This report was revised on January 21, 2026 to correct a couple of errors on the dates which subcommittee meetings were held. The changes from the original version of the report are shown below.

SURFACE TRANSPORTATION BOARD

Passenger Rail Advisory Committee

September 18 Meeting

Subcommittee Reports

Introduction:

At its February 11, 2025 meeting, the Passenger Rail Advisory Committee established four standing subcommittees: Expansion, Joint Operations, Liability, and Current State.

The Passenger Rail Advisory Committee's bylaws require that the subcommittees operate as follows:

- In accordance with 41 C.F.R. § 102-3.3, the Subcommittees cannot "report to a Federal officer or agency." . . . The subcommittee's work must be reported back to the full PRAC. The full PRAC can then consider the subcommittee's work and use it to advise the Board in a public meeting.

- To ensure that the full PRAC is aware of the Subcommittee's activities, each Subcommittee is recommended to create a short summary sheet of their meetings where any issues of substance are discussed and provide to the full PRAC at least 5 days prior to the next public meeting. Any written summaries provided to the full PRAC will be posted on the PRAC website for public inspection and review.

In accordance with these bylaws, this document contains various reports and meeting summaries of each subcommittees' activities since the last PRAC Meeting.

LIABILITY SUBCOMMITTEE

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RR Liability and Indemnification Recommendations. 6

Passenger Rail Advisory Committee
Railroad Liability Subcommittee
Summary Report
May 27, 2025

Subcommittee Members:

Gregg Baxter
Henry Posner
Rob Padgett - Absent
Shoshana Lew – Absent
Maux Sullivan
John Robert Smith – Absent
Lori Winfree
Jim Blair
Jim Matthews

Meeting Summary

The monthly meeting of the Railroad Liability Subcommittee was held via Teams Video call and the members of the subcommittee listed above were present.

The Committee receive a detailed briefing on the Property and Liability Insurance Markets from P.J. Skarlanic of Alliant Insurance Services. The presentation gave the Committee a preliminary high-level understanding of how the market works and the cyclical nature of the market. He explained that the capacity for the rail market is dependent on many factors outside of the industry (i.e. claims paid for other losses) and that although PTC has definitely improved safety and reduced claims that rates have not followed.

It was a lengthy and informative discussion that was ended prior to talking about alternate methods such as insurance pooling that will be revisited at a later meeting.

Passenger Rail Advisory Committee
Railroad Liability Subcommittee
Summary Report
June 30, 2025

Subcommittee Members:

Gregg Baxter
Henry Posner
Rob Padgett - Absent
Shoshana Lew – Absent
Maux Sullivan - Absent
John Robert Smith – Absent
Lori Winfree
Jim Blair
Jim Matthews

Guest Presenters:

John Cline – CRC
Ryan VanMeter – Herzog

Meeting Summary

The monthly meeting of the Railroad Liability Subcommittee was held via Teams Video call and the members of the subcommittee listed above were present.

The Committee was addressed by John Cline who represents the Commuter Rail Coalition and Ryan VanMeter, SVP for Risk Management at Herzog.

Mr. Cline spoke about the concerns that the commuter industry has with the current statutory limit, the anticipated increase in those limits at the end of the year and the time allowed for agencies to go to market to procure the new limits. CRC has been active in DC regarding these issues and has been focused on this for its members.

Mr. Van Meter provided a operator's perspective on the issue and the insurance markets in general. He indicated concerns of market capacity as limits continue to rise and provided some thoughts on how best to make changes in the market for long-term success and growth.

The Committee had ample time to ask both John and Ryan specific questions with a good back and forth dialogue.

At this point the issue is well defined, and future meetings will focus on developing recommendations that we can provide for the entire PRAC and STB Board.

Liability Subcommittee Report

To: STB Passenger Rail Advisory Committee

From: PRAC Liability Subcommittee Gregg Baxter - Chair

Date: September 15, 2025

Re: RR Liability and Indemnification Recommendations

One of the goals of the Railroad Liability Subcommittee was to provide the STB Board and the full PRAC recommendations as it relates to insurance/liability/indemnification reform. It is evident that this is a complex and difficult issue but one that must be resolved to remove one of the principal barriers to growing passenger rail.

It was agreed that the Liability Subcommittee would provide the following recommendations to the full STB Board and PRAC.

Statutory Limits

- 1997: Congress established a liability cap for rail passenger transportation at $200,000,000 per accident or incident. This cap sets the maximum total awards to all rail passengers for all claims, including punitive damages.

- 2015: The Fixing America's Surface Transportation (FAST) Act modified the 1997 rail passenger liability cap, increasing it to $294,278,983 and indexing it to inflation, with adjustments every five years.

- 2021: A further adjustment to the rail passenger liability cap, based on inflation, took effect, raising it to $322,864,228.

The next adjustment is scheduled for 2026. The inflation adjusted limits do not take into account the actual safety records of passenger operators, or the deployment of increased safety technologies such as Positive Train Control. While the cap continues to increase over time, liability insurance underwriting capacity in the market is expected to decrease, quickly making it even more difficult and expensive to obtain the necessary coverages.

Recommendation 1

- Reset the limit to the 1997 level of $200,000,000 (or rescind the inflation adjustment), establishing an empirical basis (including insurance market capacity, and "moving average" claims payouts, for upward or downward adjustments. This aligns the incentives for operators and underwriters alike.

- Convene a committee of experts to determine the appropriate basis for adjustment using real risk and safety data.

- Evaluate international limits as a reference for US requirements (for example, Germany's limit is $23 million, but has a much different legal environment)

- Allow agencies and rail service providers to have a minimum of 365 days to place new insurance if limits do increase. The current 30-day requirement is too short, given the current realities in the insurance marketplace.

- Evaluate the Federal Government backstopping any catastrophic claims over the statutory limit until such time an industry reserve pool can be established to reimburse the DOT.

Recommendation 2

- Assess the practicality of the establishment of a national insurance pool independently managed for passenger rail operations that would cover commuter, intercity, long distance and high- speed rail services. Pool could be regional or based on services provided. This could lead to lower insurance costs, increased capacity and the ability for service providers to better invest in their services. Consideration should be given to how this could be done under the STB's existing mandate

- Sovereign Immunity / Indemnification

  Sovereign immunity is a legal doctrine that protects federal and state governments and its agencies from being sued without their consent. This principle is rooted in the ancient idea that the "king can do no wrong," and has been adopted into modern legal frameworks to ensure that government functions are not hindered by litigation. However, this immunity is not absolute and has been waived in certain situations, such as when the government engages in commercial activities or when specific legislation, like the Federal Tort Claims Act, provides for limited waivers. Understanding and navigating the boundaries of sovereign immunity is crucial for addressing liability issues and ensuring that affected parties have a path to seek redress.

This issue prevents many governmental entities (other than government-owned Amtrak, who does not have sovereign immunity) from providing host railroads with indemnification regardless of fault, which most railroads require to allow passenger operations on their privately owned rail lines. A state that has Sovereign Immunity therefore may not, and sometimes cannot, provide these protections to host railroads absent waivers or changes in state law. Potential private sector operators have so far been unwilling to insure up to the levels required by host railroads.

This issue is made even more complex because each state has different insurance statutes on the books and treats indemnification and sovereign immunity differently. This problem can be resolved with 50 different solutions, or one federal approach that deals directly with the operation of passenger trains.

Recommendation 3

- Form a committee to evaluate how current indemnification provisions are provided.

- Determine if there are current legal or statutory methods to provide national indemnification provisions for any passenger rail service.

- Engage host railroads to better understand their risk tolerance for passenger train operations Evaluate how certain states handle indemnification related issues.

- Work towards a “one size fits all” national approach instead of a state-by-state approach.

JOINT OPERATION SUBCOMMITTEE

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Passenger Rail Advisory Committee
Freight and Passenger Railroad Joint Operations
Meeting Summary
Friday, June 6, 2025

Members Present:

Rob Padgette
Carl Warren
Michael McClellan
Husein Cumber
Chris Perry
Aaron Edelman
Jim Matthews

Guest Presenters:

Leo Sanchez, Deputy Managing Director Capitol Corridor
Adrian Guerro, Union Pacific Railroad

Meeting Summary:

The third meeting of the Subcommittee on Joint Freight and Passenger Rail Operations was held via Teams Video call. The main purpose of this initial meeting was to initiate exploration of case studies of joint operations. The first case study discussion was on Capitol Corridor service in Northern California, operated primarily on Union Pacific Railroad Territory.

The Capital Corridor service was initiated in the late 1990s with significant expansion into the early 2000s. It operates with a relatively high level of on-time performance. The access rights were purchased from Southern Pacific as a part of a significant investment in ROW investment by the State of California which allows perpetual rights to 20 round trips by state supported passenger rail services between Oakland and Sacramento. Fifteen of these round trips are operated by Capitol Corridor. The agreement includes on time performance incentives with incentive payment revenue reinvested within the corridor for capital maintenance. Capitol Corridor also makes additional routine contributions to capital maintenance and periodically, more significant capital investments. The relationship includes frequent staff communications across engineering, safety and operations to helps identified maintenance needs and potential capacity projects.

Passenger Rail Advisory Committee
Freight and Passenger Railroad Joint Operations
Meeting Summary
Monday, July 7, 2025

Members Present

Rob Padgette
Carl Warren
Michael McClellan
Chris Perry
Aaron Edelman
Jim Matthews
Joe Black
Andy Daly
Husein Cumber

Guest Presenters:

Jason Orthner, NCDOT
Donald Arant, NCRR

Meeting Summary:

The fourth meeting of the Subcommittee on Joint Freight and Passenger Rail Operations was held via Teams Video call. The main purpose of this initial meeting was to continue exploration of case studies of joint operations. The second case study discussion was on North Carolina's passenger rail service.

Safety, passenger and freight programs are all part of the NCDOT Rail Division. NCDOT state-supported service began in the late 1980s. The service between Selma and Charlotte is operated on tracks owned by the North Carolina Railroad Company (NCRR), a private Class 3 railroad, of which the sole shareholder is the state of North Carolina. NCDOT procured the rail fleet and owns assets and facilities that support the Piedmont service. Amtrak operates all the service and provides equipment and servicing for the daily Charlotte to New York Carolinian. Funding to build the North Carolina Railroad, chartered in 1849 and constructed in the early 1850s originally came from a mix of the state and private shareholders (75% public 25% private.) Private shareholders were bought out by the state in the 1990s. Originally 223 miles in length, NCRR now owns a 317-mile rail corridor. Norfolk Southern operates and maintains the NCRR corridor under a trackage rights agreement executed in 1999.

Major capital investments have been made over the past several decades with corresponding service increases (now up to five round trips daily between Raleigh and Charlotte). To determine required improvements, NS does the RTC modeling internally with all assumptions available to NCDOT through over the shoulder reviews. Though data is not shared, this level of transparency helps DOT understand the analysis.

For operations, NCDOT pays additional maintenance costs above the required access payments, averaging $3-4M annually. The project agreements prescribe the amount of maintenance with an inflation indexed base fee. It does not specify capital investments with NS granted the authority on how these dollars are spent.

The foundation of a long-term agreement and frequent communication through weekly and quarterly meetings, and established in the agreement, are cited as strengths. The agreement includes NS, NCRR, NCDOT, and Amtrak, organizes services among parties, and establishes performance metrics. In quarterly meetings, representatives from each party review performance, the capital program, major events, and the maintenance construction schedule. Weekly meetings address specific performance issues. NCRR, Amtrak, NS service line, and NCDOT Rail Division all participate.

The distinction in this case among other rail services in the country is that while there is an existing nationwide master agreement between NS and Amtrak, there are also agreements between NS, NCDOT and NCRR that provide additional mechanisms for funding capital and maintenance on the corridor. A current challenge is with developing new stations, particularly infill stations where liability and insurance arrangements must be made with, not only with both NCRR and the operating railroad but with communities who own the infrastructure.

EXPANSION OF SERVICE SUBCOMMITTEE

Meeting Summary – ~~July 7, 2025~~ 14

August 7, 2025

A meeting of the Expansion of Service Subcommittee was also held on April 23, 2025. A short synopsis of that meeting is available on the PRAC website under the heading for the "Expansion of Service" subcommittee.

Passenger Rail Advisory Committee
Freight and Passenger Railroad Expansion
Subcommittee Meeting
Wednesday, ~~April 23, 2025~~ August 7, 2025
Meeting Summary

Members Present

Aaron Edelman
James Blair
Gregg Baxter
John Robert Smith
Lucy Shaw (for Greg Regan)
Maux Sullivan (for Shoshana Lew)
Liliana Pereira
Jonathan Lamb
Alex Beckmann (Teamsters Rail Conference, attending to prepare to serve as alternate for Aaron Edelman at next PRAC meeting)

From FRA

Wynne Davis
Barbara Moreno
Zeb Schorr

Meeting Report

Topics Discussed

- Corridor ID Program (CID) created under the IIJA
- For the first time allowed FRA to partner with corridor sponsors to develop a strategic plan for expanding passenger rail from the earliest stages of planning
- Creates a project pipeline that helps projects graduate to priority selection for the Fed/State Partnership grant program
- Early engagement with the host railroads to coordinate with the freights.
- 62 selected corridors actively working on Step 1 grants and 7 corridors actively working on Step 2 grants
- Improvements to existing service, extension to existing service, entirely new service

- Step 1 = scoping, step 2 = service development plan (SDP)/project planning, step 3 = preliminary engineering/NEPA
- Each step is a new grant agreement
- FRA does not yet have an exact definition on what the prioritization will mean for projects that graduate out of the Corridor ID program
- Service Development Plans are statutorily required 49 USC 25101(d), creates a planning framework, and demonstrates feasibility

Questions

John Smith asked about having just submitted a Step 1 last week and timeline with sequential task describes a 5 to 5.5 year timeline, but it seems like some tasks could run parallel because that would cut Step 2 down to a 2 year process instead of a 5 year process.

- **Does FRA anticipate a NOFO for Step 1 sometime this year?**

  FRA still has those intentions to do one this year, but things are still up in the air and they don't have the grants calendar ready to post.

- **Does FRA envision that everyone admitted to Step 1 will graduate out of the program?**

  FRA does believe everyone should be able to move to Step 2, but the requirements to get into Step 3 are much higher readiness levels (need support of all relevant stakeholders, governance structure that's ready to move into implementation, funding available, and the project sponsor is producing something with a clear line of sight to implementation and operation).

- **Engagement with host railroads/freights?**

- Piloted over-the-shoulder reviews that bring the host railroads and passenger railroads all in one room to have the conversations – piloting that with CDOT and Oregon DOT. The 80% solution that no one hates, but no one loves that has helped to overcome issues with sharing of information that has previously stymied efforts in the past. Taking host railroads corridors temperature on the various railroads have gotten answers where the freights have shown openness. Part of the scoping effort in Step 1 is budgeting and that is done in close coordination with the host railroads.

- **Key structural issues with expansion – limited availability of equipment, issues with insurance – is the FRA looking at those issues?**

FRA is looking at those issues, not necessarily through the Corridor ID program. From an FRA-wide perspective, the agency is aware of those issues and acknowledges them as issues that need to be addressed. FRA hopes Corridor ID could be a way to look at creative ways to deal with some of these issues and examine the needs across the corridors.

- **Regarding the over-the-shoulder review – what has FRA's role been in the assumptions in the modeling efforts?**

  Being in person, being able to talk through the data needs, and then meeting to go through the data together to run the simulations has been very helpful for pointing out any issues that may come up in the assumptions and modeling as they come up. FRA is able to be an active participant. FRA requires that transparency as a task within the Corridor ID program steps.

- **What is the aspirational goal for reviews under Step 1 to move to Step 2?**

  A lot of things have shifted and a lot of things have changed at FRA as the agency has lost staff.

- **How are things going with the program now?**

- They've received positive feedback about the Corridor ID program generally. There's been every indication that the program will continue to move forward. Big questions have included how to right size a brand new corridor and also give the corridor what they need to be able to move to the next step. The host railroads have been very open to participating in the planning process – the feedback from the freights has been "please have the corridors advanced enough in their planning to really know what they want to do, what schedules need to look like, and what frequencies would be needed."

- **Difference between brand new service vs. expansion of service on existing rail? Is there a way to come up with a "CID lite" that could help expedite things for expansion of service on existing rail?**

  FRA lays out a framework that has all of the tasks and subtasks. An existing service checks the box on basically all of those. Even for existing services with extensions, there's a whole lot already in place. There is a "fast track" for CID if you are an existing corridor called a "near term SDP"/streamlined SDP that's completed early on in Step 2 – that would then get approved and those projects could advance into Step 3 before the rest of the corridor.

CURRENT STATE SUBCOMMITTEE