

# AMTRAK REFORM PROPOSALS

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
RAILROADS  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
FIRST SESSION

SEPTEMBER 21, 2005

Printed for the use of the  
Committee on Transportation and Infrastructure



U.S. GOVERNMENT PRINTING OFFICE

25-911 PDF

WASHINGTON : 2006

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## AMTRAK REFORM PROPOSALS

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Wednesday, September 21, 2005

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON RAILROADS, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 10:30 a.m., in Room 2167, Rayburn House Office Building, Hon. Steven LaTourette [chairman of the subcommittee] Presiding.

Mr. LATOURETTE. The subcommittee will come to order this morning. Good morning to everyone. I apologize for being a little tardy. I was at the White House attempting to convince the administration that the suspension of Davis-Bacon on the gulf coast was a bad idea.

This subcommittee hearing will come to order. I want to welcome all of the members today and also the witnesses on today's hearing concerning Amtrak reform proposals.

Back on April 27 of this year, the full committee approved H.R. 1630, the Amtrak Reauthorization Act of 2005. This legislation would provide Amtrak with \$2 billion of authorization per year for 3 years beginning in fiscal year 2006. The bill would also impose certain reforms, such as the requirement that Amtrak provide a separate accounting for each of its lines of business. It would also require that the Federal Railroad Administration oversee all Amtrak expenditures.

Since our passage of H.R. 1630, a number of other Amtrak reform proposals have begun to gain attention. Some of these proposals involve spinning off Amtrak routes to some financially strapped States. Other proposals have taken a more positive approach and seek to establish a new public funding mechanism or promote private financial investment in Amtrak lines. I find the latter proposals particularly intriguing, as they dovetail with the rail provisions that we tucked into the new highway bill.

In case you haven't read all of the fine print in TEA-LU, the bill contains about \$35 billion in low interest loans for passenger and freight rail, as well as a \$100 million annual authorization for high-speed rail corridor development. I want to commend Chairman Young and Ranking Member Oberstar for all of their hard work on this issue, and wish to thank the members of this committee on both sides, particularly my ranking member, Corrine Brown, for their support of passenger rail.

Today the subcommittee will hear testimony from a range of parties, including the Transportation Communication Union, which represents the largest share of Amtrak employees. I look forward

to hearing their recommendations regarding the future of passenger rail.

From a personal standpoint, I just want to say it is my 11th year in the Congress, and it seems when we deal with Amtrak, every year we do this kabuki dance and have to fight and scrap. This year the budget that was sent up was zero, then it went to \$550 million, thanks to some great work by Ranking Member Oberstar and Ms. Brown, up to a decent level. But it seems that we always give Amtrak just enough money to fail, and I would hope that we listen to anybody that has a good idea, a bright idea as to how we can do it better with the goal of having a good, viable, well-financed, well-structured, good infrastructure passenger rail system in this county. That is why we gathered today.

Before yielding, I have one brief housekeeping matter. I want to ask unanimous consent to allow 30 days for members to revise and extend their remarks and to permit submission of additional statements and materials by the witnesses. Without objection, so ordered.

It is now my pleasure to yield to Corrine Brown, our ranking member, for any opening statements she might have.

Ms. BROWN. Thank you, Mr. Chairman, for holding this hearing. I would like to commend you for your strong and consistent advocacy for Amtrak. If it wasn't for your efforts and for the hard work of Ranking Member Jim Oberstar, thank you, Mr. Oberstar, and other members of this committee, Amtrak would have been forced to cease operations this fall. I want to thank you for the people.

At a recent poll, it showed that I guess 70 percent of the people thought that Congress did not share their values, and that was truly an example of not sharing the American people's values.

Last year, Amtrak achieved record ridership of 25 million passengers nationwide, the equivalent of 125 fully loaded 757 airplanes. This is a substantial increase in ridership, which shows me that support for Amtrak is growing. This is a real credit to Amtrak management and David Gunn. I want to publicly thank Mr. Gunn.

Recent polls show that 66 percent of the American people support Amtrak. Not 66 percent from the red States or the blue States, but 66 percent of the people of America.

Congress also supports Amtrak. Now more than ever. The LaTourette-Oberstar amendment to the fiscal year 2006 transportation appropriations bill increased funding for Amtrak by over \$1.176 billion. That is \$1.176 billion more than the administration requested for Amtrak, and \$626 million more than the House Appropriations Committee provided. That amendment passed the House by a voice vote. On the same day, my amendment to preserve long distance routes passed the House by 269 to 152. Now it looks like the Senate is going to pass a \$1.45 billion bill, and I understand the Senate will soon pass a reasonable, sensible Amtrak reauthorization bill.

The fact is that support for Amtrak has never been greater. Amtrak works and the American people depend on it. When our commercial aviation system shut down on 9/11, stranded passengers, including Members of Congress, turned to Amtrak to reunite themselves with their families.

Most recently, Amtrak helped evacuate families in Louisiana displaced by the hurricane. Amtrak fed them and gave them water, more than the Federal Government did. Just think what would have happened if Amtrak was broken up into different companies and if the States had to run the railroads themselves.

But a small minority in this Congress, and I want you to know small, and you know who you are, and one person is not here today, but I want you to let him know I called his name, Mr. Mica, thinks that Amtrak should be eliminated and that we should starve it to death and then privatize the system.

Don't you realize that Amtrak was created because the private railroads could not handle passenger service and didn't want it? They lost money on it. They came to Congress and asked us to take it up. They told us to take their equipment, take whatever we needed and begged us to allow them to abandon the passenger rail business.

Amtrak opponents claim that the private sector can do something cheaper and more efficient. All we have to do is remember this summer when the Acela crisis happened, to realize it is not going to happen. Here we had a private corporation, the Northeast Corridor Maintenance Company, which failed to fulfill meaningful maintenance and inspection responsibility.

Just look at the British experience with privatization and separation of operations from infrastructure and maintenance to understand the devastation such practices can cause.

In March, the chairman and I traveled to Europe to look at the rail network. We learned that former British rail infrastructure management had outsourced all of its maintenance and engineering work. As a result, the conditions of the track deteriorated rapidly. Two fatal accidents in 1999 and 2000 revealed the extent of the deterioration and the company's poor understanding.

Thankfully, the British government learned from their mistakes. The government took back control of the rail network and is now investing billions of dollars in infrastructure, maintenance and other improvements to get the trains back on track.

We should be doing the same thing. We should be investing in our railroad system, just like we invest in other modes of transportation. We spend trillions of dollars to subsidize every form of transportation, highways, aviation, transit, maritime, and Amtrak gets the short end of the stick, and just over \$1 billion a year from the Federal Government.

We spent \$18 billion on aviation security since 9/11, but nothing to secure Amtrak passengers. I read recently that the airlines are looking for another handout from Congress because of fuel prices, about \$600 million in tax relief. I don't see any relief for Amtrak.

We spend \$4 billion a month in Iraq, that is \$1 billion a week, but we can't find \$3 billion to get the Northeast Corridor to a state of good repair.

Halliburton wastes \$7.2 billion of Federal funds at inflated costs billed to the Federal government for nothing but things like sodas, movie rentals, tailor services and equipment. But they just get swept under the rug.

Halliburton billed the Federal Government for 37,000 cases of soda every month at \$45 per case. And we complain about \$3 beverages for Amtrak?

Halliburton spent \$10,000 a day of hard-earned taxpayer dollars to house their employees in Kuwait at a 5-star hotel, instead of moving them to air conditioned tent facilities like the ones used by our troops for under \$600 per day, and we complain about the costs of Amtrak sleeper service.

Halliburton leases SUVs and trucks for as much as \$7,500 a month per vehicle, and then turn around and bill the Federal Government for it. Yet some in Congress complain about the cost of Amtrak workers, most of which will never be able to afford a vehicle that costs \$7,500 per month.

Then there is the TSA, which spends \$1,200 for 20 gallons of Starbucks coffee, \$1,500 for 14 extension cords, \$500,000 to rent tents that flooded in a rain storm, \$250,000 for artwork for TSA's new Crisis Management Center in Virginia, \$30,000 for silk plants and flowers, \$13,000 for lamps, and \$29,000 for art consultants, just to name a few things. And we complain about \$1 billion for a service that millions of Americans rely upon.

We should be ashamed of ourselves. Let us stop nickeling and diming Amtrak to death. Let us stop looking for ways to get rid of our passenger rail. Let's start giving Amtrak the support it needs, and let's get back to solving the real problem this country is facing.

Thank you, Mr. Chairman, for having this hearing, and I am looking forward to the presentations and to asking questions.

Mr. LATOURETTE. I thank the gentlelady. It is now my pleasure your to yield to the ranking member of the full committee, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman. Maybe after that recitation of the ills of Halliburton, I had best submit my statement for the record.

I think you stated the case very well at the outset, Mr. Chairman, when you said over the years, the Congress has given Amtrak just enough to fail. That is a very apt description of it.

I am grateful for your continued support and advocacy for passenger rail transportation, your chairmanship of the subcommittee has certainly demonstrated your commitment to improving rail passenger service and keeping it part of our national transportation landscape, and I really appreciate the ranking member, Ms. Brown, who has led what I can only describe as a crusade in support of Amtrak and demonstrating the effectiveness, the potential and the continued need for rail passenger inter-city service.

I hope your mission this morning was successful, Mr. Chairman. I am sure it was heralded with great applause and love and brotherly affection downtown. I sent the President a letter saying that this was the wrong thing to do.

The prevailing wage in Louisiana, my wife is from New Orleans, we spend a lot of time there over the years, and the prevailing wage is just under \$9 an hour. That is not going to break the bank for anybody. That is not a good prevailing wage in northern Minnesota or Chicago or Cleveland or a lot of other places in this country. Why you would want to take it out of the pockets of the working people, I don't understand.

I said if you don't roll back your decision and reinstate the prevailing wage, at least do what we did during World War II and impose a ceiling on the amount of profit the corporations can take out of those contracts. Put a 25 percent limitation, if that is the amount you are going to reduce the prevailing wage by.

We are not going to fight that battle in this committee, but we have done it and we have done it very well, with your support, in favor of decent wages for construction trades work, working people.

As we will hear the proposals today, we are going to hear a good deal of the magic of privatization. I just want to remind the apostles of privatization that the private sector did run passenger rail, and they ran it into the ground, and they and U.S. Postal Service are principally responsible for the deterioration of passenger rail service in the United States.

By the time Amtrak was created and the last of the railroads had shed their passenger service, the inter-city market was down to just under one-half of one percent of passenger travel. Daily inter-city passenger trains were down to 300 from a high of 11,000.

I remember in our State of Minnesota how the railroads, one after another, petitioned the Interstate Commerce Commission for discontinuance with the help of the U.S. Postal Service, if the Postal Service would take the mail off the Railway Post Office, the RPO, that was worked overnight from city to city, then the railroad could declare that segment unprofitable and discontinue the operations.

So the Postal Service had this great idea of regional distribution centers and the mail from Chisholm, 5 miles away to Buhl, would instead travel 90 miles to Duluth, be worked in Duluth and then go 85 miles back to Buhl the next day, instead of on the RPO being dropped off that night.

Everybody thought that was a heck of an idea. I didn't understand it. I didn't know why you wanted to travel 170-some miles to make a 5-mile journey for a letter. But that is what they did. And those cities also lost LTL, less than carload service. So small towns shriveled up. Passenger service died. Eventually it was all turned over to the Federal Government. That is the history of Amtrak.

When it was turned over, the terminals were rundown, the stations were in bad shape, the passenger cars were in terrible shape, the amenities were minimal, the equipment was prone to failure, and that is what the Congress, in its wisdom before you and I, Mr. Chairman, and Ms. Brown, were elected to Congress, although I was here as an administrative assistant for my predecessor.

So the Federal Government took all the poor and lonely and dispossessed of rail passenger service and put them all into Amtrak, and then expected it to run and be successful. And over the years, again, I come back to your image, just enough money to fail, just to hang on by their fingernails.

In contrast, there is Europe, there is Japan. When I was a graduate student at the College of Europe in Brugge, Belgium, in 1956-57, as part of our study programs, we would go to different parts of Europe and see different economic models. Traveling from Paris to Leon, 288 miles, 4-1/2 hours. As a poor university student, I

could only buy a seat in the last car of the train, so all the soot dumped on us in the last car of the train.

I came back in 1989 as chair of the Aviation Subcommittee, traveled that same linkage, from 4 hours and a half to 2 hours and 1 minute. 184 miles an hour. They did it in Europe. They made the investment.

It was \$12.5 billion the French government invested to build the TGV, and then Germany came with the ICE and Spain with the Talgo and Italy with their high speed train service.

Now, how in this country can you insist on Amtrak being profitable, when the freight rails themselves, year after year after year, have said, and the Surface Transportation Board affirms in every one of its decisions, that they have not achieved revenue adequacy? Well, if they are hauling goods that don't need to be fed and watered and pampered and arrive in the space of a few minutes, then how do you expect the passenger service to do that?

Well, the Brits thought that their system was in such bad shape that it would be a good idea to privatize it. Privatization. Chairman Shuster and I and others on the committee did an infrastructure tour of Europe. We saw the ICE, the TGB, we had briefings on the Spanish Talgo folks. And then we took the TGV through the Chunnel at 186 miles an hour, got into England and went down to 79 miles an hour, and there we chugged along until we got to London.

There we met with the British Parliament Transport Committee and the Transport Minister, who briefed us on their decision in parliament just a few days earlier to appropriate 600 million pounds for the private sector operators of their privatized rail system to bail them out, and the money went to the shareholders. And we asked them, why is it going to the shareholders? Because if you don't pay them off, they will lose faith and pull their money out, and then the whole system will collapse.

Since then, the British government has taken back their inter-city passenger rail and created a government not-for-profit operation called Network Rail, and are putting billions of dollars in to restore the rolling stock and the rail beds and try to revive their system.

We can learn the lessons. There has been a successful privatization in Japan. The Shinkansen, after years of government investment and government shouldering of the burden, spun off this now highly successful rail passenger system to three or four private companies.

But remember, these are high density passenger corridors. You ride the Shinkansen from Tokyo to Osaka, and you are the distance from here to the witness table from homes, from tea bushes, from residences. Every one of those trains is packed, because they don't have a highway system as we have. Their air travel is limited because of the topography. So they have been very successful.

But we can be successful in this country with very different geography, with the vast territory that we have, if we would just simply make the capital investment and not just enough to whet the appetite and let Amtrak limp along.

So I look forward to the hearing today. I am grateful for Chairman Young's strong support of our bill that we moved earlier this

year, the \$2 billion that we have approved for Amtrak is \$2 billion a year, I think is a very important start. The Senate now has legislation they are about to move from committee, and I am very hopeful that we can do something good and lasting and beneficial. Thank you, Mr. Chairman.

Mr. LATOURETTE. I thank the gentleman. I would just remark that in the charts that I delivered in my earlier meeting, the labor in Alabama, the wage rate is \$5.15 an hour.

The gentleman from Florida, Mr. Mica.

Mr. MICA. Thank you so much, Mr. Chairman, and thank you for holding this hearing and the hearings that you have held on reviewing some of the performance of Amtrak and also raising the question today about operation of the Northeast Corridor.

Mr. Chairman, I have a bill that I will be introducing this afternoon, and I hope every member of this subcommittee will join me. This is a very simple piece of legislation. It requires in 90 days that the Secretary of Transportation conduct a competitive tender, a bid offer, to privatize the Northeast Corridor within. Within 2 years, it also would transfer any and all assets to a board.

Hopefully, we could have a Northeast Corridor Compact operating and overseeing the operation of a truly high speed service in the Northeast Corridor. It is long overdue in the United States, and I think this could be a model for high speed service in a dozen corridors across the United States. I think that we will be able to pass this.

First of all, there is a lot of misinformation about operations and privatizations around the world. I want to use a specific model. I spent part of the recess visiting with representatives of Virgin Rail in England.

You have heard a lot of gobbledegook today about what is going on. I have the facts of what is going on and let me compare what we can do in the Northeast Corridor and the lessons we can learn from England.

First of all, the biggest lesson to learn from England if you are privatizing, is not having too many franchises or individual operations. I think they started out with more than 28. They are down to nine or ten, and that was one of the errors that they made. This is a perfect example, what I am going to tell you here, of what we can do and what has been done.

Virgin, some of you know, I guess, Richard Branson. He has, of course, operated air service very successfully and has become very wealthy in the process. He took over two franchises 8 years ago, 1997. So far he has expended more than 2 billion pounds, that is nearly \$4 billion if you look at when the pound was even higher, \$4 billion in two fleets of rolling stock. He acquired the two main routes. The two main routes have 34 million passengers a year. I believe Amtrak has 28 million. These two high speed routes have 34 million.

Virgin's trains have made a profit every year since 1999. From 1999 to 2003, Virgin trains reinvested its profits and in further improvements. In the last 2 years, Virgin's trains have made enough profit to pay a dividend. This is the fact. These are the financial sheets.

In addition, each year they paid an additional 400 to 450 million pounds in infrastructure access charges to network rail. Network rail is the one that actually operates the infrastructure. That did at one point go bankrupt some years ago and it did require a government subsidization. However, they have paid close to \$1 billion almost every year as opposed to the \$1.2 billion or whatever on average we have been giving Amtrak.

In addition, they have paid \$50 million to \$100 million to rail network for infrastructure improvements, and some of that—wait a second, I take that back. There is a subsidization of 50 to 100 million pounds from the Federal Government in U.K. towards that operation. They do bid out all of the services, and the one who provides the service with the best frequency and record of service and performance and the lowest subsidization is paid. So there is a small subsidization, nothing like we have.

So we have a model. The on-time performance was 84 percent last year.

You have heard the ranking member criticize also some of the performance and the time it has taken over the past few years. That is because massive amounts of private capital have been put into the infrastructure, massive amounts, not just from Virgin Express, but also in the system.

So, we can continue to run a half-baked railroad and high speed service.

Now, why am I interested in this? I chair Aviation, and aviation, we are approaching back in LaGuardia, Newark, JFK, maximum capacity. At National Airport, we are approaching again maximum capacity. I visited last year Philadelphia Airport. They are at or exceeding maximum capacity.

So this is an excellent model which we can adopt. Yes, mistakes were made, but the dollars and cents, the facts are here, and it is a sin to abuse taxpayers in the way we are doing.

I don't want to get into the litany of things that we found in these hearings, the loss of hundreds of millions of dollars in food service, the bungling of the Northeast Corridor acquisition, which all of this is now infamous and sets a standard for poor operations.

We also have had, and I think we are going to hear from the folks from Wall Street who are willing to take this corridor over, willing to invest the money and can operate high speed service. It may even make a profit like these folks have made a profit with an absolute minimum of subsidization.

So I ask you to join me, members of this panel, in cosponsoring this legislation. We won't mess around. We will direct the Secretary to do this and we will get it done by legislative mandate sooner rather than later. I thank you for the time and yield back any balance of the time.

Mr. LATOURETTE. I thank the gentleman.

Mr. Oberstar.

Mr. OBERSTAR. I would just inquire of the gentleman from Florida which of my statements he wants to characterize as gobbledegook.

Mr. MICA. Gobbledegook—

Mr. OBERSTAR. What did I say that is gobbledegook?

Mr. MICA. No, I didn't hear you. I didn't hear anyone.

Mr. OBERSTAR. I resent that characterization, since you didn't hear it. You also recited a fact that I cited, so how can that be gobbledegook? If you want to engage in a dialogue, let's have a dialogue, but let's not mischaracterize.

Mr. MICA. I do have notes that were given to me that, again, that no one makes money on passenger rail service. However, I did hear you at the end, and that wasn't gobbledegook, that the Japanese had converted their system. So I would definitely say for the record that that part was not gobbledegook.

I have notes from what Ms. Brown said, that \$3 billion, for example, to Amtrak would get it in a state of good repair. That is gobbledegook.

Mr. LATOURETTE. I think we are going to get back to regular order. I would just ask members to engage in court easy to each other. We also note that Mr. Branson had a very good reality television program.

Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chairman. I will not call the legislation we have been talking about simple-minded, because I will observe the proprieties.

Mr. Chairman, I have a statement here which I will submit for the record because of the passage of time. I want to just make a couple of observations.

Number one, it is clear, that it is clear we have been starving Amtrak and most of the problems Amtrak is having is because they haven't had an adequate budget, that we have been starving them. Someone, I think Corrine said, Congresswoman Brown said we have given them just enough money to fail, or just enough money to limp along.

Most of the problems is they didn't do prototype testing, trying to save money, and you have the Acela problem. You have to fund a railroad adequately. We haven't done so, number one.

Number two, nobody in the environment of the United States has been able to figure out in the last 50 years how to make passenger rail profitable. Now, maybe if the administration's policies succeed, as they seem to be doing, and we get \$6 or \$7 a gallon gasoline, maybe then we will be able to have profitable private passenger railroads.

I co-chaired hearings in the New York State assembly back in 1989 on the feasibility of Maglef. At that time it looked like it would cost about \$50 million, in 1989 dollars, \$50 million a mile for capital investments for Maglef.

Our conclusion was that there was no transportation in corridor in the United States where the density of traffic was such that it would with justice that kind of investment. Maybe in Europe or Japan, because they then had \$5 a gallon gasoline. And if we want to follow the policy that would give us \$5 a gallon gasoline in 1989 dollars, then you could have lots of profitable, private railroad, Maglef investment and so forth.

But to cite the marginal success in England, where they are charging, I think currently, about \$6 a gallon for gasoline as a precedent for the United States is, shall we say, fallacious.

My district has, or had, the World Trade Center in it until September 11, and I very distinctly remember that when I had to get

home from here after the attack that morning, there was no way into New York except by Amtrak. They shut the bridges, they shut the tunnels, the airports were down, everything was down. The only thing that was running was Amtrak. Thank God for Amtrak. You must have redundant systems of transportation.

Again, as Mr. Oberstar has pointed out, the reason Amtrak was formed in the first place is that every single one of the private railroads petitioned the ICC to abandon the passenger services because they couldn't make money on it.

To go with some fanciful, speculative reform plan, so-called reform plan, that would eliminate what is a very successful service now, 25 million passengers last year, for an experiment, an experiment that probably will not work until we have \$6 or 7 a gallon gasoline, which I hope is not the administration's secret goal, would be to put the safety as well as the economy this country at risk.

I hope we will not indulge in such a fantasy. What we ought to do is adequately fund Amtrak and let it work properly.

I thank you. I yield back, and ask that this be submitted for the record.

Mr. LATOURETTE. Without objection.

Mr. SIMMONS.

Mr. SIMMONS. Thank you, Mr. Chairman, and I thank the panel for their presentation. I have long been an advocate of Amtrak, but I have also long been an advocate of reforming Amtrak to try to rationalize the program in how it operates in certain parts of the country, to invest in those areas where it seems to be successful and to consider divesting ourselves of some of those routes that seem to be unsuccessful, to provide our constituency with safe, reliable and reasonably priced service.

I am somebody who used Amtrak service for a decade when I taught in New Haven and lived in Stonington, Connecticut, and I rode it every other day, every week, for the academic year. What I looked for was safe, reliable, modestly priced service.

In the State of Connecticut, we also participate in Metro north, which is a tri-state consortium which provides also safe, reliable and somewhat cheaper service, although over a shorter haul.

I look at the investment that we need to make in our movable bridges in New England. Three of the five bridges slated for investment are in my district, the two non-moveables are also in my district, and the failure of any of those bridges, the newest of which dates back to 1918, could disrupt the service.

So as we look at this issue and we look at these problems, I would be interested is to know what proposals can be made for the future.

I thank the Chair, and I yield back.

Mr. LATOURETTE. I thank the gentleman. Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. You set us off on the right tone, both by being brief and to the point, and identifying, as you characterized it, the kabuki dance in Congress: giving just enough money for it to fail. I will reserve my debate with my colleagues for another day.

There are enough flaws in how Amtrak was set up and its history. We can go through all that. There is enough responsibility, I think, left over for problems that we have, including Congress and

congressional oversight. We can all accept some of that. I am interested in actually hearing from our witnesses.

The two things that are on my mind are the notion of a system, because we need a passenger rail system. And if there are proposals to change the system, how these provide a nationwide system is critical, because the sum of the parts actually adds up to something that is greater and that people rely upon. At the end of the day, we don't want something that cannot function as an integrated system.

Second, I am perfectly willing to subsidize rail passengers as we subsidize every other transportation mode. This is important. I want to understand that we will get the most out of the subsidy with which we are involved.

But the final point that Mr. Nadler touched on that I think ought to be overarching when we are looking at the long run is that there is no investment that we can make that will be more energy efficient. I don't know if it is going to be \$3-a-gallon gasoline, \$6-a-gallon gasoline, but the point is they are not creating more dinosaurs and petrochemical resources. It is not going to be cheaper over time, and rail passenger service is the most energy efficient mode of inter-city transport that we can come up with. This fact is going to loom larger and larger, and I think will inform what these gentleman and the others will be presenting to us today.

Thank you, Mr. Chairman. I look forward to actually hearing from our witnesses.

Mr. LATOURETTE. Thank you, Mr. Blumenauer. Mr. Osborne.

Mr. OSBORNE. Mr. Chairman, I have no comments at this time. I am anxious to hear the witnesses. I think we have had plenty of commentary. So I will pass at this time.

Mr. LATOURETTE. Thank you very much. Ms. Carson.

Ms. CARSON. I will pass.

Mr. LATOURETTE. Mr. Sodrel.

Mr. SODREL. Thank you, Mr. Chairman. I guess first I would like to take exception to the statement that highway transportation is subsidized. A trucker pays over \$7,500 until Federal excise tax for the privilege of buying a new power unit. They pay \$550 a year in Federal heavy vehicle use taxes for the privilege of owning a heavy truck. In Indiana, they pay over \$1,300 a year to buy a license plates for the privilege of putting that truck on public highways. In addition, they pay the State and Federal motor vehicle tax for the purpose of building and maintaining the Nation's highways. Very often they pay a toll in addition to all of the above.

If you never buy a motorized vehicle, if you ride a bike or city transit vehicle never pay to build or maintain our Nation's highway system. But if you earn income in the United States, you are paying for Amtrak, whether you use it or not.

The second point, the USPS responded to passenger rail service curtailments. They were not responsible for them. You will notice from the chart that passenger rail service began a serious decline in schedules at the end of World War II. The USPS could not meet service standards on the few remaining passenger schedules, so as schedules were curtailed, the USPS shifted to alternate modes.

I am confident the Nation's private railroads would heavily provide passenger service if it could be provided at a profit. I am not

against so much passenger rail service as I am enormous subsidies for that purpose. If memory serves me right, the first 10 years of Amtrak, from about 1970 to 1980, it averaged about \$365 million a year in subsidies. We are now looking at some really enormous sums

Another issue I would like to respond to is Indian Trail, a private bus company, was operating somewhere between eight and ten schedules a day from Detroit to Chicago pre-Amtrak. When the tax using entity Amtrak began service between Detroit and Chicago, Indian Trail dropped their schedules to one over a relatively short period of time. I don't know if that one is still operating. But it is not in the Nation's best instance to have tax users running taxpayers out of business.

Lastly, the last deal last DOE report that I saw said in terms of British thermal units, an inter-city motor coach was the most fuel efficient form of transportation between cities, not passenger rail.

I thank you.

Mr. LATOURETTE. I thank the gentleman.

To our panel, thank you very much for coming. As you can see, we are of one mind on the subcommittee as to what should be done, so we look forward to hearing from you.

On the first panel we have the Honorable Jeffrey Rosen, who is the General Counsel for the United States Department of Transportation; the Honorable Kenneth Mead, who is the Inspector General for the Department of Transportation; and the Honorable David Laney, who is the Chairman of the Amtrak Board of Directors.

I want to thank you all for coming. We have received your written testimony and it will be made part of the record. We look forward to hearing from you.

**TESTIMONY OF HON. JEFFREY ROSEN, GENERAL COUNSEL,  
U.S. DEPARTMENT OF TRANSPORTATION; HON. KENNETH M.  
MEAD, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION;  
AND HON. DAVID M. LANEY, CHAIRMAN, AMTRAK  
BOARD OF DIRECTORS**

Mr. LATOURETTE. Mr. Rosen, you are first.

Mr. ROSEN. Thank you, Mr. Chairman and ranking member Brown and members of the subcommittee. I appreciate the opportunity to share some thoughts at this hearing and also to be here on behalf of Secretary Mineta and the Department of Transportation.

What I would like to do in my oral remarks here is focus on three propositions about which I think there is either consensus, or at least the possibility of developing a consensus.

Let me say, first, the objectives of inter-city passenger rail. I think in having discussions with a wide group of people about this, there is really a consensus that we would all like the same thing. We would all like a system of inter-city passenger rail that was really outstanding in terms of the service that was available and that was provided, was comfortable and convenient, reliable and on time, and perhaps most importantly, took people to the destina-

tions to which they wanted to go in a reliable and timely way. The administration is supportive of the role of inter-city passenger rail in our overall transportation system.

So the choice is not one as sometimes framed of having Amtrak or nothing. I think there is wide consensus that there is an important and useful role for inter-city passenger trains. The question is how do we get to that situation of having an outstanding inter-city passenger rail system that I think, as I say, if there could be consensus, we would all like to have.

The second proposition, we are not there. Amtrak, if we are candid, is not currently a system that we would say is an outstanding, word-class kind of system. I have never heard anybody say that Amtrak is the model that other countries and their people would want to emulate. I have heard members here today point to the Virgin Express in England or to the Japan Central Railroad or some other railroads. But I don't hear people say it the other way, "why aren't those systems more like Amtrak?"

When we look at our other modes of transportation in this country, our highway system, our airport and aviation system, our freight rail system, I think that people do look at those as being outstanding models, not immune from criticism, but in the aggregate outstanding systems that others would emulate and praise and want to be more like.

If you think about inter-city passenger rail and where we are now, would anybody, if they were starting with a blank slate or a green field, design inter-city passenger rail to look like what we have in the United States today? I think not. But we have spent, because sometimes I hear the only problem is money and the administration doesn't agree with that, but the taxpayers of the United States have spent in excess of \$30 billion on Amtrak over the last three decades, and at this point it seems to us that it is fair and appropriate for the taxpayers to expect a better system.

That takes me to the third proposition about which I think there is consensus, or at least the possibility of consensus, at least for those who agree with the first proposition that we would like to have an outstanding system of inter-city passenger rail.

The third proposition about which I would suggest we have or ought to have consensus is that reform is urgently needed; that whether you characterize yourself as an Amtrak supporter or an Amtrak critic or somewhere in between, it seems to me that we all ought to be able to agree that reform and improvement of the system is urgently needed.

So, part of why I think this hearing is a very welcome event is if we can agree that reform is needed, then we turn to the discussion of what are the reforms? What are the changes that would be desirable to get us to a better system?

The administration had provided our proposals in the bill that is now designated H.R. 1713. I will not take the time this morning to try to walk through all of its provisions. But I will note that the key principles of that legislation are set out in my written testimony at pages 14 and 15, and there are five key principles.

Since I see my time running down, I will not enunciate them, but I will look forward to referencing them perhaps if there are questions. I welcome, and of course invite, any questions you may have.

Thank you.

Mr. LATOURETTE. Thank you very much, not only for your testimony, but for your observance of the subcommittee's time limits.

Mr. Mead, thank you for being here. We would like to hear from you.

Mr. MEAD. Thank you, Mr. Chairman. I would like to focus today on solutions. On the problems with the current model, they can't be solved by simply giving more dollars to Amtrak. There are a number of reasons for that. I don't think controls are adequate in a sense to ensure cost-effective or reliable service, there is not even a threat of competition, critical repair needs are not being adequately addressed and States don't have enough say in the matter.

Our prepared statement details those results. There is no point in belaboring them here. Now is the time to focus on solutions.

I know there are numerous proposals in the Congress. I think that is a real step forward. They are not, to understate things, all of the same mind, but they do seem to have a common goal of improving passenger rail service.

To reach a consensus on balance, I think reauthorization ought to focus on improving mobility in short distance corridors, not just the Northeast Corridor, and in restructuring long distance services to compliment those corridor services.

Based on our work over the years, we see three central themes that will draw out successful reform. First, there must be some incentives for cost-effectiveness. Amtrak doesn't have any right now, other than the annual threat of budget cuts and the dance the chairman went through that we go through annually.

Here is a quick case in point: We did a recent analysis of Amtrak's long distance services to determine whether cost savings could be had without eliminating any routes, any station stops, and not eliminating or reducing any frequencies.

Eliminating large subsidies for long distance first class services, dining cars and other amenities could reduce net operating losses by \$75 million to \$158 million per year and avoid an additional \$79 million per year in planned capital expenditures.

We found, Mr. Chairman, on one route, we found the first class subsidy exceeded \$600 per passenger. The subsidy for first class was often more than double the subsidies for coach. We are still waiting to hear what action Amtrak will take. The Inspector General did this study, not Amtrak. It should have been done years ago.

Second, there should be a larger voice for States in making decisions. They are in the best position to decide what the transportation needs ought to be between their population centers; they would not be the sole decision-makers, but they need a stronger voice than they have now.

The third issue of course, is the funding. The funding has been woefully inadequate. You need adequate and stable funding. Now, because we don't have that, you are in a continuing state of decline on every front except in some situations where the States are providing their own funds.

Earlier this year, we offered some options to the Congress, not reauthorization proposals, but a proposal that contains six core elements. I would like to quickly overview those.

First, formula grants to States for capital and operating costs without a State matching requirement. We think this is important, especially for the 16 states in this country that only have long distance service at the present time. That is all they have. You can forget these states talking about the potential for corridor development, because there aren't dense population centers. That is 16 states.

Second, a program to restore the current system to a state of good repair, to provide Federal funds to do this without the requirement for a match. For the Northeast Corridor, you are probably talking a price tag of \$4 to 5 billion. I don't see why anybody would want to buy this corridor, unless the requisite investment is made in it.

Third, a program for capital grants to States for the development of corridor services. We would say a reasonable match requirement is 15 to 30 percent. This is the way you are going to get corridors developed in this country, to invest in them. We are now talking principally outside the Northeast Corridor.

Fourth, the Secretary would have authority to evaluate Amtrak's debt, which has grown from \$1.7 billion in 1997, to over \$4.5 billion in 2004, and, if necessary, to take action economically advantageous to the U.S. and inter-city passenger rail to resolve the issue of this debt, that we, incidentally, pay for every year.

Fifth, the Federal funding of these programs would stay at adequate levels. We can go into in the Q&A period what those funding levels might be, but I see you looking at something in the neighborhood of \$1.7 billion to \$2 billion by the year 2010. All of that assumes additional state contributions and some implementation of the cost saving initiatives, such as those I mentioned earlier.

Six, ownership of the Northeast Corridor ought to be resolved. If the Federal Government is going to invest in that corridor and bring it to a state of good repair, I think at the end of that period, the Northeast Corridor States should be expected to make some contribution to keep it in a state of good repair, along with the Federal Government.

I think the quid pro quo on that would be that the Federal Government ought to be taking title from Amtrak. Amtrak may very well be the operator of it, but if we are going to make that kind of investment, there ought to be a quid pro quo.

That concludes my statement. Thank you.

Mr. LATOURETTE. Thank you, Mr. Mead.

Mr. Laney, we welcome you. We look forward to hearing from your testimony, and if you could, as part of your testimony, give us an update on the Acela train service. I would obviously be interested in that.

We look forward to hearing from you.

Mr. LANEY. Thank you, Mr. Chairman. I will be glad to.

Mr. Chairman, members of the committee, I appreciate the opportunity to speak and to be able to go into more detail during the Q&A afterwards, but let me gloss over the surface of current operating activities and results, as well as our strategic planning; and I will mention the Acela operations.

For current operating results, we have made solid progress both in rebuilding plant and equipment and maintaining the financial

and organizational stability of the organization. During this fiscal year, Amtrak continued to show positive results in a number of important areas. Amtrak will finish fiscal year 2005 under budget, and will set a new ridership record. This is remarkable in light of the unforeseen Acela service interruption which stopped all Acela train service earlier this spring. Amtrak responded to that event very effectively, in my judgment, integrating other equipment very quickly into the timetable so that there was no measurable impact on our Northeast corridor ridership.

We are now back to full Acela service, and we are operating, so far this month, at a 92 percent on-time performance level, which is the highest on-time performance in Acela history.

More recently, we have confronted an indefinite truncation of three of our long distance trains resulting from the impacts of Hurricane Katrina, the Sunset Limited, the City of New Orleans and the Crescent. On that note, I should also add that we made trains and were able to make trains available to FEMA to ferry evacuees, relief workers and supplies from New Orleans to Houston in the days immediately following the tragedy. They were not used, but they were certainly available and waiting for a number of days and ready to go.

This year we continue to chip away at the mountain of deferred maintenance that we have inherited of both plant and equipment. In fiscal year 2006, we expect to continue this type of capital investment—renewal of track, signals, wire, equipment switches and interlockings. But we will also begin major multiyear projects to rebuild structures critical to the Northeast Corridor operations. These include replacement of the failure-prone movable bridge spans referred to by Congressman Simmons, I believe, your “favorite bridges”, those on the Thames and Niantic Rivers in Connecticut; also, replacement of the 1930s-era cables in the Baltimore tunnels and major track work on the Harrisburg-Philadelphia line. In fact, at this time next year we expect to have that corridor updated and operating at higher speeds and with additional frequencies.

Completion of the bridge and tunnel work is essential; without them, we risk the type of fundamental failure that could impact the entire Northeast Corridor service.

The fiscal year 2006 operating request is lower than in previous years and reflects Amtrak’s ability to hold operating costs flat, despite inflation, rising insurance costs, and the high cost of fuel. Adequate capital investment, of course, will help us keep operating expenses under control.

I support the fiscal year 2006 Senate Appropriations Committee proposed at 1.45 billion. With an operating budget lower than last year, every additional dollar, in my judgment, goes into capital, whether equipment or infrastructure, and adds lasting value for whoever operates on Northeast Corridor tracks. In the Northeast Corridor, of course, it is freight operators, commuters, as well as Amtrak.

During the past 3 years, we have not borrowed any additional funds nor have we assumed any new debt, except for the DOT loan during the summer of 2002, which is being paid back in annual installments. Our workforce has been reduced in size from 25,000 in

fiscal year 2001 to 19,500, its current level, a reduction of about 20 percent. With that reduction, our payroll and benefits costs are down dramatically. Our deficit per train-mile has decreased from \$22 in fiscal year 2000 to \$13 in fiscal year 2004.

As I mentioned earlier, ridership has continued to increase. In fact, during the period of 2000-2004 ridership grew from 22.5 million to 25.1 million, or 11.6 percent, insignificant relative to aviation and highways, of course, but remarkable considering the challenges presented by years of unfortunate decisions that we have inherited and Amtrak's prolonged financial starvation diet—remarkable, but in the judgment of the board, still unsatisfactory. We have very ambitious reform goals.

A few words about our reform initiative package:

The reform plan outlines a detailed set of initiatives, some of which Amtrak will accomplish on its own and others of which will require government action. We have begun and will accelerate the implementation of those that we can institute on our own.

Our plan advances four essential objectives: first, development of passenger rail corridors based on an 80/20 Federal/State capital match program, with States becoming purchasers of a variety of competitively bid corridor services. And let me reiterate, States become the purchasers at that point.

Second, return the Northeast Corridor infrastructure to a state of good repair and operational reliability with all users gradually assuming increased financial responsibility for their share of corridor operating and capital needs. And frankly, in my judgment, state of good repair is not ambitious enough, considering the number of transportation challenges converging on the Northeast Corridor over the next decades.

Third, preservation of our national long distance system. We have long distance routes that over time will have to meet minimum financial performance requirements and, in some cases, will require state assistance.

And finally, the opening of the intercity passenger rail industry to competition and private commercial participation.

Rather than going into detail, let me simply refer you to that plan. I had hoped that the Lott/Lautenberg bill would provide the platform for moving Amtrak and, indirectly, passenger rail much more dramatically into the 21st century along the lines of our plan—I presume it is a work in progress—and I hope we have the opportunity to work with the Senate staff as it is reworked, or with you in connection with any counterpart legislation.

One critical issue central to the future of intercity passenger rail competition is, in my judgment, not adequately addressed. The Lott/Lautenberg bill in some ways still leaves Amtrak too much in control and does not, in its current form, provide adequate access to private operators and, more importantly, private capital, but it is a very constructive start. You will hear from a number of possible interested competitors this afternoon, and I don't think any of them will disagree.

In any case, the end result of any reform is a genuine opportunity for the revitalization of the intercity passenger rail system, and we are not there yet.

In closing, let me just say that we hope to work with all of you in connection with any legislation. In the meantime, we can't wait and we are pursuing our reforms on our own, and I think we are making considerable progress. In the meantime, I can't overemphasize that adequate funding for Amtrak in 2006 will be a critical first step in advancing the objectives of our Strategic Reform Initiatives plan.

I appreciate your time and attention and look forward to answering any questions. Thank you, Mr. Chairman.

Mr. LATOURETTE. Thank you very much, and I thank all of you for your testimony this morning.

Mr. Rosen, I want to start with you because in your testimony you talk about the inherent flaws of what you call the 1970 model of rail passenger service, but I think that I would fast-forward to 1997, when the Congress passed the reform legislation. And I would just ask you—and rather than looking at the structure that was created in that 1997 bill—I mean, I think horrendously bad judgment has been exercised by the board of Amtrak in some situations post-1997, and an example is not dissenting on mere half-funding requests, quadrupling the company's debt load and making no attempt to modernize or modify the route network.

And so, I mean, would you agree or disagree with me that the structure, the intention of the 1997 act was to stop micromanaging, in Congress, of the Amtrak system? And I, at least from where I sit, I think some bad decisions were made post-1997. Can you share with me what your thoughts are?

Mr. ROSEN. Well, I think, in the big picture, I would agree with you that the basic method of the 1997 act was to empower Amtrak to fix itself, to remove some of the legal impediments that had previously existed and some of the obligations the company had to enable it to contract out and do other—do joint ventures with bus companies, and to have more authority to try to fix itself; but unfortunately, the company didn't do that. And I would agree with you that then piling on the debt to the point where it is at 3.8 billion of nondefeased debt now, which is an annual payment this year of something like \$273 million of just debt service, was not the appropriate course of action. And it hamstrung Amtrak in different ways because—Mr. Laney alluded to the fact that they haven't done any additional borrowing in the last couple of years, but of course it is hard to imagine that there is anybody out there that would be willing to lend them any more because the amount of debt is so high already.

So I would agree with you that the decisions that were made turned out not to be in the best interest of intercity passenger rail and that on this next go-round it would be desirable to have some more prescriptive requirements and desirable to have greater oversight mechanisms. And let me be specific about what I mean by that.

In the 1997 act, the primary consequence of Amtrak not achieving self-sufficiency and, in a sense, reforming itself was going to be a so-called "sunset trigger," by which, in a sense, in the end everything blew up. Well, that provision wasn't adhered to, in part because it is so drastic, and so the accountability mechanisms along the way were not really there.

As we go through a reform process at this point, I would say it would be desirable to have more oversight mechanisms, including, through the Department of Transportation, the Federal Railroad administration, and more opportunity for corrective actions to be called for along the way. And that was the intention of the 1997 act, that I think was quite commendable, and many of the things in it were good things, but in the end it didn't succeed.

Mr. LATOURETTE. Let me—I think you mentioned that no legislation to date has incorporated all of the administration's principles. Has the administration taken a position on the Lautenberg bill, S. 1516?

Mr. ROSEN. No. We are having discussions with the committee and the committee staff and hoping to work further with them on ways of developing a bill that eventually might be successful, but we have not yet taken a position on it in the aggregate.

Mr. LATOURETTE. The administration position for the most part, I think, was encapsulated as a courtesy in H.R. 1713. I have been hearing rumblings recently that perhaps the Department isn't as crazy about those proposals as they were at the time they were first sent up to the Hill. Is that an accurate observation?

Mr. ROSEN. I think that would be an overstatement. I think we continue to support the reforms that were in H.R. 1713. I think what we have indicated is that in some instances we are more interested in the objective--and in the principle than in the exact mechanism.

As an example of that, H.R. 1713 calls for the Northeast Corridor to be separated away from Amtrak so that there is separation of infrastructure management and operation of the trains. And then with regard to the infrastructure, after a transition period in which the Federal Government owned it and brought it to a good state of repair, they would have given it to a compact of, if I remember, eight or nine of the Northeast States.

Well, the compact is not the only mechanism by which you can get to that result. And so I think we have indicated that we have some flexibility about the exact mechanisms by which goals are achieved.

But the underlying principle I think we adhere to, in particular, is that the role of the Federal Government should be the support of infrastructure development, maintenance, improvement, and not the subsidization of operating companies; in the same way that the Federal Government supports airports, but not subsidies to airlines, and supports highway infrastructure, but not direct subsidies to trucking companies, and that kind of principle.

And so what I would say is the administration continues to support H.R. 1713, but the underlying principles of the reform that it embodies are more important than any particular, exact term or mechanism.

Mr. LATOURETTE. Thank you very much.

The last question I have is for you, Mr. Laney, before I yield to Ms. Brown. In Amtrak's Strategic Reform Initiative that was published last May there was an indication that the company was going to establish route performance metrics beginning in 2005, and that routes not meeting established metrics would be termi-

nated beginning in 2008 unless the States affected provided an additional subsidy. It's a multipart question.

The first one, if you could share with us what the status of these metrics is and which lines might be facing termination.

And then the second one is, in that recommendation, does Amtrak ever consider alternatives other than complete termination, such as reduced service or seasonal service?

My dad, for instance, lives in Meadville, Pennsylvania, and he called me up and he said, If you ran a train from Cleveland to Pittsburgh for the Browns-Steelers game, you would be making money hand over fist. So is it all or nothing based upon these metrics, or do you also consider seasonal or reduced service?

Mr. LANEY. Well, let me first respond by saying we have not finished the analysis, but I expect at this week's board meeting to have presented by staff to the board, in effect, a template for the metrics and basically the measures for performance of various routes. But—we have not begun the process, but it will begin over the next 30, 60, 90 days. And I would be able to give you a better sense if you were to ask that question a month from now or 2 months from now. But we have been waiting for the response from the staff.

And with respect to the various alternatives as to any particular route, let me assure you we will consider every conceivable workable solution to make it work. We are committed to try to hold the system together, but at a reasonable cost. And we are not going to be able to make them profitable, but we do, I think, have the ability to make them much more efficient, much more attractive to the users of that service, and much less expensive than they currently are.

Mr. LATOURETTE. I thank you very much.

Ms. Brown.

Ms. BROWN. Mr. Rosen, where is Mr. Minetta? Has he been on the Hill, to the House or the Senate, to testify any time this year about Amtrak? I know he hasn't been to the House.

Mr. ROSEN. With respect, Congresswoman, actually he has, to the Budget Committees, the Appropriations Committees. He testified in both the Senate and the House Appropriations Committees, about the Department's overall budget, but he specifically addressed Amtrak in both of those hearings.

Ms. BROWN. I know that we requested him to come today; I am sure we did. I guess you are his designee.

Mr. ROSEN. I am his designee. I am also his designee as the Department's representative on the Amtrak board of directors, and so the Secretary asked me.

Ms. BROWN. That is very good, because I have a question then.

The board came forward and recommended 1.8 billion, the administration came up with zero. I mean, I guess—can you explain to us how you voted and what did you do to shake the package? What was your vote on that committee? The board had something different from the administration.

Mr. ROSEN. Well, I will tell you that neither I nor the administration supported a \$1.8 billion request for Amtrak. And I will tell you that with regard to the administration's proposals on the budget, or appropriation, side of this, we have consistently said, and the

Secretary said publicly on a number of occasions, that the administration's budget was intended to, and I would suggest has had the effect of, calling attention to the need for action and reform, because the existing system, the existing model, does not work well, and that it does not make sense to put good money after bad, it makes sense to put good money after good.

So if you reform and improve the system, then the administration—

Ms. BROWN. Mr. Rosen, I don't have much time. Did you hear me talk about Halliburton?

Mr. ROSEN. Yes, I did.

Ms. BROWN. Okay. So we need to know that this administration doesn't have all of the wisdom in Washington, D.C., and certainly they don't—you don't have all the answers as far as Amtrak is concerned, and you don't have—I mean, this is the people's House; maybe I am the only one who thinks so, but the people should have some input. And all of the wisdom is not up there, wherever you all preside, to sit down, the bean counters, and make the decisions about Amtrak, but I need to go on.

The chairman of—let me ask you a question. First of all, let me just thank you for all of the people, because what you all did. When FEMA was a complete disaster, you all were able to pull yourselves together. In fact, that is, the only people that worked were in the private sector, and Amtrak, along with the other railroads, was able to pull together and create equipment from Baltimore to New Orleans to help evacuate the people. And I want to thank you because the rest of America saw how inept this government operated and how inept FEMA operated, and I thank you.

My question is that it appears that Amtrak is on the right track, and you have undertaken new capital equipment and you are closing the maintenance gap. Why is it that you think these people continue to talk about, you know, privatizing or just really destroying Amtrak? I mean, do they not read the polls, or do they think the people are stupid? What is it?

Mr. LANEY. Congresswoman, I appreciate your question. I think everyone involved and interested in Amtrak, from the riders to people in the position like mine or yours or DOT, believes that there is considerable room for improvement, everybody has their own ideas. I think the board has its own ideas, and unfortunately, I think we are in a position to begin to move on those ideas and to see the impacts of those. So while the debate rages, we are going to work, and I think we are making progress.

But I don't think anybody wants to destroy Amtrak—I know some people do, but I don't think any right-thinking person does; nor do I think they want to do away totally with intercity passenger rail because there is a vital role, at least in some parts of the country more than others, for intercity passenger rail.

Ms. BROWN. Well, you know, the proof is in the pudding, and when I zero-fund you, I am not trying to get your attention, I am trying to—I am destroying you. I mean, we throw money here, we passed \$62 billion for the hurricane victims that I support; however, we put it in an agency, FEMA, that is inept, that is not operational, so I don't know. But I do know that zero funding means no support.

I yield back the balance—wait, no, I have a question for someone else.

Mr. Mead, do you think it is wise to separate Amtrak operation from infrastructure like they did, I guess, over in England where they had to reverse themselves?

Mr. MEAD. No, not until you have a corridor that is in a state of good repair. I think you have to get the corridors in a state of good repair before you can even talk about that. At that point, you may have different decision-tree paths, but you don't want to close the door on that.

What they did in Great Britain was, they didn't get the infrastructure right and they had a safety problem.

Ms. BROWN. The question about food service, can you elaborate on that? Because some people recommend that Amtrak should do away with food service because it is this, it is that; but when people take the Amtrak train, many are diabetics or older people, they need to be able to purchase foods for these routes.

Can you—

Mr. MEAD. Yes, they do. Our point is that the taxpayers should not be subsidizing first-class meals, there is no justification for that, at least that I see. I think Amtrak—obviously people when they are going on a train trip for a thousand miles, you have got to give them food, but there are alternatives that can be explored—

Ms. BROWN. Sir, I talked about meals earlier, and clearly—I just took the train from here, it wasn't no first-class meal that I had, and I purchased it.

Mr. MEAD. You must not have been on a long distance train.

Ms. BROWN. Well, no, I went from here to Baltimore.

Mr. MEAD. These are the long distance routes with the sleepers on them, that the subsidy that the taxpayers are paying for the meals is very substantial. Obviously, you have got to provide alternatives, you can outsource, you can stop at train stations.

I wouldn't recommend going as far as the airlines do where you get nothing.

Ms. BROWN. That is right.

Mr. MEAD. Or pretzels.

Ms. BROWN. Let's don't go there.

Did you also evaluate what this would do to the Amtrak revenue.

Mr. MEAD. No, we haven't done that, and I will tell you why. The revenues that are coming in for the long distance, the sleeper car service, were so far below the cost of providing that service that we thought that could wait until another hour. That needs to be in arrears. The recommendation for making relative to sleepers and food is not a one-size-fits-all. Our point is that Amtrak ought to be evaluating those. They committed to do so. They should have done it 10 years ago; it should not have to be something that waits for an inspector general report.

And I noticed that in Amtrak's statement—or in their summary, I haven't read their prepared statement—I don't see this, the recommendations that we made in that report, addressed; and I think that it is incumbent upon Amtrak to move forthwith on that, expeditiously.

Ms. BROWN. Well, I am sure that they will take a look at your recommendations. I make a lot of recommendations and nobody takes a look at it, so—

Mr. MEAD. I do.

Ms. BROWN. I yield back the balance of my time.

Mr. LATOURETTE. I thank the gentlelady.

And Mr. Mica.

Mr. MICA. Thank you. And I want to thank, first of all, the new chairman of the Amtrak board of directors, Mr. Laney, for taking on the challenge, and also for your initial efforts. I can't think of—I can think of few people who have taken on such a challenge.

I have been on this panel for 13 years, and I have been through the Amtrak Reform Council, and through countless hearings, unfortunately, nothing gets done; and I am pleased that you have begun to make some progress.

We had a discussion, Mr. Laney, about privatization, and I think you had told me that Mr. Gunn was not willing in the past to meet with those that had brought forth private proposals; is that correct?

Mr. LANEY. No, sir, I don't believe I did, and I know he has.

Mr. MICA. No, I thought you told me in the past—in fact, I thought your words were, he threw them out of the office, or something when you sat with me. But in any event, in the past, he wasn't willing to meet with them.

He has met with them?

And you told me you were going to meet with the Wall Street folks after—or investors, on the Northeast Corridor; is that correct?

Mr. LANEY. I think I have met with anybody who wants to meet and throw an idea or concept over the transom, figuratively speaking.

Mr. MICA. Did you meet with—

Mr. LANEY. I know I have met with everybody you and I spoke about.

Mr. MICA. I did present here the Branson model, which does—I mean, this is certifiable, they have made money. It is a minimal subsidization. They have also paid for the infrastructure, and the privatization has attracted billions of dollars in capital.

Are you looking at one of these as a model to take over the Northeast Corridor?

Mr. LANEY. I think the board will consider anything that could reduce the subsidy and improve the quality of the service we provide.

Mr. MICA. I think you have most of the authority to actually do this; this directs it. But you could put this out for tender with very specific requirements, could you not?

Mr. LANEY. Yes, I think we could.

Mr. MICA. And you could also have performance requirements, et cetera.

Now, we have to deal with the debt, we are going to—we are really going to have to deal with the debt, and that is \$4 to \$6 billion, I am not sure exactly. Do you know? In that range?

Mr. Mead.

Mr. MEAD. Yeah, it is about—the part that has to be paid back that doesn't already have the separate accounts is about 2.7, I think.

Mr. MICA. Okay. In any of event, I think that is something we should assume, especially if they are willing to put this money in. And I have met with folks that are willing to put in anywhere between \$8 and \$12 billion.

I was told by two previous studies—Mr. Mead, you are not paying attention, I am going to direct this to you.

I was told by at least two previous studies that it is going to take \$15 to \$20 billion to really get the Northeast Corridor—in order to perform high speed services; is that correct? I mean, you have seen some of the previous studies.

Mr. MEAD. I have seen those numbers, and—

Mr. MICA. That is with Amtrak doing it or the government doing it. I think the private sector could probably do it for a little less. It is still going to be pretty hefty.

Have you seen anything, Mr. Rosen.

Mr. ROSEN. Not as to the Northeast Corridor, in particular. I think I have seen some information on—

Mr. MICA. Well, if you haven't seen it, you need to look at it. Can we get staff to pull those up? And we have had testimony before this committee before—I am telling you it is \$18 to \$20 billion, which brings me to, the point is—and I have given this speech many times because we can give Amtrak 1.4 billion, we can give them 1.2 billion this year with a \$6 billion maintenance backlog. With a requirement to put the Northeast Corridor in truly high speed operating condition, it is going to take \$18 to \$20 billion.

The private sector is willing to put up, from what I am told, anywhere from \$10 to \$12 billion, and that would require a minimal subsidy and we would have truly high speed service.

Do you think that is possible, Mr. Mead?

And, Mr. Mead, you also need to get the latest information on these operations. In fact, I will write you a letter, and I want you to come back to the committee and verify the figures that I have given today.

Mr. MEAD. Okay.

Mr. MICA. Do you think it is possible?

Mr. MEAD. I think it is possible. But those proposals, you stipulated, if I understood you right, that they were ready to do this. I am not aware of a proposal where they are ready to do this without the Federal Government coming up with \$17 or \$18 billion.

Mr. MICA. Well, I am. And we can try to put this proposal out there. We have nothing to lose; I mean, the worst we can do is not get an offer.

Would you be willing to try that, Mr. Laney?

Mr. LANEY. As I said, there is nothing off the table as far as I am concerned, whether it is the Northeast Corridor or anywhere else in the country.

Mr. MICA. That is great, and I think we need to try this.

Once you do that—now, one of the problems with Amtrak—I am not an Amtrak opponent. I am the strongest advocate of transit alternatives in the United States Congress; I strongly support investing in that. It is a great, cost-effective alternative. It is good for the environment. No matter how you do it, we can move people around.

Once you do that, one of the problems we have had is, we can't get a handle—and I have been here 13 years; we cannot get a han-

dle on Amtrak finances. Mr. Laney and Mr. Gunn probably began that process, and as we get a handle on them, it is scary, we found.

Mr. Young and I did the food service, a couple hundred million dollars. Every dollar for food service paid, it cost us two dollars.

We are going to see a legal—I have asked for a legal review—GAO is doing that study—that is going to make your eyeballs pop out.

You, Mr. Mead, have said and testified Amtrak's own numbers show about 175 million in annual unallocated overhead costs; is that correct?

Mr. MEAD. Yes.

Mr. MICA. So we still do not have a figure. If we take out the Northeast Corridor, we have an independent operation, we get private investment coupled with Federal investment, then we have Amtrak long distance service left over. I love your 80/20 or 90/10, 100 percent, whatever we do, but we can also conduct that.

And, Mr. Mead, wouldn't that make it possible to tell what Amtrak finances truly are, if we separate that out—

Mr. MEAD. Oh, it would—you have to look at it separately. It does have to be—that does have to be done from an accounting standpoint.

Mr. MICA. —where the potential is for getting high speed service in our most important corridor to relieve congestion in that corridor, stop and think, in less than 2 hours? Nobody would ever get on another plane; we would be able to deal with congestion, actually put more planes going longer distances bringing people in. We won't lose any air traffic because they will always need that capacity. So this proposal has a great deal of potential.

Now, I have tried the Amtrak reform proposals, and I have got an 82-page one here, and I have tried a 62-page one.

This is a simple thing: We put the Northeast Corridor up for bid for the private sector. That gets them out of—Mr. Rosen, you said this is all sort of a structural problem.

Mr. Rosen, if you are losing hundreds of millions of dollars in food service, that is not a structural problem. Mr. Rosen, if you are bungling a multibillion dollar high speed acquisition and operation of a high speed service in the Northeast Corridor, that is not an operational problem. If you can't account for \$175 million in unallocated overhead costs, that is not an operational—a structural problem.

Mr. ROSEN. Congressman, let me just clarify; I think I agree with you. I wasn't saying that structural was the entire problem; it is multiple problems.

Mr. MICA. No. Again, structural is a big problem, but that is in the Northeast Corridor.

Mr. Laney, the only asset that you own, real, hard asset that you own, is the land, really, in the Northeast Corridor; and I think—

Mr. LATOURETTE. Mr. Mica, could I ask you to ask the question, and it be your last question so we can move on?

Mr. MICA. Yes.

How much do you really own of track? And am I correct in that it is the Northeast Corridor plus that little Michigan piece?

Mr. LANEY. Yes, that is pretty much it.

Mr. MICA. So we take that out of the equation, we put that up—and I met with Sweeney from AFL-CIO years ago and I said, we can guarantee every labor position, every benefit, and still operate and there will be twice as many people involved in high speed service because if we make that a success, we will have operations across the United States which will be providing high speed service.

So I look forward to all three of you gentlemen lobbying—

Mr. LATOURETTE. I thank the gentleman and his time has expired.

Mr. Oberstar.

Mr. DeFazio.

Ms. Carson.

Ms. CARSON. Yes, I will be very brief. Thank you all for your input into this conversation.

I want to contrast what we, the Federal Government, gave, 15 billion, to the airlines right after 9/11; and the airlines were in deep financial trouble before 9/11, as we all know. We didn't put in any restrictions or requirements, and CEOs bailed out with a substantial—quote, unquote—"bonus." Mr. Wolf at USAir got around 8 million and left like a bandit, and I guess that is what it was, banditry.

With regards to Amtrak—and I was very impressed by how Amtrak is addressing the cost of running Amtrak, the fact that you have reduced some of the cost of doing business with Amtrak. And I am sure all three of you gentlemen know that when we did have the catastrophe of 9/11, the ridership of Amtrak went up, you can almost say that it skyrocketed.

What difference do you anticipate with a private enterprise coming in and doing Amtrak better than what Amtrak is doing on its own? Because it continues to improve.

And the last part of that question is whether or not you believe Mr. Gunn is doing a good job.

Mr. LANEY. Let me start with the last question first. Mr. Gunn has done, as far as I am concerned, a splendid job. He took Amtrak from the day he landed on the platform, in effect—in 2002, I believe it was—and has righted a ship that was listing and about to spill over, as far as I am concerned. And David Gunn is a terrific operator, and at least a career-long railroad man understands it.

We have shifted gears in a way and moved from an operating focus—which will remain a principal focus, operating efficiencies and so forth—to sort of recasting the future. And the board has assumed a little bit more initiative than it has in the past.

And so we are working carefully with David, and his principal focus seems to be more and more focus on the day-to-day operations, and the board is focused more on the future. So there is a balance to be struck there, and we are attempting to through that.

And the other question I believe you asked was with respect to what a private entity might be able to do; I don't know. And a number of proposals that I have seen for assuming responsibility for operation of an entire set of routes or an entire self-contained system like the Northeast Corridor—and I think the chairman alluded, or someone earlier alluded, to the risk of an experiment.

We, at the board level, have to look at everything, but ultimately we are responsible for the future of Amtrak; and Amtrak is the only housing for intercity passenger rail in the country, so in effect, we are responsible for the future of intercity passenger rail.

So we have to be very careful in analyzing and understanding any moves we might make like that, and their ramifications. And a lot of the actions I think you might see in that regard over the next few months or years will likely be pilot programs, kicking the tire so to speak to make sure it works, and if it works, there is no reason why it can't be expanded.

But I think there is enormous potential value in the competencies, skills and financial strengths, as well as the operating capabilities that private operators can bring to intercity passenger rail in this country, and they need to be given a shot.

And I think there is potential for Amtrak to improve as well, because if Amtrak ultimately competes for its future against these kinds of performers, then Amtrak is going to have to compete at the levels of those performers. And competition can, at its best—there are some downsides to it—improve the performance of anybody.

But we have to be very careful, and ultimately, I think the board feels very responsible in terms of the steps that it might take, and it cannot put an entire system at risk.

Mr. MEAD. I would like to make a comment on this competition issue.

First, I am not prepared to say that there is or will be a good deal of competition out there.

And I think that the playing field has to be open to allow for competition.

And third, I don't think Amtrak should be in the decision-maker seat as to whether or not there should be competition. I think that is a decision that Congress has to make in the reauthorization.

Mr. LATOURETTE. Does the gentlelady yield back?

Ms. CARSON. Yes.

Mr. LATOURETTE. Mr. Simmons.

Mr. MICA. Mr. Chairman, just a unanimous consent request.

I would ask that in the record we include at this point the fact that there was \$5 million given to airlines that could show damage from the events of September 11th. We did create a \$10 billion loan guarantee program, not a loan program, which expired—

Mr. LATOURETTE. Excuse me. Mr. Mica, I would ask you—

Mr. MICA. I would just like—

Mr. LATOURETTE. I would ask you to respect the Chair for just a second, if you would.

Do you have a document that you would like to submit?

Mr. MICA. Yes, with that information.

Mr. LATOURETTE. Without objection.

Mr. Simmons.

Ms. BROWN. Mr. Chairman, I want to show an objection.

Mr. LATOURETTE. Objection is heard.

The gentleman from Connecticut.

Mr. SIMMONS. Thank you, Mr. Chairman. A couple of quick thoughts and then a question.

Mr. Mica raised the issue of getting true high speed on the Northeast Corridor and what the cost would be. My recollection is that before Amtrak invested in the Acela service there was an analysis of the Northeast Corridor from New York City to Westerly, Rhode Island, which is a shoreline portion of the track. And it was determined that between Boston and New York you have 12 full circles of turns, nine of those 12 full circles or turns are from Westerly, Rhode Island, to New York City, which means that you add up the degrees of turns and you get complete circles.

With nine full circles of turns between Westerly, Rhode Island and New York City, you could not ever have truly high speed service—there is only a 4-mile stretch, I believe, where you are authorized to go 125 miles an hour—and therefore, an inland route was considered, which would be a modern, straight route which could achieve high speed service. The costs for that were very substantial, in the range of \$15 to \$16 million, so I think that is perhaps where those numbers come from.

But when I talk about a safe, reliable service at a reasonable price, it is with the idea that as long as you are running Acela on the shoreline, you are never going to straighten out those circles. You just can't do it, because the Connecticut coast was settled in the 1640s, and there is where a substantial portion of our infrastructure is, and you simply can't do it unless you go underground.

Point two: Over the last several years Amtrak has repeatedly threatened access fees for other users as well as threatening higher fees for riders. Metro North owns the track from New Haven to New York City. Metro North carries a very substantial number of Connecticut citizens in and out of New York City every day. So the politics of all of that, of those user fees, is that probably 10 to 15 times as many people will be beating on my door should the user fees affect Metro North as would be if the reverse was true.

So I think it is important for people to understand the local politics, or the regional politics, of rail transit in trying to make some of these decisions. That being said, I do have a question.

One of the testimonies, Mr. Laney's, says that one of the four essential objectives is to preserve our national long distance system. The other testimony, by Mr. Rosen, says that when it comes to long distance services, Amtrak has had little or no success in responding to competition with bus and air, and Amtrak's presence in this segment of the intercity transportation market has dwindled.

I mean, I think that is an accurate statement. And when I think about it, and when I think of the four transcontinental services and some of the overnight services, I think, and I would be interested to know, if people in this room had to be in San Francisco or Los Angeles or Seattle Monday morning, how many people would call up Amtrak? Please raise your hands.

Okay, if people in this room had to be in New York City tomorrow afternoon, how many people would consider calling Amtrak? Raise your hands.

I mean, that is really where we are at. I mean, that is reality. Who in the heck is calling the trains for transcontinental trip other than for tourism purposes or to give the kids an experience or, yeah, 30 years ago I took the train to L.A., and now my wife and I are retired, let's try it again.

But the feedback that I get from people who are making many of these trips is that it is not successful, it is a disaster.

And I guess my question is, when one of our witnesses says preservation of the long distance systems is an essential objective, essential objective, and another says that Amtrak has little or no success responding to competition in long distance services, what is the story? What is the deal? What are we, as Members of Congress, members of the subcommittee, supposed to gather from this apparently conflicting testimony?

Mr. MEAD. I have a suggestion. I think that—let me just quote you some numbers quickly.

Of the total 25 million riders on Amtrak, 11.5 million, about, rode on the Northeast Corridor; 9.8 million rode on what are called "quarter routes," these are between the population centers; about 4 million rode on these long distance trains. All that number, who knows, 500,000, end to end, you know, the transcontinental, the average distance traveled on these long distance routes is about 700 miles. So therein lies a tension.

There are several million people riding these things. They are not—it is not necessary, air travel between those locations, and some of these States; it really is an essential mobility requirement. So there is this tension.

We are trying—what we were trying to do in the, study we did, was look at long distance travel and say, all right, is there a balance that can be drawn where you keep the trains and you save some money?

And we found that there is, but Amtrak hasn't taken advantage of it; and it amounted to, you know, almost \$250 million a year.

Mr. ROSEN. Another way to look at that, Congressman, is that 4 million passengers are on the long distance trains compared to the airlines carry—oh, I think it is in excess of 700 million passengers annually, and yet for Amtrak the cost of the long distance routes is disproportionate. And as the inspector general studies showed, the cost of providing first-class service—that is, the sleeper cars, the dining cars—is even greater. And I don't see how anyone can justify the Federal taxpayers' subsidizing somebody in excess of \$600 per passenger per ride to take a long distance first-class trip.

So the harder question is, well, is there long distance service that makes sense? And part of the challenge for all of us is to identify whether, in essence, as I said in my initial statement, is the way Amtrak does it the only way to do it? Because the way Amtrak does it is wildly costly for relatively little benefit.

But might there be other ways to structure this where some of these, as Mr. Mead said, 700-mile distances might be preserved and made more cost effective? Might there be some of these vacation or tourism routes, say, through the Northwest, where there would actually be demand if the service was structured differently? So there is a need to look at that, it may not be a one-size-fits-all answer, but it is clear that the status quo doesn't work.

Mr. SIMMONS. Mr. Chairman, my time is up. But my response would be that just as the taxpayer should not subsidize first-class meals, taxpayers should not subsidize essentially vacations and tourism. And it seems to me the cruise lines and others have man-

aged amenity train travel for people who are on vacation, and if they don't make money, at least they break even.

And again, I thank the Chair and the ranking member for this hearing. This is a critically important issue for America, and we have got to come to some resolution on this problem. And I yield back.

Mr. LATOURETTE. I thank the gentleman.

Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. I have a couple of questions about the debt.

The debt is substantially privately held, as I understand it. Is there some which is attributable to the Federal Government?

Mr. ROSEN. Yes, there is Federal debt; it is not in the numbers. The 3.8 billion is the privately held debt.

Mr. DEFAZIO. What is the average interest rate on that? Because the interest costs are awfully high. It is either short-term debt or it is very high interest rates.

Mr. LANEY. Most of the debt that carries the highest interest rates is equipment financing.

Mr. DEFAZIO. Okay. So that is shorter term?

Mr. LANEY. No, it is long term.

Mr. DEFAZIO. So what are the interests? What is the average?

Mr. LANEY. I don't have it.

Mr. DEFAZIO. It looks like, I don't know, I just did a rough—it must be at least over 7, closer to 8.

Mr. MEAD. It is about 7, it is about 7. It goes up. I think one of the worst is Penn Station; that is a little over 9 percent.

Mr. DEFAZIO. Okay. So what is today's 30-year T-bill, 3-point what? Anybody know? 3-point something, whatever. Okay.

So if the Federal Government—does anybody believe that the debt is not guaranteed by the Federal Government, it is only by Amtrak; and if Amtrak were somehow to become insolvent that the private bondholders would get zero? Does anybody believe that?

Mr. ROSEN. Well, we believe that is certainly the case.

Mr. DEFAZIO. Do you think that would happen? Do you recommend that?

Mr. ROSEN. Well, I would say a couple of things about that, Congressman. One is, in the early 1980s, Congress previously did wipe out the Amtrak debt and had the taxpayers take responsibility for it; and a lot of good that did. Here we are—

Mr. DEFAZIO. Right, but they didn't have a plan.

But let's just say I am just asking you a question: Do you think the private bondholders are at risk under the current scenario with the recommendation, the administration proposing zero funding for Amtrak?

Would that then cause a default, since I don't know how are you going to pay the interest? Would the private bondholders just eat it, or do you think the Federal Government would bail them out? Would you recommend the Federal Government bail them out? Would you recommend the Federal Government not bail them out?

Mr. LANEY. I can't speak for the Federal Government, but let me speak for Amtrak.

I don't think those bondholders either believe or should believe that the government stands behind Amtrak; and I think it is re-

flected to some extent in credit rating, it is reflected to some extent in our credit ratings. Bondholders see those ratings, and it makes them very, very nervous.

Mr. DEFAZIO. But if we are going to continue to have an Amtrak, it seems that you could cut that interest obligation in half just by substituting Federal bonds. But, okay, that is a discussion for another time. And then if you linked that to the reductions in first-class service and food, I mean, we would be talking somewhere in the vicinity of \$300 million a year, which would be a nice piece of change toward getting the obligations of Amtrak down.

Mr. MEAD. Well, I can't let this go unsaid. I mean, the fact of the matter is that, as a practical matter—apart from the legalisms, apart from the morality, the practical matter is that Amtrak's budget has an item in it where they are asking you for the money to pay their debt. So year after year after year—

Mr. DEFAZIO. So the taxpayer—if Amtrak continues, the taxpayers are going to continue to subsidize debt at 8 or 9 percent, or 7 or 8 percent in the private sector, as opposed to the taxpayers assuming more obligation for debt at a lower interest rate as a Federal obligation. But that is—

Mr. ROSEN. Can I just make an observation on that?

It is true that the taxpayers subsidize Amtrak's debt; it is not true that they totally pay it, because Amtrak gets revenue from multiple sources—right now, about 40 percent from the taxpayers. So you could say 40 percent of the debt is—

Mr. DEFAZIO. Right. Well, it depends on how fungible the money is. But in any case, it seems to me if we are going to continue to have an Amtrak, lowering the debt obligation costs, in addition to first-class service and other cost-saving measures, and maintaining a national network—I mean, we had the gentleman from Connecticut and others from Florida who have pretty much discounted any need for a national system.

I guess I would look at today's prices of gasoline, I would look at the fragility of the airline industry, I would look at what happened post-9/11 when my regional power marketing administrator had to get back to Oregon, couldn't find a rental car; he took Amtrak, planes didn't fly.

And Mr. Mica would agree with me on this point: What is going to happen the day after we have multiple planes fall out of the sky because we are not doing an adequate job of keeping explosives off airplanes? I think Amtrak will be pretty heavily subscribed.

So to become the only major nation in the world without a national rail service seems to me to be folly in light of higher energy costs and an industry which is—the airline industry which is mostly bankrupt and has—is a proven target of terrorism, although obviously rail isn't exempt.

That is an observation, not a question.

I would ask a question about the rail debt. I don't understand, Mr. Mead, how one of the biggest problems in my region is—we do have a very nice growth path, which I believe Amtrak would recognize, on our rail service, particularly in the northwestern United States, which was one of the earliest designated high speed corridors.

But we have made precious little progress toward delivering on the promise of high speed, although we have some very nice train sets running on it which weren't custom made, unlike Acela, and they are very dependable. But that is another issue.

But the big problem is the freight. And I don't understand the—how are we going to—and I have tried to talk to the freight people and said, maybe we could have some sort of coordinated approach here; you need some double tracking, we need double tracking, can't we get into this on a unified basis with some cost-sharing between the two entities, et cetera?

Can you address that question? How would we ever realize, even in short corridors where we don't own the track—everyone is focused on the Northeast. I don't live in the East, a lot of us live in the West, so how would that work?

Mr. MEAD. Well, I don't want to be the only voice on the panel on this, but when I was just giving my testimony, I think it was before you came in, I mentioned six points that I thought were key to any reauthorization proposal. One of them was a capital program to the States.

In some of these situations, such as probably the one you are describing, you are going to have to invest in your rail bed. You are going to need money to invest in your rail bed, probably run another track, maybe around an existing track, so you can deal with the congestion between the freights and the passengers. That is why you need a capital program that is oriented toward clearer development, so you can do that and you can make those types of investments.

Now, the State is going to have to contribute, but what we would recommend is a match somewhere between 15 and 30 percent. And I would think it would be—you need a pretty robust program.

Mr. DEFAZIO. Either of the other panelists want to respond to that?

Mr. LANEY. Congressman, if I could respond, it is already happening to some extent, but to a very minor extent relative to the potential, without a match program.

California has contributed, I think, over the last decade probably approaching \$2 billion. Washington State, as you know, if you add it all up, I think it is close to a billion dollars; that is with no match, and the improvements—the impact of the improvements is very measurable and the need is there. So there is an appetite from a transportation standpoint. With a match program, the state contributions would have been greater in amount and more accelerated I think.

There is a healthy interaction between the freights and a number of States regarding passenger rail, principally California and Washington that we don't see yet in the rest of the country.

Mr. DEFAZIO. Well, we have done a little bit in Oregon. We happen to be more poor than either of those States; and we didn't have the dedicated revenue source that Washington State used to have, which is now gone, so they are probably going to be in the same boat we were are—but a match program would be distinctly preferable to my governors scrambling around, trying to find small amounts of money.

Mr. ROSEN. Congressman, can I just mention, in the administration proposal embodied in H.R. 1713, we did include a matching grants program as well, more a 50/50 kind of match, more like the New Starts transit-type program. And the key to that again is to move a system to one where the Federal Government is supporting infrastructure, not operations of actual operating companies.

Mr. DEFAZIO. And if I could, just one last question, Mr. Chairman; I realize my time is—I would like to ask about the Acela.

I think that the Federal Railroad Administration safety standards are antiquated at best—absurd, perhaps. You know, Europe successfully operates a lot of high speed trains. They call the Acela "the pig," "the fat pig," and obviously it has failed because of that.

In the Northwest, we operate a Spanish train set, the Talgo, which happens to work really well. The problem is that it has to have a waiver from the FRA standards because the FRA has a 1900 mentality that weight is the thing for safety, not dealing with couplings and other safety issues.

I would like to—has the administration or Amtrak taken any sort of an active role in trying to update those things so we can move to proven technology? I am not saying we have to buy the trains overseas, but we can license the technology and manufacture proven, functioning, lighter, more efficient high speed trains here in the United States of America as opposed to buying and continuing to build things that don't work, that are more expensive.

Anybody got an observation on that?

Mr. ROSEN. Well, I am not sure that we would agree with the premise that FRA safety rules are all just—

Mr. DEFAZIO. Well, I am talking about the one that goes to weight as the biggest safety factor and the fact that you have to get a waiver to operate something that is safely operated in Europe carrying tens or hundreds of millions of people a year.

Mr. ROSEN. The test from the FRA standard is not weight, but strength and how they will perform in accidents; and I don't think any of us would want to move to a system that was less safe.

Mr. DEFAZIO. Well, I am not talking about less safe, I am talking about the European system, which I think is arguably as safe or more safe with proven technology, because it can actually operate as opposed to having failed brakes because the damn thing is so heavy that it can't even support its own brakes.

Mr. ROSEN. Okay, there are two different things there.

Mr. DEFAZIO. No, they aren't. I mean, we designed this gigantic fat pig, and the thing is very inefficient, it had substantial operating problems, and it is under the theory that it is safer because it is big and fat and heavy and carries bigger, fatter and heavier cars, whereas the Europeans get the same performance with a whole different system of couplings.

I would urge you to study this and not dismiss it and not say, I am trying to recommend something less safe. I ride on the Talgo, it is not less safe, it just gets to safety through a more efficient way than the Acela.

Mr. ROSEN. I have ridden a train in Spain myself. It is not an issue of whether we agree that Acela or Talgo is better; that is not the issue. The issue is, is Acela like it is because of FRA? I can't agree with you on that.

Mr. DEFAZIO. Well, then someone else should take a hit other than FRA on the issue because it is really kind of an embarrassment.

Thank you, Mr. Chairman.

Mr. LATOURETTE. I thank the gentleman.

Mr. MICA. Mr. Chairman, I have a unanimous consent request.

Mr. LATOURETTE. Go ahead.

Mr. MICA. I request that I put this written statement into the record that says, "I am a strong advocate and supporter of the National Passenger Rail System and Service, always have been, always will be."

Mr. LATOURETTE. Without objection. At the "be," without objection.

Ms. BROWN. Mr. Chairman, there is an objection.

Mr. LATOURETTE. The objection is heard.

Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman.

I listened with interest and watched with fascination the slide presentation by the gentleman from Florida on Virgin Rail Group. And I subsequently have then gone back to my staff to call up on the Web the report of the British Strategic Rail Authority's 2004-2005 annual report. British Strategic Rail Authority is now Network Rail, but its last report is by that name. And found that Virgin's cross-country and West Coast franchises, according to this report, the official agency, received a total of over 200 million pounds, which in that year's evaluation is \$360 million in subsidy from the British Government.

The Virgin Rail Group, under British law, is authorized to book the subsidy as revenue, which then makes its operations appear to turn a profit.

Would the gentleman from Florida disagree with that.

Mr. MICA. No, that is exactly what I quoted. It is subsidized, and they have 34 million passengers as opposed to Amtrak's 25 million passengers.

Mr. OBERSTAR. They receive a significant subsidy, and it should not be trivialized; it runs roughly 11 cents a passenger mile—

Mr. MICA. Can I just add—

Mr. OBERSTAR. Just a moment; I will yield to the gentleman in due course.

-- and operates high speed service in very high population density corridors. That is very significant, and it is considerably different from the Amtrak situation.

And I yield to the gentleman.

Mr. MICA. Thank you.

And that is what I pointed out, that if we take out the Northeast Corridor and we give it the same opportunity, the subsidization—again, they have 34 million passengers in those two north-south lines. We have one line, and we are running—what did you say, Mr. Mead, how many million of the 20—

Mr. MEAD. Eleven million in the Northeast Corridor.

Mr. MICA. And if you will look further in the report, you see how many billions of pounds reporting in an infrastructure investment, not just—well, not just private money; I also know there is federal—British federal money in it.

But, with that combination, I think we can take that out, operate it at high speed service and create a model; and then you have the balance—and I always have supported long distance service—and will have a good financial picture and State public-private partnerships. Florida has had millions of dollars ready to go to increase ridership as a partner.

Mr. OBERSTAR. I thank the gentleman for those observations and just want to clarify the record. It was somewhat oversimplified and glossed over in the earlier presentation, and I would note that in the Boston-to-Richmond corridor there are probably 35 million people. We could have substantially greater ridership on Amtrak if in that corridor we had the quality ride, if the catenaries were upgraded, if the switches were improved, if the Connecticut gap were closed, if the rail were upgraded and the track upgraded and the locomotives also upgraded. All of that also requires capital investment and you will have the ridership.

I noted the situation in Japan where you have high population density corridors with substantial government investment to bring the whole infrastructure up to a level needed to attract ridership. That is what we are talking about. It is not very complicated. It is a matter of political will, and we seem to lack the political will to make the decision.

Again, I compliment the chairman of the subcommittee for so succinctly summarizing the issue: giving Amtrak just enough to fail. We have to give them substantially more to succeed.

I yield back the balance of my time.

Mr. LATOURETTE. I thank the gentleman.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I just want to go back to this whole issue of safety. How do we—you know, under your proposals, how do we guarantee safety? Certainly it is a concern. I think when the British system went through its changes, we had a situation where there was a crash; and I want to know that our passengers are guaranteed safety. Do you have concerns about that, and how do we make sure we guarantee that?

Mr. ROSEN. Two thoughts about that, Congressman. One is, Amtrak is subject to the Federal safety regulations and so would any competitor or other passenger rail operator. We would start there.

Second thing, I would observe about a year ago the World Bank issued a study of the British rail system; and, among other things, they specifically looked at the question of what the safety record had been, because there had been a crash that got a lot of publicity. And their conclusion was that the British rail system was, in fact, at least as safe as the United States system and perhaps more so.

It is an unfortunate fact of life that from time to time there are train accidents, and there have been in the United States. So we want to minimize and avoid and prevent those. But that is the purpose of our Federal rail standards.

Mr. CUMMINGS. Anybody else?

Ms. BROWN. Mr. Chairman, I would like to speak to that point.

Mr. CUMMINGS. I yield to the gentlewoman.

Ms. BROWN. I would like to speak to that point. That is not totally correct. We met with the British officials and legislators—they do not call themselves legislators but our counterparts—and they were very, very clear that there was a serious deterioration of the rail system when they turned it over to the private entity; and it was not—and that is why they had to go in and take it over. Then they are spending billions more additional dollars to bring the system up to snuff. And, in addition, it wasn't one accident; it was two, but several lives. It was not a minor thing, and they realized that they had to take recontrol of the system.

Mr. CUMMINGS. Reclaiming my time, did you have something, Mr. Mead?

Mr. MEAD. Thank you.

The description of the British infrastructure is essentially correct, and one of the ways railroads deal with infrastructure problems is they slap on what they call go-slow orders. You can't do that in aviation. At 35,000 feet, you can't say, well, let's deal with this problem by going slower. But the railroads do. What you really need for this Northeast Corridor is a multiyear, probably 5, maybe 8-year plan for bringing it into a state of good repair; and you need to watch the go-slow orders that get put on because that not only—they may create a safe situation, but it also results in your trains not going more than at a snail's pace.

Mr. CUMMINGS. Going back—I will come to you in a moment. Thank you.

But going back to what Ms. Brown was just saying and going back to what you said, Mr. Rosen. You said, "as safe as the United States," is that what you said?

Mr. ROSEN. That is right.

Mr. CUMMINGS. Is that the gold standard?

Mr. ROSEN. Is the United States the gold standard?

Mr. CUMMINGS. Yes.

Mr. ROSEN. In terms of safety regulation, I believe it is.

Mr. CUMMINGS. Not safety regulation. Safety, period. The President said after Katrina the efforts were okay, but he did not like the results. They were unacceptable. So I want to draw a line there.

Mr. ROSEN. I am not sure I understand.

Mr. CUMMINGS. It is simple. What I am asking you is it is one thing to say the gold standard is the United States. It is another thing to say the results of the efforts are the gold standard. When you sit there and you compare something to the United States, I am assuming that we have the very best results, too, not just effort.

Mr. ROSEN. Well—

Mr. CUMMINGS. Let me take a step further. You seem to be—I may be confusing you. It is my understanding that in one of these crashes it was like 31 deaths. So I am trying to figure out, you go to privatization you have 31 deaths, and so what does that mean? I am just concerned that when we start talking about privatization, I know we have Federal regulations, but I want to be very careful that we do not slip.

I can't help but have the backdrop of FEMA on my mind, I have to tell you. I just want to make sure that government is going to

continue to do what government is supposed to do, because people rely on us to do that.

Mr. ROSEN. Let me offer maybe two disconnected thoughts on that. One would be in terms of the administration's proposal, as embodied in H.R. 1733, specifically, would require that the Federal Rail Administration do a safety review of the qualifications of any new company that would operate trains and compete with Amtrak. So I think we would be attuned to what I think is your concern, which is somebody unqualified or unsafe going to run these trains. We would specifically want to address that.

But the other thing I would say is sometimes the issue of privatization gets a little confusing because, of course, Amtrak is itself a private company. It is federally subsidized, but it is a private company that operates the trains and is itself regulated through the Federal standards. So a new competitor would have to likewise meet the standards but at least under the administration proposal would have to undergo a specific FRA safety review of its qualifications and capabilities.

Mr. CUMMINGS. Did you have something to say?

All right, thank you.

Mr. LATOURETTE. I thank you, Mr. Cummings.

The Chair would advise that we have been told that our first series of votes on the floor is going to be about 1:50. I have a couple of requests to make to the panel, and I will yield to Ms. Brown for one question, and then what I would like to do is try to get the testimony of the second panel in before we have to go vote. I know that is a rosy—I and will yield to Mr. Mica for one question as well.

My request is, Mr. Rosen, we had a hearing with the new FRA Administrator, Mr. Boardman; and Mr. Bachus, who is not with us today, made a request during that hearing. There was some confusion about the date when the implementation of the new whistle rule went into effect. There was a vigorous discussion between how an interim rule could really be a final rule for the tolling of the statute, and we were promised an opinion by the Department of Transportation.

The second question goes to you, Mr. Rosen, and also you, Mr. Laney. There have been doubts raised in the public domain about the notion of, one, whether or not the Amtrak Board has a quorum; and, two, if it does not have a quorum, if it can operate without a quorum. We have received a number of references to legal opinions, but never have I seen one in writing that explains that position as to whether the Board as currently constituted even has the authority to enter into contracts which would be of great concern to a lot of people.

I would ask DOT and Amtrak if you are relying on some legal opinion that you presently have a quorum or that you do not need a quorum. If somebody could get the subcommittee that in writing, we would appreciate that very much as well.

Ms. Brown, your one question.

Ms. BROWN. I would like to ask unanimous consent for members to submit additional questions to the witnesses for the record.

Mr. LATOURETTE. Without objection.

[The information received follows:]



**U.S. Department  
of Transportation**  
Office of the Secretary  
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.  
Washington, D.C. 20590

OCTOBER 26, 2005

The Honorable Steve LaTourette  
Chairman  
Subcommittee on Railroads  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman LaTourette:

This letter responds to your request for an opinion from the Department of Transportation concerning the Amtrak Board of Directors. I am aware that you have previously received a memorandum from Amtrak itself on this subject, which provides a chronology and analysis indicating that the Amtrak Board of Directors is validly constituted, has a legal quorum, and is fully empowered to take the full range of actions entrusted to a corporate board under the applicable law. I concur in that assessment.

The Amtrak Reform and Accountability Act of 1997 ("ARAA") amended Part C of Subtitle V of title 49, 49 U.S.C. § 24301 et seq., which is Amtrak's governing statute. Chapter 234 of title 49 states that Amtrak shall be operated and managed as a for-profit corporation. 49 U.S.C. § 24301(a)(2). The statute further provides that the District of Columbia Business Corporations Act ("D. C. Act"), to the extent consistent with the Amtrak governing statute, shall also apply to Amtrak. 49 U.S.C. § 24301(e) and D. C. Code § 29-101.01 et seq.

Chapter 243 of title 49 states that Amtrak shall have a board of directors consisting of 7 voting members appointed by the President with the advice and consent of the Senate, for a term of 5 years (except that the Secretary of Transportation does not need separate Senate approval). 49 U.S.C. § 24302(a)(2). The statute further provides that, if Amtrak failed to achieve operating self-sufficiency in fiscal year 2003, then the Board members shall continue to be selected in accordance with the procedures of the current statute. 49 U.S.C. § 24302(b)(1). Because Amtrak received Federal assistance in 2003 and receives Federal assistance currently, the procedures of the current statute apply.

The D. C. Act states that a corporation's business and affairs shall be managed by a board of directors, and the number of directors required to transact the corporation's business is a quorum consisting of a majority of the number of directors prescribed in the applicable governing document. For Amtrak, this means 4 of the 7 voting members of the Board prescribed in Chapter 243 of title 49, as amended by ARAA. D. C. Code § 29-101.32 and 101.36. When ARAA created the original Amtrak Reform Board

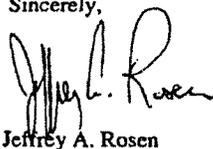
consisting of 7 voting members, Congress specifically stated that the Reform Board shall assume the responsibilities of the Board by a certain date in 1998, or as soon thereafter as at least 4 members had been appointed and qualified. 49 U.S.C. § 24302(a)(1).

In addition, the Bylaws of Amtrak in Article IV, Board of Directors, Section 4.08, specifically address the issue of what constitutes a quorum for the purpose of conducting the business of the Board. The provision states "A majority of the total number of Directors with voting powers fixed by statute shall constitute a quorum for the purpose of conducting the business of the Board. Except as otherwise specifically provided by statute, the Articles of Incorporation, or these Bylaws, the acts of a majority of the Directors with voting powers present at a meeting at which a quorum exists shall be the acts of the Board of Directors." Presently, there are 4 duly appointed Board members and therefore the current Board meets the requirements of the Bylaws for a quorum, as 4 constitutes a majority of the 7 Board members called for by 49 U.S.C. § 24302(a)(2). The Board may delegate all its powers to an executive committee consisting of two or more directors, which shall have and may exercise all of the authority of the Board. D. C. Code § 29-101.37.

The Bylaws of Amtrak in Article 5, Committees, Section 5.01, Executive Committee, also authorize the creation of an Executive Committee. The provision states, "The Board of Directors, by resolution adopted by a majority of the Directors with voting powers then in office may designate two or more Directors to constitute an Executive Committee, to have and exercise, consistent with applicable law, all of authority of the Board of Directors in the management of the business and affairs of the Corporation. One of the members of the Executive Committee shall be the Secretary of Transportation or his designee."

Simply put, the Amtrak Board of Directors is validly constituted, has a legal quorum, and is fully empowered to take the full range of actions entrusted to a corporate board under the applicable law. If you have any further questions, please feel free to contact me at (202) 366-4702.

Sincerely,



Jeffrey A. Rosen

cc: David M. Laney, Chairman, Amtrak Board of Directors

**Question:** Please provide me with your agency's legal opinion explaining how FRA complied with the requirement of 49 U.S.C. 20153(j) that regulations issued under this section shall not take effect before the 365<sup>th</sup> day following the date of publication of the final rule when it issued the final rule on "Use of Locomotive Horns at Highway-Rail Grade Crossings."

**Answer:** FRA complied with 49 U.S.C. 20153(j) because more than the required 365 days elapsed between issuance of the interim final rule on December 18, 2003, and the effective date of the rule on June 24, 2005.

On November 2, 1994, Congress passed Public Law 103-440 ("Act") which added section 20153 to title 49 of the United States Code. That section required the Secretary of Transportation (delegated to the Federal Railroad Administrator) to prescribe regulations requiring that a locomotive horn be sounded while each train is approaching and entering upon each public highway-rail grade crossing. The section also provided that the Secretary, under certain conditions, may except from the requirement to sound the horn categories of rail operations or categories of highway-rail grade crossings.

Subsections (i) and (j) were added to section 20153 by Public Law 104-264 on October 9, 1996 as follows:

(i) Regulations. – In issuing regulations under this section, the Secretary –

(1) shall take into account the interest of communities that –

(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

(B) have not be subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install SSMs, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that is not likely to contribute significantly to public safety.

(j) Effective Date of Regulations. – Any regulations under this section shall not take effect before the 365<sup>th</sup> day following the date of publication of the final rule.

In interpreting the statute, FRA reads these two subsections together (as it must) so that they make sense together. While it is not entirely clear what purpose Congress meant to

serve with the one-year requirement, FRA infers from the emphasis Congress put on accommodating the interest of affected communities in subsection (i) that Congress meant the one-year requirement of subsection (j) to give affected communities one year of lead time, instead of the typical 30 days, to determine how to comply with the rule and to determine how to preserve bans on the sounding of train horns that predated the statute.

FRA's actions summarized below served those purposes very well. Affected communities got more than one year to determine how to comply with the rule. Railroads were also incidental beneficiaries of this extended period. Congress was afforded more than one year to legislate if constituent complaints had led it to do so. It should be noted that, in addition to delaying the rule's effective date for more than a year, FRA also used compliance dates to provide communities with time to adjust (e.g., 5-8 years for pre-rule quiet zones) and made many other accommodations to assist affected communities in adapting to the law—thereby exceeding the deference contemplated by the statute. The changes made by FRA to the interim final rule in response to the comments on it afforded relief to the commenters and others similarly situated. The modest changes made did not alter the rule materially for purposes of section 20153(j).

FRA issued a Notice of Proposed Rulemaking on January 13, 2000, and subsequently held twelve public hearings throughout the country on the proposed rule and received approximately 3000 comments. FRA thereafter issued an interim final rule on December 18, 2003, with an effective date of December 18, 2004—365 days later. After reviewing more than 1400 comments received on the interim final rule and deciding that some changes based on those comments were merited, FRA postponed the effective date of the interim final rule so that the final rule issued on April 27, 2005, with an effective date of June 24, 2005, would complete action on the interim final rule. Thus, more than 550 days elapsed between issuance of the interim final rule and its effective date, which satisfies the statute.

In the preamble to the interim final rule, FRA recited well-settled administrative law that an “interim final rule has the same force and effect as a final rule.” 68 Fed. Reg. 70,586, 70,592 (Dec. 18, 2003). FRA then explained that, “[b]ecause this interim final rule has all the legal attributes of a final rule” and that Congress had provided for the one-year delay requirement of subsection (j), the effective date of the interim final rule would be delayed for one year. *Id.* FRA provided the same explanation concerning the effective date when issuing the final rule. 70 Fed. Reg. 21,844, 21846 (Apr. 27, 2005).

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) considers an interim final rule to have the same force and effect as a final rule. An effective statutory implementation date is established by an interim final rule, which has the same authority as a final rule. See *Career College Ass'n v. Riley*, 74 F.3d 1265, 1268 (D.C. Cir. 1996). “The key word in the title ‘Interim Final Rule,’ unless the title is to be read as an oxymoron, is not interim but final. ‘Interim’ refers only to the Rule’s intended duration – not its tentative nature.” *Id.* An interim final rule has the legal significance of a final rule, otherwise its products would simply be “a senseless repetition of the notice of proposed rulemaking.” *Id.* at

1269.

Further, the D.C. Circuit has held that an interim final rule is subject to judicial review as a final rule. While the court may consider the fact that an agency might limit its resource commitment to an interim final rule that is expected to be in place for a short time, agencies will still be subject to review of an interim final rule. See Competitive Telecomms. Ass'n v. FCC, 87 F.3d 522, 531 (D.C. Cir. 1996) (“even an interim rule expected to be in place for only a brief time is subject to review . . .”) (citing Union of Concerned Scientists v. Nuclear Regulatory Comm’n, 711 F.2d 370, 379 (D.C. Cir. 1983)). Thus, interim final and final rules have the same force and effect of law.

In this proceeding, FRA chose to issue an interim final rule because FRA had made significant changes to the proposed rule in response to comments received on it. In such a situation, issuing an interim final rule is considered to be good regulatory practice because it affords the regulated community another opportunity to review and comment on a rule. If the agency makes any further changes to the rule in response to comments received on the interim final rule, then the correct action is to issue a final rule embodying those changes and concluding the proceeding. (See Administrative Conference of the United States Recommendation 95-4, 60 Fed. Reg. 43,108, 43,110 (Aug. 18, 1995).) That is what FRA did here. Of course, if an interim final rule takes effect before issuance of a final rule amending it, the interim final rule has the force and effect of law without further agency action, demonstrating its finality. Moreover, in some situations the agency will decide that the interim final rule needs no change. In that case, the interim final rule simply takes effect, and the agency might simply issue a notice explaining that no change will be made. This possibility also underscores the final nature of an interim final rule.

Ms. BROWN. My additional question is for all three, because I want to get this on the record. Do you know of any developing country where they have private operators come in and run the railroads successfully, do it within budget, provide good-quality service and earn a profit without any assistance from public funds?

And the other question for the chairman of the Board, I have some written questions pertaining to labor organizations. Are they operating under an expired contract? When did the contract expire and how have the negotiations been going on? I would like that in writing.

Would you three please answer my question?

Mr. MEAD. No, I am not aware of any.

Mr. ROSEN. As to your first question, I would point to the picture on the wall and note that the Alaska railroad is a profitable operation. The Japan central railroad, I am told, is such, the Hong Kong railroad.

Ms. BROWN. Sir, are you sitting there telling us that the Alaska railroad does not receive any Federal money? Now, the chairman would be shocked to hear you say that, and he is not here.

Mr. ROSEN. For operations, as opposed to infrastructure.

Ms. BROWN. Sir, the capital costs is the problem, we all know that, and the infrastructure. And we also know that the administration has not done a darned thing since 9/11 as far as securing the safety of the railroads, the tracks, and security. So, as you go back wherever you are going, I would like for you to discuss that area.

Mr. ROSEN. Maybe we could have some definitional things as to what counts, and you could clarify the question, but I will be happy to respond.

Ms. BROWN. I do know that the Alaskan receives Federal dollars.

Mr. ROSEN. Well, again, Congresswoman, we will be happy to respond to the question with some clarification.

Ms. BROWN. And I am sure the chairman has a lot to do with it. He is doing his job.

Mr. LANEY. The answer to the question, is no, I do not know of any.

Mr. LATOURETTE. Mr. Mica, your one question?

Mr. MICA. My one question maybe will be towards Mr. Mead.

Again, I think it is important that we look at the models that we have for privatization. The British model, again, I think there has been some incorrect information. They did have problems at the beginning, I understand, Mr. Mead. They let, as I said in my opening remarks, some 28 franchises; and that is now down to either eight or ten. And, also, they did have an accident. They had accidents before, but they also inherited an entire nationwide network of rail passenger and commuter service which was in total disrepair.

And isn't it correct, Mr. Mead, that they had private investment I believe somewhere between 15 and \$20 billion U.S.? Because it is over 10 billion pounds in the infrastructure.

And isn't it further correct—and I think Mr. Laney and Mr. Rosen also agreed with this—Amtrak only owns two pieces of rail infrastructure, one the Northeast Corridor and a little bit of Michigan?

The rest you pay track access charges to freight companies. Most folks on this panel do not even understand how Amtrak operates. Are those points correct?

And, finally, isn't it correct that Amtrak's last report booked its Federal appropriations as revenue?

That is my one question.

Mr. MEAD. Actually, it was two. But I think the answer to the series of questions that were the first question is yes. And the point I was making during the testimony is that—the state of repair of the Northeast Corridor, and it is probably about 5 billion, and it is a definite plus-up way above that to make it high speed. And that is a true investment.

The second question, whether they book it as revenue or not, I would have to get back to you. Maybe Mr. Laney knows that.

Mr. LANEY. Well, it is not debt.

Mr. MICA. That is what I am told by my staff.

Mr. LATOURETTE. We thank you all for being here. We thank you for your testimony and your answers to our questions and you go with our thanks.

Mr. ROSEN. Thank you, Mr. Chairman, for having us here today. We look forward to working with you and the entire subcommittee as the process of new authorization goes ahead.

Mr. LATOURETTE. We do, too; and please give our regards to the Secretary.

Mr. ROSEN. I will be happy to do that, from the ranking member as well.

Mr. LATOURETTE. The second panel will be comprised of Ray B. Chambers, National Railroad Construction and Maintenance Association, Inc.; Robert Serlin, President of Rail Infrastructure Management LLC; Paul Reistrup, Chairman-Elect of the Railway Service Corporation; Dominic Liberatore, Executive Director, All Aboard Ohio; and Robert Scardelletti, International President, Transportation Communication International Union.

Mr. MICA. Mr. Chairman, I have a unanimous consent request. I have an IG, GAO and Amtrak Reform Council Report—at least we would like to include portions of them—that detail it would take 18 to \$20 billion to make the Northeast Corridor a truly high-speed corridor, and I would like reference to that in the record.

Mr. LATOURETTE. Without objection.

Well, hopefully, Mr. Reistrup will come back. In the meantime, gentlemen, we want to thank you very much for coming today, and you come with our thanks.

**TESTIMONY OF RAY B. CHAMBERS, PRESIDENT, NATIONAL RAILROAD CONSTRUCTION AND MAINTENANCE ASSOCIATION, INC.; ROBERT SERLIN, PRESIDENT, RAIL INFRASTRUCTURE MANAGEMENT, LLC; PAUL REISTRUP, CHAIRMAN-ELECT, RAILWAY SERVICE CORPORATION; DOMINIC J. LIBERATORE, EXECUTIVE DIRECTOR, ALL ABOARD OHIO; AND ROBERT A. SCARDELLETTI, INTERNATIONAL PRESIDENT, TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION**

Mr. LATOURETTE. Mr. Chambers, you are first.

Mr. CHAMBERS. Thank you.

I am Ray Chambers, President of the National Railroad Construction Association, the NRC. I appreciate the opportunity to testify.

We believe strongly, strongly in the future of intercity passenger service in this country. We build the tracks, and we maintain the tracks. We have obviously a vested interest in this. As a result of that, I was instructed in January to review all of the proposals on the table and come up with an analysis and try to make recommendations to the Board of Directors to see if they wanted to take a position in this battle.

I was given a little budget, so we hired an outside expert, Lou Thompson, formerly with the World Bank and the Federal Railroad Administration. The NRC Board met in Geneva, Ohio, on the 20th of July, 2005, in a meeting hosted by our Vice Chairman, Larry Laurello, in his vineyard. We did not sample his other products until after we made our decisions. We endorsed a reform agenda and a program which is covered in my written statement.

I want to comment on just a couple of things. We have heard today a very interesting and lively debate between Ms. Brown, Mr. Mica, Mr. Oberstar and others. Mr. LaTourette said something I think that was very, very important at the beginning of this debate. He said that we have been going through a kabuki dance for 20 years, and we have. It is time to move to real reform. I believe that this debate and discussion, as lively as it was, is real. We are starting to come to grips with issues.

In terms of the specific proposal that we are putting forward, as we reviewed and analyzed everything, Lou and I came to the conclusion, and our Board agreed, that the initiatives put forward by David Gunn and Mr. Laney, the strategic reform initiatives, were very well thought through and very well analyzed and should be the core of the process going forward.

We also decided it is time to make a start. So we have proposed what we are calling Advanced Reform 2006, which is done through the existing statutes. What we are calling for, Mr. Laney has pretty much said he is going to do. Under existing statutory authority, the Board can do a great deal.

Secondly, we have some objectives for a long-term reform process for 2006 to 2010. These proposals are based on a number of bills that are on the table. We are also looking at a final system plan process which successfully reorganized the bankrupt Northeast railroads in the 1970s and 1980s as a way to move this thing forward. We think it can be done.

In terms of our Advanced Reform 2006, we support—there has got to be adequate appropriation. We support the \$2 billion request coming through this committee, but it should be as high as possible.

Secondly, we believe the Amtrak Board of Directors should take it to the max in terms of beginning a real test of reform. We support breaking the business lines down to the five lines of business which was in the Gunn-Laney Strategic Reform Initiatives. We would go a little bit further. We think that the NRC infrastructure should be separated but within the Amtrak family, so you can focus on infrastructure and you can focus on making Amtrak a more private-like company as it moves along.

We would like to see the appropriation by the Secretary not go just to one pot to Amtrak but be divided by those five lines of business to create additional accountability. A subsidy should go to NEC infrastructure. The long distance system should receive a subsidy. We support it and believe Amtrak should continue to run it, and it should be subsidized 100 percent.

Our major proposal, which protects our own vested interest, is the State corridor operations. I was delighted with Chairman Laney's comments today. We think it is time to launch pilot projects. We would propose that money be set aside in the appropriation for the State-subsidized operations.

Gunn-Laney took 15 lines, and they said that should be the national system. We agree. They took 25 lines and said they should be State subsidized. We would like to see appropriations go directly to the States. The States could begin to launch demonstrations in alternative operations or could continue with Amtrak under the existing arrangement. We think that would be a good start. We would find out whether competition for operators work or do not work.

I would like a side comment. I just returned from a week in Europe where most of the private operators made presentations to the Eastern Europeans. The private operations in Europe that have replaced state operations have almost uniformly grown passengers, they have uniformly improved safety and are renewing equipment, including in Britain. I know it is a controversial issue.

My colleague, Lou Thompson, was responsible for the World Bank report on Great Britain; and I would like to take an executive summary of that and submit it to the subcommittee to get at some of these issues that were discussed. I will share it in advance to get to the questions that Mrs. Brown and others might have.

Finally, we need to get to the long-term restructuring framework. There are a lot of great ideas on the table and a lot of stakeholders. We need time. We believe H.R. 1630 should pass—it is a good bill and gives us a start—and then we can begin a real process and an honest dialogue between all the parties to get to real reform.

Thank you very much.

Mr. LATOURETTE. I thank you, Mr. Chambers.

There were two things that I particularly liked about your testimony. One is that you left tourist dollars in Geneva, Ohio, and the second was that I said something smart once. So I appreciate that.

Mr. Serlin. Thank you for being here. We would like to hear from you.

Mr. SERLIN. My name is Robert Serlin, President of Rail Infrastructure Management, an entity that develops innovative rail passenger solutions.

One such solution is the infrastructure management organization plan, or IMO plan. Today I would like to talk with you about the elements of the IMO plan, the statutorily provided IMO plan stakeholder protections, and the IMO plan benefits.

The plan's origins lie in Chairman Bud Shuster's 1997 Blue Ribbon Panel. It found that Amtrak has two distinct businesses, a transportation service provider and infrastructure manager. Under the IMO plan, Amtrak is separated to two federally owned entities.

The first Federal entity, Amtrak, remains exactly as it is today, continues to operate in the current intercity Northeast Corridor

and contract commuter trains and to own its reservation service, rolling stock, et cetera.

The second federally owned entity would own the 600 route miles of Amtrak's own infrastructure, the passenger stations on that infrastructure and catenary. This infrastructure would be managed by an infrastructure management organization, an IMO, which is responsible for managing the infrastructure for a period of 50 years. The right to be that IMO, the infrastructure management organization, is awarded on a competitive basis by the STB.

While some have expressed concern about this separation, it is worth noting that, though Amtrak operates passenger trains over roughly 23,000 route miles, it owns and manages only about 2 percent of those route miles. Moreover, Amtrak did not own any infrastructure during its first 5 years. It was solely a transportation service provider.

With respect to the protections, we have reached out and met with the key stakeholders and have gone to great lengths to address their concerns by embodying in our statutory proposal that we have prepared here the following protections:

Firstly, labor is protected because the IMO is automatically subject to FELA, the Railroad Labor Act, Railroad Retirement and the Railway Safety Acts.

Secondly, Amtrak's infrastructure employees are protected because the IMO must offer to employees all current infrastructure employees an honor representation and seniority.

Thirdly, passengers are protected, because the IMO is deemed a railroad, making it automatically subject to the jurisdiction of the FRA's Office of Safety.

Fourthly, commuter carriers are protected, because the IMO is obligated to continue offering commuter carriers subsidized access fees.

Beyond these protections, the IMO plan promises tremendous benefits. It retains Amtrak's national system with a subsidy level of about \$500 million annually, a level which we believe Congress can and should support.

Secondly, the IMO plan delivers a vastly upgraded Northeast Corridor infrastructure. To realize our vision of expanded passenger rail traffic, the IMO increases corridor expenditures from an average of \$200 million annually to a statutory minimum of \$600 million annually. Our business plan contemplates spending at least a billion dollars annually on the corridor.

The IMO plan eliminates the Federal Government's obligation to fund the looming deferred maintenance liability currently estimated between 5 and \$8 billion. The IMO plan also increases high-quality rail construction and maintenance jobs.

Congress would benefit from this plan in two important ways: It improves the transparency of Amtrak's train operating costs by removing the allocated Northeast Corridor infrastructure costs; and, secondly, it reduces Amtrak's required appropriation by close to a billion dollars a year.

This ongoing approach to creation and saving is achieved by using private-sector funding of Amtrak's Northeast Corridor. The IMO, using private-sector funds, pays for all rail infrastructure op-

erations and improvements. All improvements become the property of the Federal Government as they are made.

Funding is achieved through a \$17.5 billion zero scoring RRIF loan. Prior to receiving the RRIF loan, the infrastructure management organization, or IMO, must furnish the Federal Treasury a third-party investment grade repayment guarantee in the full amount of \$17.5 billion. In this way, taxpayers get the benefit of this private-sector investment with absolutely no financial risk to the Treasury.

Amtrak itself benefits. The IMO would be mandated to transfer \$2 billion in cash to Amtrak and assume automatic two-quarters of a billion dollars of debt from Amtrak. And, ultimately, the biggest beneficiary of this plan is the traveling public. The IMO must increase the number of passengers in order to generate new revenue. Revenue increases come from new train services that pay trackage fees to the IMO and from which the IMO pays for infrastructure improvements.

In closing, the IMO plan is a comprehensive, workable proposal that protects the stakeholders and, unlike any proposal under consideration, provides a funding solution. It meets the needs of the traveling public and will stimulate a new age of rail travel with new stations, expanded service patterns, faster trip times, greater reliability and new trains.

We urge Congress to implement the IMO plan so that all America can realize this positive vision of passenger rail service in the United States. Thank you.

Mr. LATOURETTE. Thank you, Mr. Serlin, for your testimony.

Mr. Reistrup, welcome. We look forward to hearing from you.

Mr. REISTRUP. Thank you, Mr. Chairman.

I am Paul Reistrup, Chairman-Elect as of this Monday, the 19th, of Railway Service Corporation, Wilmington, Delaware.

You may remember I was the second president of Amtrak during the period we acquired the Northeast Corridor under the direction of Congress. On that watch, most of the equipment that still is out there running today, the Amfleet and Superliners, were ordered and introduced into service.

We have today, RSC, several things we would like to propose to you. The first is that there be a pilot project. That has been discussed today. We have specifics. Also very important is the beginning of an Infrastructure Trust Fund for railroads, passengers in particular, and then the private sector initiatives, which would be responsive to many of the concerns of the members that I have heard today.

The capital costs of new equipment would be covered by the group that I am involved with. The pilot project would be on an existing Amtrak route using existing Amtrak equipment that would be upgraded for a quick start-up, hopefully in year 2006. It would not require Federal funds. The other routes would roll out, should this be successful, and that lowers the risk, of course, because this would just be one pilot route. The Infrastructure Trust Fund is a definite must before any subsequent pilot projects would be rolled out because the infrastructure is capacity constrained throughout the United States.

We are committed, RSC, to a union operation. We want Amtrak to operate this, and I will go into specifics on this. We also have a commitment of \$20 million for start-up money and \$100 million for financing the equipment, and that is debt financing.

This obviously is to, on this route, double the ridership. That is the goal in this decade.

The very important bottom line is to reduce the operating costs per seat mile, similar to what Southwest Airlines has done in competition with the other airlines. Got to have faster door-to-door service than driving. And we want also to point out, I have exhibits.

Exhibit 1 establishes the organizational structure with Amtrak with a new company called Amtrak Railroad Operations, ARO; and you can see it for yourself, RSC basically is the business development, not the operator in this case.

Also, I have the details of the infrastructure, which is Exhibit 3; and Exhibit 2 is the specifics of the pilot project.

Mr. Chairman, I would like permission to introduce a letter from Louis—we call him Lou—Paone of Houlihan Lokey Howard & Zukin, a restructuring firm that has worked with Conrail, also in the airline restructuring ports, has worked many times with labor unions and basically outlines the specifics of financing this pilot project with private funds without Federal support.

Mr. LATOURETTE. Without objection.

Mr. REISTRUP. Thank you.

Mr. LATOURETTE. Thank you very much.

Our next witness is a good friend from the State of Ohio, does a great job on behalf of the rail passengers not only in Ohio but around the country, Dominic Liberatore.

Dominic, thank you for being here. We are looking forward to hearing from you.

Mr. LIBERATORE. Thank you, Mr. Chairman.

Good afternoon. I am Dominic Liberatore, Executive Director of All Aboard Ohio. We are a not-for-profit citizen-based group that advocates for improved passenger rail service and increased freight capacity within Ohio and the region. I want to thank you Mr. LaTourette, Ranking Member Brown and the other members of the subcommittee for having me here today.

I thank you, Mr. LaTourette, for your efforts in advancing H.R. 1630 and 31, as well as the appropriations that Amtrak is currently under.

All Aboard Ohio also strongly supports Senate bill 1516, the Passenger Rail Investment and Improvement Act introduced by Senators Lott and Lautenberg and trusts that this committee will continue to work with its Senate counterparts. And I would like to mention that Senator DeWine from Ohio has also cosponsored this bill.

I am here on behalf of all Ohioans who wish to ride passenger trains and to speak in support of these pieces of legislation.

Ohio and the Nation needs a stable, cohesive and innovative national passenger rail system under Amtrak, but they have been unable to provide such service due to the lack of stable, long-term Federal funding and the lack of a mandate to provide the kinds of service that meet the needs of Ohioans.

As the graphic on the monitor illustrates, Columbus, Ohio, is the second largest metropolitan statistical area in the United States with no passenger rail service. However, since Phoenix is served indirectly by service 35 miles away Columbus, Ohio, is actually first.

Within the United States, within the State of Ohio, our State capital is the largest city in the country with no passenger rail service. It is not an honor that our organization is proud of, nor are the citizens of Ohio.

Even more ironic is the fact that the Cleveland, Columbus and Cincinnati corridor has a higher population corridor compared to France; and the French have much better passenger rail service.

I would like to discuss privatization a little bit. Some believe that privatization is a magical idea to improving passenger rail. I am greatly concerned about these statements, especially in light of the service failures and incredible government waste expense incurred in Great Britain. Rather than privatize, I believe House Resolution 1630 will provide stability, improved accountability, encourage better and more service, allow Amtrak to develop new routes, purchase more modern equipment, and make badly needed repairs to both existing equipment and infrastructure.

Ohio is one of the 24 States that are developing or implementing planning for regional passenger rail service with fast, frequent and timely trains and designated short haul corridors. The Ohio Help plan calls for six to eight trains a day running at speeds of up to 110 miles an hour serving virtually every major city in Ohio and connecting them with major international airports and business hubs like Chicago, Detroit, Pittsburgh, Toronto, New York, Philadelphia, and even Washington, D.C. It would also greatly expand capacity and eliminate bottlenecks for movement of freight rail.

Within the State of Ohio we have a serious capacity crisis with the lack of track to move the increasing amount freight coming from the coast. Preliminary economic impact studies indicate that the Ohio hub system, if built, will be a strong tool for developing new businesses, expanding existing businesses, creating more and prevailing wage jobs which cannot be outsourced, and putting more dollars into local economies. Just building the Ohio hub will create over 6,000 jobs within Ohio and the region.

But as the hub plan advances through the planning process at the State level, it is impeded by the lack of a Federal funding mechanism that would allow States and the Federal Government to partner in the funding of this plan and other plans.

Please direct your attention to the monitors. When discussing transportation funding disparities, the former chairman of this committee, Representative Jack Quinn, said: You get what you pay for. He could not be more correct. All of this discussion about a little dollars here and a little dollars here is taking away from a large discussion and the reality of the situation.

That is the reality. The reality is we invest in our highways, we invest in our airports, we have world-class airports, and we have a world-class highway system. And we have a third-rate passenger rail network due to the lack of Federal funding. Do not be confused by anything else. That is the truth.

House Resolution 1631 I believe begins to answer this critical problem. It establishes the same 80/20 Federal-to-State funding

match that other modes like highways and airports enjoy. This is absolutely necessary if we are to bring balance to our transportation system.

I don't think I am exaggerating when I say this need is critical even now, as gasoline prices rise, highways become more crowded and our Nation's airlines face financial uncertainty and current bankruptcy in many cases. Ohioans and other Americans are looking for an option to driving and flying, but that option too often is either not there or too inconvenient in terms of time or location. If you want to get on a train, Amtrak, within the State of Ohio, you have to do it in the middle of the night due to lack of frequency and Federal investment.

The illustration shows just how our national transportation system is fundamentally unbalanced and a handicap to the mobility of all Americans. Ironically, in spite of these limitations, Amtrak has seen a steady increase in ridership on all of these trains both short and long distance. State-supported train service in California, the State of Washington, Illinois, and Maine have seen ridership increases to the point where funding to buy or lease more passenger cars is desperately needed.

Members of the committee, House resolution 1630, 1631 and Senate bill 1516 will help Ohio and the rest of America get on track.

Thank you for having me at your subcommittee hearing today and for your work to improve and invest in Amtrak. If there was ever a time to bring passenger rail to the forefront now is that time. Thank you.

Mr. LATOURETTE. I thank you very much, Mr. Liberatore, for not only coming but for your fine testimony.

Our final witness today is Robert Scardelletti, who is the International President of the Transportation Communications International Union.

Mr. Scardelletti, thank you for being with us; and we look forward to your testimony.

Mr. SCARDELLETTI. Thank you, Mr. Chairman, Ranking Member Brown.

I am the International President of Transportation Communications Union. We represent about 47,000 of America's working men and women, and we are now proudly affiliated with the 700,000 member International Association of Machinists. On Amtrak, TCU represents more than 8,500 employees who work as clerks, carmen, supervisors and onboard service workers.

I start from the premise that Americans want, need and deserve a truly national rail passenger service, not one that just serves a few corridors on each coast. I believe that most of the reform proposals being circulated will result in just that, a handful of subsidized corridors and the rest of the country being deprived of any train service at all. Those who suggest that breaking Amtrak into various components somehow would reduce its public subsidy ignore its own history.

Amtrak was created in the first place because the Nation's private freight railroads sought to eliminate passenger trains because they simply could not make a profit from them. Recognizing that rail passenger service was an important piece of the Nation's trans-

portation network, Congress created the National Rail Passenger Service.

There is no question that, since its inception, Amtrak has required continual Federal support, just like every single other mode of transportation in this country. But I submit that those who suggest that somehow privatization would be a magic bullet that would cure passenger rail service of the need for public subsidy are far off the mark. If anyone could have made a profit, it is the freight railroads who operated passenger service more than 100 years. They did not and they cannot. They do not advocate it today. They haven't expressed a smidgen of interest of going back to the future of private passenger rail service, even with Government subsidies.

Today, we have heard from entities who say they are interested in running passenger trains. With all due respect, I believe the profit they foresee would be from the public trough, not from passenger operations themselves. And we need only look at Great Britain's failed experiment. Passengers were saddled with increased fares, shoddy maintenance practices, excessive job reductions, resulting in an unprecedented slew of train derailments, drastic deterioration of service and a coordination problem with a maze of poorly managed providers. The private contractors walked away with billions of public dollars, and the British taxpayers were left paying the tab.

The various privatization proposals that are circulating share another feature of the failed British experiment. They would break Amtrak up into a crazy quilt of uncoordinated regions and entities. This is one of the reasons that these proposals are opposed by the Nation's freight railroads. Nor is there any reason to expect that breaking up what is now a coordinated, fully integrated system would somehow result in cost savings.

Another misconception is that partial privatization or contracting out somehow would result in savings to Amtrak. My own union has direct experience with this approach. We were involved with Amtrak's biggest venture in contracting out in recent years.

We lost approximately 300 jobs when, in 1999, Amtrak contracted out commissary operations. We were told that Amtrak would realize tremendous savings by being able to close their commissary facilities since the contractor would have its own more modern facilities offsite. However, the contractor quickly discovered that offsite commissaries did not logistically work. Amtrak ended up having to maintain most of its facilities, and we have good reason to believe that the venture has been a financial and managerial disaster for Amtrak. Amtrak lost a significant amount of control over inventory and food selection and suffers from the vendor overstocking trains and not receiving full credit for unsold items.

Contracting out is not a panacea but is symptomatic of a common theme in many of the proposed reforms and that is to blame Amtrak workers. The Amtrak Board of Directors, for example, in its fiscal year 2006 grant request launched an outright assault on employee pensions, working conditions and job security. The Board went so far as to propose that Congress take new employees out of the railroad retirement system that is healthy and well funded. They also asked Congress to allow the Amtrak labor contracts to

expire so that the company could impose work rule changes on its employees with no regard to the collective bargaining process.

The Board argued that this radical departure from long-standing labor law is necessary to ensure an equitable legal and regulatory framework for labor among Amtrak and its competitors. This rationale is completely without merit, and every rail carrier is subject to the same rules that Amtrak is seeking to exempt itself. Other modes, such as aviation and intercity bus, are subject to fair labor laws and do not allow the company to unilaterally impose new terms and conditions.

In short, Amtrak's Board is not looking for an even playing field. They want an advantage over their workers that is not enjoyed by others in the industry and would represent a clear rejection of fair and balanced collective bargaining.

Amtrak workers have sacrificed for more than 30 years to keep Amtrak alive in the form of lower wages and a host of work rule and other concessions. Furthermore, Amtrak employees, through their representatives, their unions, have always been able to reach agreements with Amtrak, even though it has been extremely difficult to negotiate with a company that is chronically short of funds.

An Amtrak liquidation which would be the result of the administration's plans if enacted would have a devastating impact on the rail retirement system. Thousands of rail workers on the freight and commuter side would have their retirement and unemployment benefits threatened, and rail employers would see railroad taxes soar.

Is Amtrak perfectly run today? Of course not. There are areas of improvement, and we want to work with the carrier and this committee on that effort. But how is dividing the franchise into various parts inherently better than the current framework?

Amtrak is drowning under a deficit, struggling to turn around a significant deferred maintenance cost, paying less than standard rail industry wages and subject to unpredictable and highly volatile funding sources. These are the real problems that need the immediate attention of this committee.

In the face of these incredible obstacles, Amtrak nevertheless does improve both in terms of ridership and operations; and towards this end, TCU salutes the Chairman, Don Young, Ranking Member Jim Oberstar, Subcommittee Chairman LaTourette, Ranking Member Brown and other members of the committee for their support of H.R. 1630 and 1631 which would provide Amtrak with the resources it needs to evolve into an efficient, modern national intercity passenger system.

True reform of Amtrak would be, for the first time ever, to provide it with substantial funding levels necessary to provide quality service that Americans deserve and need. Soaring gas prices only highlight the benefits that Amtrak could provide if properly funded, as does national security issues such as transportation during September 11th and our recent national disaster under Katrina.

In conclusion, I would emphasize that Amtrak was created precisely because a private system did not work. The private carriers who operated passenger trains wanted out because they simply could not make a profit. If they could not make a profit, there is

absolutely no reason to believe that the privatization today would be any more successful; and when we speak of the national freight railroads we are dealing with some of the most efficient and profitable companies in this country.

Mr. Chairman, thank you for allowing TCU to present our views on the future of Amtrak and intercity passenger rail service.

Mr. LATOURETTE. Mr. Scardelletti, I thank you very much.

A housekeeping matter that I should have mentioned before, we have a lot of important people in our audience, but we are honored to have Jolene Molitoris, the Administrator for the Federal Rail Administration under the Clinton administration, with us. Glad to see you, Administrator.

Mr. Scardelletti, I am glad you talked about the food service and that decision. I know that you and your representatives were present at the hearing that we had on that; and I think it is as a result of your observations and other folks' observations—Mr. Crosby, who was here on behalf of Amtrak, and when I talked with Mr. Laney the other day in my office, they admit that they made a bad contract—not they, but a bad contract was made. I think some of the observations you have made have sunk in on that administration, and I think that they are going to do—I trust that they are going to do what they have to do to fix and make it right.

I just have a few questions, Mr. Serlin, of you. You heard Mr. Scardelletti, and I assume those observations are not new, and I assume your IMO proposal would involve a new franchise or manager of the corridor and that you would somehow assume all of Amtrak's existing labor contracts and obligations and sort of hold harmless relative to labor. Am I correct on that?

Mr. SERLIN. Yes, you are.

Mr. LATOURETTE. So anybody who works on the Northeast Corridor today would work on the Northeast Corridor tomorrow if you were successful in achieving this IMO status?

Mr. SERLIN. We would be offering them a job. We can't obligate them to accept it. But, yes, you are right.

Mr. LATOURETTE. When folks from your group visited me earlier, is it the contemplation that this IMO would become a second national railroad?

Mr. SERLIN. No, sir. The IMO would simply manage on behalf of the Federal Government Amtrak's owned infrastructure, which is the 500 route miles roughly in the Northeast, 100 miles in Michigan and Chicago's Union Station.

Mr. LATOURETTE. And the \$2.75 billion that you mentioned, the \$2 billion in cash and the assumption of about \$750 million of obligations, I assume that that would be guaranteed or mandated by statute or guaranteed by contracts?

Mr. SERLIN. That would be by statute or we would be obligated to make those payments.

Mr. LATOURETTE. The last question is the RRIF loan that you were talking about sounds a little bit better than the regular RRIF loan, which is a guarantee that the government—but I thought you were describing something that was more concrete than the regular RRIF loan. Am I right about that?

Mr. SERLIN. You are, sir.

One the issues in the standard RRIF loans is the nature of the collateral. Here, prior to the RRIF loan being granted, collateral equal to 100 percent of the RRIF loan, a third-party investment grade instrument would have to be provided to the U.S. Treasury.

Mr. LATOURETTE. I did have one more question before I move on to somebody else.

There have been a lot of proposals—not only those presented today but others—dealing with the spin-off of the Northeast Corridor. One of the things—and when I get to Mr. Reistrup I want to talk to him about it—is that when there was a perpetual freight easement given to Conrail, which has now been assumed by their successors in interest, CSX and Norfolk Southern Railroads, does your plan envision altering that relationship, that easement? Or, with or without those railroads, does it envision an expansion of freight travel as well on the Northeast Corridor?

Mr. SERLIN. It is a two-part question. Let me answer individually.

Firstly, all the existing statutes, all the existing contracts would continue forth post separation of the infrastructure so that IMO would have to assume all of the agreements with the freight railroads whereas as is.

Secondly, we fully acknowledge that the corridor is, first and foremost, a passenger corridor, but within the rubric, if working with the freight railroads, the freight railroads can increase their business. We would look forward to working with them to achieve that.

Mr. LATOURETTE. Appreciate that

If it is all right with Ms. Brown, I have a few more questions. We have a series of votes. I would like to recess now and come back and ask a few more questions. Is that all right with you? We have three votes, so we will stand in recess and try get back together at 2:15, if we could. Maybe you could get a bite to eat, and we will see you at 2:15.

The subcommittee stands in recess.

[Recess.]

Mr. LATOURETTE. If the witnesses will return to the table, we will try to move through this so that we can get you on your way.

I have a few more questions before I yield to Ms. Brown.

Mr. Reistrup, I think I was listening to your testimony, but—and when you were talking about a pilot project, but I don't think I heard you identify whether or not you and those that are working with you have identified what area of the country or what line you would be interested in running this pilot project on.

I ask you that question because I find the idea of a pilot project to be an interesting proposal, but there will be those who say if you cherry pick a certain line—so I would like to know if you have identified where you would like to make this pitch and if you can tell us a little bit about how you came to choose that site.

Mr. REISTRUP. I would be happy to, Mr. Chairman, if you put Plexiglass between me and my new friend from Ohio. And we lived in Ohio, Cuyahoga Falls and also Painsville, early in my career.

I really, a couple of years ago when I began advising RSC, suggested that they could not roll out the entire Amtrak operation, particularly all over the country, so I suggested a rollout plan. And

we, from the beginning, talked about something that had relatively light freight traffic, two or three trains a day, so that the freight capacity is not a big issue, that the line is in relatively good condition and at least one friendly freight railroad. So we picked, and at my suggestion, Milwaukee through Chicago to St. Louis; and we would run as many as five round trips, five frequencies there.

The line—as you may know, Federal funds have gone into positive train control to St. Louis. About half of that line is set up now for 110 miles an hour. It rides like a dreamboat. I have ridden the whole thing on a UP inspection train.

The other is the former Milwaukee—a high-speed line that used to run 120 miles an hour with steam when I was a kid. That line today is limited to 79 miles an hour. But it is Canadian Pacific, and they also work with the passenger carriers and have light freight traffic. That is why we did it. We wanted to have a hub where there is maintenance for the locomotives and cars and right downtown Chicago is where that is.

Mr. LATOURETTE. Do you need legislation to make this pilot project a reality? Or do you believe that the current statutory framework under which Amtrak is operating could give them the ability to move forward on what you have suggested to us today?

Mr. REISTRUP. I am not an attorney, but we do have one that is with Metro North in our group, Walter Zelig, and we do not feel that legislation is necessary. Amtrak, being a corporation in the District of Columbia, could do it with us because they would be running this.

Mr. LATOURETTE. Have you talked to the powers that be at Amtrak about your proposal?

Mr. REISTRUP. Yes, sir, we have.

Mr. LATOURETTE. Two other—and I thought you heard you say—or maybe in a previous meeting that I had where folks outlined your proposal—that you think you could have this pilot line up and operational by spring of 2006?

Mr. REISTRUP. Yes, sir.

Mr. LATOURETTE. You mentioned a trust fund dedicated for rail. I know that one of my other postings is the Water Resources Subcommittee, and a lot of people are now thinking about a trust fund, because we have a huge deficit in our sewer and water line capacities in this country. And the question, the \$64,000 question, is where do the funds come from that goes into the trust fund?

I know that people in the bottled water industry, for instance, are all up in arms because they think the easiest thing for us to do is put a nickel on these bottles of water. Where do you envision the funds coming from for a trust fund?

Mr. REISTRUP. Part of the funding would come from the passenger ticket revenues along the lines, which would be the Amtrak ARO operation, but also any commuter operators, users. And where the improvements included freight, double-tracking, for instance, freight capacity, freight would be part of that.

Mr. LATOURETTE. And the last, Mr. Scardelletti had to catch an airplane, but you also heard a number of his concerns and the concerns that I share and I know the ranking member does as well. How would the issue of existing labor contracts be dealt with on this line that you envision running as a pilot program?

Mr. REISTRUP. In brief, the existing labor agreements would be in place, Amtrak contracts, because Amtrak would be the operator; and if there had to be a slight change in crewing, it is not really a union consideration, but a local agreement, running through Chicago being an example of that.

But we would live within the existing rules. For example, 6 hours for a lonesome engineer without an assistant, and that would be the limit. Or there would be two.

Mr. LATOURETTE. Okay. And, last, it is a pleasure to have you here as a former President of Amtrak and maybe you can help me with something that has troubled me. I think about the time you were at Amtrak. I recall the 4R act authorized Amtrak to enter into agreements, and one of the agreements that Amtrak entered into was the granting of this perpetual easement of freight to Conrail, now defunct and inherited by CSX and Norfolk Southern. So whether the corridor in the future is operated by Amtrak or anyone else, no freight can operate without the consent of those two freight railroads unless the easement that was negotiated is bought out. Can you share with us what motivated Amtrak at that time to give away forever a freight monopoly? Now it is a duopoly on the railway on the Northeast Corridor.

Mr. REISTRUP. At that time—from my standpoint at that time, Mr. Chairman, I felt that having Conrail, who was interested in survival, did not like passenger trains. Much of its management, they inherited that attitude. We could not have them running metroliners and have Amtrak survive very long. So we basically accommodated them with this easement.

Now, there are three operators, Norfolk Southern, CSX, but I call it Little Conrail up in New Jersey as well. That easement does exist, and it is exclusive, as I read it. I am not an attorney.

Mr. LATOURETTE. It is, too. And it is not a question but my district office in Painsville, Ohio. So, like Mr. Liberatore, you are well represented.

Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman.

First of all, I have a letter here from the Transportation Trade Department, AFL-CIO, which states their opposition to the IMO plan. Mr. Chairman, with your permission, I would like to insert that into the record.

Mr. LATOURETTE. Without objection.

[The information received follows:]

888 16th Street, NW  
 Suite 650  
 Washington, DC 20006  
 202.628.9262  
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**Rail Labor Division**

October 8, 2004

The Honorable James Oberstar  
 Ranking Member  
 House Transportation and Infrastructure Committee  
 2365 Rayburn House Office Building  
 Washington, D.C. 20515

Dear Ranking Member Oberstar:

It has come to our attention that a private-sector group has been pushing a proposal on Capitol Hill that in their words would "create a better Amtrak" by breaking the carrier up and establishing an Infrastructure Management Organization (IMO). While rail labor has long fought for policies to strengthen and enhance our national passenger rail system, we see little in this proposal that would actually help passengers, workers or communities.

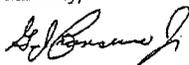
Indeed, we continue to believe that the way to create a world-class passenger rail carrier is to invest adequate resources in our current system. For years, Amtrak has been forced to limp along on anemic funding which does little for its workers who continue to sacrifice to keep the carrier running or for the long-term viability of passenger rail. We believe that Amtrak must be a national system, and that passenger rail, just like other modes of transportation, must be treated like a vital public service.

As we have stated many times, we do not understand how breaking-up Amtrak, privatizing passenger rail or spinning off routes would improve passenger rail service. In fact, that policy experiment has been tried in England and has failed miserably, with rampant delays, increased accident rates and higher fares. Furthermore, states could be saddled with the burden of providing services that would be slashed if Amtrak is split-up.

Despite these realities, it is our understanding that the group advocating the IMO plan has led some to believe that their proposal has received the support of rail unions. Let me be clear: rail labor does not support this proposal.

Rail labor has a vested and ongoing interest in ensuring the long-term viability and success of a national passenger rail system and we will evaluate proposals from this perspective. Unfortunately, the IMO plan currently being circulated is one that we cannot support and in fact distracts policy makers from providing Amtrak with the resources and tools necessary to thrive.

Sincerely,



George Francisco  
 Chair

TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

Ms. BROWN. My question is for Mr. Serlin. Do you have a detailed business plan and a detailed capital plan which states how much will be invested, where and when it will be invested, and on what specific projects and the costs of the projects? If so, can you provide that to the committee for the record?

Mr. SERLIN. We do have such a plan, and we would be very happy to share it with the committee. It is proprietary, so we are restricted from entering it into the record, but we would be very happy to meet with you and share it with you and your staffs.

Ms. BROWN. Okay. Your proposal asks for \$17.5 billion of RRIF loans with no clear mechanism for repayment. How can you justify such a request, given your limited experience in the railroad industry? How you would repay the loan?

Mr. SERLIN. It is a multipart question, so let me address each part individually.

Firstly, the way the RRIF loan—there are two ways in which the loan can be repaid. Most critically, the U.S. Government holds a third-party investment grade instrument in the value of \$17.5 billion, which means in the event that the IMO—in our case, RIM—would default or be unable to pay the full amount, you have the full amount or Treasury has the full amount in its hand. That guarantee instrument is the full amount of the RRIF loan.

Ms. BROWN. Just another follow-up question. What fees would you impose on users or passengers that are above and beyond the fares as paid already? Would it be imposed on States and local governments? In other words, what are your revenue streams?

Mr. SERLIN. There are a multitude of revenue streams. You have from the freight railroads—we do not foresee any increases on—there are three freight railroads: CSX, Norfolk Southern, PNW. We do not see any increases, and we would look forward to working with them on additional business at agreed-upon rates.

You have the commuter carriers that are currently protected under title 45. They would have exactly the same title 45 protections. None of that is being modified. So there would be no increases unless it was agreed to between them and the IMO. But there is no basis for that unless they ask for it. They are protected under title 45.

So—and there is no imposition of charges on the States. The States are the beneficiary of the improved infrastructure network and of the increased—of the new stations we would be building as part of this and of the additional trains and the additional throughput.

Ms. BROWN. Thank you.

In closing, Mr. Chairman, let me just say that there is no mode of transportation that pays for itself, irregardless of what any member of this committee says or any Member of Congress says. I have been on the Transportation Committee for 13 years, but I had 10 years of experience before I came here on the Transportation Committee in the Florida house, and I know someone here says Florida is ready to come up with millions of dollars. I hope you are not waiting for the check.

So I know we have our challenges before us as far as Amtrak is concerned. But it has been the stepchild of this administration and the Congress as far as that is concerned. But, clearly, the American

people support Amtrak and they would like for us to work to make the system a world-class system.

I thank you, Mr. Chairman, for holding this hearing.

Mr. LATOURETTE. I thank the gentlelady.

Mr. Mica.

Mr. MICA. Mr. Chairman, just for the record, the State of Florida—you can snicker and laugh, but the State of Florida had \$70 million prepared to put into one of the corridors, and I see people shaking their head in the affirmative.

I will also put that in the record with permission and document it, Mr. Chairman.

To fully implement—to continue the discussion on the \$17.5 billion, what kind of a timetable would you need to get into that kind of an arrangement, to actually provide service?

Mr. SERLIN. I am sorry. Would you mind—I am not quite sure I follow the question. What service?

Mr. MICA. You are talking about putting \$17 billion investment through a loan. How long would it take to actually put that investment in and see it realized?

Mr. SERLIN. Thank you for restating the question.

The \$17 billion—again, if RIM is selected for the IMO by the Surface Transportation Board, because this is not being sole sourced by our business plan we would start investing that literally on day one. Now, obviously, it is a slow and steady process. You cannot do this too quickly. You do not want to disrupt train service, operations of Amtrak or the commuter carriers or the freight carriers, so this has to be done in a slow systematic fashion. The word slow means safe. It does not mean—does not mean lackadaisical. Safety is clearly the first thing that goes here, and everything is done to address the safety issues.

Congressman Simmons, bridges in Connecticut. The State bringing—continuing the work of Amtrak on the Susquehanna River bridge on the southern tier where there has been little—relatively little investments spent to date. We would anticipate being able to complete bringing not only just to a state of good repair but beyond a state of good repair in parts starting within just several years. We look at this of having a turnaround starting about 15 years now. Starting year 16, our projections are to be cash positive.

Mr. MICA. Okay. Also, for the record, there is transportation that does make money. Of course, they cited the cruise ship industry and some of the pleasure rail passenger services. Some run by the cruise industry does make money.

I just met with representatives of Greyhound. They provide our national bus network, and they do make money. They are listed on the stock exchange if anyone wants to see them.

Not that we have to make money on this. I am just trying to—I have always said we would have to subsidize some essential service, and we do that in airlines and other areas. What we want to do is minimize the subsidization and also maximize the service.

One the problems I have with any of the privatization proposals is that we have to have some accounting; and I think, Mr. Chambers, your association suggests a line of business basis. We can't take a proposal and do a small demo project and not know what Amtrak's true costs are, and we have had testimony again today

that confirms that they have \$175 million in unaccounted-for expenses. So to try to find out what it is costing Amtrak and compare that service with some private sector demo will never work until we get the finances straightened out. That is part of your plan, isn't it, Mr. Chambers?

Mr. CHAMBERS. Yes, that is correct. In fact, we have a another element in it. And I haven't studied your Mica plan carefully.

Mr. MICA. The biggest problem I see, too, is the only rail infrastructure that they really maintain is that Northeast Corridor and that 100 miles we talked about in Michigan. That is why I say if we could take that out and also have a private operator from the operations standpoint you can see exactly what your dollar costs are in the balance.

Now, Amtrak should be out of the commuter business. There are plenty of vendors that do commuter business and do it very well. We have them in Florida, and they do make money. Part of it is subsidized by the government, but they do make money and provide service; is that correct?

Mr. CHAMBERS. Yes. I would like—

Mr. MICA. Like Herzog, for example?

Mr. CHAMBERS. Herzog operates in Florida. In fact, several of the commuter agencies are going to the model that we are recommending of going to competition with private vendors to run the commuter operation.

Mr. MICA. But a private operator that provides—and we know that Amtrak gets into the commuter business—cannot compete with Amtrak when they bid against a government entity that is grossly subsidized, where we can't figure out even the bottom line their finances, can we?

Mr. CHAMBERS. That is the position—that is correct. That is the position of NRC. Amtrak is working on it. But until they are operating on the same kind of a private basis as the other carriers with their inherent subsidies and inherent political relationships and so on, they provide competition that you can't compete against in a transit environment.

Mr. MICA. If necessary, if it takes me 13 additional years, I will get audits or GAO reports on every aspect of their operation until we figure out what the costs are; and the next one is going to be a doozy coming up.

Mr. CHAMBERS. I would like to go to your first question, because it is an important one.

You are right. What we are proposing is the Gunn-Laney proposal to break Amtrak's subsidies down to lines business. We also have a proposal that a study should take place on the Northeast Corridor on financing mechanisms including the RIM proposal, commuter fees, efficiencies, and so on should be part of that study.

Our key proposal—goes back to your dialogue with Ms. Brown. A key part of our proposal is that there should be subsidy available for the Secretary to be able to make direct grants to the States to launch demonstration projects using alternative operators.

Florida, since there has been debate about that, is a good example of exactly what we are proposing here. We are proposing that you take the amount that Amtrak would be subsidized for operating subsidy and for capital and make that available to the State

Department of Transportation. The Florida State Department of Transportation then could select Amtrak or they could go into a competition. And Florida is a good example. Florida does not have one of those State-subsidized routes today so this would be a new operation.

You are correct that Florida has made some commitment of funds, which I understand is still there. Amtrak backed away from it because they were losing money and did not want to launch new service. The last time that I talked to the Florida East Coast they were still interested in launching that service. Under this proposal then, the Secretary of Transportation from the State of Florida could make a proposal to the Secretary to provide—a grant; and then the State of Florida could select Amtrak if they chose or they could put it out to bid or ask Trirail to run the service. Which would be good for me because my client, Herzog, operates the Trirail trains. So that could work out well. They would have these kinds of options, and then we would get some testing of the private market and how it really works.

Ms. Brown is absolutely right. There are very few rail passenger operations anywhere that are not subsidized. The question is how the subsidy is going to come. We feel—and this is the key to this proposal. We feel that the subsidy should not be considered a subsidy but should be a public service obligation contract that goes from the USDOT to the operator to provide a service. Amtrak can compete for that, other operators can compete for that, and that is the model that is working now, starting to work around the world.

In terms of Amtrak and privatization specifically, will we ever get there? I don't know. But I do believe if you deal with the legacy debt that several of you talked about, you go to the idea of public service contracts, that Amtrak itself could become a private operation over time, and I think we need to get on with it and try some of these demonstrations.

Mr. LATOURETTE. Thank you, Mr. Mica.

I thank all of the members who participated today. It was a robust hearing of ideas attempted.

I want to thank our panel for your testimony. I want to thank you for your organizations, for taking the time to take an interest in the passenger rail in this country.

I think that everybody agrees—I did not hear anybody disagree anyway—that we need to make sure that we have a good, viable, competitive passenger rail system in this country; and, hopefully, some of the ideas that came forth on this panel and the first panel will assist us in doing that.

I would just make an observation. It was mentioned a couple of times about the Lautenberg bill, and I think it has good provisions and bad provisions. One of the provisions that troubled me is that it relies heavily on bonding, which I don't think has much chance of success in the Ways and Means Committee here, and I know it exceeds the current President's observations relevant to the Federal Government's bonding authority.

So we hope to work with Ms. Brown and take some of the ideas that we have talked about today and fashion a House piece of legislation in the true bipartisan tradition of this committee and see if

we can convince our Senate counterparts that we maybe have some ideas that they had not thought about.

But, again, I thank you very much for being here, and you go with our thanks.

This hearing is adjourned.

[Whereupon, at 2:47 p.m., the subcommittee was adjourned.]

STATEMENT OF  
THE HONORABLE CORRINE BROWN  
SUBCOMMITTEE ON RAILROADS  
HEARING ON  
“AMTRAK REFORM PROPOSALS”  
SEPTEMBER 21, 2005 – 10:00 AM

I want to begin by thanking Chairman LaTourette for holding this hearing, and I'd like to commend him for being such a strong and consistent advocate for Amtrak. If it weren't for your efforts – and for the hard work of Ranking Member Jim Oberstar and other Members of this Committee – Amtrak would have been forced to cease operations this fall.

Last year, Amtrak achieved record ridership of 25 million passengers nationwide – the equivalent of 125,000 fully loaded 757 airplanes. That is a substantial increase in ridership, which tells me that support for Amtrak is growing. That’s a real credit to Amtrak’s management and David Gunn. Recent polls show that 66 percent of the American people support Amtrak – not 66 percent from the Red States or the Blue States, but 66 percent of the American people.

Congress also supports Amtrak: More now than ever before. The LaTourette-Oberstar amendment to the Fiscal Year 2006 transportation appropriations bill increased funding for Amtrak to \$1.176 billion – that’s \$1.176 billion more than the Administration requested for Amtrak and \$626 million more than the House Appropriations Committee provided. That amendment passed the House by voice vote. On the same day, my amendment to preserve long-distance routes passed the House 269-152. Now, it looks like the Senate is going to give

Amtrak about \$1.45 billion, and I understand the Senate will soon pass a reasonable, sensible Amtrak reauthorization bill.

The fact is that support for Amtrak has never been greater! Amtrak works, and Americans depend on it. When our commercial aviation system shut down on 9/11, stranded passengers turned to Amtrak to reunite themselves with their families.

Most recently, Amtrak helped evacuate families in Louisiana who were displaced because of Hurricane Katrina. Amtrak fed them and gave them water. Just think what would have happened if Amtrak was broken up into different companies or if the States were left to run the railroad themselves.

But a small minority in Congress – and you know who you are, Mr. Mica – think that Amtrak should be eliminated, that we should starve it to death, and then privatize the system. Don't you

realize that Amtrak was created because the private railroads couldn't handle passenger service? They lost money on it. They came to Congress and asked us to take it. They told us to take their equipment, take whatever we needed, and begged us to allow them to abandon the passenger rail business.

Amtrak opponents claim that the private sector can do things cheaper and more efficiently. All we have to do is remember this summer's Acela crisis to realize that's not going to happen.

Here we had a private corporation, the Northeast Corridor Maintenance Company, which failed to fulfill meaningful maintenance and inspection responsibilities.

Just look at the British experience with privatization and separation of operations from infrastructure and maintenance to understand the devastation such failures can cause.

In March, Chairman LaTourette and I traveled to Europe to look at their rail network.

We learned that Railtrack, Britain's former rail infrastructure manager, had outsourced all of its maintenance and engineering work. As a result, the condition of the track deteriorated rapidly. Two fatal accidents in 1999 and 2000 revealed the extent of the deterioration and the company's poor understanding of asset conditions. Thankfully, the British Government learned from their mistakes. The Government took back control of their rail network, and is now investing billions of dollars in infrastructure, maintenance,

and other improvements to get their trains back on track.

We should be doing the same thing. We should be investing in our railroad system just like we invest in the other modes of transportation. We spend trillions of dollars to subsidize every form of transportation – highways, aviation, transit, and maritime – and Amtrak gets the short end of the stick, with just over \$1 billion a year from the Federal Government.

We've spent \$18 billion on aviation security since 9/11 but nothing to secure Amtrak's passengers. I read recently that the airlines are looking for another handout from Congress because of fuel prices – about \$600 million in tax relief. I don't see any relief for Amtrak.

We spend \$4 billion a month in Iraq, but we can't find \$3 billion to get the Northeast Corridor to a state of good repair. Haliburton wastes \$7.2 billion of federal funds and inflates costs billed to the federal government for things like soda,

movie rentals, tailoring services and equipment, but that gets swept under the rug. Haliburton billed the Federal Government for 37,200 cases of soda each month at \$45 per case, and we complain about a \$3 beverage that Amtrak sells to passengers.

Haliburton spent \$10,000 a day of hard-earned American taxpayer money to house their employees in Kuwait at a five-star hotel, instead of moving them to air-conditioned tent facilities like the ones used by our troops for under \$600

per day, and we complain about the cost of Amtrak's sleeper service.

Haliburton leased SUVs and trucks for as much as \$7,500 a month per vehicle, and then turned around and billed the Federal Government for it. Yet some in Congress complain about the cost of Amtrak workers, most of which will never be able to afford a vehicle at the cost of \$7,500 per month.

Then there is the TSA, which spends \$1200 for 20 gallons of Starbucks coffee; \$1500 for 14 extension cords; \$500,000 to rent tents that flooded in a rainstorm; \$250,000 for artwork for TSA's new crisis management center in Virginia; \$30,000 for silk plants and flowers; \$13,000 for lamps; and \$29,000 for art consultants; just to name a few. And we're complaining about \$1 billion for a service that millions of Americans rely upon. We should be ashamed of ourselves.

Let's stop nickel and diming Amtrak to death.  
Let's stop looking for ways to get rid of passenger  
rail. Let's start giving Amtrak the support it needs  
and let's get back to solving the real problems this  
country is facing.

Thank you, Mr. Chairman.

**TESTIMONY OF RAY B. CHAMBERS**

**On Behalf of: the  
National Railroad Construction and Maintenance Association  
(NRC)**

**"AMTRAK REFORM PROPOSALS"**

**Subcommittee on Railroads  
House Committee on Transportation and Infrastructure  
Room 2167 Rayburn House Office Building**

**Wednesday, September 21, 2005, 10:00am**

I am Ray Chambers, President of the NRC. Our members build, repair and maintain a substantial portion of America's railroad infrastructure for Class I railroads, regional and short line railroads and commuter and transit authorities. We passionately believe in the future of the rail mode. We believe intercity passenger service must be a part of that future. We have launched an Association initiative to evaluate the future of intercity passenger rail and have reached conclusions and made recommendations, which we are presenting in this testimony for the first time.

Confused by the number of reform proposals, and the claims and counter claims by those with vested interests, I was directed by the NRC Board in January to evaluate all reform proposals that are on the table. I was asked to present a recommendation at our July Board meeting for a practical program to secure the future of intercity rail passenger that is affordable and politically viable. The contractors authorized me to retain Lou Thompson to help analyze the proposals and prepare a recommendation. Lou was an Associate Administrator of the Federal Railroad Administration responsible for the creation of the Northeast Corridor in the 1970's. He then spent a distinguished career as Rail Advisor to the World Bank.

Is international practice important to America? Pressed by the EU, World Bank and IMF, there is a growing move toward freight and passenger commercialization and privatization across the globe. Of course, there are major rail cultural, structural and political differences that must be taken into account. But there are also "best practices"

where one system can learn from the other. North America leads the world with our efficient freight operations. In Europe, Australia and Japan, private passenger operators are doing well—generally under purchase-of-service contracts with government authorities. Uniformly, ridership is up. A similar program is beginning to take hold with commuter agencies in the North America.

The British privatization has been the most continuously maligned effort in the world. Certainly it has its critics in Britain—and indeed there were problems in the implementation. In my view it was too abrupt and too hard edged. But, even in Britain, the results of the private passenger operators are surprising. In the last 7 years operating expenses are down by 20% and operating subsidies are down. Safety has improved.<sup>1</sup> The safety record of the privatized companies is better than the old nationalized British Rail ever achieved. Investment in new passenger rolling stock is at record levels. Today Britain has the youngest passenger fleet in Europe or North America. The private operators have increased the number of passengers carried by 35%. Lou Thompson and I will be happy to provide this committee with documentation on the success of private rail passenger operations around the world if you wish.<sup>2</sup>

In preparation for our July Board meeting, Lou Thompson and I evaluated all current legislative proposals for reform, except the Lott-Lautenberg proposal which had just been introduced. Lou and I and several contractor members met with a wide variety of stakeholders in government and industry to discuss the concept of comprehensive reform. This included discussions with Amtrak Board representatives and the highest tier of Amtrak executives and numerous state officials. Throughout the process we consulted with our Board Members for guidance. The two principal Board Members were our NRC Chairman, Rick Ebersold with Herzog Contracting Corp. of St. Joseph, Missouri and our immediate Past Chairman Larry Laurello with Delta Railroad Construction of Ohio.

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<sup>1</sup> The so-called Hatfield accident, in which 4 lives were lost, shook Britain to the core and led to a major restructuring of the infrastructure company. Nevertheless, safety has improved.

<sup>2</sup> I spent last week in Budapest as a delegate to the Central and Eastern European Rail Executive Summit-2005 as a representative of the Seneca management consulting company which has been advising the Romanian government on rail restructuring since 1999. Presentations were made by the private passenger operators who are proliferating throughout Europe. It became clear to me that these operations are generally successful. Despite negative publicity, Britain is no exception. Service has expanded, safety has improved and ridership is up. One chart in an operator presentation stated that the passenger operating subsidy in Britain over 7 years has declined from \$1.8 billion a year to about \$755 million. The problem in Britain was the “cold turkey” spinning out of the under-maintained infrastructure into a company called Rail Track. Rail Track became increasingly capital starved. The track problem was compounded by the fact that the private operators, freight and passenger, grew rapidly under private operators. This problem is now being fixed with a new infusion of capital into the reorganized track company known as Network Rail. Network Rail is owned by the stakeholders—and is not a for profit organization. But—the passenger operating side has largely been a success. In September 2004, the World Bank issued a Transport Paper entitled “Privatizing British Railways – Are There Lessons for the World Bank and its Borrowers?” It was authored by Lou Thompson.

In the interest of full disclosure, there is an NRC vested interest. That interest is to promote and protect competitive private contracting for infrastructure construction, maintenance and operations wherever government dollars are involved. We recommended adoption of 6 guiding principals for reform:

1. **A major new infrastructure investment program is necessary if this country is to have successful intercity passenger operations.** With the exception of the Northeast Corridor (NEC) all federal grants for track construction and upgrades under this program should be directed to the states.<sup>3</sup>
2. **Federal transportation policy should direct these federal subsidies to infrastructure and capital, not passenger operations.** Except as required by labor bargaining agreements between track owners and rail unions, all federal grants for intercity passenger corridor construction and upgrades should be competitively bid.
3. **Commercial principals, including competition and private sector involvement, should be injected into the reform of passenger operations to the maximum extent possible. In this regard, there should be no subsidy for passenger operations, but rather Public Service Obligation Contracts (PSO) between government authorities and operators.** All existing subsidies should be converted to PSOs. Under this concept, a government authority will contract with an operator, which may or may not be Amtrak, to provide a level of service under the contract.<sup>4</sup>
4. **Intercity passenger operations should be free from political interference and state ownership.** All passenger operators, including Amtrak, should ultimately be free of state ownership and thus free from political interference and advantage.
5. **Amtrak should be put on a track to become a private operator as quickly as possible through a pragmatic restructuring process.** This can be done through a program of commercial governance, removing legacy debt and PSOs.
6. **During the restructuring process, Amtrak should stick to its core business of running intercity passenger service and not become a contractor itself.**

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<sup>3</sup> The NRC and our Unions were alarmed three years ago when a proposal emerged in the Senate which would have directly provided Amtrak with \$12 billion tax-credit subsidized bond financing to build intercity passenger corridors. This would have created a federally subsidized Construction Monolith with the potential to put our private members out of business. The House reported version of this concept was contained in RIDE—21. Fortunately, it channeled the bond money for construction thorough the states. Under no circumstances should Amtrak as an operating railroad be the direct recipient of infrastructure bond financing. The NEC is the exception. Here NRC proposes that NEC Operations and NEC Infrastructure be separated into two companies, both reporting to the Amtrak Board of Directors.

<sup>4</sup> This is not a subsidy—this is government bodies paying a fair price for a social service.

Amtrak should focus on its NEC and long distance National Network operations and not bid for third party contracts for construction, maintenance or passenger operations.

We evaluated all of the reform proposals on the table, except the Passenger Rail Investment and Improvement Act (Lott-Lautenberg) which was reported out of the Senate Commerce Committee as S. 1516. We are in the process of finishing an evaluation of Lott-Lautenberg, and will be pleased to submit it to the Committee.<sup>5</sup> S. 1516 has a number of very good ideas that need to be incorporated into a final reform package. We also believe it is flawed as currently written. It fails to actively promote private sector involvement and continues Amtrak into the future as a monolithic politically directed government organization. A rail operation with a politically appointed Board of Directors is doomed to repeat the failures of the past. We have just received the so-called Rail Infrastructure Management (RIM) proposal about which there is testimony this morning. We will also undertake a review and report our opinions back to the Committee.

Our analysis of all proposals led us to the conclusion that the reform vision contained in "Amtrak Strategic Reform Initiatives" proposed by Amtrak Board Chairman David Laney and Amtrak President David Gunn, released last April, is the best work to date on this complex issue. Our NRC plan is centered on the Gunn-Laney Amtrak Strategic Reform initiatives. We are a stakeholder, and our goal is to work with all stakeholders to build a practical legislative reform proposal around the Strategic Reform Initiatives. There are many compromises to be reached, but we think, with good will all around, it can be done.<sup>6</sup>

### **The NRC Reform Proposal for Implementation of Strategic Reform**

On July 20, 2005, the Board of Directors of the National Railroad Construction and Maintenance Association met at the Laurello Vineyards in the heart of Chairman LaTourette's Congressional District to review the Thompson-Chambers recommendation. Our past Chairman Larry Laurello is not only a past Chair of NRC, and owner of Delta Railroad Construction, but he also owns a fine vineyard where he hosted our Board meeting. I want to be clear that we had a full sober discussion of the issues and adopted our resolution, prior to sampling Mr. Laurello's most excellent product. The following summarizes the Resolution (which is contained in full following this testimony)

*NRC urges adoption of a specific Comprehensive Framework for Intercity Passenger Reform that is consistent with the President's*

<sup>5</sup> We believe a "fresh start" reform bill is the best idea. However, we also believe it is possible to "fix" the bill. Our analysis will provide a list of corrections and additions that will make the bill acceptable.

<sup>6</sup> These compromises include a need to protect the interest of rail labor that may be subject to some disruption during the reform process. The Lautenberg bill makes a good start of this vexing issue. The interests of the Class 1 track owners must also be protected if alternative operators are to be introduced. We believe the existing "arms-length" commuter model provides the key.

*goals and the Reform Framework put forward by Amtrak Board Chairman David Laney and Amtrak President David Gunn. The proposed Reform is divided between Advance Reform and Long Term Reform and is to be implemented during an intercity passenger transition between 2006-2010.*

The NRC proposal combines a long term Comprehensive Restructuring Process (2006-2010) with a near term 1 year action plan called Advance Reform-2006. During the 5 year restructuring process Amtrak will focus on its core operations while undergoing radical restructuring with the goal of emerging as a stable, effectively managed company.<sup>7</sup>

Advance Reform-2006 is a specific proposal to begin the process. We believe the specific idea meets the first stages of the President's reform objectives as well as the objectives of both President Gunn and Chairman Laney of Amtrak.<sup>8</sup> The Advance Reform would be accomplished through existing statutory authority which permits the Secretary to make grants to Amtrak. It requires a sufficient appropriation for fiscal year 2006 and a willingness by the Secretary to divide the grant making between the 5 business lines. There is urgency to this request because the appropriation for fiscal year 2006 is moving rapidly through the Congress. As a practical matter this represents the last chance to initiate meaningful reform in 2006.<sup>9</sup>

The central element of the Advance Plan is a call for the Amtrak Board to quickly implement the Gunn-Laney *Strategic Reform Initiatives* proposal and create the 5 lines of business. The Secretary should then divide the subsidy grants for intercity passenger service among the 5 business lines.

At the heart of our 2006 proposal is the initiation of a new robust State Corridor Operations program. The Gunn-Laney SRI combined 15 corridors into the National System to be fully federally subsidized, and put 24 Corridors on the table for spin-off to the states. We fully agree with the SRI proposal and believe this is a good place to jump-start the process in 2006. We are confident that beginning to spin the State and Regional

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<sup>7</sup> Core operations are NEC Infrastructure Management; NEC train operations; and National System Train Operations. During the interim period of restructuring (2006-2110) Amtrak will not bid on outside contracts for track maintenance or construction or rolling stock repair or commuter operations or anything that diverts from restructuring and reforming core operations. This prohibition may be lifted, in whole or in part, during the 5 year Transition if the Secretary stipulates that Amtrak or a specific subsidiary operates on a fully transparent, for profit basis under Public Service Obligation contracts just as any other private sector contractor or operator.

<sup>8</sup> *Strategic Reform Initiatives* was released in April 2005. It is a vision statement developed jointly by the Amtrak Board of Directors led by Chairman of the Board David Laney and the senior Amtrak management team led by President David Gunn.

<sup>9</sup> This is a serious matter in the Bush Administration. Secretary of Transportation Norm Mineta has stated that if substantial reform is not undertaken, he will recommend a veto of the fiscal year 2006 Transportation Appropriation.

Corridor Lines out to the states in 2006 will simplify the Amtrak process of getting control of the National System Trains and should cut Amtrak's losses significantly.

The second piece is our proposal for a Long Term Comprehensive Reform Program that combines the best elements of the Gunn-Laney Strategic Reform Initiatives, the Bush Administration Proposal, the Lott-Lautenberg bill and the Mica Draft Amtrak Reform Proposal (which has been informally circulated). The RIM proposal must be evaluated and factored in. One intriguing concept, suggested to me by a state official, is to center the long term reform process on a Final Plan Concept. The Final Plan Concept program was enormously successful in restructuring the bankrupt freight carriers of the Northeast in the 1970s.

There are many interests that yet need to be heard in a fair and open forum for consensus building. NRC is proposing a conceptual framework. We recognize this needs additional consultation and consensus building with all stakeholders. We urge this Committee and staff to work with the idea of Advance Reform-2006 as a good faith effort to initiate a long term comprehensive package. We should not rush headlong into a fix that really fixes nothing at all. After nearly 40 years of failure, let's put together something that works. We put forward a specific Long Term Federal Restructuring Framework for your consideration.

The following is the outline of the NRC proposed reform process. NRC thanks you for the opportunity to testify.

## **INTERCITY PASSENGER REFORM TRANSITION PLAN 2006 - 2010**

### *Advance Reform 2006*

#### **2005-2006 - Action to be taken by Amtrak Board and the Secretary**

- Amtrak Board formalizes and implements reporting according to the 5 business lines (Gunn-Laney)
- The Amtrak Board will establish NEC Infrastructure as separate Amtrak subsidiary reporting directly to the Board of Directors. NEC Infrastructure subsidiary will have its own Board composed of stakeholders from Amtrak, states (some represented by their commuter rail authorities) and freight operators.<sup>10</sup>
- Amtrak Board launches Advance Private Initiatives Program (ancillary privatization including rolling stock repair and rehab, stations operations, food/beverage outsourcing, etc.)
- Secretary announces State/Regional Corridor Program for 2006
- Secretary/Board solicits states for Advance Reform State/Regional Corridor Operating Proposals for implementation in fiscal year 2006

#### **2005-2006 – Action to be taken by Congress**

To be enacted in 2005:

*A. An adequate appropriation for fiscal year 2006 to launch advance reform--\$1.2 Billion to \$2.0 Billion.*

*B. The Amtrak Board of Directors restructures Amtrak reporting into 5 lines of business (Gunn-Laney)*

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<sup>10</sup> Such a Board will allow a transparent and consultative process between the commuter authorities that operate 90% of the trains over the NEC and Amtrak with its end-to-end operations representing nearly 60% of the train-miles traveled over the corridor.

*C. The Secretary will disburse the appropriation through Grant Agreements in accordance with the 5 lines of business. (In April 2005, Gunn-Laney SRI made a proposal based on their requested \$1.8 billion appropriation<sup>11</sup>):*

- NEC Infrastructure - \$479 million;
- NEC Operations (Acela and Metroliner) – \$0 (operating profit anticipated if access charges are based on avoidable costs)
- National Long Distance System - \$537 million
- Ancillary Business - \$0
- System support and Security - \$254 million
- State Corridor Operations-To be administered by the Secretary FRA - \$166 million

*D. The Secretary is directed to undertake a detailed study of ownership and management alternatives for the NEC Infrastructure, estimate the cost of a “state of good repair” program, sources of funding, and methods and formulas for establishing ownership, management and access.*

- The Study should evaluate efficient and non-discriminatory access charges for all users. The management alternatives assessed should include establishment of a Federal/State joint venture to control, maintain and improve the NEC infrastructure.
- Alternative proposals, including the RIM proposal should be considered.

*E. Regarding NEC Infrastructure, NEC Operations and the National System Trains, Amtrak is directed to seek private sector participation wherever cost effective. In the grant making process, the Secretary will give priority to demonstrations utilizing private partners.*

*F. The Secretary is directed to initiate 2006 Advance State Corridor Operations with grants directly to the states.*

- Once a state selects an alternative operator, the Secretary will retain his current statutory binding arbitration authority (possibly modified) to assure state access to necessary Amtrak assets (reservation, rolling stock, station access, etc.).<sup>12</sup>

<sup>11</sup> These numbers are those proposed by Gunn-Laney based on their request for a \$1.8 billion appropriation. The House of Representatives has approved an appropriation of \$1.2 billion. The Senate Appropriations Committee approved \$1.45 billion appropriation. This recommendation for the subsidy division among the 5 lines of business will need to be revised downward to reflect the anticipated appropriation for FY 06.

<sup>12</sup> The issue of providing Amtrak assets for state operations should not be confused with the question of track access for states or alternative operators to freight railroad infrastructure. The question of access to track owned by a private railroad by an alternative operator or a state is critical. The Bush Administration proposes a separate “Authority” be established to supervise access. The Gunn-Laney *Strategic Reform Initiatives* proposes the Amtrak Board be authorized to transfer Amtrak access rights. NRC believes State/Regional Corridor access should be transferred on terms acceptable to the host railroad and the FRA. We suggest an FRA licensing process for new operators with track owner participation, and that existing

F. The Secretary is authorized to provide States that take responsibility for intercity passenger service with direct grants for State Supported Operations. The grant ceiling will be based on a "Total Loss" formula calculating the Amtrak loss on the route.<sup>13</sup>

- The Secretary will devise a plan for the most cost effective comprehensive insurance coverage for State subsidized operations.

*G. Amtrak is directed to focus on its core business of operating National System trains and the NEC and to refrain from engaging in third-party contract operations.*

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passenger operators are grandfathered. Access fees for additional service above existing levels and/or speeds should be negotiated "at arms length," similar to commuter arrangements.

<sup>13</sup> During the Transition, at state option, Amtrak may continue to operate State Corridor trains under existing arrangements with the state. While the states may continue existing contracts, during the transition Amtrak should not bid on State Corridor Operations in state competitions due to inherent advantages of entrenched incumbency and the need to encourage alternative passenger operators. In 2006, grants from the State Corridor Operations Account should be made by the Secretary directly to an applying state regardless of whether Amtrak continues to operate legacy services. In disbursing the available grant money the priority shall go to States initiating State Operations.

*Long Term Federal Restructuring Framework -- 2007-2011*

NRC endorses implementation of a Long Term Federal Program that combines the best elements of the Gunn-Laney Strategic Reform Initiatives, the Bush Administration Proposal and the Mica Draft Amtrak Reform Proposal (which has been informally circulated). We propose the following framework:

- Establish a Federal Capital Program (Gunn-Laney modified) with the effect of 80/20 Federal/State finance for investments needed to add capacity for intercity rail passenger operations supported by state or regional authorities.
- Amtrak to operate the National System Trains (15 current routes) under purchase of service obligation (PSO) contract with the USDOT to provide 100% of any loss plus adequate allowance for capital and a reasonable return on investment.
- Amtrak to operate NEC trains at a profit with access charges based on avoidable cost.
- Amtrak to own and manage NEC Infrastructure as a separate subsidiary.<sup>14</sup> Federal government to fully finance returning the NEC to “a state of good repair.”<sup>15</sup>
- State Corridor trains come under state or regional-compact control.<sup>16</sup>
- Labor Reforms and Labor Protection Regime to be negotiated by stakeholders.<sup>17</sup>
- Legacy Debt Restructuring be put in place

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<sup>14</sup> (Regarding the new NEC Infrastructure Company proposal, see point D – page 5 & footnote #5) In addition, NRC proposes that Congress direct the Secretary to assure that all grants for infrastructure rehabilitation or improvement, or rolling stock maintenance or repair that exceed routine maintenance, are competitively bid.

<sup>15</sup> Both the Bush plan and the Gunn-Laney *Strategic Reform Initiatives* call for returning the NEC infrastructure to “a state of good repair.” The DOT Inspector General estimates that this alone will cost \$5,000,000,000. NRC believes this should be an obligation of the Federal government. It is also our view that all NEC infrastructure users, including Amtrak, commuters and freight railroads, should pay access charges on the same, non-discriminatory basis.

<sup>16</sup> Once State Corridor Trains are transferred to State control, the Secretary will provide a 5 year operating subsidy based on the “Amtrak Total Loss” for the corridor—to be phased out in equal stages over the 5 year period. The States will have access to 80-20 matching funds for infrastructure capital improvements and rolling stock acquisition and repair.

<sup>17</sup> A price of reform will undoubtedly include some employee disruption. NRC believes a “right for first hire” should be established with private companies who undertake traditional Amtrak functions. Any Amtrak employee suffering a job loss in the competitive bid process or the initiation of state subsidized service or the loss of commuter operations should be eligible for a separation payment or early supplementary retirement benefit. We believe a \$50,000 payment ceiling to be reasonable.

**NATIONAL RAILROAD CONSTRUCTION AND MAINTENANCE  
ASSOCIATION  
-NRC-**

NRC BOARD RESOLUTION

*Whereas*, world-class intercity passenger rail service should be a component of the national transportation network of the United States;

*Whereas*, the deterioration of the national intercity passenger carrier continues at an accelerated pace and Amtrak is in danger of financial collapse;

*Whereas*, if Congress and the Administration do not provide sufficient funding and enact significant reform, the Nation may face a traumatic failure of intercity rail passenger service;

*Whereas*, proposed Amtrak reform plans have been put on the table, including those developed by the Bush Administration and by the Amtrak Board/Amtrak Management (Gunn-Laney *Strategic Reform Initiatives*) and the Senate Commerce Committee:

*Therefore*, NRC urges adoption of a specific Comprehensive Framework for Intercity Passenger Reform that is consistent with the President's goals and the Reform Framework put forward by Amtrak Board Chairman David Laney and Amtrak President David Gunn. The proposed Reform is divided between Advance Reform and Long Term Reform and is to be implemented during an intercity passenger transition between 2006-2010.

Adopted July 20, 2005

Rick Ebersold

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Chairman, NRC

Ray Chambers

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President, NRC

**Statement by Congressman Jerry F. Costello  
Committee on Transportation and Infrastructure  
Subcommittee on Railroads  
Hearing on Amtrak Reform Proposals  
September 21, 2005**

Thank you, Mr. Chairman. I am pleased to be here today as we examine various current proposals for reform and restructuring Amtrak. I would like to welcome today's witnesses.

Since coming to Congress, I have been a strong supporter of Amtrak. I believe it is important that our nation has a viable nation-wide railroad system. Amtrak continues to support almost 20,000 jobs, services 25 million passengers, and provides a vital transportation link for communities in my congressional district and throughout the nation.

However, Amtrak has gone through periods of great difficulty due to a variety of reasons, and is dependent on the federal government for funding to keep it operating. I believe that the federal government has a role in providing funding for Amtrak be it through operating and/or capital expense assistance. We subsidize our nation's road, transit and aviation system and it makes sense to provide funds for rail service as well.

Under the 1997 Amtrak Reform and Accountability Act, Amtrak was to have achieved operational self-sufficiency by December 2002. While this has not happened, Amtrak has stopped borrowing, trimmed its workforce, and cut its expenses, while at the same time achieving increases in ridership. Yet, the DOT IG has observed that Amtrak cannot "save its way to financial health" because there are still substantial capital expenses that need to be

addressed. Failure to obtain the much needed appropriations put forth by both the House and Senate Transportation-Treasury-HUD appropriations bill for FY2006 may put passenger safety and service at risk.

Congress and the Administration continue to discuss and review options for reform with no consensus. The options for Amtrak reform are similar to ones we have seen before and include: providing higher levels of funding to support an expanded passenger rail system; providing funding for operating and maintaining the current system; focusing available resources on providing service only to those corridors that can be justified on economic grounds; reducing Amtrak funding and eliminating much of the present passenger rail network; and eliminating funding for Amtrak and reorganizing passenger rail service in the United States. I am interested in hearing further from our witnesses, in particular DOT IG Ken Mead and Bob Scardelletti, on the current reform proposals.

In closing, Amtrak is an essential component of our nation's transportation system and must be supported, not dismantled or privatized. I look forward to today's hearing as we discuss the Amtrak reform proposals.

  
COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE  
Subcommittee on Railroads

**Hearing: Amtrak Reform Proposals**

September 21, 2005

10:00 am

Room 2167, Rayburn House Office Building

**OPENING STATEMENT**

Mr. Chairman:

Thank you for holding today's hearing to give our committee the opportunity to examine the various proposals that have been developed for reforming Amtrak.

When Congress created Amtrak in 1970, it was committing our nation to the value of maintaining a national passenger rail service.

Unfortunately, Congress has never clearly defined what the nature of this commitment would be – nor has it

provided sufficient funding to enable Amtrak to fulfill its commitment.

From Amtrak's inception until 2003, the federal government has spent approximately \$30 billion on this system. While this sounds like a lot of money, this figure is equal to just 2% of the federal investment made in highways and air service during that period.

I look forward to studying each of the reform proposals that will be offered for consideration today as I agree that there is scope for improving Amtrak's organizational structure and service quality.

Of particular importance to me, however, will be understanding how each reform proposal defines the nature of our national commitment to intercity passenger rail service.

Further, as the problems that the current reform proposals are ostensibly trying to correct all have their roots in the continued under-funding of the Amtrak system, I am convinced that any new so-called reform proposal will be doomed to fail if is not accompanied by the funding the system needs to build reliable infrastructure and a reliable operating service.

For example, the most recent reform proposal we adopted to save Amtrak was the plan to develop a high-speed rail service.

Unfortunately, under-funding of this plan led to the selection of the untested Acela design, which was chosen largely because it came with an attractive financing package provided by the government of Canada.

This design has proven to be highly troubled – and the lack of funding to upgrade the infrastructure on which Acela operates has ensured that the train has not reached its full service potential.

Therefore, given the lessons of the past, I will pay particular attention to the level and source of funding to be provided for Amtrak by each reform proposal.

Let me also briefly say that I believe that several of the elements of the reform proposals that I have thus far examined or have seen discussed in the media are likely either to produce no service improvements or even to cause Amtrak – or significant parts of it – to fail.

For example, it would be unacceptable to break Amtrak's service into pieces. Amtrak is our national intercity passenger

rail service. It serves communities in every corner of the nation – many of which lack air service – and it should remain a national service, guided by our national government and not solely by groups of states with very different interests and objectives.

The states can be partners to our national rail service – and states that are keen to initiate corridor expansion projects should be supported. However, anemic federal funding for transportation has caused states to incur more than \$77 billion in total highway related debt. It is unacceptable for the federal government to try to now push the costs of Amtrak onto our already indebted states.

Finally, any plan to improve Amtrak must improve the operating position of the long-distance services relative to the freight railroads on whose tracks the services operate.

According to a 2004 Congressional Research Service report, 69% of all Amtrak service delays were caused by freight operations over which it has no control.

I look forward to hearing from today's witnesses. However, I again urge my colleagues to begin any discussion of reforming Amtrak by first recommitting our nation to supporting the value of intercity passenger rail service that serves our entire country.

Thank you and I yield back.

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**TESTIMONY**

**OF**

**DAVID M. LANEY, ESQ.  
CHAIRMAN, AMTRAK BOARD OF DIRECTORS**

**BEFORE THE**

**SUBCOMMITTEE ON RAILROADS**

**OF THE**

**HOUSE COMMITTEE ON  
TRANSPORTATION AND INFRASTRUCTURE**

**10:00 a.m.**

**WEDNESDAY, SEPTEMBER 21, 2005  
2167 RAYBURN HOUSE OFFICE BUILDING**

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify at this hearing.

Today I would like to discuss Amtrak's Strategic Reform Initiatives (SRI) that Amtrak transmitted to Congress and the Administration on April 21 of this year. The reforms set forth in this plan have helped shape the discussion on the future of Amtrak and intercity rail passenger service and we have sent a clear message that we embrace change.

### **Results**

We, on the Board of Directors, take our responsibility to provide strong vision and leadership to the management of the company very seriously and we have demonstrated this through the development and implementation of the SRI. As Congress begins to grapple with Amtrak and intercity passenger rail reform, I want to reassure you that we will work to continue to stabilize the company's financial situation and improve performance while we help inform the debate. To that end we have made significant progress both in rebuilding plant and equipment and maintaining the financial stability of the organization.

During this fiscal year, Amtrak continued to show strong results in a number of important areas. Despite everything that has happened this year, Amtrak will finish FY05 under budget and will set a new ridership record. This is quite remarkable when one keeps in mind the unforeseen Acela service interruption which caused the temporary cessation of all Acela trains earlier this spring. We responded efficiently and safely while integrating other equipment quickly into the timetable so that no measurable impact on NEC ridership occurred. Now we are back to full Acela service and are operating so far this month 92% on time. Just recently, we have had to deal with the indefinite truncation of three of our long-distance trains resulting from the impacts of Hurricane Katrina.

This year, we continued to chip away at the backlog of deferred maintenance for both plant and equipment. In FY06, we expect to continue this type of capital investment - renewal of track, signals, wire, equipment, switches and interlockings - but we will also begin major, multi-year projects to rebuild structures critical to Northeast Corridor operations. These include replacement of the failure prone moveable bridge spans over the Thames and Niantic rivers in Connecticut, replacement of 1930s era cables in the Baltimore tunnels, and major track work on the Harrisburg-Philadelphia line. In fact, at this time next year we expect to have that corridor updated and operating at higher speeds and with additional frequencies. Completion of the bridge and tunnel work is essential if we are to reduce the risk of a failure that would impact all NEC service. These projects are big and involve outside contractors and long lead time in ordering of materials, as well as multi-year funding commitments. But when they are completed, the repaired and rebuilt structures will last a lifetime.

Obviously, the more resources we are able to devote to our capital reinvestment program, the better chances we will have to keep our operating costs under control. The FY06 operating request is slightly lower than previous years and reflects the company's ability

to keep operating costs constant, despite inflation, rising insurance costs and the high cost of fuel. I support the FY06 Senate Appropriations Committee funding level of \$1.45 billion. I want to reinforce for the subcommittee that we have kept our operating costs essentially flat so every additional dollar appropriated has been, or will be used for capital reinvestment.

During the past three years, we have not borrowed any additional funds nor have we assumed any new debt, except for the DOT loan during the summer of 2002, which is being paid back in annual installments.

We have lowered headcount from 25,000 in FY01 to 19,500 --- its current level --- or a reduction of about 20%.

Our deficit per train mile has decreased from \$22 in FY00 to \$13 in FY04.

As I said, ridership has continued to increase. In fact, during the period FY00 to FY04, ridership has grown from 22.5 million to 25.1 million or 11.6%.

#### **Strategic Reform Initiatives**

The reform plan contains a detailed set of initiatives, some of which Amtrak will accomplish on its own and others which will require government action. Taken together, we believe that Amtrak's Strategic Reform Initiatives can revitalize intercity rail transportation and encourage competition.

Our proposal advances four essential objectives.

1. Development of passenger rail corridors based on an 80-20 federal-state capital matching program, with states becoming "purchasers" of a variety of competitively bid corridor services.
2. Return of the Northeast Corridor infrastructure to a state of good repair and operational reliability, with all users gradually assuming increased financial responsibility for their share of corridor operating and capital needs.
3. Preservation of our national long distance system, with gradually restructured routes that will over time have to meet minimum financial performance requirements, in some cases requiring state assistance.
4. Finally, the opening of the intercity passenger rail industry to competition and private commercial participation.

Let me break this down -- we have identified three basic sets of reform initiatives to achieve the objectives that I just mentioned. They include, in general terms, structural, operating and legislative changes.

**Structural Initiatives**

Amtrak generally has a good organizational structure and there are management controls in place which have resulted in cost savings and better management; but there is room for further improvement. We will continue to implement these types of changes and refine those already in place. To build on such improvements, our plan focuses on providing planning, budgeting, accounting and reporting of financial activity and performance along our distinct business lines - infrastructure management, Northeast Corridor rail operations, state corridor operations and long-distance operations. This type of change will improve the financial clarity of our operations.

**Operating Initiatives**

Operating initiatives identified in our plan highlight a range of actions intended to improve the performance of each business line to provide better service, achieve savings and enhance revenues. Some of the initiatives under consideration include: a review of food and beverage changes, station staffing changes, increased call center efficiencies, service reconfiguration of long distance operations, and competition on state-supported routes. An SRI recommendation already implemented is the establishment of a new 'Customer Services' department to provide organizational focus to accelerate food service reforms.

With regard to the 15 long-distance trains Amtrak operates, unfortunately, this has become the flash-point in the debate over "reform" of passenger rail service. Amtrak is committed to the preservation of national passenger rail service. Many communities served by long-distance trains do lack real transportation choices and rely on these services. While we believe the continued operation of these trains is important to many communities they serve, they also represent the basis for interconnection and future expansion of rail corridors. We will reduce the operating losses on long distance trains through a series of steps outlined in our plan. However, we will not eliminate the need for financial support for long-distance operations. We have recommended the establishment of a phased-in performance improvement program that will couple cost-saving efficiencies with revenue enhancement initiatives, so that over time these trains will achieve financial performance thresholds or be discontinued.

**Legislative Initiatives**

A lynchpin of this plan is the establishment of a federal matching program appealing enough to attract and accelerate state financial involvement in emerging and existing corridors. Continued development of rail corridors is critical to the future of rail passenger service, and the pace of development will increase with the federal government as a reliable financial partner - the role it has played for almost half a century with highways, transit and aviation. A number of states have already begun developing rail corridors, largely on their own nickel. They have begun to see the benefits of their investments where in one case ridership on corridor trains has grown 22% over the last five years. However, to realize the full potential of intercity passenger rail in addressing

transportation challenges will require a federal match program comparable with other modes.

Returning the NEC infrastructure to a state of good repair is another essential part of our reform proposal. Amtrak owns most of the NEC, is the only end-to-end user of the Corridor and, in terms of train miles operated, is also the majority user. Amtrak NEC trains operate at the highest speeds in North America, and there are still segments of the NEC where Amtrak is the only entity operating trains. Our immediate challenge is to restore the infrastructure to a state of good repair, which we are doing, as detailed in our proposal. Ridership continues to grow along the Northeast Corridor; in the near term we will have to begin planning for additional capacity to meet that ridership demand.

As we explain in our plan, Amtrak welcomes the opportunity to compete in a competitive market. Yet, Amtrak is not always the most efficient provider of rail-related services and we believe there should be alternatives. Key to our plan is the development of a competitive supply industry and multiple service delivery options. Amtrak can take a few essential steps in that direction, but without federal legislative assistance, we will not reach the station. There are serious impediments to competition that need to be addressed if we are to realize a truly competitive environment such as: access rights to rail infrastructure, Railroad Retirement reform, and also Railway Labor Act reform.

I realize that each of these initiatives is controversial, but we believe they are essential if we are to have real reform and true competition. Some of the legislative decisions in this area will be difficult and will encounter predictable resistance from entrenched interests. Yet, I believe it is a debate worth having.

### **Conclusion**

In closing, David Gunn, his management team, my fellow Board members and I look forward to working with you and other stakeholders in the weeks and months ahead as we further develop and implement our plan and move this debate forward. I cannot emphasize to you enough that adequate funding for Amtrak in FY06 will be a critical first step in advancing the objectives of our strategic reform initiatives plan.

We look forward to your questions.



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

**Don Young**  
**Chairman**

Lloyd A. Jones, Chief of Staff  
Elizabeth Megginson, Chief Counsel

October 4, 2005

**James I. Oberstar**  
**Ranking Democratic Member**

David Heysfeld, Democratic Chief of Staff

Mr. David Laney  
Chairman  
Amtrak Board of Directors  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, NE -- Second Floor  
Washington, D.C. 20002

Dear Mr. Laney:

On September 21, the Subcommittee on Railroads held a hearing on "Amtrak Reform Proposals."

Attached are questions to answer for the hearing record. I would appreciate receiving your written responses to these questions by October 20, 2005. Please send them to Jennifer Esposito by fax at (202) 225-4629 or by email at [Jennifer.Esposito@mail.house.gov](mailto:Jennifer.Esposito@mail.house.gov). Please do not send your responses by U.S. postal mail as we may not receive them before the deadline due to the House mail screening process.

Should you have additional questions or need further information, please contact Jennifer at 225-3274 or Nick Martinelli at 225-0123.

Sincerely,

A handwritten signature in cursive script that reads "Corine Brown".

Corine Brown  
Ranking Democratic Member  
Subcommittee on Railroads

Attachment

September 21, 2005  
Subcommittee on Railroads  
Hearing on  
“Amtrak Reform Proposals”

Question from Rep. Corrine Brown to:

Mr. David Laney  
Chairman  
Amtrak Board of Directors

**QUESTIONS FOR THE RECORD (QFR) FOR MR. DAVID LANEY**

1. Mr. Laney, how many of Amtrak’s labor organizations are operating under expired contracts? When did these contracts expire?
2. Have there been negotiations during the five years since the contract expired? If so, when do you expect to reach an agreement?
3. Should the National Mediation Board release the parties if the negotiations are not making progress? If not, please explain.
4. Mr. Laney, who is in charge of labor relations at Amtrak? Has this individual attended bargaining sessions between Amtrak and the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters in the five years negotiations have been underway? If so, please provide the dates and times of the bargaining sessions this individual has attended.
5. Mr. Laney, I have a copy of a letter from the Brotherhood of Maintenance of Way Employees which states that they will agree to binding arbitration to resolve the negotiations. Are you willing to agree to binding arbitration to reach an agreement?
6. Mr. Laney, you stated in your written submission – and this is echoed in the Board’s Strategic Plan – that Amtrak welcomes the opportunity to compete in a competitive rail market, but that there are “serious impediments to competition” that must be addressed.

Specifically, you state that if we are to realize a truly competitive environment, Congress must reform the Railway Labor Act and the Railroad Retirement system. I am a bit confused by your insistence that this is necessary. Putting aside my concerns about privatization – and I have many – all the other railroads, whether it be freight or passenger, are covered by the Railway Labor Act and the railroad retirement system, and they are all making a profit? What competitive balance are you attempting to achieve?

7. I am very concerned about your insistence that new hires be taken out of the railroad retirement system. You have a retirement system that covers every other rail worker in the country that is fully funded and provides disabled workers, retirees, and widowers with crucial benefits. You suggest just putting these people into Social Security. But you have completely ignored the fact that railroad retirement is a full pension system – while Social Security is a safety net – and one that is paid into by everyone in the rail industry. We are struggling in this Congress with providing workers with more retirement security – not less – and that is exactly what your proposal would do. I should also note that this doesn't just impact Amtrak workers – if we start to pull workers out of railroad retirement, it will threaten the solvency of the system for thousands of workers in the freight and commuter side of the industry. Please explain the reasoning behind this proposal.
8. Mr. Laney, I was wondering if you could provide this Committee with a little bit more information about your request to reform the Railway Labor Act, which for rail and aviation workers is their labor law. The Board's Strategic plan makes a broad reference for the need to allow contracts to expire. Are you suggesting that labor and management engage in self-help – in other words, that management could lockout its employees and workers could strike? If not, how would the collective bargaining process be resolved?

1. *Mr. Laney, how many of Amtrak's labor organizations are operating under expired contracts? When did these contracts expire?*

Agreements under the Railway Labor Law do not expire. The terms and conditions of the agreements continue in effect forever unless changes are negotiated in them.

A moratorium during which no negotiations are required ended November 1, 1999, for all agreements and allowed the unions and Amtrak to serve demands on one another for change terms in those agreements commencing January 1, 2000.

Three unions, representing about 35% of our employees, agreed to new agreements over two years ago. Two other bargaining units reached tentative agreements that their members rejected. Those agreements moratorium on negotiations ended November 1, 2004. We have commenced negotiations with these unions for successor agreements.

As you know, while agreements may be open for negotiations, employees receive a ½ COLA every six months until new wage increases are negotiated. For those unions which have not reached new agreements since January 1, 2000, the employees have received over 5% on top of their salaries and will receive another COLA increase on January 1, 2006. For the employees whose unions have agreements through last year, they received COLA payments July, 2005, will receive another on January 1, 2006 and will also receive COLA every 6 months thereafter until new agreements are reached.

*2. Have there been negotiations during the five years since the contract expired? If so, when do you expect to reach an agreement?*

Yes, we have negotiated with every union over the last five years, even if the unions have been unwilling to agree to changes Amtrak seeks.

Amtrak has reached agreement with three unions that represent 35% its employees. These agreements met our need for work rule reform, productivity improvement and health insurance contributions and changes. In return the employees received wage increases equivalent to those received on the freight railroads. These agreements were reached over two years ago.

This pattern has been clear to the other unions. They have not made the same effort to meet the company's needs for productivity improvement and reform. If they were to do that, we could reach agreements with them quickly.

*3. Should the National Mediation Board release the parties if the negotiations are not making progress? If not, please explain.*

That decision, of course, rests with the National Mediation Board. Based on the facts now, Amtrak does not believe that the unions should be released. A pattern of salaries, health insurance changes and wage increases have been agreed to for 35% of Amtrak employees. This has created a "pattern" for our negotiations. The unions know the pattern and know the work rule changes required of each of them. The unions representing Amtrak employees that have no agreements do not want to engage in work rule and productivity changes, since they know the contracts continue as is without such changes.

Not all the unions have even requested mediation. But even those which have requested mediation are reluctant, if not refusing, to negotiate productivity improvements that are needed to make Amtrak more productive, efficient and operations cost-effective. The mere fact that we have not reached agreements does not translate into a necessity to release the parties. A pattern established at Amtrak should result in the other unions more aggressively negotiating to meet it. That is not happening.

If the unions know that the National Mediation Board will simply release them if they do not negotiate, then they will never negotiate and always pursue a release in the hopes of obtaining a better response from a Presidential Emergency Board than they will accomplish by negotiations.

*4. Mr. Laney, who is in charge of labor relations at Amtrak? Has this individual attended bargaining sessions between Amtrak and the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters in the five years negotiations have been underway? If so, please provide the dates and times of the bargaining sessions this individual has attended.*

The head of negotiations is Joseph Bress, Vice President - Labor Relations.

Four Directors who report directly to him are responsible negotiating with the 13 unions and two joint councils, covering 24 agreements. Each of these Directors has the authority to enter into an agreement with the union with which he negotiates. They operate at each of the negotiations under the direction and supervision of Mr. Bress. Further, all negotiating strategy has been reviewed with Mr. Bress by the Amtrak's President and Board, and we are confident that company's positions are being presented at each negotiating table.

Amtrak has reached agreements with unions covering 35% of its employees. As those negotiations come to finality, Mr. Bress has personally become involved as the negotiations warrant. As the next answer indicates, BMW's decision to not engage in service negotiations does not put it anywhere near that point.

*5. Mr. Laney, I have a copy of a letter from the Brotherhood of Maintenance of Way Employees which states that they will agree to binding arbitration to resolve the negotiations. Are you willing to agree to binding arbitration to reach an agreement?*

Amtrak will not agree to binding arbitration. We must obtain productivity and work rule and benefit changes before we can agree to wage increases. We have done that with unions representing 35% of our employees and have agreements in place which ran through last December.

BMWE is well aware of the pattern that has been set. While Amtrak has made several offers (that we substantially modified) of work rule changes, health benefit changes and salary increases, BMWE has said no to each one and made no counter offers. What BMWE wants is the same agreement as it achieved with the freight railroads – an increase and no work rule changes -and has never changed its position since the beginning of negotiations. We cannot and will not agree to that.

BMWE cannot be rewarded with arbitration or even a Presidential Emergency Board where it refuses to negotiate in good faith.

6. *Mr. Laney, you stated in your written submission - and this is echoed in the Board's Strategic Plan - that Amtrak welcomes the opportunity to compete in a competitive rail market, but that there are "serious impediments to competition" that must be addressed.*

*Specifically, you state that if we are to realize a truly competitive environment, Congress must reform the Railway Labor Act and the Railroad Retirement system. I am a bit confused by your insistence that this is necessary. Putting aside my concerns about privatization - and I have many - all the other railroads, whether it be freight or passenger, are covered by the Railway Labor Act and the railroad retirement system, and they are all making a profit? What competitive balance are you attempting to achieve?*

Our competitors in commuter rail and for other routes are not railroads and, therefore, not covered by the Railway Labor Act or Railroad Retirement. For example, Herzog Corporation runs the Florida TriRail service and the Dallas over Trinity Rail service, but is not considered a railroad, even though it operates over freight rail. That also means that it is covered by the National Labor Relations Act and not the RLA

The MBTA is operated by Massachusetts Bay Commuter Rail. The MBTA voluntarily agreed to be covered by the RLA and RRTA after the unions, which represented Amtrak employees, took the position that no employees would apply for the MBTA jobs if that were not done.

Amtrak is required to bid against private competitors without federal funding utilized to support its bid. Therefore, our bid, where our employees are involved, must include the rate of RRTA and our health insurance coverage, which is very similar to the freight rail plan, and is one of the highest costs in this country. Our competitors are not tied to these costs. We simply ask to have a level playing field and not be tied to costs which our competitors are not when they bid. As discussed in answer to another question, RRTA would apply to present employees, but the change to Social Security would allow Amtrak to transition out of the coverage for future employees.

We also ask for a level playing field under the RLA with competitors. Right now the terms and conditions of agreements last in perpetuity unless changes are negotiated. Under our reform all terms and conditions would expire at the expiration date of the agreement, providing more incentive for negotiations to address issues of work rule reform and productivity, where such incentive does not exist now. Either party would be able to engage in self-help.

Lastly, Amtrak and any competitors for Amtrak routes or business should be subject to the same labor law. If Amtrak alone is subject to the RLA and RRTA, potential competitors have the ability to change agreements at their expiration or force change at a much earlier point than the RLA permits Amtrak.

*7. I am very concerned about your insistence that new hires be taken out of the railroad retirement system. You have a retirement system that covers every other rail worker in the country that is fully funded and provides disabled workers, retirees, and widowers with crucial benefits. You suggest just putting these people into Social Security. But you have completely ignored the fact that railroad retirement is a full pension system - while Social Security is a safety net - and one that is paid into by everyone in the rail industry. We are struggling in this Congress with providing workers with more retirement security - not less - and that is exactly what your proposal would do. I should also note that this doesn't just impact Amtrak workers -- if we start to pull workers out of railroad retirement, it will threaten the solvency of the system for thousands of workers in the freight and commuter side of the industry. Please explain the reasoning behind this proposal.*

The Railroad Retirement System is composed of two tiers. Tier 1 is analogous to and requires the same contribution by employee and employer as Social Security. Tier 2 is the pension portion of RRTA. In addition, both the railroad and the employee each contribute 1.45% of total earnings to Medicare Hospital Insurance.

Under Tier 1 Amtrak and the employee each contribute 6.20% of the maximum of \$90,000 in earnings. Combined with the Medicare contribution, this equals 7.65% that each contributes. This is the same amount and maximum limit employees and employers contribute to Social Security. No change would occur in this contribution or safety net should new Amtrak employees be covered by Social Security (as well as the Medicare contribution).

The area of change would be Tier 2 where Amtrak now contributes 12.60% and the employee 4.4% of the first \$66,900.00 earned. This contribution goes to the "pension portion" of Railroad retirement. Amtrak's proposal is to remove this required portion of RRTA for the company and the new employees on and after the effective date of the change. Prior employees as of that date would continue to be covered by Tiers 1 and 2 and Amtrak would contribute accordingly. The proposal does not advocate "pulling (present) workers out" of RRTA as it is presently constituted.

As in the private sector throughout the country, pension coverage for these new Amtrak employees now covered by Social Security would be subject to collective bargaining. The amount contributed by the company and by the new employees would be negotiated

within the context of salary increases, benefits and work rule and productivity reform – on the same basis as most companies subject to collective bargaining in the country.

When Amtrak competes with other companies for commuter and other services, we alone are subject to the RRTA which with our work rules make us less competitive than these other private companies that do not have these obligations. These other organized companies are able to negotiate pensions within the context of entire bargained agreements so that the costs, benefits and work rules are balanced in the bargain.

*8. Mr. Laney, I was wondering if you could provide this Committee with a little bit more information about your request to reform the Railway Labor Act, which for rail and aviation workers is their labor law. The Board's Strategic plan makes a broad reference for the need to allow contracts to expire. Are you suggesting that labor and management engage in self-help - in other words, that management could lockout its employees and workers could strike? If not, how would the collective bargaining process be resolved?*

The Railway Labor Act has consistently and historically led to negotiations which last years before resolved in both the airline and railroad industry. While the law treats airlines and railroads the same, it does not treat “publicly funded and publicly operated” commuter railroads with the same requirements. Under Section 9(a) of the RLA, these public commuter railroads have two (2) Presidential Emergency Board possibilities, with the second board proposing a final offer of one of the parties that may or may not lead to a settlement. A work stoppage may ensue. In cases of the airlines, railroads and commuter railroads, Congress may intervene to end a work stoppage.

The point is that the RLA already distinguishes between different types of railroad operations in how an impasse may be resolved. Amtrak is proposing another option for itself akin to the National Labor Relations Act. If the parties cannot reach an agreement by the agreement’s expiration date, either party may take unilateral action. The union may engage in a work stoppage; Amtrak can decide to impose terms and conditions of employment it desires. Amtrak is not seeking to lockout employees; it is seeking a more streamlined way to change outmoded (or “steam engine era”) work rules to modernize the railroad and improve productivity as Congress continually urges us to accomplish.

Under the RLA, until changes in a contract are negotiated or imposed the provisions of an agreement continue, in effect, in perpetuity. Amtrak wishes to speed the process along without the intervention of long mediation periods and emergency boards. It must be remembered that we have 13 unions and 2 joint councils with which we negotiate. Making the procedure more expeditious would improve the ability of Amtrak to negotiate or impose agreement changes.

**Shirley, Gilda**

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**From:** Brennan, John  
**Sent:** Tuesday, October 18, 2005 4:03 PM  
**To:** Mosebey, Tracy; Shirley, Gilda  
**Cc:** Scammel, Glenn  
**Subject:** Sept 21 hearing material

Hi Tracy & Gilda:

Enclosed is a copy of a legal opinion we just received from Amtrak. This was sent in response to a question posed by Chairman LaTourette at the Amtrak Reform Proposals Hearing on Sept 21.

Please include in the public record.

Thanks.

John J. Brennan III, Majority Counsel  
U.S. House of Representatives  
Transportation & Infrastructure Committee  
Subcommittee on Railroads  
Tel. 202-226-0727



Amtrak legal  
opinion.pdf (267 ...)

October 18, 2005

**AMTRAK'S BOARD OF DIRECTORS**

The following is a brief outline of the history of Amtrak's Board composition and structure since the Amtrak Reform and Accountability Act of 1997, P.L. 105-134 (the "ARAA") was enacted into law on December 2, 1997. The ARAA amended the Rail Passenger Services Act, 49 U.S.C. 24301, *et seq.* ("RPSA"), which is Amtrak's governing statute.

**I. Key Statutory and Amtrak Bylaw Provisions**

There are several key statutory and Amtrak bylaw provisions affecting Amtrak's corporate governance:

- RPSA, as most recently amended by Congress in 1997, states that Amtrak shall be managed as a for-profit corporation, subject to the District of Columbia Business Corporation Act (the "D.C. Act") to the extent consistent with the RPSA. 49 U.S. Code 24301(a) and (e) and 29 D.C. Code 101.01 *et seq.*
- The RPSA also states that Amtrak shall have a board of directors consisting of seven voting members appointed by the President, subject to Senate confirmation. 49 U. S. Code 24302(a). Because Amtrak failed to achieve the goal of operating self-sufficiency in fiscal year 2003, the 1997 provisions governing appointment of directors by the President continue in effect. 49 U.S. Code 24302(b).
- Unlike the pre-1997 provisions of the RPSA, the appointment of a member to fill a vacancy occurring before the end of a term of an Amtrak board member is not limited to the unexpired term of the member they are appointed to succeed. Compare Section 411(a) of the Amtrak Reform and Accountability Act of 1997 (the "ARAA") with 49 U.S.C. 24302(e) as adopted in 1994.
- The D. C. Act states that a corporation's business and affairs shall be managed by a board of directors, and the number of directors required to transact the corporation's business is a quorum consisting of a majority of the number of directors prescribed in the applicable governing document. For Amtrak, this means four of the seven voting members prescribed in the RPSA. 29 D. C. Code 101.32 and .36. However, the board may delegate all its powers to an executive committee consisting of two or more directors. 29 D.C. Code 101.37.
- Article IV, Board of Directors, Section 4.08 of Amtrak's Bylaws, state "A majority of the total number of Directors with voting powers fixed by statute shall constitute a quorum for the purpose of conducting the business of the Board. Except as otherwise specifically provided by statute, the Articles of Incorporation, or these Bylaws, the acts of a majority of the Directors with voting

powers present at a meeting at which a quorum exists shall be the acts of the Board of Directors." Presently, there are 4 duly appointed Board members and therefore the current Board meets the requirements of the Bylaws for a quorum, as 4 constitutes a majority of the 7 Board members called for in 49 U.S.C. § 24302(a).

- Article V, Committees, Section 5.01 Executive Committee of Amtrak's Bylaws also authorize the creation of an Executive Committee. The provision states, "The Board of Directors, by resolution adopted by a majority of the Directors with voting powers then in office may designate two or more Directors to constitute an Executive Committee, to have and exercise, consistent with applicable law, all of authority of the Board of Directors in the management of the business and affairs of the Corporation. One of the members of the Executive Committee shall be the Secretary of Transportation or his designee."

## **II. Appointments to Amtrak's Board through 2002**

Section 411(a) of the ARAA replaced Amtrak's 1997 board structure with the current board consisting of seven voting members appointed by the President for a term of five years, subject to confirmation by the Senate. (The Secretary of Transportation can be and was appointed as one of the seven but without Senate confirmation.) 49 U.S.C. 24302 (a)(2). In June 1998, President Clinton appointed then Secretary Rodney Slater to the board and, following Senate confirmation, Governors Michael Dukakis and Tommy Thompson and Mayor John Robert Smith. The appointment of the first four members – a quorum – in June 1998 satisfied the statutory condition requiring that the newly established board assume its responsibilities before July 1, 1998. The former Amtrak board was thereupon dissolved. 49 U.S.C. 24302(a)(1) and section 411(b) of the ARAA. Three other members were appointed in 1998 and 1999 following Senate confirmation as follows: Governor Linwood Holton and Ms. Amy Rosen, September 25, 1998, and Ms. Sylvia De Leon, August 9, 1999.

Secretary Mineta was appointed to replace Secretary Slater in June 2001. Further, after Governor Thompson resigned in May 2001, President Bush nominated, and the Senate confirmed, Mr. David Laney as a member of Amtrak's board. Mr. Laney was appointed by the President in November 2002 for a five-year term.

## **III. Creation of an Executive Committee of the Board and Additional Appointments in 2003 and 2004**

In 2003, the terms of four Amtrak board members were to expire: Governor Dukakis and Mayor Smith in June and Ms. Rosen and Governor Holton in September. Because of the possibility that the Board could be without a quorum of four directors, in September 2003 – prior to the expiration of the terms

of Ms. Rosen and Governor Holton, the Board: (1) amended Section 5.01 of Amtrak's Bylaws to conform to D.C. law and permit an executive committee of two members (the prior Section 5.01 required that an executive committee have three members); and (2) adopted resolutions creating an executive committee of two or more members authorized to exercise all powers of the Board with respect to Amtrak. These resolutions were adopted unanimously by Ms. De Leon, Governor Holton, Mr. Laney, Ms. Rosen, and the Secretary's representative. Initially, the board designated Mr. Laney, Ms. De Leon, and Secretary Mineta as members of the executive committee. (A copy of these resolutions is attached.)

In July 2004, the President appointed Mr. Floyd Hall to be a member of Amtrak's board, without Senate confirmation while the Senate was in recess. Immediately after this appointment, the board amended the resolutions with respect to the executive committee that had been adopted in September 2003. Mr. Hall was appointed to the executive committee in lieu of Ms. De Leon, whose term on the board was to expire in August 2004. Further, in the event of a vacancy in the executive committee, the remaining two members were authorized to exercise the powers of that committee. These resolutions were unanimously adopted by Ms. De Leon, Mr. Laney, Mr. Hall, and the Secretary's representative. (A copy is also attached).

In August 2004, the President appointed Mr. Enrique Sosa to Amtrak's board, again without Senate confirmation while the Senate was in recess. Since the appointment of Mr. Sosa, the Amtrak Board has functioned with a quorum of four.

**RESOLUTIONS AMENDING SECTION 5.01 OF THE BYLAWS  
AND DESIGNATING AN EXECUTIVE COMMITTEE OF  
THE BOARD OF DIRECTORS**

WHEREAS, Section 5.01 of Amtrak's Bylaws currently permits the Board to designate an Executive Committee comprised of three or more members, one of which must be the Secretary of Transportation or his designee, and the Executive Committee may, consistent with applicable law, exercise all of the authority of the Board of Directors in the management of the business and affairs of the Corporation in between meetings of the Board of Directors; and

WHEREAS, District of Columbia law permits a Board of Directors to designate an Executive Committee of as few as two members to "exercise all the authority of the Board of Directors in the management of the business and affairs of the Corporation"; and

WHEREAS, The Board has determined that it is in the best interests of the Company to designate an Executive Committee of the Board of Directors to have and exercise the authority of the Board; therefore, be it

RESOLVED, That the first sentence of Section 5.01 of Amtrak's Bylaws is amended to conform to District of Columbia law by permitting designation of two Directors to serve on an Executive Committee and by eliminating the language regarding the Executive Committee exercise of authority "in between meetings of the Board of Directors." The new first sentence of Section 5.01 shall read as follows: "The Board of Directors, by resolution adopted by a majority of the Directors with voting powers then in office, may designate two or more Directors to constitute an Executive Committee, to have and exercise, consistent with applicable law, all of the authority of the Board of Directors in the management of the business and affairs of the Corporation"; and

FURTHER RESOLVED, That an Executive Committee of the Board shall be established with the following members: David Laney, Chairman; Sylvia de Leon, Vice Chairman; and the Secretary of Transportation or his designee. In the event that one of these three members is unable to serve, the remaining two members shall constitute the Executive Committee and exercise all the powers thereof.

National Railroad Passenger Corporation  
Board of Directors  
Adopted September 24, 2003

**RESOLUTIONS DESIGNATING AN EXECUTIVE COMMITTEE  
OF THE BOARD OF DIRECTORS**

WHEREAS, Section 5.01 of Amtrak's Bylaws, in accordance with D.C. law, currently permits the Amtrak Board of Directors ("the Board") to designate an Executive Committee comprised of two or more members, one of which must be the Secretary of Transportation or his designee and this Executive Committee may, consistent with applicable law, exercise the full authority of the Board in the management of the business and affairs of the Corporation; and

WHEREAS, By Resolution adopted September 24, 2003, the Board established an Executive Committee comprised of the following members: David Laney, Chairman, Sylvia de Leon, Vice Chairman, and the Secretary of Transportation or his designee; and

WHEREAS, The term of Sylvia de Leon as a Member of the Board is scheduled to expire on August 8, 2004; and

WHEREAS, The Board has determined that it is in the best interests of the Corporation to reconstitute the membership of such Executive Committee of the Board to have and exercise the authority of the Board; therefore, be it

RESOLVED, An Executive Committee of the Board is reestablished with the following members: David Laney, Chairman, Floyd Hall and the Secretary of Transportation or his designee; and be it

FURTHER RESOLVED, That in the event that one of these three members resigns or otherwise leaves or vacates his or her position as a Member of the Board, the remaining two members shall constitute the Executive Committee and exercise all the powers thereof; and be it

FURTHER RESOLVED, That in the event that any member of the Executive Committee designated by these Resolutions resigns or otherwise leaves or vacates his or her position as a Member of the Board, and a new member is appointed to the Board, that individual shall assume the vacated position on the Executive Committee and the Committee shall remain in effect.

National Railroad Passenger Corporation  
Board of Directors  
Adopted July 22, 2004

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Statement of  
Dominic J. Liberatore  
Executive Director  
All Aboard Ohio

Before the  
Subcommittee on Railroads  
The Honorable Steven C. LaTourette, Chairman  
Committee on Transportation and Infrastructure  
U.S. House of Representatives

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September 22, 2005

\* \* \*

Good morning. My name is Dominic Liberatore. I am Executive Director of All Aboard Ohio, formerly known as the Ohio Association of Railroad Passengers. I want to thank Chairman LaTourette, Ranking Member Brown and the other members of the subcommittee for having me here today. I also want to thank Chairman LaTourette for his efforts in advancing H.R. 1630 and H.R. 1631. All Aboard Ohio also strongly supports S.1516, the Passenger Rail Investment and Improvement Act introduced by Senators Lott and Lautenberg and trusts that this Committee will continue to work closely with its Senate counterpart.

I am here on behalf of all Ohioans who ride, or wish to ride, passenger trains and to speak in support of these pieces of legislation.

Ohio and the nation needs a stable, cohesive and innovative national passenger rail system under Amtrak. But they have been unable to provide such service due to the lack of stable long-term funding and lack of a mandate to provide the kinds of service that meet the needs of Ohio. As the graphic on the monitor illustrates, Columbus is the second largest metropolitan statistical area in the United States with no passenger rail service. However, since Phoenix is served indirectly by Amtrak—albeit 35 miles away—Columbus is in effect first.

Some argue that privatization is the magical panacea to improving passenger rail. I am greatly concerned about these statements, especially in light of the service failures and incredible governmental expense incurred in Great Brittan.

Rather than privatize, I believe H.R. 1630 will provide stability; improve accountability; encourage better, more reliable service; allow Amtrak to develop new routes; purchase more modern equipment; and make badly-needed repairs to both existing equipment and infrastructure.

Ohio is one of 24 states that are now developing or implementing plans for regional passenger rail service with fast, frequent and timely trains in designated short-haul corridors. The Ohio Hub Plan calls for 6 to 8 trains in day, running at up to 110 miles per hour along corridors serving virtually every major city in Ohio and connecting them with major international airports and business hubs like Chicago, Detroit, Pittsburgh, Toronto and even New York, Philadelphia and Washington D.C. It would also greatly expand capacity and eliminate bottlenecks for the movement of freight by rail.

Preliminary economic impact figures indicate the Ohio Hub System, if built, will be a strong tool for developing new business, expanding existing business, creating more and better jobs and putting more dollars into local economies. Just building it would create over 6,000 construction jobs.

But even as the Hub advances through the planning process, it is impeded by the lack of a federal funding mechanism that would allow states and the federal government to partner in funding these plans. Please direct your attention to the monitors. When discussing transportation funding disparities, the former chairman of this subcommittee, Representative Jack Quinn said, "You get what you pay for." He could not have been more correct.

H.R. 1631, I believe, begins to answer this critical gap. It establishes the same 80%-20% federal to state funding match that other modes like highways and airports enjoy. This is absolutely necessary if we are to bring balance to our transportation system.

And I don't think I am exaggerating it to say this need is critical. Even now, as gasoline prices rise, highways become more crowded and many of our nation's airlines face financial uncertainty, Ohioans and all Americans are looking around for an option to driving or flying. But that option, too often, is either not there or too inconvenient in terms of time or location. It illustrates how our national transportation system is fundamentally unbalanced and a handicap to the mobility of all Americans.

Ironically, in spite of these limitations, Amtrak has seen a steady increase in ridership on all of its trains—both short and long-distance. State-supported train service in California, Washington State, Illinois and even Maine have seen ridership numbers increase to the point where funding to buy or lease more passenger cars is desperately needed.

Members of the Committee, H.R. 1630, 1631, and S.1516 will help Ohio and the rest of America get on track.

But I would also like to speak in support of amending H.R. 1631 to include a provision that allow states to claim credit for local and state dollars already being spent on rail and rail-related transportation projects as the state's share of future matching funds. Given that most state budgets are already strained, this provision would enable projects like the Ohio Hub to get rolling without having to go before the voters for new taxes.

Many speak of federal dollars spent on highways and aviation as "investment" while speaking of federal dollars spent on Amtrak as a "subsidy." H.R. 1630 and 1631 are not, as some would say, a subsidy.

It is no less an investment than what we have historically made for our highway and aviation systems. It is an investment that will bring more transportation choices, improve our economy and help create jobs by keeping business and industry moving. But improved passenger and freight rail will also improve our quality of life by reducing air pollution as well as our dependence on oil. It will also allow us to better manage and even reduce traffic congestion on our highways and airways. And finally, in balancing our national transportation system, it will actually make our nation more secure from the kind of natural or man-made catastrophes that can—and have—shut down other modes.

The members of All Aboard Ohio thank the subcommittee for its work to improve and invest in Amtrak. If there ever was a time to bring passenger rail to the forefront, now is that time. Thank you, and I will be glad to answer any questions.

*Graphs on next page:*

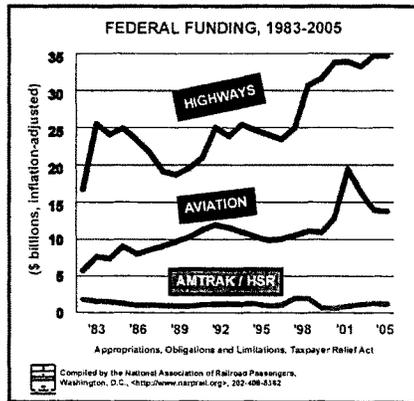
*"Largest MSA's Without Amtrak Service"*  
*"You Get What You Pay For"*

## Largest MSA's Without Amtrak

- Phoenix: 3,215,876 \*
- Columbus: 1,612,694
- Las Vegas: 1,375,765
- Nashville: 1,311,789
- Louisville: 1,161,975

(\* Phoenix area is served by a station in Maricopa, AZ, 35 miles south)

## "You Get What You Pay For"



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

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For Release on Delivery  
Expected at  
9:30 a.m. EST  
Wednesday  
September 21, 2005  
CC-2005-070

# **Reauthorization of Intercity Passenger Rail and Amtrak**

**Statement of  
The Honorable Kenneth M. Mead  
Inspector General  
U.S. Department of Transportation**



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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify today on Amtrak reform proposals. Intercity passenger rail service is an important component of a balanced transportation system in this country, but improvements are needed in how passenger rail service is delivered. In particular, a new model is needed that addresses matters such as who decides on the type and amount of service, who provides service, and who selects the providers. In our opinion, refocusing on these issues will promote greater efficiency, reliability, and cost-effectiveness in the delivery of passenger rail transportation, while continuing to provide essential mobility.

We have testified numerous times since Amtrak's authorization expired in 2002 that the current model is broken. Amtrak continues to incur unsustainably large operating losses, provide poor on-time performance, and bear increasing levels of deferred infrastructure and fleet investment on its system. While Amtrak's most recent cash flow analysis forecasts higher cash on hand by the end of the fiscal year, the improvement results from delays in capital expenditures rather than improved operations. Projected year-end cash on hand of \$121 million amounts to only 4 ½ weeks of Amtrak's average cash requirements, leaving Amtrak's stability at risk.

To turn this situation around, a comprehensive reauthorization that provides new direction and adequate funding is needed and is needed in this Congress. Continued ad hoc direction through the appropriations process is not an adequate substitute for reauthorization. The problem with the current model extends beyond funding: there are inadequate incentives for Amtrak to provide cost-effective service; state-of-good-repair needs are not being adequately addressed; and states have insufficient leverage in determining service delivery options, in part because Amtrak receives Federal rail funds, not the states.

A number of proposals introduced in this Congress take varying approaches to improving the delivery of passenger rail services throughout the nation. They reflect common goals of improving cost-efficiency, reducing Federal subsidy costs, and providing long-term funding stability and needed capital improvement. These include recent proposals from both the Senate and House and from industry stakeholders. The different approaches to reforms and restructuring of intercity passenger rail service goals reflect the needs of a diverse constituency, which include states that want improved corridor services and states with limited mode choices that see long distance service as meeting basic mobility needs. Reaching a balance between these divergent needs and the costs of providing service is the challenge reauthorization faces.

Reauthorization should focus on improving mobility in corridors (routes less than 500 miles) around the country—not just in the Northeast Corridor—and in restructuring long-distance services (routes greater than 500 miles) to complement corridor services.<sup>1</sup> This will require new relationships and new partnerships among the Federal Government, the states, Amtrak, and the freight railroads. It will involve giving states much greater authority and control over intercity passenger rail decisions. And, in order for this to work, a considerably more robust Federal funding program for capital, with a reasonable state match, will be required, along with additional state contributions.

Reauthorization should establish meaningful reforms that ensure greater cost-effectiveness, responsiveness, and reliability in the delivery of passenger rail transportation. There are three central themes that will drive successful reform:

- **Improvements in Cost-Effectiveness.** Amtrak, as the sole provider of intercity passenger rail service has few incentives, other than the threat of budget cuts or elimination, for cost control or delivery of services in a cost-effective way. Amtrak has not achieved significant costs savings since its last reauthorization. In fact, operating losses have risen from \$797 million in FY 1997 to \$1.3 billion in FY 2004. Cash losses have merely kept pace with inflation, rising an average 2.1 percent per year. In short, there has been little or no efficiency gain.

Funding these losses leads to the bigger question of whether or not Federal dollars for intercity passenger rail are being used as efficiently, and as wisely, as possible. In our recent analysis of Amtrak's long-distance services, our goal was to determine whether cost savings could be had without eliminating any routes, station stops, or frequencies. We found that on one route, the Sunset Limited, the loss in providing first class service (including interest and depreciation) exceeded \$600 per passenger. On most routes, the loss per first class passenger was more than double that per coach passenger. Exploring further, we found that eliminating first class service, dining cars and other amenities, and finding cost-effective options for food service, could reduce net operating losses on the long-distance routes by \$75 million to \$158 million per year. In addition, an average of \$79 million in planned capital expenditures over each of the next 5 years could be avoided.

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<sup>1</sup> Of Amtrak's 25 million riders in FY04, 11.3 million (45 percent) rode on the Northeast Corridor, 9.8 million (39 percent) rode on other corridor routes, and 3.9 million (15.5 percent) rode on long-distance routes. The average distance traveled by long-distance route riders was less than 700 miles; only .5 million rode a long-distance route end-to-end.

In short, we found opportunities for substantial reductions in net losses on the long-distance routes. While our analysis is not intended to prescribe a one-size-fits-all solution for long-distance routes, it does indicate potential areas for substantial savings. When we issued our report<sup>2</sup>, the Amtrak Board of Directors indicated that it intended to pursue some pilot projects along the lines suggested in the report. As of this writing, we are still waiting to hear of such action.

- **States Need a Larger Voice in Determining Service Requirements.** The current model for providing intercity passenger service does put states in a position to decide upon the best mix of service for their needs – what cities are served, schedules and frequency of service, and what amenities should be provided. Those decisions are made by Amtrak, and they are not always in the best interests of the states served. Intercity passenger rail would be better served with state-led initiatives as to where and how intercity passenger rail service is developed. States are in the appropriate position to determine the level of passenger rail service required to meet their strategic transportation needs and state sponsorship will become increasingly important as they will be asked to provide increased operating and investment support. Capital funding decisions, as with mass transit, should ultimately reside with the Department of Transportation, based on congressional direction and in partnership with the states.
- **Adequate and Stable Federal Funding is Essential.** None of the corridors around the country, including the Northeast Corridor (NEC), can provide the type of mobility needed without significant up-front investment. In the NEC this means bringing the existing facilities to a state-of-good-repair with no match requirement. In other corridors around the country it means creating the infrastructure for high-frequency services in partnership with freight railroads and commuter authorities. A robust Federal program of capital matching grants will be essential if these corridors are to be developed. In addition, long-distance services that provide connections between corridors require recapitalization if they are to be run efficiently and are to provide the high quality services their passengers deserve. None of this, however, implies giving more money directly to Amtrak, especially under the current model.

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<sup>2</sup> OIG Report Number CR-2005-068, “Analysis of Cost Savings on Amtrak’s Long-Distance Services, July 22, 2005. OIG report can be accessed on our website: [www.oig.gov](http://www.oig.gov).

A number of other issues that have proven contentious in the past must also be addressed such as what to do about Amtrak's legacy debt, its governance, and its assets, including management and ownership of the NEC.

A range of reauthorization proposals have been introduced in this Congress to address these issues, though each to different degrees and each in somewhat different ways. Some recognize the need for greater competition. From our standpoint we are not in a position to say how much, if any, competition might materialize. However, we recognize there needs to be a level playing field to promote competition, and consideration must be given as well to the legitimate interests of the freight railroads who own the rail infrastructure outside the Northeast Corridor. In our view it is unlikely that competition can become a viable option until the passenger rail system is restored to a state-of-good-repair.

Some proposals suggest shifting governance from Amtrak to either the Federal government or the states or both, while others leave Amtrak as the sole provider. Some proposals look to a mixed governance framework depending on whether it is Northeast Corridor services, other corridor services, or long distance trains. In most cases there is greater state involvement. All proposals for reform seek to restore the system to a state-of-good-repair and recognize a state-initiated need to invest in improved corridor rail services.

In testimony earlier this year, we presented a framework for reauthorization in testimony earlier this year that incorporates these themes. Specifically, we identified six core elements to consider.

- 1. Formula Grants to States for Capital and Operating Costs.** This program would address the needs of areas served by long-distance routes that have little corridor development potential, while simultaneously creating incentives for states to encourage operating efficiencies from the service operator. Formula funds can be used for operating expenses, capital maintenance, and/or capital improvements at the discretion of the states and have no match requirement.
- 2. Restoration of the Current System to a State-of-Good-Repair.** This program would provide Federal funds, with no match required, to address the accumulated backlog of deferred investment and maintenance on the Northeast Corridor and in fleet and facilities outside the Northeast Corridor. After a state-of-good-repair has been achieved, capital funds with a reasonable state match would be available for capital maintenance.

3. **Capital Matching Grants to States for Development of Corridor Services.** This program would give states the ability to improve and expand routes and service on their supported corridor routes through a Federal capital funding program with a reasonable state match requirement.
4. **Resolution of the Legacy Debt Issue.** This element would give the Secretary the authority to evaluate Amtrak's debt and to take action in the best interest of intercity passenger rail that is economically advantageous to the United States Government.
5. **Setting Federal and State Funding of These Programs at Adequate Levels.** Federal funding levels, along with state contributions have not been sufficient to subsidize operations, address deferred capital needs, and significantly improve service along the existing rail network. In the last 2 years, Amtrak has received annual Federal funding of \$1.2 billion and an additional \$250 million in state funding. In effect, Amtrak received about \$1.45 billion in public funds. It will require minimum Federal funding of \$2.0 billion a year to restore the system to a state-of-good-repair and provide funding for new corridor development.
6. **Resolution of Northeast Corridor Ownership.** The Northeast Corridor is of considerable interest in reauthorization. Unlike the rest of the passenger rail system, Amtrak owns the infrastructure between Boston and Washington, D.C. It will require at least \$4 billion to restore the corridor to a state-of-good-repair. The Federal Government may decide to take on the responsibility of restoring the NEC to a state-of-good-repair, and its debt—if it is determined to be in the public's interest to do so. Once the NEC is returned to a state-of-good-repair, the states can take a larger responsibility in directing and managing ongoing operations and maintenance. In return for fully funding the corridor, the Federal Government may decide to take title to Amtrak's assets. Although Amtrak may very likely remain the operator for NEC, we will be in a better position to decide what is the best use and ownership structure of NEC assets by the end of the reauthorization period.

This framework would require cost efficiencies as Federal funds available to cover operating losses would decline over the 5-year reauthorization period. Specifically, it would give states greater responsibility for passenger rail investments with oversight of capital investment vested in the Department. Additionally, it would focus Federal funding on stable and robust capital investment programs that would bring the system to a state-of-good-repair, maintain it in that condition, and provide for the development of corridors throughout the country.

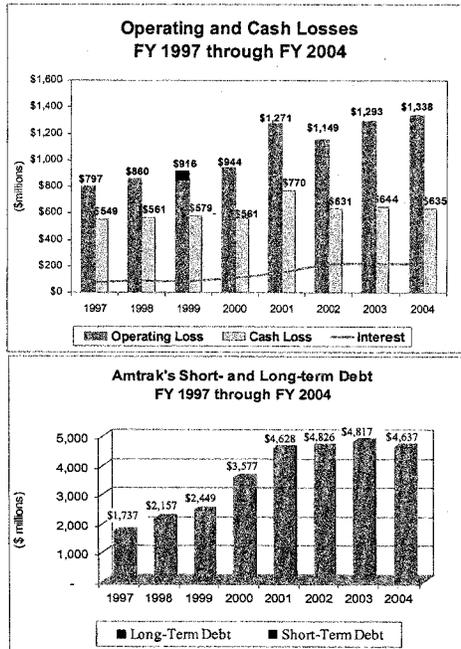
We have followed the issues in intercity passenger rail, and testified about them, for many years. During that time, we have seen a continuous decline in the intercity passenger rail system. We are glad to see the emergence of multiple proposals for reform. We want the subcommittee to know that we are willing to work with the relevant committees and constituents to secure a solution that would strengthen the delivery of intercity passenger rail in this country.

### The Current Model Is Broken

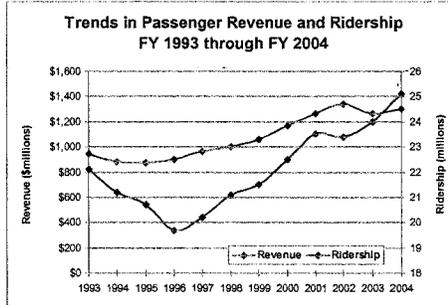
Amtrak has been tasked to be all things to all people, under a model that provides little incentive for cost-effectiveness, reliability, or responsiveness. The current model provides little balance between the national goals of an integrated network and regional and state transportation needs. How much funding and who provides the funding—Federal, state, or a combination— continually remain critical questions to be addressed.

The current model for providing intercity passenger service has resulted in financial instability and declining service quality. Despite multiple efforts over the years to change Amtrak’s structure and funding, we have a system that limps along, never in a state-of-good-repair, awash in debt, and perpetually on the edge of collapse. For example:

- The system continues to suffer operating losses (excluding depreciation and interest) on all but a handful of routes. On some long-distance trains operating losses exceed \$400 per passenger. Through July, FY 2005 operating losses on long-distance trains were 11 percent higher than in the same period a year ago.
- Amtrak’s debt grew from \$1.7 billion in FY 1997 to \$4.6 billion in FY 2004. While debt levels have declined slightly in the past few years, Amtrak’s annual debt service payments will approach \$300 million for the foreseeable future.

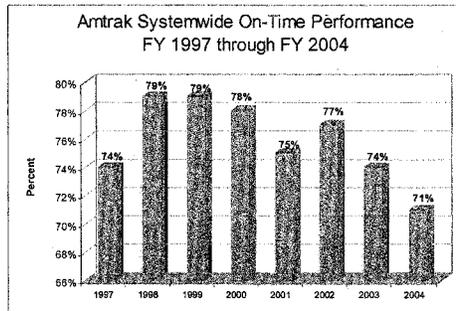


- Although ridership increased to 25.1 million in FY 2004, passenger revenues were \$1,304 million, below the \$1,341 million achieved in 2002. Through July, FY 2005 passenger revenues were \$24 million lower than in the same period in FY 2004.



- Amtrak has an estimated \$5 billion backlog of state-of-good-repair investments, and underinvestment is becoming increasingly visible in its effects on service quality and reliability. Deferred capital investment has led to several system failures in recent years and no one knows where or when a critical failure will occur. Continued deferral of needed investment increases the risk that it may not be too far away.

- On-time performance continues to deteriorate. It fell from 77 percent in FY 2002 to 71 percent in FY 2004, with Amtrak's premier service—Acela Express—achieving on-time performance of only 74 percent. On-time performance for long-distance trains averaged less than 50 percent. Through July 2005, system-wide on-time performance slipped further to 70 percent.



### Options for Providing Long-Distance Service

Tension surrounds long-distance service in particular because, although it provides essential services, it requires heavy subsidies to do so. In 2004, long-distance trains cumulatively incurred operating losses (excluding interest and depreciation) of more than \$600 million. Eliminating long-distance service would not only

ignore mobility needs of rural areas of the country, but would reduce operating losses associated with long-distance trains by only about half (or \$300 million).<sup>3</sup>

In our recent analysis of Amtrak's long-distance services, we determined that cost savings could be achieved without eliminating any routes, station stops, or frequencies. First, we found that the losses per passenger associated with first class passengers were substantially higher, and on most routes more than double the losses associated with coach passengers. In effect, the 16 percent of passengers traveling first class accounted for about 26 percent of the operating losses on these routes.

Second, we found that eliminating first class service, dining cars, and other amenities, and finding cost-effective options for food service could reduce net operating losses by about \$75 million to \$158 million per year.<sup>4</sup> Options for reducing losses on food service through initiatives or prototype test projects on several long distance routes could include raising food prices, outsourcing, having passengers obtain meals in stations during regular stops, distributed box meals that have been prepared off the train, selling packaged food from carts on the trains, or redesigning the lounge cars so that they generate sufficient revenues to offset costs. In addition, an average of \$79 million in planned capital expenditures could be avoided over each of the next 5 years.

Clearly what makes sense with respect to implementing major service changes needs to be determined on a route-by-route basis. Our analysis was not intended to provide a one-size-fits-all prescription for the long-distance routes, but to suggest areas of possible cost savings and indications of their potential magnitude. At a minimum, our analysis indicates that there are more cost-effective alternatives for providing long-distance service.

## **A Framework for Reauthorization**

Congress and the Administration have difficult decisions to make in determining the appropriate level and structure of funding for intercity passenger rail. We have developed a framework for assessing those decisions. We recognize that many assumptions need to be made about who pays for what and how to balance national, regional, and state transportation needs. Those are decisions for

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<sup>3</sup> Because long-distance trains share stations and facilities with corridor trains, eliminating the long-distance trains would not eliminate the shared costs. In addition, Amtrak allocates a share of overhead and infrastructure maintenance to the long-distance trains—some of these costs will be reallocated to all remaining trains.

<sup>4</sup> This range depends on the assumption made regarding the variability of maintenance-related labor. At the low end, we have assumed that all maintenance-related labor is fixed; at the other end, we have assumed that all such labor is variable.

Congress and the Administration to make. Our framework can serve as a strawman for further debate. It includes the following components.

- **Formula Grants With No Match Required.** This approach provides funds to states outside the Northeast Corridor that do not have corridor development potential and that rely on long-distance trains for substantially all intercity passenger rail service. There are at least 16 states with only long-distance service and little potential for any corridor development. We have not taken a position on the ultimate question of whether long-distance service should be retained or eliminated but merely presenting it as an approach for funding states that do not have the population densities to support corridor development.

This approach could initially include sufficient funds to subsidize existing long-distance and corridor services. Over the reauthorization period the funds associated with corridor services would be reduced and then eliminated at the end of the period. Further, the level of Federal funds subsidizing the long-distance services would be reduced to reflect greater operating efficiencies resulting from capital investments as well as other savings resulting from food and beverage service changes, improved labor productivity, and efficiencies that may be introduced by competitive service providers.

As determined by the states, funds could be used to defray the cost of operating subsidies, capital investment, or both, with no match required. The amount of the formula grant could be calculated on the basis of Amtrak's FY 2005 operating loss allocable per embarking/disembarking passengers in the affected state or some other formula that provides an equitable allocation.

- **Restore System to a State-of-Good-Repair.** The funding needs to restore the system to a state-of-good-repair reflect the accumulated deferral of investments which has resulted in an estimated \$5 billion backlog of capital projects for the system as a whole, threatening current and future service reliability. The Northeast Corridor presents the most difficult challenge for this program and the effects of its deteriorating infrastructure are readily evident. Amtrak's reported on-time performance in the Northeast Corridor as a whole between 1994 and 2003 ranged from 82 to 88 percent. For FY 2004, even Amtrak's premiere Acela service posted an on-time performance of only 74 percent, far short of Amtrak's stated goal of 94 percent. If the decision were made to keep the current Northeast Corridor intact, we estimate Amtrak would need to spend at least \$550 million annually for an extended period on infrastructure and rolling

stock to eliminate the backlog of capital investment in the Northeast Corridor.

Bringing the eight Northeast Corridor states and the District of Columbia together in a short period of time to direct and manage this effort would be incredibly complex but may be achievable by the end of the reauthorization period. Recognizing this challenge, one option during the reauthorization period could be for the Federal Government through a separate Departmental capital grant program to fully fund the Northeast Corridor's capital requirements until a state-of-good-repair is achieved. This would also address the states' reluctance to inherit a legacy system they did not create.

- **Capital Grants With a Reasonable Match.** Like other proposals, this approach would provide capital grants on a competitively determined basis and would be administered by the Department. States that desire to improve existing intercity rail service and/or develop new corridor services would apply to the Department for a matching grant, similar to the Federal Transit Administration's New Starts Capital Program. The Administration's proposal also suggests such a program but provides a 50/50 capital match rate by the end of the reauthorization period. Our view is that a lower state match rate requirement would provide incentives for states to take an "ownership" role in developing rail corridors on a more competitive basis with other transportation modes (historically, highways and transit have used an 80/20 match rate).

To accommodate the need for different types of capital investments, two types of capital matches could be established. For investments that qualify as traditional capital investment, such as track or purchases of passenger equipment, the Federal share could go up to 80 or 85 percent. On the other hand, for investments that qualify as capital maintenance, such as those under the transit definition the Federal share might be 70 or 75 percent.

In attaching dollar figures to this construct, we made several assumptions for purposes of illustration as follows.

- Formula grants will not fully cover train operating losses. Amtrak's forecast net cash operating needs (excluding interest) were used as the starting point. The levels of funding represent imputed cost savings of 10 percent per year from a combination of revenue growth and operating cost savings.

- Over the 5-year reauthorization period, Federal subsidies decline for long-distance trains and corridor operating subsidies shift to the states. We expect states to place higher performance and efficiency demands on the service provider to lower operating costs to more affordable levels.
- Debt service is based on Amtrak's projected debt service payments through FY 2009, adjusted for installment payments on their RRIF loan and possible early buyout options on leased equipment.
- Capital requirements to restore the system to a state-of-good-repair are based on Amtrak's Strategic Plan for FY 2005 through FY 2009 and on assumptions we made on allocating capital needs between the Northeast Corridor and the rest of the system. The funding allocation assumes a capital need of \$550 million for infrastructure and fleet in the Northeast Corridor and \$250 million for infrastructure and fleet outside the Northeast Corridor (NEC).
- Funds available for capital match represent funds remaining after state-of-good-repair funding requirements, formula grants, and debt service are met.

**Construct for Reauthorization Funding**  
(\$ in Millions)

<b>Federal Contributions</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
Formula Grants (Capital and/or Operating Subsidy)	\$570	\$570	\$510	\$460	\$410	\$370
Debt Service	276	278	358	306	308	375
Capital to Restore System State-of-Good-Repair	355	655	755	800	800	800
NEC Infrastructure + Fleet	300	525	550	550	550	550
Non-NEC Infrastructure + Fleet	55	130	205	250	250	250
<b>Subtotal</b>	<b>\$1,201</b>	<b>\$1,503</b>	<b>\$1,623</b>	<b>\$1,566</b>	<b>\$1,518</b>	<b>\$1,545</b>
Available Capital for Match			27	234	432	455
<b>Total Federal Contributions</b>	<b>\$1,201</b>	<b>\$1,503</b>	<b>\$1,650</b>	<b>\$1,800</b>	<b>\$1,950</b>	<b>\$2,000</b>

New Federal capital available for state match does not become available until annual Federal funding levels reach \$1.65 billion. This construct highlights the policy choice that needs to be made between restoring the system to a state-of-good-repair and investment in new corridor development. At \$2 billion, we would expect about \$455 million to be available to states to match for use in new and/or improved corridor development.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions at this time.

**Statement of Congressman Robert Menendez  
Rail Subcommittee Hearing on Amtrak Reform Proposals  
September 21, 2005**

Thank you, Mr. Chairman, and thank you very much for holding this hearing. I'd also like to thank our witnesses for being here, and I look forward to hearing your testimony. There are a lot of interesting ideas out there for how to make passenger rail better in this country, and I am proud to have put forward my own plan, TRAIN-21, that I introduced with my colleague on this subcommittee, Mr. Nadler. I believe there is no question that Amtrak needs to be improved. Delays, equipment failures, fare increases, and the deteriorating state of the Northeast Corridor all indicate that some sort of change is needed. And I would have hoped that we would be discussing a broad range of possibilities today, to really get to the bottom of what's feasible, and what isn't.

But that's not what we're getting with this hearing. The Democrats were only allowed to invite one of the witnesses, and the vast majority of the testimony today will focus on various schemes to dismantle or privatize Amtrak. We will hear that there are private companies interested in taking over some of Amtrak's routes, despite the fact that Amtrak was formed because the freight railroads begged Congress to let them discard their horribly unprofitable passenger lines. We will hear that allowing a private company to manage the infrastructure of the Northeast Corridor will do wonderful things for train service between Boston and Washington, even though a similar privatization experiment was a disaster in Great Britain, and there appears to be no business plan to show how this company will be able to make a profit. Hundreds of thousands of commuters in my state depend on Amtrak every day, even if they're not aware of it, because Amtrak maintains the tracks that three-quarters of New Jersey Transit commuter trains run on. If something were to happen to Amtrak, those commuters would be forced into their cars, making the congestion on our overcrowded highways even worse, and exacerbating our need for foreign oil. I don't think we should risk the Northeast Corridor on untested schemes.

We will also hear that Amtrak's problems are the result of its own mismanagement, and that pouring money into Amtrak is the same as throwing it in the garbage. I vehemently disagree. I believe the problems with Amtrak are largely a result of Congressional negligence over the past 35 years. Despite the fact that the freight railroads were completely unable to make money with passengers, Congress expected that Amtrak would turn a profit within a few years of its founding. And that fundamental flaw in expectations has caused Congress to underfund Amtrak every year since. We have spent less money on Amtrak in the last 35 years than we will spend on highways this year alone. As our distinguished chairman pointed out, we give Amtrak just enough money to fail each year. I would not quite characterize Amtrak's performance as a failure, since ridership continues to increase across the country, to the point that over 25 million people a year depend on Amtrak to get to work or school, travel on business or go on vacation.

But the chairman's point is correct. You can not starve a racehorse and expect it to perform like a thoroughbred. You can not keep Amtrak from getting the money it needs to fix its infrastructure and then blame it when a bridge failure keeps the trains from running on time. Amtrak's inability to turn a profit is not a failure at all. It is not a failure because virtually no country in the world runs a profitable railroad. It is not a failure because no form of passenger transportation in America is able to turn a profit. The federal government spends billions of dollars from the general fund each year to subsidize the aviation industry, and although all

*federal* spending on highways is funded by the gas tax, over 40% of *total* road spending throughout the country comes from sources other than user fees.

It's time for us to make the serious federal commitment that we make for roads, for airports, and for mass transit. That's what I introduced TRAIN-21. This legislation incorporates ideas that have been endorsed by some of today's witnesses, including Chairman Laney, such as the creation of a federal/state matching program to improve rail infrastructure. But most importantly, it authorizes the issuance of tax-credit bonds to provide a stable, long-term funding source for these projects. If we continue to force Amtrak to go through the appropriations process each year, we will hamper its ability to plan and execute long-term projects, and ensure that we'll be having the same fights on the Floor year after year.

One other thing that I'd like to mention, and which ties back into the chronic underfunding of Amtrak by the federal government, is Amtrak's recent proposed fare increases. I'm not happy with their decision to implement massive fare hikes for commuters who buy monthly passes along the Northeast Corridor. Small increases are one thing, but raising fares by 50% seems to be nothing more than a surefire way to upset your regular customers and drive them back into their cars. Amtrak should not be a boutique commuting option available only to the very rich. If new sources of revenue are needed, I believe it is Congress' responsibility to provide them.

Once again, Mr. Chairman, I thank you for holding this hearing, and I yield back the balance of my time.

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
U.S. HOUSE OF REPRESENTATIVES

Mr. Mica

I am a strong  
Advocate & Supporter  
of a National  
Passenger Rail  
System & Service.  
Always have been  
always will be!

U.S. REPRESENTATIVE JERROLD NADLER (D-NY)  
OPENING STATEMENT  
SUBCOMMITTEE ON RAILROADS  
HEARING ON "AMTRAK REFORM PROPOSALS"

September 21, 2005

Thank you, Chairman LaTourette. I wish I could say I was pleased to be here today discussing "Amtrak Reform Proposals," but in reality, I wonder why we keep holding hearings on this topic. The more the Administration, and ~~their~~<sup>its</sup> allies in Congress, tries to bankrupt and dismantle Amtrak, the more the American people support the railroad. Earlier this year, Congress voted overwhelmingly to fund Amtrak at its highest level ever. The House Transportation Appropriations bill includes \$1.2 billion for Amtrak and the Senate Transportation Appropriations bill includes \$1.4 billion for Amtrak. The House also voted to retain Amtrak's long distance routes and ~~to~~<sup>not</sup> break up the railroad into unmanageable pieces.

Amtrak provides a vital service for 25 million people across this country. On September 11<sup>th</sup>, Amtrak was the only mode of transportation into New York City, and it became the only way I could travel back and forth from Washington DC to my district in the days following the attack. Amtrak was even available to evacuate people from the Gulf Coast following Hurricane Katrina. Amtrak is an essential component of our

infrastructure system that provides redundancy should other modes of transportation become unavailable. Now, more than ever, we should strengthen and fund Amtrak, not dismantle the railroad, or threaten to do so under the guise of “Amtrak Reform.”

Congress supports Amtrak. The American people support Amtrak. And most members of this Committee support Amtrak. Earlier this year, this Committee passed the Amtrak Reauthorization Act of 2005 (HR 1630), which does not include any Amtrak reform provisions and authorizes \$2 billion a year for the next three years.

Yet, here we are discussing “Amtrak Reform Proposals.” I am happy to sit on this committee and support our national rail infrastructure whenever necessary. But with all due respect, I think there are more important things Congress could be doing than discussing ways to break up Amtrak.

First of all, most of these reform proposals begin with the faulty premise that Amtrak should be self-sufficient and profitable. Amtrak was created in the first place because the freight railroads begged the government to stop making them carry passengers. We took these money-losing routes

off their hands, with their inadequate infrastructure, and attempted to create a new railroad. But no mode of transportation is self-sufficient. The airlines and the highways are both heavily subsidized by taxpayers, and they should be because they provide a vital public service, and they are critical to our economy. But neither of them is profitable, at least not without significant public investment. At the very least, they are not self-sufficient. We shouldn't require Amtrak to be self-sufficient either. It just doesn't make good sense as transportation public policy.

Amtrak has never been given the resources it needs to function and its highest possible level. Congress just passed a \$286 billion transportation bill to fund our highway and transit systems over the next six years. Every member of this committee worked hard on that bill, and is proud to support those infrastructure investments. The airlines are often hailed as proof that private transportation companies can be profitable. Never mind that we spend about \$15 billion a year on our aviation system, and that we have bailed out the airlines with multibillion dollar loans. Despite this investment, several airlines have just declared bankruptcy. We spend approximately \$50 billion a year on highways and aviation, but only about \$1 billion on Amtrak even though rail is a more energy efficient mode of

transportation. We have spent less on Amtrak in 35 years than we spend on highways in one year.

Now is the time to start properly investing in Amtrak so it can run the system as it was intended. Not waste everyone's time talking about privatizing the railroad – a concept that has failed everywhere, most notably in Britain.

Mr. Menendez and I have introduced legislation, called "TRAIN-21" that would provide Amtrak the funding it needs to improve service on its current system, as well as provide a funding mechanism to upgrade high-speed corridors around the country. I believe that positive measures that invest in rail, such as TRAIN-21, are what is needed for Amtrak to provide stable and reliable service.

I look forward to working with my colleagues to make sure that Amtrak has the resources it needs to do the job.

Thank You.

STATEMENT OF  
THE HONORABLE JAMES L. OBERSTAR  
SUBCOMMITTEE ON RAILROADS  
HEARING ON "AMTRAK REFORM PROPOSALS"  
SEPTEMBER 21, 2005

- I want to begin by thanking Chairman LaTourette and Ranking Member Brown for holding this hearing to evaluate some of the Amtrak reform and reauthorization proposals.
  
- This Committee has ordered reported H.R. 1630, the Amtrak Reauthorization Act of 2005, a bipartisan bill to reauthorize Amtrak at \$2 billion annually through fiscal year 2008. The bill currently has 79 cosponsors from both sides of the aisle.
  
- I understand that the Senate Commerce Committee has now reported its bill (S. 1516), and it is expected to be considered on the Senate Floor in the near future. I look forward to continuing to work with you, Mr. Chairman, Ranking Member Brown, and of course Chairman Young, in reporting our bill to the House and moving our legislation to the House Floor for consideration. Our clean, three-year reauthorization bill will enable us to reauthorize Amtrak as we further consider more comprehensive reauthorization proposals for intercity passenger rail service.

- A number of proposals we will hear about today, including the Administration's bill, will claim that the magic of privatization will "fix" Amtrak by cutting Federal investment and improving the quality of passenger rail service.
- As we get into the specifics of the various proposals, I think it's important we remind Members that before Congress created Amtrak, the private sector ran passenger train services, and they were desperate to abandon it.
- Years of railroad neglect of their passenger operations meant that stations and terminals were often old and run down, that passenger cars offered dated amenities, and that equipment was prone to failure. The nation's railroad infrastructure was in a serious state of disrepair. Trains, even some passenger trains, crept along at 10-15 miles-per-hour in some places and derailments were becoming distressingly commonplace.
- By the time Amtrak commenced operations on May 1, 1971, the rail share of the intercity travel market had shrunk to just 0.4 percent. The number of daily intercity passenger trains had been reduced from 11,000 in 1964 to fewer than 300 in 1970.

- Congress created Amtrak to revitalize the intercity passenger train service. Congress recognized the public benefits of rail service.
- Congress also said that Amtrak was to be a “for profit” corporation and was not an agency of the Federal Government. This “for profit” requirement was put in place partly to give Amtrak hiring flexibility.
- Unfortunately, over the years, some have interpreted the “for profit” language as meaning that Congress expected Amtrak to be profitable after a few years. This simply is not true. Virtually no one at the time had such expectations.
- In one of the only documented instances of such a claim, then-Secretary of Transportation Volpe asserted that Amtrak could eventually be profitable, but he conditioned his forecast on the Federal Government providing significant capital funding to produce high-speed trains in short-haul corridors where profitability was possible and the remaining network being cutback to what could be subsidized by high-speed trains.
- These conditions were never met because Amtrak never received the support it needed from the Federal Government to greatly improve the service. It barely

received enough each year to keep it on life support. As a result, Amtrak has been in near constant financial crisis since the outset.

- Amtrak's opponents are quick to point fingers at Amtrak's management, and claim that private corporations could dramatically improve operations.
- The truth is that a succession of hardworking and dedicated management teams at Amtrak could not do the impossible – that is, operate our Nation's passenger rail system without a substantial level of investment from the Federal Government.
- Over the past 35 years, Amtrak has received less total Federal funding than we will spend on highways in just this fiscal year alone.
- The Federal Government has established robust funding mechanisms for highways, aviation, and public transit, and Congress has always properly supported Federal investment in these modes. Although much of this funding comes from user fees, each of these modes also receives substantial General Fund investment.

- But not for Amtrak: Amtrak is forced to beg for Federal funding year after year, and rarely gets what it needs because of false expectations that it should be profitable on its own.
- Railroads throughout the world receive government support to supplement the revenues paid by passengers.
- The Administration and a small minority in this Congress have not accepted this and every year they propose inadequate or no funding for Amtrak.
- A period of uncertainty follows, at the end of which Congress usually provides more than the Administration has requested. In the Fiscal Year 2006 Transportation Appropriations bill, Chairman LaTourette and I – together with so many other Members of this Committee – offered an amendment to increase funding for Amtrak to \$1.176 billion. I am glad to report that the amendment passed the House by voice vote. A separate amendment offered by Ranking Member Brown preserved Amtrak's long-distance routes. I supported that effort, and that amendment passed the House 269-152. Now it looks like the Senate is going to provide Amtrak \$1.45 billion. While those are two good numbers going into conference, we really need to be investing more in our passenger rail system.

- And we ought to heed the lessons learned from other countries that have nickel-and-dimed their passenger rail system to death.
  
- Great Britain – the poster child of privatization – Argentina, Australia, and Mexico all sought cheaper solutions for passenger rail service, and paid more for it in the end – in money and lives.
  
- In the case of Great Britain, privatization had disastrous results. Rail service deteriorated, train accidents and fatalities increased, and the infrastructure operator went bankrupt.
  
- Today, the British government is reeling from the legacy left behind by privatization. In fact, British government officials have described the experience as “an absolute disaster”. Thankfully, the government has almost doubled public funding for passenger rail, and has taken steps to improve performance and tackle the backlog of maintenance and renewal needs that exploded under privatization.

- Other countries chose a different route, which proved successful. Japan, Germany, and France all invested heavily in necessary passenger rail infrastructure and now have world-class systems.
  
- Take France, for example. France invested heavily in its passenger rail system. When I was a graduate student at the College of Europe in Belgium, part of our work was to travel to various parts of Europe and see different economic systems. I traveled from Paris to Lyon, almost 300 miles. It was a 4-1/2-hour trip.
  
- I came back in 1989, as chair of the Aviation Subcommittee. We were following the trail of Pam Am 103. I just wanted to experience the TGV (Train à Grande Vitesse). The same trip took 2:01 hours. At a certain point, the train passed a small airfield where a twin-engine aircraft had taken off, and the train passed the plane at 180 mph. The TGV is thriving now in France. They're paying back the capital cost of investment plus interest and sustaining the slower moving daily passenger systems. We can do the same here in the United States.
  
- The Federal Government needs to step up and take charge with a strong program to support passenger rail service. The States cannot do it alone. The

private sector will not do it. We must decide what we want in the way of intercity passenger rail service and decide how to pay for it.

- On a final note, I think it's important that while we hear the views expressed today, that we also listen to those who will be most impacted by these proposals – the States, the localities, the passenger groups, including the National Association of Rail Passengers, and other labor organizations, including the Transportation Trades Department of the AFL-CIO and the Brotherhood of Maintenance of Way Employees. We need to hear from them. **I understand, Mr. Chairman, that the Subcommittee will hold another hearing this fall to hear their views, and I appreciate your willingness to do that.**
  
- Thank you, Mr. Chairman, and I look forward to hearing from the witnesses.



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**OPPORTUNITIES  
FOR A  
PRIVATELY FINANCED  
PILOT PROJECT OPERATION  
OF  
AMTRAK RAIL PASSENGER SERVICE**

Testimony

before the

House Subcommittee on Railroads

By

Paul H. Reistrup  
Chairman Elect

Railway Service Corporation

September 21, 2005

Thank you for the opportunity to provide testimony today regarding the potential role of the private sector to improve Amtrak's intercity rail passenger service. It is an honor and a privilege to participate in the debate about the future of our nation's rail passenger service.

My name is Paul H. Reistrup, Chairman Elect of Railway Service Corporation. RSC is a Delaware corporation headquartered in Wilmington, Delaware.

As some members of this committee know, my lifelong railroad career includes serving as Amtrak's second president from 1975 to 1978. During my tenure at Amtrak, train operations achieved an exemplary passenger safety record. Amtrak also acquired ownership of the Northeast Corridor, ordered new electric locomotives, Amfleet and Superliner cars which still serve, today, as the backbone of Amtrak's Northeast Corridor and long distance services.

Today, I would like to describe the unique capabilities of Railway Service Corporation to provide a solution for the difficult challenges facing today's Amtrak. Later, during any questions you may have, I hope to learn more about the concerns you have for providing rail passenger service to your constituents and our nation.

In my testimony today, I will:

- Discuss Railway Service Corporation's proposal to develop a privately financed pilot project operation of an existing Amtrak route
- The need to establish a Railway Infrastructure Trust Fund
- The goals of the pilot project
- Describe some of the private sector initiatives to achieve these goals and improve our nation's rail passenger service

Railway Service Corporation (RSC) is a Delaware corporation that was incorporated in October 1999 to develop private sector operation of rail passenger services. As early as January 9, 2002, we sent a letter to the Amtrak Reform Council indicating our interest to develop and implement private sector solutions to transform Amtrak into a commercially viable enterprise.

Since that time RSC has worked extensively to develop the team, business plans and all resources necessary to develop an innovative solution for Amtrak's long term success. The key element of RSC's solution for Amtrak is to create a new operating company, Amtrak Railroad Operations (ARRO) that is responsible only for the costs "above-the-rail." This new operating company would utilize the existing Amtrak employees and rail fleet with a business model that is responsible only for the costs "above-the-rail" of the crews, equipment maintenance, fuel, insurance, marketing and administration.

The new operating company will also utilize private capital to finance start-up costs and the capital costs of new locomotives and cars in order to develop a

commercially viable venture that will not require federal and state operating subsidies. In addition, the ARRO venture will pay users fees for the use of stations and tracks as well as dedicate a portion of passenger ticket revenues to the establishment of a railway infrastructure trust fund.

The goals of this initiative are to create a pilot project with the National Railroad Passenger Corporation (NRPC) to restructure Amtrak train services in order to:

- Improve and expand rail passenger service on a pilot project route
- Reform, restructure and revitalize Amtrak rail passenger service nationwide on a prioritized route by route rollout plan
- Provide private capital for the acquisition of new equipment
- Achieve long-term ridership growth that results in greater market share and commercial viability
- Develop state and federal support to create a railway infrastructure trust fund for rail infrastructure maintenance and improvements

This business strategy creates an operating company, ARRO, jointly owned by RSC and the National Railroad Passenger Corporation (NRPC). It allows the ARRO operating company to focus on developing commercially viable passenger train operations while NRPC continues with its responsibilities for infrastructure, facilities and other assets. It also insulates the ARRO operating company from the entrenched debt issues burdening NRPC and allows a debt restructuring process to be developed and implemented for NRPC. The ARRO, RSC, NRPC relationships and responsibilities are illustrated in Exhibits 1 and 2.

RSC is proposing to create the ARRO operating company as soon as possible to begin service as a pilot project on an existing Amtrak route serving the nation's heartland. The ARRO pilot project route can begin service in the Spring of 2006 using existing crews, trains and tracks. The result of this business model will be the creation of a business enterprise with improved utilization of crews, equipment and overhead.

Additionally, ARRO will initiate service, marketing, technology and organizational innovations to maximize financial performance. Some of these innovations include: expanded service frequencies, kids ride free promotions, ticketless travel and union employees who are in control of the goals of improved on-time performance and service quality.

To ensure the long-term commercial growth and success of this pilot project venture and other routes to follow nationwide, Railway Service Corporation proposes that the public sector, through creation of a Railway Infrastructure Trust Fund utilizing federal, state and local funding, provide the financing to upgrade and maintain the tracks, signals, station, grade crossings and other infrastructure components – similar to the administration of airport and highway infrastructure.

This public/private partnership will clearly define the responsibilities for rail infrastructure and train operating costs in the same public/private division of costs that exists in the aviation and highway transportation modes – the public sector finances, builds and maintains transportation infrastructure and the private

sector is responsible for operating costs, financing and maintaining vehicle assets as well as paying user fees and taxes to the infrastructure trust funds.

For its part in this public-private partnership, the ARRO operating company, operating as a private corporation, will pay track usage fees, station services fees and dedicate a percentage of its passenger ticket receipts to the railway trust fund.

While the debate before us regarding Amtrak's future presents a difficult challenge about developing a successful solution, most Americans will agree that we need good rail passenger service. No other form of transportation combines the speed, safety, comfort and convenience of passenger train travel. In addition, trains save energy, cut pollution and reduce the congestion plaguing our nation's air and highway networks. The strategic value of good rail service is further enhanced when you consider that trains are the only form of commercial transportation capable of operating independent of oil supplies.

Railway Service Corporation believes that rail service should be part of a strong transportation triad that includes highway, air as well as rail to provide for both defense transportation capacity and the safe and efficient mobility for civilians and commercial freight needed for strong economic growth. As we know, it will be extremely difficult due to environmental limitations to provide capacity for future economic growth by building more highways and airports. Therefore, our transportation needs would be best served by establishing a dedicated trust fund for the rail leg of a strong transportation triad to develop an

upgraded national rail network that is served by both freight and passenger trains.

As outlined in Exhibit 3, the purpose of creating a Railway Infrastructure Trust Fund for Interstate, Defense and Higher Speed Rail Transportation would be to:

- Upgrade and maintain separate high speed corridors for passenger trains operating at speeds greater than 110 MPH and national rail freight/passenger routes and designated Department of Defense rail routes for speeds up to 110 MPH
- Upgrade and maintain railway infrastructure components on designated routes including tracks, bridges, grade crossings, signals, stations, electrification and dispatching control centers
- Maintain national defense transportation capacity and passenger mobility during national emergencies using Amtrak and commuter rail cars for evacuation of cities and essential travel only

This would be achieved by:

- Providing, with 20% state/local match, funding to upgrade and maintain a national rail freight/passenger and defense transportation route system on a designated 35,000 mile route system
- Amtrak and commuter rail passenger operators would pay track user fees to the Railway Infrastructure and Defense Transportation Trust Fund
- Station Services fees would be paid by Amtrak and commuter rail passenger operators to the Railway Infrastructure and Defense Transportation Trust Fund
- A percentage of ticket revenues from Amtrak and commuter rail passengers would be paid to the trust fund

The ARRO venture will also be responsible for all costs "above the rail" that include operating costs for locomotives and railcars, fuel, crews, marketing, reservations, insurance and administration as well as the private capital for a new fleet of trains. NRPC will continue to own the current rail fleet and infrastructure assets of Amtrak. The ARRO venture will lease and maintain the existing NRPC locomotives and railcars required for the pilot project until acquiring its own

privately financed equipment. NRPC will continue to manage and maintain the facilities and tracks that it owns.

With agreement with NRPC, it is proposed that the ARRO venture develop the pilot project to test and modify the business model of the pilot route before implementing a rollout plan to transform additional Amtrak routes nationwide.

The ARRO Pilot Project would include:

- **A Spring 2006 service start-up using existing crews and trains**
- **A commitment to innovations in service, marketing, technology and organization**
- **Providing safe and reliable passenger train service**
- **A commitment to a union operation with existing Amtrak employees**
- **Increased daily service frequencies marketed as Amtrak**
- **Introduction of new equipment and innovative technologies**
- **A commitment of over \$20 million in private start- up financing**
- **Over \$100 million in private debt financing for new trainsets**
- **Provide contract/lease payments to NRPC for track and station user fees, security contracts, lease of NRPC facilities and lease payments for NRPC locomotives and cars**
- **Elimination of federal and state operating subsidies on the pilot project route in Year 1; train operating subsidies can be reallocated to infrastructure improvements**

RSC's proposed transformation of Amtrak's trains on a pilot project route into a commercially viable operation would include using current Amtrak operating employees at the existing pay rates and honoring all union agreements. These employees have valuable experience for the continued safe

and reliable operation of Amtrak trains. It is important for the passengers and the freight railroads that the continuity of this expertise be maintained. Railway Service Corporation is committed to maintaining a union operation of Amtrak. The future financial success of the ARRO operating company is not based on wage or job cuts but on a vision for service expansion and market innovation to provide service that is faster and more comfortable than driving. This will result in ridership growth and more union jobs.

Railway Service Corporation's goals for the ARRO Pilot Project would be to:

- **Operate more frequent service with improved route integration**
- **Operate the expanded service in a safe and reliable manner**
- **Provide service that is safer, faster and more comfortable than driving**
- **Operate profitably without public operating subsidies**
- **Introduce new equipment and technologies**
- **Double Amtrak's ridership on the pilot project route by the end of this decade**
- **Measure and monitor results of this pilot project for application to future route rollouts nationwide**
- **Expand the pilot project results to other Amtrak routes on a route-by-route rollout plan coordinated with the Railway Infrastructure Trust Fund improvements**

**The goals of the ARRO pilot project will be accomplished by implementing the following business strategies:**

- **Comprehensive transitional safety/security plan and continuous safety audits and assessments**

- Utilize the talent and experience of existing Amtrak personnel
- Implement innovations in service, marketing, technology and organization to maximize profit
- Improve the utilization of crews, equipment and overhead
- Reduce operating costs per seat-mile
- Provide rail service that is faster than driving with fares that compete with the out-of-pocket costs of driving
- "Top-of-Mind" marketing and affinity business relationships to promote rail passenger service

The RSC management team, with over 150 years of combined experience in all aspects of rail operations, including marketing, engineering and finance, believes that the proposed pilot project between NRPC and RSC is a timely opportunity.

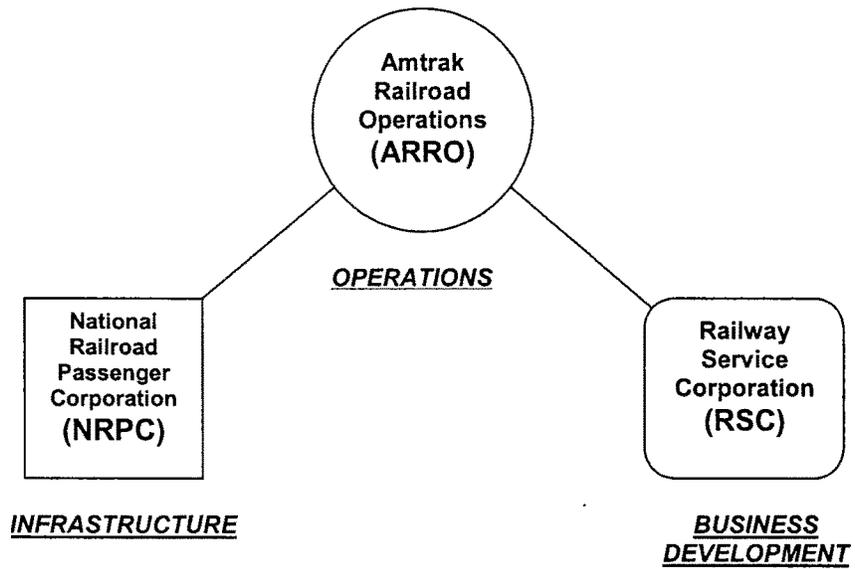
Railway Service Corporation's ARRO Pilot Project represents a private sector solution to the challenges facing Amtrak. RSC is committed to improving Amtrak train operations to provide more frequent service, faster trains, new routes and new equipment to increase ridership and offer transportation that is vital to our nation's mobility. This plan is structured to create a win-win opportunity for all parties concerned – Amtrak, its passengers, the Federal Government, the States, labor, the general public, freight railroads, as well as the investors in RSC.

This concludes my testimony today. Railway Service Corporation looks forward to learning more about the transportation needs of your constituents and hopefully, at the direction of Congress and The White House, to offer a private

sector solution that serves our great nation with faster, more frequent and more comfortable rail passenger service. I hope this testimony has been helpful for your discussions about Amtrak's future and I would be pleased to answer any and all questions that this committee may have. Thank you.

**EXHIBIT 1**

**ARRO COMPANY  
STRUCTURE AND RESPONSIBILITIES**



**EXHIBIT 2**

**ARRO PILOT PROJECT RESPONSIBILITIES  
FOR  
RAILWAY SERVICE CORPORATION (RSC)  
AND  
NATIONAL RAILROAD PASSENGER CORPORATION (NRPC)**

**RSC's ARRO pilot project responsibilities include:**

- Operating plan for the ARRO Pilot Project
- Arrange \$23.3 million in equity financing for the ARRO venture start-up
- Arrange over \$100 million in private debt financing for new locomotives and passenger cars
- Marketing Plan development and implementation
- Develop and implement innovations in service, marketing, technology and organization
- Provide management support for ARRO pilot project operations
- Develop and manage Service Quality Program
- Develop and manage innovations in service, technology, marketing and organization
- Create support for the Railway Infrastructure Trust Fund

**NRPC's ARRO pilot project responsibilities include:**

- Lease NRPC locomotives and rolling stock to the new Amtrak Railroad Operations pilot project until replaced by new equipment
- Lease designated NRPC yard & shop facilities, offices to the ARRO venture
- Provide operating personnel and managers needed to be contracted by the Amtrak operating company to operate and maintain locomotives and cars
- NRPC employees will continue to maintain NRPC infrastructure (tracks, buildings, bridges, stations, and signals)
- NRPC employees will continue to dispatch and control the NRPC facilities
- Operating agreements for access to freight railroads
- Access to NRPC yard & shop facilities, NRPC owned track and stations
- NRPC will provide police and security functions under contract to the new Amtrak operating company

## EXHIBIT 3

**PROPOSED ELEMENTS  
OF A  
RAILWAY INFRASTRUCTURE TRUST FUND  
FOR HIGH SPEED RAIL, DEFENSE AND INTERSTATE ROUTES**

<b>Rail Network to be Upgraded and Maintained:</b>	Designated HSR Corridors and 35,000 miles of rail lines serving both passenger and freight; designated DoD rail routes
<b>Maximum Operating Speeds</b>	110mph; greater than 110mph for dedicated HSR passenger routes
<b>Track Capacity</b>	Double track for HSR corridors; add tracks for Interstate Routes
<b>Grade Crossings</b>	None on HSR routes; eliminate/maintain existing crossings
<b>Signals and Traffic Control</b>	Upgrade and maintain to provide higher speeds/more capacity
<b>Bridges and Tunnels</b>	Improve security, capacity & speeds
<b>Stations</b>	Improve and Maintain
<b>Federal/State/Local Funding</b>	Trust Fund requires 20% local match
<b>Funding Sources from Amtrak, HSR and Commuter Rail Operators</b>	Track User Fees; Station Services Fees
<b>Funding Sources from Passengers</b>	Percentage of ticket revenues

September 21, 2005  
Subcommittee on Railroads  
Hearing on  
“Amtrak Reform Proposals”

Question from Rep. Corrine Brown to:

Mr. Paul Reistrup  
Chairman  
Railway Service Corporation

**QUESTIONS FOR THE RECORD (QFR) FOR MR. PAUL REISTRUP**

1. Mr. Reistrup, as I understand your proposal for a pilot project route, you are seeking to operate trains and would be responsible for the costs of operating locomotives and railcars, marketing, reservations, insurance and administration functions while Amtrak maintains ownership and responsibility for the track. You stated in your written testimony that you are committed to using current Amtrak operating employees at the existing pay rates and honoring all union agreements. However, there are a number of functions currently performed by non-operating Amtrak employees under a union contract. For example, maintenance and repair work, on-board service functions, reservation activities and some administrative functions. It appears that you are seeking responsibility for these areas. Would you use current Amtrak employees at the existing pay rates and union contracts for these positions or do you intend to contract out these services to third-party providers?
2. Mr. Reistrup, in your written statement you establish a number of ambitious and positive goals for the pilot project including reducing operating costs, providing faster service and with fares that “compete with the out-of-pocket costs of driving.” I understand that improved rail service will be possible with an enhanced investment in the rail infrastructure made by public entities, but I am interested in how you plan to improve on service currently provided by Amtrak. Specifically, what costs would you cut in order to provide lower fares? What specific activities would you undertake to provide faster service? How would this be different than what Amtrak currently does?
3. Mr. Reistrup, in your testimony, you state that a Railway Infrastructure Trust Fund utilizing federal, state, and local funds would be created to upgrade and maintain tracks, signals, stations, grade crossings, and so forth. Yet your testimony states that this new venture would not require federal and state operating subsidies. Please explain this apparent discrepancy.
4. Mr. Reistrup, how do you propose user fees for utilizing rail services and infrastructure would be assessed?



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October 20, 2005

Honorable Corrine Brown  
Ranking Democratic Member  
Subcommittee on Railroads  
U.S. House of Representatives  
Committee on Transportation and Infrastructure  
Washington, D.C. 20515

Dear Representative Brown,

In response to your request to answer Questions for the Record (QFR) for the September 21, 2005 Subcommittee on Railroads Hearing on Amtrak Reform Proposals, Railway Service Corporation is pleased to provide the following answers to your four (4) questions:

1. The Pilot Project will create an operating company Amtrak Railroad Operations (ARRO) which will continue to be owned by Amtrak and operated by its employees. All aspects of the pilot project will be implemented in compliance with current Amtrak labor agreements.

2. Rescheduling, improvements in train frequencies and relying on Amtrak to coordinate the ARRO Pilot Project operation with several contracting railroads for access rights will provide a foundation for improved service. As stated in my testimony, the ARRO Pilot Project will implement numerous service, marketing, technology and organizational innovations including kids ride free promotions, ticketless travel and union employees in control of the goal of service quality improvements. Regarding fares, we will work with Amtrak to develop the ARRO fare structure to be competitive in the marketplace. I did not say in my testimony that we will lower fares.

3. There is absolutely no discrepancy in my testimony and our business model for the ARRO Pilot Project. Infrastructure including the rail and all components below the rail including traffic control will be funded by the Railway Infrastructure Trust Fund by federal, state and user fee funding. All costs "above the rail" will be the responsibility of the ARRO Pilot Project including the capital and maintenance costs for locomotives and cars. This will eliminate federal and state operating subsidies which is the cost of moving trains "above the rail". Infrastructure subsidies will still continue through the railway trust fund. This is the same formula that exists for air and highway transportation.

Representative Brown  
October 20, 2005  
Page Two

4. In my testimony I explained that the ARRO Pilot Project will pay user fees for the use of stations, user fees for the use of tracks and dedicate a portion of passenger ticket revenues to the railway trust fund. These user fees have been included in the ARRO business plan and pro forma calculations that have been developed for the use of private investors who are arranging more than \$20 million in private equity financing for the pilot project. It will be up to the states and federal government to set up the complete funding arrangements for the Railway Infrastructure Trust Fund in the same way that Congress set up the highway and air trust funds with state matching shares, user fees and other funding sources.

I hope this provides a complete response to your questions and I would be pleased to answer any additional questions that you may have about our pilot project initiative to develop a successful long term solution that can be eventually rolled out to Amtrak routes nationwide.

Sincerely,

Paul H. Reistrup  
Chairman Elect

Statement of  
The Honorable Jeffrey A. Rosen  
General Counsel, U.S. Department of Transportation  
Before the  
Subcommittee on Railroads  
Committee on Transportation and Infrastructure  
House of Representatives  
September 21, 2005

Mr. Chairman, Ranking Member Brown, and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the continued urgent need for reform of intercity passenger rail service.

Introduction

Our economy's ability to move hundreds of millions of people annually within our Country is one its essential characteristics. Airplanes, buses, cars and trucks, ships, and trains all contribute to the mobility that Americans demand and deserve. Intercity passenger rail is a small but potentially important part of that, which is why the Administration wants to save and improve it.

Amtrak, however, presents all of us with a problem: Amtrak's revenues from ticket sales this year will not cover even 50% of the company's expenditures; indeed, Amtrak's operating loss alone will exceed \$550 million. At the same time, Amtrak's debts exceed \$3.5 billion, or roughly triple its annual ticket sales. Were Amtrak an airline, a bus company, or a cruise ship company, it would be facing either (a) a need for prompt and fundamental business changes, or (b) bankruptcy. It should surprise no one, therefore, that the Administration has sought prompt and fundamental change in Amtrak and the overall system of intercity passenger rail. Without that change, intercity passenger rail will fail to realize its potential as an important element of the Nation's transportation system.

Earlier this year, the Administration issued a clarion call for change, and Secretary Mineta has repeatedly called for reform and improvement of our system of intercity passenger rail nationwide. (Secretary Mineta's speeches on this topic are available at: <http://www.dot.gov/affairs/ostind05.htm> ) In response, some interesting things have happened. Perhaps most significantly, Amtrak itself has acknowledged the urgent need for real reform, and issued a "Strategic Reform Initiative" plan that borrows major elements of the Administration's proposals. Within the Congress, the Senate Commerce Committee's rail subcommittee has voted out the Passenger Rail Improvement Act (S.1516). The bill undertakes certain specific reforms, such as addressing the poor performance of Amtrak's long-distance trains. In addition, the Senate Appropriations committee's transportation subcommittee has reported a bill whose funding terms would preclude Amtrak from subsidizing losses on food service and luxury first-class sleeper

cars for vacationers and others. However, overall, the reforms considered by Congress are not as comprehensive or as critical as those proposed by the Administration.

Secretary Mineta remains convinced that fundamental change in the way we support intercity passenger rail service is not only necessary but inevitable. The Administration is pleased that Amtrak and some in Congress have acknowledged the Administration's call to action. At the same time, we still have a way to go to achieve the fundamental legislative reforms that are needed. The status quo, in which federal taxpayers have been called upon to pay Amtrak's escalating losses year after year, cannot continue. Proposals to reauthorize Amtrak as it is, coupled with greater taxpayer subsidies, are both unwise and unrealistic. They would jeopardize the future of intercity passenger rail, rather than improve it. By contrast, H.R. 1713 embodies the key principles of intercity passenger rail reform, and it is my hope that today's hearing will become the start of this Subcommittee's embracing the preservation, reform, and enhancement of intercity passenger rail in accord with those principles.

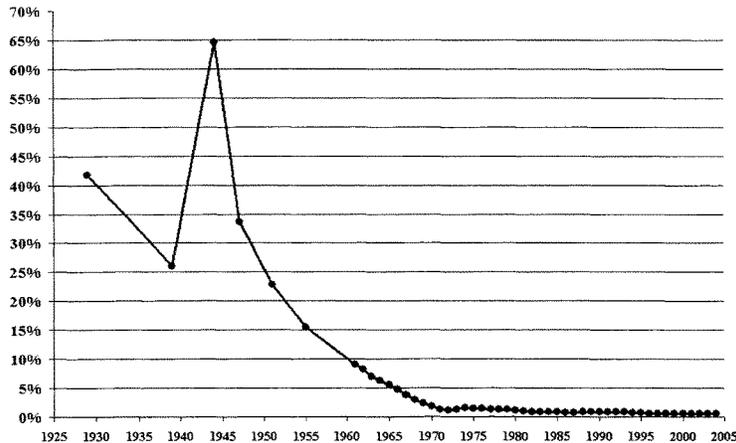
First and foremost, it is essential to recognize that the passenger rail service model created in 1970 is no longer viable. Amtrak operates a legacy system of routes incapable of adapting to market forces and demographic changes in an environment where every other mode of transportation does so to survive. Over the last three decades, America's transportation system as a whole—our system of roads, airports, waterways, transit lines, and the mostly private operators who use them—has grown tremendously. It provides excellent mobility, connectivity, and efficiency that have undergirded our economic growth. Sadly, intercity passenger rail has been a different story. Whatever one thinks of Amtrak or passenger rail more generally, this mode of transportation demands ever increasing taxpayer subsidies while consistently failing to meet the lowest of expectations.

**I. RIDING THE RAILS: AMTRAK'S PAST AND PRESENT.**

Congress created Amtrak in 1970 as a private corporation in a restructuring of the larger rail industry, which was in a state of major financial distress. In that restructuring, freight railroads ceased providing passenger service altogether. Instead, for the first time, there would be a single national provider of intercity passenger rail service to replace the multiple regional systems that reflected the areas covered by each of the freight railroads' route systems. The intent was that the national monopoly would reinvigorate passenger rail by permitting Amtrak to consolidate operations and achieve efficiencies that, after a very brief period of Federal assistance, would preserve and expand intercity passenger rail service as a for-profit company.

By now we know that the Congress's hopes and expectations in creating Amtrak have never been realized. Intercity passenger rail service has not been reinvigorated. The Department of Transportation (DOT) expects that each and every one of Amtrak's 15 long-distance trains will this year lose money on a fully allocated cost basis, even excluding depreciation and interest. On a per passenger basis, with depreciation and interest, the loss for long-distance trains ranged from \$47 per passenger to \$466 per passenger in FY 2004. But the long-distance trains are not alone: with depreciation and interest included, *every one* of Amtrak's 43 regularly scheduled routes loses money. After 34 years and \$29 billion in Federal subsidies, intercity passenger rail's financial performance has not improved, service and on-time performance are below expectations, and passenger rail's market share relative to other modes has continued to erode. Last year's so-called "record" Amtrak ridership amounted to a one-half of one percent share of the total intercity passenger transportation market. Airlines alone carry more U.S. passengers in three weeks than Amtrak does in a year.

Rail as Percent of Estimated Total Intercity Passenger Travel, 1929-2004



*Sources:* Rail travel: Association of American Railroads, *Yearbook of Railroad Facts*; Amtrak. Total intercity passenger travel is an FRA estimate synthesized from data provided by the Federal Highway Administration, Federal Aviation Administration, Bureau of Transportation Statistics (including travel behavior characteristics the 1995 American Travel Survey), the AAR, and Amtrak. For rail, "intercity" passenger-miles are an approximation as they include all passenger-miles generated on intercity trains, regardless of the length or purpose of individual trips. All air travel is deemed "intercity." For highway modes (privately-owned vehicles and buses), the synthesis approximates intercity travel as trips of 100 miles or more one-way.

That also belies one of the frequent arguments of today's defenders of the 1970 model—that the Federal government supposedly subsidizes other modes of transportation at a greater rate than Amtrak. In fact, FY 2005's appropriated subsidy of \$1.207 billion represented approximately 9 percent of the total discretionary Federal funds for the Department of Transportation. In other words, 9 percent of the Department's funds go for one-half of one percent of the market. The argument also passes quickly over another important fact: highways, transit and aviation are, unlike rail, funded substantially by true user fees and also by state and local investments. (Even ardent rail proponents evince little interest in a Federal passenger rail ticket tax, and no such tax or user fees exist currently.) Perhaps most importantly, however, the argument overlooks that federal financial support for roads, airports, and transit goes to **infrastructure** and not to operations. In other modes of transportation, federal aid goes to highway and airport infrastructure, for example, but federal taxpayers are not regularly asked to write annual billion dollar checks to private trucking companies, private bus companies, private automobile commuters and vacationers, nor even to private airlines, although the taxpayers have regularly done so with regard to Amtrak.

In considering where we are with Amtrak, it is useful to consider the varied things that Amtrak presently does to understand that recent appropriations to this private company have not been limited to rail infrastructure, but also go into actual train operations. Generally, Amtrak’s business can be grouped into activities relating to (1) rail infrastructure, (2) corridor train operations, and (3) long-distance train service.

*Rail Infrastructure*

Due to historical circumstances, Amtrak owns its own right of way and rail infrastructure along most of the Northeast Corridor (NEC), except in Massachusetts and part of Connecticut where the infrastructure is state owned. Amtrak also owns some infrastructure in Michigan, as well as train stations in a number of states. Otherwise, Amtrak mostly operates trains on rail infrastructure *owned by others*.

Within the Northeast Corridor, Amtrak controls the infrastructure not only for its own use, but for use by numerous other railroads and transit agencies. These other users of the NEC pay Amtrak for access and associated services, such as train dispatching. In total, trains operated by other users on the NEC actually exceed the number of trains operated by Amtrak itself on the NEC.

<b>List of Users of the NEC Other than Amtrak</b>	
CSX	New Jersey Transit
Long Island Rail Road	Norfolk Southern
Maryland Rail Commuter Service	Providence and Worcester Railroad
Massachusetts Bay Transportation Authority	Shore Line East (Connecticut)
Metro-North Commuter Railroad	Southeastern Pennsylvania Transportation Authority
Delaware DOT	Virginia Railway Express
Rhode Island DOT	Consolidated Rail Corporation
Canadian Pacific	

Because of the way the 1970 model of intercity passenger rail was organized, maintenance and development of infrastructure throughout the entire NEC has been left to Amtrak. Federal infrastructure dollars are allocated by a single private corporation, Amtrak, instead of by state, local, or even federal transportation planning officials.

*Corridor Services*

When viewed from the operational perspective of moving passengers, and the distance they are moved (passenger-miles), Amtrak can be seen as providing two types of services: “corridor services” of approximately 100-500 miles and frequently under contract to States in which these corridors are located; and “long-distance”, primarily leisure travel services. Approximately twenty million people, or 80 percent of all Amtrak

riders in 2004, traveled on a corridor service. Within the category of corridor services, there are two different types: services on the Northeast corridor, where Amtrak operates on its own track and infrastructure, and services on other state corridors, where Amtrak operates on track and infrastructure owned and controlled by others.

**NORTHEAST CORRIDOR.** The largest portion of Amtrak corridor trips are on the Washington—New York City – Boston Northeast Corridor (NEC). If one looks only at NEC train *operations*--separate from the heavily subsidized NEC infrastructure--this is the one area where Amtrak trains operate at something close to a breakeven basis, or at least could do so if the company sought that objective.

**OTHER CORRIDORS.** In addition to the NEC main line, Amtrak operates trains for corridor service in fifteen other states.

<b>List of States with Corridor Service</b>	
<small>Note: States listed are the primary states served by each corridor.</small>	
<b>CALIFORNIA</b> Pacific Surfliner Capitols San Joaquins  <b>CONNECTICUT/MASSACHUSETTS</b> Inland Route (New Haven-Springfield)  <b>ILLINOIS</b> Chicago-St.Louis Illini Illinois Zephyr Hiawatha (with Wisconsin)  <b>MAINE</b> The Downeaster  <b>MICHIGAN</b> Wolverines Blue Water Pere Marquette  <b>MISSOURI</b> Kansas City-St.Louis	<b>NEW YORK</b> Empire/Maple Leaf Adirondack  <b>NORTH CAROLINA</b> Carolinian (Extended corridor) Piedmont  <b>OKLAHOMA</b> Heartland Flyer  <b>OREGON</b> Cascades (with Washington)  <b>PENNSYLVANIA</b> Keystone Service Pennsylvanian (Extended corridor)  <b>WASHINGTON</b> Cascades (with Oregon)  <b>WISCONSIN</b> Hiawathas (with Illinois)  <b>VERMONT</b> Ethan Allen Express Vermonter (Extended corridor)

In 2004, a total of approximately eight million people (i.e., about one-third of the total Amtrak ridership) traveled on these additional corridor routes. In many instances, these corridors are subsidized in part by States. State operating subsidies for these trains totaled ten percent of the combined Federal and State funding of Amtrak. However, States have not borne the full cost of these routes, and some States that have corridor

trains have not paid anything at all, thereby producing issues of equity among the States, as well as market uncertainties about how travelers value the services. In the aggregate, on a fully-allocated basis, the non-NEC corridor trains (including both corridor and extended corridor service) had an average operating subsidy of \$28 per passenger in FY 2004.

#### *Long-Distance Services*

Amtrak's fifteen long-distance trains have seen declining revenues and ridership--and increasing costs--over the last ten years. DOT refers to these services as Transcontinental (more than one night), Overnight (one night) or extended corridor (greater than 500 miles, but with no sleeping accommodations). Amtrak presently operates fifteen such trains.<sup>1</sup> Amtrak has continued to lose long-distance trip customers to an airline industry that is offering a low cost, high quality service, and to automobile drivers who choose to use convenient and accessible highways rather than fixed rail. Amtrak has had little or no success responding to this competition. As Amtrak's presence in this segment of the intercity transportation market has dwindled, Federal subsidies per passenger have continued to grow. In FY 2004, the average passenger on a long-distance train received a subsidy of approximately \$214 per trip on a fully-allocated basis,<sup>2</sup> up from \$158 in the year 2000 -- a 35 percent increase quintupling the 7-percent inflation over the same period.

**Fully Allocated Losses of Long-Distance Passenger Trains, FY 2004**  
(Source: Amtrak Route Profitability System)

Service Type	Route	Route No.	Subsidy Status		Fully Allocated Loss (Fully Loaded with Depreciation, Interest, and All Overheads)	Fully Allocated (Loss) Per Passenger	Fully Allocated (Loss) Per Passenger-Mile
			Unsubsidized by a State	Subsidized by a State			
EXTENDED CORRIDORS	Pennsylvanian	RT57	x		(\$11,911,500)	(\$69)	(\$0.337)
	Vermont	RT04		x	(\$11,793,249)	(\$47)	(\$0.254)
	Carolinian	RT66		x	(\$16,723,244)	(\$55)	(\$0.197)
OVERNIGHT	Silver Service	RT16A	x		(\$173,078,522)	(\$234)	(\$0.374)
	Three Rivers (discontinued)	RT17	x		(\$75,173,377)	(\$492)	(\$0.990)
	Cardinal	RT18	x		(\$18,602,874)	(\$209)	(\$0.497)
	Capitol Limited	RT26	x		(\$43,784,083)	(\$242)	(\$0.486)
	City of New Orleans	RT30	x		(\$30,429,407)	(\$160)	(\$0.335)
	Texas Eagle	RT32	x		(\$42,914,712)	(\$183)	(\$0.282)
	Coast Starlight	RT34	x		(\$63,002,725)	(\$152)	(\$0.271)
	Lake Shore Limited	RT45	x		(\$63,803,165)	(\$228)	(\$0.387)
	Crescent	RT52	x		(\$64,761,043)	(\$252)	(\$0.445)
TRANS-CONTINENTAL	Empire Builder	RT25	x		(\$75,338,574)	(\$172)	(\$0.223)
	California Zephyr	RT27	x		(\$89,696,739)	(\$267)	(\$0.320)
	Southwest Chief	RT28	x		(\$121,849,944)	(\$420)	(\$0.390)
	Sunset Limited	RT33	x		(\$44,953,841)	(\$466)	(\$0.406)

<sup>1</sup> The long-distance routes are as follows: Vermont, Silver Service, Cardinal, Empire Builder, Capitol Limited, California Zephyr, Southwest Chief, City of New Orleans, Texas Eagle, Sunset Limited, Coast Starlight, Lake Shore Limited, Crescent, Pennsylvanian, Carolinian. The Auto-Train, a specialized service, also operates over a long-distance route but with completely different characteristics. The Three Rivers (New York--Pittsburgh--Akron--Chicago) was discontinued in March 2005.

<sup>2</sup> Fully allocated costs include depreciation and interest.

Moreover, as DOT's Inspector General recently determined, passengers in Amtrak's first-class cabins of its long distance trains are actually *more* heavily-subsidized than coach passengers, with first-class subsidies per trip of up to \$660 per passenger. Nonetheless, these long-distance trains have had considerable difficulty with regard to on-time departures and arrivals:

#### On-Time Performance of Long-Distance Trains, FY 2004

Train Name	Service type	Between	—And	Percent On-Time (Zero Tolerance)	Average Minutes Late per Train (All Trains)	Average Minutes Late per Late Train
California Zephyr	Transcon	Chicago	Bay Area	14.2%	136	159
Capitol Ltd.	Overnight	Chicago	Washington	13.8%	101	118
Cardinal	Overnight	Chicago	New York via Cincinnati	33.1%	48	74
Carolinian	Extended Corridor	New York	Charlotte	26.9%	38	51
City of New Orleans	Overnight	Chicago	New Orleans	47.7%	26	50
Coast Starlight	Overnight	Seattle	Los Angeles	10.8%	139	157
Crescent	Overnight	New York	New Orleans	41.6%	34	58
Empire Builder	Transcon	Chicago	Seattle	68.3%	11	36
Lake Shore Ltd.	Overnight	Chicago	New York	8.2%	123	134
Pennsylvanian	Extended Corridor	New York	Pittsburgh	17.2%	32	39
Silver Meteor	Overnight	New York	Miami	25.6%	84	113
Southwest Chief	Transcon	Chicago	Los Angeles	28.5%	68	96
Sunset Limited	Transcon	Orlando	Los Angeles	1.6%	359	366
Texas Eagle	Overnight	Chicago	San Antonio	41.9%	57	98
Vermont	Extended Corridor	Washington	St. Albans VT	32.1%	21	30

Overall, the picture of where things stand in intercity passenger rail service is far from what was hoped for when Amtrak was created in 1970. In short, while service and ridership erode, Amtrak continues to require extraordinary and ever-increasing subsidies from federal taxpayers, a great many of whom enjoy little if any benefit from Amtrak's services. These continuing and increasing subsidies are not only wholly inconsistent with Congress's intent in 1970 that Amtrak be a "for-profit corporation," but they also flout Congress' clear call for an end to operating subsidies in the 1997 Amtrak Reform Act.

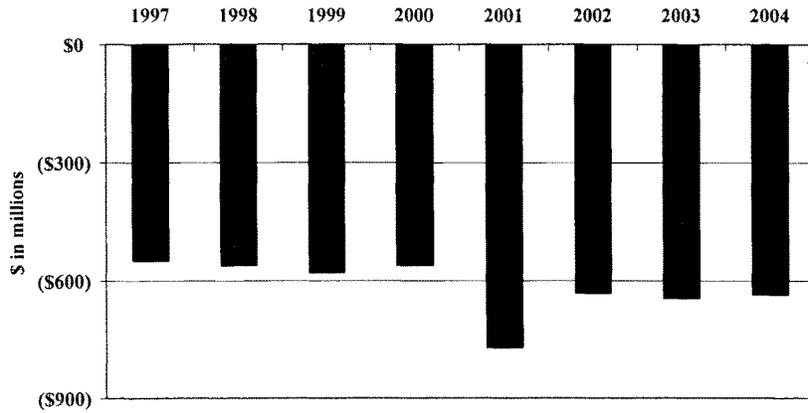
**COMMUTER RAIL.** Amtrak also has contracts to operate trains for transit agencies and state governments. These are: Connecticut Department of Transportation Shore Line East (SLE/CONNDOT), Long Island Rail Road (LIRR), New Jersey Transit (NJT), Southeastern Pennsylvania Transportation Authority (SEPTA), Delaware Transit Corporation (DELDOT), Maryland Transit Administration (MARC), Virginia Railway Express (VRE), Northeast Illinois Regional Commuter Railroad Corporation (METRA), Southern California Regional Rail Authority (SCRRA) Metrolink, North San Diego County Transit District Coaster Commuter Rail Service, Peninsula Corridor Joint Powers Board (CALTRAIN), Central Puget Sound Regional Transit Authority (Sound Transit), and Altamont Commuter Express Authority (ACE). While commuter agencies periodically have the ability to replace Amtrak, as was done in Boston and in southern California, these local transit contracts have been used by Amtrak management from time to time to threaten Congress with a commuter shutdown if Amtrak's requests for taxpayer funding of intercity trains are not met.

## **II. RECENT HISTORY AND THE CALL TO CHANGE.**

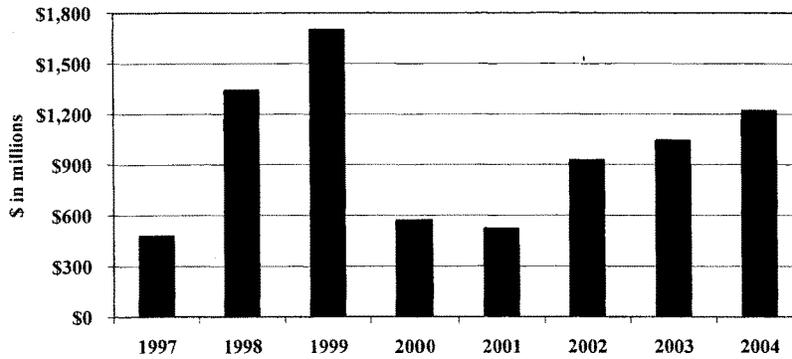
During the last decade, there has been an increasing recognition that the 1970 model of intercity passenger rail had some very serious problems. Congress sought to redress some of those in the 1997 Amtrak Reform Act. Unfortunately, the reforms embodied in the 1997 Act did not prove sufficient to solve the problems.

Many of the reforms in the 1997 Act empowered Amtrak to improve its own performance and removed impediments to its doing so. After passage of the 1997 Act, Amtrak's then-management repeatedly reported that it was it on a "glide path" to self-sufficiency by 2002. That did not happen. The problems worsened, and it became increasingly clear that they were not solely the result of business misjudgments, but also involved inherent flaws in the 1970 model.

Amtrak Cash Losses - 1997 Through 2004



Amtrak Federal Appropriations - 1997 Through 2004



Instead of a successful “glide path” to self-sufficiency by 2002, Secretary Mineta was greeted with some unwelcome surprises in his initial experiences with Amtrak during the current Administration. Early in 2001, instead of Amtrak being months from self-sufficiency as reported, Amtrak’s then-management advised that Amtrak would be insolvent within two weeks unless DOT subordinated the interest of U.S. taxpayers to a foreign bank so that Amtrak could mortgage its rights to use the platforms at Pennsylvania Station in New York City. Within a year, Amtrak had lurched to yet

another financial crisis, informing the Secretary that if the Department and Congress did not provide the company another \$300 million, it would be insolvent within two weeks and would shut down commuter and intercity services. In response, to obtain time to assess and identify more long term reforms, DOT provided Amtrak a \$100 million loan under the Railroad Rehabilitation and Improvement Financing Program, and Congress provided the remaining \$205 million through a supplemental appropriation.

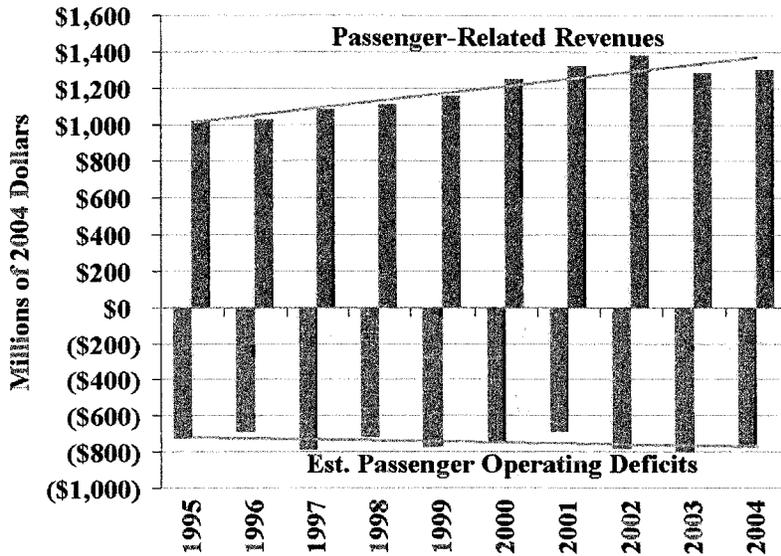
These crises highlighted fundamental problems, some of which needed immediate action by Amtrak, and some of which were revealed to be inherent to the 1970 business model and in need of legislative change. Among the most urgent for Amtrak itself was the state of its financial books and records. Indeed, it took independent auditors almost all of FY 2002 to close their audit of Amtrak's FY 2001 financial performance. That audit required \$200 million in net audit adjustments and found 5 material weaknesses and 12 reportable conditions that needed to be addressed to fix the problems with Amtrak's accounting practices. It also revealed that Amtrak had taken on almost \$3 billion in new debt in order to pay for (1) costly overruns of poorly managed capital improvements, (2) an unsuccessful foray into the express package business, and (3) day-to-day operational expenses.

Since 2002, Amtrak's record-keeping has improved. In 2005, the independent audit was completed in March instead of September and no material weaknesses were found. While Amtrak's auditors still find significant areas for improvement, they comment favorably on developments over the last three years.

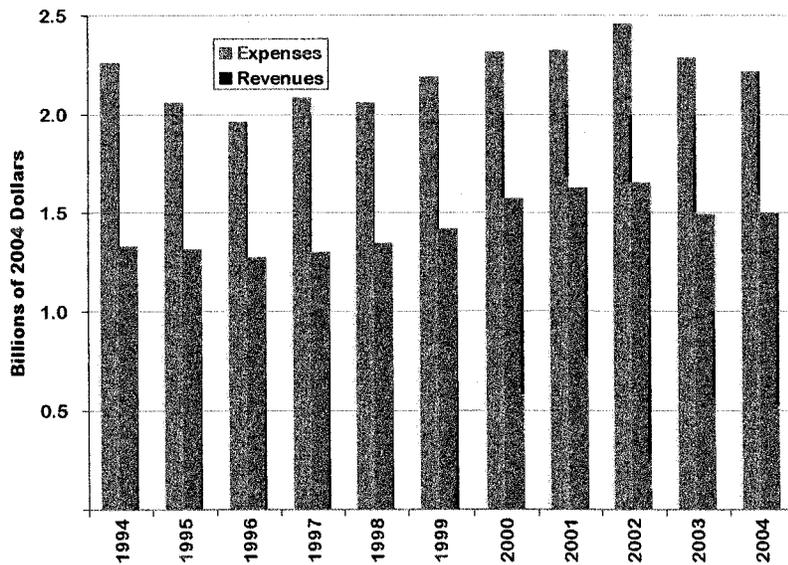
Through participation on the Amtrak Board, and through changes to the appropriations process that enabled stronger Federal Railroad Administration oversight of the grant process to Amtrak, Secretary Mineta and DOT have sought a variety of improvements that Amtrak could make on its own. That process continues and is ongoing. But notwithstanding the very significant improvements and a much-enhanced and valuable involvement of the Amtrak Board, fundamental difficulties continue to confront Amtrak because the 1970 model of intercity passenger rail is a framework that is flawed. Amtrak continues to spend dramatically more money than the revenues it generates, and this year is actually spending at a pace greater than the appropriation from Congress.

As shown by the two charts below, the structural problem in Amtrak's condition is long-term, and is getting worse, not better.

**Amtrak's Constant-Dollar Passenger Revenues and Estimated Passenger Deficits**



**Amtrak's Constant-Dollar Gap Between Core Expenses and Revenues**



Further adding to Amtrak's deterioration is that the company's debt increased massively in the late 1990's, from \$1.7 billion in 1997 to \$4.8 billion by 2002 (with \$3.8 billion non-defeased), without adequately increased passenger revenues to pay the debt service. Because of this increased debt, Amtrak's repayment requirements (principal and interest) are forecast to be approximately \$273 million in FY 2005 (up from \$111 million in 1997), and Amtrak finds itself unable to borrow any more money, even for short-term needs. Amtrak and some others have recently suggested (as in the 1980s) that the company again be absolved from this debt by the federal taxpayers' assumption of *all* of it, instead of the federal appropriation covering only 40 percent of Amtrak expenses during the last two fiscal years. Amtrak would give the federal government nothing in return. That is unacceptable to the Administration. Likewise, some have suggested empowering Amtrak to issue new debt, or authorizing others to do so for Amtrak's benefit, in the form of taxpayer-financed tax credit bonds or something similar. That would be just another back-door subsidy to Amtrak that would be unacceptable to the Administration.

Passenger rail is already the most heavily subsidized form of intercity passenger transportation. When viewed on a per-passenger mile basis, analysis by the Bureau of Transportation Statistics indicates that the aggregate federal expenditure for intercity passenger rail is 30 times greater than for commercial aviation. Likewise, the intercity bus industry, where there are no comprehensive or dedicated subsidies, carries as many as 350 million passengers annually (according to Eno Foundation estimates)—fourteen times Amtrak's ridership. Although not comprehensive or directed, the Federal Transit Administration under 49 U.S.C. section 5311(f) provides for grants for supporting rural intercity bus service, but that grant program amounted to approximately \$22 million in FY 2004, which is obviously minor compared to the taxpayer burden for Amtrak each year.

What is more clear now than ever is that the basic business model through which we provide intercity passenger rail service in this country--a single, nationwide monopoly called Amtrak--is unworkable and is not adequately positioned to respond to the changing transportation needs of this country. Massive increases in funding to merely slow a downward spiral are neither sustainable nor justifiable. At the same time, doing nothing at all will eventually result in a business failure and a lost opportunity for intercity passenger rail for this country. A change is needed.

As I noted earlier, Amtrak has received more than \$29 billion in taxpayer subsidies, including more than \$1 billion in each of the last two years, despite the 1997 Amtrak Reform Act, which precluded operating subsidies after 2002. In 2003 and again this year, the Administration sent to Congress the President's Passenger Rail Investment Reform Act. This proposal would align passenger rail programs with the model through which we fund other transportation modes. Under that model, the States work in partnership with the Federal government in owning, operating, and maintaining transportation facilities and services. H.R. 1713 provides clear and compelling principles of intercity passenger rail reform that should be embraced by those who sincerely want to save intercity passenger rail nationwide.

### III. REFORM AND PRESERVATION OF INTERCITY PASSENGER RAIL

As we have stated in the past, the Administration supports the availability of intercity passenger rail, but with a different vision than the model that exists today. Secretary Mineta has repeatedly set out the fundamental principles needed to reform intercity passenger rail and place this form of transportation on a sound footing. These principles are:

- ***Establish a long-term partnership between States and the Federal Government to support intercity passenger rail:*** Partnerships between the States and the Federal Government for the planning, decision-making and capital investment in transportation have been one valuable element in the success of Federal programs for highways and transit to date. The States, through their multi-modal planning mechanisms, are in a much better position to determine their intercity mobility needs and which form of investment makes the most sense in meeting these needs than a sole supplier company in Washington, D.C. State-supported intercity passenger rail services in places like the states of Washington, North Carolina, California, and Wisconsin have been one of the bright spots for intercity passenger rail ridership.
- ***Require that Amtrak transition to a pure operating company:*** Amtrak today is both an operating company and the owner and maintainer of significant infrastructure that forms a key component of the intercity and commuter transportation systems of eight states in the Northeast, as well as many stations and other facilities that have local or regional transportation importance. These are two very different functions. By having them both reside in the same entity, the company is faced with conflicting priorities, which the company has found difficult, if not impossible, to balance. Infrastructure decisions have depended on Amtrak decisions, rather than those of the States and localities who are largely responsible for such planning in other transportation modes such as highways, airports, and transit. Amtrak, and the nation's transportation system, would be better off with Amtrak able to focus on one thing--operating trains--and doing it well.
- ***Create a system driven by sound economics:*** One of the flaws of the 1970 model is that intercity passenger rail has sometimes been defined by politics, habit and fear of change. That is one reason that some routes have high subsidies, such as the \$466 per passenger subsidy in FY 2004 on the Los Angeles to Orlando *Sunset Limited*. Intercity passenger rail needs to serve the markets where there is an identifiable demand that intercity passenger rail can meet. It cannot and should not try to serve every market regardless of the cost and regardless of the revenue. Just as with other transportation modes and other successful businesses in general, intercity passenger rail needs to have the dexterity to recognize changing business patterns and demand, and that sometimes the services of yesterday are not needed

or justified today or tomorrow. Intercity passenger rail service needs to be designed to cost-effectively meet and support the transportation needs of the traveling public and sponsoring public authorities.

- ***Introduce carefully managed competition to provide higher quality rail services at reasonable prices:*** For the last 34 years under the 1970 model, intercity passenger rail service has not been subject to the discipline of the market place. On corridor services, for example, States do not have any alternative but to have Amtrak operate the intercity service. This has resulted in a service that is more costly than one would expect in a competitive situation, and which often has not been responsive to changing transportation patterns, demands or expectations. In a free market economy, competition leads to improved cost effectiveness, higher quality and innovation, elements that have been sorely lacking in intercity passenger rail for the past generation. Transition to competition is never easy, but it is necessary for the public to get the service it demands and deserves.
- ***Create an effective public partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor:*** The Washington-New York City-Boston Northeast Corridor main line is the most heavily utilized rail route in the country, forming an essential link for intercity passenger and freight transportation and commuter access to the major cities of the Northeast. By some measures, such as the number of persons per day that use this infrastructure, Amtrak is a minority user of this infrastructure – particularly in urban areas. Transportation services on this corridor need to be insulated from the unpredictable consequences of Amtrak’s own finances and needs at any given time. At least initially, the ownership of these assets should be in the public sector, and management and control of this asset should reflect significant input from the States that depend on the Northeast Corridor for passenger and freight mobility.

These are the principles that should be used to evaluate any legislative proposal regarding Amtrak and intercity passenger rail generally. It is encouraging that Amtrak itself has embraced several (but not all) of them in its Strategic Initiative plan. It is encouraging that certain subcommittees of the Congress have embraced at least some of them in legislative proposals. Unfortunately, to date, no legislation has adopted all of the principles or enacted all of what is needed. There is more work to do, and the Secretary and I would be gratified if this Subcommittee would pursue the principles, goals, and proposals set out in H.R. 1713.

As Secretary Mineta and I have regularly stated, DOT stands ready to work with Congress to discuss and fashion the specifics of legislation in ways that will successfully reform intercity passenger rail for the future. The time for reform is now. We need true reform legislation during the 109<sup>th</sup> Congress.

**Conclusion**

Without reform, Amtrak is not sustainable at its current level of funding or at any level Amtrak is likely to receive in these difficult budgetary times. Moreover, history tells us that merely throwing money at the 1970 model of intercity passenger rail without addressing the problems that have been identified in the subsequent years does not result in any long-term improvements in Amtrak's finances or quality of service.

The Administration intends to continue to pursue reform. Secretary Mineta and I will work diligently with Amtrak's other Board members and management to make necessary changes at Amtrak itself, including those outlined in Amtrak's Strategic Reform Initiatives. More broadly, we look forward to working with this Subcommittee and with Congress to implement reform and enhancement of intercity passenger rail. Thank you for the opportunity to share our perspective today. I would be pleased to respond to any questions you may have.

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**U.S. Department  
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Office of the Secretary  
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.  
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OCTOBER 26, 2005

The Honorable Steve LaTourette  
Chairman  
Subcommittee on Railroads  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman LaTourette:

This letter responds to your request for an opinion from the Department of Transportation concerning the Amtrak Board of Directors. I am aware that you have previously received a memorandum from Amtrak itself on this subject, which provides a chronology and analysis indicating that the Amtrak Board of Directors is validly constituted, has a legal quorum, and is fully empowered to take the full range of actions entrusted to a corporate board under the applicable law. I concur in that assessment.

The Amtrak Reform and Accountability Act of 1997 ("ARAA") amended Part C of Subtitle V of title 49, 49 U.S.C. § 24301 et seq., which is Amtrak's governing statute. Chapter 234 of title 49 states that Amtrak shall be operated and managed as a for-profit corporation. 49 U.S.C. § 24301(a)(2). The statute further provides that the District of Columbia Business Corporations Act ("D. C. Act"), to the extent consistent with the Amtrak governing statute, shall also apply to Amtrak. 49 U.S.C. § 24301(e) and D. C. Code § 29-101.01 et seq.

Chapter 243 of title 49 states that Amtrak shall have a board of directors consisting of 7 voting members appointed by the President with the advice and consent of the Senate, for a term of 5 years (except that the Secretary of Transportation does not need separate Senate approval). 49 U.S.C. § 24302(a)(2). The statute further provides that, if Amtrak failed to achieve operating self-sufficiency in fiscal year 2003, then the Board members shall continue to be selected in accordance with the procedures of the current statute. 49 U.S.C. § 24302(b)(1). Because Amtrak received Federal assistance in 2003 and receives Federal assistance currently, the procedures of the current statute apply.

The D. C. Act states that a corporation's business and affairs shall be managed by a board of directors, and the number of directors required to transact the corporation's business is a quorum consisting of a majority of the number of directors prescribed in the applicable governing document. For Amtrak, this means 4 of the 7 voting members of the Board prescribed in Chapter 243 of title 49, as *amended* by ARAA. D. C. Code § 29-101.32 and 101.36. When ARAA created the original Amtrak Reform Board

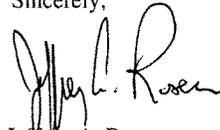
consisting of 7 voting members, Congress specifically stated that the Reform Board shall assume the responsibilities of the Board by a certain date in 1998, or as soon thereafter as at least 4 members had been appointed and qualified. 49 U.S.C. § 24302(a)(1).

In addition, the Bylaws of Amtrak in Article IV, Board of Directors, Section 4.08, specifically address the issue of what constitutes a quorum for the purpose of conducting the business of the Board. The provision states "A majority of the total number of Directors with voting powers fixed by statute shall constitute a quorum for the purpose of conducting the business of the Board. Except as otherwise specifically provided by statute, the Articles of Incorporation, or these Bylaws, the acts of a majority of the Directors with voting powers present at a meeting at which a quorum exists shall be the acts of the Board of Directors." Presently, there are 4 duly appointed Board members and therefore the current Board meets the requirements of the Bylaws for a quorum, as 4 constitutes a majority of the 7 Board members called for by 49 U.S.C. § 24302(a)(2). The Board may delegate all its powers to an executive committee consisting of two or more directors, which shall have and may exercise all of the authority of the Board. D. C. Code § 29-101.37.

The Bylaws of Amtrak in Article 5, Committees, Section 5.01, Executive Committee, also authorize the creation of an Executive Committee. The provision states, "The Board of Directors, by resolution adopted by a majority of the Directors with voting powers then in office may designate two or more Directors to constitute an Executive Committee, to have and exercise, consistent with applicable law, all of authority of the Board of Directors in the management of the business and affairs of the Corporation. One of the members of the Executive Committee shall be the Secretary of Transportation or his designee."

Simply put, the Amtrak Board of Directors is validly constituted, has a legal quorum, and is fully empowered to take the full range of actions entrusted to a corporate board under the applicable law. If you have any further questions, please feel free to contact me at (202) 366-4702.

Sincerely,



Jeffrey A. Rosen

cc: David M. Laney, Chairman, Amtrak Board of Directors

**Statement of  
Robert A. Scardelletti, International President  
Transportation Communications International Union  
AFL-CIO**

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**Before the  
U.S. House of Representatives  
Committee on Transportation and Infrastructure  
Subcommittee on Railroads**

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**Hearing on Amtrak Reform Proposal  
September 21, 2005**

Mr. Chairman, Ranking Member Brown and members of the Subcommittee my name is Robert Scardelletti. I am the International President of the Transportation Communications International Union, AFL-CIO (TCU). The TCU is a Labor Organization that represents over 47,000 of America's working men and women. On Amtrak alone we represent over 8500 employees who perform work as clerks, Carmen, Supervisors and on-board service workers. I appreciate this opportunity to appear before you and to address the issue of Amtrak Reform.

Mr. Chairman, Amtrak is an essential component of our national transportation system and must be supported, not dismantled, privatized or starved into bankruptcy as some have suggested. In these difficult times for our transportation system, it is clear that passenger rail and Amtrak are vital to the health and security of our country. Our nation needs a variety of reliable modes of transportation for our citizens. For Americans who cannot drive or if flying is not an option, Amtrak serves as a vital link to friends and families.

Amtrak operates a nationwide rail network, serving over 500 stations in 46 states on 22,000 miles of track with approximately 20,000 employees. During fiscal year 2004, Amtrak carried just over 25 million passengers, representing an increase of over 4% compared to fiscal year 2003. In addition to operating 300 daily intercity trains, approximately 850,000 commuters each day depend on operating agreements with Amtrak, Amtrak-owned infrastructure or shared operations. Amtrak's Northeast Corridor is the heaviest traveled in North America, with over 1,700 trains operating over some portion of the Washington-Boston route each day. However, being dependent upon an annual federal appropriation that is never sufficient, Amtrak's national network is constantly threatened by under-investment, lack of a clearly articulated federal rail policy and an uncertain future. Simply stated, a national

passenger network is not an entity that can somehow “turn a profit”—instead it must be seen as an essential public service that needs and deserves federal financial support necessary to operate safely and efficiently.

To manage its operations, Amtrak needs stable, reasonable funding and strong, long term investment. Towards this end, the TCU salutes Chairman Don Young, Ranking Member Jim Oberstar, Railroads Subcommittee Chairman Steve LaTourette, Ranking Member Corrine Brown, and other members of the Committee for their support of H.R. 1630 and H.R. 1631, legislation that can provide Amtrak with the resources it needs to evolve into an efficient, modern national intercity passenger system. I hope that the full House will consider and pass these critical bills and I pledge TCU’s assistance in this effort.

But frantic efforts to reform Amtrak by ill-conceived privatization schemes or blaming Amtrak workers are simply not credible solutions.

Amtrak was created three decades ago with a simple goal in mind: to establish a modern, efficient intercity passenger railroad that can provide a truly national network of passenger transportation. The National Railroad Passenger Corporation (Amtrak)

was charged with operating and revitalizing intercity passenger rail service and integrating such service into our national transportation system because it was clear in the late 1960's that private freight carriers were unable and unwilling to sustain the severe financial losses associated with operating passenger rail service. This history must be kept in mind as the debate continues about "reforming" Amtrak.

The hard-working employees of Amtrak have been providing service to rail passengers for more than thirty (30) years. And rail workers and their unions have made countless sacrifices to keep this carrier going and have led the charge on Capitol Hill to increase investment in Amtrak. We are pleased that Amtrak President, David Gunn, has forcefully and persuasively told the truth about Amtrak—that the service is vital and it needs a federal subsidy to continue. Mr. Gunn has also testified in the past that Amtrak's workers' wages are not the problem. Amtrak has been bled almost to the point of extinction by the myth that Amtrak could survive as a for-profit enterprise.

The Administration has proposed a plan that would split-up Amtrak and turn over operations to for-profit operators. This "reform" ignores common sense, history and experience. Amtrak itself was created in 1970 by Congress because private operators wanted out of this unprofitable business.

The Administration together with the Amtrak Board of Directors have used every argument they can to lay blame on Amtrak and its workers in order to kill Amtrak through “privatization.” The Amtrak Board in its fiscal year 2006 grant request launched an outright assault on employees’ pensions, working conditions and job security. The Board went so far as to propose that Congress take new employees out of a railroad retirement system that is healthy and well-funded. They also asked Congress to amend the Railway Labor Act to allow Amtrak labor contracts to expire so that the Company could impose work rule changes on its employees with no regard for the collective bargaining process. The Board argues that this radical departure from longstanding labor law is necessary to ensure an “equitable legal and regulatory framework for labor among Amtrak and its competitors.” This rationale is completely without merit—every rail carrier is subject to the same rules that Amtrak is seeking to exempt itself from. Providers of other forms of transport that may compete with Amtrak, such as aviation and intercity bus, are subject to labor laws that do not allow the company, never mind Congress, to unilaterally impose new terms and conditions on its workers. In short, Amtrak’s Board is not looking for an even playing field; they want an advantage over their workers that is not enjoyed by others in the industry and would represent a clear rejection of fair and balanced collective bargaining.

Furthermore, Amtrak's employees, through their unions, have always been able to reach agreements with Amtrak, even though it has been very difficult to negotiate with a company that is chronically short of funds. These agreements have proven beneficial to both Amtrak and the employees. They have provided the labor peace that has allowed Amtrak to provide its primary service without disruption to the traveling public.

The 20,000 dedicated employees who have done everything possible to keep Amtrak going see both the Administration's plan and the Board's proposal as nothing more than a slap in the face. It is insulting to the men and women who help make Amtrak run every day and to the passengers that they serve. Furthermore, an Amtrak liquidation—which would be the result if the Administration's plans were enacted—would have a devastating impact on the railroad retirement system. Thousands of rail workers in the freight and commuter side would see retirement, disability, widow and widower and unemployment benefits threatened and employers would see payroll taxes soar.

It is heartening that the draconian reforms offered by both the Administration

and Board have thus far been rejected by Members of Congress on both sides of the aisle. The Amtrak Reauthorization bills approved by this Committee steered clear of this dangerous course. The reauthorization bill introduced in the other body by Senators Lott, Lautenberg, Stevens and others has proposed several changes but again wisely chose to ignore the Board's request for changes in labor law. And as part of the FY 2006 Appropriations bill, the full House voted to dramatically increase funding for Amtrak and removed language that would have curtailed many long distance trains.

We need only look at Great Britain's failed experiment to see what can happen when we allow a public service to be hijacked by private interests. Beginning in 1994 and ending in 1996, British Rail, motivated by the zeal for broad privatization of various public services, was transformed from a publicly run service into a "competitive" railroad market. The story of British Rail underscores the threats of ideologically driven policy experiments such as rail privatization. British passengers were saddled with increased fares, shoddy maintenance practices and dangerous cost cutting including excessive job reductions. This resulted in higher accident rates, deteriorated service and coordination problems within a maze of poorly managed providers. And the British people were left with an operational meltdown of unprecedented proportions. By 1999, with problems mounting, the British government

realized that the privatization experiment was a failure and they returned to a system that looks much like Amtrak, but far better funded. It has been estimated that taking the British Rail system back to public ownership would cost about \$40 billion—this is not a mistake we can afford to make.

Several groups here today have picked up the proposals put forth by the Amtrak Reform Council, the Administration and others who would solve Amtrak's problems by breaking up the system and dividing various responsibilities. ARC's proposal, for example, would slice Amtrak into component operations and then turn to some very complicated contracts to ensure basically the same service that Amtrak provides today. Besides raising transaction costs (a major problem with British Rail) and creating additional layers of bureaucracy, I am not sure what will be accomplished by this or other models following a similar course. Is Amtrak run perfectly today? Of course not. There are areas for improvement and we want to work with the carrier and this Committee on that effort. But how is dividing the franchise into various parts inherently any better than the current framework? Amtrak is drowning under a deficit, struggling to turn around a significant deferred maintenance crisis, paying less than standard rail industry wages and subject to unpredictable and highly volatile funding sources. These are issues that deserve the immediate attention of this Subcommittee.

Some of the groups appearing here today may make the statement that they have labor's support for them taking over Amtrak's work. While it is true that some unions have met with one or more of these organizations, I am unaware of any rail labor union that has endorsed or has indicated that it is supportive of the idea of removing work from Amtrak and having that work performed by one of these organizations. In addition, those organizations who propose to operate Amtrak trains, outside of the Northeast Corridor, would have to run on tracks owned by the nation's freight railroads. I do not believe for one minute that the freight railroads want another operator running trains on their lines—they know what they have with Amtrak.

I have been asked how I would “reform” Amtrak, and my answer is that I want to see Amtrak service improved. TCU and all of rail labor want to see Amtrak not only succeed, but to also prosper. This would be good for our country and it would be good for our members and their families.

In the face of incredible obstacles Amtrak nevertheless continues to improve. Since 220 Amtrak total rider ship has increased by 11.6%; the number of intercity trains operated has increased by 21.4%; and the number of trains on the Northeast

Corridor has increased by 29.2% while others have increased by 17.3%.

During the past three years, Amtrak has implemented new accounting and financial reporting systems; developed a detailed five-year capital plan focused on restoration of an aging fleet of rolling stock used throughout the system, while containing Amtrak's cash-operating requirement at or below \$570 million.

Capital investment is up substantially. In the past two years, there have been 256,000 concrete ties installed; 104,000 wood ties replaced; 266 miles of rail infrastructure restored; 50 under grade bridges improved; 43 miles of signal and communications cable replaced; 116 miles of catenary hardware installed; and 19 stations and 37 substations improved.

Amtrak's mechanical department has also moved ahead. Since 2002, it has completed at least 180 remanufactures/heavy overhauls, 111 diesel locomotive overhauls, 14 electric locomotive overhauls, 31 equipment overhauls, 51 wreck repairs and 32 baggage car modifications. And a \$71 million maintenance facility was opened in joint partnership between Amtrak and the State of California.

As can be seen, Amtrak is making progress, even under a starvation budget and without taking Amtrak further into debt. So I say the best way to reform Amtrak is to work with Amtrak.

In conclusion I would say that Amtrak was created because private carriers could not make a profit and there is no reason to believe that the privatization of national rail service today would be any more successful.

Again Mr. Chairman, thank you for allowing the TCU to present our views on the future of Amtrak and inter-city passenger rail service. This issue is critically important to us, not only for the jobs that such a service creates and supports, but because we agree with you and many of your colleagues that national passenger rail service is an integral part of our overall transportation system. I hope we can work together to support an Amtrak system that serves the interests of passengers, communities and workers.

September 21, 2005  
Subcommittee on Railroads  
Hearing on  
"Amtrak Reform Proposals"

Responses from Robert A. Scardelletti, International President  
Transportation Communications International Union

To

Questions from Rep. Corrine Brown

1. Representative Brown's statement that Americans do not want to see their national passenger rail system dismantled or liquidated is exactly correct. All transportation modes are subsidized by American taxpayers and singling out Amtrak for severe cuts assumes that taxpayers do not want the government to invest in passenger rail. Polls, however, consistently show that the public strongly supports federal funding for Amtrak's national network of passenger trains. Polls conducted by the *Washington Post* and by CNN/Gallup/*USA Today* in 2002 each found more than 70% support for continued or increased federal funding for Amtrak. Support for Amtrak was strong among all regions, age groups, and income groups.

In the days after September 11, 2001 Amtrak was the only provider of intercity transportation in many markets due to commercial airlines being grounded. Amtrak's fiscal year 2001 ridership was 23.5 million, an all-time record. That record was exceeded in FY2003, again in FY2004, and again in FY 2005 when Amtrak carried over 25 million passengers, despite the fact that Acela trains had been sidelined for much of the year due to braking problems. Where there is a strong Amtrak presence, such as in the Northeast Corridor, New York to Albany, or Los Angeles to San Diego, Amtrak carries a significant segment of the traveling public. In rural areas, Amtrak is often the only transportation alternative to automobiles.

If Amtrak receives the funding that will allow it to improve its service, the public will continue to utilize Amtrak in ever-larger numbers, especially in light of the continuing increase in the cost of gasoline. As America's travel volumes grow in the future, construction of new highways and airports becomes more problematic and expensive. These realities have prompted the National Governors Association

to advocate continued investment in Amtrak. Members of Congress who continue to support Amtrak are making the right decision for the American people.

2. The Administration's proposal to separate Amtrak's operations from its infrastructure management would be disastrous. Amtrak is organized the same way railroads have been successfully organized since they were created as our country's first major industry. In the Northeast Corridor where Amtrak owns the roadbed and tracks, it has control over tracks and trains which allows Amtrak to spend its resources where the need is greatest, whether it be to repair track or to overhaul the equipment or to increase train frequencies or speeds. Separating Amtrak into various infrastructure and operating entities would only foster conflict. Separate entities would compete for federal subsidies, and they would undoubtedly squabble over which entity was at fault and which bears liability for disruptions in service or accidents. The operating entity would want to maximize track availability during day time peak travel periods, while the infrastructure company might want to reduce overtime costs by giving work crews maximum time to maintain the track. Such likely conflicts are manifold. Experts agree that it will cost billions to bring the Northeast Corridor into a good state of repair and lay the basis for increased train speeds and frequencies, and that is where federal dollars should be spent, rather than on creating duplicate bureaucracies that are laden with potential conflicts.

Some who advocate the separation of infrastructure management from operations have portrayed it as a step toward "privatizing" Amtrak. We need only look at Great Britain's failed experiment to see what can happen when we allow a public service to be dismantled by the zeal for privatization. Beginning in 1994 and ending in 1996, British Rail operations were transformed from a publicly run service into a "competitive" market. The result was that British passengers were saddled with increased fares, shoddy maintenance practices and dangerous cost cutting. There were more train accidents; service deteriorated; and the British people were left with an operational meltdown of unprecedented proportions. By 1999, with problems mounting, the British government realized that the privatization experiment was a failure and they returned to a system that looks much like Amtrak, but is far better funded. It has been estimated that taking the British Rail system back to public ownership would cost about \$40 billion—this is not a mistake we can afford to make.

Of course, the vast majority of trackage used by Amtrak is outside of the Northeast Corridor and it is owned by private freight railroads. The Association of American

Railroads has stated quite clearly that: "Safety and the integrated nature of railroading require that intercity passenger rail be provided by one entity: Amtrak. Further, Amtrak's right of access, preferential access rates, and operating priority should not be transferred or franchised."

3. The third question concerns what challenges Amtrak and its unions face in their labor negotiations. I do not propose to respond on behalf of all the unions at Amtrak, but only for TCU which represents 8,500 of Amtrak's 19,000 unionized workers. Our greatest challenge is obtaining fair and decent wages from a company that has been terribly underfunded and which has teetered on the brink of bankruptcy several times in recent years. Amtrak employees are paid approximately 20 percent less than their counterparts who work for the freight railroads or commuter railroads. Wages, expressed as a percentage of operating costs, are about 47 percent at Amtrak compared to 70 percent on the commuter railroads. The current management and Board of Directors are failing to invest in Amtrak's work force. Wages have not kept pace with inflation, and many workers have gone five years or more without a wage increase. If this trend is not reversed, workers with specialized skills and knowledge will be driven to leave the company and Amtrak will be unable to recruit qualified replacements.

Another problem area concerns myths and misunderstandings being spread by those having little or no knowledge of collective bargaining at Amtrak. For example, at the House Subcommittee on Railroads hearing held on June 9, 2005, the Amtrak Inspector General testified that Amtrak On Board Service employees are paid two to three times more than comparable workers in the restaurant industry. That was a complete distortion of reality. For most On Board Service employees at Amtrak anywhere from 30 to 45 percent of their time on the trains is unpaid time. And those workers are not subject to standard 40-hour-per-week overtime pay rules. When these facts are taken into account, no one could honestly conclude that those employees are overpaid. In addition, those workers are trained to save passengers lives in derailments and other emergencies, and many have done so in the past. That I. G. report was simply wrong and showed a complete lack of understanding of the work of the On Board Service employees. This is an example of a little bit of knowledge being a dangerous thing. I have also heard some Members of Congress talk about labor protection rules at Amtrak in a way that reflects a poor understanding of such rules by them. The truth is that Amtrak has, in just the past several years, eliminated several thousand jobs held by TCU members and not a single one of those employees qualified for labor protection

payments. The gap between myth and reality is one good reason why Members of Congress should not try to micro-manage Amtrak or interject themselves into collective bargaining issues.

4. Amtrak has taken many steps to reform itself and provide a quality service to the American public. As I stated in my testimony on September 21, 2005, despite the fact that Amtrak is drowning under a deficit, struggling to turn around a significant deferred maintenance crisis, paying less than standard rail industry wages, and is subject to unpredictable and highly volatile funding sources, it nevertheless continued to improve its ridership and operations in recent years. Since 2002 Amtrak total ridership has increased by 11.6%; the number of intercity trains operated has increased by 21.4%; and the number of trains on the Northeast Corridor has increased by 29.2% while others have increased by 17.3%. During the past three years, Amtrak has implemented new accounting and financial reporting systems; developed a detailed five-year capital plan focused on restoration of an aging fleet of rolling stock used throughout the system, while containing Amtrak's cash-operating requirement at or below \$570 million. Capital investment is up substantially. In the past two years, there have been 256,000 concrete ties installed; 104,000 wood ties replaced; 266 miles of rail infrastructure restored; 50 under grade bridges improved; 43 miles of signal and communications cable replaced; 116 miles of catenary hardware installed; and 19 stations and 37 substations improved. Amtrak's mechanical department has also moved ahead. Since 2002, it has completed at least 180 remanufactures/heavy overhauls, 111 diesel locomotive overhauls, 14 electric locomotive overhauls, 31 equipment overhauls, 51 wreck repairs and 32 baggage car modifications. And a \$71 million maintenance facility was opened in joint partnership between Amtrak and the State of California.

Amtrak's efforts and accomplishments should not be punished, but should be rewarded with sustained funding levels necessary to provide the quality service that Americans deserve and need. This can be accomplished by the passage of H.R. 1630 and H.R. 1631 which were jointly introduced by Chairman Don Young, Ranking Member Jim Oberstar, Subcommittee Chairman Steve LaTourette and Ranking Member Corrine Brown and which are supported by many other Members of the House of Representatives.

**Before the Subcommittee on Railroads  
Committee on Transportation and Infrastructure  
U.S. House of Representatives**

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For Release on Delivery  
Expected at  
10:00 a.m. EDT  
Wednesday  
September 21, 2005

**Amtrak Reform  
Proposal –  
The Infrastructure  
Management  
Organization Plan**

**Statement of  
Robert Serlin  
President  
Rail Infrastructure Management, LLC**

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Good morning Mr. Chairman, Madame Ranking Member, and distinguished committee members. Thank you for providing me the opportunity to comment on Amtrak reform.

My name is Robert Serlin. My background has been developing business solutions for revitalizing capital-intensive transportation and basic commodities companies.

I am President of Rail Infrastructure Management, LLC, an entity initially organized in 1997 to analyze opportunities for investment in the rail industry and to provide the public sector a partner with which to develop innovative rail passenger solutions. One such solution is a proposal called the **Infrastructure Management Organization (“IMO”) Plan**.

#### **REALIZING THE VISION**

Congresswoman Lynn Schenk articulated a positive vision for our nation’s passenger rail service in the 1994 High Speed Rail Act House floor debate when she said: “Our ultimate goal is the construction of a safe, fast, efficient, and environmentally sound transportation alternative for all Americans.”

The IMO Plan is Congress’ road map to achieve this vision. Under the IMO Plan:

- High-speed train trip-times between New York and Washington would be reduced from close to three hours to roughly two hours by focusing capital expenditures on eliminating choke points and providing infrastructure redundancy.
- Commuter carriers would be able to integrate their services by operating new run-through trains, as the IMO adds infrastructure capacity, instead of being confined to geographic areas for historical reasons.
- New city pair combinations would be encouraged to permit rail passenger traffic to expand meaningfully.
- Improved station access would attract more travelers, thereby reducing gasoline consumption and highway congestion.

- Dedicated airport express train services would help speed travelers to airline check-in.
- New stations would be developed using proven “Transit-Oriented-Development” principles (e.g., restaurants, business centers, meeting locations, and retail outlets) to enhance the desirability of the rail mode.

The IMO Plan allows better intercity and commuter services in the Northeast and Midwest to evolve, tailored to the stakeholders’ needs. It permits Congress to focus on transportation services that constituents demand and that states and other governmental entities desire.

The future of passenger rail service lies in a more vibrant system fueled by a greater number of trains and a greater variety of train services. The IMO Plan is a win-win opportunity for the nation’s rail passenger stakeholders—labor, Amtrak, the states, rail passengers, commuters carriers, freight railroads, etc. It provides a solid base upon which to build the modern rail passenger network that government leaders and travel advocates have championed for the past thirty years.

The IMO Plan offers a solution to both the funding challenge and the looming requirement to address the ever-increasing deferred maintenance liability. Additionally, the IMO Plan makes a one-time payment of \$2 billion to Amtrak and assumes from Amtrak almost \$750 million in infrastructure-secured debt. This improves Amtrak’s balance sheet, furnishing Amtrak the means and allowing it the time to address the needs of its entire forty-six state system.

Under the IMO Plan, multi-state compacts are not required and states are not obligated to fund the maintenance of or capital expenditures on the Federal Government’s owned infrastructure.

This vision of rail passenger service can be reached. The IMO Plan is the route.

**ORIGIN OF THE IMO PLAN**

The IMO Plan is rooted in the recommendations of the Blue Ribbon Panel—the 1997 House T&I Committee’s “Working Group on Intercity Rail Passenger Service,” sponsored by Chairman Bud Shuster. The Blue Ribbon Panel analyzed Amtrak’s requirements and operations and concluded that Amtrak is really two distinct businesses with totally different operating and funding needs: a transportation service provider and an infrastructure manager.

While Amtrak operates passenger trains over roughly 23,000 route-miles, it owns and is responsible for only about 2% of that network or 600 route-miles—about 500 route-miles in the Northeast and about 100 route-miles primarily in Michigan. Amtrak’s President, David Gunn, stated in his “Myths about Amtrak” that long-distance trains only lose about \$300 million annually. This means that most of the rest of Amtrak’s \$1 billion plus operating losses must be attributable to its owned infrastructure.

Since 1997, the Department of Transportation’s Inspector General, the Government Accountability Office, and, most recently, numerous members of Congress, have reached the conclusion: the status quo is not sustainable and change is necessary.

**THE IMO PLAN**

The IMO Plan implements the Blue Ribbon Panel’s findings by separating Amtrak into two Federally owned entities.

The first Federal entity, Amtrak, continues its primary responsibility as a transportation service provider. It retains the reservations system, locomotives, passenger cars, maintenance of equipment workshops, and operating rights on the nation’s rail network. It continues to operate all of its current intercity, Northeast Corridor, and contract commuter trains.

Utilizing David Gunn's previously noted analysis, the effect of the IMO Plan on future required appropriations can be seen. By separating Amtrak's owned infrastructure from its train operating functions, the current forty-six state network can be sustained on an annual appropriation of approximately \$300 million—significantly less than the \$1.8 billion that Amtrak requested for FY 2006.

The second Federal entity owns the 600 route-miles of Amtrak infrastructure, passenger stations on that infrastructure, and catenary. A private sector operator manages this infrastructure. The Surface Transportation Board (STB), using its existing directed service authority, conducts a public solicitation and selects an Infrastructure Management Organization ("IMO") from among the competing applicants. The IMO is responsible for managing the infrastructure for a period of fifty years and for funding, throughout that period, all rail infrastructure operations and improvements. Each improvement becomes the property of the Federal Government as it is made. At the end of the fifty years, the Federal Government can either re-let the management concession or operate the infrastructure itself.

The IMO has strong incentives to increase the number of passengers in order to generate new revenue. Revenue increases come from new train services that pay track-mileage fees to the IMO and from which the IMO pays for infrastructure improvements. Because of the huge, front-end loaded investments, it is projected that the IMO will require about fifteen years to generate enough revenue to break even.

Travel reliability and security redundancy will increase, while trip-times between New York and Washington will be reduced to approximately two hours versus the current three hours by addressing deferred maintenance through aggressive engineering and construction and major new capital investments.

The IMO must truly be a neutral party that does not operate any of its own trains and is not in competition with its customers—the users of the infrastructure it manages. The only way the IMO succeeds is if its customers succeed.

By fostering a new working relationship with the states and the Congress, the IMO Plan creates a platform upon which new and exciting rail services can be launched, either by Amtrak, the existing commuter operators, or new transportation service providers. The result will be more service options, with greater access to the Northeastern rail network, allowing more passengers to enjoy the efficiencies and cost benefits of rail travel. The plan forces the IMO to innovate and thrive by developing new opportunities for transportation service providers and increasing the number of trains using the infrastructure.

#### **LABOR, COMMUTER, FREIGHT, AND PUBLIC PROTECTIONS**

Identifying principal stakeholders and addressing their needs is a key element of making the IMO Plan a win-win solution.

The existing infrastructure employees are a valuable and irreplaceable resource. Labor must be treated fairly and equitably in order to assure the success of the IMO. Under the IMO Plan, the IMO is required to offer employment to all Amtrak infrastructure employees. Employment rights, including contracts and representation, and current statutory safeguards are all preserved. The IMO Plan makes the IMO subject to the Federal Employers' Liability Act (FELA), Railway Labor Act (RLA), Railroad Retirement Act of 1974, Railroad Unemployment Insurance Act, and Railway Safety Act (RSA). Because Amtrak will continue to operate all of its intercity and Northeast Corridor trains, implementing the IMO Plan will not be a discontinuance that would trigger the employee protection provisions in Amtrak's collective bargaining agreements.

Vested commuter carriers and freight railroads with operating rights must also be protected. All pre-existing contracts and agreements are transferred to and honored by the IMO, including the commuter carriers' "avoidable cost" access fee structure.

Amtrak is the IMO's largest customer and its financial well-being is important to the IMO. The IMO Plan adds almost three billion dollars to Amtrak's balance sheet. Amtrak

must be able to run its high-speed trainsets at up to 150 mph between New York and Washington in as few as two hours, have its timetable patterns protected, and pay a fair rate for the infrastructure it uses.

The Federal Government is, perhaps, the most important stakeholder. Secretary Mineta has developed a set of principles that are a solid basis for a legislative proposal and which the IMO Plan satisfies. Additionally, the IMO would be subject to all current and future Federal rail safety legislation and the jurisdiction of the STB and Federal Railroad Administration.

To align the long-term interests of the owners of the IMO to those of the Federal Government, ownership of the IMO is non-transferable for the full fifty-year management concession term.

In the event the IMO does not comply with the enabling legislation, the IMO must correct deficiencies or risk financial penalties, revocation of the right to be the IMO, and loss of all program loan funds and assets.

The Inspector General of the Department of Transportation is vested with authority to certify compliance with the terms of the legislation. The IMO is also required to file with the Secretary of Transportation and the Congress annual reports both of its audited financial results and its operations.

#### **FUNDING STRUCTURE**

The IMO is financed using the zero scoring Railroad Rehabilitation Infrastructure Financing ("RRIF") loan program. Under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA-LU), RRIF program authorization was increased to \$35 billion.

The IMO would be allowed to borrow up to \$17.5 billion under the RRIF program, after having given the United States Treasury a repayment guarantee issued by an investment-grade third party in the amount of the full \$17.5 billion. The IMO is required to invest a minimum average of \$600 million annually in the Federal Government's owned infrastructure, as the interest on the loan. On average, this is nearly three times more than the amount Amtrak currently spends annually on its owned infrastructure.

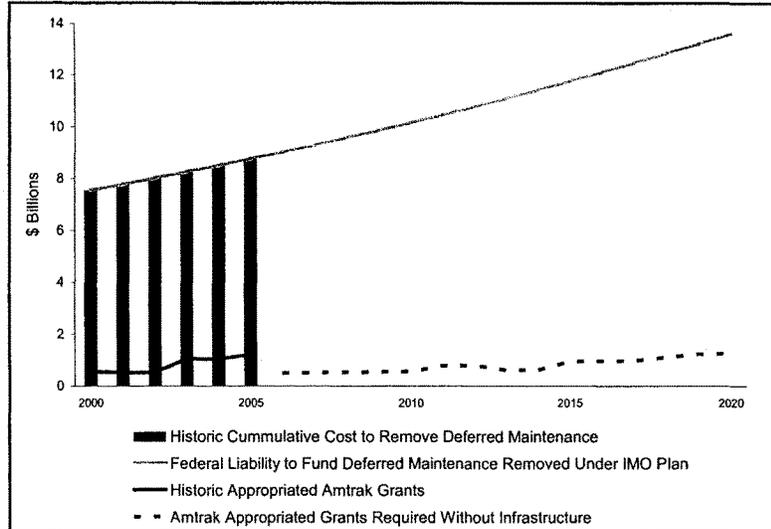
#### **AMTRAK'S HIDDEN LIABILITY**

Amtrak's owned infrastructure, particularly its Northeast Corridor, suffers from many years of deferred maintenance and depreciated assets. Based upon Amtrak, Department of Transportation, and Government Accountability Office reports, this liability is now estimated to be over \$8.7 billion.

Major infrastructure components, renewed in the early 1980's, are now approaching the end of their useful and reliable lives and will soon have to be replaced. As the General Accounting Office (now Government Accountability Office) reported, spending money to return the aging Northeast Corridor to a "state-of-good-repair"—although significant—is costly improving the corridor to its condition in 1981, at the end of the Northeast Corridor Improvement Project.

If Amtrak's deferred maintenance is not addressed in a timely manner, the integrity of the Federal Government's owned infrastructure may be in jeopardy. Trip-times may be increased. Safety could be compromised. Service will be degraded. Operating costs will go up.

The following graph shows the positive effects of transferring the Federal Government's infrastructure liability to the private sector and of reducing by about two-thirds Amtrak's annual appropriations for operating trains.



Through enactment of the IMO Plan, the private sector assumes full responsibility for funding the repair, operations, and improvement of the infrastructure.

**SOLUTION AT HAND**

The Federal Government has been able to fund Amtrak’s annual operating budget. It has, however, been unable to fund Amtrak’s multi-year capital improvements and infrastructure investments appropriations. This has resulted in Amtrak’s \$8.7 billion deferred maintenance liability.

By increasing the RRIF loan authority, the Transportation and Infrastructure Committee has created a loan program that enables the private sector to fund our nation’s rail infrastructure multi-year investments. The vehicle to achieve this is the IMO Plan.

Public-private solutions, like the IMO Plan, already exist. They work for new freight and passenger rail infrastructure projects, such as the Alameda Corridor and Boston’s

commuter rail service. They work for private toll roads, such as the Dulles Greenway. And, they work for the construction and management of airport facilities, such as the terminal management at Pittsburgh International Airport.

As the Hon. Wayne Burkes, former Commissioner on the Surface Transportation Board, and Michael McBride recently authored: "It is precisely because we are advocates for passenger rail travel that we believe Congress and the Administration should promptly adopt the IMO Plan. . . . [T]he IMO Plan is designed to accommodate the interests of all of Amtrak's stakeholders, including Amtrak itself."

Thank you for providing me the opportunity to testify, and I welcome questions you might have.

**BENEFITS OF THE IMO PLAN**

**The IMO Plan:**

- **Reduces Amtrak's annual appropriation requirement by over \$1 billion**
- **Removes all infrastructure ownership costs from Amtrak and eliminates infrastructure Federal appropriations**
- **Retains full Federal Government ownership of all Amtrak infrastructure assets**
- **Keeps Amtrak as the single national passenger carrier**
- **Assures Amtrak's infrastructure employees their positions and collective bargaining rights**
- **Invests over 300% more annually on Amtrak's owned infrastructure than Amtrak**
- **Permits Amtrak to match passenger revenues with train costs to increase accounting transparency to public agencies**
- **Allows Amtrak to run entire current National System for appropriations under \$600 million annually**

**SUPPLEMENTAL TESTIMONY TO SEPTEMBER 21, 2005 STATEMENT  
OF ROBERT SERLIN**

**Before the Subcommittee on Railroads  
Committee on Transportation and Infrastructure  
U.S. House of Representatives**

**RESPONSES TO CONGRESSWOMAN BROWN'S  
QUESTIONS FOR THE RECORD**

(Note: Glossary of terms and acronyms at conclusion of response.)

Under the Infrastructure Management Plan ("IMO") Plan, the Federal government continues to own both Amtrak and Amtrak's owned infrastructure. Multi-state compacts are not required and states are not obligated to fund the maintenance of or capital expenditures on Amtrak's owned infrastructure.

The IMO Plan provides a zero scoring funding mechanism to maintain and expand Amtrak's owned infrastructure, while providing Amtrak with a one-time payment of \$2 billion and relieving it of almost \$750 million in infrastructure-secured debt.

The IMO Plan protects labor by mandating that the IMO offer employment—in seniority order, under existing contracts and representation—to all current Amtrak infrastructure employees. The IMO will be subject to the Railroad Labor Act, FELA, the Railroad Unemployment Insurance Act and Railroad Retirement. The enabling legislation will also provide for expedited claim settlements for infrastructure employees.

The IMO Plan allows Amtrak to improve its balance sheet, so that it can **operate its entire existing forty-six state national passenger rail system** on a subsidy of about \$500 million annually. It gets Amtrak more money, more quickly than any other plan being discussed.

1) **Mr. Serlin, you noted in your written testimony that the Infrastructure Management Organization ("IMO") plan contemplates receiving a \$17.5 billion loan under the Railroad Rehabilitation and Infrastructure Financing ("RRIF") program and that this loan would be contingent on a repayment guarantee issued by an investment-grade third party.**

a) **Could you please provide more details about this loan and the guarantee?**

The RRIF loan contemplated under the IMO plan is a \$17.5 billion fifty year loan.

The United States government and taxpayers are at all times secured and protected. The assets managed by the IMO on behalf of the Federal government—Amtrak's Owned rail Infrastructure ("AOI")—at all times remain the property of the Federal government.

The security comes in the form of an investment grade, third-party, irrevocable full principal repayment guarantee, which functions as the risk premium payment. The RRIF loan is secured dollar-for-dollar by an irrevocable investment grade financial instrument or combination of instruments that have a self-liquidating value on the maturity date equal to the outstanding principal loan amount. This is the equivalent of posting a performance bond. The guarantee instrument shall be delivered by the IMO to the United States Treasury prior to the RRIF loan being dispersed.

The protection comes in the form of a high number of restrictions on the IMO's use of un-invested funds; prohibitions against the IMO using the RRIF loan itself or interest earned thereon to make payments to its shareholders; a prohibition against the IMO either borrowing against or selling AOI; and the revocability of the concession.

Interest on the RRIF loan shall be an amount of not less than six hundred million dollars (\$600,000,000) per annum. Loan interest may be paid either (1) to the United States Treasury; or (2) through (a) maintenance and betterment outlays in AOI, (b) improvements and investments in AOI, and (c) contributed improvements to AOI; or a combination of (1) and (2). Loan interest must continue to be paid even if the loan is prepaid or the concession is terminated prematurely. All AOI improvements and investments automatically become government property as made.

**b) Specifically, when would the IMO repay the loan and through what anticipated revenues would the repayment be made?**

The loan has to be repaid no later than the fiftieth (50th) anniversary of the transfer date.

The loan will be repaid through revenues received by the IMO from Transportation Service Providers ("TSPs") using AOI. Alternatively, the United States can be repaid through the guarantee instrument it is holding. At all times, the United States is assured that the IMO would repay the loan.

**c) How much will it cost the IMO to secure this guarantee and how will that cost be funded?**

The guarantee instrument is estimated to cost between \$1 billion and \$1.5 billion. It will be funded by the private sector because the guarantee must be put in place before the loan may be dispersed.

**d) Will the investment-grade third party take any collateral in the IMO and, if not, how will it guarantee its investment?**

The "investment-grade third party" will neither use nor at any time be allowed to take any form of security interest (i.e., collateral) in AOI. The "investment-grade third party" is solely dependent upon the IMO to fund it for the cost of the instrument. The third-party's investment will not be guaranteed; the third-party investors are weighing their risks and rewards, and making a business decision.

**2) Mr. Serlin, you state in your written testimony that Amtrak will pay a fair rate for the infrastructure it uses.**

**a) How will that rate be set?**

The IMO will set rates to maximize the number of trains that Amtrak and every other carrier operates over AOI. The IMO's revenue comes predominantly from train-miles operated over AOI. The IMO is, therefore, incentivized to maximize the number of train-miles operated.

Since the IMO's business will be infrastructure management, nearly all of its costs will be fixed. Consequently, in order for the IMO to be a success, it must maximize the numbers of trains operated over AOI.

In order to protect Amtrak's train operations and schedule, and to afford both Amtrak and the IMO the time to negotiate long-term arrangements, for the first three years following the transfer date, Amtrak will pay a rate similar to the rate that the commuter carriers have been paying Amtrak for the same types of service.

After expiration of the three-year period, unless otherwise agreed between Amtrak and the IMO, trackage rights compensation to the IMO will be at the market rate for such service as determined by an open, fully transparent solicitation or the rate determined by the STB under section 24904 of title 49, United States Code, for such service.

The IMO can only survive by encouraging all TSPs to maximize the number of trains they operate. It would be self-defeating to penalize Amtrak (or any other carrier) either through excessive trackage rights charges or by limiting the number of trains operated. The IMO is a volume-driven business, not a rate-driven business.

**b) Since the IMO will essentially be a monopoly provider of rail track, will Amtrak or other users of the Northeast Corridor have any opportunity to seek redress for what might be excessive rates?**

Yes. Throughout the United States, the STB oversees the fairness of rates that infrastructure managers charge infrastructure users. Amtrak and any other user of the Northeast Corridor may submit a dispute arising out of trackage rights to the STB to be determined through expedited arbitration under the procedures set

forth in part 1108 of title 49, Code of Federal Regulations (Arbitration of Certain Disputes Subject to Statutory Jurisdiction of the Surface Transportation Board).

**c) Will the federal government (i.e. the STB or the FRA) play any regulatory role in making sure rates that are charged are truly fair and non-discriminatory?**

Yes. The Federal government has jurisdiction over railroad rate setting today through the STB. The IMO will be subject to the STB. Please see my response to Question 2(b), above.

The FRA will retain responsibility for rail safety oversight and the IMO, as a railroad, will be subject to the FRA.

**3) Mr. Serlin:**

**a) What specific fees would be imposed on users and passengers?**

No fee(s) would be imposed by the IMO on passengers traveling over AOI.

Today, approximately 98% of Amtrak's route-miles are operated over railroad infrastructure owned and dispatched by others. The relationship between Amtrak and the infrastructure owning railroads is governed by trackage rights agreements under which Amtrak pays a trackage rights fee.

The IMO would either assume or make trackage rights agreements with all the carriers using AOI. In order to stimulate ridership growth, the IMO would base its trackage rights fees on train-miles, an easily measured and predictable quantity. In this manner, if a carrier wishes to add extra cars to a train to meet travel demand, it can do so at no extra cost.

Trackage rights have a long regulatory and judicial precedential history, having been in use in the United States since the last quarter of the nineteenth century.

**b) What would be imposed on states and local governments?**

No fee(s) would be imposed by the IMO on state or local governments and commuter carriers would continue to enjoy the same statutory "avoidable cost" protections currently afforded them under title 45, United States Code.

**c) What are your revenue streams specifically?**

Almost all of RIM's revenue is projected to come from trackage rights fees. These trackage rights fees come from Amtrak, commuter carriers, freight carriers and other carriers.

**4) Mr. Serlin:**

**a) How will the IMO manage the Northeast Corridor with respect to passenger and freight traffic?**

The right to be the IMO will be awarded by the STB following a public and competitive solicitation.

Should the STB award Rail Infrastructure Management ("RIM") the right to be the IMO, RIM would manage the Northeast Corridor to maximize the number of trains operated and to maintain system fluidity. In order to establish Northeast Corridor train schedules, RIM would retain the existing scheduling committee process that Amtrak has used for the past twenty-five years.

The Northeast Corridor is capacity constrained only at a few choke points that RIM anticipates mitigating. RIM believes that it can expand the operating opportunities of both passenger and freight operators and will be able to schedule freight Transportation Service Providers ("TSPs") so that their schedules do not conflict with those of passenger TSPs.

The Northeast Corridor is, clearly, a passenger corridor. Freight carriers acknowledge passenger train dominance on the Northeast Corridor and since the 1970s have re-routed most of their freight activity away from the Corridor.

**b) Will it give preference to passenger service, freight service, or will entities that can pay higher rates get priority rights?**

As infrastructure manager, the IMO is responsible for dispatching and scheduling, just as Amtrak performs these functions today.

RIM will dispatch on a non-discriminatory basis giving preference to the train that is operating on time according to the schedule to which it agreed with the IMO. The IMO optimizes infrastructure use by maximizing the fluidity of the system. Giving dispatching preference to those trains that are operating on schedule achieves this. As long as a TSP is on time, it will have preference over all other TSPs.

The enabling legislation will mandate that the IMO protect commuter carriers and Amtrak (each a "vested carrier"), excluding minor adjustments for improving schedule reliability or resolving operational conflicts, for the greater of the term of that vested carrier's pre-existing operating contract or a period of three (3) years from the transfer date. Prior to the latter of the expiration of the pre-existing operating contract or the three (3) year period from the transfer time, each vested carrier may enter into a new operating contract with the IMO to govern that vested carrier's future use of AOI.

Many pre-existing operating contracts with vested commuter carriers are perpetual contracts that extend on an annual basis with an inflation adjustment. The enabling legislation will mandate that the IMO assume those pre-existing operating contracts "where is, as is", just like it will mandate that the IMO assume all other pre-existing contracts "where is, as is."

Under the IMO Plan enabling legislation, the IMO will be prohibited from offering

rail carrier transportation services to the public. This will eliminate the conflict with which Amtrak is faced—whether to give preference to its own trains or those of others.

It is in the IMO's interest to work with all TSPs and neither to permit a TSP to be adversely affected nor to adversely affect a TSP. The IMO's revenue stream is reduced if any TSP reduces its train-miles operated over AOI.

**5) Mr. Serlin, in your written testimony, you state that the IMO will require about 15 years to generate enough revenue to break-even. But over the life of the 50-year lease agreement, what are the projected revenues and net profit that IMO will produce?**

The reason it takes fifteen years to reach break-even is because RIM would first focus on bringing AOI beyond a "state of good repair", eliminating choke points, augmenting capacity, adding redundancy and increasing security. RIM would not repeat the mistakes of Great Britain, where the number of trains using the infrastructure—the throughput—was increased prior to the infrastructure being improved to handle the increased throughput.

Only once AOI capacity and reliability were increased would RIM focus on increasing the number of trains using AOI. Improvements to AOI will permit reduced trip times and expanded services, permitting TSPs to reduce ticket prices and make rail an even more appealing travel option. The IMO Plan lays the basis for developing new city pair combinations, new services and new stations, while removing current operating barriers.

The need for additional rail passenger services has been substantiated by agencies within the Department of Transportation based upon changing regional demographics and travel patterns. States, based upon internal analysis of changing state demographics, have identified Northeast Corridor passenger rail projects that they desire to see implemented. The growth in Northeast Corridor population and travel, as well as changing energy costs, will fuel IMO revenue growth.

RIM's revenue and net profit projections include third-party, non-public information. As a result, RIM is not permitted to disseminate its detailed plans in writing. I would be happy to schedule for you and your staff an oral presentation of these projections. Please let me know when would be convenient.

**6) Mr. Serlin:**

- a) Do you have a detailed business plan and a detailed capital spending plan which states – like Amtrak does on an annual basis – how much will be invested, where and when it will be invested, on what specific projects, and the costs of those projects?**

Yes. On November 10, 2003, RIM and one of its affiliated engineering companies met with Mr. David Gunn and his staff. The purpose of the meeting was to compare approaches to capital expenditures. At the conclusion of the meeting, Mr. Gunn furnished to RIM Amtrak's detailed capital plan. Virtually all items in the Amtrak capital plan were already in RIM's capital plan; those that were not have now been incorporated.

RIM's capital outlays are driven by the critical need to add both capacity and redundancy in order to increase both reliability and security.

Over the last five years, Amtrak has spent annually between \$85 million and \$200 million on AOI. The IMO will be required by the enabling legislation to spend no less than \$600 million annually on the same infrastructure. RIM anticipates spending, at least, \$1 billion annually on AOI. The IMO will be legislatively required to publish annually a five-year rolling capital plan that incorporates both user and IMO initiated projects.

Under the legislation creating the IMO Plan, the Northeast Corridor Coordination Board is reactivated with oversight responsibility for the IMO's capital expenditure plan. The Northeast Corridor Coordination Board will be composed of representatives from Amtrak, the commuter carriers, the AOI States, the Northeast Corridor freight carriers and the IMO.

In many cases, total project capital expenditure costs may be lowered and completion expedited by States and the IMO cooperating, and States leveraging public sector funds off of the IMO's private sector funds.

It is in the IMO's interest to be responsive to its stakeholders. Under the IMO Plan, the forums and mechanisms are in place for the AOI stakeholders to implement their desired capital expenditures and to influence the IMO's capital expenditure process.

The Department of Transportation has estimated that for each billion dollars spent on infrastructure, approximately 47,000 new jobs are created. In RIM's case, a large percentage of these jobs would be from the railroad and construction trades.

These jobs would be in addition to the almost 4,000 jobs that the IMO would be assuming from Amtrak and the additional internal jobs that the IMO would have to create to maintain the newly built infrastructure.

**b) If so, please enclose that information along with your responses to the above questions for the record.**

RIM's business and capital expenditure plans include third-party, non-public information. As a result, RIM is not permitted to disseminate its detailed plans in writing. I would be happy to schedule for you and your staff an oral presentation of RIM's operating and financial projections. Please let me know when would be convenient.

**Glossary of terms and acronyms used in response:**

**Amtrak** – means the entity that, after the transfer date, continues to own the reservation centers, passenger locomotives and rail cars, and maintenance of equipment yards, and continues to operate the Northeast Corridor high-speed and regional trains, and the intercity rail passenger and contract commuter trains throughout the United States.

**AOI or Amtrak's Owned rail Infrastructure** – means the Northeast Corridor mainline and branches; the trackage in the Albany, NY area; the trackage between Kalamazoo, MI and Porter, IN; and the Chicago Terminal mainlines and Chicago Union Station.

**IMO or Infrastructure Management Organization** – means a private, non-governmental entity selected through a competitive, public solicitation process by the Surface Transportation Board to manage AOI, on behalf of the Federal government.

**Secretary** – means the Secretary of Transportation.

**STB** – means the Surface Transportation Board.

**RIM or Rail Infrastructure Management** – means the company of which I am president and that desires to be the IMO.

**RRIF or Railroad Rehabilitation and Infrastructure Financing** – means the financing facility created under sections 821, 822, 823 and 836 of title 45, United States Code.

**Transfer Date** – means the date upon which the IMO executes an acceptance of transfer of control of AOI following notice of the award of the concession by the Surface Transportation Board.

**TSP or Transportation Service Provider** – means any rail carrier or person offering for compensation transportation services to the public


**HOULIHAN LOKEY HOWARD & ZUKIN**

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September 8, 2005

Scott Spencer  
 President  
 Railway Service Corporation  
 604 South Bancroft Parkway  
 Wilmington, DE 19805

Dear Scott

Thank you for sharing your business plan summary regarding the contemplated Joint Venture entitled Amtrak Railroad Operations ("ARRO" or "Joint Venture") between Railway Service Corporation ("RSC") and the National Railroad Passenger Corporation ("NRPC"). You have asked our perspective on the ability of ARRO to eventually secure asset based lending for the purchase of ten new trainsets in year four of the Joint Venture, as well as private equity investment at the launch of the Joint Venture.

Capital market conditions for securing private equity investment are very favorable at this time. The private equity universe, which is the most logical source for such equity capitalization, is currently broad and deep in its capacity to fund such ventures. Presently, there are record levels of equity and mezzanine capital available for investment in private enterprises. Of course, securing equity to fund ventures is always subject to the capital provider's assessment of the investment risk and investment return potential.

On cursory review of your summary business plan, we find it to be reasonably developed and thorough. It appears to be based on business and operating assumptions that have some historical basis. The reasonableness test for a business plan is predicated on extensive due diligence, corroboration of expected economic and market trends, and ultimately, the assessment of management to successfully execute their plan. Based on the material provided to us, we believe there will be a number of private equity funds with the financial wherewithal, that would be interested in this transportation sector investment opportunity.

In order for ARRO to successfully raise capital from such private equity funds a number of things must occur. Among them are the following major items: (i) the economic and governance terms of the Joint Venture between RSC and NRPC; (ii) specific terms relative to partner contributions to the Joint Venture; (iii) access to historical financial and operating information on the subject rail corridor; (iv) management team access; (v) Joint Venture asset schedules; (vi) regulatory and agency approvals; (vii) lease schedules for relevant operating and infrastructure assets; (viii) working capital facility for

operating cash cushion beyond original estimates; and, (ix) details and corroborating information regarding the business plan for the Joint Venture. During capital provider due diligence, information items, documentation, and applicable agreements between the ARRO Partners, regulatory authorities, and other parties to Joint Venture will require examination and comment prior to any financing commitment.

While the process may appear exhaustive, it is a very disciplined and expeditious exercise, providing information and documentation such as the items listed above have been negotiated and are readily available for review. Given our prior experience with RSC, we are highly confident that you will be prepared with all necessary information and analysis for a successful capital solicitation process.

We wish you the best of fortune in this very important initiative.

Sincerely Yours,  
  
Louis A. Paone  
Managing Director

## INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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**Testimony of  
John F. Murphy  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
September 21, 2005**

Mr. Chairman and Members of the Committee, I appreciate the opportunity to submit this testimony on Amtrak's Strategic Reform Proposal. A national rail passenger system is vital to the economic health of our country, and Amtrak's employees work hard every day to provide good rail passenger service to the riding public.

I am John F. Murphy, the Director of the Teamsters Rail Conference. I am testifying today on behalf of the two members of the Conference: the Brotherhood of Maintenance of Way Employees Division (BMWED) and the Brotherhood of Locomotive Engineers and Trainmen (BLET). Together, the two Divisions within the Rail Conference represent about 4,000 of Amtrak's dedicated employees. The BMWED members build and maintain Amtrak-owned tracks, bridges, buildings and electric catenary and the BLET members are Amtrak's locomotive engineers nationwide. These members are working "24/7" to provide safe and efficient rail passenger service to the traveling public.

Robert Scardeletti, President of the TCU is testifying on behalf of the Rail Labor Division of the Transportation Trades Department, AFL-CIO. We support Mr. Scardeletti's testimony and join with all other rail labor unions in opposing the misguided efforts of the Administration and Amtrak to radically alter national rail passenger service in this country. If the untested, ideological, radical reform proposed by Amtrak and the Administration is

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adopted, it will effectively end rail passenger service. Instead of committing to expanded, modern rail passenger service, we will have thrown away a vital mode of transportation in pursuit of right wing social experimentation that has failed everywhere else in the world it has been tried.

Amtrak's employees have worked diligently and faithfully to support Amtrak since it was created by Congress to preserve intercity rail passenger service. Amtrak employees have sacrificed as their wages have fallen behind those paid to commuter rail employees, subway employees and freight railroad employees in previous efforts to assist Amtrak through economic crisis after economic crisis. They have fought to maintain a safe and reliable national rail passenger system as funding for Amtrak has been threatened. They have worked hard every day to keep an underfunded national rail passenger system running.

Amtrak's Strategic Reform Proposal makes no sense and insults its hard-working employees. Instead of committing to a modern integrated national rail passenger system and the funding to operate it, Amtrak's Board of Directors and top management throw up a blizzard of so-called "reforms" in an attempt to obscure their unwillingness to tell the truth about the financial needs of a robust, integrated national rail passenger service and the inability of Amtrak management to focus on their mission of providing such rail service.

Whether the cause is political pressure from the Administration to toe some misguided ideological line, or pressure from lobbyists who smell the opportunity to hijack federal funds, or simply the attempt by the Board and management to hide their own ineptitude, the result is a misguided proposal that will do nothing more than jeopardize national rail passenger service in this country without any chance of improving rail service.

We agree with Bob Scardelletti that intercity rail passenger service cannot be broken up into "penny packets" each operated by a different service provider. We tried that before when the freight railroads provided rail passenger service and nearly went broke doing so. Service

deteriorated and passengers simply “couldn’t get there from here.” The nation needs a single integrated company providing intercity rail passenger service.

I can only conclude that Amtrak’s Board and top management are so afraid of standing up and defending Amtrak’s statutory mission of providing rail service that they will bend to any political wind in the mistaken belief that ignoring their statutory obligation to provide rail service and proposing schemes designed by lobbyists anxious to get their hands on federal funding will somehow placate those who want to put Amtrak out of business. Such spineless behavior unfortunately infects everything that Amtrak does. Amtrak’s reform proposal as it affects Amtrak employees is a combination of disrespectful and fanciful. It is disrespectful because it falsely holds out the prospect that getting rid of Amtrak employees will somehow make rail passenger service less expensive to fund. And it is fanciful because it makes suggestions that will simply not save Amtrak any money and actually will cost Amtrak more money.

Several examples demonstrate the folly of the Board’s proposal. The Board proposes that Amtrak should not be subject to the Federal Employers’ Liability Act of 1908 which otherwise applies to all other railroads in the country. Instead, Amtrak wants to subject itself to the various workers’ compensation laws applicable to the states in which it operates.

However, in 1996, the GAO found no economic advantage to rail carriers if they were shifted from FELA to the various state workers’ compensation schemes. Second, Amtrak’s proposal to remove new hires from the federal Railroad Retirement System works several harms. First, if this proposal were enacted, the loss of new participants entering into the Railroad Retirement system would threaten the retirement income of all current and retired railroad workers. Additionally, the newly hired Amtrak employees would not be eligible for the portion of Railroad Retirement which is the equivalent of a private pension benefit.

Unfortunately, Amtrak’s attitude carries over into all parts of its operation. Nearly all Labor Organizations — including Teamster Rail Conference affiliates BMWED and BLET — have been in labor negotiations with Amtrak for almost six (6) years. The chief labor negotiator

for Amtrak, Joseph Bress, has never shown up for a single bargaining session with these unions, including a BMWED bargaining session convened by a National Mediation Board member who expressly requested Mr. Bress to attend the meeting.

Under the Railway Labor Act, contracts don't expire; they are open for modification after a number of years specified in the contract, historically five years in the case of Amtrak. If the parties are unable to agree on a settlement, the Railway Labor Act directs the National Mediation Board to proposed binding arbitration as a resolution of the dispute; however if either party refuses arbitration, the Board must release the parties. The parties are then free to take self-help after a 30-day "cooling off" period. In the event of a strike or lockout, the President has the authority to appoint an Emergency Board, which puts the parties' self-help option on hold while the Board investigates the dispute. Following its investigation, the Emergency Board issues its recommendations to the President who then makes the recommendations public, and historically, if the parties do not accept the recommendations, the Congress imposes them.

Our negotiations with Amtrak have gone nowhere. It has been almost six (6) years since the end of the last contract. Because the BMWED talks have gone nowhere, the BMWED proposed binding interest arbitration to Amtrak's management as a way to conclusively resolve this lingering dispute. We have offered to make our case to a neutral party and live with whatever the arbitrator decides. Amtrak has rejected our offer of binding arbitration, and Mr. Gunn's rejection suggests that Amtrak has no interest in further bargaining.

So we can't negotiate with Amtrak, and Amtrak won't agree to submit the dispute to binding arbitration. The National Mediation Board, which exists to urge the parties to reach agreement, has abdicated its statutory responsibilities. The National Mediation Board fecklessly refuses to take the next step, which is to release the parties. We have no explanation of why, other than Amtrak does not want a release.

So no bargaining, no arbitration, no release. We already have exceeded the usual five (5) year term of an agreement in this round of bargaining. Therefore, any agreement we reach will be subject to amendment and new bargaining the day it is signed. I cannot imagine a more dysfunctional result, a result that I lay directly upon Amtrak management and the National Mediation Board.

What are we to conclude? Sadly, we conclude two things. First, Mr. Gunn and the Amtrak Board have no respect for their employees and the effort they make every day to keep Amtrak running. Second, Mr. Gunn and the Amtrak Board find it useful to lay blame on their employees, and to boast that they are tough with organized labor to those who find such an attitude politically appealing. While Mr. Gunn and the members of the Amtrak Board may find personal political comfort in such a position, it is poor camouflage for their own inability to manage Amtrak and their abysmal failure to advocate effectively for Amtrak as a national rail passenger system and the funding to support it.

Mr. Gunn and Amtrak's rhetoric notwithstanding, the issues raised by Amtrak in bargaining, and in their strategic plan as the keys to the future of Amtrak, are normal issues resolved in collective bargaining. As an example, Amtrak used to provide commuter service to Boston under contract with the Massachusetts Bay Transportation Authority (MBTA). In 2003, the MBTA got rid of Amtrak (Amtrak didn't make a new bid on the service because it alleged it couldn't make money) and hired a new company, the Massachusetts Bay Commuter Railroad (MBCR). Amtrak claimed it was losing money on the service, that it was unable to provide the service profitably with the employees and the collective bargaining agreement it operated under. MBCR hired all of the former Amtrak employees and operates under the old Amtrak collective bargaining agreements. Additionally, MBCR agreed to provide the employees a 20% raise over the next five (5) years, and did not ask the employees to contribute a dime towards the cost of their health insurance. MBCR is operating the service profitably today.

MBCR is focused on providing good service to the MBTA and the commuters who rely on that service, and making money. They recognize that a dedicated work force, treated fairly, is a key component in that service. And they are making money. Amtrak doesn't get it.

Earlier this year, Amtrak stopped being the contractor for operating crews on the Metrolink commuter rail service in Los Angeles, where it was succeeded by Connex Railroad. As was the case in Boston, Connex assumed all operating employees, with their collective bargaining agreements intact. A wage package similar to MBCR also was agreed upon.

In neither Boston nor Los Angeles was FELA, Railroad Retirement, or the Railway Labor Act a problem. The reaction of these new entrants into the market on these issues speaks volumes about the bogus nature of the Mr. Gunn's complaints.

To run a railroad requires a focus on the mission of providing good service every day to the tens of thousands of people riding Amtrak. It requires the employees working hard to provide good service. It requires a company that knows its mission and how to achieve it.

Sadly, Amtrak currently lacks the leadership to perform. Its disdain for its employees, its focus on excuses, its spineless bowing to the fanciful plans of lobbyists cloaked in think tank regalia who are intent only on getting their hands on federal funds, its inability to tell the straightforward truth about its financial needs, all lead to the conclusion that Amtrak is concerned not with providing great rail passenger service in this country, but only with preserving their own jobs in the choppy political waters of Washington. That's no way to run a railroad and certainly no way to treat Amtrak's hard-working employees.

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Statement of

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Submitted to the

Subcommittee on Railroads

The Honorable Steven C. LaTourette, Chairman

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

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Hearing on Amtrak Reform Proposals

\* \* \*

September 21, 2005

Statement Submitted for the Record on October 19, 2005

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Thank you for the opportunity to submit this statement.

Any discussion of “Amtrak reform” needs at least two starting points – a statement of goals for what U.S. intercity passenger rail should be, and an acknowledgement of the reforms achieved at Amtrak over the three-plus years since David L. Gunn became President and CEO.

**Our Vision:** Briefly stated, our vision of transportation in America includes expansion of intercity passenger rail over what currently exists, particularly when it comes to corridor development outside the Northeast and the federal-state, funding partnership needed to support it, but also selective expansion of the long-distance network. Expansion should involve both proper development of existing routes and addition of new routes.

There is a desperate need for more rolling stock—now! The nation is not well served by gridlock at the federal level which, despite hopeful signs this year, has yet to make possible the funding of new rolling stock under a federal-state partnership. Moreover, it is roughly three years from placement of an order to when the new cars could make a dent in the crowded conditions that already exist on some routes, conditions that will be

intensified by further ridership growth over the next few years. President Bush has urged people to avoid driving when possible, and the price of gasoline has increased the number of people who want to take the train.

We also envision an increasingly “seamless” system, that is, a system in which it is easy for travelers to connect among different modes of transportation. In particular, the U.S. lags far behind most other developed nations in promoting ease of transfer between airlines and intercity passenger rail.

**Gunn’s Accomplishments:** Since May, 2002, the only new debt Amtrak has incurred was the \$100 million DOT loan to help fill the financial hole Gunn found upon his arrival at Amtrak. Amtrak is repaying that loan in five equal installments, starting in Fiscal 2005.

Transparency in accounting is greatly improved. As DOT General Counsel Jeffrey Rosen—one of Amtrak’s sharpest critics—testified, “in 2005 the independent audit was completed in March instead of September and no material weaknesses were found. While Amtrak’s auditors still find significant areas for improvement, they comment favorably on developments over the last three years.”

One area of improved financial controls visible to passengers has been institution of procedures to enable dining-car staff to distinguish accurately between coach passengers, who are required to pay for their meals, and sleeping-car passengers, whose meals come with the ticket. Another area, visible to newspaper readers in certain regions, has been the number of employees terminated for “mishandling” of cash.

The employee headcount has been significantly reduced even as ridership has risen, and organizational charts now enable management to account for all employees.

The capital program has produced significant improvements—unprecedented in Amtrak’s recent history—in the condition of both infrastructure and rolling stock.

**Reforms to Come:** The most immediate “reforms” needed would improve (a) output of some of Amtrak’s shops and reliability of the rolling stock; and (b) cost-effectiveness of on-board service and, to some extent, consistent, satisfactory performance of staff.

Amtrak trains operate in 46 states but, if the long-distance trains disappeared, service would disappear from 25 states. In 23 of those states, long-distance trains are the only intercity passenger trains, while in two others—Oklahoma and Texas—the Oklahoma City-Fort Worth *Heartland Flyer* can be viable only so long as the Chicago-San Antonio-Los Angeles *Texas Eagle* continues. Absent the *Eagle*, *Flyer* revenues would decline sharply, since about one-third of *Flyer* passengers connect with the *Eagle*, and *Flyer* costs would rise since facilities now shared between the two trains would become solely attributable to the *Flyer*.

In considering on-board food service on the long-distance (“national network”) trains, one needs to understand that, contrary to what DOT Inspector General Kenneth Mead has suggested many times this year, a significant proportion of passengers travel very long distances. While it is generally understood that sleeping car passengers overwhelmingly take long trips, the large number and proportion of coach passengers in this category has been obscured by less informative statements about the small proportion of travelers who travel literally the entire length of a route.

In fact, 1.7 million (59%) of coach passengers on national network trains in FY 2004 traveled on segments 400 miles or longer, and 0.8 million (28%) traveled on segments 800 miles or longer. These travelers were responsible for 78% and 44%, respectively, of national network coach revenues.

Thus, restructuring national network routes into short-distance corridors means largely abandoning the existing riders. Nonetheless, the national network trains are relevant to corridor development because the station facilities and track conditions they require lower the level of investment needed to establish corridor service. To cite one example, imagine trying to have a Virginia Railway Express (or Washington-Richmond service) if the New York-Florida trains had not run continuously, keeping open the First Street Tunnel underneath the Capitol, and preventing the commandeering of that tunnel for non-railroad use.

The national network’s existence also makes it easier to run special evacuation trains. Two such trains carried 738 evacuees from Amtrak’s Houston station to Dallas or San Antonio in advance of Hurricane Rita; far more could have been handled there (and in New Orleans) if rail was part of emergency planning.

The July 22 report by DOT Inspector General Kenneth Mead helped focus attention on food service and sleeping cars. His recommendation to eliminate sleeping cars everywhere except on Auto Train is tantamount to eliminating the system; we do not believe a national network of coach-only trains is sustainable. However, his conclusions about the extent of subsidy to sleeping-car passengers is based on faulty assumptions, which include assigning 100% of both checked baggage and dining-car costs to sleeping cars. When one considers the significant proportion of long trips by coach passengers on national network trains, as described above, the fallacy of assigning all dining-car costs to sleeping-car passengers becomes clear. His report also fails to consider passengers who ride coach on part of their journey and sleeping-car on the other part. We strongly disagree with the notion that all existing coach revenues could be preserved in the absence of sleeping cars and checked baggage service, and with food service that breaks even. In short, a nationwide network of coach-only trains would not be sustainable.

That said, we recognize the need to improve the cost-effectiveness of Amtrak food and beverage operations. At your June 9 hearing, witnesses were unanimous in agreeing that the Amtrak/Gate Gourmet contract should be significantly revised or replaced. In a lengthy October 3 report which did not mention Amtrak, *The Washington Post* said Gate Gourmet “serves 220 carriers and is the world’s second-largest airline caterer behind

money-losing LSG Sky Chefs, owned by Lufthansa... Gate Gourmet, which is private and doesn't disclose many financial details, says that its overall revenue is down 35% since 2000 and that its operation at London's Heathrow Airport alone has lost more than \$100 million over that period."

This implies that Amtrak should be looking at controlled experiments with other vendors, or at least competitively bidding the contract. If that does not happen, Gate Gourmet might lack incentive to give Amtrak the better deal your June witnesses believed is warranted, if indeed Gate Gourmet's finances are such that it is able to offer a better deal and remain in business.

On certain smaller trains, Amtrak has instituted single-car diner-lounges, replacing the separate dining and lounge cars that remain necessary on the major trains. Amtrak should also be negotiating with its labor unions an expansion nationwide of the more flexible working agreements that have long been in place on Auto Train. Southwest Airlines' greatest strength is flexible work rules, and Amtrak and its unions have every incentive to emulate that strength.

**Funding Reform--Amtrak:** Mr. Chairman, everyone who cares about the survival and future health of intercity passenger rail owes you and your colleagues—especially Reps. Brown and Oberstar—a debt of gratitude for the key roles that you played in saving Amtrak on the House floor in July. The resulting funding, while of course short of what we hope the final Fiscal 2006 level will be, has already made a crucial difference, by setting Amtrak's funding in the continuing resolution high enough to permit operations to continue.

Funding Amtrak's national network (long-distance trains) is a federal responsibility. Given the number of states each route serves, we believe the practical effect of trying to shift this funding responsibility elsewhere would be to kill the system. Therefore, we do not agree with complaints that states do not have enough influence over service decisions; they are not paying so their influence is understandably limited, unlike with corridor development (see next section). In fact, we have not heard such complaints directly from any state.

That said, a considerable amount of local and state funding have gone into many stations served only by national network trains, and this trend will continue so long as the federal government does not shirk from its responsibility to run these trains.

We do not agree that Amtrak lacks incentive to be efficient, or that the threat of budget cuts is insignificant. Amtrak is thoroughly familiar with the unfriendly relationship between the expectations Congress places upon the railroad, and the amount of resources provided. Amtrak's accomplishments, particularly in the past three years, reflect a commitment to making the best use of those relatively scarce resources, and on more than one occasion we have urged Amtrak *not* to implement service cuts which management sees as forced by the funding levels.

**Funding Reform—State Corridor Development:** We agree that states will largely determine future development of short-distance corridors, but such development will only be feasible if a true, federal-state funding partnership is developed, preferably with 80% federal match as recommended by the Amtrak Board in its April grant request. The most significant “reform” needed is actual creation of the federal share of this funding. It is unacceptable to argue that “the Amtrak problem” (however one chooses to define it) must be fixed before funding can flow. The funding, after all, would go to the states, and part of the outcome in most cases would improve Amtrak finances because train operations would be faster, more reliable, with higher ridership, and thus would be more cost-effective. It is bad public policy to hold state corridor development hostage to a particular view of what constitutes Amtrak reform.

**Other Operators Outside the Northeast:** The freight railroads have made clear their opposition to the transfer of Amtrak’s right of access to freight railroad tracks to any other operator. Other theoreticians have argued vigorously for competitive passenger access. We think S.1516, which the Senate Committee on Commerce, Science and Transportation approved on July 28, probably strikes an appropriate balance, by effectively limiting alternate access to the owning freight railroad.

**Reorganizing the Northeast Corridor:** Given the record of the current Department of Transportation, we are uneasy with any significant reorganization. We are concerned about the impact any major shake-up would have on the political balance that has kept both Northeast and national service running.

On May 11, I met with Secretary of Transportation Norman Y. Mineta and his passenger rail specialists. In discussing Amtrak’s national network, he asked if it could be replaced by a series of corridors. As part of my answer, I carefully explained that certain segments of railroad, such as across Montana, could never support frequent corridor service. Nonetheless, just 20 days later, on May 31, evidently seeking to blunt the impact of a bipartisan, pro-Amtrak campaign in Montana supporting Amtrak’s *Empire Builder*, Secretary Mineta said in a “telephone news conference” with Montana reporters that long-distance (national network) trains prevent “Amtrak from providing shorter distance, more frequent corridor services in states like Montana.”

It is notable that the Amtrak Board in April said that “separating infrastructure management from operations for planning, accounting and financial reporting and analysis purposes” would permit Amtrak to realize “much of the benefit of ownership separation” (page 13 of Amtrak’s report).

One argument against Amtrak ownership of the Northeast Corridor is that “no one expects Greyhound to own the New Jersey Turnpike and put it on the corporation’s balance sheet.” While no one expects a bus company to own a highway, it is standard for railroads—whether Union Pacific or Metro-North Commuter—to own their own tracks. Existing Amtrak ownership of the Northeast Corridor is not unreasonable. Amtrak is the dominant operator in terms of train-miles, the only high speed operator, the only operator that runs the length of the corridor, and therefore the operator with the highest stake in

schedule coordination. In other words, if commuter railroads gained greater control—something it is not clear that they are prepared to pay for—the ability to schedule hourly, memory-pattern Acela Express service, or attractive intercity schedules of any type, could be put at risk.

There is widespread agreement that one of the biggest mistakes in the U.K. was privatization of infrastructure ownership, a mistake that has been reversed. This lesson should not be lost on those considering big changes in Northeast Corridor ownership; Amtrak may technically be a private company but it is controlled by the public.

**A Comment on Subsidies:** Some federal agencies consider only “federal” funding when they analyze transportation subsidies by mode. This is a “blinders on,” misleading approach, since federal aid to highways and aviation is designed to encourage huge state and local subsidies (often called “investments”), whereas federal aid to intercity passenger rail is not. Thus, the results of a “federal-aid-only” analysis of public support for intercity passenger rail are entirely predictable and not very useful.

Thank you for considering our views.

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