CREATING A ROBUST AMERICAN PASSENGER RAIL SYSTEM

Source: Alstom

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DISCLAIMER

The intent of this document is to encourage a national conversation about how to modernize and expand the U.S. passenger rail system and move the country past the current model for providing passenger rail service. We do not claim to have a monopoly on ideas for accomplishing this.

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EXECUTIVE SUMMARY

Let's face it: Intercity travel in the U.S. today has become a miserable experience.

Highways are crowded and dangerous, killing 42 thousand travelers per year. Non-highway travel modes are safer and usually faster, but they suffer from limitations of their own.

The ostensibly speediest mode, commercial air travel, fails to live up to its promise for shorter trips because of elements that prolong the actual door-to-door travel time. Most American airports can be accessed only by highway. Time driving to the airport and parking plus long check-in lines adds considerable travel time in all but airports serving smaller cities and metro areas.

The third and *potentially most effective* travel mode, intercity passenger trains, barely exists in the U.S. Frequencies are few, trains are slow, and schedule-keeping is unreliable. Unlike highways and aviation, passenger rail in the U.S. suffers from a fragmented service with too few routes and frequencies. It further lacks a comprehensive, interconnected network to form a system comparable to highways and aviation.

Highways and aviation also enjoy well-funded, government-owned infrastructure, which invites participation by multiple and often competing private interests. Passenger rail suffers from a unique "dual monopoly" on routes outside the Northeast Corridor (NEC), infrastructure is supplied primarily by one or more private host freight railroads while Amtrak is the only intercity operator of trains. Amtrak is in a unique position to negotiate for access to deliver limited passenger services, but at great cost to the public and riders. The need is increasingly for dedicated passenger service tracks, which a few states have been able to advance with support from federal partners. Other countries have benefitted when these passenger tracks are made available through "open access" to competitive passenger rail ventures.

In much of the nation today, intercity passenger travel choices are few, expensive, slow, unreliable, and inconvenient. Many places are now transportation deserts as public transportation atrophies. Deregulation of airlines gave us more competition and low fares for a time, but then a wave of consolidations and cost-cutting led to a significant reduction in service to smaller cities, more forced transfers, longer layovers, crowded airports and planes, and fewer amenities. Intercity bus service has been declining for 60 years. Greyhound stations are being sold and stops moved to more remote locations that are less transit-accessible.

Likewise, urban public transit is neither convenient nor frequent in most cities, does not reach large parts of the metro areas they serve, and does not always connect well with intercity transportation modes.

Rail passenger service has shrunk to a sub-skeletal level that leaves many cities off the map and operates once or less daily in much of the country. Several states are only served at night. Outside of the NEC and a few state-supported services, trains are infrequent, slow, late, and worn out.

Our national rail passenger system is at a crossroad. While a majority of Americans support more and better passenger rail service, the model the country uses to provide it is deeply flawed and incapable of developing a robust, modern network. Responsibilities are left to individual states or rare multistate coalitions to deliver service. We are left with a great need for a national vision with dedicated capital and operating funding to advance interstate planning and investment.

This leaves the auto as the only practical form of transportation for the vast majority of trips over distances shorter than 300 miles. Yet, because most travelers are forced to drive, we are paying in the form of large personal investment in the ownership and maintenance of automobiles, an

overwhelmed highway system, huge costs for highway maintenance and new lane-miles, inefficient structures for personal and business travel, along with societal costs such as asthma induced by vehicle exhaust in urban areas, noise pollution, over 2 ¼ million car accident injuries annually[1] (many life-altering), and hazardous travel conditions.

Perhaps most dangerous of all, and paradoxically in a nation with a huge highway and airline system, large areas of the U.S. are effectively becoming isolated, leaving the U.S. drifting toward the formation of two national cultures—one consisting of urban areas with more jobs, amenities, transportation, service and education access, and the other made up of struggling rural areas and small cities with few amenities and no transportation options other than driving.

An invigorated passenger rail industry can help reconnect the country.[2] In particular, it can help restore a vigorous small-town life, which is essential to the nation's cultural and political health. Aviation and highway travel may be abetting this divide by forcing economic activity out of town by the Interstate or the nearest airport. Other countries have settled into a natural investment balance between highway, air, and passenger rail modes. Our country's transportation investment mix is decidedly unbalanced. This in spite of the fact that population and job densities in the US megaregions are comparable to Europe and, in some places, Asia.

A network of robust, market-responsive passenger rail services in the US would:

1) Alleviate pressure on over-burdened highway and aviation systems.
2) Provide more transportation freedom throughout the country, especially as the cost of driving is increasingly a financial burden on American households.[3]
3) Improve the travel experience by creating more choices, with modern passenger rail services with the speed, frequency, personal comforts, and amenities desired by the public.
4) Address generational changes which have brought about a market shift that demands more options to driving.[4]
5) Maintain mobility for individuals who can't or don't want to drive.
6) Contribute to the revitalization of downtowns in cities large and small through economic development and job creation around station sites.
7) Reduce greenhouse gas emissions while promoting development. Passenger rail investments promote development and economic growth while also reducing greenhouse gas emissions and improving quality of life for citizens by offering them more freedom to choose how they want to travel.

The root of the problem with our passenger rail system is the policy inequity between how our highway and aviation systems are structured and how our passenger rail system is structured. Until this policy inequity is addressed, the U.S. passenger rail system will remain slow, skeletal, unreliable, and unable to reach its full potential. **There is no tinkering with Amtrak's enabling legislation that will result in growth and modernization of passenger rail without comprehensive federal policy reform.**

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[1] USDOT National Highway Traffic and Safety Administration, Overview of Motor Vehicle Traffic Crashes in 2022, https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813560

[2] Johnston, Bob (2023, January 11), Amtrak officials outline new goals, initiatives at public board meeting, Trains Magazine, https://www.trains.com/trn/news-reviews/news-wire/amtrak-officials-outline-new-goals-initiatives-at-public-board-meeting/

[3] Wilson, Kea, Study (2024, March 25) How Car Ownership is Keeping Americans from Financial Stability https://usa.streetsblog.org/2024/03/25/study-how-car-ownership-is-keeping-americans-from-financial-stability, March 23, 2024

[4] Nicholson-Messmer, Elija, (2025, January 16) Nearly half of young Americans don't want to own a car https://www.miami-herald.com/news/business/article298661878.html Miami Herald

Fixing America's passenger rail system will require:

1. Establishing a permanent, dedicated funding mechanism that is comparable in size and scope to the Highway Trust Fund.
2. Constructing dedicated, publicly-owned tracks for passenger trains that are segregated from private freight traffic.
3. Opening the publicly-owned, passenger-only tracks to private competition through franchising and bidding.
4. Creating new alignments where curvy, 19th-century infrastructure prevents trains from offering automobile-competitive speeds.
5. Creating a federal passenger rail program that functions as well as the federal highway and aviation programs.
6. Creating a stronger federal role (note: stronger does not mean exclusive) in the establishment of interstate passenger rail routes and services, rather than relying solely on states. A national passenger rail authority is suggested as a possible mechanism to accomplish this.
7. Building a comprehensive passenger rail network that allows people to travel throughout the nation like they are able to do with the interstate highway and aviation networks.
8. Streamlining the National Environmental Policy Act (NEPA) to remove unnecessary hurdles and speed up projects.

PROBLEM STATEMENT

The United States lags behind nearly every other developed nation (and an increasing number of developing ones) in the quality of its passenger rail network. Plagued by lack of investment in infrastructure and reliance on a model that is incapable of delivering a modern, robust network, we have a system that, outside of the Northeast Corridor, is slow, infrequent, and far too skeletal to capture a significant share of the U.S. travel market (or to further the national unity that mass mobility systems historically have sustained).

The History that Brought Us the Current Passenger Rail Network and Management

Historically, the U.S. relied on a model of private investment to develop passenger and freight rail capabilities. Because the young republic lacked capital for public works, it turned to private capitalists in Europe for the funds necessary for developing the new rail technology. From the 1830s forward, virtually all U.S. railroads were built by private corporations, and while many of them competed from end to end—such as New York to St. Louis—they also exerted monopoly power because most cities between major end points were served by only one railroad, so most passengers and most of the industries that relied on rail transportation had access to only one carrier.

This model worked until government capital became available to finance infrastructure for competing modes. Private capital developed the automobile and the airplane, but it was government capital that built the infrastructure on which they operate. It was this government investment that made them available to the public. The result was that air and highway travel became increasingly more effective in the market. Railroads did not decline solely because of a market outcome. When one industry that is dependent upon private capital has to compete with industries that receive generous public capital; and where the public sector owns the infrastructure, the industry that is dependent upon privately-financed, privately-owned infrastructure cannot effectively compete.

Furthermore, the railroads were subject to a unique liability from which their air and highway competitors were spared: they had to pay county property taxes on every foot of operating right-of-way they owned. It was a contest the privately-operated passenger trains could not win.

The result of this disparity was the decline of American passenger rail service. By 1970 it was on its deathbed. It was then that Congress stepped in and began debating what became known as the Rail Passenger Service Act (RailPax) that created Amtrak, which began operating a much downsized and skeletal system of passenger trains on May 1, 1971.

The problem with RailPax is that it did nothing to address the inequities between how public policy treats highways and aviation compared to passenger rail. This is why American passenger rail development continues to languish compared to other nations and why Amtrak's service remains skeletal, slow, and unreliable. If we want to succeed in developing a modern, robust, national passenger rail network, we must emulate the highway and aviation models with generously funded passenger rail-only tracks on which private operators can compete to offer service.

Other Structural Flaws of the Existing Model

1) Amtrak's enabling legislation is not designed to foster growth and deliver the nation a robust, modern, national system of passenger trains. It was designed to take over a fraction of the passenger rail network that once existed and run it on private railroad infrastructure that, outside of the NEC, has been significantly downsized and is best suited for freight service.
2) It lacks the key components that have made the highway and aviation systems successful:
    a. A well-funded, dedicated federal trust fund to build dedicated, public infrastructure for passenger trains;
    b. A federal entity with a clear mandate to consult with states on the design of a modern, robust national network and fund its construction.
3) Lack of vision. Amtrak generally argues that passenger rail service can only be expanded if states ask for it and pay for it. Because of the absence of a coherent federal program with dedicated funding and a clear vision for modernization and growth, it's the easiest place for Amtrak to go if they want to expand service. It's problematic because there is no overall national vision for passenger rail service. Furthermore, adjacent states often disagree strongly on the need for passenger rail service, with one or more critical states refusing to help fund a needed buildup on a multi-state corridor. The following are examples:
    a. The popular *Wolverine* service between Chicago and Detroit, which is supported by Illinois and Michigan, is stuck at three daily round trips in part because Indiana has elected not to support the service. A shared investment is needed to improve track conditions, availability and reliability between the Chicago city limits and Porter, Indiana (where Amtrak line ownership extends into Michigan). Indiana also has elected not to support investments in passenger service in the Chicago-Indianapolis-Louisville and Chicago-Indianapolis-Cincinnati corridors, inhibiting economic development in a potentially booming cluster of Midwestern cities.
    b. New Hampshire has not contributed to the development and operation of the Downeaster Corridor between Boston, MA and Portland ME.
    c. Development of the Gulf Coast Corridor between Mobile, AL and New Orleans, LA has suffered years of delays, in part because the state of Alabama has not committed funds to the project. The city of Mobile has been left to fund the state's share, but disagreements that have occurred on the city council have caused delays.[5]

In addition, Amtrak must ask Congress every year for the funding required to operate the existing system while often dealing with a few legislators—and occasionally Presidents—who threaten to zero out its funding. The result is that Amtrak's budget is subject to political compromise which, more often than not, provides the company with just enough funding to keep the existing system running but not enough to expand frequencies, build high-speed corridors, or integrate discrete lines into a true and reliable network where trains make tightly scheduled connections at key junctions. In fact, Amtrak's annual appropriation is so small and its legislative remit so murky that the company finds it difficult to keep equipment in a state of good repair or improve speed and reliability outside of the NEC.

[5] Johnston, Bob, (2024, March 18) Gulf Coast impasse at Mobile remains unresolved, Analysis, Trains Magazine, https://www.trains.com/trn/news-reviews/news-wire/gulf-coast-impasse-at-mobile-remains-unresolved-analysis/

A federal role is necessary to overcome competing state interests and clear the way to implement interstate projects. The Commerce Clause of the U.S. Constitution applies here[6]. Federal funding is also important because federal spending priorities influence the programs in which the states are willing to invest. History has proven this with passenger rail. There have been only two times since Amtrak's creation when state interest in passenger rail has surged beyond the few states that already fund trains. The first was after the passage American Recovery and Reinvestment Act of 2009, which provided $8 billion for passenger rail development. State applications for federal funding exceeded the funds available. The second time was following the passage of the in Infrastructure and Jobs Act (IIJA) of 2021, which provided $66 billion. As of January 2025, approximately half of IIJA funds have been committed, and this funding supports 69 ongoing studies for new and enhanced intercity passenger rail services nationally.

RESTRUCTURING PASSENGER RAIL IN THE UNITED STATES

The country's highway and aviation systems have been successful because of a federal commitment to finance public infrastructure on which private operators are provided access. Each system has a trust fund that pays a substantial portion of its capital costs. Rather than being expected to turn a profit for the federal government, the net economic benefit and public utility each system provides have been, and remain, the goals of their creation and the definition of their success. The government-owned highways and airports operate at a loss, but the motor carriers, the airlines and the airport parking, and the restaurants and retail concessions that depend on them are flourishing businesses that contribute generously to the federal, state, and local tax bases.

A federally-funded, robust and well-designed network of passenger-rail infrastructure could make an equal or greater contribution to the economy, with a positive impact particularly on populations left neglected by the boom in highways and airways. Because most railroad stations are located in or near historic central business districts, a thriving passenger-rail business can serve as a driver of urban restoration and redevelopment for communities that have been depopulated and impoverished by federally subsidized development of highway-dependent suburbs. New stations along a modern passenger rail network will focus many billions of dollars in economic development along the routes.

A Big Role for the Private Sector

Federal sponsorship and planning does not exclude participation by private actors. Just as federally funded highways, airways and airports are used by private-sector carriers, and airports charge airlines access fees, host parking and retail concessionaires; a publicly-owned passenger-rail infrastructure can sell operating "slots" to private-sector operators of passenger trains, offer concessions at stations, and sell air rights over stations for further development.

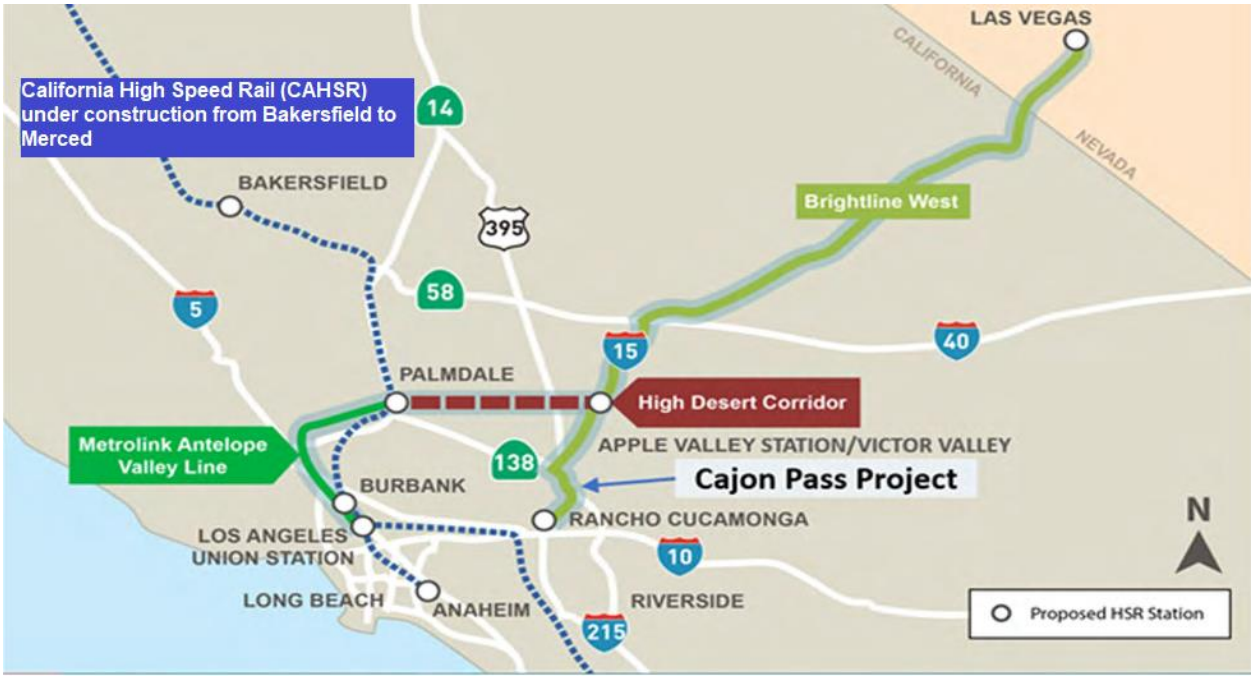
[6] Constitution Annotated, https://constitution.congress.gov/browse/essay/artI-S8-C3-1/ALDE_00013403/, Accessed on 2/12/25

The "Brightline Model"

The for-profit company Brightline is currently operating a passenger rail line in Florida between Miami and Orlando using both tracks it shares with the private Florida East Coast Railroad and tracks it paid to construct. The same company is also in the process of constructing a Las Vegas-Southern California (SoCal) high-speed rail line which will use state-owned right-of-way on the alignment of Interstate 15.

Brightline is a public-private partnership model as the company has benefitted from public investment. Specifically, the Miami-Orlando route relied on public funding in the form of tax-exempt bonds (used in the funding mix for construction costs) and a publicly funded, publicly owned station at Orlando Airport. The company's Miami Central Station received some public funds for its construction as well. The Las Vegas-SoCal route (now under construction) has received $3 billion in federal funding from the 2021 IIJA. Furthermore, the line will eventually access downtown Los Angeles over planned public infrastructure to be built by the High Desert Corridor Authority and the California High Speed Rail Authority, the latter of which is currently under construction (**Figure 1**).

Figure 1



Brightline West, High Desert Corridor, and the California HSR projects.

Brightline uses the trains as a catalyst for real estate development at and around stations, generating a substantial portion of its income stream.

The Brightline Model cannot replace the need for federal involvement to plan and fund the construction of a comprehensive, nationwide passenger rail network. This is because the Brightline Model will only work on the most financially lucrative routes, resulting in a system that is not fully inter-connected. Furthermore, Brightline has already demonstrated that even these routes will require a form of public support.

Using Government Infrastructure to Promote Private Competition

There are real-world examples that can help inform the United States as it decides how to chart a path forward. Perhaps the best example is from the European Union. Historically, the passenger-train business model in Europe was a sort of double monopoly: each national government owned all of the railroad tracks in the country, and the track owner also operated all of the trains on its tracks.

Over the past 20 years; however, the EU has taken legislative steps to end state monopoly control of passenger rail operations by mandating open access to state-owned railway networks.[7] On the deregulated European rail network, privately owned train operating companies (TOCs) purchase operating "slots" from the nationalized track owner, paying the state track-occupancy charges based on the number, type, and speed of trains it operates. There are also provisions for "public service obligation" (PSO) contracts. PSO's are used to provide train service on routes that require operating subsidies.[8]

Deregulation/integration of the European rail network has been under way since 1991. The most significant change came in 2016 when a directive was issued that required member governments to open their railways to competition by 2020. As a result of these changes, the EU currently has, in addition to all the state-owned operators, over a dozen private ones. A few examples are listed below:

1) The private operator Italo operates in competition with Italy's state-owned carrier TrenItalia on the country's high-speed network.
2) Iryo, a public-private consortium jointly owned by state-carrier TrenItalia and the private companies Air Nostrum (a Spanish regional airline) and Globalvia, operates trains on the Spanish high-speed rail network
3) The private operator FlixTrain operates a series of low-fare, bus-like trains on Germany's network.
4) The Italian state carrier, TrenItalia, operates a high-speed route between Milan and Paris and will soon expand to Paris-Marseilles.
5) The French state carrier SNCF operates trains on the Spanish high-speed rail network.
6) The private company European Sleeper has begun offering trans-border night-train service connecting several European cities.

Opening up the EU's rail lines to competition has resulted in several improvements to passenger rail service, including[9]:

1) Increasing ridership
2) Lower fares
3) Improvement in service quality with multiple options being offered: from no-frills service to high-end service with a range of options in-between.

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[7] European Parliament. (2024). Fact Sheets on the European Union: Rail Transport, Retrieved October 2, 2024, from https://www.europarl.europa.eu/factsheets/en/sheet/130/rail-transport

[8] https://www.dentons.com/en/insights/articles/2024/october/9/public-service-obligations-in-transport-regulations-2023, Retrieved on January 31, 2025.

[9] Global Railway Review, New European Commission study confirms benefits of competition in passenger rail, Retrieved November 22, 2024, https://www.globalrailwayreview.com/news/178775/new-european-commission-study-confirms-benefits-of-competition-in-passenger-rail/

ADAPTING THE EUROPEAN MODEL TO THE AMERICAN RAIL ENVIRONMENT.

While we are not suggesting that privately-owned infrastructure currently used for freight rail be nationalized, it is possible for the United States to take lessons from the European model. There are options for constructing publicly-owned, passenger-only tracks.

The "Virginia Model"

On the 127-mile rail corridor between Richmond, Va. and Washington, D.C., the Commonwealth of Virginia is pioneering a novel form of passenger-rail development that multiplies the value of an existing right-of-way already used by Amtrak and a privately owned freight railroad. The alignment, now owned and operated by the CSX Transportation Co., is a typical 100-foot right-of-way, with double tracks occupying half of the footprint but no infrastructure on the other 50 feet. The two existing tracks handle a dozen or more CSX freight trains daily, state-sponsored Amtrak trains, and Amtrak long distance trains.

To increase the number and speed of the state's passenger trains, Virginia purchased the empty half of the alignment from CSX and is using it to build its own track engineered for 110-mph passenger-train operation.[10] The sales agreement allows the Virginia trains to switch to the CSX tracks to accomplish meets and overtakes.

The "Virginia Model" is adaptable throughout the country. Most U.S. railroad rights of way are 100 feet wide, but tracks rarely occupy more than half of the footprint, leaving room for one or more passenger tracks. Additional trackage alone, however, will not be sufficient to leverage the U.S. into a modern passenger-rail network. Highway grade crossings will have to be either closed or replaced with viaducts so that motor vehicles cannot interfere with train operation. Rights-of-way must be fenced off to keep pedestrians and animals off the tracks, at least in populated areas and along high-speed lines. On frequent service lines, catenary must be erected so that clean, silent electric propulsion can replace noisy, polluting diesel locomotives. And, where routes intersect in city centers, modern stations must be built so that trains from different routes can meet on schedules that allow passengers to change trains on a cross-platform basis in as little as 5 minutes.

Existing Highway Alignments.

Where it is feasible, unused portions of highway alignments can be used to construct passenger-only tracks. Brightline is doing this for its planned Orlando-Tampa segment which will utilize the alignment of Interstate 4 for a portion of the route. In southern California and Nevada, Brightline West will use a 209-mile segment of Interstate 15 for its southern California-Las Vegas route.

Dedicated Alignments

Where it is not possible to follow the Virginia Model or use existing highway or rail alignments, construct brand-new, dedicated right-of-way.

[10] Danny Plaugher, Virginians for High-speed Rail, personal communication, 11/22/24

REFORM EXISTING LAWS – Call for a New Passenger Rail Act

Legislative Barriers

Several legislative barriers in existing laws governing Amtrak and passenger rail are preventing prompt development of modern passenger rail infrastructure and services:

1. The lack of a clear direction and definition of what a true national system will look like and how it will perform. Congress defines the current system only with a map. There are no service or performance criteria.
2. The process is state-driven, which makes it cumbersome. States don't operate in a way that incorporates a national or interstate perspective and don't always work well together. Getting multiple states to cooperate on interstate endeavors such as passenger rail is difficult, as one state along a route can thwart an entire effort.
3. There is no growth strategy, timetable or budget. Current legislation establishes cost sharing formulas for state-initiated services and procedures to discontinue a service, but there is no defined vision of what an eventual national system will look like or a timetable for its development.
4. PRIIA and successor legislation assume Amtrak as an operator and states as the primary champion for rail infrastructure. Legislation that promotes public-private infrastructure investment and competition for operators can be expected to reduce public commitments necessary for both capital and operating expenses.
5. Certain provisions of NEPA are cumbersome. Passenger rail projects that would use existing railroad or highway rights-of-way are subject to similar requirements for construction of brand-new right-of-way. Conversion of rail trails and former railroad properties designated as greenways or recreational facilities back to passenger rail use is too difficult.
6. Lack of a dedicated federal funding mechanisms like those that fund highways and airway infrastructure is a major impediment to long-term planning. Again, federal funding is what drives state transportation investment decisions.
7. There are no performance standards such as segregation of freight and passenger tracks, mandating daytime service to all points along a route (this is important for long-distance routes), providing auto-competitive speeds, or providing multiple daily frequencies.
8. There is no provision for competition. Amtrak is essentially a monopoly. The company considers Congress, not the nation's travelers, to be its customer. Amtrak responds to Congress by cutting costs and reducing services rather than courting travelers with greater reliability, more frequencies, and higher performance standards. They are prohibited from launching new services on their own. The result is a company that consistently falls short in service quality.

Proposed Solutions

Congressional legislation must be rewritten to establish *growth* as a central criterion of national passenger-rail reform. Growth means:

- More routes
- More frequencies
- More communities enjoying passenger rail services
- More frequencies scheduled to connect with other routes at junctions
- Multimodal connections at stations.
- More access to capital funding
- More players, *i.e.,* more TOCs to compete for "slots" on each route and multiple TOCs competing on the busiest routes.
- Greater reliability and speed, and better amenities to attract riders.

Mechanisms to Drive Change

- Create a National Passenger Rail Authority (NPRA)
- Create a dedicated passenger rail trust fund to finance construction of a publicly owned network of high-performance railroad tracks to be used exclusively by privately operated passenger trains.
- Reform liability and insurance requirements

Unlike aviation and highway modes, passenger rail does not have a dedicated trust fund which would provide a predictable flow of revenue to allow planning for long-term needs and projects. Instead, passenger rail must rely on the vagaries of the Congressional appropriations process, which is subject to periodic uncertainty, partisan politics, and micro-managing.

Funding must be increased drastically if passenger rail is to attain its highest and best performance and make its full contribution to national mobility and economic growth. This commitment must include a balance of capital and operating funding towards a national vision for dedicated and grade-separated passenger railways. Highways and aviation get significant federal funding each year to expand their fixed facilities and promote growth in both the quantity and quality of services while passenger rail is allocated barely enough to maintain current service levels. We spend as much annually on roads as we did for the first 40 years of Amtrak's existence. If America is to enjoy the same level of mobility as the advanced nations of Europe and Asia, the nation must support passenger rail at a level that permits full exploitation of its potential.

We suggest that Congress commission a study of the issue to devise a means to pay for a trust fund, which should be comparable to the Highway Trust Fund, including the additional Congressional appropriations it receives. Passenger rail must be accorded parity with highways and civil aviation in the contest for congressional funding and must be acknowledged as the technological equal of the other two modes in supporting the nation's mobility. It may be wise to consider converting the $35-billion Railroad Rehabilitation & Improvement Financing loan program to a grant system and use the funds to jump-start the process of building a national system.

Liability

The problem of liability and the cost of liability insurance is a barrier to private companies entering the passenger rail market as operators. Host railroads will not allow a passenger operator to use their infrastructure unless the passenger carrier fully absolves the host railroad of liability and pays for liability insurance. Under federal law, the liability limit for intercity passenger rail operators is $323 million. A solution to this problem is needed, such as instituting liability limits and/or creating a federal insurance pool, similar to the National Flood Insurance Program, for passenger rail operators.

Conversion of Rail Trails Back to Railroad Use

The National Trail Systems Act Revisions of 1983 allowed for the preservation of railroad rights-of-way for use as recreational trails. According to Rails-to-Trails Conservancy, rail trails are supposed to be convertible back to railroad use, should the need arise.[11] Congress should review federal laws and federal case law regarding the conversion of rail trails back to railroad use. Following this review, federal law should be amended, as necessary, to ensure the process of reclaiming rail-trails for passenger rail use is clear, concise, legally protected, and free of potential encumbrances.

Reform the National Environmental Policy Act

There are two areas where NEPA can create difficulties and raise the cost of passenger rail projects:

1. The use of existing, active or unused railroad right-of-way is subject to similar NEPA requirements as a rail line constructed on new right-of-way. If a rail line is already active with freight and/or passenger traffic or unused but intact, constructing additional track for passenger rail use should receive a categorical exemption under NEPA. The state of California provides such an exemption under state environmental laws for active right-of-way, so the idea is not without precedent.
2. When railroad properties are converted to parkland use, NEPA makes it very difficult to convert such properties back to railroad use unless there is no feasible and prudent alternative. Unreasonable impediments to the conversion of such properties back to railroad use should be eliminated, and such conversions should receive a categorical exemption under NEPA.

[11] Rails to Trails Conservancy (2006, July), "Railbanking and Rail Trails: A Legacy for the Future", Retrieved December 25, 2024, https://www.railstotrails.org/resource-library/resources/railbanking-and-rail-trails-a-legacy-for-the-future/.

Reform Existing Legislation Governing Passenger Rail

Legislative reforms should include, but not be limited to, the following elements:

1. The concept that passenger rail infrastructure should be treated like highways and airports, whereby it is considered a public good and access to competing operators is accomplished via user fees such as access charges.
2. The segregation of passenger rail tracks from freight tracks. Exceptions may be made where an existing freight railroad is underutilized to a degree that passenger trains can be operated without interfering with freight operations.
3. Fair compensation to host railroads where access to their property is needed.
4. Creation of a national system that is on a par with the Interstate highway system, reaching the entire contiguous 48 states from coast to coast and border to border.
5. The requirement that all points on a given route be served by multiple frequencies (exact number determined by market/demand analysis and international best practices) at automobile-competitive trip times with options for marketable hours at all points. This implies multiple frequencies on all long-distance routes and hourly or better service between major metropolitan areas in densely-traveled corridors.
6. A “Fix it First” approach: Add service and make improvements on existing routes first (especially on the densely-populated Lake Shore and NY-Florida Corridors), with a goal of 90-mph top speeds in most instances and 110 mph where adequate separation from freight tracks can be achieved. Service goals should also include enough frequencies to offer the schedule flexibility needed to be competitive with other modes.
7. For the most densely-populated travel corridors between major cities, establish a goal of high-speed service on dedicated right-of-way.
8. Infrastructure goals that include:
    a. The segregation of passenger tracks from freight tracks.
    b. The construction of passenger-only right-of-way where it is necessary and where European-style high-speed service is warranted.
    c. Tunneling in mountainous regions to increase average speeds and shorten trip times as a means to make trains automobile-competitive.
9. Adjustment of routes and frequencies on a routine basis as market/demand analyses determine, but without compromising the schedule flexibility travelers need to choose train travel.
10. Designation of interstate routes as a federal funding responsibility, including both long-distance and shorter-distance corridor services.
11. For intrastate-only routes, designation of development responsibility to states with a 90-10 federal funding match for construction.
12. The establishment of a fair framework for negotiating cost sharing between states and a federal rail passenger authority (discussed in the next section) where services overlap on common routes.
13. The creation of a national equipment pool to be managed by a federal passenger rail authority.
14. The establishment of an Essential Rail Services program similar to the Essential Air Services Program that would pay for routes and services connecting rural areas to major population centers.
15. The streamlining of environmental reviews for new track, bridges and facilities that would be constructed within existing railroad or highway rights-of-way.
16. Expansion of the FRA’s grade crossing elimination program with an aggressive schedule and the funding necessary to eliminate as many grade crossings as possible.

National Passenger Rail Authority

Concept

Replace Amtrak with a National Passenger Rail Authority for service to areas outside of the Northeast Corridor (NEC), as defined by Congress. The NEC could also be governed by an authority specific to this area, which is unlike most other regions of the country in terms of population density, service levels, funding, and infrastructure ownership.

Rationale

The current legislative model for passenger rail is not meeting the needs of the traveling public. The primary intent when Railpax was passed was to relieve the railroads of their common carrier obligations to operate passenger service at a time when the industry was on the verge of financial collapse.[12] Subsequent revisions amount to a patchwork of laws which are attempts to address various issues but are not growth or modernization strategies aimed at creating a robust national system.[13] [14]

Endless cutback scenarios over the years led to a siege mentality at Amtrak and an insular management which is slow to adapt and tends to reward cost cutting over improving service quality. This is partly due to Congressional actions but is also caused by the actions of the Amtrak Board of Directors, who hired past managements that focused on cutting service. This approach is prejudicial to growth.

Even when Amtrak is a forward-looking organization (see the Texas high-speed rail initiative, for example), it lacks the tools to meet the goal of a national system and is subject to Congressional tinkering which does not address the larger need for growth. Too much of Amtrak's funding is allocated through a state driven process, which promotes a balkanized system that leaves too many communities unserved and ignores corridors of national, megaregion, and multi-state significance.

We believe the best solution is a national passenger rail authority, with the full powers of other federal authorities and a degree of independence not now possible. It should be modeled after other federal authorities to deliver a far-reaching, truly national system which will meet today's needs.

It's also important to note that in January 2025, the FRA issued the Amtrak Daily Long Distance Service Study. Without a well-defined federal program that includes a robust federal entity with predictable and ample funding, it will be difficult to implement any of these new routes[15].

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[12] Loving Jr., Rush, *The Men Who Loved Trains: The Story of Men Who Battled Greed to Save an Ailing Industry*, Indiana University Press, 2006

[13] HR 6003, Passenger Rail Investment and Improvement Act passed by Congress on June 12, 2008.

[14] U.S. House of Representatives, Conference Report to Accompany H.R. 22 (FAST Act), 114th Congress, First Session, Report 114-357, December 1, 2015 https://www.govinfo.gov/content/pkg/CRPT-114hrpt357/pdf/CRPT-114hrpt357.pdf, p. 384, Accessed on 1/11/24

[15] Federal Railroad Administration, Amtrak Daily Long Distance Service Study, https://fralongdistancerailstudy.org/, January 2025, Accessed on 2/12/25

Goals

a) Design, build and operate a Congressionally-approved national system on a par with the interstate highway system in size and scope. As with the interstate highway system, a national passenger rail system would be designed in cooperation with the states.
b) Establish service to the public on a par with national rail systems in other advanced countries, including:
    - Options for service to all points during marketable hours
    - Greater frequencies
    - Faster service
    - Better amenities
    - Seamless train connections at all junctions
    - Seamless intermodal connections at all stations
    - Convenient connections to strengthened local transit systems.
c) Address mobility, job creation, economic development, energy use, environmental, land use, restoration of urban cores, and other national concerns.

Structure

The Authority would:

a) Focus on the development of interstate passenger rail routes. Intrastate-only routes would be the responsibility of state governments, but would receive a 90% funding match through the Authority for capital projects.
b) Have the ability to fully fund interstate projects itself or through multi-state compacts that wish to carry out passenger rail development.
c) Have the ability to apply for funding from any federal, state, local, or private source.
d) Have the power to exercise the right of eminent domain for the purchase any real estate necessary to carry out the mission of the Authority.
e) Have the power to acquire real estate for the construction of tracks, signals, bridges, stations, intermodal facilities, maintenance facilities, and other incidental needs. Where real estate must be acquired from private railroads, arbitration provisions may be put in place.
f) Have the power to acquire rolling stock, and to operate a designated national rail passenger system and/or award franchises or leases for same. Additionally, the Authority should have the power to build, operate, or contract to other operators connecting services, regardless of mode.
g) Have access to a dedicated, federal infrastructure trust fund.
h) Have the power to levy and collect facility-access fees (track and stations) on contract operators.
i) Have the power to levy and collect passenger ticket taxes.
j) Oversee an Essential Rail Services program.
k) Have the ability to establish a national equipment pool for operators to access for peak use, emergencies, etc.
l) Be granted other powers as Congress may determine necessary or appropriate to carry out the mission of the Authority.

Conclusion

While the federal policy tools currently in place are inadequate for building a modern, robust intercity passenger rail system, the problem is fixable. The nation has successfully tackled important transportation issues in the past and can do so again. For example, Congress addressed the critical need for good roads in the early-20th Century and for interstate highways and airport infrastructure in the mid-20th Century. Today's need for a modern passenger rail system is equally critical to grow the economy, create jobs, improve the quality of life of American citizens, and help address climate concerns all while providing Americans with more freedom of choice in how they want to travel. There are multiple ways to accomplish this goal. The suggestions laid out in this document are intended as a place to start this important national conversation.