A REVIEW OF AMTRAK OPERATIONS, PART I: MISMANAGEMENT OF FOOD AND BEVERAGE SERVICES

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HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

AUGUST 2, 2012

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¹The strategic plan ("Amtrak Strategic Plan FY2011–FY2015") referenced by Joseph H. Boardman in his responses to questions submitted for the record can be found online at the Government Printing Office's Federal Digital System (FDsys) at http://www.gpo.gov/fdsys/pkg/CPRT-112HPRT76324/pdf/CPRT-112HPRT76324.pdf.



v

U.S. House of Representatives Committee on Transportation and Infrastructure

John L. Mica Chairman	Washington, DC 20515	Nick J. Kahall, II Ranking Member
		•1
James W. Coon II, Chief of Staff	July 27, 2012	James B. Zoia, Democrat Chief of Staff

MEMORANDUM

TO:	Members,	Committee o	n Transportation	and Infrastructure
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FROM: Staff, Committee on Transportation and Infrastructure

SUBJECT: Oversight Hearing on "A Review of Amtrak Operations, Part I: Mismanagement of Food & Beverage Services"

PURPOSE

The Committee on Transportation and Infrastructure will meet on Thursday, August 2, 2012, at 10 a.m. to receive testimony on Amtrak's food and beverage operation. Specifically, the hearing will investigate the monetary losses associated with Amtrak's food and beverage operations; examine management deficiencies identified by the Amtrak Office of Inspector General in reviewing Amtrak's food and beverage operations; and explore best practices and alternative options for improving the cost-effectiveness and quality of food and beverage service aboard Amtrak trains.

BACKGROUND

Current Amtrak Food and Beverage Service

In January 1999, Amtrak executed an agreement with Dobbs International Services, Inc., for the management of its commissary, logistics and supply chain operations for food and beverage services. This agreement governed only the provision of food and beverage supplies for Amtrak's on-board operations. The sale of items aboard trains is performed by Amtrak employees. Gate Gourmet International, Inc subsequently acquired Dobbs and renegotiated the contract in 2006. In 2009, Amtrak conducted an open competition for food and beverage services and awarded it to Aramark. The contract term was for five years with two options for two additional years. Amtrak service agents continue to provide on-board food service to passengers.

Amtrak provides various levels of food and beverage service ranging from snack/beverage services in lounge cars to full meals in dedicated dining cars. Prior to competing out its food and beverage service operations, Amtrak had acquired supplies and provided food and beverage services through Amtrak's own commissaries. As a result of the contract, Amtrak has outsourced its procurement of food and beverage stock as well as service supplies. In addition to procuring and delivering this stock, Aramark manages, operates, and maintains the 10 Amtrak-owned commissary facilities throughout the country.

Amtrak 10-Year Food and Beverag	ge Operations Financial Performance
	In millions of nominal dollars

			10 minuons or nomin	ai uonai s	
FY	Total	Total	Net F&B Loss	Labor	Labor Expenses as a
	Revenue	Expenses		Expenses	% of Total Expenses
2002	84.1	164.5	80.4	83.8	50.9%
2003	78.4	158.8	80.4	83.3	52.5%
2004	80.4	164.2	83.8	89.2	54.3%
2005	90.9	181.4	90.5	98.3	54.2%
2006	88.3	180.7	92.4	96.3	53.3%
2007	94.5	177.6	83.1	92.1	51.9%
2008	102.6	184.0	81.4	97.0	52.7%
2009	106.4	181.3	74.9	100.0	55.2%
2010	109.3	191.7	82.4	108.0	56.3%
2011	121.5	206.0	84.5	117.0	56.8%

Source: 2002-2005 Government Accountability Office unaudited estimates, 2006-2011 Amtrak

The Statutory Framework

Requirement to "Break Even" and Authority to Contract Out Food and Beverage Services

Under Amtrak's general authorities listed in section 24305 of title 49, United States Code, "Amtrak may...provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services." (49 U.S.C. §24305(c)(4)) This provision was first added to the code as part of the Amtrak Improvement Act of 1981 to eliminate the deficit in Amtrak's onboard food and beverage operations by September 30, 1982. Therefore, for nearly 30 years, Amtrak has been statutorily banned from providing food and beverage services unless its costs at least equal its revenues of providing the services.

Contracting Authority

Amtrak has the authority to contract out its food and beverage services and that right has been preserved by Congress. Prior to 1997, Amtrak's statute contained a number of contracting bans, but did not include a ban for contracting out food and beverage services. In 1997, section 121 of the Amtrak Reform and Accountability Act of 1997 repealed prior restrictions on contracting out various functions of Amtrak (49 U.S.C. 24312(b)), and devolved all such issues to the collective bargaining process, with the exception of work related to food and beverage service. The 1997 legislation made specifically clear in section 121(d) that: "The amendment

made by subsection (a)(1) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains...."

Passenger Rail Investment and Improvement Act of 2008 (PRIIA)

In 2008, Congress passed PRIIA to, among other things, reform Amtrak's operations. Section 209 of PRIIA directs the Amtrak Board, in consultation with the Secretary of the Transportation, to develop and implement a single methodology for allocating operating and capital costs among States and Amtrak for the 27 Amtrak routes for which States provide financial support, i.e., state-supported routes. The Section 209 cost-allocation methodology goes into effect on October 1, 2013. It will require States to reimburse Amtrak for the operational costs of providing the service, including food and beverage service, on those routes. As States take on the full financial responsibility for these routes, they will also have the flexibility to determine who should provide the food and beverage service on those routes. Some States, namely Maine and North Carolina, already provide food and beverage services, the Maine's Downcaster contracts food and beverage services, the Maine's Downcaster contracts food and beverage services provides vending services, the Maine regarding its experience having food and beverage services provided by a private company.

Recent Legislative Proposals

American Energy & Infrastructure Jobs Act (H.R. 7)

On February 3, 2012, the Committee on Transportation and Infrastructure reported a 5year surface transportation authorization bill, H.R. 7, which included a rail title. Section 8106, Amtrak Food and Beverage Service, required the Federal Railroad Administration to request competitive proposals for the provision of food and beverage services on Amtrak trains. A winning bid was to be selected based on lowest cost and the greatest revenue to Amtrak. This provision was based on legislation introduced by Rep. Jean Schmidt, the Amtrak Food and Beverage Service Savings Act (H.R. 3362). H.R. 7 was favorably reported by a vote of 29-24.

Amtrak Inspector General's Report on Food and Beverage Operations

In June 2011, the Amtrak Inspector General issued report E-11-03 entitled "Food and Beverage Service: Further Actions Needed to Address Revenue Losses Due to Control Weaknesses and Gaps." The report examines Amtrak's performance of food and beverage service operations, specifically internal control weaknesses that allow for waste, fraud, and abuse. The report identifies opportunities to improve its operation effectiveness thereby reducing Amtrak's reliance on federal subsidies.

The Amtrak Inspector General's report found that Amtrak food and beverage operations contained vulnerabilities that allowed certain Lead Service Agents to falsify documents in order to hide stolen cash or inventory. Between March 2003 and January 2010, the Amtrak Inspector General identified 903 theft, dishonesty, and policy/procedure violations by 306 LSAs, and issued 447 administrative referrals to Amtrak managers. Schemes included:

- 1. Inflating first-class meal checks
- 2. Selling complimentary items
- 3. Selling non-Amtrak items
- 4. Shorting cash register sales
- 5. Stealing Inventory
- 6. Providing items at no cost

The nature of these crimes are difficult to measure, however, restaurant-industry estimates of losses for a typical independent restaurant due to theft range from four to seven percent of sales. At these levels Amtrak's on-board food and beverage sales could be at risk of theft for between \$4 million and \$7 million annually.

The Amtrak Inspector General recommended establishing a pilot project of cashless food and beverage sales on selected routes and trains, establishing a loss prevention unit, and implementing a plan to address the control weaknesses and gaps.

GAO Review of Food and Beverage Operations

In 2005, at a hearing before the Subcommittee on Railroads, Pipelines and Hazardous Materials of the Committee on Transportation and Infrastructure, GAO testified that from 2002 to 2004 Amtrak food and beverage expenses were \$487 million while food and beverage revenues were approximately \$243 million. GAO testified that Amtrak spent two dollars for every dollar it received in revenue.

Best Practices and Contract Renewal

Finally, both the Amtrak Inspector General and General Accountability Office have found that Amtrak does not utilize industry best practices in its food and beverage operations and needs to dramatically change how it delivers those services to the traveling public. According to both the Amtrak IG and GAO, Amtrak needs to determine the best practices that are appropriate for Amtrak's operations, and implement them. Additionally, Amtrak must reform its Food and Beverage management to address its fragmented leadership.

WITNESSES

Joseph Boardman President Amtrak

Mr. Ted Alves Inspector General Amtrak Office of Inspector General

Ms. Patricia Quinn Executive Director Northern New England Passenger Rail Authority

> Dwayne Bateman Amtrak Food and Beverage Employee

A REVIEW OF AMTRAK OPERATIONS, PART I: MISMANAGEMENT OF FOOD AND BEVERAGE SERVICES

THURSDAY, AUGUST 2, 2012

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

The committee met, pursuant to call, at 10:05 a.m., in Room 2167, Rayburn House Office Building, Hon. John L. Mica (Chairman of the committee) presiding.

Mr. MICA. Good morning. I am Congressman Mica. I am pleased to welcome you this morning to the Transportation and Infrastructure full committee hearing, and this is the beginning of some of the review, investigations, and oversight management and practices at Amtrak, and today we are going to focus specifically on mismanagement of the issues relating to food services and beverages at Amtrak. And we have done subsequent—or rather, prior reviews. I was looking at the background.

And before I get into that, the order of business will be opening statements by Members, and then we have a panel of witnesses who we will hear from. Then we will get into questions after we have heard from them. But pleased to work with my distinguished colleague and chair of the Rail Subcommittee, Mr. Shuster, on trying to look at ways we can save taxpayer money, do a better job.

ing to look at ways we can save taxpayer money, do a better job. The Federal Government has poured billions of dollars into Amtrak, and some of their activities are—well, have been and continue to remain a burden to the taxpayers. And today we are going to look at one of those, and again, we have looked at this before, some of the history as the committee had reviewed Amtrak expenditures for food service in the past.

In June of 2011, the inspector general issued a report E–11–03 entitled, "Food and Beverage Service: Further Actions Needed to Address Revenue Losses Due to Control Weaknesses and Gaps." And we have, we found in that report the inspector general identified 903 theft, dishonesty, and policy/procedure violations, found that they were inflating first-class meal checks, selling complimentary items, selling non-Amtrak items, shorting cash register sales, stealing inventory and providing items at no cost. They made a number of recommendations from some of these reports, and this hearing is a followup to, again, some of the previous reports and investigation both by our committee staff and also by the inspector general. We will hear from him shortly.

Today, this hearing is being held again to look at the incredible cost that is incurred by the taxpayers to provide food service on Amtrak. Last year Amtrak lost \$84.5 million, more than \$84 million on providing food service on its trains. Every year and during the last 10 years they have lost an average of \$800 million. In fact, Amtrak—where is our little chart here. We will show this chart. They have lost over three-quarters of a billion dollars. This is the amount they have lost, \$833 million in the last 10 years serving food and beverages on their trains. That is three-quarters of a billion dollars.

The food and service expenses in 2011 were \$206 million and the revenue from sales was \$121 million. That means that Amtrak spends a—for every dollar that is spent for food or beverages on Amtrak, it costs the taxpayers \$1.70. So if you buy this can of Coke or Pepsi, excuse me, they use Pepsi products. We also brought in some hamburgers here to illustrate. This is the deal we put some out. We want to make sure everybody has this. OK. But if you buy a can of soda for \$2, the loss is \$3.40. It is underwritten by the taxpayers. Now, this hamburger, they charge \$9.50 for that hamburger. It costs the taxpayers \$16.15. So this is another outrageous cost to the taxpayers, and it continues, unfortunately, every day.

The food and beverage service has 1,234 employees and lost \$84 million last year. If you do the math, it comes out to a taxpayer subsidy for every Amtrak food and beverage employee of more than \$68,000. That is what it is costing us right now. What makes this loss more astounding is that Amtrak's food and beverage service is legally obligated to operate on a break-even basis. Congress enacted a law that beginning October 1, 1982, food and beverage services should be provided on board Amtrak trains only if the revenues from such services are equal to or greater than the total cost of such services as computed on an annual basis.

The Amtrak witnesses testified before this committee in 2005 that for the past 24 years of the law there has never been an indication that Congress intended the cost to be anything other than the cost of food and the cost of commissary operations. The committee asked the Congressional Research Service for its legal opinion of the statute, and we have a CRS memo which I ask unanimous consent to be submitted to the record that lays out the case that the language of the statute is clear and unambiguous. Without objection, we will put that in the record.

[The CRS memo follows:]



MEMORANDUM		
То:	House Committee on Transportation and Infrastructure Attention: Daniel Moll	
From:	Alissa Dolan, Legislative Attorney, 7-8433	
Subject:	Analyzing Restrictions on Amtrak Food and Beverage Services	

This memorandum responds to your request for an analysis of the statutory provisions that constrain Amtrak's ability to provide food and beverage services on its trains. It will evaluate the meaning of 49 U.S.C. § 24305(c)(4) based on well accepted canons of statutory interpretation, including the plain meaning of the text and legislative history, that a reviewing court may consider if the meaning of the statute is ever challenged.

Section 24305(c)(4) of Title 49 of the U.S. Code states: "Amtrak may...provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services."¹ A version of this provision first appeared in the Code in 1981. At that time, the provision stated that Amtrak "shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later than September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on-board Amtrak trains only if the revenues from such service are equal to or greater than the total costs of such services as computed on an annual basis."²

Differing Interpretations of Section 24305

Based on the information provided, it appears that the House Committee on Transportation and Infrastructure ("the Committee") interprets the language of this statute to allow Amtrak to provide food and beverage services only if the total cost of the service is less than the total revenue earned by the service. Under this interpretation, the total cost of providing the service would include not only the cost of

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¹ 49 U.S.C. § 24305(c)(4).

² 97 Pub. Law. 35, § 1177(a) (amending 45 U.S.C. 545, the Rail Passenger Service Act). A provision discussing Amtrak's food and beverage service was first codified in Title 49 in 1994. See 103 Pub. L. 272, § 1(e). The text as it appears in Title 49 is slightly different than the text as it appeared in Title 45 from 1981 and 1994. It is unclear exactly why this change in text occurred. However, the committee report states that the purpose of the bill was 'to restate in comprehensive form, without substantive change, certain general and permanent laws related to transportation and to enact those laws as subtitles II, III, and V-X of title 49, United States Code, and to make other technical improvements in the Code. In the restatement, simple language has been substituted for awkward and obsolete terms, and superseded, executed, and obsolete laws have been eliminated." Therefore, this memorandum will adopt this assumption from the committee report, that the recodification of the provision in Title 49 with slightly different text was not a substantive change in the statute.

purchasing food and beverage supplies, but also the labor costs and other miscellaneous costs associated with providing the service.

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Amtrak's most recent interpretation of this statute and the meaning of "costs of providing the services" appears to be different from the Committee's interpretation. In 2005, William Crosbie, a Senior Vice President of Amtrak, testified before the Subcommittee on Railroads of the House Committee on Transportation and Infrastructure.³ In explaining his understanding of the current statute, Mr. Crosbie stated: "For the last 24 years of the law there has never been an indication that Congress intended the cost be anything other than cost of the food and cost of the commissary operations."⁴ In response to questions posed after this hearing, GAO, which was conducting a study of Amtrak's food and beverage service management,⁵ explained Amtrak's interpretation of the law to the Committee by stating: "...the Amtrak witness explained that their understanding of this provision was that the cost to be considered included only the cost of the food and commissary operations. Hence, Amtrak did not consider the Amtrak employee labor costs of providing the on-board service in their analysis of the food and beverage operations."⁶ Thus, it seems that the Committee and Amtrak have different interpretations of the statutory text "cost of providing the services," that might alter whether Amtrak is in compliance with the law's requirement.

Plain Meaning Rule

The starting point in construing a statute is the language of the statute itself.⁷ If the language of the statute is plain and unambiguous, a reviewing court may interpret the statute according to its terms, without evaluating other sources of congressional intent. This test is known as the plain meaning rule. Under this text-based analysis, the text at issue should be interpreted as part of the broader statutory scheme in a manner that furthers the purpose of the statute. Therefore, a reviewing court might consider the following questions as part of its analysis: What is the plain language meaning of the statutory text? Are these terms

³ "Amtrak Food and Beverage Operations," Hearing before the Subcommittee on Railroads of the House Committee on Transportation and Infrastructure, 109th Cong., June 9, 2005.

⁴ Id. at 22-23. Arguably. a discrepancy between this 2005 interpretation of Section 24305 and Amtrak's prior understanding of the statute could be inferred from post-enactment congressional testimony from Amtrak officials regarding continuing efforts to reduce the cost of providing food and beverage services. See, e.g., "Department of Transportation and Related Agencies Appropriations for 1983," Hearings before a Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 104th Cong., March 1995, at p. 828, 601-02; "Department of Transportation and Related Agencies Appropriations for 1983," Hearings before a Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 104th Cong., March 1995, at p. 803 (displaying the cost of "food and beverage service" in two categories: labor and other). However, these post-enactment discussions will not be discussed in depth in this memorandum since such congressional materials are not considered to be authoritative sources for interpreting a statute's meaning. Since they are created after the statute is enacted, these materials cannot represent congressional intent as it existed when the statute was being considered and enacted. See, e.g., Sullivan v. Finkelstein, 496 U.S. 617, 628 n.8 (1990); *Id.* at 631 (Scalia, J., concurring in part). Elsewhere, Justice Scalia has stated that "[r]elal (pre-enactment) legislative history is persuasive to some because it is thought to shed light on what legislators understood an ambiguous statutory text to mean when they voted to enact it. But post-enactment legislative history by definition 'could have had no effect on the congressional vote." "Bruesewitz v. Wyeth LLC, 562 U.S. ____, No. 09-152, slip op. at 18 (Feb. 22, 2011), quoting District of Columbia v. Heller, 554 U.S. 570, 605 (2008).

⁵ "Improved Management and Controls over Food and Beverage Service Needed," Report to the Chairman, Subcommittee on Railroads, Committee on Transportation and Infrastructure, House of Representatives, August 2005, GAO-05-867 ⁶ Letter from JayEtta Z. Hecker, Director, Physical Infrastructure, GAO, to Chairman Don Young, "Questions for the Record Related to Amirrak's Food and Beverage Service," GAO-05-893R.

⁷ For more information, see CRS Report 97-589, Statutory Interpretation: General Principles and Recent Trends, by Larry M. Eig.

used elsewhere in the statute? How does the language in this section fit within the statute's structure and purpose?

First, a reviewing court may look at whether the terms being used in the statute are either defined in the statute or are terms of art that have a particular meaning. In this instance, neither "cost," "cost of providing the services," nor "services" is defined in Section 24305 or any other section that would be applicable.8 Additionally, the text does not appear to include any terms of art. Because the term is not defined in the statute, a reviewing court may then look to the dictionary definition of the words to determine their meaning. "Cost" is defined in Merriam-Webster's Dictionary as "the amount or equivalent paid or charged for something." It is defined in Black's Law Dictionary as "the amount paid or charged for something; price or expenditure."10 "Service" is defined several ways in Merriam-Webster's Dictionary, including as "the act of serving as useful labor that does not produce a tangible commodity," "the work performed by one that serves," and a "facility supplying some public demand."

These dictionary definitions suggest that the statute requires a calculation of the amount Amtrak pays for "providing the [food and beverage] services." The "services" seem to include both the actual food and beverages in addition to the work that must be performed to provide those items to the passengers. Therefore, under this application of dictionary definitions, it appears that the statute prevents Amtrak from providing food and beverage services if the revenue gained from that service is less than the amount Amtrak pays for the food, beverage, supplies, and labor necessary to serve passengers onboard.

This interpretation is bolstered by another basic principle of statutory interpretation: that courts should "give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed."¹² Thus, the meaning of all of the words used in the clause "cost of providing the services" must be given effect. An interpretation of the statute that considers all of the costs of providing food and beverage services seems to give effect to all of the words chosen by Congress. This interpretation prevents an implication that Congress was "ignorant of the meaning of the language" it included in the statute by giving the phrase "providing the services" its plain meaning, to include the amount paid for food, beverages, and equipment, as well as amount paid to hire people to serve the food and beverages to the passengers. An alternative interpretation, in which "cost of providing the services" means only the amount paid for the food and beverage supplies, may not give full effect to Congress's chosen text. This interpretation may render Congress's use of the term "services" insignificant because, by its definition, the term encompasses not only the physical supplies but also the act of serving those supplies to passengers. If Congress intended to consider only the costs of food and beverage supplies and not the related labor costs, arguably it would have written the statute with terms that evinced that intent by using the words "food and beverages" instead of the word "services."

Next, a reviewing court may look to the rest of the statute to determine if a certain interpretation of the instant text is warranted by the structure of the statutory scheme. One other provision of Chapter 234 of

⁸ The term "cost" is defined in many sections of the U.S. Code. See, e.g., 10 U.S.C. § 2324(k)(6)(B); 15 U.S.C. § 278b(e); 33 U.S.C. § 624(b); 41 U.S.C. § 4310(1). However, it appears that it is only defined once in Title 49, in reference to fees relating to air commerce and safety. 49 U.S.C. § 45301(b)(5). This definition does not appear to be relevant to this statutory analysis of Section 24305.

⁹ Merriam-Webster's Dictionary, entry for "cost (noun)," available at http://www.merriam-webster.com/dictionary/cost. 10 Black's Law Dictionary, 9th ed., (ed. Bryan A. Garner), p. 397.

¹¹ Merriam-Webster's Dictionary, entry for "service (noun)," available at http://www.merriam-webster.com/dictionary/service. ¹² Montelair v. Ramsdell, 107 U.S. 147, 152 (1883).

Congressional Research Service

the Title 49 addresses food and beverage services on board Amtrak trains.¹³ Section 24312 discusses Amtrak labor standards, including the requirements that proposals to contract out labor that would result in employee layoffs must be included in negotiations between Amtrak and an organization representing Amtrak employees. Work relating to food and beverage services is explicitly exempted from this requirement, suggesting that it is easier for Amtrak to contract out food and beverage service labor than other types of labor.¹⁴ However, the text of this provision alone does not link this exemption from labor negotiation requirements for work related to food and beverage services to the restrictions on food and beverage service in Section 24305.

Legislative History

After analyzing the text of a statute, a reviewing court may also look to sources of legislative history to assist in interpreting the statute's meaning.¹⁵ This examination may include analyzing such materials as committee reports for insight into the particular problem Congress was trying to address in passing the statute.

Committee reports published during the consideration and enactment of the original 1981 statutory restriction provide discussions of Congress's concern about the rising costs of Amtrak's food and beverage services and potential solutions to the problem. In a report that accompanied the Amtrak Improvement Act of 1981,¹⁶ the House Committee on Energy and Commerce stated:

The Committee believes Amtrak should operate its food and beverage services without a deficit. As a result, the Committee's bill directs Amtrak to eliminate the deficit in its food and beverage operation...In order to realize these savings, the Committee expects that Amtrak will have both to reduce the costs of providing food and beverage services and to increase its revenues from such services by raising prices. Amtrak already has under study the possibility of substituting a modified cafeteria style service with a more limited menu for the dining room service it now offers on most of its long-distance trains. In addition the Committee believes Amtrak should evaluate the possibility of implementing some form of "self-serve" food service on its short-distance and corridor trains.

Arguably, these suggestions of how Amtrak can eliminate its food and beverage service deficit support an interpretation of Section 24305 that includes food, beverage, equipment, and labor costs as part of the "cost of providing the services." The Energy and Commerce Committee's proposals are mostly changes to the way Amtrak administers its food and beverage services. These changes would only help Amtrak meet the requirement now codified in Section 24305 if labor costs are included in the definition of "cost of providing the services." For example, switching from a dining room service to a cafeteria-style service appears likely to reduce the amount of labor required to run the food and beverage supplies, since the food

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¹³ See 49 U.S.C. § 24312 note.

¹⁴ 49 U.S.C. § 24312 note (imposing requirements on "proposals on the subject matter of contracting out work, other than work related to food and beverage services..."). The exemption for food and beverage services was original enacted in 1981. Omnibus Budget Reconciliation Act of 1981, 97 Pub. L. 35, § 1177(b). At that time, Amtrak was prohibited from contracting out for any service if it would result in the layoff of an employee in a bargaining unit. *See* 45 U.S.C. § 565(e) (1976). This prohibition did not apply to food and beverage services provided on Amtrak trains. 97 Pub. L. 35, § 1177(b).

¹⁵ Reliance on these materials varies among courts, with the circumstances of a statute's passage and its clarity or complexity being factors. However, it seems clear that the statutory language is the primary tool of interpretation, while other considerations or intent or purpose are secondary. See Eig. supra note 7, at 41.

¹⁶ The Amtrak Improvement Act of 1981, H.R. 3568, 97th Cong., 1st Sess., was enacted into law as part of the Omnibus Budget Reconciliation Act of 1981, 97 Pub. L. 35., Title XI, Subtitle F.

and beverages may remain exactly the same. Similarly, moving towards a "self-serve" food service model, would appear to reduce labor costs even more. Therefore, such a change could only act to reduce the deficit, as the Committee clearly believes it would, if the cost side of the deficit equation includes not only the amount paid for food and beverage supplies but also the amount spent on labor costs.

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Immediately after this discussion of reducing the food and beverage service deficit, the Committee continues:

If Amtrak determines that alternative methods of providing food service will not result in the required level of savings, the Committee's bill gives Amtrak the authority to contract with a private company to provide such service. It is the Committee's hope that Amtrak will find cost-effect ways to provide food and beverage service and that it will not be necessary for Amtrak to contract-out this service.

Should Amtrak determine, however, that it can achieve the necessary savings only by contracting-out, the Committee believes that Amtrak should negotiation agreements with private contractors...

Additionally, a supplement to the conference report accompanying final passage of the original 1981 provisions explicitly links the goal of reducing the deficit with allowing Amtrak to contract out for food and beverage services. It states: "...the Corporation shall not operate 'on-board' food and beverage services unless revenues cover costs. Amtrak would be allowed to contract out food and beverage services in order to reduce the associated costs."¹⁷

These reports appear to draw a direct connection between Congress's desire for Amtrak to eliminate food and beverage service deficits and Congress's willingness to allow Amtrak to contract-out the provision of such services. This connection suggests that Amtrak's ability to "achieve the necessary savings" required by the Section 24305 requirement is directly impacted by the amount that Amtrak spends on labor costs to provide food and beverage services. Therefore, from this legislative history, it appears that Congress intended to count labor costs as part of the "cost of providing the service" when it directed Amtrak to reduce its food and beverage service deficit to zero.

Finally, discussions about transportation appropriations for fiscal year 1981, within the same Congress that passed the Section 24305 predecessor but before it was enacted, may provide further evidence of the problem Congress intended to tackle by imposing the new restriction. During a hearing before the House Committee on Appropriations, Amtrak officials were questioned about the estimated revenue, cost, and losses sustained from its onboard food and beverage service.¹⁸ In response to questions about reducing costs, Alan S. Boyd, then President of Amtrak, noted that costs could be reduced significantly if Amtrak were allowed to contract out the labor needed to provide food and beverage services.¹⁹ From this testimony, it appears that Mr. Boyd believed a way to solve the problem of Amtrak's annual losses in food and beverage services by contracting out. This testimony, in addition to the fact that the food and beverage exemption from the prohibition on contracting out for labor and the instruction to eliminate the deficit in food and beverage services were enacted in the same piece

¹⁸ "Department of Transportation and Related Agencies Appropriations for 1982," Hearings Before a Subcommittee of the Committee on Appropriations, U.S. House of Representatives, 97th Cong., March 1981 at p. 516, 540 (testimony of Alan S. Boyd, President of Amtrak).

19 Id. at 516.

¹⁷ "Additional Materials on the Omnibus Budget Reconciliation Act of 1981 (H.R. 3982)," Committee on the Budget, U.S. House of Representatives, 97th Cong., August 1981 at p. 82-83 (supplementing the conference report on H.R. 3982, *see* H263-6 and H263-7). *See also* "Omnibus Reconciliation Act of 1981," Report of the Committee on the Budget, U.S. Senate, 97th Cong., June 1981 at p. 322 (noting that removal of the prohibition on contracting out for food and beverage service labor would allow Amtrak to save money save money on "food services, on which it loses at least \$50 million a year.").

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of legislation in this same Congress, could create an inference that Congress intended these two provisions to address the same problem of costs in the food and beverage service. Under this theory, the two provisions could be complementary only if the cost of labor is included in the "cost of providing the services."

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Mr. MICA. I am pleased that President Boardman is here to respond to some of the concerns I have raised. I think, you know, in a time when we are running multitrillion-dollar deficits that we have got to look at every activity of Government. Our committee has spent some time on GSA waste and abuse, TSA, EPA, and now we are focusing, and we are going to continue, this is just the first in a series of hearings, to focus on some of the taxpayer expenses, which I think are outrageous that are incurred every day by hardworking Americans underwriting these losses. There has to be a better way. And every agency, every operation of Government that we are involved with, we have got to do a better job in being a responsible stewards of taxpayer dollars.

So we can't go on, you know, paying a \$3.40 subsidy or what is it, \$16 for a hamburger for folks to have. Even though it may be a passenger convenience, I can tell you it is a great inconvenience to people back home who are struggling every day to make ends meet, pay their bills and then send money to Washington and see it abused in this fashion.

With those comments, I am pleased to recognize Mr. Rahall.

Mr. RAHALL. Thank you, Mr. Chairman.

As those fortunate enough to have ridden the great passenger trains of America at their peak will recall, no part of the rail experience survives so vividly in the memory of our rail passengers as that of a luxurious meal in the dining car. The crisp linens, the polished silver, the attentive service, the passing panorama of American life all accompanied by great food.

Unfortunately, over the years, award-winning fillet of sole was replaced with microwaveable cheeseburgers. I guess that is what we have right here, leading to a former Amtrak CEO to lament to Congress in 1991, and I quote, "In trying to make food service cheap, we made some of it inedible."

To some extent, these changes were a business response to changing transportation economics and public preferences. Railroads like airlines must consider the effects of food and beverage costs on the bottom line. They must decide the effects of particular levels of food service on passenger revenue. High-quality service may attract additional passengers while a decline in quality may cause a loss of passenger revenue. Striking the proper balance, of course, is a difficult business decision.

Unfortunately, Congress has made it even more difficult at times for Amtrak to make the best possible decisions. One minute we tell Amtrak to provide food and beverage service on a break-even basis. The next minute we let it use up to 10 percent of its revenue to cover food and beverage leases. Then we pressure it to contract out its catering service, which Amtrak did, but the loss of those jobs wasn't enough. We ended up dragging Amtrak back before this committee in 2005 to explain that the contract didn't realize enough savings.

Now the chairman wants to highlight the flawed provisions in H.R. 7 that would require the FRA to contract out all Amtrak food and beverage service to the lowest bidder. The term "lowest bidder," by the way, is code for lowest wage, lowest benefits.

As if that was not bad enough, the Republicans then proposed giving that bidder the Federal funds that would have gone to Amtrak for food and beverage losses, saving zero taxpayer dollars but resulting in the immediate elimination of 1,200 Amtrak jobs, not to mention the jobs of thousands of workers that Amtrak relies upon for obtaining their food supplies.

Mr. Chairman, I have had some good-tasting whoppers in my time, but this is a whopper of a bad idea if I ever heard one, trading good paying jobs with benefits for cheaper cheeseburgers. The fact is America's food and beverage expenses are not a major cause of Amtrak's financial difficulties. They represent about 5 percent, about 5 percent of the railroad's total expenditures. I do believe there are some reasonable things that Amtrak can and should do to cut their costs, but cutting jobs in this economy should not even be under consideration, and that is exactly what this proposal would do.

With that, I yield back and look forward to today's witnesses.

Mr. MICA. I thank the gentleman.

I recognize the distinguished subcommittee chair, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman, and thank you for holding this hearing today. I want to welcome our witnesses here today. I look forward to hearing from them.

Let me start off by saying I support Amtrak. I want Amtrak to succeed, but it cannot continue to go down this path that we have gone over the last 20 or 30 years. We have got to make some changes, and I know there is going to be some here today that say this is an attack on labor. This is about, as the ranking member said, shedding jobs.

At the end of the day, if there is a short-term loss, I believe there will be a much bigger gain long term. You have got to do some tough things to correct the ship of Amtrak, and, Mr. Boardman, I have no doubt in my mind, you and I have had many conversations, you want to get the ship right and you have done some things, some positive things. But this is one area that is a glaring example of you shouldn't lose money on a service when people on the train, it is a monopoly. Monopolies shouldn't lose money, and again, I look forward to hearing from all the witnesses today.

And this is about correcting the problems at Amtrak. This is about having a passenger rail service, especially in the Northeast Corridor, that should be profitable, highly profitable. But as the chairman pointed out, the food and beverage service is an issue that has not gone in the right direction. And Congress recognized this problem, and in 1981 included a provision to eliminate the deficit in Amtrak's onboard food and beverage operations and requiring Amtrak to at least break even. So Amtrak is statutorily required to break even.

Now, I know we are probably going to hear some fuzzy math today. At the end of the day, Amtrak loses money. So if you are taking revenues from one place to cover up a loss in another place, that is not the way accounting works, and we have got to get through this.

In 2005 the committee held a hearing to explore why Amtrak continued to lose money on the services, and promises were made to look at all the options. However, since 2005 they have continued to lose \$83 million a year.

I look forward to the inspector general's comments towed, and I also want to welcome Ms. Quinn, who is executive director of the Northern New England Passenger Rail Authority which is a Maine-based organization that runs the Amtrak Downeaster service between Boston and Portland and which will soon be extended an additional 30 miles I am told to Brunswick. The Downeaster is a State-supported route that has always used outside food and beverage contract services since its beginning of operations in 2001.

As my colleagues know, the Passenger Rail Investment and Improvement Act of 2008 included a provision requiring States to assume the costs—assume the costs of providing Amtrak service on State-supported routes beginning October 1, 2013. I strongly believe that States need to know all their options as they are to assume the full costs of passenger rail routes, particularly if these options can reduce the States' cost. Therefore, I am really eager to hear from Ms. Quinn.

And again, we welcome Mr. Bateman. I know that you are here representing labor. And this is not an attack on labor. My vision of Amtrak is there will be more jobs if we get it right. And so all of us, management at Amtrak, the United States Congress, labor, all need to sit down at the table and figure out a solution. You can't just say, Oh, no, don't touch my stuff and get it from somewhere else. These are taxpayer dollars. The American people want to see Government work, and Amtrak is draining us of those precious dollars.

So again, all of us need to sit at the table and make these corrective actions to see Amtrak succeed into the future, and as I said, create more jobs, good-paying jobs for people.

With that, I yield back. Mr. MICA. I thank the gentleman. I am pleased to yield now to the distinguished gentlelady from the State of Florida, who is the ranking Rail Subcommittee member, Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman. And this is a full committee hearing, isn't it? Not a subcommittee. Good.

There are a lot of issues that this committee needs to be addressing. But Amtrak food and beverage isn't one of them. We could be talking about all of the critical real issues that we left out of the surface transportation bill pertaining to the rail title: Positive train control, the railroad rehabilitation improvement finance program, and freight congestion plans. Or we could be talking about restructuring Amtrak's debt, saving over \$500 million.

If we really want to save money at Amtrak we could even get crazy and talk about how we are going to finance future transportation bills, or hold a markup on a water resource development act that will put people to work.

Or if we really want to talk about food, we could have a hearing on the repeat instance of needles being placed in airplane sandwiches. But I guess that would make too much sense. You know, common sense is what my grandmamma had and she didn't go to college.

Amtrak food and beverage operation is not a new target for this committee. In fact, since Amtrak was created, Congress has micromanaged the railroad, often making it more difficult for Amtrak to make the best possible business decisions.

In 1981, Congress mandated that Amtrak provide food and beverage service on a break-even basis. This may have been an unsound approach. As the airlines have learned, free and subsidized food on some routes will attract enough additional passengers to make this a good option. In fact, I discussed this with the airlines prior to this hearing. Some spent upward of \$6 or \$7 per passenger on food and beverage service because it makes sense from a business perspective.

Congress realized in 1983 just after issuing the break-even mandates, the Transportation Appropriations Committee Act allowed Amtrak to use up to 10 percent of its revenues to cover food and beverage losses. During the 1980s and 1990s, there was considerable congressional pressure on Amtrak to contract out its food and beverage service. Amtrak finally agreed to contract it out to a catering service. That contract was with Gate Gourmet as we learned in 2005 and it was not successful. It was renegotiated, and now Aramark has the contract.

About 1,200 dedicated Amtrak workers, however, continue to prepare and serve the foods on Amtrak trains. But, as you will hear from our witnesses, the extent of their duties goes way beyond handing out a Coke, and I have for you as a former teacher, I want the duties and responsibilities of the Amtrak 1,200 jobs, I want to pass that out so you can know something about the duties and responsibilities. The duties and responsibilities include more than just handing out a Coke. It also includes safety, many other duties and responsibilities. So would you make sure that the Members get this information.

You know, the Republican solution to cost saving is always privatizing. This time it will eliminate 1,200 jobs. Privatizing. Giving that work to minimum wage employees, not to mention the immediate elimination of Amtrak jobs. But if you want to talk about mismanagement programs and losing opportunities to capture revenue, we cannot forget to talk about the near \$4 million in revenue that we lost for the Airport and Airways Trust Fund when the House Republicans caused the FAA to shut down for 2 weeks. We need to talk about that.

But we should probably be having a hearing on two planes taking off from National put in a collision course with planes trying to land. That would be something that this full committee should be looking into. But no. We are telling, once again, Amtrak, talking, here in the weeds, talking about a management decision about Amtrak and their food program.

But let me just tell you a little secret. I ride the train constantly, and I don't think it is enough employees. We do things around the food car, and it is a cultural thing, and to say that a diabetic can't have hot food on the plane—on the train is ludicrous. I guess you want to go back to what the train was like when we get peanuts and a drink, and sometimes you don't even get the peanuts.

and a drink, and sometimes you don't even get the peanuts. So I yield back my time. I am happy that you all are here. But it is amazing to me how this committee has gotten down to the weeds as opposed to doing the big things that we used to do on this committee. It is a real disappointment. You need to know that.

Constantly we are talking about how Amtrak needs to operate their food service as opposed to talking about a plane that nearly

collided. Within 12 seconds, three planes went down. That is what this committee needs to be doing. Mr. MICA. I thank the gentlelady. And let me recognize another gentlelady, the gentlelady from Ohio, Ms. Schmidt. Mrs. SCHMIDT. Thank you, Mr. Chairman. Thank you so much for bringing attention to this issue because as you well know, I in-troduced a bill a little while ago on this very important issue. And before I get started, I would like to put into the record the National Taxpayers Union's statement regarding this if that is all right. Mr. MICA. Without objection, so ordered.

Mr. MICA. Without objection, so ordered. [The National Taxpayers Union's statement follows:]



Statement of

Pete Sepp Executive Vice President National Taxpayers Union

Prepared for

The Committee on Transportation and Infrastructure United States House of Representatives

Regarding the Committee's Oversight Hearing on

"A Review of Amtrak Operations, Part I: Mismanagement of Food and Beverage Services"

Submitted August 2, 2012

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Introduction

Chairman Mica, Ranking Member Rahall, and distinguished Members of the Committee, I am most grateful for the opportunity to provide comments on behalf of taxpayers in regard to your hearing today on Amtrak's food and beverage service. My name is Pete Sepp and I am Executive Vice President for National Taxpayers Union (NTU), a non-partisan citizen group founded in 1969 to work for lower taxes and more efficient, accountable government. NTU is America's oldest non-profit grassroots taxpayer organization, with 362,000 members nationwide. More about our transportation policy work is available at www.ntu.org.

NTU has long called for significant reforms to the Amtrak passenger railroad, which since its inception in 1971 has received cumulative taxpayer subsidies now approaching \$40 billion. As far back as 1976, NTU advocated a "serious reevaluation of the federal government's policy towards Amtrak." In 1979 we endorsed a proposal from the Department of Transportation (DOT) that would have reduced Amtrak's route miles by more than 40 percent all while continuing to serve over 90 percent of its existing passengers. It was projected that DOT's plan, had it been adopted, would have saved taxpayers nearly \$1.4 billion between 1980 and 1984.

In subsequent years, our members have sought changes in the law that have ranged from ensuring more transparency in Amtrak's financial reporting, to phasing out the most unprofitable routes, to creating a blueprint for eventual commercialization of the government-backed enterprise. One NTU study from 2002 outlined a process that would allow Amtrak to partition its most lucrative assets, giving regional railroads a greater opportunity to develop routes with potential for private-sector (or state-level) investment. Such a plan remains our preferred approach today, even after Congress's decision to take another direction through passage of the Passenger Rail Investment and Improvement Act of 2008. Its four-year, \$10 billion price tag notwithstanding, this law did include some laudable fiscal stewardship initiatives.

Food and Beverage Service: An Unnecessary Burden on Taxpavers

We recount this history as a way of comparison to the topic upon which the Committee has focused today. Like some other aspects of Amtrak, the food and beverage operation has suffered from inconsistent oversight, unrealistic financial planning, and insufficient managerial innovation. Yet, unlike some parts of the national rail service equation, improving the way Amtrak delivers meals and drinks to customers should admit to some relatively straightforward solutions that lawmakers with all manner of opinions on Amtrak's future can support.

NTU became increasingly concerned with Amtrak's food and beverage service maladies after the Government Accountability Office (GAO) testified on the subject in June 2005 before the Committee's Railroads Subcommittee. In GAO's statement ("Amtrak: Management and Accountability Issues Contribute to Unprofitability of Food and Beverage Service," GAO-05-761T), the agency's Director of Physical Infrastructure Issues reported that Amtrak lost an average of nearly \$82 million annually on its food and beverage service from Fiscal Year 2002 through Fiscal Year 2004. At the time GAO asserted that Amtrak's agreement with an outside contractor – which covered stocking and supplying food but not serving it on-board – was structured in a way to furnish "little incentive for the contractor to reduce or contain costs."

The testimony went on to contrast this arrangement with that of VIA Rail Canada (which directly managed all parts of food and beverage service on a fixed government subsidy) and the Alaska Railroad (which contracted out all parts of the food and beverage service to a private vendor, including on-board duties). One key factor to the success of these operations was, according to GAO, flexible labor policies. More than half of Amtrak's total food and beverage costs could be chalked up to labor.

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While some participants in the hearing questioned assumptions underlying GAO's testimony, another source affirmed that losses were persistent and pervasive during years that followed. In 2011, Amtrak's Oflice of Inspector General (OIG) released a report ("Food and Beverage Service: Further Actions Needed to Address Revenue Losses Due to Control Weaknesses and Gaps," E-11-03) estimating a Fiscal Year 2010 net shortfall in food and beverage service of \$61 million (omitting some indirect costs).

We understand that for Fiscal Year 2011, the Committee has data indicating direct costs for the food and beverage operation of \$206 million versus \$121.5 million in receipts, for a loss of \$84 million. Although this would seem to demonstrate that the profitability picture has worsened since Fiscal Year 2010, we have been told that other data to be released by OIG might be tracking an improvement versus Fiscal Year 2006.

Some Amtrak and labor officials contend it is also important to account for Amtrak ridership figures, which might show different trends when comparing losses on a per-passenger basis. Yet, as GAO testified in 2005, other measurements, such as per-passenger *miles*, did at the time show a deepening loss trend.

Thus the situation remains troubling, especially given strictures supposedly militating against large losses for taxpayers. As Members of the Committee have no doubt discussed at length, according to a law enacted in 1981 (Title 40, Section 24305(c)(4)), food and beverage service can only be provided on Amtrak trains if the revenues "are equal to or greater than the total costs of such services."

It may be true that Congress has permitted forbearance from this statute over time, and that there are differences of opinion over what constitutes "total costs." As far as the latter point goes, however, none of the OIG loss figures cited above include substantial indirect costs such as power or maintenance associated with the dining or café facilities.

In any case, a law directing agencies to exercise prudence with tax dollars should be more than decorative. If that law is proving cumbersome or otherwise ill-suited to current conditions, Congress should clarify or update it, not leave it to languish in a gray area of enforcement for three decades.

Key Considerations for Reform

The June 2005 hearing at which GAO presented its testimony included several other panelists representing Amtrak's leadership, rail passengers, and the union to which many of Amtrak's workers belong. Our review of the proceedings indicates there was considerable debate about other facets of the food and beverage service, including:

- Does Amtrak's mode of transportation permit meaningful comparisons to restaurant costs at fixed locations with employees who need not possess as many skills (e.g., emergency training) as Amtrak's service workers?
- Is it fair to hold up VIA and Alaska Railroad as models for reform in Amtrak's own operations, when these systems have different route and passenger characteristics from Amtrak?
- Given less-than-impressive results with some initiatives such as vending machines on trains, is a
 purely-private concession model (as opposed to partial contracting) feasible for Amtrak?
- Can food and beverage service function as a profit center for *any* form of transportation on ground, water, or air – or should its purpose be as a "loss leader" to attract more customers in the first place? Does an obsession with cost control lead to such poor-quality food as to deter ticket sales?

Some circumstances have changed while others have remained the same since questions like these were raised. Still, the urgency of finding answers has never been greater.

For one, Amtrak's admirers are touting record-breaking passenger figures that topped 30 million in 2011, representing a more than 30 percent rise since 2001. According to data from the Bureau of Transportation Statistics, this rate of increase handily beats a similar metric for air carriers on U.S. domestic flights over the same period. Yet the fact remains that Amtrak's total ridership number was nearly dwarfed by that of just one major airline, Continental (the disparity is worse for Amtrak when comparing on a passenger-mile basis).

Meanwhile, consideration should be given to consumer interest in utilizing particular modes of transportation. One imperfect but still useful way to illustrate this is through load factors. BTS reports that in 2010 roughly 80 percent of available seat miles were filled on domestic commercial flights, compared to an equivalent of roughly 50 percent for Amtrak. Airlines have actually reduced "complimentary" meal service on flights in favor of charging passengers, even on those lasting several hours. While the two modes of transportation are not entirely comparable, such a disparity in load factors is not likely to shrink solely by transforming Amtrak's cuisine – already about one-third subsidized – into culinary masterpieces that require an even bigger boost from taxpayers.

It is likewise important to bear in mind that with a few exceptions (such as Essential Air Service, which also should be reformed), air travel is not "subsidized" in the way rail travel is. Air passengers face a variety of government excises and other charges that comprise roughly 20 percent of an average domestic fare. These are often portrayed to the flying public as "user fees" for air traffic control and security. Airlines pay corporate income taxes into the Treasury if they manage to earn a profit. Amtrak and its customers do not suffer under these same burdens.

Though we would dispute the notion that past comparisons with other railroads are inappropriate, or that stalled attempts at private meal service options with Amtrak make this 2012 hearing superfluous, in our opinion seven years do make a difference. Any of several trends – from innovations in supply chain management, to the increased sophistication of mobile "food truck" concessions, to upgrades in secure cashless payment networks – could impact both the qualitative and the financial pictures for Amtrak's own food and beverage operation. We therefore commend Members of the Committee for inviting witnesses to today's hearing who may have insight into such developments.

In addition, Amtrak's overall fiscal condition remains a major component of GAO's decision to designate "Funding the Nation's Surface Transportation System" as a "High Risk" area of federal operations for taxpayers. As GAO notes:

In response to the Passenger Rail Investment and Improvement Act of 2008, which reauthorized federal support for intercity passenger rail, Amtrak and the Department of Transportation (DOT) recently established minimum performance and service quality standards for Amtrak. Amtrak has also taken measures to improve its financial management ...However, these actions are too recent to determine how they will affect Amtrak's financial performance, the need for federal subsidies, and the way subsidies are targeted to achieve public benefits.

Given GAO's tenuous assessment of Amtrak's financial future, Congress should remain vigilant for reform opportunities that preserve managerial flexibility but also protect taxpayers. The railroad's food and beverage operations amply afford such an opportunity.

Ultimately, however, it is the government's overall financial condition that makes today's hearing more relevant than ever before. Since 2005, under two Presidents and four Congresses, gross federal debt as a share of national economic output has jumped by nearly two-thirds. Even if the economy recovers, the projected growth of entitlement and other federal spending programs (including massive capital expenditure demands

from Amtrak) will ensure that the entire federal balance sheet remains precarious. In this environment, Congress must scrutinize every part of the budget to identify avenues for fiscal restraint.

Action Item: Move Forward with H.R. 3362

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Accordingly, one direction the Committee could take from today's hearing would be to consider H.R. 3362, the Amtrak Food and Beverage Service Savings Act authored by your colleague Jean Schmidt. This bill, which NTU endorsed in 2011, outlines procedures that would make it more difficult for bureaucracies to evade their responsibility to taxpayers and passengers. The Federal Railroad Administration (FRA) would, with assistance from the General Services Administration, be directed to issue requests for proposal from outside entities to provide food and beverage contracts on Amtrak's Northeast Corridor, long-haul, and state-run routes. Winning bidders would be selected based on their ability to fulfill requirements at the lowest cost (or highest return) to Amtrak.

This legislation has been derisively characterized by its opponents as "privatization" - a tactic designed to conjure up images of union-busting and profiteering. Upon rational examination, however, H.R. 3362 would not herald a new age of railroad robber barons. Amtrak itself would be permitted to participate in any RFP proceedings, providing a helpful incentive for employees and managers to leverage their own advantages in healthy competition with other providers. Furthermore, FRA would be able to grant exceptions to the RFP requirement if no qualified bidders responded, thereby addressing a past concern among critics of open competition for food and beverage service.

The bill even goes so far as to require FRA to cover anticipated net losses from a contractor whose proposal for a given route is accepted. This provision could be fashioned to answer those who believe food and beverage service need not be profitable in itself, and should instead function as a ticket-sale inducement. Such language, appropriately crafted, could provide latitude for a marketing strategy of this kind in a common-sense manner, by ensuring food and beverage losses are deducted automatically from elsewhere in Amtrak's fixed appropriation. After all, if Amtrak's backers demand this type of business tool, then it should function in the way it does for the commercial world ... by requiring managers to make decisions on prioritization of resources.

In short, while NTU supports additional safeguards, H.R. 3362 is a balanced piece of legislation that attempts to accommodate many views from various stakeholders in surface transportation policy, as it makes appreciable progress on behalf of taxpayers. Even though the Committee declined to add these provisions to its surface transportation reauthorization bill during mark-up, Members now have the chance to give H.R. 3362 new momentum.

Additional Actions: Amtrak Management

As the Committee deliberates and hopefully exercises legislative options, immediate administrative steps can also be taken on the part of Amtrak's officials to demonstrate their commitment to more effective management.

For example, a report last month from Amtrak's OIG ("Human Capital Management: Weaknesses in Hiring Practices Result in Waste and Operational Risk," OIG-A-2012-14) indicated that in 38 of 50 cases studied, there were "inconsistencies between the employment application and the background investigation which raised employment suitability questions, yet the applicant was hired." Eighteen of those 38 hires resulted in termination due to performance or discipline problems shortly afterward. In only four of the 50 cases was a background investigation report received in a complete fashion prior to the employee entering service.

In separate findings from last year's report referenced earlier. OIG noted that "fraud, waste, and abuse are long-standing problems" with providing food and beverage service on trains, involving "falsification of documents to conceal missing food and beverage revenues and inventories." Between March 2003 and January 2010, OIG identified over 900 cases where Amtrak's Lead Service Attendants (LSAs) may have engaged in "theft, dishonesty, and policy/procedure violations," generally entailing "the falsification of documents to conceal missing food and beverage revenues and inventories."

While no personnel selection process can cull all potential "problem workers" from the process, surely Amtrak should work to immediately improve its use of background investigation information, especially for employees like LSAs who are directly responsible for handling cash.

Furthermore, although OIG praised Amtrak for introducing some checks and balances, the report stated that "internal control weaknesses and gaps ... still exist." Among its suggestions to bring Amtrak's procedures in food and beverage service up to "industry best practices" were: creation of a dedicated loss-prevention unit, a management-sponsored program aimed at preventing fraud in advance, random management searches of inventories, and (where possible) creation of a cashless payment system much like those instituted for sales on-board commercial aircraft. Amtrak's leadership agreed with OIG's recommendations, and with the exception of a cashless system (which management believed could be implemented after introducing a new point of sale plan late this year) provided various timetables to initiate these reforms in late 2011 and 2012. Hopefully today's hearing will encourage Amtrak to continue making progress on OIG's advice.

Finally, an October 2011 OIG report ("Passenger Rail Investment and Improvement Act of 2008: Amtrak Has Made Good Progress, but Continued Commitment Needed to Fully Address Provisions," OIG-A-2012-001) found that "implementing Amtrak's new financial system is key to completing several remaining provisions" of the 2008 act, pertaining to modernization of financial accounting, planning, and data-gathering on "performance and service quality of intercity passenger trains, including cost recovery." At that time, in the fall of 2011, OIG was told that debugging and reliability checks could take "several more months." Here again, NTU is hopeful that this system is now completely operational, since its effectiveness is directly related to remedying some of the underlying weaknesses of food and beverage service. We urge the Committee to monitor this portion of the Passenger Rail Investment and Improvement Act with particular care.

Conclusion

As my remarks noted earlier, NTU has a wide-ranging interest in reforming the nation's passenger-rail network and moving it toward a model that minimizes federal taxpayer involvement as well as maximizes commercial viability. The proposals associated with such reform carry with them some degree of controversy, but the topic the Committee has explored today should not. For the sake of sound management, solid customer service, and above all, simple accountability to taxpayers, Amtrak's food and beverage operations require timely, dedicated leadership to ensure their improvement.

Whatever additional steps Committee Members may deem necessary or desirable, NTU urges you to find a bipartisan consensus and move forward with provisions such as those contained in H.R. 3362. Toward this end, NTU and its members pledge their support and maximum effort.

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I appreciate the attention and consideration you have given to these views, and look forward to cooperating on solutions with you and your staff in the near future.

Mrs. SCHMIDT. Thank you. You know, I realize that there is a cost when you are trying to put food out, but I am a little astounded at the whole issue of what the Pepsi costs. It costs Amtrak \$3.40 to serve a Pepsi that you pay \$2 for.

Each and every week, my husband and I go to the grocery store and we buy a 12-pack of either Pepsi or Coke, and it costs about \$4 for the 12-pack. Now, I don't have a calculator but it is about 38 cents a can. And I am paying retail at Kroger's for that. And yet it is costing you \$3.40 a can.

My daughter's family is in the food management business. She married into a family that owns over 60 restaurants. Your model is not working. And it is not working because you are not doing it in a pro-business way.

For one thing, you are required by law to break even for your food and beverage services. And yet for over 30 years you haven't done this. In an attempt to fix what shouldn't be a problem in the first place, I introduced legislation, the Amtrak Food and Beverage Service Savings Act, and I encourage all of my colleagues to look at it and sign on to it. You know, we are trillions of dollars in debt. But you don't pay it off all at once. You pay it off at a penny, a nickel, and a dime at a time. And when you see the waste that is going on here, this is an easy fix. If we did this across the board in Government, maybe we wouldn't be in the deficit that we are today. This is common sense.

In my bill Amtrak may compete for the bids, but the winning bids must at a minimum break even, and that includes the cost of delivering the service because I think that is where the problem comes in.

While other industries and sports and other modes of transportation make a profit on food and beverage services, Amtrak continues to lose almost \$85 million each year, and to me that is not chump change. Taxpayers get stuck with this tab and yeah, I am a taxpayer, too. But the bitter irony is that the riders are getting a bad deal. That hamburger isn't worth \$10 or \$9, whatever it is costs, \$9.50. It is worth about \$5. The taxpayers are getting stuck with a bad deal in both ways. Riders pay through the roof just to get common food, and we aren't talking about fancy meals. We are talking about hamburgers. The last time I checked riders paid \$4.50 for a hotdog, \$4 for cheese and crackers, \$2 for a can of soda, and \$2.25 for fruit juice. And by the way, that hotdog cost you, Amtrak, \$6.10 to provide that rider.

We have got to do it better. We have got to have a business plan that does it better. If that means privatizing the whole thing out, then do it. If that means in the short run having to eat a loss with a contractual obligation, then let us eat that loss in the short run instead of continuing to eat the loss in the long run.

I believe that the legislation states you have to break even on this service. You are not breaking even. You need to do things differently. This committee is here to help you do that. But ladies and gentlemen, I strongly suggest that you get your head out of the sand and look at the right way to deliver something like food and beverages in a profitable way. This isn't rocket science. This is a very minor list. I yield back my time.

Mr. MICA. I thank the gentlelady.

I recognize the gentlelady from the district, Ms. Norton.

Ms. NORTON. I want to welcome all of the witnesses today. I do want to take a moment to make some points.

First, Mr. Boardman, I want to thank you for the service that your employees give on Amtrak. It is a tribute to that service that so many, many passengers in the Northeast are leaving airplane travel and deciding to run, to take their on Amtrak, on Acela. I think those of us who are used to train travel over the years marvel at the fact that one can get the same kind of luxury ride on Amtrak now that people used to associate with air travel. Air travel has become more like a Greyhound bus station where people wait in line and yearn for the time to get on the plane and find themselves in a real sense in sometimes terrible crowds. The fact that your trains are more and more crowded speaks to the service your employees are providing, and it speaks to the need for more and more trains.

My second point is to congratulate you on the work you did to produce a master plan for Amtrak at Union Station that in essence is a master plan for Amtrak for the coming decades. That master plan I would ask the chairman of the committee to consider holding a hearing on because it is so important for the work we do on rail travel.

For decades now, trains have improved in our country step by step. And the tax has improved because people wanted train travel. But we have never had a vision for train travel for the decades. The master plan that you presented at a recent press conference gave us a real vision for what train travel in the United States of America will look like if Congress, and I think it will, decides to bring train travel into the 21st century. And I say that recognizing that every single ally of the United States, and many developing countries, are light-years ahead of our country on train travel, particularly the kind of visionary plan that would accommodate highspeed rail that sees us as we would hope the world would see us when it comes to train travel.

I must say, Mr. Chairman, it is a source of great embarrassment to me as an American that our country is not just a little behind, not just somewhat behind, but not even out of the starting gate when it comes to train travel in the world today.

You raise my spirits when I heard and saw the presentation of what we are capable of and what the plan could be, and I can tell you that my head has been down when it came to train travel as I see what countries in the world are doing and when I saw your master plan I thought I could hold my head up again when it came to train travel, and I thank you very much.

I yield back.

Mr. MICA. Thank you. I thank the gentlelady.

Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman. Mr. Chairman, everything that needs to be said has been said. Everybody hasn't said it yet. So with that in mind, I am going to be very brief.

I am not necessarily pointing an accusatory finger at Amtrak. I am pointing a finger at the Federal agencies generally. It appears recently, Mr. Chairman, that sound responsible fiscal management has been at least cast aside or abandoned by many Federal agencies, and if the Amtrak ship is aground, let us get it off the bar and back into safe deep water. And I think this, I can't emphasize the significance of fiscal responsibility any more.

And having said that, Mr. Chairman, I yield back.

Mr. MICA. Ms. Johnson.

Ms. JOHNSON OF TEXAS. Thank you very much, Mr. Chairman. I would like to yield my time to Ms. Brown.

Ms. BROWN. Thank you.

I want to do a comparison between the airlines and Amtrak. Fast food restaurants, comparing Amtrak to a fast food restaurant is like comparing apples and oranges. We spoke to the airlines prior to this hearing. They spend upward to \$6 or \$7 per passenger for sandwiches on a long haul. I mean, I just don't think it is fair to compare Amtrak to a fast food place. I mean that is ludicrous.

I was in a bar last night, a bar, and I got a Coke, a regular Coke, that is not in that Pepsi can, in a cup or a glass like this. It was over \$5 for a regular Coke and ice. When you look at the comparison, Pringles, \$3 on the airline. If you look at M&Ms, \$2.99. I mean, how much is it in the store? Seventy-five cents.

So to make these kind of silly comparisons, to even be here discussing this when we have major issues is just hard for me to understand why we continually, and we want to have a hearing on this, why is it that we don't have it at our committee area? Why would we take full committee time to have a hearing on Amtrak? I know, Mr. Boardman, I know this is very important, very important to the committee, very important to the American people. But this is something that we should be dealing with in the subcommittee. You have a ranking member, and you have a chair that is very interested in this. This is very, very important. Not, you know, more important than two planes almost colliding within 12 seconds that would have killed thousands of or hundreds of people.

But, you know, that is where we are in this committee. We are down in the weeds and we have been down in the weeds since the beginning of this Congress.

So I am very happy that you all are here. I am looking forward to the testimony from the committee. I have a lot of questions for you in comparison fast food to what you all are doing. And also, let us throw in the airline and the additional money that we spend in the airline based on security. I know that Amtrak has to consider a lot more things than how much is the cost of a Pepsi.

So with that, I want to thank Mrs. Johnson, and I yield back the balance of my time.

Mr. MICA. I thank the gentlelady. I am pleased to yield, he has been waiting patiently, the gentleman from Pennsylvania, Mr. Barletta.

Mr. BARLETTA. Thank you, Mr. Chairman, and I want to thank everyone for coming today.

My family is in the restaurant business, and we currently have a restaurant right now. And I certainly understand how difficult it is in the food and beverage business to make money. You really need to, I believe in my estimation, either have a very good business model to make money in that business or you need to be there all the time, because as I am sure Amtrak could attest to, in the food and beverage business many times there is a lot of waste, theft, and mismanagement and there is such a small profit margin that you are dealing with in the restaurant business. But obviously, the business model here is not working.

And Congress, for over 30 years, has asked Amtrak that if they wanted to be in the food and beverage business that they needed to at least break even, not even make a profit.

So I think it is fair to have this discussion today. And when we are seeing that there is an \$800 million loss over the last 10 years, obviously this business model is not working, and we can give examples where others where it is working.

So and if we can just momentarily if I could address the airline M&M issue. Obviously the cost, what they are charging is not what it is costing them. They are making a profit. So again, I am interested to hear what ideas you all have to, again, not break the law because Congress did make that a law that Amtrak did need to break even. So I am curious to hear what everyone has to say. Thank you.

Mr. MICA. Thank you. I am pleased to yield to Mr. Sires.

Mr. SIRES. Thank you, Chairman, for holding this hearing. You know, I travel Amtrak just about every week. I come in by Amtrak; I go back by Amtrak. And I wanted to come to this hearing today because I want to hear what you have to say. But I have to tell you, I have met nothing but the nicest people that work and treat the passengers on the train.

I would prefer to concentrate on some of the other issues of Amtrak, you know, making the ride more comfortable, more pleasant for the passengers. As it is now you can't get a seat many days. You know, we need to encourage that because I have traveled in some of the places outside the country and it is really, I am almost embarrassed, you know I happened to be in Spain and I traveled from Madrid to Barcelona on the AVE. I mean, I couldn't believe. There is no comparison between that ride and the ride that I had, you know, outside this country.

You know, sure there are probably some things you can do, but there are so many other issues that we have to address on this with Amtrak. And we should be helping and trying to encourage more people to use rail. I don't think this is going to help encourage people to take rail. What is going to help is make it more comfortable, make it more pleasant, make it, you know, and you do a great job in terms of on time. I will never take a plane back to Newark. I would shoot myself. I mean, that is how bad it gets sometimes, but I will take the train to Newark.

So thank you for the comments, and I yield back the balance of my time.

Mr. MICA. Other Members seek recognition? If not, we will turn to our panel of witnesses.

We have got first the Honorable Joe Boardman, president of Amtrak; Ted Alves, inspector general of Amtrak; Patricia Quinn, executive director of the Northern New England Passenger Rail Authority; and Dwayne Bateman, who is an employee, works with Amtrak Food and Beverage Services.

First, welcome, everyone.

Mr. Boardman, you can go first or second. If you wanted to hear the inspector general first and then respond, or I will just give you a choice. Tell me how you want to do it.

Mr. BOARDMAN. I would just as soon go first.

Mr. MICA. I am pleased to have you, and welcome, and recognize Mr. Boardman.

TESTIMONY OF JOSEPH H. BOARDMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMTRAK; TED ALVES, INSPEC-TOR GENERAL, AMTRAK OFFICE OF INSPECTOR GENERAL; PATRICIA QUINN, EXECUTIVE DIRECTOR, NORTHERN NEW ENGLAND PASSENGER RAIL AUTHORITY; AND DWAYNE BATEMAN, FOOD AND BEVERAGE WORKER, AMTRAK

Mr. BOARDMAN. Thank you, Mr. Chairman, and all. Good morning.

Amtrak's food and beverage record has really been continuously improving. Part of that improvement has come from the attention that Congress has shown since 1981. No less than eight CEOs have focused on the cost and revenues since 1981. Part of that improvement is included implementing recommendations from Amtrak's IG and U.S. DOT's IG over those years. You should note that Ted Alves recognizes that current Amtrak leadership has begun to implement changes with the ticketing, point-of-sale technologies and operational reorganization that will help reduce costs and improve accountability. I look forward to his testimony today.

Part of that improvement comes from having great State partners like Patricia Quinn who have innovative ideas that Amtrak supports. But most of that improvement comes from Amtrak's women and men who feed people on our trains 7 days a week and also take care of their needs for 3 days or more, and in a time of bad weather or other problems care for their customers even longer. We call them OBS, or Onboard Services people, and I am pleased to be with here today with one of our very best, Dwayne Bateman.

Ridership has grown by 44 percent since the beginning of the 21st century. It will be a century that will appreciate rail the way that the 19th century did. In fiscal year 2011 we carried over 30 million customers and we set ridership records in 8 of the last 9 years. Operating subsidy requests are some of the lowest we have had in the 41 years that we have connected this Nation together. That has happened while we maintain good jobs for our employees, employees who are often away from home for a week or more at a time. Our OBS employees stay with a long-distance train all the way to its destination, unlike our train and engine employees. OBS employees care for the personal needs of our customers along with being able to care for emergencies if they should arise, and they do arise.

These are good jobs that Americans can raise their children and take care of their family on, jobs that pay \$50,000 or more, similar to a rural postal carrier. Amtrak and its customers depend on our OBS employees to know what they are doing, and they do their jobs well.

We are focused on our customers and on our bottom line. That focus has helped us improve our food and beverage cost recovery by 20 percent in the past 5 years from 49 percent in 2006 to 59 percent in 2011. Our goal is to recover 70 percent by 2015. We have competitively outsourced commissary operations, we have simplified dining car services, onboard credit card processing, and introduced at-seat cart service on select trains. We are installing point-of-sale systems on board and have a new inventory program called WIMS to better making sales and inventory automate and eliminate time-consuming paper processes. We are realigning the company to get rid of a disjointed management structure in food and beverage operations. Last year, Amtrak published its first board of directors-approved strategic plan from fiscal year 2011 to fiscal year 2015 and we are executing that plan.

Making these food and beverage changes are part of running this company like a business. Last year, food and beverage accounted for less than 8 percent of our total expenses, and we have covered most of those costs with revenues from sales. We generate more than \$2.7 billion in annual revenue and that, and that recovers 85 percent of our operating costs. Food and beverage is very important to our customers, our overall relationship and sometimes during a severe snowstorm or other delay, it is life sustaining.

Further, it is a very small cost to a much larger business. Even so, it has grown more efficient, but not efficient enough for us. We are not satisfied. We will continue to improve. We are committed to improving this business as evidenced by these changes which contributed to reducing our operating subsidy need by 17 percent this year over last year, and doing so without cutting our service, service that our customers and your constituents depend on for their mobility and connectivity.

Thank you.

Mr. MICA. Thank you. We will hear now from the inspector general, Mr. Alves.

Mr. ALVES. Good morning, Chairman Mica, Ranking Member Rahall, Ranking Member Brown and members of the committee.

Thank you for the opportunity to discuss our work on Amtrak's food and beverage service activities. As you know, losses on food and beverage have been a longstanding issue. In fiscal year 2011, the reported loss was almost \$85 million with long-distance routes accounting for about \$74 million, or 87 percent of the loss.

Today, I want to address three areas: First, actions Amtrak has underway to address our prior recommendations; second, preliminary observations from our ongoing audit indicating that program management can be further improved; and, third, best business practices work we plan to accomplish.

Before I address the specifics of these area, I want to note that over the last several years, Amtrak has taken action to reduce food and beverage losses and improve program management controls and these efforts have yielded benefits.

We believe opportunities remain for further improvement, particularly relating to implementing cashless sales, improving program planning, and identifying and implementing alternative business models.

In June 2011, we reported that Amtrak needed to improve internal controls to reduce losses due to theft. In response to our recommendations, Amtrak established a loss prevention unit, hired four staff for the new unit, plans to provide the staff with 3 weeks of training this month, and plans to develop an internal control action plan. However, Amtrak currently has no plan to implement our recommendation to establish a cashless pilot.

Regarding our ongoing work, Amtrak has made progress reducing direct operating losses, increasing cost recovery from 49 to 59 cents on the dollar between 2006 and 2011. Amtrak also has initiatives for 2012 and beyond to further increase cost recovery, such as lengthening the selling period on trains and reducing check-in, check-out times for onboard service personnel.

We encourage these initiatives but note that they will result in relatively small efficiency gains because they are being applied to the existing food and beverage service business model. Further, food and beverage management activities are currently carried out in a fragmented and somewhat uncoordinated manner by two Amtrak departments. The marketing department manages commissary and support operations, while transportation department manages onboard service personnel.

On July 30, the vice president for operations told us that the marketing department responsibilities for food and beverage activities will be transferred to operations as of October 1, 2012.

This new management structure should help address our accountability concerns. We also believe that once this structure is in place, the vice president of operations should develop a 5-year plan to reduce operating losses. The plan should include specific initiatives and annual loss, operating loss reduction goals.

Our future work will focus on identifying ways to help mitigate food and beverage service losses while continuing to provide highquality service. We will identify and review best practices used by other entities such as foreign passenger railroads, cruise lines and airlines. Our analysis will focus on key factors such as cost and quality of service as well as workforce, customer, and revenue impacts.

In summary, Amtrak deserves credit for taking actions to reduce food and beverage losses. Planned actions, especially the recently announced organizational change, should lead to further improvements. We also believe significant additional improvements could be achieved by implementing a cashless system, developing a plan for reducing losses, and piloting alternative business models.

Mr. Chairman, in closing I want to thank the committee for its support of the Amtrak Office of Inspector General, and I would be glad to answer any questions at this time.

Mr. MICA. Thank you. And we will hold questions. And we will go now to Ms. Quinn.

Ms. QUINN. Thank you, Chairman Mica, Ranking Member Rahall, and members of the Transportation and Infrastructure Committee for inviting me here today.

My name is Patricia Quinn, and I am executive director of the Northern New England Passenger Rail Authority, which I refer to as NNEPRA, and am responsible for the overall operation of the Downeaster service. The Amtrak Downeaster service began operating between Portland and Boston in December 15, 2001, in response to a citizens' initiatives led by a group by TrainRiders Northeast to reestablish passenger rail service after decades of its absence. The vision was to create a service which was part of Amtrak's national rail system, but a service which was also uniquely Maine.

NNEPRA was created by the Maine State Legislature to manage our passenger rail service to and within Maine and to maximize the public benefit.

The Downeaster has been extremely successful. We have carried more than 4 million passengers over 300 million miles while maintaining one of the highest customer satisfaction scores in the Amtrak system. Our ridership has more than doubled since 2005 and will soon be expanding our service 30 miles north to serve Freeport and Brunswick.

But in addition to providing transportation the Downeaster has stimulated hundreds of millions of dollars in economic and private investment along the corridor and has truly been an economic engine for our region. Our initial arrangement with Amtrak when we started the Downeaster was put into place in 1996, and it included provisions for NNEPRA to be able to procure services for marketing, reservations and ticketing, and food service independently. This was done to ensure that the Downeaster would continue to have a Maine brand and to provide NNEPRA with the ability to manage the finances more closely. Because of our geographical location and the fact that we don't directly connect with other Amtrak services, we are uniquely positioned to pioneer and pilot a number of initiatives, some of which have been rolled out nationally. I am here today to talk about the food and beverage.

A company called Epicurean Feast was selected prior to the start of Downeaster service to manage the operation of the Downeaster Cafe. Amtrak participated in the development of the agreements and contracts to be sure that all appropriate standards were included and has worked with us all along to assure the success.

cluded and has worked with us all along to assure the success. Per our agreement with NNEPRA, Epicurean Feast is responsible for the overall operation of the food service including the hiring and management of employees, purchasing of food, and provision of onboard service. Actual revenues and expenses are reported to us monthly and a fixed management fee is assessed. NNEPRA reimburses Epicurean Feast for the difference between those amounts.

Now our cafe serves light meals, snacks, alcoholic, nonalcoholic beverages, and some other sundry items like Boston subway tickets. But we also have a lot of input into the menu and really encourage the use of Maine products. As a result our cafe features sandwiches from a local chain, beers from local microbreweries, chocolates and whoopie pies from local confectioners and of course fresh Maine lobster rolls in the summer. In addition to the sales, that exposure is really important to those local merchants.

The Downeaster achieves the cost and recovery rate of 75 percent and in our fiscal year, which runs from July through June. In our fiscal year 2012, our total cafe sales were about \$575,000. Cafe expenses were about \$770,000, which is a net loss of \$195,000. Now, based on 509,000 riders, that comes out to a net cost of 37 cents per passenger.

Our onboard labor accounts for about 44 percent of the expenses, food and liquor purchases account for about 33 percent, and general operating expenses account for 17 percent. The remaining is the commission and the G&A.

We monitor the financial performance of the Downeaster Cafe very closely. We get daily sales reports, monthly P&L statements which detail every transaction made for the Downeaster Cafe, we track labor costs, purchases, spoilage, comps and many other items. We communicate regularly with Epicurean and try to act in a really nimble fashion to make changes to improve the service, increase the revenues, and control the expenses.

While the cafe itself is not profitable, its cost is built into the price of a passenger ticket and is a key reason to why people choose to ride the Downeaster.

While it might not work for all, the Downeaster Cafe model is one in which other States could consider particularly in light of the pending implementation of PRIIA 209. It has provided us an opportunity to have input into a very important part of the service and take responsibility for an element of the passenger rail business which has both financial and service related impacts. It is a way to contribute to the personalization of the service and very literally reflect local favor.

NNEPRA is proud of our cafe. We feel it is a critical component of the Downeaster service. The CSI scores that we have, the customer service scores for our food service tend to be higher than those in the Amtrak system, and that is due to Epicurean's dedication, NNEPRA's involvement and our ongoing partnership with Amtrak. Together, we constantly strive to set goals and achieve a standard of excellence in the best interest of our passengers and the public.

Thank you.

Mr. MICA. Thank you, and we will now hear from Mr. Bateman. Mr. BATEMAN. Thank you. Chairman Mica, Ranking Member Rahall, and members of the Transportation and Infrastructure Committee, thank you for the opportunity today to come here and talk to you about Amtrak food and beverage service. My name is Dwayne Bateman. I am a lead service attendant currently working on Amtrak's Northeast Corridor. I am also vice general chairman for Unite-HERE Local 43, representing onboard service workers. I have worked almost every craft linked to onboard service for over 35 years.

Critics of Amtrak say onboard service workers like me are overpaid and our pensions are too generous. They devalue our work and ignore our role in safety, security, and customer satisfaction. They are wrong, and I am grateful for this opportunity to explain why.

Obviously, we serve food and drinks to our customers, but like flight attendants, protecting passengers, not food service, is our first priority. In the environment in which we work, emergencies can happen in remote locations and we are usually the first responders. Unlike restaurant employees, we go through mandatory training so we can respond to derailments, medical emergencies, security breaches and other problems.

Here are some of the examples of our required training. Emergency preparedness, first aid, onboard passenger safety, emergency evacuation, responding to bomb threats and terrorist threats and unattended items.

We also have to know the configuration of all Amtrak cars in order to respond to emergencies and to facilitate evacuations. Also, when service is disrupted, we are frequently an important point of contact for our riders.

Our critics like to compare us to restaurant workers and say we should be working for minimum wage and tips, but that ignores the sacrifices and level of commitment we have. These jobs are exhausting. The work is grueling. We have to be on our feet occasionally up to 10 or 20 hours a day in the Northeast Corridor. It is even worse on long-distance routes, which last 3 or 4 days, where we work an average of 18 hours a day. And during service disruptions, we can be on duty for more than 36 hours straight or more.

There are some who argue we are overly compensated for the skill set required to prepare meals and provide customer service. The work we do appears quite simple because you only see us passing out a Pepsi-Cola and a burger. That argument ignores not only safety but the personal sacrifices for this career: mental and physical exhaustion, sleep deprivation, stress due to vigorous working conditions, extremely long hours with limited breaks. Each contribute to a myriad of medical issues we experience. We are not only paid for the work we perform, but also the stress to our health, the degradation to our bodies, and the pressure in our personal lives caused by the necessity to work long hours under arduous conditions while maintaining a professional and pleasant demeanor.

Some people say we make too much, again, but the jobs we have pay about \$50,000 a year, which is basically a middle-class salary. All of us have early retirement at Amtrak, which is funded solely by employees in the railroad. I am not ashamed of that. That it is what is going to allow me to retire with dignity.

But some people want to limit these jobs. When this committee marked up H.R. 7, it supported language that could outsource the jobs and give corporate welfare subsidies to private contractors that get the work. I take that personally, and that is an attack on goodpaying, middle-class American jobs. It is unfair to us, who have dedicated our lives, given our blood, sweat, and tears to help our company survive. It is unfair to Joe Boardman, who has worked feverishly to change our culture and reduce the costs while improving services. And, most importantly, it is unfair to our passengers, who pay for, expect, and deserve safe and reliable service on their journey. They are owed the assurance that employees are welltrained, qualified to meet their customer service, safety, and security needs.

I have spent my entire adult life working for Amtrak with the promise of earning a fair wage. This job allowed me to provide for my family, it helped me send my two girls to college and live a decent, middle-class life. Now some people want to take away my job and the job of 1,200 other onboard service workers. For me it is not a discussion about 1,200 jobs; it is a discussion about 1,200 people, 1,200 careers, 1,200 families who can't survive on minimum wage. I urge you to stop trying to privatize my job and start fighting to protect middle-class jobs. Thank you again for the opportunity to speak.

Mr. MICA. Thank you so much.

And let me turn to some quick questions.

First, to the inspector general, it appears the hemorrhaging is getting worse in Amtrak food and beverage service in just the last 3 years. Is that your observation, the losses? Again, it is a \$74 million loss in 2009; \$82 million, rounding it out, in 2010; and \$84 million this year. Is that correct, we are hemorrhaging worse?

Mr. ALVES. Losses have increased.

Mr. MICA. Losses have increased.

Mr. ALVES. Losses have increased.

Mr. MICA. The last 3 years.

Mr. ALVES. And I believe-

Mr. MICA. And then we have 1,000-what is it? How many employees do you have? One thousand two hundred and thirty-four. The loss last year was \$84 million; is that right?

Mr. ALVES. Yes.

Mr. MICA. If you divide that, we are subsidizing \$68,000,476 per employee from the loss.

Mr. ALVES. I have not done that calculation.

Mr. MICA. Well, take out your calculator, and you will see that that is the case.

I mean, we have been here before on this. The losses are expanding. And when you are subsidizing this can of Coke that costs \$2, another \$3.40 for the taxpayer—it is \$16 for a hamburger. The subsidization on top of the cost of—what is it—\$9, it is absolutely outrageous. I mean, who could, in their right mind, say that that is the way we operate?

No one wants to fire anybody. No one wants to get rid of any employees. That is not what this is about. This is about losses. I mean, the losses are staggering. In 10 years, it is \$833 million. Last time I checked, that is over three-quarters of a billion dollars. Is that correct? Are our calculations correct, or are we fudging the books?

Mr. ALVES. I am sure you are not fudging the books, sir, but I haven't done that calculation.

Mr. MICA. All right. Well, we have the figures that we have gotten from you and from Amtrak.

What is disturbing is, the last report, you recommended that they get out of the cash business. They had people that were tapping the till, and we went after them. And some people lost their jobs, some people were arrested. And we still have a cash system. Is that your observation, Inspector General?

Mr. ALVES. Yes, sir. And we do believe that there is an opportunity to pilot a cashless system that would help reduce— Mr. MICA. No, no. "Pilot," here we are again. And then you said that four people were going to be trained this

month for some sort of oversight; is that correct?

Mr. ALVES. Yes, in response to our recommendations.

Mr. MICA. Yeah, in response. We have been through the inspector general report, which now has some yellow aging on it, and they still haven't done anything to correct this. A cashless system would help stop, again, some of the damage.

And this isn't even counted into the calculation, is it? I mean, the loss is the loss. We don't know how much has been stolen or slips through.

Mr. ALVES. No. That is very difficult to estimate.

Mr. MICA. Well, I tell you, this is extremely frustrating. I may be in the weeds, but if you don't get in the weeds, you know, the country is going to go down the tubes. And you start with taking a—I call it a Soviet-style Amtrak operation and converting it to a modern rail system that provides good passenger service at the lowest cost to the taxpayer. And we are not doing that.

We could employ twice as many people in this industry if we would unleash some of the creativity and initiatives from the private sector. So don't give me this stuff, that we are attacking labor or anything. No one is talking about lower wages. You can still do this, increase employment and keep good benefits.

And there are models that we can adopt—we saw a little bit from the Northeast model that is here; there are others here—where we can cut the losses or find some way to cut back. But if we can't cut \$100 million a year in Amtrak food service, something is wrong.

\$100 million a year in Amtrak food service, something is wrong. Let me have Mr. Shuster take over the chair. We have about 5 or 6 minutes. Mr. Shuster?

Did you want to go next, Mr. Rahall?

Mr. RAHALL. Yeah, just a comment, Mr. Chairman. Your overdramatization I think is unnecessary. I don't believe the food and beverage problems of Amtrak are going to cause our country to go down the tubes. As I said in my opening statement, what we are talking about here is about 5 percent of the railroad's total expenditures. So I think your overdramatization of this is totally unnecessary and uncalled for.

Let me ask Mr. Boardman, how many food and beverage workers does Amtrak have? And how would they be impacted if the FRA, as proposed in H.R. 7, were to contract out its food and beverage service to the lowest bidder?

Mr. BOARDMAN. Mr. Rahall, we have 1,234 onboard service food and beverage folks on our trains. Obviously, if there was a demand by Congress to contract them out, they would be in a very different situation, probably without jobs. And I think that would be a very negative situation for Amtrak and for the country.

Mr. RAHALL. Mr. Bateman, would you wish to comment further on that? I know you did in your testimony, but—

Mr. BATEMAN. Well, actually, if we would lose our position, I wouldn't be losing—

Mr. RAHALL. Could you turn your microphone on, please?

Mr. BATEMAN. I beg your pardon.

I would just like to say, I don't have a job. This is not my job. This job belongs to my family. And if I were to lose it, it would be a huge impact on my family because I am responsible for a lot of people. And I think a lot of others that I work with would be in the same situation. And we would probably be stressed to the point where we would have to maybe sell our homes or cash in our 401(k)s or cash in our savings or whatever we have to do to try to survive this. But it would be devastating, sir.

Mr. RAHALL. Mr. Bateman, are States currently able to contract out Amtrak's food and beverage service through section 209 committee work—I am sorry, Mr. Boardman, I was going to ask you that question. Have you heard from any States that have an interest in contracting out?

Mr. BOARDMAN. Yes, there are. As a matter of fact, that is what Patricia did. We had no commissaries close by, and we worked well with them to make that happen.

There is another example down in North Carolina, where they have a run with dedicated equipment. And States will have the ability under section 209 to contract out.

Mr. RAHALL. OK.

Let me ask Ms. Quinn, why did Maine contract out their food and beverage service on the Downeaster?

Ms. QUINN. Well, while 209 is going to be implemented next year, the State of Maine has always taken financial responsibility for the service and has paid or reimbursed Amtrak for the cost of operating the service. So we have tried to participate in the service, again, have it really reflect the Maine brand, and also have been extremely conscious of the finances of the operation. We wanted to be able to manage some of the things that we could manage ourselves.

Mr. RAHALL. Were there any workers furloughed because of that? Ms. QUINN. No, they were not.

Mr. RAHALL. Why not?

Ms. QUINN. It was a brandnew service. It didn't exist before— Mr. RAHALL. I am sorry, it was what?

Ms. QUINN. It was a brandnew service that didn't exist before.

Mr. RAHALL. Thank you.

What are your food and beverage workers paid? And what kind of benefits do they receive, what sort of training do they receive? And do they receive background checks?

Ms. QUINN. Our food and beverage workers have different job descriptions and duties than the Amtrak LSAs do. They generally are food service workers, and their role and responsibility is to get on the train and manage the cafe. The conductor stays as the person who is in charge of the train. They go through a regular employment review, not necessarily a background check.

Mr. RAHALL. Training?

Ms. QUINN. And training is in food service and the operation of the cafe, but not in the operation of the train. So it is not as extensive as what the Amtrak LSAs receive.

Mr. RAHALL. What are they paid?

Ms. QUINN. They are paid approximately \$10 an hour, and then they are allowed to get tips.

Mr. RAHALL. And benefits?

Ms. QUINN. They have a basic health insurance benefit package. Again, that is through the vendor, not through us.

Mr. RAHALL. All right.

I see we are running out of time. I will yield back.

Mr. SHUSTER. [presiding.] Yeah, we have 5 minutes left in this vote. I am going to make a statement here. We are going to adjourn, figure about 15 to 20 minutes, be back here around 11:30. We have two votes. This one is going to wrap up here probably in the next 10 minutes or so, and then we can vote and come on back.

Before I leave, I just want to again state, this is not an attack on jobs. Ms. Quinn just pointed out that you added jobs, you created jobs in what you are doing. And I believe in the long term that we can do that on Amtrak. But we have to take a serious look at this.

And Mr. Bateman made the statement about "privatize these jobs." These are private jobs. Amtrak is supposed to be a private company. So we are talking about taking a private company and making it efficient, making it work.

And as I said, if we don't do this, if we don't take the short-term pain—and I know Mr. Boardman has done some things there that are positive—we are going to, in the long run, we are not going to see these jobs. Because right downstairs, we have hot food we can get downstairs out of a vending machine. You know, these are the kinds of things we have to look at and say, is that what we want on our train service? I don't think so, but we have to figure out a way to get these numbers down. When you have Ms. Quinn saying they are losing 37 cents a passenger, my calculation is Amtrak is losing \$2.80 a passenger on the food car service.

So, you know, this is a serious—other Members have said that we have other serious issues to deal with. Well, the Railroad Subcommittee, this is one of the issues we deal with, and I believe it is a serious issue. And to make sure that Amtrak is here for the long haul, make sure that we have passenger rail service in this country that is at least breaking even across the board, I think that should be our first goal.

But, with that, again, we will adjourn. And we should be back in about 15 minutes to resume the questioning. We stand in recess. [Recess.]

Mr. SHUSTER. We are going to reconvene. Sorry about that. It was a little longer than 15 minutes.

All right, we are back in action. Again, I am going to start off the same way I ended up, started twice.

This hearing is—I want it to be constructive. I want to figure out ways that we can, as we move forward, find out what has been done, ways we can move forward on this, because there is no reason in my mind that you can't have a food service that at least is breaking even. Or if we got down to a 37-cent subsidy per passenger, I think I would jump for joy at that. And now, by my math, if someone wants to correct me, my math is about \$2.80 is what we subsidize the food service with each passenger.

In fiscal year 2011, Mr. Boardman, can you tell me what was the average wage that a food service worker made?

Mr. BOARDMAN. It is over \$50,000 a year. That is what we talked about right upfront. That is why we are—

Mr. SHUSTER. And then, all in, what are we talking, benefits and all that?

Mr. BOARDMAN. Probably adds another—I don't know exactly what the percentage is, but the railroad retirement and the health care and so forth, yeah.

Mr. SHUSTER. All right. And then Mr. Alves talked about the cashless system. What is the situation on a pilot? It seems to me it makes a lot of sense.

Mr. BOARDMAN. I have two answers to that. One is a personal one, and it is important to me, and it is something that I know I have a "board of directors" with 585 Federal and State members and a board of directors that sits at the table that may change that. But on this \$1 bill, to use a prop of my own, it says, "This note is legal tender for all debts public and private." And I believe that we should continue to accommodate people who don't have cashless opportunities.

And there may be ways to get around some of that, but I believe that cash should be allowed in this country and that we should not have employees that steal. And we need to find ways—and I know the union is totally with me on this—to make an end to that. But making an end to it by denying people using cash I think is a mistake.

Mr. SHUSTER. And your board, you say you think they have different feelings than you?

Mr. BOARDMAN. I don't know. We really haven't gotten to a proposal today to actually do this. I think we do have an idea that we can do a pilot.

And it might be different, Congressman, on the Northeast Corridor, Acela. But when you start looking at services like the Cardinal service, which operates through West Virginia and into Cincinnati and on up to the Midwest, a lot of our ridership are the Amish and the Mennonites and others who are really not into that part of the world at all, and they have needs when they are on the train.

So it is going to be difficult to implement something like that fully throughout the system. It may work in some places.

Mr. SHUSTER. Right. What about tickets? Now tickets are-

Mr. BOARDMAN. It is the same way with electronic ticketing, which we have rolled out at this point in time. We see that as a great benefit. We are still able to sell on the trains, as well, if they don't have a station agent.

Mr. SHUSTER. Mr. Alves, your view on that? I know you have made that recommendation. You know, what are your thoughts to—well, I guess I should say, I didn't see a figure. What is the magnitude of the theft that is going on? What are we talking? Do we now have an idea of how much money is being stolen?

Mr. ALVES. It is very difficult to estimate how much is lost to theft because you can only identify what you detect. You can't identify what you can't detect.

We think that Amtrak is taking steps that are going to address a great deal of the schemes that have been—it is really a question of putting controls in place. The point-of-sale is going to result in significant improvements. When point-of-sale is connected to the inventory system, that is an improvement.

But what we see is that if you fly on an airline today, they are not taking cash. Anytime you are dealing with cash, you are subject to a high vulnerability of taking a loss. The other thing that the airlines have found out and others have found out is that when people use credit cards they buy more, and so that also increases revenue.

I agree with Joe that, particularly at this time, a cashless—onboard cashless may not be appropriate for some of Amtrak's routes. I do think that it should be piloted. There are places where it can be used and can work. And there are alternatives, including at the station you might be able to put in your cash and get a card that is valid on the train. So I do think it is a serious proposal that should be looked at.

Mr. SHUSTER. Ms. Quinn, do you accept cash?

Ms. QUINN. We do accept cash and credit cards. And we are actually in the process of implementing a point-of-sale system, as well, which will tie to the inventory. And I think "control" is really the important thing. We have had a manual system up until this point because we couldn't find a machine that would fit in the space, but we have one now. And I think, as long as you watch your inventory and your cash, you implement basic business restaurant practices, like blind drops and those kinds of things, that you—you have to watch it all the time.

Mr. SHUSTER. Right.

Mr. Bateman, your view on the pilot of a cashless system? As a worker, does that make your job easier or harder?

Mr. BATEMAN. As a worker, we encounter a lot of people that are, for lack of a better term, poor.

Mr. SHUSTER. That are?

Mr. BATEMAN. That are poor, or they don't have credit cards. So how do you accommodate them?

I think Mr. Alves' suggestion is very good as far as maybe having a machine somewhere in a station where you could deposit money and get a card you can use on the train. But saying that people can't use cash on the train, I think we would lose money doing that.

Mr. SHUSTER. All right. Uh-huh.

And I just have one more question. To Mr. Boardman, the 1981 law that was enacted, section 24305(c)(4) of Title 49 of the United States Code that states that Amtrak can operate food and beverage services only if they bring as much revenue as it costs to provide the services; in your testimony, you stated you believe Amtrak is within those limits set by the statute.

However, Amtrak has posted more than, as we have heard, \$800 million in direct losses and \$84.5 million in 2011. So, to me—I guess you have a lawyer that says that you are within the scope of that law. Do you have a legal opinion?

Mr. BOARDMAN. Well, I think we are in compliance, personally. I mean, I won't say this is a complete surprise that this comes up, but for 31 years or whatever it has been that it has been around at this point in time, Congress has discussed it. And there is other language that has been provided, and talked about, I think, by Ms. Brown this morning, about the fact that any business, the airline business and any business where you are not primarily in the food business, you really wind up with attracting customers by offering food at a cost that doesn't make a profit and doesn't necessarily break even. And part of the discussion that occurred in that whole process that you are talking about recognized that.

Mr. SHUSTER. My time has expired. We are probably going to go around for a second round, but, with that, I will yield to Ms. Brown for questions.

Ms. BROWN. Thank you.

Thank you, Mr. Boardman, and thank the entire panel.

I want to start out by clearing something up. Yesterday I was on—well, Tuesday—on a flight. It was a US Air flight that, within minutes, could have been crashed. However, I want you to know that they only take cash only. They do not take credit cards. And, in fact, I bought some Pringles that was \$3, and I bought some almonds which was \$5. So, I mean, I want you to know that some of the airlines, US Air, which is my flight that I take all the time, only take cash, they do not take credit cards. And it is also confusing, because some of them only take credit cards, some of them only take cash. So it just depends.

So the point is, I just want you to know that some of them—but I want you, Mr. Inspector General, to talk about the long-haul service, because that seems to be where the Republicans want to say that we are losing money. But, basically, that is not my position. Although their position is always to privatize. Well, what is that? What is privatize? It is minimum-wage jobs, Mr. Bateman. It is minimum-wage jobs. Although you are still doing the service, somebody is making the money.

In their proposal, their proposal, their failed transportation bill that came to the House—well, it never did come to the House, but passed this committee, basically it was you would privatize it, you would bid it out; however, any subsidy that we give Amtrak, we would give it to this other group, although it would be no savings to the taxpayers.

So can you talk about the long-distance service, sir? Because I personally think it is an advantage in providing, making sure that people can purchase with cash—some people, that is all they do, cash. And I have a note that I am going to submit in the record from one of the Members who was on Amtrak, that the tracks went out, and the fact is, they provided food and water and other refreshments while they waited 6 hours because it was an emergency on the tracks.

[The information follows:]

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Congress of the United States House of Representatives

COMMITTEE ON ENERGY AND COMMERCE SUBCOMMITTES RANKING MEMBER, COMMERCE, MANUPACTURENG & TRADE ENVIRONMENT & THE ECONOMY

CHIEF DEPUTY WHIP

August 2, 2012

The Honorable Corrine Brown Member of Congress 2336 Rayburn House Office Building Washington, DC 20515

Dear Congresswoman Brown:

I write to inform you that Amtrak personnel went beyond the call of duty when my Newark to Washington train was delayed in Wilmington, Delaware due to a track emergency. The delay was prolonged, but Amtrak personnel kept passengers informed and provided free beverages.

I am a strong supporter of Amtrak and pray that we will continue our strong support for the industry.

Very truly yours, electer G. K. Butterfield Member of Congress

DISTRICT OFFICES

216 N.E. NASH STREET, STE. B Wilson, NC 27893 Telephone: (252) 237–9816 Facsimile: (252) 291–0356 309 West Third Street Weldon, NC 27890 Telephone: (252) 538-4123 Facsimile: (252) 538-6516 Ms. BROWN. So would you explain that to the Members? Because, basically, it is more than just when you leave and we are going to leave on time and we are going to arrive at a certain time. Sometimes things come up. Can you explain the long-distance service and why it costs more?

Mr. ALVES. I will do my best. And long-distance service is very different from the Northeast Corridor or the short-distance services.

Ms. BROWN. Or Ms. Quinn's services, for that matter.

Mr. ALVES. Yes, yes.

Ms. BROWN. OK. Uh-huh.

Mr. ALVES. And what Mr. Bateman was saying about being on the train for 3 or 4 days I think is significant, as well. Let's start with the fact that long-distance service accounts for the bulk of the loss on food and beverage service, and labor costs are a large portion of that loss. But the idea that the lead service attendants, the onboard service personnel should be paid at a minimum wage at the level of a restaurant I believe is not entirely realistic when you are asking people to travel 4 or 5 days at a time away from their family, in addition to the training and safety that they get. So I think it is a different animal. It is not a good comparison.

But, on the other hand, I think there are opportunities to look at different business models, which we plan to do over the next several months, and do an analysis. I think we have to be very sensitive to the customer and employees, but I think that there are alternative models that should be looked at and analyzed to see if we can reduce the amount of losses on long-distance routes. But we have to recognize that it is a very different animal.

Ms. BROWN. Uh-huh. You know, recently I was at the baseball game between the Democrats and Republicans. I gave my staff \$20, they came back with a little change, and I had a hotdog, fries, and a Coke right out here at the ballpark. So where you go at different times depends on the cost.

I told you last night I was at a bar, and—well, it was a—yes, but I was at a bar. And I bought a Coke, or maybe it was a Pepsi, I don't know. It was watered down. It was \$5 for that drink.

Mr. SHUSTER. That wasn't water in that coke.

Ms. BROWN. No, that is what it was. The actual drink cost \$10 if you were going to get a mixed drink. But a watered-down Coke cost \$5. And it was in a glass, it was water and I guess some kind of syrup. It cost \$5.

So it just depends on where you are. When you go to the 7-Eleven, it costs one thing. When you go to the airport, it costs one thing. When you are on a flight, it costs one thing. And when you are on the train, it costs different things. But keep it in mind, overhead costs, various factors. When I go to the grocery store, I can get a six-pack, three or four, of Coke or Pepsi for \$10. It just depends on where you are.

But I know most of my colleagues don't have this experience that I have. Whether I am in the dollar store or whether I am in Winn-Dixie, it just depends on where you are, the cost of that Coke.

Mr. SHUSTER. The gentlelady's time has expired.

Ms. BROWN. Well, we are going to have another round. All right.

And, Mr. Boardman, I will get to you, because I do want to know about those tickets that I heard about 3 o'clock this morning and what you all are doing as far as modernizing the service.

I yield back the balance of my time until my next round.

Mr. SHUSTER. The gentlelady from Ohio, Ms. Schmidt.

Mrs. SCHMIDT. Thank you.

And, quite frankly, I continue to be confused by some of the responses to this committee. Mr. Boardman, you stated that you wouldn't want a cashless society on your train, and yet, when Amtrak briefed the T&I Committee July 24th of this year, on page 29, they want to promote a cashless environment aboard trains. And just let me quote: "Cashless sales would increase revenue through higher average check amounts and improve customer throughput; reduces inventory in cash losses due to handling errors, theft, and fraud."

And it also—there is a picture of the amount of paperwork just two people have. This is your stuff, this isn't mine. And that would all be eliminated. So you would know exactly what purchases were made and what purchases would be made in the future.

The second part of your nervousness about the Amish and the Mennonites, I have both in my district. The Millers are Amish, the Klines are Mennonites. And they take credit cards at their facility, so it is not like they are adverse to credit cards.

What we are really trying to do here is to get you to a profitable position. I am not against labor. I have taken every tough labor vote in this committee. But I want to make sure that Amtrak is profitable in the future so that when I want to use it, it is there for me to use. And right now we can't continue to bail this system out.

You know, you are proud in your testimony, sir, that you improved your financial losses from 49 percent in 2006 to 59 percent, a 20 percent improvement in 2011. And by 2015, your goal is to recover 70 percent of the food and beverage cost. It should be 100 percent. This is inexcusable. We are here to help you make that happen.

You know, you are allowed to use up to 10 percent of your ticket sales to cover your costs, so you get to use this little fuzzy math to get over the 30-year-old piece of legislation that says you have to be profitable. But, you know, allowing that ticket sale came from an appropriation bill 29 years ago in 1982 that I am not sure is legal today.

Where do you get the authority for something that happened in 1982 for today? That is my first question.

Mr. BOARDMAN. So I would like to go back and say to you—I started out by saying my personal belief is that we need to be allowed to use cash in this country to pay for debts. I did not say it was the company belief. So there is no inconsistency and shouldn't be any confusion.

Mrs. SCHMIDT. You said you weren't sure what the company belief was. I didn't type this. Mr. BOARDMAN. What I said was I don't know, in the end, what

Mr. BOARDMAN. What I said was I don't know, in the end, what the decision will be. And I still don't. But I don't believe it works everywhere in our system. I just don't want you confused about that. Mrs. SCHMIDT. Well, the second thing is, I know that you are adverse to using vending machines, and you cite two studies where on a short-term ridership you would lose, according to your study, \$91 million and on a long-term another \$93 million. And yet, when I look at North Carolina, the Piedmont line, on their short trip, they use vending machines.

Mr. BOARDMAN. It may work on—

Mrs. SCHMIDT. And, you know, they are actually making—I mean, they are not making grand-scheme-of-things money, but I think last year they made just about \$1,000 on it, which at least keeps them in the black.

So where does your study support this, when we know in actuality it is working in North Carolina?

Mr. BOARDMAN. Well, I think it can probably work in some areas. I think there is a possibility. We are looking at it on some of the shorter distance routes that it could be used on. But it is not going to work on that long-distance trip. And I think a large part of what we get talking about is the differences between the long distance and the short distance.

Mrs. SCHMIDT. Well, sir, let me go back to—you point that on a short-distance trip you would lose \$91 million, and yet in North Carolina they are not losing a dime on it. Would you be willing, then, on short-term trips—

Mr. BOARDMAN. I think you are going to—I am sorry, I will let you finish.

Mrs. SCHMIDT. You know the train is either going to go short- or long-term, correct?

Mr. BOARDMAN. Pardon me?

Mrs. SCHMIDT. You know the route your train is going to take, correct?

Mr. BOARDMAN. We have 21 routes that are short-distance that are owned by the States, and the States can decide how they want to do that.

Mrs. SCHMIDT. OK. So you know on the short trips you can have vending machines, and they work, correct?

Mr. BOARDMAN. I don't know that. We haven't done that.

Mrs. SCHMIDT. Apparently it is working in North Carolina.

Mr. BOARDMAN. Well, it works in North Carolina. And I am not trying to argue with you, but I don't know that because we haven't done that.

Mrs. SCHMIDT. What makes you think it can't work on a long-term trip?

Mr. BOARDMAN. I think it has just been the past experience, but it is something we are checking into at this point in time and looking at to see whether it will work somewhere else. North Carolina doesn't have the number of trips that we actually have even on our short-distance routes.

Mrs. SCHMIDT. I think that my time has expired, and I will come back.

Mr. SHUSTER. With that, Ms. Johnson?

Ms. JOHNSON OF TEXAS. Thank you very much, Mr. Chairman. I would like to yield my time to Ms. Brown.

Ms. BROWN. Thank you, Ms. Johnson.

Would you please clear up the short-distance? Because, first of all, States have the option to opt out if they want to and provide the services they want. First of all, explain that.

And I don't know where the gentlelady gets the \$98 million or \$98,000 or whatever she is saying, because the short distance that I see that the States supported is \$31,000, rounding it off. So would you clear that up for us?

But the first thing, clear up the fact that States have the option if they want to. And there are two States that take advantage of it. That is the first thing.

And then the fact is, on the short line—and I don't even like the way we are defining this as losing. Because people, when they go on the train, I do not want no vending machine on no train. So it is the difference in what is it that you want. I want a hot cup of coffee, yes. And I want a hotdog, and I don't want to spend \$20 for it, but I spend it in the park. Or \$5 for a Coke that I spend it in a bar.

So would you explain to the committee since we are in the weeds and I have to discuss in this full committee, when we should be talking about needles or other things in sandwiches, would you explain to us the short and the option that the States have if they want to?

Mr. BOARDMAN. Certainly.

One of the things that has happened, under the section 209 provision under PRIIA, is that States need to pay all the costs of the services that they provide. And Patricia Quinn was one of the folks that worked with us to come up with how that should happen in each one of the States.

Right now, the States, other than North Carolina and Maine, have not opted to actually begin to implement something like that, but they have that opportunity to do in the future. There are some States—one of the States of the 21 is Pennsylvania, with the Keystone service, they don't have any food service at all. They made a decision not to do that. Along with that is the service between Albany, New York, and New York City, which doesn't have any food service or coffee or anything else.

That was where Amtrak actually tried to privatize food service, and Subway came on board and lasted a very short period of time because there weren't enough customers from what they expected might actually buy Subway sandwiches to actually get a profit for them on the train. And that is part of the difficulty. Even on the smaller and the shorter routes today, there has to be a really pretty good marketing job going on to make that happen.

And we are targeting, as much as we can, the right kind of segments of the market. I think Patricia could probably talk about it better in terms of what she targets, since she has, I think, a hotel food service background, and really has looked at this in a hard fashion. And we are trying to learn some lessons from her on those shorter distance trains.

Ms. BROWN. Ms. Quinn, would you like to discuss? I understand that you all pay \$10 an hour, and talk about the benefits. But also that you have a unique—I guess Maine has some unique foods and stuff like that. I would love to go up and check it out.

Ms. QUINN. I think that you should. We would love to have you.

I think you have to look at it as a balance. I mean, there are two ways to achieve a net cost. One is by controlling your expenses, and the other is by increasing revenues. And so we look at both of those things. And, again, our route is relatively short, it is isolated, and so it is easier to kind of manage those things.

You know, our operation is pretty barebones. There are about 15 or 18 employees, food service employees, that are there. The supervisor shares an office in our office. We actually house a commissary, so we don't have to pay extra rent to other places to keep the food.

But we also work very hard on the sales side. We have one attendant onboard, and the attendant is a fixed cost, and the train trip lasts a certain amount of time. So if you can't reduce expenses sometimes, the opportunity is there to increase revenues. This is why we introduced those different products and try to sell lobster rolls in the summertime and work with employees to do upselling. You know, training in terms of if somebody goes up and orders a hotdog, then the next thing that would come out of the attendant's mouth would be, "And would you like some chips with that?" Every few cents that you bring in at that point in time matters, once you are selling food. The margin—somebody mentioned earlier this is a business of margins.

So it really is a matter of not always cut, cut, cut, but how to increase the other side. We have been able to experiment with some different things. For instance, we experimented with cart service on some of our trains. It really wasn't successful for us, so we stopped and said, well, that didn't work.

But routes all have their different personality, they have their different clientele. And I think maybe a one-size-fits-all solution is not something that is achievable. But working in partnership with Amtrak and the States, hopefully there will be more creative ideas from different regions that can help reduce that net cost, because I think all of us are interested in reducing that.

Ms. BROWN. I guess my-

Mr. SHUSTER. The gentlelady's time has expired.

Ms. BROWN [continuing]. Last question is, do you-

Mr. SHUSTER. The gentlelady's time has expired.

Ms. BROWN [continuing]. Use cash?

Mr. SHUSTER. The gentlelady's time has expired. Let me move on here. You are going to get a second round. I am going to keep things moving here.

Mr. Boardman, back to you, on the question about whether you are in compliance with the law or not. It is in that 1982 bill, the appropriations bill. And in discussions with the Appropriations Committee, they don't believe that that language is persuasive enough to have a legal ruling.

So, again, the question I asked you before, do you have a legal ruling by your attorneys, your legal department, that says—and can you share that with the committee—that this is based on their legal opinion?

Mr. BOARDMAN. I am sorry, Congressman. I think I already answered that. I don't. I didn't, I don't.

Mr. SHUSTER. Microphone.

Mr. BOARDMAN. Thanks. I don't.

Mr. SHUSTER. OK. Again, so you are saying that you are in compliance with the law and there is no legal background? Again, I think——

Mr. BOARDMAN. I am not saying anything. I just don't have it. Mr. SHUSTER. OK. Well, that is, I guess, one of the main reasons we are here, is because we believe that Amtrak is violating the law by not breaking even on that. So, again, that clears up that you don't have a legal opinion on that.

Mr. BOARDMAN. No.

Mr. SHUSTER. Also, I know in 2006 there was an initiative to reduce the number of onboard food and passenger personnel from five to three per dining car, known as the "simplified dining plan." How has that worked?

Mr. BOARDMAN. Some of it has worked, but some has not.

Mr. SHUSTER. Let me ask one more question. The three to five— I have been on a number of Amtrak trains, and I don't think there are three people in a dining car?

Mr. BOARDMAN. Well, you have to—have you been on the longdistance trains?

Mr. SHUSTER. No. That is what we are talking about.

Mr. BOARDMAN. That is why.

Mr. SHUSTER. OK. Can you talk about whether the simplified dining initiative—how is that—

Mr. BOARDMAN. Some of it works when we are in a lower part of the season, but when ridership really gets heavy, it gets very difficult to do that with three people.

Mr. SHUSTER. All right. And I was told that there were 237 employees furloughed as a result of that. Are those people, are they back working, are they furloughed, are they gone, or what has happened with that?

Mr. BOARDMAN. I don't know.

Mr. SHUSTER. OK. Is that something we can get, find out on that?

Mr. BOARDMAN. Sure.

[The information follows:]

This information is provided in response to question number 3 on page 67.

Mr. SHUSTER. And, Mr. Alves, you mentioned, I think, in your testimony about the disjointed management of the food service and the operations. And can you talk a little bit more about that? Did you say Amtrak is in the process of switching or joining this to, I guess it would be take it out of the marketing department and put it in operations. Can you talk a little bit about that and what problems it has created?

Mr. ALVES. Yes. Both departments share responsibility for different aspects of food and beverage. So, marketing runs the commissaries, establishes the menus, and delivers the food to the trains; and transportation provides the food to the customers.

This creates, in our view, a couple of issues. One is that nobody is—no single person below Mr. Boardman is responsible and accountable for profit and loss. And the second is that it has led to a lack of consolidated long-term planning.

I think that the actions that Amtrak is taking are going to address that problem, but I would like

Mr. SHUSTER. They are going to shift it from marketing into operations?

Mr. ALVES. Yes. I think that will go a long way to fix the accountability-

Mr. SHUSTER. Do you think that is the way to go, not the other way, take it all and put it into marketing?

Mr. ALVES. No, I think that Amtrak has made the right decision. It should be part of operations.

Mr. SHUSTER. OK

Mr. ALVES. But I would like to comment more broadly. I think it is important to note that these actions link directly to the initiatives that Mr. Boardman was talking about in his testimony, and that these-that the direction that the board of directors and Mr. Boardman are taking to make Amtrak operate as a profitable business, or as a for-profit business—the company may never actually make a profit, but it has the opportunity to operate much more efficiently and effectively than it has in the past.

And I think that these actions are completely consistent with the direction that the board and Mr. Boardman are taking. And I would cite the existence of a strategic plan, the reorganization along business lines to improve accountability, and efforts to implement Lean Six Sigma to improve processes, make things more efficient and effective.

And I would like to comment that if that effort is sustained and implemented effectively, that it has the potential over a couple of years to really make a difference in Amtrak's operations. Mr. SHUSTER. OK. Thank you.

And, with that, I yield to Ms. Brown for a second round of questions.

Ms. BROWN. You know, for me, it is just very clear that the Republicans have one agenda, and that is to privatize Amtrak, whether it is Amtrak or the food-

Mr. SHUSTER. Amtrak is a private company. It is supposed to be. Ms. BROWN. "Privatize" meaning take Amtrak and give it to, I guess, somebody's friend and you work at a minimum wage job and

you don't have any benefits. That is what it seems to me. You know, particularly these jobs, 1,200, they want to take them and cut it in half, Mr. Bateman, and I guess privatize them out. But, you know, it is just amazing—in their bill that they brought before the committee, what they suggested was that we are going to privatize it out, but yet any subsidies that we are given now, that we are going to give it to the company that get it, even though the employees will get low wage, minimum wage. I don't quite understand that rationale, but it is the rationale that the Republicans have. You can fool some of the people some of the time, but you can't fool all of the people all of the time.

Mr. Bateman, if I cut your salary in half, how would you manage

Mr. BATEMAN. Well, actually, it would be very difficult to take care of all I have to take care of with my salary cut in half.

I think one point we keep forgetting is that, you know, historically, it has been very difficult for rail service, you know, to operate a profit overall, including the food service part of it. And the expec-tation, to me, is just totally unreasonable. The goal is always to improve and do better. But if rail service was lucrative and was not a logistical nightmare, we wouldn't be here. We can call Chessie or whoever, some freight company, and say, "Well, come on, take it back, guys." And that is not going to happen. I mean, can we do better? Yes. Are we doing better? Yes. Are we going to continue to do better? Yes. But for Amtrak or any other food service on the train to ever be at 100 percent, it is impossible.

One issue they don't mention is that, every time the train breaks down en route or there is a service delay, we have to give away food. Restaurants don't give away food like that. Like, when was it, January—excuse me, June 29th, during the storm, the hurricane that came through the east coast, we had several trains broken down all over the system, and we gave complimentary food service to everybody on the train. So this whole expectation that we should operate as a restaurant or that we are a restaurant is absurd to me. We are not a restaurant.

Ms. BROWN. Yes, sir.

Ms. Quinn, you were rudely interrupted and were not able to tell me about how you operate as far as cash is concerned. You know, this is America, and we do use cash. I know all of my Republican colleagues have credit cards or some kind of gift cards or something. Would you tell me about cash? Do you all use good old-fashioned money?

Ms. QUINN. We accept both kinds of payment. We accept cash, and we accept credit cards. Obviously, there is a lot more control associated with a cashless system, but that doesn't mean we exclude cash.

And, also, going forward, with the point-of-sale system, there is new technology where people can just kind of wave their card and it just kind of goes right into the system. So as technology improves and it can be adapted, I think that is something that we all look at, because it makes it a lot easier for all of us.

Ms. BROWN. If you have those technology systems, I just started using the ATM card, you know, because I didn't trust it, but now I am more inclined to do it, but I still like cash better.

Mr. Boardman, would you please expound upon cash? Seems like Republicans, I know they like it but they have credit cards and they have different means of operations that the average person may not have.

Mr. BOARDMAN. Now, Ms. Brown, Democrats have credit cards, too

Ms. BROWN. Democrats have credit cards too?

Mr. BOARDMAN. Yes.

Ms. BROWN. Yes, some of them do. Some of them don't. Mr. BOARDMAN. Yes. One of the things from my perspective is that it is going to be very difficult, and I think everybody knows that, I think Ted knows that as well, when there are a whole lot of people on our trains that aren't necessarily going to have a credit card. They may be young, they may be poor, as Mr. Bateman says. They may not want to use credit cards, such as myself and maybe a few other folks.

Ms. BROWN. Me.

Mr. BOARDMAN. And so the reality of denying somebody the use of cash to make a purchase is a problem. And technology surprisingly fails once in a while. And the ability for our lead service agents and others to actually continue to do business ends when that technology fails, in terms of payment, unless you do have cash. So I think in the end there probably will be a need for cash in our operation because of the way it operates.

Ms. BROWN. Thank you.

Mr. SHUSTER. [presiding.] The gentlelady's time has expired. I recognize Mrs. Schmidt.

Mrs. SCHMIDT. Thank you. First off, I want to correct a few things. Number one, it was in Amtrak's briefing that they wanted to go to a cashless program. So it is not a Republican position, it is an Amtrak position. Secondly, in what the average cost is for your employee, by your own records, sir, the average fully loaded compensation for food and beverage employees, including all of the benefits, is \$94,000 a year, which I think is a decent amount of money to make.

Mr. Boardman, in addition to losing \$85 million in 2011, Amtrak riders would have to pay a lot more for—they had to pay a lot for the food. I mean \$9.50 for this hamburger I think is too much.

I would argue that the riders do pay too much for the quality that they are getting, but I am curious if you looked at charging more to at least cover your costs, and let us say and get rid of the \$94,000 a year, but you have got to cover your costs. So if it costs \$16 for the hamburger to break even, are you willing to charge \$16 for the hamburger to break even?

Mr. BOARDMAN. It would have to be a hell of a hamburger.

Mrs. SCHMIDT. Well, you know, I think it is a heck of a hamburger at \$9.50.

Mr. BOARDMAN. I don't think so. I mean, I don't think that is realistic.

Mrs. SCHMIDT. Well, sir, I am trying to get you to be profitable and there are business models out there that I believe can get you to that, and yet I am feeling a resistance here from you to even look at such business models such as a cashless program, which your briefing book suggests that would take away the waste, fraud, and abuse, would take away the accounting, manual accounting, would allow you to inventory in a much better mode so that you know how many hamburgers you have to produce because the razor thin cost of profit in food service is a very delicate matter.

Again, I said a couple of hours ago my daughter married into a family that has a lot of restaurants, and my son-in-law's job is to make sure that they make money. So I get the profitability, and it seems exclusive of what they pay for their servers, this is what it costs for the food.

And so there are ways to make you profitable, but you have to continue to look at those razor thin margins and make sure that you are profitable. But I am not seeing that.

I think on short trips vending machines may be an opportunity for you. To lose, to cost \$3.40 to serve this Coke, I think is appalling when, you know, I just spent 85 cents for this Coke in a vending machine downstairs. When I go to the gas station in Cincinnati, the BP on Fipe Road, it is 85 cents. If I go to the one out in Peebles, it is 55 cents for the same one because they have different costs and different profits associated with it. It costs you \$3.40 for that Coke. That is inexcusable. I am just trying to help you here.

So my question to you is would you be willing to charge what it costs for the delivery of the service.

Mr. BOARDMAN. No. I didn't think that you were being serious with charging \$16.50 for a hamburger. And so I probably should have treated it differently. I didn't realize you were serious.

Mrs. SCHMIDT. I am trying to get you to be profitable, sir. Mr. BOARDMAN. I understand. So what I would say to you is businesswise, the elasticity of the demand for that kind of a product would drop our sales so significantly that we would lose a lot more money to charge that kind of money for a hamburger on the train. It would only become inelastic if people were actually starving and they couldn't actually do anything other than be robbed at \$16.50. So using that example, I guess I didn't treat it seriously, and I apologize for that.

Mrs. SCHMIDT. I am trying to figure out a way for you to pay your employees and be profitable. What suggestions can you help me deliver that? Because in 2015 to only be at 70 percent is not enough. Our Nation is in a serious financial crisis. We have to pick up the pennies off the floor. We can't overlook them anymore. And losing \$85 million in 2011 is inexcusable. How are we going to stop the bleed, I ask you?

Mr. BOARDMAN. So I know that you are looking for details, Congresswoman.

Mrs. SCHMIDT. I am looking for details, yes.

Mr. BOARDMAN. I will respond in writing for that question. Mrs. SCHMIDT. Thank you. Mr. SHUSTER. Well, thank you all for being here today. I appreciate it greatly.

Again, I just want to point out again it is not my intent to eliminate jobs. And in fact, the last 20 years, Amtrak has gone from 29,000 employees to 19,000 or thereabouts. It is 10,000 people that aren't there. If we don't continue to make significant improvements on Amtrak, that is going to continue to happen. And that is not going to be because I am up here trying to figure out ways to reform the system, to reform a company that is private already. Again, my colleague keeps saying that it was chartered as a private company. It is supposed to be, and it hasn't been able to do that.

And I notice some of our friends from labor from the freight rails in the room today. We saw what we did when we took that freight rail system, which was failing, it was in disrepair, there were railroad companies had gone bankrupt. And now after 30 years of significant reforms to the system, now they have a very profitable, self-sustaining, doesn't require Government subsidies to operate the freight rails in this company. Now, it is the envy of the world. Now, I am not trying to say, and I have said this in the beginning and I think I have been pretty consistent in my 10, 11 years here in Congress, I don't know that the passenger rail can ever make a profit. But I think we have got to be moving closer to that break even. And then we will talk about above the rail, I think they can make a profit. But when you take the whole system in, it is going to take the Government having some involvement in it.

But we can't continue to sit here and look at the system we have in place and not see that there needs to be significant reforms. And I know my colleagues here, they for years have tried to move us towards the system that they have in Europe which is democratic socialism, and now the Europeans are trying to back away from that system. And in fact, I believe it is in 2014 all European passenger rail systems have to have competition on the lines.

Now, I am not an expert. I think we are going to be holding a hearing about it, bringing our European friends over to ask them how does that work, how is that going to be effective. And, again, they have a different system than we do. But, you know, we can listen and learn from them.

But, again, to just sit here and to continue to say we are going to just keep on going the way we are, that everybody needs to be at the table, management is here today, labor is here today, Congress is here. We have got to sit down and say how are we going to do this. And is it going to cause some pain? Sure, it is. Sure, it is going to cause some pain. But if we continue to go this way, the pain has already been there, 10,000 jobs, 10,000 jobs gone.

You can sit here and my colleague can accuse me of wanting to get rid of all of these jobs, but 10,000 are already gone, and I believe it is going to continue to go down unless we do something to seriously reform the system, to take the shackles off of management to be able to do the things they need to do, labor to do the things they need to do. And this debate is going to continue to go on until we really reform it.

I believe we need passenger rail in this country. I think one of the big reasons for passenger rail's the increase over the last 10 years is because of 9/11 because look at what we do to people in the airports now. I don't fly in an airport or a plane to New York City. I get on a train. I don't even drive to Philadelphia when I go to Philadelphia. I go to Harrisburg. They have upgraded the system, the Keystone system, the Keystone line, and that is the way I go to Philadelphia so I don't have to deal with the headaches of traffic.

Passenger rail is something that we need in this country. We can sit here and we can continue to debate why there is a decline in the passenger rail in this country. It was because of the interstate highway system, it was because of the aviations, when the aviation came about. That is why people got off the trains. They got into their cars and they got into airplanes. But now we look at the congestion that is going to occur, it is occurring in this country, especially in the Northeast Corridor but even around the country. We are in about 25 or 26 years go from 300 million people, 310 or something like that now, to 400 million people, and we need to address the situation, especially in our most congested corridors to make sure there is passenger rail to get people, and we are not going to be able to add another lane to 95 going up the Northeast Corridor. It is impossible to do, I think.

So I am committed to working with labor, with management, with my colleagues across the aisle, but I am not willing to work in the same old model. We have got to sit down. We have got to figure out what we need to do to make sure we have a vibrant, break-even passenger, or close to break-even passenger rail system in this country.

I appreciate everybody coming here today.

Ms. BROWN. Excuse me. Do I get a closing? Mr. SHUSTER. No, you don't. I close because I am the chairman. That is the way it works. Ms. BROWN. Yes. We need 218 to change it.

Mr. SHUSTER. That is exactly right.

But I appreciate, Mr. Boardman, you are going to get an answer in writing for Mrs. Schmidt. Mr. Alves, Ms. Quinn, and Mr. Bateman, thank you all for being here today. I appreciate it.

And the committee is adjourned.

[Whereupon, at 12:40 p.m., the committee was adjourned.]

Statement of Congressman Elijah E. Cummings Hearing: "A Review of Amtrak Operations, Part I: Mismanagement of Food and Beverage Services" August 2, 2012

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I thank the Chairman and Ranking Member for calling today's hearing to examine food and beverage service on Amtrak.

I am heartened by President Boardman's testimony that "Since 1981, Congress has required us to ensure that the revenues attributable to food and beverage services exceed the costs of providing it, and today we are within the limits set by that statute."

Amtrak has taken meaningful steps to increase cost recovery – and I hope that Amtrak will aggressively pursue its goal of recovering 70% of food and beverage costs by 2015.

That said, I am deeply troubled by the Inspector General's findings that weak internal controls have allowed extensive losses due to waste, fraud and abuse. I believe that those who have engaged in waste or fraud should be held fully accountable.

That said, as someone who enjoys riding Amtrak, I agree that the provision of food and beverage services on Amtrak is critical to creating the passenger experience that attracts riders to Amtrak.

I believe that rather than seeking to privatize food and beverage service or to reduce it to a very limited selection of items, we should support Amtrak's efforts to improve the service, to strengthen internal controls to prevent waste and abuse, and to improve cost recovery.

Opportunities exist to accomplish all of these objectives, and I hope that today's hearing will enable us to identify the steps we can take to help Amtrak maximize these opportunities.

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Thank you and I yield back.####

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STATEMENT OF THE HONORABLE NICK J. RAHALL, II COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HEARING ON "A REVIEW OF AMTRAK OPERATIONS, PART I: MISMANAGEMENT OF FOOD AND BEVERAGE SERVICES" AUGUST 2, 2012

As those fortunate enough to have ridden the great passenger trains of America at their peak recall, no part of the rail experience survives so vividly in the memory of rail passengers as that of a luxurious meal in the dining car: crisp linen, polished silver, attentive service, the passing panorama of American life - all accompanied by great food.

Unfortunately, over the years, award-winning Fillet of Sole was replaced with microwave-able cheeseburgers, leading a former Amtrak CEO to lament to Congress in 1991: "In trying to make food service cheap, we made some of it inedible."

To some extent, these changes were a business response to changing transportation economics and public preferences. Railroads, like airlines, must consider the effect of food and beverage costs on the bottom line.

They must decide the effects of particular levels of food service on passenger revenue. High quality service may attract additional passengers while a decline in quality may cause a loss of passenger revenue. Striking the proper balance is a difficult business decision.

Unfortunately, Congress has made it more difficult at times for Amtrak to make the best possible decisions.

One minute we tell Amtrak to provide food and beverage service on a break-even basis; the next we let it use up to 10 percent of its revenue to cover food and beverage losses; then we pressure it to contract-out its catering service, which Amtrak did.

But the loss of those jobs wasn't enough; we ended up dragging Amtrak back before this Committee in 2005 to complain that the contract didn't realize enough savings.

Now the Chairman wants to highlight the flawed provision in H.R. 7 that would require the Federal Railroad Administration to contract-out ALL Amtrak food and beverage service to the lowest bidder. The term "lowest bidder," by the way, is code for "lowest wage, lowest benefits".

As if that was not bad enough, the Republicans then propose giving that bidder the Federal funds that would have gone to Amtrak for food and beverage losses, saving zero taxpayer dollars but resulting in the immediate elimination of 1,200 Amtrak jobs, not to mention the jobs of thousands of workers that Amtrak relies upon for obtaining their food supplies.

Mr. Chairman, I have had some good tasting Whoppers in my time, but this is a whopper of a bad idea if I have ever heard one: trading good-paying jobs with benefits for cheaper cheeseburgers.

The fact is Amtrak's food and beverage expenses are not a major cause of Amtrak's financial difficulties. They represent about 5 percent of the railroad's total expenditures. I do believe there are some reasonable things Amtrak can and should do to cut costs, but cutting jobs in this economy should not even be under consideration. That is exactly what your proposal would do.

Thank you. I look forward to hearing from our witnesses.

TESTIMONY

OF

JOSEPH H. BOARDMAN PRESIDENT AND CHIEF EXECUTIVE OFFICER AMTRAK 60 MASSACHUSETTS AVENUE, NE WASHINGTON, DC 20002 (202) 906-3960

BEFORE THE

HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE

OVERSIGHT HEARING ON "A REVIEW OF AMTRAK OPERATIONS, PART I: MISMANAGEMENT OF FOOD & BEVERAGE SERVICES"

THURSDAY, AUGUST 2, 2012 10:00 A.M. 2167 RAYBURN HOUSE OFFICE BUILDING

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Chairman Mica, Ranking Member Rahall, and members of the Committee, good morning. I appreciate the opportunity to come before you this morning to discuss our company's performance. Amtrak has been working hard to improve service, to realize our inherent opportunities for growth, and to manage our company like a business. Our Key Performance Indicators show improvement. Amtrak's ridership has grown by 44% since 2000, reaching an all-time record of 30.2 million in FY2011. We've set ridership records in 8 of the last 9 years. We are also on track to complete the year with one of the lowest levels of operating subsidy Amtrak has ever required, including food and beverage service, in our forty-one years of service.

Why have these changes occurred? In large part, the management of Amtrak has made it our mission to change the way we think and the way we act, and to begin the process of changing Amtrak to run the company as a business. Healthy companies look continuously for opportunities to improve the service they deliver. At Amtrak, our strategic plan sets out a roadmap for improvement. Our focus is not just on cutting costs, but on improving overall financial performance and focusing on the bottom line. Our goal has been to transform Amtrak so that we carry out our Federal mandate to operate an efficient business as well as deliver an exceptional customer service. The men and women of Amtrak take our responsibilities as stewards of public funds seriously, and their efforts are directed to deliver the best possible value for each dollar of public investment.

While today's discussion is about food and beverage service, we are focused on continuous improvement for all aspects of our business. Food service for passengers is an essential component of any transportation service that operates scheduled trips that extend for more than a very few hours. Since 1981, Congress has required us to ensure that the revenues attributable to food and beverage services exceed the costs of providing it, and today we are

within the limits set by that statute. Congressional hearings and studies by the Government Accountability Office and the Inspector Generals of USDOT and Amtrak have detailed the complexity of our food and beverage service, and eight presidents of Amtrak have devoted considerable effort to the challenge of providing these services at the lowest possible cost to the public on a system spread across 46 states, and great progress has resulted.

Our ongoing programs have certainly delivered measureable financial efficiencies. In 2006, our food and beverage services recovered 49% of their costs. In 2011, these services recovered 59% of their costs – a 20% improvement. Part of what attracts people to Amtrak services is the availability of food, and the manner in which it is offered. If we were to eliminate food and beverage services, we would actually lose more money, because of the loss in associated ticket revenue¹. In spite of this fact, we are still looking for ways to improve our cost recovery. It took a lot of work to get to where we are today, and we're planning on making more improvements in the coming years. Our goal is to recover 70% of food and beverage costs by 2015.

These are some of the specific actions we have taken:

- One, that we outsourced commissary operations, and used a competitive procurement process to get better services at a lower cost.
- Two, we introduced onboard credit card processing, simplified dining car services to reduce costs and introduced an at-seat cart service on several of our trains
- Three, automation technology has been a big help. We are in the process of

introducing an onboard "point of sale" system to manage food and beverage sales

¹ See House Report No. 97-783 (August 19, 1982), pp. 58-59, which stated that, for purposes of satisfying the food service cost recovery requirement now codified at 49 USC 24305(c), up to 10% of ticket revenues could be attributed to food and beverage service because "substantial revenues would be lost if this service were eliminated." Food and beverage costs not covered by food sales are equivalent to about 5% of Amtrak's current ticket revenues.

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and track inventories. The automated management systems such as "Point of Sale" (POS) and Warehouse Inventory Management Systems (WIMS) that we are implementing for our food and beverage service will literally transform the way we do business. They will automate inventory management both at the commissary and aboard the train, and will eliminate time-consuming paper-intensive accountability processes.

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When fully implemented, our new management systems will allow us to further optimize food sales and maximize revenue, in much the same way modern revenue management allowed us to improve our ticket yields. This is the kind of improvement we need – careful investment that leverages the skills of our on-board service employees so they can focus on selling, rather than filling out forms. These employees also have an important safety role to play, and are trained in basic first aid, emergency response and evacuation procedures. Our Food and Beverage employees are part of a team of transportation professionals.

While these are examples of things we're doing today to improve our efficiency and cost recovery, we are also realigning our company to better respond to our customers' needs. We established a set of metrics and performance goals, and we will establish clear lines of responsibility for financial performance at every level of the organization and empower managers to envision and implement the next round of improvements. A principal goal is to develop a structure and a culture that continually generate process improvements that will build on each other.

We have a plan to do this – and it is closely integrated with ongoing efforts to improve our company's financial performance. The strategic plan that the company published late last year will provide the foundation to realign business processes and build a corporate structure

focused on financial efficiency, accountability and improved customer service delivery. To ensure the proper focus, we are now creating business lines that will be clearly accountable for financial performance and service delivery, but I want to stress that today's food and beverage programs are already closely integrated with our financial and service improvement goals. For example, in late 2010, we introduced a program of freshly prepared foods on *Acela Express*. Based on that success, we expanded that program to all trains in the Northeast Corridor in 2011. By 2012, we changed our inventory offering to better reflect consumer tastes, and revenues from onboard sales of these items doubled. This improvement was a product of our highly effective customer experience research program, newly developed business intelligence tools, and our contract with Aramark, which provides our commissary service. Future efforts will be carefully coordinated with existing and ongoing programs to ensure that we get the full benefit – which in this case exceeded a million dollars.

Let me close where I began. In FY 2011, food and beverage services accounted for less than eight percent of our total expenses for the year, and covered most of those costs with revenues from sales. In an organization that generated more than \$2.7 billion in annual revenue, and recovered more than 85% of its costs, this is a very small portion of a very large business – and one that has grown more efficient in recent years as demand for our services continues to grow. We have made significant improvements that have allowed us to continue operations while reducing our operating subsidy need by 17% over the previous fiscal year. But we are not satisfied. We will continue to refine our operation, and I am confident the company and the organization we're building will deliver more improvements in the years to come.

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Mr. Joseph Boardman, President and CEO, National Passenger Railroad Corporation (Amtrak)

1. In his testimony, the Inspector General indicated he is looking into (1) alternative means of service for Food and Beverage and (2) options to contract out the service. What concerns does Amtrak have with having vending machines and food carts or contracting out this service? Are there any particular concerns that you would have with respect to the long distance trains with these sorts of approaches?

RESPONSE: Vending machines could be a solution for low volume routes or for services during non-peak meal periods. The menu profile of a vending program would be limited to snacks, cold beverages and possibly hot beverages. Our concerns would be the ability to retro-fit space on a train for a vending bank, as well as servicing and security. A typical vending bank with three standard machines would require an 8° x 15' block of space. All of the equipment would need rear access for service and require electrical power and water hook-up for hot beverages. The vending machines would need to be installed and secured in such a manner to comply with all FRA regulations. Typically vending machines are restocked or repaired during non-peak periods. If there was not dedicated train equipment, it would be difficult to schedule servicing. The servicing of equipment would need to be performed while the train equipment was not moving or while it was in the yard overnight. This would be difficult to coordinate with the managed service provider. If the train equipment was held overnight in the yard, we would be concerned with security and the possibility of vending equipment being vandalized.

Food carts would not be a viable option. Food carts would only provide a limited menu (no hot beverages) and would need to be resupplied at some point. The logistics of managing and supporting this service delivery would be problematic. In addition, food carts are not able to operate safely on older style Amfleet equipment due to the un-even vestibules between rail cars.

Contracting and/or outsourcing these services would be an option. This would require a defined scope of work with service guarantees and complex contract administration and compliance. Again, the problems would be schedule changes and not having dedicated train equipment. Managing these realities would make it difficult for the managed service provider.

2. Chairman Mica stated: "It costs passengers \$9.50 to buy a cheeseburger on Amtrak, but the cost to taxpayers is \$16.15. Riders pay \$2.00 for a Pepsi, but each of these sodas costs the U.S. Treasury \$3.40." In addition, he said that "[t]he rail service's food and beverage operation has 1,234 employees, and taking into account Amtrak's \$84.5 million loss last year, that's \$68,476 per employee..." Are these costs and figures accurate? If not, please explain why.

RESPONSE: These numbers were obtained by taking the operating ratio for Food and Beverage service and multiplying it by the advertised price of the menu item; i.e., the hamburger (which sells for \$9.50). The problem with this method is that the operating ratio is a system wide average, while the hamburger in question is available only on dining cars, which operate on fewer than 10% of our daily trains (the basic hamburger, which is available on most Amtrak trains with food service, sells for \$6.00). This is a very rough method to use when making such a specific claim about the costs associated with a particular product. As far as the sales price goes, the \$9.50 burger is a premium Angus beef product that includes garnish, chips and a soft drink; it is also served at your table. This menu item is comparably priced to a sit-down casual restaurant. The actual raw product cost for the hamburger with a soft drink sold on our dining cars is \$2.63.

As of the date of the hearing Amtrak employed 1,234 on-board service employees that are directly involved in providing food service on-board trains. The loss incurred during FY11 was \$84.5M.

3. In your testimony you referenced the strategic plan as the "roadmap for improvement". For the record can you provide a copy of the "plan" and summarize the goals of it?

> RESPONSE: Attached is a copy of Amtrak's strategic plan. It can also be found on Amtrak's website. Our strategy establishes five goals designed to build upon our recent corporate improvements to make the bottom line the focus of Amtrak's attention by ensuring that we provide the highest value to our customers, be they travelers that buy tickets, commercial partners or the Federal and State Governments that provide financial support to our services.

These goals are:

- Safety and Security: Become North America's safest, most secure railroad by creating a collaborative team-oriented workplace culture that minimizes risks and maximizes passenger and employee safety.
- **Customer Focus:** Advance customer service quality by responding to the wants, needs, and expectations of our customers in order to improve their experience and maximize passenger and partner satisfaction.
- Mobility and Connectivity: Improve national mobility and connectivity by growing Amtrak's business through new partnerships, routes and frequencies to increase ridership system-wide.
- Environment and Energy: Contribute to the nation's environmental health by attracting automobile and air travelers to trains, while improving Amtrak's efficiency and reducing transportation-related carbon emissions and fossil fuel consumption.
- Financial and Organizational Excellence: Attain a standard of organizational excellence by aligning our products, services, processes and culture with stakeholder expectations to improve financial performance and overall business results.

4. During Ms. Quinn's testimony she referenced the term "state supported and the 209 process". Of your state supported services you operate how many do you provide Food and Beverage services for? Additionally, how is Amtrak working with its "state partners" to align your Food and Beverage services with their expectations?

RESPONSE: Amtrak presently operates 21 routes that are supported in part by financial contributions by States or Agencies. Under Section 209 of the Passenger Rail Investment and Improvement Act of 2008, beginning in Fiscal Year 2014 all short-distance trains (those on routes of 750 miles or less) will receive State financial support. This will increase the number of State supported routes to 27, assuming all affected States decide to support existing routes. States are responsible for the net cost of Food and Beverage service on the trains they support financially. Food and Beverage service on these trains does not receive any funding from Amtrak's operating grant. For these services, some States elect to play the lead role in designing the Food and Beverage service, and some States rely on Amtrak's recommendations. The States are also free to contract out this service. Of the current State-supported trains, 18 contract with Amtrak to provide Food and Beverage service; two (Northern New England Passenger Rail Authority (Maine) and the North Carolina DOT) contract out to other entities, and one State (Pennsylvania for the Keystone service) has decided that no Food and Beverage service is to be provided for that train.

5. You referenced a "continuous improvement for all aspects" for the entire company. How can this statement be applied to your Food and Beverage service? Please give examples of specific improvements or methodologies you employ to reach this goal.

RESPONSE: One example would be using our improved data mining capability (CSPMI) that is enabling us to eliminate poor performing product placements and maximize our provisioning strategy for best-selling products. The success of our fresh food program in the Northeast Corridor can be attributed to this type of analysis where revenue and profit contribution significantly improved. We are also utilizing resources from our Managed Services Provider in continually examining our product mix and supply chain to optimize pricing and distribution. A recent example of this activity was the consolidation of our entrée beef category to one steak type and competitively bidding the business through an RFP process on the open market. This initiative resulted in savings in excess of approximately \$800,000 annually.

6. During the hearing, many of my colleagues took issue with the cost of a hamburger and referenced cost associated with it. Please explain the difference between levels of service associated with a dining car vs. café as it relates to the cost of a "hamburger?

RESPONSE: Service in dining cars is very similar to a sit-down casual restaurant. Passengers will make a reservation for meal service in our dining cars. Orders

from the menu are taken tableside by an On-Board Lead Service Attendant (LSA), similar to a waiter in a restaurant setting. All orders are prepared by our On-Board Chefs. After the meals are prepared, they are served to the passenger by the LSA. There is no self-service of any menu items. Service in café cars is very similar to quick service retail operations. The menu items are designed for grab-ngo service. Passengers place their orders at a counter and the LSA provides minimal preparation (microwaving products) and records the sale on our point-of-sale system. Café cars do not have a Chef.

Can you please provide to the committee actual copies of the menus available on your long distance service?

RESPONSE: We currently have twenty-five (25) separate long distance train menus. Attached, please find a compact disk with PDFs of these menus.

8. You referenced the term "careful investment that leverages the skills of our on-board service employees so they can focus on selling, rather than filling out forms". What are some of the investments you have underway to leverage their skills?

RESPONSE: We have made significant investments in our point-of-sale (POS) systems and warehouse inventory management systems (WIMS) to improve employee productivity and our data mining capabilities. These systems are reducing the cycle-time sales accounting and providing "real time" data to manage the business more effectively.

9. Can you explain why you believe Amtrak needs to offer Food and Beverage service and how would your bottom line be affected if you did not?

RESPONSE: Food and Beverage (F&B) is an integral part of our product offering on long distance trains. It is a pillar of the Brand Architecture and customer experience. Intercity passenger service without food service is both problematic (due to travel times involved) and adversely affects ticket revenues. Also, Amtrak is mandated by PRIIA 207 to improve customer satisfaction scores including food service on long distance trains.

Market research shows that Amtrak customers attach significant value to the availability of food service on board, which fundamentally differentiates inter-city passenger rail from commuter rail "transit-type" service.

While the value of F&B service is partially captured in the direct revenue from on-board customer purchases, it is also a component of the higher ticket prices that inter-city rail service commands in comparison to commuter rail.

Our studies indicate that the elimination of the dining car service alone would result in a revenue reduction of \$93 million in ticket sales.

10. This committee has long been focused on the "Buy America Law" as being a tool to strengthen our domestic businesses. With this in mind can you provide an overview and examples of the businesses and suppliers your Food and Beverage operation utilizes to meet the goal of the law?

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RESPONSE: ARAMARK is our current managed service provider for warehouse management. As part of its contract agreement, it procures all Food and Beverage products on behalf of Amtrak. All product sourcing requests for proposal (RFP) and requests for quote (RFQ) include "Buy American Act Certification" as a required submittal. As an example, we recently changed our supplier of disposable product from a manufacturer in China to a U.S. based company.

1. Since Amtrak was created in 1971, has there been a single year or a time period when the Food and Beverage Service (F&B) made a profit?

RESPONSE: During my tenure, which began circa 2001, we've only measured F&B results since FY2006. I do not have copies of, and have never seen, a F&B Profit and Loss Statement prior to FY2006 other than Rich Slattery's reference to a page in the Grant Request from the early 1980s that had F&B and ticket revenue included. I think it safe to say that, excluding the addition of up to 10% of ticket revenue to the F&B results, F&B has never turned a profit, even on a direct (labor and commissary) basis. But I only have recent experience to back up that claim.

2. Are any of your Food and Beverage services routes currently profitable?

RESPONSE: There are 18 State supported routes that break even due to the addition of State Supported revenues, but none that show a profit.

3. How many of the 237 employees that were furloughed as a result of the simplified dining initiative were re-instated?

RESPONSE: 204 employees were furloughed as a result of the Simplified Dining Initiative in 2006. Many of these employees have returned to service due to service adjustments on the *Capitol Limited*, *California Zephyr*, and *Coast Starlight* as well as a few smaller initiatives.

4. What steps has Amtrak taken to decrease labor costs?

RESPONSE: We continue to work with the unions of our agreement employees on a variety of labor refinements and improvements to enhance training, cost savings and bargaining.

5. Does Amtrak have a plan to reduce the cost of labor?

RESPONSE: We have a number of initiatives underway that are referenced in our Strategic Plan, whose ultimate goal is to make Amtrak's bottom line the center of our attention. With this said, I would offer a copy of our Strategic Plan as a reference guide and share with you the focus of the plan since it is our starting point to carrying out our mission in the most financially effective way possible. To improve the bottom line, we identified the following goals:

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- 1. Safety and Security;
- 2. Customer Focus;
- 3. Mobility and Connectivity:
- 4. Environment and Energy; and
- 5. Financial and organizational excellence.

These five goals are the tools we'll use to manage our labor cost by actively engaging our unions and other key stakeholders in developing a human capital management plan. Through better communication with our employees, we can focus on additional training and education that will give them the tools to effectively respond to the wants, needs and expectations of our customers.

6. Is Amtrak violating the law by not breaking even with its Food and Beverage service (F&B)?

RESPONSE: Under our interpretation of existing legislation, we do not believe that Amtrak is violating the law. A review of the legislation is included below.

49 USC 24305(c)(4), enacted in 1981, states that Amtrak can provide F&B service on trains only if "revenues" from those services at least equal the costs. For purposes of determining Amtrak's compliance with this requirement, Amtrak is permitted under Appropriations Committee report language from the same Congress to attribute up to 10% of its ticket revenues as revenues from F&B service, since Amtrak would sell a lot fewer tickets if no F&B service was available on its trains. The 1982 House Appropriations report addressing this issue stated:

"The Committee agrees that on-board Food and Beverage service is an integral and indispensable part of intercity rail passenger service, and it is clear that substantial revenues would be lost if this service were eliminated. The percentage of transportation revenues which might be attributed to the Food and Beverage account should be less than 10 percent."

The portion of Amtrak's F&B costs not covered by what passengers pay for food and beverages is considerably less than 10% of Amtrak's ticket revenues. It is also worth noting that the Senate Report for the 1983 DOT Appropriations bill (second attachment) also urged Amtrak to attribute a portion of ticket revenues to F&B service when measuring compliance with the statutory break-even requirement, although it did not mention a specific percentage as in the House report (10%). Amtrak has historically defined, for purposes of Title 49 USC Section 24305, that F&B costs include OBS labor and commissary/support. Additionally, Amtrak has included up to 10% of Ticket Revenue per the 1982 Appropriations language.

7. Has the Federal Railroad Administration issued a legal opinion addressing compliance or non-compliance with the break-even statute?

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RESPONSE: Not that I am aware of at this time.



Before the Committee on Transportation and Infrastructure, House of Representatives

Food and Beverage Service: Opportunities Exist to Build on Program Improvement Initiatives

Statement of Ted Alves Inspector General National Railroad Passenger Corporation

> Thursday, August 2, 2012 10:00 a.m. EDT

Not Releasable until 10 a.m. Thursday, August 2, 2012

OIG-T-2012-015



Good Morning Chairman Mica, Ranking Member Rahall, and Members of the Committee:

Thank you for the opportunity to discuss our work on Amtrak's food and beverage service. Losses on food and beverage service have been a long-standing issue at Amtrak. In Fiscal Year (FY) 2011, Amtrak reported a direct operating loss of almost \$85 million. Long-distance routes accounted for about \$74 million (87 percent) of these losses.

My testimony today will discuss three areas:

- actions Amtrak has underway to address our prior recommendations to improve internal controls that have left food and beverage revenues and inventories vulnerable to fraud, waste, and abuse;
- (2) preliminary observations from our ongoing food and beverage service audit that indicate that program improvement initiatives can be enhanced by consolidating the fragmented management structure, which is causing weaknesses in program accountability and planning; and
- (3) best business practices work we plan to complete over the next 6 months to identify ways to help mitigate food and beverage operating losses.

AMTRAK ACTIONS TO ADDRESS INTERNAL CONTROL WEAKNESSES THAT CREATE VULNERABILITY TO FRAUD, WASTE AND ABUSE

Amtrak agreed with—and has taken actions to—address our June 2011 recommendations¹ to improve internal controls that have left on-board food and beverage revenues and inventories vulnerable to fraud, waste, and abuse.

Prior to our June 2011 report, Amtrak officials had begun actions to improve internal controls over on-board food and beverage service. For example, Amtrak had established a centralized system to help automate the collection of revenue shortages and had introduced on-board electronic credit card technology. Amtrak is also deploying an on-board point-of-sale system² and a warehouse inventory management system³ that should automate processes, improve data timeliness and reliability, reduce paperwork and eliminate error-prone processes.

Our report last year documented long-standing internal control weaknesses and gaps over on-board food and beverage service. We estimated that \$4 million to \$7 million of Amtrak's on-board food and beverage sales could be at risk of theft. Between March 2003 and January 2010, we identified 903 theft, dishonesty, and policy/procedure violations by 306 lead service attendants, and issued 447 administrative referrals to Amtrak managers. The recurring schemes described in the report involve the

¹ Food and Beverage Service: Further Actions Needed to Address Revenue Losses Due to Control Weaknesses and Gaps (Report No. E-11-03, June 23, 2011).

² Point-of-sale is an automated system that tracks food and beverage sales and inventory on trains, in real time.

³ The warehouse inventory management system is an automated system that was deployed in all 11 Amtrak commissaries in March 2011.

falsification of documents to conceal missing food and beverage revenues and inventories. Specifically:

- Inflating first-class meal checks. This scheme involves adding items to first-class
 passengers' meal checks—meals are provided free to first-class passengers—and
 selling these items to other passengers for cash.
- *Selling non-Amtrak items.* This scheme involves smuggling non-Amtrak items on board trains and selling them to passengers.
- *Shorting cash register sales.* This scheme involves selling items for their retail value and ringing up smaller amounts, with Amtrak employees pocketing the difference.
- Stealing inventory. This scheme involves directly taking food (rice, oil, eggs, and potatoes) and other items such as complimentary beverages, paper products, and open wine bottles.
- *Providing items at no cost.* This scheme involves providing customers with complimentary items and providing free drink refills without authorization.

Compared with industry best practices, Amtrak lacked

- a *loss-prevention unit* with dedicated staff to manage loss; investigate cash and inventory losses; and provide a visible deterrent to fraud, waste, and abuse;
- a management-sponsored fraud-awareness program for on-board service employees;
- random, internal management searches of lead service attendants and other service employees to detect possible unauthorized items;

- random, internal management reviews of lead service attendants' inventories of deliveries, en route transfers, or end-of-trip stocks to minimize fraud, waste, and abuse;
- *random, internal management searches* of lead service attendants and other service employees when departing the train to detect possible stolen items; and
- cashless sales to remove the opportunity to steal cash.

We recommended that Amtrak (1) establish a pilot project of cashless food and beverage sales on selected routes; (2) provide the resources needed to establish a lossprevention unit; and (3) have the loss prevention unit implement an internal control plan to address weaknesses and gaps in on-board food and beverage service. As of last month, Amtrak has taken action or has plans to address two of our three recommendations.

First, Amtrak has established a loss-prevention unit and has hired four staff for the new unit. Amtrak plans to provide the staff with 3 weeks of training this month. Once the training is completed, the team will start to develop an internal control action plan, which, according to an Amtrak Transportation Department official, should be completed by December. Amtrak has not taken any action on our recommendation to establish a pilot cashless project and currently has no plan to implement our recommendation.

ADDRESSING THE FRAGMENTED MANAGEMENT STRUCTURE CAN ENHANCE PROGRAM ACCOUNTABILITY AND PLANNING

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Our work on food and beverage program management is ongoing, but we do have some preliminary observations and a suggested action, which we have discussed with Amtrak. We will issue a final report on these issues in the next couple of months.

Amtrak's food and beverage service incurred a reported direct operating loss of almost \$85 million in Fiscal Year (FY) 2011. Amtrak made some progress in reducing reported direct operating losses—increasing its recovery of costs from 49 cents to 59 cents on the dollar between FYs 2006 and 2011. Amtrak has also identified initiatives for FY 2012 and beyond to help further increase cost recovery, such as lengthening the selling period on trains and reducing check-in/check-out times for on-board service personnel. We encourage these initiatives, but note that they will result in relatively small efficiency gains because they are being applied to the existing business model for food and beverage service.

We believe Amtrak's initiatives could be enhanced with improved program management to include consideration of different business models. Food and beverage management activities are carried out in a fragmented and somewhat uncoordinated manner by two Amtrak departments. The Marketing and Product Development Department manages commissary and support operations, while the Transportation Department manages on-board service personnel. Two key management weaknesses stem from this fragmented program management structure: a lack of (1) accountability for program results and (2) program-wide planning. The absence of clear accountability for results and program plans that address the primary reasons for operating losses hinder the company's efforts to improve cost recovery and service.

Accountability for Program Results

As noted, two departments share responsibility for food and beverage service, but neither is accountable for improving service and/or reducing direct operating losses let alone eliminating them. And initiatives to improve cost recovery are not wellcoordinated.

According to Marketing and Product Development's Chief of Food and Beverage Service, cost recovery is the most important metric for measuring food and beverage results. However, no cost-recovery goal has been established for this metric in Amtrak's 5-year financial plan. The Transportation Department likewise has no cost-reduction goal for food and beverage labor costs. Without a clear program-wide goal, and an official accountable for achieving that goal, Amtrak decreases the likelihood that direct operating losses will be reduced while maintaining the quality of service.

As shown in Table 1, the responsibilities for cost-recovery initiatives are divided among several departments, principally Marketing and Product Development and Transportation.

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Table 1. Initiatives to ImproveFood and Beverage Cost-Recovery

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(dollars in millions)

	Initiative/Implementation Responsibilityª	Low Estimate	High Estimate
Revenue Increases	Increase revenue by increasing selling period on trains, improving sales data, and targeted pricing (T and MPD)	\$3.7	\$7.4
	Enhance revenue loss-avoidance (T) Subtotal, Revenue Increases	0.6 \$4.3	LAUTE
Cost Decreases	Decrease on-board labor costs by reducing check-in/check-out times (T)	2.5	5.1
	Decrease warehouse costs by eliminating manual data entry (MPD)	0.8	1.4
	Reduce staff and eliminate manual data entry at accounting center (F)	1.5	1.5
	Increase crew base productivity (T)	1.0	2.1
	Subtotal, Cost Decreases	\$5.8	\$10.1
Total Impa	\$10.1	\$18.9	

Source: Amtrak Food and Beverage briefing to Amtrak Board of Directors, January 20, 2011 ^a **MPD** stands for Marketing and Product Development, **T** stands for Transportation, and **F** stands for Finance.

In discussing these initiatives with officials from these departments in March of this year, we learned that these initiatives were not well coordinated. For example, Marketing and Product Development estimated in January 2011 that between \$2.5 million and \$5.1 million could be saved yearly by reducing check-in/check-out times for some on-board food and beverage service personnel. However, these estimates were developed without input from the Transportation department, which manages onboard labor. Transportation officials stated that they had already begun implementing similar efforts. As a result, this raised questions as to whether these estimates were realistic, since some projected labor savings may have already been realized.

On July 19, 2012, the Vice President for Operations announced the establishment of a Chief of Customer Service position within the Transportation Department. The Vice President explained that this position will help align the company's new business lines with Amtrak's September 30, 2011 strategic plan. He stated that the Chief of Customer Service will have accountability (with multiple layers of cascading metrics within his or her organization) for improving Amtrak's food and beverage service program. On July 30, he further stated that the Marketing and Product Development's food and beverage services activities will be transferred under Operations as of October 1, 2012. We are encouraged by these two recent developments and believe that once these actions are fully implemented Amtrak will have in place a more effective and efficient framework for managing food and beverage services.

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Program-wide Planning

A key management best practice for helping to reduce food and beverage service losses is a program-wide plan for improving cost recovery while maintaining service levels. However, such a plan does not exist at this time. As previously discussed, the planned initiatives will only result in small efficiency gains because they are being applied to the existing business model. Specifically, the initiatives do not adequately address losses on long-distance routes or alternative business models for food and beverage service.

We believe a comprehensive plan to improve cost recovery would include a focus on reducing costs in those areas in which losses are the greatest. As shown in Table 2, longdistance routes accounted for about \$74 million (87 percent) of FY 2011 food and beverage service losses.

Table 2. Reported FY 2011 Food and Beverage Service Direct Operating Losses (dollars in millions)

		Direct Costs			<u>.</u>	Percentage
Routes	Revenue	Labor	Commissary	Total	Loss	of total loss
Northeast	1					
Corridor	\$ 31.8	\$ 19.6	\$21.2	\$ 40.9	(\$9.0)	11
State-supported	31.7	19.4	13.9	33.3	(1.6)	2
Long-distance	57.9	78.0	53.9	131.9	(73.9)	87
Total	\$121.5	\$117.0	\$89.0	\$206.0	(\$84.6)	100

Source: Amtrak Finance Department, Food and Beverage Marketing Report for FY 2011 Note: Numbers do not all add due to rounding.

Further, between FYs 2006 and 2011, long-distance routes had the lowest cost-recovery rate for food and beverage service among all Amtrak routes. For example, in FY 2011, Amtrak's 15 long-distance routes collectively recovered only 44 cents of every dollar of food and beverage cost. (See Figure 1.)

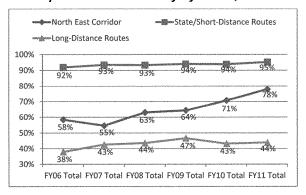


Figure 1. Reported Cost-Recovery by Route, FYs 2006–2011

Source: OIG analysis of data from Amtrak and U.S. Bureau of Labor Statistics

NOTE: Amtrak operates 27 short-distance routes. On 21 of these routes, food and beverage service breaks even because of state subsidies, which Amtrak counts as revenue. Thus any operating losses come from the remaining six short-distance routes that no states subsidize.

However, there is no integrated plan for improving cost recovery and none of Amtrak's current initiatives adequately address losses on long-distance routes

Suggested Action

Our suggestion at this time is that the Vice President of Operations develop a 5-year plan for reducing the operating losses. The plan should include specific initiatives and annual operating loss reduction goals while retaining needed services.

FUTURE OIG WORK WILL FOCUS ON BEST PRACTICES TO HELP MITIGATE DIRECT OPERATING LOSSES

Over the next 6 months, our food and beverage work will focus on identifying ways to help mitigate the food and beverage service direct operating losses while at the same time continuing to provide high-quality service. The need for similar efforts has been identified previously. For example, in addition to our prior work, a 2005 Department of Transportation Office of Inspector General report on alternatives for providing service on long-distance routes recommended that Amtrak implement pilot projects to decrease losses.⁴ However, the food and beverage service business model remains largely unchanged.

Our ongoing work will focus on identifying and reviewing best practices used by other public- and private-sector entities that provide food and beverage services to passengers, such as foreign passenger railroads, cruise lines, and airlines. While we are in the early planning stage of this work, some initial concepts that we have identified for review include the following:

^{*} CR-2005-068, Analysis of Cost Savings on Amtrak's Long-Distance Service, July 22, 2005.

- Alternative levels of service. In this area we will look at applying best practices using Amtrak personnel to provide food and beverage service. For example, one option may be to use café cars instead of dining cars, thus reducing staff but still providing food and beverage service that the travelling public depends on. Currently, Amtrak offers dining-car service on 14 of its 15 long-distance routes. The only long-distance route without a dining-car is the *Palmetto*, which had the lowest food and beverage service loss of any long-distance route in FY 2011.
- Alternative means of service. In this area we will look at applying best practices using Amtrak personnel to furnish food and beverage service through alternative methods, such as vending machines and food carts. Other methods could include offering food and beverages at boarding gates or platforms, and displaying items for passengers to select and having lead service attendants scan bar codes. For example, according to a North Carolina official, that state has used vending machines since early 2011 on the *Piedmont*, a state-supported Amtrak route.
- Third-party provider. A best practice used by many public and private entities is to use a third party to carry out non-core-business services. A third party provider could be used to offer different levels and methods of food and beverage service in conceptually the same, or other, ways as just described. For example, Maine has contracted with a third-party provider to furnish food and beverage service since 2001 on the *Downeaster*, another state-supported Amtrak route. We recognize that any initiatives in this area would have a significant impact on the existing labor force and would have to be carefully considered in any new approaches to providing food and beverage service.

We will be reviewing the pros and cons of these and other best practices to identify food and beverage service alternatives that Amtrak could pilot test or adopt on various routes. Our analysis will focus on key factors such as cost, quality of service, workforce, and revenue impacts.

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In summary, Amtrak has taken action to address some of our June 2011 recommendations related to fraud, waste, and abuse. Further, Amtrak has initiatives underway to increase cost-recovery on food and beverage service. Additionally, Amtrak has actions underway to improve program management and accountability. However, steps can be taken to improve planning.

Mr. Chairman, in closing I want to thank the Committee for its support of the Amtrak OIG. This concludes my testimony and I would be glad to answer any questions that you or other members of the Committee may have at this time.

OIG MISSION AND CONTACT INFORMATION

Amtrak OIG's Mission Amtrak OIG's mission is to

- conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to Amtrak programs and operations;
- promote economy, effectiveness, and efficiency within Amtrak;
- prevent and detect fraud, waste, and abuse in Amtrak's programs and operations;
- review security and safety policies and programs; and
 review and make recommendations regarding existing and proposed legislation and regulations relating to Amtrak's programs and operations.

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QUESTIONS FROM CHAIRMAN JOHN L. MICA

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Hearing on "A Review of Amtrak Operations, Part 1: Mismanagement of Food and Beverage Services"

Thursday, August 2, 2012

Questions for Amtrak Inspector General Alves

1. Amtrak's long distance routes account for 87% of food and beverage losses. What should Amtrak do to decrease these losses?

Answer—While Amtrak has developed a series of initiatives to improve food and beverage cost-recovery, the planned initiatives will only result in small efficiency gains because they only seek to marginally improve the existing business model. In particular, as noted, the initiatives do not adequately address losses on long-distance routes or alternative business models for food and beverage service. We believe that the key to reducing losses on long-distance routes is developing a more cost-efficient way of providing services that the company needs. The company needs to apply food and beverage service industry best practices. Consequently, we have ongoing work to review best practices for providing food and beverage service that will examine alternatives such as:

- Alternative levels of service. In this area, we will look at applying best practices using Amtrak personnel to provide food and beverage service. For example, one option may be to use café cars instead of dining cars, thus reducing staff, but still providing food and beverage service that the traveling public needs. Currently, Amtrak offers dining-car service on 14 of its 15 long-distance routes. The only long-distance route without a dining car is the *Palmetto*, which had the lowest food and beverage loss of any long-distance route in FY 2011.
- Alternative means of service. In this area, we will look at applying best practices using Amtrak personnel through alternative methods of furnishing food and beverage service, such as vending machines, food carts, providing food and beverage at boarding gates or platforms, and displaying food for passengers to select and having lead service attendants scan bar codes. For example, according to a North Carolina official, that state has used vending machines since early 2011 on the *Piedmont*, a state-supported Amtrak route.

• *Third-party provider*. A best practice used by some public and private entities is to use a third party to carry out non-core-business services. A third-party provider could be used to offer different levels and methods of food and beverage service in conceptually the same or other ways as described above. For example, Maine has contracted with a third party since 2001 to provide food and beverage service on the *Downeaster*, another state-supported Amtrak route. We recognize that any initiatives in this area would have a significant impact on the existing labor force and would have to be carefully considered in any new approaches to providing food and beverage service.

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We anticipate reporting on this work in FY 2013.

2. Does Amtrak know how much Food and Beverage revenue is lost as a result of waste, fraud and abuse?

Answer—No. However, it is difficult to accurately estimate this type of activity. In June 2011 we reported on long-standing internal control weaknesses and gaps over on-board food and beverage service. At that time we conservatively estimated that between \$4 million and \$7 million of Amtrak's on-board food and beverage sales could be at risk of theft. The actual amount of theft is likely higher, however, since our estimate was based on industry estimates where better controls were in place, such as cashless sales.

3. What are your views on the market study done by Amtrak in early 2012 that addresses the potential impact on revenues of various options of providing food and beverage service for long distance service?

Answer—The market study is still ongoing. In late July, Amtrak provided us with a two-page summary that contained some preliminary observations and a brief description of the methodology. However, until we review the final report, we cannot fully assess the study. Nonetheless, one preliminary observation we have is that the study seems to address only the potential impact on lost ticket revenues and not the potential cost reductions that will be associated with the various food and beverage alternatives. Another preliminary observation is that the study seems to assess unlikely alternatives, including the complete elimination of all food and beverage services, except on long-distance routes. As I noted in my testimony, a much broader examination of alternative service-delivery practices is needed.

4. What steps has Amtrak taken to decrease the cost of labor within food and beverage operations?

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Answer—In early 2006, Amtrak implemented the "Simplified Dining" initiative that reduced the base number of on-board food and beverage personnel from five to three per dining car. However, according to Amtrak Transportation Department officials, a combination of customer complaints and increased ridership led Amtrak to reinstate most of the previously eliminated positions. In November 2011, the Transportation Department initiated efforts to reduce check-in/check-out times for on-board staff, which is on pace to reduce labor costs by about a reported \$2.5 million per year. We are encouraged by this latest initiative, but note that it will result in relatively small efficiency gains because it is being applied to the existing business model for food and beverage service. Again, we believe significant cost reductions can only be achieved by changing the business model.

5. Does Amtrak have a plan to reduce the cost of labor within food and beverage operations?

Answer—Amtrak does not have a comprehensive plan to reduce the cost of onboard food and beverage labor. However, on July 19, 2012, the Vice President, Operations, announced the establishment of a Chief of Customer Service position within the Transportation Department. This individual will have accountability for improving Amtrak's food and beverage service program. The Vice President added that Marketing and Product Development's food and beverage activities will be transferred to Operations as of October 1, 2012. We are encouraged by these recent developments and believe that once these actions are fully implemented, Amtrak will have in place a more effective and efficient framework for managing food and beverage services, including reducing labor costs. To help further reduce direct operating losses in Amtrak's food and beverage service, we recommended that once the Chief of Customer Service position is filled, the Vice President, Operations, direct that individual to develop a 5-year plan for reducing direct operating losses. The plan should include specific initiatives and annual operating-loss-reduction goals, while retaining needed services.

6. Is Amtrak violating the law by not breaking even with its food and beverage service?

Answer—Amtrak has stated that they believe the company is in compliance with this law. We have not reviewed the process that Amtrak used to make that determination or the basis for its position, so I am not in a position to address that issue.

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Full Committee Hearing On "A Review of Amtrak Operations, Part I: Mismanagement of Food & Beverage Services" August 2, 2012

QUESTIONS FOR THE RECORD FROM REP. CORRINE BROWN

Mr. Ted Alves, Inspector General, Amtrak Office of Inspector General

In your written testimony, you mentioned that Amtrak has begun to improve internal controls over on-board food and beverage service. Can you please elaborate on what steps they have taken?

Answer—In response to prior OIG recommendations regarding on-board services, Amtrak recently established a loss-prevention unit and hired four staff for the new unit. Once these personnel are trained, Amtrak plans to develop an internal control action plan, which, according to an Amtrak Transportation Department official, should be completed by December of this year. As noted in my testimony, Amtrak had not taken any action on our recommendation to establish a cashless pilot project. However, subsequently, on August 6, 2012, Amtrak's President and CEO indicated that the company will conduct a test of cashless sales. In addition, Amtrak is in the process of deploying an automated point-of-sale system to track on-board food and beverage sales and inventory. Amtrak is also deploying a warehouse inventory management system. Together these two systems should automate Amtrak's sales and inventory processes, improve data reliability, reduce paperwork, and eliminate error-prone processes.

In your written testimony, you noted that most of Amtrak's food and beverage service losses are incurred on long distance routes. What can Amtrak do to reduce losses on these long-distance routes?

Answer—While Amtrak has developed a series of initiatives to improve food and beverage cost-recovery, the planned initiatives will only result in small efficiency gains because they only seek to marginally improve the existing business model. In particular, as noted, the initiatives do not adequately address losses on long-distance routes or alternative business models for food and beverage service. We believe that the key to reducing losses on long-distance routes is developing a more cost-efficient way of providing services that the company needs. The company needs to apply food and beverage service industry best practices. Consequently, we have ongoing work to review best practices for providing food and beverage service that will examine alternatives such as:

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We anticipate reporting on this work in FY 2013.

> In your testimony you utilized the term "theft, dishonesty and policy/procedure violations". Please share/elaborate on how you define this statement as it applies to the scope and range of your core mission as the Inspector General?

Answer—The Inspector General Act of 1978, as amended, directs Inspectors General to "provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness, and (B) to prevent and detect fraud and abuse." In keeping with this statute, between March 2003 and January 2010, we identified 903 theft, dishonesty, and policy/procedure violations by

306 lead service attendants, and issued 447 administrative referrals to Amtrak managers. The recurring schemes we identified involve:

- *Inflating first-class meal checks*. This scheme involves adding items to first-class passengers' meal checks—meals are provided free to first-class passengers—and selling these items to other passengers for cash.
- *Selling non-Amtrak items.* This scheme involves smuggling non-Amtrak items on board trains and selling them to passengers.
- Shorting cash register sales. This scheme involves selling items for their retail value and ringing up smaller amounts, with Amtrak employees pocketing the difference.
- *Stealing inventory*. This scheme involves directly taking food (rice, oil, eggs, and potatoes) and other items such as complimentary beverages, paper products, and open wine bottles.
- *Providing items at no cost.* This scheme involves providing customers with complimentary items and providing free drink refills without authorization.

Draft Testimony Of

Patricia Quinn Executive Director Northern New England Passenger Rail Authority 75 W Commercial Street, Suite 104 Portland, Maine 04101

Before the

Transportation and Infrastructure Committee August 2, 2012

Thank you Chairman Mica, Ranking Member Rahall and members of the Transportation and Infrastructure Committee for inviting me to testify today. My name is Patricia Quinn, I am the Executive Director of the Northern New England Passenger Rail Authority (NNEPRA), and am the person responsible for the overall management and oversight of the Amtrak Downeaster.

The Amtrak Downeaster began operating passenger rail service between Portland, Maine and Boston, Massachusetts on December 15, 2001 in response to a citizens' initiative led by TrainRiders Northeast to re-establish passenger rail service between Maine and Boston after decades of no service at all. The goal of decision-makers at the time was to create a service which was part of Amtrak's national rail system but also a service which was uniquely Maine. To assure its care and success, NNEPRA was created by the Maine State Legislature in 1995. Our purpose is to manage passenger rail service to and within Maine, and to maximize the public benefit of the service. The NNEPRA Team consists of six dedicated professionals . We manage the operating agreement with Amtrak, host railroads, outside vendors and station communities and stay connected with our passengers.

The initial agreement with Amtrak to operate the Downeaster, which was signed in December 2, 1996, included provisions for NNEPRA to procure services for marketing, reservations and ticketing, and food service independently. This was done to assure that the Downeaster would have a unique "Maine brand" and to provide NNEPRA with the ability to more closely manage the finances of the operation, which would be funded by the State of Maine. I am here today to talk specifically about our ten-plus years of experience managing our on-board food service operation, which we refer to as the Downeaster Café.

I am pleased to tell you that the Downeaster overall has been extremely successful, carrying more than four million passengers the equivalent of over 300 million passenger miles to date. In addition to providing transportation, it has stimulated hundreds of millions of dollars in private investment along the Downeaster corridor and has maintained one of the highest customer satisfaction (CSI) ratings in the entire Amtrak system.

Prior to the start of Downeaster service, NNEPRA procured the services of Epicurean Feast, a food service management company from Maynard, Massachusetts, to manage the Downeaster Café. Amtrak participated in the development of the contract and requirements and has partnered with us since that time to assure the success of the operation. The Downeaster service is based in Portland, so it would be awkward to staff the Downeaster Café from Amtrak's Boston commissary, and inefficient to create a new isolated Amtrak operation in Portland.

Under the Epicurean-NNEPRA agreement, Epicurean manages the operation including the hiring and management of employees, purchasing of food and on board service. They have a supervisor who works out of a satellite office in Portland, in the NNEPRA office.

The financial arrangement between NNEPRA and Epicurean is such that all revenues and expenses are reported monthly, including a management fee. NNEPRA reimburses Epicurean for the difference. While it was initially envisioned that it was possible to generate surplus revenues from the food service operation, we found out quickly that the nature of the operation was such that "profit" was a challenge to achieve.

Although the Downeaster Café is not a revenue generator it is an important passenger amenity which has contributed significantly to the success of the Downeaster and achieves a cost recovery rate of approximately 75%. In FY2012 (which for NNEPRA is July 1, 2011 – June 30, 2012) the revenue per passenger was \$1.09 and the expense per passenger was \$1.46, resulting in a net cost of \$.37 per passenger. That translates to total sales of \$574,505 and total expenses of 769,161 and nets out to a total cost of \$194,556. Labor accounts for approximately 44% of Café expenses, food and liquor purchases account for 33%, general operating expenses account for 17% and the remaining 6% is for commission and G&A.

While the Café in an of itself is not profitable, it is amenity built into the price of a passenger ticket and is a key reason passengers pay an additional fee to upgrade to Business Class. I believe our business would decrease, and overall costs would increase if the Downeaster Café did not exist. That said, our objective, and my personal challenge is to at least achieve break-even status with our food service operation without sacrificing the passenger experience. We work hard every day toward that goal and stay actively involved in the day-to-day operation of the Downeaster Café.

The Downeaster Café serves light meals and snacks, stocked appropriately to the time of each run. NNEPRA has significant input into the menu items, and encourages Epicurean to provide as many Maine and regionally-produced products as possible. We serve sandwiches from a local chain, beers from local micro-brews, chocolates and whoopie pies from local confectioner – and of course lobster rolls in the summer. In addition to the sales, this exposure has proven to be very beneficial to Epicurean's vendor partners.

Because the operation is physically located in-house, we are able to closely monitor trends, and make instant decisions which will result in increased revenues, reduced expenses, or improved customer service. Those are, after all, the three basic elements to the operation of any business.

NNEPRA monitors the financial performance of the Downeaster Café very closely. In addition to receiving daily reports regarding sales, the monthly P&L statement provided by Epicurean details every transaction made for the Downeaster Café. We track labor cost, food purchases, spoilage, Business Class comps and many other line items. On a quarterly basis, we meet formally with Epicurean management to review operations, menus, and financial performance and have even established an incentive program if the financial and service goals of the Café are met.

While it would not work for all, the Downeaster Café model is one which I think other states could consider, particularly in light of the pending implementation of PRIIA 209. It is an opportunity for states to have input or even take responsibility for an element of the passenger rail business which has both financial and service related impacts.

NNEPRA considers the Downeaster Café to be a critical component of the Downeaster service and a success story. CSI scores for the Downeaster are consistently higher than the Amtrak overall average in

categories of food quality, café personnel, and overall café experience. In FY12, Downeaster passengers rated their overall café experience 5% higher than other Amtrak services. I believe this is directly related to NNEPRA's involvement in the service, Epicurean's dedication to helping us achieve our goals, and Amtrak's ongoing partnership and support. Together, we constantly strive to find ways to increase revenues, reduce expenses, and improve customer service. It's our standard of excellence.

Full Committee Hearing On "A Review of Amtrak Operations, Part I: Mismanagement of Food & Beverage Services" August 2, 2012

QUESTIONS FOR THE RECORD FROM REP. CORRINE BROWN

Ms. Patricia Quinn, Executive Director, Northern New England Passenger Rail Authority

- What are your food and beverage workers paid? What kind of benefits do they receive? What sort of training do they receive? Do they receive background checks?
 - Café attendants are paid on average \$10. per hour plus tips.
 - In addition to food handling and customer service training, Downeaster Café attendants receive onboard training associated with the operation of the Downeaster Café, and the areas of the train for which they are responsible which includes the seating area of the Café and Business Class.
 - Epicurean employees have basic benefit packages including health, dental and life insurance, the ability to contribute to a 401k, vacation and sick time.
- What concerns do you see with the Inspector General's thoughts on downgrading Amtrak's service to vending machines on its trains? Would this work on your service? Based upon your Downeaster food and beverage services, do you think those offerings would sustain passengers on a long-distance train where a passenger would spend 2-4 days on a train?
- There are distinct "lines" or types of Amtrak service which provide food service: NEC, State Supported Routes, and Long Distance Trains. Each route within each line has a particular market and ridership mix. What concerns me is that the financial performance of Amtrak food service has been presented as one problem, implying that there is one solution. In fact, there are likely to be significant variations in the financial performance of food service among different Amtrak routes and there are certainly a variety of ways to incrementally improve both the efficiency and customer satisfaction. It is unrealistic to expect a one-size fits all solution.

If the intent is to make Amtrak food service more financially viable, the first step would be to look at each of the lines and their respective routes independently and evaluate the performance of that specific food service operation.

Replacing the Café with vending machines is not a consideration for the Downeaster service. The Café is part of the travel experience, and a contributing factor to the successful ridership. While the actual Café P&L indicates a marginal "loss" in the Café, the fact is that the Café attracts riders, and allows NNEPRA to more competitively price the service. Additionally, the Café provides great exposure to many small Maine

businesses and contributes to the economic vitality of the service. When factoring all aspects, the Downeaster Café is clearly a revenue generator. That said, we continually seek ways to increase revenues and reduce costs with the goal of achieving at least a balanced P&L. Amtrak should be doing the same.

While it may work on some routes, vending would not appear to be a widespread solution. First of all, it is unclear what the financial implications of installing, stocking and maintaining vending machines on Amtrak trains would be, and whether or not there would be a revenue impact. I would not think vending machines would be a viable solution on long distance routes when passengers may be travelling for days.

That said, there are likely many practical and creative ways to make incremental, yet significant improvements to the financial performance of Amtrak food service. These should be explored on a route by route basis.

With the implementation of PRIIA 209, States will have the ability to partner with Amtrak to determine what the best business plan would be. This will require transparency on the part of Amtrak and an assurance that states will have an opportunity to get good data and make sound recommendations as to how statesupported food service should be handled on each route.

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Why did Maine decide to contract food and beverage service on the Downeaster? Were any employees furloughed as a result of contracting the service? If not, why not?

Maine decided to contract food and beverage to provide the state with the ability to control costs and also manage the operation in a way that it helped create a brand identity for the service and maximized the economic benefit. Because the Downeaster was a new service, this decision did not result in the furlough of any employees. The decision did create new jobs for Maine residents and created new opportunties for Maine businesses.

Testimony of Dwayne Bateman Amtrak Food and Beverage Worker

Before the Transportation and Infrastructure Committee United States House of Representatives

on

"A Review of Amtrak Operations, Part I: Mismanagement of Food & Beverage"

August 2, 2012

Chairman Mica, Ranking Member Rahall and members of the Transportation and Infrastructure Committee, thank you for the opportunity to come here today and speak on behalf of Amtrak food and beverage service workers.

My name is Dwayne Bateman and I am a Lead Service attendant currently working on Amtrak's Northeast Corridor route between Washington, D.C. and New York City. I am also Vice General Chairman for Unite-HERE Local 43, which represents Amtrak's on-board service workers. I started working at Amtrak in January 1977. I have been an on-board food and beverage worker for over 35 years, working in virtually every position associated with on-board service including train attendant, service attendant, food specialists and lead service attendant. During my career I have worked on several Amtrak's routes including: the Capitol Limited and the Cardinal between Washington, D.C and Chicago; the Crescent between Washington, D.C. and Nontreal, Quebec; and the Northeast Corridor, which is my current route.

I have dedicated my working life to this company. I want it to succeed by providing reliable, safe service that makes our customers happy. But that is not something that occurs by coincidence. It is the result of training, experience and dedication. On-board workers play an important role in reliable service, safety and our customers' feelings about Amtrak.

Amtrak recently celebrated its 40th anniversary. I started working at Amtrak a few years after private sector railroads asked the federal government to take over passenger rail in our country. This is a different company today than it was four decades ago or even one decade ago. In the last few years, Amtrak has made real improvements. We are more efficient, the food is better, the passengers are happier and revenues are rising. The company did it by working smarter and more efficiently. We did it by providing a good service at a reasonable price.

Some people in Washington like to criticize Amtrak. They attack the food service and the work that my colleagues and I perform. They claim we make too much and our pensions are too generous. They say the federal government should outsource my job to a subsidized private company. I think they are wrong and I am grateful for this opportunity to explain why.

Safety and Security Functions

The first job of every Amtrak worker is safety. Based on what I hear, there appears to be a lack of understanding of what we actually do on the job. Obviously, we serve food to passengers and this is an important part of the service Amtrak provides. Passengers expect and need this amenity and it results in increased ridership. But protecting passengers, not food service, is our first priority. Given the environment in which we work, emergencies can occur in remote locations that are difficult to access. Emergency responders, such as fire and rescue personnel, cannot always arrive on the scene immediately. This means on-board workers are the first responders in the event of an emergency.

Unlike restaurant workers, on-board Amtrak service workers are required to take several training modules that prepare them to respond to anything, from a derailment, to a medical emergency, to a security breach. The following examples outline only some of our training requirements.

- <u>Emergency Preparedness Training</u>: We receive training to be prepared to respond to any emergency situation, such as a derailment, service interruption or fire. We are also required to have emergency preparedness training to respond to injuries and illnesses, which includes emergency care that covers CPR and the use of automatic defibrillators. This training is required every two years and we are not permitted to work if our training is not current.
- First Aid Training: We receive training to be prepared to respond to an on-board injury or illness of a passenger or co-worker and are governed by first aid procedures.
- <u>On-Board Passenger Safety Training</u>: We receive training to be prepared to assist
 passengers with on-board safety while on the train. We assist passengers with basic but
 important requirements while on board, such as wearing shoes at all times, not standing
 in vestibules, no running, using seatbacks and luggage racks for stability, and safe
 boarding and exit.
- <u>Training to Assist Passengers with Disabilities</u>: We receive training to assist passengers
 with disabilities, both non-wheelchair and wheel-chair assistance, and service animals.
- <u>Emergency Evacuation Training</u>: We receive training to evacuate passengers from trains in the event of an emergency, to use emergency on-board equipment and to respond to particular types of accidents, such as train emergencies in tunnels.
- <u>Training on Responding Bomb Threats/Unattended Items</u>: We receive training to be
 prepared to respond in the event of a bomb threat or other terrorist activity, and training
 to be vigilant for unattended items and how to respond.
- <u>Training on FDA Rules and Inspections</u>: We receive training on FDA rules and inspections. We are governed by policies and procedures for the safe handling of food, the inspection and monitoring of food service equipment, including refrigerators and freezers, and safe procedures for supplying coaches with water and refilling storage tanks.

In addition to this situation-specific training, on-board service workers have to know every different type of car in the train because if there is an emergency situation, we have to open and lower traps, make train-to-train passenger transfers and direct emergency evacuation. These skills are especially important in tunnels and on bridges. Also during most service disruptions, on-board service employees are the sole point of contact for passengers for information.

The examples below help to illustrate the need for this training.

- In December 1989, in response to an on-board bomb threat, service workers safely evacuated train passengers.
- In May 2001, the California Zephyr derailed in Iowa. On-board service workers
 responded by evacuating passengers from overturned coaches and provided them
 assistance until local first responders arrived at the scene.
- In April 2002, the Auto Train derailed in Crescent City, Florida. In response, on-board service workers popped out windows and helped passengers to safety, tending to them until emergency responders arrived.
- In June 2011, the California Zephyr had an accident in Nevada. On-board employees including the food service workers – were essential in order to evacuate and care for passengers.

For additional information relating to the extensive safety and security training we receive, please refer to the attached table of contents from Amtrak's Service Standards Manual, which governs the work we perform. In addition, annually we are required to attend "Block Training," a two-day class that includes safety and security training as well as customer service related training.

As I stated previously, given the use of titles such as "Service Attendant" or "Food and Beverage Service," it is understandable that some may not really understand our jobs, what we do and the critical importance of our professional safety and security functions. Before criticizing our pay or demanding federal subsidies for corporations that will replace us with a minimum wage employee, I urge you to consider the full range of duties we perform.

Food and Beverage Functions

The food, beverage and customer service aspects of the work we perform are extremely demanding for a host of reasons. Many here in Washington simply do not understand the nature of this work. We are on our feet for most of our shift. If it is a single day shift, as I work on the Northeast Corridor, then it will last from 12 to 18 hours. Life is more grueling on the long distance routes. If the trip takes three to six days, then we will work 16 hours every day. If the trip is a week or more, then we will work 46 hours in a 68 hour window. That works out to less than four hours of sleep a night. The work we do appears quite simple because people only see us serving a burger and soda. But the reality is more complicated. It is the parts of our jobs that most people do not see or understand that place real demands on Amtrak's service workers.

In addition to the safety and security functions, On-Board Food Service Attendants must comply with extensive policies, procedures and instructions that govern the delivery of food and customer services, many of which require specialized training to perform. These responsibilities include, but are not limited to, on-board accounting procedures, announcements and signage, service recovery procedures, baggage handling, customer service and uniform requirements.

For a Lead Service Attendant – Café/Lounge on the ACELA, the job includes extensive predeparture, en-route and end-of-trip responsibilities. Table 1 (Pre-Trip), Table 2 (En-Route) and Table 3 (End-of-Trip) provides a look at a typical day of a Lead Service Attendant-Café, excluding any unusual occurrences, service delays, emergencies or other incidents.

5:15 AM	Report For Work	(Washington to Boston Trip)
* Confer witl * Check bull * Review ma * Inventory S * Check stoc * Complete p * Properly st * Inspect equ * Check HV/ * Check food * Verify Casi * Set up cred * Inspect bat * Check wall * Inspect bat * Check wall * Check vot * Set-up serv * Set-up bar- * Propare sug * Fill condim * Make coffe	Stock, report shortages, and submit backer k to make sure it is usable, in-date paperwork (896) ore stock upment and report any defects to mechan AC, water, doors, lighting, seating, conta l service equipment and temperatures of h register or POS is installed and functio lit card machine prior of café car for cleanliness and defec hroom for cleanliness/properly stocked menus onfirm that the required Forms, tools and ice display (Counter) back display poort materials lent trays	ces, conditions or schedule changes memos rs, or if there are groups, special requests orders to vendor hical department ct surfaces, etc refrigerators and freezers ning properly ts.
LSA-Café	Work Day on Northeast Corrid	or –En-Route Work Table 2
7:00 AM Dej	part on Train No. 2154 – Destination H	Boston
* Provide hig * Make requi * Greet and a	professional demeanor and appearance h level customer service red service announcements ssist passengers tomer information	
LSA-Café	Work Day on Northeast Corrid	or –End-of-Trip Work Table 3
11:30 PM	Arrive on Train No. 2173 - Washi	ngton
* Close out ca * Close out ca * Complete in * Reconcile T	redit card machine nventory and sales report form (Transfer Fransfer Out Form and cash register repo s on the mechanical report	

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All of this work is governed by quite rigorous policies, procedures and standards, as illustrated in the Service Standards Manual Table of Contents attached with this statement. This example only applies to a Lead Service Attendant on the NEC between Washington, D.C. and Boston, Massachusetts. On a long-distance train, when food service attendants are on trips of three to six days, or beyond, working 46 hours in a 68 hour window for instance, the work becomes much more demanding.

As stated previously, this example is based on a normal day. If there were to be an emergency, service disruption or train failure, the workday would become even more demanding.

Criticism of the Food and Beverage Service

The Amtrak Food and Beverage Service Savings Act (H.R. 3362), which was included in the American Energy and Infrastructure Jobs Act (H.R. 7), required the Federal Railroad Administration to solicit bids for the food and beverage service on Amtrak trains. It also redirected Amtrak appropriations to cover a private contractor's losses. In effect, this prohibited Amtrak from losing money on food and beverage service, but forced the railroad to use its federal funding to subsidize a private contractor's losses. This flawed provision obviously failed to appropriately take into consideration the extensive job requirements of on-board service workers that provide food and beverage service as well as the training requirements necessary to ensure the safety and security of passengers.

Proponents of privatization justify their proposals by pointing to Amtrak's food and beverage budget losses. While scrutiny of food and beverage service is appropriate, it misses a larger point. The travel industry as a whole generally does not view food and beverage as directly contributing to its bottom line. Rather, it is used as a loss leader to drive ticket sales in an effort to increase revenues. Amtrak's food and beverage service is no different in this regard. The proponents of privatization actually ignore this very important lesson from the private sector.

Congress has tried to micro-manage Amtrak's food service on previous occasions, but never successfully. In 2006, the company was forced to streamline service on dining cars by replacing china with paper products and replacing made-to-order entrees with pre-cooked microwaveable food. It was also forced to eliminate pots and pans and all grill work from the train. But due to passenger demand, Amtrak ended up scrapping the Congressional model and additional grilled entrees were put back on the train.

Studies show that Amtrak customers attach significant value to the availability of food service on board. It is an essential part of the passenger rail experience and differentiates it from other forms of transportation. If food and beverage service quality declines under a low-cost contractor due to procurement of cheap food or to staff cuts, overall Amtrak ticket revenue could decline, eliminating the intended cost savings.

Conclusion

There are some who consider on-board service employees overly compensated for the skill set required to prepare meals and provide customer service. However, this argument ignores the personal sacrifices necessary for this career: mental and physical exhaustion, sleep deprivation and stress due to the rigorous working environment and conditions, extremely long hours and insufficient diet, each of which attributes to myriad of medical conditions experienced by workers. It also ignores the extensive training employees receive to respond to medical and safety emergencies. We are not paid for the expertise required to perform the portion of our

work related to food service, we are compensated for the degradation to our bodies, the stress to our health and the pressure on our personal lives caused by the necessity to work long hours under arduous conditions while maintaining a personable and pleasant demeanor.

Congress, particularly leadership on this committee, is proposing to abruptly end my career by dictating that the important work we perform be outsourced to a contractor -- contracted-out with no promise of well qualified personnel, no promise of a living wage and no promise of any benefits. Simply put, that is not fair to Amtrak's on-board service workers that have made the same commitment and investment that I have made over the years. It is not fair to Amtrak's leadership who, in particular over the past several years, have worked feverishly to reduce costs while improving services, with significant work underway that will result in further cost savings and improvements. Most importantly, it is not fair to Amtrak passengers, who pay for, expect and deserve safe and reliable service on their journey. They are owed the assurance that Amtrak employees are well qualified to respond appropriately and protect the safety and interests of its customers.

Beyond fairness and decency, the privatization proposal makes no sense and does not reflect true American values. This begs serious questions. Why are some members of Congress promoting the elimination of good middle class jobs with decent pay and benefits? Why do they want to turn this work over to unproven contractors that would likely pay minimum or poverty level wages, offer minimal or no health benefits and no retirement benefits, and be willing to jeopardize the safety and security of the passengers?

I have spent my life working for Amtrak with a promise of earning a fair wage and getting a decent Railroad Retirement pension, which is funded solely by contributions from railroads and their employees. When I joined Amtrak, I had no expectation this job would make me a rich man. But it is honest and respectable work with long hours. It allowed me to provide for my family, help send my two girls to college and live a decent middle class life. I have invested over three decades into this career. I work hard, earn a decent living and I expect to retire with dignity. I urge you to consider this before eliminating these good American jobs.

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Again, I thank for the opportunity to testify before this committee.

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The Washington Post

Two planes taking off from National put on collision course with plane trying to land

By Ashley Halsey III, Published: August 1

Three commuter jets came within seconds of a midair collision at Reagan National Airport on Tuesday after confused air traffic controllers launched two outbound flights directly at another plane coming in to land, according to federal officials with direct knowledge of the incident.

The three planes, all operated by US Airways, carried 192 passengers and crew members, the airline said. All of the flights reached their destinations without mishap, but the near-collision was another among several thousand recorded errors by air traffic controllers nationwide in recent years.

<u>National</u> has been the site of some of the most notable incidents, including one revealed last year in which the lone controller supervisor on duty <u>was asleep</u> and didn't respond when regional controllers sought to hand off planes to National for the final approach.

The problem Tuesday occurred about 2 p.m. as a number of inbound planes were queued up to turn above Mount Vernon, fly north over the Potomac River and land on National's main runway. But an approaching storm caused a significant wind shift, and the air traffic control center in Warrenton wanted to reverse the flow of planes into the airport, turning them north of Rosslyn and routing them south along the river to land from the opposite direction.

The Warrenton controllers communicated the plan to the controller tower at National.

"The tower agreed, but they didn't pass it on to all the people they needed to pass it on to," said a federal official familiar with the incident who was not authorized to speak publicly.

As a result, an incoming flight that had been cleared to land was flying head-on at two planes that had just taken off. The inbound plane and the first of the outbound planes were closing the 1.4 miles between them at a combined speed of 436 mph, a rate that meant they were about 12 seconds from impact when the tower controller recognized her mistake.

Hours after being alerted to the incident by The Washington Post, the FAA's public affairs office issued a statement Wednesday night saying that it is investigating the matter and will take appropriate action to address the miscommunication.

"Are you with me?" the tower controller asked the inbound pilot, checking to see whether he was tuned to her radio frequency. When the pilot acknowledged her, she ordered him to make an abrupt turn to the south to avoid the other two planes.

"We were cleared [for landing] at the river there," the pilot said after breaking off the approach northwest of the airport. "What happened?"

After a pause, the controller said, "Stand by, we're trying to figure this out."

As she directed him to make a loop around the airport for a second landing attempt the pilot cautioned: "We really don't have enough fuel here for this. We have to get on the ground pretty quick."

The federal official who reviewed the incident said what appeared to be a basic failure to communicate the planned change to everyone in the National tower was compounded by sloppy procedures.

"This is a pretty big screw-up for a major airport," the person said.

The official likened proper procedure to that of two flag men using radios to direct a single lane of traffic around a highway construction zone.

"They say, 'You're good to go after the yellow pickup truck gets there,' " the official said. "When we change the direction of operation because of a wind shift, we're supposed to give the specific call sign of the last plane. They didn't use call signs [at National]. They didn't do the coordination well."

The world governed by air traffic controllers is split into three layers. Control centers handle planes at cruising altitude, terminal radar approach control, or Tracon, facilities work with pilots at lower altitudes, and airport control towers handle final landing approaches and takeoffs.

Commercial flight is a sequence of handoffs between controllers working the three levels. On Tuesday, Potomac Tracon in Warrenton contacted the National tower to suggest that planes land in the opposite direction to accommodate the wind shift.

News of the sleeping controller at National last year led to the revelation that controllers on overnight shifts at several other airports were <u>napping</u> on the job. The FAA suspended or fired several controllers for <u>sleeping on the job</u> last year, and the controversy contributed to the ouster of the head of the FAA's air traffic control organization.

Another incident involving National Airport <u>drew attention</u> to errors made by controllers. In 2010, an airliner carrying Rep. F. James Sensenbrenner Jr. (R-Wis.) <u>swerved to avoid</u> another jet when the planes got so close that an onboard <u>collision avoidance system</u> was activated.

The FAA said that it recorded 1,234 operational errors in fiscal 2009 and that the number jumped to 1,887 in 2010, although there were more than a million fewer flights that year. The overwhelming majority of those incidents in which controllers allowed planes to get to close to one another did not put passengers at risk, but there were enough more-serious events that the <u>National Transportation Safety Board</u> stepped in to review them.

One that the safety agency scrutinized was a relatively minor mistake involving a plane with first lady Michelle Obama and Jill Biden, the wife of the vice president, onboard.

Other cases the <u>NTSB reviewed</u> were more serious: A Boeing 737 nearly hit a helicopter while taking off from Houston; a Boeing 777 skimmed under a small plane on takeoff from San Francisco; a Boeing 737 nearly collided with a Cessna in Burbank, Calif.; an Airbus 319 passed 100 feet above the path of a Boeing 747 taking off in Anchorage; and an Embraer 135 taking off from Chicago took evasive action to avoid an in-bound twin-engine prop plane.

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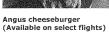
Two-Bite® Cinnamon Rolls \$2,99

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Three mini rolls

Lunch/dinner (available on most afternoon and evening flights)

110



\$7.99

Premium Angus beef with melted cheese, lettuce, tomato, pickles and onion, served with traditional condiments

Turkey sandwich (Available on select flights)

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A delicious combination of

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chicken breast, romaine lettuce, carrots, and red and yellow bell peppers wrapped in a tortilla with Thai aioli sauce



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111

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