

# CAPITOL RESEARCH

## ● ● ● INTERSTATE COMPACTS

### The Evolving Use of Interstate Compacts

#### The Modern Interstate Compact

Dating back to America's colonial past, interstate compacts are one of the few tools specifically granted to states by the U.S. Constitution. While it is unlikely our Founding Fathers anticipated the scope and breadth of today's state government policy challenges, their inclusion of compacts in the Constitution provided state policymakers with a viable alternative to federal intervention. The growth of the modern compact has further provided states a sophisticated administrative mechanism, allowing interstate collaboration to resolve complex policy challenges.

The modern administrative compact enables the states—in their sovereign capacity—to act jointly and collectively, generally outside the confines of the federal legislative or regulatory process. This is especially evident by the growing number of regional and national compacts developed for and adopted by states over the last 75 years. During that period, more than 150 compacts have been created, many of which are characterized by the formation of a multistate regulatory agency created to cooperatively administer the compact.

The development of regulatory agencies aimed at addressing large-scale regional or national problems represents a dramatic shift in the use and application of interstate compacts. Whereas compacts of old were traditionally bistate agreements aimed at resolving relatively simple disputes such as border disagreements, modern compacts provide states a flexible and sustainable tool capable of addressing complex policy challenges.

#### Compacts as a Modern Policy Tool

Interstate compacts provide the most sustainable and durable tool available to the states to foster interstate collaboration. While state policymakers have also utilized other means such as memorandums of understanding and uniform state laws, neither mechanism has the strength or durability of a compact. To that end, an interstate compact provides states with the most viable method to implement meaningful change through interstate collaboration.



#### Sustainable and Flexible

First and foremost, interstate compacts are both sustainable and flexible. Because compacts are passed through a state's legislature and signed into law by the governor, they carry the same weight as statutory law. Despite having the strength of law behind a compact, most modern compacts remain flexible enough to allow for change and evolution over time. While most compacts contain language outlining how the compact operates, both in terms of the agreement between states and the operation of a governing body, they do not typically address every conceivable eventuality. Instead, the compact language provides a framework that allows the member states to build and adopt over time, through such means as adopting rules and bylaws, forming committees, issuing advisory opinions and utilizing technology to carry out the goals of the compact. Each of these authorities, granted in the compact to its governing body, ensure that the compact is not so rigid that it limits the member states' ability to achieve the purposes of the compact.

#### Legitimate and Transparent

In addition to being sustainable and flexible, a compact, when developed and structured correctly, ensures transparency and legitimacy from development and implementation through the governing process. This is done by allowing all interested stakeholders to participate during the compact's development, by making all commission business open to the public, by allowing public comment



on the rules and bylaws, by permitting ex-officio member participation, and by allowing nonmember states an opportunity to voice their opinion on the compact's operations. While not an exhaustive list, each allowance legitimizes the process of compact development, implementation and governing by creating transparency.

### Self-Governing

Once operational, most modern, sophisticated regulatory compacts that cover complex issues and span multiple jurisdictions feature an administrative interstate agency called a commission. The commission, typically comprised of representatives from each member state, serves as the compact's governing body, allowing the larger agency to respond quickly and efficiently to policy challenges as they arise. Furthermore, compacts such as the Interstate Compact for the Educational Opportunity for Military Children feature a series of state councils that provide regional representation and input from state officials in each member state. These networks help to ensure participation from all levels of government and further help to promote interstate collaboration.

### Modern

Finally, because of their flexible nature, modern compacts frequently allow member states to utilize technology to carry out the compact's mission and foster collaboration. Compacts such as the Interstate Compact for Juveniles, the Interstate Compact for Adult Offender Supervision and the newly drafted Prescription Monitoring Program Compact rely heavily on a sophisticated technology infrastructure to facilitate the exchange of information on an interstate level. This exchange of information would be

next to impossible on an individual state basis. However, compacts allow states to collaboratively pool resources, creating economies of scale and allowing for the development and utilization of technology to cost-effectively improve public policy.

## Conclusion

While interstate compacts are not new to state policymakers, the growth and evolution of compacts represent a dynamic shift in the ability of states to work together on an interstate basis. Originally signed between two states to resolve issues such as border disputes, modern compacts have evolved into a tool that allows state legislators and executive branch officials to resolve a wide range of policy challenges. Modern compacts have been used in policy areas such as health, education, natural resources maintenance, insurance regulation, emergency management and other areas. These compacts frequently are regional or national in scope and provide states a mechanism capable of pre-empting federal intervention and regulation that is both flexible and sustainable enough to evolve and remain relevant over time

## How Can I Get More Information

For more information on interstate compacts, including news on recent state and federal legislation, a searchable database of compacts, links to relevant state statutes, legal and historical information and more, visit the National Center for Interstate Compacts at [www.csg.org](http://www.csg.org) (keyword: interstate compacts) or contact Crady deGolian at [cdegolian@csg.org](mailto:cdegolian@csg.org).



Crady deGolian, CSG Senior Policy Analyst  
[cdegolian@csg.org](mailto:cdegolian@csg.org)

## Current NCIC Projects

Project Name	Description	Development Process
Prescription Monitoring Program Compact	Allows member states to securely share prescription data while protecting patient privacy with the goal of reducing prescription drug abuse.	Compact language is finalized and will be ready for introduction in the states during the 2011 legislative session
Thoroughbred and Harness Racing Compact	Aims to create interstate uniformity in thoroughbred and harness horse racing following the tragic deaths of Eight Bells and Barbaro. This compact will only apply to states that have thoroughbred and harness racing	Compact language is nearly finalized and should be ready for introduction into the states during the 2011 legislative session.
Interstate Transmission Line Siting	CSG, through its National Center for Interstate Compacts, began exploring the possibility of an interstate compact designed to make the process of siting electric transmission lines across state lines more efficient and effective. This was a membership-driven initiative that is being led jointly by staff from NCIC and CSG's Energy and Environment group.	Work is ongoing to determine if a compact is a viable solution to the inefficiencies that exist in the transmission line siting process. This is being done through an advisory committee of interested stakeholders. Should it be determined that a compact is warranted, CSG will then embark on the drafting process.
Interstate Compact on Educational Opportunity for Military Children	This compact, which was developed through a joint partnership between CSG and the U.S. Department of Defense, aims to reduce the education challenges that frequently exist for transitioning military families.	Currently adopted by 35 states, the compact is fully operational and has recently hired an executive director and full-time staff to administer its daily operations. The commission will hold its third annual meeting in November 2010 in San Antonio.