

What Happened To High Speed Rail in America

Testimony of Thomas Hart, Jr.¹

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There have been numerous debates surrounding the high speed rail system that President Obama imagined back in 2009 when he included \$8 billion in his economic and job stimulus package to build a state of the art passenger rail system that would rival those in Europe, Japan and China. Proponents of the project believed that a high speed rail system traveling 250 miles per hour and connecting major U.S. cities would reduce traffic congestion, fuel usage and air travel. The nay-sayers argued that the cost of construction was prohibitive in this economy and that construction costs, maintenance fees and other expenses would fall back on taxpayers.

My remarks will cover the years of the Obama Presidency and will focus on three stakeholders: his Administration; House and Senate Leaders; and Amtrak. Each played a role in getting us where we are today.

I. President Obama's Vision of HSR

The passage of the American Recovery and Reinvestment Act (ARRA) in 2009 was a major milestone in achieving President Obama's vision of a railway system that would be faster, safer and more reliable than Amtrak. That same year, the Federal Railroad Administration released the High Speed Rail Strategic Plan, and Transportation Secretary Ray LaHood announced numerous High Speed Rail Corridors across the country, namely Florida, California, and the Northeast. The program was extremely popular and held bipartisan support from Democrats and Republicans in the House and the Senate. A few of the Republican supporters were John Mica, Mark Kirk, Bill Shuster, George LeMieux and Secretary LaHood. Also in 2011, the FRA released a Notice of Funding Availability for FY10 and ARRA funds that prompted solicitations for an extra \$2 billion in federal funding.

From 2009 to 2011, there was strong support for high-speed rail. In January 2011, John Mica chaired the first hearing by the House Transportation and Infrastructure Committee at Grand Central Station in New York City. The witnesses that testified were former Pennsylvania Governor Ed Rendell and New York City Mayor Michael Bloomberg. Both men were supporters of high-speed rail and agreed that the money needed to be appropriated to the Northeast Corridor. John Mica said, "The one U.S. transportation corridor where high-speed rail makes the most sense [is] the Northeast Corridor."

Soon thereafter, the climate changed and opposition mounted in February 2011 when the Republican Governor of Florida Rick Scott became the third governor to return federal funds for high speed rail - following Scott Walker of Wisconsin, who returned \$810 million, and John Kasich of Ohio, who returned \$400 million in December 2010. Scott returned the largest amount at \$2.4 billion. (Florida was originally granted \$1.5 billion and received additional funding from the rejections of the Ohio and Wisconsin grants.) Governor Scott feared that Florida taxpayers would be stuck with a \$3 billion bill when the federal government funds ran out. All Aboard Florida, a private railway company, is now working to develop a mid-speed train to link Miami to Orlando.

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Other members of the Transportation Committee disagreed with the belief that the money should be focused in one corridor. Democratic Ranking Member Nick Rahall stated that “it was a national vision that led to the creation of the world's most advanced highway and aviation networks.”

In a 2012 article for Politico, I wrote that the Northeast Corridor, California and Las Vegas would be the most viable options for a high speed rail system. I also supported the “Durbin Line” that's to connect Chicago to St. Louis with an “Acela like” passenger train running at enhanced speeds on freight rail tracks. Below is an update on those rail projects.

II. Los Angeles to San Francisco Line

Governor Jerry Brown of California, the FRA and numerous other national and state elected officials and agencies celebrated when construction began in January 2015 to connect Los Angeles and San Francisco by train. The project is expected to offer passenger service by 2025 at speeds of 220 miles per hour. The Superior Court in Sacramento recently dismissed a lawsuit that has held up the project for five years, which became a victory for the state, the CHSRA and the Obama Administration. There are currently 119 miles in the Central Valley Region under construction. A revised 2016 business plan aims to connect the Silicon Valley and the Central Valley as the first phase of the project that is estimated to cost \$64.2 billion. The CHSRA has not yet determined a time line for the next phases of the project. According to Ralph Vartabedian of the *Los Angeles Times*, there will likely be a need for taxpayer dollars to complete the state high-speed rail line. A bid was submitted last year by Ferrovial's Cintra to build the train and they warned that government subsidies would probably be needed for years to come to finish the project. In a 2015 interview with The Hill, California Republican Congressman Jeff Denham said “Not only [does the CHSRA] lack a business plan, but they continue to waste taxpayer dollars without being held accountable...California has no proven ridership numbers.” Conversely, Senator Barbara Boxer is optimistic about her legacy project and recently said the California high-speed rail project is a “bullet train for job creation.”

III. Chicago to St. Louis Line and Other Illinois Lines

Illinois is also making significant progress towards a 284 mile “Acela like” passenger rail line between Chicago and St. Louis. The state initially received \$1.2 billion in federal funds in January of 2010. In 2011, the government gave Illinois \$404.1 million of the reallocated Florida funds, and an additional \$186.3 million for corridor improvements between Dwight and Joliet in January of 2012. When Illinois received an additional \$454 million from the rejected funds in Florida, Governor Quinn, Ranking Member Duckworth, Senator Durbin and Senator Kirk agreed that the funds would be used to purchase new rail cars and equipment for eight corridors serving Illinois and neighboring states. Also, the high-speed rail funds are being used to expedite efforts to replace a bridge over the Mississippi River. The first round of construction began in September, 2010 and they are currently making improvements along the existing Amtrak Lincoln Service Route. The route features a new, beautifully remodeled station in Normal, Illinois that is a mixed use “transit oriented development” project. On August 7, 2010, the state began remodeling Uptown Station, and in 2014, train ridership spiked to an impressive level of 262,000, making it the fourth busiest Amtrak station in the Midwest. Tracks have already been laid for the 284 mile line in Dwight, with double-track in some areas and single-track in others, and there have been 262 miles of new concrete ties put into place. The corridor between Dwight and Pontiac is now operable at a maximum speed of 110 miles per hour and will be expanded in the 200 mile corridor between Dwight and Alton, and thereafter to Joliet by the end of 2017. Thus, Illinois' strong position as a rail hub will continue with these needed advancements.

IV. Los Angeles to Las Vegas Line

Since 2005, XpressWest, formerly Desert Express, has been working with the FRA and several other agencies to develop a fully electric high speed train that will run from Victorville, California to Las Vegas in about 80 minutes at an excess of 150 mph. The trains are expected to eliminate an estimated 25% of existing traffic from the I-15 freeway. Round trip tickets will cost about \$89, which the FRA believes will generate enough revenue for the system to pay for itself. XpressWest plans to be fully inter-operable with the California High Speed Rail Authority which will allow for future service into Burbank, Los Angeles, and Palmdale. The corridor between Victorville, California and Palmdale, California is currently in the final stages of environmental clearance.

V. Why Don't We Have More To Show for the HSR Program?

Although these projects are underway, I believe that there is a sufficient amount of blame to be spread evenly among the nation's stakeholders for the lack of progress on the High Speed Intercity Passenger Rail System.

The first misstep was made by the Administration in designating the Federal Railroad Administration, a safety agency created in 1966, to oversee and administer the HSR program. The FRA had never worked on this type of project before. The FRA had neither the experience, the staff, nor the regulations to quickly and effectively implement the grant or appropriation process to develop a high-speed rail system in the United States. Rather than utilizing the “best practices” of the numerous countries that have effectively developed HSR over the past 50 years, the FRA developed and designed a burdensome and lengthy regulatory process. This is one of the benefits of being the last to market; you can learn from others. The FRA insisted on reinventing the wheel, wasting time and resources.

Furthermore, the FRA had no programs to engage small businesses or Disadvantaged Business Enterprises (DBEs) in the development of high-speed rail. When the project was first announced, there was a huge wave of support from small and minority owned enterprises. Thousands showed up to conferences and rallies for high-speed rail. However, that support died when small businesses were never actively engaged in the project. They wanted to be involved in the beginning, but they were essentially shut out and so they reduced their support and enthusiasm for high-speed rail. To add insult to injury, the FRA is currently undertaking a “disparity study” to design their DBE program. By the time the study is completed, all the money will be gone.

Another valid criticism of the FRA is that they tried to do too much with too little. Pennsylvania Republican Bill Shuster stated that President Obama “took that stimulus money and spread it too thinly across the nation.” By sprinkling the funding around, there was not enough funding to complete major projects that were to be the model for the next generation of rail systems.

When Rick Scott returned the federal grant money, a high-speed rail line in Florida had been three decades in the making. Companies were submitting bids as early as 2003. In 2010, there were at least fifteen different international consortia ready to submit bids to build the line from Orlando to Miami. They opened offices, hired employees and were ready to start construction when the money arrived; however, because of over-regulation by the FRA, EPA and other agencies, the money was held up in the suites and never made it to the streets. What should have taken between six and eight months took two years. The shovels should have been in the ground and jobs created when Governor Scott was elected, which would have prevented him from canceling the project. As it happened, Governors Scott, Walker, and Kasich, as well as the conservative wing of the Republican Party, played right into Amtrak's hands. The FRA lost a huge amount of public and political support because the resources from the stimulus that were designed to create jobs, ended up tied up with newly-created regulations.

The federal government also made a mistake in reallocating the money to Amtrak because it substantially reduced competition from foreign companies that wanted to build high-speed rail in America. Companies from France, Spain, Italy, Germany, China, Japan, South America, and other European nations were prepared to show the U.S. what a true high-speed passenger rail system really is, but instead the government gave the funds to Amtrak, (despite the President's original intent to create passenger trains that were faster, safer and more reliable than Amtrak). Chairman Mica stated that "Amtrak will never be capable of developing [their] corridor to its full potential."

VI. Lack of Sustained Funding from Congress

The FRA pins the blame for lack of progress on lack of continual funding from the federal government. The FRA is correct. The significant funding for HSR was "one and done" in 2009. After that, the funding was reduced to a trickle. As a result, California is currently the only state that is working towards a true high-speed passenger line. Upgrades to existing rail lines have shown incremental improvements to the train systems. Trains are running with more frequency and reliability, but it will still be years until we are able to see significant speed improvements.

According to the FRA, they have invested in more than 150 planned projects. The FRA also states that fifty-two projects are either complete or underway in twenty-one states and DC, amounting to \$2.7 billion. Within the next six months, an additional twelve projects amounting to \$1.4 billion are expected to be underway. There are currently thirty-nine completed projects and six more projects are expected to be completed within the next six months. In summary, the high-speed rail funds were mostly used for repair and maintenance work on existing lines rather than to build a new state of the art passenger rail system.

The Republicans cannot blame the Administration when they do not support creative and proven methods of raising capital. The idea of a National Infrastructure Bank, which would ideally be self-funding, was proposed by Senators Christopher Dodd and Chuck Hagel in 2007 and has received bipartisan support. President Obama supported the Bank in February of 2008 as a Senator, and again in September of 2010 as President. He suggested the Bank would operate by borrowing \$60 billion of federal funding to invest in surface transportation infrastructure projects, namely high-speed rail, over a ten year period while leveraging \$500 million in private investments. There have been a number of proposals for the Bank from both major political parties, including proposals from Hillary Clinton and Bernie Sanders, and the idea receives support from both political parties. However, despite numerous proposals with varying details, no one has yet come up with a politically feasible way to obtain the startup funds. The idea of an Infrastructure Bank and other public and private partnerships, like the one with All Aboard Florida, are likely the best option for raising the significant amount of funding to take the next step in the journey for HSR.

VII. Conclusion

Despite the numerous mistakes made by various parties, we have successfully advanced the movement toward a high-speed rail system in America. The movement will become a reality, first in California and then throughout the nation. Continued efforts on additional funding from appropriations a National Infrastructure Bank and public/private partnerships that include small and minority businesses, will all be factors in developing a true high-speed rail system. Also, Amtrak will play a major role by continuing its efforts to produce higher-speed and safer passenger rail systems and to enhance existing lines. Finally, the people that work in the chambers of our national government must learn to work together better than we have over the last eight years. With that optimistic view, I yield my remaining time back to the Chairman.

High Speed Rail in America: Key Dates and Events

- 1. President Obama's 2009 Stimulus Package** – Also known as the American Recovery and Reinvestment Act of 2009, the stimulus package was signed into law on February 17, 2009. The primary goal was to immediately save and create jobs, and the secondary goal was to invest in education, health care, renewable energy, and infrastructure. Eight billion dollars were appropriated for the High Speed Intercity Passenger Rail System.
- 2. President Obama and Vice President Biden at a Joint Session of Congress** – In an address on February 24, 2009, President Obama stated “Over the next two years, this plan will save or create 3.5 million jobs. More than 90% of these jobs will be in the private sector – jobs rebuilding our roads and bridges...and expanding mass transit.” Vice President Biden stated “I'm more happy than you can imagine to talk about a commitment that, with the President's leadership, we're making to achieve the goal through the development of high-speed rail projects that will extend eventually all across this nation.”
- 3. FRA Announced HSR Strategic Plan** – On April 1, 2009 the FRA released a detailed plan for the HSR program outlining the funding approach, a timeline for the project's potential and current challenges and proposed legislation.
- 4. CHSR to Include Las Vegas** – Transportation Secretary Ray LaHood announced on July 2, 2009 that the federally designated California corridor would extend to Las Vegas, providing potential funding for the Desert Express, now known as XpressWest.
- 5. 2010 State of the Union Address** – January 27, 2010 President Obama stated, “Next, we can put Americans to work today building the infrastructure of tomorrow. From the first railroads to the Interstate Highway System, our nation has always been built to compete. There's no reason Europe or China should have the fastest trains, or the new factories that manufacture clean energy products.”
- 6. President Obama and Vice President Biden Held HSR Rally in Florida** – January 28, 2010 the President and Vice President announced recipients of the American Recovery and Reinvestment Act money for HSR at the University of Tampa. About \$1 billion would go toward improving the line between Chicago and St. Louis. California would receive \$2.25 billion as a down payment for its plan to build high-speed rail, and Florida would receive \$1.25 billion for an 84 mile track between Tampa and Orlando. Florida later received additional funding for the line from Orlando to Miami.
- 7. Republicans won back the House in 2010 Elections** - Republicans regained control of the House of Representatives on November 2, 2010. The election resulted in the highest loss of a party in a House midterm election since 1938 and the largest House swing since 1948. The Representatives gained 63 seats in the House, 29 of the 50 state governorships, and 690 seats in state legislatures.

8. **HSR Hearing in Grand Central Station** – The House Transportation and Infrastructure Committee held a hearing at the New York City historic train station on HSR on January 27, 2011. The hearing was led by Chairman John Mica, with former Pennsylvania Governor Ed Rendell and New York City Mayor Michael Bloomberg, Thomas Hart, Petra Todorovich and others. Both men, co-chairs of the infrastructure advocacy organization Building America’s Future, expressed support for high-speed rail but suggested that the money should be more narrowly targeted to the Northeast Corridor.
9. **Three Republican Governors returned HSR Grant Money** – February 16, 2011, Florida Governor Rick Scott became the third Republican Governor to reject the money given to his state for HSR development. He returned \$2.4 billion to the federal government because he feared Florida taxpayers would be stuck with construction and maintenance costs when federal funds ran out. He followed Wisconsin Governor Scott Walker, who returned \$810 million, and Ohio Governor John Kasich, who returned \$400 million both on December 9, 2010. Ray LaHood immediately reallocated the funds to Amtrak, St. Louis – Chicago, California, and Texas.
10. **Surface Transportation Extension Act of 2011** – This bill extended funding for surface transportation and provided funding for mass transit systems. It was cosponsored by a bipartisan group of Senators and Congressmen and signed by President Obama on March 4, 2011. It extended the allocation of capital investment grant funds for federal transit programs through FY2011.
11. **Significant Passenger Train Wrecks** – On July 23, 2011, the first high-speed rail collision in China occurred when two trains collided due to faulty signal systems. Forty people were killed, and over 190 were injured. On July 24, 2013, a high-speed train in Spain derailed. There were 79 fatalities and 140 injuries. On May 12, 2015, the Amtrak train *Northeast Regional* traveling from Washington, D.C. to New York City derailed in Philadelphia, Pennsylvania due to loss of situational awareness by the engineer. The train was traveling at about 102 mph in a 50 mph zone on a track that was not equipped with Positive Train Control. Eight people were killed and over 200 were injured.
12. **8th UIC World Congress on High Speed Rail** – The UIC was held in Washington, D.C. and Philadelphia, PA in July 2012. It was a global high speed rail conference that brought together 1,000 delegates from 37 countries, 32 CEOs from railway companies, and 2,700 guests. It was the largest train conference in the nation's history.
13. **President Obama and Republican Governors Re-elected** – President Obama was reelected and so were the three Governors who returned the HSR grants in the 2012 general election. Democrats held control of the Senate and Republicans remained in control of the House and the majority of governors in the gubernatorial elections.

14. **Chicago to St. Louis Rail Line Began Higher Speed Service** – On November 22, 2012, the 15 mile section of track between Dwight and Pontiac, Illinois began operating at 110 mph speeds, the maximum speed planned for the corridor.
15. **Private Rail Company in Florida Received Finding from FRA** – In January of 2013, All Aboard Florida received a Finding of No Significant Impact from the FRA, clearing the way to begin construction on the new rail line to connect Orlando and Miami. Construction began on the Miami to West Palm Beach section in mid-2014.
16. **Transportation Secretary Ray LaHood Announced Resignation** – On January 29, 2013, Ray LaHood announced his resignation from the Department of Transportation. His last day in office was July 2, 2013 and he was replaced by former Mayor of Charlotte, North Carolina Anthony Foxx.
17. **California HSR Broke Ground** – California became the first state to break ground on a true high-speed rail project on January 6, 2015, more than six years after the voters approved \$9 billion in high-speed rail bonds. The HSR line will connect Los Angeles and San Francisco. Governor Jerry Brown and other elected officials spoke to hundreds of people at the groundbreaking ceremony in downtown Fresno, and a few protesters stood nearby shouting “show me the money.”
18. **Chicago to St. Louis Line Broke Ground on a New Station** – On August 11, 2015, the Illinois Department of Transportation broke ground on the first new station in Dwight, Illinois.
19. **California Judge Dismissed Lawsuit Against HSR** – A Sacramento County Superior Court Judge dismissed a lawsuit on March 8, 2016 that sought to stop the building of the California HSR bullet train. The suit, brought by Kings County and two farmers, alleged that the project did not comply with restrictions that voters put in place in 2008. Judge Michael Kenny wrote that there were still “too many unknown variables” and that the suit was “not ripe for review.” The case held up the project for five years.
20. **Texas Statewide HSR** – In April, 2016, Texas Central filed documents with the federal Surface Transportation Board indicating that it is ready to begin acquiring right-of-way for HSR track. This will mark the beginning of eminent domain negotiations with landowners. The FRA approved the rail corridor on August 26, 2015, one month after the company announced that it had raised \$75 million for the \$10 billion project from private investors. The company is currently meeting with stakeholders along the corridor to finalize the rail route.

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Committee on Oversight and Government Reform
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)(5)

Name: **Thomas A. Hart, Jr.**

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None.

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

I am the President of the advocacy and consulting group Rail Forward that promotes rail transportation. I am also testifying from my experience as a cofounder, Board Member, and Vice President for Government Affairs for the United States High Speed Rail Association.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None.

I certify that the above information is true and correct.

Signature:

Thomas A. Hart, Jr.

Date:

July 8, 2016

Thomas A. Hart, Jr.

Biography of Thomas Hart
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Thomas Hart is an attorney and lobbyist for international and domestic infrastructure projects, particularly in the transportation and telecommunications sectors. He is President of Rail Forward and a Co-founder of the U.S. High Speed Rail Association (USHSR), where he formerly served as Vice President of Government Affairs and General Counsel. During that time he testified before the House Transportation and Infrastructure Committee on four different occasions. In 2010, Mr. Hart spent two weeks in China where he had the opportunity to ride true high-speed passenger trains and forge agreements with Asian firms bidding on high-speed rail projects in the United States. In May 2012, Mr. Hart wrote an opinion piece for *Politico* entitled “High Speed Rail's Many Benefits” where he stated “[t]he U.S. needs modern public transportation not dependent on oil or traffic patterns.”

Mr. Hart is also an adviser in telecommunications. He helped draft the Telecommunications Act of 1996 and served for eight years as Vice Chairman of the Telecommunications Development Fund, which was created by the Act. He has been highly involved in some of the most innovative technologies and critical issues of the time, such as helping to develop national policies for UHF TV and FM radio stations in the 1970s, cellular phones in the 1980s, and satellite radio and the internet in the 1990s. He was honored as one of the Top 10 Telecom Attorneys by the National Bar Association and *Industry Standard* magazine described him as an “Architect of the Internet.” Mr. Hart was a partner in two major law firms, Holland & Knight and Baker & Hosteler, and continues to practice law through numerous affiliations.

Mr. Hart received his BA in Economics and Political Science from Brown University and his law degree from Georgetown University. In his leisure time, Mr. Hart enjoys producing and syndicating television programs, documentaries, and instructional videos. He also supports Camp Hart, a nonprofit organization founded by his father, Thomas Hart, Sr. that teaches inner city children athletics, scholastics and wellness.