

**TESTIMONY OF MORTIMER L. DOWNEY
DEPUTY SECRETARY OF TRANSPORTATION
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE**

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Mr. Chairman and members of the Subcommittee, it is my privilege to appear on behalf of Secretary Peña and the Department of Transportation to discuss the important role of the National Railroad Passenger Corporation, better known as Amtrak, in our national transportation system and the various legislative proposals that have been put forward to improve its performance. Federal Railroad Administrator Jolene Molitoris is leading a trade mission in eastern Europe and is unable to appear before you today.

Clinton Administration's Support for Amtrak

Improved passenger rail transportation is an important part of the Clinton Administration's transportation policy. Intercity rail passenger service has many benefits -- such as safety and energy efficiency -- and it should play an important role in this Nation's transportation system.

In the corridor between Washington and New York City, Amtrak has proven it can dominate the intercity common carrier passenger transportation in an area of growing urbanization. In this and other congested corridors, intercity rail passenger service plays a major role in reducing congestion in other modes of transportation -- delaying or eliminating the need for expensive investments to expand capacity of highways and airports. With current interstate highway capacity expansions costing in excess of \$40 million per lane-mile and airport expansions

measured in hundreds of millions if not billions of dollars, there is significant financial benefit in better utilization of the capacity of intercity rail to move passengers. Increasingly, States view intercity rail as an attractive way to provide increased intercity mobility while achieving ambitious environmental goals. In other parts of the country, Amtrak serves an important role as the common carrier connection between rural communities and major population centers.

Amtrak's Regional Forums

There is broad support throughout the country for intercity rail passenger service and Amtrak. Between March 28 and May 3, Amtrak sponsored seven regional forums to seek ideas and suggestions about Amtrak's future. Representatives from the Department participated in each of these forums. From such diverse parts of this country as Meridian, Mississippi, Philadelphia, Pennsylvania, Sacramento, California and Racine, Wisconsin, we heard from Governors, Members of Congress, State transportation officials, business and environmental groups and the public at large. The large majority of participants in these forums supported the need for intercity rail passenger service. The most frequent complaint was that there was too little -- not too much -- Amtrak service.

The forums showed that many Americans believe passenger rail should be a stronger component of our transportation network, as it is in Europe, Japan, and other world economic powers. But it is also clear that the public sees a need for Amtrak to improve its operations and the quality of its service. The public believes Amtrak should also build closer partnership arrangements with State and local governments and the private sector. The traveling public also tells us they want

Amtrak to become a more integrated part of a national intermodal passenger network, with more convenient links to airports, local transit, and other modes. And, finally, they want Amtrak to be free to operate more like a business. In short, Americans want a more customer-driven, competitive, entrepreneurial Amtrak.

Reinventing Amtrak

Having voiced the Administration's support for intercity rail passenger service, I must also make clear that Amtrak is in financial trouble. In January, FRA Administrator Molitoris testified before this Committee on the condition of Amtrak. It is unnecessary here for me to repeat what she and so many other witnesses said at that hearing. By now the Committee knows that since its inception, Amtrak has been asked to do too much with too little, and in too many cases, Amtrak does not provide the quality of service that the public deserves. The question for today's hearing is what must we do now to realize the potential of intercity rail passenger service in this country.

We have reached the point where major changes are needed in Amtrak and its system. This in turn has caused the Department to reevaluate the role of the Federal Government. We believe that Amtrak should be an efficient, commercially-driven provider of quality transportation service. It must provide quality service at reasonable cost. It must be financially stable yet recognize the reality of a declining availability of Federal financial resources.

The Department and Amtrak's new Board of Directors and management recognized that the frail condition of the corporation dictated that it could not survive in its current form much longer. The new management undertook the first top-to-bottom analysis of the Corporation in many years. The Corporation was restructured by eliminating unnecessary layers of management and by creation of strategic business units to permit Amtrak to focus more closely on its customers. The Corporation also developed a strategic plan -- again, the first in many years -- to help focus investment and other initiatives. An important part of developing this plan has been the development of methods by which the Corporation can better identify and track the costs and revenues of specific Amtrak activities.

Unfortunately, in the midst of trying to restructure the Corporation to meet the challenges of the 21st century, Amtrak in 1995 found itself in a fiscal crisis. Despite \$542 million of operating assistance contained in the Fiscal Year 1995 appropriation, Amtrak was projecting a \$200 million shortfall. If this shortfall were not addressed, all Amtrak service would have stopped by summer. To solve the problem, the Board approved a number of measures that were developed in the strategic planning process aimed at increasing revenues and reducing costs to allow Amtrak to make it through 1995 and to begin to position the Corporation for the future. A key principle of the strategic plan is that Amtrak would only operate now and in the future those services that it could operate well.

The plan was comprehensive and some of the measures were painful. Approximately 5,400 jobs -- 25 percent of Amtrak's total employment -- were slated for elimination. By the time all route

and service restructurings are completed in September, Amtrak will operate 25 percent fewer train-miles than it did on October 1, 1994.

The Department is presently analyzing the results of the first seven months of FY 1995 in an attempt to draw some early conclusions about the effect of this restructuring on Amtrak's subsidy needs. The early results appear promising -- and Amtrak's plan for eliminating its projected FY 1995 revenue shortfall appears to be working. Of particular note has been the commitment of several States including California, Missouri, Vermont and Wisconsin to step up to the plate and assume the financial responsibility for the deficits of specific trains that are important to them.

I must stress, however, the financial condition of Amtrak remains fragile and revenues for its core business, intercity passenger transportation, continue to erode. It is clear that more must be done to make Amtrak financially stable.

The Amtrak Restructuring Act of 1995

The Department recognizes that Amtrak cannot reach financial stability solely by cutting routes and service and layers of management. Fundamental changes requiring legislation are needed. On April 6, 1995, the Department submitted proposed legislation, the Amtrak Restructuring Act of 1995, that would, if enacted, make such changes. This bill, S. 693, was introduced by Senator Hollings.

In our proposed legislation, the Department supports the continuing need for investment in Amtrak. The Department recognizes that capital assistance will be needed, both to provide essential services and to replace and upgrade antiquated facilities and equipment. At the same time, the Department's legislation also recognizes that the Federal Government cannot afford to continue the past trend of increasing operating subsidies for Amtrak and it establishes the goal of reducing and then eliminating Amtrak's operating subsidies by 2001.

More serious obstacles to Amtrak's ability to perform as a commercially driven private sector company are presented by various operational, financial, and managerial restrictions imposed on it by current Federal law. Provisions in the Department's legislative proposal would eliminate or modify these restrictions.

The future of Amtrak is also tied to the partnership between Amtrak and its employees. Amtrak needs increased flexibility to negotiate with its employees on a range of important issues. The Department's legislative proposal would eliminate the statutory restrictions on such negotiations but would not mandate a solution. The Department believes that adjustments to labor protection and contracting out should be developed between Amtrak and its employees through the collective bargaining process.

Another major component of the Department's proposal is to provide the State and local governments a greater voice in determining the type, routes, and frequency of Amtrak service. This partnership means increasing the financial role of States and local governments in

supporting services from which they benefit. The Department's legislative proposal would begin to shift the financial responsibility to the States, leaving them the option of continuing or expanding specific services.

The Department believes that S. 693, the Amtrak Restructuring Act, if enacted, would make the statutory changes necessary to empower Amtrak to take action to cut its operating subsidy requirements and to transform the Corporation into an efficient provider of quality transportation service. We believe that it would provide a sound foundation for the Committee's consideration of legislation to reauthorize Amtrak.

Other Pending Amtrak Reauthorizatoin Legislation

There are two other bills pending before Congress that warrant consideration by the Committee as it moves to reauthorize Amtrak. I would like to take this opportunity to offer the Department's views on these bills.

Rail Investment and Efficiency Act of 1995

The Rail Investment and Efficiency Act of 1995 (S. 674) introduced by Senator Exon and other distinguished Members of the Senate closely parallels legislation reported out of this Committee in the last Congress. It clearly recognizes Amtrak's importance to the national transportation system and contains ideas and provisions that should be included in any reform legislation ultimately enacted.

Among the provisions in this bill that the Department supports are: establishing a goal for Amtrak as a provider of world class service; authorization of significant levels of capital investment (although we differ on the appropriate level) and the requirement that Amtrak report on the return realized from its capital investment; authorization of the Northeast Corridor Improvement Project; and, the repeal of significant portions of current statutes that encumber Amtrak or which have outlived their usefulness.

Amtrak Reform and Privatization Act of 1995

This legislation was reported out by the House Subcommittee on Railroads on May 25. While the full House Committee on Transportation and Infrastructure adopted some modifications to this bill in its June 14 markup, the Committee has not completed action or reported out the bill. The Department supports a number of aspects of this bill. We support continued funding of Amtrak as reflected in the committee authorizations for FY 1995 to FY 1998, although we prefer the levels requested in the President's budget. The Department also strongly supports authorizations for the Northeast Corridor Improvement Project and the Farley/Penn Station Redevelopment Project.

We also endorse the House bill's efforts to repeal existing law that hampers Amtrak's ability to make service adjustments. Adopting these long overdue reforms will enable Amtrak to operate in a more business-like manner. In addition, we support those provisions in the House bill that would allow Amtrak to enter into contractual arrangements with other parties to more equitably share the costs of operating and maintaining the Northeast Corridor.

There are, however, several provisions in the House bill that cause us serious concern. At the top of the list is the issue of Amtrak's ability to contract out work. The bill initially considered by the House Subcommittee would have repealed the existing statutory prohibition on contracting out work and unilaterally canceled existing agreements that have been reached through the collective bargaining process. By contrast, the Administration's bill calls for providing Amtrak and its employees with the ability to negotiate on this issue. In our opinion, the House bill was improved significantly when, earlier this week, the full Committee, during the first part of its mark up of the bill, adopted an amendment that allows for collective bargaining on the contracting out issue. The Administration also supports the provision of the House Subcommittee bill that allows for collective bargaining on whether Amtrak should modify its labor protection agreements.

The Department believes in the collective bargaining process as the primary mechanism to resolve both labor protection and contracting out -- issues which are routinely negotiated in both the private and public sectors. It is our understanding that Amtrak and its employees have expressed their willingness to negotiate these issues as part of a process that would eliminate the statutory restrictions on bargaining and allow the parties to treat the issues by contractual agreement as they do other labor-management issues. For Congress to take upon itself to break agreements Amtrak bargained for and entered into would, in the Department's view, set an extraordinary and dangerous precedent. We are deeply troubled by this approach and urge this Committee to adopt an approach that leaves the issue of how Amtrak allocates work to the parties involved.

The other matter of serious concern deals with the House bill's financial reform provisions. The Administration supports the goal of moving Amtrak to financial stability which is shared by the House bill. However, we believe that there are a number of unanswered questions and concerns surrounding the provisions presently contained in Title V of that bill. We believe that these provisions of the bill, if implemented, would raise serious questions as to whether there will be intercity passenger rail service of any kind -- private or public.

First, we are concerned about who the new owners of the Corporation would be, how would the stock be allocated and how the transition to new owners would be accomplished. The details of this process need to be spelled out in order for the Congress, the Administration and the American public to be assured that the taxpayers' interests are being protected.

Second, we are concerned that Amtrak's assets, which represent an investment by the taxpayers of over \$12 billion, continue to be used to provide intercity passenger rail service. We believe Congress shares this goal. However, the House bill as written would allow this substantial investment to be used for purposes other than for rail service or even to be liquidated. In our opinion, at a minimum, there should be a guarantee that the Corporation's assets continue to be used for the purpose we all support -- intercity rail passenger service.

Third, we are concerned about whether the proposed release of the lien on Amtrak's assets, in particular on the Northeast Corridor, will achieve its desired goal of giving Amtrak access to new private capital. DOT already routinely subordinates its security interest to facilitate

borrowings, thereby allowing Amtrak to borrow while retaining taxpayer protections provided by the lien.

The Department supports the goal of the House bill of eventual privatization of Amtrak. At this point, however, we believe -- and know of no independent analysis to indicate otherwise -- that Amtrak will require a meaningful transition period before it can be successfully privatized. Investors are unlikely to view Amtrak stock as an attractive investment, except for its real estate assets, until the Corporation's restructuring and the legislative changes recommended by the Department and contained in other parts of the House bill have had an opportunity to improve Amtrak's financial performance. For these and other reasons, the Department has serious concerns about the financial reform provisions contained in Title V in the House bill.

Amtrak's present condition is similar to that of the Consolidated Rail Corporation (Conrail) prior to the enactment of the Northeast Rail Service Act of 1981 (NERSA). Like Conrail in the early 1980s, Amtrak needs statutory changes to free it from unnecessary government regulation, and it needs sufficient time for management to take advantage of these new freedoms to turn the Corporation around. NERSA provided the opportunities for creating a Conrail that could be successfully returned to the private sector (through the Conrail Privatization Act), along with a substantial financial return to the Federal Government. The Department believes that S. 693 is in step with this example of a successful privatization of a Federally-owned railroad.

It is clear to the Department that there is a shared commitment to the future of intercity rail

passenger service on the part of the Congress, this Administration, Amtrak management and employees, Amtrak's passengers and other stakeholders. We have the opportunity to set a new course for Amtrak and the Department looks forward to working with this Committee and the Congress in the weeks and months ahead to shape the future of intercity rail passenger service in the year 2000 and beyond.

Local Rail Freight Assistance

Finally, I would like to turn to an issue that I know is of interest to Members of this Subcommittee. The Local Rail Freight Assistance Program provides for discretionary and flat-rate grants to States for rail planning and acquisition, track rehabilitation, and rail facility construction for light density freight lines. We believe that efficient rail freight operations are an important component of our national transportation system. Under our proposed restructuring of DOT programs, States would have the flexibility to use Federal transportation funds for projects previously eligible for assistance through the Local Rail Freight Assistance Program. Accordingly, we did not request funding for FY 1996 for a separate LRFA program.

This concludes my prepared statement. I appreciate the opportunity to appear before you today and am available to answer any questions you may have. Thank you.