



## FRA and the Potential for Rail Electrification

With the current Administration, rail electrification may finally be on track. Emerging Federal initiatives will provide unprecedented funding for electric-powered trains and related infrastructure. With legislative earmarks running in the billions, the Federal Railroad Administration recognizes the potential for modernizing our nation's rail system.

The Federal Railroad Administration (FRA) was created by the Department of Transportation (DOT) Act of 1966. It is one of ten agencies within the U.S. Department of Transportation concerned with intermodal transportation.<sup>1</sup> The Administration's mission is to "enable the safe, reliable, and efficient movement of people and goods for a strong America, now and in the future."<sup>2</sup>

The FRA is governed by the Passenger Rail Investment, and Improvement Act of 2008 (PRIIA) was enacted in 2008.<sup>3</sup> PRIIA directed the FRA Administrator to "develop a long-range national rail plan consistent with approved State rail plans and the rail needs of the Nation as determined by the Secretary to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people[.]."<sup>4</sup>



The FRA had a legal mandate to complete this long-range National Rail Plan (NRP) by 2010.<sup>5</sup> In developing the NRP, FRA reached out to interested parties through webinars, conference calls, and meetings around the country and accepted public comments.<sup>6</sup> In 2012, the FRA published an NRP Progress Report which describes the results of the Administration's stakeholder engagement efforts and comments on the advancement of its goals: "[W]e are on track to creating a modern, high-speed and interconnected rail system that will support

<sup>1</sup> <https://railroads.dot.gov/about-fra/about-fra>

<sup>2</sup> <https://railroads.dot.gov/about-fra/about-fra>

<sup>3</sup> <https://railroads.dot.gov/elibrary/overview-highlights-and-summary-passenger-rail-investment-and-improvement-act-2008-priia>

<sup>4</sup> <https://railroads.dot.gov/elibrary/overview-highlights-and-summary-passenger-rail-investment-and-improvement-act-2008-priia>

<sup>5</sup> <https://railroads.dot.gov/rail-network-development/planning/national-rail-plan>

<sup>6</sup> <http://www.regulations.gov/#!docketDetail;D=FRA-2010-0020;dct=FR%252BPR%252BN%252BO%252BSR>

sustained economic growth, move people and goods with greater speed and efficiency, relieve growing congestion, and provide another choice for the public's mobility needs."<sup>7</sup>

Despite this positive vision, it is not clear what tangible developments have emerged from the NRP in the nearly one decade since it was published. This was not a priority issue at that time; the report mentions electrification only once. In the context of a national high-speed rail program, "Core Express Corridors" is touted as the "backbone" of a cross-country passenger rail system. These routes would "connect large urban areas up to 500 miles apart" and operate on a publicly owned, electrified track.

Although much of the report's original vision has not yet materialized, the NRP acknowledges that "an infrastructure program that significantly improves and balances America's transportation network will take decades of sustained commitment."<sup>8</sup> That responsibility has been carried by the Fixing America's Surface Transportation Act (FAST Act).<sup>9</sup>

The FAST Act authorized \$305 billion over fiscal years 2016 through 2020 for the DOT programs, including rail.<sup>10</sup> Although the FAST Act was notable in that it authorized more than \$10 billion for intercity passenger and freight rail grants, the 555-page document mentions "electrification" only once.<sup>11</sup> The statute provides the DOT Secretary with the authority to allocate grants to support rail electrification.<sup>12</sup>

However, the FAST Act approaches its sunset this year, and several initiatives have been proposed to take its place.<sup>13</sup> And in these emerging proposals, that much-needed "sustained commitment" recognized by the NRP appears to have finally arrived. Several new Federal initiatives support massive funding and support for rail modernization, providing a unique opportunity to promote and realize rail electrification goals.

The first initiative with real momentum is the INVEST in America Act (INVEST).<sup>14</sup> Although INVEST has passed the House only as of July 7, 2021, this comprehensive legislation garnered key Hill support. It is thought to be the leading contender for replacing the FAST Act.

INVEST addresses provisions related to various Federal transit areas and reauthorizes surface transportation programs, including DOT rail programs. The bill seeks to "enhance the resilience of the surface transportation system..."<sup>15</sup> To that end, in its 1398 pages, INVEST references "electrification" nine times. Most of the sections relate to city bus electrification projects. However, there are other interesting provisions. Section 9102, "Passenger Rail Improvement, Modernization, and Expansion Grants," looks to amend Section 22906 of title 49, United States

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<sup>7</sup> <https://railroads.dot.gov/elibrary/national-rail-plan-progress-report>

<sup>8</sup> <https://railroads.dot.gov/elibrary/national-rail-plan-progress-report>

<sup>9</sup> <https://railroads.dot.gov/legislation/fast-act/fast-act>; <https://www.transportation.gov/fastact>

<sup>10</sup> <https://railroads.dot.gov/legislation/fast-act/fast-act>; <https://www.transportation.gov/fastact>

<sup>11</sup> <https://railroads.dot.gov/legislation/fast-act/fast-act>; <https://www.transportation.gov/fastact>

<sup>12</sup> <https://railroads.dot.gov/legislation/fast-act/fast-act>; <https://www.transportation.gov/fastact>

<sup>13</sup> <https://railroads.dot.gov/legislation/fast-act/fast-act>; <https://www.transportation.gov/fastact>

<sup>14</sup> Full title: "Investing in a New Vision for the Environment and Surface Transportation in America Act or the INVEST in America Act," H.R.3684 — 117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/3684>

<sup>15</sup> Full title: "Investing in a New Vision for the Environment and Surface Transportation in America Act or the INVEST in America Act," H.R.3684 — 117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/3684>

Code, to include language to "improve high-speed rail or intercity rail passenger performance, including... electrification, and other improvements, as determined by the Secretary[.]" Section 9305, "High-Speed Rail Updates," provides language-related to high-speed rail corridor development, including a proposed amendment to Section 26106(e)(2) of title 49, United States Code to include projects that "involve electrification or the purchase of environmentally sensitive, fuel-efficient, and cost-effective passenger rail equipment[.]"

The next initiative with confirmed momentum is The American Jobs Plan (AJP). AJP is President Biden's \$2 trillion infrastructure proposal and the second portion of his three-part "Build Back Better" agenda.<sup>16</sup> Rail highlights of the plan include:

- Transportation infrastructure has a trillion-dollar backlog of needed repairs
- The DOT estimates a repair backlog of \$105 billion, representing more than 5,000 rail cars, 200 stations, and thousands of miles of track, signals, and power systems in need of replacement
- AJP will invest in roads, bridges, ports, airports, transit systems, and rail
- Doubles Federal funding for public transit; expands rail service to new communities and neighborhoods across the country
- Provides a multi-year funding stream for rail to address deferred maintenance, enhance existing corridors, and build new lines in high-potential locations
- Provides \$80 billion to: address Amtrak's repair backlog; modernize the high traffic Northeast Corridor; improve existing corridors and connect new city pairs; and enhance grant and loan programs that support passenger and freight rail safety, efficiency, and electrification
- Establishes a new Grid Deployment Authority at the DOE to leverage existing rights-of-way and create financing tools to spur additional high-voltage transmission lines to build a more resilient electric grid

The most recent initiative of note is The Bipartisan Infrastructure Framework (BIF).<sup>17</sup> On June 24, 2021, the White House announced its support for this proposal and described it as the "largest long-term investment in our infrastructure and competitiveness in nearly a century – an investment that will make our economy more sustainable, resilient, and just."<sup>18</sup>

The \$1.2 trillion plan proposes historic investments in clean transportation infrastructure and aspires to "improve healthy, sustainable transportation options for millions of Americans by modernizing and expanding transit and rail networks across the country while reducing greenhouse gas emissions." If passed, BIF would represent the largest Federal investment in public transit in history and would be "the largest Federal investment in passenger rail since the creation of Amtrak," a record \$66 billion for passenger and freight rail.<sup>19</sup> On July 1, 2021, the White House hosted a Business Leader Meeting to which NEMA was invited. President Biden's senior advisor, Cedric Richmond, provided opening remarks. President Biden's counselor, Steve Ricchetti, led the meeting. Mr. Ricchetti described various aspects of the \$579 Billion

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<sup>16</sup> <https://www.whitehouse.gov/american-jobs-plan/>

<sup>17</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-president-biden-announces-support-for-the-bipartisan-infrastructure-framework/>

<sup>18</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-president-biden-announces-support-for-the-bipartisan-infrastructure-framework/>

<sup>19</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-president-biden-announces-support-for-the-bipartisan-infrastructure-framework/>

framework and how it ties in with the American Jobs Plan. With key congressional supporters from both sides of the aisle, this initiative has real potential for success.

The FRA has taken notice of the BIF and mentioned it in a July 6, 2021 Tweet.<sup>20</sup> It will be interesting to see what opportunities these initiatives will bring to the Administration. With its recent Nominee for Administrator of the Federal Railroad Administration, Department of Transportation, Amit Bose, the FRA could bring about historic changes to rail transportation, hopefully including expansion of and support for rail electrification.<sup>21</sup>