



**TESTIMONY OF RAY B. CHAMBERS
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(AIPRO)**

**Subcommittee on Surface Transportation
Senate Committee on Commerce, Science and Transportation**

“Passenger Rail: Investing in the Nation’s Future”

Wednesday, December 10, 2014 2:30 PM

253 Russell Senate Office Building

I am pleased to testify on behalf of the Association of Independent Passenger Rail Operators (AIPRO). As I understand it this is not a legislative hearing on a specific proposal, but rather a forum entitled “Passenger Rail: Investing in our Nation’s Future.”

Our five members, listed in an attachment, operate passenger service in the United States and around the world. Internationally these companies carry more than a billion passengers a year. In the United States the independent operators are contracted by commuter authorities to carry more than 80 million passengers on a quarter of a million trains. Our members compete vigorously against each other and Amtrak to get that business. Competition in the American commuter rail marketplace has allowed for rapid expansion and innovation of urban passenger rail service. We submit this commuter model represents the best practice for investing in Passenger Rail for America’s Future.

For the last nearly 45 years Amtrak has held a monopoly on intercity passenger service. Indeed when it was created there weren’t alternatives available, and Amtrak should be commended for its stewardship of maintaining a basic national passenger network against very difficult odds. Yet, despite their best effort, the underfunded government mandated structure operated by Amtrak is broken and our passenger system has almost become an embarrassment around the world.

The Northeast Corridor, by any standard accounting practice operates at a large loss when the underlying infrastructure is included on the ledger. The NEC reportedly subsidizes the long distance routes that also operate at a significant loss. For the 27 state supported routes of fewer than 750 miles, Congress and Amtrak have pushed the entire operating subsidy to the states. It is these state supported routes that are now showing the greatest growth thanks to state investment. They represent nearly 50% of

intercity ridership while the NEC and long distance routes are stagnant. Clearly change is in order.

Some supporters of the current system in this country submit the only way to operate an interconnected national network is through a sole-sourced monopoly. Yet, pre-Amtrak multiple rail carriers regularly interfaced before being driven down by overregulation and bad economics. Domestically, the aviation industry allows for competing operators with clear rules for interconnectivity. In Europe competition has resulted in vastly increased ridership and equipment renewal. As a result recent European Union law requires competition for the operation of rail passenger service.

Thus, Congress should enact a new legislative paradigm that will restructure intercity passenger rail service through a clarification of federal and state roles, a restructured base for capital financing, increased transparency and the introduction of competition.

The time is ripe for such action. The two basic federal laws that impact passenger rail have expired. They are MAP-21 that authorized the highway/transit trust fund and the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) that authorized Amtrak and intercity passenger rail service. AIPRO recommends four primary objectives for the next passenger rail program:

1. Congress should address passenger rail legislation not as a stand-alone bill but in the context of the highway/transit trust fund reauthorization.
2. Congress should establish a long-term vision for the future growth of rail passenger service.
3. Congress should create a new approach to state supported corridors.
4. Congress should establish a unified funding program that includes highway, transit and rail.

Our first recommendation is that the intercity rail passenger authorization should not be a stand-alone bill, but a Rail Title to next year's MAP-21 reauthorization.

A question before Congress is whether PRIIA should move as a stand-alone bill as has been suggested in the House. Our view is that in the face of population and other demographic trends, enlargement of the rail mode can serve a major public interest. Thus when future federal surface transportation investment is considered rail should be at the same table with highways and transit. Thus instead of a stand-alone rail bill, there should be a Senate Commerce Committee Rail Title as a part of next year's MAP-21 reauthorization

Our second recommendation is that Congress should adopt A New Vision for Passenger Rail Service

The new Rail Title should make a commitment to establish a High Performance urban and intercity passenger network over time. The Vision should call for infrastructure

investment that will achieve a High Performance passenger network that will continuously improve with clean attractive equipment, travel times that rival auto travel in any given corridor and on time performance. The integrated network should include high-speed trains, long distance and corridor trains commuter passenger service right down to the streetcar level. The Vision should clarify the federal role in assuring safety and interconnectivity. The Vision should clearly define the state role in the operation of intercity routes.

Our third recommendation is that Congress should create A New Approach to State Supported Intercity Passenger Rail Service

AIPRO is concerned that Amtrak have an adequate funding authorization for its long distance services and for development of the Northeast Corridor. However, as requested in the invitation letter by Chairman Rockefeller we will focus on our area of primary interest, which is the future of the state, supported corridors. The National Association of Railroad Passengers (NARP) is submitting testimony on Amtrak funding as well as long distance and NEC requirements. We generally endorse the NARP approach and will be working with them to craft specific legislative recommendations.

The specific goal put forward by AIPRO is to improve the performance of intercity passenger rail corridors through competition and expanded capital investment. The bipartisan 2008 PRIIA law, signed by President Bush, did a good job of opening state supported intercity passenger routes to competition. Unfortunately, key provisions of that law, which promote competition, were simply ignored. The exception was Section 209 that resulted in the states assuming full responsibility for operating subsidies. As a result the cost to states has gone up dramatically and many states are now looking at the competitive option to build their corridors. Rail Title PRIIA reform should build on the 2008 bill in a way that will make the reform provisions workable. We make the following recommendations for PRIIA reform:

States Should Be Given Clear Responsibility for the Corridors. The result of PRIIA section 209 is that 19 states have essentially taken on the responsibility for 100% of the operating subsidy in 27 corridors under 750 miles. Together with the primary stakeholders, states should be responsible for the governance of passenger operations in those corridors. The states together with key stakeholders, including host railroads, labor and selected operators should set standards and metrics for corridor service.

The Federal Railroad Administration should continue responsibility for safety and interconnectivity.

The States Should Have Access to a Robust Capital Program of Grants and Innovative Finance. The federal shift of financial responsibility for intercity corridor service under 750 miles is a clear unfunded mandate on the states. In return, using the model of the highway program, the states should have access to grant funding to build state

management and planning capability as well as construction of capital projects. This was the exact purpose of the PRIIA Section 301 program now on the books. Unfortunately, the High Speed Rail Stimulus program that spread \$11 billion all over the country bypassed the PRIIA mechanism. The PRIIA Section 301 program should be reauthorized and funded at a minimum of \$1 billion per year. In addition a special program of innovative finance based on RRIF loans should be authorized. As a part of this program Section 301 grants should be available to expand RRIF loan viability.

Sec. 301 Grants should continue to be tied to High Performance Passenger Reform including a requirement for competition. PRIIA 301 requires that any state receiving capital assistance would select the operator competitively. This was ignored because the Sec 301 program was ignored in favor of the Stimulus High Speed Rail grants that had no such provision. This mandate should be strengthened. Similarly, when a state selects an alternative carrier, PRIIA Sec. 217 provides a dispute resolution process at the Surface Transportation Board to give the states smooth access to Amtrak equipment facilities and services. Section 217 is essential to fair competition.

The PRIIA Alternative Pilot Program Should be Streamlined. The 2008 PRIIA contains a Pilot for Alternative Operations to Amtrak. It was far too complex with unrealistic timeframes and a lack of interest by FRA. Essentially it was designed to fail. Despite that, over 120 expressions of interest were submitted to FRA on how to make the program work. There is no role for the states in the statute. The states in combination should be encouraged to participate in the design of long distance corridors. Independent Operators, such as those represented by AIPRO, should explicitly be authorized to participate in the Pilot Program with approval of the host railroads. AIPRO is working on changes needed in order to make the Pilot Program viable.

The New Law Should Establish a Commission to advise on the creation of a Competitive Intercity Passenger Service. We believe such a panel would serve a strong public interest in refining issues that must be addressed if the nation is to embark on a new paradigm that will result in a High Performance Passenger Rail Network of which Americans can be proud. Primary stakeholders should serve on the panel. State participants should be nominated by AASHTO, and there should be representatives of Labor, Host Railroads, Amtrak as well as Alternative Operators. The Commission should address issues such as rail funding, minimal standards to qualify as an intercity passenger rail operator and the critical issue of insurance and liability. The 2012 Senate Rail Title to the MAP-21 bill contained a useful provision on liability. It suggested guidelines that increased the liability cap by inflation but cut off any potential for third party liability above the cap. Taken together such efforts will drive down costs for operating rail passenger service to the benefit of all stakeholders, taxpayers and riders.

There are several additional principles that we would like to see established:

- The future of intercity passenger rail service should be based on commercial negotiations to the maximum possible extent. The goal of High Performance Passenger Service can only be achieved if the hosting freight railroads are treated as full partners in a market environment and have access to capital funding that will assure freight throughput is not diminished as passenger traffic increases. On a similar note labor is a strong partner in the building and operation of American railroads. The legitimate interests of railroad workers as we open the system to competition and of construction workers as we improve the system must not be diminished in the effort to achieve a High Performance urban and intercity passenger network.
- Except for a federal subsidy for long distance routes and the right of forced access on host railroads, Amtrak should not enjoy any special statutory privileges unavailable to alternative passenger operators selected by state authorities. Amtrak should evolve into a true private sector operator that can compete fairly with the independent passenger rail operators represented by AIPRO.

Our fourth recommendation is that Congress should adopt a New Program for MAP-21 Sustainable Funding that includes creation of an Urban and Intercity High Performance Passenger Rail Network that we can look to with pride as we travel in Europe and Asia.

A primary objective of the MAP-21 reauthorization should be to permit greater parity between highway and rail modes in state infrastructure investment decisions. We understand this will take coordination between the Senate Commerce, Environment & Public Works as well as the Banking Committee. We urge Senate Commerce to take the lead.

For the last 50 years rail freight and passenger infrastructure investment has not been at the table along with highways, waterways and airports in any significant fashion. Yet, we have reached a point in time where solid rail construction projects will do more than many alternative transportation projects to rebuild America's transportation network and assure our future competitiveness. This is the time to bring it all together.

Specific goals for MAP-21 Reauthorization are:

MAP-21 Goal #1 Increase state/local flexibility in all existing trust fund programs to include public interest rail projects. This should include the Surface Transportation Program (STP).

MAP-21 Goal #2 Establish a National Multi-modal Freight Program.

MAP-21 Goal #3 Create a Unified Transportation Trust Fund that includes corridor capital funding available for the states for improving designated High Performance Passenger Rail Corridors.



Biography of Ray B. Chambers

Ray Chambers has more than 40 years in development and implementation of transportation programs. He began his career as chief of staff to members of congress and then was an appointee in two presidential administrations where he served as a Deputy Assistant Secretary and Director of Legislative Affairs at Executive Branch Agencies.

At the US Department of Transportation he directed legislative efforts that reorganized the bankrupt Penn Central and Northeast railroads into a profitable system. In 1974 he opened a government affairs consulting firm that became Chambers, Conlon & Hartwell, LLC (CCH). In the 1980s he was instrumental in legislation that broke the Burlington Northern monopoly in the Powder River Basin of Wyoming and introduced his principal client Chicago Northwestern (now part of the Union Pacific system) as a competitor. Working with the shortline association in the 1990s, Mr. Chambers advocated for an innovative railroad loan program that was enacted into law by Congress as the Rail Rehabilitation and Improvement Financing (RRIF) Act. In 2005, the Congress expanded the \$3.5 billion loan program to \$35 billion with eligibility for all freight and passenger rail projects. In the late 1990's, Mr. Chambers led a successful effort to restructure the Romanian Railway system and put it on a commercial basis. He served as president of the National Railroad Construction and Maintenance Association (NRC) for 12 years. For 25 years he co-chaired a rail policy forum called the Cooperstown Conference.

After he retired as a partner of CCH, he launched a second career where he became transportation policy advisor to several companies and Executive Director of the newly formed Association of Independent Passenger Rail Operators (AIPRO). On behalf of AIPRO, Chambers is deeply involved in policy proposals to develop a national high performance intercity and urban passenger rail network through increased private involvement and competition.

Mr. Chambers holds a BA magna cum laude from the University of Redlands in California and masters in Government from Rutgers.

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AIPRO is an association of 5 transportation companies who are significant players in the American and international passenger rail transportation marketplace. Around the world our members transport by rail more than a billion passengers each year. In the United States, these companies operate ten commuter railroads and over 250,000 trains per year carrying over 80 million annual riders to their jobs, school and other destinations.

AIPRO is dedicated to expanding passenger rail service in the United States as a necessity in meeting the demands of population growth, increasing travel and coming gridlock. Ultimately we envision a national high performance passenger rail network that will provide our children and grandchildren a viable third transportation option to highways and airports. The program should be developed in harmony with the three following principles:

- *The network should be built on the foundation of the existing urban, state supported intercity and long-distance routes.*
- *Under federal guidelines, not unlike the interstate highway program, the passenger rail network should be developed and operated through state and multi-state authority.*
- *There should be maximum private involvement and competition in the design, build, operation and maintenance of the emerging rail passenger network.*



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