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What's In IIJA/BIL Corridor Language For Us?

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First Things First...



STB Proceedings on Gulf Coast a “Bellwether Trial”

- ***Rail Passengers* believes this case is critical to reaffirming host railroads Congressionally-mandated obligation to allow access to Amtrak trains.**
 - Stipulated by Congress as part of deal that relieved RRs of common carrier-obligations.
 - Determining fair and transparent process for Amtrak access is of vital importance to ensuring service expansion.
- **CSX’s claims don’t hold water:**
 - Statements saying it’s being “forced through” ignore six years of data-driven negotiations.
 - CSX has been wildly inconsistent—between \$405 million and \$2.3 billion worth of physical upgrades to accommodate a once-daily train along the 145-mile corridor.
 - FRA-led study found \$118 million worth of infrastructure improvements sufficient.
- **Could Supreme Court ruling in *West Virginia v EPA* neuter STB authority?**



STB Authorities Likely Still Secure Despite *EPA* Case

- ***EPA* decision based on SCOTUS’ finding that EPA exceeded Congressional authority.**
 - “Agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted.”
- **STB is in a different boat.**
 - STB expressly designed and organized by law to be an independent decision-making body on matters relating to surface transportation and especially to freight and passenger rail. STB would be acting well within the unambiguous intent of Congress.
 - *49 U.S. Code § 24308* talks expressly about preference being given to passenger-rail operations unless a freight railroad can affirmatively show that the passenger service would "unreasonably impair" freight service.
 - “The Board **shall** consider when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation.”
- **Even a precedent-setting STB decision in Gulf Coast would NOT go “beyond what Congress could reasonably be understood to have granted.”**



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A Lot Is On The Table Now

[ADVANCED APPROPRIATIONS]

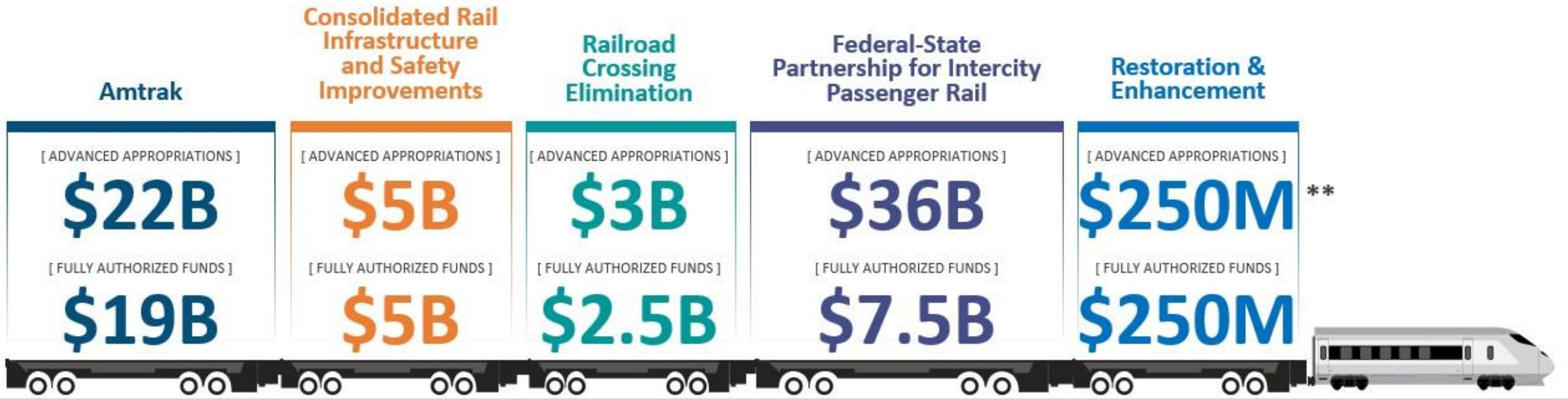
From FY22-FY26

\$66B in total funding

[FULLY AUTHORIZED FUNDS]

From FY22-FY26

\$36B* in total funding



* \$34.5 billion for grant programs; additional \$1.5 billion is authorized for FRA operations and R&D – not included in this graphic.

** Grants for Restoration & Enhancement (advanced appropriations portion) are funded through “takedowns” from Amtrak NN account; not included in totals to avoid double-counting.

[Image via the White House]



Section 22308 of the BIL

- **Section 22308 of the IJA/Jobs Act** (officially HR 3684 – now the *Bipartisan Infrastructure Law*) charges DOT Secretary Pete Buttigieg with delivering a plan within 180 days of the Act’s passage to “establish a program to facilitate the development of intercity passenger rail corridors.”
- To get on the map, eligible entities needed to get ready to be competitive three years ago, **BUT...**
- Entities can still raise their hand with an “Expression of Interest” to FRA.
- **NOTE:** Amtrak **WILL NOT** lead the effort in states with existing state-supported service.



How to Compete and to Win

(1) whether the route was identified as part of a regional or interregional intercity passenger rail systems planning study;

(2) projected ridership, revenues, capital investment, and operating funding requirements;

(3) anticipated environmental, congestion mitigation, and other public benefits;

(4) projected trip times and their competitiveness with other transportation modes;

(5) anticipated positive economic and employment impacts, including development in the areas near passenger stations, historic districts, or other opportunity zones;

(6) committed or anticipated State, regional transportation authority, or other non-Federal funding for operating and capital costs;

(7) benefits to rural communities;

(8) whether the corridor is included in a State's approved State rail plan developed pursuant to chapter 227;

(9) whether the corridor serves historically unserved or underserved and low-income communities or areas of persistent poverty;

(10) whether the corridor would benefit or improve connectivity with existing or planned transportation services of other modes;

(11) whether the corridor connects at least 2 of the 100 most populated metropolitan areas;

(12) whether the corridor would enhance the regional equity and geographic diversity of intercity passenger rail service;

(13) whether the corridor is or would be integrated into the national rail passenger transportation system and whether the corridor would create benefits for other passenger rail routes and services; and

(14) whether a passenger rail operator, including a private rail carrier, has expressed support for the corridor.

Advance Appropriations: NEC and National Network

Dedicated NEC Funding
up to \$30 billion

Multipurpose Funding
(could benefit NEC or NN or neither)
\$8 billion

Dedicated NN Funding
at least \$28 billion

**Amtrak
Northeast
Corridor Grant**

\$6 billion

**Railroad
Crossing
Elimination**

\$3 billion

Amtrak would not be eligible to apply for RCE grant funding directly, but eligible applicants could use such funding in ways that benefit the NEC or the NN.

**Amtrak
National Network Grant**

\$16 billion

**Fed.-State Partnership for
Intercity Passenger Rail:**

Reserved for NEC

not more than
\$24 billion

CRISI

\$5 billion

Amtrak would remain an eligible applicant, and most currently-eligible project types would likewise remain eligible.

**Fed-State Partnership
for Intercity Passenger
Rail:**

Available for NN

at least
\$12 billion

This funding is available for "non-NEC" projects, which could include either Amtrak's National Network or routes not operated by Amtrak.

LEGEND

Grant to Amtrak

FRA Discretionary Grant

[Image via Amtrak]



FRA Discretionary: Federal/State Partnership

- **At Least \$12 billion**

- A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair.
- **NEW** A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary.
- **NEW** A project to expand or establish new intercity passenger rail service.
- A group of related projects as described above.
- **NEW** The planning, environmental review, and final design of an eligible project or group of projects described above. *Corridor expansion and upgrades require state/local entities to apply to competitive grants—mainly Fed-State Partnership Program.*



FRA Discretionary: Consolidated Rail Infrastructure & Safety Improvements

- **At Least \$5 billion**

- Wide range of **capital projects** – such as track, station and equipment improvements, congestion mitigation, grade crossings, and track relocation, and deployment of railroad safety technology.
- Regional rail and Corridor service development plans and corresponding environmental analyses.
- Safety programs and institutes, including workforce development and training activities.
- **NEW** Measures that prevent trespassing and injuries and fatalities associated with trespassing.
- **NEW** Research, development, and testing to advance innovative rail projects.
- **NEW** The preparation of emergency plans for communities through which hazardous materials are transported by rail.
- **NEW** Rehabilitating, remanufacturing, procuring, or overhauling locomotives, provided that such activities result in a significant reduction of emissions.



Identify Capable State & Local Stakeholders

BIL Requires FRA (under delegation from the Secretary) to:

1. Solicit proposals for implementing new or improving existing intercity passenger rail service;
2. Select proposals for development under the Program;
3. For each selected proposal, partner with the entity that submitted such proposal to prepare or update an existing Service Development Plan (SDP), which must include a “corridor project inventory”; and
4. Establish a prioritized “pipeline” of projects that may be implemented with funding provided under FRA’s (and potentially other Federal) capital investment financial assistance programs.

Eligibility includes both short-distance (<750 miles) services, along with increasing the frequency of long-distance service, and restoring service over any route formerly operated by Amtrak.



Identify Capable State & Local Stakeholders

- Amtrak’s \$22 billion in “direct grants” limited to state of good repair:
 - Acquiring new passenger rolling stock for long-distance and state-supported services, including the upgrade and expansion of storage and maintenance facilities;
 - Bringing Amtrak-served stations to full compliance with the Americans with Disabilities Act; and
 - Eliminating the backlog of deferred capital work on Amtrak-owned railroad assets not located on the NEC.
- Corridor expansion and upgrades require state/local entities to apply to competitive grants—mainly ***Fed-State Partnership Program***.



Identify Capable State & Local Stakeholders

- Corridors not included in the FRA's Long-Distance Study will need to find a local sponsor—willing to put up at least 20% local funding match for capital.
- Eligible applicants include:
 - State or group of States
 - Interstate Compact;
 - Public agency or publicly chartered authority established by one or more States;
 - Political subdivision of a State; or
 - Amtrak, acting on its own behalf or under a cooperative agreement with one or more States.
- Initial Notice of Funding Opportunity was released this Summer.
 - Engage with local state and municipal sponsors ASAP;
 - You may miss this window, but there will be a steady stream of funding opportunities over the life of the BIL.



Identify Capable State & Local Stakeholders

- *Rail Passengers* is working to ensure that groups representing the interests of passengers—both at the national and state level—are given a seat at the table in developing key USDOT and FRA programs.
- A key program will be the **Corridor Identification and Development Program** [Sec. 22308] of the BIL
- Also, involvement in the **Long-Distance and Route Restoration** studies
- ENCOURAGE local stakeholders to file “Expressions of Interest” with the Federal Railroad Administration



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Thank you!

Questions?

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