FINDING WAYS TO ENCOURAGE AND INCREASE PRIVATE SECTOR PARTICIPATION IN PASSENGER RAIL SERVICE

(112–15)

HEARING

BEFORE THE

SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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CONTENTS

Page

ADDITIONS TO THE RECORD

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

John L. Mica
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March 7, 2011

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Railroads, Pipelines, and Hazardous Materials

FROM: Subcommittee on Railroads, Pipelines, and Hazardous Materials

SUBJECT: **Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service**

PURPOSE OF HEARING

The Subcommittee on Railroads, Pipelines, and Hazardous Materials is scheduled to meet on Friday, March 11, 2011, at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony on intercity passenger rail in the United States, and how to make intercity passenger rail more effective and less expensive, particularly through competition in providing these services. The hearing will also look at the Federal Railroad Administration's (FRA) and Amtrak's implementation of the Passenger Rail Investment and Improvement Act of 2008, which was the first passenger rail authorization bill in 11 years, with an eye toward reforms or correction to the provisions of that Act that should be made in the upcoming surface transportation reauthorization bill.

BACKGROUND

Amtrak

Amtrak was created in 1970 under the Rail Passenger Service Act, as a congressionally-chartered, non-governmental, public corporation designed to relieve private railroads of the obligation to operate money-losing passenger trains and to preserve intercity passenger rail service throughout the country. The 1970 Act established a national passenger rail route network, and Amtrak was given statutory right of preferred access over freight railroad-owned lines. Amtrak began operations on May 1, 1971, and has been the nation's sole provider of regularly scheduled intercity passenger rail service since 1981.

Amtrak's capital needs and operations are supported through a combination of:

- federal grants for capital projects, operating expenses, and debt service ($1.56 billion in fiscal year 2010);
- ticket and on-board service revenues and payments from 15 States for corridor services that are not part of the national network;
- revenues from commuter rail agencies for Amtrak contract services or access fees;
- freight railroad access fees on the Amtrak-owned sections of the Northeast Corridor; and
- ancillary business revenue such as commercial retail space and parking facility leasing, resale of electrical power to commuter rail agencies on the Northeast Corridor, and revenue from travel partners.

In fiscal year 2010, Amtrak carried 28.7 million passengers, 6 percent more riders than in 2009, and the same ridership level as fiscal year 2008. Even with higher ridership, however, the cost to the federal government to cover the railroad's capital and operating costs results in an average taxpayer subsidy of $54.48 per ticket. [1]

Amtrak operates 44 routes nationally over 21,200 miles of track in 46 states and three Canadian provinces, serving 500 station stops. Amtrak employs 20,000 people.

Amtrak is governed by a nine-member Board of Directors which approves the railroad's annual budget and grant request that is submitted to Congress each year. The Board also hires and President and Chief Executive Officer to run the Corporation on a daily basis. The Board is made up of the U.S. Secretary of Transportation or his designee, the President of Amtrak, and seven individuals appointed by the President of the United States and confirmed by the Senate, to serve a term of five years. Currently, the Amtrak Board of Directors has one vacancy and is chaired by Mr. Thomas Carper.

Intercity Passenger Rail versus Commuter Rail

Commuter rail service is provided in the United States in a manner that is both similar to and different than intercity passenger rail service. Commuter rail service is defined as short-haul rail passenger transportation in metropolitan and suburban areas usually having morning and evening peak period operations. Intercity passenger rail service is defined as rail passenger transportation service that is not commuter rail. Therefore, you can have instances where the same city pairs are served by both commuter rail and intercity rail (Washington-Baltimore, for example, is served by MARC and Amtrak).

Commuter railroads operate over the general railway system and the safety of these railroads is overseen by the Federal Railroad Administration (FRA). However, commuter railroads are managed at the local level by transit agencies and receive federal funding through the Federal Transit Administration (FTA). Therefore, commuter railroads must follow FTA grant requirements for their capital purchases and operations regarding labor protection, Buy America, small and disadvantaged business utilization, and other areas.

[1] Amtrak received $1,564,625,000 in appropriations in FY 2010, divided by FY 2010 ridership of 28,716,857 total passengers is an average federal subsidy per ticket of $54.48.

Perhaps the biggest difference between intercity and commuter rail in this regard is that commuter railroads, like other transit operators, are able to contract out service elements such as dispatching, operating trains, and maintenance to private companies that specialize in providing these services. There are currently 23 commuter railroads operating in the United States, twelve of these systems utilize private contractors to operate their services. Amtrak actively competes with the private rail companies to provide commuter rail services, and is currently the contract operator for four of the 23 commuter rail systems. The remaining commuter railroads directly operate their services using public agency employees. Commuter railroads that contract out usually advertise contracts for five-year service periods in an open competitive bid process.

Competition Issues

A number of provisions and programs under the most recent passenger rail authorization, the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432) (PRIIA) allow for greater State control of intercity passenger rail initiatives and participation by private sector service providers.

Section 214 of PRIIA establishes a pilot program for alternative passenger rail service providers to operate existing Amtrak intercity passenger routes. The pilot program is limited to two routes, and can be no longer than a 5-year contract. Only rail carriers that own the infrastructure over which Amtrak operates (freight railroads and some States) would be eligible to petition FRA to be considered a passenger rail service provider in lieu of Amtrak, though the rule implementing the pilot program could allow freight railroads or States to subcontract those operations to a private rail carrier. This rule was required to be promulgated by FRA within one year of enactment; however, FRA has not yet acted to implement this pilot program.

Section 502 of PRIIA establishes a public-private partnership opportunity for high-speed rail development. In December 2008, FRA released a request for expressions of interest soliciting proposals to finance, design, construct, operate and maintain high-speed intercity passenger rail system within one of eleven specified corridors. Over 100 expressions of interest were submitted, and from these, FRA received eight substantive and credible proposals for high-speed rail projects. The momentum for this effort was lost, however, when the February 2009 American Recovery and Reinvestment Act (Public Law 111-5) was passed, and included $8 billion for high speed and intercity passenger rail programs, with no requirements for private sector participation or non-federal matching funds.

International Examples: A number of countries around the world allow open competition to provide intercity passenger rail services. Great Britain, Germany, Sweden, the Netherlands, Australia, New Zealand and countries in Latin America and Asia allow multiple operators to bid to provide service on a route-by-route or regional basis, often under a concession contract.

State Supported Routes

Fifteen states contract with Amtrak for the operation of trains that supplement the national Amtrak network. State and regional agencies pay most of the operating costs of these services not covered by farebox revenues. Continued operation of these state-supported routes is subject to annual contracts and state legislative appropriations.

The state supported routes are the sector of Amtrak's passenger rail services that have seen the greatest growth over the past two decades. State supported routes carried 5 million passengers in 1990; in 2010, ridership was up to 14 million. By comparison, ridership on Amtrak's long distance routes has decreased slightly over the same period, from 5.8 million in 1990 to 4.5 million in 2010, and the Northeast Corridor ridership has remained fairly steady in the 10 to 12 million passengers per year range over the same period of time.

The state-supported are:

- California: Capitol Corridor service (San Jose-Auburn), Pacific Surfliner service (San Luis Obispo-San Diego); and San Joaquin service (Bakersfield-Sacramento/Oakland)
- Illinois: Hiawatha Service (Chicago-Milwaukee), Lincoln Service (Chicago-St. Louis), Illini & Saluki (Chicago-Carbondale) and Illinois Zephyr & Carl Sandburg (Chicago-Quincy)
- Maine: Downeaster (Portland-Boston)
- Michigan: Blue Water (Port Huron-East Lansing-Chicago) and Pere Marquette (Grand Rapids-Chicago)
- Missouri: Missouri River Runner (Kansas City-St. Louis)
- New York: Adirondack (New York City-Montreal, QC.)
- North Carolina: Carolinian (Charlotte-New York City) and Piedmont (Raleigh-Charlotte)
- Oklahoma: Heartland Flyer (Oklahoma City-Fort Worth)
- Oregon: Amtrak Cascades service (Eugene-Portland-Seattle-Vancouver, B.C.)
- Pennsylvania: Keystone Corridor service (Harrisburg-Philadelphia-New York City)
- Texas: Heartland Flyer (Fort Worth-Oklahoma City)
- Vermont: Ethan Allen Express (Rutland-New York City) and Vermonter (St. Albans-Washington)
- Virginia: Extended Northeast Regional service to Lynchburg (since October, 2009) and additional Northeast Regional services to Richmond (July, 2010)
- Washington: Amtrak Cascades service (Vancouver, B.C.-Seattle-Portland-Eugene)
- Wisconsin: Hiawatha Service (Milwaukee-Chicago)

Section 209 of PRIIA requires Amtrak, in consultation with FRA and each relevant State, to develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs of provide intercity passenger rail service for the trains operated on these State-supported routes. These allocations are to represent costs that are incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than one route. The cost allocation methodology was to be completed by October 2010, but Amtrak, FRA and the States are continuing to negotiate. If there is not a unanimous consensus among all parties on the allocation methodology, then the Surface Transportation Board is authorized to determine the appropriate methodology. The current payments by States to Amtrak for state supported routes is uneven, and there is no doubt that some States, if not all fifteen, will be expected to pay substantially more for Amtrak corridor services in their States than they currently pay.

PRIIA Capital Grant Programs

Under PRIIA, four major grant programs were authorized to carry out intercity passenger rail projects, either by Amtrak or, through two new grant programs, by States. Federal funds were authorized for five years (fiscal years 2009-2013).

Program	Avg. per year funding authorization
Amtrak Capital Grants and Debt Service	$1.343 billion
Amtrak Operating Grants	$ 589 million
State Capital Grants for Intercity Passenger Rail	$ 380 million
High-Speed Rail Corridor Grants	$ 300 million

In fiscal year 2010, Amtrak was appropriated $1 billion for Capital Grants and Debt Service was $563 million for Operating Grants, less than the authorized level. However, Amtrak budget officers briefed Transportation and Infrastructure Committee staff in February 2011 and said that only $430 million of the FY 2010 Operating funds were needed to cover the operating loss for the year's operations, so the remainder was used as Capital funding to make further debt payments, retirement fund payments, and contribute to a purchase of 130 new single-level rail cars. This difference between the authorized level for Amtrak operations and what is actually required for such operations is fairly substantial, and may indicate a need to revisit the authorization levels.

PRIIA Provisions to Improve Amtrak Service, Cost-Effectiveness, and Accountability

PRIIA also included a number of new requirements meant to improve Amtrak's financial accountability, performance, and transparency. Among these new requirements are:

Financial Improvement: Section 205 of PRIIA authorized the Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, to enter into negotiations with the holders of Amtrak debt in order to restructure the repayment of that debt. A refinancing agreement based on early buyout options on existing equipment leases was announced in October 2010; this will save the government $162 million in debt service payments. Amtrak's total debt has gone down from $3.9 billion in 2002 to less than $2 billion in October 2010.

Performance and Service Improvement: Section 207 of PRIIA requires FRA and Amtrak, in consultation with the Surface Transportation Board, host freight railroads, States, rail labor, and rail passenger associations, to develop metrics and minimum standards to measure performance and service quality of intercity passenger rail service. These metrics and standards were developed and on March 3, 2011, FRA published its first Quarterly Report on Metrics and Standards, which publishes data measuring the performance and service quality of Amtrak's operations, including cost recovery, ridership, on-time performance, causes of delay, on-board services, stations and facilities, equipment, and other services.

These metrics and standards are also the common data set for Amtrak to develop and implement a plan to improve on-board services (section 222). Amtrak's food and beverage services have been extremely unprofitable and erratic in quality. The Government Accountability

Office found in a 2005 study that Amtrak's food and beverages services cost over $2 for every $1 in on-board services revenue.

Long-Distance Routes: Section 208 of PRIIA requires the FRA to obtain the services of an independent entity to develop and recommend objective evaluation methodologies for Amtrak to use in determining what intercity passenger routes and services it will provide, including new routes, eliminating existing routes, and reducing or expanding service or frequency. The FRA has not implemented this requirement, saying that Congress has not provided the agency with a specific appropriation to pay for this contract.

Section 210 of PRIIA also draws on the metrics and standards developed under section 207, requiring Amtrak to evaluate and rank each of its 15 long-distance trains according to overall performance, placing each route in best, second-best, and worst performing groups. The routes were scored on customer satisfaction, on-time performance and cost recovery. Amtrak was required to develop and post on its website improvement plans for the worst-performing routes first (then later, the second-best and best performing routes). In September 2010, Amtrak posted performance improvement plans for its five worst-performing routes.

Amtrak's five worst-performing routes are:
Sunset Limited (New Orleans-Los Angeles) 24% cost recovery, 91,700 passengers in 2010
Cardinal (Chicago-New York) 35% cost recovery, 107,000 passengers in 2010
Texas Eagle (Chicago-Los Angeles via Dallas/San Antonio) 46% cost recovery, 287,000 passengers in 2010
California Zephyr (Chicago-San Francisco) 45% cost recovery, 378,000 passengers in 2010
Capitol Limited (Chicago-Washington) 48% cost recovery, 219,000 passengers in 2010

INVITED WITNESSES

The Honorable Joseph Szabo
Administrator, Federal Railroad Administration

Stephen Gardner
Vice President of Policy & Development, Amtrak

Pat Simmons
Rail Division Director, North Carolina DOT

Stan Feinsod
Association of Independent Passenger Rail Operators

John H. Broadley
John H. Broadley & Associates, P.C.

Edward Wytkind
President, Transportation Trades Department, AFL-CIO

FINDING WAYS TO ENCOURAGE AND INCREASE PRIVATE SECTOR PARTICIPATION IN PASSENGER RAIL SERVICE

FRIDAY, MARCH 11, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RAILROADS, PIPELINES
AND HAZARDOUS MATERIALS,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:00 a.m. in room 2167, Rayburn House Office Building, Hon. Bill Shuster (Chairman of the subcommittee) presiding.

Mr. SHUSTER. The hearing will come to order. I would like to welcome everybody here this morning. Unfortunately, at some point I am going to have to step out. I am going to turn it over to the vice chair, Mr. Reed. And since I'm going to do that before I do my opening statement, I would like to introduce my distinguished panel here this morning, and again welcome you all. Thank you very much for coming and spending the morning with us.

First, the Honorable Joseph Szabo, the administrator of the FRA. I am sure he will be here shortly. Stephen Gardner, vice president of policy and development for Amtrak, welcome. Pat Simmons, rail division director for the North Carolina Department of Transportation. John Broadley, John H. Broadley and Associates, P.C., thank you for being here. Stan Feinsod, who is the secretary/treasurer of the Association of Independent Passenger Rail Operators, and Ed Wytkind, who is president of the Transportation Trades Department of the AFL–CIO. Again, welcome, all of you, for being here.

Also, I would like to ask unanimous consent to put a statement into the record from Steven F. Bracy, who is the director of structured finance of Ross, Sinclaire and Associates. It's entitled, "Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service."

So those are the types of things we like to enter into the record.

[The information follows:]

Statement of

Steven F. Bracy
Director of Structured Finance
Ross, Sinclaire & Associates, LLC

Before the

Committee on Transportation & Infrastructure

Subcommittee on Railroads, Pipelines, & Hazardous Materials

"Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service"

March 11, 2011

Chairman Shuster and Members of the Subcommittee, my name is Steven Bracy. I am Director of Structured Finance at Ross, Sinclaire & Associates, LLC, based in Cincinnati, Ohio. I am honored to be invited to submit testimony today on such an important and impactful topic. As a 26-year veteran of municipal and corporate finance, I fully appreciate the challenge, as well as the tremendous opportunity to systematically address the critical long-term financing needs of our country's passenger rail service.

Over the course of my career I have significant experience as an investment banker, lawyer and consultant in the municipal finance, corporate and legal industries specializing in structured finance, municipal finance, asset monetization and lease advisory services. During the course of my career I have successfully represented major U.S. municipal, as well as foreign and domestic corporations, to provide innovative financial solutions with respect to certain structured financings and other general business matters. As a Managing Director at a major Wall Street institution I was, amongst other things, responsible for the coordination and implementation of structured solutions in the firm's municipal banking business. As a partner in a significant law firm, I represented clients in connection with public and corporate finance as well as structured leasing and other general legal matters.

Moreover, as a former public official (Public Finance Counsel, amongst other titles) with the nation's largest transportation agency (the Metropolitan Transportation Authority), I was actively involved in more than 50 financings aggregating over $11 Billion and I was responsible for the design and execution of the authority's structured leasing program.

Background

At a time when America is looking to create more jobs, reduce our dependence on foreign oil and become energy efficient, significant investment in our nation's railroads and infrastructure can provide a meaningful contribution to our economy in this challenging economic environment. As the U.S. population continues to grow investing in our county's rail assets (in addition to investments in other modes of transportation and infrastructure assets) in partnership with the private sector can be prepared and executed in an efficient and cost effective manner to address our long-term passenger rail objectives. As a country, we must expand capacity in our passenger rail to keep up with future economic growth. This is especially true with regard to the servicing of the nation's most densely populated regions, where overlapping commuting patterns require that such rail assets are brought up to, and kept in a state of good repair.

Generally, for most state and local public passenger authorities, capital assets were "funded" with FTA capital funds, or state or local capital funds. Such funds typically have certain conditions giving FTA rights to the property if such property is no longer needed for public transportation purposes.

The Railroad Rehabilitation and Improvement Financing (RRIF) Program provides relatively low cost financing for capital assets which is designed to leverage limited federal resources. However, the program is severely underutilized (there is a very small percentage of RRIF loans outstanding relative to program authorization limits) and the administrative efficiency with respect to the application process can be enhanced greatly. Another issue with the RRIF loan is that if an asset has a federal component that was obtained to finance such asset, the federal collateralization process may prevent the asset from being used as collateral to obtain the RRIF loan proceeds for the subject authority. Also, unlike the Transportation Innovative Financing & Improvement ("TIFIA") loan program, the RRIF program does not provide any subsidy to cover the risk of default. Collectively, these aspects of the RRIF program, amongst others, need to be addressed and processes made more efficient in order for authorities to utilize this low cost financing program to its full extent.

Transportation authorities have also utilized, historically, federal, state and local grant proceeds to finance a portion of capital budgets for passenger rail. Additionally, tax-exempt debt has been heavily utilized to finance and maintain passenger rail assets. However, in this challenging economic climate where more needs to be done with less, these sources of capital may have negative budgetary consequences. Thus, it is very important that financing techniques that encourage and increase private sector participation with respect to raising capital for passenger rail are meaningfully investigated and utilized, if possible.

Incentivizing the Private Sector

In order to design, coordinate and execute a successful plan of finance for the passenger rail sector by leveraging available governmental resources with private capital, it is important to fully understand the motivation of all transaction participants. Thus, for the governmental authority, its mandate is to provide safe, reliable and dependable transportation that is cost effective for its ridership and local constituency. For the private entity, the objective is to identify and understand the proposed project to be financed. This includes, amongst other things, the cost of the project, the variables that may increase such costs, the revenues to be derived from the project, the operational and management abilities of the authority to complete and operate the project, the risk factors that may lead to increased costs, project delays and regulatory/governmental impediments. Above all, will the project produce a desired economic return for the capital investment and what is the reasonable likelihood that such return will actually be achieved in the desired investment horizon? It is critical that the objectives, motivations, as well as the limitations of the stakeholders be identified and analyzed up-front in order that project risks can be clearly identified and successfully mitigated by the proposed financing structure to achieve the lowest weighted average cost of capital for the proposed project.

Leasing Structures

Municipal entities continue to be under heavy budgetary pressures and are looking for ways to source additional funds and improve revenues. Leasing structures can be designed to generate potentially significant upfront cash benefits for an authority. Also, the lease product can provide a low cost of capital that can be comparable to tax-exempt financings.

Historically, leasing products have been a successful and popular form of financing used by the corporate and municipal sector to finance manufacturing equipment, transportation assets, railcars, buses, toll roads, toll bridges, and various real estate projects. Leasing products have been used to finance capital expenditures, to provide infrastructure and project finance, and to generate cash through sale-leaseback of fixed assets which was used for capital and operating purposes. Generally, lease products are accounting and tax driven and seek to optimize transaction participant cash flows with the most desirable party. Lease products such as leveraged leases, single investor leases, and synthetic leases can be designed to provide a certain accounting classification and/or provide tax-advantaged financing for the asset owner. Lease transactions can be structured either off-balance sheet or on-balance sheet to the transaction parties depending upon their desired objectives.

Historically, leasing structures designed to "monetize" stranded assets such as depreciation and other intangible assets have been successfully utilized for many years. The lease-to-service contract structure was developed in response to the Tax Reform Act of 1984, which introduced special depreciation provisions (the then so-called "Pickle Rule") pursuant to Section 167(g) of the Code. Generally, the structure involved the public authority entering into a sale-leaseback transaction with US investor(s). The upfront cash benefit of the structure was derived as a result of the US investor(s) claiming depreciation and interest expense deductions associated with acquiring an ownership interest in the asset for federal income tax purposes. The benefit level was dependent upon a host of factors including but not limited to economic life of the asset, residual value curves, and the level of lease payments by the municipal authority and the purchase option price at the end of the transaction.

The asset monetization structure as described above took on a variety of forms and was successfully utilized by transportation authorities for more than 20 years to raise capital for operating and capital budget purposes. This financing technique allowed major transportation authorities around the country to obtain capital from the private sector which was then leveraged with public resources to revitalize major portions of the nation's transportation systems (subway cars, commuter rail cars, station rehabilitation and technological equipment (signage and signals)). Unfortunately in 2004, largely due to industry abuses (monetizing foreign owned assets at US taxpayer expense), as part of the Jobs Act of 2004, the ability to execute these transactions was severely restricted. Frankly, due to industry abuses this was a just result. I do strongly believe, however, with the proper oversight and limitations to domestic assets (as originally intended in

1984), that this public/private partner financing tool can be successfully utilized to attract private sector capital. I have seen firsthand in my capacity as a former public financial official how this product provided much needed capital for asset acquisition without raising fares and other charges to public ridership.

The leasing structure can also be utilized as a low cost alternative to taxable (and possibly tax-exempt) borrowing whereby the authority, through a lease structure, borrows capital from a private party that is secured by the subject asset. Specifically, the authority would enter into a management/service contract with a passenger rail operator, which for tax purposes, would be a tax-paying entity as evidenced by the creation of a special purpose entity (SPE). A lender would make a capital loan to the management/service contract provider in the amount of, and for the purposes of purchasing the desired passenger railcars which will be managed and owned by the SPE controlled by the manager/service contract provider. The authority would enter into a service contract with the asset operator to manage the passenger railcars. The service contract fees payable by the authority under the agreement would be sufficient to pay the debt service to the lender and provide an acceptable return to the investor. The objective of this structure is for the lender to achieve off balance sheet financing treatment and for the investor to depreciate the passenger railcars over the useful life of the asset. A portion of such savings would be passed along to the authority by way of a reduced rates of interest, which should be below the authorities taxable borrowing rate and competitive to its tax-exempt borrowing rate. These structures could be effectively utilized in the passenger rail marketplace provided that desired accounting and tax treatment with respect to the leases can be obtained by the private entity.

Another leasing structure that has been successfully utilized in the procurement of passenger rail by authorities has been the vendor finance lease. In this structure the asset manufacturer leases the desired passenger rail cars to the authority for a term of years. The vendor is the legal owner of the asset and as such takes depreciation deductions on the asset. The authority will make lease payments to the asset manufacturer which would reflect a portion of the depreciation benefit by reduced payments to be made by the authority. Another potential advantage of this structure is that certain operating and maintenance functions can be "outsourced" to the equipment manufacturer as well to reduce the authority's operating costs.

Public/ Private Partnership Structures

A public-private partnership (P3) is a contractual relationship between a public sector institution and a private entity where the private party (pursuant to a long-term lease) performs an institutional function or uses the public assets in accordance with output specifications for a significant period of time, in return for a benefit. The specific terms regarding how the asset is operated and maintained are included in a contract between the public sector institution and the private entity (the Concession Agreement). Such an agreement generally involves a substantial transfer of certain forms of project life cycle risk (financial, technical and operational) to the private entity. Thus, the public sector institution is the purchaser of services/enabler of the project.

A P3 can be used for new construction projects, whereby the public sector entity would enter into a Concession Agreement with a private entity with the skills to design, build, operate, maintain and finance the proposed project. Given all of the desired requirements, the private entity may be a collection of various financial and corporate parties with the desired collective expertise. This structure could be utilized with a high degree of success in the passenger rail marketplace especially with high-speed rail.

Other Private Party Incentive Programs
Expanding the utilization of tax credit and other local finance programs could also increase potential sources of capital that may be utilized to finance passenger rail services. Specifically, expanding the application with respect to the types of tax liability where the tax credit may be utilized, along with increasing the ability to transfer the tax credit amongst taxpayers, amongst other things, could attract additional private investment in passenger rail service. Coordinating tax credits with other incentive programs would create a capital stack that spreads transaction risk over multiple parties that could result in lower capital costs with respect to financing passenger rail service. Local finance programs such as Tax Increment Financing, Joint Economic Development Districts, Transportation Improvement Districts, Special Assessment financings and potential monetization of Emission Reduction Benefits have been utilized for Transit Oriented Development projects, interchanges and other infrastructure projects. These tax credit and local finance programs, amongst others, should be examined to increase such programs utilization with respect to passenger rail service.

Conclusion

In order to meet the projected increase in ridership in passenger rail service due to anticipated growth in population and economic activity especially in the nation's largest population centers, it is critical that the funding to meet such challenges is well developed and managed. Specifically, in the current economic environment it is critical that limited governmental resources be efficiently leveraged in a cost effective manner by incentivizing the private sector to make meaningful investments in our nation's passenger rail service. This approach would provide the lowest cost of capital for desired public projects, while minimizing the financial impact of such improvements to the public.

Mr. SHUSTER. And welcome to the administrator, Mr. Szabo. You have already been introduced, and thanks for coming this morning, we appreciate it.

Two and a half years ago, President Bush signed the Passenger Rail Investment and Improvement Act, which was the first rail reauthorization bill in 11 years. And that bill, which I helped author, included important reforms in the operation of Amtrak, America's intercity passenger railroad.

The act also opened the door for the private sector to participate in providing passenger rail service in a number of important new ways. For the first time, rail capital investment programs were established that gave States primary control to improve and expand intercity passenger rail service, and I am proud to say that the State of Pennsylvania has been doing that on the Keystone line, and it has been very successful.

A pilot program was authorized to allow private-sector entities to operate current Amtrak intercity routes in much the same way that private-sector companies now compete with Amtrak to provide commuter rail service.

The so-called Section 502 Program that I wrote, established a public-private partnership opportunity for high-speed rail development. Under this program, FRA solicited proposals to finance, design, construct, operate, and maintain high-speed intercity passenger rail systems within one of the 11 specific corridors, including the Northeast Corridor.

Over 100 expressions of interest were submitted. And from these, FRA received eight credible proposals for development of high-speed rail corridor projects. The FRA process was kept completely separate from the Department of Transportation's high-speed and intercity rail passenger grants, funds that came through the 2009 stimulus bill. In my view, that was a mistake. Private sector participation can leverage Federal funds and make projects less expensive, get them built faster, and help keep operating costs down.

I look forward to ways to encourage the private sector to participate in rail projects—design, build, operate, and maintaining this through financing.

I would like to quote the chairman, who has, as we have, traveled the country talking about the next transportation bill, which will include a robust rail title, and it's that we need to do more with less. And as we traveled the country to several States and many cities talking about this, I think that departments of transportation around the country understand this, and we need to look at innovative ways to get capital leverage for public funds and get those public funds into the transportation field. And of course rail, passenger rail, is certainly critical to that.

So, I look forward today to hearing our panelists discuss this, and of course, questions from our Members. And with that, I would like to yield to the distinguished ranking member for her opening remarks.

Ms. BROWN. Good morning, and thank you for this hearing. I am pleased to be here with this subcommittee meeting today to receive testimony on finding ways to encourage and increase private sector participation in passenger rail service.

This hearing is very timely. Just last week, we saw an example of a great passenger rail project with massive private sector participation die in Florida. In fact, private companies from all over the world was interested in Florida's high-speed rail project. Yet, because our governor put politics before Floridians, we will no longer be the pioneers in high-speed rail in America.

But we are not going to let him stop us. We will have high-speed rail for the people of Florida. This is truly a set-back. Florida was awarded $2.4 billion in Federal funds to develop high-speed rail, including 84 new miles of track and 240 planned miles. The first phase of this project would have connected two major tourist destinations, Orlando and Tampa. Florida's plan was going to give the United States high-speed rail that will finally compare with our European and Asian neighbors. Trains were going to reach up to 160 miles per hour on new tracks dedicated solely to high-speed rail. Trains will have reduced trip time from Tampa and Orlando from 90 miles by car to less than 1 hour.

And I want to extend the remarks, because it's not just the time, but it's the number of people that we would have taken out of cars, and the pollution, and on and on and on.

Unfortunately, despite the fact that just last year the Florida legislature and the governor approved appropriation money for this project, Florida's new governor, who won by 48 percent of the vote, rejected the money, claiming it is a waste of Federal taxpayers' dollars, even though it is gasoline tax and not foreign sources.

On the contrary, this is an example of Florida taxpayers' money coming home to them. Florida's governor is much more interested in politics than in creating jobs or improving the transportation system for Florida residents. This decision would do nothing to help reduce Florida's 12 percent unemployment rate. The high-speed rail plan for Florida serves as a perfect example of a successful public-private partnership that would have created tens of thousands of jobs—by Florida DOT estimate, 48,000. The high-speed rail line between Tampa and Orlando was going to produce public-private partnerships. And, in fact we had 55 creditable countries and companies competing for that transportation public-private partnership.

Today's hearing will also focus on section 214 of the Passenger Rail Investment Improvement Act of 2008, which requires the Federal Railroad Administration to develop a program to contract out or privatize two Amtrak routes to freight or commuter railroads that own infrastructure over which Amtrak operates. I did not support this program, I did not vote for it. But I am looking forward to the FRA discussing it.

However, I want to make it clear that North Carolina and Florida don't have to use Amtrak. They choose to use Amtrak. So I am interested in the input. And I want to be clear that the freight rail, if they wanted to, could offer a passenger rail as we speak, but the reason why they decided not to participate in the program was why we started Amtrak in the first place, because we do have the number one freight rail in the world. But passenger rail is something that we have to work to make sure that we have the support of the public and high-speed rail is what—where we're headed for. We have got to be able to move people, goods, and services.

And so, with that, I am looking forward to the hearing.

Mr SHUSTER. I thank the gentlelady for her statement. And I certainly understand your disappointment on what happened in Florida. I happened to be with Chairman Mica that day, and he is equally disappointed.

But that being said, if Florida isn't able to use that money, I certainly would encourage the Administration to look to the Northeast Corridor. My friends, I don't actually live in that rail corridor, I live 90 miles west of Harrisburg, so it's not going to directly benefit me, but I believe it will benefit the entire country if we turn the Northeast Corridor into high-speed rail. But——

Ms. BROWN. Would the chairman yield?

Mr. SHUSTER. Yes.

Ms. BROWN. I am not disagreeing that the Northeast Corridor shouldn't get a part of it, but we just had a hearing in California, and the mayor of California, LA, was there. And the senator from there. So I don't know that we should be picking winners and losers, but there is a lot of States that would be interested in participating.

And you mentioned the study. So what is the best way to do it is to put the money back out and let the States compete for it, in my opinion.

Mr. SHUSTER. I——

Ms. BROWN. The one that come together with the best proposals and ready to hit the ground running, and put people to work.

Mr. SHUSTER. I appreciate the gentlelady's comments, but we do pick winners and losers, that's what we have been doing with this money. And I believe that the money going to the Northeast Corridor, specifically to three projects that have to be done or there will never be high-speed rail in the Northeast, and that's the tunnel to Baltimore, the bridge—I believe it's the portal bridge from New Jersey to New York, and the catenaries. And $2.4 billion would go a long way to alleviate those choke points and those significant problems.

So, again, Mr. Szabo, I guess I'm asking, when you go back to the Administration, that at least one Member of Congress here thinks that there can be a huge winner in this high-speed rail, which would grow to the rest of the country organically. High-speed rail, when we see it succeed in one place, people will clamor for it.

So, anyway, sorry about that——

Ms. BROWN. Mr. Chairman, I do want you to know that I agree that we need to improve the Northeast Corridor. I am just not in the business of sitting up here and deciding that California should be left out.

Mr. SHUSTER. I understand completely. And the record notes that, your position on that.

We will proceed with our witnesses. I am going to—and I am going to encourage the vice chairman, when he is at the chair, to enforce the 5-minute rule with brutality. So at about 4 minutes and 45 seconds, I will start to tap the gavel a little bit and ask you to summarize.

But before we do that, I would like to yield for an opening statement, if he has one, the chairman of the committee, Mr. Mica.

Mr. MICA. Well, thank you so much for yielding. And I will just take a minute to make a couple of comments.

Two and a half years ago President Bush signed Passenger Rail Investment and Improvement Act, commonly referred to as PRIIA. And it was our first rail reauthorization in 11 years. Worked with Ms. Brown, Mr. Oberstar, at the time, and of course, Mr. Shuster to try to put some important reforms that were missing in Amtrak, and try to improve the terms and conditions and opportunities for passenger rail service across the United States.

We currently—no offense to Amtrak, but basically we run what I term as Soviet-style passenger train system. Amtrak controls all of the franchises, all of the routing and service for passenger rail in the United States. It is done so at a high subsidization by the taxpayers. Last year, every single ticket on Amtrak was underwritten, $54.48. That's every single ticket. We only had about 28 million passengers. Half of those were in the Northeast Corridor.

Mr. Shuster and I attempted in the legislation that was written to request Amtrak to look at some of the money-losing routes—and there are some routes that are documented, where we underwrite $200, $300 a ticket. Now, I know there is subsidization of some air service. I know there is subsidization of highways, et cetera.

But there is no reason why some of the money-losing routes cannot be put up for private sector competition. We have seen models where that has been done, and there is no reason why the existing provisions of the law cannot be complied with. We are not talking about, for our labor friends, any difference in terms for labor. We are actually talking about, for labor, for employment, and for passenger service, an increase in all of the above. We would have more employees, we would have more service if we ran better routes.

There are plenty of examples. There is German regionalization privatization. I met recently with one of the leading Japanese entrepreneurs in passenger rail service willing to put up huge amounts of investment, transfer technology to the United States, only to have an opportunity to provide some service.

And our thoughts and prayers go with the Japanese people today, just an incredible natural disaster that they experienced in the last number of hours.

But you can look to the East, to Asia, you can look to Europe. And you see rail passenger service, you see private sector innovation. I also use as an example—and don't tell me that you cannot make money moving passengers by rail—Richard Branson took two lines and when they privatized operations for rail service in England. He has paid a dividend the last 5 years, and almost totally eliminated Federal subsidization of that activity.

Not that I am unwilling to have the Federal Government underwrite some of the construction costs of the infrastructure and also maintain the infrastructure in the title of the American people, which we should do to protect their interests in all of this. But from an operational standpoint, I know that we can again attract private-sector capital if they have the opportunity not only to help develop, help finance, help construct, and also help to operate. Because they're not in it for the time of day, they're in it to return—to gain a return on their investment, which is a great motivator.

So, I look forward to hearing ideas on how we can do a better job. I intend, if we don't do another rail reauthorization, to have one in the major transportation legislation, which we extended to September 30th last week with the help of Members on this panel and Members in the House, and we will have a robust provision. We will make certain some of the opportunities that were missed in the PRIIA legislation are addressed in a robust rail section. And if we can't get cooperation, in fact, we will very specifically direct actions to be taken, both to allow private competition and also to expand private sector investment opportunities in passenger rail service.

We will drag the Congress and whoever else kicking and screaming into the 21st century of passenger rail service with private sector participation, one way or the other. With those remarks, Mr. Chairman, I am pleased to yield back.

Mr. SHUSTER. Thank you, Mr. Chairman. And again, we will proceed with the testimony. And again, I am going to be brutal with the 5-minute clock. So I would ask you to sum up when you see the yellow, or when you start to hear this, all right?

So, with that, Mr. Szabo, please proceed.

TESTIMONY OF HON. JOSEPH C. SZABO, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION; STEPHEN J. GARDNER, VICE PRESIDENT OF POLICY AND DEVELOPMENT, AMTRAK; PATRICK B. SIMMONS, RAIL DIVISION DIRECTOR, NORTH CAROLINA DOT; STAN FEINSOD, SECRETARY AND TREASURER, ASSOCIATION OF INDEPENDENT PASSENGER RAIL OPERATORS; JOHN H. BROADLEY, JOHN H. BROADLEY & ASSOCIATES, P.C.; AND EDWARD WYTKIND, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Mr. SZABO. Thank you, Chairman Mica, Chairman Shuster, Ranking Member Brown, and members of the committee. As always, it's an honor to have the chance to come and appear before you today to talk about the Passenger Rail Investment and Improvement Act, otherwise known as PRIIA.

In 2008, Congress passed the most sweeping piece of legislation aimed at FRA since the Agency was created. For the first time, in one piece of legislation, both parts of FRA's mission, safety and infrastructure investment, were addressed in a comprehensive manner.

PRIIA specifically addressed three issues critical to the future of intercity passenger rail service. First, it addressed the mission of Amtrak. Second, PRIIA created a new vision of the investment relationship needed to deliver intercity passenger rail service. And finally, PRIIA addressed high-speed intercity passenger rail service from both the public and private investment perspective.

Before PRIIA, most States had no established passenger rail programs, and those that did were primarily focused on existing State-supported Amtrak service. States had a more limited vision of a more robust role for intercity passenger rail and, many States had limited rail staff expertise.

The good news is, because of PRIIA, parties have been rapidly expanding their capabilities. The public sector and the private railroads have come to understand the roles, responsibilities, and obligations that flow from public investments in private assets. Indeed, the States and railroads have reached agreements on the development of most of all of the major intercity passenger rail corridors where high-speed rail passenger service will use freight rail infrastructure.

We are also seeing States develop projects with private-sector investment in mind. The California high-speed rail program anticipates that a third of the project's cost will come from the private sector. And in Florida, before rejecting high-speed rail funding, the State was prepared to seek an expression of interest from private-sector consortiums on a design, build, operate, maintain, and finance arrangement that would have the private sector bear the construction and operating risks of developing high-speed rail service in the State.

And, of course, we continue to work with DesertXpress, a private sector-driven project for high-speed rail in Nevada. So, the Secretary and I look forward to working with Congress to better define these structures for private investment.

One of the specific issues that you asked to be addressed at this hearing is the potential for competition in providing intercity passenger rail service, particularly under section 214 of PRIIA. This section would allow for a pilot project involving competition on up to two Amtrak routes.

Mr. Chairman, I want to assure you that we will expeditiously move forward on this rulemaking. And, assuming that we do have the adequate resources in this budget year, look forward to having a notice of proposed rulemaking underway this year.

Key considerations in this rule will include a commitment to safety, efficient service, accountability for liability, and a level playing field, whereby all providers of intercity passenger rail service are railroads, as covered by the full spectrum of railroad laws. We want to work with you to ensure that the private sector is a partner in the success of our high-speed rail program.

In the State of the Union address, President Obama added to his bold vision for intercity passenger rail transportation. To realize this vision, we will need to continue to build upon the success of PRIIA.

The President's fiscal year 2012 budget proposes that funding be made available for intercity passenger rail, and should be done so with the same degree of predictability and multi-year commitment that helps define our successful highway and transit programs.

Secretary LaHood and I look forward to working with Congress to ensure that America can fully realize the benefits of rail transportation. And I will be happy to address any questions the committee may have.

Mr. SHUSTER. Thank you, Mr. Szabo. I appreciate that greatly. And I look forward to seeing a schedule on that schedule 14, the implementation of it, because it's a change in policy. And we appreciate that gratefully.

Next, Mr. Gardner, before I turn it over to you, I am going to step away from the dais and the vice chair, Mr. Reed, is going to take over. But I will be back.

So, Mr. Gardner, please proceed.

Mr. GARDNER. Thank you, Mr. Chairman and Ranking Member Brown and members of the subcommittee. I am Stephen Gardner, vice president for policy and development at Amtrak. And it is a pleasure to appear before the subcommittee today to talk about increasing private sector participation in intercity passenger rail.

On a personal note, this is also a homecoming for me. I began my congressional staff career on the Hill as an intern for this subcommittee in 2001. So it's a real pleasure to be here, and thank you for your leadership on rail issues for all these years.

The two and a half years since the enactment of PRIIA have been an extraordinary time for Amtrak and intercity passenger rail service. I would like to share with you what Amtrak has accomplished during this time.

First, Amtrak's ridership and revenue have both increased to record levels. This year's ridership is running 6 percent above last year's record ridership, and has recently been trending higher still. Our $2.5 billion in revenue in fiscal year 2010 set another record, and ticket revenue in the first 5 months of fiscal year 2011 are running 11.3 percent higher than last year. This continues a growth trend which has made 7 of our last 8 years record years for revenue and ridership, giving us the highest passenger rail cost recovery ratio in all of the United States.

Meanwhile, Amtrak's on-time performance has increased from 71 percent in fiscal year 2008 to 82 percent last year. And our Acela high-speed rail service, North America's only high-speed rail trains operating at 150 miles an hour, celebrated its 10th year of success this year. Together with our State partners and the FRA, we have improved nearly every aspect of our system, and we are very proud of the progress we have been making on behalf of the American people.

We have worked diligently to also fulfill all of our PRIIA requirements, meeting or beating all of our deadlines. And more about that can be found in my written testimony.

And focusing on the topic of this hearing, I believe it's helpful to consider the historical backdrop regarding the private sector's role in intercity passenger rail service before and since the creation of Amtrak. The reason Congress created Amtrak in 1970 was that the operation of intercity passenger trains was no longer viable by the private sector.

Responding to requests from the private railroad, Congress, in the Nixon administration, considered a number of alternatives for preserving intercity passenger service, but ultimately decided to create predominantly a publicly owned company, Amtrak, to operate an inter-connected network of routes benefitting from nationwide marketing, support services, and equipment.

Amtrak initially contracted with private railroads, actually, to operate these trains. But Congress quickly decided this approach was too costly, and did not provide sufficient control to ensure acceptable levels of service. So the law was changed to require that Amtrak operate and directly control its operations, but still allowed Amtrak to use the private sector when appropriate.

Today, Amtrak purchases nearly $1.5 billion in goods and services from the private sector, from cleaning and mechanical services to commissary management and part supply. Further, with our

State partner routes, States can and do contract with private companies to provide services other than train operations, as you will hear from Mr. Simmons today.

Amtrak has also been pursuing partnerships with the private sector. We formed a consortium with SNCF, the French national railroad, and Bechtel, an international engineering company, to pursue the now-halted Florida high-speed rail project, in fact. We have also been reaching out to the leading high-speed railroads of the world to give us feedback on our vision for high-speed rail development in the Northeast Corridor.

As the committee knows, PRIIA contains several provisions to facilitate increased private sector participation in passenger rail. Utilizing the private sector for intercity passenger rail is not a new idea. And while Amtrak is the country's national passenger railroad, Amtrak does not have an exclusive right to operate intercity passenger trains. Since Amtrak's inception, private companies have initiated operation of more than a dozen intercity passenger rail services. Most have ceased operations after a short period, due to financial problems. Most noteworthy is the original Auto Train Corporation, begun in 1973, but entering bankruptcy in 1981, after which Amtrak took over the operation in 1983.

Amtrak generally supports these efforts to augment today's current network, and is presently working with several private companies that wish Amtrak to help them in operating additional services, including the proposed Greenbrier Express, serving West Virginia.

One of the important issues to consider here is access rights, and Amtrak's access to the national system. These rights ensure Amtrak's ability to operate over freight rail lines and regional transportation authorities, and they were given in exchange for a relief of the private rail—to operate their own passenger trains.

Those that would seek to transfer these rights now, 40 years after that original deal, face, I think, steep opposition from the Association of American Railroads and other private railroads that agree that this deal was created to create access for the public, not for private sector access to their assets.

Future efforts to encourage private sector involvement in investment in intercity passenger rail should take into consideration this point and two others. First, private-sector investment is not a silver bullet that ensures success. Competition can reduce costs, but it can also lead to fragmentation of service, and elimination of network efficiencies. Most of the world's passenger systems are operated by State-owned railways.

In conclusion, renewed private-sector interest in passenger rail is a welcome development. We are not afraid to compete in this market. But competition requires a level playing field. And if other companies wish to operate in this service, they must be subject to the same laws and follow the same rules that Amtrak does. Thank you very much, Mr. Chairman.

Mr. SHUSTER. Thank you, Mr. Gardner.

Mr. Simmons, we will move on to you.

Mr. SIMMONS. Thank you, Mr. Chairman, Ranking Member Brown, and members of the committee, for the opportunity testify today. My name is Patrick Simmons, I am director of the rail division with the North Carolina Department of Transportation. I also serve as a member of the PRIIA section 209 State working group, and the section 305 next generation equipment committee.

Today I speak on behalf of other States through the American Association of Highway and Transportation Officials. AASHTO represents all 50 State departments of transportation, as well as the District of Columbia and Puerto Rico.

My boss, Secretary Eugene Conti, serves as chairman of SCORT. State-supported services not only have the most robust growth in ridership and passenger revenues across the country, they are also the Nation's laboratory for innovation. And States take the lead in implementing the newly created high-speed and intercity passenger rail program. It is through States that opportunities for public-private partnerships will grow. States strongly support the need to fund Amtrak and to provide for a national intercity passenger rail network.

States also want to provide efficient, high-quality mobility for our citizens. And we recognize that to accomplish this goal will require many public and private partners.

Section 209 of the PRIIA is the requirement that Amtrak work with States to develop a transparent cost-accounting model. It places Amtrak in an usual position of transparency similar to what a government agency would have, but in a private sector competitive arena, it also means that they reveal proprietary information. That's a point of opportunity.

It also means that, of—the 36 trains that have historically been operated and paid for by Amtrak will now become State-supported. States do need a consistent budget planning process, so that we can provide for the appropriate cost of operation, no matter what the components are.

Some examples of innovation in North Carolina are our municipalities own our stations. We contract with Amtrak for operation. On one of our trains we provide equipment. That equipment is maintained through a third-party operator. For stations that do not have the ridership to support full-time Amtrak staffing, we also contract for a third party operator to man those stations.

In Maine, the northern New England passenger rail authority contracts out in food and beverage service and turn-around maintenancing. In California, through the Capital Corridors, they have opted out of the Amtrak call reservation system, and CalTran not only owns their own equipment, but they jointly own a mechanical facility, as well. There are other examples around the country of partnerships that include third-party operations.

Stephen spoke earlier about one of the areas where Amtrak does have a birthright, an advantage, and that is, of course, the right of access. In addition to that is the pooled liability insurance. Those are issues that any operator that wants to get into the business will have challenges with.

Mr. Chairman, I look forward to responding to any questions this committee may have.

Mr. REED. [presiding.] Thank you, Mr. Simmons. Move on.

Mr. Broadley, please.

Mr. BROADLEY. Mr. Chairman, Madam Ranking Member, I would like to thank you for inviting me to participate in this hearing. I am John Broadley, and I have been working in the vineyards of rail reorganization since 1975. My resume basically shows that I have worked through the Conrail, the Amtrak, I have litigated train cases for Amtrak back in the 1980s.

But I am here this morning to outline for the committee some of the approaches to the privatization of rail passenger service that have been adopted in Europe, specifically in Britain and Germany. I think international experience can shed some light on alternatives that are available to us in the United States.

First, we need to establish comparability of conditions. U.S. passenger rail operations fall into two groups. The first is a group of low-frequency and relatively slow passenger trains that operate predominantly on freight-owned lines. Most of Amtrak's long-distance trains fall into this category. For example, the Washington-to-Chicago service. The second is a group of high-frequency train, and relatively fast trains that operate primarily on the Northeast Corridor. Operating economic characteristics for these two groups of trains are very different.

And I want to focus on the Northeast Corridor passenger services, because they present economic and operating characteristics that are similar to those in several western European countries. The attachments to my written testimony summarize these similarities.

First, the Northeast Corridor has a relatively high population density. They have major cities spread out along the corridor. Second, most of the population centers along the Northeast Corridor have good public transportation systems serving their city-center rail stations. Again, that is comparable to the European situation. Third, the Northeast Corridor is heavily used for both intercity and commuter operations. Many European lines are under the same circumstances.

Again, attachments two and three to my written testimony show the passenger density on the Northeast Corridor, and compare it to passenger density on European lines. And you will see that the Northeast Corridor ranks very high. That's both in terms of passenger route kilometer and in terms of passenger kilometers per route kilometer.

Fourth, the NEC is publicly owned or controlled, and is predominantly a passenger facility. This is another point of commonality with the European system. And finally, long-distance passenger services on the Northeast Corridor, the Acela and the Northeast Regional Service, are within striking distance of financial viability on what we call an above-the-rail basis. Again, this is comparable to the European situation.

The—in—prior to 1974, British Rail was owned and operated and integrated—vertically integrated railroad. British Rail owned the infrastructure, operated the infrastructure, ran the trains. The same situation prevailed in Germany.

In the early 1990s, the British Government undertook a root-and-branch restructuring of the rail system, in which they transferred the infrastructure to an outfit called Rail Track. They transferred the equipment to a group of leasing companies, which generally are referred to as ROSCOs, and they put out each of the major routes, passenger routes, to competitive bidding by passenger operating companies. The freight business was split into a number of separate companies.

The basic structure established in 1994 continues to exist. There have been some changes in the players. The Rail Track, which received the infrastructure in 1994 morphed into what they call Network Rail now, which is a semi-private/semi-public entity that operates on a non-dividend-paying basis.

The franchising responsibility is now lodged with the department for transport. And the franchising is done on a leased subsidy basis. All of the lines require subsidy. And the decision is made—other things being equal—on the basis of the required subsidy. Further details are included in my written testimony, and I would be very pleased to respond to questions.

Mr. REED. Thank you very much.

Mr. Feinsod?

Mr. FEINSOD. Thank you, Mr. Chairman and Ranking Member Brown. I am here to represent the Association of Independent Passenger Rail Operators. This association represents companies, U.S. and international, rail operators in the private sector who have the qualifications, interest, experience, and commitment to operate and maintain passenger railroad operations in the United States. This group is already doing that for that segment of the railroad industry that we call commuter rail, which has been opened and is subject to competition.

AIPRO supports the innovations introduced in the PRIIA, and was formed in recognition of the fact that PRIIA states that the States themselves should have the freedom to choose the passenger rail operators. This law created a first-ever program to support the States, to revitalize high-speed and intercity passenger rail, and to expand competition, giving States a greater role in passenger rail decisionmaking.

In line with the President's ideas put forward in the State of the Union, we believe that America should seek a passenger railroad network that meets evolving world standards. Our member companies focus on service delivery, efficient use of resources, and sustainable business models. We are prepared to engage in a new era of passenger rail public-private partnerships, and to expand competition.

We support the right of freight railroads for a fair return on their private investment under models similar to the public-private partnership arrangement, to improve assets on the capital corridor. We believe the surface transportation act should contain a rail title, and it should maintain the robust investment in our freight network, and stimulate cost-effective passenger rail expansion.

We emphasize the rights of labor, and those that are stipulated in PRIIA should be fully honored.

The public benefits of adding improved rail capacity are many. We must establish a vibrant passenger rail system. We propose that in all elements of this reform, access to track and fees for that access should be on a negotiated basis. We believe the new rail title should be deficit-neutral and success-oriented, a program that cuts red tape, streamlines project delivery, and increases private investment, encouraging open and fair competition.

As a direct outgrowth of PRIIA, we propose to reorganize the current approach to regional service with a new intercity State corridor program. This will lead to tangible improvements in services in the most productive corridors, and will prove that passengers will be attracted in large volumes to a high level of service that begins to meet international standards.

Competition involving private-sector companies offers the advantages of bringing innovation, capital investment, efficiency, energy, and enthusiasm to the expansion of our passenger railroad services. We know that expansion will result from competition, and we will create new and expanded numbers of middle-class, private-sector railroad and related industry jobs, helping to reverse a decades-old reduction in railroad employment. We have seen this happen in markets overseas.

So, we recommend the following reforms. Revise PRIIA to create an intercity State corridor program, which encourages competition and private sector involvement. The new program should be based on the German model, and provide the States with the option of managing their intercity corridor service. We would also recommend a special initiative for the NEC.

The capital grants that are available from PRIIA follow the principle in highway and aviation programs that the Federal Government should provide infrastructure support and guidelines. This was a good first step. Now we should authorize an intercity State corridor program.

We would propose a Federal commission on intercity rail public-private partnering, and then a transfer of corridor service to a budget-neutral program that permits the States to secure the funds that are now being used in those corridors that are going elsewhere. We would define a new method of establishing and allocating the costs, and invigorate the system with competition, as we have seen in Europe and Asia.

Thank you. My written statement says more things.

Mr. REED. Well, thank you very much. I know the time gets you at times. We will move on.

Mr. Wytkind, please?

Mr. WYTKIND. Thank you, Mr. Chairman and Ranking Member Brown, for inviting me and having the labor movement appear before the subcommittee.

Our 32 member unions have a long history of supporting infrastructure investments in this country, and making our transportation system the best it can be in the world. Today, we believe—and we want to spend some time on this—there is a great story to tell about Amtrak and its employees, a story that can't be ignored as the committee considers ways to propose new advancements in passenger rail policy in this country.

Amtrak and its employees are performing better than at any time in the history of the company. As we heard from Mr. Gardner, the company is growing monthly. It's operating in the black on the Northeast Corridor. It's expanding and modernizing, and is already the premier provider in this country, in fact, in North America, with the most qualified workforce to handle the growing demand for high-speed rail across the country.

We believe those who seek to slash Amtrak's budget, as we have already seen in this Congress, or privatize services, are setting the company up to fail at the very time it is on course to finally find stability and increase ridership. It is up to Congress, together with the Obama administration, to foster and not derail the continued transformation of Amtrak.

We now have a President who has made it a priority to build and expand passenger rail in this country. His recent budget calls for billions of new funding for Amtrak, as part of a broader vision for passenger rail.

Regarding the private sector's role, its role in building, maintaining, and operating the Nation's passenger rail and freight transportation system has always been significant. Out of our 32 member unions, we represent many private-sector unions. We are not just a public-sector union organization. And we believe that private sector plays a crucial role, one that we are working to enhance in manufacturing, as well, the goods and equipment needed to operate and maintain the system. Without a strong well-capitalized private sector in our transportation industry, America will not remain the world's strongest economy.

We are not opposed to private sector participation. In fact, there is plenty of it today. But we are opposed to breaking up Amtrak. It is not the answer, if we plan to maintain a national passenger rail network. Those who believe that privatization is a panacea are ignoring the fact that, under this model, service would only be provided where it is profitable to do so for private investors.

None of the world's finest passenger rail systems operate with this model. In fact, no transportation system in any mode of transport anywhere in the world operates free of subsidy. The idea that rail systems around the world are profitable and operate independent of government assistance is pure fiction.

Look at the UK. I was actually stunned to hear the UK model as a citation for progress in the future. It did not increase efficiency when that privatization experiment was tried in the early 1990s. In fact, it unleashed a torrent of problems: higher fares, massive layoffs, maintenance and safety problems that culminated in the Stafford Rail crash in 1996; 31 lives were lost. And only a decade later, British Rail privatization was scrapped.

Back home, Amtrak has been forced to limp along from one budget crisis to the next. The fact is that no public or private corporation can operate when it doesn't understand what its next year's budget is going to be.

Let me also state that if entities other than Amtrak are going to provide passenger rail service, it must be ensured that the employee protections and statutes, such as Railroad Retirement or the Railway Labor Act, are applied to all the workers in the rail industry and their operators. It is wrong to allow private-sector competition, and then leave behind an unlevel playing field.

In addition, we would argue that Davis-Bacon prevailing wage laws, as they have for decades, should continue to apply to all construction work that is funded with Federal assistance.

And I have got a question of those who are talking about privatizing Amtrak. Have you asked the freight railroads what they think? We are aware of significant misgivings that the freight rails have that would allow other companies access to their private rail tracks, and they have publicly stated that they embrace their relationship with Amtrak as the main provider of passenger rail in this country on their private network.

Lastly, investing in passenger rail can also boost our manufacturing industry. With strong Buy America requirements, Federal intercity passenger and high-speed rail funding can boost this important middle-class sector. These investments will create jobs here in the U.S. and not abroad. And this funding stream will provide the stability for private manufacturers to set up operations because they see a long-term market capability.

I would just finish with the following proposition. Too often in Washington time is wasted creating new programs, rather than perfecting the ones we already have. This committee has a long history of making sure the transportation system has the capital and the operating support that it needs to succeed. And we believe, without a Federal vision, with long-term funding commitments that ensure a stable fully capitalized Amtrak operation, the goal of boosting private-sector participation will never be fully realized.

We thank you for the opportunity to testify, and look forward to your questions.

Mr. REED. Thank you, Mr. Wytkind. I believe at this point in time we will move into some questioning of the witnesses. Ms. Brown, I will yield to you first.

Ms. BROWN. Thank you very much. And thank you, Mr. Administrator, for being here. And I want to thank you for your leadership, working with Florida and with the Secretary, Mr. Ray LaHood, which is really—he is a bright spot in the administration, and really has worked with Florida. And I know we have learned some lessons from that.

And as we move forward, I guess I am concerned that as we develop high-speed rail, I mean, when you have communities like Orlando, Tampa, Miami, we need to have a model that they can come together and work with us in a way—I mean this is a lesson that we can take to the rest of the country, because let's say if the State doesn't want to participate, how can we have a program that the communities come together, and we can work with them in order to get commuter rail, or to get high-speed rail?

I know that you can't do it without some participation from the State. But the way the proposal is written, it requires a great participation from the State. So, as we go forward, we need to think about how we can work private-publicly, and move—because when you get 100 percent of the funding, and you got 90 percent Federal funding, gasoline tax, and you got 10 percent guaranteed—and, in fact, I want to have submitted in the record the study that we paid for, as soon as we can get it from the State of Florida, indicating how, even in the first year it would have made a profit.

Can you respond to that?

And then I have some other questions about Amtrak. And I really get, you know, challenged constantly about the discussion about privatizing Amtrak when clearly we know that for 8 years we zeroed out the funding for Amtrak, and it was all we could do to just hold on while we got the opportunity now to move forward with passenger rail.

And, in fact, I went to Salt Lake City, Utah 2 weeks ago. And, I mean, they are moving 40,000 people a day in commuter rail. And so we've got to figure out how to move people. You know, when people say, "Well, we just need another lane on I–4," we got 8. One more won't help us. So help me.

Mr. SZABO. Well, thank you, Congresswoman. And, if you would, please make sure that everybody knows I was late getting in here because we were discussing some other business. So you were taking advantage of the opportunity.

To your first point about trying to find a mechanism for local communities to come together, the biggest challenge here is that PRIIA, by law, actually states that it has to be a State or an entity established by the State. So that becomes a little bit of the challenge that we have to work with, in finding a legitimate legal means for communities to come together to actually make application or execute delivery of a project.

Ms. BROWN. Would Amtrak meet that criteria, in that they already have certain criteria that they can move within the State? Or could some of these private rail companies, you know—if they were interested in—let's say FEC says they're interested in doing passenger rail from Jacksonville to Miami, would they be eligible for——

Mr. SZABO. Obviously, it always depends on the legal structure of the body. There certainly is a chance that an agency might be eligible, assuming that they were established under State statute. I mean, you know, counsel would have to review that. But it would sound like the door could be opened there. Clearly, there could be ways for Amtrak to be that body under PRIIA.

But I would come back to a point that you also made in your comment, that it is close to impossible to do without a level of engagement by the State DOT. You know, while there is a way for the State DOT to hand it off, there is no way to entirely erase the involvement of the State DOT.

Ms. BROWN. My time is almost up, but there is a chart. Put the chart up, please. Can they put it up? There is a chart that shows, over the past 60 years, that the U.S. has invested $1.3 trillion in highways and $84 billion in aviation, but only $37 billion in passenger rail. Meanwhile, countries like Germany invested $104 billion in passenger rail.

Over 10 years—and I have got to tell you I was recently talking to the Chinese, and I indicated that they were going to put about $300 billion in rail, and they said, "No, Congresswoman, it's 3–5–0." And they plan on tripling the size of their system beyond the rest of the world by 2012. Now, I know we can't compete with the Chinese, but the point of the matter is we have started investment, and hopefully in the next, you know, 5 years, when we do the reauthorization, we will look at putting at least $50 billion, so that we can really have a system that will compete and move our people, goods, and services.

And thank you again for your leadership. I yield back the balance of my time.

Mr. REED. Thank you very much. At this point, the chair will recognize the chairman of the full committee, Mr. Mica.

Mr. MICA. Well, thank you. And thank you again for conducting this hearing, and for trying to look at how we can do a better job in getting private sector contributions and activity.

You know, Mr. Szabo and Mr. Gardner, I don't think there is any way we could possibly mess up a launch of expanded high-speed—well, creation of high-speed and expanded passenger rail service in the United States than we have done with the manner in which the 78—whatever the number—of grants that were given, and now have them coming back.

I am so dismayed. I consider myself one of the stronger supporters of bringing true high-speed rail to the United States and also expanding passenger rail service where it makes sense for the taxpayers. But the launch has been an absolute disaster. And now, with Wisconsin, Ohio, Florida rejecting the money, it's made—we're going to have to almost restart our efforts to gain some credibility.

And I hate to tell you this. I was out in California, in Fresno, and that one is not looking rosy, either. The ridership is very marginal. The farmers are up in arms, and the community of Fresno and Bakersfield doesn't have the population base to support this. So it's going to be a dramatically subsidized route.

So, how do we recover? I pleaded and begged to look at the Northeast Corridor. They have come up with a—I'm trying to be polite. If I say "half-baked," that's not a good term. They've come up with a plan that's not going to cut it. And $117 billion gets us to, what, 2030, 2040?

VOICE. 2040.

Mr. MICA. 2040, with little, tiny, incremental improvements. So my question is, how do we recover credibility after so much damage has been done? And, two, how can we find a better opportunity in the Northeast Corridor, rather than what's being proposed?

I think your proposal could be cut down, with a little help from Congress in getting the private sector, to 10, 12 years to put the service in, if we would allow, again, those to participate.

So, credibility, restore credibility, and then having one success in the only corridor which we own that would fit the model. Mr. Szabo and then Mr. Gardner.

Mr. SZABO. Thank you, Mr. Chairman. First off, I believe that we continue to have credibility. And the fact that three States haven't chose to continue to move forward doesn't change the fact that a majority of the States in this country do plan to continue to move forward.

Mr. MICA. But none of those are really high-speed service.

Mr. SZABO. California is, in fact, high-speed service.

Mr. MICA. Well, I guess—and again, it does have the private sector component.

Mr. SZABO. Right.

Mr. MICA. But the problem is the route that was chosen. There are many bumpy ties in the track along the way on that one. I don't consider Chicago to St. Louis high-speed.

Mr. SZABO. All right. If I can continue on then, sir, first off, let me say we agree with your vision that the Northeast Corridor needs to be a priority. We have existing infrastructure there that can be substantially upgraded and improved to actually continue the positive operating ratio that Amtrak is achieving there, continue to reduce the trip times, improve reliability, which are the crucial elements to success.

And with California, it's really important that you put into perspective that what is being constructed there is a very, very first step that is no different from how the interstate highway system was constructed some 50 years ago. The very first segment was just a few miles in rural Missouri.

Mr. MICA. Mr. Szabo, I am giving that same spiel. I mean your last sentence is in paragraphs of what I'm doing to respond to people.

Mr. SZABO. Great.

Mr. MICA. But——

Mr. SZABO. Great.

Mr. MICA. But again, I think we have to restore some credibility. We have got to find some successes. That is going to be a tough——

Ms. BROWN. Will the chairman yield? Will the chairman yield? Will the chairman yield?

Mr. MICA. Only if it doesn't count against my time.

Ms. BROWN. Yes, well——

Mr. MICA. The clock is rolling.

Ms. BROWN. I just want to say—30 seconds—because I hope you are not blaming the Administration for the ill-fated governor that we have that won 48 percent of the vote and has come in here, and the credibility of the studies showed that the ridership would have made money. You know, yourself, that all of the communities support it. So let's don't blame—it's not that it's a lack of credibility with the program. It's a lack of leadership in the State of Florida on one person.

Mr. MICA. Yes. Now——

Ms. BROWN. One person. The legislature had voted for it. The House and Senate had voted for it. All of the communities had voted for it. So, clearly, we got a vote. But let's don't put it on the Administration. I know we try to put everything on the Administration. But the Administration has nothing to do with—the fact is that we have a governor that has killed this program. So let's don't say that it's a lack of credibility with the program. It's a lack of leadership in the State of Florida.

Mr. MICA. Well, if it was just the State of Florida, that might be the case. But of course we have multiple States now who have rejected significant——

Ms. BROWN. We got multi-governors.

Mr. MICA. I yield and reclaim my time back. But again, regardless, the money is coming back. The credibility moving forward has been damaged. I mean, again, the public views these now as failed attempts, whoever the parties are.

So, I was concerned about the manner in which the projects were chosen, and that's a matter for our investigative activities to proceed, so that we can avoid this in the future. We have got to restore credibility, because we need to be having systems like they take for granted in other countries. We need to bring the private sector in. That's the purpose of this hearing. And we need to look at what failed in that process. If projects didn't make sense to the governors or to whoever, so be that. I have always wanted to have successes, not a series of failures, whoever's account, whoever's watch.

But that being said, again—now, one question. Gardner, we didn't get a response from you, but I could probably give it. And I don't want to take away from anything you would add to the conversation, but that being said, now the money is coming back. Are you all being consulted by the Secretary on where that money goes, Mr. Szabo?

Mr. SZABO. There continues to be a discussion, and making sure——

Mr. MICA. And Mr. Gardner?

Mr. SZABO [continuing]. That we again have a open and transparent process.

Mr. MICA. Mr. Gardner?

Mr. GARDNER. Mr. Chairman, we await for the FRA to decide how they will allocate that—funds, whether they will be made re-available for competition——

Mr. MICA. Have you provided any memo direction or anything to where the money should go, either to the FRA or the Secretary?

Mr. GARDNER. Not directly. We do, of course, have a wide knowledge of the projects.

Mr. MICA. Is it a phone mark, or is there an email trail somewhere?

Mr. GARDNER. Yes, we have absolutely our eyes on the opportunity here.

Mr. MICA. I'm not trying to be too smart, but the money is going to be spent, because the Secretary and the Administration have the authority to spend it.

Congress is not in a position because of our CRs and all of that, probably, to take it back and put it in the treasury, because many people out there want to reduce the debt. I agree with them. But if it's going to be spent, I'm concerned about how we spend even the Florida $2.4 billion.

And while I'm not a big fan of the Northeast Corridor plan that you have, there is certainly some improvements there. But there are some improvements that, for national security purposes, for transportation purposes, that we could best utilize going out, instead of having another half-baked attempt of a project that might again come back on us.

So, I am just throwing that out there, as you make those decisions and have discussions. I am willing to sit down and work with you, to look at how we could attract private investment, and with your plan of 30 years, I would like to cut it down to 10 or 12. We have talked about this.

If we need to speed up any of the approval process, we can set the framework for that. If there is something in PRIIA that needs to be adjusted—and I think we do need to go back and readjust this—the money sort of got ahead of the projects. But I am open to working with you. And I know you're just excited about working with me.

[Laughter.]

Mr. MICA. Is that right, Mr. Szabo and Mr. Gardner?

Mr. SZABO. Mr. Chairman, we always like working with those who hold the rank of chair.

Mr. MICA. Thank you.

Mr. SZABO. Thank you.

Mr. MICA. Yield back.

Mr. REED. Thank you, Mr. Chairman. At this point in time the chair will recognize the gentlelady from California, Ms. Richardson,

Ms. RICHARDSON. Thank you, Mr. Chairman and Mr. Chairman.

With all due respect to our chairmen, Mr. Szabo, I would actually like to weigh in somewhat differently, in the fact that I do come from California, and I am the co-chair of the high-speed rail caucus. So, for the record, I think it's important to note that the chairman had a listening tour in Fresno. And although he might have had 20 farmers who were upset, there were over 150 people who were supportive of it.

So I think, in all fairness—and what I would recommend is maybe what would be helpful is to have a staff briefing of all the status of the projects throughout the country, so we're not using kind of bits of information that—we might be reading one article that's in—up in arms that may not necessarily be reflective of the actual picture of what's happening on the ground.

I can say, from being in California, that there is actually several routes that are being considered. And whoever happens to complete their permit process in a better fashion, I think, would get the lead. The reason why I think the Center Valley was being more highly considered was because it was less in the urban area, and some of the other issues.

But I do not agree—and I will say for the record I don't agree—with what the chairman said, in terms of the current State of California. And what I don't want you to walk out of here, in terms of being in the Administration, of thinking that's the only way. I realize he is chair, but we actually have one vote for every seat here. And I hope that you would make sure that all of the information is collected before the Administration makes any final decisions. Is that fair, sir?

Mr. SZABO. That is absolutely fair, Congresswoman, and the way that we plan to proceed.

Ms. RICHARDSON. OK. I appreciate it. Mr. Szabo, also I wanted to build upon—clearly, the President has made a commitment to high-speed rail. I would even say so much as he might see it as a part of his legacy. What, however, can you help us to do to make sure that also a part of the legacy of this administration is taking care of what we have already built?

As Ms. Brown said, we all support high-speed rail. It's where we need to go. But we need to make sure that Amtrak is properly funded. And clearly, I don't think it has gotten its fair shake. So how can you help us with that?

Mr. SZABO. Well, Congresswoman, there is no question that there has been a history of under-funding for Amtrak, which has always hindered its ability to achieve its best potential. But the President's fiscal year 2012 budget request really changes that.

For the first time, there is a talk of taking a comprehensive look at the backlog of state of good repair that needs to be made, replacing the aged equipment, ensuring that there is appropriate transparency in the budgeting and a clear division in the business lines, and that there is the appropriate funding to see it excel.

Amtrak has just now gone through 16 consecutive months of ridership growth. Last year they set an all-time record. In California, the ridership growth alone has been tremendous. Statewide in the past decade, it's up by 66 percent. On the capital corridors, it's up 100 percent. Just month after month, they are setting ridership growth records. And there is clearly this desire out there from the traveling public to see passenger rail as part of a balanced transportation network.

Ms. RICHARDSON. Yes, sir. And my last question, which will lead to a comment—and then I'm going to turn to Mr. Wytkind—is I come from the private sector, I worked in the private sector. And what I will tell you is, when you have the resources needed to do the job you can often times do it more efficiently. But if Amtrak hasn't been given the resources it needed to make the improvements and the enhancements that it could have, it could very well perform just as well as any alternative other financing mechanism, which—I would like to turn to Mr. Wytkind in my remaining 1 minute.

We—many of the gains that we have had, in terms of workers and standards and so on, translating those within the private sector is not always an assumption. All you have to do is look at Wisconsin and see that's the case. Mr. Wytkind, would you like an opportunity just to express further, other than your testimony, what guarantees or things you would be looking for if so—we went down this route?

Mr. WYTKIND. Well, thank you. I appreciate the question. And I appreciate your leadership on passenger rail issues in the caucus.

I, by the way, spent 4 or 5 days in California. I share your view that there is a lot of enthusiasm in California for its initiative. I spent days meeting with the Members of the State legislature and other people out there.

But we are very clear in our views. The private sector has always had a robust role in our transportation system. But to simply break up Amtrak, the only national passenger railroad that can operate high-speed service in North America, and subject it to open competition, is just a really bad idea. This country is filled with stories of broken privatization models that haven't worked very well. And who usually loses out in those equations is the employees and the people that rely on the service.

And lastly, I think there—can't be lost here. There is a lot of blaming going on of the Obama administration's views and programs on passenger rail. The truth is that Governor Walker of Wisconsin, Governor Kasich of Ohio, and now Governor Scott in Florida have literally thrown tens of thousands of people out of work with decisions to throw passenger rail money back to Washington. And that was probably the very first decision that Governor Walker made, as the governor-elect, was to tell a bunch of Wisconsin people that they're not going to be gainfully employed—because of very, very vibrant investments in our passenger rail system.

And so, I think that can't be lost in the debate. This is not whether the Obama administration's plan is perfect. But the plan can't work if you have elected governors who throw the money back and do not want to invest in passenger rail in their States for the benefit of the country. And I think that that's a huge loss for the country and for the people of those good States.

Ms. RICHARDSON. Thank you, sir. Thank you, Mr. Chairman.

Mr. REED. Thank you. Mr. Bucshon from Indiana.

Dr. BUCSHON. Thank you. I thank the panel for being here. I am a supporter of developing our high-speed rail system, and I have a question for Mr. Szabo. What do you see, in your view, is the biggest impediment to high-speed rail development in the United States?

Mr. SZABO. I think, quickly, developing the intellectual capacity of all the players, the resources. Not intellectual capacity so much as the resources. You know, PRIIA, for the first time, put a significant responsibility on the States, gave them significant power, the right to choose their own operators, the requirement to do their own planning. It also put significant new challenges on my agency. And so there is a kind of a new paradigm created.

State DOTs and the Federal Government are very, very good at constructing highways because they have been doing it now for 50 years. We need to develop the same kind of standardized procedures and the same ability to almost systematically crank the projects out.

Dr. BUCSHON. Thank you. We did a field hearing, as you probably know, in Grand Central Station on talking about high-speed rail in the Northeast Corridor. And it was very fascinating. And a couple of things that I learned—and I am going to ask a couple of different panelists their view on that—is that, in my view, you know, most people believe that high-speed rail in the Northeast Corridor will be successful.

However, the many, many years it takes to get environmental clearance because of the multiple environmental groups that have issues with any type of development that is new that—becomes a significant impediment. And that includes getting permitting through the government and others.

But—and the other thing is right of way issues, even—you know, for example, in the State of Indiana, Interstate 69, which we're now building from Evansville to Indianapolis, has literally taken about 30 years to develop, primarily based on those 2 issues.

And I was glad to see Mr. Wytkind talk about public-private development. But the gentlemen from labor, at least in New York City's view, was that they would not accept any type of public involvement in this type of development in the Northeast Corridor, because of concerns about safety and workers conditions, which—my dad was a United Mine Worker, so I understand those things.

So, I guess I would like to—I mean I think there is an 800-pound gorilla in the room. There are many, many impediments to developing these things in our country. But I think also, on both sides of the aisle, we need to recognize that on both sides we have groups that are significantly slowing down progress in our country when it comes to these.

And I would like someone to address the environmental issues, the civil liberty issues with right of way, and some of the labor—potential labor impediments to development of high-speed rail. Mr. Szabo?

Mr. SZABO. Well, I think I can touch on that real quickly. Certainly the environmental process is important. You do have to make sure that the citizens that are going to be potentially negatively affected by new service have a voice in the process. I mean that's just kind of fundamental to the principles our Nation stands upon.

But having said that, it really does tie in directly to the first comments I made about having the structural capacity of the DOTs and the Federal Government to work through these processes in the most expeditious manner. Doing what they call the preliminary engineering/NEPA work for the high-speed rail projects is something that is new to many of the States, and also to my staff, where, again, for highways it's been well established for many years.

Dr. BUCSHON. Mr. Wytkind, can you comment on that?

Mr. WYTKIND. Yes, I would be happy to. A couple of points.

First of all, I'm not really sure—maybe you can expand a little bit for me—what the labor impediments you're referring to are.

Dr. BUCSHON. Well, I'm not saying they are actual impediments, I'm just saying——

Mr. WYTKIND. No, I'm just curious what—if there is a specific issue I can address.

Dr. BUCSHON. The comment that was made, the person that testified, literally, his opening line was that, "We will never accept private investment in the Northeast Corridor because we feel like it will lead to lower wages and less worker safety." I mean that was the opening comment on the——

Mr. WYTKIND. Well, I would——

Dr. BUCSHON [continuing]. Panel. So I'm not——

Mr. WYTKIND. Yes.

Dr. BUCSHON. I'm not agreeing or disagreeing.

Mr. WYTKIND. I understand.

Dr. BUCSHON. I just was curious. I think we all need to recognize there are many, many things slowing down this type of development, and it's not always money from Washington.

Mr. WYTKIND. Well, there are two points I would make. I would have to see the statement and understand the context in which it was provided. But I would say that the position we have expressed today is that we are for finding ways to ensure that the private sector has its role in participating in our transportation industry.

The truth is that, whether we like it or not, the transportation industry has a robust private sector. Just in the construction industry, most of those building trade workers out there across America are working for contractors, private contractors, who are contractors under the Department of Transportation's infrastructure programs.

But on the issue of streamlining, we supported and worked with the committee to find a way to have some of these processes be more concurrent. One of the problems that I understood in the debates in the last Congress, when you were writing the surface transportation bill in this committee, was that a lot of the processes were layered in order, as opposed to occurring simultaneously. And, as a result, you had some natural delays, because you had to wait for this approval to begin deliberation on the next approval.

The last thing is if streamlining means evading employee protections and the important railroad statutes, we would very strongly oppose that.

Dr. BUCSHON. As I would.

Mr. WYTKIND. If it's simply trying to find a way to find efficiencies, I think there is a way to do that, and I think there is a way for the labor movement to work with the committee to accomplish that.

Mr. SHUSTER. [presiding.] The gentleman's time has expired. I recognize Ms. Napolitano. Questions for 5 minutes.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Mr. SHUSTER. We have a vote that's going to come on here very shortly, so I would like to get through the questioning—and I think we're going to be on the floor for a while, so if we could finish up here, that would be great.

Mrs. NAPOLITANO. Thank you, Mr. Chairman, and I will keep my comments as brief as possible.

I would like to maybe make a—not comparison, but state that in my area Metrolink has four routes and five stations. It's operated by the private sector. But when the board found that the private operator continuously failed to comply with Federal and State regulations, they fired and then hired Amtrak to run them. So, you understand that there is issues.

And then, there is issues with the high-speed rail authority in my area. And I was just talking to the Congresswoman Richardson, because the high-speed rail authority had not consulted with the cities in my district, because Amtrak does, if the route is proposed to go through my district. And it is high-speed rail that people in my community will not be able to afford to get on. I need passenger rail movement, I don't need high-speed rail movement in my area. And that's for the record.

Mr. Feinsod, you recommend making the pilot program for contracting out Amtrak routes permanent. As part of your legislative recommendations, do you support or oppose requiring private operators to abide by all applicable labor laws?

The Railway Labor Act, the railroad retirement and unemployment compensation, the hiring rights, the Davis-Bacon, would you support or oppose preventing operators from contracting out services to foreign entities and workers?

How about liability insurance? Would you support or oppose having to purchase minimum liability insurance, like Amtrak is required to have, of $200 million?

Now, I know you can't answer all of those at once. I would like to have it in writing, if you would, please. But as much as you can in a short time, I would like to have that in answer.

Mr. FEINSOD. Thank you, Congresswoman, for the opportunity to respond to you. I should point to the commuter rail industry in the United States, which has grown considerably in the last 15 years. Many new commuter railroads have opened. Many of them were created through public agency investment, in part through the Federal Government. And many of them are——

Mrs. NAPOLITANO. Would you answer my questions, please, about supporting or opposing?

Mr. FEINSOD. Yes. The answer is that we would support the continued application of Federal railway law, because it is a requirement now, in the commuter railroad networks that are contracted out. It's not anything unusual.

Mrs. NAPOLITANO. How about the retirement and unemployment compensation, the hiring rights?

Mr. FEINSOD. Yes, ma'am.

Mrs. NAPOLITANO. Davis-Bacon?

Mr. FEINSOD. Yes, Congresswoman. These are framework requirements that would be part of any contractual basis and competition.

Mrs. NAPOLITANO. Would you support or oppose the prevention—preventing operators from contracting out to foreign entities?

Mr. FEINSOD. Well, I don' know what you mean by that, but——

Mrs. NAPOLITANO. Having a foreign company come in and take over running some of those areas.

Mr. FEINSOD. I think that in the United States we have open access to private companies that work within——

Mrs. NAPOLITANO. I realize that, and I understand that, except we are losing a lot of contracting services to foreign companies, because they underbid, because sometimes the governments do subsidize their contracting.

And with that, Mr. Chairman, I would like to yield the remaining time to the Ranking Member Brown. Thank you, sir.

Ms. BROWN. Thank you. Mr. Gardner, Mr. Mica constantly talks about high-speed rail plans in the Northeast Corridor making small improvements. Can you talk about that? Because it seems as if he thinks the Northeast Corridor is just one State, or one county, and it's a whole group of entities working together.

Mr. GARDNER. Yes. Thank you very much, Ranking Member Brown. It is a very complex and amazing system of both intercity service, freight service, and commuter service spanning eight States and the District. And we do have a plan for vast improvements in the corridor that will take some time.

And to answer the earlier questions, the main issue here for expanding high-speed rail in the Northeast Corridor is stable, dedicated funding. And that is also the main issue of bringing private investment into this network. Until there is a dedicated, consistent source of funding for rail investment at the Federal level, you're simply not going to attract the private-sector interest in this business. It's true in all of our other modes in the United States, and it's true internationally. The international experiments here all rely on very robust investments in this—in their rail networks. And off that base of public investment, you have been able to leverage private-sector involvement in certain portions of the network.

And we, of course, see that opportunity in the Northeast Corridor. What it is going to take is that dedicated commitment of funding. Amtrak was not able to directly apply for funds in this initial round of funding for the Northeast Corridor. The States were needed to apply for those funds, and would have had to come up with the matching funds, in some cases, for those investments.

So, we look forward to finding opportunities to invest more funds in the Northeast Corridor. We have immediate projects of more—something between $6 billion and $7 billion backlog of capital projects that need to be overcome. We have got opportunities to make real improvements.

But I do want to say that the corridor has developed in amazing ways since Amtrak has taken over ownership in 1976 from a private-sector entity. And right now, above the rail, Amtrak is operating profitable services. Our regional services just covered 101 percent of their cost, and the sales service most recently, I think, were covering 186 percent of their cost.

So, we are making money above the rail operations in the Northeast Corridor today, with the opportunity to expand that going forward with the right level support, and bringing in private-sector involvement, as appropriate.

Mr. SHUSTER. The gentlelady's time has expired. Thank you. Mr. Barletta is recognized for 5 minutes.

Mr. BARLETTA. Thank you, Mr. Chairman. Mr. Gardner, the Northeast Corridor is a critical area for our Nation's rail system. Obviously, the large cities are connected along the East Coast. However, what is Amtrak's vision for connecting those in smaller cities where trade service has been discontinued over the years, yet the demand remains?

In my district, in northeastern Pennsylvania, over 30,000 people commute from the Poconos in Monroe County to New York City every week. And there is much interest in rail service from Scranton through the Poconos into New York. What would Amtrak's vision be for that?

Mr. GARDNER. Well, thank you, Congressman. And I am aware of the desire for the service there, and certainly the New Jersey Transit's efforts to extend farther west in New Jersey, and conversations about bringing service to the Scranton area.

Our vision for extending and expanding corridor service is to work in partnership with our States. We have 15 State partners today, including Mr. Simmons in North Carolina. And as he mentioned, we have a new process for being able to fairly and consistently allocate operating costs, and build services together.

So, what we do is look for partnerships with States. We engage early with States to find opportunities for passenger rail, and then build with them a service model that will deliver service to their communities. So we remain open. We have been involved and had discussions with the commonwealth about this service. There is interest in service to Binghamton, a little bit to the north of you in New York. And we remain interested in looking at these options. What we need is a State partner. And together we look to expand the network every way we can that brings value to the service and to the taxpayer.

Mr. BARLETTA. Thank you. Mr. Szabo, I'm concerned that we're not taking a greater look at the private sector participation in other countries. As Mr. Broadley points out in his testimony, there are several similarities to our rail system, specifically in the Northeast Corridor.

What steps have we taken to look at those models and see how we can implement them into our country?

Mr. SZABO. Well, I would say that, actually, we have. We have taken a considerable look at the international experience in both Europe and Asia. Quite a bit of this was used in the formation of PRIIA. And, of course, then we have taken the next step with the President's proposal in his fiscal year 2012 budget request.

Under PRIIA, the States have the right to select the operator of their choice, whomever it is that they choose. In fact, since 1997, under Amtrak law, the States have had the right to select whatever operator they chose. So, privatization has always been an opportunity that is there. But so far, States have just not found it in their best interest at this point to move in that direction.

There was the section 502 provisions that asked us to take in these offers to look at privatization of the Northeast Corridor or some of the others, but surprisingly, there wasn't a single international applicant or private company that made a submission on the Northeast Corridor. There were a few others, but in every one of them, none of them did contain the private funding that would have gone with it.

And so, at this point the States do have a high element of flexibility.

Mr. BARLETTA. Thank you. Mr. Chairman, I yield back the balance of my time.

Mr. SHUSTER. I thank the gentleman. And I am not going to have a follow-up question now, but what Mr. Szabo said, not one person applied, not one entity applied for the Northeast Corridor, and, I think a lot of people followed the money. And there wasn't much that went to the Northeast Corridor on those grants.

With that, Mr. Sires, I recognize you for 5 minutes.

Mr. SIRES. Thank you, Mr. Chairman. You know, as one that rides the Acela every week, back and forth—I represent the northern part of New Jersey—and I am thrilled that we have Amtrak running, because it's really—going through the airport, going through the whole hassle, it's just impossible.

But last year I took a trip—it was the year before—I took a trip to Spain, because Spain has the AVE. And I wanted to compare it with Amtrak. And I talked to a lot of people, you know. We even met with the port authority people in Barcelona, because we took the train from Madrid to Barcelona. There is a substantial amount of money coming in from the government to that train. So, when we say "privatization," you know, when we talk about Europe, you know, there are huge investments by the government.

And when I worry, Mr. Feinsod, about privatization, it's that, to me, it means as you get your expenses—your expenses go up—and you privatize, it's expensive—you go to the workers to give in, to get back. And as expenses go up, the workers suffer.

I think there has to be a balance. I'm not saying that everything should be coming directly from the government, but there has got to be a balance where the worker is protected and there is some sort of subsidy, so these entities can run properly.

You know, and it is difficult, I think, in the—on the east, to have anything similar to some of these European lines, because I know that the line from Madrid to Barcelona did not go through as many States as we do, or some of the tracks that I use for other things. So, you know, it's pretty much a dedicated line. And we just don't have the room in some of these places to do something similar to that. So when people say, you know, "Let's do the European experiment," all well and good, but we have to see where, you know, where we're going to do this.

And I hope that the service continues to improve in the Acela, because it really is a pleasant ride from Newark to Washington.

And I just have time—you know, can you answer some of those concerns that you have—that I have, Mr. Feinsod, when you talk about labor? Because to me, now, everything privatized just means, well, we go off to the unions, we get it from the unions, and, in many cases, let's get rid of the union.

Mr. FEINSOD. Well, I think that the only answer I can give you is that this is not what we see as a competitive environment, that the competitive environment is a creation of a higher energy level to provide for improvements to the corridors that might be competitively created.

I don't think we are talking about a Madrid Barcelona line which required significant government investment to create the line. It is being run by and operated by the Spanish State railroad, and has been extraordinarily successful, and is profitable, very profitable.

But when we look at the regional, State-supported systems in the United States, we have an opportunity to open up the market to competition. And that competition would create the opportunity for innovation and improvement. And I don't believe it is a natural result to hurt labor. In fact, we believe that if we have a more robust——

Mr. SIRES. Well, where are you going to get the money to offset it?

Mr. FEINSOD. If we have a more robust market, we're going to have higher ridership, and we are going to have more jobs. And the whole idea is to——

Mr. SIRES. Would you answer that, Mr.——

Mr. FEINSOD [continuing]. Increase the number of jobs.

Mr. WYTKIND. Yes, I would. I don't have—thank you for that question.

Look, I think there is a—there are—there is a litany of examples across the country in the transportation industry and elsewhere in the economy where private contracting does result exactly as you have described, whether it's to completely eliminate collective bargaining, which seems to be a popular theme these days with some Members in the political class, but more importantly, we have a lot of examples where private contracting resulted in people having to be the people that pay for the cost of either poorly managed contracts or, as you said, they run out of money and it's got to come out of somebody.

And so, I could submit to the committee a number of examples. A lot of them are in the mass transportation industry, where a lot of this privatization has occurred, where the workers have been absolutely the victim of those privatizations.

Mr. SIRES. Thank you, Mr. Chairman. I yield back.

Mr. SHUSTER. I thank the gentleman. We have got 10 minutes left in the vote. I am going to try to finish my questions, because then we're going to have to probably be over there for a while.

I have a few questions, and then we're going to leave the record open for 2 weeks. We probably are going to submit some questions to most of you, if not all of you, to get them back in writing. But first question, Mr. Simmons, can you talk to me a little bit about the obstacles that you face for private rail operators coming in to running operations in your State?

Mr. SIMMONS. Thank you, Mr. Chairman. In my testimony I outline several opportunities where we already work with private companies.

In terms of private railroads operating our existing service, the issue of access, the issue of maintaining the freight capacity, those kinds of things, are challenges that are in front of us and the companies.

We open the door to the opportunity as we look to absorb and manage the growth opportunity that is in front of our State, adjoining States, and America to provide jobs both in the traditional industry, but there are other places, particularly in design, construction, and components of our operation where the private sector can and do play a role.

Mr. SHUSTER. And I think that level playing field—which I think Mr. Szabo, Mr. Wytkind, and Mr. Gardner all sort of touched on when it comes to labor—and that—labor level playing field is in the law now that we passed. But what you're talking about are some of the other issues: access, cheaper incremental costs that you have to—if you bring a private operator in, you have to negotiate with the freight rails. Is that——

Mr. SIMMONS. Yes. Yes, we would. But I want to say—speak to the issue of the labor, the existing agreements. In the law that is protected. Any operator that was not Amtrak would have to look at lot like Amtrak. So we're not threatening that.

We are—what we are faced with, and the largest challenge I have overall, is how to absorb and manage the growth. The tremendous opportunity that States have, that America has, to grow this business, not just from the business perspective, but to provide service and mobility for our communities and for our citizens, that's the challenge that we have, that we face every day.

Mr. SHUSTER. I appreciate that. And also, I guess my final question is to Mr. Szabo concerning the DesertXpress. I know that that's come out before. It was supposed to be a $2 billion and now it's, I think, a $6 billion project. It was supposed to be all private money, now they're looking to the RRIF program.

Can you talk a little bit about what your view is on that project? Is that something that you think is viable? I have concerns, you know, going from Las Vegas to Victorville—I didn't know where Victorville is, but I know it's not Los Angeles.

Mr. SZABO. Well, ultimately, their plan is to connect with the California high-speed rail project. It's just a matter of that final step through the mountains. So, again, a little bit like the interstate analogy we're talking about, where legs get built in phases.

You know, they continue to adjust their costs. That's not unusual for a project of this magnitude.

Mr. SHUSTER. Triple the cost, though? I mean is that reasonable?

Mr. SZABO. You know, it's a matter of refinement, and making sure they have accurate costs before they choose to move forward.

Mr. SHUSTER. When you refine something, I thought it got better.

Mr. SZABO. I'm sorry?

Mr. SHUSTER. I said when you refined something, I thought it got better, not worse, in the cost.

Mr. SZABO. The most important thing is to be accurate. Obviously, you have to know what the facts are, making sure it's accurate, before a decision is made to move forward, and so they can do their appropriate analysis to see if the right return on investment is there.

But clearly, we do believe that it's a project that has some very good potential.

Mr. SHUSTER. Well, again, we have a vote. I appreciate you——

Ms. BROWN. I do have a final——

Mr. SHUSTER. Sure, I yield you 2 minutes.

Ms. BROWN. OK. Well, I appreciate that, Mr. Chairman.

A couple of things. Mr. Simmons, in the current law, do the States have the right to choose their passenger rail operators, or do they have to choose Amtrak?

Mr. SIMMONS. Under the current law, we have the right to choose operators. But the environment that we work in can constrain that.

Ms. BROWN. Absolutely. We have that same impairment in Florida, where we have one person making a decision. And I want to make sure that we put the study in the record that showed that the high-speed rail project would have made money the first year, based on the facts.

Mr. Gardner, I have one other question for you. In doing my research, I found out that Amtrak subcontracts over 66,000 business annually. And I would ask unanimous consent to insert a list of the 70 businesses into the hearing, but also make available those other 66,000, so people know that Amtrak has a lot of partners, private partners.

Mr. GARDNER. Absolutely, Madam Chair. We have, again, $1.5 billion in services that we purchase, goods and services every year, from private entities that manage our part supply to cleaning and servicing and mechanical servicing and turnaround locations in some of our outlying points.

Of course, through our procuring of equipment, we just place orders for 70 new electric locomotives with Siemens that will be built here in the United States, meeting Buy America requirements. So we are engaged in, every day, partnership with the private sector to deliver the services that we need to, to make this network work.

So, it's—and as Mr. Wytkind said, most of the big capital projects we do, of course, use contractors who are private sector entities to build big bridges and tunnels and so forth. So we rely on this, and we aim to grow it. And we will need the private sector, undoubtedly, to take this network to the next step and grow.

Ms. BROWN. And, Mr. Szabo, you have my last minute.

Mr. SHUSTER. The gentlelady doesn't have a last minute, so Mr. Szabo, we will give you 30 seconds to answer succinctly——

Ms. BROWN. Oh, no, you——

Mr. SZABO. Very good, Mr. Chairman.

Mr. SHUSTER. We've got 4 minutes left in the vote, and since I'm the chairman I do get the final word, fortunately.

Ms. BROWN. OK, all right.

Mr. SHUSTER. Go ahead, Mr. Szabo, 30 seconds.

Mr. SZABO. Well, I'm sorry. Did you have another question?

Ms. BROWN. I don't have a question, I just want you to have the last word.

[Laughter.]

Mr. SZABO. Well, the final word? Thank you for the hearing. This Administration is working very, very hard to make sure that high-speed passenger rail is a reality in this country. We believe we have a strong program. We are continuing to move forward. It is something that's in its infancy, so you have those challenges that go along with something that is brand new. But the village is solid, and the partnerships are being developed, and we are moving forward.

Mr. SHUSTER. Thank you, Mr. Szabo. I thank all of you for being here today. I appreciate it.

And passenger rail in this country, I believe, is needed. I think we ought to look at the places where that investment needs to be focused. There are places that we can, I think, have it.

But I hope that the Administration comes together, along with labor, along with the freight rails, along with Congress, to focus on the Northeast Corridor, because I think that is our best chance for the first successful operation of high-speed rail in this country. And I believe it will create economic opportunity for those in labor, those in business, and those communities along that corridor. And it will help all Americans, if they see its being successful.

So, again, thank all of you very much, and this hearing is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]

OPENING REMARKS
Rep. John L. Mica, Chairman
House Committee on Transportation and Infrastructure

Subcommittee on Railroads, Pipelines, and Hazardous Materials Hearing:
"Finding Ways to Encourage and Increase Private Sector Competition in Passenger Rail Service"
Friday, March 11, 2011 – 10:00 a.m. 2167 Rayburn

- Two and a half years ago, President George W. Bush signed the Passenger Rail Investment and Improvement Act, the first rail authorization bill in 11 years.

- That bill, which I helped author, included important reforms in the operations of Amtrak, America's intercity passenger railroad.

- The Act also opened the door for the private sector to participate in providing passenger rail service in a number of important new ways.

- For the first time, rail capital investment programs were established that give States primary control to improve and expand intercity passenger rail services.

- A pilot program was authorized to allow private sector entities to operate current Amtrak intercity routes, in much the same way that private sector companies now compete with Amtrak to provide commuter rail service.

- The so-called "Section 502" program that I wrote established a public-private partnership opportunity for high speed rail development.

- Under this program, FRA solicited proposals to finance, design, construct, operate, and maintain high-speed intercity passenger rail systems within one of 11 specified corridors (including the Northeast Corridor).

- Over 100 expressions of interest were submitted, and from these FRA received 8 substantive and credible proposals for development of high-speed rail corridor projects.

- This RFP process was kept completely separate from the Department of Transportation's high speed and intercity passenger rail grant funds that came through the 2009 Stimulus bill.

- In my view, this was a big mistake. Private sector participation can leverage federal funds and make projects less expensive, get them built faster, and help keep operating costs down.

- I will be looking for ways to encourage private sector participation in passenger rail projects – designing, building, operating, maintaining, and financing.

Rep. Tom Reed – Opening Statement
Subcommittee on Railroads, Pipelines and Hazardous Materials
Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service
(March 11, 2011)

Commuter rail and intercity passenger service are important to our country's transportation future. More so than ever, we need to find ways to promote rail transportation in this country. With the current political turmoil in the Middle East oil prices are going through the roof and consumers are paying more at the pump with no end in sight. It is costing Americans more and more to get to work every day.

At the same time, we are experiencing more and more congestion on our roadways and in our skies. We need to find ways to address these transportation problems. Commuter rail service and intercity passenger service, in my opinion, are important transportation tools that need to be promoted.

Even though I support efforts to expand commuter rail and intercity passenger rail service, I do not feel that the government can afford to do this alone. I believe that this Congress understands the need to get the nation's finances in order. The share of the national debt is now more than $45,000 for each adult and child in America. We are borrowing more than forty cents of every dollar we spend. This is not sustainable. We have a responsibility to our children and grandchildren to take immediate action. This is why I am looking for new and innovative ways to finance our infrastructure projects.

One way that we can make intercity passenger rail more effective and less expensive is by injecting competition into this service. Competition results in lower costs, increased efficiencies and increased reliability. The Passenger Rail Investment and Improvement Act of 2008 (PRIIA) promotes this idea by allowing greater State control of intercity passenger rail initiatives and participation by private sector service providers.

I hope to find way that we can expand and build upon this legislation without burdening future generations of taxpayers. I look forward to each of your thoughts and comments on these issues during the hearing.

Bill Shuster

Chairman Bill Shuster
House Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Hearing: "Finding Ways to Encourage and Increase Private Sector Competition in Passenger Rail Service"
Friday, March 11, 2011

Welcome

- Good morning and welcome to the Subcommittee on Railroads, Pipelines, and Hazardous Materials hearing encouraging and increasing private sector competition in passenger rail service

- This is an issue that is extremely important to me and to Chairman Mica and that the Chairman and I have worked on for a number of years

- I firmly believe that we can make intercity passenger rail more effective and more affordable by partnering with the private sector and by bringing competition to the marketplace

PRIIA Pilot Projects

- Our subcommittee included a number of provisions and programs in the most recent passenger rail authorization, the Passenger Rail Investment and Improvement Act of 2008 (PRIIA – "pre – ah") to allow for greater State control of intercity passenger rail initiatives and participation by private sector providers

- Section 214 of PRIIA established a pilot program for alternative passenger rail service providers to operate two existing Amtrak intercity passenger rail routes for a five-year period.

- The pilot program is managed through the freight railroads who own the route trackage. A continued federal operating subsidy for the service is allowed during the pilot period, but cannot exceed what it costs Amtrak to operate the route.

- This pilot program will allow the private sector to compete with Amtrak to provide service on intercity routes, in much the same way that private sector companies now compete to provide commuter rail service.

- While we required the Federal Railroad Administration (FRA) to take develop a rule to implement the pilot program within one year of PRIIA's enactment, FRA has yet to act.

- I am disappointed by the delay in implementing this important provision and have raised my concerns to the FRA on numerous occasions. I am looking forward to hearing from Administrator Szabo (zay – bow) today on how the FRA intends to move forward.

- In addition to Section 214, Chairman Mica championed Section 502, which established a public-private partnership opportunity for high speed rail development.

- In December 2008, FRA released a "request for expressions of interest" soliciting proposals to finance, design, construct, operate, and maintain high-speed intercity passenger rail systems within one of 11 specified corridors (including the Northeast Corridor).

- Over 100 expressions of interest were submitted, and from these FRA received 8 substantive and credible proposals for development of high-speed rail corridor projects.

- Unfortunately, the momentum for this effort was lost when $8 billion in stimulus funds was provided for high speed and intercity passenger rail programs, with NO requirements for private sector participation or non-federal matching funds.

International Examples

- It is also worth noting that a number of countries around the world allow open competition to provide intercity passenger rail services.

- Great Britain, Germany, Sweden, the Netherlands, Australia, New Zealand, and countries in Latin America and Asia allow multiple operators to bid to provide service on a route-by-route or regional basis, often under a concession contract.

Doing More With Less – Getting Private Money off the Sidelines

- Across the board in our economy, private investors are sitting on the sidelines.

- In many cases, this private money sits idle due to uncertainly or over-regulation by our government.

- If we are truly going to, as Chairman Mica likes to say, "Do more with less," we must bring the private sector to the table.

- On numerous occasions – in both private meetings and in our field hearing in New York City earlier this year – the private sector has expressed a strong interest in working with us – IF we can remove barriers to entry and make investing attractive to the private sector.

- Competition is also a key to success. We have seen in numerous cases where Amtrak competes for Commuter Rail service that competition can reduce costs and improve service. There is no reason we cannot bring this same competition to intercity service.

Closing

- I look forward to hearing from our distinguished panel on ways we can increase competition and leverage private sector capitol

- With our current budget crisis, we simply do not have the funding available for the government to do this alone. We MUST bring the private sector on board.

YIELD TO RANKING MEMBER BROWN

REP. KATHY CASTOR HAS REQUESTED U.C. TO PRESENT A FIVE-MINUTE STATEMENT AT THE BEGINNING OF THE HEARING.

Testimony of John H. Broadley
Before the Railroad Subcommittee of the
House Transportation and Infrastructure Committee
March 11, 2011

I am here this morning to outline for the Committee some of the approaches to privatization of rail passenger services that have been adopted in Europe, specifically Britain and Germany. International experience can shed some light on alternatives that are available to us in the United States.

1. Comparability of NEC and European Conditions

US passenger operations fall into two groups. The first is a group of low frequency, and relatively slow passenger trains that operate on predominately privately owned freight lines. Most of Amtrak's long-distance trains such as its service between Washington, D.C. and Chicago fall into this group. The second is a group of high frequency and relatively fast passenger trains that operate primarily on the Northeast Corridor ("NEC"). Operating and economic characteristics for the two groups of trains are very different.

I will focus on the NEC passenger services because they present economic and operating characteristics that are similar to those in several Western European countries. I will briefly summarize those similarities:

- The NEC has a relatively high population density distributed along the line—Washington, Baltimore, Wilmington, Philadelphia, New York, New Haven, Providence and Boston. This is comparable to many routes in Western Europe. Attachment 1 shows the population density of the NEC states and of a selection of other countries.

- Most of the population centers along the NEC have good public transportation systems serving their city-center passenger rail stations. This mirrors the situation in most Western European cities.

- The NEC is heavily used for intercity and commuter operations. Many Western European lines have similar usage patterns. Attachments 2 and 3 show comparative passenger density on the NEC and electrified lines in selected Western European countries. Attachment 2 shows passengers per route kilometer. Attachment 3 shows passenger kilometers per route kilometer.

- The NEC is publicly owned or controlled and is predominately a passenger rail facility. Again, this mirrors the situation in much of Western Europe.

- Finally, long distance passenger rail services on the NEC (Acela and Northeast Regional) are within striking distance of financial viability on an "above the rail" basis This is the situation on European long-distance lines.

Prior to 1994, the British railways were owned and operated by British Railways ("BR"), a corporate entity that was wholly owned by the British government. British Railways provided and maintained the infrastructure and conducted long distance passenger, commuter, and freight operations. The same situation prevailed in Germany where most of the railways were wholly owned and operated by the German Federal Railway (DB).

2. Restructuring of British Railways to Introduce Competition into Passenger Services

In the early 1990's the British government undertook a root and branch restructuring of the railway in order to introduce competition where competition was possible, with the objective of promoting more economical and efficient service. The concept was simple in outline.

- The infrastructure (track, signaling system, and stations) would be transferred to an infrastructure company—"Railtrack." Railtrack would own, maintain, and operate the infrastructure and would charge the users track access fees sufficient to pay the total cost of the infrastructure. Because Railtrack was viewed as a monopoly, its track access fees would be subject to government regulation.

- Existing passenger locomotives and passenger equipment would be transferred to rolling stock leasing companies that would lease rolling stock to passenger operating companies.

- Each of the principal passenger routes in the country would be put out to bid with the successful bidder obtaining an exclusive franchise to operate on that route for the term of its franchise agreement. It was anticipated that all the operating franchises would require public subsidy (they did) so they were to be bid on a "least subsidy" basis. The franchises had varying terms, generally between 7 and 14 years.[1]

- The freight business of British Rail was split into a number of parts and offered for sale outright, to include their rolling stock and a reasonable track access contract to enable the new owners to establish themselves while negotiating for their future.

The basic structure established in 1994 has been retained, though there has been some change in the players.

- Railtrack was originally intended to remain in public ownership, but was sold outright through an IPO in 1996. It was forced into bankruptcy by the Labour government in 2001 and its infrastructure assets and responsibilities were transferred to successor Network Rail, which can best be described as "non-dividend paying" private entity benefitting from agreed government guarantees for its debt, and charged with delivering track access to passenger and freight operators in compliance with access contracts, and developing the network to meet future demand.

[1] It should be noted that government subsidies were originally to be introduced into the rail system through the franchising subsidies. Railtrack's access charges to the train operating companies were intended to cover all of Railtrack's costs.

- The franchising responsibility, originally lodged in an Office of Rail Franchising, was transferred for a few years to a Strategic Rail Authority, but was finally assumed by the Department for Transport in 2006.

- The economic and safety regulatory functions, including regulation of Network Rail's access charges and conditions, have been folded into the Office of Rail Regulation.

The key features of the current structure today, therefore, are as follows:

- Network Rail, with the approval of the Office of Rail Regulation, establishes conditions and charges applicable to train operators on the network.

- The Department for Transport conducts periodic bidding processes for each of the franchises. Multiple operating companies compete for each franchise, each of which is exclusive as to a series of origin and destination stations.

It is noteworthy that this process introduces competition *for the franchise*, not competition among the franchisees *for the passenger*. There are limited cases where a high speed operator and a commuter operator compete for passengers between the same two points, but these are not very common.

3. Restructuring of Deutsche Bahn to Introduce Competition into Passenger Services

The German approach has been similar to the British, but with significant differences. The German railway company (DB) was, like BR, for the most part a vertically integrated railroad, owning the infrastructure, and operating long distance, regional, and urban trains. In contrast to the British reorganization, the German reorganization of DB separated the infrastructure into a separate *subsidiary of DB* (DB Netz), separated the long distance trains into another separate *subsidiary of DB* (DB Fernverkehr), and separated the regional and urban services into a third *subsidiary of DB* (DB Regio).[2] In a further reorganization in 2007, all DB's passenger operations (DB Fernverkehr and DB Regio) were brought under a single umbrella called "Deutsche Bahn."

DB Netz (now DB Netze) has established a regime of track access charges applicable to all users of the network. The network is open to any company able and willing to provide long distance service and able and willing to pay the track access charges and abide by the track access and safety conditions. Long distance passenger trains are expected cover their operating costs, including the cost of track access, and do not receive direct subsidies. Theoretically, there is competition in the German long distance passenger market *for the passenger*. In practice, DB Fernverkehr faces almost no competition and has over 99% of the domestic long distance market.

[2] Other activities were separated into other subsidiaries that are not relevant in the passenger context.

The regional and urban trains require subsidy and are managed differently from long distance trains.

The federal government divested itself of the responsibility of providing regional and urban services and transferred the funding for those services to the individual states (Regionalizierungsgesetz). Each state established one or more regional public transport authorities responsible for purchasing regional and urban rail service in its jurisdiction. These purchases are by competitive tendering in much the same manner as the franchises are tendered in Britain.

The rail service contract ("Verkehrsvertrag") entered into between a public transport authority and a rail operator typically runs for 8 to 15 years. The contracts are bid on a "least subsidy" basis. As with the British franchises, competition in the German regional and urban rail market is *for the rail service contract*, not *for the passenger*. To date, DB Regio, the regional and urban service subsidiary of DB, has a market share of approximately 85%, but this is declining as competition grows.

4. Conclusions

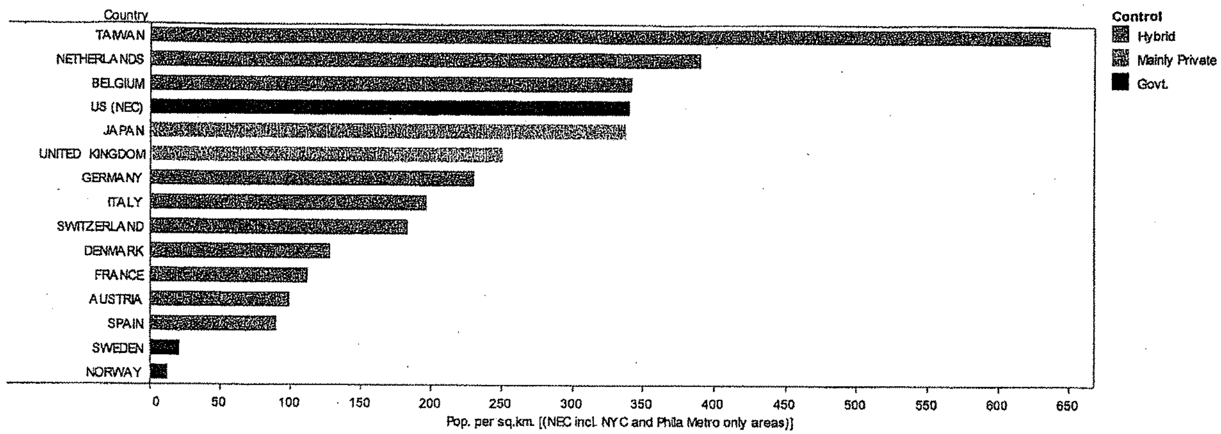
Because operating and demographic conditions are similar among the NEC and Britain and Germany, the approaches taken in those countries to introduction of competition into the passenger rail market could provide feasible templates for the NEC.

Both the British and the German approaches depend upon franchising the use of the rail infrastructure. The appropriate authorities can provide access to the infrastructure to a qualified train operator under prescribed safety, operating, and financial terms.

Where rail passenger service will predictably require a public subsidy, both the British and German approaches have been to introduce competition by requiring train operators to compete for an exclusive franchise or rail service contract at least cost to government.

The German approach to the long distance market, *where trains are required to operate without direct subsidy*, has been to allow open access to the network to competing operators. The results have not been encouraging to date, with DB still holding 99% of the market. This suggests that there is not enough inherent return in discrete competing long distance services to support unfettered competition. In contrast, the British model, granting an exclusive, temporal franchise within a defined corridor or region, has proven successful from the government's perspective.

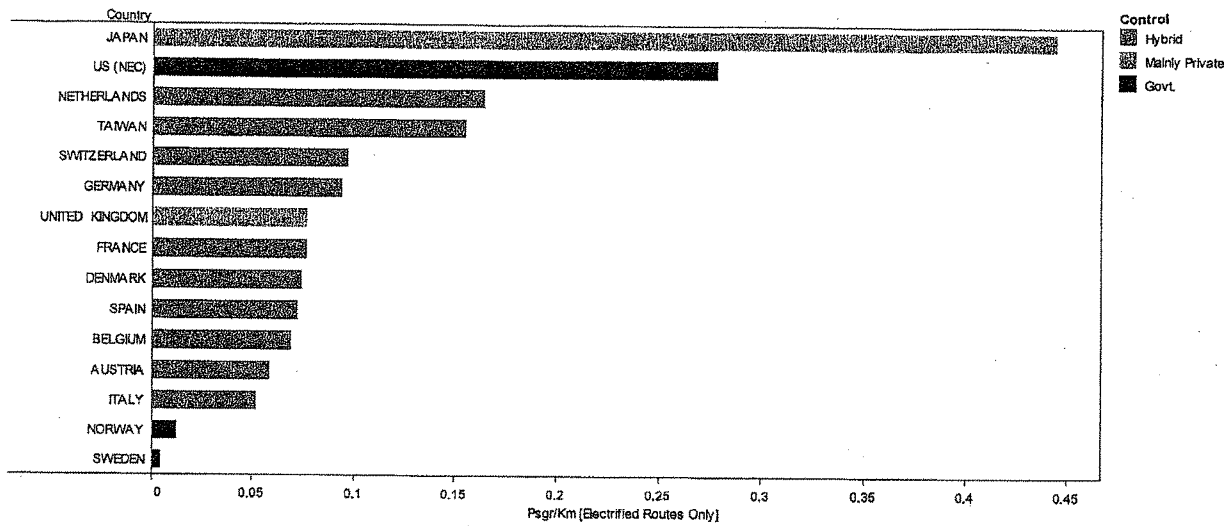
Population Density
Northeast Corridor vs Selected Countries



Sum of Pop# Density km# sq for each Country. Color shows details about Control.

Attachment 1

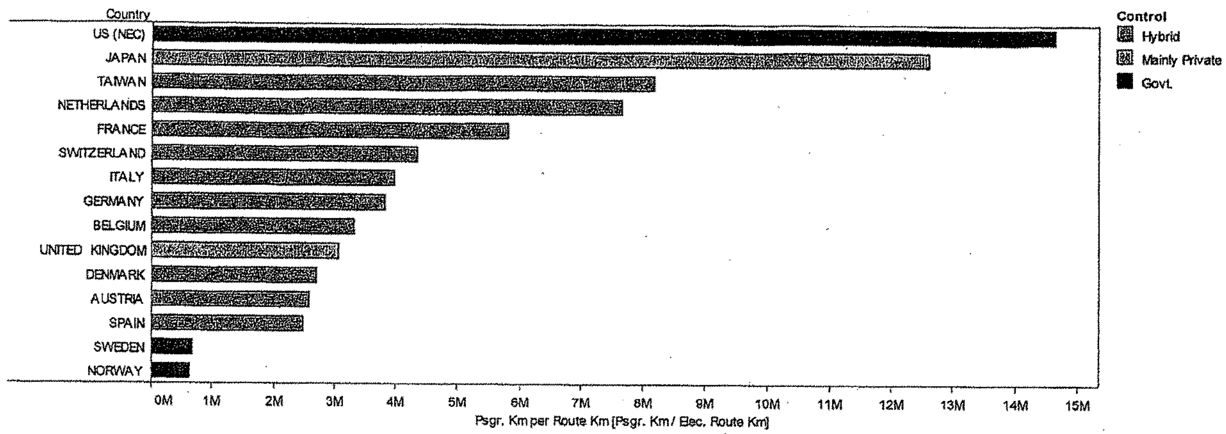
Passenger Density
Passengers per Route Kilometer



Sum of Psgr#/Km for each Country. Color shows details about Control.

Attachment 2

Passenger Density
Passenger Kilometers per Route Kilometer



Sum of Psgr. Km per Route Km for each Country. Color shows details about Control.

Attachment 3

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March 31, 2011

JOHN H. BROADLEY

Honorable Bill Shuster
Chairman
Subcommittee on Railroads, Pipelines & Hazardous Materials
Transportation and Infrastructure Committee
US House of Representatives

Dear Chairman Shuster:

Following the March 11, 2011 hearing on "Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services" you submitted five questions to me to answer for the record. The questions and answers are set forth below.

1. *In your opinion, has the introduction of competition in Germany and Britain improved equipment and service or diminished equipment and service?*

One of the best indications of the change in overall quality of the service provided by a passenger railroad is the long-term trend in ridership. In the absence of unusual developments (e.g. large fuel price increases or other pressures to substitute rail for non-rail transport) a long term increase in rail ridership is indicative of improving service. In the case of Britain where competition was introduced for all passenger rail markets in 1995 the answer is unambiguous—ridership has increased significantly since the introduction of competition. Rail passenger-kilometers have increased by 59% since 1996/97. *See* "Rail Value of Money Study—Interim Submission to Secretary of State, September 2010" at p. 12. From this it is reasonable to conclude that the passenger railroads after privatization and the introduction of competition are providing an improved overall service. Care must be taken, however, in attributing this entirely to the effects of competition as the level of government support has increased substantially over the same time period.

The situation in Germany is less clear. As I noted in my testimony, while long distance trains theoretically are subject to open access competition from other carriers, in practice DB Bahn Fernverkehr, which is owned by the state through DBAG, has a market share in excess of 99%. This suggests that meaningful competition has not in fact been introduced into the German long distance market. Thus, any changes in the German long-distance market cannot be attributed to the effects of competition.

In the case of regional service, competition in Germany is for the franchise, a model analogous to the British approach. While the Regionalization Law became effective in 1996, a significant share of the regional business was captured by non-DB entities only after 2000 (10% in 2004, rising to about 18% in 2008).[1] Notwithstanding the loss of almost 20% of the market to competitors, DB Bahn Regional experienced a 20% increase in passengers between 1995 and 2009. These numbers suggest that overall service quality has improved and become more attractive to customers, subject to the same qualification in the British experience—there has also been a substantial increase in government support.[2].

2. *Under Germany's regional and urban competition model, do individual states have responsibility for improving and maintaining the infrastructure? Are these costs part of the rail service contracts, or are those contracts only for rail operations.*

The German rail infrastructure, with some relatively minor exceptions, is owned, maintained, and operated by DB Netze which is a subsidiary of the DB Holding Company (DBAG). The states have no direct role in the improvement and maintenance of the infrastructure. DB Netze, however, has established a set of track access charges that apply to all users of its network, including the regional service trains contracted competitively by the states. Thus, the price the states pay for regional service must cover the operator's track access charges established by DB Netze. This is comparable to the situation in Britain.

Answering the second part of the question raises two additional issues. The first issue is whether the track access charges are established at a level to recover all of the infrastructure costs—maintenance, operation, and capital costs. It is my understanding that they are not. Very substantial investment is made in rail infrastructure by the German federal government in addition to the subsidies that are paid to regional rail service operators—in 2010 the budget of the federal Department of Transportation to upgrade and maintain the rail infrastructure was approximately $5.1 billion, a level of support that the federal transport minister has said will continue in 2011. The existence of substantial federal government funding was confirmed by the April 22, 2008 Report of the Amtrak Inspector General (E-08-02) "Public Funding Levels of European Passenger Railroads," which estimated that the average annual German on-balance sheet public funding for passenger rail was $11.6 billion, and off balance sheet public funding was an additional $11.2 billion.[3]

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[1] If the Berlin and Hamburg S-Bahn (managed by DB Bahn Urban) are excluded, the competitive carriers have approximately 25% of the market.

[2] The extent of competition for rail service contracts in the German regional market has also been limited by the practice of negotiating them on a bilateral basis and not putting them out to public tender. A decision of the Federal Court of Justice on February 8, 2011 will require that future contracts be put out to public tender. This will affect more than 100 contracts that come up for renewal in the next five years.

[3] According to the Amtrak Report at p.4, "on balance sheet" funding is provided for transport services, infrastructure operations, and capital investments in rolling stock and

The second issue is whether DB Netze's track access charges appropriately allocate the costs of the network to each user. This is subject to some dispute—I have been informed that there is some concern that infrastructure costs are disproportionately allocated to regional service where substantial state subsidies are available. We also know that the design of DB's track access charges has been subject to considerable dispute by competitors (or would be competitors) of DB on the ground that they favor DB to the detriment of the competitors.

3. *Under the British franchise model, who is responsible for capital improvements and maintenance.*

Network Rail is the owner and operator of the infrastructure and is responsible for maintenance and improvement of most of the existing rail network.[4] The cost of infrastructure operation, maintenance, and enhancement incurred by Network Rail is partially passed through to the train operators through the track access charges. Government subsidy for passenger operations is injected into the system in two ways. First, it is injected through subsidies for the franchises. Second, it is injected through the government's direct grant to Network Rail. A further implicit subsidy is the state guarantee of Network Rail's debt.

4. *Are you familiar with privatization models in any other countries, such as Australia, New Zealand, or Japan?*

Yes, but with limitations. The New Zealand privatization in the early 1990's involved the sale of the railroad in its entirety. The vertically integrated railroad was corporatized, slimmed down, and sold by the government as an entity. The transaction was comparable to the sale by the US government of Conrail. Over time the entire railroad has returned to government ownership as it was not able to sustain itself financially.

In Australia the situation is complicated with each state and the federal government having adopted its own approach. I am not sufficiently familiar with the situation in Australia to give an informed historical expositon. For the most part, however, the Australian model involves vertical separation--which means that the ownership, maintenance and operation of the infrastructure is separated from the operation of trains. The situation with Queensland Rail is different. Queensland Rail is vertically integrated, that is it both owns and operates the infrastructure and also operates trains on the infrastructure. Other railroads, however, have rights to operate over Queensland Rail's infrastructure.

The Japanese route to privatization was somewhat different. The Japanese National Railway (JNR) had been corporatized in the late 1940's. In the late 1980's the Japanese

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infrastructure assets. "Off balance sheet" funding is provided for staff and pension obligations, debt service, restructuring and past capital requirements.

[4] The principal exception is the high speed line connecting London to the Channel Tunnel which is owned by London & Continental Railways.

government reorganized JBR, separating the passenger and freight operations into seven different operating companies. The passenger operations were separated into six different regionally compact companies—JR Hokkaido, JR East, JR Central, JR West, JR Shikoku, and JR Kyushu. Freight operations are conducted by JR Freight over the entire former JNR network operating on the lines of the six passenger operators. The shares of three of the seven operating companies are traded on the Tokyo stock exchange. The shares of the other companies are held by the government. The government also assumed responsibility for JNR's debt. Subsequent to the reorganization, the passenger operating companies bought the high speed Shinkansen standard gauge lines.

5. *Mr. Wytkind says that in 1999, British passenger rail reverted back to an "Amtrak-like" system after a disastrous flirtation with privatization. Your testimony says that the British approach requires competitions for and exclusive franchise at least cost to the government, and this model has been successful from the government's perspective. Could you defend your statement?*

Mr. Wytkind is not correct. In 2001, the Labour government forced Railtrack, the privately owned infrastructure company, into bankruptcy. The rail infrastructure was transferred to a new entity called "Network Rail." Network Rail is a strange entity in that it is a non-dividend paying entity managed by "stakeholders" and which benefits from a government guarantee of its debts. There has been considerable dispute whether Network Rail is in fact a government entity with the argument being whether its debt should appear as government debt; it does not at present. The situation is somewhat analogous to the present position of Fannie Mae and Freddie Mac in the United States. In many respects, return of the infrastructure to an entity such as Network Rail is a return to the original plan for Railtrack as the infrastructure company—that it should remain in public ownership. So in brief, while there is some debate about the status of the infrastructure, all passenger and freight services are intended to be operated by fully private companies under franchises issued by the government through a competitive tendering process.

The British franchising system has been demonstrably successful in developing new and innovative services, improving passenger satisfaction levels, generating growth in numbers of passengers and revenue from those passengers, but the government remains concerned about the overall level of subsidy that the taxpayer has to bear. Notwithstanding the change in ownership of the infrastructure, the competitive franchising of passenger services on a "least cost to the government" basis continues. A comprehensive picture of the current state of passenger rail service provision in Britain can be found on the Department for Transport's web site at http://www.dft.gov.uk/pgr/rail/.

Yours very truly,

John Broadley

John Broadley

Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service

Testimony of Mr. Stan Feinsod on Behalf of the
Association of Independent Passenger Rail Operators

Before the Subcommittee on Railroads, Pipelines, and Hazardous Materials
U.S. House Transportation & Infrastructure Committee

March 11, 2011

ASSOCIATION OF INDEPENDENT PASSENGER RAIL OPERATORS

The Association of Independent Passenger Rail Operators (AIPRO) represents private companies, US and international passenger rail operators, who have the qualifications, interest, experience and commitment to operate and maintain passenger railroad operations in the United States. AIPRO supports the innovations introduced in the Passenger Rail Investment & Improvement Act of 2008 (PRIIA).[1] AIPRO was formed in recognition of the fact that PRIIA provides states the freedom to choose their passenger rail service providers. This law created a first ever program of support to the states to revitalize high speed and intercity passenger rail corridors, to expand competition for passenger rail services and give states a greater role in passenger rail decision-making.

In line with President Obama's vision put forward in the State of the Union Address, AIPRO believes America should set its sights on a passenger rail network that meets the evolving world standards. Our companies focuses on service delivery, efficient use of resources, and sustainable business models. We are prepared to engage in a new era of passenger rail public-private partnerships (P3s). To be clear, AIPRO supports the right of the freight railroads for a fair return on private investment under models similar to the public private partnership arrangement to improve assets on the California Capitol Corridor.

AIPRO believes the next Surface Transportation Act should contain a Rail Title that will maintain the robust investment in the United States' freight rail network and stimulate cost effective passenger rail expansion. With growing highway and airport congestion this nation cannot ignore the enormous contribution that can be made by shifting freight and people from the highways to the railways. This proposal for reform is bold. We emphasize that the rights of labor, as stipulated in PRIIA, must be fully honored. This proposal will produce good jobs for organized labor as the passenger business expands through innovative and competitive operations. The public benefits of rebalancing freight from highway to rail are equal to those of establishing a vibrant rail passenger system. We propose that in all elements of this reform program access to tracks and fees for that access must be on a commercial basis.

In these times of budget austerity and fiscal discipline, and in line with Chairman Mica's vision, AIPRO believes the new Rail Title should be deficit neutral and success oriented. It should create a new program that cuts red tape, streamlines project delivery, increases private investment through P3s, encourages open and fair competition, and leverages creative financing approaches such as the Railroad Rehabilitation and Improvement Financing program.

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[1] PRIIA – The Passenger Rail Investment & Improvement Act of 2008 was signed by President Bush. Prior to PRIIA all intercity passenger grants were between FRA and Amtrak. In a reform sponsored by Mr. Mica, PRIIA created a program of intercity passenger grants to the states to build high speed and intercity passenger rail service. PRIIA encouraged public private partnerships and competition for operators. We believe this program should be the cornerstone for the future reform efforts.

As a direct outgrowth of PRIIA[2] we propose to reorganize the current approach to regional service with a new Intercity State Corridor program. This will lead to tangible improvements to passenger rail services in the most productive corridors in the United States to prove that passengers will be attracted in large volumes to a high level of service that begins to meet international standards. Competition involving private sector companies offers the advantages of bringing innovation, capital investment, efficiency, and enthusiasm to the expansion of America's passenger railroad services. We believe that such competition will result in the creation of a significant amount of new, middle class private sector railroad and related industry jobs, helping to reverse a decade's old trend of reductions in railroad employment and mirroring the renaissance that has occurred in the US commuter railroad industry.

We recommend the following specific reforms:

1. **Dramatically revise PRIIA Section 24402 plan by creating an Intercity State Corridor Program to assist states by providing maximum authority to develop Passenger Corridors.**

The new American intercity rail network can learn from best practices in the United States and worldwide. On the international front, the German experience in creating competitive regional rail passenger operations may provide the best overall template for the U.S. in accomplishing a major reform. *(The Attachment to this testimony provides background on the European and German experience with competition and regionalization of passenger rail service.)* We propose a new Intercity Corridor Program, roughly based on the experience of the German Model, which would provide states with the option of completely managing intercity corridor service. We also recommend a special initiative for the Northeast Corridor. The PRIIA program of capital grants to the states applied the principle followed in highway and aviation programs that the federal governments provide infrastructure support and guidelines while states and state-chartered authorities are responsible for construction, operations, and maintenance. This was a good first step and that principle should be further developed. The next step is to expand state authority and we recommend the following:

➢ Authorize an Intercity State Corridor Program. The states should be authorized to take control of corridor operations. We propose the Secretary establish an Intercity State Rail Corridor program under the guidance of a Federal Commission on Intercity Rail Public-Private Partnering. The transfer of corridor service is to be budget neutral to the states. Sec. 209 of PRIIA, State Supported Routes, defined a new methodology for establishing and allocating the operating and capital costs between the states and Amtrak. It appears states

[2] PRIIA set the stage for substantive changes such as: passenger rail decision making being shifted to the states to determine how resources for capital projects are spent (Sec 301); selection of an alternative operator of an intercity passenger train route (Sec 217); other passenger rail operator involvement in the next generation train equipment (Sec 305); a process to determine state access to equipment and facilities (Sec 217); employee protections and compensation (Sec 215); and establishing a rail carrier pilot program operating a rail passenger route.

not now paying full subsidy cost on a corridor operation soon will be doing so. In the event the formula shows, or the state can demonstrate that, there is a federal subsidy to the current corridor operation, that subsidy will be transferred to the state.[3]

- Authorize a Northeast Corridor Initiative. We agree with Chairman Mica that the Northeast Corridor holds the best opportunity for true high speed rail. We would propose a special initiative for the NEC that would lead to an exploration of high speed alternatives.[4]

- Engage P3s. Any state or states participating in the Intercity State Corridor Program will engage in a competition for the design, management, operation, and maintenance of the rail corridor passenger service under federal guidelines of the corridor operations.[5] The program may include all federally designated high speed rail corridor routes, all state subsidized routes (formerly known as 403(b)) and new intercity corridor routes. States participating in the Intercity State Corridor Program or the NEC Alternatives program will be eligible for funding from the Passenger Rail Infrastructure Bank.

2. Reform and Expand the PRIIA Alternative Rail Service Pilot Program

PRIIA established an Alternative Passenger Rail Service Pilot Program and directed a rulemaking to provide guidelines. The established program is somewhat complex and the language vague. For example, it is not clear whether a freight railroad could subcontract out passenger service on their track. Because of this lack of clarity, there was no interest expressed in the program by the Class I railroads that we are aware of, and the Federal Railroad Administration (FRA) did not initiate the rulemaking.

Nonetheless, we believe this program could be streamlined and produce results. We do not believe this needs to be a pilot program, but rather can be a free standing competitive alternative to current service and the Intercity State Corridor Program which will be under state authority. Certainly, the Commission and FRA may wish to start with pilot projects, but that should be left to administrative discretion. We propose:

- Establish an Alternative Rail Service Program under guidelines established by the Commission on Intercity Rail Public-Private Partnering.

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[3] Corridor Subsidy – Currently there is a PRIIA provision in the alternate passenger rail service pilot program that permits a federal operating subsidy in a corridor that becomes a pilot project. This is restricted to circumstances where there is a subsidy on the service being replaced. It t may be transferred to the Pilot private rail carrier. Essentially the same provision would be applied to states assuming control of state corridor service.

[4] Northeast Corridor – We concur with certain recommendations of the House T&I Committee Report, "Sitting on Our Assets, p.29 to 34. The new NEC Initiative should provide funding for a robust program soliciting Expressions of Interest to provide alternative service.

[5] The language in S 24402 (b) (3) that requires the proposed operator of service be selected competitively should be continued and enforced.

- Permit a FRA qualified Operating Public-Private Partnership, with the approval of the track owner(s), who must be a co-applicant, to petition FRA to provide intercity passenger service under Commission guidelines.

- The service route may be an existing passenger route or a new route.

- PRIIA provides labor protections and hiring preferences which will apply.

- Companies participating in the Alternative Rail Service Program would be eligible for funding from the Passenger Rail Infrastructure Bank.

3. **Establish a Passenger Rail Infrastructure Bank.**

In the face of enormous budget deficits, a deficit conscious approach is necessary. The right approach is to build a specific program of innovative infrastructure support for the states that elect to opt into the Intercity State Corridor Program or P3s that propose an Alternative Rail Service Program including in the NEC.

We propose a new Passenger Rail Infrastructure Bank that combines grants and loans. We support continuing the PRIIA S. 24402 program of capital investment to the states or replacing it with a new passenger rail grant program such as that proposed by the Obama Administration.[6] However, we know that an expansive grant program is not likely. We suggest expanding the existing deficit neutral Railroad Rehabilitation and Improvement Financing. We would propose a new RRIF component of $50 billion for this purpose. Then combine whatever grants are authorized with the RRIF loans and create a dedicated Passenger Rail Infrastructure Bank and leverage the combined funding to the maximum extent. The passenger loans, subsidized in line with a public interest measurement should be available to participants in the State Corridor program, to P3s participating in the Alternative Passenger Service Program, and to P3s that meet federal standards of passenger service and initiate service.

Conclusion

AIPRO is working on a framework for a legislative proposal to accomplish the goals of this testimony. We look forward to working with stakeholders in the industry, labor, states and this committee in the development of a Rail Title to the Surface Transportation Act.

Thank you.

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[6] We believe the principle of this proposal is consistent with the President's budget concept of a unified rail fund where states and all parties involved in intercity passenger service would compete for grants.

Attachment:

European Experience with Competitive Rail Operations

Cascadia Prospectus – Posted by Bruce Chapman – Article by Heiner Bente and Ray Chambers

The Corridors: Best Practices from Around the World. Intercity American passenger rail service is not close to the standards of the other industrialized nations of the world. With growing population and congestion it is time take a new look at the way rail passenger service is operated in America. While America has slumbered for decades with its lax, government run passenger service, the rest of the world has been wide awake. The US is stuck with an inefficient uneconomic model that dates from the mid-20th Century. Meanwhile much of the rest of the world has introduced competition and private sector innovation into passenger railroading. For more than two decades international institutions, including the World Bank, vigorously pressed reforms that broke up bureaucratic and monopolistic state railroads, demanded competition for rail operations and promoted substantial infrastructure investment. The European Union followed suit. Perhaps we can learn something here.

Today, private railroads operate first class regional and high-speed service across Asia, including Australia and Japan. Britain, Sweden and Germany among others have successfully initiated controlled competition for passenger operations. In each country, these experiments in competitive passenger operations have resulted in new sleek equipment and increased ridership. Britain undertook the most extensive privatization. With new private operators, passenger traffic grew so fast it outpaced the independent infrastructure company. The infrastructure deficiency has since been corrected with creation of a new public-private hybrid organization called Network Rail. It is no coincidence that the country with the greatest commitment to private operators has had the fastest passenger growth in Europe. In Britain, between 1990 and 2005, traffic rose from about 9 billion passenger miles to 35 billion passenger miles.
To put it in perspective, the United States has a population of 300 million and Amtrak provides only about 24 million passenger trips annually. In Britain, with a population of 61 million, private contract operators manage 1.2 billion passenger trips a year.

The German Model. The German experience may provide the best reform template for the U.S. For years Deutsche Bahn (DB), the government-owned monopoly operation of intercity rail service, experienced unsustainable losses. In 1996 the DB monopoly over the regional German corridor lines was ended. The previous federal responsibility to determine and finance (i.e. subsidize) regional passenger rail services was spun out to state authorities. However, the states were protected financially in assuming the service. Financial resources were provided to the states for both infrastructure and operating subsidies. .

Most importantly these state authorities were given the right to put long-term rail-services out for competitive tender. A number of smaller domestic and several large international railroads rushed into the market and were fairly successful in winning market shares from the incumbent. A federal oversight agency was established to set standards for operations, check safety requirements and set and enforce the rules of competition.

The resulting system has been a major success. Today there are 60 local and regional railway companies operating. Among them some companies have grown into significant competitors to DB. For years, about every second bidding process was won by DB's competitors. The state-owned DB, which in the meantime has also lost monopoly control of the long distance services, has reacted to the competitive pressure from market entrants and has restructured successfully to survive in the new competitive world.

Recently, a German federal court ruled that the legal right of authorities to put contracts out for tender is now a legal obligation. German state authorities in charge of contracting rail services expect a massive "wave" of bidding procedures in coming years

Across Germany's regions, private and state investment have sparked a significant increase in passenger traffic. For example, one new operator in the Rhineland-Westphalia started with 800 passengers a day. The average now is 16,000 passengers a day. On the NordWestBahn network there was a 70 percent traffic increase in one year following the takeover by a new operator. These numbers are not unusual. Across the board there has been a modernization of equipment. In 2002 more than 1,000 new rail cars were put into service on the regional lines. New investment volume for rolling stock alone amounts to 11 billion dollars. Many innovative services have been introduced: Internet access on regional trains; regional gourmet food services and taxi/rental cars as a part of the basic train ticket.

The US passenger rail debate is bogging down between advocates of huge government subsidies, on the one hand, and those who see no future role for passenger rail. A better approach, following the German example, would facilitate maximum competition and private investment to provide modern rail intercity service as one part of a national transportation program.

Heiner Bente is an internationally recognized expert in passenger rail restructuring. He was one of the architects of the German Model described in the above article. Mr. Bente is currently

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Ray Chambers is Senior Transportation Fellow of the Cascadia Center/Discovery Institute in Seattle. Mr. Chambers is also sole proprietor of RBC & Associates of Washington, D.C. where he serves several clients as a transportation policy advisor. His email is rchambers@passengerrail.org. (Photo: Sebastian Terfloth, Wiki Commons)
Read more at http://www.cascadiaprospectus.org

About Cascadia *Founded in 1993, as the Cascadia Project, Discovery Institute's Cascadia Center for Regional Development is an important force in regional transportation and sustainable development issues. We're known for our involvement in transportation and development issues in the Cascadia Corridor, Puget Sound and in the U.S.-Canadian cross-border realm. We've recently added to that mix through a major program to promote U.S. efforts to reduce reliance on foreign oil, including the earliest possible development and integration of flex-fuel, plug-in, hybrid-electric vehicles. We're proud of our reputation as an independent voice for creative solutions to metropolitan, state, regional, and national challenges – a voice we share through constructive policy analyses, expert testimony to government bodies, and through convening forums and conferences to facilitate solutions to complex policy matters*

Witness Questions for Stan Feinsod
Submitted by the Honorable Corrine Brown
Hearing on
"Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service"
March 11, 2011

1. *You've suggested the creation of a "deficit neutral" loan program to fund passenger rail. According to the International Union of Railways, there are only two high speed rail lines in the world that have broken even: the French line from Paris to Lyons, and the Japanese line from Tokyo to Osaka. What makes you think that a company that borrows billions of dollars from the federal government to build a high speed rail line would be able to pay the money back?*

Mr. Feinsod: We are proposing a public private partnering initiative for passenger rail. AIPRO is largely focused on existing corridors that currently have passenger operations. Unlike California High Speed Rail, which is a wholly different matter, we do not anticipate building and operating a high speed rail line. Building a new HSR line will require a substantial amount of grant funds and public investment. In fact, after such public investment throughout the world, there are many examples of lines that have been profitable with operating revenues paying all operating costs including access fees for the use of the infrastructure.

Under our plan we separate the cost of creating the passenger infrastructure itself from the operations costs. We do not mean to imply that the operations will be without subsidy. As they are now, those subsidies will be largely provided by the states. Through AASHTO, the states are working with Amtrak to clearly identify those subsidies as required by PRIIA Sec. 209-State Supported Routes. As stated in our testimony, we encourage the states to initiate competitive procurement processes in each corridor. There can be competition for total passenger operations or for the component parts of the service, such as equipment maintenance. It is expected that the combination of lowest subsidy and best service will win each competition. Such a process will certainly yield the efficiencies and service enhancements that come from a competitive environment. We anticipate that some "above the track" passenger operations may well be without subsidy. For example, the Acela service operated by Amtrak is, according to Amtrak's published data, profitable when excluding some capital and other costs.

To accomplish significant access to financing for the P3 partners we have proposed a Passenger Rail Infrastructure Bank, which would combine a special RRIF loan component and grants. The grants can be appropriated through the existing PRIIA authorization or some form of President Obama's budget proposal which may be approved in a House-Senate conference. The intercity passenger service and safety requirements will be regulated under FRA. We expect a blend of government infrastructure funding and maximum private involvement in intercity passenger rail projects.

This is the best way to leverage an investment in basic infrastructure to create an American passenger option for the future. This program is largely deficit neutral because the loans will ultimately be repaid and the private sector will share in financing and risk. Further, the jobs created and economic activity will generate substantial tax revenues. This program we envision is roughly equivalent to the airport system and interstate highway network where there is federal responsibility for infrastructure and state/local authority responsibility for maintenance and overseeing operations. As our testimony states, this concept began in PRIIA. It is carried forward in President Obama's Budget for 2012 and beyond, which we support.

The example of the German restructuring provides an excellent model to follow. Federal subsidies were taken from the German State railroad and provided to the states which then used the subsidies as a basis for procuring new service providers who were asked to invest in new rolling stock. The result was a large increase in ridership, revenues and quality with the need for subsidy continued but reduced. Private companies are now providing many regional and intercity services on a profitable basis.

2. *You make some recommendations for developing a state passenger rail program, a different one than we established in PRIIA, that is both deficit neutral and increases public-private partnerships. How do you expect to have a program that is deficit neutral and increases public-private partnerships? There is no public side of the partnership if there is no public funding or participation and my experience in working with the private sector is that they need to see some sort of public backing to support the project.*

Mr. Feinsod: We agree with the premise of your question—there must be a strong public side to the partnership. Again, the issue is to create a competitive environment which permits private companies to compete for regional and intercity passenger rail services with Amtrak in well defined corridors. Encouraging a diverse set of highly qualified competitors and creating a basis for competition including current subsidies with the possibility that revenue growth and quality improvements will significantly increase ridership and revenue which in turn can reduce subsidies. We are not proposing that public sponsors such as states and regional agencies are no longer involved, but, their involvement would be based on an allocation of current public capital and operating financing and invitation for private investment and the development of a public-private solution in each case. Throughout the world, the monopoly solution has been rejected in favor of competition and the encouragement of highly qualified private companies has resulted in growth and improvement of quality.

3. *The alternative rail service program you've proposed assumes that freight railroads would be willing to allow companies other than Amtrak to operate passenger trains over their lines. Are you aware that freight railroads are already authorized to run or contract-out passenger rail service on their own lines, and that states are able to choose their own passenger rail provider? Do you know of any freight railroads that have said they'd be willing to do this? If so, please provide names of specific freight railroads. What happens, under your proposal, if the freight railroads aren't interested in providing or contracting-out passenger service?*

Mr. Feinsod: First, the reference to freight railroads operating Amtrak service is limited to long distance routes only and not state supported services. For shorter distance state-sponsored intercity service, the new paradigm for intercity passenger service we propose assures the freight railroads that the two issues of liability and access are solved through the development of negotiated agreements involving public-private partnerships within which those freight railroads are key partners. We are not proposing a solely private solution which the freight railroads will not accept, but instead inserting a public agency with resources and an access solution that is to be negotiated. Agreements on liability will permit a new set of arrangements involving freight carriers. We believe, based on preliminary discussions about our proposal, that there are track owners who will participate. In fact, this model is working in such places as the Capitol Corridor and in commuter agencies across the country.

If we want to encourage growth and vitality for passenger railroads in the United States, we simply must find alternatives to the status quo to inject new financing, innovation, changes in service and accommodations and attract new passengers. The current model is not successful. Amtrak service throughout the nation outside the Northeast Corridor does not come close to international standards. Service on the Northeast Corridor is not high speed and could also be improved by a partnership between private entities willing to invest in improved capacity and increased service with public investment clearing the major capacity barriers that still exist. While our proposal has an emphasis on the existing state subsidized corridors, a proposal recently put forward by former Democratic Pennsylvania Governor Ed Rendell for the Northeast Corridor is very much in accord with our thinking.

4. *You recommend making the Section 214 pilot program for contracting-out Amtrak routes permanent. As part of your legislative recommendations, do you support or oppose requiring private operators to abide by all applicable labor laws? The Railway Labor Act? Railroad Retirement and Unemployment Compensation? Hiring rights? Davis Bacon? Would you support or oppose preventing operators from contracting-out services to foreign entities and workers? How about liability insurance? Would you support or oppose having to purchase minimum liability insurance like Amtrak is required to have?*

Mr. Feinsod: It seems important to point out that many foreign owned companies are already extremely active in the railroad and public transport industry in the United States employing tens of thousands of Americans who manufacture products, operate trains, maintain right-of-way and do many other tasks here in the United States.

AIPRO is in accord with Amtrak on the positive benefits from partnering with 'foreign entities.' As you know, Amtrak recognized the need for expertise in operating true high speed rail, and teamed with SNCF, the French national railroad, on the ill-fated Florida HSR project between Tampa and Orlando. Facing increasing competition in the commuter rail marketplace, Amtrak sought the assistance of Bombardier in order to more efficiently compete on California's Caltrain system. Bombardier is a publicly traded, private Canadian corporation. Recently, Amtrak agreed to a $79 Million deal with German-based Siemens for the manufacture and delivery of new locomotives. AIPRO supports these and all other initiatives to provide the most dynamic competition in the passenger rail marketplace.

Contracting out passenger railroad services is taking place all over the world. Further, it is a model being applied to an expanding, healthy and dynamic commuter railroad industry here at home. AIPRO members now operate trains every day in Boston, Dallas-Ft. Worth, Oceanside to

San Diego, Oceanside to Escondido, Northern Virginia, Southern Florida between West Palm Beach and Miami, New Mexico between Albuquerque and Santa Fe. We comply with all federal laws and regulations and have seen a large increase in ridership, and a similar increase in the employment for good middle class railroad operations jobs with members of AIPRO.

Our proposal provides that operators will abide by all applicable labor laws. As is made clear in our testimony all labor protections for a change of operator established in PRIIA will apply. This includes hiring rights, the Railway Labor Act, Railroad Retirement and Unemployment Compensation and Davis Bacon.

The parent companies of some of our members are foreign based, others are domestic. They employ American railway workers to provide services in American cities. Veolia Transportation alone employs nearly 20,000 American employees. Restrictions, such as those suggested by the question, could well be in direct violation of international law and agreements. In the United States, we do not have any bars to companies that are owned by the public (through the stock market), or by other legal entities, whether or not headquartered in other countries. Every one of the AIPRO companies does business both in America and in the international marketplace. Passenger rail is an international market place.

With respect to liability insurance, we recognize that this is a serious issue that must be addressed in the near term. We believe the terms and conditions for competition need to be set by the federal and state public authorities responsible for standards and operations and who will manage the competitions. Under the existing law they will need to decide how to insure for the liabilities that are part of doing business in the passenger railroad industry. All applicants must meet the requirements. These arrangements are common in commuter contracting.

Beyond that we believe a new insurance mechanism for passenger service should be developed that will cover all involved stakeholders. We are in discussions with other stakeholders on this issue.

Concluding Remarks

Mr. Feinsod: In conclusion to this series of questions, we want to make clear we are proposing a positive fundamental change in the American approach to creating an intercity rail passenger option for future generations. Throughout the United States there are identified passenger rail corridors that currently have levels of service that fall well below international passenger rail standards. Yet there are American corridors where passenger service is becoming vibrant. In the Northwest between Portland Seattle and Vancouver the States have invested nearly a billion dollars to upgrade service with sleek European style Talgo trains. In California, on three intercity corridors, the State has invested in infrastructure and capacity. In the Midwest, corridors between Chicago, Detroit, Milwaukee, Minneapolis, Cincinnati, St. Louis and Kansas City have been identified as potentially very productive markets for modern passenger rail services. In the Northeast and Southeast corridors between Maine and Boston, between Harrisburg and Philadelphia, between Albany and New York City and in North Carolina, the passenger rail share is growing and could be accelerated with improved services and new equipment. In every one of these corridors the single common denominator is on ongoing substantial financial commitment from the states.

We propose to take the PRIIA reforms and the existing state commitment to the next level by engaging P3s in an organized fashion with its own special initiative: Public, Private Partnering for Passenger Rail (P4 Rail). All of these corridors are "investment worthy". They need increased frequency of service, better equipment, improvements to infrastructure to allow faster speeds. They require a different commercial and merchandizing vision to improve the passenger rail product encourage ridership and reshape the passenger rail image in the United States. This is what has precisely happened in Germany, Great Britain, and Japan. The introduction of competition is now European Law and the impact is stunning with once stagnant service renewed, rehabilitated and re-introduced to the consumer market with amazing results.

There is broad public support for a revitalization of American passenger rail service. We believe our proposal can be a major element in a roadmap to get us there. We are not calling for something radical, but, for a plan that is consistent with world-wide trends. It is also consistent with the trend in the American commuter rail market and with the fundamental economic tenets of the United States: competition and private sector participation. Indeed, a monopoly model for national service is an outworn and unsuccessful idea. The program we propose will create good jobs while jumpstarting a national passenger service network. Our proposal is in direct line with Chairman Mica's call for increased private sector competition for passenger service. We believe it is the best way to reach President Obama's goal of putting a high speed and intercity passenger option within reach of 80% of Americans within 25 years.

QUESTIONS FROM CHAIRMAN BILL SHUSTER

TO STAN FEINSOD, ASSOC. of INDEPENDENT PASSENGER RAIL OPERATORS

SUBCOMMITTEE ON RAILROADS, PIPELINES & HAZARDOUS MATERIALS

Hearing on Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services

Friday, March 11, 2011

1. The FRA Administrator has committed to move forward expeditiously on the Alternative Passenger Rail Service Pilot Program. If the rule developed under this pilot program allows for freight railroads to subcontract passenger rail operations, will your association's member companies be interested in bidding?

Mr. Feinsod: The short answer is we will be interested in bidding. Further, we will be interested in commenting on the rulemaking process.

However, we are concerned that the Alternative Service Pilot Program as currently written is unduly complex, the time frame for an operation is quite short, and it is not clear that the independent operators can participate in the process in any meaningful way. Simply put, the Pilot Program challenged, without meaningful incentives, the track owning railroads to develop proposals to replace Amtrak on long distance corridors that lose the greatest amount of money.

It should be explained that there are many technical and legal impediments as to why the program was never used. While the intent may have been to stimulate competition, the legislation in reality did nothing to encourage the track owning railroads to participate. Some of the specific hurdles in the law include:

- It appears entire routes must be subject to a proposal with a preference for money losing routes. All carriers along multi-state routes would need to participate.
- There appears to be no authority for public-private partnering applications that include a track owning carrier. Rather, the track owner would need to be the applicant.
- The pilot program left out participation of public sponsoring organizations. We think this is a mistake. However, it does permit the transfer of an operating subsidy no greater than last year's level. This is a positive element. The rulemaking is clearly a condition precedent to hiring any replacement operator.

- As Amtrak is mandated to counter bid, the rules have to provide for a bidding process pitting the petitioning party's bid against Amtrak's.

- Allowable bidders to replace Amtrak on any route are limited to one or more "rail carriers," and only those who "own infrastructure over which Amtrak operates" on the specific route in question per Section 24711(a)(1). A joint venture between a Class I and another company might be workable with the latter as a subcontractor, but the rulemaking could potentially further complicate this.

A pervasive difficulty on many passenger rail corridors involves inconsistent and unpredictable on-time performance which causes unnecessary hardship and, potentially, revenue loss on the track owner. Models such as the Capital Corridor in California, operating over Union Pacific track, can teach us that public private partnering can increase both freight and passenger service capacity by improving scheduling and adding in other efficiencies. It is our view that improving passenger service need not be an adversarial scenario towards our nation's vital freight interests, but instead complementary in execution.

AIPRO has proposed that the program be streamlined and modernized in the Rail Title of the next Surface Transportation Act. First, would it be good public policy to permit a Class One to operate passenger service in partnership with alternative operators of their choosing under federal guidelines. We argue it would be good public policy because we should not view freight and passenger service as antagonistic. It should be complementary to the betterment of society. Therefore, we propose that Section 214 be replaced by a clean process. If a track owning freight railroad and partners propose passenger service over a long distance route, an operating subsidy, no higher than the Amtrak subsidy, should be made available as under Sec. 214. Amtrak should be permitted to make a counter bid. Obviously, liability and other issues must be addressed. The Carrier Team would have access to the P4 Rail Infrastructure Bank we have recommended. Such a proposal could provide freight rails with sufficient incentives to operate a long distance route or two or even a state sponsored route.

We believe this proposal could create a new paradigm whereby passenger service and freight service can be operated without undue hardship on interstate commerce on the one hand and on the other, there can be better on-time performance when both are better managed by **one entity** under broad parameters and service guidelines. Clearly the status quo is substandard. Once a true test or two are implemented, we submit the benefits of competition will be clearly seen.

TESTIMONY

OF

STEPHEN J. GARDNER
VICE PRESIDENT FOR POLICY AND DEVELOPMENT
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BEFORE THE

SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

OF THE

HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE

FRIDAY, MARCH 11, 2011
10:00 A.M.
2167 RAYBURN HOUSE OFFICE BUILDING

Good morning, Mr. Chairman, Ranking Member Brown, and Members of the Subcommittee. I am Stephen Gardner, Vice President for Policy and Development of Amtrak. Unfortunately, Joseph Boardman, our President and Chief Executive Officer, could not be here today, but he sends his regards and enthusiasm for continuing to work with you to advance intercity passenger and high-speed rail.

On a personal note, this is something of a homecoming for me. My eight year career on the Hill began with an internship for this Subcommittee in 2001. Later, as a senior professional staff member for the Senate Commerce Committee's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Operations and Safety, I had the privilege of working with the Chairman and Ranking Member, and many others in this room, on the Passenger Rail Investment and Improvement Act (PRIIA), which was enacted in October 2008 with broad bi-partisan support. I thank them and you for leadership in and support for the enactment of PRIIA, and for the invitation to appear today to discuss how to increase private sector participation in passenger rail.

Amtrak's Progress Since the Enactment of PRIIA

The two-and-a-half years since the enactment of PRIIA have been an extraordinary time for high-speed and intercity passenger rail service in the United States. While most of the attention has focused on projects for new and higher speed services, and on the inevitable bumps in the road in bringing them to fruition, I would like to take a moment to talk about what Amtrak has accomplished during this period.

First, although enactment of PRIIA coincided with the beginning of what is often called the Great Recession, Amtrak's ridership and revenue have both increased. Despite lower gas prices and a struggling economy, last year's ridership broke the all-time record Amtrak set in FY08. This year's ridership is running 6% above last year's record level, and has recently been trending higher due to the spike in gas prices. Our $2.51 billion in revenues in FY10 set another record, and ticket revenue in the first five months of FY11 is running 11.3% above last year.

Operational performance has improved as well. Amtrak's on-time performance increased from 71% in FY08 to 80% in FY09, and to 82% last year. We believe that the PRIIA provisions directed at on-time performance, including Section 213, which gave the Surface Transportation Board jurisdiction to enforce Amtrak's statutory preference over freight trains, have played an important role in this accomplishment.

Amtrak has worked diligently to fulfill our PRIIA requirements. We have met or beaten nearly all of our deadlines, despite the challenges of limited staffing and the wave of additional work accompanying the opportunities presented by the American Recovery and Reinvestment Act of 2009 (ARRA) and the FRA's High-Speed and Intercity Passenger Rail grant program. These requirements include developing new performance measurements and costing methodologies, and completion of approximately a dozen studies. Among other things, we:

- worked with the FRA to develop and institute tracking of the performance metrics and standards required by Section 207 of PRIIA;
- are working with states and the FRA on the new costing methodologies for state-supported trains, and commuter services on the Northeast Corridor, required by Sections 209 and 212 of PRIIIA; and
- published and began implementation of the first round of performance improvement plans for our 15 long distance trains, focusing first on the five lowest-performing trains as required by Section 210 of PRIIA. These plans identify changes and opportunities that could significantly improve these routes, such as the proposed restructuring of the *Sunset Limited* and *Texas Eagle* services which would significantly increase ridership and improve cost

recovery. Many of these opportunities are now dependent upon our ongoing negotiations with our host railroads to implement these plans.

Why Amtrak Was Created and Acquired the NEC

In focusing on the topic of this hearing – what needs to be done to encourage more private sector involvement in passenger rail service – I believe it is helpful to consider the historical backdrop regarding the private sector's role in intercity passenger rail service both before and since the creation of Amtrak.

The reason Congress enacted the Rail Passenger Service Act of 1970 (RPSA) that created Amtrak was that the operation of intercity passenger rail service was no longer a viable private sector business. Vast improvements in highways and aviation after World War II, made possible by huge federal investments in those modes, resulted in dramatic declines in the number of rail passengers. By the mid 1950s, the private sector had ceased investing in passenger rail service, and by 1970 every one of the two dozen private railroads still operating intercity passenger trains was incurring huge operating losses.

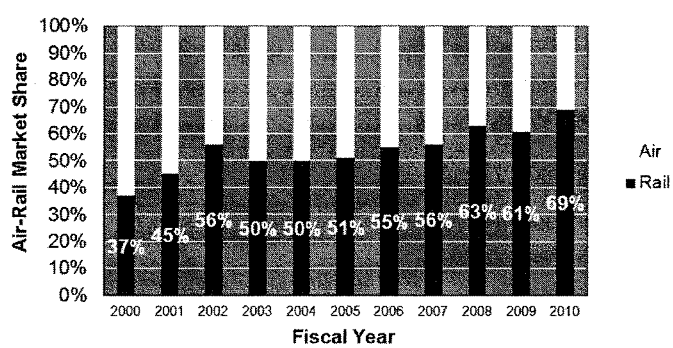
Congress and the Nixon Administration considered a number of alternatives for preserving and improving intercity passenger rail service, including providing funding directly to the private railroads. Ultimately, it was decided to create what became Amtrak, an entity that is predominantly federally owned but is operated like a private company. Congress perceived a need for a single national passenger rail service provider with a mission to improve passenger rail service that could operate an interconnected network of routes, and would achieve benefits and efficiencies from unified marketing and support services.

While Amtrak initially contracted with the private railroads to operate its trains, Congress quickly decided this approach was too costly and did not provide sufficient control to ensure acceptable levels of service. Accordingly, a 1972 amendment to the RPSA, now codified at 49 USC 24305(a)(2), required Amtrak to operate and control directly, to the extent practicable, all aspects of its passenger rail transportation. In 1976, when the bankrupt Penn Central Railroad was relieved of responsibility for operation and maintenance of most of the Northeast Corridor, Congress, after again considering other options, decided that the 363 miles of the Northeast Corridor owned by Penn Central should be controlled, operated, and upgraded for high-speed service by Amtrak.

Since the Northeast Corridor shifted from private sector to Amtrak ownership in 1976, we have electrified the entire route; significantly increased the number of Amtrak trains operated; and accommodated even larger increases in commuter train operations. We have increased maximum speeds from 90 mph to 150 mph between New Haven and Boston, and from 110 mph to 135 mph between New York and Washington.

In the 10 years since the introduction of high-speed *Acela Express* service, Amtrak's share of the air/rail market in the Northeast Corridor – the percentage of passengers traveling by plane or train who choose Amtrak – has increased exponentially. As indicated in the following table, Amtrak's air/rail market share has grown from 37% to 69% between New York and Washington, meaning that we've already captured more than two-thirds of the existing air/rail market. Our air-rail market share between New York and Boston has grown even faster – from 20% in 2000 to 52% in 2010 – due to electrification and the higher speeds at which the *Acela Express* trains operate.

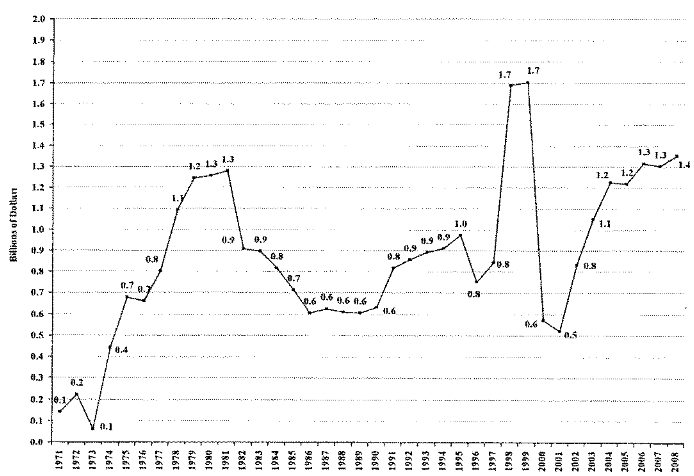
Washington to New York Air-Rail Market



Under every conceivable measure of performance, the Northeast Corridor has experienced dramatic improvements during Amtrak's 35-year stewardship. While the Corridor has not yet achieved the speeds or levels of service realized in other countries, there is a reason for that: the United States has lagged far behind all of those countries when it comes to investments in intercity and high-speed passenger rail.

Federal Funding of Intercity Passenger Rail Before PRIIA and ARRA

The graph below shows total federal funding – including operating and capital – for intercity passenger rail service in each year from 1971, the inception of Amtrak, through 2008, the fiscal year that preceded the enactment of both PRIIA and ARRA. It might make a good elevation diagram for a roller coaster – even though it rarely gets very high – but it's no way to run a railroad.



What you see when you look at the graph is that federal funding for intercity passenger rail service – unlike funding for other modes – has been inconsistent and inadequate since Amtrak's inception. In many years, the level of funding provided to Amtrak was barely sufficient to cover operating losses, leaving little or no money for any capital expenditures even to replace worn out assets, let alone improve service.

What the graph does not show is that, even at its highest levels – the $1.7 billion peak briefly achieved in the late 1990s – U.S. investment in passenger rail service has been a fraction of what nearly every other developed and developing country has been spending. According to the President's recent 2012 budget request, China has been spending between $70 billion and $100 billion per year to develop its high speed rail system, and Spain – which has less than one-sixth the population of the United States – is investing around $13 billion per year in high-speed rail.

The passenger rail funding made available by PRIIA and ARRA has begun the process of leveling the playing field, but there is still a long way to go. The nearly $30 billion in general revenues that have been pumped into the Highway Account of the Highway Trust Fund since FY08 to keep the fund from becoming insolvent represent almost as much federal money as Amtrak has received for capital and operating expenses throughout its entire 40-year existence.

As they say, "You get what you pay for". Until the last two years, the United States has spent very little on intercity passenger rail compared to other countries, and to other transportation modes such as highways and aviation. The intercity passenger rail system we have today reflects this. What Amtrak has achieved in the Northeast Corridor and elsewhere is no small accomplishment in light of the funding provided.

Private Sector Involvement in Passenger Rail Service Since 1971

Using the private sector to advance high-speed rail projects is not a new idea. Over the past four decades, there have been numerous proposals for private sector involvement in the financing, construction and operation of new high-speed rail lines, including serious efforts by established passenger rail operators and states to develop high-speed rail lines in Florida, Texas and Southern California. All of them foundered for the same reason: lack of financial viability in the absence of significant federal funding.

However, the creation of Amtrak did not bring an end to private operation of intercity passenger rail service. While the RPSA makes Amtrak our country's national passenger railroad, it does not give Amtrak any exclusive rights to operate intercity passenger trains. Since Amtrak's inception in 1971, private companies have initiated operation of more than a dozen conventional speed intercity passenger rail services, primarily in niche markets, without public funding support. Most ceased operation after a short period due to financial problems. The most noteworthy was the original Autotrain Corporation, a private company that carried passengers and their vehicles between Northern Virginia and Sanford, Florida from 1971 until it went bankrupt and was liquidated in 1981. (Amtrak's *Auto Train* has operated between the same points since 1983.) Only one of these privately funded services is still operating: the New York City-to-Atlantic City *ACES* train, which has required state subsidies due to higher than anticipated operating losses.

Amtrak generally supports such efforts to augment today's current intercity passenger network. In fact, we are presently working with several private companies that wish Amtrak to assist them in operating other intercity services, including the proposed *Greenbrier Express* between Washington and the Greenbrier resort in White Sulphur Springs, West Virginia. Section 216 of PRIIA encourages Amtrak to pursue operation of privately-funded special trains to minimize federal funding requirements.

Amtrak and the Private Sector

Amtrak's intercity passenger rail service is comprised of three business lines:

- the high-speed Boston-to-Washington Northeast Corridor, all but 56 miles of which Amtrak owns or maintains/dispatches;
- state-supported and other up-to-750-mile corridor services, which account for more than two-thirds of Amtrak's daily trains; and
- 15 long distance routes that provide the only intercity passenger rail service in 23 states and 223 communities, most in rural areas, and account for 44% of Amtrak's passenger miles.

Amtrak's intercity trains, and the four commuter services we operate under contract for regional transportation authorities, are directly operated by our 20,000 employees. However, Amtrak is heavily dependent on privately owned companies that provide a wide variety of goods and services required for our daily operations. Last year, Amtrak purchased over $1.5 billion in goods and services from the private sector. The federal investment in Amtrak – in particular, the $1.3 billion Amtrak received under ARRA for vital capital projects – has spurred an enormous amount of private sector economic activity, and created or preserved many private sector jobs in addition to the 2,800 Amtrak jobs that have resulted from ARRA.

While the RPSA and Amtrak's labor agreements place limits on Amtrak's ability to contract out services, Amtrak does utilize many contracted services supplied by private sector companies. For example, all of Amtrak's commissary services for our on-train food services are provided by a private company, and Amtrak contracts with private companies, including short line railroads, to perform turnaround servicing and daily maintenance of Amtrak equipment at certain outlying terminals.

On state-supported corridor routes, states can and do contract with private companies to provide services other than train operations. For example, food service on the Boston-to-Portland, Maine *Downeaster* service is provided by a private company, and the North Carolina-owned equipment used on the Raleigh-to-Charlotte *Piedmont* route is maintained by the state's contractor.

Amtrak has also been pursuing partnerships with the private sector. We formed a consortium with SNCF, the French national railroad, and Bechtel, an international engineering and construction firm, to pursue a design, build, operate and maintain contract for the proposed but now halted Orlando-to-Tampa high-speed rail project. We plan to participate in other joint efforts with private companies to pursue high-speed rail projects elsewhere. We have also reached out to leading companies around the world to seek their feedback on the "Vision for High-Speed Rail in the Northeast Corridor" study we released in September 2010, the realization of which would require significant private sector participation and financing.

PRIIA and Private Sector Participation

In my two years as Amtrak's Vice President for Policy and Development, I have spent a great deal of time meeting with domestic and international railroad suppliers and operators. The $11.8 billion in additional federal funding for intercity and high-speed rail capital projects appropriated during the past two years, and the unprecedented support for passenger rail from the Administration and many members of Congress, have spurred private sector interest in passenger rail that would have been unimaginable just three years ago. With an unemployment rate hovering near 9%; future oil supplies uncertain; and highway and air congestion that will only get worse, this is very welcome news not just for passenger rail but for our country as well.

In addition to creating the high-speed and intercity passenger rail programs funded by ARRA and the Consolidated Appropriations Act, 2010, PRIIA contains several provisions to facilitate increased private sector participation in intercity passenger rail service. For example:

- Section 214 of PRIIA creates an Alternate Passenger Rail Service Pilot Program that would allow one or more private railroads over which Amtrak operates to receive federal operating subsidies in return for assuming responsibility for the operation of up to two intercity passenger rail routes currently operated by Amtrak.

- Section 217 of PRIIA would allow states that select an entity other than Amtrak to operate a state-supported intercity passenger rail route to request use of Amtrak facilities, equipment and services necessary to operate that route, with the Surface Transportation Board responsible for resolving any disputes.

- Section 502 of PRIIA required the FRA to solicit private sector proposals for development of federally designated high-speed rail corridors, which the FRA did in 2009. The Northeast Corridor, which is not a federally-designated high-speed rail corridor, was also included, although my understanding is that the FRA did not receive any private sector proposals for development of the Northeast Corridor.

The federal/state matching grant programs established by sections 301, 302 and 501 of PRIIA – for capital investments in intercity passenger rail, congestion mitigation, and high-speed rail, respectively – also recognize the role that private entities may play in the operation of intercity passenger rail services funded by PRIIA grants. Among other things, PRIIA defines operators of services over rail infrastructure constructed or improved by PRIIA grants to be "rail carriers" for purposes of participation in the Railroad Retirement and Railroad Unemployment systems and the requirements of the Railway Labor Act.

One matter the Senate considered during the development of PRIIA, but chose not to alter in the final bill, is Amtrak's statutory access rights to the national rail system. These rights ensure Amtrak's ability to operate over rail lines owned by freight railroads and regional transportation authorities, which account for all but 655 miles of Amtrak's current 21,000 mile route system and nearly all of the rail lines on which new 125 mph or less intercity passenger rail service has been proposed. The RPSA gives these rights exclusively to Amtrak, and the Surface Transportation Board has ruled that they are not transferable or assignable to other entities.

Private freight railroads have taken strong exception to proposals to extend these statutory rights to access their property to states or other private, commercial entities. The railroads assert that they consented to the rights Amtrak received in the RPSA in return for being relieved of the legal obligation to operate passenger trains on which they were incurring significant losses, and that requiring them 40 years later to allow states or for-profit companies to use their property without their consent would dramatically alter the terms they agreed to accept, and constitute an unconstitutional taking.

<u>Encouraging More Private Sector Involvement</u>

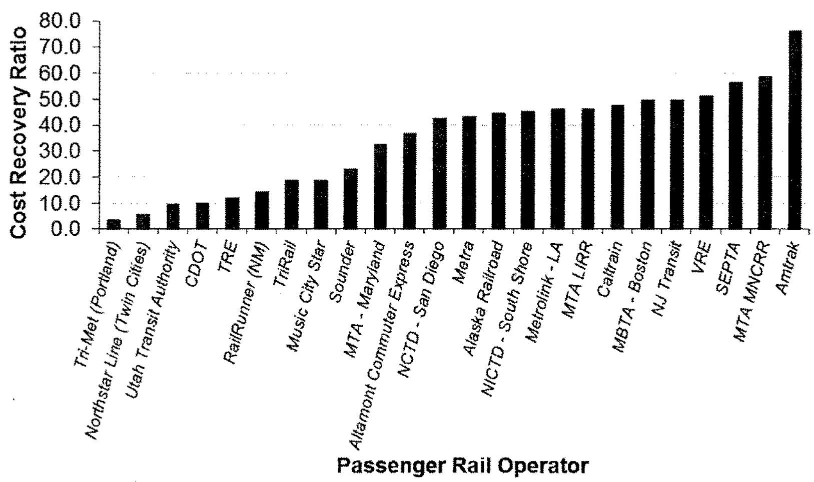
Efforts to encourage increased private sector involvement and investment in intercity passenger rail service should take into account two important considerations that are illustrated by past experience in the United States and other countries.

First, private sector involvement in passenger rail service is not the silver bullet that ensures success. Competition can produce reductions in costs, but it can also lead to fragmentation of services and elimination of network efficiencies and economies of scale, which increase costs.

Internationally, many of the countries that have become world leaders in developing high-speed rail service, such as France and Spain, have chosen to expand and operate their services primarily or exclusively through government-owned entities. Conversely, Great Britain's privatization of passenger rail service and (initially) infrastructure maintenance triggered safety, maintenance and customer service issues that took years to resolve and increased public funding requirements.

Closer to home, public subsidies and wage costs increased after a joint venture entity replaced Amtrak as the operator of Boston-area commuter service in 2003. Massachusetts' lieutenant governor has recently indicated that the state may assume direct operation of the service to remedy service deficiencies.

The table below shows farebox recovery – the percentage of operating costs covered by ticket or farebox revenues – for passenger railroads in the United States for 2009, the most recent year for which non-Amtrak data is available.



You probably expect me to point out that Amtrak has by far the highest reported farebox recovery of any U.S. passenger railroad: 74% in 2009 and 76% in 2010. I'm sure that would surprise a lot of people. But what is also noteworthy is that the larger commuter rail systems, most of which are operated directly by state and regional transportation authorities and provide service over multiple routes, have much higher cost recoveries than smaller commuter rail systems, generally operated by private contractors, that provide service over a single route.

Second, increased private sector involvement is not a substitute for adequate, consistent and assured federal funding. To the contrary, providing adequate, consistent and assured federal funding for intercity passenger rail service is the ***only*** way to attract – and maintain – private sector participation and financing.

Private sector investors expect to realize profits from their investments. However, unlike parking garages and toll highways, existing passenger rail service in the United States – and most other countries – does not generate sufficient operating profits to pay off capital investments in equipment or infrastructure. New high-speed rail lines could generate sufficient revenues to cover operating costs, but building them will require huge expenditures many years before service begins and the first revenue dollar is generated. The only major U.S. passenger rail project funded entirely by the private sector – the Las Vegas Monorail – secured funding before the Wall Street crisis of 2008, and is presently in bankruptcy.

Not surprisingly, potential private sector participants in high-speed rail service have emphasized that significant public funding is an essential prerequisite to private sector involvement in high-speed rail. The private sector goes to where the money is and, in the United States, the federal money has gone primarily to highways and aviation. That has to change to attract private sector interest and investments in passenger rail.

Revitalizing the Supplier Base

Adequate and consistent federal funding are also essential to revitalizing the U.S. supplier base for intercity passenger rail, and creating skilled, well paying manufacturing jobs in this country.

Equipment manufacturing is one example. Building passenger railcars requires costly specialized facilities and a skilled workforce. Between 1973 and 1980, Amtrak orders for nearly 1,000 new passenger railcars kept production lines busy at three different U.S. manufacturers.

But after 1980, the funding roller coaster lurched downward. Amtrak ordered no new equipment for nearly a decade, and all three of those manufacturers exited the industry. The same pattern occurred in the late 1990s, when Amtrak ordered a small quantity of additional equipment, including the *Acela Express* trainsets. When lack of funding precluded additional Amtrak equipment orders for another decade, the manufacturer of the Acela trainsets shuttered its Vermont plant.

The fleet strategy Amtrak issued last year, and will soon update, contemplates consistent purchases of new railcars and locomotives to replace and expand an equipment fleet whose average age is higher than at any previous time in Amtrak's history. This measured approach is both cost-efficient and supportive of the Administration's and Amtrak's goal of revitalizing the domestic passenger railcar industry. Within the past few months, we have placed orders for equipment that will replace the last of the 50- to more than 60-year old "Heritage" cars we inherited from the private railroads and for new electric locomotives for the Northeast Corridor.

Amtrak is also participating in the Next Generation Corridor Equipment Pool Committee, created by Section 305 of PRIIA and comprised of representatives of states, equipment manufacturers, FRA and Amtrak. The committee's purpose is to develop standard specifications for different equipment types and facilitate joint acquisitions of equipment to reduce costs and help revitalize the domestic industry. However, that goal – and the U.S. manufacturing jobs it would create – will not be realized unless there is a long-term federal commitment to adequately fund intercity passenger rail.

Competition Requires a Level Playing Field

The renewed private sector interest in passenger rail is a welcome development. Amtrak is not afraid of competing to operate high-speed and intercity passenger rail services. We have competed for contracts to operate commuter rail services for many years. We believe our highly skilled workforce, and our 35 years of experience in safely maintaining and operating the only high-speed rail line subject to U.S. safety requirements, position us well to become the operator of choice for any passenger rail service. When new companies seek to compete in the U.S. passenger rail market, the first thing they do is try to hire Amtrak employees.

However, competition requires a level playing field. Other companies that wish to operate passenger rail service must be subject to all of the laws and regulations that apply to Amtrak, such as the Railway Labor Act, the Railroad Retirement and Railroad Unemployment Acts, and restrictions on outsourcing work performed by U.S. workers to other countries. Foreign operators should be required to establish U.S. entities to ensure that all of the jobs created by the federal passenger rail funding they receive are based in the United States, as Amtrak's jobs are.

One area where there is not a level playing field today is liability and insurance. Federal law and DOT regulations require all interstate motor carriers of passengers – even if they operate just a single minibus – to be licensed and to maintain minimum levels of insurance. However, there are no comparable licensing or insurance requirements for passenger rail operators. Only Amtrak, which is required by the RPSA to have $200 million in insurance/self-insurance coverage, and recipients of PRIIA grants, are required to maintain *any* insurance. Other operators of passenger rail service do not have to carry insurance even if they receive funding under other federal programs. The gaps in federal law that allow unlicensed and uninsured, or significantly under-insured, operators to provide passenger rail service over the national rail network need to be closed.

<u>The Road Ahead</u>

As we look to the future, it is important to recognize that there is a mismatch between PRIIA, which was designed to preserve and improve the existing passenger rail network, and expectations for transformational growth in intercity and high-speed rail.

PRIIA was not designed for a world in which political instability in the Middle East, and the threat this poses to the country with the highest per capita consumption of oil for transportation purposes, dominates the front pages. PRIIA did not anticipate the unprecedented level of capital funding that intercity passenger rail has received over the last two years; the level of private sector interest this funding has spurred; or the bold and important plan the President recently outlined in his 2012 budget to develop high-speed and conventional intercity passenger rail corridors across the country. Nor does PRIIA address the need, identified by members of this Subcommittee from both parties and in Amtrak's 2010 "Vision for High-Speed Rail in the Northeast Corridor," to create a world-class high-speed rail system in the Northeast.

Congress needs to address the mismatch between PRIIA and current national priorities by realigning national transportation policy so that it can accommodate the new vision of transformational growth in intercity and high-speed passenger rail. At a minimum, this realigned policy framework must incorporate:

- dedicated federal funding;
- a stronger federal planning and project delivery role, including a national rail plan that defines priority projects;
- a national investment strategy that guides Federal and state planning efforts;
- closer coordination among the FRA, states, Amtrak, and host railroads in planning, project management, and project delivery; and
- safety and insurance requirements.

The President's proposal to finally integrate intercity passenger rail into surface transportation reauthorization legislation, including through the creation of a Transportation Trust Fund with a Rail Account, begins the process of developing the path that will enable realization of this new vision, a vision that will include significant private sector participation. Amtrak looks forward to working with the Subcommittee's Members and staff in developing reauthorization proposals for passenger rail, and will provide specific recommendations soon.

Witness Questions for Stephen Gardner (Amtrak)
Submitted by the Honorable Corrine Brown
Hearing on
""Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service""
March 11, 2011

1. Mr. Feinsod's testimony focuses on Germany as an example of a good passenger rail system that we should emulate. According to a recent report from Amtrak's Inspector General, Germany receives $11.6 billion annually in public funding. In fact, from 1995 through 2003, Germany spent $104 billion on improvements to its passenger rail system. We spent just $10 billion on ours during that same period of time. What are the consequences of unstable Federal funding for Amtrak and passenger rail?

ANSWER:

As noted in my testimony, Federal support for Amtrak has at times been barely enough to cover operating costs, leaving little or no room for capital expenditures necessary to replace worn out assets or improve service. Even where funding has peaked relative to other years, the investment opportunities were unpredictable and not sustained. Constructing major, multi-year capital projects is very difficult when funding is unknown from one year to the next. The condition also hinders planning, as multi-year engineering, environmental, and design studies are often needed to establish a pipeline of construction-ready projects for the rare occasions when significant capital dollars are made available. The consequence of insufficient and unstable funding is that major capital projects and procurements are either not advanced, or not executed as efficiently as they could be with dedicated funding.

2. In your testimony, you mention that many of the world leaders in high-speed rail have chosen to expand and operate their services through government-owned entities, as well as finance them with public investment. What are the reasons for this? What are the advantages of this approach?

ANSWER:

I think there are many reasons why world leaders have chosen to pursue high-speed rail through government-owned entities. One is that those entities can plan and deliver service with the public interest foremost in mind. Introducing a private-sector profit motive may conflict with certain public-interest goals. For example, if only money-making routes are pursued, private development of high-speed rail may not provide the network coverage or geographic equity desired by the public. Safety could also be compromised if corners are cut in an effort to maximize shareholder returns. Another reason is that government-owned entities managing projects in multiple corridors can achieve economies of scale. Opportunities for synergism in the combined purchase of equipment and materials across multiple routes, for example, could be lost in private concession arrangements that are often awarded on a one-off, route-by-route basis.

Most world leaders have not pursued the construction of high-speed rail in such a fragmented manner. Finally, pursuing high-speed rail through state-owned railways is a means of reinvigorating them with a more commercially-viable service. The public gets not only a new and convenient mobility option, but also a better performing government enterprise.

With respect to financing high-speed rail, one reason these systems tend to led by national governments, sometimes with private support, are the relatively long planning and construction timeframes associated with their development. The private sector generally expects a financial return on investment in the near term, whereas the construction of high-speed rail lines is a long-term process that rarely generates immediate profits even after completion. Another factor is that justifying public investment in high-speed rail can and should consider a broad range of public benefits – such as those related to mobility, safety, and the environment – while investors are understandably focused on strict cost-revenue considerations. The more narrow justification parameters of the private sector can be a barrier to investment plans that rely solely on private financing. As a result, private sector investment in high-speed rail should be viewed as a supplement to, not a replacement of, public funding sources.

Spain, viewed as one of the most successful examples of high-speed rail implementation, is a good example of the public and private sectors working together. While a public entity is funding and managing the implementation of the country's high speed rail network, it does so with maximum involvement of the private sector through the broad and balanced engagement of engineering, construction and supply entities. While the base specifications, design criteria and performance standards for the infrastructure are controlled by a public entity (ADIF), the majority of the final design and construction is competitively bid to obtain the best value for the public. Operation of trains and specification of the equipment is the responsibility of the national railroad, Renfe; whereas equipment design and manufacture is competitively procured. By 2020, 90 percent of the Spanish population will be within 30 miles of a high speed rail station.

3. In your written testimony, you mentioned that "U.S. investment in passenger rail service has been a fraction of what nearly every other developed and developing country has been spending." What impact has this had on Amtrak's ability to plan and invest in future improvements?

<u>ANSWER</u>:

Again, the lack of consistent, sustained, and sufficient funding has severely hindered Amtrak's ability to plan and execute capital improvements. The disparity in public funding between the U.S. and our European and Asian competitors and trading partners – not culture, geography, or railway ownership and operating structures – is the primary explanation for the difference in the quality and level of service in the U.S. and abroad.

4. You mention in your written testimony that Congress considered a number of alternatives around the time that Amtrak was created, but ultimately opted to create a single corporation that could manage the various assets and support systems required to provide passenger rail service nationwide. Can you expand on this for me? What are some of those assets and systems required to operate service in the U.S., and what are the benefits to having a single operator manage them?

ANSWER:

One of the alternatives to the "national corporation" approach that ultimately led to the creation of Amtrak was to subsidize the private railroads for their passenger-related losses. Another was to create multiple corporations to manage passenger service on a regional basis. For a number of reasons, Congress and the Nixon Administration favored and ultimately enacted the national corporation approach. The rationale for doing so was in part based on the notion that rail passenger service would improve if a single entity was solely focused on developing and improving the assets needed to stem passenger train ridership losses. Among the assets they were chiefly concerned about were marketing, ticketing and reservations systems, and equipment. These assets are of course still central to Amtrak's business today, and while some of them – namely equipment – have been held back by the underfunding issues you've identified, it should be noted that Amtrak has been able to develop these and other assets to the point where our service has attracted enough customers to generate ridership increases in seven of the past eight years.

The benefits of having a single entity manage these assets stem once again from the economies of scale, scope, density and experience. The costs of the core assets needed to provide intercity passenger rail service can be shared across a nationwide network, rather than borne by individual routes. Further, our passengers benefit from integrated systems that allow purchase of one-trip spanning multiple routes from a single point-of-sale. We understand the desire of some to see more competition in intercity passenger rail service, but believe it is critical that policymakers understand and assess the tradeoffs between the benefits of increased competition and the loss in network efficiencies and service integration that could result.

5. Please describe Amtrak's proposal for high-speed rail in the Northeast Corridor, and provide the benefits of the proposal and challenges to implementing it.

ANSWER:

In September 2010, Amtrak released "A Vision for High-Speed Rail in the Northeast Corridor," concept plan demonstrating that "next-generation" high-speed rail service could be developed in the Northeast on a new two-track corridor capable of supporting 220 mph top speeds and facilitating major reductions in travel time.

With 50 million people and 20 million expected to be added by 2040, the Northeast is the world's second-largest mega-region and one of its best markets for high-speed passenger rail service. While prior investments have enabled Amtrak to capture a majority share of the Northeast air-rail travel market, the corridor faces a backlog of investment needs and many segments are operating at capacity due to a doubling of total train miles operated by Amtrak, commuter, and freight railroads over the past 30 years. To begin to address these issues, Amtrak initiated a collaborative planning effort to consider the plans and infrastructure needs of all NEC users. The three-year effort culminated with the release of the Northeast Corridor Infrastructure Master Plan (Master Plan) in May 2010, which defined at a 2030 planning horizon the capital investments necessary to increase capacity, improve reliability, and lower trip times largely through incremental improvements to the existing right of way.

The conclusion of the Master Plan process showed the NEC would still be capacity constrained in 2030, meaning that Amtrak and commuter authorities would have limited future ability to increase service, reduce travel times, and attract new riders. Considering that intercity travel demand in the Northeast is expected to double by 2050, and other modes have very limited growth potential, this suggested a need to analyze the feasibility of a dedicated high-speed rail line in the Northeast.

The vision plan indicates the constructing such a line has the potential to generate a number of significant benefits, including:

- Roughly 3-hour travel times between Boston and Washington;
- A 44% increase in Northeast Corridor ridership over projected Master Plan levels;
- A corresponding 79% increase in passenger revenues;
- The potential for an operating surplus upwards of $900 million;
- Travel benefits to users (in the form of travel time savings, avoid accidents and fatalities, and reduced vehicle operating costs) totaling $5 billion;
- 1.4 million miles in avoided highway travel annually;
- 38 million gallons of gasoline saved annually;
- 97,000 metric tons of greenhouse gases reduced annually;
- 44,000 annual full-time jobs with $33 billion in wages during construction;
- 100,000 permanent jobs earning $25 billion in wages from increased accessibility and productivity gains;
- 7,100 new rail operations jobs earning $1.4 billion in wages; and

- Significant capacity for future growth (less than 25% of the system's capacity would be utilized in 2040).

Because of these anticipated benefits, a preliminary benefit-cost analysis of the system indicated that it would yield a positive benefit-cost ratio of between 1.1 and 2.3 (depending on the discount rate used), despite its significant $117 billion estimated cost.

Clearly, the lack of a dedicated, multi-year stream of capital funding will be a significant challenge in implementing it, as will the significant environmental and other regulatory review processes associated with a project of this magnitude.

We plan to take an incremental approach, beginning in FY 2012 with a proposed $50 million investment to begin design work and some preliminary engineering on the Northeast Corridor Gateway project, which will provide additional capacity into and through Manhattan and is needed to support next generation high-speed rail. We will also begin planning for two new high speed tracks between Newark and Philadelphia, which will form the first minimum operating segment of the proposed system. It should also be mentioned that a Programmatic Environmental Review (Tier 1 NEPA) must be completed for this segment. We are working with the Federal Railroad Administration, the sponsoring agency managing the environmental review, to find ways to streamline and expedite the process.

Meanwhile, the entire next generation high-speed rail plan is undergoing peer review by experts from around the world, and will be subject to considerably more planning and refinement moving forward.

QUESTIONS FROM CHAIRMAN BILL SHUSTER

SUBCOMMITTEE ON RAILROADS, PIPELINES & HAZARDOUS MATERIALS

"Hearing on Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services" on Friday, March 11, 2011.

1. Which routes have the most problem with on-time performance? How is Amtrak trying to address these problems?

ANSWER:

The two worst performing routes in Fiscal Year 2011 are the Empire Builder and the Michigan Service.

Through February of FY11, the Empire Builder arrived at the endpoint on-time 45.2% of the time. There are two major causes for this poor performance unusually severe weather along the route which caused congestion issues and weather related engine problems and slow orders between Grand Forks and Minot, ND on the BNSF railroad due to historically high water levels in Devil's Lake.

We are working closely with BNSF to monitor the Devil's Lake water levels and have developed contingency plans to operate over a detour route should the high water render the current route impassable. We do anticipate further weather delays through the Spring as the BNSF railroad has historically suffered frost heaving that impacts the track structure on the route of the Empire Builder following severe winters. Again, we are working closely with the BNSF to monitor the situation and implement tactical adjustments to the operation of the train as situations warrant.

The Michigan Service through FY 2011 arrived at the endpoint on-time 45.2% of the time. The major cause for this poor performance is a reduction in FRA class of track along a portion of the route between Battle Creek and Dearborn, MI by the Norfolk Southern railroad. As a result of the reduction from Class IV to Class III, top speeds along the route were reduced from 79 miles per hour to 60 miles per hour. We have recently reached agreement with Norfolk Southern to lengthen Michigan schedules to reflect the slower top speeds.

While there have been no changes in track class or operating speeds, we are now working with the CN Railroad to coordinate the NS schedule revisions with the schedules for segments of the route that operate over the CN. We anticipate implementing new Michigan schedules in early summer to reflect the new, longer schedules in order to improve the performance of the route.

2. Please discuss your work to improve cost recovery, on-time performance, and customer satisfaction on your worst-performing long distance routes. For example, the Sunset Limited from New Orleans to Los Angeles has the highest per rider subsidy and worst cost recovery of any long-distance route. How can you make this is a more effective, less money-losing route?

ANSWER:

As required by Section 210 of the Passenger Rail Investment and Improvement Act of 2008 ("PRIIA"), Amtrak is developing Performance Improvement Plans ("PIPs") for each of its 15 long distance routes, beginning with the routes that have the lowest performance (based upon cost recovery, on-time performance and customer satisfaction). In October 2010, Amtrak completed PIPs for the *Sunset Limited* (New Orleans-Los Angeles), *Texas Eagle* (Chicago-San Antonio), *Capitol Limited* (Washington-Chicago), *California Zephyr* (Chicago-Emeryville, CA), and *Cardinal* (New York-Chicago). These PIPs were provided to the Subcommittee and have been posted on Amtrak's intranet site (www.amtrak.com/servlet/ContentServer?c=Page&pagename=am%2FLayout&cid=1241245669222). Amtrak is currently developing PIPs for the second group of long distance routes, and will develop plans for the remaining routes during FY2012.

The PIPs for the five lowest performing routes identified a number of opportunities to improve performance on each of these routes. Amtrak has already begun implementing the opportunities that are within its control. They include marketing initiatives, schedule adjustments and improvements in food service to generate additional revenues; process changes to reduce equipment defects and increase customer satisfaction; and development of a pilot Customer Service Excellence program on the *California Zephyr* route that, if successful, will be extended to other long distance routes.

The most significant opportunities to improve cost recovery, and increase ridership and revenue, identified in last year's PIPs involve three service changes that would require increased or modified operations on Amtrak's host railroads. They are:

- Increasing service frequency on the *Cardinal* and current *Sunset Limited* routes from tri-weekly to daily. On the *Sunset Limited* route, this would be accomplished by extending the daily Chicago-San Antonio *Texas Eagle* from San Antonio to Los Angeles; by operating a daily train from New Orleans to San Antonio that would provide a direct connection to the extended *Texas Eagle*; and by modifying schedules to reduce trip time. The conversion of these routes to daily service, which Amtrak provides on all other long distance routes, would eliminate significant equipment utilization and staffing inefficiencies associated with the current tri-weekly service that increase operating costs. Daily service is projected to generate significant ridership increases on both routes, and nearly $20 million in additional annual revenues.

- Operation of through car service between Chicago and New York via the *Capitol Limited* between Chicago and Pittsburgh and the *Pennsylvanian* between Pittsburgh and New York. This through service, which would eliminate the need for Chicago-New York passengers to change trains and lay over in the Pittsburgh station during nighttime hours, is projected to generate $3.9 million annually in additional revenues due to increased ridership.

Amtrak is currently in discussions with the affected host railroad to develop a plan for switching cars between the *Capitol Limited* and *Pennsylvanian* at Pittsburgh. Amtrak submitted requests to increase service frequency from tri-weekly to daily on the *Cardinal* and current *Sunset Limited* routes to the host railroads over which these trains operate. Some of these host railroads have taken the position that the operation of four additional Amtrak round trips per week would trigger a need for major Amtrak-funded capital investments to increase capacity on their rail lines. Amtrak is continuing its negotiations with these railroads.

In addition to the performance improvement initiatives identified in the first round of PRIIA Section 210 studies, Amtrak placed an order for 130 new single level cars in July of 2010. The delivery of these cars over the next few years will trigger performance improvements on the Eastern long distance routes on which most of them will be deployed. The acquisition of these cars will enable Amtrak to retire 50 to 60-year old "Heritage" cars that were built in the 1940s and 1950s for the private railroads whose passenger service Amtrak assumed in 1971. Among other things, the new cars will enable Amtrak to increase passenger capacity and revenues on trains that are often sold out, and will reduce the costs, mechanical failures and customer dissatisfaction associated with operating equipment that exceeded its useful life decades ago.

3. Committee staff were briefed on Amtrak's FY 2010 Budget Request last month, and were told that in FY 2010, Amtrak only needed $430 million of the $563 million the railroad was appropriated for operating expenses, and used the rest of the operating funds for capital projects and debt service. Why then are you requesting $616 million for operations in FY 2012?

ANSWER:

Discussion of differences in FY2010 Actual operating results and the FY2012 Grant and Legislative Request

	$ Millions
Decrease in funding requirement due to increased revenue projections	(223.7)
Agreement Labor related inflationary increases	190.1
Operating costs associated with ARRA capital investments	39.1
Increase in benefit costs due to utilization	38.0
Additional costs to execute PRIIA compliance strategies	35.7
Operating costs associated with other capital investments	29.0
Non-Labor Inflation	25.5
Additional costs due to business growth	21.6
Provision for obsolete materials inventory	12.3
Safety and Security investments	11.5
Corporate contingency	7.9
Authorized positions vacant in FY10	
Other small variances	
Net Subsidy increase in FY12 request since FY10	186.1
Subtotal Agreement Labor related increases	228.1

North Carolina Department of Transportation

AMERICAN ASSOCIATION OF
STATE HIGHWAY AND
TRANSPORTATION OFFICIALS
AASHTO
THE VOICE OF TRANSPORTATION

TESTIMONY OF

PATRICK B. SIMMONS

DIRECTOR, RAIL DIVISION
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

ON BEHALF OF

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

REGARDING
Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services

BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 11, 2011

American Association of State Highway and Transportation Officials
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North Carolina Department of Transportation

Chairman Shuster, Ranking Member Brown and Members of the Committee, thank you for the opportunity to testify today on Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services. My name is Patrick Simmons and I am the Director of the Rail Division of the North Carolina Department of Transportation. I also serve as a member of both the PRIIA Section 209 State Working Group as well as the PRIIA Section 305 Next Generation Equipment Committee (which I will go into greater detail later). Today I speak on behalf of the American Association of Highway and Transportation Officials (AASHTO). AASHTO represents all 50 state departments of transportation (DOTs) as well as the District of Columbia and Puerto Rico departments of transportation. My Secretary, North Carolina Secretary of Transportation Eugene Conti serves as Chairman of AASHTO's Standing Committee on Rail Transportation.

State-supported services not only have the most robust growth in ridership and passenger revenues, they also are the nation's laboratory for innovation. As states take the lead in implementing the newly created High Speed and Intercity Passenger Program (HSIPR), it is through the states that opportunities for public private partnership will grow.

States strongly support the need to fund Amtrak and to provide for a national intercity passenger rail network.

States want to provide efficient, high quality mobility for our citizens and we recognize that to accomplish this goal requires many public and private partners.

Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) directs the states and Amtrak to "develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak" related to trains that operated on corridors of 750 miles or less. The intent of Section 209 is to ensure that Amtrak treats all states equally and to allocate to each route a proportionate set of costs that reflect the routes' relative use.

State-developed high speed and intercity passenger rail operations are an integral element of Amtrak's intercity passenger rail (IPR) network. These 750-mile or less IPR trains generally operate in corridors within a single state or connect intermediate-distance intercity pairs providing valuable alternative to air or auto travel. Portland (OR) – Seattle, San Jose – Sacramento, Los Angeles – San Diego, Ft. Worth – Oklahoma City, Kansas City – St. Louis, Detroit – Chicago, Milwaukee – Chicago, Richmond – D.C., Harrisburg – Philadelphia, Buffalo – Albany, Hartford – New York, Portland (ME) – Boston and in my home state Charlotte – Raleigh, North Carolina. These are just a sampling of the corridors being served by Amtrak in the intercity market.

Today, Amtrak provides state-supported passenger rail service in 15 states, generally offering a turnkey operation that may include rolling stock, on-board operating crews, station staff, management and administrative support, maintenance of equipment, maintenance of way (tracks and signals), marketing and advertising, reservation sales and ticketing. The 1970 Rail Passenger Services Act (RPSA) created the framework for individual states to request these additional rail services, and Section 403 (b) of the RSPA allowed Amtrak to be reimbursed by the states for these services. This policy established that the direct operating losses of a corridor service must be covered through a combination of farebox revenues and state support.

Under the provisions of PRIIA Section 209, all states must pay the operating and capital costs associated with their corridor routes. Over the last year, Amtrak and the States have been charged with working collaboratively to create a methodology to set a fair and equitable basis for the direct costs and a portion of shared/indirect costs, plus an annual capital charge for Amtrak-owned equipment and facilities used for these IPR trains. Once Section 209 is implemented, the current 36 trains that have historically been paid by Amtrak will now become state-supported IPR trains consistent with the other 74 state-supported trains.

States need a consistent budget planning process with Amtrak to develop costs and revenues for IPR services, which, in turn, will help states secure stable, predictable funding sources to support and expand Amtrak-operated, state-supported IPR trains. Such efforts are critical in supporting state policy-makers as they initiate long-term planning and investment strategies to properly understand current costs and to project costs associated with future regional intercity passenger rail service as part of states' multi-modal transportation investment plans.

The direct benefits of IPR investment include: reduced train travel times, increased service frequencies and reliable schedules that build ridership and reduce operating costs. Indirect benefits include reduced traffic congestion, improved regional air quality and job creation and economic growth.

By working through this process of a more transparent accounting and methodology system at Amtrak, States are now able to see the fully allocated costs associated with their individual routes and the break down in how these services are delivered. Why is this important?

In order to look at private investment in intercity passenger rail – one must know the true costs associated with that service. By having a menu-list of items that Amtrak provides a state for a state-supported corridor allows both parties to work toward controlling and in some cases reducing costs based on a number of factors.

As has been mentioned, statutorily states can look at other entities to provide intercity passenger rail service. With the new accounting system and cost allocation, states and entrepreneurs will be able to see exactly what the charges are for providing this service.

Some examples of innovation include: In North Carolina we own and maintain our equipment and stations, thus the cost associated by Amtrak for these services in our menu-list of items is lower. As we have reduced travel time in our major market, we have eliminated the need for food and beverage service and now provide on-board vending machines. For stations that are essential for service but that do not generate revenues sufficient to support their being staffed by Amtrak, are staffed through a private staffing contract. These employees provide an essential presence at many of our stations although they do not engage in ticket sales nor handle baggage.

In Maine, the Northern New England Passenger Rail Authority contracts out the food and beverage and turn-around maintenance servicing. In California, the Capitol Corridors has opted out of the Amtrak Call Reservation Service and Caltrans not only owns its own equipment but jointly owns a maintenance facility as well. Stations are another example of where private industry, local governments or other investors could offer services that in some cases are provided by Amtrak.

Two areas that Amtrak has a great advantage over other carriers is their ability to provide liability insurance for passenger rail service and their statutory right of access to operate over freight rail lines. Amtrak offers this access right for a reduced price on intercity passenger rail routes – a huge cost savings to the states.

States pay for annual insurance premiums through an allocated contribution as part of the Amtrak national system. Such economies of scale provide a significant advantage for states and to Amtrak. As insurance is a necessary component of the business, we recommend Congress authorize an analysis to evaluate establishing a national insurance pool for intercity and commuter providers?

A birthright of Amtrak is it pays a legislatively mandated access rate to Class I host railroads that is approximately 20% of the amount a commuter railroad pays for similar access. Under an alternate operator scenario, should a state or state-supported agency select an operator other than Amtrak, we urge you to consider allowing the new operator or IPR agency full utilization and use of Amtrak's access rate to the Class I Host RR.

This birthright also is a critical element in development of the Southeast High Speed Rail Corridor (SEHSR). North Carolina has sponsored operation of the Carolinian between New York City and Charlotte, North Carolina since 1990. Last year farebox revenues paid for 78% of the train's annual $20 million operating costs. The train operates over three host railroads: Amtrak in the Northeast Corridor, CSX Transportation from Washington, DC to Selma, North Carolina, then over the North Carolina Railroad Company operated by Norfolk Southern Railway. The highly successful Carolinian operation foreshadows the strong performance projected for SEHSR at build out.

Our current operation, an earlier report from USDOT to the Congress, and our plans for SEHSR all point to an unusual outcome: if the public invests in the infrastructure costs, operation of the trains would require little or no subsidy. In fact, the SEHSR service is projected to provide a concession opportunity or public private partnership.

The issue of access and at what cost will determine whether this will be a monopoly or a genuine public private opportunity. The Committee will hear testimony today from other witnesses about how access is provided in other countries. Elsewhere access to multiple operators is accomplished in a manner that also protects essential freight capacity and operations.

It also should be noted that any operator of intercity passenger service other than Amtrak is required to "look" very much like Amtrak, and comply with the appropriate labor protection provision.

Hopefully Section 216 of PRIIA, through which Amtrak is encouraged to increase the operation of special trains funded by, or in partnership with, private sector operators through competitive contracting to minimize the need for Federal subsidies, can be a good starting point. Together with Section 217 the issue of access and public private partnerships can be developed and assessed.

North Carolina participated in the Section 502 solicitation for public-private partnership opportunities. While this initiative was superseded by the FFY 2009 appropriation for HSIPR, we did discuss this opportunity with several national and international companies. Together we believe SEHSR presents a viable opportunity for public private partnership. I also believe that similar opportunities may exist elsewhere in the country and that we ought to identify and consider them more fully.

Section 208 of PRIIA required Amtrak to evaluate the worse performing long-distance route and develop plans for improvement, why not also examine the best-performing routes and evaluate whether there are steps that can be taken to bring them to a break-even or even profitable operation?

Section 305 authorized the Next Generation Corridor Train Equipment Pool comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, interested States, and, as appropriate, other passenger railroad operators. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

Through development of common equipment specifications and coordinated procurement states and Amtrak will realize the benefits of reduced manufacturer development costs help enable recovery of America's rail car manufacturing and supply industry and establish a system for the efficient parts and inventory supply.

North Carolina has built its rail program through a series of incremental steps. Among these steps was to develop our own specifications for locomotives and equipment. We use rehabilitated locomotives and refurbished rail cars, and this enabled us to inaugurate new service last summer. Our equipment is serviced via a mechanical contract. This grants us flexibility and enables us to offer a high level of service quality and to make timely adjustments when necessary.

States support the Buy America principles for new equipment purchases and make two observations about implementation of this standard.

First, to bootstrap the industry will require significant and dedicated public and private funding. Such funding also requires being predictable and sustained over time. Few if any manufacturers are in a position to support equipment development costs on speculation.

Second, the Congress has set different requirements for Buy America content for HSIPR grants to states, for Amtrak, and for commuter rail or transit operators. While states all want to be the site of manufacturing plants and benefit from job creation, we recognize that it is impractical to expect the industry to go from 0% to 100% in a single step. Rather we believe achievement of this goal will be accomplished in a series of steps through collaboration with the manufacturing and supply industry.

North Carolina Department of Transportation

Supplemental Information Sheet

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States for Passenger Rail Coalition web site: www.s4prc.org

AASHTO SCORT web site http://www.highspeed-rail.org/Pages/default.aspx

See also: http://www.bytrain.org/fra/track2/financial_plan.pdf for a copy of the North Carolina's Financial Plan for the High Speed and Intercity Passenger Program, October 2009

Statement of
The Honorable Joseph C. Szabo
Federal Railroad Administrator
U.S. Department of Transportation
before the
Subcommittee on Railroads, Pipelines and Hazardous Materials
Committee on Transportation and Infrastructure
U.S. House of Representatives
March 11, 2011

Chairman Shuster, Ranking Member Brown, and members of the Subcommittee: I am honored to appear before you today to discuss the implementation of the Passenger Rail Investment and Improvement Act of 2008, also known as PRIIA.

Introduction

In response to the tragic Metrolink accident at Chatsworth, California in 2008, Congress enacted the most sweeping single piece of legislation aimed at FRA and the programs we manage since the agency was created in the Department of Transportation Act of 1967. For the first time, in one piece of legislation, both parts of FRA's mission, safety and infrastructure investment, were addressed in a comprehensive manner. Division A of that legislation, the Rail Safety Improvement Act of 2008 (RSIA), was the first reauthorization of FRA's safety program in 14 years. It identified significant new direction, responsibilities and resources for FRA's safety program. Division B of that legislation, the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), began the transformation of FRA's investment programs. PRIIA was the first reauthorization of Amtrak in 11 years, but it did this in the larger framework of intercity passenger rail service that went beyond the traditional view that Amtrak is synonymous with that mode of transportation.

As a result of this legislation, FRA, a comparatively small agency, was tasked with the challenge of taking on significantly expanded missions, which helps to explain why the Subcommittee has chosen to review this legislation in two hearings. While much remains to be done, FRA has made significant progress in meeting the goals of PRIIA.

Implementing PRIIA – the Progress To-Date

PRIIA began the transformation of the Federal role in intercity passenger railroad investment – which we believe should be on a par with the other surface transportation modes. In this regard, PRIIA can be viewed as addressing three issues critical to the future of intercity passenger rail service.

PRIIA addressed the mission of Amtrak: defining the national railroad passenger transportation system, improving and adding transparency to Amtrak's business processes, and setting expectations for intercity passenger rail performance and the roles and responsibilities of Amtrak and the freight railroads that host Amtrak service to deliver on those expectations. PRIIA addressed a new view of the investment relationships needed to deliver intercity passenger rail service. Since 1971, this had been a bilateral relationship between the U.S. Department of Transportation and Amtrak. PRIIA envisioned a trilateral relationship that involves relations among DOT, Amtrak, and the States. Finally, PRIIA addressed high-speed intercity passenger rail service from both the public and private investment perspectives.

The roles and responsibilities for implementing PRIIA are as diverse as the issues that the law addresses. Amtrak, FRA, the Department of Transportation's Office of Inspector General, the Surface Transportation Board, the States and others each found that PRIIA had significant mission shifts and expansion for them.

Implementing PRIIA – the Challenges

PRIIA envisioned roles, responsibilities and relationships that previously had not existed or were being significantly modified. In many ways, PRIIA began the establishment of a new paradigm for intercity passenger rail transportation, which the Obama Administration has expanded on.

None of the stakeholders, and I include FRA in that group, initially had the resources and capabilities for fully participating in the new intercity passenger rail environment created by PRIIA. FRA was sized for a financial assistance program that routinely provided annual operating and capital grants to Amtrak and evaluated applications for financial assistance under the Railroad Rehabilitation and Improvement Financing (RRIF) Program, together with a handful of other grants.

Compounding the challenge of the vastly expanded mission of FRA's financial assistance team, are the significant new responsibilities placed upon our safety program which will be the subject of a discussion with this Subcommittee next week. In balancing resources and priorities, we initially focused on the safety initiatives required by RSIA. Safety is and will continue to be our top priority. However, I want to assure this subcommittee that we are now quickly turning our attention to the outstanding rulemakings required by PRIIA.

When PRIIA was enacted, Amtrak was in a defensive posture. It had just survived yet another decade of limited funding, deteriorating assets, declining on-time-performance on its host railroads, threats to its very existence and was in the midst of a transition in management. While capable in many areas, Amtrak was focused on tactical day-to-day actions of preserving a national system of intercity passenger rail service in a resource constrained environment. Its ability to envision a new model for intercity passenger rail service, with new relationships and stakeholders, was constrained by decades where planning and tactical survival had precedence over planning a strategic vision.

Most States had no passenger rail investment programs, and those that did were primarily focused on continuation of existing State-supported Amtrak service. Most States also had no or very limited long-term vision of a more robust role for rail in meeting their intercity passenger mobility needs, and limited rail expertise. Thus, most States did not have the pipeline of intercity passenger rail projects that had been subjected to the rigorous planning, environmental review, design and engineering that would make them "ready to go" as PRIIA-authorized funding became available. Similarly, most States did not have the relationships with their private sector freight railroads that would be a critical stakeholder in implementing these projects.

Freight railroads were not prepared for public investments in their assets, for the obligations placed upon FRA and the States that required a tangible public sector benefit for the Federal investment, or for the rapid expansion in the interest in passenger rail investment by multiple States.

The good news is because of PRIIA and the Obama Administration's efforts on rail, all of the parties have been rapidly expanding their capabilities. The public sector and the private sector railroads have come to understandings on the roles, responsibilities and obligations that flow from public investment in private assets. Indeed, I am happy to report that States and railroads have reached agreement on the development of most of the major intercity passenger rail corridors where high-speed passenger service will use freight railroad infrastructure.

Under the leadership of Joe Boardman and a new Board of Directors on which I serve as Secretary LaHood's representative, Amtrak is now thinking strategically while not forgetting those essential tactical elements that are important for rail service today. Amtrak can point to 16 consecutive months of record ridership while also producing a visionary plan for high-speed rail on the Northeast Corridor and innovative partnerships with states to participate in the development of high-speed rail elsewhere.

The progress seen in intercity passenger rail over the last two years is due, in no small part, to PRIIA and President Obama's commitment to rail. The President's commitment has given a renewed sense of purpose to intercity passenger rail stakeholders. It also has us thinking about the next steps in the evolution of intercity passenger rail in the United States.

Next Steps

In his State of the Union address, President Obama laid out a bold vision for intercity passenger rail transportation. To realize this vision, we will need to continue to build upon PRIIA. I hope to soon be discussing the role of rail in the greater surface transportation context, but as Secretary LaHood advocates for so passionately, today I would like to highlight the Fiscal Year 2012 budget request and how it proposes a better passenger rail system for the nation.

Section 201 of PRIIA defined the National Railroad Passenger Transportation System. In doing so, PRIIA separately recognized Amtrak's service on the Northeast Corridor, long distance routes of more than 750 miles in length and short distance corridors (routes of not more than 750 miles in length). However, section 101 of PRIIA lumps all of these together in a single authorization. The President's budget request views each of these different services as important to the nation's mobility, but each needs to be viewed as business units or lines treated differently by Federal funding. Thus, the President's proposal would focus the operating surplus of the Northeast Corridor on financing needed capital improvements in the Northeast Corridor. Long distance trains and certain operating and capital costs needed to maintain national connectivity, including the national reservations system, security, training, and other national backbone systems, would be funded as part of a new National Network Service program.

Section 209 of PRIIA requires the establishment of a single, nationwide standardized methodology for allocating the operating and capital costs among the States and Amtrak for trains operated on corridors of less than 750 miles in length or designated as high-speed corridors by the Secretary. We support this provision but in many cases it places additional burdens on the States that could jeopardize valuable and relied upon current passenger rail service. The President's budget recognizes this and provides temporary support to States for operating and capital subsidies of these shorter corridor services. As state rail service evolves with greater state control of their passenger service, the federal grants will shift to high-speed corridor services during their ridership "ramp-up" phase.

Section 205 and Section 211 of PRIIA address the legacy of limited investment in intercity passenger rail that has left Amtrak's infrastructure and equipment in a deteriorated state and the corporation burdened by debt obligations it took on over a decade ago. The public values safe, clean, reliable transportation systems, including passenger rail services. To do this while attracting new riders requires a commitment and priority to fund fleet replacement, equipment, and infrastructure. The President's Budget does this in a new System Preservation Account. Once so improved, the funds must be available to assure that they stay that way.

Section 305 of PRIIA began an effort leading to the development of a standardized pool of intercity passenger rail equipment that provides the cost-effective capacity to move people by rail. We need to take the next step. The President's budget proposes to do this by providing initial capital necessary to procure, maintain and make available to the States and Amtrak, standardized, interoperable 100% U.S. manufactured state-of-the-art rail cars and locomotives. The freight industry does this already and we believe the passenger side should also.

Section 501 of PRIIA defines high-speed rail as "intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour". That definition of high-speed rail needs to be revised as we begin the development of a system that provides 80 percent of Americans access to a high-quality intercity passenger rail network featuring high-speed service within 25 years. The President's budget uses three different descriptions of high-speed rail – Core Express that would connect large densely populated metropolitan areas less than 500 miles apart with trip times of three hours or less at speeds of 125 mph-250mph; Regional high-speed service that will connect medium sized metropolitan areas with frequent and fast service at speeds of 90 mph-125 mph, and Emerging/Feeder high-speed service connecting smaller communities with improved conventional rail service up to 90 mph. This three-tiered approach best balances fast service with the time, distance, speed, and geographic dynamics of our country.

High-speed service around the world, including in our Northeast Corridor, is successful because it has frequent and optimally located connections at intermodal stations where people live and do business. As we move from the programs authorized by PRIIA to those that can meet our expanded vision, we need to assure that this essential element of successful transportation is addressed. That's why the President's Budget leaves no one stranded by fully funding ADA accessibility at all rail stations.

Finally, the President's budget proposes that funding made available for intercity passenger rail should be done so with the same degree of predictability and multi-year commitment that helps define our successful highway and transit programs.

Competition and the Role of the Private Sector

Section 502 of PRIIA, which was designed to solicit private sector initiatives in the development of high-speed rail, did not result in many proposals, in part because the roles of the Federal Government, States and the private sector in developing high-speed rail are still being worked out. Realization of the President's vision for high-speed rail in America will require significant capital investment but also a long-term commitment from government and private enterprise.

The California High-Speed Rail Program anticipates that a third of project costs will come from non-Federal, non-State sources. Florida, before ultimately rejecting high speed rail funding, was preparing to seek expressions of interest from private sector consortiums on a design, build, operate, maintain and finance (DBOMF) arrangement that would have the private sector bear the construction and operating risks of developing high-speed service in the State. Those prospects looked good for the passenger rail industry. More work needs to be done to identify and develop the programmatic structures that will effectively attract private sector interest. Secretary LaHood and I look forward to working with the Congress to better define these structures.

One of the specific issues that you asked to be addressed at this hearing is the potential for competition in providing intercity passenger rail service. I know this Subcommittee has a particular interest in Section 214 of PRIIA. Section 214 would allow for a pilot program involving competition on up to two Amtrak routes. Mr. Chairman, I want to assure you that we will move expeditiously on this rule making. Assuming we have adequate resources in the current fiscal year, we plan to have a Notice of Proposed Rulemaking Making underway later this year.

As you know, states currently have the ability to choose their own operators for rail service. Additional competition may have the potential to improve efficiency and drive down costs. Key considerations include a commitment and dedication to safety, tangible benefits to passengers in terms of fast efficient service, effective accountability for any liability associated with operations, and a level playing field whereby all providers of intercity passenger rail service are railroads covered by the full panoply of railroad laws, as reflected in section 301 (49 U.S.C. 24405 (b), (c) and (d)) and section 214 (49 U.S.C. 24711(c)(3)) of PRIIA.

We at the FRA want to work with you to ensure that the private sector is an active partner in the success of high speed and intercity passenger rail.

Conclusion

In closing Mr. Chairman, I have spent my entire adult life in the rail industry. I have known of and observed FRA for more than 30 years. At no time has there been such a period of transformation in the Agency's mission and its ability to impact the safety and mobility of the American public and the freight on which the world's greatest economy depends. Secretary LaHood and I look forward to working with the Congress to ensure that America can fully realize the benefits of rail transportation.

I would be happy to address any questions the Committee might have.

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Witness Questions for FRA Administrator Szabo
Submitted by the Honorable Corrine Brown
Hearing on
""Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service""
March 11, 2011

1. Under current law, do States have the right to choose their passenger rail operator, or do they have to choose Amtrak?

ANSWER: Amtrak's "monopoly" on providing service over the routes it operates was ended in the Amtrak Reform and Accountability Act of 1997. States are free to choose operators other than Amtrak for services the States support financially.

2. Under current law, is there anything preventing a freight railroad from providing passenger rail service, or contracting with a private operator to provide that service?

ANSWER: No

3. Is Section 214 needed to allow private operators to provide passenger service?

ANSWER: Section 214 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) only addresses freight railroads providing service in lieu of Amtrak over infrastructure they own and does not address the issue of whether other operators can or should provide such service. As noted above, nothing prevents the freight railroads from providing passenger service over the rail lines they own.

4. Has any freight railroad expressed interest in Section 214 to FRA?

ANSWER: The Federal Railroad Administration is not aware of any such expressions of interest.

5. If a private operator wants to provide passenger rail service, what laws would they have to abide by?

ANSWER: First, all rail carriers must comply with the Federal railroad safety statutes and implementing regulations. With regard to employees of such an operator, Section 214 (c)(3), which addresses the possibility that freight railroads would provide passenger service over their lines in lieu of Amtrak, provides that the employees of any person covered by that section shall be deemed an employee of the carrier and subject to the applicable laws and regulations governing similar crafts or classes of Amtrak. I would take this to mean, at a minimum, that the Railroad Retirement Act, the Railway Labor Act, the Railroad Unemployment Insurance Act, and the Federal Employers Liability Act would apply to such service. Section 301 of PRIIA (49 U.S.C. 24405(b)), which addresses the possibility of operators other than Amtrak on lines improved with Federal capital grants to States, provide that the operators are deemed carriers and thus subject to the Railroad Retirement Act, the Railway Labor Act and the Railroad Unemployment Insurance Act.

6. The Passenger Rail Investment and Improvement Act of 2008 reauthorized both of FRA's major programs in one single piece of legislation: Amtrak and rail safety. It provided significant new direction and responsibilities for FRA. The FY2011 Continuing Resolution proposes to take FRA to 2008 funding levels. Please tell me how that will impact FRA.

ANSWER: Funding FRA at FY 2008 levels would have a significant adverse impact on FRA's ability to accomplish its mission, including our ability to assure the safe operation of the rail system of the United States and undertake the financial assistance and oversight responsibilities necessary to provide for intercity passenger rail service, develop high-speed rail in the U.S. and provide financial assistance under the Railroad Rehabilitation and Improvement Financing (RRIF) Program. Since 2008, FRA's financial requirements have expanded to address the mandates of the Rail Safety Improvement Act and the Passenger Rail Investment and Improvement Act and address the inflationary pressures on our base level of expenses. If funded at FY 2008 levels, significant cuts would be required in all of our programs.

7. The President's budget proposes staff increases for FRA which some Members of this Committee have already expressed concern over. Why do you need additional staff?

ANSWER: The Rail Safety Improvement Act of 2008 (RSIA) and PRIIA significantly expanded the mission and responsibilities of FRA. As an example, RSIA expanded FRA's safety mission in such areas as positive train control, safety risk reduction, safety technology implementation and safety enforcement. RSIA recognized the additional demands that these expanded mission and responsibilities would place upon FRA's safety staff and authorized 200 new safety positions. A portion of the positions FRA is requesting in 2012 is to bring our safety staffing levels in line with that authorized by RSIA. In FY 2008, FRA's discretionary intercity passenger rail grant program totaled $30 million. With PRIIA, and the President's vision for high-speed intercity passenger rail program, the level of discretionary funding managed by FRA has grown by orders of magnitude. A portion of the staffing requests in FY 2012 reflects these expanded responsibilities and the need to assure that the funds are spent well on cost-effective projects in such a way as to minimize or eliminate the risk of fraud, waste or abuse of these funds. The positions requested would still result in FRA staffing levels far below that of similarly sized grant programs elsewhere in the Federal Government.

8. Under existing law, States must comply with Buy America for projects that exceed $100,000. There are some exceptions to that law. Some claim, however, that the standard is too difficult to meet and that the Administration will not grant waivers. Can you give us some examples of how the law has worked – where FRA did provide a waiver – and maybe a State that thought it needed a waiver but in fact did not because you located a U.S. manufacturer of the product?

ANSWER: The Secretary and I are committed to a rigorous Buy America program as a means to encourage expansion of our rail-related domestic manufacturing capabilities. I believe that one can see the success of this strategy and our flexibility when it is required in several specific situations. The Northern New England Passenger Rail Authority sought a waiver to buy about 4,000 nuts for track bolts as part of a track rehabilitation program. After checking with the rail supply industry and seeking comments from the public, we concluded (much to our surprise) that these nuts were not available in a reasonable time or at a reasonable cost from a domestic supplier and that the quantity was too small to interest the development of a domestic manufacturing capability. We provided a waiver for that purpose. The renovation of the historic train station in Portland Oregon required special roof tiles, which the State originally believed were only available overseas. While responding to FRA's requirement for documentation, the State found a domestic supplier of the tiles and a Buy America waiver was not required.

9. What is the reaction from manufacturing companies to the Buy America standards on high-speed rail? Are there any companies that would be willing to build plants and create manufacturing jobs here in the U.S.?

ANSWER: The initial reaction from foreign equipment manufacturers was a degree of skepticism that we were serious. Many argued publicly that, at least initially, the high-speed rail program would be lucky if the domestic content of equipment met the Federal Transit Administration standard of 60%. Quietly, however, some manufacturers said they could do better. When Amtrak sought a builder for its long-distance single level cars, the winning manufacturer agreed to bring functions from off shore and set up manufacturing capabilities in an economically-challenged part of upstate New York and to build these 130 cars with a domestic content in excess of 90%. The manufacturer did this because it wants to participate in the high-speed intercity passenger rail program and recognized that not only was a high U.S. content required, it would offer the manufacturer a competitive advantage over those manufacturers that would seek exemptions or waivers from our policy.

QUESTIONS FROM CHAIRMAN BILL SHUSTER

SUBCOMMITTEE ON RAILROADS, PIPELINES & HAZARDOUS MATERIALS

Hearing on Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services

Friday, March 11, 2011

1. Your testimony states that we need to change the definition of "high-speed rail" in the law. (Currently it is top speed of 110 mph.) But you recommend we revise the definition to include:
    - Core express: 125-250 mph, cities less than 500 miles apart
    - Regional high-speed rail: 90-125 mph, connecting medium-size cities
    - Emerging/Feeder high-speed service: less than 90 mph, connecting smaller communities

    How can rail service of less than 90 mph be considered high speed? Why is it appropriate to call all three tiers "high speed"?

ANSWER: The President's FY 2012 budget request proposes for the High-Speed Intercity Passenger Rail (HSIPR) Program the creation of an integrated system of intercity passenger rail services that respond to the needs of the travel market being served. Services such as the *Downeaster* between Boston, MA., and Portland, ME., have demonstrated that 79 mph can play an important role in intercity passenger mobility and community development. In addition, such services serve to "feed" the services operating at higher speeds (in this case Amtrak's Northeast Corridor) by extending the passenger rail trip and may eventually increase their speeds to better serve the developing market. That is why the descriptor "emerging/feeder" is appropriate.

2. Your testimony spoke of needing a level playing field for Amtrak and potential private rail operators, in that all operators have the same labor protection requirements. (This was, in fact, a requirement for the State grant programs in PRIIA.) But what about other Amtrak advantages that private operators do not enjoy, including statutory right of access to freight lines and incremental costs – shouldn't there be a level playing field for these costs as well?

ANSWER: While theoretically an absolute level playing field would be the optimum situation, in practice one must consider the practical limitations to providing such rights to others. Providing the National Railroad Passenger Corporation (Amtrak) the right of access to freight rail facilities at incremental costs was a key component of the Rail Passenger Service Act of 1970 which both created Amtrak and provided the freight railroads with the opportunity to be free of their money losing passenger rail obligations without going through the time consuming abandonment process before the Interstate Commerce Commission. The railroad infrastructure owners are best positioned to identify the terms and conditions under which they would voluntarily grant similar rights to other parties.

3. As I understand it, the President's Budget envisions private sector competition in intercity passenger service. Would you be willing to work with this Committee in crafting a program to shift additional responsibility to the states for corridor service and to create a competitive environment?

ANSWER: The new Federal/State partnerships for capital investments to support intercity passenger rail service and the requirements of section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) represent an entirely new situation than that envisioned in the Rail Passenger Service Act of 1970, creating a role for competition to provide service. At the same time, we need to be mindful of the fiscal challenges facing many of our States, in particular when it comes to providing support for operations. Addressing both the short-term concerns and long-term opportunities should be part of the legislation establishing the high-speed intercity passenger rail service program proposed in the President's FY 2012 Budget as part of a comprehensive Surface Transportation Authorization. FRA would be willing to work with the Committee in crafting the comprehensive legislation needed to establish that program.

4. The President's Budget also recommends that States receive operating support on a temporary basis to offset the additional costs for State-supported corridor service under the new allocation model currently being developed. How would you ensure this was "temporary"? How would States transition away from such operating support?

ANSWER: We believe this transitional assistance can be structured through its statutory authorization or related implementing regulation to address our shared view of the appropriate length of transition. This, in turn, will permit the States to act through their normal legislative process to identify appropriate sources for the operating support, take actions to reduce the needed support, or to develop and implement a plan for terminating the service in a thoughtful and controlled manner.

TTD
A bold voice for transportation workers

WRITTEN STATEMENT OF
EDWARD WYTKIND, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
RAILROADS, PIPELINES AND
HAZARDOUS MATERIALS SUBCOMMITTEE
ON
FINDING WAYS TO ENCOURAGE AND INCREASE
PRIVATE SECTOR PARTICIPATION IN PASSENGER RAIL SERVICE

March 11, 2011

I am pleased to testify on behalf of the 32 member unions of the Transportation Trades Department, AFL-CIO (TTD). I want to thank Subcommittee Chairman Bill Shuster and Ranking Member Corrine Brown for inviting me to testify on the future of the critically important passenger rail sector.

The Transportation Trades Department, AFL-CIO (TTD) represents 32 unions whose members work in the aviation, rail, transit, highway, trucking, longshore, maritime and related industries. For more than 20 years, TTD has advocated for robust federal investment in transportation systems and infrastructure that creates jobs, spurs economic growth and allows passengers and freight to move more safely and efficiently.

Let me say at the outset that I appreciate the Committee's desire to hear from the labor movement on this important transportation policy issue. We have always enjoyed a strong working relationship with members of this Committee on both sides of the aisle and look forward to continuing that relationship as you tackle the nation's most pressing transportation challenges surrounding the mobility of Americans and the safe and efficient movement of goods.

Recently, the TTD Executive Committee met to develop and adopt major policy priorities for 2011. Among the actions taken by the leadership of our member unions was the adoption of a clear policy making the case for Amtrak as the centerpiece of high speed rail in America. That statement, adopted March 3 by our Executive Committee, is attached to my testimony.

Let me start with the views expressed in that statement.

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Amtrak and its employees have a positive story to tell – a story that cannot be ignored as this Committee considers various proposals to advance passenger rail, including measures designed to boost private sector participation. Amtrak ridership is on the rise with growth reported in each of the last 16 months. Annual ridership records were set in seven of the last eight fiscal years. On the Northeast Corridor (NEC), Amtrak is operationally in the black as NEC performance metrics continue to improve. And now that the company has stable senior management with a long-term vision and a Board committed to Amtrak's growth and expansion, the future of the company is promising – that is, if Congress gives Amtrak and its workforce the chance to succeed.

Amtrak has recently offered a vision for growth and improved efficiency, including plans to build the Gateway passenger rail tunnel under the Hudson River and a broad proposal to upgrade and transform the NEC into one of the premier rail corridors in the world. Amtrak is also poised to upgrade its aging rolling stock, and has plans to spend $11 billion over the next 14 years on this effort.[1] Overall, Amtrak is positioning itself as a provider of higher speed rail service in corridors and regions across the country.

I would submit that those who seek to slash Amtrak's budget or privatize services – and in essence set the company up to fail – ignore the fact that the rail carrier and its skilled employees are performing better than at any time in its history. And now it is up to Congress, together with the Obama Administration, to foster – and not derail – the continued transformation of Amtrak as demand for passenger rail service is on the rise.

Amtrak funding is also more stable today than it was just a couple of years ago. In part, that is due to the work of this Committee in passing the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) which marked a significant turn in the history of Amtrak and passenger rail. We have a President who has made it a priority to build and expand the nation's passenger rail capacity. In fact, unlike previous Administrations, the President's recent budget calls for billions in new funding for Amtrak and high speed rail as part of President Obama's longer-term vision. As unveiled last Labor Day, the President plans to make this the generation that rebuilds, expands and modernizes our multi-modal transportation system and infrastructure.

These unprecedented efforts to address our mobility needs are critical for our country, which according to the U.S. Census Bureau is projected to grow by 80 million people in the next 25 years, a statistic that makes our passenger transportation challenges that more daunting. Together, the President's commitments and the foundation established by PRIIA will ensure that millions of Americans will have access to better quality, higher-speed passenger rail in the years ahead. To keep the momentum going forward, it is critical for Congress to fully fund Amtrak consistent with the PRIIA authorization levels.

Let me offer some observations about the private sector's role in our transportation system. Obviously the private sector, together with the public sector, plays an enormous role in building, maintaining and operating the nation's passenger and freight transportation system. The private

[1] The entire fleet plan replacement plan extends through 2040 with a total cost of $23 billion.

sector also plays a major role – one that we are working hard to enhance and increase – in manufacturing the goods and equipment needed to operate, maintain and build our transportation network. Without a strong, well capitalized private sector in our transportation industry, America will not remain the world's strongest economy.

But we must also remember that some aspects of our transportation system are not viable candidates for wholesale privatization. And I would submit that Amtrak and intercity passenger rail in general are best left as a public provider of an important and expanding transportation service. Is Amtrak perfect? No. But it is delivering on its central mission of providing a national and interconnected network of passenger rail that is safe, efficient and accessible to our growing population.

Those who believe that privatization may be a panacea are ignoring the fact that under this model, service would only be provided where it is profitable to do so for private investors and shareholders. This would abandon major regions of the country and leave passengers who need the service – or perhaps live in areas that lack legitimate alternatives – to fend for themselves. None of the world's finest passenger rail systems operate under this type of model. The fact is that their governments are spending hundreds of billions of dollars in capital and are providing subsidies necessary to advance their respective passenger and freight transportation needs. The idea that these systems around the world are profitable and operate independent of government assistance is not supported by the facts.[2]

In the 1990s, British Rail privatized its passenger service as part of a broad based public service outsourcing effort. This endeavor did not increase efficiency but instead unleashed a torrent of problems. Fares jumped, severe layoffs were implemented, and maintenance and safety suffered. In fact while the quality of service deteriorated, accident rates increased. Tragically, these changes came to a head with the Stafford rail crash in 1996. In all, 31 passengers died in this accident which was linked to the problems stemming from privatization. In 1999, after less than a decade of private performance, British passenger rail reverted to a system that is not dissimilar to Amtrak today.[3] But these difficulties with private rail operations are not confined to the United Kingdom. Robert Scardelletti, International President of the Transportation Communications International Union/IAM, in his testimony before the Transportation and Infrastructure Committee on January 27, 2011, provided examples revealing that private operators often have difficulty delivering the service they were contracted to provide.

[2] A study conducted in 2008 by the Amtrak Office of Inspector General in conjunction with BSL Management Consultants responded to claims made by media outlets and in Congressional hearings regarding European passenger train operation profitability. The study found that: 1) European passenger train operations often receive public funding that does not appear on their balance sheets; 2) Although some European companies report a profit, this profit is generated through a large amount of public funding; 3) The average subsidy provided to European train operations is well above the subsidy level provided to Amtrak; and 4) When the relative network sizes are taken into consideration, annual subsidies for European operations are much higher than for comparable Amtrak services. The study is available at: http://www.amtrakoig.gov/sites/default/files/reports/E-08-02-042208.pdf.

[3] For a deeper look into the U.K.'s privatization failures see Elliott D. Sclar, "Amtrak privatization—The route to failure," Economic Policy Institute, 2003.

As members of the Committee probably know, Amtrak's existence can be traced to the formerly private sector passenger rail services run by the freight carriers. But throughout the 1960s, private passenger rail service providers were losing large sums of money and racing toward bankruptcy. The train service these money-losing operations provided was badly deteriorating as equipment was run down, schedules became erratic and unreliable, and as the overall quality of train travel was on a downward spiral. By 1969, these problems led to the merger of the Pennsylvania Railroad, the New York Central Railroad and the New York, New Haven and Hartford Railroad. Despite the merger, the newly created Penn Central Railroad collapsed financially shortly afterward in June 1970 resulting in the largest bankruptcy in U.S. history at that time. Amtrak was then created in 1971 by the U.S. Congress and the Nixon Administration.

In the last 40 years, Amtrak has too often been forced to limp along from one budget crisis to the next. Amtrak has faced chronic under-funding, repeated attempts to break it up, and lacked a long-term commitment that has made it impossible to run the railroad the way it should run. The fact is that no public or private infrastructure operation can succeed if it is always capital-starved and uncertain about the next year's budget. In a capital intensive business like passenger rail, it is impossible to realize the vision of higher speed passenger rail corridors in various parts of the country without a steady and reliable stream of federal support.

Let me also state that if entities other than Amtrak are going to provide passenger service at any level, it must be ensured that the labor protections and statutes that currently apply to Amtrak, apply to these entities as well. Specifically, rail statutes including the Railway Labor Act, the Railroad Retirement Act and the Railroad Unemployment Insurance Act should apply to rail workers. It would make no sense to allow private sector competition but then create an artificial cost advantage over Amtrak based on coverage of federal statutes. In addition, Davis-Bacon prevailing-wage laws should apply to all construction work funded with federal dollars.

Investing and supporting passenger rail can also support our domestic transportation manufacturing sector and create good jobs here in America. Thanks to the Obama Administration's stringent application of Buy America domestic production requirements, which are governed by the Federal Railroad Administration (FRA), federal intercity passenger rail and high-speed rail funding require domestically manufactured rail equipment. FRA mandates not only that taxpayer funds be used only for U.S. manufactured goods and equipment, but also domestic concrete, iron and steel. I submit to this Committee that it is good economic policy to insist that if our country is going to invest billions in our transportation system and infrastructure, those investments must be used to boost and create good middle-class domestic manufacturing jobs. Because high-speed rail development is just beginning, strict adherence to domestic content requirements will afford investors and manufacturers the opportunity to develop their operations early, make the necessary investments to participate in the marketplace and capitalize on passenger rail's long-term promise. In the long-run, reliable and sustainable federal investment will boost private sector industry participation and job growth along the entire supply chain.

It is our sincere hope that the Committee will join us in advocating for Amtrak's transformation which is a success story in the making. Too often in Washington, time is wasted creating new federal programs rather than perfecting the ones we already have. Amtrak is one of those programs. It is not a "Soviet-style" railroad, although I would add that in recent years, Russia has spent more than three times the amount the U.S. has on rail as a percentage of its economy.[4] Throughout its history, Amtrak has been forced to "run a business," so to speak, with inadequate capital. This Committee has a long history of making sure our transportation system has the capital and operating investments it needs to support the world's greatest economy. It is time to stop making Amtrak and its workforce perform miracles on shoestring budgets. The rest of the world seems to understand that when it comes to transportation systems and infrastructure, you can't cut your way to prosperity.

I look forward to working with the Committee to advance passenger rail policies that embrace a robust role for both the public and private sector. Without a federal vision that has at its core sustainable federal funding and a stable Amtrak operation, the goal of boosting private sector participation – including a renaissance in domestic transportation manufacturing – will not be realized.

Thank you for allowing us the opportunity to testify.

[4] Michael Renner and Gary Gardner. "Global Competitiveness in the Rail and Transit Industry," 2010 Worldwatch Institute, Washington, DC, www.worldwatch.org/system/files/GlobalCompetitiveness-Rail.pdf, site accessed March 9, 2011.

TTD

A bold voice for transportation workers

AMTRAK'S ROLE AS THE NATION'S HIGH SPEED PASSENGER RAILROAD

Amtrak plays an essential role in our national transportation network. The time to invest in the railroad's operating and capital needs, support its skilled and dedicated employees, and ensure that our national passenger rail carrier plays a central role in delivering on the promise of high-speed rail is now. We are heartened by President Obama's unprecedented and personal commitment to passenger rail and the vision he has advanced that recognizes the need to finally give chronically underfunded Amtrak the resources it needs to succeed.

We support the President's call in his budget for the infusion of billions more in support of Amtrak's capital and operating expenses as part of his plan to expand investments in a high-speed rail and in the process boost U.S. manufacturing jobs by rigidly enforcing Buy America rules. We also urge the President and Congress to restore the funds cut from Amtrak in 2010, which amounted to a reduction of $275 million below authorized levels. And in 2012 we will work to fully fund Amtrak which is authorized to receive almost $2.2 billion.

Sadly, rather than investing in our future, many in Washington want to drive Amtrak out of business by cutting its budget, privatizing its service and impugning its quality. Although critics would never admit it, Amtrak provides high quality service that is vital to many regions of the country. In fact, this is a new era for Amtrak with on-going performance improvements and increasing popularity among riders.

Amtrak ridership has grown for each of the last 15 months and has set annual ridership records in seven of the last eight fiscal years. On the Northeast Corridor (NEC), Amtrak is operationally in the black as the performance metrics on that part of its network continue to improve. Now that the company enjoys stable management with a vision to grow the railroad, Amtrak is instituting a rapid culture change, yielding positive results for passengers and employees alike. Amtrak's financial standing is improved and its debt load is significantly lower than in years past. In just the last few months, Amtrak offered several new visions for growth and improved efficiency, including plans to build the Gateway passenger rail tunnel under the Hudson River and a proposal to upgrade and transform the capabilities of the NEC. Those who seek to slash Amtrak's budget or privatize services ignore the fact that the railroad is performing better than at any time in its history.

Amtrak privatization is ill-conceived and ignores the lessons of history. When British Rail went private in the early 1990s, fares jumped, draconian layoffs were implemented and maintenance suffered. Service deteriorated rapidly while accidents increased. The story of British rail privatization reached a tragic climax with the 1996 Stafford rail crash, which killed 31 passengers and was linked to the failures of privatization. In 1999, the British government finally gave up on its failed privatization efforts and created a national passenger rail system that looks very much like Amtrak.

Congress created Amtrak after the Penn Central Railroad went bankrupt in 1970. It recognized the importance of passenger rail and the near impossibility of operating this capital intensive system without federal support. We reject the notion that private interests should now be able to take over passenger rail service with track improvements, station assets and rolling stock that exists thanks to decades of federal investments. And those who push for privatization ignore the fact that service would only be provided where it is profitable for private investors and shareholders. To hold passenger rail to that standard would limit service to a few choice routes and abandon riders in the rest of the country. None of the world's finest passenger rail systems are run under such a model. Their governments invest billions in capital and offer subsidies necessary to ensure the highest quality service.

Americans clearly want more transportation choices and a strong passenger rail network with Amtrak at its core is central to that effort. Old and tired ideas that say only the private sector can provide this service must be rejected. Instead, we call on Congress and the President to support and fully fund Amtrak and make this company and its workforce the centerpiece of high-speed rail in America.

Policy Statement No. W11-03
Adopted March 3, 2011

Witness Questions for Ed Wytkind
Submitted by the Honorable Corrine Brown
Hearing on
"Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service"
March 11, 2011

1. **During consideration of the Passenger Rail Investment and Improvement Act of 2008, labor presented a proposal to the Committee that would ensure that if private operators took over passenger rail routes that those workers would be covered under the Railway Labor Act, Railroad Retirement and Unemployment Compensation, and similar laws. What happened to that proposal?**

   Answer:

   We have long fought to ensure that rail workers are covered by the appropriate statutory protections including the Railway Labor Act, the Railroad Retirement Act, and the Railroad Unemployment Insurance Act. These and other rail laws currently apply to Amtrak employees and should likewise apply to any other provider of passenger rail.

   In response to our efforts on this issue, some in Congress want to apply federal railroad laws only to those workers who perform safety sensitive duties. This is an unprecedented step that has no corollary in federal rail law. Thus far, no change of any type has been made to the language that was included in PRIIA.

2. **What are your concerns about privatizing passenger rail? Can you talk about some differences between union and non-union workforces?**

   Answer:

   We do not believe that privately operated passenger rail is economically feasible without significant, on-going federal assistance. Those who argue in favor of privatization ignore these facts and prefer to engage in wishful thinking about the ability of the private sector to cure every ill and solve every problem.

   Workers choose to belong to a labor union because the establishment of a contractual relationship between employers and employees provides a clear set of guidelines to govern work rules, pay, and benefits. This is particularly important in the railroad sector because of the unusual nature of this type of work, including hazardous working conditions and the specialization required. As a result, unionized rail workers are well trained, more experienced, and better qualified than their non-union counterparts.

3. **Another witness used British Rail to describe a successful effort to privatize rail. However, you have raised some serious concerns with the UK's effort to privatize that calls into doubt whether this system is a "success." Specifically, your testimony notes that after British Rail was privatized, "fares jumped serve layoffs were implemented, and maintenance and safety suffered....accident rates increased." In the end, 31 passengers died in an accident linked to the problems stemming from privatization. What lessons can we learn from this as we look toward incorporating the private sector into passenger rail service? Second, as private sector participation increases, what**

protections should we ensure are in place to maintain the highest levels of safety for rail workers?

Answer:

The most important lesson about passenger rail that the United States should learn from the United Kingdom is that we must be guided by a rational assessment of the facts, rather than being swayed by ideological considerations. The British learned a very difficult lesson regarding the risks of passenger rail privatization and the United States should not make the same mistakes. Instead, passenger safety and service quality must guide our nation's passenger rail policies.

As private sector participation grows, safety should be of paramount concern. There are several important steps that must be taken to improve working standards and safety. They include the swift implementation of positive train control (PTC) systems and the implementation of other safety improvements mandated in the Rail Safety Improvement Act of 2008 (RSIA). Predictable hours of service, also provided in RSIA, should include ten hours of undisturbed rest immediately preceding work. These protections will help maintain a high level of safety for workers in the rail sector.

4. **We have heard some concerns raised regarding the Buy America requirements that apply to the recipients of federal grants for high-speed and intercity passenger rail projects. Yet, we believe strongly that the more products that are made in America the more jobs we can create in the U.S. In your experience, has labor seen any positive changes as a result of the Buy America requirements?**

Answer:

The estimates of job creation from infrastructure spending range from 18,000 to 46,000 jobs per billion dollars, depending on the mode of investment. In addition, using American-made materials as required by Buy America maximizes manufacturing employment gains by up to 33 percent. Such requirements ensure that taxpayer dollars create good-paying manufacturing jobs in the United States, rather than having our dollars and jobs shipped abroad. Just as we do not want our dependence on foreign oil to put national security at risk, we must avoid putting our economy and transportation system at the mercy of foreign manufacturing.

The reaction from many manufacturing companies to the Buy America requirements on high-speed rail programs has been overwhelmingly positive. More than 30 foreign and domestic rail manufacturers are committed to locating or expanding their base of operations in the U.S. if they get the chance to provide high-speed rail equipment and materials. For example, Siemens and CAF are manufacturing train cars and other equipment in Sacramento, California and Elmira, New York, respectively; Caterpillar/EMD is building a locomotive assembly plant in Indiana; and Steel Dynamics, Inc. is expanding a steel manufacturing plant in Columbia City, Indiana. These significant, positive results are the direct consequence of the strong Buy America requirements that attach to funding for passenger and high-speed rail programs. We support these rules and applaud the progress that has already been made on this front during a time of economic upheaval and federal funding uncertainties.

QUESTIONS FROM CHAIRMAN BILL SHUSTER

SUBCOMMITTEE ON RAILROADS, PIPELINES & HAZARDOUS MATERIALS

Hearing on Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Services

Friday, March 11, 2011

1. **A competitive passenger rail market should create better service and grow ridership and good jobs. PRIIA includes full rail labor protections to be applied if another operator provides intercity passenger rail service. These protections are in the law. With all of these protections in place, are you agreeable to working with us in creating a competitive market place both in the Northeast Corridor and the State-assisted corridors? If not, why not?**

   Answer:
   TTD unions represent both private and public sector workers and our rail unions have represented private sector workers for over a century. Our concern with privatization of passenger rail stems from an understanding of the passenger rail market, not a resistance to all private sector participation.

   We do not believe that passenger rail is financially sustainable without government subsidies. Assertions to the contrary ignore the historical record, which offers numerous examples of the inability of passenger rail to function in the absence of significant government assistance. Although some commentators point to passenger rail service in Germany and the UK as a model for privatization, they ignore the government funding that is provided in both of these models. The bottom line is that private sector passenger rail requires large-scale, long-term subsidies to operate and that no competitive marketplace can be developed without this funding.

   There are significant barriers to private sector operation of passenger rail routes, whether long-distance or on the Northeast Corridor (NEC). The notion of rail competition in the U.S. is predicated on the ability of private sector railroads to access the tracks at a low cost. However, the freight railroads, which own the vast majority of track outside of the NEC, oppose the imposition of bureaucratic rules requiring them to allow other companies onto their private property without significant compensation. On the NEC, where the track is owned by Amtrak, the creation of high-speed rail will require billions of dollars in capital investments, an economic burden which no private company is likely to assume without guarantees of significant, long-term federal support.

Statement for the Record

Ross B. Capon, President & CEO
National Association of Railroad Passengers

Hearing: Finding Ways to Encourage and Increase Private Sector Participation in Passenger Rail Service

Before the
Subcommittee on Railroads, Pipelines and Hazardous Materials
Committee on Transportation and Infrastructure
United States House of Representatives

March 11, 2011, Submitted April 15, 2011

Chairman Shuster, Ranking Member Brown, and Committee Members, We appreciate this opportunity to comment for the record in this hearing. We also appreciate that the chairs and ranking members of the Railroads Subcommittee and the full committee all recognize the importance of passenger train development in the U.S. That importance is underlined now as gasoline prices again are drive up Amtrak ridership and leave too many Americans without access to trains and with less freedom to travel. That is in part because the U.S. gasoline pump price, with its relatively low gasoline tax, is extraordinarily sensitive to fluctuations in world oil prices.

However, we have a much more positive reaction than Chairman Mica and Chairman Shuster to the Administration's passenger rail program. We have always believed that improvements to existing services are of critical importance to advancing intercity passenger rail in the U.S., including laying the foundation for possible future, world-class high speed operations. We think the agreements negotiated to release funds outlined below, and the service improvements that will result, represent important steps forward,

- Union Pacific / State of Illinois / U.S. DOT -- Chicago-St. Louis, $610 million, March
- Norfolk Southern / State of North Carolina / U.S. DOT – Raleigh-Charlotte, $461 million, March
- BNSF / State of Washington / U.S. DOT – Seattle-Portland, $590 million, February
- Pan Am Railways / State of Maine / U.S. DOT – Portland-Brunswick, $35 million
- New England Central & Amtrak / States of Vermont & Connecticut and Commonwealth of Massachusetts / U.S. DOT – New Haven-Hartford-Springfield-Brattleboro-St. Albans, $52.7 million to Vermont,
- Pan Am Railways / State of Maine / U.S. DOT -- Portland-Brunswick, $38.3 million – January 2010
- New England Central & Amtrak / States of Vermont & Connecticut and Commonwealth of Massachusetts / U.S. DOT – New Haven-Hartford-Springfield-Brattleboro-St. Albans, $52.7 million to Vermont, additional amounts to Massachusetts and Connecticut – December 2010

Among the improvements that will result are:

- 110 mph operation on part of the Chicago-St. Louis line starting in 2014,
- Restoration of double-track to the entire Greensboro-Charlotte section of the NS mainline
- Shortening the New Haven, CT—St. Albans, VT run time of the state supported *Vermonter* by up to 127 minutes

In general, addition of track capacity enhances freight operations because the tracks are there "24/7" and the passenger trains are not.

Significantly, Wisconsin Gov. Scott Walker, after famously rejecting $810 million primarily to extend Chicago-Milwaukee service to Madison, more recently applied for $150 million for Chicago-Milwaukee improvements.

We agree that the Northeast Corridor (NEC) is the nation's premiere showcase for intercity passenger trains. Indeed, Amtrak already has an impressive share of air+rail traffic, and the main, short-term impediment to more dramatic ridership increases is lack of additional trains/trainsets. The problem of limited capacity in this environment drives Amtrak fares up.

If a solid federal passenger train program of capital grants to states had predated the Recovery Act and subsequent High Speed and Intercity Passenger Rail (HSIPR) program funds, one could have expected a greater portion of the latter funds to be directed to very high speed trains. Absence of *any* such program dictated that states like those named above get a significant piece of the action. These states, after all, had the courage to invest in rail before federal support appeared.

As you know, the entire $8 billion in the Recovery Act for intercity trains is small change relative to what would make a noticeable impact in the NEC. Nonetheless, there is a tremendous need both to keep the NEC operating in accordance with the multi-agency NEC Infrastructure Master Plan and to lay the groundwork for a "next gen" Vision, such as Amtrak has laid out. Private investment certainly can play a role in station and station-area development and perhaps in other areas. It is notable that Amtrak believes it can use anticipated future revenues to finance the addition of two cars to each of the Acela trainsets and a portion of the next round of NEC train sets.

We are in general agreement with much of the written testimony of Patrick Simmons of North Carolina DOT. It is important to recognize the two areas where he notes "Amtrak has a great advantage over other carriers…their ability to provide liability for passenger rail service and their statutory right of access to operate over freight rail lines."

The statutory right of access is *not* a license to add new services without regard to the capacity needs of the host railroad. It does, or should, insure that—with recourse to the Surface Transportation Board—a potential host railroad cannot operate in an unfettered manner, simply setting an extortionate price in an effort to block new service. In that regard, we remain concerned at the glacial pace of Amtrak/Union Pacific negotiations over a two-years' old proposal to run daily service over the New Orleans-Los Angeles route that now sees just three round-trips a week. We are likewise troubled by the absence of CSX from the list on page one of this statement.

Thank you for considering our views.

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March 10, 2011

Honorable Dan Lipinski
Member of Congress
1717 Longworth House Office Building
Washington, D.C. 20515-1303

Dear Congressman Lipinski:

Thank you for this opportunity to provide remarks in support of the Buy America requirements for federal investment in high-speed rail.

In concurrence with President Obama and U.S. Department of Transportation Secretary Ray LaHood, the Illinois Department of Transportation (IDOT) endorses the Buy America requirements for federal high-speed, intercity passenger-rail investment. The Buy America requirements build upon the knowledge that:

- rail passenger equipment can and should be manufactured in the United States;
- an orderly transition, such as the retraining of workers and making necessary capital investments, to larger domestic rail content must be encouraged and developed where voids exist;
- the creation of new middle-class jobs and the rebuilding of the domestic rail supply is in the nation's best interests;
- the rail manufacturing industry must receive clear market signals from the federal government to assure stability and encourage the rebuilding of this industry; and
- a connected transportation system, including a high-speed rail network, is necessary to ensure that our nation remains competitive.

The Buy America requirements are especially applicable in Illinois because, as you are aware, the Chicago region serves as the nation's rail hub. In concert with the Obama Administration's "Vision for High-Speed Rail in America," Illinois is striving to implement high-speed, passenger-rail service that will not only represent a natural and logical evolution of our transportation network, but will create jobs for American workers and their families. Naturally, it is of immense value to ensure that high-speed rail network components will be produced within the United States.

As you are aware, the Federal Railroad Administration (FRA) is working on final regulations and guidance to implement the Buy America provisions of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Interim guidance stipulates that high-speed rail projects in which costs exceed $100,000 in federal funding are expected to utilize manufacturers or suppliers that maximize domestic content to achieve, as closely as possible, a 100 percent domestic component content. In cases where it is impossible to find domestic bidders, the Obama Administration can issue some flexibility in the form of waivers.

However, we know it can be done. We have seen Europe and Asia make high-speed intercity rail a top priority, realizing along the way the immense advantages that come with highly-developed rail systems, such as a workforce that specializes in manufacturing and increased innovation, and the creation of technical and working-class jobs.

It is crucial that our nation enjoy the same advantages and benefits of a high-speed rail manufacturing and component industry as enjoyed by Europe and Asia. Given our current economic climate with unemployment orbiting 9 percent, it is prudent that American citizens are put to work producing rolling stock and rail infrastructure components. The Buy America provisions demonstrate a strong governmental commitment that will help rebuild and strengthen our steel, iron and manufactured industries and create rail supply chains to service both domestic and foreign markets.

Thank you for your interest in Illinois' transportation system. We appreciate your consistent support of both national and statewide transportation issues. If you have questions or need further information, please call me.

Sincerely,

Gary Hannig
Secretary

cc: Congressman Jerry Costello
Congressman Randy Hultgren
Congressman Tim Johnson