Railroad Policy in Virginia: How We Got Where We Are and Where We Might Go From Here*

by Richard L. Beadles

Introduction
The newly passed state transportation-funding bill was a milestone for railroads in Virginia by providing a steady source of revenue for the state's previously unfunded Intercity Passenger Rail Operating and Capital (IPROC) fund. Another new law provides the Secretary of Transportation and the Department of Rail and Public Transportation (DRPT) a stronger role in the joint oversight and control of publicly funded rail infrastructure resources in Northern Virginia. Yet another act empowers DRPT to acquire rail rights-of-way for preservation and future development.

Increasingly since the mid-1970s Virginia has concerned itself with preservation and development of rail transportation. Until recently, such efforts were hardly noticed, but the swing away from federal and state regulation and control of intercity rail transportation to an implicit policy of protection and promotion of rail, represents one of the most significant reversals of state transportation policy in more than a century. We are witnessing a renaissance in rail that, in some respects, has been outrunning formally adopted public policy. In fact, there was a recent challenge to the constitutionality of certain state funding decisions. If a robust state-sponsored program of rail development is to continue without future challenges, it will likely be necessary to amend the state constitution.

There are many reasons why the rail mode of transport has reemerged. Rail is now well positioned with respect to energy and environmental considerations with its minimal land surface occupancy and favorable "carbon footprint." Rail is safe, efficient, generally unobtrusive, and works particularly well in urban corridors where land-use and congestion are considerations. While rail is expensive to build, it is arguably less so than equivalent urban highway lane capacity. Intermodal freight rail—which combines longer-haul (500+ miles) rail with shorter truck feeder and delivery trips at each end—has great public appeal and user potential, especially if the network can be expanded to competitively serve more domestic markets. Under 300 to 400 miles, passenger rail can presently compete in some cases with air travel—and could do so in other longer corridors if rail were improved even modestly as to speed, frequency and reliability. This latter possibility has attracted the attention of the general public, particularly as commercial aviation costs, airport security and airline resource allocation practices have made short-haul trips by air less attractive.

* This article is adapted from a longer paper on the rich history of rail policy and growth of railroads in Virginia that will be made available later this year by the Virginia Rail Policy Institute. http://www.varpi.org/
As early as 1966, when planning for the Washington, D.C. area’s Metrorail heavy rail transit system was initiated, certain visionary leaders promoted the idea of a commuter rail element as an adjunct to Metrorail. The result was the 1992 launch of the now highly successful Virginia Railway Express (VRE) commuter rail service on two routes, one originating at Manassas and the other at Fredericksburg. VRE now provides almost five million commuter trips annually.

The success of VRE highlighted the failure in the 1990s of state transportation policymakers to grasp the potential for statewide intercity passenger rail. As a result, there was not much attention given to the broader interests and needs of other urban regions and the imperative for a state rail network plan that would serve such a network. We are now witnessing development of such a system via state-sponsored Amtrak trains. Previously, policymakers and administrators in Richmond neglected to put in place an adequate governance mechanism to coherently plan, fund and allocate scarce capacity resources and to otherwise provide general oversight. The fact that VRE was ever successfully organized and launched is remarkable, given earlier 20th century history of the relationship of the Commonwealth of Virginia with its private railroads. It would be a great understatement to say that the private railroads were skeptical, reluctant and cautious, and generally foresaw no benefit to them; indeed, they saw only potential risks and operational problems. As a result of their 100-year long (1880 to 1980) experience with federal and state regulation, private railroad companies were uncomfortable with governmental involvement in their affairs. Nevertheless, the predecessors of the state’s two large private railroads (Norfolk Southern and CSX) ultimately made significant concessions in long-standing and historically well-grounded policy positions in order to assist and facilitate the inauguration of VRE service. While not publicly recognized by anyone at the time, the coming together of Virginia’s private railroads with public authorities, especially with the commonwealth and its Northern Virginia political subdivisions, to launch a commuter rail service was a historic event and represented a major turning point in the public-private relationship.

To better understand how this came about and how this public-private rail relationship has progressed, a look back at the history of railroads in Virginia can be enlightening. Rail has played a key role in the state for almost two centuries and holds a story with complex and tangled elements, the effects of which are still felt at times today. The commonwealth at first supported and funded rail development. Then, following the Civil War, it sold virtually all its rail interests, except RF&P, mainly to northern investors at bargain prices. Freight and passenger rail was generally competitive with other modes of transportation until the post-World War II era, then declined partly as a result of the Interstate Highway System and the commercial jet aviation boom, but also as a result of changes in the nation’s industrial economy and patterns of new development. These developments eroded the financial strength of private highly regulated railroad companies, which, in turn, adversely impacted rail infrastructure and service. The subsequent decline in rail was dramatic. Examining the state’s evolving policies can offer insights about improving today’s policies as rail again resumes an important role in transportation.

The following article will briefly recap the history of railroad growth and policy in Virginia before moving into developments in the modern era. It will conclude with findings and recommendations. A key theme is that since 1870 the Constitution of Virginia has included a provision that prohibits state funding for all internal improvements, except for roads and parks. In the case of ports, airports and railroads this leaves the state open to legal challenges for improving infrastructure and transportation operations. Curiously, it appears that investment in rail is the only non-highway mode to have been challenged.

Early History and the Beginning of the Railroad Age
The long history of railroads in Virginia constitutes a complicated journey. To assist the reader I have included a timeline showing the major developments at the end of this article.

In 1816 the General Assembly passed an Act to Establish a Fund for Internal Improvements. The act declared that the fund was being created “… for the purpose of rendering navigable, and uniting by canals, the principal rivers, and of more immediately connecting by public highways, the different parts of the Commonwealth.”1 The state had been active in funding transportation improvements since 1785 and even held stocks in the canal and turnpike companies. The act provided for establishment of a Board of Public Works (BPW). Until 1851 governors served as presidents of the BPW, which also included private citizens chosen by the General Assembly. Over the years there were several significant changes in the makeup of the board and in investment policy guidelines and dictates of the legislature, which reserved for itself all major decision-making prerogatives. Nevertheless, the
BPW survived until 1903, when it was dissolved and replaced by the State Corporation Commission (SCC) in accordance with the Virginia Constitution of 1902.

Establishment of the internal improvement fund was well before any serious consideration of the development of steam railroads in Virginia or elsewhere in the United States. On February 28, 1827, the Maryland legislature granted a charter to the Baltimore & Ohio Railroad (B&O), which was confirmed by the General Assembly of Virginia a week later. The original B&O route went through Virginia to Wheeling (now West Virginia) on the Ohio River. Of the original 379-mile route, some 59 percent was across Virginia territory (including the area that later became the state of West Virginia in 1863). Unlike Maryland, Virginia had no grand vision, nor strategic plan, for rail development. Instead, an obsession with development of a continuous waterway linking the waters of the James with those of the Ohio River dominated the commonwealth’s internal development priorities and thinking until the Civil War. However, enterprising merchants in towns such as Petersburg, Portsmouth, Lynchburg and Winchester could not ignore railroads. As tobacco production migrated from Tidewater to Piedmont, planters and merchants needed desperately to augment natural waterway access, which no longer provided the necessary reach.

The first approximation of a railway to actually become operational in Virginia was the 13-mile-long horse and mule-powered line extending from Chesterfield County coal pits at Midlothian to the tidal James River just below Richmond that was placed in service 1830-1831. The French-born military engineer, Claudius Crozet, who immigrated to America in 1816, was appointed principal engineer for the state’s Bureau of Public Works in 1823. In his report for the year 1831, Crozet noted the rapidly advancing field of railroad design and construction, asking whether Virginia should shift emphasis from canals to railroads. The commonwealth’s Fund for Development of Internal Improvements held out the possibility of a public stock subscription by the state for 40 percent of the capital stock of any new private joint stock company receiving a charter from the General Assembly. Although railroads were not specifically mentioned, the logic of funding rail development was apparently clear enough to most legislators. In January 1830 the legislature granted a charter to the Petersburg Rail Road

Company, which became the first steam railroad constructed in Virginia. The model for public-private participation in Virginia rail development was thus established.

Over the next 31 years, 1830-1861, the state and numerous cities, towns and counties participated in the capitalization and development of more than 20 private railroad companies, many of which are listed in Table 1. In this short span of time, about two-thirds of Virginia’s population was provided reasonable access to rail service.

Nevertheless, on the eve of the Civil War the state’s rail picture offered these confusing elements: Virginia railroads often did not physically connect one to the other, as was the case in Richmond where five railroads entered the city, none of them connecting with another. In addition, there was a problem, not limited to Virginia,
of different track gauges. Such deficiencies would prove to be a severe logistic handicap for the Confederate Army.

**The Civil War Aftermath and Virginia Railroads**

The devastation resulting from the Civil War fell heavily upon most Virginia railroads. Virginia had been a battleground state and her railroads naturally became military assets coveted by each side or objects to be destroyed by retreating armies. Massive amounts of capital would be required to restore and improve what had previously existed, and more importantly, to physically connect and extend lines. Virginia still had a collection of small railroads instead of a network. Since there was no way the state could supply needed capital, private railroad executives naturally were receptive to overtures from investors in Baltimore, Philadelphia and New York. Concurrently, state political and business lines of battle formed on either side of an even larger question: that of honoring the commonwealth’s outstanding bonded debt or forcing the bond holders to accept a drop of some of the face value they were otherwise due. Ultimately, this decade-long philosophical and practical struggle, and the participants in it, would come to be known by the terms “Funders” (pay the debt) versus the “Re-adjusters” (negotiate or walk away). Under such circumstances, Francis Pierpont, who was the federally designated governor of “the restored government of Virginia,” as early as 1865, advocated the sale of all Virginia railroad securities to the highest bidder and indicated his

<table>
<thead>
<tr>
<th>Railroad Company/Project</th>
<th>Dividend Bonds$</th>
<th>Common Stock or State Rail Projects$</th>
<th>Preferred Stock</th>
<th>Loans</th>
<th>Guarantees</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Alexandria, Loudoun &amp; Hampshire</td>
<td>975,248</td>
<td>975,248</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fredericksburg &amp; Gordonsville</td>
<td>132,399</td>
<td>132,399</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manassas Gap</td>
<td>1,641,500</td>
<td>425,000</td>
<td>2,066,500</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norfolk &amp; Petersburg</td>
<td>899,970</td>
<td>200,000</td>
<td>300,000</td>
<td>1,399,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orange &amp; Alexandria</td>
<td>31,600</td>
<td>664,501</td>
<td>210,000</td>
<td>400,000</td>
<td>1,306,101</td>
<td></td>
</tr>
<tr>
<td>Richmond, Fredericksburg &amp; Potomac</td>
<td>140,352</td>
<td>275,200</td>
<td>415,552</td>
<td></td>
<td></td>
<td></td>
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<td>Richmond &amp; Petersburg</td>
<td>33,408</td>
<td>385,600</td>
<td>419,008</td>
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<tr>
<td>Richmond &amp; Danville</td>
<td>1,185,508</td>
<td>600,000</td>
<td>200,000</td>
<td>1,985,508</td>
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<td></td>
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<td>Richmond &amp; York River</td>
<td>280,367</td>
<td>200,000</td>
<td>480,367</td>
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<td></td>
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<tr>
<td>Roanoke Valley</td>
<td>177,402</td>
<td>130,000</td>
<td>307,402</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>South-Side Railroad</td>
<td>803,500</td>
<td>800,000</td>
<td>1,603,500</td>
<td></td>
<td></td>
<td></td>
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<td>Virginia Central</td>
<td>143,508</td>
<td>1,891,670</td>
<td>30,000</td>
<td>100,000</td>
<td>2,165,178</td>
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<tr>
<td>Virginia &amp; Tennessee</td>
<td>1,688,025</td>
<td>582,500</td>
<td>1,029,475</td>
<td>3,300,000</td>
<td></td>
<td></td>
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<tr>
<td>Winchester &amp; Potomac</td>
<td>120,000</td>
<td>83,333</td>
<td>203,333</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blue Ridge</td>
<td>1,605,423</td>
<td>1,605,423</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virginia &amp; Kentucky</td>
<td>71,500</td>
<td>71,500</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covington &amp; Ohio</td>
<td>2,592,762</td>
<td>2,592,762</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>348,868</td>
<td>15,390,575</td>
<td>1,747,500</td>
<td>3,242,808</td>
<td>300,000</td>
<td>21,029,751</td>
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</tbody>
</table>

Source: Board of Public Works, *Annual Report, September 30, 1860*, Document 17 which can be viewed at the Library of Virginia (Film #372, Reel #14).

$ Dividend bonds apparently represented debt instruments taken in lieu of cash dividends otherwise due and payable to the state.

$ The two principal 100 percent public Virginia rail projects were the Blue Ridge and the Covington & Ohio projects.
support for railroad consolidation in the interest of efficiency. 3

State Constitutional Prohibition of Further Railroad Investments

The so-called Underwood Constitutional Convention, which convened in Richmond on December 3, 1867, developed a state constitutional prohibition of further investments in internal improvements by the commonwealth. Although rail investment was not mentioned specifically, the restriction was clearly intended to apply to rail as well as canals and turnpikes. The constraint on state government rail spending was reviewed by the Supreme Court of Virginia as recently as 2011.

The 1869 Virginia constitution included a provision, which without modification as related to railroads, has come down to us today in the current Constitution of Virginia, which was adopted in 1971. But the 1869 provision was adopted without much contention. Its proponents were a small group of leaders against debt restructuring and with a vested interest in rail consolidation. Article X, Section 10, commonly referred to as the internal improvements clause and/or the credit clause, prohibits, on the face of it, the commonwealth from involvement in “... any work of internal improvement,” but with the express “… exception of public roads and public parks.” Interestingly, internal improvements are not defined, but in 1869 they included waterways, toll roads, railroads, bridges, telegraph lines and several earlier banks. The exception, relative to roads, came with the 1902 state constitution, and to parks by amendment in 1928.

For a century, from 1869 to the 1970s, and later, it was generally accepted that the constitutional language absolutely prohibited public investment by the state, and presumably, by extension, its political subdivisions as well, from expending any public funds to preserve, protect, develop, maintain, lease, own, operate or otherwise aid transportation by rail.

Regarding the origin of such prohibition, the standard explanation may be found most recently in a 2011 opinion of the Virginia Supreme Court.

This prohibition, along with the one set forth in the credit clause, dates back to the 1869 constitution. It was attributed to substantial financial losses the commonwealth had sustained in previous years from its general investments in entities such as canal, turnpike and railroad companies, engaged in various large scale projects, i.e., “works of internal improvement.” Faced with those losses, the constitutional convention for the 1869 constitution “… resolved that the State should no longer lend its support to such undertakings but should leave them to private enterprise.” 4

Ironically, the state’s pre-Civil War investments in railroads were, arguably, among the better ones. On the eve of the war, ten private railroads representing the bulk of the state’s financial interests were generating positive operating income, and six of them had income sufficient to maintain a reasonable level of debt service (see Table 2). While the state did incur some rail investment losses, they were relatively minor in relation to its total rail securities portfolio. The most dramatic state losses occurred after the war, when the so-called fire sale of Virginia rail securities commenced for reasons not directly related to their pre-war operational performance.

Despite the ravages of the Civil War, as early as 1866, some Virginia railroads were making remarkable progress toward their physical reorganization and a return to profitability. Governor Gilbert C. Walker (D) obligingly signed legislation in March 1871, which confirmed the pattern for what has to be described as fire sales of potentially valuable public assets. There had been several prior transactions in which the state’s rail interest had been sold on terms very favorable to acquirers. Northern capitalists quickly bought most of the remaining railroads of the Old Dominion. In every case except the RF&P, which was not sold, such railroads were those in which the state previously had an ownership interest and, in most cases, a creditor interest as well.

Virginia Railroads in the Early 20th Century and the State as Regulator

Railroad development in Virginia reached its peak shortly after the turn of the 20th century, notably with the construction of the former Virginian Railway. With ownership and control of virtually all of the commonwealth’s railroad companies transitioning to predominantly northern hands after the Civil War, the role of the state gradually became one of regulator, rather than that of an investor, promoter and developer of railroads.

In response to public outrage about certain railroad business practices, Congress passed the 1887 Interstate Commerce Act establishing an Interstate Commerce Commission. This landmark federal regulation, among the first federal regulatory laws to have broad application, marked the commencement of almost 100 years of ever-increasing federal and state regulation and control of private railroads. 5 At the state level, the State Corporation Commission took on
a similar regulatory role, replacing the Board of Public Works, pursuant to provisions in the 1902 Constitution of Virginia.

By the 1920s, an anti-rail constitutional interpretation became useful to road building proponents, who needed all the public funding they could get. Then, with the rise of the commercial trucking industry, yet another powerful voice was added to the chorus of opposition to anything beneficial to railroads. Moreover, Virginia railroads, like their national peers, were generally opposed to any form of governmental involvement in their business.

### Decline of American Railroads, 1957-1977, and Renewal of State Involvement

The years 1957 to 1977 roughly bracket the decline of rail in North America. Those two decades, which coincide with the construction of much of the modern Interstate Highway System and the rise of commercial jet aviation, saw the financial condition of the private rail system deteriorate, especially in the Northeast. Another major factor was the decline of heavy industry.

Except for public financial assistance provided to private railroads in Virginia for highway-rail grade-crossing protection systems, clearly related to roads and highway safety, there was no thought of public financial investment in, or assistance to, railroads in Virginia until the collapse of the Penn Central in 1970. Even then, it took a while for the implications to sink in. Initially, the bankruptcy case was handled in the customary manner, which traditionally had led to a reorganization and relaunch of a railroad company in receivership, subsequent to the shedding of some debt. Not obvious to the general public, but painfully clear to rail industry insiders, the Penn Central collapse represented something new and different. The railroad was in such difficult and impossible circumstances that it would never be a candidate for reorganization. Drastic steps of unprecedented nature would be required.

While the northeastern rail disaster adversely affected Virginia railroads, rail mileage within the state was only slightly impacted, the most significant direct case being that of the former Pennsylvania Railroad line down the Delmarva Peninsula to Cape Charles, which extends by means of a Chesapeake Bay rail car ferry to Norfolk and Southside Hampton Roads. Virginia's 65-mile Eastern Shore rail line was among the 15,000 plus miles of so-called excess rail route miles winnowed out of the former northeastern rail system, about a quarter of what had formerly existed. Local business and residents of the Hamptons and Atlantic coastal regions called for a solution.

### Table 2. Debt Service Coverage Capacity of Ten Important Virginia Railroad Companies, 1860

<table>
<thead>
<tr>
<th>Railroad Company</th>
<th>Gross Revenue</th>
<th>Net Operating Income</th>
<th>Debt</th>
<th>Debt Servicea</th>
<th>Excess or (Deficit) Cashb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manassas Gap</td>
<td>281,064</td>
<td>140,532</td>
<td>908,233</td>
<td>90,823</td>
<td>49,709</td>
</tr>
<tr>
<td>Orange &amp; Alexandria</td>
<td>450,427</td>
<td>220,709</td>
<td>2,749,259</td>
<td>274,926</td>
<td>(54,217)</td>
</tr>
<tr>
<td>Petersburg</td>
<td>329,092</td>
<td>187,582</td>
<td>106,284</td>
<td>10,628</td>
<td>176,954</td>
</tr>
<tr>
<td>Richmond &amp; Petersburg</td>
<td>154,149</td>
<td>74,015</td>
<td>219,178</td>
<td>21,918</td>
<td>52,097</td>
</tr>
<tr>
<td>RF&amp;P</td>
<td>299,456</td>
<td>146,777</td>
<td>814,461</td>
<td>81,446</td>
<td>65,331</td>
</tr>
<tr>
<td>Richmond &amp; Danville</td>
<td>560,904</td>
<td>280,452</td>
<td>972,559</td>
<td>97,256</td>
<td>183,196</td>
</tr>
<tr>
<td>South Side RR</td>
<td>405,413</td>
<td>186,490</td>
<td>2,054,986</td>
<td>205,499</td>
<td>(19,009)</td>
</tr>
<tr>
<td>Virginia Central</td>
<td>630,424</td>
<td>271,082</td>
<td>1,275,520</td>
<td>127,552</td>
<td>143,530</td>
</tr>
<tr>
<td>Virginia &amp; Tennessee</td>
<td>740,880</td>
<td>318,578</td>
<td>3,637,958</td>
<td>363,796</td>
<td>(45,218)</td>
</tr>
<tr>
<td>Winchester &amp; Potomac</td>
<td>57,439</td>
<td>16,657</td>
<td>175,556</td>
<td>17,556</td>
<td>(899)</td>
</tr>
<tr>
<td>Total</td>
<td>3,909,248</td>
<td>1,842,874</td>
<td>12,913,994</td>
<td>1,291,400</td>
<td>551,474</td>
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</tbody>
</table>

Source: Bureau of Public Works, Annual Report for Railroads in Virginia as of September 30, 1860 which can be viewed at the Library of Virginia (Film #372, Reel #14). However, there were inconsistencies and conflicting numbers at various places in the voluminous source document.

- **a** Assumed to be 10 percent of debt.
- **b** Net operating income minus debt service.
agricultural interests on the Eastern Shore were unwilling to allow their railroad to be abandoned. Accomack and Northampton counties, with state approval, formed a public commission to acquire and operate the line. Ever since then the line has been funded in part by the state, under what is now known as the Short-Line, or Rail Preservation Program, administered by the Virginia Department of Rail & Public Transportation. That is how Virginia resumed its financial support of rail freight lines, a bit more than 100 years after it ceased to do so.

Most of the financially challenged private railroads were quite willing to support congressional legislation creating a quasi-public entity to assume responsibility for operating money-losing intercity passenger trains. The public solution was the National Railroad Passenger Corporation, or Amtrak, which came into existence, May 1, 1971, less than a year after Penn Central’s filing for bankruptcy. The Commonwealth of Virginia assumed no responsibility for Amtrak’s intercity rail passenger service, took little or no interest, and with a few minor exceptions, would not for another three decades.

Predating Amtrak, when the private railroads were often thwarted in their efforts to discontinue money-losing passenger trains, the federal Transportation Act of 1958 included provisions to clarify the regulatory roles of states and the Interstate Commerce Commission, giving most such authority to the ICC. Meanwhile, the private rail industry continued its advocacy for much broader relief from regulation or at least the same degree as other modes of transportation. That objective was largely achieved with the passage in 1980 of the Staggers Rail Deregulation Act. Then, in 1995 a new federal regulatory agency, the Surface Transportation Board (STB) was created to replace the ICC. Legislation creating the STB went even further than the Staggers Act. As a result of this the Virginia State Corporation Commission found itself with very limited authority over railroads in the state.

Launching the Modern Era: Mergers of CSX and Norfolk Southern

All of this roughly coincided with two huge Virginia railroad merger transactions; namely, that of CSX in 1980 and of Norfolk Southern in 1982. With the SCC largely out of the game and in the absence of a comprehensive rail policy position of the General Assembly, the incumbent governor, John N. Dalton (R), and his executive staff effectively handled those two far-reaching rail consolidation transactions. While Virginia may have gained more than it lost as result of the mergers, the fact that 95 percent of the state’s rail route miles were consolidated with little more than a few pleasantries exchanged between rail...
CEOs and the incumbent governor was rather remarkable.

The Norfolk Southern merger involved consolidation of the Southern Railway System with Norfolk & Western (the latter having by that time absorbed the Virginian, the Nickel Plate, the Wabash and other northern rail companies). On the negative side of the ledger, however, federal rail deregulation subsequently permitted railroads, under certain circumstances, to obtain short-cut exemptions from normal and customary line abandonment procedures. This was often done by railroads after discouraging, and eventually minimizing or eliminating, local freight business on any line segment otherwise served at either end, and then asserting that such line segments were not required for railroad business purposes, nor for the convenience and necessity of the public. The petitioning railroad company might thus obtain an exemption that permitted approval of such line-segment abandonment by the Surface Transportation Board on an expedited schedule, with very little, if any, meaningful public notice, and no public hearing. Such abandonment cases often failed to consider the strategic public interest involved. To cite the most egregious case in Virginia, CSX-owned SCL/Family Lines used such short-cut exemption to quietly abandon its 65-mile Petersburg-North Carolina “S” line. In hindsight this was bad for the state, requiring it to recently obtain a purchase option that will permit future passenger rail service linking Richmond and Raleigh as part of the so-called future Southeast High Speed Rail route. The sad fact of the matter is that when this abandonment case was pending in 1985-1986, Virginia had no vision, nor policy, regarding future rail requirements, and undoubtedly would not then have officially objected, nor moved to acquire the right-of-way, had the state been afforded the opportunity to do so. At a minimum, however, an empowered SCC would have at least held a public hearing, which would have elevated public awareness.

### Developments in the National Economy Affecting Railroads

Following the heady round of U.S. rail mega-mergers of the 1980s and 1990s several trends began to emerge. North American freight railroads consolidated into seven major lines, augmented by Amtrak passenger service, over a dozen publicly owned commuter railroads, dozens of regional freight railroads, and hundreds of so-called short lines such as the commonwealth’s Buckingham Branch which operates the former CSX route from Richmond to Clifton Forge. In the process U.S. railroad main-line mileage shrank from 206,265 in 1970 to 99,250 in 2000 and is somewhat less today. The shift of manufacturing offshore resulted in dramatic growth of international container shipping. The Port of Virginia emerged as a major East Coast player. Trucking, long a vital and increasingly dominant component of U.S. freight movement, brought problems of highway congestion, maintenance and general annoyance to the public. Some major highways, such as I-81, which had been designed and constructed to accommodate less than 20 percent truck traffic, experienced as much as 30 percent or more in certain areas.

The daily commute of Virginia workers was ever lengthening, especially in Northern Virginia, as urban sprawl caused people to travel longer in both time and distance. Highway traffic congestion was a growing problem in most urban areas. Energy and environmental concerns increasingly emerged as mainstream issues.

To the surprise of some, Amtrak intercity service in Virginia began to grow in numbers of trains and passengers carried. Nevertheless, the starkness of the every-shrinking U.S. and Virginia rail maps was striking. The private freight railroads, even though now freed of so many regulatory burdens, were not well, financially or otherwise. CSX, perhaps the leader in non-rail diversification, struggled to assimilate and achieve synergies from acquisitions in ocean shipping, oil and gas, inland waterway transportation, resorts, real estate and other activities. Cross-county double-stack intermodal freight trains became the new highway-rail operational optimum, but short-haul rail freight continued to migrate to highways. Conversely, Amtrak’s Northeast Corridor, and a few other short-distance routes, showed promise as viable alternatives to highway and aviation. Commuter rail reversed a long downward slide, and in several major metropolitan areas rail began to find favor with road-weary drivers. There were notable new-starts in such service, including the Virginia Railway Express, the Northern Virginia commuter railroad.

While prior to 2000 Virginia was not actively planning for intercity rail, events north of the Potomac River were indirectly creating rail transportation opportunities, as well as challenges, for the Old Dominion. In 1976, as part of the United State Railway Association effort to salvage a viable core from the bankrupt northeastern railroads, the association assigned the 456-mile Washington, D.C.-New York-Boston rail corridor to Amtrak, thereby relieving Penn Central (and its emerging successor, Conrail) of responsibility for that remarkable piece of railroad, arguably the most unique, yet expensive-to-maintain, in America. There followed a $2.5 billion federal grant to
repair and improve the Northeast Corridor (NEC) for faster, more convenient, and more comfortable intercity passenger service. Other large federal grants for higher-speed infrastructure and trains in the NEC followed over time. This made the route much more attractive to the public. However, a largely unanticipated impact was that as the number, speed and frequency of Amtrak trains increased, corridor capacity was consumed. This problem was further exacerbated by even larger numbers of commuter trains. As a result the NEC ceased to be a suitable option for non-local rail freight. Earlier this corridor was the preferred route used by the private Class I railroads and their customers in the routing of time-sensitive cargo north of the Washington Gateway.

**Amtrak and Commuter Rail for Virginia Highways and Rail**

Highways and urban mass transit—not intercity railroads—were at the top of the state's priority funding list in the mid-1980s, followed closely by the Port of Virginia and aviation. In a 1986 special session of the General Assembly, Governor Gerald L. Baliles (D) pushed through a transportation funding package which included increases in state vehicle fuel taxes, as well as an unprecedented 0.5 percentage point increment on the state's general sales tax dedicated to a new Transportation Trust Fund divided among roads, transit, ports and aviation. Freight and passenger intercity rail was conspicuously omitted. Although Northern Virginia had experienced several years of good service from the popular Metrorail system (classified as heavy rail transit), commuter rail was still thought by many to be unlikely to ever get started, and of dubious utility even at that. Had anyone asked the typical member of the legislature at that time about funding intercity rail, the response would likely have been: "the state constitution prohibits it!"

In the always-keen competitive environment for transportation funding, highway interests were equally prepared to recite that same line; that public investment in railroads was prohibited by the state constitution. Moreover, Virginia’s private railroads, by then dominated by CSX and Norfolk Southern, were not particularly inclined to get involved with the public sector, having as recently as 1980 been effectively freed of most federal and state regulatory control. There were, of course, several minor rail-funding elements that came out of the 1980s, including the already-mentioned short-line preservation program and extension of the industrial access program to include rail spurs. Neither of these programs had a dedicated rail source of funding; they were modest in scope, functioning generally below the radar, and sustained by monies siphoned, albeit legislatively sanctioned, out of the highway and roads pot of money.

Economic and transportation events in the Northeast and elsewhere, including highway congestion, oil shocks, the rise of the environmental advocacy community, unimaginable urban sprawl, and related mobility constraints, all began to raise public awareness of the desirability of considering all options.

**Amtrak in Virginia**

Despite long odds Amtrak continued to intermittently obtain additional funding from Congress, notwithstanding various White House efforts to shut it down. New trains and new Amtrak service in Virginia, all having one end of the run in the Northeast Corridor, began to attract riders from all walks of life, including the business community. Suddenly, people began to see the utility and convenience of urban rail corridors. One of the most successful new trains then in the Amtrak system was the Colonial, between Newport News and Boston, inaugurated in the 1970s, on a route, which had never enjoyed such service. The North Carolina-sponsored Carolinian, linking Charlotte and New York, followed that. Soon afterward Amtrak added yet another train on the Newport News-Boston run. Virginians demonstrated they were ready to embrace rail, but Amtrak, CSX and DRPT were not yet prepared to deliver.

Not until 2009-2010 did the commonwealth commit to underwrite the cost of any Amtrak service. North Carolina had begun to do so in the 1980s. Prior to 2009, all Amtrak service in Virginia, except the Carolinian, was funded to the extent necessary by the federal government. Sometime prior to the 1980 CSX merger, Amtrak had paid for construction of a new rail connection on 17th Street Bottom near downtown Richmond to facilitate the operation of the new Newport News Colonial. The connection, originally known as, Amtrak Junction or AM Junction, has since been enhanced by CSX because it is now a key component of CSX Richmond Terminal infrastructure.

**Accommodating Virginia Rail Express**

Caught up in the 1990-1993 whirlwind of activity associated with the split-up and sale of the former RF&P Railroad to CSX and the related acquisition of RF&P Corporation (the residual real estate component) by the Virginia Retirement System (VRS), there was a requirement for relocation of about four miles of main line rail tracks within the bounds of the site previously occupied by the former RF&P Potomac Yard freight complex.
New Thinking About Passenger Rail in Virginia

The decade of the 1990s may have represented a turning point in national transportation thinking at both the federal and state levels of government. Passage of the Intermodal Transportation Efficiency Act of 1991 (ISTEA) gave encouragement to those who sought fair, even-handed and comprehensive evaluation of all transportation options. This prompted the Virginia Department of Transportation (VDOT) to commission a study in 1997 to evaluate planned I-64 capacity improvements between Hampton-Newport News and Richmond. Although it appeared that no one opposed some level of highway capacity improvements, the enhancement of intercity rail passenger service was one of the options identified and rail was strongly supported by many in the public at hearings conducted in 1998. As a result, metropolitan planning organizations in Richmond and Hampton Roads voted in favor of an alternative, which incorporated significant rail enhancements. Some of the contemplated road improvements were subsequently made in the Hampton-Newport News area, but nothing has yet been done to significantly improve the two daily Amtrak round-trips between Richmond and Newport News.

One thing that did occur, as result of ISTEA, was a 1997 report on high-speed ground transportation produced by the Federal Railroad Administration. \(^9\) Remarkably, it found that the proposed Southeast High-Speed Rail Corridor (SEHSR) covering Washington, D.C.-Richmond-Raleigh-Durham-Greensboro-Charlotte had the greatest potential for commercial success of any of the other corridors examined around the U.S. This was explained, in part, by Richmond’s proximity to the Northeast Corridor and its draw of multistate riders. Publication of this report elicited support in the Southeast, more so initially in Charlotte and Atlanta, than in Virginia. In 1998 the SEHSR Corridor route designation was extended to Atlanta in response to pleas from Georgia. Norfolk area leaders had meanwhile lobbied for the inclusion of Hampton Roads as a spur off of the SEHSR spine. Later, Hampton Roads passenger rail access would emerge within the commonwealth as a higher priority than the link with North Carolina.

In 1997 the Commission on the Future of Transportation in Virginia adopted by an overwhelming majority the group’s most aggressive scenarios on transit and rail. The group also weighed in on the growing shortfall in transportation revenue, none of which pleased Governor George Allen (R) (1994-1998), as reflected in the comments of Secretary of Transportation, Robert E. Martinez. Virginia Railway Express and other transit programs were warmly supported by the majority, but there was little said about intercity passenger rail and nothing new in regard to freight rail.

In the western part of the state, I-81 had become notorious for its truck traffic, with frequent occurrences of terrifying accidents involving eighteen-wheelers, presumably justifying the need to expand capacity throughout much of the Interstate’s 324-mile route between Bristol and the state line north of Winchester. This would cost $3 to $4 billion dollars depending upon what was to be done. Sometime around 1997, Wiley F. Mitchell, Jr., a former state senator and then Norfolk Southern general counsel, had an epiphany while reading about I-81 at his breakfast table. What caught his eye that morning was an article describing the intent by the Virginia Department of Transportation (VDOT) to award one or more high-dollar contracts for construction of additional lanes on the Interstate in the Bristol area. Why, he questioned, should not the parallel railroad line located virtually side-by-side I-81 for most of the Virginia corridor, be viewed as an alternative solution? His subsequent inquiry of VDOT officials confirmed that they did not think in such terms, and that there was no Virginia mechanism to do so. This was the first stirring of rail freight versus highway capacity alternative cost-benefit analysis in Virginia.

It was later reported in a study from the Virginia Secretary of Transportation that an appropriate investment of public capital in rail infrastructure improvements on the parallel rail
line would provide equal or better public benefit.\textsuperscript{10} The benefit would come from diversion of some percentage of large, heavy, long haul trucks from highway to rail. Just as important, the study concluded that VDOT might achieve considerable annual savings on road surface maintenance since truck user taxes failed to fully cover their share of such maintenance. While further study was recommended, the conclusion was that rail should be considered by VDOT and the Department of Rail and Public Transportation as an option in future planning for I-81 and other transportation corridor capacity expansion projects, as well as in consideration of regular highway maintenance planning.

Between 1992 and 2005 the state helped to fund several main-line rail infrastructure projects on the Richmond-Washington, D.C. rail corridor, including a $10 million reconstruction, expansion and upgrade of a major rail junction in the city of Alexandria where the main lines of Norfolk Southern and of CSX converge and construction of a $26 million second rail bridge over Quantico Creek in Prince William County. The bridge project appears to have represented the largest commitment of public funds to a joint public-private Class I intercity rail infrastructure project in Virginia to that point in time.

In 1994 Congress passed the Swift Rail Development Act, declaring that development of high-speed rail (HSR) was in the national interest. (Although there is no universally accepted definition of high-speed rail, in the U.S. it is in the range of 125-150 miles per hour; that speed is currently attained in the Northeast Corridor.) Earlier high-speed rail initiatives in Texas and Florida had gone nowhere, but the Northeast Corridor appeared to be fertile ground for HSR. Amtrak President Tom Downs accepted the challenge and appeared to be well on his way to proving the point. He signed the contract for the now popular Acela NEC trains. The buzz reached Virginia, where Downs spoke about the potential benefit to riders north of Washington, D.C., Richmond and Hampton Roads were tantalizingly close. It did not take much imagination to visualize HSR being extended in the future through Virginia’s Eastern Urban Crescent. In 1993-1994, a few community leaders, with some business support, laid the foundation for what is today, Virginians for High Speed Rail (VHSR), a passenger rail advocacy organization.\textsuperscript{11}

Elsewhere in central and western Virginia a coalition of rail advocates seeking restoration of passenger rail service linking Bristol and Roanoke via Lynchburg and Charlottesville with Washington, D.C. joined together with the Lynchburg Chamber of Commerce, which provided a home and staff support for what came to be known as the Trans Dominion Express (TDX). With a somewhat tougher case to make, the TDX group worked even harder, perhaps, than the eastern Virginia proponents of rail.

During the 1990s, a handful of states invested in passenger rail service as part of their comprehensive, multimodal, transportation planning. California took the lead. Closer to home, North Carolina, under the leadership of several progressive governors, took unprecedented steps to advance development of rail, including as previously mentioned, state sponsorship of the Amtrak Carolinian service between Charlotte and New York, via Richmond. This opened some eyes in Virginia; the Tar Heel State was providing a train, which served the Old Dominion. On the other hand, there were yet some Virginians who reasoned that the commonwealth need not take action because North Carolina had no choice but to find a way to pay for development of connecting rail through Virginia if it wanted Northeast Corridor access. This was true up to a point, but shortsighted. A central piece of North Carolina’s rail program was the state-owned North Carolina Railroad. In addition, North Carolina for a long time had a policy of acquiring rail lines and rights-of-way that would have otherwise been cast off by the same two Class I freight rails that serve Virginia; namely, CSX and Norfolk Southern.

The striking contrast between North Carolina and Virginia rail activities in the 1990s was of concern to many rail advocates. They reasoned that Virginia would never be able to undertake or accomplish very much in terms of intercity freight or passenger rail development, without first adopting a broad legislatively-sanctioned pro-rail development policy supported with an internal organizational structure and funding mechanisms. There emerged about that time the concept of a state rail authority, comparable to the then-widely admired Virginia Port Authority.

Not everything was at a standstill in Virginia. On February 18, 1999, the Commonwealth Transportation Board (CTB) officially endorsed the concept of developing the Washington, D.C.-Richmond rail corridor to accommodate more, better, and faster rail passenger service. Work on behalf of Amtrak and on improved Washington, D.C.-Richmond passenger rail by DRPT Director Leo Bevon produced remarkable news later in that year. On October 28, 1999, Governor Jim Gilmore (R) announced that the state would be a financial partner with Amtrak and CSX to establish high-speed rail between Richmond and Washington, D.C. While generating headlines, it is now clear that none of the principals had a grip on reality.
Nevertheless, the intent was good, and the subsequent 2000 General Assembly session actually produced the first real state funding for such service.

In the four years leading up to the 2000 General Assembly, the Greater Richmond Chamber of Commerce and others lined up in support of a comprehensive menu of multi-modal transportation projects under the banner of the Richmond Transportation Advocacy Board (RTAB). Former Governor Baliles, fondly known as the “transportation governor” for his 1986 accomplishments, was enlisted to advise and provide leadership. Renovation of Richmond’s downtown train station and improvement of Washington, D.C.-Richmond rail service were among a dozen or so priorities. Main Street Station was a project conceived and launched by the city of Richmond in the early 1990s, a well-intentioned but misguided venture, sustained with large grants of federal dollars. It remains a work-in-progress.

Remarkably, the Virginia Transportation Act of 2000 provided approximately: $66 million for Richmond-Washington, D.C. rail corridor improvements, $18 million for Virginia Railway Express, and $8 million for the Trans Dominion Express.

Inspired by North Carolina’s enthusiasm for the Southeast HSR project, encouraged by many other things then occurring, and with the aid of a $100,000 grant from DRPT, Virginians for High-Speed Rail, together with other partners, most notably Amtrak, organized the first Southeast High-Speed Rail Conference and Expo, which was held in Richmond in November 2000. Among the legacies of the conference was the genesis of a Virginia-North Carolina High Speed Development Compact. State Senator John C. Watkins (R) was the leading proponent.

During these years, Trans Dominion Express proponents worked hard to convince the legislature of the need for, and feasibility of, the so-called Bristol train, even to the point of taking a small group of General Assembly members to the Pacific Northwest to ride the Talgo-built trains operating in the state of Washington. Such trains constitute a technology option not requiring as extensive and expensive investment in fixed infrastructure as Norfolk Southern and CSX desire, indeed demand. Both railroads were clearly preoccupied with their own problems stemming primarily from the 1999 Conrail transaction. However, most rail industry observers would agree with a fairly commonplace characterization of rail industry culture—rail executives tend to be people of great worth and reliability, but with regard to new ideas they can do anything they set their minds to doing, or they just as easily will resist, and declare impossible, anything they really don’t want to do!

**A Comprehensive Virginia Rail Plan**

In September 2001, the board of Virginians for High-Speed Rail released a comprehensive Virginia Rail Plan. The document sought to analyze virtually every major element of intercity rail transportation in Virginia; it discussed public policy and competitive economics and it recommended a course of action for future consideration by public policymakers. The document identified needs, estimated costs, suggested priorities, and recommended a funding strategy. Total needs so identified were estimated to be $2.5 billion over 15 years. Among other things, the plan recommended creation of a state rail authority.

The concept of a Virginia rail authority gained some traction during the years 2001-2004, but the concept was obviously deemed premature or troubling by some in state government. The reasons for rejection were never entirely made clear, there being hundreds of authorities that had previously been approved and established for diverse purposes throughout the commonwealth. Senator John Edwards (D) of Roanoke, an ardent Trans Dominion Express and I-81 rail proponent, embraced the concept and sponsored a rail authority bill in 2003, albeit without adequate preparation. While there was broad support from many quarters, naysayers prevailed in the General Assembly. Edwards continued to persist thereafter but was unsuccessful. Nevertheless, the aggressive VHSP State Rail Plan proposals of 2001 clearly shook up the DRPT and perhaps other agencies in state government.

**Governor Warner’s Interest in Rail**

In January 2002 newly elected Governor Mark Warner (D) appointed former Delegate Whittington W. Clement as his Secretary of Transportation. The new administration appointed as head of the Department of Rail and Public Transportation, Karen J. Rae, an energetic and capable public transportation professional. Faced with the challenges of dealing with CSX, which was still bogged down with Conrail integration and not in a particularly receptive mood relative to DRPT’s efforts to implement the Virginia Transportation Act 2000 projects in the Richmond-Washington, D.C. Corridor, Rae, with the help of outside consultants, launched DRPT’s first effort to formulate a comprehensive state rail plan. The public had limited input until most of the plan had been developed. However, the resulting Virginia State Rail Plan released in June 2002, was by far the best effort to that point in time.
Governor Warner made a cameo appearance at the annual meeting of Virginians for High-Speed Rail in Norfolk in May 2004. There he announced his decision to create a Commission on Rail Enhancement for the 21st Century. The commission was tasked with reviewing the Virginia State Rail Plan as well as doing a study of a rail development authority, and making recommendations for enhancing rail service and infrastructure. The governor appointed Sharon Bulova, then vice chair of the Fairfax County Board of Supervisors, to chair the commission. Under pressure from the administration, the commission reluctantly agreed to not recommend an authority. Nonetheless, in its final report the commission observed that such an authority might be desirable at some time in the future. In lieu of endorsement of an authority, the administration promised to support creation of a dedicated funding source for rail, as well as a rail advisory group of some type.

**Virginia Rail Enhancement Fund**

A dedicated source of funds for rail, the Virginia Rail Enhancement Fund (REF), emerged from the 2005 Session of the General Assembly, together with provision for a related Rail Advisory Board. The funding source was to be a fraction of the receipts from an existing state tax on motor vehicle rentals. In fiscal year 2012 the rental tax provided $26 million to the REF. There was a 20 percent local match, most often from one of the Class I railroads. The REF permitted in-kind contributions of project support—a provision long coveted by private railroads in other publicly funded situations such as highway construction involving rail–highway grade crossing construction projects. Moreover, full 80 percent REF grants were not required; they could be less, or they could be loans, but DRPT has never done anything other than simply make grants. Finally, calculation of “public benefit” was so constructed as to make almost any project qualify, so long as the resulting public benefit was greater than the dollar investment of state funds. The significance and importance of the Warner Administration’s contribution to the future of rail in Virginia cannot be overstated. The Rail Enhancement Fund program represented the most progressive step forward in promotion of intercity rail in Virginia since the 1830 commitment by the State Board of Public Works to subscribe to 40 percent of the stock in the Petersburg Rail Road Company. Nonetheless, many important issues were still unsettled, and some have never been fully addressed. For example, how is the commonwealth’s investment in infrastructure to be protected? Certainly, diligent efforts have been made to do so, but what are the chances of perfecting the state’s right to redress, cure or reimbursement in the event of various potential failures by grantees? Moreover, the threshold for achievement of satisfactory performance was often set so low, or so ambiguously, as to make it highly unlikely that the state would ever have grounds for seeking reimbursement. Eventually, in the first year of Governor Bob McDonnell’s (R) administration (2010-2014), with Sean T. Connaughton serving as Secretary of Transportation, and Thelma Drake as Director of DRPT, the Rail Advisory Board was summarily discontinued in the name of improved government efficiency.

Notwithstanding any of the concerns described above, Virginia has made enormous progress over the years 2005-2013 in rail development, including the inauguration of new intercity passenger services. This has largely been done by horse-trading infrastructure money or the promise of infrastructure funding highly beneficial to freight operations, in return for Class I freight railroad consent to the operation of additional passenger trains on economic terms which would not otherwise be acceptable to them.

**Governor Kaine’s Amtrak Initiatives**

Governor Tim Kaine (D) (2006-2010), long a proponent of more and better intercity passenger service, wanted to launch several new Amtrak regional trains during his time in office. Two major problems loomed: access to existing rail lines and funding to guarantee Amtrak that it would not lose relative to the cost of operation of such trains. Ripe for such service was the so-called Piedmont Corridor, also known as the U.S. Route 29 Corridor, extending from Northern Virginia southwesterly through Culpeper, Charlottesville and Lynchburg. This became one of DRPT’s top priorities during the Kaine years. The first problem involved the sharing of limited rail line infrastructure capacity on a route, which Norfolk Southern had rediscovered. While Norfolk Southern never lost sight of its Piedmont route, the railroad had earlier placed a higher priority on obtaining Virginia funding assistance for its east-west Heartland Corridor project, linking the Port of Hampton Roads with the Midwest. The north-south corridor, a system involving two roughly parallel rail routes with several cross connections one to the other, had long been the subject of studies, planning, evaluation and even some 1980s era downsizing. The twin spines of the Piedmont/Crescent corridors consist of the once-double-tracked former Southern Railway main line linking Northern Virginia and Atlanta, augmented by the more...
challenging former N&W Shenandoah line, forming a route between Tennessee points and Harrisburg, Pennsylvania.

In order to induce Norfolk Southern cooperation, money would have to change hands between DRPT and the railroad. Since there was no immediately available pot of new-start intercity passenger capital funding, the Rail Enhancement Fund became the funding source. Based upon DRPT’s record of REF grants made and promised over the 13-year period 2006-2018, about $94 million of REF funds have been disbursed or promised to Norfolk Southern for I-81/I-66 Crescent Corridor rail infrastructure, plus an additional $32.8 million from a 2008 General Assembly earmark, bringing the total to $126.9 million. Some of this has been earmarked for passenger capacity and some for freight, but since additional rail capacity can be used for either purpose, a distinction between passenger and freight capacity is somewhat artificial.

Kevin Page, DRPT’s chief operating officer, negotiated an agreement with Amtrak to cover operating costs of the new Lynchburg train, and its counterpart, one serving Richmond. Page, who is very knowledgeable and an astute negotiator, secured a remarkably favorable contract. But where would the state get the operating funds required to make Amtrak whole? To this day, the author does not know and has purposely refrained from asking too many questions. Any state agency has some flexibility to move funds within its own bailiwick. Examination of DRPT’s Rail Enhancement Fund statements will illustrate that some authorized projects fall out, some fall behind, and some are not scheduled until the out-years. In any event, it all came together.

The new Lynchburg train started October 1, 2009, and the Richmond train began in mid-summer 2010. Ridership and financial results have since surprised and pleased all concerned. In fact, both Amtrak and DRPT point to the Lynchburg train, which gets a big boost in ridership from the Charlottesville market, as being in the top two or three performing trains in their system. Currently, planning is underway to extend the train to Roanoke. Although earlier Trans Dominion Express proponents failed in their original objective to inaugurate a train from Bristol, some of those involved reinvented themselves and morphed into the Piedmont Rail Coalition in support of the Lynchburg train. Meredith Richards, a former member of Charlottesville City Council, and others led the coalition.

**Funding for the Heartland Corridor and the National Gateway**

CSX was caught napping when Norfolk Southern successfully lobbied federal and state officials in support of the Heartland Corridor. However, CSX soon recovered and put together something called the National Gateway. While any rail corridor improvement initiative is commendable, the CSX pitch to Virginia has never been as clearly articulated, or as plausible, as was that of Norfolk Southern in the case of the Heartland Corridor. Nevertheless, DRPT has committed $24 million of Rail Enhancement Fund money to the CSX Virginia Avenue Tunnel improvement project in the District of Columbia.

In the midst of a bitter struggle among the Virginia Port Authority, its friends and the McDonnell Administration over the merits of several port privatization proposals, CSX managed a coup. It gained an advantage over Norfolk Southern, capturing the sizable Maersk contract, serviced in Hampton Roads at the APM terminal in Portsmouth. Maersk is a large Danish container shipping line. Thus, some of the international container traffic originally contemplated to move via the Heartland Corridor, and upon which that project was justified, now moves via CSX Richmond, the James River line, and beyond to the railroad’s new Northwest Ohio Intermodal Transfer Terminal. This change in shipping routes illustrates that transportation of cargo is a dynamic business. Nothing remains the same for long. That becomes a challenge for both private and public investment in fixed infrastructure.

**High Speed Rail Routes**

The greater Hampton Roads area has since the early 1990s maintained a keen interest in the concept of high-speed rail service to the Northeast and in the enhancement of traditional intercity Amtrak passenger rail as an interim step. The Department of Rail and Public Transportation, in anticipation of someday receiving federal funding to link Hampton Roads to the northeast/southeast spine at Petersburg and Richmond, has spent much time and money on the obligatory federal environmental studies and assessments. This was first undertaken almost two decades ago under the leadership of North Carolina Department of Transportation in connection with the Southeast Corridor. However, when Hampton Roads leaders arranged to have their region added to the Federal Railroad Administration HSR corridor map, the addition was general in nature and did not specify which corridor would be used, the Peninsula (I-64) Corridor or the Southside (Route 460) Corridor. Regional elected officials finally
reached a compromise verdict in 2009 under the auspices of the Hampton Roads Transportation Planning Organization. The ultimate high-speed rail link would be via the Southside route, whenever it is financially feasible to construct it, but in the interim, both sides would be connected by enhancing existing rail passenger service via Williamsburg and Newport News (CSX) and by restoring conventional intercity rail passenger service to Norfolk via the Southside Corridor.

By this time, Southside Hampton Roads citizens, community leaders, businesspeople, and the military as well, were running out of patience with mega-billion-dollar-cost estimates, and the requirement for years of federally-dictated environmental studies, coupled with what seemed like arbitrary grant-making decisions coming out of Washington. After President Obama unveiled his U.S. High-Speed Rail development program in early 2009 as a centerpiece of his transportation and economic stimulus agenda, Virginia did not fare well in the initial round of grants. Absent use of federal funding and the obligatory environmental study requirements that precede such funding, DRPT and others were well aware that conventional rail passenger service could be brought to Norfolk in much less time and at much lower cost if no federal funds were involved.

In early December 2012 Amtrak started regional train service from Norfolk for Richmond, Washington, D.C. and Northeast Corridor points, to its final destination in Boston. This was a remarkable achievement by any measure. But how Virginia would pay for the new Norfolk service, as well as for the Lynchburg train, plus four others, starting October 1, 2013 was problematical. Funds had previously been scraped together to start the first two of what will ultimately become a fleet of six round-trip Amtrak Virginia regional trains. In 2011, the General Assembly created what is known as the Virginia Intercity Passenger Rail Capital and Operating Fund, (IPROC), but with no dedicated source of money.

The 2013 General Assembly came to the rescue, and with Governor McDonnell’s support, provided a dedicated source of funding for regional intercity passenger rail in Virginia. The state sales and use tax was increased from 4 percent to 4.3 percent. The 0.300 percentage point increase was earmarked as follows: 0.050 percentage points (one-sixth of the increase) for IPROC, 0.175 percentage points for the Highway Maintenance and Operating Fund, and 0.075 percentage points for the Mass Transit Fund. The far-reaching legislation stated:

The Director of the Virginia Department of Rail and Public Transportation or his designee shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Intercity Passenger Rail Operating and Capital Fund to support the cost of operating intercity passenger rail service; acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or...
railroad equipment, rolling stock, rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support intercity passenger rail projects.\(^{13}\)

In fiscal year 2014 IPROC is forecast to receive $44.3 million and by 2018 the forecast amount is $56 million.

**High Performance Rail Freight**

State funding for high-performance rail freight is about as uncertain as money for high-speed passenger rail. Much of the near-term revenue associated with the Rail Enhancement Fund has apparently already been committed. The REF generates only about half of the roughly $50 million annual stream of revenue soon to start flowing into the IPROC account. While the REF, as it exists, is probably adequate for what might be termed a status-quo approach to freight rail, much larger commitments of public capital will be required if Virginia aspires to promote and support high-performance rail freight services. Such services would necessarily require highway-competitive frequencies, performance quality, and market-reach beyond anything available today. Rail-highway intermodal service would undoubtedly be at the core of such a radical transformation of rail freight.

**Light Rail Transit**

At the other end of the Virginia rail internal improvement spectrum, is light rail transit (LRT), currently represented by Norfolk’s *Tide*, a 7.4-mile-long operation that opened to rave reviews in August 2011 and has since exceeded everyone’s expectations. The cost of construction was $338.3 million.\(^{14}\) LRT is a modern-day reincarnation of the old electric streetcars and interurban railways of the first half of the 20th century. Current LRT technology evolved from German designs and practices, coming to the U.S. by way of several Canadian cities. However, today’s LRT bears little resemblance to the past, other than its electric propulsion and the steel rail guideway. Federal funding was crucial to development of the *Tide*, representing about 60 percent of the initial capital cost. The city of Norfolk and the state provided the rest. While the *Tide* project encountered construction cost overruns and project management problems, it is nevertheless considered to be one of the more cost-effective and promising LRT new-starts in the country. A major extension into Virginia Beach is currently under consideration; initially it would use part of a 10.6-mile former Norfolk Southern rail corridor that the city of Virginia Beach previously acquired. The *Tide* is likely to be a forerunner of LRTs elsewhere in the state.

**Conclusions and Observations**

The newly passed state transportation bill and other related laws have strengthened Virginia’s role in preserving and developing rail transport. This process has been going on since the mid-1970s and to some extent the rail renaissance...
has been outpacing strategy and policy. Rail is efficient and environmentally friendly and offers many transportation advantages for the public. The history of rail policy in Virginia has now come full circle from its beginnings, with strong state support in the earliest days emerging from the canal era to a disengagement and fire sale of state rail holdings following the Civil War. If railroads are to continue to play a key role in meeting Virginia’s transportation needs, policymakers have many issues they need to clarify. Key among these is the vulnerability of state railroad funding to a charge that this violates the state constitution. The General Assembly should be requested to initiate the obligatory process to amend the state constitution to eliminate Article X, Section 10, which has become inappropriate and inconsistent based upon more than four decades of actions by the legislature and governors that render the prohibition on internal improvements unnecessary and a potential litigation nuisance standing in the way of 21st century transportation needs of the people of Virginia.

Moreover, no Virginia judicial interpretation of which I am aware has yet defined "rail" or "railroads." For example, rail transit, which is heavy-rail in the case of Metrorail, light rail in the case of Norfolk Tide, commuter rail in the case of VRE, intercity-passenger rail in the case of Amtrak, or freight rail in the case of CSX and Norfolk Southern. If rail transit constitutes an internal improvement, then the first major rail funding commitment of the 20th century was the state’s 1966 agreement to participate, along with the federal government, Maryland and the District of Columbia, in construction of the Metrorail system. Then in 1987, Virginia made its initial grant out of the newly established Rail Industrial Access program to assist with provision of rail freight service to the new Coors Brewing Company plant near Elkton in the Shenandoah Valley. There being no dedicated state source of rail funds except for transit anything done by the state for intercity rail prior to the 2000 General Assembly undoubtedly came from special allocations from general funds or from highway transportation funding sources.

The reemergence of public support of intercity freight and passenger rail development in Virginia reflects an enlightened and progressive turn in political leadership, as well as some outstanding staff work at the Department of Rail and Public Transportation. Virginia’s rail program, as shown in the map, is currently viewed elsewhere as a leader among states, generating considerable favorable national recognition. That said, based on my observation of rail policy and practices for over fifty years, I recommend further consideration of the following:

• Since the mid-1970s, Virginia has gradually become a major funder and developer of rail freight and passenger infrastructure through capital investment grants and, more recently, of rail passenger services by means of contingent contractual operational support, if required. Much of this has evolved on a responsive, as needed, project-specific basis, rather than in accordance with a long-term strategic plan. Unless such a plan appears in

Rail Investment Priorities for Virginia.

Note: This map is based on projects rather than services. For example, the U.S. 29, U.S. 460, I-81 passenger service project includes the Lynchburg-Charlottesville-Washington, D.C. Amtrak regional train service.

Source: Virginia Department of Rail and Public Transportation (2013).
the Department of Rail and Public Transportation's soon-to-be released State Rail Plan, I have yet to see a vision for the future. Ideally, such a vision would define the optimal role for rail among all other modes of transportation in Virginia and would lay out the steps necessary for achievement. Rail planning cannot be adequately encapsulated in the traditional VDOT Six-Year Plan.

• Earlier efforts to explore creation of a state rail authority were dismissed as being inappropriate because the state did not then own any rail infrastructure; it only made grants. That may be changing. A current review would be appropriate.

• Key terms of Department of Rail and Public Transportation contracts with private railroads are often redacted (withheld) ostensibly for legal purposes and thus shielded from public scrutiny on the basis of sheltering proprietary information. This even extends to quasi-public companies, such as Amtrak. While honoring and protecting legitimate privacy concerns that might prove injurious to the other party, the tax-paying public deserves as much daylight as is possible. Present practices have not yet struck the right balance.

• Protection of public investment in rail infrastructure on private railroad property remains open to question. Formal contracts notwithstanding, such questions and concerns often depend upon the good faith of the principals on both sides. Private, for-profit, railroad companies drive a tough bargain and are cautious in structuring terms and conditions in their dealings with one-another. The public sector might learn from them.

• As the public digs deeper in its pockets to fund a wide variety of rail projects, the need for greater public accountability by the Department of Rail and Public Transportation grows. There has not yet been a public report rendered by DRPT on the effectiveness of the initial round of Rail Enhancement Fund grants made in 2005.

• The Department of Rail and Public Transportation must find the means and make the effort to actively oversee the operation, marketing and financial aspects of the October 1, 2013 state takeover of financial responsibility for the six Amtrak Virginia regional trains. This is a huge potential change in policy, but it remains to be seen if DRPT will have the manpower and experience to monitor the operation.

• Virginia has a material interest in the future of the Northeast Corridor and should be better represented in matters relating to NEC. There are inherent inequities. Contrast Maryland, which directly pays nothing for NEC service because Amtrak operates all of its intercity trains, to Virginia that now is to assume full financial responsibility for Amtrak regional trains. Virginia governors, their administrations, and the state's congressional delegation should address this inequity.

• Currently, the Southeast Rail Corridors—both freight and passenger—are accorded lower priority by Virginia than is the NEC, but that could change in 20 to 50 years. A longer-term assessment, including Hampton Roads passenger and cargo access to the Southeast, would be appropriate.

• Virginia will eventually need something much closer to true high-speed passenger rail than is now apparently contemplated. To accomplish this will require more dedicated tracks in existing rail corridors, and possibly construction of some entirely new rail corridors, all to permit operation of intercity rail passengers services that are aviation-competitive, portal to portal, for travel in a range of 100-to-300 miles or more. Opportunities for entirely new rail corridor development are limited, but they do exist, especially in conjunction with new highway corridor development, e.g., a future western bypass around the Washington, D.C. area.

• The former Intermodal Transportation Efficiency Act (ISTEA) mandate for major investment studies should be incorporated into and made a part of Virginia transportation policy, regardless of whether or not it is required by the Federal Highway Administration.

• Integration of intercity passenger rail and urban transit is essential. The Norfolk Tide-Amtrak intermodal connection at Harbor Park should be a model for consideration elsewhere in Virginia.

• The risk of loss of rail freight lines in Southwest Virginia is increasing and should be promptly analyzed, given the diminishing volumes of coal being transported over some of those lines. The recent emergence of rail as a transporter of North Dakota Bakken crude oil is a case study for why rail rights-of-way should be preserved for yet-unknown transportation requirements in the future.

• Consideration should be given to modifying the charter of Virginia Railway Express to permit and facilitate future expansion
of its commuter rail operations when such service can be justified. Alternatively, the Department of Rail and Public Transportation should be given approval jurisdiction over new commuter rail starts elsewhere in Virginia.

- Local jurisdictions and transportation authorities should assume greater responsibility for rail passenger transit centers and should be given some measure of state financial incentive to do so.
- A Department of Rail and Public Transportation annual report on the status of rail in the commonwealth would be beneficial to policymakers and citizens alike. The report could include cumulative public investment, appropriately classified by categories (freight, passenger, short-line, etc.), together with quantitative measures of results (freight car-loads, containers diverted from highways to rail as result of public funding for rail, passengers handled, etc.). The information provided, as well as an enhanced web page, would be an effective way of demonstrating the value of current and future DRPT rail programs. This would improve the likelihood of continuing availability of resources and ensure continuity. With Virginia’s system of one-term governors, maintaining continuity in policy and staffing is a potential weakness in our system. The public must be kept better informed in order to minimize the risk of abrupt changes in course.
- Virginia has witnessed a remarkable cycle of public policy on railroad transportation ranging from early embrace, later a famous constitutional prohibition, and finally, reconciliation. The next 50 years promise to be equally challenging, but prudent steps taken now can smooth the way. Some of them wouldn’t even cost a lot of money. Virginians appear to strongly favor rail development. Rail is not a partisan political issue. With good planning, we can be optimistic about the future of rail in Virginia.

Major Developments in the History of Virginia Railroads

1816 Virginia established a Fund for Internal Improvements and the Board of Public Works (BPW) to administer such public investment, initially for roads and canals.

1830-1861 In 1830 the state made its first railroad investment, purchase of Petersburg Railroad Company stock. Over the 1830–61 period the state purchased stock, made loans and guaranteed debt of most of the railroads that were constructed.

1861-1865 The Civil War took its toll on Virginia railroads, both in terms of damage sustained as result of military action as well as degradation resulting from lack of steel, machinery and skilled manpower and absence of coordination.

1865-1870 There arose a huge political debate in Virginia about state debt, much (but certainly not all) resulting from pre-war investment in railroads. Should the state undertake to pay its debt or walk away (Funders versus Adjusters)?

1869 A new Virginia constitution was approved as the price of readmission to the Union. The document prohibited new state investment in works of internal improvement. However, it did not require divestiture of existing holdings.

1871 Virginia decided to liquidate all of its railroad securities and did so at fire sale prices.

1887-1888 The federal government’s Interstate Commerce Commission (ICC) began to regulate railroads pursuant to the Interstate Commerce Act.

1902 A new state constitution exempted roads from the internal improvements investment prohibition.

1903 A new Virginia regulator, the State Corporation Commission (SCC), replaced the Board of Public Works (BPW).

1910 With completion of the former Virginian Railroad, rail route development in Virginia reached its peak.

1918-1920 President Woodrow Wilson ordered federal control of most U.S. railroads in 1920. The railroads were returned to private owners in 1920.

1926-1930 Harry Byrd, Sr., long-associated with highway improvement interests, but rabidly against public debt (the “pay-as-you-go-governor”), established a reputation for his work improving—often just paving—Virginia roads. World War I and the 1920s marked the beginning of the end of rail transportation dominance in Virginia.

1956 The Interstate Highway System was begun. The system was a game changer as the new road system became a competitive threat to passenger and freight rail.
Dick Beadles was actively engaged, on behalf of RF&P, in the mid-1960s, in the early location studies preceding the development of the Metro rail system. Beadles also served as president and chief executive officer of the former Richmond, Fredericksburg & Potomac Railroad (RF&P) and later of CSX Realty. After leaving CSX, Beadles established a Richmond-based real estate advisory firm then known as MGT Realty Advisors, serving corporate and institutional clients. Since retiring in 2000, he has been active in writing and advocacy associated with rail and related transportation topics.

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Endnotes


2 Twenty is the author’s best estimate. Due to authorizations that never materialized, reorganizations, and name changes, others may come up with a slightly different number.


8 The author is indebted to Denton U. Kent for his explanation of the public funding of the four-mile track relocation. Kent was president of RF&P Corporation during the time it was owned and controlled by the Virginia Retirement System.


11 The organization’s website is: http://www.vhsr.com/

12 Dollar amounts based on unpublished information from the Department of Rail and Public Transportation and an analysis by the author.


15 Information provided by Kevin Page, Chief Operating Officer, Department of Rail and Public Transportation.

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VOL. 89 NO. 3 JUNE 2013

Editor: John L. Knapp Consulting Editor: Robert Brickhouse

The Virginia News Letter (ISSN 0042-0271) is published by the Weldon Cooper Center for Public Service, University of Virginia, P.O. Box 400206, Charlottesville, Virginia 22904-4206; (434) 982-5704, TDD: (434) 982-HEAR.

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