



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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SUMMARY OF SUBJECT MATTER

TO: Republican Members, Subcommittee on Railroads, Pipelines, and Hazardous Materials
FROM: Majority Staff, Subcommittee on Railroads, Pipelines, and Hazardous Materials
RE: Subcommittee Hearing on “Building a 21st Century Infrastructure for America: Rail Stakeholders’ Perspectives”

PURPOSE

The Subcommittee on Railroads, Pipelines, and Hazardous Materials, will meet on Wednesday, October 4, 2017 at 10:00 a.m., in 2167 Rayburn House Office Building, to receive testimony related to “Building a 21st Century Infrastructure for America: Rail Stakeholders’ Perspectives”. The purpose of this hearing is to receive the views of the railroad industry’s stakeholders regarding infrastructure in the 21st Century. The Subcommittee will hear testimony from the railroad industry, a railroad supplier, and rail labor.

BACKGROUND

The railroad industry in the United States is largely comprised of private freight carriers and the National Rail Passenger Corporations, or Amtrak, which was created by Congress in 1970 to assume money-losing passenger operations from the freight railroads. Operations began on May 1, 1971. This hearing will gather opinions of rail stakeholders and seek information on infrastructure expansion opportunities, opportunities for public-private partnerships, regulatory reforms, ways to make grant programs more accessible, and ways to enhance safety through the use of performance based regulations.

Freight Rail

The freight rail industry consists of seven large Class I railroads, line haul freight carriers with operating revenues of \$453 million or more in 2016, and approximately 600 much smaller Class II and Class III railroads, which own and operate nearly one-third of the national rail mileage.

The enactment of the *Staggers Rail Act of 1980* (Staggers) (P.L. 96-448) partially deregulated the industry and was largely responsible for restoring the industry to financial health.

The structure of the industry is in many respects the result of Staggers, since the competitive advantages of being able to provide single-line service, i.e. from origin to destination without interchanging with another carrier, drove the industry to consolidate. Staggers, in combination with other legislation enacted around that time, also allowed the railroads to abandon or spin off unprofitable lines, leading to the creation of today's short line and regional railroads. These carriers are able to operate the lines profitably due to lower labor costs and a high level of local customer service.

Since Staggers was enacted, the freight railroads have invested \$600 billion in their systems. The freight rail industry is almost entirely self-funded. However, the railroads support public-private partnerships, and both large and small freight railroads have participated in the *Fixing America's Surface Transportation (FAST) Act's* (P.L. 114-94) Nationally Significant Freight and Highway Projects Program (dubbed the FASTLANE program by the Obama Administration and the INFRA program by the Trump Administration). Additional awards have been made for port-rail projects, grade separations, and combined freight and passenger projects. Several freight rail projects and projects with freight rail elements have been awarded FASTLANE/INFRA grants.

Additionally, under the FAST Act, three new rail grant programs were created. The Consolidated Rail Infrastructure and Safety Improvement Grants Program (CRISI) provides grants that are designed to assist both freight and passenger systems in achieving efficiency, safety, and reliability benefits. States, public agencies, intercity passenger railroads, rail labor groups, and class II and III railroads, among other entities, are eligible for such grants. CRISI grants can be used for capital projects, regional and corridor planning, environmental analysis, research, workforce development, and training. There is \$1.1 billion authorized over 5 years to carry out the CRISI program. The FAST Act also created a Federal-State Partnership for State of Good Repair which authorized \$997 million over 5 years. This program is for capital projects on the Northeast Corridor to (1) replace existing assets in-kind or with assets that increase capacity or service, (2) maintain service while existing assets are brought into a state of good repair, or (3) bring existing assets into a state of good repair. Lastly, the FAST Act created a Restoration and Enhancement Grants program, authorizing \$100 million over 5 years to be used towards operating assistance for up to 3 years per route to initiate, enhance, or restore passenger rail transportation.

While infrastructure investment is important, so is reducing regulatory burdens. Safety regulation has grown considerably in recent years. Since 2000, the number of pages in the Code of Federal Regulations (CFR) governing rail safety has grown from 719 pages to 1,240, requiring the publication of a separate volume of the CFR just for rail. A number of the regulations are the result of Congressional mandates enacted after serious rail accidents, and made often upon the recommendation of the National Transportation Safety Board (NTSB). FRA's approach to regulation of the rail industry has most often been to prescribe how a particular goal must be met rather than setting out the desired outcome and giving the industry the flexibility to determine how to reach the goal.

Similarly, under RRIF, the U.S. Department of Transportation (DOT) is authorized to provide direct loans and loan guarantees up to \$35 billion to acquire, improve, or rehabilitate rail or intermodal equipment or facilities. Up to \$7 billion is reserved for projects benefiting short

line (Class II and III) freight railroads. Despite a number of improvements to RRIF made by the FAST Act, including streamlining the approval process and allowing master credit agreements, the program remains underutilized. Since the program's inception in the late 1990's, the DOT has executed only about \$5.2 billion in loans. The most widely recommended change to RRIF is to appropriate federal funds for the credit risk premium, an amount borrowers must pay upfront to cover risk to the U.S. government of default, similar to TIFIA (Transportation Infrastructure Finance and Innovation Act) financing. Currently, RRIF borrowers must pay the credit risk premium, which makes RRIF financing less attractive. Where a borrower is eligible to apply for either RRIF or TIFIA financing, TIFIA is generally preferred due to the treatment of the credit risk premium.

Intercity Passenger Rail

Amtrak serves over 500 stations and in fiscal year 2016 carried 31.3 million passengers, including 11.9 million on the Northeast Corridor (NEC) between Washington, DC and Boston, Massachusetts. Over its lifespan, Amtrak has received \$45 billion in federal subsidies to cover operating losses and support capital investments. Many states also subsidize Amtrak, and additional funds have been appropriated to states and other entities for conventional and high-speed rail projects.

The FAST Act reauthorized Amtrak for five years, from fiscal year 2016 through fiscal year 2020. For fiscal year 2017, the FAST Act authorized \$1.5 billion, and Amtrak was appropriated \$1.49 billion. The FAST Act authorized \$1.6 billion for Amtrak for fiscal year 2018.

Amtrak operates three principal lines of business: the NEC, state-supported routes, and long distance routes. In an effort to improve financial transparency and service delivery, the FAST Act requires Amtrak to improve its accounting. The FAST Act authorized Amtrak in two accounts, a Northeast Corridor account and a National Network account (which includes the state-supported routes and long distance routes) to replace the operating grant and capital/debt service grant. The FAST Act provides Amtrak flexibility to transfer funds between accounts with the approval of the Amtrak Board of Directors and DOT. This new accounting structure furthers the goal of ensuring Amtrak's Northeast Corridor operating revenues remain on the NEC. Additionally, the FAST Act required Amtrak to budget and plan through these accounts and by lines of business.

The Northeast Corridor

The NEC is the backbone of the Nation's intercity passenger rail system. While Amtrak owns most of the NEC¹, it is a minority user, operating about 150 trains daily on the corridor, compared to over 450 trains by the Long Island Railroad (LIRR), 415 train by New Jersey Transit (NJT), and 350 by the Southeastern Pennsylvania Transportation Authority (SEPTA). On an operating basis, i.e., excluding depreciation and interest, the NEC produced a \$440 million surplus in fiscal year 2016.

¹ Through a 1,000-year lease from the federal government.

According to the NEC Commission (Commission), \$38 billion in investment is needed to bring the NEC to a state of good repair.² The Commission's *Northeast Corridor Capital Investment Plan, Fiscal Years 2018-2022* identifies nine projects costing \$22.8 billion as top priorities for the NEC:

Top NEC-Wide Unfunded Priorities*	
	Total Estimated Cost (\$ billions)
North Portal Bridge	\$ 1.7
Hudson Tunnel Project	\$ 10.0
East River Tunnel Rehabilitation	\$ 0.8
Sawtooth Bridge Replacement	\$ 1.3
Baltimore & Potomac Tunnel Replacement	\$ 4.5
Susquehanna Bridge Replacement	\$ 1.7
Pelham Bay Bridge Replacement	\$ 0.4
Connecticut River Bridge Replacement	\$ 0.7
Devon Bridge	\$ 1.5
Total	\$ 22.5

*Source: Northeast Corridor Capital Investment Plan, Fiscal Years 2018-2022

The first four projects are part of the Gateway Program, a group of proposed projects between Newark, New Jersey and Manhattan, New York. A major element of the Gateway Program includes construction of a new Hudson River tunnel to allow the existing North River Tunnel to be rehabilitated and, over the longer term, provide additional train capacity into Penn Station. The Program also includes expanding Penn Station's tracks and platforms, and the creation of new Penn Station concourses and connections to the Farley Post Office, where Amtrak operations will relocate. In New Jersey, Gateway includes replacement of the Portal and Sawtooth Bridges, and expansion of the NEC mainline from two to four tracks between Newark and the Bergen Palisades tunnel portals.

Currently, Amtrak operates the only high-speed rail operation in the United States, the Acela service on the NEC. Acela can reach an operating speed of up to 150 miles per hour (mph) but due to track curvature and speed restrictions, Acela averages only 83 mph between Washington, DC and New York and 72 mph between New York and Boston. Acela falls far short of international high-speed trains, which can average 150 mph. Many countries are upgrading systems to achieve top speeds of 220 mph.

State-Supported Routes:

Amtrak receives funding from 18 states to operate 29 state-supported routes. These corridors of less than 750 miles, primarily located in the Northeast, Midwest, and Pacific Coast, connect major metropolitan areas and have seen substantial ridership growth over the past decade. State-supported corridor services carried 14.7 million passengers in fiscal year 2016, nearly half of Amtrak's total ridership. Pursuant to Section 209 of the *Passenger Rail Investment and Improvement Act of 2008* (PRIIA 2008) (P.L. 110-432), Amtrak and the states have developed and implemented a methodology for allocating operating and capital costs associated

² The NEC Commission was established by Congress as part of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (P.L. 110-432) to develop a formula for allocation NEC capital and operating costs among the users of the Corridor and to facilitate coordinated planning.

with the corridor routes, reducing the operating loss on the trains to \$149 million in fiscal year 2016. State payments to Amtrak have risen from \$179 million to \$228 million since 2012.

Long Distance Routes:

Amtrak operates 15 long distance routes over an 18,500-mile network, owned primarily by the freight railroads. In fiscal year 2016, the long distance routes carried a total of 4.6 million passengers and account for a majority of the operational losses. These trains provide intercity passenger rail service in 23 of the 46 states in the network.

WITNESS LIST

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