Statement of

The Honorable Joseph H. Boardman

Federal Railroad Administrator

Before The

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Committee on Commerce, Science and Transportation

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Mr. Chairman, Ranking Member Smith, I appreciate the opportunity to appear before you today on behalf of Secretary of Transportation Mary Peters and the Bush Administration to discuss the reauthorization of Amtrak and the future of intercity passenger rail service in the United States.

This hearing is particularly timely. If the Congress and the Administration cannot agree on legislation authorizing Amtrak and the Federal role in intercity passenger rail service, October 1 will mark the beginning of the sixth year since the end of the authorization of appropriations contained in the Amtrak Reform and Accountability Act of 1997. Unfortunately, operating without authorization, other than that conferred by annual appropriations acts, is not the exception for Amtrak but is increasingly becoming the rule. Over the last 25 years, Amtrak has had to rely on appropriators rather than authorizers for intercity passenger rail service authorization about 40 % of the time. Thus, Secretary Peters and I both hope that the Congress and the Administration can reach a consensus on intercity passenger rail policy, if not in this session, then certainly during the 110th Congress.

However, our overall assessment of S. 294 is that it does not include enough meaningful reforms. Amtrak is an outdated monopoly that is based on a flawed business model. It does not provide an acceptable level of service, nor has it been able to control its finances. Our goal is improve the nation’s intercity passenger system to make it responsive to the needs of the traveling public, state and local governments, and ultimately to the taxpayers. To accomplish this, we urge the Congress to pass legislation that reflects the core reform principles originally presented by Secretary Mineta. Passing an authorization that does not fundamentally reform Amtrak -- but provides a higher level of Federal subsidy for it -- is not an acceptable outcome.

The Administration's View On Intercity Passenger Rail Reform

It's been nearly five years since then-Secretary of Transportation Norman Y. Mineta presented the Bush Administration's five principles for intercity passenger rail service reform. These principles are:

1. Create a system driven by sound economics.
2. Require that Amtrak transition to a pure operating company.
3. Introduce carefully managed competition to provide higher quality service at reasonable prices.
4. Establish a long-term partnership between states and the federal government to support intercity passenger rail service.
5. Create an effective partnership, after a reasonable transition, to manage the capital assets of the Northeast corridor.

The Administration proposed legislation in 2003 and 2005, the Passenger Rail Investment Reform Act (PRIRA), to implement these principles. While PRIRA is one way to implement the principles, Secretary Mineta maintained that PRIRA was not the only way to achieve these goals. He consistently expressed his willingness to work with the Congress to develop meaningful intercity passenger rail reform legislation acceptable to both the Congress and the Administration. Secretary Peters shares this view. However, she believes, as do I, that the principles articulated by Secretary Mineta in 2002 must still be addressed by any Amtrak reauthorization legislation that we could recommend that the President sign. It is from that perspective that I offer some general comments on S. 294, the Rail Investment and Improvement Act.

Observations on S. 294

To provide structure, these comments are organized by the Administration's five principles of reform.

Create a system driven by sound economics.

The Administration believes that intercity passenger rail must be a cost-effective provider of transportation services for it to achieve its potential of playing an increasingly more important role in our national transportation system. Regular reports by the Government Accountability Office, the Department of Transportation's Inspector General and Amtrak's own Inspector General have identified how Amtrak has lost the focus of its statutory mandate to "… be operated and managed as a for-profit corporation…"(49 U.S.C. 24301(a)(2)). Instead, we have been faced with circumstances where 10 percent or more of the federal subsidy for Amtrak has gone to underwrite its food and beverage service while much needed long-term capital improvements to nationally-important infrastructure have been deferred.

It is for this reason, the Administration believes that intercity passenger rail service must be operated like a business, with priority placed upon the financial bottom line. Nothing in this testimony should be taken as criticism of Amtrak's current Board of Directors and management who are addressing the Corporation's financial performance on both the revenue and expense sides of the ledger. There has been progress but this can only be viewed as a beginning effort that must be sustained. It is thus as both a goal and an incentive that the Administration continues to believe that Federal operating subsidies should be eliminated within the next few years.

S. 294 does not align with the Administration's vision on this issue. Overall, the bill authorizes approximately $2 billion annually for Amtrak, which represents a significant increase over its current subsidy. The bill offers no programmatic justification for why this amount is needed or how Amtrak should or could spend these sums. Beyond the fact that the bill authorizes funding in excess of even Amtrak's own estimate of needs (by several hundred million dollars), authorizing such levels undermines the incentive for the railroad to become more efficient and business like. Amtrak needs to be held accountable for its well-documented inability to control costs and manage its operations. If the goal is to make Amtrak more fiscally responsible and self sufficient, ramping up its Federal subsidy would send the wrong message.

A key need of any private successful business is to make decisions on when to enter or leave markets based upon economics and not government policy. The reestablishment of a "National Rail Passenger System" in section 201, would work against this end. Specifically, the Administration finds it unacceptable to continue to subsidize poor performing, under-utilized long-distance routes that lose hundreds of millions of dollars annually. The maintenance of a static nationwide network has been routinely cited as a major flaw of Amtrak's business model. As the GAO recently reported, long-distance trains "show limited public benefits for dollars expended," and that "these routes account for 15 percent of riders but 80 percent of financial losses." Rationalizing the route structure must be a key element of any reauthorization legislation.

Furthermore, the chances of creating a system driven by sound economics will be undermined by altering the structure of Amtrak's board of directors. The bill proposes comprising the board with equal numbers of members from each political party, all of whom must be vetted through the Congress. Introducing overt partisanship into the selection process would increase the chances the board would become deadlocked on issues and unable to provide decisive leadership for the company. A strong unified board is critical for making changes at Amtrak.

On the other hand, the establishment of an improved financial accounting system (section 203), recognizes that all businesses need to have accurate accounting of revenue and expenses, not just for the benefit of the independent auditors and shareholders, but for management to make critical business decisions. Work is underway in developing such systems at Amtrak and FRA and this section is welcomed reinforcement.

Perhaps the greatest opportunity to align S. 294 with the Administration's vision of intercity passenger rail can be found in section 208 where FRA and Amtrak, in consultation with the Surface Transportation Board and others, would be directed to develop metrics and minimum standards for measuring performance and service quality. Elsewhere (section 210) S. 294 would provide that FRA could withhold funds from routes based upon substandard performance against these standards. The issue that needs to be addressed to make section 208 meaningful is for the Act to spell out the goals to be achieved. The Administration believes that such goals should include elimination of Federal operating subsidy and in the interim, maximizing transportation benefit per dollar of Federal subsidy. Performance measures alone will not address these issues, however. Legislation must ensure that the railroad's purpose and design allow it to make decisions based on sound economics.

Require that Amtrak transition to a pure operating company.

The management of Amtrak has three significant challenges – operating trains in a safe and cost effective manner; maintaining infrastructure essential for intercity, commuter, and freight rail transportation; and developing both internal and external resources to get this done. History has shown that these are three difficult challenges to juggle regardless of the skill and good intentions of those in Amtrak's management. The most frequent results are priorities and tradeoffs that push both service and infrastructure in the direction of marginally "good enough".

The Administration believes that the infrastructure owned by Amtrak, particularly the Northeast Corridor and Chicago Union Station, is too important to be subjected to such tradeoffs. It appears that S. 294 recognizes this concern. The improved accounting system required in section 203 is intended to be able to "…aggregate expenses and revenues to infrastructure and distinguish them from expenses and revenues related to rail operations."   In describing the grant process in section 205, the bill provides that funds cannot be moved among accounts – effectively preventing the use of capital funds for operating expenses – without the approval of the Secretary.

The Administration believes that to improve operating performance, Amtrak needs to shed its responsibilities for maintaining capital infrastructure. This way Amtrak could focus on its core functions with dedicated funds. We have previously presented a plan for accomplishing this goal, though as you know we would be open to other approaches that achieve the same ends.

Introduce carefully managed competition to provide higher quality service at reasonable prices.

A fundamental underpinning of the Administration's vision for the future of intercity passenger rail service is to create opportunities for competition by allowing new operating companies to compete for service contracts with States, groups of States, and regional authorities to operate the trains they believe important. Competition will help control costs and improve service quality. I recognize that some have said that such competition would not work in the passenger rail industry. This is belied, however, by the relatively robust competitive environment that has developed for the operation of commuter trains in recent years. Having States, groups of States, or regional authorities award contracts for passenger service would bring decisions about how much of which services to buy much closer to the customers for those services. That, too, should result in better service.

S. 294 provides some opportunities for competition. For example, section 211 would permit FRA to select rail carriers that own infrastructure over which Amtrak operates to be considered as a passenger rail service provider, excluding many other potentially qualified operators including states themselves.   Section 218 would establish a mechanism for States to acquire access to Amtrak-controlled equipment if the State selects an entity other than Amtrak to provide intercity passenger rail service. In section

301 (which proposes a new section 24402(b) (3) in Title 49), an applicant for a Federal/State passenger rail capital grant would have to provide a written justification to the Secretary if a proposed operator of the service was not selected competitively. While these sections move in the right direction, overall, the competitive balance is still in Amtrak's favor. Except for the infrastructure owner, State selected competitors would not have the same right of access to the rail infrastructure as Amtrak and would not have access to the Federal subsidies made available for intercity passenger rail service except that limited amount available through the proposed State grant program. S. 294 needs to establish a more comprehensive and level competitive environment. The Administration envisions a system where states can contract with a company, potentially including Amtrak itself, based on cost and performance criteria. Having a range of available competitors available is key to making managed competition produce improved system performance.

Establish a long-term partnership between States and the Federal government to support intercity passenger rail service.

Most publicly supported transportation in the U.S. is undertaken through a partnership between the Federal Government and the States. This model, which has worked well for generations for highways and transit and airports, places the States, and in certain cases their subdivisions, at the forefront of planning and decision-making. States are uniquely qualified to understand their mobility needs and connectivity requirements through statewide and metropolitan area intermodal and multimodal transportation planning funded, in part, by the U.S. Department of Transportation.

While intercity passenger rail has historically been an exception to the application of this successful model, in recent years some States have taken an active role in their rail transportation services. Several States have chosen to invest in intercity passenger rail service provided by Amtrak as part of strategies to meet their passenger mobility needs. Over the past 10 years, ridership on intercity passenger rail routes that benefit from State support has grown by 73 percent. Over that same time period, ridership on Amtrak routes not supported by States has increased by only 7 percent. In discussions with interested States, the U.S. Department of Transportation has found that the greatest single impediment to implementing this initiative is the lack of a Federal/State partnership, similar to that which exists for highways and transit, for investing in the capital needs of intercity passenger rail.

S. 294 recognizes an important role for the States in section 302 by requiring development of State rail plans and in section 301 by establishing a program matching Federal/State grants for intercity passenger rail capital investment. While a start in the right direction, the Administration believes that a larger and stronger role needs to be established for the States. Like the Federal Transit grants, we strongly urge that the State matching requirement be increased to 50 percent. This would ensure a State's full commitment to a project and would make States more accountable for selecting a well-justified project. The State planning provision in section 203 is established as a stand alone rail planning effort. Planning for rail transportation needs to be fully integrated in the multimodal State-wide planning that States already undertake under 23 U.S.C. 135. It is essential, in my opinion, that States consider all modes when undertaking mobility planning and select the investments that best meet their mobility needs regardless of the mode.

Decisions on where intercity passenger rail service should be operated, and the schedules and attributes of this service should flow from this State planning and informed decision-making and not the corporate offices of Amtrak. While establishing a Federal/State capital program, section101(c) relegates this program to a secondary importance by continuing to provide the lion's share of available Federal capital to Amtrak directly instead of to the States. The Administration believes that most if not all of the capital designed for intercity passenger rail improvements should flow through the States who are in the best position to know about mobility needs.

We fully support creating a Federal-State partnership for investing in capital infrastructure. However, the framework presented in this bill gives too little responsibility to the States, while continuing to funnel most capital funding through Amtrak. Instead, States should be empowered to decide how best to invest in intercity passenger rail facilities.

Create an effective partnership, after a reasonable transition, to manage the capital assets of the Northeast corridor.

As discussed earlier, the Northeast Corridor infrastructure places significant burdens on Amtrak's management. Moreover, this is an essential transportation asset needed by commuters and freight carriers as well as Amtrak. It should be managed for the benefit of the region's transportation needs and not corporate priorities and the short-term financial fortunes of one should not affect the operations of all. Decisions on essential infrastructure replacements and improvements should not have to compete, as they do today, with decisions on what will be served on Amtrak's dining cars.

S. 294 makes some modest movement in this direction. Section 213 requires Amtrak, in consultation with the USDOT and the States, to develop a capital spending plan to return the Northeast Corridor to a state of good repair. This is similar to a condition I required in Amtrak's FY 2006 grant agreement and I appreciate the reinforcement that comes from inclusion of this provision in the bill. Section 214 would establish advisory committees to promote cooperation in the planning and investment on the NEC and reinforces the STB's authority over new usage agreements between Amtrak and the commuter rail operators. I believe, however, based upon my past career in State transportation, that more is needed to keep the States from being reluctant partners in making the investments needed to preserve and improve the Corridor. I recognize that creating a decision-making body to control the Northeast Corridor with representatives of the Federal Government, eight States and the District of Columbia will be a daunting task, but this is what is needed.

Amtrak Debt

The Administration believes that Amtrak's debt is a private corporate matter and should remain so. A quarter of a century ago, Congress relieved Amtrak of more than a billion dollars of debt without improving matters noticeably. Amtrak simply incurred even more debt. The Administration strongly opposes any attempts to transfer Amtrak's debt onto the U.S. Treasury. Amtrak, which incurred its debt independently and beyond the oversight of the government, must be responsible for retiring any debt using all the resources it has available. Amtrak has over $3 billion in revenue annually and therefore has the wherewithal to address its debt without special assistance from the U.S. government. Amtrak's debt should not be misunderstood to be a de facto obligation of the Federal government. Furthermore, the Administration does not believe that the bill should include a mechanism that would allow Amtrak to incur new government-backed debt.

Other Provisions

At two locations, section 101(d) and in section 301 (where it would create a new section 24403 in Title 49), S. 294 recognizes that the Department and FRA require fiscal resources to oversee implementation of intercity passenger rail capital projects and gives FRA the authority to retain a portion of the funds authorized to help fund such oversight. This authority is much needed and is in accord with the Administration's views.

Title IV would include in this legislation the "Surface Transportation and Rail Security Act of 2007." On February 2, 2007, the Acting General Counsel of the Department of Transportation provided the Department's views on this legislation to Chairman and Ranking Member of the full committee. I wish to incorporate her letter into this testimony by reference.

The foregoing comments reflect a high level view of major provisions of S. 294. By all means these comments should not be considered comprehensive or the absence of a comment on a particular section be interpreted as Administration support. Staff from the Department and FRA will be available to provide more detailed comments to the staff of this Committee at their convenience.

S. 294 is a complex bill that reflects much work and thoughtful consideration by the bill's authors. However, it falls short of making necessary reforms identified by the Administration and other independent experts. Without the changes we have identified, we have serious reservations with the bill.

Secretary Peters and I look forward to a continuing dialogue with this Committee to develop a much needed consensus that can be embraced by the Congress and the Administration.

I appreciate your attention and would be happy to answer questions that you might have.

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