

# Interstate Compacts in the United States

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# Interstate Compacts in the United States

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**SUMMARY** An interstate compact is an agreement between two or more states of the United States that is approved by those states' respective legislatures, and, if required based on the subject matter of the compact, consented to by the US Congress. Compacts that receive congressional consent become federal law. As contracts between states, compacts affect the rights and responsibilities of states party to them (and their citizens); the US Supreme Court has indicated that the interests of non-party states could be a factor when determining whether congressional consent is required. A compact typically includes provisions regarding its purpose; specific terms with respect to the subject of the compact; in some cases, establishment of an interstate agency to administer the compact or some other method of administration; sources of funding; and other contract terms like dispute resolution, enforcement, termination of the compact, or withdrawal of a member. Numerous examples of compacts and the interstate agencies formed to administer them are available online.

## I. Formation of Interstate Compacts

An interstate compact is an agreement between or among two or more states of the United States. To become effective, it must be approved by those states' respective legislatures and, depending on the subject matter of the compact, consented to by Congress.

### A. Interstate Compacts are Negotiated Contracts

Interstate compacts are contracts that are negotiated between states. The US Supreme Court has held that the term "compact" should be understood to refer to a "contract."<sup>1</sup> Interstate compacts are the only method permitted by the US Constitution for states to change their relationship to one another in a significant way.<sup>2</sup> As such, they provide a mechanism for states to, among other things, create interstate agencies, often known as "commissions" or "authorities," to address issues more effectively than by acting alone, such as in large metropolitan areas that cover portions of multiple states,<sup>3</sup> and to solve disputes among states cooperatively, rather than by resorting to litigation.<sup>4</sup>

The negotiation process for compacts often involves the creation of joint commissions including members appointed by the governors of the negotiating states.<sup>5</sup> Other methods include direct negotiations by the governors themselves, promotion of compacts by the National Conference of

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<sup>1</sup> Green v. Biddle, 21 U.S. (8 Wheat.) 1, 92 (1823); Wharton v. Wise, 153 U.S. 155, 171 (1894).

<sup>2</sup> MICHAEL L. BUENGER ET AL., THE EVOLVING LAW AND USE OF INTERSTATE COMPACTS 3 (2d ed. 2016).

<sup>3</sup> *Id.* at 24.

<sup>4</sup> *Id.* at 23–24. The US Supreme Court often suggests to state litigants that they address conflicts by means of interstate compacts, rather than by litigation. *Id.* at 24.

<sup>5</sup> JOSEPH F. ZIMMERMAN, INTERSTATE COOPERATION: COMPACTS AND ADMINISTRATIVE AGREEMENTS 43 (2002).

State Legislatures,<sup>6</sup> and enactment by one state legislature of a proposed compact and an invitation by that state to others to enact identical statutes.<sup>7</sup> States negotiating compacts on their own initiative may invite representatives of federal agencies to participate; when Congress invited negotiation of a compact on water allocation that would involve the District of Columbia, a non-state jurisdiction the legislative enactments of which are subject to review by Congress,<sup>8</sup> Congress specified that federal representatives would be required in the negotiations.<sup>9</sup>

## **B. Approved by State Legislatures**

Once negotiated, interstate compacts must be approved by the legislatures of the states party to them.<sup>10</sup> A compact is approved by a state legislature in accordance with its procedure for enacting legislation and upon such enactment becomes a state statute.<sup>11</sup> If so approved by the legislature, a state's governor will still have the power to veto a compact if the governor so determines (subject to an ability of the legislature to override a veto with a re-vote).<sup>12</sup> Representatives of states negotiating a compact are well-advised to ensure that their respective legislatures are kept informed of and are comfortable with the progress of negotiations and the resolution of issues; otherwise, a legislature may refuse to approve a compact as presented and require renegotiation of issues before its approval will be granted.<sup>13</sup>

## **C. Consented to by Congress, if Required**

Although the US Constitution contains an express requirement for approval by Congress of compacts between states, the US Supreme Court has held that some agreements between states do not require such congressional consent. Article I, section 10 of the Constitution, provides that “[n]o State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State.”<sup>14</sup> The Court in 1893, however, stated in *Virginia v. Tennessee* that congressional consent is required only for a compact if it is “directed to the formation of any combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States.”<sup>15</sup>

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<sup>6</sup> NATIONAL CONFERENCE OF STATE LEGISLATURES, <http://www.ncsl.org/> (last visited June 20, 2018).

<sup>7</sup> ZIMMERMAN, *supra* note 5, at 43.

<sup>8</sup> *DC Home Rule*, COUNCIL OF THE DISTRICT OF COLUMBIA, <http://dccouncil.us/pages/dc-home-rule> (last visited June 20, 2018).

<sup>9</sup> ZIMMERMAN, *supra* note 5, at 45.

<sup>10</sup> *Id.* at 43.

<sup>11</sup> BUENGER ET AL., *supra* note 2, at 35.

<sup>12</sup> ZIMMERMAN, *supra* note 5, at 46.

<sup>13</sup> *Id.* at 45.

<sup>14</sup> U.S. CONST., art. I, § 10, cl. 3, <https://www.archives.gov/founding-docs/constitution-transcript>.

<sup>15</sup> *Virginia v. Tennessee*, 148 U.S. 503, 519 (1893). This could occur if a compact would “alter the balance of power between the states and the federal government,” create coalitions of states that would reduce the power of the federal government or alter the balance of power among states in the federal structure, or improperly assert itself on a subject that the Constitution has specified is one over which Congress has authority. BUENGER et al., *supra* note 2, at 69.

The Constitution does not specify the timing or form of congressional consent to interstate compacts.<sup>16</sup> Although Congress typically consents to compacts before they are executed by the states party to them, Congress may also consent after the fact, when the subject of the agreement could not be fully considered until then.<sup>17</sup> In addition, while congressional consent is usually express, it may also be inferred based on the circumstances.<sup>18</sup> Congress may condition its consent subject to the compact containing suitable terms that do not violate limitations set forth in the Constitution.<sup>19</sup> Further, when Congress does consent to a compact, Congress does not thereby give up or reduce any of its constitutional powers.<sup>20</sup>

## II. Interstate Compacts and Federal Law

While interstate compacts are binding contracts among those states party to them, compacts that are approved by Congress also become federal law. The Supreme Court has held that a boundary between states agreed to in an interstate compact that is consented to by Congress is “of binding force and finally settle[s] the boundary between them[,] operating with the same effect as a treaty between sovereign powers.”<sup>21</sup> In *Cuyler v. Adams*, the Court held when Congress consents to an interstate compact and “the subject matter of that agreement is an appropriate subject for congressional legislation, the consent of Congress transforms the States’ agreement into federal law under the Compact Clause.”<sup>22</sup> The US Court of Appeals for the Fourth Circuit clarified that compacts consented to by Congress that do not threaten federal supremacy but address subjects appropriate for congressional legislation still become federal law even though such consent was not required.<sup>23</sup> Under the Constitution, the US Supreme Court has original jurisdiction over disputes between states,<sup>24</sup> and the Court will enforce interstate compacts under principles of contract law.<sup>25</sup>

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<sup>16</sup> CONGRESSIONAL RESEARCH SERVICE, CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION 450-51, <https://www.congress.gov/constitution-annotated> (last updated Aug. 26, 2017).

<sup>17</sup> *Id.* at 451.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Rhode Island v. Massachusetts*, 37 U.S. 657, 725 (1838).

<sup>22</sup> *Cuyler v. Adams*, 449 U.S. 433, 438–42 (1981).

<sup>23</sup> *Washington Metropolitan Area Transit Authority v. One Parcel of Land in Montgomery County, Md.*, 706 F.2d 1312, 1317 (4th Cir. 1983). Because this is a decision of one of the US Courts of Appeals, and not of the Supreme Court, it is persuasive but not binding authority outside the Fourth Circuit.

<sup>24</sup> U.S. CONST., art. III, § 2, cl. 2.

<sup>25</sup> *Texas v. New Mexico*, 482 U.S. 124, 134 (1987).

### III. Effect of Interstate Compacts on States Not Party to Them

As a contract, an interstate compact primarily affects the rights and obligations of those states that have elected to become parties to it and their respective citizens, because the compact is enacted as law by their respective legislatures. Some compacts, however, go so far as to specifically address the effect (if any) of those compact on states that are not parties to them. A compact may include provisions stating that the compact does not affect other agreements the parties may have with non-party states.<sup>26</sup> Alternatively, a compact may specify how non-compacting states may participate in activities related to the compact.<sup>27</sup> As an example, the Interstate Pest Control Compact (no longer in force) provided that the compact's governing board, or its executive committee, could not spend monies from an insurance fund set up by the compact in a non-compacting state unless justified by conditions in that state and the benefits to the states party to the compact, and could impose conditions on any such expenditures.<sup>28</sup>

While the Supreme Court considers the interests of states that are not parties to an interstate compact to be an important inquiry in determining whether the interstate compact violates the Compact Clause, so far those interests have not proven to be a dispositive factor. In *US Steel Corp. v. Multistate Tax Commission*, the Court found that an interstate compact to facilitate collection and allocation of state taxes did not violate the Compact Clause.<sup>29</sup> The Court indicated<sup>30</sup> that a compact's effect on non-compacting states would not pose an issue under the Compact Clause unless the compact exerted pressure on non-compacting states that violated the Commerce Clause<sup>31</sup> or the Privileges and Immunities Clause.<sup>32</sup> In *Northeast Bancorp. v. Board of Governors*, the Court indicated that congressional consent would be required for a compact that would increase the political power of compacting states "at the expense of" non-compacting states.<sup>33</sup>

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<sup>26</sup> BUENGER ET AL., *supra* note 2, at 269.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *US Steel Corp. v. Multistate Tax Comm'n*, 434 U.S. 452 (1978).

<sup>30</sup> *Id.* at 478.

<sup>31</sup> U.S. CONST., art. I, § 8, cl. 3 (providing for Congress's power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"). For a discussion of Supreme Court jurisprudence on the Commerce Clause, see CONGRESSIONAL RESEARCH SERVICE, CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION, *supra* note 16, at 176–301.

<sup>32</sup> U.S. CONST., art. IV, § 2, cl. 1 (providing that the "Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States"). For a discussion of Supreme Court jurisprudence on the Privileges and Immunities Clause, see CONGRESSIONAL RESEARCH SERVICE, CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION, *supra* note 16, at 965–77.

<sup>33</sup> *Ne. Bancorp, Inc. v. Bd. of Governors of Fed. Reserve Sys.*, 472 U.S. 159, 176 (1985). An example of such a compact would be one that covers an issue affecting all states, but that permits only certain states to be a party to it. BUENGER ET AL., *supra* note 2, at 69.

## IV. Structure and Implementation of Interstate Compacts

### A. Structure of Interstate Compacts

The organization and structure of interstate compacts varies, but as noted above, compacts are contracts and broadly speaking can be expected to address topics and include provisions commonly found in contractual documents.<sup>34</sup> Typical compact provisions include the following:

- *Purpose* – An interstate compact will typically set forth a statement explaining the purpose of the compact, and may include legislative findings and declarations of policy.<sup>35</sup>
- *Agreed Terms* – While many compacts establish interstate agencies with authority to address matters within the scope of the compact, some compacts set forth specific terms as to those matters (such as interstate boundaries or allocation of water rights with respect to a river).<sup>36</sup>
- *Administration* – Provisions regarding compact administration can vary depending on the subject matter of the compact and the approach taken by the negotiators. In many cases this may include setting the rules for operation of an interstate agency to manage compact activity,<sup>37</sup> as described in more detail in Part IV(B)–(F), below.
- *Dispute Resolution* – Like many contracts, interstate compacts often provide for how disputes between states are to be resolved, to avoid litigation. Such dispute resolution provisions can include, for example, empowering the interstate agency created by the compact to adjudicate resolutions of such disputes or attempt to arrange resolution (with litigation as a last resort), or providing for disputes to be resolved by mediation or arbitration.<sup>38</sup>
- *Compliance and Enforcement* – Compacts can provide for a range of mechanisms to promote adherence to their terms. These can include positive assistance such as training or help with technical matters, as well as negative incentives such as fines, the loss of rights under the compact, or even loss of membership in (i.e., termination of status as a party to) the compact, as well as judicial enforcement.<sup>39</sup>

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<sup>34</sup> COUNCIL OF STATE GOVERNMENTS, A GUIDE TO DEVELOPMENT, CONTENT AND FORMAT: INTERSTATE COMPACTS § 1 (2003), <https://www.csg.org/knowledgecenter/docs/ncic/Format.pdf> (last visited June 18, 2018). Buenger et al. note that the elements of contract formation—offer, acceptance, mutual consent or “meeting of the minds,” and consideration—should be borne in mind in a legal analysis of interstate compacts. BUENGER ET AL., *supra* note 2, at 43–48.

<sup>35</sup> BUENGER ET AL., *supra* note 2, at 237. Purpose provisions may be drafted with an eye toward two audiences: the legislatures of the states proposing to enter into the compact prior to its approval by them, and thereafter to those who will be operating under the compact, as well as any court that may be called upon to interpret or enforce it. *Id.*

<sup>36</sup> *Id.* at 238. Some compacts may include specific terms as to the subject of the compact and also provide for an interstate agency to take further actions in support of the compact’s goals. *Id.* at 239.

<sup>37</sup> *Id.* at 240–41.

<sup>38</sup> *Id.* at 255.

<sup>39</sup> *Id.* at 256.

- *Withdrawal and Termination* – In addition to termination as a penalty for a nonperforming party, a compact may also include other provisions for a state’s withdrawal from the compact or its complete termination. Provisions for withdrawal from the compact will commonly include a requirement to adequately notify the other states party to it, as well as requirements for the withdrawing state to fulfill any outstanding obligations and the continuation of the compact in force as to the remaining states.<sup>40</sup> Termination provisions can include those that go into effect upon mutual agreement by all states party to the compact, as well as those that take effect automatically upon withdrawal from the compact by more than a specified number of states.<sup>41</sup>
- *Other Matters* – Compacts may include other common contractual provisions, such as conditions precedent to the compact entering into force (e.g., approval by a specified number of states’ legislatures, the consent of Congress, or the satisfaction of some other condition), severability of provisions found to be unconstitutional, and a procedure for amending the compact.<sup>42</sup>

## **B. Internal Rules of a Compact**

Depending on the subject matter of an interstate compact, it may or may not include rules and procedures for taking future action in furtherance of the objectives of the compact. For example, compacts that serve to establish boundaries between states, like the Missouri-Nebraska Boundary Compact,<sup>43</sup> may not include procedures for ongoing activities under the compact. That compact primarily provides for the adjustment of the border between the two states, as well as related matters, such as specifying one state’s relinquishment of sovereignty to territory that became part of the other state pursuant to the boundary adjustment, and the right to tax property located in acquired territory.<sup>44</sup>

As state-level administrative functions have increased, however, interstate compacts have grown to include provisions for rules and procedures to manage activity under them.<sup>45</sup> The Council of State Governments<sup>46</sup> recommends the use of an interstate agency to “ensure accountability, training, compliance, enforcement, rulemaking, information gathering and sharing and overall staffing in order to make the [compact] a success.”<sup>47</sup> Because compacts are written as contracts, states negotiating compacts that involve the creation of an interstate agency are free to determine what rules to include regarding the governance of that agency.

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<sup>40</sup> *Id.* at 266.

<sup>41</sup> *Id.* at 267.

<sup>42</sup> *Id.* at 259–62.

<sup>43</sup> Missouri-Nebraska Boundary Compact (1999), [http://apps.csg.org/ncic/PDF/Missouri-Nebraska Boundary Compact.pdf](http://apps.csg.org/ncic/PDF/Missouri-Nebraska%20Boundary%20Compact.pdf).

<sup>44</sup> *Id.* arts. III & VI.

<sup>45</sup> COUNCIL OF STATE GOVERNMENTS, COMPACT GOVERNANCE 1, <https://www.csg.org/knowledgecenter/docs/ncic/Success.pdf> (last visited June 19, 2018).

<sup>46</sup> *About*, COUNCIL OF STATE GOVERNMENTS, <https://www.csg.org/about/default.aspx> (last visited June 19, 2018).

<sup>47</sup> COUNCIL OF STATE GOVERNMENTS, COMPACT GOVERNANCE, *supra* note 45, at 1.

Internal rules for the administration of activity under an interstate compact may include, for example, the following:

- Establishment of an interstate agency to administer compact activities<sup>48</sup>
- Creation of a governing body to manage the interstate agency, with representatives of each of the states party to the compact<sup>49</sup>
- Requirements for voting by the interstate agency's governing body (voting matters under such compacts are addressed in Part IV(C), below)<sup>50</sup>
- Restrictions on conflict of interest transactions between the interstate agency and members of its board, officers, or employees<sup>51</sup>

The Council of State Governments provides a detailed list of governance and operational matters that are recommended to be addressed in provisions for an interstate agency.<sup>52</sup>

In addition to rules contained in the compact itself, the compact may also direct the interstate agency formed under it to adopt bylaws to provide for additional rules.<sup>53</sup>

### C. Decision Making

Procedures for decision making under a compact are set forth in the compact itself. For compacts that contemplate future decisions, decision making may be delegated to the interstate agency that is formed by the compact on which representatives of the states party to the compact serve, or another governing body with the parties' representatives, such as a board.

For example, the Interstate Mining Compact provides for the creation of a commission, with each state party to the compact represented on the commission by its governor.<sup>54</sup> The commission may take action only at a meeting at which a majority of those commissioners or their alternates is in attendance, and any action taken requires approval of a majority at the meeting. In addition, certain specified actions, such as making certain recommendations regarding mining, or receiving or disposing of funds, services, or property, require approval by a majority of all votes on the commission.<sup>55</sup>

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<sup>48</sup> See, e.g., Woodrow Wilson Bridge and Tunnel Compact, tit. I, art. I (1996), [http://apps.csg.org/ncic/PDF/Woodrow Wilson Bridge and Tunnel Compact.pdf](http://apps.csg.org/ncic/PDF/Woodrow_Wilson_Bridge_and_Tunnel_Compact.pdf).

<sup>49</sup> See, e.g., *id.* tit. I, art. III(1).

<sup>50</sup> See, e.g., *id.* tit. I, art. III, § 10.

<sup>51</sup> See, e.g., *id.* tit. I, art. III, § 3(a).

<sup>52</sup> See COUNCIL OF STATE GOVERNMENTS, COMPACT GOVERNANCE, *supra* note 45, at 2.

<sup>53</sup> See, e.g., Woodrow Wilson Bridge and Tunnel Compact, *supra* note 48, tit. I, art. III, § 27(e).

<sup>54</sup> Interstate Mining Compact, § 1.5, art. V(a), [http://apps.csg.org/ncic/PDF/Interstate Mining Compact.pdf](http://apps.csg.org/ncic/PDF/Interstate_Mining_Compact.pdf).

<sup>55</sup> *Id.* § 1.5, art. V(b).

Similarly, the Atlantic States Marine Fisheries Compact provides that each state party to the compact is to designate three representatives to serve on the commission created by the compact.<sup>56</sup> Decisions by the commission require the vote of the majority of the parties at a meeting, except that recommendations by the commission on a species of fish require the vote of a majority of parties that have an “interest” in the species (as defined by the commission).<sup>57</sup>

As another example, under the Woodrow Wilson Bridge and Tunnel Compact, Virginia, Maryland, and the District of Columbia created an interstate agency named the National Capital Region Woodrow Wilson Bridge and Tunnel Authority to take over ownership and operation of that bridge from the federal government.<sup>58</sup> The compact provides that that agency is governed by a thirteen-person board, with four members appointed by each state and one member appointed by the US Secretary of Transportation. For voting purposes, seven members of that board constitute a quorum, except that eight affirmative votes are required for the agency to issue bonds and to approve the authority’s annual budget; for matters occurring solely within the jurisdiction of one of the parties, two of its designated members must vote to approve; and “sole source” procurements of more than \$100,000 of property, services, or construction require prior approval of a majority of all board members.<sup>59</sup>

#### **D. Administration**

The approaches taken by compacts regarding their administration vary. Some compacts, particularly those that set out specific terms with respect to their subject matter, may simply designate those agencies in the states party to the compact that will be responsible for ensuring compliance with those terms.<sup>60</sup> Where a significant amount of coordination and communication between states is required, a compact may designate one or more persons per state who will be responsible for overseeing the state’s performance under the compact.<sup>61</sup> Other compacts may allocate substantial regulatory powers, and associated responsibilities, to interstate agencies, to accomplish the compact objectives and administer compliance.<sup>62</sup> Such interstate agencies may also promote cooperation under and serve as centralized sources of information about the subject of the compact.<sup>63</sup>

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<sup>56</sup> Atlantic States Marine Fisheries Compact, art. III (1950), [http://apps.csg.org/ncic/PDF/Atlantic States Marine Fisheries Compact.pdf](http://apps.csg.org/ncic/PDF/Atlantic%20States%20Marine%20Fisheries%20Compact.pdf).

<sup>57</sup> *Id.* art. VI.

<sup>58</sup> Woodrow Wilson Bridge and Tunnel Compact, *supra* note 48.

<sup>59</sup> *Id.* tit. I, art. III, § 10.

<sup>60</sup> BUENGER ET AL., *supra* note 2, at 110.

<sup>61</sup> COUNCIL OF STATE GOVERNMENTS, A GUIDE TO DEVELOPMENT, CONTENT AND FORMAT: INTERSTATE COMPACTS, *supra* note 34, § 4.B.

<sup>62</sup> BUENGER ET AL., *supra* note 2, at 118.

<sup>63</sup> COUNCIL OF STATE GOVERNMENTS, A GUIDE TO DEVELOPMENT, CONTENT AND FORMAT: INTERSTATE COMPACTS, *supra* note 34, § 4.C.

## E. Finance

Compacts that require ongoing or future activities may provide for one or more mechanisms for acquiring the funds to pay for those activities. Sources of funds to finance activities under an interstate compact may include the following:

- Taxes imposed by the interstate agency created by the compact<sup>64</sup>
- Assessments paid by the states that are part of the compact (annually or at other intervals)<sup>65</sup>
- Appropriations through such states' legislative processes (common in compacts that create commissions that act in an advisory capacity)<sup>66</sup>
- Revenue from activity under the compact, such as admissions and inspection fees assessed by the Historic Chattahoochee Commission (formed to promote tourism and historic preservation in parts of the states of Alabama and Georgia), or the proceeds of sales of lottery tickets by the commission formed under the Tri-State Lotto Compact<sup>67</sup>
- Funds and property received as donations, grants, or bequests<sup>68</sup>
- Borrowed funds derived from bank loans or bond issuances, often used in compacts requiring substantial capital to accomplish their objectives, such as building bridges or roads, or other transportation projects<sup>69</sup>

## F. Functioning of Interstate Agencies Created by Compacts

Typical powers and duties assigned to interstate commissions in compacts may include the following:

- Governance, such as bylaws for the interstate agency, its officers, and its committees
- Financial matters, such as creating budgets, receiving and paying funds, borrowing money, and accepting donations
- Conducting other business, such as leasing, buying, or selling real property; setting up offices; hiring staff; entering contracts; and bringing or defending lawsuits<sup>70</sup>

Depending upon the scope of the authority for the interstate agency agreed to in the compact, provisions may also be included that empower the interstate agency to gather information, make

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<sup>64</sup> BUENGER ET AL., *supra* note 2, at 249.

<sup>65</sup> *Id.* at 250.

<sup>66</sup> *Id.* at 250–51.

<sup>67</sup> *Id.* at 252.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 251.

<sup>70</sup> *Id.* at 243. For a detailed list of governance and operational matters that are recommended to be addressed in provisions for an interstate agency, see COUNCIL OF STATE GOVERNMENTS, COMPACT GOVERNANCE, *supra* note 45.

policy recommendations, make and enforce external rules that apply to persons or activities under its jurisdiction, and adjudicate disputes.<sup>71</sup> Some compacts also include provisions conferring upon the interstate agency broad supplemental authority empowering the agency to address circumstances not specifically enumerated in the compact in furtherance of its purposes.<sup>72</sup>

## G. Federal Government Involvement in Interstate Compacts

While historically interstate compacts only included states as parties, more recently the federal government has become a participant in some compacts.<sup>73</sup> Indeed, some compacts require that a representative of the federal government participate in compact governance. For example, the Woodrow Wilson Bridge and Tunnel Compact requires that one member of the thirteen-member board that governs the compact be designated by the US Secretary of Transportation, as noted above.<sup>74</sup> Some compacts have been enacted into federal law by Congress and provide for direct involvement by the federal government in the matters addressed by the compact, such as the Interstate Agreement on Detainers,<sup>75</sup> which applies to transfers of sentenced prisoners for unrelated trials.

## V. Examples of Interstate Compacts

The National Center for Interstate Compacts of the Council of State Governments has created an online database of interstate compacts available at <http://apps.csg.org/ncic/Default.aspx>. The database enables searches by name of compact, state, category of subject matter, adoption year, and keyword. Information provided about each compact includes the states party to it, citations to where the compact appears in those states' respective statutes, and, in many cases, a PDF version of the compact and/or a link to the website of the commission or other interstate agency formed by the compact. Interstate compacts included in the database involve various states and deal with a variety of topics such as conservation and the environment, education, insurance, taxation, and other matters.

One compact for which a great deal of information is available online is the Multistate Tax Compact, which became effective in 1967. Its members include fifteen states and the District of Columbia.<sup>76</sup> The compact, available on the Multistate Tax Commission's website, established that Commission in order to pursue the following purposes:

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<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 248.

<sup>73</sup> *Id.* at 105.

<sup>74</sup> Woodrow Wilson Bridge and Tunnel Compact, *supra* note 48, tit. I, art. III, § 1(d).

<sup>75</sup> BUENGER ET AL., *supra* note 2, at 106. The Interstate Agreement on Detainers has been codified in the United States Code at 18 U.S.C. app., <http://uscode.house.gov/view.xhtml?path=/prelim@title18/title18a/node5&edition=prelim>.

<sup>76</sup> *Multistate Tax Compact*, COUNCIL OF STATE GOVERNMENTS, <http://apps.csg.org/ncic/Compact.aspx?id=122> (last visited June 19, 2018).

1. Facilitate proper determination of State and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.<sup>77</sup>

The Commission's website also includes a history of the Commission;<sup>78</sup> descriptions of its programs, executive committee, and other committees, along with archives of committee agendas, meeting minutes, and other documents;<sup>79</sup> the Commission's bylaws;<sup>80</sup> and annual reports,<sup>81</sup> as well as various practical resources for Commission participants.

Many of the listings for compacts in the National Center for Interstate Compacts database include links to the websites of the interstate agencies formed by those compacts. Those interstate agency websites, like that of the Multistate Tax Commission described above, may include an agency's compact, bylaws, other internal governing documents, guidance documents for member states, annual reports, and other materials. The following are several such examples:

- Port Authority of New York and New Jersey, <http://www.panynj.gov/>. The authority is responsible for airports and marine ports and terminals in the New York, New York and Newark, New Jersey area; bridges and tunnels between New York and New Jersey; the Port Authority Bus Terminal; and the World Trade Center (among other sites).
- Atlantic States Marine Fisheries Commission, <http://www.asmfmc.org/>. The commission promotes better use of Atlantic coast fisheries.
- Midwestern Higher Education Compact, <https://www.mhec.org/>. The commission formed under the compact promotes higher education opportunities and services in the Midwestern states.

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<sup>77</sup> Model Multistate Tax Compact art. 1, <http://www.mtc.gov/The-Commission/Multistate-Tax-Compact> (last visited June 19, 2018).

<sup>78</sup> *MTC History*, MULTISTATE TAX COMMISSION, <http://www.mtc.gov/The-Commission/MTC-History> (last visited June 19, 2018).

<sup>79</sup> *Programs & Committees*, MULTISTATE TAX COMMISSION, <http://www.mtc.gov/The-Commission/Committees> (last visited June 19, 2018).

<sup>80</sup> *Bylaws*, MULTISTATE TAX COMMISSION, <http://www.mtc.gov/The-Commission/Bylaws> (last visited June 19, 2018).

<sup>81</sup> *Annual Reports*, MULTISTATE TAX COMMISSION, <http://www.mtc.gov/The-Commission/Annual-Report> (last visited June 19, 2018).