INSTITUTIONAL CHALLENGES: MAKING RAIL REVITALIZATION HAPPEN

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EXECUTIVE SUMMARY

The conflict built into Amtrak's institutional design as a "quasi-public, for-profit" corporation has long hindered passenger rail policy in America. Mandated to operate a national system with many economic and political constraints, the corporation has been dependent on Congress for increasingly scarce capital funds and operating subsidies. Debate over Amtrak's problems has been stalemated between "Skeptics," who see passenger trains as relics of the past and seek to end subsidies and privatize the corporation, and "Supporters" who emphasize social benefits and want to preserve as many trains as possible. While Amtrak has confronted financial crises before, today's combination of a cash crunch with this year's ISTEA reauthorization offers a unique opportunity to reinvent and renew the institutional framework of passenger rail policy.

By interrelating the two key institutional dimensions of American policy making, Federal v. State government responsibilities and Public sector v. Private market dynamics, we construct five scenarios for the future of passenger rail policy. The **Partnership** scenario keeps policy leadership at the federal level and in the public sector. It depends on Amtrak being brought into the infrastructure trust fund system that has worked successfully for highways, airlines and urban transit. **Positive Privatization** would bring passenger rail service into the private sector, but would require a "dowry" of public expenditures to make it attractive to private operators. **Picking Up the Pieces** sees policy leadership shifting to the state level as the federal government fails to resolve Amtrak's fiscal difficulties. Service is more efficient and better tailored to local needs, but the national system is lost. The **For-Profit High Speed Rail** scenario might develop in parallel with other scenarios. It sees states investing in HSR infrastructure, and private operators buying the equipment and managing the service. Finally, **Liquidation** is always possible, but it may not be as cheap and clear cut as some hope, since litigation would be extensive and unpredictable court decisions could increase costs dramatically.

Both "Skeptics" and "Supporters" are encouraged to break out of the impasse by envisioning a new balance of political responsibilities and a new division of economic labor for the future of passenger rail in America. By carefully weighing the capabilities and limitations of federal and state governments as policy leaders, as well as public and private sectors as implementing organizations, today's policy makers may achieve a new institutional framework for passenger rail policy that avoids the contradictions of the 1971 Amtrak charter. In particular, they should make provisions for a smooth transition between scenarios, and should discard the administrative and financial inflexibility for passenger trains that ISTEA is helping to overcome in the other surface transportation modes.

INTRODUCTION

In an earlier paper we argued that Amtrak's design as a "quasi-public, for-profit" corporation was seriously flawed from its beginnings. (Perl and Dunn, 1997) The product of an uneasy compromise between abandoning money-losing passenger rail service, preserving railroad workers' jobs, and sustaining a national passenger train network, Amtrak's ambiguous mandate left it isolated from America's private railroads, and isolated from the trust funding financial mechanisms that supported highways, airports and mass transit. It had to depend on powerful congressional patrons and labor union support for protection from executive branch budget cuts. The price for this protection was diffusing government support and managerial energies into an expensive national route network, whose costs precluded profitability for Amtrak as a whole.

The glib promises of the early 1970s that Amtrak would soon pay its own way gave way to a period of growing subsidies. This was followed in the early 1980s by a sharp reaction against the subsidies, and in certain circles by a reaction against the very idea of Amtrak. Since then the public policy debate over passenger rail issues has become mired in an ideological, intellectual, and political impasse. Policy actors whom we call "the skeptics" recommend "zeroing out," or privatizing Amtrak, while the policy actors we call "the supporters" fight to preserve federal financial support, existing trains and routes, and established labor protections. Compromises have been limited and tactical, forced by financial necessity and the pressure of constituencies threatened with loss of train service. There has been little intellectual or political movement toward common ground that would constitute a vision of how to address Amtrak's real institutional deficiencies while at the same time enhancing intercity passenger rail's performance as part of the nation's future

transportation system. This paper explores possibilities for moving the policy debate beyond this ideological and intellectual impasse to open up new ways of seeing the problem and new ways of developing solutions.

THE IMPASSE

The Skeptics

From George W. Hilton (1980) to the Cato Institute (Love, Cox and Moore, 1996), the skeptics have criticized Amtrak for its failure to live up to its "for profit" mandate. They have also sought to puncture supporters' over enthusiastic claims for energy savings, congestion relief, pollution reduction, etc. They have drawn attention to the financial and opportunity costs of continuing to support a passenger rail system that does not (and can not, in their estimate) live up to its billing. Skeptics' understanding of transportation choices focuses on markets, individual autonomy and the advantages of competing technologies. In a world where travelers want to move as fast and freely as possible, aircraft and automobiles offer inherent advantages that will lead to the inevitable eclipse of the passenger train.

Such a paradigm leads skeptics to overlook a major opportunity in America's passenger rail policy, namely the chance to redeploy capital and human resources, concentrating them in the corridors with the greatest potential for ridership, and hence the greatest potential for both increased revenues and increased positive externalities. Skeptics concentrate their intellectual efforts on criticism, rather than on attempts to move beyond the design imposed on Amtrak by the ambiguous political understanding which accompanied the corporation's creation over 25 years ago.

Thus the weakness of the skeptics' case—as a policy prescription—is that it does not offer new benefits to new groups, or a way of preserving existing benefits more efficiently. It implicitly (and often explicitly) calls for the end of intercity passenger rail service in the U.S. Their policy would concentrate costs on groups (current riders, communities with existing service, Amtrak employees, etc.) with a strong incentive to oppose it, while providing diffuse benefits to the general taxpayers and the impersonal public treasury. The skeptics realize that the nature of U.S. politics makes such a shift in costs very difficult, hence their recommendation to privatize Amtrak. The private enterprise model is legitimate and well-understood. Since private companies close plants and lay off workers all the time, the skeptics see privatization as the perfect instrument for ending federal subsidies (and almost certainly most intercity passenger trains), and doing it in a way which insulates public officials from political criticism by disappointed constituents.

The Supporters

Supporters rightly fear that privatization is merely a way station on the road to abolishing the national system and perhaps all intercity passenger rail service. They not only oppose privatization in principle, they oppose any and all efforts to cut back on train service, even those proposed by current Amtrak management. Supporters embrace a long-term historical perspective that extends backward to alleged policy injustices suffered by railroads in relation to air and highway modes (Goddard, 1994) as well as forward to a time when energy and environmental limits will again make passenger trains a necessity (Vranich, 1991).

The weakness of the supporters' case—as a policy prescription—is that they offer neither realistic new goals nor more efficient ways of achieving existing ones. They often find themselves trying to rebut every attack and defend every train, regardless of how few passengers it moves or how much money it loses (Capon, 1997). Looking backward to past mistakes and forward to future possibilities, supporters miss the need to confront the political logic of Amtrak's "for profit" mandate in the present. The powerful appeal of the "for profit" model and mandate puts them on a permanent defensive.

This defensiveness leads congressional supporters to also overlook opportunities for redeploying Amtrak's resources more effectively. They feel that privatization and/or moving away from a national system will reduce their influence over corporate decisions and threaten trains in their home districts. They dig in their heels to defend as much of the status quo as budgetary circumstances and political influence will allow. They, too, tend to fail to see the opportunities that breaking out of the ideas associated with political and institutional arrangements from the early 1970s would generate for U.S. passenger rail policy.

This intellectual and policy impasse has put Amtrak in a holding pattern. The status quo of operating a national route system has been maintained by political inertia, and to keep future options open, as much as to achieve any targeted economic, environmental or social benefits. But in 1997, circumstances appear set to move intercity passenger rail out of this holding pattern.

THE OPPORTUNITY

In American politics, the opportunity for major policy innovations generally occurs in one of two ways. The first is through a dramatic crisis that captures public attention and requires governmental action. Sometimes a broad systemic crisis such as the Great Depression or a moral

crisis such as the civil rights movement will generate a wide array of new policies and new institutions. More commonly, a financial crisis of a major public or private organization threatens to cut services and jobs to an important segment of society. This provides the occasion for a more focused but equally important policy response.

The transportation sector has had its share of crisis-driven policy initiatives, and some of the biggest have involved the rail mode. When the Penn Central Railroad filed for bankruptcy in 1970, the decline of America's rail industry was thrust onto the federal government's agenda by a crisis that could no longer be avoided. The shock waves created by Penn Central's bankruptcy surpassed prior corporate failures by an order of magnitude. They forced Congress to confront a whole host of problems from maintaining essential freight services in the Northeast and Midwest to preventing the shut-down of commuter rail operations into some of America's largest cities. Stopgap measures like the Regional Rail Reorganization Act (the "3R Act") kept trains running while a policy framework was created to restructure Penn Central and the other Northeast and Midwest railroads that followed it into bankruptcy. The resulting achievements, both the publicly funded and managed creation of Conrail and the Staggers Act's deregulation of the entire rail sector, can be traced to the window of opportunity for policy change triggered by the Penn Central bankruptcy (Weaver, 1985)

Amtrak's own inception was spurred by Penn Central's decline. In 1969, that railroad proposed abandoning all its passenger trains west of Buffalo and Harrisburg, breaking key East-West links in America's passenger rail network. The total number of discontinuance petitions pending before the Interstate Commerce Commission left little doubt that America's intercity passenger trains were an endangered species. With private railroads anxious to be relieved of the burden of operating money-losing passenger service, and states, cities, labor unions, and passengers bent on preserving passenger trains as a transportation option, a decision to do something could not be avoided. The resulting federal initiative yielded Amtrak as we know it. (Itzkoff, 1985)

The second type of opportunity for policy innovation comes from the need to periodically reexamine existing programs and reauthorize the legislation on which such programs are based. Highway policy, for example, has evolved significantly through this alternative process of periodic incremental adjustments. Since the 1970s, highway legislation has incorporated provisions to mitigate environmental impacts and moderate neighborhood disruption. It has even accommodated provisions for states to transfer Interstate money to urban mass transportation projects and to create a mass transit account in the highway trust fund. The political process which resulted in the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) introduced modest but significant innovations which allow local officials more choice in achieving environmental, land use, and transportation objectives. This periodic incremental approach to American transportation policy making shows how an ongoing series of modest changes can lead to profound transformation.

The present situation offers a new and distinctive opportunity to innovate in passenger rail policy because it has arrived on the federal agenda via both the crisis driven and incrementalist paths. The real possibility of an Amtrak bankruptcy makes the intercity passenger train an endangered species once again. (Scheinberg, 1997) This has renewed the debate on the value such passenger trains can offer Americans. At the same time, ISTEA's reauthorization presents another opportunity to connect this debate to the broader adjustment of American surface transportation planning and finance. For a change, Amtrak's specific financial problems may be serious enough to focus government's attention while coinciding with a wider consideration of surface transportation priorities.

THE OPTIONS: FIVE SCENARIOS

In this section we set out five scenarios for the future of intercity passenger rail policy in the United States. Rather than being definitive or mutually exclusive visions of where passenger train policy will go next, they are intended to stimulate discussion and thought about two interrelated questions: Where do we go from here? And how do we get from here to there? While the specific institutional changes required to introduce a decisive break from past policies defy prediction at this moment, our scenarios are meant to highlight the possibilities for transformation along two key dimensions which determine the institutional framework for most policies and programs in America with the policy instruments most likely to be used to shape passenger rail's future.

The first key dimension is the Federal—State axis. How much of the financial and rule making responsibility for a program belongs to the federal government, how much to state governments, and what are the terms and conditions under which the two levels cooperate and share responsibility for policy making and administration? The second dimension is the Public—Private axis. How much of any activity should be brought into the public sector if the consequences of leaving it to the private sector are deemed undesirable?

Within the broad framework created by the Federal—State and Public—Private dimensions, policy makers can use a "tool kit" of different policy instruments to try to achieve the right mix of ridership, revenue and political support needed to sustain passenger rail as a viable

mode of transportation. Some of these policy instruments may be more readily available or more effective at one level of government than another. Some may work better in a public sector context, some in a private sector context. The most important of these policy instruments are as follows:

- dedicated taxes and trust funds
- capital investments to attract riders
- operating subsidies
- increased payments from other levels of government
- service cutbacks
- improvements in labor productivity
- attracting private investment
- contracting out of service
- relief from costly public regulations

Interrelating the two broad institutional dimensions and mixing in different instruments from the policy tool kit, we can envisage four different scenarios, summarized in the table below.

	PUBLIC SECTOR	PRIVATE SECTOR
FEDERAL POLICY LEADERSHIP	*Partnership*	*Positive Privatization*
STATE POLICY LEADERSHIP	*Picking Up The Pieces*	*For-Profit HSR Initiatives*

To these we add a fifth scenario, *Liquidation*, which falls outside the ordinary framework of normal policy making but which might emerge if today's impasse drives Amtrak into insolvency. This matrix and its scenarios are tools to help us focus on key institutional issues amid the complexities of the debate on what to do about Amtrak's current crisis. They suggest the broad relationships between the political logic of state versus federal policy leadership on one hand, and the economic logic of operating passenger trains in the public versus the private sector on the other. Our categories should not be considered an exclusive, either/or form of classification. Thus the row identified as being characterized by "State Policy Leadership" does not mean that the federal government suddenly loses its current power and responsibilities. Rather, it suggests that most new policy initiatives and innovations will take place at the state level, with the federal government making reactive adjustments to the new situation. Similarly, the column labeled "Private Sector" does not mean there is no government involvement at all in passenger rail, simply that institutional change will include a major increase of private participation.

We summarize the key institutional and political elements of our five scenarios as follows:

Partnership

Amtrak continues under an updated version of its original mandate, that of being a quasi-public corporation run on a for-profit basis in the public interest. It secures its base of federal support when Congress authorizes a half-cent per gallon intercity rail trust fund account for capital investments, finally putting rail on the same fiscal footing as other federally aided modes, highways, airways, and urban transit. It strives with some success to eliminate the need for federal operating subsidies by 2002, both by improved management and by broadening its base of financial support through financial partnerships with state governments and the private sector. States contribute by "flexing" a portion of their federal transportation funds to intercity rail projects, as well as by increased loans and direct payments for train services. Private partners could include firms that build rail equipment, communications companies seeking to share rights of way, utilities looking for "pollution credits" by supporting low emission transport modes, freight railroads interested in sharing upgraded track. With such partners "going to bat" for it politically, Amtrak enhances its relationships with state governments and competes rather successfully to provide future services, including high speed rail (HSR).

Positive Privatization

Rail's supporters recognize that the skeptics have enough legislative support to block any "quick fixes" in Amtrak's current predicament. Supporters acknowledge the criticism that Amtrak's politically mandated national route structure, labor protection requirements, and lack of entrepreneurial freedom have precluded commercial success. They in turn convince the skeptics that the best way to engineer a privatization that would end these constraints is to provide Amtrak with a "dowry" of federal investments in infrastructure and equipment and enough operating subsidies to keep the corporation operating smoothly through the transition phase to private ownership.

The Administration and Congress create a rail passenger privatization agency along the lines of the United States Railway Association (USRA). As the USRA did for Conrail, this agency acts as Amtrak's banker and broker on the path to privatization, managing operating subsidies and capital investment between now and 2002 in a way that

maximizes the company's acquisition value. The Northeast HSR project becomes a "jewel in the crown" of Amtrak's assets. As commercial revenues from HSR roll in, the new agency makes the decision on the best timing for and means by which privatization can emerge. This could range from seeking tenders for parts of Amtrak's operation to a public stock offering of the entire corporation. Both side agree that this "positive" approach offers the most realistic chance of preserving, perhaps even enhancing, intercity passenger rail service while also ending direct federal operating responsibility and subsidies.

Picking up the Pieces

The debate over reforming Amtrak continues to be stalemated in Washington. Budget constraints or political opposition severely limit even emergency federal assistance to Amtrak, and service cutbacks are forced on it by mounting losses. The momentum for organizational and policy change moves increasingly to the state level as some states begin to "pick up the pieces" of Amtrak's faltering national system. The Northeast Corridor is eventually reorganized to operate under an interstate rail compact, with states contributing significant amounts of their own funds under a hard-bargained formula arrangement. States with existing intercity rail passenger support programs that now flow through Amtrak, like California, Illinois, Washington, and New York, are tempted to make alternative arrangements by new flexibility provisions introduced into federal transportation assistance programs by passage of NEXTEA, the administrations's proposed National Economic Crossroads Transportation Efficiency Act. Their efforts build upon existing state successes in developing intercity passenger rail markets, and transform services that were chronically poor performers under Amtrak into thriving operations. The result is a rather disjointed and decentralized definition of intercity rail passenger needs, unlikely to sustain a national system in the short to medium term.

For-Profit High Speed Rail

While supporters and skeptics struggle over what to do about Amtrak, one or two states blaze a trail by launching new for profit initiatives in specific intercity corridors. These high speed trains aim to make money by attracting people who would otherwise drive or fly. Florida's Miami-Orlando-Tampa FOX proposal is the most advanced of such projects, and sets the pace for state initiatives elsewhere. These new projects are helped by some financial assistance from Washington (such as flexibility to spend portions of a state's federal transportation "entitlement" on HSR infrastructure, a special infrastructure lending program, or federal appropriations for "projects of national significance"). But financing primarily comes from a combination of long term state funding for new HSR infrastructure and private investments in high speed rolling stock and working capital for private operation of the new lines. Public and private sector supporters of HSR begin to portray their early successes as the equivalent of state turnpikes, in relation to the federal interstate highway program— precursors of a new approach to intercity transportation spearheaded by states with especially propitious conditions for innovation.

Liquidation

The skeptics prevail in the political debate over federal involvement in intercity passenger rail service, and without an infusion of federal aid Amtrak is forced into bankruptcy. Unlike the "Positive Privatization" scenario, this strategy would seek to amputate passenger trains from the body of federal public policy responsibilities as quickly and cleanly as possible. In principle, the federal government would act to salvage its investment in Amtrak's assets while minimizing further expenditures. States, private bidders, and scrap dealers would be given an equal chance to buy a piece of Amtrak, with no strings attached in terms of future passenger train operations. In practice, the federal government, Amtrak's creditors and stakeholders, including its labor unions and states which have loaned it money, would likely become embroiled in a high stakes legal dispute over responsibility for approximately $5 billion in debts and labor protection payments that came due when Amtrak ceased operations. Introducing bankruptcy proceedings and numerous other lawsuits into the equation would make the judiciary a major new participant in American rail passenger policy and thus make it virtually impossible to achieve the quick and clean policy amputation that makes liquidation appear attractive to some skeptics. But liquidation would end Amtrak's corporate existence as well as America's national passenger rail system.

ANALYSIS

Amtrak's current crisis gives every indication of approaching a day of reckoning when major decisions will have to be taken on changing the institutional framework governing the ways that trains provide passenger transportation in America. It is, of course, possible that a set of institutional changes resembling one of our scenarios might emerge as a clear choice. But it is much more likely that the political process, which depends on broad congressional support and compromise solutions, will produce a mixed result encompassing elements from several

scenarios. Institutional changes which appear in line with one scenario might also be tried for a while, only to be replaced or modified by elements we attribute to another scenario. Political, institutional and legislative reality will inevitably be more complex than our scenarios. Nevertheless, we believe that the following analysis can aid our thinking about reinventing the institutional framework of intercity passenger rail service by focusing on the balance of federal-state and public-private factors, the likely sequence by which the scenario might be adopted, and the distribution of risks and rewards associated with particular approaches to reform.

Partnership comes closest to maintaining Amtrak's traditional mix of federal responsibility for planning rail passenger policy with a public sector delivery mechanism. As such, it continues the current distribution of political and economic risks and responsibilities. Achieving this partnership is dependent on Amtrak getting the half-cent gas tax as a stable capital base. It would also require at least "glidepath" levels of operating funds to continue until 2002. Even then, since it is essentially an enhanced version of the status quo, many skeptics believe that Amtrak may still be in for serious financial difficulties. Thus the Partnership scenario may not be a stable long-term option for passenger rail, but it could easily be a vital transition stage, a bridge to one of the other scenarios.

As a bridge to the future, Partnership offers organizational and operational continuity with current passenger train services. Such continuity would be seen as a reward by those with a stake in Amtrak as it exists today, including rail labor, management, train riders, and public officials representing regions well-served by trains. But that same continuity carries the risk of not providing strong enough incentives for government officials, legislators, rail management and labor, and the public at large to take a new look at potentially more effective ways of delivering rail passenger service.

Positive Privatization would require an infusion of federal resources to move Amtrak from the public sector to being a private enterprise. This money would go to creating new infrastructure, buying out unproductive labor practices and staffing levels, and reducing Amtrak's debt. Without such public expenditures it is unlikely that profit-driven investors could be tempted to acquire financial responsibility for chronically unprofitable lines and services. International experience with privatizing transportation, especially rail-based services, indicates that attracting private entrepreneurs requires governments to attach attractive incentives such as preferential tax treatment and continued public subsidies to their offers. (Gomez-Ibanez and Meyer, 1993)

Private owners would be looking for substantial federal investments at the outset and continuing payments from government as much as or more than public managers in the partnership scenario. The half-cent trust fund or its equivalent would be as vital to successful implementation of Positive Privatization as to Partnership. Legislative changes permitting modernization of Amtrak's labor protection agreements and work rules would also be vital to improving passenger rail's profit making potential. If appropriately funded, Positive Privatization promises short term financial rewards to investors and managers, with the greatest risks perceived by rail labor. Unions and other traditional rail supporters would worry about committing these public resources to private enterprise with reduced public and political accountability for decisions about line closures and service levels. Rail supporters' first preference will likely be Partnership. But supporters might be inclined to make a "leap of faith" to Positive Privatization if the alternative were Liquidation.

Picking up the Pieces would result from a continuing impasse at the federal level, such as failure to agree on providing sufficient capital and operating support to keep Amtrak going. But state-led initiatives to restructure passenger train service will require agreement on a different set of issues. For example, would successor operators at the state or regional level receive Amtrak's rights to operate over private rail lines under the same conditions? Would all of Amtrak's labor protection obligations also be transferred to these successors? Would the federal government have to pay off Amtrak's other debts, and how would it do so? Would the Northeast Corridor be transferred to a regional entity based on an interstate compact? What regulatory responsibilities, if any, would the federal government retain?

Shifting greater financial responsibility to the states would certainly put the national route structure at risk. The obstacles to coordinating policies between two or more states would be a real constraint on the extent to which this scenario could substitute for today's train network. Even in the Northeast Corridor, where the tracks are owned by the federal government and could be leased to the states, very hard bargaining would lie ahead of any effort to substitute a multi-state compact for today's funding and management arrangements. The rewards would come in the form of more efficient tailoring of services to markets and, possibly, more efficient operating rules and practices.

The emergence of For-Profit HSR could take place in several different sequences. The most likely would be if Partnership is pursued long enough to permit the successful introduction of high speed service on the Northeast corridor. If that service is successful, it would give a clear boost to HSR in other promising corridors. For-Profit HSR could also develop simultaneously with Partnership or Positive Privatization. Even if Amtrak's HSR is delayed,

it is possible that Florida's FOX project, for example, might be launched by a combination of federal aid as a "project of national significance," (thanks to intense lobbying by the Florida congressional delegation), and the state's decision to increase its share of the project's costs. This could attract enough private investment to legitimize the project and see it through to completion. It must be p-ointed out that, so far at least, private capital has been very hesitant to take on the lion's share of the risk of pioneering HSR in North America. In this scenario, then, a success for HSR in the Northeast Corridor enhances private investors' and states' willingness to launch initiatives elsewhere, while delay or downturn in the northeast would keep the political and economic risk of For-Profit HSR quite high.

Liquidation could occur after a financial collapse of Amtrak led to bankruptcy proceedings. But bankruptcy does not automatically entail liquidation. During the Penn Central's bankruptcy, Judge Fullham offered the government an all-or-nothing choice between paying for freight services to continue until the legal liabilities got sorted out or accepting a cessation of operations. The bleak alternatives of such a choice spurred the creation of the USRA and Conrail to deal with the hemorrhage of federal subsidies. So even bankruptcy would not automatically end the federal government's responsibilities for passenger rail service. Congress and the executive branch would have to make a choice. Even if they chose Liquidation, it would not necessarily mean the end of all intercity rail passenger service. A systematic settling of accounts might facilitate a Picking up the Pieces scenario, but with higher costs than if such a scenario occurred without bankruptcy. The inherent uncertainty of bankruptcy proceedings would make this scenario the most risky in both economic and political terms.

CONCLUSIONS

We have suggested that there are other possible ways of envisioning the future of American intercity passenger trains than the rival viewpoints that the skeptics and the supporters have debated for so many years. When the options boil down to "Save Amtrak (at any cost)" and "End All Subsidies," the very terms in which the policy debate is framed become an obstacle to finding more economically effective and politically acceptable solutions. We outlined and analyzed a number of different policy scenarios to suggest that there is a rich variety of other ways to frame future options. A serious effort to identify and evaluate the policy and institutional implications of these options is long overdue. Today's conjunction of Amtrak's fiscal crisis and the reauthorization of all other federal surface transportation funding offers the best opportunity to recast passenger train policy since 1971.

Necessity and opportunity have already coincided to initiate efforts to rethink America's passenger train problem, as illustrated by the recent report of the bipartisan, "blue ribbon" panel created by Representative Bud Shuster, Chair of the House Transportation and Infrastructure Committee. (U.S. Congress, 1997) While this panel made some progress in focusing on a common vision of rail passenger policy that could meet the goals of diverse constituencies and stakeholders, its final report reflected an ongoing impasse on the best means of achieving that vision. All of the group agreed that national passenger rail policy should aim at providing reliable, safe service in densely populated corridors, and that it should encourage public/private development of service in less populated regions where cultural, historic, or scenic factors warranted it. But participants split over how to achieve these goals.

The majority recommended that ownership of the physical infrastructure (track, signals, etc.) be institutionally separated from the responsibility for operating the service (running trains, selling tickets, etc.). A new public infrastructure entity, "Amrail," would acquire ownership of the Northeast corridor and also make needed rail infrastructure investments elsewhere, while Amtrak—and eventually other competing public or private rail enterprises—would concentrate on operating and marketing train travel. Transitional federal operating subsidies would save Amtrak from bankruptcy, but would drop off over time.

The panel's minority issued a dissenting report stating that the majority's solution was either unnecessary, since 95 percent of Amtrak's routes are owned by private railroads, or would be harmful because the one infrastructure that Amtrak already owns, the Northeast corridor, is America's most successful passenger rail operation. They argued that the majority adopted an "unwarranted pessimism about Amtrak's prospects," both financial and political. Preserving Amtrak as we know it was seen to be possible, and preferable to radical restructuring in terms of serving both densely populated corridors and the nation as a whole. The panel's split on the kinds of institutional changes needed to revitalize the passenger rail sector illustrates how the intellectual and political impasse we have identified remains a significant obstacle, perhaps the single greatest constraint, on formulating a successful new policy framework for America's passenger trains.

Our analysis suggests that reinventing the institutional framework for passenger rail policy requires a new consensus on the balance of responsibilities taken by the federal and state governments. It also demands a workable vision of how private enterprise could contribute to the management and operation of intercity passenger trains. Every other transportation mode in America has built its success by creating a balance along these two policy

parameters, where state and federal governments share political and financial responsibilities, and private industry develops a profitable division of labor in delivering mobility to Americans.

Our matrix on page 10 highlights a few simple permutations of policy which become possible when alternative roles for Washington and the states, and public and private enterprise, are placed on the table. But breaking the impasse requires more than placing innovative policy options on the table, as we and others have done. Moving beyond Amtrak's current handicaps also requires a transition strategy that can keep institutional experimentation within tolerable levels of risk. Actions taken with a view toward one new vision of policy should not preclude transition to an alternative approach if initial outcomes generate more problems and fewer solutions than predicted. Indeed, policy makers should build the flexibility to cope with unforeseen problems or to take advantage of unexpected opportunities into their restructuring schemes. For example, a trust fund for investment in intercity passenger rail infrastructure might be designed with built-in provisions for re-targeting revenues to states or other entities in the event of a successful positive privatization of Amtrak. Such a provision might even broaden the political support in Congress for creating the trust fund.

For all its achievements, indeed perhaps because of them, American transportation policy has historically had to grapple with the tendency toward inertia which has been labeled "institutional durability"—the way fiscal formulas, planning and implementation responsibilities are carved in stone at the inception of a policy framework (Perl, 1991). The federal-aid highway program was the classic example. It showed what a trust fund finance mechanism and a strong federal-state partnership could accomplish for highway infrastructure investment. It also demonstrated the risk of being left out of such a powerful infrastructure finance system, a lesson that was not lost on the aviation and urban mass transit sectors which followed suit with their own trust accounts. The ISTEA legislation of 1991 marked an important step away from inflexible institutional durability in surface transportation policy. But intercity passenger rail was the only surface transportation program untouched by this change. Fair-minded skeptics should be willing to acknowledge that this isolation from the nation's primary transportation infrastructure funding mechanism has contributed to Amtrak's current financial crisis. Fair-minded supporters should be equally ready to acknowledge the skeptics' concern that a rail passenger trust fund not be introduced as a blank check to continue all the uneconomic practices that have also contributed to Amtrak's plight. The challenge will be to end passenger rail's exclusion from the infrastructure finance mechanism while devising the right institutional reforms to enhance productivity, to build partnerships with state and local authorities, and to devise opportunities for private investors and managers to contribute their resources and skills.

Re-envisioning the future of intercity passenger rail policy and re-engineering its institutional framework with careful attention to the federal-state and public-private dimensions, as well as the contingencies of policy transition, can help to resolve the long impasse in American passenger rail policy. When privatization is viewed not just as an ideological mandate but as a genuine alternative means of assuring that important segments of intercity train service gain a chance for survival and improvement, the political dynamics and economic impacts of federal subsidies change dramatically. And when states are seen not simply as last-ditch sources of revenues to keep trains running through a fiscal crisis at Amtrak, but as equal partners in delivering rail passenger service, more flexible ways of distributing federal infrastructure investments can attract broader political support for passenger trains without imposing conditions that would undermine their effectiveness.

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