"AMTRAK JOE" PUSHED FOR HIGH-SPEED RAIL

HE PUT THE TRAIN BEFORE THE TRACKS

U.S. Senate Committee on Commerce, Science, and Transportation

"AMTRAK JOE" PUSHED FOR HIGH-SPEED RAIL ON THE NORTHEAST CORRIDOR. HE PUT THE TRAIN BEFORE THE TRACKS.

U.S. Senate Committee on Commerce, Science, and Transportation

EXECUTIVE SUMMARY

On August 27, 2025, the National Railroad Passenger Corporation, better known as Amtrak, finally placed new NextGen Acela[1] trains into service.[2] NextGen Acela is Amtrak's flagship "high-speed" train, built to ferry passengers from D.C. to Boston along the Northeast Corridor (NEC) at fast speeds and with maximum comfort.[3] Amtrak asked manufacturers to design trains that could run at up to 186 mph and advertised that NextGen Acela would be faster than the legacy Acela trains, which entered service in 2000.[4] But there is one problem: NextGen Acela's actual timetables on the NEC are *slower* than the legacy Acela and nowhere near travel times once promised.[5]

Just as troubling for the taxpayers who heavily subsidize Amtrak, NextGen Acela's release is years behind schedule. Its journey began 15 years ago, in the first term of the Obama-Biden administration, as part of a plan for high-speed rail across America.[6] After a nearly four-year process to decide which trains to buy, Amtrak awarded the contract for 28 NextGen Acela trains to Alstom SA, a French multinational train manufacturer with large facilities in upstate New York, in August 2016.[7] At the time, Amtrak confirmed the trains would enter service by spring 2021.[8] Delays and postponements pushed that service date back to August 2025, almost a decade

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[1] During the procurement process, Amtrak referred to the new trains as "Acela II" and later changed the name to "NextGen Acela." For consistency, this report will refer to the new trains as NextGen Acela.

[2] Press Release, Amtrak, Amtrak Makes History Launching NextGen Acela Service (Aug. 27, 2025), https://media.amtrak.com/2025/08/amtrak-makes-history-launching-nextgen-acela-service/.

[3] *Id.*

[4] *Id.*; *see Alstom Delivers High-Speed Trais to the U.S.*, ALSTOM, https://www.alstom.com/alstom-delivers-high-speed-trains-us (last visited Dec. 16, 2025).

[5] Esther Fung & Taylor Umlauf, *Amtrak's New Acela Trains Are Here. They're Moving Slower Than the Old Ones.*, WALL ST. J. (Aug. 28, 2025), https://www.wsj.com/us-news/amtraks-new-acela-trains-are-here-theyre-moving-slower-than-the-old-ones-f0794127.

[6] *See* Press Release, The White House, President Obama, Vice President Biden to Announce $8 Billion for High-Speed Rail Projects Across the Country (Jan. 28, 2010), https://obamawhitehouse.archives.gov/the-press-office/president-obama-vice-president-biden-announce-8-billion-high-speed-rail-projects-ac; U.S. DEP'T OF TRANSP., HIGH-SPEED INTERCITY PASSENGER RAIL PROGRAM NE. REGION, https://obamawhitehouse.archives.gov/sites/default/files/rail_northeast.pdf (last visited Dec. 16, 2025).

[7] Press Release, Amtrak, AMTRAK 2013: New Year Brings Major Projects (Jan. 10, 2013), https://perma.cc/X3AX-2HKQ; Press Release, Amtrak, Amtrak Invests $2.4 Billion for Next-Gen High-Speed Trainsets and Infrastructure Upgrades (Aug. 26, 2016), https://media.amtrak.com/2016/08/amtrak-invests-2-4-billion-for-next-gen-high-speed-trainsets-infrastructure-upgrades/; Press Release, Alstom, Alstom Delivers America's Fastest Trains with the Debut of Amtrak's NextGen Acela on the Northeast Corridor (Aug. 27, 2025), https://www.alstom.com/press-releases-news/2025/8/alstom-delivers-americas-fastest-trains-debut-amtraks-nextgen-acela-northeast-corridor.

[8] Amtrak Press Release (Aug. 26, 2016), *supra* note 7.

after the purchase was first made.[9] In the meantime, Amtrak lost over $181 million in revenue and incurred an additional $106 million in unplanned maintenance costs for the old Acela fleet.[10]

What led to these delays and ballooning costs? The Senate Committee on Commerce, Science, and Transportation (Committee) under Chairman Ted Cruz investigated to find out.

Perhaps the most immediate cause of the NextGen Acela delay was the failure of Alstom's computer model to simulate the train's real-world performance, which delayed validation and on-track testing for years.[11] This challenge was compounded by Amtrak's selection of a trainset that had not been tested in a comparable regulatory and operational environment.[12]

But Amtrak's trainset procurement process was also shaped by the ambitions of "Amtrak Joe" and other political appointees in the Obama-Biden administration who wanted a single, truly high-speed rail trainset for two different sets of track: the NEC and the proposed California high-speed rail project.[13] This dream delayed the procurement process for years, influenced selection criteria, and deterred bidders who could not meet certain impracticable specifications.[14] Even after Amtrak ditched the joint procurement, it maintained lofty speed requirements that it knew it could not utilize because of the limitations of NEC infrastructure.[15] The Obama-Biden administration's aim was to "future proof" the trains by procuring a set that could increase its speed if improved infrastructure was built around it. Even today, however, the NEC Commission says that to achieve higher speeds on just a *portion* of the NEC, Amtrak will need another $120 billion (in 2025 dollars) in infrastructure improvements.[16] Buying a train—with a roughly 30-

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[9] *Id.*

[10] Email from Amtrak Staff to Comm. Staff (Aug. 5, 2025) (on file with Comm. staff).

[11] AMTRAK OFF. OF INSPECTOR GEN., OIG-A-2023-013, MAJOR PROGRAMS: COMPANY IMPROVED MANAGEMENT OF NEW ACELA PROGRAM, BUT ADDITIONAL DELAYS AND COST INCREASES ARE LIKELY, 2–3 (2023), https://amtrakoig.gov/sites/default/files/reports/OIG-A-2023-013%20%28REDACTED%29_0.pdf [hereinafter Amtrak 2023 OIG Report].

[12] *Id.* at 9; *see* 49 C.F.R. § 238.705 (dynamic collision scenario regulations applicable to high-speed trains). FRA regulations for Tier III, high-speed trains were not effective until early 2019, nearly three years after Amtrak contracted with Alstom to build the NextGen Acela trainsets. Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets, 83 Fed. Reg. 59182 (Nov. 21, 2018) (to be codified at 49 C.F.R. Parts 229, 231, 236, and 238).

[13] Adam A. Millsap, *Biden's High-Speed Rail to Nowhere*, FORBES (Apr. 15, 2021), https://www.forbes.com/sites/adammillsap/2021/04/15/bidens-high-speed-rail-to-nowhere/; Matt McFarland, *Sec'y Pete Buttigieg Wants Fast Trains. He'll Have to Succeed Where Obama Couldn't*, CNN (Feb. 9, 2021), https://www.cnn.com/2021/02/09/economy/pete-buttigieg-high-speed-rail/index.html.

[14] *See Amtrak and Cal. Abandon Joint Rolling Stock Procurement*, RY. GAZETTE INT'L (June 23, 2014), https://www.railwaygazette.com/amtrak-and-california-abandon-joint-rolling-stock-procurement/39638.article.

[15] Fung & Umlauf, *supra* note 5.

[16] NEC COMM'N, CONNECT 2040, WORLD-CLASS RAIL AND ECON. PROSPERITY, INVESTING IN A MORE MODERN, RELIABLE AND CONNECTED NE. CORRIDOR 34 (Oct. 2025), https://nec-commission.com/wp-content/uploads/2025-10-31_C40-Report_small.pdf; *see also* Mark Walker, *After Years of Delays, Amtrak Moves Toward Faster Trains in the Northeast*, N.Y. TIMES (Jan. 13, 2024), https://www.nytimes.com/2024/01/13/us/politics/acela-amtrak-avelia.html ("The region's tracks are estimated to need more than $100 billion in repairs and upgrades for the new trains to reach maximum speeds through the entire corridor.").

year lifespan[17]—to run on tracks that are not yet built, let alone funded, was an irresponsible and quixotic decision.

NextGen Acela thus stands as a cautionary tale for future passenger rail projects and procurements. As Amtrak moves forward with acquiring new long-distance trainsets, it must return to the basics. Amtrak should pursue projects that are manageable in scope. It should prioritize procuring service-proven trainsets and technologies that will allow manufacturers to compete on price, instead of requiring idiosyncratic technical specifications. It must remember that shorter and more reliable timetables are the goal, not marginally higher speeds.

[17] Amtrak Briefing with Comm. Staff (Oct. 30, 2025) (notes on file with Comm. staff).

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I. Background

A. "Transportation of Tomorrow"

Truly high-speed rail has long been a dream of policymakers,[18] enjoying bipartisan support.[19] In the late 1960s, not long after Congress passed the High-Speed Ground Transportation Act of 1965,[20] Senator Claiborne Pell (D-RI) published *Megalopolis Unbound: The Supercity and the Transportation of Tomorrow*, which argued for revitalizing passenger service along the NEC.[21] The following year, a United Aircraft Company TurboTrain briefly reached speeds over 170 mph during testing on the NEC.[22] In April 1969, the average trip time for Penn Central Transportation Metroliner trains between Washington, D.C., and New York City was already 2 hours and 49 minutes.[23]

Passenger rail has evolved and expanded along the NEC in the six decades since, but at a glacial pace. Prior to the introduction of NextGen Acela, the maximum speed for an in-service train on the NEC was just 150 miles per hour for a brief 18-mile stint of track between Rhode Island and Massachusetts.[24] Even post-introduction, the travel time between Washington and New York remains stagnant at roughly 2 hours and 45 minutes, the same as it was when Acela debuted.[25] As Senator Ted Cruz noted in a letter to Amtrak in September 2023, "[t]he Acela service's maximum speed is constrained by the legacy infrastructure of the NEC between Washington, DC, and Boston, MA . . . . This is distinct from 'true high-speed' services in countries like France or Japan, where trains travel 186 mph or more along newer routes purpose-built for high-speed

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[18] *See Work and Welfare: Hearings Before the S. Comm. On Lab. and Hum. Res.,* 100th Cong. 181 (1987) (statement of Governor Michael Dukakis) ("What we need is high-speed rail in the Northeast Corridor").

[19] Michael Cooper, *For High-Speed Rail, Support in the Past From GOP Presidential Hopefuls*, N.Y. TIMES (Jan. 2, 2012), https://www.nytimes.com/2012/01/03/us/politics/for-high-speed-rail-support-in-the-past-from-gop-presidential-hopefuls.html.

[20] High-Speed Ground Transportation Act of 1965, Pub. L. No. 89-220, 79 Stat. 893 (1965).

[21] *See* CLAIBORNE PELL, MEGALOPOLIS UNBOUND: THE SUPERCITY AND THE TRANSPORTATION OF TOMORROW 7–8 (Frederick A. Praeger, Inc. 1966).

[22] *High Speed Rail in North America*, IEEE ASME (June 14, 2007), https://ewh.ieee.org/cmte/asmeltc/hsr_plaque.htm.

[23] FED. R.R. ADMIN., HISTORY OF RUNNING TIMES, PASSENGER TRAINS, NEC, 8 (1984), https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/2763/history2.pdf (last visited Dec. 16, 2025).

[24] Adam Burns, *Amtrak "Acela Express" (Train): Top Speed, Route, Overview*, AM. RAILS (Feb. 26, 2025), https://www.american-rails.com/acela.html; *see* Press Release, U.S. Dep't of Transp., Sec'y Slater Announces Approval of 150mph Amtrak Acela Service (Oct. 18, 2000), https://railroads.dot.gov/elibrary/secretary-slater-announces-approval-150mph-amtrak-acela-service.

[25] AMTRAK, NEC, N.Y. TO WASHINGTON, D.C. (Aug. 4, 2008), https://web.archive.org/web/20080908072509/http://www.amtrak.com/timetable/aug08/W02.pdf.

service."[26] Acela has still not met the 3-hour Boston-to-New York travel time it advertised more than twenty-five years ago.[27]

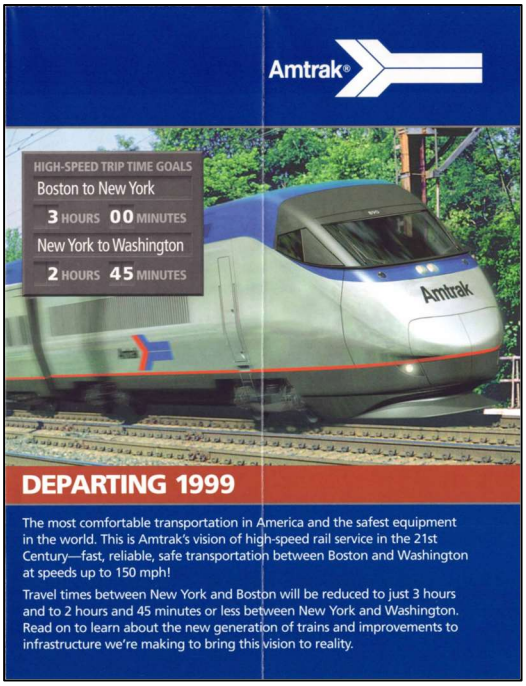

Figure 1 – Acela Advertised Schedules in 1999[28]

While the U.S. has struggled to match international speeds, the percentage of Americans traveling by train has fallen precipitously. By 2023, the most recent year for which complete data is available, Amtrak and intercity rail accounted for less than 0.1% of all U.S. passenger-miles traveled.[29] Meanwhile, the number of Americans traveling by car skyrocketed.[30]

Passenger rail advocates, mindful of the need to *sell* rail to a train-skeptical public, have sought to achieve headline-grabbing speeds. In 2007, recognizing that it would not be possible to reach true high-speeds (above 186 mph) on the NEC without dedicated track, twelve northeast states and the District of Columbia, along with Amtrak and the Federal Railroad Administration (FRA), organized a working group to recommend upgrades.[31] Congress enacted the Passenger Rail

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[26] Letter from Ranking Member Ted Cruz, Senate Comm. on Com., Sci. & Transp., to Stephen J. Gardner, CEO, Amtrak, and Anthony Coscia, Chairman, Amtrak Bd., at 1–2 (Sept. 5, 2023) (on file with Comm. staff).
[27] *See* AMTRAK, BLAZING TRAILS FOR 150 YEARS (1999), https://www.multimodalways.org/docs/railroads/companies/Amtrak/NRPC%20NEC%20HSR%20c1999.pdf (last visited Dec. 16, 2025); Fung & Umlauf, *supra* note 5.
[28] AMTRAK, BLAZING TRAILS, *supra* note 27.
[29] *U.S. Passenger-Miles*, BUREAU OF TRANSP. STAT., https://www.bts.gov/content/us-passenger-miles (last visited Dec. 19, 2025).
[30] *US Drivers Log 3.28 Trillion Miles in 2024, Setting New Record,* REUTERS (Mar. 5, 2025), https://www.reuters.com/world/us/us-drivers-log-328-trillion-miles-2024-setting-new-record-2025-03-05/.
[31] NEC MASTER PLAN WORKING GRP., THE NEC INFRASTRUCTURE MASTER PLAN, Preface (May 2010), https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/15016/2010-05%20NEC%20Infrastructure%20Master%20Plan.pdf (last visited Dec. 16, 2025) [hereinafter NEC Master Plan].

Investment and Improvement Act (PRIIA) the following year.[32] The Act reauthorized Amtrak and created the Northeast Corridor Commission to coordinate development along the route.[33]

B. Amtrak Joe's High-Speed Rail Ambitions

In January 2009, Joe Biden arrived in Washington, D.C., via Amtrak for his inauguration as Vice President.[34] By then, "Amtrak Joe" had ridden thousands of miles along the same route, commuting back and forth from Delaware to Washington during his tenure in the Senate.[35] He had called Acela "the single most important transportation need in America,"[36] and his election was widely considered a boon to advocates of high-speed rail on the NEC.

Biden's term as Vice President started ambitiously. That spring, Congress passed the American Recovery and Reinvestment Act (ARRA) to provide $8 billion for intercity passenger rail projects, including high-speed rail.[37] Shortly thereafter, President Barack Obama, Vice President Biden, and Transportation Secretary Ray LaHood released a strategic plan outlining their "Vision for High-Speed Rail in America."[38] The plan sought to "[a]dvance new express high-speed corridor services (operating speeds above 150 mph on primarily dedicated track) in select corridors of 200–600 miles."[39] It included a chart showing that "top operating speeds" in Japan, France, Germany, the United Kingdom, and China were at least 186 mph, whereas the U.S. lagged at 150 mph.[40]

The following January, the administration unveiled $8 billion in ARRA awards funding for high-speed rail projects across the country, including $1.19 billion for the Northeast and $2.25 billion for California.[41] The White House also announced a "long-term vision" for the NEC that would be carried out by a congressionally established commission.[42] Vice President Biden heralded the

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[32] *Id.*; *see* Federal Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848, 4907 (2008).
[33] FRA, *Overview, Highlights and Summary of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA)*, 1 (Mar. 10, 2009), https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/1333/PRIIA Overview 031009.pdf.
[34] *Obama Takes Train Ride to History*, CBS NEWS (Jan. 17, 2009), https://www.cbsnews.com/news/obama-takes-train-ride-to-history/.
[35] Andrew Glass, *A Younger Biden Goes the Extra Miles for Amtrak*, POLITICO (Feb. 7, 2007), https://www.politico.com/story/2007/02/a-younger-biden-goes-the-extra-miles-for-amtrak-002672.
[36] Kevin Shalvey, *Amtrak Joe: A Brief Look at President Biden's Long History of Supporting America's Railroad*, BUS. INSIDER (Apr. 10, 2021), https://www.businessinsider.com/amtrak-joe-brief-history-of-bidens-history-americas-railroad-2021-4.
[37] American Recovery and Reinvestment Act, Pub. L. No. 111-5, 123 Stat. 115, 208 (2009); Press Release, The White House, *supra* note 6.
[38] Press Release, FRA, President Obama, Vice President Biden, Sec'y LaHood Call for U.S. High Speed Passenger Trains (Apr. 16, 2009), https://railroads.dot.gov/elibrary/president-obama-vice-president-biden-secretary-lahood-call-us-high-speed-passenger-trains; FRA, VISION FOR HIGH-SPEED RAIL IN AMERICA (Apr. 2009), https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/1468/hsrstrategicplan.pdf.
[39] VISON FOR HIGH-SPEED RAIL, *supra* note 38, at 2.
[40] *Id.* at 7.
[41] Press Release, The White House, *supra* note 6.
[42] U.S. DEPT. OF TRANSP., *supra* note 6; *see High-Speed Intercity Passenger Rail Program (HISPR)*, FRA, https://railroads.dot.gov/grants-loans/high-speed-intercity-passenger-rail-program-hsipr (last visited Dec. 16, 2025).

"dawn of a new age."[43] In May, the aforementioned NEC working group released its proposed *Northeast Corridor Infrastructure Master Plan*, under which Amtrak would "begin to replace its entire Northeast Corridor fleet in the 2020 timeframe" with new trains intended "to operate at maximum speeds of 160 mph, compared to 150 mph today."[44] The idea of new, faster Acela trains was born.

Amtrak had even more ambitious plans. In September 2010, it published *A Vision for High-Speed Rail in the Northeast Corridor*,[45] which provided an "initial look at how Next-Generation ('Next-Gen') High-Speed Rail service could be successfully developed in the Northeast with sustained maximum speeds of *220 mph*" at an expected cost of $117 billion (in 2010 dollars).[46] The glossy report included a photo of Vice President Biden on the inside cover with a quote from his January 2010 funding announcement.[47]

"By investing in high-speed rail, we're doing so many good things for our country at the same time. We're creating good construction and manufacturing jobs in the near-term; we're spurring economic development in the future; we're making our communities more livable—and we're doing it all while decreasing America's environmental impact and increasing America's ability to compete in the world."

— Vice President Joseph Biden, High-Speed Rail Project announcement, January 28, 2010

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SUMMARY

Projected growth in the Northeast will substantially increase intercity travel demand, straining an already congested transportation network. The ability to expand the region's heavily congested highway and air service networks is severely constrained. The improvements outlined in the recently-released Northeast Corridor (NEC) Infrastructure Master Plan would bring the current system to a state-of-good repair, ensure reliable service for all users, including intercity, commuter and freight, and provide sufficient capacity to meet estimated ridership demand through 2030. It would not, however, provide the improvements in travel time or service levels needed to attract or handle significant numbers of new passengers or help alleviate congestion on the region's heavily constrained highway and air networks.

Recent international experience and numerous studies indicate that a Next-Generation (Next-Gen) High-Speed Rail system in the Northeast could be a "game-changer" in terms of high-quality, world-class rail service to meet this increased travel demand in an efficient, cost-effective and sustainable manner. The NEC is the nation's most important passenger rail corridor. Amtrak's pioneering high-speed rail service experience, the NEC's high-density "megaregion" development pattern and connecting commuter and local rail networks, are critical elements to the successful Next-Gen High-Speed Rail operations.

This report presents a possible concept for Next-Gen High-Speed Rail in the NEC, with new dedicated high-speed rail alignments, stations and equipment that can provide significant travel time savings and attractive premium service by rapidly connecting the Northeast's major hub cities (Boston, New York, Philadelphia and Washington, D.C.) along with its smaller cities, airports and suburban hubs. Upon completion in 2040, Next-Gen High-Speed Rail ridership would be roughly 5 times current Acela levels, with overall NEC network ridership at 3-4 times current levels. The system's construction would support 44,000 jobs annually over the 25-year construction period and approximately 120,000 permanent jobs, while generating an annual operating surplus of approximately $900 million. The economic value of improved intercity mobility, fewer highway accidents, reduced air service delays and other benefits would exceed the overall costs of the system's development.

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Figure 2 – Joe Biden Quoted in Amtrak Plan[48]

In order "to attract NEC travelers to Next-Gen High-Speed Rail service," the report says, Amtrak would need to pursue "[w]orld-class high-speed rail train sets capable of 220 mph top speeds."[49] With this in mind, the report analyzed possible track alignments that would "allow Next-Gen

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[43] Joe Biden, *Why America Needs Trains*, HUFFINGTON POST (Mar. 18, 2010), https://www.huffpost.com/entry/why-america-needs-trains_b_412393.
[44] NEC MASTER PLAN, *supra* note 31 at 18.
[45] AMTRAK, A VISION FOR HIGH-SPEED RAIL IN THE NEC, i, 19 (Sept. 2010), https://perma.cc/98DM-97HY.
[46] *Id.* at i, 20 (emphasis added).
[47] *Id.* at 1.
[48] *Id.*
[49] *Id.* at 8.

High-Speed Rail trains to achieve up to 220 mph top design speed," but which "would be developed over an approximately 30-year period, from initial planning to completion of construction."[50]

NEC upgrades were part of a wider plan. "Within 25 years, our goal is to give 80 percent of Americans access to high-speed rail," President Obama proclaimed.[51] On February 8, 2011, Vice President Biden announced a six-year, $53 billion plan to build a national high-speed rail network.[52] The plan contemplated "Core Express" corridors, which would "form the backbone of the national high-speed rail system, with electrified trains traveling on dedicated tracks at speeds of 125–*250 mph or higher*."[53] "In America, we pride ourselves on dreaming big and building big," said Secretary LaHood.[54] LaHood subsequently designated the NEC as a high-speed rail corridor to "provide new avenues for funding to improve railway infrastructure"[55] and announced $2 billion for high-speed intercity rail projects, including $795 million for NEC upgrades.[56]

Buoyed by the dream of a "world-class rail network," the Obama administration ramped up its strategic planning efforts.[57] FRA initiated "NEC FUTURE," a framework for bringing high-speed rail to the corridor.[58] "The biggest success you will have for 220 mph . . . is really in the Northeast Corridor because of the density that exists and the connectivity," said Amtrak CEO and President Joseph Boardman.[59] In July 2012, Amtrak published an updated *Vision for the Northeast Corridor*.[60] In what was now a $151 billion plan—a $34 billion increase from two years before—Amtrak proposed a dedicated high-speed rail line and trains speeding along at 220 mph, with infrastructure introduced "incrementally" through "a new phased implementation

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[50] *Id.* at 8, 22.
[51] Press Release, The White House, Remarks by the President in the State of the Union Address (Jan. 25, 2011), https://obamawhitehouse.archives.gov/the-press-office/2011/01/25/remarks-president-state-union-address.
[52] Press Release, The White House, Vice President Biden Announces Six Year Plan to Build National High-Speed Rail Network (Feb. 8, 2011), https://obamawhitehouse.archives.gov/the-press-office/2011/02/08/vice-president-biden-announces-six-year-plan-build-national-high-speed-r.
[53] *Id.* (emphasis added).
[54] *Id.*
[55] *LaHood Designates NEC as 11th HSR Corridor; Amtrak Now Can Directly Apply for HSR Funds,* PROGRESSIVE RAILROADING (Mar. 15, 2011), https://www.progressiverailroading.com/high_speed_rail/news/LaHood-designates-NEC-as-11th-HSR-corridor-Amtrak-now-can-directly-apply-for-HSR-funds--34241?.
[56] Press Release, FRA, U.S. Transp. Sec'y LaHood Announces $2 Billion for High-Speed Intercity Rail Projects to Grow Jobs, Boost U.S. Manufacturing and Transform Travel in America (May 9, 2011), https://perma.cc/F2QA-PFB4; Press Release, FRA, Sec'y LaHood Announces Nearly $745 Million inrail Funding for Major Upgrades & Construction Along Ne. Corridor (Aug. 22, 2011), https://perma.cc/BY6H-XBWC (announcing that the improvements will provide for high-speeds: "In the future, as Amtrak purchases new, next generation high-speed train sets, passengers will travel at world-class speeds of 186 mph along the improved track.").
[57] Joseph C. Szabo, *Challenges of High-Speed Rail*, 73 VELOCITY NETWORK, 4 (Sept. 2011), https://www.yumpu.com/en/document/read/5570230/high-speed-rail-parsons-brinckerhoff.
[58] *Overview*, NEC FUTURE, https://www.fra.dot.gov/necfuture/about/ (last visited Dec. 16, 2025).
[59] Burgess Everett, *High-Speed Rail's Competing Visions*, POLITICO (May 13, 2012), https://www.politico.com/story/2012/05/high-speed-rail-suffers-from-competing-visions-076251.
[60] AMTRAK, THE AMTRAK VISION FOR THE NEC, 2012 UPDATE REPORT (July 2012), https://perma.cc/9QBX-3937.

approach, known as the 'Stair-Step' strategy."[61] This strategy would involve the "[p]urchase of additional high-speed train sets to meet the planned high-speed frequencies for most milestone years and for replacement of the current *Acela Express* fleet."[62]

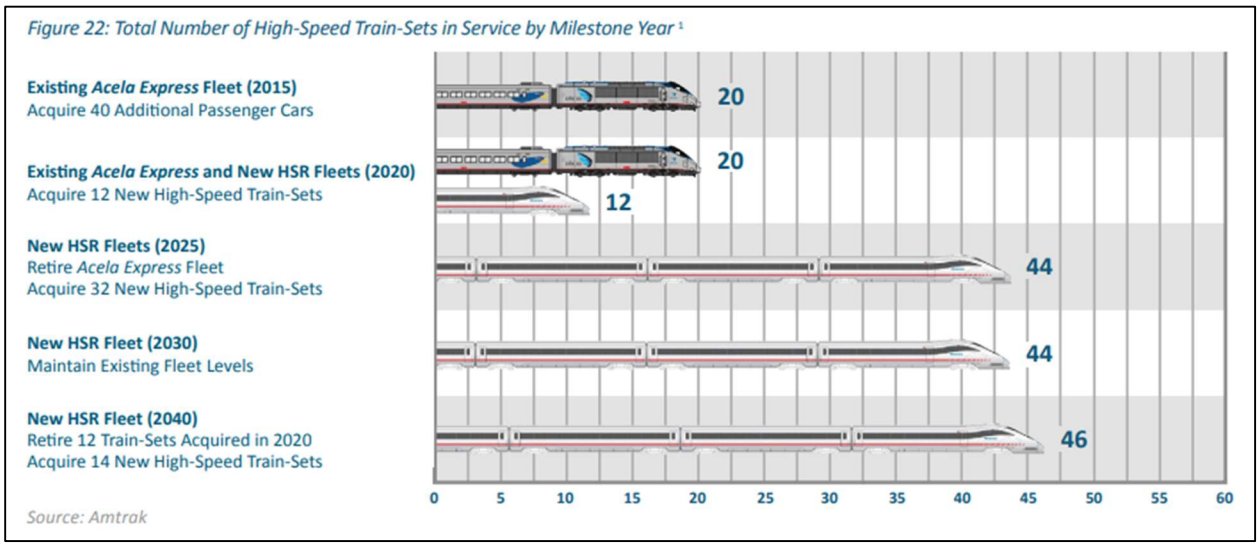

Figure 3 – Amtrak's High-Speed Rail Fleet Proposal[63]

Amtrak initially anticipated acquiring 12 new high-speed train sets by 2020 and 32 more by 2025, at which point it would retire the existing Acela trainset.[64] By December 2012, however, the corporation had revised its plan. Before the U.S. House Committee on Transportation and Infrastructure, Boardman announced that, instead of adding new trains to the existing Acela fleet, Amtrak would seek to "replace the Acelas with a new set of trains."[65] As LaHood had said, the administration was "dreaming big."[66]

C. California Dreamin'

The Obama-Biden administration's plans for the NEC formed only part of its monumental vision for high-speed rail in the United States. In July 2012, in what news outlets called a major political victory for the Obama-Biden administration, California voted to approve the first dedicated high-speed rail line in the United States.[67] Earlier in March, LaHood had voiced unequivocal support: "California is going to become a model for the nation. We are a thousand

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[61] *Id.* at 6.
[62] *Id.* at 22.
[63] *Id.*
[64] *Id.*
[65] *Ne. Corridor Future: Options for High-Speed Rail Development and Opportunities for Private-Sector Participation: Hearing Before the Comm. on Transp. and Infrastructure*, 112th Cong. 17 (2012), https://www.congress.gov/event/112th-congress/house-event/LC3907/text (statement of Amtrak President and CEO Joseph H. Boardman).
[66] The White House, Press Release, *supra* note 51.
[67] *California Lawmakers Approve First Dedicated High-Speed Rail in the U.S.*, AP (July 7, 2012), https://www.theguardian.com/world/2012/jul/07/california-approves-high-speed-rail.

percent committed to high-speed rail in America. This is the president's vision . . . . [T]here's no backing off."[68] Another early advocate was then-California Attorney General Kamala Harris, who litigated on behalf of the project[69] and later pushed for federal funding as a U.S. senator.[70]

But there were warning signs from the get-go.[71] Board members of the California High-Speed Rail Authority (CHSRA) were plagued with conflict-of-interest allegations.[72] Estimated costs ballooned.[73] High-speed rail funds initially intended for other states were diverted to California.[74] Even so, Democrats, especially the Obama-Biden administration, were supportive of the project as part of their broader push for high-speed rail.

D. The CHSRA-Amtrak Crossover

Political appointees in the Obama-Biden administration were convinced that a one-size-fits-all trainset—one that could serve both California and the Northeast—would bring high-speed rail to America.[75] Their proposed solution was a foreign, service-proven design that could be manufactured in the U.S. with minimum modifications and used on very different track alignments.[76] NEC Director and future Amtrak CEO Stephen Gardner said, "The Acela fleet will

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[68] *California Grapples with High-Speed Rail Debate*, PBS NEWS (Mar. 1, 2012), https://www.pbs.org/newshour/nation/high-speed-rail-battle-in-california.

[69] *See Cal. High-Speed Rail Auth. v. Superior Ct.*, 228 Cal. App. 4th 676 (Cal. Ct. App. 2014), https://caselaw.findlaw.com/court/ca-court-of-appeal/1674466.html; William Dotinga, *CA High Court Puts High-Speed Rail Back on Track*, COURTHOUSE NEWS SERV. (Oct. 16, 2014), https://www.courthousenews.com/ca-high-court-puts-high-speed-rail-back-on-track.

[70] Mike Lee, *Rail Riders Want Harris to Continue Legacy of 'Amtrak Joe'*, POLITICOPRO (Sept. 3, 2024), https://subscriber.politicopro.com/article/eenews/2024/09/03/rail-riders-hopeful-harris-would-continue-legacy-of-amtrak-joe-00176654; Christian Britschgi, *Kamala Harris Helped Secure Federal Funding for California's Disastrous High Speed Rail Project*, REASON (Jan. 22, 2019), https://reason.com/2019/01/22/kamala-harris-helped-secure-federal-fund/.

[71] *See* Letter from Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform, to Mr. Dan Richard, Chairman, California High-Speed Rail Authority (Apr. 9, 2012), https://oversight.house.gov/wp-content/uploads/2012/04/2012-04-09-DEI-to-Richard-CHSRA-document-preservation-due-4-16.pdf.

[72] *Id.*at 2; Dan Weikel & Rich Connell, *Watchdog Group Alleges Conflicts of Interest on High-Speed Rail Board* (Sept. 29, 2010), https://www.latimes.com/archives/la-xpm-2010-sep-29-la-me-high-speed-rail-conflicts-20100929-story.html; Press Release, U.S. House of Representatives Comm. on Oversight and Gov't Reform, House Oversight Comm. Opens Examination of California High-Speed Rail Authority (Apr. 10, 2012), https://oversight.house.gov/release/house-oversight-committee-opens-examination-of-california-high-speed-rail-authority/.

[73] Jeff Davis, *Timeline of California High-Speed Rail Cost Estimates*, ENO CTR. FOR TRANSP. (Mar. 14, 2018), https://enotrans.org/article/timeline-california-high-speed-rail-cost-estimates/.

[74] Press Release, U.S. Dep't of Transp., U.S. Dep't of Transp. Redirects $1.195 Billion in High-Speed Rail Funds (Dec. 9, 2010), https://web.archive.org/web/20101211181716/http://www.dot.gov/affairs/2010/dot20810.html.

[75] *See DOT Launches First Multistate Order for Standardized High-Speed Rail Cars*, BLET (Apr. 23, 2012), https://ble-t.org/news/dot-launches-first-multistate-order-for-standardized-high-speed-rail-cars/ (discussing efforts by the Next Generation Corridor Equipment Pool Committee, comprised in part of representatives from FRA and Amtrak, to purchase standardized equipment).

[76] *Id.*; *see also* Robert C. Lauby, FRA, Assoc. Adm'r for R.R. Safety & Chief Safety Off., 2017 FRA Rail Program Delivery Meeting, FRA & The Next Generation of High-Speed Rail Equipment (2017), https://perma.cc/R6SW-V2XV.

need to be augmented in the 2020s, . . . and we hope these can be a European or Asian-type off the shelf design, manufactured in the USA."[77]

The Obama-Biden administration's FRA took steps to revise regulations to allow real high-speed trains in America. Robert C. Lauby, Chairman of FRA's Railroad Safety Advisory Committee (RSAC), said the agency was regularly meeting "to determine what kind of system requirements would be appropriate for 220 mph high-speed rail operation."[78] Fellowship trips sponsored by Parsons Brinckerhoff, a firm leading California high-speed rail development, had "led to a high level of collaboration and a productive partnership" between the California project and FRA, ultimately "influenc[ing] the direction" of the FRA's development of new safety standards for high-speed trainsets.[79]

In September 2012, at the 47th meeting of RSAC,[80] an Engineering Task Force established by the Passenger Safety Working Group[81] provided a report detailing the outline of new "Tier III" safety standards for high-speed rail projects like California's.[82] Following the taskforce's presentation and discussions regarding the "procurement of lighter weight, faster and more energy-efficient rail equipment," FRA encouraged Amtrak and CHSRA "to work together collaboratively" on high-speed rail procurement and advocacy.[83]

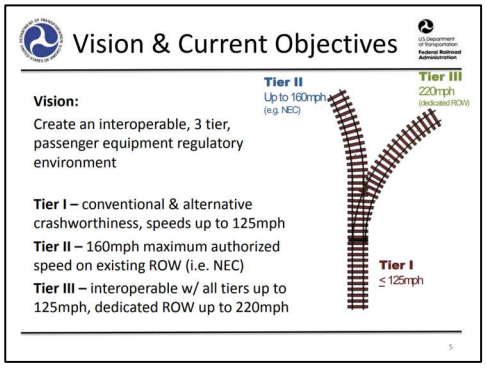

Figure 4 – Engineering Task Force Presentation[84]

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[77] Nick Kingsley, *Solving the 21st Century Funding Conundrum*, RY. GAZETTE INT'L (Sept. 2012) (article on file with Comm. staff).

[78] Francis P. Banko & Jackson H. Xue, *Pioneering the Application of High-Speed Rail Express Trainsets in the United States*, PARSONS BRICKENHOFF 2010 WILLIAM BARCLAY PARSONS FELLOWSHIP, MONOGRAPH 26, XV (Dec. 2012) (quoting foreword by Robert C. Lauby, Fellowship Participant), https://www.yumpu.com/en/document/read/25186678/pioneering-the-application-of-high-speed-rail-express-trainsets-in-.

[79] *Id.*

[80] Meeting Notice, 77 Fed. Reg. 52393, IV (Aug. 29, 2012).

[81] *See* R.R. Safety Advisory Comm. (RSAC); Working Grp. Activity Update, 75 Fed. Reg. 51525 (Aug. 20, 2010).

[82] RSAC, FINAL R.R. SAFETY ADVISORY COMM. (RSAC) MINUTES OF MEETING (Sept. 27, 2012) 22–23, https://perma.cc/55AT-4Z5P.

[83] *Amtrak and California Join Forces on High-Speed Fleet Procurement*, RY. GAZETTE INT'L (Jan. 17, 2013), https://www.railwaygazette.com/news/amtrak-and-california-join-forces-on-high-speed-fleet-procurement/37671.article; *see* RSAC, ENGINEERING TASK FORCE UPDATE TO THE 47TH R.R. SAFETY ADVISORY COMM. MEETING (Sept. 27, 2012), https://perma.cc/U76T-GCRY.

[84] RSAC, *supra* note 83, at 5.

In January 2013, Amtrak and CHSRA issued a joint Request for Information (RFI) for a fleet of high-speed trains "capable of operating safely at speeds up to 220 mph" on *both* the NEC and California's developing corridor.[85] The RFI proposed 27 trainsets for California and 32 for the NEC—12 initially to supplement the existing Acela trains and another 20 to fully replace them.[86]

At the time, FRA Administrator Joseph C. Szabo "applaud[ed] both Amtrak and the California High-Speed Rail Authority for answering our call to explore joint procurement of the next generation of high-speed rail equipment."[87] Szabo explicitly took credit on behalf of the agency: "The FRA wasn't pressured or swayed to do this; we brought [the two HSR parties] together, because we already had made the change almost a year ago . . . to shoot for the highest level of standardization."[88]

But Amtrak and CHSRA ignored all signs that standardization between the NEC and California's proposed track was like combining the tortoise and the hare. Szabo downplayed the speed difference between the systems, claiming that "the approach on the Northeast Corridor isn't substantially different," as CHSR would also be mixed-use in sections.[89] Even so, a Northeast Corridor Commission report published the same month of the RFI, *Critical Infrastructure Needs on the Northeast Corridor*, cast doubt on the practicality of a joint procurement.[90] The report noted $400 million was required to avoid recurring delays to existing express trains between Washington and Baltimore.[91] Another $200 million was required to alleviate traffic near New Brunswick, N.J., caused by NJ TRANSIT trains.[92] An estimated $1.8 billion was required to allow for high-speed trains traveling faster than 135 mph between Washington, DC and New York City.[93] Large infrastructure investments were required before trains could travel at 160 mph on the NEC, let alone 220 mph. Yet the Obama-Biden administration barreled ahead.

II. Investigation

After a series of concerning Amtrak Office of Inspector General (Amtrak OIG) reports on the NextGen Acela procurement, manufacturing, and testing process, the Committee launched an investigation into the NextGen Acela process in 2023 and sought documents, responses, and briefings from Amtrak, Alstom, and the FRA. The Committee also received records from the National Archives associated with the procurement.

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[85] Press Release, Amtrak, Amtrak and California Partner in Pursuit of New High-Speed Train Sets (Jan. 17, 2013), https://perma.cc/YC4A-FGRE.
[86] *Id.*
[87] *Id.*
[88] Douglas J. Bowen, *Amtrak, California, and FRA Team Up for New HSR Gear*, RY. AGE at 28–29 (Feb. 2013) https://issuu.com/railwayage/docs/feb_2013_railway_age_magazine.
[89] *Id.* at 29.
[90] NE. CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMM'N, CRITICAL INFRASTRUCTURE NEEDS ON THE NE. CORRIDOR, 18, 32–33, 65 (Jan. 2013), https://perma.cc/P5Q7-NHM6 (noting key investments necessary to allow even modest increases in speed on the Northeast Corridor).
[91] *Id.* at 18.
[92] *Id.* at 33.
[93] *Id.* at 65.

A. The Misguided Joint RFI with CHSRA, Unnecessary Technical Requirements, and Political Pressures Delayed the Procurement Process and Eliminated Bidders.

1. Amtrak's RFI Revealed Challenges to a Joint Procurement with CHSRA, but Amtrak Proceeded Under Pressure from the Obama-Biden Administration.

After the January 2013 RFI announcement, eight companies responded to the RFI with proposals and questions: Alstom, AnsaldoBreda, Bombardier, CSR Sifang, CAF USA, Kawasaki, Siemens, and Talgo.[94] From the start, many of the manufacturers pointed out expected complications of the joint procurement because CHSRA and Amtrak's requirements were so different.

Alstom, the eventual winner of the Amtrak contract to produce the NextGen Acela, was of the view that different trains would be the optimal choice for the NEC or the CHSRA, making a joint procurement unnecessary. On February 28, 2013, early in the RFI process, Amtrak, CHSRA, Alstom, and FRA met to address the RFI's technical performance requirements for Amtrak and CHSRA.[95] Alstom presented three trainset options: AGV, Duplex, and Pendolino.[96] Alstom emphasized that Pendolino "[a]llows 160 mph and travels through curves 30% faster. . . . Some tests have been made [with] tilting technology along with articulation but there is no product ready. Tilting technology may [be] available in 7–10 years at higher speeds."[97] (Tilting technology tilts the entire trainset as it rounds curves, keeping passengers comfortable and ensuring it is not pulled off the track by centripetal or centrifugal forces.) The Pendolino seemed well suited to a curvy track like the NEC with a maximum speed of 160 mph.

In its subsequent RFI response submitted in March 2013, [98] Alstom wrote, "[b]ased on the information we have been provided and the discussion we had together on February 28th, the

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[94] Docs. from Mfrs. Submitted to Amtrak Staff (March 2013) (CTRL-SEN-AA_00000303, CTRL-SEN-AA_00000311, CTRL-SEN-AA_00000314, CTRL-SEN-AA_00000321, CTRL-SEN-AA_00000322, CTRL-SEN-AA_00000328, CTRL-SEN-AA_00000330, CTRL-SEN-AA_00000331) (on file with Comm. staff).

[95] Email and Attachments Regarding Alstom Meeting Minutes (Mar. 1, 2013) (CTRL-SEN-AA_00000305–305.0001) (on file with Comm. staff).

[96] *Id.* In Alstom's Sept. 19, 2023, letter to Sen. Cruz, in response to Amtrak's RFP, Alstom stated it evaluated three potential solutions: TGV, AGV, and Pendolino. Though not mentioned specifically, "Duplex" in this context is a type of TGV design with double-decker passenger cars. "Alstom determined Avelia Liberty, based on the TGV with tilting technology, [was] the solution that best meets the requirements and selection criteria." Letter from Michael Keroullé, CEO, Alstom Americas, to Ranking Member Ted Cruz, S. Comm. on Com., Sci., and Transp. at 2 (Sept. 19, 2023) (on file with Comm. staff).

[97] Email and Attachments Regarding Alstom Meeting Minutes, *supra* note 95, at 2. In Amtrak's Sept. 21, 2023, letter to Sen. Cruz, Amtrak states *Avelia Liberty* is based on Alstom's trains for the TGV system "and makes use of their tilting technology, known as 'Tiltronix.'" Letter from Amtrak CEO Stephen Gardner to Ranking Member Ted Cruz, S. Comm. on Com., Sci., and Transp. at 2–3 (Sept. 21, 2023). This technology "is deployed on the *Avelia Pendolino* in Italy, which, according to Alstom, enables 30% higher speeds round bends, resulting in shorter journey times on existing conventional networks, with a minimum of new investment in the infrastructure." *Id.* at 3 (emphasis added.)

[98] Email and Attachments Regarding Alstom Req. for Info. Response (Mar. 18, 2013) (CTRL-SEN-AA_00000328–328.0006) (on file with Comm. staff).

solution that would best meet the needs for both the Northeast Corridor and the California High-Speed Rail Authority is: AGV."[99] *However*,

> the solution that would best fit the Northeast Corridor requirements (Tier III) for speeds up to 160mph, but that would not meet the California High-Speed Rail Authority's speed requirement of 220mph is: Pendolino. . . . This technology has been demonstrated to enable the fastest overall trip times, for a given route alignment, even when compared to trains designed for higher operating speed that lack tilting.[100]

In response to an Amtrak query about the trainset's maximum operating speed, Alstom clarified that the design speed for Pendolino was 155 mph, but that "a maximum operating speed of 160mph could be achieved depending on the exact line profile and the specific performance requirements."[101]

Still, Amtrak prioritized a joint procurement and acquiring a trainset that could take advantage of speculative NEC infrastructure upgrades. In its questions to Alstom, Amtrak reiterated, "[a]t some point in the future, Amtrak plans to make profile improvements to the existing NEC track infrastructure and to construct a dedicated right of way."[102] Would it be possible, Amtrak asked, to "modify" the trainset "in the future to take advantage of the NEC profile improvements and, thereby, improve Trip Times"?[103] Alstom's answer seemed to preclude the Pendolino, which Alstom had stated would have been the best for the current NEC. While the AGV "would be delivered from the beginning with a design speed of 220mph" the Pendolino was only designed to go 155 mph.[104] "The train could be modified to operate at 200 mph and higher speeds, but this would require [a] major re-design and is not foreseen in the near future."[105]

Other companies came to a similar conclusion: CHSRA and Amtrak were asking for two different trainsets. In submitting its information, Kawaski said that the "performance specification requirements and design conditions for Amtrak and CHSRA are quite different" and "there will be the necessity to adopt different solutions in various areas."[106] Again, Amtrak asked about designing slower trains for the NEC today that could be retrofitted for speeds up to 220 mph. Kawasaki said it could study the feasibility, but it would involve swapping out the trucks of all trains.[107]

Some companies found it difficult to reconcile building a single train that could tilt on the NEC but would not need that capability in California. Siemens (which ultimately chose *not* to submit a bid for the NextGen Acela trainsets) recommended that Amtrak "avoid tilting systems for the

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[99] Alstom Answers to Questions at 1 (Mar. 18, 2013) (CTRL-SEN-AA_00000328.0001) (on file with Comm. staff).
[100] *Id.*
[101] *Id.* at 6.
[102] *Id.* at 9.
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] Kawasaki RFI Presentation, at 2 (Mar. 5, 2013) (CTRL-SEN-AA_00000302.0001) (on file with Comm. staff).
[107] Kawasaki RFI Resp., at 7–8 (Mar. 18, 2013) (CTRL-SEN-AA_00000314.0001) (on file with Comm. staff).

NEC" in part because tilting "would reduce the commonality between NEC and CHSRA trainsets."[108] Siemens argued that the desired trip times for the NEC could be achieved "without tilt," including by Siemen's available Velaro model, and that tilting would "will no longer be needed in the NEC when the new [track] alignment becomes available and cannot be easily removed."[109] Put simply, Siemens thought it was wasteful to design a train to navigate the NEC's curves with tilting technology *and* the straighter alignments of the CHSRA or a future, contingent NEC. AnsaldoBreda concurred and said any tilting system would add significant upfront and maintenance costs to the trainset without any guaranteed increase in trip time.[110]

2. Amtrak Recognized the Challenges of a Joint Procurement and Buying Trains That Could Go Faster Than the NEC Infrastructure Allowed.

After analyzing company responses to the RFIs, on November 25, 2013, Amtrak's Mark Yachmetz emailed FRA's Karen Hedlund conveying the finalized "Amtrak Business Case" for a high-speed trainset on the NEC he had provided to Amtrak's board.[111] In the business case, Amtrak staff reiterated that "FRA asked Amtrak to explore the possibility of jointly procuring our equipment with the CHSRA."[112]

After analyzing the risks and options, Amtrak staff concluded that a joint procurement was risky due to the uncertainty of "whether a platform would be offered that meets both Amtrak's and CHSRA's needs."[113] Amtrak management also noted substantial public policy risks:

> Among such risks apparent at this stage are those that relate to Amtrak's partnership with the CHSRA project. . . . [I]t is a signature project of one of the current Administration's signature initiatives. . . . **Advocates . . . may seek to influence the outcome of this acquisition in ways that are not necessarily in Amtrak's business interests**.[114]

Of the six strategies for a joint procurement, Amtrak staff recommended to its Board of Directors Option 4, which was described as the more conservative option.[115] Option 4 sought more, updated trains operating at the same speed as current Acela service.[116] Option 6, the second option Amtrak staff most seriously considered, sought trains with slightly faster (about 14.5 minutes less from DC to Boston) travel times.[117] Amtrak's staff's concerns with Option 6 included uncertainties in capital costs, the reliability of proposed trainset platforms, the

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[108] Siemens RFI Resp., at 13 (Mar. 18, 2013) (CTRL-SEN-AA_00000311.0001) (on file with Comm. staff).
[109] *Id.* at 13, 16.
[110] AnsaldoBreda RFI Resp., at 2–3 (Mar. 18, 2013) (CTRL-SEN-AA_00000330.0002) (on file with Comm. staff).
[111] Email and Attachments Regarding "NEC high-speed trainsets busines[s] case," (Nov. 25, 2013) (CTRL-SEN-AA_00000329–329.0001) (on file with Comm. staff).
[112] Amtrak Business Case – Authority to Launch an RFP for Next Generation HSR Rolling Stock, at 4 (emphasis added) (CTRL-SEN-AA_00000329.0001) (on file with Comm. staff).
[113] *Id.* at 6–7.
[114] *Id.* at 9 (emphasis added).
[115] *Id.* at 6–10, 40.
[116] *Id.*
[117] *Id.* at 22–23.

compatibility of Amtrak and CHSRA requirements with each other, and regulatory constraints on tilting technology required to decrease trip times on the NEC.[118] Despite viewing Option 4 as the better option, staff recommended seeking manufacturer proposals to meet the trip times of Option 6.[119]

Amtrak staff thought it was foolhardy to seek trains that could hit the same speeds on the NEC as in California: "The NEC's infrastructure is significantly different from the 220+ mph limited curve alignment proposed by CHSRA which will not require tilt. Until such time as a new, dedicated high-speed line is constructed for the NEC, it is unlikely that any new Amtrak high-speed trainsets would be able to utilize a full 220 mph capability."[120]

Staff were also quick to point out that Amtrak did not have to undertake a joint procurement with CHSRA if it ultimately did not want to.[121]

Amtrak staff viewed increasing speeds to just 160 mph as contemplated in Option 6 as uncertain but perhaps possible. The business plan noted that "[e]nhancing trip times as discussed in options 5 and 6 would require 9 [inch tilting]" even though current FRA regulations only allowed six or seven inches of tilt.[122] Because the tilting needed on the new trainsets might not be approved or manufacturable, Amtrak staff concluded "it is not possible to consider Option 6 deliverable at this time."[123] Put more succinctly, Amtrak understood that the combination of the NEC's infrastructure and FRA regulations limited train times and that any short-term increase in trip times was speculative at best. Amtrak was thinking realistically, despite political pressure to acquire faster trains.

The very next month, when Amtrak issued draft specifications for its new trainsets, the operating speed requirement was set to 160 mph instead of the 220 mph requirement contemplated in the earlier RFI.[124] Industry stakeholders expressed confusion: hadn't the point all along been to go with a model that would also work for California?[125] Amtrak, for its part, said it "hoped to buy 160-mile-an-hour trains that could be modified in the future to go faster, as the NEC was upgraded to permit higher speeds."[126] A spokesman for Amtrak explained, "We continue to work toward the goal of 220 m.p.h. service on the NEC, while mindful of the tremendous investment necessary to upgrade the infrastructure to a point that can support such speeds."[127]

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[118] *Id.* at 6–10.
[119] *Id.* at 7.
[120] *Id.* at 20.
[121] *Id.*
[122] *Id.* at 35.
[123] *Id.*
[124] Paul Nussbaum, *Northeast Corridor High-Speed Rail Plan Slows to 160 mph,* PHILA. INQUIRER (Dec. 8, 2013), https://www.inquirer.com/philly/business/transportation/20131208_Hitting_the_brakes.html.
[125] *Id.*
[126] *Id.*
[127] *Id.*

FRA, anxious to save the joint procurement, said the agency thought "[w]ith only small modifications" a common platform could meet Amtrak's requirements and California's.[128] But a manufacturer, who declined to be named, said, "They're realistically two different trains," and an official from a high-speed-rail engineering firm said the requirements now appeared to be "very different."[129] Despite the clear signs from manufacturers that a joint procurement would not work, under pressure from the FRA and CHSRA, Amtrak moved ahead with one anyway.

3. After Beginning a Joint Procurement with CHSRA, Amtrak Pivoted Because Manufacturers Insisted It Was Unworkable.

On January 24, 2014, Amtrak issued a joint Request for Proposal (RFP) with CHSRA for 28 high-speed trains to replace its aging Acela fleet with the goal of determining "whether there is a common platform available that can cost-effectively meet both Amtrak's existing needs and the needs of the Authority's initial operating segment . . . ."[130]

The following month, Biden delivered quixotic remarks on the need for infrastructure investment at 30th Street Station in Philadelphia: "I can't imagine an America 15 years let alone 30 years from now without high-speed rail—I mean rail that goes 225 to 230 miles an hour."[131] In an "Amtrak Joe" interview with TIME Magazine on February 10, "Biden interspersed nearly every answer with a reminder that he is more than 'President of the Amtrak fan club.'"[132]

Joint procurement proposals were due on May 16, 2014. Later that month, Amtrak's Office of the Inspector General issued a report regarding Amtrak's business case for the next-generation trainsets.[133] The report reiterated that **"Amtrak jointly issued this request with the California High-Speed Rail Authority at the request of the Department of Transportation."**[134]

Early June 2014 meetings with manufacturers poured cold water on a joint procurement yet again. FRA, Amtrak, and CHSRA officials met with eight potential manufacturers, mostly the same ones that submitted proposals to the January 2013 RFI, to discuss the RFP and amendments released to date. As a result of those meetings, FRA staff said, it was "concluded that it is unlikely that the carbuilders can provide a common platform that meets the Acela trip time, ride quality and satisfies the other RFP requirements for Amtrak and CHSRA."[135]

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[128] *Id.*
[129] *Id.*
[130] AMTRAK, FY2014 BUDGET AND BUS. PLAN (Apr. 2014), https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/FY14-BBP-FY15-BJ-FY14-18-5Yr-FP.pdf.
[131] Remarks by Vice President Joe Biden on the Need for Infrastructure Investment, 30th St. Station, Phila., Pa., at 8 (Feb. 6, 2014) (CTRL-SEN-AA_00000489) (on file with Comm. staff).
[132] Zeke Miller, *Interview: Vice President Joe Biden on Amtrak, Obama, and Pot*, TIME (Feb. 10, 2014), https://time.com/5647/joe-biden-interview-2016-presidential-campaign/.
[133] AMTRAK, OFF. OF INSPECTOR GEN., ASSET MANAGEMENT: AMTRAK FOLLOWED SOUND PRACTICES IN DEVELOPING A PRELIMINARY BUSINESS CASE FOR PROCURING NEXT-GENERATION HIGH-SPEED TRAINSETS AND COULD ENHANCE ITS FINAL CASE WITH FURTHER ANALYSIS, OIG-E-2014-007 (May 29, 2014), https://www.amtrakoig.gov/sites/default/files/reports/oig-e-2014-007.pdf.
[134] *Id.* at 1 (emphasis added).
[135] Adm'r Meeting Paper, FRA, at 1–2 (CTRL-SEN-AA_00000396) (on file with Comm. staff) (emphasis added).

Talgo made the point most clearly: It relayed to FRA, Amtrak, and CHSRA that the trainset procurement should clearly be decoupled and that train designs for either the NEC or CHSRA could be optimized for one but not the other.[136] To make the point, Talgo walked through the differences in NEC infrastructure (track grades and curve radii) compared to the CHSRA's proposed alignment.[137] What about the requirement that Amtrak trains be upgradeable to accommodate speeds up to 220 mph? By the time infrastructure could be upgraded for trains to go that fast in the Northeast Corridor, Talgo said, technology would likely have advanced so far that it would make more sense to just buy new trains.[138]

Tilting requirements were one major concern. Siemens, for example, noted that the joint RFP's requirements effectively disallowed any design that did not have a tilting mechanism and that it couldn't offer a common platform solution if tilting were required.[139] AnsaldoBreda and Alstom had the same concerns.[140]

Finally, the FRA, CHSRA, and Amtrak accepted that a joint procurement was not feasible. On June 23, 2014, Amtrak announced that it would shelve the joint procurement and issue its own, stating "Amtrak and CHSRA concluded that obtaining a meaningful common platform would result in sub-optimal solutions, move us away from a service-proven design and create significant risks as to schedule and costs."[141] Frank Vacca, chief program manager for the California project, remarked:

> We were hoping it would be possible to leverage joint procurement and establish a national standard for high-speed trains for the US. What came out was the fact that [the manufacturers] really were not able to provide a common platform or common train that met both of our needs. Now we're going to have something much closer to off-the-shelf trainsets from manufacturers. The more we can keep it off-the-shelf, the better it is for cost.[142]

After 18 months wasted on a joint procurement, Amtrak changed course.

4. Technical Specifications Precluded Bidders.

On July 1, 2014, Amtrak issued its own RFP for 28 next-generation trainsets to replace its Acela fleet, officially pivoting away from joint procurement. Amendments to the RFP, however, brought parts of the joint procurement back from the dead. The RFP required a manufacturer to provide a trainset that could, at first, reach speeds of 160 mph but also to "provide pricing to upgrade the maximum speed of the Trainset . . . to both 186 mph and 220 mph."[143] In other

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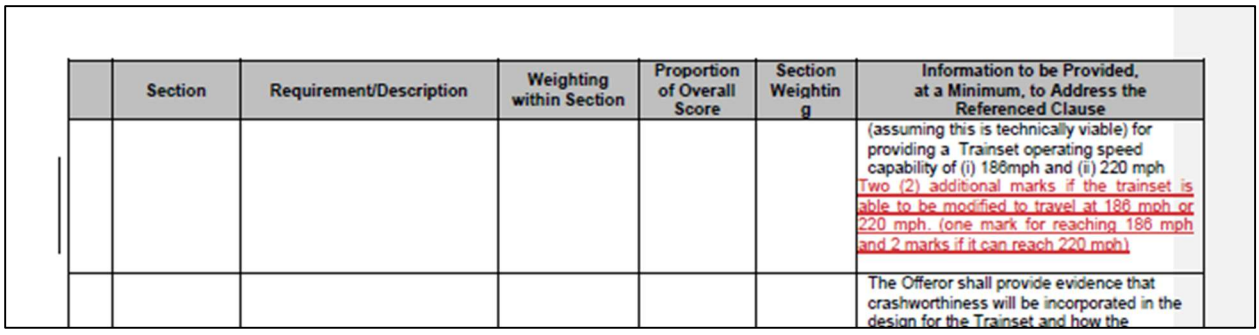
[136] *Id.* at 16.
[137] *Id.*
[138] *Id.* at 15.
[139] *Id.* at 5.
[140] *Id.* at 11, 14.
[141] *Amtrak and Cal. Abandon Joint Rolling Stock Procurement, supra* note 14.
[142] *Amtrak and Cal. to Tender for Separate HS Fleets,* INT'L RY. J. (June 23, 2014), https://www.railjournal.com/rolling-stock/amtrak-and-california-to-tender-for-separate-hs-fleets/.
[143] Amtrak, RFP No. X-034-14182 at 14 (July 1, 2014) (on file with Comm. staff).

words, specifications from the joint procurement, for trains that could achieve speeds faster than Northeast Corridor infrastructure could handle, were still incorporated into the RFP.

A later amendment *rewarded* manufacturers for trains with upgradable speeds. On August 18, 2014, Amtrak amended its RFP evaluation process document to add "[t]wo (2) additional marks if the trainset is able to be modified to travel at 186 mph or 220 mph. (one mark for reaching 186 mph and 2 marks if it can reach 220 mph)."[144]



	Section	Requirement/Description	Weighting within Section	Proportion of Overall Score	Section Weightin g	Information to be Provided, at a Minimum, to Address the Referenced Clause
						(assuming this is technically viable) for providing a Trainset operating speed capability of (i) 186mph and (ii) 220 mph Two (2) additional marks if the trainset is able to be modified to travel at 186 mph or 220 mph. (one mark for reaching 186 mph and 2 marks if it can reach 220 mph)
						The Offeror shall provide evidence that crashworthiness will be incorporated in the design for the Trainset and how the

Figure 5 – Amtrak RFP Amendment[145]

As CNBC reported a day later, "[t]he new trains will be required to reach speeds of 160 miles per hour when delivered and have the ability to be modified to achieve faster speeds," according to an Amtrak spokesman.[146] Around the same time, Amtrak CEO Joseph Boardman made a bold prediction without any evidence: "We're going to have three-hour service between Boston and D.C.," he said, implying that trains on the Northeast Corridor might exceed 220 mph.[147]

When asked why Amtrak still asked for trains that could go faster than the NEC currently allows, Amtrak admitted it was still "interested in trainsets that could potentially operate at maximum speeds of 186 mph given future possible development of dedicated high-speed alignments on the NEC per the FRA's [NEC FUTURE] study."[148] In Amtrak's words, procuring faster trains would "future proof" them for "various NEC development scenarios."[149] But this put the cart before the horse (or the train before the tracks). Why buy a train that can go 186 or 220 mph when the appropriate tracks do not exist and there is no realistic plan in place to build them within the train's lifespan?

Technical proposals for the trainset were due on October 1, 2014.[150] Though Amtrak issued six different amendments between July 1 and October 1, its request for trains that could be upgraded

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[144] Amtrak, RFP Amend. No. 004 at 38 (Aug. 18, 2014) (on file with Comm. staff).
[145] *Id.*
[146] Amy Langfield, *Old Age May Derail Amtrak's High-Speed Ambitions*, CNBC (Aug. 19, 2014), https://www.cnbc.com/2014/08/18/amtraks-high-speed-ambitions-may-be-derailed-by-old-age.html.
[147] *Id.*
[148] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 5.
[149] *Id.* at 2.
[150] According to Amtrak, in its Sept. 21, 2023, letter, Alstom submitted its original technical proposal on Oct. 1, 2014, followed by three additional proposals in May 2015, Jan. 2016, and Jun. 2016. *Id.* at 6.

for higher speeds remained.[151] Only two companies[152] submitted final bids: Alstom and Talgo.[153] Bombardier would later say it bowed out of the Acela procurement due to changed technical specifications during the proposal stage.[154] While Bombardier did not specify what change caused it not to offer a bid, the company had plenty to choose from.

So what specifications might have influenced bidders? *First*, there were repeated changes to the trainset's speed requirement. By the final revision to the RFP, Amtrak mandated "[t]he Trainset be capable of operating at up to 186 mph but the initial operating performance and testing will be carried out for a maximum operating speed of 160 mph."[155] It did not drop the requirement that the manufacturer provide "a further price for [upgraded] Trainsets that can also achieve 220 mph" until April 13, 2015, eight months after the first technical reports were due.[156]

Second, Amtrak confirmed that improved timetables on the NEC were a requirement of the procurement. Amtrak required these improved timetables *despite* Amtrak staff's own findings earlier that improved timetables on existing infrastructure were uncertain and speculative.[157] Given the NEC's aging infrastructure and curving tracks, this would require a tilting mechanism. The need for a tilting system on any trainset to meet the RFP appears to have reduced competition among bidders. In an amendment on August 18, 2014, Amtrak responded to a manufacturer's question:

> Q: "[i]f [a] non-tilting train is proposed, [could] the max deficient cant in the existing line of Amtrak [be] adjusted" above 5 inches?
>
> A: "There is no adjustment allowed."[158]

Asked whether a "tilting train must be adopted" to satisfy the RFP's lateral acceleration requirements, Amtrak responded, "Yes."[159] This is not to say that procuring a non-tilting trainset would have been advisable, but that requiring a train to go so fast and tilt may have deterred manufacturers.

Third, Amtrak required that trainsets be able to navigate the current NEC track alignment, including FRA class 1 track, which has a very low maximum speed and narrower turns. That requirement effectively contravened Amtrak's requirements that trainsets be upgradable to speeds of up to at least 186 mph and service-proven. Asking for clarification about the requirement, one manufacturer said, "It will be unfeasible to offer a service proven Trainset able

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[151] Amtrak, RFP Amend. No. 006 at 1, 11 (Sept. 11, 2014) (on file with Comm. staff).
[152] *See* Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 6.
[153] Amtrak Next Generation HSR Offerors (June 30, 2023) (on file with Comm. staff).
[154] *Canada's Bombardier Bows Out of Amtrak's Acela Procurement,* REUTERS (Dec. 8, 2014), https://www.reuters.com/article/business/canada-s-bombardier-bows-out-of-amtrak-s-acela-procurement-idUSKBN0JM1YA/.
[155] Amtrak, RFP Amend. No. 012 at 397 (Dec. 18, 2015) (on file with Comm. staff); *See* Letter from Michael Keroullé, *supra* note 96 at 1 (reiterating Alstom's understanding that trains must be capable of reaching 186 mph).
[156] Amtrak, RFP Amend. No. 009 at 17 (Apr. 13, 2015) (on file with Comm. staff).
[157] Amtrak Business Case – Authority to Launch an RFP for Next Generation HSR Rolling Stock, *supra* note 112 at 6–10.
[158] RFP Amend. No. 004, *supra* note 144 at 122.
[159] *Id.*

to operate at the appropriate low speed on the lower track classes."[160] Amtrak responded, "The train must be able to operate at all classes of track (1-8) on the NEC referred to in 49 CFR 213."[161] Manufacturers had cautioned Amtrak earlier in the process that service-proven trains matching speeds of 186 mph or higher typically cannot maneuver class 1 track.[162] Amtrak asked for it anyway.

Fourth, there was some aftershock from the earlier joint procurement with CHSRA in the lead up to the due date for technical proposals on October 1, 2014. Just six weeks before that date, Amtrak had to provide a revised curvature table that allowed the manufacturers to properly test their trainset's performance on the NEC's track alignment.[163] The same amendment deleted references to the CHSRA that were still in RFP documents months after the joint procurement had been shelved.[164]

Amtrak's RFP required any proposed trainset to be "service-proven," meaning a train going at least 155 mph "for a minimum of one year at time of submission of the proposal" with only variations to comply with FRA regulations.[165] But by requiring trains that could be upgraded to reach 186 mph, Amtrak essentially made "service proven" designs hard to come by and put Siemens and other bidders out of the running, decreasing competition.

In the end, Amtrak's RFP requested a train that could do everything. It needed to tilt to travel around curves, but it had to be able to reach 186 mph. It had to maneuver on the current NEC but be adaptable to future unplanned infrastructure improvements. These warring requirements, even without the joint procurement with CHSRA, meant that any trainset that fulfilled Amtrak's RFP could not be service-proven or off-the shelf. For example, at the RFI stage, Bombardier offered Amtrak a train that could go 186 mph *or* one that had tilting technology.[166] Siemens similarly said that requiring a tilting train that could be reconfigured to reach higher speeds would not be feasible.[167] As even Alstom told Amtrak in 2013, its Pendolino trains had tilting technology and a maximum speed of 155 mph "friendly . . . for existing infrastructure" while its AGV and TGV trains could go much faster but *did not* have tilting technology.[168] In a later letter to the Committee, Amtrak admitted "[p]roven high-speed trains utilizing tilting technology and

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[160] *Id.* at 124.
[161] *Id*.
[162] Bombardier's off-the-shelf trains could not maneuver Class 4 tracks. Bombardier Oral Presentation, at 58 (Feb. 28, 2013) (CTRL-SEN-AA_00000331.0001) (on file with Comm. staff). Kawasaki's could not go below Class 3. Adm'r Meeting Paper, *supra* note 135 at 7. Siemens could not go below Class 2. Siemens RFI Resp., *supra* note 108 at 65.
[163] Amtrak, RFP Amend. No. 004, *supra* note 144 at 1, 124.
[164] *See id.* at 2, 126.
[165] Amtrak, RFP No. X-034-14182, *supra* note 143 at 94, 103.
[166] Bombardier Oral Presentation, *supra* note 162 at 32.
[167] Adm'r Meeting Paper, *supra* note 135 at 5.
[168] Alstom Answers to Questions, *supra* note 99 at 1, 4–5.

achieving these maximum speeds are relatively uncommon in the global market, thereby limiting Amtrak's options in sourcing new trains. . . ."[169]

Amtrak essentially asked bidders to supply an off-the-shelf train that was fully customizable to run on tracks that did not exist.

When all is said and done, even Alstom's Avelia Liberty, the trainset selected for NextGen Acela, cannot have tilting technology *and* travel up to 186 mph. According to Alstom's website, Avelia Liberty "can increase speed up to 300 km/h (186mph) *without* the tilting system."[170] Again, given the 25-to-30-year lifespan of the NextGen Acela trainsets,[171] it is unlikely the NEC track alignment will be improved enough in that time to take full advantage of the Avelia Liberty's upgradable speed capabilities.

5. Buy America Requirements and FRA's Tier III Regulations Complicated Procurement.

Amtrak's procurement of new trainsets also had to grapple with Buy America requirements and the FRA's, at the time unfinalized, Tier III regulations for high-speed trains.

a. Buy America

Amtrak is not required to buy American-made trainsets, but if it wants to take advantage of certain federal government loans, like the Railroad Rehabilitation and Improvement Financing (RRIF) loans issued by DOT or FRA, it has to abide by the requirements of those loans. By statute, DOT may only issue RRIF loans "if the steel, iron, and manufactured goods used in the project are produced in the United States."[172] DOT may waive this "Buy America" requirement if it finds enforcing it would be against the "public interest," if the goods required are not "sufficient and reasonably available," the finished products cannot be delivered in a "reasonable time," or costs would be 25 percent higher if manufactured in the United States.

In response to Amtrak's joint RFI with CHSRA, manufacturers said meeting the Buy America requirements across the board was "unlikely."[173] For example, in response to the RFI, one manufacturer said "[t]here are components which are not available in the US at the moment.

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[169] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 2. Amtrak may have even had a better alternative among Alstom's trainset options if it had not kept its requirement for trains that can go up to 186 mph. As Alstom executive Scott Sherin later acknowledged, "Amtrak initially favoured a Pendolino derivative" for NextGen Acela, which already had tilting technology but could not travel up to 186 mph. *Production of Next-Generation Acela Express Fleet Underway,* RY. GAZETTE INT'L (Oct. 11, 2017), https://www.railwaygazette.com/traction-and-rolling-stock/production-of-next-generation-acela-express-fleet-underway/45300.article. Alstom was "able to persuade them otherwise, partly because a move to a multiple-unit fleet would require significant alterations to depot facilities." *Id.* With legacy Acela trains now being decommissioned, however, Amtrak's calculus may have been different.

[170] *Avelia Liberty: Combining the Best of Alstom High-Speed Technology*, ALSTOM, https://perma.cc/PW6U-2K8U (last visited Dec. 16, 2025) (emphasis added).

[171] Amtrak Briefing with Comm. Staff, *supra* note 17.

[172] 49 U.S.C. § 22905(a)(1) (previously codified at 49 U.S.C. § 24405).

[173] Letter from Bernard Reynolds, V.P. – Procurement and Logistics, Amtrak, to Joseph C. Szabo, Adm'r, FRA (Oct. 31, 2014), https://perma.cc/32R7-D3SW.

How can we state the price to be made in the US? . . . This requirement does not seem realistic."[174]

In October 2014, Amtrak submitted a waiver request to FRA Administrator Szabo for large parts of the Acela procurement, including car bodies and brake systems, that Amtrak found were the most challenging to produce in the United States.[175] Even so, Amtrak required all bidders to plan to comply with the Buy America requirements as its waiver request was pending.[176] More than one year later, FRA approved Amtrak's Buy America waiver request for the car bodies and brake systems but noted that the waiver only covered "approximately 6.8 percent" of the estimated cost of the new trainsets.[177] FRA had earlier approved a waiver to produce prototype trainsets outside the United States.[178] Besides these relatively small waivers, Amtrak's RFI, RFP, and its eventual contract with Alstom all required the new Acela trainsets to comply with Buy America requirements.[179] Alstom says the Acela trains eventually contracted for and used 95 percent "domestically sourced components."[180]

As all service-proven high-speed trains at the time were built outside the United States, it is likely that the Buy America requirements contributed to dissuading bidders with less experience in the United States from submitting a bid. As Amtrak said itself in its waiver request: the Acela trainset "will be service-proven in international high-speed commercial operation, with comparatively minor modifications for NEC service."[181] Even if a train was service-proven elsewhere, requiring it to be built out of components from new manufacturers in a new environment would lead to increased costs and delays. While Amtrak did acquire waivers for some components, giving manufacturers greater flexibility earlier in the process would have made procurement more competitive. Though Amtrak supports the Buy America requirements, it admitted they can be a "significant hurdle for potential vendors."[182]

b. Tier III Passenger Equipment Safety Standards

NextGen Acela trainsets also had to comply with the FRA's new Tier III passenger equipment standards for trains operating at speeds higher than 125 mph. That created two problems: (1) the Tier III regulations meant service-proven international trainsets might still need significant changes to comply with American regulations, and (2) the Tier III regulations were not finalized at the time of Amtrak's RFI, its RFP, or even when it awarded the Acela contract. Indeed, Tier III

[174] Amtrak Question Answer Matrix (Nov. 14, 2013) (CTRL-SEN-AA_00000002) (on file with Comm. staff).
[175] Letter from Bernard Reynolds, V.P. – Procurement and Logistics, Amtrak, *supra* note 173 at 5.
[176] *Id.* at 4.
[177] Letter from Sarah Feinberg, Adm'r, FRA, to Bernard F. Reynolds, V.P. – Procurement & Logistics, Amtrak, at 1 (Nov. 6, 2015), https://perma.cc/M5JX-MMPN.
[178] Letter from Joseph Szabo, Adm'r, FRA, to Paul Viter, Acting Chief Logistics Officer, Amtrak (Nov. 24, 2014), https://railroads.dot.gov/elibrary/amtrak-high-speed-rail-prototypes-buy-america-waiver-decision#p1_z5_gD_lWR.
[179] Amtrak – Alstom Contract, at 84, § 48 (July 25, 2019) (on file with Comm. staff).
[180] ALSTOM, *Alstom Delivers High-Speed Trais to the U.S.*, *supra* note 4.
[181] Letter from Bernard Reynolds, V.P. – Procurement and Logistics, Amtrak, *supra* note 173 at 1–2.
[182] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 2.

equipment safety standards were not issued until November 2018, two years *after* Amtrak had contracted with Alstom to manufacture the trainsets.[183]

Previous Acela service, which began in 2000, operated under FRA's Tier II passenger equipment standards and a special waiver allowing service on the NEC up to 150 mph at the time.[184] New trains could operate under the same framework, but if they wanted to travel at higher speeds or be built according to different equipment standards, FRA would have to adopt new rules or approve a new waiver.

As mentioned above, in 2013 the Obama-Biden administration FRA began drafting new regulations. First, the FRA revised its track safety rules with additional track standards for speeds up to 220 mph.[185] But it *did not* revise its passenger equipment standards to allow passenger service faster than 150 mph. That year, the FRA's Railroad Safety Advisory Committee (RSAC) only *discussed and recommended* proposed language for so-called "Tier III" passenger equipment rules that would set standards for trainsets traveling up to 220 mph.[186] Those recommendations were only drafts and were not binding on FRA.[187]

Two years later, though FRA had not finalized or even formally proposed Tier III passenger equipment safety rules, Amtrak wanted to move forward with the Acela procurement. Amid pressure from the Obama-Biden administration to make the new trains faster, Amtrak decided to proceed under the FRA's planned, but unwritten, Tier III rules.[188] In late 2014, Amtrak petitioned FRA for a waiver to operate a fleet of new high-speed trainsets on the NEC built to those unwritten Tier III rules.[189] Amtrak's goal was to procure "trainsets built to designs that are already service-proven internationally, . . . adapted to meet specific U.S. requirements and respond to NEC conditions."[190] But, of course, the Tier III rules were not finalized. Amtrak and any manufacturer of the new Acela trainsets, like Alstom, had no assurance of the future requirements of those final rules.

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[183] 83 Fed. Reg. 59182, *supra* note 12.
[184] *See* Passenger Equipment Safety Standards, 64 Fed. Reg. 25540–25541 (May 12, 1999).
[185] Vehicle/Track Interaction Safety Standards; High-Speed and High Cant Deficiency Operations, 78 Fed. Reg. 16052 (Mar. 13, 2013).
[186] *See RSAC Draft NPRM Rule Text*, FRA (June 14, 2013), https://rsac.fra.dot.gov/meetings?id=9.
[187] *Id.*
[188] *See, e.g.*, FRA Press Release (Aug. 22, 2011), *supra* note 56 (FRA Adm'r Szabo explaining that "[i]ncreasing speeds and improving service on the Northeast Corridor, which is the most heavily-traveled passenger rail corridor in the nation, is a crucial part of our effort"); Letter from Bernard Reynolds, V.P. – Procurement and Logistics, Amtrak, *supra* note 173 at 1 (referring to "Amtrak's new Tier III Next Generation High-Speed Trainsets," despite the fact that the final Tier III regulations were not finalized until 2018).
[189] Amtrak, Waiver Pet. for Relief from Certain Regulatory Limitations to Permit Operation of Acela Trainsets and "Tier III" Trainsets on the Ne. Corridor at Up to Maximum Speed for Class 8 Track, Dkt. No. FRA-2014-0124-0002 (dated Nov. 18, 2014, received Dec. 12, 2014), https://www.regulations.gov/document/FRA-2014-0124-0002 [hereinafter 2014 Amtrak Waiver Petition]; *see* Petition for Waiver of Compliance, 80 Fed. Reg. 10208 (Feb. 25, 2015). Amtrak's waiver requests for its existing trainsets and next-generation trainsets were paired together. *Id.*
[190] 2014 Amtrak Waiver Petition, *supra* note 189 at 1.

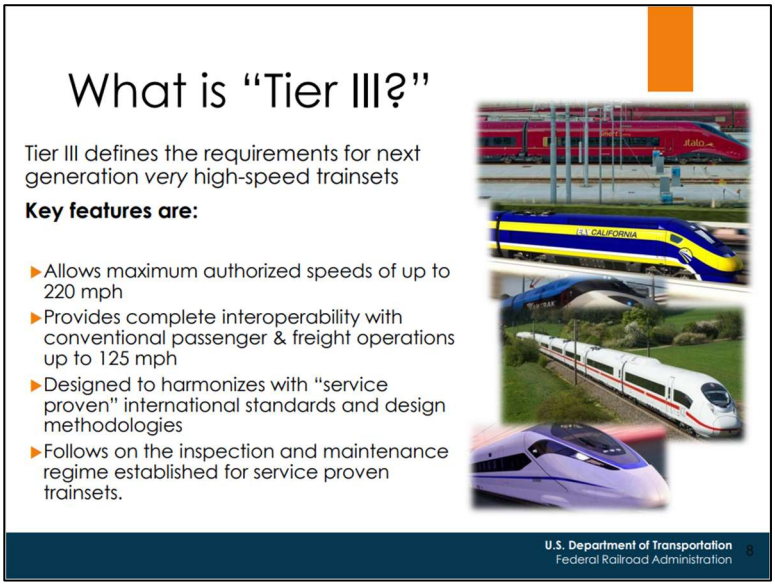

Figure 6 – FRA Tier III Regulations Presentation[191]

In April 2016, FRA conditionally approved Amtrak's request to operate new trainsets on the NEC built to the unwritten Tier III standards.[192] FRA's conditions included train speed management practices "to provide a safe environment at higher speeds since the NEC does not provide an exclusive right-of-way required for Tier III operations at speeds greater than 125 mph as envisioned in the pending rulemaking."[193]

As noted, FRA ultimately issued the Tier III equipment safety standards in November 2018.[194] While the FRA's rule was intended to allow for the use of "service-proven [design] platforms with the latest technology available,"[195] it included safety requirements unique to the United States to which international service-proven designs would have to conform.[196] Manufacturers could not just assume that their trainset designs in other countries would be approved for the United States. As Amtrak would later admit, starting the procurement process without finalized rules Tier III in place for the trainsets ultimately caused delays in manufacturing and testing, because Alstom had to change its designs to conform to the rules once they were finalized.[197] Other manufacturers were deterred from even bidding on the Acela contract because the Tier III

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[191] Lauby, *supra* note 76.
[192] Letter from Robert C. Lauby, FRA, Assoc. Adm'r for R.R Safety & Chief Safety Off., to Joseph H. Boardman, President and CEO, Amtrak, Dkt. No. FRA-2014-0124 (Apr. 26, 2016), https://www.regulations.gov/document/FRA-2014-0124-0011.
[193] *Id.* at 2.
[194] 83 Fed. Reg. 59182, *supra* note 12.
[195] *Id.* at 59211 ("The U.S. passenger rail industry will experience cost savings from this regulatory action because it permits manufacturers to adapt existing designs of rolling stock to meet the new standards and will allow operators to take advantage of a wider variety of trainset designs.").
[196] *See, e.g.*, *id.* at 59220–59226 (49 § CFR 238 subpart H describing specific safety requirements for Tier III equipment).
[197] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 4.

rule was not finalized. For example, in a June 2014 memo, FRA staff wrote that Talgo "perceives risk in the fact that the Tier III regulations have not yet been written and is worried about changes to the consensus topics when the rule is finalized."[198]

B. Political Pressures on the Procurement

1. Senator Schumer Puts a Thumb on the Scale for Alstom.

While Amtrak was still in the midst of its RFP process in 2015, Senator Chuck Schumer jumped the gun and announced Amtrak had already awarded the Acela contract to Alstom.[199] In reality, Amtrak was still refining the details of the RFP. But Senator Schumer's premature announcement made his preferences clear and risked influencing ongoing negotiations.

As Amtrak worked to amend its RFP in June 2015, Senator Schumer visited Alstom's plant in Hornell, New York, alongside then-Alstom Senior Vice President for North America Jerome Wallut.[200] He touted the likely benefits of Amtrak awarding the contract to Alstom and DOT approving the related RRIF program loan for Amtrak to pay for the trainsets.[201] Just a few months later, in September 2015, Schumer went further and claimed Amtrak had already decided on Alstom as the manufacturer for the new trainsets and a formal decision selecting Alstom was imminent.[202] As Senator Schumer's own press release admitted, he "ha[d] long fought on Alstom's behalf."[203] He "made the announcement in front of nearly 500 [Alstom] employees at [its] plant" in Hornell.[204]

But Schumer spoke out of turn. At the time of his announcement Amtrak said it was still negotiating with two different suppliers for the contract, and both Amtrak and Alstom denied that any agreement was finalized or even close to finalized.[205]

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[198] Adm'r Meeting Paper, *supra* note 135 at 15.

[199] Press Release, Sen. Chuck Schumer, Schumer Announces: Amtrak is Set to Select Hornell's Alstom as Part of $2.5 Billion Program to Build Safer, Next Generation High-Speed Trains; Senators Says Project Will Create 750 Jobs, Including 400 Direct Manufacturing Jobs at Alstom in Hornell (Sept. 21, 2015), https://perma.cc/CG7K-T5FM.

[200] Press Release, Sen. Chuck Schumer, Schumer Urges Feds to Green Light Amtrak to Buy New, Safer, More Modern Acela Trains, That Could Help Companies Across the Country, Including Alstom in Hornell; New $3 Billion Train Project Could Jump Start Local Manufacturing & Create Hundreds of Good Paying, Middle-Class Jobs (June 12, 2015), https://perma.cc/FE57-Y47R.

[201] *Id.*; Torri Singer, *Schumer Pushes for Federal Approval Bringing Big Business to Southern Tier*, MYTWINTIERS.COM (June 12, 2015), https://www.mytwintiers.com/news-cat/local-news-2/schumer-pushes-for-federal-approval-bringing-big-business-to-southern-tier/.

[202] Schumer Press Release (Sept. 21, 2015), *supra* note 199.

[203] *Id.*

[204] Jason Jordan, *400 New Jobs Coming to Alstom in Hornell*, THE LEADER (Sept. 21, 2015), https://www.the-leader.com/story/news/2015/09/21/400-new-jobs-coming-to/33506196007/.

[205] David Briginshaw, *Amtrak Refutes US Senator's Assertion on HS Train Deal*, INT'L RAILWAY J. (Sept. 24, 2015), https://www.railjournal.com/regions/north-america/amtrak-refutes-us-senators-assertion-on-hs-train-deal/; *Happening Now, Hotline #930,* RAIL PASSENGERS ASSOC. (Sept. 5, 2015), https://www.railpassengers.org/happening-now/news/hotline/hotline-930/.

$2.5 BILLION CONTRACT

Jobs full steam ahead

Alstom, Amtrak partnership to be finalized this week

By Jason Jordan
The Evening Tribune

HORNELL – Nearly a year after being named the preferred partner in a landmark contract, Hornell-based rail manufacturer Alstom reportedly is just days away from signing a transformative deal.

On Monday morning, Sen. Charles E. Schumer (D-NY) announced that the Amtrak Board of Directors is expected to vote this week to support finalization of negotiations with Alstom to provide new Next Generation High-Speed trains for Amtrak's Acela Express service as part of a $2.5 billion program.

The contract is expected to create over 750 jobs, including 400 jobs directly at Alstom in Hornell, and an additional 350 or more across New York State at subcontracting companies.

Schumer announced that final federal financing approvals have been secured, clearing the way for execution of an agreement between Amtrak and Alstom.

"Amtrak and Alstom signing on the dotted line

SEE AMTRAK, A6

Griffin

Hogan

Reed

"....all systems are 'go' and we're ecstatic."

– Hornell Mayor Shawn Hogan

In this June 2015 photo, Senator Charles E. Schumer (D-NY) makes his initial trip to Hornell's Alstom in support of the company's position in contract procurement with Amtrak. A second trip to the plant in Sept. 2015 was made to announce Alstom as Amtrak's preferred partner to build their new line of Acela Express trains. A third visit may be upcoming to announce that Alstom has been awarded the $2.5 billion contract in the near future. FILE PHOTO

Figure 7 – *Evening Tribune* Article Highlightng Schumer's Role[206]

2. Amtrak Announced the Alstom Contract Before the 2016 Election.

The Obama-Biden administration viewed high-speed rail as one of its signature initiatives, but halfway through second term, the *New York Times* would report that projects had "gone mostly nowhere," despite substantial spending.[207] In the leadup to the 2016 election, it was politically essential for Amtrak to show tangible progress in implementing high-speed rail on the NEC. Accordingly, the corporation announced its plans to procure 28 new Acela trainsets from Alstom on August 26, 2016.[208]

The same day, Vice President Joe Biden and Deputy Secretary of Transportation Victor Mendez announced a $2.45 billion RRIF loan to Amtrak to fund the new Acela trainsets and related improvements on the NEC.[209] Fittingly, the announcement took place at the Joseph R. Biden, Jr. Railroad Station in Wilmington, Delaware, and Vice President Biden reportedly wept.[210] As one article put it, "Amtrak Joe did it, you guys."[211]

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[206] Jason Jordan, *$2.5 Billion Contract, Jobs Full Steam Ahead*, HORNELL EVENING TRIB. (July 26, 2016), https://www.nysenate.gov/sites/default/files/hornelleveningtribune_a01_a06.pdf.
[207] Ron Nixon, *$11 Billion Later, High-Speed Rail Is Inching Along*, N.Y. TIMES (Aug. 6, 2014), https://www.nytimes.com/2014/08/07/us/delays-persist-for-us-high-speed-rail.html.
[208] Amtrak Press Release (Aug. 26, 2016), *supra* note 7.
[209] Press Release, The White House, Off. of the Vice President, Vice President Joe Biden and Deputy Sec'y of Transp. Victor Mendez Announce New Loan to Amtrak (Aug. 26, 2016), https://obamawhitehouse.archives.gov/the-press-office/2016/08/26/vice-president-joe-biden-and-deputy-secretary-transportation-victor.
[210] Aarian Marshall, *The Feds Just Gave Amtrak $2.4 Billion. This is Why it Needs the Money*, WIRED (Aug. 26, 2016), https://www.wired.com/2016/08/feds-just-gave-amtrak-2-4-billion-needs-money/.
[211] *Id.*

Five months later, on January 20, 2017, Biden commuted from Washington as Vice President for the last time and returned to the Amtrak station bearing his name in Wilmington.[212] After eight years in office promoting Amtrak and rail infrastructure, he had something to show for it: a contract for new Acela trains. But the new Acela had a long way to go. It would be nearly another decade before the trains carried paying passengers.

C. Development of the NextGen Trainsets Was Delayed by Technical Problems, the Pandemic, and Poor Coordination.

1. Alstom's Trains were Unable to Pass the FRA-Required Computer Model for Years.

In rolling out NextGen Acela, Alstom and Amtrak generally deviated from leading testing and design practices. FRA regulations require companies to simulate vehicle-track interactions for high-speed train operations.[213] The simulations identify vehicle dynamic performance issues prior to service and demonstrate that a train is suitable for safe operation over the relevant track infrastructure.[214] The FRA must review and approve the manufacturer's model and results before additional required testing can proceed.[215]

Typically, manufacturers will validate model testing and finalize its design review *before* beginning serial production of trainsets.[216] This is because model validation is the "primary driver of program delays," and proceeding with production before complete testing can create additional risks and costs.[217] For example, if model validation uncovers unanticipated design changes, these must be retrofitted onto already produced trainsets, causing further delays.[218]

Mirroring this process, the terms of the NextGen Acela contract required Alstom to create computer models to predict the performance of NextGen Acela trains *before* starting production.[219] Even so, Amtrak permitted serial production to commence while the manufacturer awaited approval from the FRA.[220] In fact, from August 2016 to July 2023, Alstom produced *at least* 14 of the 28 trainsets before obtaining approval for its model from FRA.[221]

As early as November 2017, Amtrak OIG predicted that "[s]chedule risks could delay program completion," including emerging trainset delivery delays.[222] By 2019, tensions rose between

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[212] Dan Merica & Jeff Simon, *'Full Circle': Joe Biden Reflects on his Life During a Train Ride Back to Delaware*, CNN (Jan. 20, 2017), https://www.cnn.com/2017/01/20/politics/biden-amtrak-inauguration-day/index.html.
[213] *See*, *e.g.*, 49 C.F.R. § 213.345 and Appendix D to Part 213.
[214] *Id*.
[215] *Id.*; AMTRAK 2023 OIG REPORT, *supra* note 11 at 9–10.
[216] AMTRAK 2023 OIG REPORT, *supra* note 11 at 11.
[217] *Id.* at 11–12.
[218] *Id.* at 12.
[219] Walker, *supra* note 16.
[220] *Id.*
[221] *Id.*; AMTRAK 2023 OIG REPORT, *supra* note 11 at 10.
[222] AMTRAK OFF. OF INSPECTOR GEN., TRAIN OPERATIONS: THE ACELA EXPRESS 2021 PROGRAM FACES OVERSIGHT WEAKNESSES AND SCHEDULE RISKS, OIG-A-2018-002, 11 (Nov. 2017), https://amtrakoig.gov/sites/default/files/reports/OIG-A-2018-002.pdf.

parties when Alstom informed Amtrak that it was still having difficulty validating its safety-compliant computer model.[223] Alstom blamed variances in NEC track geometry data it received from Amtrak and ambiguity in FRA guidance for its delays.[224] However, according to the Amtrak OIG, DOT and FRA officials worked with Alstom executives throughout the design process to facilitate computer modeling.[225] According to the OIG, Alstom perpetuated delays by denying DOT and FRA officials access to its trainset model input files because the files were its intellectual property and contained proprietary information.[226]

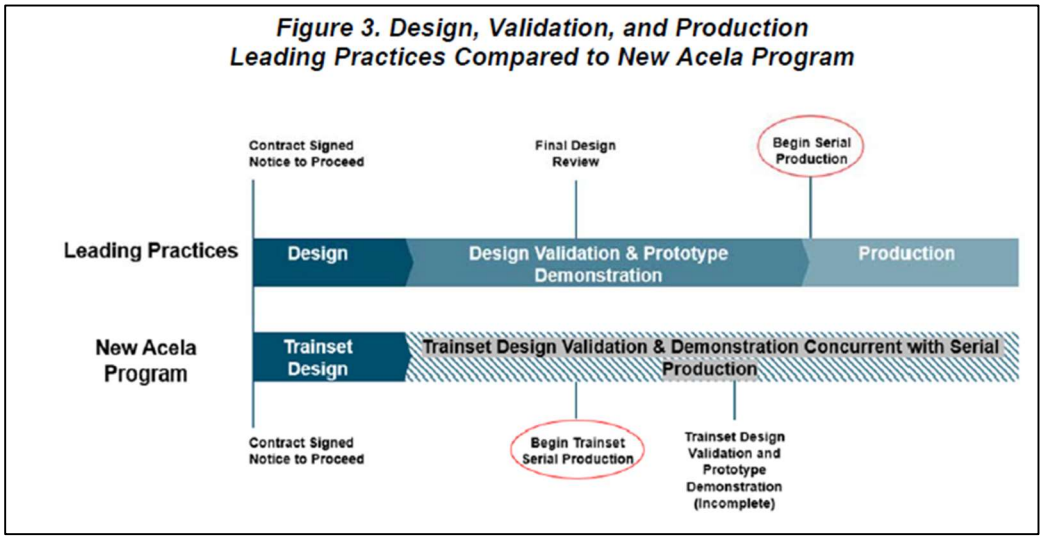

Figure 8 – Design Validation and Production Timeline – Leading Practices versus NextGen Acela Program[227]

Even so, in February 2020, Amtrak began physically testing the new trainsets at an FRA site in Pueblo, Colorado, where the trains "exceeded performance expectations," reaching speeds of 165 mph.[228] However, because the Pueblo tracks are not identical to the NEC, the testing data could not be applied against performance on the NEC nor did it excuse Alstom from validating the trainset on the computer model.[229] Amtrak began testing on the NEC itself in June 2020, maintaining that the new trains would launch for revenue service "by the end of 2021" and replace all old Acela trainsets by FY 2023.[230]

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[223] Walker, *supra* note 16.
[224] AMTRAK 2023 OIG REPORT, *supra* note 11 at 11–12.
[225] *See id.* at 12–13.
[226] *Id.* at 13.
[227] *Id.* at 10.
[228] Luz Lazo, *Debut of Amtrak's New Acela Trains Delayed a Year by New Round of Testing,* WASH. POST (June 3, 2021), https://www.washingtonpost.com/transportation/2021/06/03/amtrak-acela-new-trains/.
[229] *Id.*
[230] AMTRAK, AMTRAK FIVE-YEAR PLANS FY 2021–2026, 8, 197 (2020), https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/Amtrak-Service-Line-Asset-Line-Plans-FY21-26.pdf.

Testing on the NEC, however, reportedly revealed that Alstom's prototype trains were incompatible with the NEC's tracks and catenary system.[231] To address these issues, Alstom installed a device on top of the train that makes contact with the NEC's electrical wires to ensure trains perform at optimal speeds and curvatures.[232] This modification required more safety testing and "extensive" computer modeling runs.[233] Amtrak unsurprisingly failed to meet its already delayed spring 2022 deadline, a fact which was not made public until later, in part due to changes in reporting schedules under the Infrastructure Investment and Jobs Act (IIJA).[234]

Amid these unresolved issues, Alstom informed Amtrak that its computer modeling was delayed yet again due to the company's inability to replicate certain movement patterns of the train.[235] Alstom nevertheless continued to build additional serial trainsets. Twelve of the 28 planned trains had been produced by 2023, but none had been accepted by Amtrak given the state of testing approvals with FRA.[236] In the end, the trainsets did not receive FRA approval until January 2024, years behind schedule.[237]

2. Manufacturing Fixes Caused Additional Delays

In addition to computer modeling, Alstom faced challenges with manufacturing the new Acela trains. The FRA's Tier III Crash Energy Management (CEM) regulations require high-speed train equipment to meet certain criteria for crashworthiness, occupant protection, and structural and system-safety performance before entering revenue service.[238] The CEM regulations, however, were published in draft form only in December 2016, several months after the signing of the NextGen Acela contract.[239] The FRA did not finalize the CEM rules until November 2018.[240] During those two years, Alstom was forced to proceed with designing trainsets without knowing what requirements the finalized CEM regulations would entail.[241] Consequently, in late-2016, Alstom had to redesign its trainset to meet what was at the time only a proposed rule's more rigid

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[231] Lazo, *supra* note 228.
[232] *Id.*
[233] *Id*.
[234] *See* Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 § 22408(c), 135 Stat. 429, 739 (2021); AMTRAK, OFF. OF INSPECTOR GEN., SEMIANNUAL REPORT TO CONG., APR. 1, 2023-SEPT. 30, 2023, at 6–7 (2023), https://amtrakoig.gov/sites/default/files/reports/SAR-68.pdf.
[235] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 4.
[236] AMTRAK 2023 OIG REPORT, *supra* note 11 at 14–15.
[237] Walker, *supra* note 16; Laya Neelakandan, *Amtrak Is Launching Its Faster NextGen Acela with Better Amenities After Years of Delays. Here's What You Need to Know*, CNBC (Aug. 28, 2025), https://www.cnbc.com/2025/08/28/amtrak-nextgen-acela-high-speed-rail.html.
[238] 49 C.F.R. § 238 subpart H (specific requirements for Tier III passenger equipment).
[239] 81 Fed. Reg. 88006 (Dec. 6, 2016) (proposing changes to 49 C.F.R. § 236 and 238).
[240] 83 Fed. Reg. 59182, *supra* note 12.
[241] *Id.* (the final rule was not effective until January 22, 2019); Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 4.

requirements for speed dynamic collision.[242] As a result of this delay, Alstom requested a schedule extension, which Amtrak denied.[243]

Alstom also cited delays due to supply chain bottlenecks during the COVID-19 pandemic and defects in Alstom's produced trainsets.[244] For example, as of July 2023, Alstom had produced 12 out of 28 trainsets and 22 of 28 café cars, all of which had defects requiring field modification instructions (FMIs) for design modifications or sealant, drainage, or corrosion corrections.[245] Some FMIs were safety-related, such as the corrosion of components that hold train cars together, while others were functional problems, like train windows that spontaneously shattered.[246] According to the Amtrak OIG, Alstom's inability to efficiently fix FMIs further slowed safety testing and the service launch date of the new trains.[247] For example, Alstom identified leaks in trains' hydraulic tilting systems, which required repairs, and implemented manual protocols after doors malfunctioned and failed to open at stations.[248] In addition, the aging catenary system on the NEC lost contact with NextGen Acela's pantograph at certain speeds requiring adjustments to ensure the train continuously received power.[249]

3. Amtrak's Timeline for NextGen Acela's Revenue Service Slipped for Years.

In 2014, Amtrak first estimated NextGen Acela trains would enter service in 2018.[250] After RFI and RFP delays, Amtrak awarded the contract to Alstom in August 2016 and revised its estimate for revenue service back three years to 2021.[251] Then even more manufacturing, testing, and supply delays struck, and the NextGen Acela finally entered revenue service in August 2025. **Table 1** provides a timeline of Amtrak's predicted service dates over time. Instead of taking five years as predicted in 2016, it took nine. By comparison, it took about eight years for Americans to reach the moon after President Kennedy's "We choose to go to the Moon" speech.[252]

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[242] Letter from Amtrak CEO Stephen Gardner, *supra* note 97 at 4.
[243] *Id.*
[244] *Amtrak's NextGen Acela Started Passenger Service*, RAILVOLUTION (Sept. 1, 2025), https://www.railvolution.net/news/amtrak-s-nextgen-acela-started-passenger-service.
[245] AMTRAK 2023 OIG REPORT, *supra* note 11 at 14–15.
[246] *Id.*
[247] *Id.* at 15–16.
[248] *Id.* at 15; Cheryl Fiandaca, *Amtrak Passengers Say Door Issues Caused Delays on New High-Speed Acela Trains,* CBS NEWS (Oct. 29, 2025), https://www.cbsnews.com/boston/news/amtrak-acela-door-issues-high-speed-train-boston-iteam/.
[249] Luz Lazo, *Testing Difficulties Delay Launch of Faster Acela Trains, Amtrak,* WASH. POST (May 27, 2023), https://www.washingtonpost.com/transportation/2023/05/27/amtrak-acela-trains-delayed/.
[250] AMTRAK, FY2014 BUDGET AND BUS. PLAN, *supra* note 130, at 25.
[251] *See* James Gilboy, *Amtrak's New High-Speed Trains Are Riddled with Problems and Years Behind Schedule*, THE DRIVE (Oct. 5, 2023), https://www.thedrive.com/news/amtraks-new-high-speed-trains-are-riddled-with-problems-and-years-behind-schedule; Amtrak Press Release (Aug. 26, 2016), *supra* note 7.
[252] President John F. Kennedy, Address to Joint Session of Congress (May 25, 1961), https://www.jfklibrary.org/learn/about-jfk/historic-speeches/address-to-joint-session-of-congress-may-25-1961.

Table 1 – NextGen Acela's Ever-Delayed Service Dates

Statement Date	Projected Service Date	Details
Aug. 19, 2014	**2018**	An Amtrak spokesman said the goal was to put the NextGen Acela's "into service by the end of 2018."[253]
Aug. 26, 2016	**2021**	"The first prototype of the new trainsets will be ready in 2019, with the first trainset entering revenue service in 2021. All of the trainsets are expected to be in service, and the current fleet retired, by the end of 2022."[254]
March 16, 2019	**Early 2021**	Amtrak stated "the first trainsets [would be] entering revenue service for Amtrak customers in early CY 2021."[255]
May 12, 2019	**Summer 2021**	"The first of the 28 new Acelas is scheduled to enter service in summer 2021."[256]
June 6, 2020	**Late 2021**	"Looking at where we are in terms of the production, we have a high degree of confidence that a 2021 launch is very doable. . . ." [257]
June 3, 2021	**Spring 2022**	"Amtrak now projects a spring 2022 debut, citing not only the train reconfiguration, but also delays caused by production and training interruptions during the coronavirus pandemic."[258]
April 1, 2022	**2023**	The Acela trainsets are "now not expected to debut until 2023." Amtrak's "statement may be the first official acknowledgement that the Acelas will not debut in 2022."[259]
May 4, 2022	**Fall 2023**	"Tortolani said, the trainsets are expected to enter service in the fall of 2023. This represents a second delay from the original schedule . . . ."[260]

[253] Amy Langfield, *Old Age May Derail Amtrak's High-Speed Ambitions*, CNBC (Aug. 19, 2014), https://www.cnbc.com/2014/08/18/amtraks-high-speed-ambitions-may-be-derailed-by-old-age.html.
[254] Amtrak Press Release (Aug. 26, 2016), *supra* note 7.
[255] AMTRAK, FIVE YEAR SERVICE LINE PLANS, 42 (2018) https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/Amtrak-Service-Line-Plans-FY20-24.pdf.
[256] Ted Mann, *Next-Generation Acela Rail Cars Taking Shape in N.Y. Factory,* WALL STREET J. (May 12, 2019), https://www.wsj.com/articles/next-generation-acela-rail-cars-taking-shape-in-n-y-factory-11557662401
[257] Luz Lazo, *In Crisis, Amtrak Is Focused on Testing and Training for New Trains to Debut by 2021,* WASH. POST (June 6, 2020), https://wapo.st/3L8Aj0N; *see* Chris Potter, *New Acela Hits Testing Milestones as Alstom Speeds into 2021,* HORNELL EVENING TRIB. (Dec. 22, 2020), https://www.eveningtribune.com/story/news/2020/12/22/new-acela-hits-testing-milestones-alstom-speeds-into-2021/3952151001/.
[258] Lazo, *supra* note 228.
[259] *News Photos: Amtrak Releases Images of interiors for New Acelas,* TRAINS.COM (Apr. 1, 2022), https://www.trains.com/trn/news-reviews/news-wire/news-photos-amtrak-releases-images-of-interiors-for-new-acelas/.
[260] Dan Cupper, *Amtrak Invites Press to Inspect New-Generation Acela*, TRAINS.COM (May 24, 2022), https://www.trains.com/pro/passenger/intercity/amtrak-invites-press-to-inspect-new-generation-acela/.

Table 1 (continued)

May 30, 2023	**2024**	"Amtrak and Alstom officials now say they will remain sidetracked at least until 2024."[261]
October 3, 2024	**April 2025**	While publicly adhering to its 2024 timeline in the lead up to the election, Amtrak tells Committee staff that the expected in-service date is April 2025.[262]
November 27, 2024	**Spring 2025**	"Scheduled to enter service on the NEC in Spring 2025"[263]
March 19, 2025	**May 2025**	Amtrak tells Committee staff NextGen Acela will begin revenue service in May 2025.[264]
July 31, 2025	**"Soon"**	Amtrak changed its website from offering an estimated service date to only say the NextGen Acela will enter service "soon."[265]
August 27, 2025	**August 27, 2025**	NextGen Acela begins revenue service.[266]

D. NextGen Acela's Deployment Reveals an Updated Train Traveling Slower Than Its Predecessor.

After nine years, NextGen Acela finally entered revenue service on August 28, 2025.[267] Amtrak introduced only five of 28 total trains.[268] In a briefing with Commerce Committee staff, Amtrak officials stated that it plans for all 28 trains to be in operation by August 2026.[269] As NextGen Acela trains come online, more legacy Acela trains, experiencing more and more maintenance issues, will slowly exit service.[270] On October 30, 2025, Committee staff rode on the NextGen Acela from Washington, D.C.'s Union Station to Baltimore Penn Station and observed the new

[261] Ted Mann, *Amtrak's New $2 Billion High-Speed Acela Fleet Slowed by Century-Old Tracks*, WALL ST. J. (May 30, 2023), https://www.wsj.com/articles/amtrak-acela-high-speed-train-2024-a7d8f2ca.
[262] Email from Amtrak Staff to Comm. Staff (Oct. 3, 2024) (on file with Comm. staff).
[263] *NextGen Acela: Redefining the Customer Experience on the NEC*, AMTRAK (Dec. 2024), https://perma.cc/KH4P-UPNS; *Amtrak Public Board Meeting Addresses Equipment Timelines*, TRAINSPRO (Dec. 4, 2024), https://www.trains.com/trn/news-reviews/news-wire/amtrak-public-board-meeting-addresses-equipment-timelines/.
[264] Email from Amtrak Staff to Comm. Staff (Mar. 19, 2025) (on file with Comm. staff).
[265] *NextGen Acela Trains*, AMTRAK, https://web.archive.org/web/20250731010847/https://media.amtrak.com/nextgen-acela-trains/ (last visited Dec. 17, 2025).
[266] *Amtrak Makes History Launching NextGen Acela Service*, AMTRAK (Aug. 27, 2025), https://media.amtrak.com/2025/08/amtrak-makes-history-launching-nextgen-acela-service/.
[267] Zach Griff, *All Aboard: Amtrak's Next-Generation Acela Makes Long-Awaited Debut*, THE POINTS GUY (Aug. 27, 2025), https://thepointsguy.com/news/amtrak-acela-next-generation-first-look/.
[268] *Id.*
[269] Amtrak Briefing with Comm. Staff, *supra* note 17.
[270] *Id.*; *Amtrak Says Mechanical Issue Prompted Evacuation of Train in Providence,* NBC 10 NEWS (Dec. 1, 2025), https://turnto10.com/news/local/evacuation-of-acela-train-in-providence-occurred-due-to-mechanical-issue-amtrak-acela-station-thanksgiving-travel-flames-passengers-december-1-2025 (detailing maintenance issue on a legacy Acela that required passengers to be evacuated).

train firsthand. Although the NextGen Acela train had many noticeable upgrades, it did not quite "redefine" the customer experience as promised in Amtrak marketing materials.[271]

Most disappointingly, the trains travel on the same timetable or *more slowly* than their predecessors, raising questions about the years of effort put into procuring faster trains. Continued regulatory issues with NextGen Acela's tilting technology are a source of the present travel times. Since the trainsets have not been approved to tilt up to seven inches, they must travel through curves at slower speeds.[272] Issues with some train features, like problems with automatic doors opening and closing, have also plagued NextGen Acela's rollout. Committee staff witnessed one door issue themselves. The problems with the NextGen Acela's door operations continue as of the date of this report. That said, the new trainsets are sleek, more accessible, and will carry substantially more passengers without sacrificing comfort.

1. *For Now, NextGen Acela's Timetable Is Not Improved Over the Former Acelas*

NextGen Acela promised high speeds that would result in faster trips along the NEC.[273] However, according to Amtrak's own timetables and analysis from the *Wall Street Journal*, NextGen trains traveling from Washington to Boston have been travelling *more slowly* than older Acela trains on the same route.[274] What was once a 6 hour and 50 minute trip typically takes over 7 hours on NextGen Acela.[275]

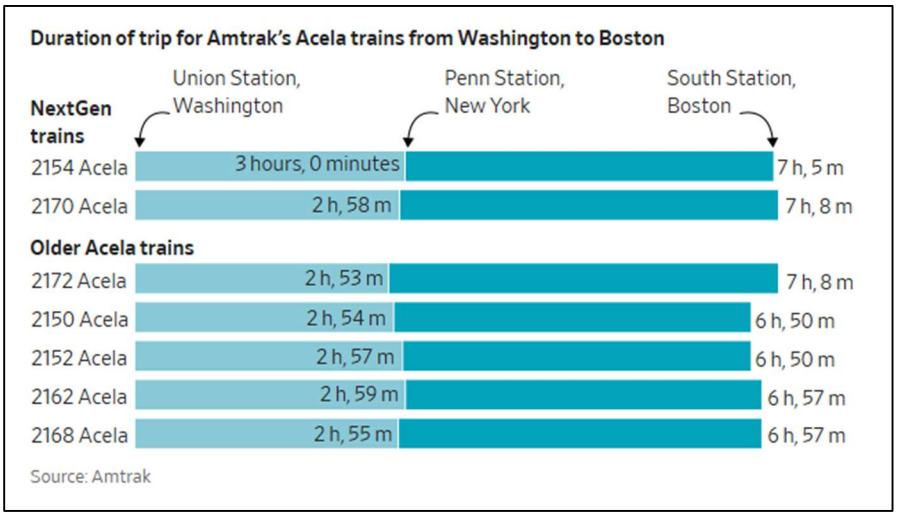

Figure 9 – NextGen Acela's unchanged Acela trip times[276]

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[271] *See NextGen Acela: Redefining the Customer Experience on the NEC*, *supra* note 263.
[272] Bob Johnston, *NextGen Acela Expands Capacity and Comfort, but Doesn't Shrink Travel Times for Now*, TRAINS PRO (Aug. 28, 2025), https://www.trains.com/pro/passenger/high-speed/nextgen-acela-expands-capacity-and-comfort-but-not-travel-times-for-now/.
[273] *NextGen Acela Trains, With Top Speeds of 160 mph, Begin Running the Northeast Corridor*, HIGH SPEED RAIL ALL. (Aug. 27, 2025), https://perma.cc/DPM9-EYTX.
[274] Fung & Umlauf, *supra* note 5.
[275] *Id.*
[276] *Id.*

Amtrak officials confirmed that NextGen's middling timetable would continue for the foreseeable future[277] due to the lack of full regulatory approval for its tilting technology, known as "Tiltronix" in Alstom's parlance.[278] Some reports have said it allows the NextGen Acela to speed through curves 30 percent faster than legacy trains.[279]According to Amtrak, the NextGen Acela can tilt up to nine inches of cant deficiency, allowing faster speeds, but FRA regulations only allow *any* train to tilt seven inches (NextGen Acela has only been approved to tilt up to five inches thus far).[280] Asked why the NextGen Acela was not approved to tilt seven inches yet, Amtrak said it was still working out approval with Alstom and the FRA.[281] Even allowing for seven inch tilting, trip times would fall by just three minutes between Washington and New York City and eight minutes between New York City and Boston according to Amtrak.[282] NextGen Acela timetables would be comparable with, *not faster* than, the legacy Acela.

Of course, in the background are the NEC's continuing infrastructure issues: aging tracks, sagging catenary systems, and tight curves unequipped to support NextGen Acela's maximum speed of 160 mph.[283] The trainset only reaches top speeds on "short sections of track in New Jersey and New England."[284] One rider reported that his train from Washington to Philadelphia topped out at 130 mph.[285] Committee staff's ride on a NextGen to Baltimore reached maximum speeds of only 125 mph and averaged less than 100 mph.[286] But it's hard to blame NextGen Acela's longer timetable on track capacity and infrastructure when the *old* Acela also must overcome those obstacles. If anything, that comparison points out why buying a faster train to run on the same NEC infrastructure was misguided from the beginning.

The main selling point for NextGen Acela, the one the Obama-Biden administration passionately pushed for, has not happened. As expected from the beginning, the missing component is improved and sufficient infrastructure. Barring a $120 billion (in 2025 dollars) overhaul to NEC railroad infrastructure, the NextGen Acela will not be the bullet train once promised.[287]

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[277] Amtrak Briefing with Comm. Staff, *supra* note 17.
[278] *Id.*
[279] Kevin Smith, *Amtrak Launches NextGen Acela High-Speed fleet*, INT'L RY. J. (Aug. 28, 2025), https://www.railjournal.com/fleet/amtrak-launches-nexgen-acela-high-speed-fleet/.
[280] Amtrak Briefing with Comm. Staff, *supra* note 17.
[281] *Id.*
[282] *Id.*
[283] *Id.*; Fung & Umlauf, *supra* note 5.
[284] Edward Russell, *Rail Review: The Sleeker – But Not Faster – NextGen Acela*, BUS. TRAVELER (Sept. 17, 2025), https://www.businesstraveller.com/news/review-acela-nextgen/.
[285] *Id.*
[286] Amtrak Briefing with Comm. Staff, *supra* note 17.
[287] NEC COMM'N, *supra* note 16 at 34.

2. Automatic Doors Will Often Not Open at Station Stops

In addition to slower travel times, riders have encountered malfunctioning exterior doors at station stops, resulting in further delays.[288] One rider stated that the conductor had to "pull the emergency handles and manually pry the doors at every station" on her ride.[289] Amtrak confirmed that glitches with exterior doors occurred sporadically at station stops and made clear that fixing the issues is its "number one priority."[290] Door malfunctions have delayed trains, but none have been canceled.[291] Another rider reported similar glitches with bathroom doors, noting that "people were a little anxious" to use the bathroom "hoping that they would be able to get out."[292]

Amtrak staff are working with Alstom to implement mechanical fixes for door systems, having created a 15-point inspection checklist to troubleshoot door malfunctions and require door testing at the initial terminal to detect any issues before departure.[293] Amtrak informed Committee staff that Alstom now has dedicated staff on board each train to mitigate door issues as they occur and that Alstom is working with its suppliers to adjust the doors and platform gap fillers to facilitate appropriate field performance at station stops.[294] Alstom is also providing additional training to Amtrak staff to reduce delays when door issues occur.[295] In sum, the operational issues with the NextGen Acela's doors are being addressed but have not been resolved.

3. Some Amenities Received a Mixed Reception

Amtrak and Alstom have touted NextGen Acela trains as offering riders a "superior experience" with "ergonomically designed seats," larger windows bringing in natural light, and other luxury amenities.[296] For example, all trains include free high-speed Wi-Fi, upgraded café cars, and larger bathrooms.[297]

Despite these upgrades, not all amenities received glowing reviews from passengers. For example, one rider described the "chunky and grey blue" Business Class seats as "scream[ing] mid-2010's design" like the original designs Amtrak proposed in 2016.[298] Others experienced

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[288] Cristina Miceli, *Amtrak Passengers Fume As Minor Defects Surface on NextGen Acela Trains*, THE TRAVEL (Aug. 30, 2025), https://www.thetravel.com/amtrak-nextgen-acela-door-issue/; NEXTGEN ACELA, *Door Issues on Amtrak NextGen Acela 2154 8/29* at 0:16, (YouTube, Aug. 29, 2025), https://www.youtube.com/watch?v=DSsXVmkwGIM; Fiandaca, *supra* note 248.
[289] Miceli, *supra* note 288.
[290] Amtrak Briefing with Comm. Staff, *supra* note 17.
[291] *See* Fiandaca, *supra* note 248.
[292] *Id.*
[293] *Id.*
[294] Email from Amtrak Staff to Comm. Staff (Dec. 8, 2025) (on file with Comm. staff).
[295] *Id*.
[296] HIGH SPEED RAIL ALL., *supra* note 273.
[297] *Id.*
[298] Jason Rabinowitz, *NextGen Acela Trip Report: Improvements outweigh missed opportunities,* RUNWAY GIRL NETWORK (Aug. 27, 2025), https://runwaygirlnetwork.com/2025/08/nextgen-acela-trip-report-improvements-outweigh-the-missed-opportunities/.

"uncomfortable situations" with tight leg space, reduced overhead storage, and the inability to dim bright lights at night.[299] Some of these complaints may be a matter of personal preference. Committee staff, however, concur that the NextGen Acela seats recline awkwardly and can cause passengers facing each other to bump knees.[300]

Perhaps the most glaring sign of NextGen Acela's already-outdated design is its charging ports. Currently, only USB-A ports are installed on seats, a standard ten years ago, rather than the now ubiquitous USB-C.[301] According to Amtrak, it is paying Alstom for modifications to add USB-C charging ports or adaptors on all trains, though it is unclear when this update will be completed.[302]

Lastly, while café cars are sleek and will eventually provide quick kiosks for grab-and-go service, Amtrak has not yet equipped the cafés with self-service credit card payment terminals to speed up wait times.[303] Some have also complained about the lack of seating in café cars,[304] though this design will reportedly prevent passengers from staking out a spot and monopolizing the café car space for the entirety of a trip.[305]

4. Trains Are More Accessible

At a briefing with Committee staff, Amtrak stressed that it worked closely with the disability community to make seats, restrooms, vestibules, and café cars more accessible.[306] Those improvements were clear during Committee staff's NextGen Acela ride to Baltimore.[307] New trains offer more space for handicapped seating and include an intercom system to assist riders with ordering food.[308] NextGen Acela trains are also equipped with technology that can play onboard announcements through hearing aids.[309] In 2023, Amtrak also announced that it has invested $770 million in station accessibility and improvement projects across its rail network, including upgrades to its Acela fleet.[310]

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[299] *Id.*; Nicholas Johnston, *Amtrak's New Acela Promises More than it Delivers*, AXIOS D.C. (Sept. 29, 2025), https://www.axios.com/local/washington-dc/2025/09/29/amtrak-new-acela-nextgen-trains-review-speed.
[300] Amtrak Briefing with Comm. Staff, *supra* note 17; Erika W. Smith, *The Uncomfortable Issue with Amtrak's High-Speed Train, According to Some of the First Time Riders*, ISLANDS (Sept. 27, 2025), https://www.islands.com/1978733/seats-uncomfortable-problem-amtrak-high-speed-train-according-riders/.
[301] Rabinowitz, *supra* note 299.
[302] Amtrak Briefing with Comm. Staff, *supra* note 17; Gabe Castro-Root, *Disabled Amtrak Riders See Progress, but Still 'Feel Like Freight'*, N.Y. TIMES (Aug. 14, 2025), https://www.nytimes.com/2025/08/14/travel/amtrak-riders-passengers-disabilities.html.
[303] Amtrak Briefing with Comm. Staff, *supra* note 17.
[304] Castro-Root, *supra* note 303.
[305] Amtrak Briefing with Comm. Staff, *supra* note 17.
[306] *Id*.
[307] *Id.*
[308] *Id.*
[309] Castro-Root, *supra* note 303.
[310] Press Release, Amtrak, Amtrak Invests $770 Million to Advance Accessibility Projects Across the Country (July 26, 2025), https://perma.cc/G8U3-GSAJ.

5. Trains Carry Substantially More Passengers, Increasing Overall Capacity

Another change with NextGen Acela is increased capacity. Each new trainset has nine cars, instead of six, carrying an additional 82 passengers compared to legacy models even though the train itself is only 20 feet longer.[311] Articulated railcars use less space between railcars and more space on dedicated seating.[312] Once all 28 NextGen Acela trains are running, overall capacity will increase by over 4,600 riders across 28 roundtrips.[313] According to Amtrak, while ticket prices on NextGen Acela trains are higher due to greater demand for the new trains, prices will likely come down as the number of new trains increases.[314] Amtrak uses the same dynamic ticket pricing it uses for its older train models.[315]

III. Conclusion

Few people disagree with the *dream* of high-speed rail in America. A faster, more reliable, more cost-effective travel option is always welcome. But to achieve it, the country needs coordinated, consistent, and steady improvements: not an (at least for now) overhyped train without the infrastructure to make it useful. Unfortunately, NextGen Acela has not and likely will not deliver real high-speed rail to the NEC. Though the train is now on the rails, delays have cost Amtrak at least a combined $287 million in lost revenue and increased maintenance costs.[316] Its procurement, testing, and rollout process exhibits the overly ambitious and impatient tendencies of some high-speed rail advocates like former Presidents Obama and Biden. Besides NextGen Acela, other high-speed rail ambitions funded by President Obama did not fare better. High-speed rail in California has become the posterchild for government boondoggles, billions over budget and years behind schedule. As early as 2014, some Democrats admitted "the bullet-train rhetoric from Obama and the White House's main train buff, Vice President Joe Biden, has not lived up to the bullet-train reality."[317] At this stage, NextGen Acela is not a "remarkable success story"[318] but rather a cautionary tale for Amtrak and other advocates for high-speed rail.

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[311] HIGH SPEED RAIL ALL., *supra* note 273; Amtrak Briefing with Comm. Staff, *supra* note 17.
[312] Amtrak Briefing with Comm. Staff, *supra* note 17.
[313] *Id.*
[314] Kelly McCathy, *What to Know about Amtrak's New High-Speed NextGen Acela Train*, ABC NEWS GMA (Aug. 27, 2025), https://perma.cc/ZAS2-Q3B2; Amtrak Briefing with Comm. Staff, *supra* note 17.
[315] Amtrak Briefing with Comm. Staff, *supra* note 17.
[316] Email from Amtrak Staff to Comm. Staff, *supra* note 10.
[317] Michael Grunwald, *The Truth About Obama's High-Speed Rail Program*, TIME (Aug. 11, 2014), https://time.com/3100248/high-speed-rail-barack-obama/.
[318] *NextGen Acela: Redefining the Customer Experience on the NEC*, *supra* note 263.

Figure 10 – Graffiti on a NextGen Acela in Philadelphia[319]

Here are key takeaways from the Committee's investigation:

1. Infrastructure improvements should be mostly secured before investing in a trainset that requires them to reach its potential;
2. Trainset procurement should prioritize service-proven products and not demand one-of-a-kind bells and whistles, like being upgradable to 186 mph, to increase competition and decrease costs; and
3. Americans want shorter and more reliable *trip times*, not necessarily faster trains.

Amtrak should focus on steadily improving infrastructure on the NEC and similar environs before buying expensive trainsets with the hope that infrastructure will follow. The Obama-Biden administration promised transformational investments in high-speed rail that never materialized. In 2011, President Obama promised "to give 80 percent of Americans access to high-speed rail," including trains going up to 200 mph.[320] Even in 2014, experts called those dreams a "fantasy."[321] Large projects, like the Baltimore & Potomac Tunnel Replacement Program or the Gateway bridge and tunnel project in New York will reduce trip times but also will not be ready until the mid-2030s, ten years into the 30 year lifecycle of the NextGen Acela trainsets.[322] Local

[319] Keith (@KeithbPa), X, (Dec. 10, 2024, 12:30 PM), https://x.com/KeithbPa/status/1866535857399943176.
[320] Nixon, *supra* note 207.
[321] *Id.*
[322] *See Baltimore & Potomac (B&P Tunnel) Program*, FRA, https://railroads.dot.gov/rail-network-development/environment/environmental-reviews/baltimore-potomac-bp-tunnel-program (last visited Dec. 17, 2025); Amanda Winters, *Investments in Baltimore's Transportation Infrastructure Projects Continue*, MARYLAND.GOV (Jan. 27, 2025), https://business.maryland.gov/news/investments-in-baltimores-transportation-infrastructure-projects-continue/; Dana Rubinstein, *Commuter Tunnel Under the Hudson Won't Be Finished Until 2035*, N.Y. TIMES (Aug. 31, 2022), https://www.nytimes.com/2022/08/31/nyregion/gateway-tunnel-ny-nj-delay.html; Amtrak Briefing with Comm. Staff, *supra* note 17.

activists stalled other projects completely, like track straightening in Connecticut.[323] California high-speed rail continues to be the most dysfunctional infrastructure project in the country with no end in sight.[324] The idea of procuring trainsets with CHSRA more than a decade ago now looks like lunacy.

Amtrak should prioritize buying service-proven trainsets. That was the original intent of the NextGen Acela procurement: purchase high-speed trains, used in Europe or elsewhere, mildly adjusted for American regulations to reduce costs and build times. But, as detailed above, the unrealistic combination of tilting and speed requirements made it impossible for service-proven designs to qualify without substantial modifications.

As Amtrak procures long-distance trainsets over the next few years,[325] it should learn from the NextGen Acela procurement. A recent Amtrak OIG report addressed issues related to Amtrak's ongoing long distance fleet replacement program.[326] There are concerning signs that Amtrak is in the process of repeating the costly mistakes of the past in administering its long-distance fleet replacement program. The company is pursuing an overly complex RFP involving multiple car types that have never been manufactured before and that will be difficult for car builders to fulfill and Amtrak to maintain.[327]

For example, as detailed by the Amtrak OIG, "[i]n November 2023 . . . . the company decided to procure bilevel cars in phase 1. It also decided to proceed with *nine different suggested car types and elevators on two car types*."[328] This is despite Amtrak having "asked car builders if they had experience designing bilevel cars with elevators or other means of conveying passengers with reduced mobility between the different levels of the car, [and] *none reported having any experience producing elevators inside the trainset.*"[329] While Amtrak has sought to reduce complexity, in a November 2025 meeting with Committee staff, the company indicated it may still attempt to install elevators in bilevel cars, despite no car builder experience in this area. Amtrak staff even mentioned the possibility of leaving vacant spaces or shafts in completed bilevel cars on the off chance that lifts or elevators could be installed at a future date. This suggests Amtrak has not learned the requisite lessons from the costly delays that occurred during

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[323] RJ Scofield, *Blumenthal, Others Threaten to Tie Selves to Tracks in Response to Old Lyme High-Speed Rail Proposal*, PATCH (Sept. 1, 2016), https://patch.com/connecticut/thelymes/blumenthal-others-threaten-tie-selves-tracks-response-old-lyme-high-speed-rail; Hayden (@the_transit_guy) X, (Dec. 1, 2024, 3:36 PM), https://x.com/the_transit_guy/status/1863321265991217596.

[324] Ralph Vartabedian, *How California's Bullet Train Went Off the Rails*, N.Y. TIMES (Oct. 9, 2025), https://www.nytimes.com/2022/10/09/us/california-high-speed-rail-politics.html.

[325] *See* Section II.A *supra*; AMTRAK 2023 OIG REPORT, *supra* note 11, at 4, 26; William C. Vantuano, *Amtrak Acela 'NextGen' – Finally! (Updated),* RY. AGE (Aug. 21, 2025), https://www.railwayage.com/passenger/high-performance/amtrak-acela-nexgen-finally/.

[326] AMTRAK OFF. OF INSPECTOR GEN., COMPANY ESTABLISHED A MANAGEMENT FRAMEWORK FOR LONG DISTANCE FLEET REPLACEMENT PROGRAM BUT CAN IMPROVE RISK MANAGEMENT AND CLARIFY LINES OF AUTHORITY, OIG-A-2025-001 at (Dec. 13, 2024), https://amtrakoig.gov/sites/default/files/reports/OIG-A-2025-001%20Long%20Distance.pdf.

[327] *See generally, id.*

[328] *Id*. at 8.

[329] *Id*. (emphasis added).

the NextGen Acela procurement process. As noted by industry observers, it is often wise to keep it simple.[330]

Amtrak should focus on reliable, faster trip times, not necessarily faster trains. As one commentator put it, "[u]nless you are a very specific kind of infrastructure nerd, when you ride a train, you don't care about the top speed, you don't care about the infrastructure. You care about the timetable. The total trip time matters."[331] Besides mismanagement, recent Democratic administrations were wrong to pursue faster trains over other rail improvements. Transportation researchers, like one team at New York University, suggest improved scheduling, faster station approaches, and minor infrastructure investment could reduce trip times more than any fancy new train could.[332] And complaints about the NEC in recent years have rightly focused on unreliability of the network, *not* slow timetables.[333]

In sum, Amtrak, private passenger train companies, and commuter rail systems should recommit to safe, reliable, and cost-effective projects that improve the experiences of American riders.

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[330] Bill Stephens, *Seven Billion Reasons for Amtrak to Rethink Its Superliner Plan: Analysis*, TRAINSPRO (Dec. 8, 2025), https://www.trains.com/pro/passenger/seven-billion-reasons-for-amtrak-to-rethink-its-superliner-plan-analysis/.

[331] Santi Ruiz, *How Cheaply Could We Build High-Speed Rail?*, STATECRAFT (July 23, 2025), https://www.statecraft.pub/p/how-cheaply-could-we-build-high-speed; William Boston, *How to Get to Near High-Speed Rail – on the Cheap*, WALL ST. J. (Aug. 16, 2025), https://www.wsj.com/lifestyle/travel/high-speed-rail-costs-65976ab9.

[332] TRANSIT COSTS PROJECT, HOW TO BUILD HIGH-SPEED RAIL ON THE NE. CORRIDOR (Apr. 29, 2025), https://transitcosts.com/north-east-corridor-report/.

[333] Jordan Wolman, *Biden's Love for Amtrak Can't Save It from a Cruel Summer*, POLITICO (Aug. 3, 2024), https://www.politico.com/news/2024/08/02/biden-amtrak-summer-delays-00172540.