Testimony of

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"The Federal Railroad Administration's High Speed and Intercity Passenger Rail Program: Mistakes and Lessons Learned"

Before the
Committee on Transportation and Infrastructure
United States House of Representatives

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Chairman Mica, Ranking Member Rahall, Railroads Subcommittee Chairman Shuster, and Ranking Member Brown, Thank you for the opportunity to appear today, and for scheduling a hearing on this vital program.

Perhaps the most singular lesson learned is that it takes a federal partner to advance passenger train improvements. We regard the program as critically important, successful, and appropriate to the current stage of U.S. passenger train development.

We understand that, for some, the term "high speed" has created expectations at odds with reality, since this term is often used to refer to trains going faster than 150 mph.

It was essential to use a substantial part of these funds on upgrading conventional services. That is partly because, in spite of pleas from states for over 15 years, federal funds generally have not been available to support state investments in conventional intercity passenger trains. It is hard to generate state funding for rail capital improvements when the federal match is zero, even as the federal government provides generous matches for road and aviation investments. One notable exception is also a success story -- the Keystone Corridor, where Amtrak was able to match Pennsylvania's investment.

At an April 16, 2009, news conference, President Obama stated in part, "The first round of funding [will use] infrastructure to increase speeds on some routes from 70 miles an hour to over 100..." Also, the program name became "High Speed *and* Intercity Passenger Rail" (HSIPR) to emphasize that upgrading conventional lines not generally considered "high speed" is an important part of the program. Some use "Higher Speed" (HrSR) to refer to conventional upgrades. Indeed, since both types of service are intercity, the program name might well be

"High and Higher Speed Intercity Passenger Rail." But semantic quibbles should not obscure program's valuable, ongoing work.

The need for conventional train development can be observed in nations with well-developed high-speed rail, and in the U.S.

Intercity Passenger Rail Travel in France	Annual Ridership (millions)
Domestic intercity	360.076
International	23.819
Total intercity	383.895
TGV	114.395
TGV share of total intercity rail	29.8%
Non-TGV share of total intercity rail	70.2%
Commuter	*694.2*

Source: International Railway Statistics, 2009 *(UIC)*

In the U.S., the point is made by the existence—in spite of federal policy—of well-developed, successful passenger train programs that enjoy strong support. California's three corridors, for example, account for 18% of all Amtrak passengers (not passenger-miles) nationwide. The *Downeaster* service between Portland ME and Boston, which many in advance had predicted would flop, had more than 519,000 riders in Fiscal 2011, up 8.6% from 2010.

While a handful of states improved their train services without federal help before 2009, the scale of work needed for an efficient network depends on federal leadership backed by an ongoing financial commitment.

The glaring hole in federal policy began to be fixed in a small way with $30 million in Fiscal 2008 and $90 million in Fiscal 2009. The big break for passenger rail came with the Recovery Act in February, 2009, and $2.5 billion in regular Fiscal 2010 appropriations.

It is not surprising that the huge, sharp jump in program size had its time-consuming growing pains. FRA simultaneously had to ramp up staffing and to make sure that a solid foundation would be laid for an ongoing program. Since much of the funding supported public investments in private-sector railroad facilities, there were predictable tensions between the railroads looking out for their shareholders and FRA's responsibility for protecting taxpayers' interests. It is disappointing that CSX has yet to sign an agreement. The projects are required to maintain the fluidity of the freight network and generally *improve* freight operations because added track capacity is available 24/7 but added passenger trains only use this capacity a part of that time.

Based on our conversations with the states, and on the agreements in place, FRA handled this well. As California Division of Rail Chief Bill Bronte told us, FRA

> "was given an almost impossible task in switching from a regulatory/safety agency to a brand-new grant program. There was general guidance in PRIIA that gave them a very, very skeletal framework to work from: setting up evaluation standards, the various types of rail (HSR vs. HrSR)…All things considered, given what they did in the time they had, it was incredible. Have we always agreed with them? Heck no. You'll run into that with any program, but more so with a brand-new one. For all the things they had on their plate that they got done, you can disagree with the policies, but not with the efforts and the outcome."

There was an inevitable conflict between the desire that we all had to see money flowing quickly, and FRA's concern about developing that "solid foundation." There has also been concern that FRA could have been more flexible in dealing with states that had already-well-developed rail programs as opposed to those which did not.

But here is the silver lining. Now, when many cry for "more stimulus" and Americans need more jobs, the rail program is just starting to generate valuable jobs in a much bigger way.

Aviation Trends Highlight Need for Passenger Train Development: Some have been predicting the collapse of short-distance aviation when the next oil price spike hits. This prediction seems to be coming true already, in a gradual fashion. Department of Energy statistics show that even undercapitalized Amtrak is 14% more energy efficient per passenger-mile than domestic airlines [Amtrak 2,435 BTUs per passenger-mile vs. airlines 2,826; Table 2.12, 2009 statistics in *Transportation Energy Data Book: Edition 30-2011*, Oak Ridge National Laboratory].

The following reports suggest that, unless passenger rail development is strangled by inadequate funding, demand for trains will continue to rise.

- AP on Nov. 29: "US Airways' round-trip fare from Pittsburgh to Philadelphia will jump nearly 500 percent early next year once Southwest Airlines drops its nonstop service between the two cities. The nonrefundable round trip fare, not including taxes and fees, is now $118, but will jump to $698 after Southwest ends its service on Jan. 8, the Pittsburgh Post-Gazette reported Tuesday [Nov. 29]…Travelers willing to fly through airports in Detroit or Washington, D.C., will still be able to get fares under $200 – but with travel times of four to six hours, counting layovers. That means it will likely make sense for many frequent travelers to drive the 300 miles between the cities." Or, NARP would add, they might consider the train, particularly if service expanded beyond today's single departure.

- AP reported Nov. 27, "The little planes that connect America's small cities to the rest of the world are slowly being phased out. Airlines are getting rid of these planes — their least-efficient — in response to the high cost of fuel. Delta, United Continental, and other big airlines are expected to park, scrap or sell hundreds of jets with 50 seats or fewer in coming years. Small propeller planes are meeting the same fate. The loss of those planes is leaving some little cities with fewer flights or no flights at all… [Jet fuel prices are] at $3.16 per gallon today, up from 78 cents in 2000. That's changed the economics of small planes…A Delta 50-seat CRJ-200 made by Bombardier takes 19 gallons of fuel to fly each passenger 500 miles. Fuel usage drops to just 7.5 gallons per passenger on Delta's 160-seat MD-90s over the same distance…Lynchburg, Va., lost Delta's three daily flights on 50-seat jets earlier this year, although US Airways still flies similar jets there…Lynchburg is the home of the 2,000 workers for French nuclear services company Areva, and its largest international destination had been Paris by way of Delta's Atlanta hub…Continental's effort to get rid of its 37-seat planes shows how eager airlines are to quit flying them. It has 30 of the jets under lease, some until 2018. Twenty-five are grounded. The rest are subleased for $6 million less than Continental is paying for them."

- *Financial Times* [Nov. 30 print edition] quoted analyst Helane Becker, with Dahlman Rose, on the AMR Corporation bankruptcy: "During restructuring, AMR should remove unnecessary aircraft and capacity and [that] will allow AMR's competitors to [push] load factors and pricing higher."

"Steak vs. Peanut Butter": We understand Chairman Mica's strong support of the development of the Northeast Corridor (NEC). We also support that development both in the Northeast Corridor and elsewhere. Richard Harnish, Executive Director of Midwest High Speed Rail Association and a member of our board, testified before your Railroads Subcommittee on April 20, 2010, "At 220 miles per hour, we can achieve a transformative tipping point where journeys become commutes and business travelers can spend a productive day in a distant city and still be home for dinner."

We believe that the HSIPR program must be national, regardless of how few states are currently ready for very high speed trains. Only 18% of the US population lives within 25 miles of an NEC Amtrak station. If the HSIPR program had been focused solely on the NEC, national support for and enthusiasm for the program could not have been sustained and many projects elsewhere would not have been funded. Moreover, the needs of the NEC greatly exceed the totality of the funding that has been provided, thereby limiting the impact the program could have had on the NEC.

Tax Treatment of Transit Fares vs. Parking: Again, intercity trains at any speed depend on good connections for their viability. Thus I would like to take this opportunity to express concern about the December 31 expiration of the Recovery Act provision equalizing the maximum allowed pre-tax transit and parking benefits. This would hurt the financial viability of transit systems already under stress. It would worsen urban traffic congestion. Letting this provision sunset would reinstate yet another "hidden" subsidy for motorists. Such a policy change would hurt those who cannot or choose not to drive, and would result in a less safe and efficient overall transportation system. Today's *Washington Post* coverage includes the following:

> Metro General Manager Richard Sarles called it "nuts" that Congress would allow the parking benefits to increase while the transit benefits decline.
>
> "We're trying to encourage people to use transit," he said. "To take away half of the benefit doesn't make sense, especially in the worst traffic congested area."
>
> Metro officials have said that the reduction in transit benefits could cause a 2.8 percent annual drop in ridership.
>
> "We're still suffering ridership going down because of the economy," said Jeff McKay, an alternate board member from Fairfax County. "How much ridership will we lose if we raise rates, too?"

Thank you very much for this opportunity to present our views.

Appendix: One Funding Possibility

Build America Bonds: We support restoring this program and making it more rail-friendly. As originally authorized in the Recovery Act, it subsidized 35% of a state or local government's interest payment on the issuance of debt, either through direct cash payment from the Treasury to the issuer, or through a tax credit from Treasury to the bondholder. While BABs could generally be used to finance surface transportation infrastructure, its structure limited the program's ability to help states finance High Speed & Intercity Passenger Rail grants. This was due to the unique public/private nature of most U.S. passenger train operations, coupled with the expectation that any surplus revenue generated from a high-speed/intercity passenger rail facility should be used to pay off construction debt.

As structured, passenger investments from BABs could only happen if the infrastructure financed was 90% owned and operated by a governmental entity, or if 90% of the debt was paid back with public revenue. A state would essentially be required to operate its own railroad in order to qualify as a government use. A service operated by Amtrak is considered a private business use. Given the likelihood of private business use, a state would then have to assume at least 90% of the debt obligation and could not use more than 10% of any revenue generated from the facility to pay-off or secure the debt.

The Internal Revenue Code includes a class of "qualified" private activity bonds, including one for high-speed intercity rail facilities, but the Recovery Act excluded all private activity bonds from receiving BAB assistance. The best way to ensure that high-speed/intercity passenger rail projects are eligible under a future BAB program is to establish the high-speed intercity rail facilities bond as an eligible obligation under the Build America Bonds program.

We also recommend:

- Modifying the definition of high-speed intercity rail facilities in the Internal Revenue Code by lowering the speed requirement from 150 to 110 mph to encompass a broader range of projects and ensure consistency with the definition of 'high-speed rail' in PRIIA; and by including rolling stock (the current definition specifically excludes rolling stock).
- Considering whether other modifications to benefit freight rail projects would be appropriate.

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:
Ross B. Capon

(2) Other than yourself, name of entity you are representing:
National Association of Railroad Passengers

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES — **If yes, please provide the information requested below and attach your curriculum vitae.**

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:
No federal grants, but for absolute transparency, note that we have a contract with Amtrak under which we provide administrative support for the Amtrak Customer Advisory Committee. The total that we received from Amtrak during our fiscal 2010 (which is the calendar year) was $42,525, which represents 4% of our total revenues for the year, which were $1,054,407.

Ross B. Capon
Signature

2 Dec 2011
Date

ROSS B. CAPON

Ross Capon joined the staff of the National Association of Railroad Passenger (NARP) in 1975, becoming executive director in 1976. He was named to the new position of President and CEO in 2008. Mr. Capon's duties include briefing the media on passenger rail issues, testifying before Congress and in administrative proceedings; working with members of Congress to increase funding for passenger rail service; and coordinating among state and regional associations of railroad passengers on issues that affect passenger rail.

He helped establish the Dr. Gary Burch Memorial Safety Award that the family of Dr. Gary Burch presents annually to a railroad employee judged to have done the most to improve the safety of railroad passengers. Capon also helped establish Amtrak's Customer Advisory Committee.

A recognized expert on passenger rail, Mr. Capon is a member of the Federal Railroad Administration's Railroad Safety Advisory Committee, the Transportation Research Board's Committee on Intercity Passenger Rail Systems, and the board of Travelers Aid International. He was a presenter at the 3rd World Congress on High Speed Rail in Berlin. Among his other speaking appearances: *Financing High Speed Rail* conference (Chicago, 2010); U.S. High Speed Rail Association (Washington, DC, 2011); Midwest High Speed Rail Association/All Aboard Ohio fall meeting (Cleveland, 2011); Amtrak's Customer Advisory Committee; Railway Supply Institute; American Association of State Highway & Transportation Officials' Standing Committee on Rail Transportation; American Public Transportation Association Rail Transit Conferences; Society of Government Economists; and the Transportation Research Forum.

Mr. Capon served as special assistant for Railroad Operations in the Executive Office of Transportation and Construction for the Commonwealth of Massachusetts (1971-75) where he helped save the commuter rail network of Eastern Massachusetts. He also worked in Philadelphia for the Religious Society of Friends (1969-71).

He received the Association's George Falcon Golden Spike Award in 1985. In 2000, the Intermodal Passenger Institute honored Capon by presenting him its second annual Robert K. Pattison Partnership Award.

Mr. Capon received his B.A. from the University of Illinois (Champaign-Urbana) in 1969. A native of Newton, Massachusetts, Mr. Capon lives in Bethesda, Maryland, with his wife Louise and their three sons. A married daughter lives in Falls Church, Virginia.