

## **JOINT RESOLUTION**

Granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission.

Whereas the Washington Metropolitan Area Transit Authority, an interstate compact agency of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides transportation services to millions of people each year, the safety of whom is paramount;

Whereas an effective and safe Washington Metropolitan Area Transit Authority system is essential to the commerce and prosperity of the National Capital region;

Whereas the Tri-State Oversight Committee, created by a memorandum of understanding amongst these 3 jurisdictions, has provided safety oversight of the Washington Metropolitan Area Transit Authority;

Whereas section 5329 of title 49, United States Code, requires the creation of a legally and financially independent State authority for safety oversight of all fixed rail transit facilities;

Whereas the District of Columbia, the Commonwealth of Virginia, and the State of Maryland intend to create a

Washington Metrorail Safety Commission to act as the State safety oversight authority for the Washington Metropolitan Area Transit Authority system under section 5329 of title 49, United States Code; and

Whereas this compact is created for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 That the consent and approval of Congress is hereby given

4 to the District of Columbia, the Commonwealth of Vir-

5 ginia, and the State of Maryland to enter into a compact,

6 substantially as follows, for the safety oversight of the

7 Washington Metropolitan Area Transit Authority system,

8 which compact, known as the Metrorail Safety Commis-

9 sion Interstate Compact, has been negotiated by rep-

10 resentatives of the District of Columbia, the Common-

11 wealth of Virginia, and the State of Maryland:

12 **“ARTICLE I**

13 **“DEFINITIONS**

14 “1. As used in this MSC Compact, the following

15 words and terms shall have the meanings set forth below,

16 unless the context clearly requires a different meaning.

17 Capitalized terms used herein, but not otherwise defined

18 in this MSC Compact, shall have the definitions set forth

1 in regulations issued under section 5329 of title 49,  
2 United States Code, as they may be revised from time to  
3 time.

4 “(a) ‘Alternate Member’ means an alternate  
5 member of the Board;

6 “(b) ‘Board’ means the board of directors of  
7 the Commission;

8 “(c) ‘Commission’ means the Washington Met-  
9 rorail Safety Commission;

10 “(d) ‘Member’ means a member of the Board;

11 “(e) ‘MSC Compact’ means this Washington  
12 Metrorail Safety Commission Interstate Compact;

13 “(f) ‘Public Transportation Agency Safety Plan’  
14 means the comprehensive agency safety plan for a  
15 rail transit agency required by section 5329 of title  
16 49, United States Code, and the regulations issued  
17 thereunder, as may be amended or revised from time  
18 to time;

19 “(g) ‘Public Transportation Safety Certification  
20 Training Program’ means the Federal certification  
21 training program, as established and amended from  
22 time to time by applicable Federal laws and regula-  
23 tions, for Federal and State employees, or other des-  
24 ignated personnel, who conduct safety audits and ex-  
25 aminations of public transportation systems, and

1 employees of public transportation agencies directly  
2 responsible for safety oversight;

3 “(h) ‘Safety Sensitive Position’ means any posi-  
4 tion held by a WMATA employee or contractor des-  
5 ignated in the Public Transportation Agency Safety  
6 Plan for the WMATA Rail System and approved by  
7 the Commission as directly or indirectly affecting the  
8 safety of the passengers or employees of the  
9 WMATA Rail System;

10 “(i) ‘Signatory’ means the State of Maryland,  
11 the Commonwealth of Virginia, and the District of  
12 Columbia;

13 “(j) ‘State’ or ‘jurisdiction’ means the District  
14 of Columbia, the State of Maryland, or the Com-  
15 monwealth of Virginia;

16 “(k) ‘Washington Metropolitan Area Transit  
17 Authority’ or ‘WMATA’ is the entity created by the  
18 WMATA Compact, which entity is responsible for  
19 providing certain rail fixed guideway public trans-  
20 portation system services;

21 “(l) ‘WMATA Compact’ means the Washington  
22 Metropolitan Area Transit Authority Compact (Pub-  
23 lic Law 89–774; 80 Stat. 1324); and

24 “(m) ‘WMATA Rail System’ or ‘Metrorail’  
25 means the rail fixed guideway public transportation

1 system and all other real and personal property  
2 owned, leased, operated, or otherwise used by  
3 WMATA rail services and shall include WMATA rail  
4 projects under design or construction by owners  
5 other than WMATA.

6 “ARTICLE II

7 “PURPOSE AND FUNCTIONS

8 “2. The Signatories to the WMATA Compact hereby  
9 adopt this MSC Compact pursuant to section 5329 of title  
10 49, United States Code. The Commission created here-  
11 under shall have safety regulatory and enforcement au-  
12 thority over the WMATA Rail System and shall act as  
13 the State safety oversight authority for WMATA under  
14 section 5329 of title 49, United States Code, as may be  
15 amended from time to time. WMATA shall be subject to  
16 the Commission’s rules, regulations, actions, and orders.

17 “3. The purpose of this MSC Compact is to create  
18 a State safety oversight authority for the WMATA Rail  
19 System, pursuant to the mandate of Federal law, as a  
20 common agency of each Signatory, empowered in the man-  
21 ner hereinafter set forth to review, approve, oversee, and  
22 enforce the safety of the WMATA Rail System, including,  
23 without limitation, to—

24 “(a) have exclusive safety oversight authority  
25 and responsibility over the WMATA Rail System

1 pursuant to Federal law, including, without limita-  
2 tion, the power to restrict, suspend, or prohibit rail  
3 service on all or part of the WMATA Rail System  
4 as set forth in this MSC Compact;

5 “(b) develop and adopt a written State safety  
6 oversight program standard;

7 “(c) review and approve the WMATA Public  
8 Transportation Agency Safety Plan;

9 “(d) investigate hazards, incidents, and acci-  
10 dents on the WMATA Rail System;

11 “(e) require, review, approve, oversee, and en-  
12 force Corrective Action Plans developed by WMATA;  
13 and

14 “(f) meet other requirements of Federal and  
15 State law relating to safety oversight of the  
16 WMATA Rail System.

17 “ARTICLE III

18 “ESTABLISHMENT AND ORGANIZATION

19 “A. Washington Metrorail Safety Commission

20 “4. The Commission is hereby created as an instru-  
21 mentality of each Signatory, which shall be a public body  
22 corporate and politic, and which shall have the powers and  
23 duties set forth in this MSC Compact.

24 “5. The Commission shall be financially and legally  
25 independent from WMATA.

1 “B. Board Membership

2 “6. The Commission shall be governed by a Board  
3 of 6 Members with 2 Members appointed or reappointed  
4 (including to fill an unexpired term) by each Signatory  
5 pursuant to the Signatory’s applicable laws.

6 “7. Each Signatory shall also appoint or reappoint  
7 (including to fill an unexpired term) one Alternate Mem-  
8 ber pursuant to the Signatory’s applicable laws.

9 “8. An Alternate Member shall participate and take  
10 action as a Member only in the absence of one or both  
11 Members appointed from the same jurisdiction as the Al-  
12 ternate Member’s appointing jurisdiction and, in such in-  
13 stances, may cast a single vote.

14 “9. Members and Alternate Members shall have back-  
15 grounds in transit safety, transportation, relevant engi-  
16 neering disciplines, or public finance.

17 “10. No Member or Alternate Member shall simulta-  
18 neously hold an elected public office, serve on the WMATA  
19 board of directors, be employed by WMATA, or be a con-  
20 tractor to WMATA.

21 “11. Each Member and Alternate Member shall serve  
22 a 4-year term and may be reappointed for additional  
23 terms, except that each Signatory shall make its initial  
24 appointments as follows:

1           “(a) One Member shall be appointed for a 4-  
2           year term.

3           “(b) One Member shall be appointed for a 2-  
4           year term.

5           “(c) The Alternate Member shall be appointed  
6           for a 3-year term.

7           “12. Any person appointed to fill a vacancy shall  
8           serve for the unexpired term.

9           “13. Members and Alternate Members shall be enti-  
10          tled to reimbursement for reasonable and necessary ex-  
11          penses and shall be compensated for each day spent meet-  
12          ing on the business of the Commission at a rate of \$200  
13          per day or at such other rate as may be adjusted in appro-  
14          priations approved by all of the Signatories.

15          “14. A Member or an Alternate Member may be re-  
16          moved or suspended from office only for cause in accord-  
17          ance with the laws of such Member’s or Alternate Mem-  
18          ber’s appointing jurisdiction.

19          “C. Quorum and Actions of the Board.

20          “15. Four Members shall constitute a quorum, and  
21          the affirmative vote of 4 Members is required for action  
22          of the Board. Quorum and voting requirements under this  
23          section may be met with one or more Alternate Members  
24          pursuant to section 8.



1       “16. The Commission action shall become effective  
2 upon enactment unless otherwise provided for by the Com-  
3 mission.

4       “D. Oath of Office

5       “17. Before entering office, each Member and Alter-  
6 nate Member shall take and subscribe to the following  
7 oath (or affirmation) of office or any such other oath or  
8 affirmation as the constitution or laws of the Signatory  
9 he or she represents shall provide:

10       “I, \_\_\_\_\_, hereby solemnly  
11 swear (or affirm) that I will support and defend the Con-  
12 stitution and the laws of the United States as a Member  
13 (or Alternate Member) of the Board of the Washington  
14 Metrorail Safety Commission and will faithfully discharge  
15 the duties of the office upon which I am about to enter.

16       “E. Organization and Procedure

17       “18. The Board shall provide for its own organization  
18 and procedure. Meetings of the Board shall be held as fre-  
19 quently as the Board determines, but in no event less than  
20 quarterly. The Board shall keep minutes of its meetings  
21 and establish rules and regulations governing its trans-  
22 actions and internal affairs, including, without limitation,  
23 policies regarding records retention that are not in conflict  
24 with applicable Federal record retention laws.

1       “19. The Commission shall keep commercially rea-  
2 sonable records of its financial transactions in accordance  
3 with accounting principles generally accepted in the  
4 United States of America.

5       “20. The Commission shall establish an office for the  
6 conduct of its affairs at a location to be determined by  
7 the Commission.

8       “21. The Commission shall adopt subsections (a)  
9 through (d) and subsection (g) of section 552 of title 5,  
10 United States Code (commonly known as the ‘Freedom  
11 of Information Act’) and section 552b of title 5, United  
12 States Code (commonly known as the ‘Government in  
13 Sunshine Act’), as both may be amended from time to  
14 time, as its freedom of information policy and open meet-  
15 ing policy, respectively, and shall not be subject to the  
16 comparable laws or policies of any Signatory.

17       “22. Reports of investigations or inquiries adopted by  
18 the Board shall be made publicly available.

19       “23. The Commission shall adopt a policy on conflict  
20 of interest that shall be consistent with the regulations  
21 issued under section 5329 of title 49, United States Code,  
22 as they may be revised from time to time, which, among  
23 other things, places appropriate separation between Mem-  
24 bers, officers, employees, contractors, and agents of the  
25 Commission and WMATA.

1       “24. The Commission shall adopt and utilize its own  
2 administrative procedure and procurement policies in con-  
3 formance with applicable Federal regulations and shall not  
4 be subject to the administrative procedure or procurement  
5 laws of any Signatory.

6       “F. Officers and Employees

7       “25. The Board shall elect a Chairman, Vice Chair-  
8 man, Secretary, and Treasurer from among its Members,  
9 each for a 2-year term and shall prescribe their powers  
10 and duties.

11       “26. The Board shall appoint and fix the compensa-  
12 tion and benefits of a chief executive officer who shall be  
13 the chief administrative officer of the Commission and who  
14 shall have expertise in transportation safety and one or  
15 more industry-recognized transportation safety certifi-  
16 cations.

17       “27. Consistent with section 5329 of title 49, United  
18 States Code, as may be amended from time to time, the  
19 Commission may employ, under the direction of the chief  
20 executive officer, such other technical, legal, clerical, and  
21 other employees on a regular, part-time, or as-needed  
22 basis as it determines necessary or desirable for the dis-  
23 charge of its duties.

24       “28. The Commission shall not be bound by any stat-  
25 ute or regulation of any Signatory in the employment or

1 discharge of any officer or employee of the Commission,  
 2 but shall develop its own policies in compliance with Fed-  
 3 eral law. The MSC shall, however, consider the laws of  
 4 the Signatories in devising its employment and discharge  
 5 policies, and when it deems it practical, devise policies con-  
 6 sistent with the laws of the Signatories.

7       “29. The Board may fix and provide policies for the  
 8 qualification, appointment, removal, term, tenure, com-  
 9 pensation benefits, worker’s compensation, pension, and  
 10 retirement rights of its employees subject to Federal law.  
 11 The Board may also establish a personnel system based  
 12 on merit and fitness and, subject to eligibility, participate  
 13 in the pension, retirement, and worker’s compensation  
 14 plans of any Signatory or agency or political subdivision  
 15 thereof.

16                                   “ARTICLE IV

17                                   “POWERS

18       “A. Safety Oversight Power.

19       “30. In carrying out its purposes, the Commission,  
 20 through its Board or designated employees or agents,  
 21 shall, consistent with Federal law—

22                   “(a) adopt, revise, and distribute a written  
 23       State Safety Oversight Program;

1           “(b) review, approve, oversee, and enforce the  
2 adoption and implementation of WMATA’s Public  
3 Transportation Agency Safety Plan;

4           “(c) require, review, approve, oversee, and en-  
5 force the adoption and implementation of any Cor-  
6 rective Action Plans that the Commission deems ap-  
7 propriate;

8           “(d) implement and enforce relevant Federal  
9 and State laws and regulations relating to safety of  
10 the WMATA Rail System; and

11           “(e) audit every 3 years the compliance of  
12 WMATA with WMATA’s Public Transportation  
13 Agency Safety Plan or conduct such an audit on an  
14 ongoing basis over a 3-year time frame.

15           “31. In performing its duties, the Commission,  
16 through its Board or designated employees or agents, may  
17 do the following:

18           “(a) Conduct, or cause to be conducted, inspec-  
19 tions, investigations, examinations, and testing of  
20 WMATA personnel and contractors, property, equip-  
21 ment, facilities, rolling stock, and operations of the  
22 WMATA Rail System, including, without limitation,  
23 electronic information and databases through rea-  
24 sonable means, which may include issuance of sub-  
25 poenas.

1           “(b) Enter upon the WMATA Rail System and,  
2           upon reasonable notice and a finding by the chief ex-  
3           ecutive officer that a need exists, upon any lands,  
4           waters, and premises adjacent to the WMATA Rail  
5           System, including, without limitation, property  
6           owned or occupied by the Federal Government, for  
7           the purpose of making inspections, investigations,  
8           examinations, and testing as the Commission may  
9           deem necessary to carry out the purposes of this  
10          MSC Compact, and such entry shall not be deemed  
11          a trespass. The Commission shall make reasonable  
12          reimbursement for any actual damage resulting to  
13          any such adjacent lands, waters, and premises as a  
14          result of such activities.

15          “(c) Compel WMATA’s compliance with any  
16          Corrective Action Plan or order of the Commission  
17          by such means as the Commission deems appro-  
18          priate, including, without limitation, by—

19                 “(1) taking legal action in a court of com-  
20                 petent jurisdiction;

21                 “(2) issuing citations or fines with funds  
22                 going into an escrow account for spending by  
23                 WMATA on Commission-directed safety meas-  
24                 ures;

1           “(3) directing WMATA to prioritize spend-  
2           ing on safety-critical items;

3           “(4) removing a specific vehicle, infrastruc-  
4           ture element, or hazard from the WMATA Rail  
5           System; and

6           “(5) compelling WMATA to restrict, sus-  
7           pend, or prohibit rail service on all or part of  
8           the WMATA Rail System with an appropriate  
9           notice period dictated by the circumstances.

10          “(d) Direct WMATA to suspend or disqualify  
11          from performing in any Safety Sensitive Position an  
12          individual who is alleged to or has violated safety  
13          rules, regulations, policies, or laws.

14          “(e) Compel WMATA’s Office of the Inspector  
15          General, created under WMATA Board Resolution  
16          2006–18, or any successor WMATA office or organi-  
17          zation having similar duties, to conduct safety-re-  
18          lated audits or investigations and to provide its find-  
19          ings to the Commission.

20          “(f) Take such other actions as the Commission  
21          may deem appropriate consistent with its purpose  
22          and powers.

23          “32. Action by the Board under section 31(c)(5) shall  
24          require the unanimous vote of all Members present and  
25          voting. The Commission shall coordinate its enforcement

1 activities with appropriate Federal and State govern-  
2 mental authorities.

3 “B. General Powers

4 “33. In addition to the powers and duties set forth  
5 above, the Commission may—

6 “(a) sue and be sued;

7 “(b) adopt, amend, and repeal rules and regula-  
8 tions respecting the exercise of the powers conferred  
9 by this MSC Compact;

10 “(c) create and abolish offices, employments,  
11 and positions (other than those specifically provided  
12 for in this MSC Compact) necessary or desirable for  
13 the purposes of the Commission;

14 “(d) determine a staffing level for the Commis-  
15 sion that is commensurate with the size and com-  
16 plexity of the WMATA Rail System, and require  
17 that employees and other designated personnel of  
18 the Commission, who are responsible for safety over-  
19 sight, be qualified to perform such functions through  
20 appropriate training, including, without limitation,  
21 successful completion of the Public Transportation  
22 Safety Certification Training Program;

23 “(e) contract for or employ consulting attor-  
24 neys, inspectors, engineers, and such other experts  
25 necessary or desirable and, within the limitations



1 prescribed in this MSC Compact, prescribe their  
2 powers and duties and fix their compensation;

3 “(f) enter into and perform contracts, leases,  
4 and agreements necessary or desirable in the per-  
5 formance of its duties and in the execution of the  
6 powers granted under this MSC Compact;

7 “(g) apply for, receive, and accept such pay-  
8 ments, appropriations, grants, gifts, loans, advances,  
9 and other funds, properties, and services as may be  
10 transferred or made available to it by the United  
11 States government or any other public or private en-  
12 tity or individual, subject to the limitations specified  
13 in section 42;

14 “(h) adopt an official seal and alter the same  
15 at its pleasure;

16 “(i) adopt and amend by-laws, policies, and pro-  
17 cedures governing the regulation of its affairs;

18 “(j) appoint one or more advisory committees;  
19 and

20 “(k) do such other acts necessary or desirable  
21 for the performance of its duties and the execution  
22 of its powers under this MSC Compact.

23 “34. Consistent with this MSC Compact, the Com-  
24 mission shall promulgate rules and regulations to carry  
25 out the purposes of this MSC Compact.

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“ARTICLE V

“GENERAL PROVISIONS

“A. Annual Safety Report

“35. The Commission shall make and publish annually a status report on the safety of the WMATA Rail System, which shall include, among other requirements established by the Commission and Federal law, status updates of outstanding Corrective Action Plans, Commission directives, and on-going investigations. A copy of each such report shall be provided to—

“(a) the Administrator of the Federal Transit Administration;

“(b) the Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia;

“(c) the Chairman of the Council of the District of Columbia;

“(d) the President of the Maryland Senate and the Speaker of the Maryland House of Delegates;

“(e) the President of the Virginia Senate and the Speaker of the Virginia House of Delegates; and

“(f) the General Manager and each member of the board of directors of WMATA.

1       “36. The Commission may prepare, publish, and dis-  
2 tribute such other safety reports that it deems necessary  
3 or desirable.

4       “B. Annual Report of Operations

5       “37. The Commission shall make and publish an an-  
6 nual report on its programs, operations, and finances,  
7 which shall be distributed in the same manner provided  
8 by section 35.

9       “38. The Commission may also prepare, publish, and  
10 distribute such other public reports and informational ma-  
11 terials as it deems necessary or desirable.

12       “C. Annual Independent Audit

13       “39. An independent annual audit shall be made of  
14 the financial accounts of the Commission. The audit shall  
15 be made by qualified certified public accountants selected  
16 by the Board, who shall have no personal interest, direct  
17 or indirect, in the financial affairs of the Commission or  
18 any of its officers or employees. The report of audit shall  
19 be prepared in accordance with generally accepted audit-  
20 ing principles and shall be distributed in the same manner  
21 provided by section 35. Members, employees, agents, and  
22 contractors of the Commission shall provide access to in-  
23 formation necessary or desirable for the conduct of the  
24 annual audit.

25       “D. Financing

1       “40. The Commission’s operations shall be funded,  
2 independently of WMATA, by the Signatory jurisdictions  
3 and, when available, by Federal funds. The Commission  
4 shall have no authority to levy taxes.

5       “41. The Signatories shall unanimously agree on ade-  
6 quate funding levels for the Commission and make equal  
7 contributions of such funding, subject to annual appro-  
8 priation, to cover the portion of Commission operations  
9 not funded by Federal funds.

10       “42. The Commission may borrow up to 5 percent  
11 of its last annual appropriations budget in anticipation of  
12 receipts, or as otherwise set forth in the appropriations  
13 budget approved by all of the Signatories, from any lawful  
14 lending institution for any purpose of this MSC Compact,  
15 including, without limitation, for administrative expenses.  
16 Such loans shall be for a term not to exceed 2 years, or  
17 at such longer term approved by each Signatory pursuant  
18 to its laws as evidenced by the written authorization by  
19 the Mayor of the District of Columbia and the Governors  
20 of Maryland and Virginia, and at such rates of interest  
21 as shall be acceptable to the Commission.

22       “43. With respect to the District of Columbia, the  
23 commitment or obligation to render financial assistance to  
24 the Commission shall be created, by appropriation or in  
25 such other manner, or by such other legislation, as the

1 District of Columbia shall determine; provided, that any  
2 such commitment or obligation shall be approved by Con-  
3 gress pursuant to the District of Columbia Home Rule Act  
4 (Public Law 93–198; 87 Stat. 774).

5       “44. Pursuant to the requirements of sections 1341,  
6 1342, 1349, 1350, 1351, 1511, and 1519 of title 31,  
7 United States Code, and sections 47–105 and 47–355.01  
8 to 355.08 of the D.C. Official Code (collectively referred  
9 to in this section as the ‘Anti-Deficiency Acts’), the Dis-  
10 trict of Columbia cannot obligate itself to any financial  
11 commitment in any present or future year unless the nec-  
12 essary funds to pay that commitment have been appro-  
13 priated and are lawfully available for the purpose com-  
14 mitted. Thus, pursuant to the Anti-Deficiency Acts, noth-  
15 ing in the MSC Compact creates an obligation of the Dis-  
16 trict of Columbia in anticipation of an appropriation for  
17 such purpose, and the District of Columbia’s legal liability  
18 for the payment of any amount under this MSC Compact  
19 does not and may not arise or obtain in advance of the  
20 lawful availability of appropriated funds for the applicable  
21 fiscal year.

22       “E. Tax Exemption

23       “45. The exercise of the powers granted by this MSC  
24 Compact shall in all respects be for the benefit of the peo-  
25 ple of the District of Columbia, the Commonwealth of Vir-

1 ginia, and the State of Maryland and for the increase of  
2 their safety, commerce, and prosperity, and as the activi-  
3 ties associated with this MSC Compact shall constitute the  
4 performance of essential governmental functions, the  
5 Commission shall not be required to pay any taxes or as-  
6 sessments upon the services or any property acquired or  
7 used by the Commission under the provisions of this MSC  
8 Compact or upon the income therefrom, and shall at all  
9 times be free from taxation within the District of Colum-  
10 bia, the Commonwealth of Virginia, and the State of  
11 Maryland.

12 “F. Reconsideration of Commission Orders

13 “46. WMATA shall have the right to petition the  
14 Commission for reconsideration of an order based on rules  
15 and procedures developed by the Commission.

16 “47. Consistent with section 16, the filing of a peti-  
17 tion for reconsideration shall not act as a stay upon the  
18 execution of a Commission order, or any part of it, unless  
19 the Commission orders otherwise. WMATA may appeal  
20 any adverse action on a petition for reconsideration as set  
21 forth in section 48.

22 “G. Judicial Matters

23 “48. The United States District Court for the East-  
24 ern District of Virginia, Alexandria Division, the United  
25 States District Court for the District of Maryland, South-

1 ern Division, and the United States District Court for the  
2 District of Columbia shall have exclusive and original ju-  
3 risdiction of all actions brought by or against the Commis-  
4 sion and to enforce subpoenas under this MSC Compact.

5 “49. The commencement of a judicial proceeding  
6 shall not operate as a stay of a Commission order unless  
7 specifically ordered by the court.

8 “H. Liability and Indemnification

9 “50. The Commission and its Members, Alternate  
10 Members, officers, agents, employees, or representatives  
11 shall not be liable for suit or action or for any judgment  
12 or decree for damages, loss, or injury resulting from action  
13 taken within the scope of their employment or duties  
14 under this MSC Compact, nor required in any case arising  
15 or any appeal taken under this MSC Compact to give a  
16 supersedeas bond or security for damages. Nothing in this  
17 section shall be construed to protect such person from suit  
18 or liability for damage, loss, injury, or liability caused by  
19 the intentional or willful and wanton misconduct of such  
20 person.

21 “51. The Commission shall be liable for its contracts  
22 and for its torts and those of its Members, Alternate Mem-  
23 bers, officers, agents, employees, and representatives com-  
24 mitted in the conduct of any proprietary function, in ac-  
25 cordance with the law of the applicable Signatory (includ-

1 ing, without limitation, rules on conflict of laws) but shall  
2 not be liable for any torts occurring in the performance  
3 of a governmental function. The exclusive remedy for such  
4 breach of contract or tort for which the Commission shall  
5 be liable, as herein provided, shall be by suit against the  
6 Commission. Nothing contained in this MSC Compact  
7 shall be construed as a waiver by the District of Columbia,  
8 the Commonwealth of Virginia, or the State of Maryland  
9 of any immunity from suit.

10 “I. Commitment of Parties

11 “52. Each of the Signatories pledges to each other  
12 faithful cooperation in providing safety oversight for the  
13 WMATA Rail System, and, to affect such purposes, agrees  
14 to consider in good faith and request any necessary legisla-  
15 tion to achieve the objectives of this MSC Compact.

16 “J. Amendments and Supplements

17 “53. Amendments and supplements to this MSC  
18 Compact shall be adopted by legislative action of each of  
19 the Signatories and the consent of Congress. When one  
20 Signatory adopts an amendment or supplement to an ex-  
21 isting section of this MSC Compact, that amendment or  
22 supplement shall not be immediately effective, and the pre-  
23 viously enacted provision or provisions shall remain in ef-  
24 fect in each jurisdiction until the amendment or supple-



1 ment is approved by the other Signatories and is con-  
2 sented to by Congress.

3 “K. Withdrawal and Termination

4 “54. Any Signatory may withdraw from this MSC  
5 Compact, which action shall constitute a termination of  
6 this MSC Compact.

7 “55. Withdrawal from this MSC Compact shall be by  
8 a Signatory’s repeal of this MSC Compact from its laws,  
9 but such repeal shall not take effect until 2 years after  
10 the effective date of the repealed statute and written no-  
11 tice of the withdrawal being given by the withdrawing Sig-  
12 natory to the governors or mayor, as appropriate, of the  
13 other Signatories.

14 “56. Prior to termination of this MSC Compact, the  
15 Commission shall provide each Signatory—

16 “(a) a mechanism for concluding the operations  
17 of the Commission;

18 “(b) a proposal to maintain State safety over-  
19 sight of the WMATA Rail System in compliance  
20 with applicable Federal law;

21 “(c) a plan to hold surplus funds in a trust for  
22 a successor regulatory entity for 4 years after the  
23 termination of this MSC Compact; and

24 “(d) a plan to return any surplus funds that re-  
25 main 4 years after the creation of the trust.

1       “L. Construction and Severability

2       “57. This MSC Compact shall be liberally construed  
3 to effectuate the purposes for which it is created.

4       “58. If any part or provision of this MSC Compact  
5 or the application thereof to any person or circumstances  
6 be adjudged invalid by any court of competent jurisdiction,  
7 such judgment shall be confined in its operation to the  
8 part, provision, or application directly involved in the con-  
9 troversy in which such judgment shall have been rendered  
10 and shall not affect or impair the validity of the remainder  
11 of this MSC Compact or the application thereof to other  
12 persons or circumstances, and the Signatories hereby de-  
13 clare that they would have entered into this MSC Compact  
14 or the remainder thereof had the invalidity of such provi-  
15 sion or application thereof been apparent.

16       “M. Adoption; Effective Date

17       “59. This MSC Compact shall be adopted by the Sig-  
18 natories in the manner provided by law therefor and shall  
19 be signed and sealed in 4 duplicate original copies. One  
20 such copy shall be filed with the Secretary of State of the  
21 State of Maryland, the Secretary of the Commonwealth  
22 of Virginia, and the Secretary of the District of Columbia  
23 in accordance with the laws of each jurisdiction. One copy  
24 shall be filed and retained in the archives of the Commis-  
25 sion upon its organization. This MSC Compact shall be-

1 come effective upon the enactment of concurring legisla-  
2 tion by the District of Columbia, the Commonwealth of  
3 Virginia, and the State of Maryland, and consent thereto  
4 by Congress and when all other acts or actions have been  
5 taken, including, without limitation, the signing and exe-  
6 cution of this MSC Compact by the Governors of Mary-  
7 land and Virginia and the Mayor of the District of Colum-  
8 bia.

9 “L. Conflict of Laws

10 “60. Any conflict between any authority granted  
11 herein, or the exercise of such authority, and the provi-  
12 sions of the WMATA Compact shall be resolved in favor  
13 of the exercise of such authority by the Commission.

14 “61. All other general or special laws inconsistent  
15 with this MSC Compact are hereby declared to be inappli-  
16 cable to the Commission or its activities.”.

Passed the Senate May 16, 2017.

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. J. RES. 22**

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**JOINT RESOLUTION**

Granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission.