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

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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

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