

Trends in Interstate Relations: Political and Administrative Cooperation

By Joseph F. Zimmerman

This article examines recent developments involving a sample of interstate compacts and formal interstate administrative agreements, the purpose of which is to promote harmonious relations between sister states by resolving disputes and encouraging interstate cooperation.

The U.S. Constitution contains three interstate relations clauses based upon the overarching principle of legal reciprocity: full faith and credit, privileges and immunities, and rendition. It also contains one clause authorizing interstate compacts, which allows a state to enter into “any agreement or compact with another state” only with the consent of Congress (U.S. Const. art 1, § 10).¹ The constitution is silent relative to the considerably larger number of interstate administrative agreements that state government officers enter into with their counterparts in sister states.

Interstate Compacts

Based on favorable experience with intercolony compacts, the Articles of Confederation and Perpetual Union, effective in 1781, authorized states to enter into interstate compacts with the consent of Congress. A generally similar provision is included in the U.S. Constitution (art. 1, § 10). During the confederacy, Congress consented to the first regulatory interstate compact, which was between Maryland and Virginia, and three compacts establishing state boundaries.

Congress can grant consent to a compact prior to or subsequent to its enactment by the concerned state legislatures. In 1893, the U.S. Supreme Court opined in *Virginia v. Tennessee* (148 U.S. 503 at 520) that only “political compacts” require the consent of Congress, and a number of compacts subsequently were not submitted to Congress. Nevertheless, nonpolitical compacts have been submitted to Congress for its consent commencing with the 1921 Port of New York Authority Compact, because bond counsels advised that such consent would facilitate sale of the bonds the authority planned to issue. The Court initially held that congressional consent does not make a compact federal law in addition to state law, but in 1981, it overruled the precedent in *Cuyler v. Adams* (449 U.S. 433).

Congressional consent can be unlimited or limited in time. The Interstate Oil and Gas Compact and the Atlantic States Marine Fisheries Compact were subject to sunset provisions that subsequently were removed by Congress. Currently, each of the 10 low-level radioactive-waste compacts has a five-year consent provision. The Northeast Interstate Dairy Compact received congressional consent in 1996 for three years,

at the end of which consent was extended for two years. However, the compact became dormant on October 1, 2001, because Congress failed to extend its consent.

Does the 11th Amendment to the U.S. Constitution extend immunity from suits to states that enter into an interstate compact? In 1999, the U.S. District Court for the District of Nebraska (68 F. Supp.2d 1093 at 1100) ruled the State of Nebraska waived its 11th Amendment immunity when it joined the Central Low-Level Radioactive Waste Compact, and the U.S. Court of Appeals affirmed the decision in 2001 for the Eighth Circuit (241 F.3d 979 at 991-92).

The U.S. Supreme Court occasionally is called upon to settle a dispute between compact members. Kansas filed an original jurisdiction suit against Colorado, alleging Colorado had violated provisions of the Arkansas River Compact. The High Court ruled in 1995 in favor of Colorado (514 U.S. 669). Kansas subsequently filed a new suit again against Colorado, and in 2001, the Court (121 S.Ct. 2023) rejected Colorado’s argument that the 11th Amendment barred a special master’s recommendation for a damage award against the state.

An interstate compact may be bilateral, multilateral, sectional or national in terms of membership. There are 26 types of compacts, including federal-state ones, classified by subject matter ranging from advisory to taxation.² They may be administered by a commission or by regular departments of member states. The best mode of administration is determined in part by the subject matter of a compact. Unified administrative direction is essential if the purpose of a compact is construction and operation of infrastructure facilities, such as bridges and tunnels. Regulatory compacts also can function successfully if an interstate commission administers them. On the other hand, member state departments readily administer service-provision compacts, such as the Interstate Compact on Juveniles, and regulatory compacts such as the Driver’s License Compact.

Recent Developments

The 1920 Port of New York Compact, entered into by New Jersey and New York, was the first one to establish a commission. The authority currently is

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responsible for six container port and marine terminals, three industrial parks, a rapid-transit system used by 70 million passengers annually, the Holland and Lincoln Tunnels, four transportation centers and a teleport, the world's first satellite communication center. In addition, the authority leases LaGuardia Airport and Kennedy Airport from New York City, leases Newark Airport from the City of Newark and also operates Teterboro Airport and the Downtown Manhattan and West 30th Street Heliports.

The self-financing authority has a relatively long list of accomplishments, but has been criticized for decades for failing to solve the rail-freight problem in the metropolitan area. In 2001, long-time student of the authority Jameson W. Doig noted that between 1972 and 2000, the authority was characterized by “drift, patronage, and favoritism, and the search for new goals.”⁷³ In his judgment, the commissioners’ independence “declined in the ‘90s and they were not strong and were taking their marching orders from the governors when the governors cared about the agency.”⁷⁴ This criticism was echoed by executive director Robert Yaro of the Regional Plan Association, who maintained that in the 1990s, the authority “became ‘a cookie jar’ for pet projects of the two governors.” But he added, “We feel that they have gotten back on track and are a leaner, meaner, and more focused place than they have been in 40 years.”⁷⁵

The Dresden Interstate School Compact is the first of two compacts establishing an interstate school district. This New Hampshire-Vermont compact, which unites the towns of Hanover, New Hampshire and Norwich, Vermont, dates to 1963 and has been considered a model for such compacts. Currently, the compact faces the possibility of becoming dormant because of an unanticipated consequence of Vermont’s Act 60 of 1997, which imposed a statewide property tax and required school districts spending more than the state education block and categorical grants to contribute part of their school property-tax revenues to a state educational-sharing pool to be used for equalization purposes. Norwich is a donor to the pool.

The school district is facing an enrollment bubble that will peak in 2004 and must expand its facilities to accommodate additional students. If the district decides to increase capital spending, Norwich will carry a considerably heavier burden than Hanover, since the former has to contribute approximately 30 percent of its property-tax revenues to the state pool. The Norwich members of the school-district board suggested a capital-financing program that would place a smaller burden on Norwich, but Hanover residents are in agreement they should not subsidize the Act 60 program,

because they have no voice in determining Vermont educational policies. “No taxation without representation” has become a popular phrase in Hanover.

The Connecticut River Basin Atlantic Salmon Restoration Compact dates to a 1967 interstate-federal administrative agreement between Connecticut, Massachusetts, New Hampshire, Vermont, the U. S. Fish and Wildlife Service and the National Marine Fisheries Service designed to restore anadromous fish to the river. Subsequently, the legislature of each of the four states enacted the compact, and Congress granted consent in 1983 (97 Stat. 866). To date, compact commission programs have resulted in: an annual return of hundreds of sea-run salmon; development of a river-specific egg source; in-stream production of smolts; installation of fist ladders at the first five river dams; removal of one Ashuelot River dam; production of approximately 13.6 million Atlantic salmon eggs; and the release of approximately 9.3 million salmon as of September 30, 2000.

The Northeast Interstate Dairy Compact was controversial since it received congressional consent in 1996 (110 Stat. 919) and was viewed by consumer advocates as a cartel that raised the price of fluid milk. Midwest dairy farmers and large milk processors also opposed the compact. Academic studies revealed that the compact resulted in higher milk prices, but one study suggested part of the price increase was attributable to milk processors and retailers enlarging their profit margins. The compact became dormant on October 1, 2001, when its congressional consent expired.

In 1982, Congress granted its consent (96 Stat. 1207) to the New Hampshire-Vermont Interstate Solid Waste Compact. This compact is unique in that it did not create a commission, but authorized one or more municipalities in each state to enter into an administrative agreement with one or more counterparts in the other state in order to construct and operate – with the approval of the U.S. EPA – a resource-recovery facility, a sanitary landfill or both. A group of Vermont towns formed the Southern Windsor-Windham Counties Solid Waste Management District, and several New Hampshire municipalities formed the Sullivan County Regional Refuse District.

In 1989, the two districts signed the New Hampshire-Vermont Solid Waste Project Cooperative Agreement providing that the project would be under the control of joint meetings of the governing bodies of the two districts. A decision was made to construct an incinerator and an ash landfill in New Hampshire. Vermont towns appear to be satisfied with the project, but residents of Claremont and neighboring participating New Hampshire towns are highly critical of pollu-

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tion emitted by the incinerator and alleged resulting health problems.

The project entered into a contract with Wheelabrator Claremont Company to operate the incinerator. The interstate agreement probably will be terminated when the Wheelabrator contract expires in 2007, due to the 2005 deadline the EPA has established for reducing incinerator emissions of mercury, which would necessitate the installation of equipment costing over \$1 million. All New Hampshire municipalities desire to withdraw from the agreement.

Interstate Administrative Agreements

Broad discretionary authority has been granted by state legislatures to the heads of specific departments and agencies to enter into formal cooperative administrative agreements with their counterparts in sister states and/or Canadian provinces, Mexican states and occasionally other nations.

A formal covenant may authorize exchange of information, a study and/or cooperative administrative action. Agreements involve nearly all governmental functions and may be entered into by all states, a majority of states, or – most commonly – two or more states in a region. The number of new formal agreements varies from year to year. Unfortunately, there is no single depository for written agreements in any state.

Informal, verbal cooperation is considerably more common than formal cooperation and may be ad hoc or continuing in nature. Department and agency heads in each state often informally agree upon cooperative arrangements relating to consumer fraud, forest fires, “hot-pursuit” chases of fleeing motor vehicles, loans of personnel and equipment, the use of a specialized state-laboratory facility by a department or agency of another state and other activities. Such agreements most often relate to emergency situations.

National and regional associations of state government officials encourage members to enter into formal and informal cooperative endeavors. The personal contacts established by state administrative officers attending professional meetings also facilitate entrance into cooperative agreements. National and regional associations of governors have been especially successful in promoting interstate cooperation in a wide variety of functional fields.

Recent Developments

Criminal-justice agreements primarily involve state attorneys general and police agencies, but state welfare officers also cooperate with each other to detect welfare fraud and refer such cases to prosecuting attorneys. The attorney general is a state’s chief legal offi-

cer, possesses broad prosecutorial discretionary authority and works closely with his or her counterparts in other states and criminal-justice agencies.

State attorneys general frequently engage in cooperative interstate projects, primarily through the National Association of Attorneys General (NAAG), which encourages joint state law-enforcement efforts, adopts positions on legal issues, conducts research and provides information to members. The organization also supports attorneys general who have cases before the U.S. Supreme Court, advocates enactment of uniform state laws and amendment of federal laws, and facilitates interaction among members. Attorneys general in 40 states and Puerto Rico received national and international publicity when they sued five major tobacco companies. They achieved a major out-of-court settlement with the companies to recover Medicaid costs totaling \$246 billion incurred in treating residents for tobacco-induced illnesses. Similar successful lawsuits have been brought by groups of attorneys general relative to a variety of subjects, such as false claims made for building siding and a conspiracy by contact-lenses manufacturers to restrict availability of lenses through retail stores.

Administratively, since 1985, NAAG has performed a quasi-legislative function by issuing guidelines containing uniform standards for the exercise of prosecutorial discretion. The guidelines are similar to uniform state laws, but do not require statutory enactment. Guidelines issued to date pertain to: air-travel industry enforcement, electricity marketing, environmental-marketing claims, horizontal mergers, pre-merger disclosure and vertical restraints. The merger guidelines were NAAG’s response to perceived lax enforcement of federal antitrust statutes.

Six regional criminal-justice-intelligence agreements have been signed by groups of states to apprehend highly mobile criminals and members of organized-crime groups that have proliferated in the United States. Most cooperative programs involve major crimes, manhunts, terrorist groups and development of coordinated strategies. Criminal-data depositories in the 50 states, the District of Columbia and Puerto Rico hold approximately 60 million criminal-history records, including offenders with a record in more than one state.

The regional criminal-intelligence programs are: the Regional Organized Crime Information Center in the South; the Quad State Project in the Southwest, which has been renamed the Rocky Mountain Information Network; the New England State Police Administrators Conference; the Middle Atlantic Great Lakes Organized Crime Law Enforcement Network;

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the Mid-States Organized Crime Information Center; and the Western States Information Network.

Each project operates a regional information sharing system (RISS), all of which are linked together by the RISS nationwide intelligence network, <http://www.iir.com/riss/>. The network has four components: the RISS Secure Intranet, the Intelligence Database Pointer System, the National Gang Database and the Investigative Leads Bulletin Board. The databases contain information on approximately 700,000 individuals.

Forty-two states currently exchange criminal-justice information through the Interstate Identification Index, which contains data on individuals arrested for federal and state felonies and serious misdemeanors. Each state assigns an identification number to the arrest card containing the person's fingerprints, and the information is sent to the FBI for a criminal-history check. The index includes the person's name, date of birth, race and sex, along with FBI and state identification numbers from each participating state holding records relating to the person. The FBI assigns an identification number to the individual and forwards the information to the index's data bank, which is accessible by all states. A state is notified if a record pertains to it. Police agencies make inquiries via state telecommunications systems and the FBI's National Crime Information Center's telecommunications lines. The search process can be completed within five seconds, with data retrieved automatically from each state repository that holds information on the person and transmitted to the requesting agency.

The New York State Office of Temporary Disability Assistance has entered into written agreements with neighboring states for the detection and prevention of welfare fraud. It is relatively common for a person to register and collect welfare in two states. As a consequence of high incidences of such fraud in certain jurisdictions, the office exchanges computer tapes containing the names of all welfare recipients with Florida, Virginia, Washington, D.C. and Puerto Rico. New York also signed an agreement for the exchange of welfare data with Massachusetts and Rhode Island to identify individuals whose names appear on two data lists. New York State officers are in constant telephone contact with their counterparts in other states in efforts to build joint cases and pursue welfare fraud.

The New York State attorney general's Organized Crime Task Force, in conjunction with the state police, cooperates informally with other states primarily by telephone and has signed only one formal memorandum of understanding. The task force concentrates its operations on the members of five New York City

crime families, who also operate in New Jersey. Relations between the task force and the New Jersey attorney general's office and its investigators are excellent. Members of the task force and New Jersey investigators share intelligence information, and the task force facilitates the issuance of New York search warrants when New Jersey investigators need them. The latter similarly facilitate issuance of New Jersey search warrants at the request of New York investigators.

The task force also has a working relationship with the Nevada attorney general, because criminals visit Nevada, where book-making is legal. In addition, intelligence on criminal activities is shared with other attorneys general when pertinent. For example, the task force in 1998 intercepted information on a wire tap that led to other wire taps and an 800 telephone number used by bookies to place bets through Costa Rica. Investigators analyzed between 800,000 and 900,000 telephone calls and notified the attorney generals in 20 states of the information collected that could be used as a basis for search warrants in their respective states.

The New York State Legislature has not enacted the Interstate Agreement on Qualifications of Educational Personnel covering teacher accreditation, but in 2000, the state Department of Education signed a five-year interstate administrative contract. The contract was developed by the National Association of State Directors of Teacher Education and Certification, with all states except Nebraska, the Canadian provinces, the Department of Defense schools, Guam and Puerto Rico, which have comparable accreditation and teacher-education standards.

The New York State Board of Regents adopted more stringent teacher-certification requirements effective in 2004, one year before the contract expires. These requirements differ from the ones contained in the interstate contract. In consequence, the education commissioner will notify other party states in 2003 that the state will withdraw from the contract with other states not meeting its new standards. The withdrawal will make it more difficult to attract teachers, particularly black and Hispanic ones, from sister states to New York, which is experiencing a teacher shortage.

New York did not enact the Emergency Management Assistance Compact until six days after the September 11, 2001 terrorist attacks that demolished the twin towers of the World Trade Center in New York City. Previously, the state had no written administrative agreements with other states, and all interactions were verbal. The frequency with which New York requested assistance from sister states prior to enactment of the compact depended upon the adequacy of the state's resources. No aid was requested in 2000, but a major

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ice storm in 1998 resulted in the state borrowing equipment from other states. New York clearly will benefit from compact membership in terms of facilitation of the loan of equipment and personnel, and resolution of the liability issue. Thirteen states provided assistance to New York City subsequent to the attacks by terrorists.

New England State Public Health Commissioners in 1967 formally organized the New England Staff for Coordinated Air Use Management, which was designated by the governors as the official regional interstate air-management planning agency. New York and New Jersey subsequently joined the consortium, and it was renamed the Northeastern States for Coordinated Air Use Management, which deals with all types of air pollution sources. There are four similar regional consortia: the Mid-Atlantic Regional Air Pollution Task Force; Southeastern States Air Resources Managers; Metro-Four, a group of eight southeastern states; and Western States Air Resources.

The Merrimack River Anadromous Fish Restoration Interstate Administrative Agreement was signed in 1969 by representatives of five agencies: the Massachusetts Division of Fisheries and Game; the Massachusetts Division of Marine Fisheries; the New Hampshire Fish and Game Department; the U.S. Bureau of Commercial Fisheries, now the National Marine Fisheries Service; and the U.S. Bureau of Sport Fisheries and Wildlife. The goal of the agreement is to restore fish – particularly the Atlantic salmon, shad, and river herrings – that were common in the Merrimack River basin during the pre-colonial period.

Representatives of the Rhode Island Division of Fish and Wildlife, the Connecticut Division of Fisheries, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service signed a similar memorandum of understanding in 2001 for restoration of Atlantic salmon to the Pawcatuck River.

These two interstate administrative agreements demonstrate that either an interstate compact, such as the Connecticut River Basin Atlantic Salmon Restoration Compact, or an interstate administrative agreement can be utilized by states to solve a problem or achieve a goal on a cooperative basis. The Merrimack River interstate administrative agreement differs only in minor details, including lack of direct congressional consent, from the Connecticut River interstate compact.

In 1989, the Eastern Regional Conference of the Council of State Governments organized the Northeast Recycling Council, which signed a memorandum of understanding with departments in 10 states. In 2000, the council was incorporated as an independent nonprofit organization under Vermont law. Voting mem-

bers are representatives of state departments and state legislators. Nonvoting advisory members are state and regional recycling organizations, individual companies, trade associations and utilities. Membership dues and grants finance the council's activities. The council's primary mission is minimization of the amount of materials requiring disposal.

The council does the following: 1) promotes the linkage between recycling, source reduction and economic development; 2) supports state and trade associations' recycling and source-reduction efforts; 3) provides a regional forum for communication, cooperation and participation in research and policy development; 4) advocates regional recycling and source-reduction approaches; and 5) encourages the use of recycled content and other environmentally-preferable products.

The nonprofit Northeast Waste Management Officials' Association was established by an interstate agreement. Members are hazardous waste, solid-waste site cleanup and pollution-program directors of environmental departments in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The association is the official organization responsible for coordinating interstate hazardous and solid waste and pollution-prevention activities, and it is funded by member states and U.S. EPA grants. In 2000, New England state governors signed a resolution recommending each state legislature enact sections of the association's Mercury Education and Reduction Model Legislation.

Used electronic products are a major and growing contributor to the flow of waste materials and contain a significant amount of toxic materials, such as cadmium, chromium, lead and mercury. State directors of solid and hazardous waste programs agreed in 2000 to coordinate their respective regulatory policies for used electronic products through the association.

The Connecticut River Joint Commissions is a product of the 1999 decisions of the Connecticut River Valley Resource Commission, established by the New Hampshire General Court, and the Connecticut River Watershed Advisory Commission, established by the Vermont General Assembly, to hold joint meetings. The Vermont enabling statute includes an unusual authorization provision: "In a manner consistent with New Hampshire law, the advisory commission may designate citizens from Vermont municipalities bordering the Connecticut River, to serve on, or coordinate with, local river management advisory groups established pursuant to New Hampshire Law" (10 VSA §§ 1191 and 1193).

Each commission meets separately only to act on matters affecting its membership and to respond to requests for advice on issues by its parent state govern-

ment. The joint commissions' annual budget ranges between \$225,000 and \$500,000, including \$100,000 to \$120,000 provided by the two states. The remaining funds come from the federal government and foundations. As of 2001, the interstate body made 283 awards, ranging from \$500 to \$5,000, supporting community-generated projects that address economic and conservation challenges in ways compatible with the historic, scenic and natural resources of the valley.

The U.S. Supreme Court in 1868 specifically opined that insurance was not interstate commerce and hence was exempt from regulation by Congress (*Paul v. Virginia*, 75 U.S. 1). This decision contributed to the lack of uniformity in state insurance-regulatory policies. The Court in 1944 reversed this decision, and Congress, under pressure from states fearing the loss of revenue, overturned the decision the following year by enacting the McCarran-Ferguson Act (59 Stat. 33). The act exempted states from the interstate commerce clause and delegated to them authority to regulate the insurance industry.

In 1985, the U.S. Supreme Court held in *Metropolitan Life Insurance Company v. Ward* (470 U.S. 869) that the act does not exempt the industry from the Equal Protection of the Laws clause of the 14th Amendment to the constitution. Discrimination against foreign corporations chartered in a sister state, and conflicting provisions in the insurance statutes of the states generated strong pressures for congressional preemption of state regulation of the insurance industry.

Congress enacted in 1999 a comprehensive financial institutions act (113 Stat. 1353), which partially preempted state insurance-regulatory powers by establishing minimum standards in 13 regulatory areas. In addition, states face the threat that a federal system of licensing insurance agents will be established if 26 states do not adopt a uniform licensing system for insurance agents by November 12, 2002, as determined by the National Association of Insurance Commissioners (NAIC) after consulting the state insurance commissioners.

NAIC provides a forum for commissioners to meet quarterly to discuss issues and promote enactment of common policies. In 1989, it adopted uniform financial regulation standards as requirements for certification of an effective regulatory system in each state. Under the accreditation program, an independent team reviews each state insurance department to determine its compliance with the standards. In 2001, 46 states and the Puerto Rican insurance department were accredited. New York, Nevada, Washington and West Virginia are seeking re-accreditation.

The U.S. General Accounting Office has issued four

reports assessing the association's accreditation program. The 1991 report concluded the program would be successful if adopted by all states. The following year GAO observed: 1) the standards are general and have been interpreted permissively by the review teams, 2) implementation of standards is not reviewed, and 3) documentation of accreditation decisions by the review teams does not always support their compliance determinations. In 1993, GAO noted the association had made a number of improvements in its accreditation program, but lacked adequate documentation for decisions to accredit departments. GAO conducted another review of the program and reported in 2001 that its success remains uncertain.⁶

The New York Commissioner of Motor Vehicles in 1988 entered into administrative-reciprocity agreements with Ontario and Quebec, providing that truck drivers licensed in the state or one of the provinces who fail to pay a traffic-violation fine automatically will have their licenses suspended. Data released in 2001 reveals that Canadian truckers are paying their New York speeding fines. New York sends more information to the Ontario and Quebec licensing authorities than the provinces send to New York. The state is considering entering into agreements with the remaining eight Canadian provinces and Mexican states in the future. The commissioner also is empowered to execute a reciprocal agreement with the motor-vehicle administrator of any other state. The purpose of this provision is to allow the commissioner to enter into such agreements with states that are not members of the driver's license interstate compact.

Western state and Canadian provincial agencies responsible for conducting commercial-vehicle enforcement held a meeting in 1980 focusing on the need for uniform methods, procedures and standards. Out of this meeting came the Commercial Vehicle Safety Alliance, a nonprofit organization, and the Critical Item Truck and Bus Inspection Procedure, which concentrates on vehicle cargo, driver requirements and equipment most often found to be a cause of or a factor contributing to accidents.

The alliance is composed of representatives of the 50 states, American Samoa, Guam, 12 Canadian provinces and territories, and Mexican states that have signed a memorandum of understanding to utilize common inspection procedures. The result is uniformity and reciprocity in commercial-vehicle regulation. In 2001, the alliance released a report of a two-year study of safety inspections of radioactive-waste shipments to a waste isolation pilot plant disposal site in Carlsbad, New Mexico. The report revealed only 17 violations were found when enforcement officers conducted 313

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inspections on 124 truck shipments.

Traffic congestion at bridge, tunnel and turnpike toll plazas contributes to air pollution, wastes fuel, delays motorists and truckers, and necessitates construction of additional toll plazas and employment of toll collectors and their supervisors. Electronic toll-collection systems were developed in response to these problems and to permit quicker toll collection. The current 20 systems increase the number of vehicles accommodated by facilitating traffic flow, without construction of additional toll-collection facilities. They also reduce the number of toll collectors.

State transportation authorities in seven northeastern states, including the Port Authority of New York and New Jersey, signed a 1993 interagency agreement organizing the E-Z Pass Regional Consortium to develop electronic toll collection. The consortium, comprised of Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania and West Virginia, is the largest one in the United States. In 2001, Maine converted its "Transpass system" into the "E-Z Pass" system. By joining the consortium, an authority can purchase the necessary lane equipment at a lower price because of the group's purchasing power.

A related transportation agreement is the I-95 Corridor Coalition, composed of private and public transportation executives in the District of Columbia and 12 northeastern states from Maine to Virginia, who coordinate traffic-incidents management. Traffic is extremely congested in many sections of the corridor where it is difficult to expand the interstate highway. The coalition was formally organized in 1993 to employ intelligent-transportation systems to promote mobility and safety in all modes of transportation in the region.

"Emall" is an internet-procurement program sponsored by the Operational Services Division and the Information Technology Division of the Massachusetts Office of the State Comptroller. Established in 1998, it allows Idaho, Massachusetts, New York, Texas and Utah to pool their purchasing power to obtain the lowest prices on a wide variety of items from suppliers, who place their products and negotiated prices in Internet catalogues.

Tax evasion always has been a major governmental problem, and states have signed bilateral administrative-reciprocity agreements to exchange information to curb sales- and use-tax evasion. The Federation of Tax Administrators, a group composed of representatives of the 50 states, District of Columbia and New York City, has served as a clearinghouse for the exchange of tax information since 1937. It drafted a Uniform

Exchange of Information Agreement, effective in 1993, that has been signed by 44 states, the District of Columbia and New York City. This agreement supersedes the bilateral agreements.

The International Fuel Agreement, signed by 48 states and all Canadian provinces, provides that a motor carrier's home jurisdiction issues credentials allowing the licensee to travel in all member jurisdictions. The base jurisdiction assesses and collects taxes owed by a motor carrier for all of its fuel use in members' jurisdictions and distributes part of the revenues to other jurisdictions in accordance with the amount of travel in each. The carrier pays a net amount to the base jurisdiction; i.e., credits owed to the carrier by certain jurisdictions are deducted from the liability owed to other jurisdictions. Carriers benefit from the plan by only having to have one license, one set of credentials, one quarterly fuel-tax report and one audit.

The International Registration Plan Agreement was established by a cooperative commercial-motor-carrier registration-reciprocity agreement signed by all states and Canadian provinces. It allows carriers to travel in two or more jurisdictions, with licensing fees shared based on fleet miles operated in each jurisdiction, which determines the carriers' specific registration schedules and associated fees. The base jurisdiction collects the applicable fees for apportionment to all jurisdictions according to: 1) percentage of mileage traveled in each jurisdiction; 2) vehicle identification information and maximum weight; and 3) value, age, unladen weight and other factors in certain jurisdictions. An increasing number of member jurisdictions are using the plan's electronic clearinghouse to transfer the commercial-carrier fees.

The Streamlined Sales and Use Tax Agreement is the outgrowth of a proposal submitted to the Advisory Commission on Electronic Commerce by the National Governors' Association, the National Conference of State Legislatures, The Council of State Governments and local government associations. Twenty-nine states participate in the agreement and 10 states are observers. Approved in 2000, it established a system encompassing uniform definitions within tax bases, rate simplification, uniform sourcing rules, uniform audit procedures, and state assumption of responsibility for implementing the system.

Four interstate-lottery agreements are in effect. The fact that the sale of tickets is correlated positively with the size of the jackpot induced groups of states to form multistate lotteries and to lobby Congress to repeal the ban on the interstate sale of tickets and interstate transportation of lottery equipment. Congress amended the ban by adding a clause exempting such tickets and

authorizing a state legislature to opt out of the prohibition on interstate transportation of gaming devices (15 U.S.C. § 1172(a) and 18 U.S.C. § 1301).

Twenty states and the District of Columbia signed an administrative agreement forming the Multi-State Powerball Lottery. Seven states operate the Big Game Lottery under an administrative agreement; Maine, New Hampshire and Vermont participate in the Tri-State Megabucks Lottery via an administrative concordat; and Georgia, Kentucky and Virginia entered into an administrative agreement in 2001 forming Lotto South.

Summary and Conclusions

With one exception, in the period between 1789 and 1920, interstate compacts established state boundary lines. The Port of New York Authority Compact of 1920 set the pace for the expanded use of compacts, which today cover a relatively wide variety of topics and play important roles in the U.S. governance system.

Two major interstate trends are noteworthy: the decline in the number of interstate compacts enacted annually in recent years and the sharp increase in the number of formal and informal extraconstitutional interstate administrative agreements entered into by state officers with their counterparts in sister states. The increased use of such agreements is attributable primarily to the growth of interstate commerce, increased mobility of citizens, and technological developments. The agreements cover a wide spectrum of important subjects, but unfortunately cannot be utilized to resolve divisive interstate disputes that can be solved only by interstate compacts or congressional-preemption statutes.

Credit for promoting multistate administrative agreements must be given to associations of state administrative officials, Congress and federal-government administrators. The associations draft interstate administrative agreements and hold periodic meetings that enable state officials to become acquainted on a personal basis with their counterparts in other states, thereby facilitating interstate cooperation. In addition, Congress has enacted statutes creating interstate administrative bodies and has provided funding for

interstate cooperative activities. And a significant number of federal-government administrators work closely with their state counterparts and encourage interstate cooperation.

The electronic age has facilitated an interstate-partnership approach, particularly in several functional fields, such as purchasing, criminal identification, intelligent-transportation systems, motor-vehicle-law enforcement, tax-information exchange and toll collection. The continuing electronic-information revolution doubtless will play a more significant role in promoting multistate cooperation in the future.

Interstate compacts and interstate administrative agreements, both formal and informal, have helped make the union more perfect. The successes of the Connecticut River Interstate Salmon Compact and the Merrimack River Interstate Salmon Agreement reveal that a compact or an agreement can be employed successfully for the same purpose. This finding suggests that a future trend may be greater reliance on interstate administrative agreements, since they are easier to negotiate and do not require enactment by the concerned state legislatures or the grant of congressional consent.

Notes

¹ Joseph F. Zimmerman, *Interstate Relations: The Neglected Dimension of Federalism* (Westport, CT: Praeger Publishers, 1996).

² For additional information, consult Joseph F. Zimmerman, *Interstate Cooperation: Compacts and Administrative Agreements* (Westport, CT: Praeger Publishers, 2002).

³ Jameson W. Doig, *Empire on the Hudson: Entrepreneurial Vision and Political Power at the Port of New York Authority* (New York: Columbia University Press, 2001), 391.

⁴ Ronald Smothers, "As It Turns 80, the Port Authority Looks to Its Roots to Find Its Future," *The New York Times*, April 30, 2001, sec. B, p. 5.

⁵ Smothers, sec. B, p. 5.

⁶ U.S. General Accounting Office, *Regulatory Initiatives of the National Association of Insurance Commissioners* (Washington, DC: U.S. Government Accounting Office, 2001).

About the Author

Joseph F. Zimmerman is a professor of political science at Rockefeller College of The State University of New York at Albany. He is the author of more than 25 books and articles published in more than three dozen journals and periodicals.