
17 any obligations, the performance of which extends beyond the
18 effective date of termination. The interstate commission
19 shall not bear any costs relating to the defaulting state
20 unless otherwise mutually agreed upon between the interstate
21 commission and the defaulting state. Reinstatement following
22 termination of any compacting state requires both a
23 re-enactment of the compact by the defaulting state and the
24 approval of the interstate commission pursuant to the rules.

25 C. The interstate commission may, by majority vote

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1 of the members, initiate legal action in the United States
2 district court for the District of Columbia or, at the
3 discretion of the interstate commission, in the federal
4 district where the interstate commission has its offices to
5 enforce compliance with the provisions of the compact and its
6 duly promulgated rules and bylaws against any compacting state
7 in default. In the event judicial enforcement is necessary,
8 the prevailing party shall be awarded all costs of such
9 litigation, including reasonable attorney fees.

10 D. The compact dissolves effective upon the date
11 of the withdrawal or default of the compacting state, which
12 reduces membership in the compact to one compacting state.
13 Upon the dissolution of this compact, the compact becomes null
14 and void and shall be of no further force or effect, and the
15 business and affairs of the interstate commission shall be
16 wound-up and any surplus funds shall be distributed in
17 accordance with the bylaws.

18 Article XIII – Severability and Construction

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

23 B. The provisions of this compact shall be
24 liberally constructed to effectuate its purposes.

25 Article XIV – Binding Effect of Compact and Other Laws

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1 A. Nothing herein prevents the enforcement of any
2 other law of a compacting state that is not inconsistent with
3 this compact. All compacting states' laws conflicting with
4 this compact are superseded to the extent of the conflict.

5 B. All lawful actions of the interstate
6 commission, including all rules and bylaws promulgated by the
7 interstate commission, are binding upon the compacting states.
8 All agreements between the interstate commission and the
9 compacting states are binding in accordance with their terms.
10 Upon the request of a party to a conflict over meaning or
11 interpretation of interstate commission actions, and upon a
12 majority vote of the compacting states, the interstate
13 commission may issue advisory opinions regarding such meaning
14 or interpretation. In the event any provision of this compact
15 exceeds the constitutional limits imposed on the legislature
16 of any compacting state, the obligations, duties, powers or
17 jurisdiction sought to be conferred by such provision upon the
18 interstate commission shall be ineffective and such
19 obligations, duties, powers or jurisdiction shall remain in
20 the compacting state and shall be exercised by the agency
21 thereof to which such obligations, duties, powers or
22 jurisdiction are delegated by law in effect at the time this
23 compact becomes effective.

24 Article XV – Repeal

25 Sections 31-5-1 through 31-5-3 NMSA 1978 (being Laws

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1 1937, Chapter 10, Sections 1 and 3 and Laws 1959, Chapter 34,
2 Section 1) are repealed.

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