

**MULTI-STATE INSTITUTIONS  
FOR IMPLEMENTING IMPROVED  
FREIGHT MOVEMENT IN THE U. S.**

**FINAL PAPER**

December 2009

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For the  
Federal Highway Administration  
Office of Freight  
U.S. Department of Transportation  
In Partnership with the  
I-95 Corridor Coalition



U.S. Department of Transportation  
**Federal Highway Administration**



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# **MULTI-STATE INSTITUTIONS FOR IMPLEMENTING IMPROVED FREIGHT MOVEMENT IN THE U. S.**

Recognition is growing that large-scale freight corridors in the U.S. need to operate more reliably and efficiently, and that existing institutions may need to work together in new ways. At various points in the nation's history, similar needs have brought forth appropriate institutional responses at interstate and multi-state scales, using a wide variety of methods. So, there is much to learn by tracing this history.

This report is organized in four parts designed to: (1) examine the nature of the need for new freight corridor enhancements, (2) explore the eight basic types of institutional options that have emerged in several fields of public policy capable of implementing improvements across state boundaries, and describe some examples of each that might serve as models for meeting current needs identified by the freight transportation community, (3) consider criteria for assessing institutional models, and (4) examine the institutional implications of a pending bill in Congress designed to strengthen the nation's freight program.

## **PART I: THE TIME IS RIPE FOR FREIGHT IMPROVEMENTS**

### **What Kinds of Improvements are Needed?**

The I-95 Corridor Coalition is one of several multi-state coalitions that are identifying the transportation problems of freight corridors and needed improvements. The I-95 Coalition commissioned Cambridge Systematics, in combination with Parsons Brinkerhoff Quade and Douglas, to prepare the April 2002 *Mid-Atlantic Rail Operations Study*. That study identified a \$6.2 billion package of rail improvements needed to repair deteriorated facilities, eliminate choke points, and reconcile competing freight and passenger needs.<sup>1</sup>

This *Mid-Atlantic* study is one of many proposals for improving corridor facilities and operations all across the nation. Some propose specific projects, while others propose broader strategies and system-wide improvements. A few of these proposals are cited below to provide a sense of the types of issues, strategies, and improvement projects that multi-state transportation institutions might be called on to consider, support and/or implement.

For example, 22 states are devoting portions of their economic recovery (stimulus) funds to accelerating their investments in high-tech equipment designed to speed traffic, reduce

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<sup>1</sup> On another portion of the I-95 Corridor, five Southeastern states joined with U.S. DOT in 2009 to take a regional approach to improving a 1,054 stretch of the corridor through Virginia, North Carolina, South Carolina, Georgia, and Florida—Washington Post, February 5, 2009, p. B5.

congestion, save fuel, and reduce harmful emissions along heavily traveled multi-state highway corridors. The types of equipment used for these purposes include such items as traffic cameras, express toll collection booths, upgraded traffic signals, ramp meters, vehicle sensors, and portable as well as permanent electronic signs—to make their highways “smart,” reduce congestion, speed traffic (including trucks) on its way, and reduce the impacts of construction.<sup>2</sup>

Likewise, the Federal Railroad Administration has a long-range plan for “intelligent railroad systems”<sup>3</sup> in multistate corridors that would use emerging sensor, electronic information, and communications technologies to prevent collisions and accidents, prevent hijackings and runaways, increase capacity and asset utilization, increase reliability, improve service to customers, improve energy efficiency and reduce emissions, increase economic viability and profits, and enable railroads to measure and control costs, and recover more rapidly from incidents.

In preparing for congressional renewal of the nation’s current surface transportation program (SAFETEA-LU) in the fall of 2009, the U.S. House of Representatives Committee on Transportation and Infrastructure adopted a reauthorization bill that proposed several new freight provisions. The Committee drew heavily on recommendations made by many interest groups with vital interests in improving the capacity, reliability, and operations of national, state, multi-state, and regional freight transportation systems.<sup>4</sup> The Committee bill’s main freight provisions are:

- **National Intermodal Policy and Plans:** Reestablish the Office of Intermodalism under a new Under Secretary of Transportation in the Office of the Secretary. The Under Secretary would work with a new Intermodal Council chaired by the Secretary and consisting of the Department’s modal Administrators and the heads of the U.S. Coast Guard and the U.S. Army Corps of Engineers. The Under Secretary and Council would be charged with preparing a national transportation strategic plan that would focus on projects of national significance (PNS), determine priorities among these projects, and establish a vision for long-term transportation investment. The new PNS program would explicitly include freight modes—enumerated as highways, railroads, navigable waterways, deepwater ports, and intermodal linkages, access and transfers. PNS projects would have to be consistent with statewide, metropolitan planning organization (MPO), freight, and freight corridor plans.
- **Statewide Freight Planning:** The House bill would require statewide transportation plans to include or be accompanied by proposed freight and other projects of national and regional significance. Each state would have to have a performance-based freight improvement investment program, a state freight rail plan with annual reporting on progress toward goals for achieving speed and reliability targets for freight movement, and a freight advisory committee. States

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<sup>2</sup> Daniel C. Vock, “States Roll Out Plans for ‘Smarter’ Roads,” *Stateline.Org*, May 21, 2009.

<sup>3</sup> Federal Railroad Administration released its *Five-Year Strategic Plan for Railroad Research, Development, and Demonstrations* (March 2002).

<sup>4</sup> The American Association of State Highway and Transportation Organizations offered an especially extensive reauthorization policy statement, “VI. Freight Authorization Policy,” (Washington, DC: undated).

would also have to propose, for approval by the U.S. DOT Secretary, designation of secondary freight routes (non NHS public roads) for which the state would have to submit 5-year condition and performance reports.

- **Regional Freight Institutions:** The bill would enhance MPO roles in freight planning and coordination, and would add similar rural planning organizations (RPOs) for rural regions outside the MPO jurisdictions. RPOs might have particular value in helping state DOTs work cooperatively with counties and other local governments on federally designated secondary freight routes that serve the mining, agricultural, timber, and tourism industries.
- **Freight Corridor Coalitions:** The U.S. DOT Secretary would be given authority to designate up to 10 freight corridor coalitions and to fund their operations up to 80 percent of their costs for preparing corridor improvement plans, identifying projects and funding sources (and responsibilities), and providing cost estimates for proposed projects.
- **Financing:** Funding for PNS and other freight improvement projects would be authorized to come from (1) any appropriate federal-aid funds (including a new PNS fund created by consolidating three existing DOT programs), (2) national, state, and metropolitan infrastructure banks, (3) reauthorized and extended capital assistance for short-line and regional railroads, and (4) other sources. The House Transportation and Infrastructure Committee bill does not identify specific revenue sources to support these programs because that is the responsibility of another committee.
- **Freight Safety:** The Highway Safety Improvement Program (including the highway-railroad grade crossing program) and the Motor Carrier Safety Assistance Program would be strengthened.
- **Freight Data:** To support federally required planning more fully (including freight planning), new and improved data programs would be authorized. These improvements would include commodity flows, hazardous materials transportation, performance measures, 20-year forecasts of national trends, safety information, and estimates of project benefits.

Freight movement, of course, involves many multimodal movements. Railroads, trucking companies, highways, delivery companies, airports and water ports—as well as inland and inter-coastal waterways and intermodal transfer terminals—all play important roles in providing efficient portal-to-portal, just-in-time pick-ups and deliveries. A new National Freight System and its institutional framework would need to support all these roles.

### **Crisis Often Produces New Institutions**

The nation is now in a multi-dimensional crisis that calls for new institutional capabilities. The economic meltdown, global warming and climate change, the energy crisis, dependence on foreign oil, environmental challenges of many kinds, and massive accumulated infrastructure deficits are coming together to form a “perfect storm” of public policy challenges to the transportation community.

At other such crisis points in the nation's history, the U.S. created new institutions to meet new needs. For example:

- When water supplies to New York and other major East Coast cities faltered in the face of rising demand, increasing pollution, and intensifying interstate competition for using the limited water resources in this heavily urbanized Megalopolis, Congress and the States got together to form **a federal-interstate commission** to ensure the productivity and reliability of the Delaware River Basin.
- When the private sector was discontinuing railroad passenger service, Amtrak was formed as **a federally sponsored private corporation** to continue providing this vital public service.
- When most of the Northeastern freight railroads were going bankrupt in the early 1970s, the United States Railway Association was formed as **a mixed federal-private corporation** to find a solution, and **a new government-sponsored Conrail corporation** was formed to continue the vital services being abandoned by the private sector. Conrail subsequently became profitable, was split and sold to two other healthy private railroad companies, and the government got out of the freight rail business after approximately two decades of deep involvement in the northeastern United States.
- When the Great Depression struck, the Tennessee Valley Authority was formed as **a federal government corporation** by the Administration and Congress to develop a major river and turn one of the nation's poorest regions into a powerful new economic engine that: (1) provided electrical power to the resident people and businesses, (2) improved river navigation, (3) reduced flooding, (4) provided fertilizer to the nutrient-spent farms in the region, and (5) created one of the nation's major munitions centers and suppliers of aluminum for airplanes during World War II. TVA also created one of the nation's richest outdoor recreation resources.
- When navigation and flood control problems on the Mississippi River became acutely important to the nation in 1879, Congress created the Mississippi River Commission, and then later revised this institution's role and related federal programs several times to meet changing needs through **a combination of direct federal action, interstate cooperation, and actions by state and local governments and others.**
- When dramatic electric power outages struck the Northeast, and then California and the Pacific Northwest in the latter part of the 20<sup>th</sup> Century, the reliability of the nation's electric transmission grid became a serious national issue. These periodic large-scale blackouts and brownouts demonstrated an urgent need for an improved national network. Electric power generation involves **a large number of public and private operators** that are connected by **private long-distance transmission companies**. Initially, the individual power generating companies developed MOUs with neighboring companies to help them meet uneven demands on a spot basis. This ad hoc system "just grew" into a series of relatively weak local connections that proved unequal to the nation's growing needs. The **federal government** responded with a National Transmission Grid



Study<sup>5</sup> and new regulations designed to ensure the grid's reliability. To administer compliance with these new regulations, the Federal Energy Regulatory Commission certified the privately chartered, nonprofit **North American Electric Reliability Corporation** as the responsible organization.<sup>6</sup>

Many institution-building lessons can be learned from these and other examples. And the current confluence of public policy crises offers a ready opportunity to examine them—with some assurance that they will be useful in future national policy discussions.

### **Needed Capabilities of Multi-State Transportation Corridor Institutions**

When examining these examples of multistate institutions, three distinct functions or capabilities stand out: (1) strategic design and authorization of outcome-oriented goals and objectives to be achieved for the region as a whole, (2) system management capabilities to ensure that specified outcomes are achieved, and (3) effective management of the projects and operations needed to produce the program outputs in each part of the region that, when aggregated across the whole multi-state region, are needed to meet region-wide goals and objectives. When the region spills across national boundaries, international treaties are needed as well, and must be taken into account. However, the international dimension is considered only tangentially in this paper.

The **strategic design and authorization function** of multi-state institutions generally requires congressional involvement, in addition to the involvement of state and other policy makers, because it represents multistate policy and the allocation of national resources in addition to resources from other sources. These public policy matters are inherently governmental responsibilities; they cannot be delegated to non-governmental institutions or to governmental decision-making by individual states or local governments that may not be bound to achieving specified overall outcomes designed to benefit the whole multi-state region. Obviously, the state and local governments and others must be involved in building a consensus to support the region-wide design if it is to be implemented successfully, but the final design must be decided collaboratively at the national and regional levels to ensure it will work effectively and efficiently as a system that reaches across multiple states.

Once the **system** is designed and funded, **managing it to achieve the expected systemwide outcome goals** can be delegated to others as long as they are committed to operating within the overall framework established for the multi-state region. Much of this work is technical, or discretionary within the bounds of adjusting most effectively and efficiently to local or sub-regional conditions while ensuring that the specified results are being achieved. These goals might include, for example, system capacity, levels of

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<sup>5</sup> U.S. Department of Energy, *National Transmission Grid Study* (Washington, DC: May 2002).

<sup>6</sup> *Energy Policy Act of 2005* and Federal Energy Regulatory Commission rules on certifying an Electric Reliability Organization and procedures for establishing and enforcing mandatory electric reliability standards, February 2, 2006 (<http://www.ferc.gov/industries/electric/indus-act/reliability.asp>) accessed 3-11-2009.

service, and levels of air and water quality that meet regulatory requirements. Accountability to governmental institutions for outcome-oriented results is essential at this level, but much of the work may be done by a variety of qualified partners, including many in the private sector. Measuring and reporting progress, and facilitating or enabling progress are central parts of this job.

The **project and operational management function** is essentially technical. It involves the nuts and bolts of “getting the job done” on time, within budget, and consistent with design specifications. Essentially, this task is to implement planned, committed projects and service programs. Technical qualifications are paramount. Much of the work may be done under contracts or grant agreements; other work may be done under the authority of and with funding supplied by the individual public and private organizations performing the work. Contract management, public accountability for project outputs, and required audits are essential to provide the accountability needed up-line within the authorized organizational structure and directly to customers.

Thus, a wide variety of implementing organizations ultimately may be involved in **the overall network of governments, companies, and individuals that need to work together to achieve agreed upon goals**. This will make “network management” another important capability the multi-state institution will need to master if it is to be successful.<sup>7</sup> The diverse organizations performing these three functions need to be tied together by some reliable means in order to perform consistently and achieve the expected results.

The purpose of this paper is to survey organizational structures that have been used for planning, financing, and implementing large-scale public infrastructure improvements that extend across state lines, and to describe institutional options for strengthening them.

The next section of this paper provides the requested survey of options to help practitioners and policy-makers think through solutions to their institutional needs. It is not limited to transportation institutions alone, or to public agencies alone.

Then, after examining factors for evaluating the suitability of institutional options for strengthening multi-state groups, this paper concludes with a hypothetical scenario of what a network of “most appropriate” organizations might look like. A corridor coalition may be most effective and best accepted as one player among many. It typically performs an essential area-wide strategy development and coordination role not being performed by any other organization, and it often encourages and facilitates other organizations to perform the roles for which they are best suited. Often it is these other organizations—both public and private—that construct and operate facilities, deliver services, administer related regulations, and arrange financing.

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<sup>7</sup> Network management, as an organized field of study, is fairly new, although parts of it have existed by other names for many years. A recent example of the new and growing literature in this field is: Robert Agranoff, *Managing Within Networks: Adding Value to Public Organizations* (Washington, DC: Georgetown University Press, 2007).

## **PART II: INSTITUTIONAL OPTIONS FOR MULTI-STATE ACTION**

The following eight types of institutions offer potential mechanisms to help strengthen the infrastructure and operations of multi-state freight corridors. Some are state-led while others are led by the federal government. But in either case, success is likely to lie in collaborative enterprises, with the private sector involved as well.

1. An interstate compact authority or commission
2. Interstate joint services agreements
3. Special districts and authorities that operate under the authority of an individual state but may be able to enter into service agreements that cross state lines
4. Voluntary coalitions that set their own boundaries with or without government incentives and enabling legislation
5. Non-profit corporations and foundations devoted to public interests
6. Commercial companies that provide public services
7. A federally chartered corporation or government sponsored corporation that operates in the public's interest, but at arms length from the government
8. A federal government agency, commission, or project office

Many variations exist within these types of institutions, and prominent examples will be cited. The focus in this part of the paper is on the mechanisms used to establish the institution, what form they may take, and what they are capable of doing.

### **Interstate Compact Authority or Commission**

Interstate compacts among states are provided for in the U.S. Constitution and most states have (or had) commissions on interstate cooperation to deal with them.<sup>8</sup> These compacts are negotiated by the states and then enacted in identical form by each state that desires to be part of the compact. Then Congress must approve the compact before it can go into effect—in most cases. However, if the compact is deemed to have no impact on federal responsibilities, it may go into effect without congressional approval. In rare cases, the federal government is also a party to the compact (which is designated as a federal-interstate compact), and Congress enacts authority for the appropriate federal participation. Since most of the specifics of the compact are subject to the negotiated agreement, the functions and powers vary widely from one instance to another. Some compacts create an organization and a full range of operational functions, while others simply provide agreements about how the states will work together. Examples of such compacts are:

- **Port Authority of New York and New Jersey**—was established in 1921 by the states of New York and New Jersey. Only the two states are parties to the compact, and the authority's revenues are limited to the proceeds and repayment

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<sup>8</sup> U.S. ACIR, *The Challenge of Local Governmental Reorganization*, Report A-44 (U.S. Government Printing Office, February 1974), p. 169.

of revenue bonds sold by the Authority. Thus, the Authority is virtually autonomous and its operations are largely business-like. Its initial task was to overcome the high costs of having most of the port's docking facilities in New York while most of the rail terminals were in New Jersey—thereby increasing the port's competitive position among East Coast ports. But once it got started, the Port Authority expanded its scope of activities to highway bridges and tunnels, a consolidated bus terminal in Manhattan, a containerized marine terminal, arterial highways, rail transit, the region's airports, and the World Trade Center. Its success inspired other multistate organizations.<sup>9</sup>

- **Great Lakes Commission**—was created by an interstate compact enacted by the region's eight U.S. states in 1955, and granted congressional consent in 1968. Associate membership in the Commission was established for two Canadian provinces in 1999. It is a public agency with a mission to promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the entire Great Lakes Basin.<sup>10</sup> The Commission's products and services focus on communication and education, information integration and reporting, facilitation and consensus building, and policy coordination and advocacy.
- **Washington Metropolitan Area Transportation Authority**—is an interstate compact organization that provides bus, rail, and demand-responsive transit services to Washington, DC and portions of Maryland and Virginia. Prior to this organization coming into existence, the metropolitan area had a variety of private bus companies and a special federal agency (the National Capital Transportation Agency) that designed the initial rail transit system and began building it for several years while the interstate compact organization was being formed.<sup>11</sup> The compact organization bought out the private bus companies and integrated them into the new bus-rail transit system. Much of the original capital for constructing the new rail system came from transferred interstate highway funds, which of course cannot be renewed. Even today the compact organization does not have any dedicated tax revenue stream; it is the largest transit system in the nation without such regular, reliable funding. It relies, instead, on fare box revenues (for about 50 percent of its needs), advertising revenues, and annually negotiated contributions from the federal, DC, state, and local governments in its service area. Now, as the original construction and equipment needs repair, renewal, and capacity increases, its financing is not able to keep up with needs. Even significant incentives from Congress have been only partially successful in nudging the region toward a sounder financing arrangement.
- **Bi-State Development Compact**—between Missouri and Illinois provides interstate transportation links across the Mississippi River in the St. Louis metropolitan area. Its services include light rail and busses.

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<sup>9</sup> 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).

<sup>10</sup> <http://www.glc.org/about/> accessed 4/5/2009.

<sup>11</sup> National Capital Transportation Agency, *Recommendations for Transportation in the National Capital Region: Finance and Organization* (Washington, DC: U.S. Government Printing Office, November 1, 1962).

- **Midwest Interstate Passenger Rail Commission**—was formed in 2000 by a compact among states extending from Ohio to Nebraska. The Commission’s purpose is to advocate improved passenger rail service within the region, link the region to other regions, plan for high-speed passenger rail service, bring together state leaders, and support their state DOTs. The Commission includes state legislators, governors, and their designees. This Commission became one of the earliest applicants for High Sped Rail funding made available by the *American Recovery and Reinvestment Act of 2009*.
- **Susquehanna River Basin Commission**—was established in 1970 by the states of Pennsylvania, New York, and Maryland, and by the federal government (which is an active member of the compact, not just a consenting party as is the case with most interstate compacts).<sup>12</sup> The Commission has relatively strong regulatory, coordination, and management powers. The largely rural nature of the basin leads the Commission to focus especially on water quality (mining and farming runoff problems) and flooding. As the largest single source of water flowing into the Chesapeake Bay, it is influenced greatly by the Bay’s serious water quality problems.
- **Interstate Commission on the Potomac River Basin**—was established in 1940 by the states of Maryland, Virginia, West Virginia, and the District of Columbia.<sup>13</sup> It is concerned largely with water quality and water supply for the Washington Metropolitan Area. However, it is primarily advisory. It does not have regulatory or management powers like those of the Susquehanna and Delaware River Basin Commissions.
- **Delaware River Basin Commission** is another federal-interstate compact—like the Susquehanna River Basin Commission.<sup>14</sup> It is older (1961), serves a more highly urbanized population, has similarly strong powers, and an even larger staff than the Susquehanna Commission. Its strongest emphasis is on water supply allocations of the river’s water among the major urban areas in the basin.
- **Tahoe Regional Planning Agency** was created in 1969 when the United States Congress ratified a bi-state compact legislated by the governors and state legislatures of Nevada and California. Lake Tahoe lies along the border between the two states and is renowned for the clarity of its waters. As a result, it is a very popular resort and tourist area. However, the quality of its waters has been declining for many years because of the impact of development, logging, and other human activities. More than 100 years ago, conservationists became concerned about the lake’s future and attempted to bring it under federal control as a national forest or a national park. Congress was not receptive because of the extent of private ownership and development already established even that long ago. But the states persisted and Congress ratified the Compact agency. The compact was strengthened in 1980 to give the Agency authority to adopt and enforce environmental quality standards, the first of which went into effect in

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<sup>12</sup> Douglas S. Kenney, “Inventory of Major Coordination Mechanisms for the Control of Interstate Water Resources,” a paper prepared under the supervision of the U.S. Advisory Commission on Intergovernmental Relations for the U.S. Army Corps of Engineers, January 1995, pp. 60-68.

<sup>13</sup> *Ibid.*, pp 40-47.

<sup>14</sup> *Ibid.*, p. 61.

1982. The Agency's Governing Body consists of seven members from each state plus a non-voting appointee of the President of the United States. The Governing Body is assisted by a 19-member Advisory Planning Commission made up of technical and scientific experts. Today, federal, state, and local governments regulate growth and development in the region by statute—including run-off from buildings and roads, erosion from recreation facilities, sewage, the use of fertilizers and pesticides, and the management of animal wastes, air quality, and toxic chemicals. Transportation plans come within the agency's purview. In 2008, researchers found that the loss of clarity in the lake had begun to slow.

## **Interstate Joint Services Agreements**

All states have a law enabling their local governments to cooperate with each other via a negotiated agreement among the cooperating governmental units without having to involve the state legislature. About 30 of the states allow this cooperation to take place with local governments of other states also.<sup>15</sup> In some states, this cooperation may include state agencies in addition to units of local government.

Under these inter-local cooperation laws, thousands of inter-local cooperation agreements have been developed for a wide variety of public activities—including transportation, public works and utilities, police and fire communications, and emergency services.<sup>16</sup> Many of these agreements provide for joint services to be delivered—sometimes by one existing unit of government that agrees to provide the service for all, and sometimes by establishing a separate joint services organization that serves all of its members. Although approximately 98 percent of the actual agreements have been established within a single state, it has been determined by the courts that an inter-local service agreement that spans state boundaries most likely would not require congressional approval since local matters are not addressed by the U.S. Constitution. Model state legislation incorporating best practices from several states is available.<sup>17</sup>

- **Alameda Corridor**—One of the best known transportation improvements using a joint services agreement is the Alameda Corridor freight rail expressway in southern California. **Locally-led** by the Southern California Association of Governments (the Los Angeles MPO), the cities of Los Angeles and Long Beach, each of their ports, and the Los Angeles County Metropolitan Transportation Authority created the Alameda Corridor Transportation Authority (ACTA) by a joint powers agreement. The ACTA's operating committee includes personnel from the two railroads serving the ports. ACTA bought the most direct rail right-of-way serving the ports, redeveloped it below grade to provide a 20-mile grade-separated high-speed urban rail link that consolidates all rail traffic between the ports and the mainline railways that connect Los Angeles to the rest of the nation.

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<sup>15</sup> ACIR State Legislative Program, Report M-93., p. 32-33.

<sup>16</sup> U.S. ACIR, *Intergovernmental Service Arrangements for Delivering Local Public Services: Update 1983* (Washington, DC: October 1985).

<sup>17</sup> U.S. ACIR, *ACIR State Legislative Program: Local Government Modernization*, Report M-93 (Washington, D.C.: U.S. Government Printing Office, November 1975), pp. 88-96.

It took about 20 years for the studies, engineering, and construction to break this serious freight bottleneck, which had threatened the viability of the two ports. ACTA uses revenue bonds and dedicated revenue streams that rely on usage fees and container charges to meet 96 percent of its needs.

## Special Districts and Authorities

This form of government, which can be either state or local, is the most numerous in the U.S.<sup>18</sup> It provides great flexibility in conforming tax-area boundaries to service provision boundaries—whether the boundaries are smaller or larger than the boundaries of individual units of general purpose local governments (including counties, municipalities, and townships). This form of government is used for a very large number of services. However, it is provided for by state laws, and has not been used to establish local units that cross state lines. Nevertheless, these units (once they have been created by legislation) appear to be eligible to participate in inter-local agreements, joint-powers agreements, and compacts that do cross state lines—thereby providing a potential for organizing and implementing future local-interstate activities.

- One example of a local-interstate service agreement involves the **District of Columbia Water and Sewer Authority**. It operates the largest sewage treatment plant in the Washington metropolitan area at which it treats sewage not only from DC but also from 1.6 million customers in Maryland and Virginia suburban communities. Special districts and authorities are commonly used to finance and operate highway, roadway, street lighting, toll-road, bridge, transit, airport, and port facilities and services.

**The California High-Speed Rail Authority** is an example of a state legislated statewide authority. It was established by the state in 1996 to plan, construct and operate high-speed passenger rail service connecting all the state's major metropolitan areas. It has a nine-member policy board (five appointed by the governor, two by the Senate Rules Committee, and two by the Speaker of the Assembly). Its planning and environmental approvals of an 800-mile system are now complete, and engineering is underway. The state's voters approved a 2008 ballot proposal that provides \$9 billion in bond funding to get the system started, and this system appears to be eligible for and likely to receive federal aid. The Authority's financial plan expects approximately 80 percent governmental funding for construction and 20 percent from the private sector. Of the total funding, 46 percent is expected to be federal, 26 percent state, and 8 percent local. Once in full operation, the Authority expects the system to generate more than \$1 billion in annual profits and to require no operating subsidies.<sup>19</sup>

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<sup>18</sup> U.S. Bureau of the Census, *Census of Governments: 2002* (Washington, DC: July 2002).

<sup>19</sup> [www.cqresearcher.com](http://www.cqresearcher.com), May 1, 2009, p. 401.

## Voluntary Coalitions

Common interests tend to pull organizations together into coalitions designed to secure benefits for all even when a formal governmental organization does not cover the entire area. Frequently, the federal government provides incentives for such activities. A common mechanism used to establish such organizations is a grant program and its requirements for forming a coalition in order to become eligible for federal funding. A few examples follow.

**Corridor Coalitions:** Approximately 20 multi-state transportation corridor coalitions have been formed in various parts of the nation to foster interstate commerce and trade—especially trade with Canada and Mexico.<sup>20</sup> Most of these coalitions originated in the 1990s as a result of the NAFTA treaty, the ISTEA and TEA-21 legislation, and the designation of the National Highway System. Usually state-led, these coalitions bring together the state DOTs, businesses, and other interests to facilitate improvements in multi-state transportation corridors on a system-wide basis. But, like the MPOs (described below), these coalitions usually possess no governmental powers of their own. Instead, they advise and assist other organizations that seek to act in concert with each other. According to a 2001 survey, four of the corridor coalitions were non-profit corporations, and two appeared to be business/trade associations. The other 14 were hosted by some other organization rather than having their own legal structure.

The I-95 Corridor Coalition is a somewhat typical example of the hosted coalitions. It has no legal status and no authority to execute contracts. It was established in 1993 pursuant to the 1991 federal ISTEA surface transportation legislation and its purpose is to assist its members with such activities as ITS deployment, transportation operations, and incident management. This coalition now encompasses all 17 states in the corridor that stretches along the eastern seaboard from Maine to Florida. The Coalition has evolved from an initial membership of state DOTs and FHWA and a focus on highways to encompass, currently, all modes of surface transportation for both people and goods. It operates by consensus and relies on its member agencies and state universities to execute necessary transfers of funds and contracts that provide consultant, research, and staff services. The Coalition's members now include state, local, and regional transportation organizations, toll authorities, transit and rail providers, port authorities, law enforcement organizations, and other entities. And the governing structure now includes an "Executive Board, Steering Committee, and Program Track Committees, in addition to full time professional staff..."<sup>21</sup>

Looking at seven case studies of multi-state alliances, a 2001 white paper prepared for FHWA concluded that such coalitions generally go through three phases: (1) building the

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<sup>20</sup> Clement Thomas, "North American Trade Corridors: A Survey of Current Endeavors," Transportation Canada, circa 2001.

<sup>21</sup> Wilber Smith Associates, "Challenges with Multi-State/Jurisdictional Transportation Issues," for FHWA, Office of Freight Management and Operations, Office of Intermodal and Statewide Programs, May 2001, p. E-2.



coalition by bringing together the right people and organizations to set “a series of visions, goals, and objectives and outline a plan to learn more about the issue,” (2) arrange funded studies and research, and (3) implement or coordinate implementation of system improvements and operations.<sup>22</sup> The third phase is the hard one for most coalitions because it requires building a strong, authoritative institutional framework and raising enough money for “big ticket” projects. In 2001, when these cases were studied, most had not yet progressed to the third stage. They were still depending on individual coalition members to voluntarily align their own priorities to the coalition’s priorities and raise big-ticket funding for them on their own.

Nevertheless, a contemporary national forum on the same issue found that multi-state alliances had demonstrated success not otherwise available.<sup>23</sup> Without these organizations, for example,<sup>24</sup>

- Compatible electronic toll devices across multiple states would not have been placed in use so quickly and seamlessly
- Little information about the potential magnitude of future Latin American trade and its transportation impacts would have been available
- Potential multi-state route locations would not have been developed and justified for funding
- International border transportation studies would not have been prepared
- The benefits of high-speed rail as an alternative to congested airports and roads would not have been studied

The next step, they said, was to convert such studies into committed funding for implementation projects.

**Multi-state Commissions:**<sup>25</sup> From the mid-1960s to the mid-1980s, two other widespread systems of multi-state regions existed in the U.S. One system enabled voluntary establishment of federal-state river basin commissions, and the other enabled voluntary multi-state economic development commissions. The mechanism for establishing and supporting these commissions was federal legislation authorizing and funding federal grant programs that were available to states whose governors voluntarily took the initiative to join with other governors and a federal co-chair to make plans for the coordinated use of federal funds across their multi-state region. But without a firmer legal foundation—such as an interstate compact—most of these federal-state commissions went out of business in the mid-1980s when the federal money was no longer available.

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<sup>22</sup> *Ibid.*, pp. E-10, E-11, and E-12.

<sup>23</sup> FHWA, TRB, and AASHTO, “Conference Proceedings: National Forum on Challenges with Multi-State/Jurisdictional Transportation Issues,” June 18-19, 2001, Crystal City (Arlington, VA).

<sup>24</sup> *Ibid.*, p. E-9.

<sup>25</sup> Bruce D. McDowell, “Chapter 6. Regional Planning Today,” in So, Hand and McDowell, eds., *The Practice of State and Regional Planning* (Chicago, IL: American Planning Association, 1986) pp. 142-145. For greater detail, see also: U.S. Advisory Commission on Intergovernmental Relations, *Multistate Regionalism*, Report A-39 (Washington, DC: U.S. Government Printing Office, 2<sup>nd</sup> printing, 1978).

The main federal-state commission of this type that did survive from these multi-state systems is the Appalachian Regional Commission (ARC). Although originally initiated by the governors, it had been established directly by federal law (not merely enabled) and its federal funding has continued—including funding for ARC’s largest program, the Appalachian Highway System. A few others that were not directly legislated by Congress survived on the basis of continued voluntary state initiatives alone—without federal financial assistance. The U.S. Department of Commerce housed the multi-state economic development commissions—and continues to house the ARC.

With respect to multi-state river basin commissions, a nearly nation-wide system of them existed from the mid-1960s until 1981 when the legislatively established U.S. Water Resources Council was abolished. The Council had provided overall guidance and support for the river basin commissions, and its demise left no federal “home” for these multi-state organizations. Where federal-state commissions did not exist—or some other formal organization such as an interstate compact commission or TVA was no longer available—federal interagency committees continue to coordinate federal and state river basin activities today. The joint federal-state river basin commissions that came into being had been established by Presidential executive orders when at least half the governors in the basin joined the effort.

At their peak in 1978, river basin commissions, together with federal interagency committees and TVA, covered almost the whole nation, and multistate economic development commissions covered about three-quarters of the nation.

**Pooled-fund and Lead-state Projects:** In some instances, for specific projects, state DOTs pool funds with each other—sometimes designating one of the states as the lead in pursuing a specific project, and sometimes cooperatively engaging a consultant, university, or other organization to prepare a multi-state study or take charge of a joint activity of some other kind. These activities take place through various grant agreements, transfers of funds, contracts, and memoranda of understanding (MOUs) that are individually tailored to meet specific needs at specific times and places.

**MPOs:** Another type of coalition is the network of 384 metropolitan planning organizations (MPOs) developed since the early 1960s to maintain eligibility of metropolitan areas for federal highway and transit funding.<sup>26</sup> Many states enacted legislation of their own to facilitate the creation of regional councils of governments, planning district commissions, or something similar.<sup>27</sup> The MPOs must possess or develop federally specified capabilities for serving the planning functions assigned to them if they wish to maintain eligibility for federal highway and transit aid. But even where a state legislative foundation like this is not available, the federal government accepts MPO charters signed by the local officials of the counties and municipal governments in the area and designed to meet the federal MPO requirements.

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<sup>26</sup> These coalitions are “voluntary” in the legal sense (confirmed by the U.S. Supreme Court) that the federal “requirement” for them is simply a condition of federal aid and the state and local governments are free to refuse the aid and avoid the conditions that are attached.

<sup>27</sup> Approximately 600 of these organizations exist.

The state DOT(s)—actually the Governor(s)—having jurisdiction within the metropolitan area must also approve the MPO charter before the federal government can accept it.

The result of this flexibility is that many MPOs<sup>28</sup> are imbedded in regional councils or regional planning commissions;<sup>29</sup> or are part of a city or county government or a joint city-county operation; are independent; or are state agencies. The percentages of MPOs in each category change over the years—usually following each decennial Census of population, but the categories do not change.<sup>30</sup> Most MPOs do not possess governmental powers; they only assist and advise the local and state agencies that they work with. According to the latest information available, 40 MPOs have jurisdictions that cross state boundaries—including (for example) Washington, DC/MD/VA; Kansas City, MO/KS; Saint Louis, MO/IL; Cincinnati, OH/KY/IN; Philadelphia, PA/NJ; Wilmington, DE/MD; Tahoe, CA/NV; Chattanooga, TN/GA; and Memphis, TN/MS.<sup>31</sup>

The Association of Metropolitan Planning Organizations (AMPO) represents the nationwide network of MPOs and provides information-sharing and capacity-building services. Those MPOs that are associated with multi-purpose regional councils are also represented nationally by the National Association of Regional Councils (NARC). And in the last several years, a number of states have begun to designate rural/regional transportation planning organizations (RTPOs). The National Association of Development Organizations (NADO) provides national representation and services to these non-metropolitan counterparts to MPOs. AMPO, NARC, and NADO all are non-profit corporations.

**State Plan Cross-Acceptance:** This is a unique process that has been developed and refined over the past several decades in the State of New Jersey. It is designed to voluntarily align county and municipal development plans and regulations with several types of state policies that spell out clear public purposes and quantifiable performance measures of success. As in other U.S. states, land use is controlled primarily by local government regulations—including zoning, subdivision, utility, and grading ordinances—which cannot be brought within state control under prevailing political conditions.

New Jersey is one of the nation's most highly urbanized states, yet it has several unique natural areas that need protection from urbanization. Three of those areas have been singled out legislatively for special attention by the state—the Meadowlands (near New York City), the Pinelands (more toward the center of the state), and the Highlands (in the northwestern part of the state where much of the fresh water in the state originates). Together, these three large regions needing special protection make up about 40 percent

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<sup>28</sup> U.S. ACIR, *MPO Capacity*, Report A-130 (Washington, DC: May 1995), p. 35.

<sup>29</sup> Most regional councils are established by state law or by local governments acting in accordance with state enabling legislation. However, at least one is a non-profit corporation.

<sup>30</sup> A new study of MPO structures is being conducted now by the Center for Urban Transportation Research at the University of South Florida.

<sup>31</sup> Katherine F. Turnbull, *Multi-State Metropolitan Planning Organizations: Approaches, Cases, and Institutional Arrangements*, National Cooperative Highway Research Program, Project 08-36, Task 44 (Washington, DC: Transportation Research Board, October 2006).

of the state's land area. These large reservations put pressure on the rest of the state to use land as efficiently as possible. So, in addition to the three special conservation areas, the state also has a two-decade old statewide smart growth program that identifies (1) areas for urban growth, (2) areas for limited growth, and (3) areas for conservation.

The statewide planning process, and the planning processes for the three special conservation areas, develop state policies and then seek acceptance by the counties and other local governments that would need to administer their land use regulations consistent with the state policies in order for the state policies to take effect. Each county and municipality is asked to file a cross-acceptance report with the state, including any dissenting reports, hold public hearings, and negotiate differences with the state. The results of the process are reflected in a revised state plan. The State Planning Commission oversees the Smart Growth process, and the Meadowlands Commission (created in 1969), Pinelands Commission (created in 1979), and the Highlands Water Protection and Planning Council (created in 2004) are in charge of the other three areas.

Other state agencies are directed by executive order to coordinate with these plans, and local governments are offered state incentives to accept responsibility for implementation. In the case of the Highlands Council for example, the New Jersey region is part of a four-state federal Highlands region for which \$100 million has been appropriated by Congress for land preservation. The state provides planning funds to local governments to help them make adjustments to their local plans and land use regulations. The state also provides counties and municipalities with a legal shield and direct state legal representation in any legal challenges they may face as a result of their water protection actions. Two other financial incentives for local governments to participate are a state Transfer of Development Rights Bank and authorization of local impact fees that may be levied up to \$15,000 per lot to help cover local government costs of the program in areas where new development is allowed.

In nearly half the Highlands region (designated by the state legislature for immediate protection), conformance with the regional master plan is mandatory. But in the other half of the region, conformance is voluntary and these federal and state incentives are very important for achieving success.

### **Non-profit Corporations and Foundations Serving Public Interests**

From time to time, Congress provides special charters for private non-profit corporations that are charged with carrying out public functions. Some provide operational functions that supplement the functions of federal agencies and other governments. A few examples of these special government-established non-profits follow:

- **National Fish and Wildlife Foundation**—was established as a non-profit, public-interest corporation by a congressional charter enacted in 1984. It is dedicated to the conservation of fish, wildlife and plants, and the ecological habitats on which they depend. Its federal mandate is to help “direct public conservation dollars to the most pressing environmental needs and match these

investments with private funds.”<sup>32</sup> To accomplish this goal, the Foundation works with “individuals, foundations, government agencies, nonprofits, and corporations...” The Foundation receives no regular federal appropriation, but it does partner with such federal agencies as EPA, NOAA, and the U.S. Fish and Wildlife Service to administer, pool, and leverage many of their program funds in innovative and flexible ways. The Foundation is funded primarily by federal and private grants. Some of these grants are for preparation of professional program evaluations of federal programs, and the Foundation makes recommendations to improve federal programs.

- **American Red Cross**—was founded privately, initially in 1881, by Clara Barton and a circle of her acquaintances. This non-profit organization was chartered by Congress in 1900 and 1905 to serve America’s armed services and their families, and to provide national and international disaster relief. It is well known today as administrator of the nation’s largest blood bank as well as for disaster relief.
- **National Institute of Building Sciences**—was chartered by Congress in 1974 as an independent, non-government, non-profit organization designed to balance, blend, and mobilize uniquely authoritative public and private expertise to support the public interest in building science, engineering, construction and technology.<sup>33</sup> Its 21-member Board of Directors includes six appointed by the President of the United States and confirmed by the US Senate, plus 15 elected by the nation’s building industries and consumers. The Institute is the nation’s authoritative source of innovative solutions for the built environment—including specialized councils on building technologies, environmental matters, seismic safety, multi-hazard mitigation, and facility maintenance and operations. It provides building standards and design guides, educational services and other products and services.
- **Transportation Research Board**—is part of the National Academy of Sciences, which was chartered by Congress in 1863 to advise the federal government on scientific and technical matters. TRB is the transportation-specific arm of the organization, providing extensive research, publication, committee meeting, conference, and other opportunities to strengthen and support the professional and policy disciplines in all modes of transportation. Most of its activities are supported by federal and state transportation agencies that benefit from TRB’s capacity-building services.

Other non-profit corporations that are carrying out national purposes have been established under ordinary state corporation laws.<sup>34</sup> Two examples follow:

- **Intelligent Transportation Society of America (ITS America)**<sup>35</sup>—is a public-private partnership established in 1991 as a not-for-profit membership organization to foster the use of advanced technologies in surface transportation systems. It accomplishes this goal by funding research, development, and

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<sup>32</sup> [http://www.nfwf.org/AM/PrinterTemplate.cfm?Section=Who\\_We\\_Are](http://www.nfwf.org/AM/PrinterTemplate.cfm?Section=Who_We_Are), accessed 3/9/2009.

<sup>33</sup> [www.nibs.org](http://www.nibs.org), accessed 3-20-2009.

<sup>34</sup> An exploration of the public policy roles of these private corporations may be found in: H.J. Bryce, *Players in the Public Policy Process: Nonprofits as Social Capital and Agents* (New York: Palgrave Macmillan, 2005).

<sup>35</sup> [www.itsa.org](http://www.itsa.org), accessed 3-4-2009.

deployment of emerging technologies. Most ITS deployment takes place at the state and local levels. ITS America's membership includes over 400 public and private organizations. The Highway Users Federation, AASHTO, FHWA, state and local governments, private sector companies, and others worked closely together to create this new corporation. ITS America works with the U.S. Department of Transportation Joint Program Office (JPO) to establish the national ITS architecture, to help provide public infrastructure upon which private ITS investments can rest, to coordinate standards for achieving public-private interoperability, and to establish a national clearinghouse of ITS information. Through a cooperative agreement, JPO funds much of ITS America's technical committee activities and other specific projects.

- **North American Electric Reliability Corporation**<sup>36</sup>—is a non-profit, non-governmental corporation incorporated in New Jersey and granted legal authority by the U.S. Federal Energy Regulatory Commission to enforce mandatory reliability standards with all U.S. users, owners, and operators of the bulk electric power transmission system. It is similarly empowered in portions of Canada.

## **Commercial Companies**

Freight is moved in the U.S. mostly by private companies. Trucking, railroad, and barge companies predominate, but overnight delivery companies and air freight companies are gaining increasing shares of this business. The main exception to private companies in the freight business is the short-line railroad sector that is now supported by state and local governments to preserve freight and/or passenger rail services deemed essential in areas where they are no longer commercially viable. Because the private sector plays such a predominant role in freight movement, improvements to freight services required by public policies may need to be planned, funded, and implemented in cooperation with private companies.

The intermingling of public and private fortunes is not unique to freight transportation. For example, most electric power transmission companies are also private, but have recently been brought under national regulation for multistate network reliability purposes, and to ensure that the electric power grid connects with and transmits the electrical current generated by all public and private sources. The largest share of electric power is generated by private utility companies that are regulated by the states.

## **Federal Corporations and Government Sponsored Enterprises**

From time to time, the Congress charters government owned and operated corporations to perform government functions in a business-like manner. Rather than being part of the administrative hierarchy of the government, these units generally operate under the guidance and control of a separate federally structured board of directors, but remain

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<sup>36</sup> [www.nerc.com](http://www.nerc.com), accessed 3-11-2009.

accountable to the Congress and often receive a subsidy. Congress also charters government sponsored enterprises (GSEs) that provide financial services to the public under the guidance and control of an independent private sector board of directors that enjoys implied support from the government but no explicit government guarantee. The financial operations of GSEs generally are assumed to be self-sustaining. Some examples of these two types of government-sponsored money-making corporations follow:

- **Tennessee Valley Authority**<sup>37</sup>—is a federally owned corporation enacted by Congress in 1933 to develop the resources of the 650-mile Tennessee River valley, which extends from the Great Smoky Mountains in North Carolina to the Mississippi River, and to put the river to work for the people of the region. During the Great Depression, the region’s people were among the poorest in the nation. TVA operated as a comprehensive regional development organization under an independent Board of Directors reporting to Congress and funded as a single unit to make regional decisions in the region for the betterment of the region as a whole. It worked with the state and local governments of the region, businesses, and all the other federal agencies that were playing roles in the region. TVA-led programs built dams, waterways, hydropower and other electrical generating plants, improved farming, produced fertilizers and promoted their use throughout the region, developed recreational resources, and accomplished much more. As an independent agency, it was able to plan and invest federal funds on a coordinated basis—and then integrate the activities of the other development partners into the effort without being limited by the independent and disparate planning, funding, and decision process of each partner acting separately. Many of the Authority’s operations generate revenues to help offset federal investments and operating expenses. Under this process, the people prospered and the region became a major industrial contributor to the nation’s success in World War II. The Authority continues to operate today as a unique resource to the region.
- **St. Lawrence Seaway Authority**<sup>38</sup>—was a non-profit government corporation having both Canadian and U.S. counterparts. Renamed the Saint Lawrence Seaway Management Corporation and commercialized in 1998, the mission of these two corporations is to construct and operate the locks on the Saint Lawrence Seaway, which is the longest inland waterway in the world. The Canadian Corporation is responsible for 13 of the 15 locks, while the U.S. Corporation handles the other two locks.
- **National Railroad Passenger Corporation (Amtrak)**<sup>39</sup>—was established by Congress in 1971 to supervise and help fund the nation’s faltering private rail passenger services using federal dollars. In 1981, Congress asked the Corporation to reduce the use of Federal support dollars, and in 1983 Amtrak became the owner of the passenger rail services, employing the crews and centralizing the reservations system. Over succeeding years, Amtrak has upgraded the system’s rails, equipment, and services, but continues to need federal financial assistance to maintain established services.

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<sup>37</sup> David E. Lilienthal, *Democracy on the March* (Chicago: Quadrangle Paperbacks. 1953).

<sup>38</sup> [www.greatlakes-seaway.com](http://www.greatlakes-seaway.com), accessed 4-5-2009.

<sup>39</sup> [www.amtrak.com](http://www.amtrak.com), accessed 4-15-2009.

- **United States Railway Association**—was enacted by Congress and signed into law on February 1, 1974 to be incorporated as a non-profit corporation in the District of Columbia. Its purpose was to find a solution to the seemingly intractable problem of bankruptcy among almost all of the private railroads in the northeastern portion of the nation. The problem had been brewing for several years and DOT, the ICC and the bankruptcy courts seemed to have no solution other than to let the railroads be liquidated—which would have been an unthinkable disaster for the nation. USRA was guided by an 11-member board of directors appointed by the President, with consent of the Senate, but only three were federal officials. The rest, including the Chairperson, were from the private sector chosen to represent the affected parties. The hope was that a private sector solution could be found, and Congress imposed strict deadlines for completing this very complex and difficult work. The saga that ensued was documented in detail by the National Academy of Public Administration.<sup>40</sup> It resulted in establishing Conrail as a consolidation of eight bankrupt private railroads, and rebuilding the physical system (which had been allowed to degenerate over the long process of financial difficulties). Although the USRA was a temporary organization, and the deadlines for its work were ambitious, it took over two years to devise this solution and put it into operation through a private corporation set up by USRA to receive the transferred assets from the bankrupt railroads. It took Conrail another ten years—using former leadership from USRA, deregulation, and billions of federal dollars to restructure, downsize, and upgrade the inherited assets and services to profitability sufficient to re-privatize it as a for-profit corporation. In 1987, Morgan Stanley took Conrail through the largest initial public offering in Wall Street history up to that time (\$1.65 billion).<sup>41</sup> In the ten years following this IPO, Conrail became so profitable that it was bought out by two other private railroads, and the federal government got out of the freight rail business entirely.
- **Metropolitan Washington Airports Authority**—was established by Congress in 1987 to take over management of Reagan National and Dulles International Airports from the Federal Aviation Administration. It is a federal corporation governed by a 13-member Board of Directors having five members appointed by the Governor of Virginia (where both airports are located), three by the Mayor of the District of Columbia, two by the Governor of Maryland, and three by the President of the United States. The Authority also owns the Dulles Airport Access Road, and is now building the new Metrorail Silver Line from East Falls Church, VA to Dulles Airport.
- **United States Postal Service**—became a government corporation by act of Congress in 1971 to replace the former U.S. Post Office Department, which had been a government agency from the time the U.S. government was formed. The idea was to put this commercial-type service on a more businesslike basis, reduce government subsidies, and allow the new corporation to compete with other private parcel delivery companies that were becoming major competitors for the

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<sup>40</sup> John E. Harr, *The Great Railroad Crisis: An Administrative History of the United States Railway Association* (Washington, DC: National Academy of Public Administration, March 1978).

<sup>41</sup> Phillip Longman, “Washington’s Turnaround Artists,” *The Washington Monthly*, March/April 2009.



same type of business. An independent federal Postal Rate Commission was established at the same time to update postal rates as necessary within the competitive business marketplace.

- **Corporation for Public Broadcasting**—was established by Congress in 1968 to facilitate the full development of public telecommunications systems and programming by providing grants to support public-interest radio and television broadcasting. As an independent corporation, PBS is insulated from politics and from commercial markets, and is expected to provide greater choice in broadcast media offerings than commercial broadcasting might offer on its own.
- **Legal Services Corporation**—was established by Congress in 1974 to provide financial support for legal assistance in non-criminal matters for people who are too poor to pay for adequate legal representation themselves.
- **Government National Mortgage Association**—is a government corporation that operates within the U.S. Department of Housing and Urban Development to facilitate private funding of home mortgages by providing government guarantees of mortgage-backed securities that are traded in private money markets. Its operations may be subsidized as necessary.
- **Federal Home Loan Bank System**—was established by Congress in 1932 to make loans to private financial institutions that fund mortgages. This system is established as a privately owned instrumentality of government that is sponsored (but not guaranteed) by the government. Because of the nature of this implicit, rather than explicit, guarantee, these private enterprises are referred to as government sponsored enterprises (GSE). The Farm Credit System, established in 1916, was the first GSE in the U.S., but several others have been established more recently as public interests in the lending markets have multiplied. Three of the more recent ones are mentioned below.
- **Fannie Mae and Freddie Mac**—are GSEs that were established by Congress in 1968 and 1970, respectively, to provide secondary markets for home mortgages. They both operated at a profit until very recently (when the mortgage bubble burst). Their revenues come from fees they charge lenders for buying the mortgages already written, thereby making additional private capital available to create more mortgages. Both of these GSEs package the mortgages they buy into bundled securities they sell on the open money markets. Formerly thought to be extremely safe investments, the declining quality of mortgage lending in recent years demonstrated that to be a risky assumption. The recent federal bailouts of these two giant GSEs was not anticipated.
- **Sallie Mae**—is a GSE established by Congress in 1972 to provide a secondary market for student loans very much like the market for mortgages described above.

## Federal Agencies, Commissions, and Project Offices

These individual units of the federal government generally are established by congressional legislation, which provides purposes, responsibilities, powers, some degree of organizational structure, and means of financing. In the case of project offices, the unit may be created by executive action under the authority of previous legislation that provides broader authority. The officials of these units are federal employees or appointees. High level appointees generally are confirmed by the U.S. Senate. The actions of these units are actions of the federal government, not limited by state boundaries unless so stated in the legislation—as, for example, is the case with the Bureau of Reclamation being limited to operating in 17 Western states. Beyond these general characteristics, there are many variations—depending upon the specifics of the legislation. Some examples include (a preliminary list of not necessarily current offices):

- **Office of High Speed Ground Transportation**—was established by law on September 30, 1965. It focused initially on the Northeast Corridor, but it also sponsored major studies of new technologies in the 1960s. Its first visible result was the new Metroliner service, which began in 1968 on the Pennsylvania Railroad and was later incorporated into Amtrak. Subsequently this service was augmented by the somewhat higher speed Acela Service. High-speed rail proposals continue to be pursued in many corridors by states and private interests, and received encouragement by the 2009 Recovery Act. But a March 2009 GAO review of the current status of high speed rail policy in the U.S. concluded that it lacked a coherent vision and suffered from very limited federal involvement.<sup>42</sup> However, the recently enacted *Passenger Rail Investment and Improvement Act of 2008* may increase the federal role in developing high speed rail. In response to that legislation and the American Recovery and Reinvestment Act of 2009, the Federal Railroad Administration issued a new High-Speed Rail Strategic Plan, *Vision for High-Speed Rail in America* on April 16, 2009.<sup>43</sup> This plan envisions a national network of high-speed passenger rail services to connect U.S. communities located in 100-600 mile high-population corridors, and it identifies ten such corridors as a starting point. Organizationally, the plan envisions a public-private partnership and a long-term commitment from both the federal government and the states. To the extent that this new passenger service will use existing tracks, it will need to be integrated into existing systems for both lower-speed passenger service and freight services.<sup>44</sup>
- **Interstate Commerce Commission**<sup>45</sup>—was established by the Interstate Commerce Act of 1887. Its original purpose was to regulate railroads (and later trucking) to ensure fair rates, eliminate rate discrimination, and regulate other aspects of common carriers. It operated independently as a five-member

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<sup>42</sup> Government Accountability Office, *High Speed Passenger Rail: Future Development will Depend on Addressing Financial and Other Challenges and Establishing a Clear Federal Role* (Washington, DC: March 2009).

<sup>43</sup> Federal Railroad Administration, *Vision for High-Speed Rail in America*, April 2009.

<sup>44</sup> *Ibid.*, p. 8.

<sup>45</sup> [http://en.wikipedia.org/wiki/Interstate\\_Commerce\\_Commission](http://en.wikipedia.org/wiki/Interstate_Commerce_Commission), accessed 4-15-2009.

Commission. But, as a result of deregulation in the 1980s and 1990s, it lost many of its functions and was abolished in 1995. Its remaining powers were turned over to the multi-member **Surface Transportation Board**,<sup>46</sup> which is an agency administratively lodged within the U.S. Department of Transportation. However, STB makes its adjudicatory and regulatory decisions independently. It has jurisdiction over such economic matters as railroad rates and services, rail company restructuring, some trucking and ocean shipping matters, intercity passenger bus companies, and rates and services of pipeline companies not under the jurisdiction of the Federal Energy Regulatory Commission.

- **Bonneville Power Administration**—was established in 1937 to administer the hydropower to be generated by the new federal Bonneville and Grand Coulee dams about to come on line (1938 and 1941, respectively). BPA is now an agency of the U.S. Department of Energy. Its service area includes all of the states of Washington, Oregon and Idaho, as well as portions of California, Montana, Nevada, Utah, and Wyoming. It provides power transmission and wholesaling of the power, leaving retail distribution to local utilities. Its sales cover its costs; it receives no tax revenues or appropriations. As a sideline, BPA is heavily involved with numerous fish, wildlife and environmental issues.
- **Bureau of Reclamation**—is an agency of the U.S. Department of the Interior. It was established in 1902 to develop and manage dams, power plants, and canals in the 17 western states. It manages the Colorado River Basin, and the rivers of the Pacific Northwest, California, and Nevada for multiple purposes—including irrigation.
- **U.S. Army Corps of Engineers, Civil Works Division**—is also a major water management agency, as well as a major transportation agency. The Corps manages many of the rivers not under the jurisdiction of the Bureau of Reclamation, has flood control responsibilities nationwide, and provides inland and inter-coastal waterway services in many parts of the nation. Its waterways program is funded largely by a user-based waterways trust fund similar to the highway trust fund.
- **Mississippi River Commission**—The Mississippi River is the nation's largest and most important river, stretching from headwaters in Minnesota to the river's delta below New Orleans. It is the main stem of much of the nation's commerce, and drains 40 percent of all the nation's land. But at the same time, it presents colossal flood problems. The Corps of Engineers has been involved with the Mississippi since the opening of the West. In 1879, Congress created a strong independent Mississippi River Commission to take the lead in navigation and flood control programs along the full length of the river. It worked with the Corps, but set up a duplicate set of well staffed offices. However, its controversial levees-only approach to flood control was severely challenged by extensive flooding in 1927, and a thorough reevaluation began. The Corps and the Commission developed competing plans for future flood control strategies, and the Corps' less costly plan won approval. The separate offices of the two organizations were merged under the control of the Corps, and the Commission's

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<sup>46</sup> [www.stb.gov](http://www.stb.gov), accessed 4-15-2009.

role was cut back to focus on the lower portion of the river. However, the Commission's roles in pursuing annual listening tours and providing input to the development of annual spending programs for the lower Mississippi and its tributaries were retained. To preserve the integrated nature of this spending plan, it is presented as a single budget item (the MR&T request). And the MR&T portion of the Corps budget is still enacted as a single amount rather than as a list of separate projects like the rest of the Corps budget.<sup>47</sup>

- **Appalachian Regional Commission**<sup>48</sup>—was established directly by Congress in 1965—separate from the general authorization of multi-state economic development commissions. Its members—as spelled out directly in the federal statute—are the governors of the 13 states in which this mountain range resides, plus a federal co-chair. The governors rotate through the state co-chair position. The staff is housed within the U.S. Department of Commerce. The Commission's strategic plan sets the following four goals: (1) Increase job opportunities and per capita income in Appalachia to reach parity with the nation; (2) Strengthen the capacity of the people of Appalachia to compete in the global economy; (3) Develop and improve Appalachia's infrastructure to make the Region economically competitive; and (4) Build the Appalachian Development Highway System to reduce Appalachia's isolation by connecting Appalachia to the Interstate Highway System and providing access to areas within the Region and to markets in the rest of the nation. Over 86 percent of the system's authorized 2,672 miles have been completed.
- **EPA Chesapeake Bay Program Office**<sup>49</sup>—was established by Congress in 1983. It is located in Annapolis, Maryland on the Bay, and it serves as the staff of the Chesapeake Executive Council. The Council is a collaborative body established by an agreement signed by the governors of Maryland, Virginia, and Pennsylvania, the Mayor of the District of Columbia, the Administrator of EPA, and the Chair of the Chesapeake Bay Commission—which is an organization of the state legislatures of the states. The signatories are the members of the Council, but the Governors of Delaware, West Virginia, and New York have been added in recent years as associate members. In addition to EPA's Chesapeake Bay Office, the Council is served by several advisory, technical, and implementation committees, and is assisted by the efforts of 22 other federal agencies. The whole operation is strongly science-based, regulatory driven by pollution control laws, and increasingly performance oriented. Nevertheless, it faces significant challenges in meeting the Council's agreed to and court mandated clean-up goals.

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<sup>47</sup> For more information about the MRC and the MR&T program see: National Academy of Public Administration, *Prioritizing America's Water Resources Investments: Budget Reform for Civil Works Construction Projects at the U.S. Army Corps of Engineers* (Washington, DC: the Academy, February 2007), Appendix E, pp. E-19 through E-26.

<sup>48</sup> [www.arc.gov](http://www.arc.gov), accessed 3-20-2009.

<sup>49</sup> National Academy of Public Administration, *Taking Environmental Protection to the Next Level: An Assessment of the U.S. Environmental Services Delivery System* (Washington, DC: April 2007).

### **PART III: ASSESSING INSTITUTIONAL MODELS**

The 1970 report of DOT's Northeast Corridor Transportation Project, issued by the Office of High Speed Transportation listed 13 criteria and assessed how each might apply to five institutional models. That list suggests a useful starting point, but it may need some updating and refinement to meet current needs. Very briefly, the 13 criteria used in the 1970 report were:

1. Ease of forming and implementing the institution
2. Time required to establish the institution
3. Financing methods available to the institution and the feasibility of acquiring them
4. Degree of federal government participation in the institution's decision making
5. Degree of state government participation in the institution's decision making
6. Influence of federal regulation on the institution
7. Influence of state regulation on the institution
8. Tax liability of the institution
9. Extent of research and planning activities needed and capability of the institution to supply them
10. Labor regulations and practices that might apply to the institution
11. Tort and contract liabilities of the institution
12. Influence of federal and state aid
13. Eminent domain powers available

To simplify the use of these criteria in assessing institutional models, they might be grouped into four fundamental characteristics: formation of the institution, governance, financing, and the capacity to perform the four essential functions of multi-state corridor organizations identified and described earlier in this paper: (1) strategic design and goal-setting, (2) system management and public accountability for achieving overall outcome-oriented performance goals that may depend upon factors not fully within the control of program managers, (3) project implementation, and (4) system operation and service delivery of narrowly specified program outputs that can be determined by program managers alone. For each institutional model, the assessment might analyze the need for each characteristic and how well the model could be expected to satisfy that need.

The following table summarizes an assessment of the eight institutional models based on these four fundamental criteria. The table is color-coded to assist the reader in interpreting it.

- Green indicates the model's probable capability to meet Transportation Corridor needs.
- Yellow indicates uncertainty about the ability of the model to meet those needs.
- Red indicates the likelihood that the model would not meet Transportation Corridor needs in some significant way.

## Institutional Options to Strengthen Multi-state Transportation Corridor Performance

Types of Institution	Examples	When Appropriate		Factors for Evaluating Suitability			
		Lead	Situation	Formation & Modification (Degree of Difficulty)	Governance (Inclusiveness/flexibility)	Financing (Size & reliability)	Public Purpose/ Performance/Powers/ Authority (strength & scope)
1. Interstate Compact	Port Auth. of NY & NJ Delaware River Basin WAMATA Midwest Interstate Pass.Rail Commission	State	Well recognized permanent function of govt.	Difficult politically Time consuming Not easily Modified Requires consensus	State oriented Always interstate	Potentially strong Depends on political consensus when created	Real Power (potentially) Probably limited to narrow functions May be viewed as loss of state power
2. Joint Services Agreement	Interstate waste-water treatment at Blue Plains	Local	Economy of scale Voluntary Coord. May not be used	Relatively easy Flexible State laws determine	Contractual agreement Joint Services org. Seldom interstate	Regular public funds pooled by agreement Uncertain/uneven	Powers previously established by law Uncertain/uneven
3. Special District or Authority	Airport & Port Auth. Highway Dist. CA High-Speed Rail Authority	State or Local	Vital function of govt. Service area diff. than local govt.	Fairly easy where political consensus exists Some states regulate formation	Usually narrow functions Seldom interstate	Strong	Strong, but narrow Can be effective bldg.block
4. Voluntary Coalition	Transp. Corridor Coalitions MPO's	Innovators & Fed. incentives	New or uncertain function Large # diverse partners Intergovernmental & public/private	Easy to start May not have full participation May not last	Flexible/potentially inclusive Easily interstate	Usually must beg for \$ Potentially very weak Depends on strong consensus-bldg. skills	Flexible but weak Not dependable Depends on strong consensus-bld. skills
5. Non-Profit Corps. & Foundations	Fed. Chartered TRB, NFWF, NIBS Privately Chartered, ITSA, NAGRC, foundations	Special interests	Helpful in many situations	Very Easy Very flexible	Not necessarily inclusive: not representational Easily interstate	Potentially strong Privately decided Dependent on others and on market fluxuations	Self-defined purposes; not publicly or govtly. defined Can be guided by govt. contracts
6. Commercial Companies	Railroads Trucking Cos. Barge Cos. Other shipping & delivery companies	Private	Private market is strong and aligned with public purposes	Contract negotiations Relatively quick & easy	Private decision making Govt. can regulate & contract with Easily interstate	As strong as the market Can grow with the market (big is better) Weak or absent in weak markets, unless subsidized	Strong performers in strong markets Keep up w/ market demand Growth oriented
7. Federal Corporations	TVA Conrail U.S. Railway Assoc. Amtrak St. Lawrence Seaway Authority	Federal	Relatively rare Unique Circumstances	Can be shaped as desired Potentially quick to establish May be viewed as loss of state power	Congress determines May subsidize, or not May be public-private May be backed by federal guarantees Easily interstate	Federally specified; at least in part Market based Opportunity for Congress to adjust support	Strong Wide variation in powers & authority Criticized as "big govt."
8. Federal Govt. Agency, Commission or Project Office	ICC/STB Corps. Of Engineers Appalachian Reg. Commission EPA CBPO Bonneville Power Administration	Federal	Generally requires a crisis Project office is relatively easy; may require only a new appropriation	Congressional discretion for major new ones & for major re-org. Project office may only require administrative discretion May be viewed as loss of state power	Federal only, in general Commission form can bring diversity to governance FACA can provide stakeholder advice (not governance) Can be linked to a diverse non-federal decision-making body Easily interstate	Potentially strong Designated revenue stream (Trust Funds) Federal appropriation not reliable any more Criticized as "big govt."	Potentially powerful & effective <ul style="list-style-type: none"> <li>• Directly</li> <li>• Indirectly thru grants and/or regulations</li> </ul> Can be linked to a judicial decision process

Green=Suitable

Yellow=Uncertain

Red=Problematic



Several observations about this assessment follow:

- **Interstate compact organizations** usually are very difficult and time-consuming to establish, and some do not have any more authority to build and operate facilities, or to deliver services to the public than a well structured—and much easier to establish and modify—voluntary coalition, or a multi-state organization funded and empowered largely by federal grants. However, some have been given very **effective operating and revenue raising powers** not otherwise available to an interstate region. Furthermore, once in place these organizations tend to be **permanent**. They seem to be **most appropriate when their function is essential, there is a strong and broadly held consensus to establish them, and they will have strong and reliable powers to exercise over a long period of time**.
  - Primary function or product: Multi-state public infrastructure and public services; multi-state revenue sources
  - Examples: High-speed ground transportation systems; Multi-purpose river-basin management (including such features as dams, waterways, navigation, hydropower, irrigation, and recreation)
- **Joint services agreements** seem most appropriate to use in a **state or sub-state support role** within the framework of a larger corridor-wide effort.
  - Primary function or product: State and local public facilities, services, and revenue sources
  - Examples: Public transit, regional port or airport, regional water supply and irrigation systems, regional sewage treatment systems, flood control levees
- **Special districts and authorities** also seem most appropriate to use in a **state or sub-state support role** within a corridor-wide effort.
  - Primary function or product: Same as joint services, except revenue streams may be larger and more dependable
  - Examples: Same as joint services
- **Voluntary coalitions** are easy to establish and modify across both geographic and functional governmental boundaries, and they can be easily empowered to do studies, build consensus, and facilitate joint or coordinated action on behalf of their members. However, they depend heavily on external sources of funding and the extent of the consensus they are able to develop and maintain among their members. Although they have no governmental authority of their own, they often derive significant “powers” from federal grant requirements. In some cases, these responsibilities include delegated goal-setting and regulatory functions. These organizations seem **most appropriate for innovative and evolving programs that need to involve multiple parties and that have dependable sources of outside funding to support their consensus-building and flexible functions**. However, they are seldom given major roles in operating programs or in allocating big-ticket project funds. Their effectiveness is limited by their need to remain subordinate to their members and to avoid threatening the powers of their members.

Primary function or product: Studies, plans, proposed funding allocations and project rankings, performance monitoring

Examples: MPO future visions, long-range plans, and Transportation Improvement Programs (investment strategies). Air quality conformity analysis

- **Non-profit corporations and foundations** are easy to establish, are borderless, and generally can be used for flexible purposes. Although federally chartered ones are relatively rare, they can be important because of their special stature and recognition as public purpose organizations. Governments can make good use of these organizations through contracts that fund them to perform specific public services. Their use seems **most appropriate for filling gaps in governmental capabilities.**

Primary function or product: Administrative and technical services

Examples: Administer grant programs; produce studies; evaluate public programs; and provide technical assistance (National Fish and Wildlife Foundation). Administer compliance with federal reliability standards by long range electric power transmission companies (North American Electric Reliability Corporation).

- **Commercial companies** provide essential services to the public based on market demand. For example, they provide the bulk of the nation's freight movement, and satisfy much of the demand for passenger movement in significant sectors—such as air travel and taxi service. They seem **most appropriate for use in transportation sectors where market prices and demand for services are high enough to provide attractive private-sector profits. They may also provide unprofitable public services that are supported by governmental contracts that cover the costs and appropriate profits.** These organizations can be very flexible and can accommodate and thrive on growth. For these companies, growth is perceived as good, while the same growth in a government agency may be perceived as bad.

Primary function or product: Provide a product or service to people willing and able to pay a price that includes a profit

Examples: Freight movement; package delivery; some forms of passenger service

- **Federal corporations** are generally subsidized and place public service performance ahead of profit. Nevertheless, they often have significant revenue-raising sources such as fares and fees for their services, and they are managed by a board of directors charged with using good business practices. They seem **most appropriate for use in running businesslike enterprises that do not have sufficient short-term profit potential to support a private company.**

Primary function or product: Nationwide or multi-state public facilities and services

Examples: Establish and operate a new railroad (Conrail; Amtrak); establish and operate an inland waterway (Saint Lawrence Seaway)

- **Federal agencies, commissions and project offices** perform public services needed on a national or multi-state scale but not amenable to being financed by direct user fees or fares. New ones have been difficult to establish in recent years



because of the perception that they would inappropriately expand the size of government and increase the possibility of public waste and inefficiency. However, they seem **most appropriate for performing essential federal functions that no other organization is capable of or willing to perform.**

Primary function or product: Nationwide or multi-state regulation; Public works construction, financing and/or operation of needed facilities and service systems that no one else is willing or able to provide

Examples: Appalachian highway system (Appalachian Regional Commission). Regulation of inter-state commerce (Surface Transportation Board—to a limited extent). Regulation of long-distance electric power transmission (Federal Energy Regulatory Commission). Production and long distance transmission of power from the Columbia River and other sources (Bonneville Power Administration, U.S. Department of Energy ). Operation of Missouri River and Mississippi River systems, numerous flood control projects, many inland waterways, and more (U.S. Army Corps of Engineers).

## **PART IV: INSTITUTIONAL IMPLICATIONS OF THE HOUSE COMMITTEE BILL'S 2009 SURFACE TRANSPORTATION FREIGHT AUTHORIZATION PROVISIONS**

Anticipating congressional reauthorization of the nation's surface transportation legislation during 2009 (to replace the current SAFETEA-LU legislation which expired in September 2009), several national organizations established policy statements containing provisions they advocate—including those related to freight. The U.S. House of Representatives Committee on Transportation and Infrastructure drew from many of these proposals to develop a bill in the fall of 2009 that would, if enacted, significantly strengthen the nation's freight programs. The bill's main provisions affecting freight are summarized earlier in this paper. This part of the paper considers the bill's institutional implications for freight corridors.

The House bill has the following three direct institutional implications for freight corridors:

- 1. Freight Corridor Coalitions:** The bill would allow the U.S. DOT Secretary to designate and fund up to ten freight corridor coalition organizations across the nation within the first year after enactment of the reauthorization. The bill also would provide some guidance about the representative nature of the coalitions' membership and the purposes for which funding can be provided. But the form of the organization is left open ended. As pointed out earlier in this paper, about 20 multi-state transportation coalitions currently exist, but they are not all freight-oriented, some have multiple purposes, and the existing organizations are of several different types—including interstate compacts, voluntary coalitions, and non-profit corporations.

Institutionally, the situation is similar to MPOs in some ways, and different in other ways. Similarities include the option to chose different forms of organizational structure for the federally designated Freight Corridor Coalitions (FCCs) and to imbed this designation in either a single purpose freight organization or a multiple-purpose organization—just as MPOs are found to be of five different types (organizationally) and some are single purpose (MPO only) while others serve diverse programs within their region. Unlike the MPOs, however, not all the existing coalitions will be funded even if they manage to meet the requisite representational requirements and agree to perform the required freight program purposes. In fact, only half of the existing coalitions will be funded. Thus, there is likely to be a competitive race for federal designation and a wide variety of organizational proposals presented for consideration by the Secretary.

- 2. National Transportation Institutions.** Rather than establishing a new national freight program, the House bill would elevate and re-empower the Office of Intermodalism within the Office of the Secretary of Transportation to work on intermodal policies and plans more comprehensively. So, instead of designating a

new National Freight Network, as some groups have urged, the House bill would opt for an intermodal transportation policy framework, within which more effective freight systems could find a place. This appears to be a pragmatic response to the reality that a large proportion of freight is carried on roads and highways, which are already elements of federally designated systems. And, other freight movements are carried on a wide variety of other transportation modes that include rail and marine corridors that need to be effectively interconnected with the highway system. Thus, many freight improvements are likely to rely on better intermodal connections that the Office of Intermodalism (and the Council of modal administrators) is designed to enhance using strategically prioritized investments in Projects of National Significance. Many such projects are expected to be identified by state DOTs and MPOs, but setting relative priorities among them at the national level, based on relative costs and benefits in addition to inputs from the state and local officials and private transportation companies involved, as proposed in the House bill, reflects a strategy for optimizing the positive achievements of the funds invested by all parties.

One very important issue concerns reconciliation of passenger and freight rail issues. High speed rail transportation is becoming more important than ever, and some of the transportation corridor coalitions are focused more on this mode of transportation than on freight rail. In many parts of the nation, freight and passenger rail services rely on the same tracks—placing limitations on both. Reconciling these two overlapping needs will require serious attention by corridor coalitions and others. The Federal Railroad Administration is well positioned to lead this reconciliation effort, but the newly enhanced DOT Office of Intermodalism could help, along with state DOTs, MPOs, and RPOs.

The state DOTs undoubtedly would want to influence the network design, but so would all the private freight carriers and the localities through which the corridors would run. The federal government, of course, would need to provide balance and ensure that international trade treaties would be honored. This assignment involves developing a very broad consensus and resolving many competing interests within a constrained timeframe. The national significance of this process could become equivalent to such policy initiatives as establishing the Interstate Highway System in the 1950s, restructuring the freight railroads in the Northeast in the 1970s (Conrail), and replacing private rail passenger service across the entire nation in the 1970s (Amtrak).

- 3. State DOT and Regional Institutions.** The new freight program enhancements proposed in the House bill would be administered within each state by the state DOT, and funded with federal money as well as funds from other public and private sources that the state would identify and mold into a flexible strategy. The proposed multimodal state system might be designated in a way similar to how the interstate highway system and the National Highway System were designated at earlier points in history. It would consist of specific routes that would fit together to provide connectivity within the state and beyond. The investment

strategy would be similar to and based upon the present State Transportation Improvement Program (STIP) and the MPO Transportation Improvement Programs (TIPs). The overall program would be primarily state-led, although the U.S. DOT would have a hand in approving the final designation of routes on the system and projects of national significance. The leading institutional structure would be the state DOT, perhaps with a new office of freight within it and a federally required freight advisory committee. The addition, the House bill would require RPOs and federal designation of secondary freight routes to help fill rural gaps in the system.

Institutionally, the state DOTs may need to establish or strengthen their freight offices and add the freight advisory committee. And, the RPOs (many of which already exist) may need to establish greater capacity to deal with freight issues.

This is a very significant institutional agenda. Fortunately there are institutional precedents for tackling it. This paper has provided options to consider.

## CONCLUDING OBSERVATIONS

In developing new institutions to better support improved freight corridor facilities, operations and services, the fundamental principle to follow is the well-worn “form follows function.” That is, the designer of an improved institution will likely be more successful if the needed improvements can be clearly identified and agreed to—at least in general—before the improvements are developed.

This paper suggests the following key elements of corridor level thinking:

- A **freight corridors orientation** is multimodal and multi-state, but must guard against giving too little attention to competing passenger needs—especially on rail systems.
- A **high-speed rail orientation** is passenger-only, but must guard against too little attention to competing needs of freight rail, as well as to competing technologies for **high-speed ground transportation**.
- **Information technologies and enterprise architectures** required to integrate and help solve many modal and intermodal challenges are becoming available increasingly but are not being deployed as widely and quickly as necessary to help meet pressing operational and environmental needs at the multi-state scale.
- **Existing federal transportation planning requirements** rely primarily on state DOT and MPO plans to integrate modes and to reconcile the freight-only vs. passenger-only orientations. In the future, the RPOs, the Office of Intermodalism, and the Council of modal administrators may also play essential roles.

- **Transportation corridor coalitions** are evolving toward an all-modes orientation that has the potential to bridge the freight-only and passenger-only orientations. But they do not have a clear role yet that is defined in federal law or practice.

The eight institutional “models” or options described in this paper are all “empty vessels.” They do not automatically come equipped with a full range of responsibilities, authorities, and capabilities—or even with a standard set of beginner’s tools. The designers charged with improving multi-state corridor institutions must fill the most available vessel to the best of their ability with as many of the capabilities and as much of the needed stakeholder representativeness as they can under the circumstances within which they are working. Each corridor organization needs to be tailored to its own time and situation. The pending House reauthorization bill would set some guidelines for structuring the membership of freight corridor coalitions and beginning to establish their roles more clearly.

However, this design process is essentially a political process, not primarily a technical one. The degree of success in achieving what is needed depends upon what the political marketplace will bear in each specific corridor at the time it is being attempted. Some adjustments may be made later, but often the initial cut at it will be difficult to alter.

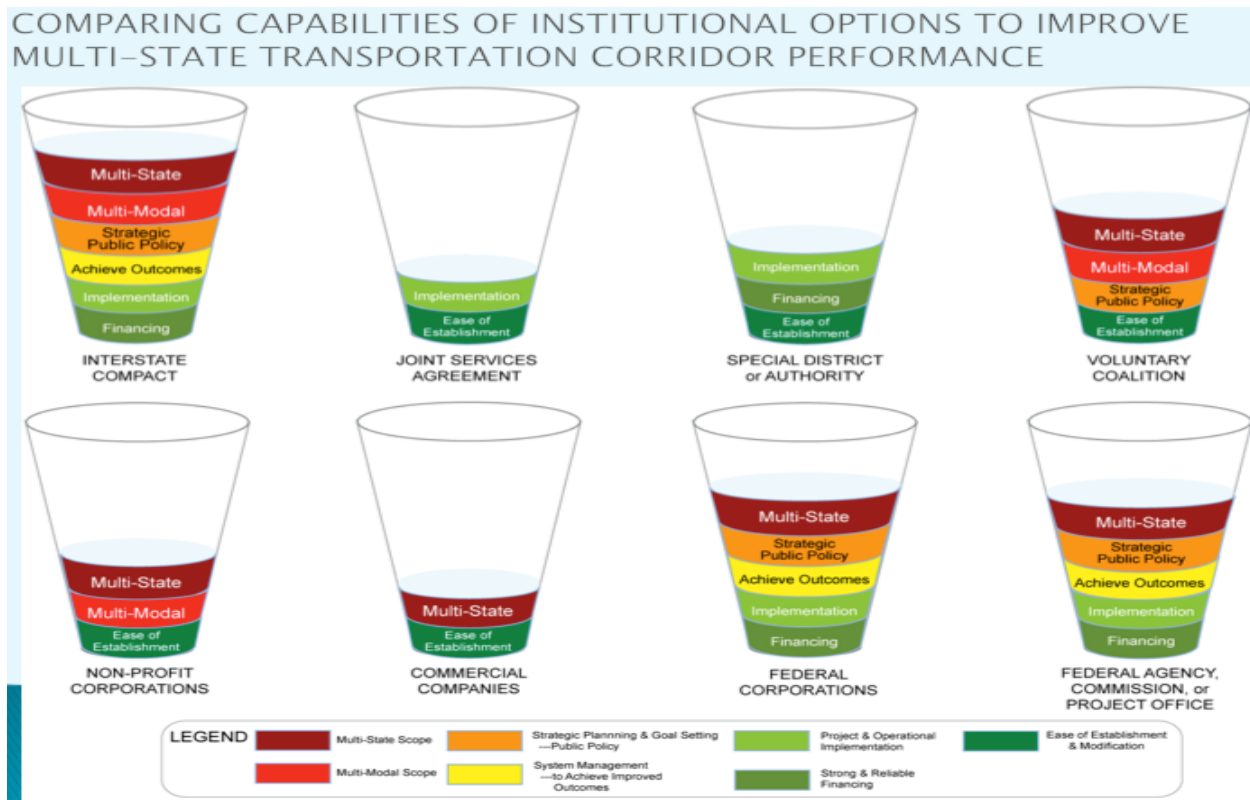
The empty vessels can be filled in a wide variety of ways, and combinations of institutions frequently are needed to piece together the needed capabilities without raising the specter of too much power being amassed in one place.

This paper is intended to provide a sense of the commonly available institutional options that may offer practical possibilities for the institutional architects to draw upon. The red-yellow-green table (on page 26) provides them with a handy reference to use frequently as the design process proceeds. Their job is likely to be long and arduous. There are no easy answers—not even any “right” answers, other than what can be made to work.

## **ASSESSMENT BY A NATIONAL ROUNDTABLE**

On June 18, 2009, the Federal Highway Administration, Office of Freight convened a Roundtable of national experts for a full day in Washington, DC to review a draft of this paper and assess the current applicability of the institutional options. An opening presentation by the paper’s author summarized the purpose of the paper, the key capabilities needed to improve freight movement throughout a multi-state freight corridor, and the nature of the eight institutional options studied. The institutional options were illustrated by highlighting a few of the most familiar and most notable institutions described in the paper. In addition, a new graphic (see the following page) was presented to help the Roundtable participants visualize the clear differences in capabilities among the eight types of institutions and to help sharpen the comparisons provided in the rather complex table on page 26 of this paper. The author emphasized that the capabilities shown for each institution represent his own assessment of likely

potentials. There are no guarantees that the capabilities will be available in any given institution, because each existing institution is likely to have been individually tailored to fit the situation at the time and place the institution was created.



Some of the main differences in typical capabilities between the types of institutions were summarized as follows:

- **Interstate compacts** clearly have the greatest potential for providing all the capabilities needed by a multi-state freight corridor. However, they are very difficult to create and to change. The exact same language must be agreed to by the state legislature and governor of each state included in the compact, and also by the U.S. Congress and President. This difficult process usually takes many years to complete, and may not incorporate all the capabilities originally proposed. Nevertheless, some interstate compacts (such as the Great Lakes Commission) already have broadly stated purposes that might be interpreted to allow undertaking new functions. For example, water-related compacts might be able to address “marine highway” program needs.
- **Federal agencies and corporations** also have the potential to provide most of the capabilities needed. However, the generalized fear of Big Government far from the communities where individual projects are built and operated, and the federal government’s current financial bind, both make it difficult to create new federal roles, programs, and agencies at this time.
- **Voluntary coalitions** typically offer the next most capabilities for a multi-state region or corridor. And they have the added advantage that they are relatively easy to establish. However, their biggest disadvantage is that it is difficult for

them to achieve implementation of their recommendations. They generally do not have any governmental powers to raise money, build facilities, or operate them. Thus, their implementation record depends on their power to persuade the members of the coalition to implement the coalition's recommendations. This record is often spotty—for a very wide range of reasons.

- **Commercial companies**, of course, provide the primary freight services throughout the nation—by operating railroads, trucks, barges, ships, and air-cargo services. They are essential institutions in freight corridors. However, they often depend on public infrastructure, public policies, and public financing to support some of their operations. In addition, they are constrained by market forces. So, their ability to help serve public needs is limited unless they have constructive partnerships with governmental institutions.
- **The other institutions** also provide valuable, but limited, capabilities.

In general, it can be said that multiple institutions operate together to provide the wide range of capabilities that must be available to satisfy multi-state freight needs.

Against that backdrop, the Roundtable participants were asked to assess the prospects for institutional options to improve multi-state freight movements in the U. S. Although no votes were taken and no one was asked to commit either themselves or their organization to any specific position, the following points of consensus emerged:

- It is urgent for the nation to place greater emphasis on improving multi-state corridor performance for freight movement. Such improvements are vital to keeping the United States competitive in the global marketplace—and their benefits are clearly demonstrable.
- However, this message is not getting through to policymakers with sufficient urgency and force. The message needs to be re-crafted and inserted more effectively into the pending process for reauthorizing the nation's Surface Transportation programs.
- Only one institutional option was supported by a clear consensus of this group—the Federal Agency option. This need not necessarily be a new agency, but somewhere within U. S. DOT greater leadership is needed to:
  - Define and designate multi-state transportation corridors
  - Promote intermodal coordination

It was emphasized that this stepped-up federal leadership should be exercised collaboratively, not unilaterally. The collaborative processes used in designating the Interstate Highway System (in the 1950s) and the National Highway System (in the 1990s) might be instructive.

- Federally induced collaboration also was seen as legitimate and needed. This concept was not tied directly to a specific type of institution, but it is consistent with federal funding of existing voluntary corridor coalitions (institutional option #4), which already occurs to some extent.
- The other institutional models were felt to be too situational to produce a consensus. Interest was shown in several of these models, but pros and cons were cited and no general prescriptions emerged. Time did not permit digging into any individual option in detail. It was agreed, however, that any option that might be

- adopted should be crafted to be nimble, adaptive, or temporary—not rigid or prone to become a roadblock to future progress.
- The group felt that it might be better in many cases to focus on providing specific capabilities needed—potentially added to an existing organization—rather than creating a new institution. It was observed several times that the nation already has a very large number of institutions—maybe too many. The more separate institutions that need to be involved, the more complex and slow coordination becomes.

A summary of the Roundtable proceedings was prepared separately. In keeping with the “no recommendations” intent of this paper, the Roundtable summary also contains no recommendations.



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February 2010