Multi-State Freight Transportation Organizations

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Experience to date with voluntary multi-state freight organizations shows they can contribute valuable consensus-building efforts and planning to move projects forward, but cannot advance capital and operations projects because they lack the legal authority and therefore the financial resources to do so. At the other end of the spectrum, authorities created by interstate compacts give states and other entities the legal mandate and ability to implement projects, but the process of building political and legislative agreement to create interstate compacts can be so time consuming and arduous a process that few encompass more than two states, too small a scale to address many freight transportation needs.

This study examined approaches to establishing multi-state freight transportation organizations that can develop and implement long-term investment plans. Emphasis was placed on the legal and financial requirements as well as the composition, structure, and decision-making facets of the organization. Sixty-five multi-state organizations were identified, researched, and classified by their legal structure and ability to carry out their intended functions, including policy making, planning, capital investment, operations, regulation, and research and education. The review suggested three models might support multi-state freight organizations: multi-state freight organizations organized and incentivized pursuant to federal grant conditions administered by a federal project office; organizations created through interstate compacts; and organizations enabled as federally chartered corporations.

An analysis of the legal framework and experience with these approaches concluded that creating multi-state freight organizations through a federally chartered organization might be the most practical approach to achieving organizations that can develop and implement long-term investment plans. This approach would involve the following:

- Multi-state freight policy guidance as part of national freight policy;
- Congressional action to create a federally chartered, national freight transportation corporation and subsidiary, multi-state freight transportation corporations or entities;
- Defined roles and responsibilities for multi-state freight organizations to include consideration and implementation of multi-state freight transportation plans and programs covering policy coordination, planning,

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capital investment, operations, research and education across jurisdictional lines;

- Federal, state, and private sector participation in the governance of corporations; a federal role and participation in the national corporation will be critical to address national capacity and connectivity, but strong state and private sector representation in the regional multi-state entities is mandatory to ensure commitment to and utilization of these organizations;
- Professional staff within each of the regional corporations, and a small national staff to support policy coordination, research, and education; and
- Ability to accept and pool funding and fees for service from an array of federal, state and private sources.

The key problem identified in this report was the difficulty of funding and operating multi-state freight institutions across state lines in multiple jurisdictions. While enacting legislation that creates new, federally chartered entities would take considerable time and effort, it is possible this could be completed in a far timelier manner than would likely be needed to adopt a system of regional, multi-state interstate compacts or an entirely new federal program, together with a new federal agency or project office.

A federally chartered corporation that operated through state-driven regional freight corporations could help ensure public sector planning and investment at a geographic scale that matches current economic regions and freight carrier markets.

While promising, there is no existing organization that can be used as an immediate template. As a next step, the study recommends developing case studies—extrapolating from existing organizations—that will illustrate how the envisioned organization would operate, and outline the specifics of the legislation required to enable it.

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1.0 Introduction

1.1 Research Need

Freight transportation trips often involve multiple modes and routes that cross several states. To move efficiently, freight movement—regional, national, and global—must cross jurisdictional boundaries with as few impediments as possible. To make it possible to plan and invest to assure reliable freight trips, multi-state freight organizations are needed, especially where the costs of freight improvements are borne by a single state, but benefits accrue to several states.

Existing organizations such as the I-95 Corridor Coalition have considerable experience conducting analyses of highway, rail, and maritime freight movement but are not constituted to plan and implement a capital improvement program or coordinate operations for its member states. Proposed freight initiatives such as the I-70 Corridor of the Future project, which would create a four-state truck highway between Ohio and Missouri, may require a multi-state freight organization that can represent the constituent state departments of transportation (DOTs), metropolitan planning organizations (MPOs), and private sector freight carriers to construct and operate the specialized truck lanes.

AASHTO and the Freight Stakeholders Coalition have proposed the establishment of multi-state freight organizations along freight corridors and across economic freightsheds "that will make it possible to plan and invest in projects where costs are concentrated in a single state but benefits are distributed among multiple states." The need for multi-state freight organizations may be accelerated if reauthorization of the national surface transportation program mandates multi-state freight plans and organizations as a condition of federal participation in funding freight transportation projects of national and regional significance.

1.2 Research Objective

The Transportation Research Board, though it's National Cooperative Freight Research Program (NCFRP), commissioned a study of "Institutional Arrangements for Freight Transportation Systems," which was published as NCFRP Report 2 in 2009.[1] That study identified "successful and promising institutional arrangements for improving freight movement, now and in the future" and provided guidelines for developing freight transportation

[1] NCFRP Report 2, *Institutional Arrangements for Freight Transportation Systems*, Transportation Research Board, Washington, DC, 2009.

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organizations based on the lessons learned from existing organizations. The report examined 36 organizations, which were classified into three general types as summarized in Table 1.1.

Table 1.1 Institutional Types

Type I	Type II	Type III
• Information Sharing • Consensus Building • Education • Increased Visibility & Awareness • Overcoming Distrust and Competitive Barriers • General Advocacy	• Project Evaluation • Project Prioritization • Project Selection and Funding • Consensus Building at Project Level • Focused Advocacy • Leveraged Additional Funds	• Project Implementation • Design and Construction • Obtain Environmental Approvals • Managing Financial and Schedule Risks • Construction Oversight • Debt Service Payments • Negotiate Partnership Agreements

Source: NCFRP Report 2, *Institutional Arrangements for Freight Transportation Systems*, Transportation Research Board, Washington, DC, 2009

Among the key findings of the study was the conclusion that no multi-state organizations exist with the necessary authority and capacity to carry out a long-term program of freight planning and investment. Most multi-state transportation organizations were Type I institutions, focused on planning and consensus building to influence project prioritization, but with little capacity to implement improvements or coordinate operations. The few multi-state organizations set up as Type III institutions were interstate compacts involving only two states and focused on specific transportation facilities rather than freight corridors or freightsheds. The study reported that multi-state freight organizations faced three major challenges:

- **Lack of mandate.** Of the existing multi-state freight organizations, relatively few have a definitive mandate. Many are ad hoc arrangements meant to address short-comings and gaps in established agency or industry functions. As such they lack dedicated funding and staffing. As a result, many organizations must devote considerable time and effort to justify their existence, role, and expenditures. Examples include MPO-level freight committees, which have been difficult to sustain because MPOs are perceived as having mandates to address highways, transit, and congestion management, but neither mandated nor funded to address freight issues.

- **Mismatch of scope.** Freight organizations have failed because the scope and scale of their geographic and jurisdictional coverage did not match actual freightsheds and economic blocs. For example, relatively few of the early freight-oriented Intelligent Transportation Systems (ITS)/ Commercial Vehicle Operations (CVO) corridor programs have survived, in large part

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because they spanned jurisdictions and economic regions that did not have compelling mutual interests.

- **Insufficient funding.** Organizations focused on policy and planning functions often operate on shoestring budgets with limited staff support. They serve an advisory role but their influence can be transitory and highly dependent on the willingness of their political administrators to make use of their advice. Few have the financial capacity to implement capital projects or participate in traffic management operations on behalf of freight movements.

The objective of the current study is to examine and suggest potential approaches to establish multi-state freight organizations that can develop and implement long-term investment plans. Emphasis is placed on the legal and financial requirements as well as the composition, structure, and decision-making facets of the organization.

1.3 Research Approach

The research approach for this study involved the following steps:

- **Identify and research existing multi-state organizations.** Sixty-five multi-state organizations were identified and researched. The organizations included institutions identified in NCFRP Report 2 as well as other non-transportation, but multi-state, institutions that might provide informative models for development of multi-state freight organizations. The organizations are listed in Section 2.1.

- **Summarize key characteristics and identify potential models for multi-state organizations.** Each organization was reviewed to identify its roles and responsibilities and its legal structure. What was the organization's mandate? Did its roles and responsibilities cover policy, planning, and advocacy (e.g., a Type I or Type II institution) or did they also include responsibility for programming, funding, and implementation of capital projects? Was the organization capable of developing and implementing long-range plans? What was the underlying legal structure for the organization? What level of effort was required to create the organization? What did it take to sustain and modify it over time as freight transportation needs changed? What were the organization's sources of funding? From this analysis, three models were identified for further review. The analysis of the existing multi-state models is described in Sections 2.2 and 2.3.

- **Analyze key legal and financial issues.** The legal structure of the three organizational models that seemed to best meet the needs of multi-state freight organizations were analyzed in further detail. The analysis identified the legal foundations for the organizations (e.g., federal or state law), their governance structure, and their sources of funding. The analysis also examined the experience of organizations set up according to these models: How effective had they been? What legal and political constraints shaped them? Are the lessons learned transferable to new multi-state freight organizations? The legal analysis is documented in Section 3.

- **Describe a potential approach to establish a multi-state freight corridor organization.** The final work step was to describe a model for multi-state freight organizations, outlining the legal foundation, roles and responsibilities, composition, organizational structure, and decision-making processes. The conclusions take into consideration what could be accomplished within current federal and state law, and what could be accomplished through changes in federal and state law, including new legislation. The conclusions are reported in Section 4.

1.4 Organization of Report

The remainder of the report is organized as follows:

- Section 2, **Identifying Key Characteristics of Existing Multi-State Organizations**, summarizes a review of the existing organizations and identifies three potential models for further legal review;
- Section 3, **Understanding the Legal Framework of Multi-State Freight Organizations**, provides an analysis of the legal and financial framework of three potential models for a multi-state freight transportation organization; and
- Section 4, **Developing a Successful Multi-State Freight Organization**, outlines a potential approach to establish a multi-state freight transportation organization.

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2.0 Identifying Key Characteristics of Existing Multi-State Organizations

2.1 Identification and Review of Existing Organizations

Sixty-five existing organizations were identified and reviewed to assess their potential as models for future multi-state freight organizations. The organizations included all those identified in NCFRP Report 2 and others identified through literature reviews, Internet searches, and conversations with knowledgeable public and private sector officials. The inventory and review focused on existing transportation organizations, but also included non-transportation organizations that have roles and responsibilities generally comparable with those of transportation organizations.

Basic information about the organizations was collected and used to categorize them by type of institution and by function as shown in Table 2.1. The categories for types of institutions were:

- Public Agencies, which were further sorted into national, multi-state, state, and regional/local. The types of public agencies included:
  - Federal Agency
  - Federal Project Office
  - Federal Commission
  - Federal Corporation
  - Interstate Compact
  - Voluntary Coalition
  - State Agency
  - Special District or Authority
  - Metropolitan Planning Organization
  - Joint Service Agreement
- Public Benefit Corporations, which were subdivided into public corporations and nonprofit corporations; and
- Private Corporations, which were differentiated as publicly held companies or privately held companies. (it was determined that private corporations could not effectively serve the functions anticipated of a multi-state freight organization focused primarily on public sector highway systems, so they were not identified and analyzed as a potential model. The row is retained in the table for reference.)

The categories for functions were:

- Policy and/or Advocacy – Responsibility for researching, developing, and/or establishing policy;

- Planning – Responsibility for planning, especially for long-range (i.e., more than five years) planning of capital improvements and operations;
- Capital Improvements – Responsibility for developing, programming, funding and implementing capital improvements;
- Operations – Responsibility for developing, deploying, and managing operations, including maintenance of capital facilities;
- Regulation/Safety – Responsibility for promulgating and enforcing regulations (but not legislating or adjudicating regulations); and
- Research/Education – Responsibility for research and information-sharing.

In the table, primary functions are identified by normal font and secondary functions identified by italicized font.

The 65 organizations are a broad sample of multi-state organizations, but they are neither an exhaustive listing nor necessarily a balanced listing of such organizations. Even so, several patterns are apparent. Most of the organizations that have the capability to cover all or nearly all functions desired in a multi-state freight organization are federal or state organizations. The only state-level organizations that carry out planning, capital improvements, and operations are organizations set up under congressionally approved interstate compacts, typically involving only two states. MPOs, which are multi-jurisdiction organizations, are responsible for planning and programming of capital improvements within state, but do not have responsibility for implementation of capital or operations programs. Multi-state MPOs also function with Congressional consent. There are several examples of not-for-profit corporations that operate across state lines, but their roles and responsibilities are very narrowly defined and targeted to specific services.

2.2 POTENTIAL MODELS

The findings from NCFRP Report 2, discussions conducted in the course of the present study, and the review of additional existing multi-state institutions suggest that one or more of three models might support multi-state freight organizations:

- Multi-state freight organizations organized and incentivized pursuant to federal grant conditions administered by a **federal project office**;
- Multi-state freight organizations created through **interstate compacts**; and
- Multi-state freight organizations enabled as **federally chartered corporations.**

The next section examines the legal and financial issues involved in employing each of these models. The legal review considers whether multi-state freight organizations could be created under current law or would require new or modified statutes.

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Table 2.1 Classification of Organizations (see list of Acronyms below)

Type of Institution			Function: Policy	Planning	Capital Improvements	Operations	Regulation/ Safety	Research/ Education
Public Agency	National	Federal Agency Federal Project Office	*USDOT* *FHWA/HOFM* *STB*	USDOT FHWA/HOFM	USDOT (discretionary grants) FHWA (discretionary grants)		FHWA/HOFM *FMCSA (CVISN)* *EPA CBPO*	FHWA/HOFM
		Federal Commission		*ApRC (ADHS)*	ApRC (ADHS)	ApRC (ADHS)		
		Federal Corporation (GSEs)		MWAA NRPC (Amtrak) TVA USPS	MWAA NRPC (Amtrak) TVA USPS	*MWAA* *NRPC (Amtrak)* *TVA* *USPS*		*TRB*
	Multi-State	Interstate Compact	ASMFC *GLC* *MIPRC* PANYNJ SRBC SSEB	*ASMFC* *ICPRB* *IMCC* *IOGCC* MIPRC PANYNJ *SRBC* *SSEB* WAMATA	PANYNJ WAMATA	*PANYNJ* *WAMATA*	PANYNJ WAMATA	GLC MIPRC
		Voluntary Coalition	*GWEC* IMTC MHTA MSC OTC	CanCC *IMTC* *I-81 CC* I-95 CC *MHTA* *MSC* MVFC *NASC* OTC *WCCC*	CanCC	*I-95 CC* MVFC		IMTC I-81 CC I-95 CC *MVFC* WCCC
	State	State Agency	*State DOTs* *CBC* WSDOT (FMSIB)	State DOTs *FDOT (SIS)* *FDOT (TRIP)* FSTED	State DOTs *FSTED* *MaineDOT (IRAP)* *MaineDOT (SHIP)* *WSDOT (FMSIB)*	State DOTs	State DOTs	State DOTs
		Special District or Authority		*CHSRA*	CHSRA	CHSRA		

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Type of Institution			Function: Policy	Planning	Capital Improvements	Operations	Regulation/ Safety	Research/ Education
	Regional/ Local	Metropolitan Planning Organization (may be multi-state)		*AtlRC FATF* *DVGMTF* *EWGCCG* *MDMPO-FTAC* *NYMTC-FTWG* *PSRC-RFMR* *SEDA-CGFAC* *TMACOG*	AtlRC FATF* *BTV* DVGMTF* EWGCCG* MDMPO-FTAC* NYMTC-FTWG* *PSRC-FAST* PSRC-RFMR* SEDA-CGFAC* TMACOG* (*programming)		BTV	*WHFS*
	Regional/ Local	Joint Service Agreement		ACTA	ACTA	*ACTA*		
	Regional/ Local	Voluntary Coalition		CREATE	*CREATE*			CREATE
Public-Benefit Corporation	Public Corporation				*POMT*	POMT		
Public-Benefit Corporation	Not-for-Profit Corporation		*ATA* *ATVG* *NITL*	SREB	*KCS*	HELP (PrePass) KCS *PierPASS (LA/LB)*	*CVSA* *HELP (PrePass)*	ATA CVSA *IANA* *NPTC*
Private Corporation	Publicly Held Company							
Private Corporation	Privately Held Corporation							

Source: Cambridge Systematics, Inc.

Acronyms for Table 2.1:

ACTA: Alameda Corridor Transportation Authority	HELP (PrePass): Help (PrePass)	OTC: Ozone Transport Commission
AtlRC FATF: Atlanta Regional Council Freight Advisory Task Force	I-81 CC: I-81 Corridor Coalition	PANYNJ: Port Authority of New York and New Jersey
ApRC (ADHS): Appalachian Regional Commission (Appalachia Development Highway System)	I-95 CC: I-95 Corridor Coalition	PierPASS (LA/LB): PierPASS (Los Angeles/Long Beach)
ASMFC: Atlantic States Marine Fisheries Commission	IANA: Intermodal Association of North America	POMT: Port of Miami Tunnel
ATA: American Trucking Association	ICPRB: Interstate Commission on the Potomac River Basin	PSRC-FAST: Puget Sound Regional Council – Freight Action STrategy Corridor
ATVG: Association of Tennessee Valley Governments	IMCC: Interstate Mining Compact Commission	PSRC - RFMR: Puget Sound Regional Council - Regional Freight Mobility Roundtable
BTV: Bridging the Valley	IMTC: International Mobility and Trade Corridor	SEDA – CGFAC: Susquehanna Economic Development Association – Council of Governments Freight Advisory Committee
CanCC: Canamex Corridor Coalition	IOGCC: Interstate Oil and Gas Compact Commission	SRBC: Susquehanna River Basin Commission
CBC: Chesapeake Bay Commission	KCS: Kansas City Smartport	SREB: Southern Regional Education Board
CHSRA: California High-Speed Rail Authority	MaineDOT (IRAP): Maine DOT (Industrial Rail Access Program)	SSEB: Southern States Energy Board
CREATE: Chicago Region Environmental and Transportation Efficiency Program	MaineDOT (SHIP): Maine DOT (Small Harbor Improvement Program)	State DOTs: State Departments of Transportation
CVSA: Commercial Vehicle Safety Alliance	MDMPO - FTAC: Miami-Dade MPO - Freight Advisory Committee	STB: Surface Transportation Board
DVGMTF: Delaware Valley Goods Movement Task Force	MHTA: Multi-state Highway Transportation Agreement	TMACOG: Toledo Metropolitan Area Council of Governments Freight Subcommittee
EWGCCG: East-West Gateway Coordinating Council of Governments	MIPRC: Midwest Interstate Passenger Rail Commission	TRB: Transportation Research Board
EPA CBPO: Environmental Protection Agency Chesapeake Bay Program Office	MSC: Multi-state Salinity Coalition	TVA: Tennessee Valley Authority
FDOT (SIS): Florida DOT (Strategic Intermodal System)	MVFC: Mississippi Valley Freight Coalition	USDOT: US Department of Transportation
FDOT (TRIP): Florida DOT (Transportation Regional Incentive Program)	MWAA: Metropolitan Washington Airports Authority	USPS: United States Postal Service
FHWA HOFM: FHWA Freight Management and Operations	NASC: North American Superhighway Coalition	WAMATA: Washington Metropolitan Area Transit Authority
FMCSA: Federal Motor Carriers Safety Administration (CVISN)	NITL: National Industrial Transportation League	WCCC: West Coast Corridor Coalition
FSTED: Florida Seaport Transportation and Economic Development Council	NPTC: National Private Truck Council	WHFS: Wilmington-Harrisburg Freight Study Steering Committee
GLC: Great Lakes Commission	NRPC (Amtrak) – National Passenger Rail Corporation (Amtrak)	WSDOT (FMSIB): Washington DOT (Freight Mobility Strategic Investment Board)
GWEC: Governor's Wind Energy Coalition	NYMTC - FTWG: New York Metropolitan Transportation Council - Freight Transportation Working Group	

Source: Cambridge Systematics, Inc.

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3.0 Understanding the Legal Framework of Multi-State Organizations

As changes in the economy create a demand for new and better freight corridors and smoother transitions between modes, stronger institutions that by design have a proper perspective on these issues and the power to implement desired outcomes will be needed to ensure a more efficient and competitive freight system.

This section examines the legal issues associated with establishing a multi-state freight organization having the authority to implement improvements to the freight transportation system and coordinating operations across jurisdictional lines. The analysis assumes that a multi-state freight organization would focus primarily on the public sector elements of the freight transportation system, specifically on better coordination of activities traditional to government such as: building roads, ports and public rail facilities; providing better cross-modal transfer facilities; rationalizing the location of new corridors; providing information on traffic conditions; coordinating maintenance actions and related services along freight lanes; and establishing more productive relationships with private freight providers.

It is anticipated that the organization would have a limited mandate and a narrower scope of responsibilities and powers than an established state department of transportation, and that it would not offer services in direct competition with private sector freight transportation providers. The analysis also anticipates that a multi-state freight organization would have a stream of income—whether through grants, pooled funds, or fees for service—and a mechanism for equitable allocation of benefits, costs, and risks among jurisdictions and between the public and private sectors.

Within these general guidelines, the analysis examines three potential models: multi-state freight organizations organized and incentivized pursuant to federal grant conditions administered by a **federal project office;** organizations created through **interstate compacts;** and organizations enabled as **federally charted corporations**.

3.1 Multi-State Freight Organizations Organized and Incentivized Pursuant to Federal Grant Condition Administered by a Federal Project Office

Under the first of the three models, a multi-state freight organization could be established under federal legislation authorizing a multi-state freight program administered by a federal project office. The multi-state freight program might address a specific freight transportation system such as the National Highway System (including its intermodal connectors and intermodal transfer facilities) or it could more broadly encompass the staging, movement, and intermodal transfer of freight across all freight systems. The specific scope of the program is not addressed in this analysis, but it is assumed that whatever the dimensions of the program, it would include creation of a federal freight project office to administer the program. The freight project office would likely be housed within the U.S. Department of Transportation.

The freight project office would implement the federal law establishing the program, issue appropriate regulations and guidance, monitor eligibility for grant funding, and provide general program oversight and assistance. The federal project office would provide incentives in the form of grants and impose grant conditions requiring the establishment of multi-state freight organizations. The conditions would define the necessary cooperation among the participating states and could include requirements that they be given appropriate power, staff, and funding to carry out the duties set forth in the federal program. The grant conditions could be imposed on the use of the grants themselves or tied to a larger grant program such as the Federal-Aid Highway program.

Metropolitan planning organizations ("MPOs") are examples of organizations created through a federal program and project office.[2] MPOs carry out transportation planning processes for urbanized areas with population exceeding 50,000 individuals.[3] Since the 1962 Federal-Aid Highway Act, federal authorizing legislation for the expenditure of highway project funds has required metropolitan area transportation plans and programs to be developed by MPOs through a "continuing, cooperative, and comprehensive" planning process.[4] With nearly 50 years of precedent, MPOs provide a general model upon which a federal project office charged with the planning and implementation of a coherent freight transportation system responsive to the needs of a multi-state region could be based.

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[2] 23 U.S.C. §§ 134, 135.
[3] *Id.* at § 134(d).
[4] *Id.* at § 134(c)(3).

MPOs, however, do not have sufficient authority to oversee and operate a multi-state freight system. Federal legislation to create a federal project office and implement multi-state freight organizations could be based on the MPO model, but modified to give freight organizations certain powers to carry out freight-related policy, planning, capital investment, operations, and regulatory activities. The scope of the powers could be very broad or limited to a very specific set of activities in a few areas.

The shape of the organization itself would depend on the federal law establishing the program. For MPOs, the organization includes a governing board consisting of representatives of local governments and transit operators, and the state transportation department. In multi-state areas, the board has representatives of this type from all of the states covered by the urban area and all of the transportation departments. The board is supported by a professional staff funded by federal, state, and local transportation funds. One could imagine a similar structure for a multi-state freight organization. Representation from local officials, marine and airport authorities, and affected freight industries would also be appropriate and desirable. A professional staff would be a necessity.

The organizational and operative requirements for a multi-state freight organization could be very detailed. The statute and regulations requiring the establishment of MPOs, for example, provide considerable detail about how these organizations are established, which entities must be represented, the competence of the staff, and the procedures used to develop the plan. The MPOs are also instructed by the regulations as to what must be considered during the planning process, how to communicate with the public and interested agencies, and how often their transportation plans must be reevaluated.

As with MPOs functioning in a multi-state area, multi-state freight organizations would require Congressional consent to operate on a multi-state basis under the United States Constitution.[5] This consent is provided by the statute requiring the establishment of MPOs.[6] A similar provision would have to be included in the statute for the multi-state state freight program.

Federal law alone would not suffice in establishing these organizations or authorities. Each participating state would have to create the authority to participate in the federal program. The enactment of such legislation in each state is by no means a foregone conclusion. The likelihood of this occurring expeditiously could well depend on the size of the federal grant program supporting the establishment of the requisite entities. It would be more likely if the grant program itself was large or if the grant conditions were tied to a large program. For example, although MPOs get a relatively small amount of federal

[5] Article I, Section 10, Clause (3).

[6] 23 U.S.C. § 134(f)(2)

aid directly (in relation to the overall Federal-Aid Highway Program, not in relation to their operational needs), the grant condition is tied to the award of *any* federal-aid highway and federal transit fund in the urban area.

The federal project office model presents a very viable approach to formation of a multi-state freight organization,[7] but there are significant challenges:

- Legislative time and effort. Crafting legislation and gaining the necessary federal and state legislative approvals for a freight program and freight office will likely take considerable time and effort. The federal project office would oversee a fairly complicated multi-state freight system requiring significant federal oversight of the multi-state freight organizations and the use of federal grant funds. A federal program and project office of such broad scope would require clearly defined parameters delineated at the outset. Thus, careful and comprehensive legislation creating the federal project office would be required.

- Federal role. It is somewhat unlikely that in today's political climate there would be strong interest in another new federal program. However, interstate freight transportation is a critical federal interest and fundamental to the economic well being of the nation, so there might be support for a carefully crafted program. Additionally, because states would be free under this approach to avoid grant conditions by simply refusing federal aid, the federal project office might be perceived as a less-coercive exercise of federal authority over state prerogatives, making it more politically palatable for those concerned with expanding federal authority. The need for a national freight program and the shape of the federal program would be of considerable interest to and heavily influenced by the freight industry.

- Funding. To create sufficient incentive for meaningful state participation, a large grant of funds might realistically be required. Lack of a reliable, consistent funding source would make implementation of a new grant program difficult. Alternatively, the grant conditions could be added to an existing federal transportation program, but that too would present considerable legislative hurdles.

- Balancing benefits, costs, and risks. A key rationale for establishing multi-state freight organizations is to provide a mechanism to allocate and balance the

[7] Another closely related approach to creation of multi-state freight organizations would be the direct exercise of federal authority to create a federal freight agency. There are two reasons why we did not choose to examine this approach. First, it is contrary to the way in which transportation infrastructure has been built and operated in the United States. Traditionally, the federal government has provided grants to states for the implementation of transportation projects, and puts conditions on those grants to achieve a myriad of federal purposes. Creation of a federal agency to plan, make improvements, and otherwise directly participate in the operation of the freight transportation system would be a clear departure from established practice. Second, under the Constitution, the federal government cannot directly require states to participate in a federal program. That would violate basic state sovereignty. Instead, the whole program would have to be run by federal officials, which is unlikely and probably impractical.

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benefits, costs, and risks of improvements to the freight system among and across states, an essential political function when freight investments in one state serve the interests located primarily in other states. The MPO model does not provide an entirely satisfactory precedent for handling this situation. MPOs plan transportation facilities, which are then built by state and local transportation agencies. When facilities cross state lines, costs are not shared directly because of the actions of the MPO, but because the involved transportation agencies have agreed to work with each other. That may or may not be a problem under this the federal project office approach. The federal grant or incentive program could be large enough and flexible enough to allow it to provide funds that could soften the effect on a state not directly benefiting from the project. If the multi-state freight organization has its own direct authority to construct projects, then it would have a central budget that would allow for allocation and balancing of impacts among states.

- Jurisdictional gaps or overlaps. The roles, responsibilities, and jurisdictions of the federal and state governments differ with respect to freight transportation, and likewise, the roles, responsibilities, and jurisdictions of state departments of transportation, port authorities, and economic development agencies dealing with freight transportation vary among the states. The legislation would have to address and resolve gaps and overlaps within the scope of activities assigned to multi-state freight organizations.
- Modifications. Finally, the multi-state agencies that would be established under the federal law would be entirely new institutions in an area that has had relatively little government involvement in the past. Thus, it is likely that these agencies would have evolving responsibilities and could change considerably over time. Federal legislation could have a negative effect on this kind of growth simply because it would have a statutory standard in place that may prove difficult to modify.

Despite these considerations, establishing a multi-state freight organization under federal legislation authorizing a multi-state freight program administered by a federal project office is easily envisioned because the federal government often takes the lead in establishing new transportation programs. A central federal role could ensure consistency of approach and provide a useful degree of oversight; moreover, it would maintain program momentum simply because there would be a program office with continual focus on multi-state freight issues.

3.2 Multi-State Freight Organizations Created Through Interstate Compacts

A second model would be to establish a number of separate multi-state freight organizations through interstate compacts. Interstate compacts among states are provided for in the U.S. Constitution and most states have commissions on

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interstate cooperation to address them.[8] These compacts are negotiated by the states and then enacted in identical form by each state that desires to be part of the compact. Congress must then approve the compact before it can go into effect (except in cases where the compact is deemed to have no impact on federal responsibilities, it may go into effect without congressional approval). Although congressional approval would be required, this approach is differentiated from the federal project office approach described above because the initiative to form a multi-state freight organization through interstate compact would come from the states, not from the federal government.

Since most of the specifics of an interstate compact are subject to negotiated agreement, the functions and powers of compacts 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. Under this approach, states would have wide flexibility to tailor the roles, responsibilities, and jurisdiction of their multi-state freight organization to the specific needs and conditions of the freightshed or freight corridor.

Interstate compacts can have the authority of state and federal statutes as well as contracts. They are statutes because the compacts are normally adopted by state legislatures and Congress as part of the enactment process. However, interstate compacts also are contractual agreements between the signatory states and the federal government. States take on certain obligations as a result of entering into an interstate compact and such obligations can be legally enforced by the other parties to the agreements, including the federal government. Given interstate compacts' dual statutory-contract nature, both bodies of law apply to interpretation of interstate compacts.[9] This provides the advantage of security by ensuring that the participating states are committed and cannot unilaterally remove themselves from the project.

Such an organization would likely consist of the establishment of an institution, whose governing board would be comprised of representatives from each participating state. Supporting the board would be a professional staff that carries out the authorized duties and activities of the institution. The central purpose of the institution could vary from planning, with member states being responsible for implementation, to direct participation in the development and regulation of freight management systems including construction and operations.

An example of this type of organization is the Port Authority of New York and New Jersey. The Port Authority was established by a bi-state, congressionally-

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

[9] For example, see *Carchman v. Nash*, 473 U.S. 716, 105 S.Ct. 3401, 87 L.Ed.2d 917 (1985); and *California Tahoe Regional Planning Agency v. Jennings*, 594 F.2d 181 (9th Cir. 1979)

approved compact. The geographic district of the Port Authority and its roles and responsibilities are set forth in the compact. The Port Authority consists of twelve commissioners, six from each state that are appointed by their respective governors and confirmed by their respective state legislatures. Voting rights for the Port Authority are set forth in its bylaws, not the compact. Except for certain procedural votes, for a motion to pass it takes a majority vote by the commissioners appointed by each state. So, for example, if twelve commissioners are present (six from each state), it takes four 'yes' votes by the New York commissioners and four 'yes' votes by the New Jersey commissioners. The governor of each state retains the right to veto the actions of commissioners from his or her own state. A multi-state freight organization with a broad mandate could be set up with similar, tightly defined voting rights to ensure that it acts only on issues and projects of critical importance to the states; conversely, an organization with a narrow mandate and role could be set up with simpler, majority rule provisions.

Establishing a central institution focusing on freight transportation through an interstate compact is a viable and proven approach. It would meet the goal of creating a mini-department of transportation with limited powers that can operate across state lines, but as with a federal project office approach, there are significant challenges:

- Time required. A potential disadvantage of the interstate compact is the multiple layers of approval required and the delay that those approvals may entail. An initial agreement must be negotiated between at least two of the states interested in a multi-state freight organization. Each state must draft and enact substantively identical legislation. The compact would then have to be passed by Congress. Obtaining the approval of both state legislatures and Congress could add years to the development of the institution. Obtaining the approval of multiple states, which would be necessary to provide effective coverage of most freight corridors or freightsheds could be an extended effort. However, as demonstrated by the Port Authority of New York and New Jersey, interstate compacts can establish effective multi-state freight organizations.
- Funding. Revenue is an important consideration in this model because it is presumed that the compacts are established by state initiative, not compelled or incentivized by the availability of a federal grant stream. The Port Authority is a financially self-supporting public agency that receives no tax revenues from any state or local jurisdiction and has no power to tax. The Port Authority works because it has been able to capture a significant and reliable revenue stream. It relies almost entirely on revenues generated by facility users, tolls, fees, and rents. Thus, the Port 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

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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 multi-state organizations.[10] Given the realities of limited state budgets, it would be difficult to assume that states could fully fund their multi-state freight organizations. This implies that freight organizations would have to be able to derive adequate revenue from their operations to be successful. Multi-state freight organizations established by interstate compact could receive federal funds, but are not predicated on a federal grant program.

- Balancing benefits, costs, and risks. Any model must equitably share the costs and benefits of a multi-jurisdictional system that provides for the planning and implementation of a coherent system responsive to the needs of the country or multi-state region. The interstate compact model has certain advantages including the ability of the member states to directly negotiate and structure the agreement to fit the specific needs of the geographic region involved. The Port Authority of New York and New Jersey again provides an example of a successful self-sustaining institution that benefits both participants to the compact.
- Jurisdictional gaps or overlaps. The required Congressional consent transforms an interstate compact into federal law. This may, in and of itself, address any gaps between state and federal jurisdiction. Less frequently, the federal government may also become a party to the compact (which is then designated a federal-interstate compact), and Congress enacts authority for the appropriate federal participation. In any event, the institution contemplated by the interstate compact would be charged with operating in accordance with federal requirements and the flexibility to negotiate specific terms and requirements for Congressional approval provide ample opportunity to address any gaps or overlaps between state and federal jurisdiction. The powers of the institution would be established by the participating states and made effective across state lines by Congressional enactment. One of the advantages of having a congressionally approved interstate compact is that, to the extent it is recognized as federal law, the interstate compact will supersede inconsistent state laws.
- Modifications. The existence of an interstate compact would limit flexibility in further modifications to the powers and operations of a multi-state freight organization once the compact is approved. While the compact may provide specific procedures for amendments, absent a clear provision to the contrary, courts typically find that compacts cannot be unilaterally modified or nullified; instead each member state must approve the amendment.

[10] 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).

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Depending on the particular situation, obtaining such approvals can be potentially as lengthy and arduous a task as negotiating the original compact.

There are options to make the process of establishing an interstate compact easier. If an institution could be established that did not implicate federal responsibilities, Congressional consent might be avoided. However, given the large federal presence in transportation programs generally, and the implications for interstate commerce, this is unlikely.

Congress could also be asked to provide consent in advance to form multi-state organizations, but without attaching that consent to a grant program. For example, states could be allowed to establish pilot programs for this purpose, as has been done in other contexts. Such consent might be easier to obtain and would only require a general description of the kinds of activities that a multi-state freight organization would undertake and authorities it might need.

In spite of the difficulties establishing an interstate compact, this approach would allow participating states to create a multi-state institution that meets the participating states' specific needs as contrasted with a federal top-down mandate. The approach also allows for multi-state freight organizations to be established when and where they are needed over time, which would have the benefit of allowing states to learn from each other.

3.3 Multi-State Freight Organizations Enabled as Federally Chartered Organizations

A third model for creating multi-state freight organizations is to enable a federally chartered corporation or quasi-private organization that could draw on both federal and state funding sources. This independent, federally chartered corporation or organization would function like a service organization for implementing and operating freight transportation improvements across a group of states. The corporation could be set up as a single national entity or as a national umbrella entity with several regional organizations.

Congress generally can create corporations to execute powers conferred to Congress by the Constitution,[11] and Congress has a long history of chartering such corporations to perform governmental or public functions. Federally chartered corporations have allowed the government to create separate entities able to use commercial methods and conduct operations with certain freedoms not generally afforded to traditional federal agencies.[12]

[11] *See Charlotte, C. & A.R. Co. v. Gibbes*, 142 U.S. 386 (1892).

[12] *See generally U.S. Shipping Board Emergency Fleet Corp. v. W. Union Telegraph Co.*, 275 U.S. 415 (1928).

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The National Railroad Passenger Corporation, commonly known as Amtrak, may serve as a useful model for structural and organizational purposes. Congress created Amtrak in 1970 to avoid the threatened extinction of intercity passenger trains in the United States.[13] Legislation creating Amtrak set forth its structure and powers and outlined "procedures under which Amtrak [would] relieve private railroads of passenger service obligations and provide intercity and commuter rail passenger service itself."[14] Congress conceived Amtrak as "a for profit corporation."[15]

To the extent that federal law does not provide otherwise, Amtrak is incorporated under the District of Columbia Business Corporation Act, D.C. Code Ann. § 29-301 *et seq.* Federal law does set forth Amtrak's structure, providing for nine board members serving five-year terms.[16] In addition to the Secretary of Transportation and the president of Amtrak, the President of the United States appoints seven individuals to the Amtrak board, with the advice and consent of the Senate and after consulting with certain enumerated congressional leaders to ensure the board's geographic balance.[17] The Amtrak board of directors appoints a president and other officers.[18]

As another example, Congress created the United States Railway Association ("USRA") in 1974 as a non-profit corporation tasked with handling the orderly bankruptcies and reorganizations of almost all of the private railroads in the northeast into the Consolidated Rail Corporation ("Conrail").[19] The President of the United States, with the advice and consent of the Senate, appointed all eleven members of the USRA board of directors, eight of whom were private sector representatives and three of whom were federal officials.[20] USRA consolidated eight bankrupt railroads into Conrail, which itself was a federally chartered corporation.[21] Conrail re-privatized as a for-profit corporation in 1987.

In the case of multi-state freight corporations, Congress could establish a quasi-private, federally chartered corporation or corporations with the statutory authority to plan, improve, and operate multi-state freight facilities or system of facilities. The entity or entities could be set up on a regional basis, or could be a central service provider to multiple regions. In the corporation's chartering

[13] *See generally Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 384-86 (1995).

[14] *Id.*, citing Rail Passenger Service Act of 1970, 84 Stat. 1328.

[15] 49 U.S.C. § 24301(a)(2).

[16] *Id.* § 24302(a)(1).

[17] *Id.* § 24302(a)(2).

[18] *Id.* § 24303.

[19] *See generally* 45 U.S.C. § 701 *et seq.*

[20] *See* John E. Harr, *The Great Railroad Crisis: An Administrative History of the United States Railway Association* (National Academy of Public Administration, March 1978).

[21] *See* 45 U.S.C. § 741, *et seq.*

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legislation, Congress could provide that this entity have the power to enter into cooperative agreements with states to operate freight-related facilities, such as roads, inspection facilities, terminals, or access to terminals.

Alternatively, or in addition to these activities, the corporation could carry out specific tasks on behalf of the states on a fee for services basis (or with the revenues collected from its operations). This could include planning a multi-state freight system, working with local office and industry representatives, coordinating with other transportation systems, or any other activity. The corporation could even carry out services for federal transportation agencies having a role in freight and freight systems.

Fees could be collected from each state individually or cooperatively through the federal government. Many agencies have the ability to pool funds with states and other entities. Pooled funds are paid into a federal account and then used for a common purpose. An example of a pooled fund provision is that for research, development and technology authorized by 23 U.S.C. § 502(b)(6). Intended to "promote effective utilization of available resources," the pooled fund promotes cooperation between certain federal, state, and local actors in the funding of activities of mutual interest.[22] This approach might be a useful way to avoid state constraints on spending money out-of-state when the services performed are for the system, but beyond an individual state's boundaries.

By making state officials ex-officio board members of the federal corporation (and the regional organizations, depending on the structure), each relevant state could be ensured representation. By adding board members where appropriate, the federally chartered corporation could be established to allow the entity to expand should certain states decide to participate in national or regional corporations in the future.

As a federally chartered corporation, this model would not result in a mini-department of freight transportation, but rather a quasi-private service provider. The national and regional corporations could more readily focus on gaps in the freight transportation system and form cooperative relationships with existing public and private transportation providers. As with all the other approaches, it would face several challenges:

- Political consensus. While creation of a federally chartered corporation would certainly be easier than forming an interstate compact, this would be a wholly new and different kind of institution. The existing analogies have very different functions. Explaining the role of this institution might prove difficult or result in unpalatable legislative "safeguards." It would take careful thought and considerable effort to build consensus for this approach among the states, the federal government, and the freight industry.

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[22] 23 U.S.C. § 502(b)(6).

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- Funding. If Congress provides by statute that the corporation be self-sustaining through the collection of fees or taxes (such as motor fuel taxes or vehicle-miles of travel fees), then the corporation could be in competition with its constituent states and federal government for revenues. Some federally chartered corporations have fared well, but others such as Amtrak, have struggled to obtain adequate funding.

- Regulatory powers. The corporation would likely not be able to exercise regulatory powers because federally enabled corporations are not expressly governmental and would not have the same powers as a federal agency or an interstate compact. This could, however, be a positive feature. It might be easier to build consensus for a federally enabled corporation that serves the needs of the states without requiring the states to relinquish their regulatory powers than to cobble together the political will necessary to form an interstate compact or federal freight project office with regulatory powers.

- Balancing benefits, costs, and risks. In any multi-jurisdictional approach, inequities will arise with certain participating jurisdictions having to provide transportation facilities, but not receiving an equal share of economic benefit, while other jurisdictions enjoy a disproportionate share of the benefits. Any model must equitably share the costs and benefits of a multi-jurisdictional system that provides for the planning and implementation of a coherent system responsive to the needs of the country or multi-state region. In creating the federally chartered corporation, Congress would have broad powers to address these inequities through chartering legislation, potentially avoiding inefficient multi-party disputes over cost-sharing. Congress could also specify that the federally chartered corporation be self-sustaining through taxes and fees. Amtrak provides an intriguing, but heretofore fiscally challenged, model of a national interstate transportation system that balances state and regional operational and capital investment needs.

- Jurisdictional "citizenship." A federally chartered corporation is generally subject to the applicable laws of the state in which it conducts its business and holds property, unless Congress provides otherwise in its chartering legislation. However, where the performance of the federally chartered corporation conflicts with state law, the authority of the federal government generally preempts the state law.[23] This preemptive effect lends a federally chartered corporation certain advantages over other organizational structures discussed herein. However, as compared to traditional state-chartered corporations, federally chartered corporations often receive less favorable jurisdictional treatment in the courts.[24] Federally chartered corporations no longer have preferred access to federal courts as a result of their federal

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[23] *See, e.g.*, *Pittman v. Home Owners' Loan Corp. of Wash., D.C.*, 308 U.S. 21 (1939).

[24] *See generally*, Paul E. Lund, *Federally Chartered Corporations and Federal Jurisdiction*, 36 Fla. St. U. L. Rev. 317 (2009).

status. For purposes of diversity jurisdiction and access to federal courts, state-chartered corporations are "citizens" of up to two states: the state in which it is incorporated and the state in which it maintains its principal place of business. Courts have determined that many federally chartered corporations are national citizens only, lacking state citizenship for the purposes of diversity jurisdiction, and therefore limiting access to the federal court system. In creating any federally chartered organization contemplated herein, Congress should be cognizant of these issues and clearly define statutorily the citizenship of the organization for jurisdictional purposes.

This approach offers advantages because it is the most flexible of the three models for establishing a multi-state freight organization. However, to make this approach work, there would have to be a set of defined activities that the corporation could carry out, not so much for a legal reason, but because more than the other organizational formats, this entity would require a clear income stream to function.

Table 3.1 provides a summary of the general responsibilities and requirements, legal advantages and opportunities, and legal obstacles and challenges of each model.

Table 3.1 Summary of Legal Frameworks for Multi-State Freight Transportation Organizations

Model	General Responsibilities and Requirements	Legal Advantages and Opportunities	Legal Obstacles and Challenges	Examples
Multi-State Freight Organizations organized Pursuant to Federal Grant Conditions Administered by a Federal Project Office	• Congressional consent needed to operate on a multi-state basis under the U.S. Constitution • States required to create the authority to participate in the federal program • Implements federal law establishing the program, issues appropriate regulations and guidance for the program, monitors eligibility for grant funding, and provides general program oversight and assistance.	• Ensures consistency of approach and provides a useful degree of oversight • Ability to maintain program momentum because of office with continual focus • Precedent for federal government taking lead in establishing new transportation programs	• Significant legislative time and effort required to realize a complicated freight program of broad scope and reach • Little interest in new federal program • Large grant of funds may be required up front • Difficulty in balancing benefits, costs, and risks of implementation • Challenge in addressing jurisdictional gaps and overlaps • Statues may prove difficult to modify once federal legislation is in place	• EPA Chesapeake Bay Program Office • Federally established MPO structure
Multi-State Freight Organizations created through Interstate Compacts	• Congressional consent generally required (if established without implicating federal responsibility, congressional consent might be avoided however this is unlikely) • Can have the authority of state and federal statutes as well as contracts • Purpose may range from planning with responsibilities for implementation to direct participation in development and regulation including construction and operations • Governing board comprised of representatives from each participating state, professional staff to carry out authorized duties and activities	• Wide flexibility to tailor roles, responsibilities, and jurisdictions to specific needs and conditions • Ability to directly negotiate and structure the agreement to fit the specific need of the geographic region • Supersedes inconsistent state laws to the extent recognized in federal law • Potential to obtain advanced congressional consent but without attaching the consent to a grant program • Meets goal of creating a mini-department of transportation with limited powers, operating across state lines	• Multiple layers of approval required for substantively identical legislation and the delay in obtaining the approval • Ability to derive adequate revenue from operations • Challenges to balancing benefits, costs, and risks of implementation • Need to address jurisdictional gaps and overlaps • Limited flexibility for modifications to the powers and operations of the institution once its approved	• Port Authority of New York & New Jersey

Model	General Responsibilities and Requirements	Legal Advantages and Opportunities	Legal Obstacles and Challenges	Examples
Multi-State Freight Organizations enabled as Federally Chartered Organizations	• Power to enter into cooperative agreements with states (if provided by Congress) • Ability to carry out specific tasks on behalf of the states for a fee • Subject to the applicable laws of the state in which it conducts business and holds property • In the case of a federal corporation, federal law preempts state law • Functions like a service organization for implementing and operating freight transportation improvements	• Provides flexibility but a set of defined activities is needed • Ability to pool funds with states and other entities to use for a common purpose • Chartering legislation can address inequities to avoid inefficient multi-party dispute over cost-sharing issues • Potentially easier to build consensus for federal corporation than to cobble together political will for other models	• Explaining the role of the corporation might prove difficult or result in unpalatable legislative safeguards • Could be in competition with constituent states and federal government for revenue • Unable to exercise regulatory power because federally enabled corporation is not expressly governmental • Difficulty in sharing costs and benefits of a multijurisdictional system • Federally chartered corporation often receives less favorable jurisdictional treatment in court	• National Railroad Passenger Corporation (Amtrak) • U.S. Railway Association

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4.0 Developing a Successful Multi-State Freight Organization

4.1 Conclusions

Each of the three models has significant strengths and weaknesses; however, the research findings suggest that creating multi-state freight organizations through a federally chartered organization might be the most practical approach to achieving organizations that can develop and implement long-term freight transportation investment plans. This approach would require the following:

- **Multi-state freight policy guidance.** As part of additional specific legislation providing for institutions that have the responsibility of developing, constructing, operating and otherwise enabling multi-state freight transportation facilities, federal legislation could establish national freight policy that provides a framework and general goals for multi-state freight transportation activities. While such a policy may not create mandatory requirements, it would provide important guidance and inform the actions that might be taken by federally chartered corporations or other multi-state freight entities.

- **Congressional action to create a federally chartered, national freight transportation corporation and subsidiary, multi-state freight transportation corporations or entities.** Federal legislation could charter a national freight transportation corporation and enable the formation over time of subsidiary multi-state corporations or similar entities. The national umbrella organization could operate alongside and through the subsidiary multi-state entities, which could be organized around multi-state freightsheds or major freight corridors. The two-tier structure could ensure a national perspective but enable states to form regional entities where consensus emerges among states on the need to coordinate freight planning, investment, and operations along a specific freight corridor or across a defined region. The facilities and services could vary from region to region depending on the transportation needs of a particular region or freight transportation mode.

- **Defined roles and responsibilities for multi-state freight organizations.** The legislation could define the roles and responsibilities of multi-state freight organizations to include consideration and implementation of multi-state freight transportation plans and programs covering policy coordination, planning, capital investment, operations, research, and education across jurisdictional lines.

To allow for the evolution of the organizations as freight needs change over time, the roles and responsibilities of the national corporation might be drawn somewhat broadly, but the permitted roles and responsibilities of the regional corporations, where most of the functional work would take place, could be attuned to local and regional needs and practices.

It is anticipated that the plans and programs would serve the needs to the constituent states, metropolitan areas, and private sector freight transportation providers and be paid for on a fee-for-services basis. The services would be reimbursed in a manner allowing for equitable cost sharing that reflects the relative benefits, costs, and risks accruing to each of the involved jurisdictions and private providers.

The roles, responsibilities, and scope of both the national and regional entities would be likely to change over time as the freight transportation system evolves. Since the national and regional entities would only provide services for which they were reimbursed, the services provided would reflect current and future needs consistent with state and local plans and the operations of private transportation providers.

- **Federal, state, and private sector participation in the governance of corporations.** The national and regional entities could be governed by boards composed of representatives from both public agencies and the private sector. The function of these boards would be to develop services and operational capabilities that supplement and integrate those already provided by governmental transportation programs and private transportation providers. Federal legislation establishing the freight transportation corporations could provide for balanced participation by the federal government, state governments, and private sector freight transportation interests. A federal role and participation in the national corporation would be critical to address national capacity and connectivity, but strong state and private sector representation in the regional multi-state entities would be necessary to ensure commitment to and utilization of these organizations.
- **Professional staff within each of the regional corporations, and a small national staff to support policy coordination, research, and education.** Professional staffing of the national and regional corporations would be necessary to provide continuity and ensure the value and quality of services provided to the member jurisdictions. The focus would be on staffing the regional freight corporations, with minimal staffing of the national corporation sufficient to provide coordination and shared access to research and educational work.
- **Ability to accept and pool funding and fees for service from an array of federal, state and private sources.** Sustaining a multi-state freight

organization would require a broad base of funding since it would be providing services primarily to states, metropolitan areas, and the U.S. DOT. It is critical that the organizations have the ability to pool funds with other states and other entities to use for a common purpose.

The key problem identified in this report was the difficulty of funding and operating multi-state freight institutions across state lines in multiple jurisdictions. While enacting legislation that creates new, federally chartered entities might take considerable time and effort, it's possible this could be completed in a far timelier manner than would likely be needed to adopt a system of regional, multi-state interstate compacts or an entirely new federal program, together with a new federal agency or project office.

As noted in the introduction, creating organizations that can address freight movement along key corridors without impeding growth is paramount to maintaining the economic well-being of the nation and the nation's position in the global economy. The approach of creating those organizations through a federally chartered corporation operating through state-driven regional freight corporations could help ensure public sector planning and investment at a geographic scale that matches current economic regions and freight carrier markets.

4.2 RESEARCH RECOMMENDATIONS

This study has looked very generally at approaches to creating multi-state freight organizations. A logical next step would be to develop case studies, extrapolating from existing organizations, illustrating how the regional organizations as envisioned would operate. How many organizations would form over the next decade? Into what planning, capital investment, and operations activities would they enter? What would their organization and bylaws look like? What level of funding would be needed to sustain them? What would draft legislation to enable the organization contain?