Interstate Compacts and Federalism
Learning Objectives

1. Compacts create complex horizontal and vertical relationships.
2. The federal government facilitates, initiates, and constrains interstate relations.
3. Special issues when the federal government is involved with compacts.
“Non-State” Commissioners

➢ Examples of Federal Government as a Party
  ➢ Alabama-Coosa-Tallapoosa (ACT) River Basin Compact (President appoints one member)
  ➢ Interstate Agreement on Detainers (18 U.S.C. App.)
“Non-State” Commissioners

➢ Examples of Federal Participation when Not a Party
  ➢ Military Interstate Children’s Compact Commission (U.S. Dep’t of Defense promoted the compact and has ex-officio position on commission)
  ➢ Columbia River Gorge Compact (U.S. Dep’t of Agriculture has ex-officio position on commission, and co-manages the Gorge with the bi-state commission)
  ➢ Metropolitan Washington Airports Authority (President appoints 3 members with advice and consent)
“Non-State” Commissioners

- Examples of Local Government Participation
  - Tahoe Regional Planning Compact (4 counties, 2 cities, 4 Calif. state, 3 Nev. state; 1 Nev. member selected by other 6 Nev. appointees)
  - Republican River Compact (natural resource districts distribute water in compliance with the compact.)
“Non-State” Commissioners

Examples of International Participation
- Great Lakes-St. Lawrence River Basin Water Resources Compact
  (parallel agreement between U.S. states, Québec and Ontario)
- Forest Fire Compacts (specific congressional consent for Canadian provinces to join the compacts)
- Interstate Oil and Gas Compact (multiple international and federal agency “affiliates”)
Congressional grant of District’s home rule authority includes legislative power to enter into contracts including compacts with other jurisdictions.

However, only Congress possesses sovereignty over the District. Congress retains full legislative authority for the District.

Consequently, when the District enters into compacts, Congressional authority may be required if the compact requires a delegation of sovereignty, as in the case of rulemaking authority for a compact entity.

This grant of authority to the District needs to be carefully drawn to avoid the Congressional action being construed as approval of the compact.

The District’s ability to pledge to pay compact expenses is subject to annual Congressional appropriations.
CONGRESS CAN DIRECT FEDERAL PARTICIPATION OR LOCAL PARTICIPATION FOR COMPACTS THE DISTRICT ENTERS INTO

• Washington Metropolitan Area Transit Authority (WMATA) - board members include appointees of the Secretary of Transportation

• Metropolitan Washington Airport Authority (MWAA) – board members include appointees of the President.

• D.C. Water and Sewer Authority – board members include appointees nominated by local counties surrounding the District.
CAN CONGRESS UNILATERALLY MODIFY A COMPACT IT SPONSORED OR APPROVED.

- Add more board members to MWAA?

- Require establishment of a new safety compact to take over WMATA’s safety function?
WASHINGTON METRORAIL SAFETY COMMISSION

- Congress directed that inter-jurisdictional commuter rail services have an independent safety office created by the jurisdictions. But Congressionally enacted WMATA already performed that function.

- US DOT determines that WMATA is deficient in performing safety functions. Directs Virginia, the District, and Maryland to create a new compact safety entity.

- US DOT withholds grant funds from WMATA until the three jurisdictions establish a new compact.

- US DOT plays a major role in establishing the terms of the new compact.

- Congressional approval is needed to make new safety compact effective.