1) What is an interstate compact?

Interstate compacts are contracts between two or more states creating an agreement on a particular policy issue, adopting a certain standard or cooperating on regional or national matters.

Compacts are the most powerful, durable and adaptive tools for ensuring cooperative action among states. Unlike federally imposed mandates that often dictate unfunded and rigid requirements, interstate compacts provide a state-developed structure for collaborative action, while building consensus among states and federal partners.

2) Why create an interstate compact?

Reasons for creating an interstate compact include:
- Establishing a formal, legal relationship among states to address common problems or promote a common agenda;
- Creating independent, multistate governmental authorities—such as commissions—that can address issues more effectively than a single state agency or when no state has the authority to act unilaterally;
- Establishing uniform guidelines, standards or procedures for agencies in the compact’s member states;
- Creating economies of scale to reduce administrative and other costs;
- Responding to national priorities in consultation or in partnership with the federal government;
- Retaining state sovereignty in matters traditionally reserved for the states; and
- Settling interstate disputes.

3) How prevalent are interstate compacts?

More than 215 interstate compacts exist today. On average, each state belongs to 25 interstate compacts.

Around 25 compacts are national in scope, several with 35 or more member states and independent administrative commissions. More than 30 compacts are regional in scope, with eight or more member states.
4) What types of interstate compacts exist?

Although there are many types of interstate compacts, they generally can be divided into three categories:

a) **Border Compacts**—Agreements between two or more states that establish or alter the boundaries of a state. Once adopted by the states and approved by Congress, such compacts permanently alter the boundaries of the state and can only be undone by a subsequent compact approved by Congress or the repeal of the compact with congressional approval.

b) **Advisory Compacts**—Agreements between two or more states that create study commissions. The purpose of the commission is to examine a problem and report to the respective states on its findings. Such compacts do not create ongoing administrative agencies with regulatory authority.

c) **Regulatory Compact**—Broadest and largest category of interstate compacts; may be called regulatory or administrative compacts. Such compacts embrace wide-ranging topics, including regional planning and development, crime control, agriculture, flood control, water resource management, education, mental health, juvenile delinquency and child support. Regulatory compacts create ongoing administrative agencies whose rules and regulations may be binding on the states to the extent authorized by the compact. Many regulatory compacts require congressional consent to be effective because they regulate areas that impact one of Congress’s enumerated powers, such as interstate commerce, navigable streams and extradition.

5) What are the advantages of an interstate compact?

The emergence of broad public policy issues that ignore state boundaries and the principals of federalism have presented new governing challenges to both state and federal authorities. Interstate compacts have re-emerged not only as devices for adjusting interstate relations, but they also provide states a way to collectively work together to address cross border policy challenges.

Interstate compacts provide an effective solution to address problems among states. Compacts enable the states—in their sovereign capacity—to act jointly and collectively, generally outside the confines of the federal legislative or regulatory process, while respecting the views of Congress on the appropriateness of joint action. Interstate compacts can effectively pre-empt federal interference into matters that are traditionally within the purview of the states, but have regional or national implications.

Unlike federal actions that impose unilateral, rigid mandates, compacts give states the opportunity to develop dynamic systems over which member states can maintain control through a coordinated legislative and administrative process. Compacts enable the states to develop adaptive structures that can evolve to meet new and increased challenges that arise over time.
6) What are the disadvantages of an interstate compact?

Interstate compacts often require a great deal of time to develop and implement. While recent compact initiatives have achieved success in a matter of a few years, some have required decades to reach the minimum number of member states for enactment.

Policymakers also may not like the perceived ceding of traditional state sovereignty, particularly as required by several modern administrative compacts. The very purpose of an interstate compact is to allow for collective governing authority on a particular issue between and among party states. Because contract law governs compacts, members are prohibited from amending or altering the terms of an agreement.

As the balance of power continues to shift in our federalist system, states may only be able to preserve their sovereign authority over interstate problems to the extent that they share their sovereignty and work together.

7) What does the compact development process look like?

The development of any interstate compact should be a state-driven and state-championed solution to a policy issue. CSG undertakes several key steps when developing a regulatory compact. These are examples and can be customized as needed.

a) An advisory board composed of state officials, stakeholders and issue experts:

- Examines the issues and current policy spectrum of issue;
- Examines best practices and alternative structures;
- Establishes recommendations for the content of an interstate compact; and
- Examines the need for congressional consent.

b) A drafting team composed five to eight state officials, stakeholders and issue experts, typically with some overlap with the advisory board:

- Drafts interstate compact language based on the advisory board’s recommendations; and
- Circulates draft compact to specific states and relevant stakeholder groups for comment.

c) During the education and enactment phase:

- The drafting team considers comments and incorporates them into the compact;
- The drafting team circulates the final product to advisory board;
- The advisory board releases the language to states for consideration; and
- CSG Staff, in conjunction with members of the drafting team and the advisory board, educate policymakers about the merits of the new compact language.
8) What was the basis for the Transmission Line Siting Compact?

The siting of interstate transmission lines has long been a problem that has vexed both states and the federal government. While there is an obvious need to site more transmission lines, a satisfactory solution has not been achieved. In the eyes of CSG and its membership, an interstate compact may provide that solution.

Three primary drivers guided the development and drafting of the Electric Transmission Line Siting Compact.

- The expected growth in electricity demand, coupled with the need to bring renewable energy to market and enhance and secure the nation’s energy infrastructure, makes the need for added transmission capacity more apparent than ever.

- The compact was drafted with the Energy Policy Act of 2005 in mind. Title XII, Subtitle B, Section 1221 of the act granted the “consent of Congress for three or more contiguous states to enter into an interstate compact facilitating siting of future electric transmission facilities.”

- This was a member-driven initiative. While staff from CSG’s National Center for Interstate Compacts has managed the development process, CSG’s legislative leadership initially proposed the idea. North Dakota Rep. Kim Koppelman, past CSG national chairman, and Kansas Rep. Tom Sloan, past chair of CSG’s Energy and Environment Task Force, have co-chaired the effort. Legislative leadership from each of CSG’s four regions also served on the initial advisory board.

9) What are the highlights of the Transmission Line Siting Compact?

The drafters have developed a framework for a national transmission line siting compact designed to improve efficiencies during the siting process. Such an agreement, and its requirements, would be triggered on an ad hoc basis and pertain only to those states that are both members of the compact and affected by the proposed line. The drafters have identified and included the following issues in the agreement:

- Application filing process;
- Application review process;
- Proposed line review and timeline; and
- The approval process.

The drafters believe a compact that addresses each of those four areas will reduce redundancies and create economies of scale within the siting process that will benefit both consumers and producers.

In addition to the four core content areas, the drafters also included sections focusing on judicial review, governance, finance, dispute resolution and various other components in the model agreement. While much of this language is standard in modern administrative
compacts, it has been structured to meet the specific objectives of the Transmission Line Siting Compact.

10) How is the Transmission Line Siting Compact financed?

While many modern administrative compacts are funded almost exclusively through state dues, the unique nature of the Transmission Line Siting Compact allows commission activities to be funded through fees paid when an initial application to site a line is filed. Under the plan developed by the drafters, the compact commission shall collect from the applicant a filing fee of 10 percent of the cost of each proposed line to cover the cost of operations and activities of the commission. This is anticipated to provide enough revenue to cover the commission’s annual operating budget. This financing structure was developed to ensure that individual state dollars would not be required to fund compact business.

The compact language also allows the commission to seek contributions, grants and other forms of funding from outside sources. This language was also included to ensure that individual state dollars would not be necessary to fund commission business.

11) What was the makeup of the advisory board and drafting teams?

When the advisory board was initially convened, its goal was to bring together a diverse group of stakeholders who understood and were well-versed in the challenges of siting interstate transmission lines. The advisory board was comprised of legislative leadership from each of CSG’s four regions and staff from CSG’s National Center for Interstate Compacts. Additionally, the advisory board included representatives from the Federal Energy Regulatory Commission and the U.S. Department of Energy, industry officials, subject matters experts and stakeholders. The drafting team was a subset of the advisory board.

Throughout the development process, CSG staff has consistently shared and vetted the language with any interested parties. The goal with any compact project is to ensure the process is transparent and allows for ample opportunity for feedback and comment.