

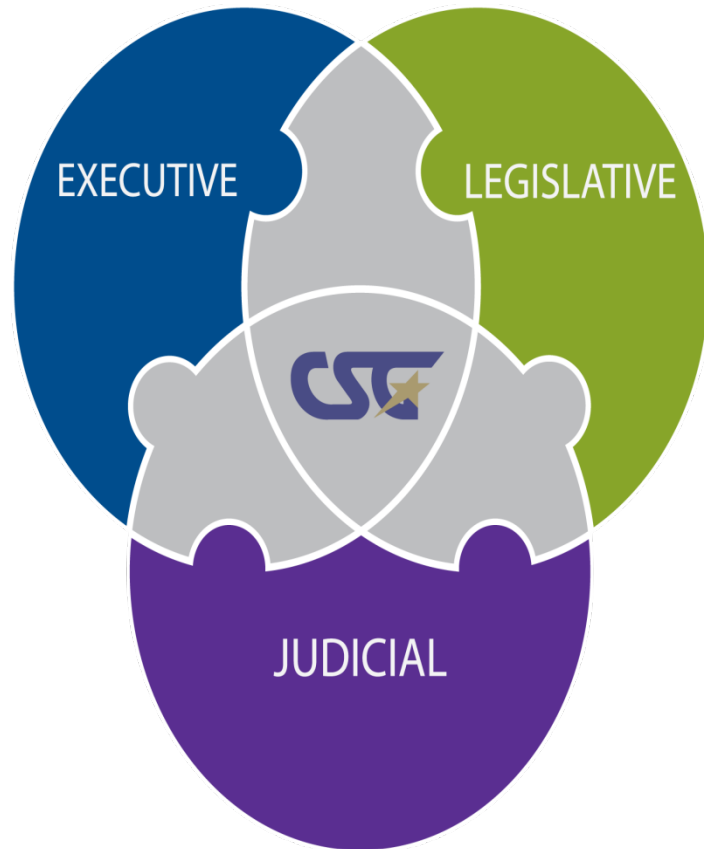


# INTERSTATE COMPACTS



The Council of State Governments  
Sharing capitol ideas.

# Who is CSG?



- Non-partisan organization serving all three branches of state government.
- Collaborative, national reach combined with regional offices.
- Fosters the exchange of insights and ideas to help state officials shape public policy.
- Extensive experience providing guidance and technical assistance in the field of interstate compacts.



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# What is an Interstate Compact?

- Simple, versatile and proven tool
- Effective means of cooperatively addressing common problems
- Contract between states
- Creates economies of scale
- Responds to national priorities with one voice
- Retains collective state sovereignty over issues belonging to the states



# History

- Interstate Compacts are rooted in the colonial past.

*Because each colony was independent, disputes between them were worked out by negotiation that was submitted to the king for approval.*

- Interstate compacts are not new.

*What has changed in the last century is the use of interstate compacts to create on-going administrative agencies.*



# Common Law Contract Principles

- An offer to enter the agreement is expressed by statutory language enacted by the first state to join the compact and each subsequent jurisdiction accepts this offer by enacting statutory language.
- Once enacted by two or more states, a compact, like any other contractual agreement, is protected from impairment by the states under Article I, Section 10, Clause 1 of the U.S. Constitution.
- Although a state cannot be bound by a compact to which it has not consented, once enacted a compact takes precedence over conflicting statutes of the signatory states.
- A state cannot unilaterally nullify, revoke, or amend one of its compacts if the compact does not so provide.



# Congressional Consent

Compacts between States are authorized under Art. I, Sec. 10, Cl. 3 of the U. S. Constitution

No State shall, without the Consent of Congress . . . enter into any Agreement Compact with another State . . . “ U.S. Supreme Court holds, in effect, that “any” doesn’ t mean “all” and consent isn’ t required unless the compact infringes on the federal supremacy.

[See U.S. Steel Corp. v. Multi-State Tax Commission, 434 U.S. 452 (1978)]



# 3 Primary Purposes

1. Used to resolve boundary disputes.
2. Used to institutionalize and manage interstate issues pertaining to allocation of natural resources.
3. Used to create administrative agencies which have jurisdiction over a wide variety of state concerns:
  - ✓ State transportation
  - ✓ Taxation
  - ✓ Environmental matters
  - ✓ Regulation
  - ✓ Education
  - ✓ Corrections
  - ✓ Public safety



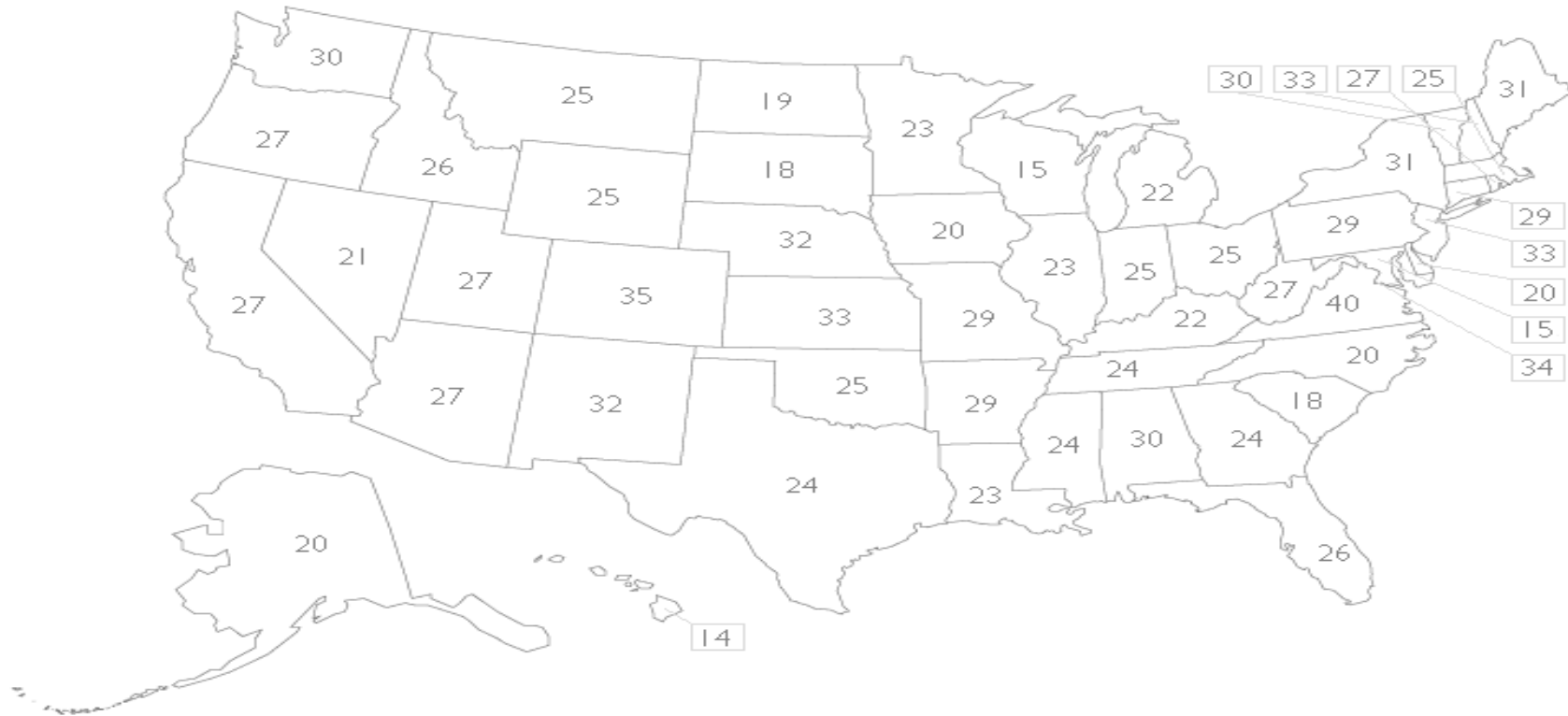
# Compacts

- Approximately 215 compacts formed
- About 40 are inactive
- On average, each state is a member of 25 compacts
- Precedence for international participation
- Port Authority of NY & NJ (1922) signaled a new era in regulatory compacts.

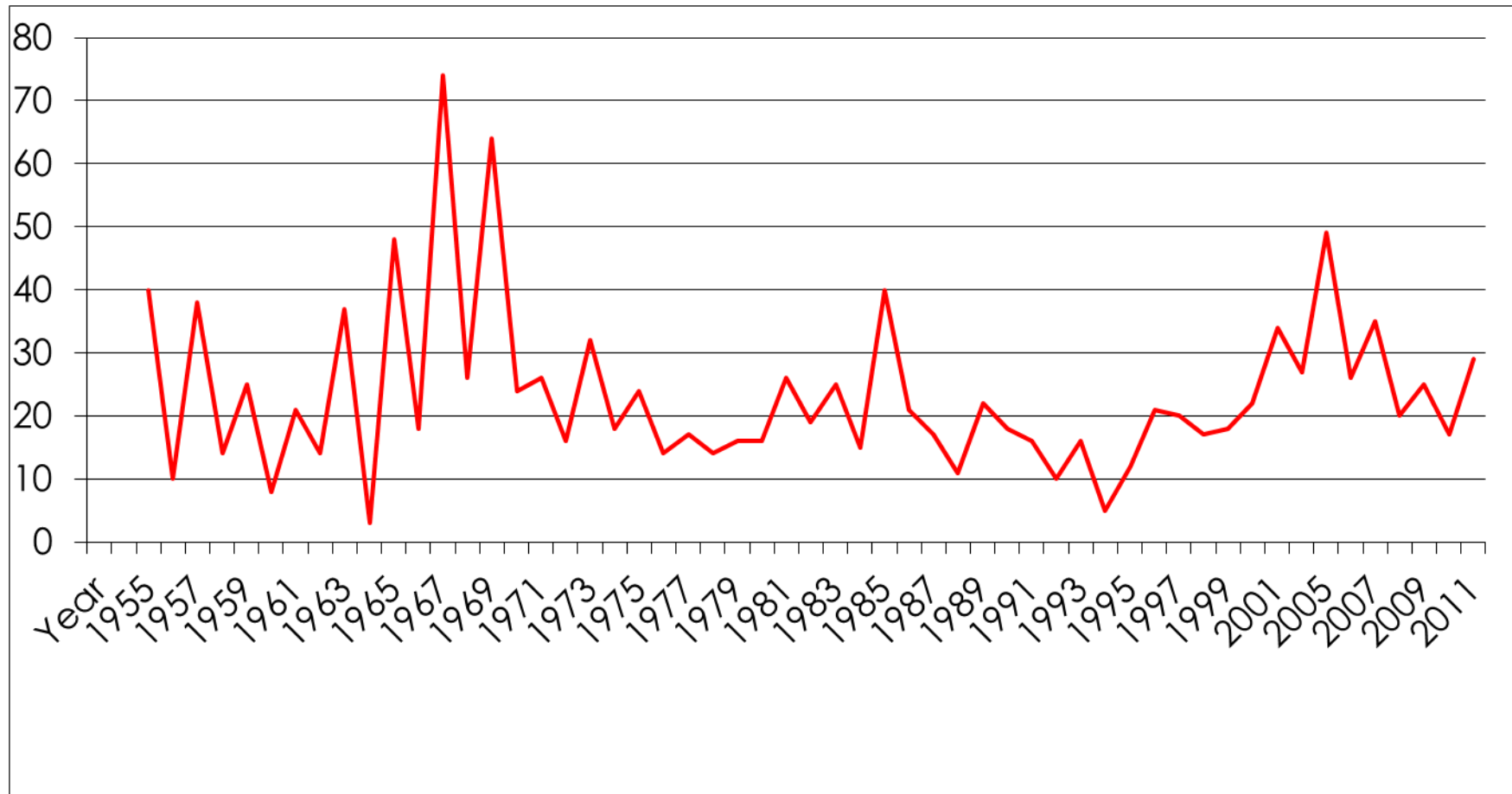




# Interstate Compact Membership



# Trends in Interstate Compacts



A state legislature's ability to delegate regulatory authority to an administrative agency is “one of the axioms of modern government”

Justice Felix Frankfurter

Extends to the creation of interstate commissions by compact

***West Virginia ex rel. Dyer v. Sims, 341 U.S. 22 (1951)***



# Other Forms of Multistate Cooperation

## Multistate Legal Actions

- Joint legal actions
- Tobacco settlement by NAAG

## Uniform State Laws

- National Conference of Commissioners on Uniform State Laws (NCCUSL)
- No involvement with “collective action” per se

## Administrative Agreements

- Executive agencies
- Formal or informal



# Interstate Compacts – Key Benefits

1. Effectiveness and efficiency
  - *Goal achievement with lower costs (economies of scale)*
2. Flexibility and autonomy compared to national policy
  - *“One size does not fit all”*
3. Dispute settlement among the states
4. State and Federal partnership
  - *“Collective cooperation”*
5. Cooperative behaviors leading to “win-win” situations
6. Unlimited possibilities



# Interstate Compacts – Operational Benefits

- National data & information sharing systems
- Enhanced enforcement and compliance mechanisms
- Uniform compact language and rules
- Uniform operations and procedures
- Effective governance structures



# Interstate Compacts – Operational Benefits (Cont.)

- National interface with external stakeholders / national organizations
- Coordination with other interstate compacts
- National office and staff (*if necessary*)
- Centralized National Training



# Notable Compacts Developed by CSG

- Interstate Compact for Adult Offender Supervision
- Interstate Compact for Juveniles
- Interstate Insurance Product Regulation Compact
- Interstate Compact on Edu. Opportunity for Military Children
- Midwest Interstate Passenger Rail Compact
- Great Lakes – St. Lawrence River Water Resources Compact





# Ongoing CSG Compact Projects

- Surplus Lines Insurance Multistate Compliance Compact
- The Prescription Monitoring Program Compact
- The Electric Transmission Line Siting Compact
- State Authorization Reciprocity Agreement



# Other Notable Compacts

- Driver Licensing Compact
- Nurse Licensure Compact
- Interstate Compact of Licensure of Participants in Horse Racing with Pari-Mutual Wagering
- Emergency Management Assistance Compact
- Interstate Earthquake Emergency Compact
- Regional Forest Fire Compacts (8 total)



# Interstate Compacts – Model Development Process

## Advisory Board

- Composed of state officials, stakeholders, issue experts
- Examine the issues and current policy spectrum of issue
- Examine best practices and alternative structures
- Establish recommendations as to the content of an interstate compact
- Examine the need for Congressional Consent



# Interstate Compacts – Model Development Process (Cont.)

## Drafting Team

- Composed of 5-8 state officials, stakeholders, issue experts (typically some overlap w/ Advisory)
- Draft interstate compact language based on Advisory Committee recommendations
- Circulate draft compact to specific states and relevant stakeholder groups for comment



# Interstate Compacts – Model Development Process (Cont.)

## Education and Enactment

- Drafting team considers comments and incorporates into compact
- Final product circulated to Advisory Board
- Released to states for consideration
- Education efforts developed simultaneously to support states considering new compact language



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[www.csg.org/ncic](http://www.csg.org/ncic)

