

TESTIMONY OF
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AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
OF THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
ON “RAILROADS AND HAZARDOUS MATERIALS TRANSPORTATION
PROGRAMS: REFORMS AND IMPROVEMENTS TO
REDUCE REGULATORY BURDENS”

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SUBMITTED BY

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The American Public Transportation Association (APTA) is a nonprofit international association of 1,500 public and private member organizations, including transit systems and high-speed, intercity and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical public transportation services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems.

INTRODUCTION

Chairman Shuster, Ranking Member Brown and members of the Railroads, Pipelines and Hazardous Material Subcommittee, on behalf of the American Public Transportation Association (APTA) and its 1,500 member organizations I thank you for the opportunity to testify on the next surface transportation authorization bill. Enacting a well-funded, six-year, multimodal surface transportation bill is one of the most important actions that this Congress can take to push our nation's economic engine into high gear. The United States must develop a fully integrated multimodal commuter and high-speed and intercity passenger rail system (HSIPR), without denigrating our world class rail freight system, in order to meet the rapidly expanding needs of an ever-growing and highly mobile population.

ABOUT APTA

The American Public Transportation Association is a nonprofit international association of 1,500 public and private member organizations, including transit systems and high-speed, intercity and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems.

BACKGROUND

Ridership in the overall passenger rail market in the United States has been steadily growing, with commuter rail being one of the most frequently used methods of public transportation for those traveling from outlying suburban areas to commercial centers of metropolitan areas, often to and from places of employment, education, commerce and medical care. The most recently published APTA public transportation ridership report, which provides data on transit passenger ridership for U.S. transit agencies, shows a continued strong demand for public transportation despite the economic downturn, with nearly 10.2 billion trips taken on public transportation nationally in 2010. The demand for commuter rail service has also remained strong, with 13 of 26 commuter rail systems in operation for all of 2010 reporting ridership increase. Similarly, despite the nation's slow economy, Amtrak experienced record ridership in the last fiscal year, reporting a ridership increase of 4.6 percent for an overall ridership of more than 28.7 million passengers. As the current political unrest in many oil producing nations continues, more and more commuters are turning to public transportation to escape rising gas prices, and many transit operators are reporting double digit ridership increases this year.

In addition to commuter rail, it is critical that intercity passenger rail become a more useful transportation option for travelers looking for alternatives to high gas prices and congested road and air travel in many corridors. While much attention has been lavished on three Governors who rejected federal rail funding for their states, 32 other states plus the District of Columbia are forging ahead in planning and implementing rail improvements. Funding from the three states which opted to cancel their HSIPR programs is being redirected by the U.S. Department of Transportation to other HSIPR projects across the country.

It is more important than ever for the U.S. to invest in its infrastructure as the efficient movement of people and goods is essential for sustained economic growth and recovery. A recent study issued by the Government Accountability Office (GAO), entitled *INTERCITY PASSENGER AND FREIGHT RAIL Better Data and Communication of Uncertainties Can Help Decision Makers Understand Benefits and Trade-Offs of Programs and Policies* concluded that an expansion of already congested roadways and airways is not the answer to the country's transportation needs and that the "demand for

freight and passenger travel will continue to grow, as the growing congestion in urban areas and at key bottlenecks in the system costs Americans billions of dollars in wasted time, fuel, and productivity each year.” The GAO report further concluded that “Some see investment in rail infrastructure, along with other policies designed to shift traffic to rail, as important to addressing these problems, pointing to rail’s advantages over cars and freight trucks in terms of energy efficiency, safety, and lower emissions.”

COMMUTER RAILROADS

President Bush signed the Rail Safety Improvement Act RSIA (P.L. 110-432) into law on October 16, 2008. This legislation was the culmination of various longstanding safety initiatives. The initiative having the most profound effect on commuter railroads is the mandate that by December 31, 2015, Positive Train Control (PTC) technology must be deployed on all railroad tracks which carry passengers, accommodate hazardous materials or experience heavy levels of service. To assist operators with the implementation of PTC, RSIA authorized \$250 million over 5 years for Railroad Safety Technology Grants. The original intent of the authorization was to provide \$50 million per year in grant funding, with priority given to projects that advance PTC technology and benefit both freight and passenger rail operations. The bill also requires the Secretary of Transportation submit an interim progress report to Congress in 2012 on the status of PTC implementation.

In 2010, the Federal Railroad Administration (FRA) issued its final rule on PTC, putting forth statutory reporting requirements which outlined the process by which railroads are expected to comply with the mandate and established a timeline for plan review and certification. Pursuant to the rule, commuter railroads were required to submit PTC Implementation Plans (PTCIP) by April 16, 2010. Plans were required to include information detailing how an agency intends to meet the functional requirements of PTC, including data regarding matters related to rolling stock, risk analysis and interoperability between host and tenant railroads. I am pleased to report that all APTA commuter rail agency members submitted their plans on time and that those plans are in various stages of approval.

Commuter rail properties across the country have aggressively pursued the funding and technology necessary to meet this safety mandate. There are, however, major obstacles to implementing PTC, related to both funding and technology. These challenges pose significant potential for delays in completing the interim steps required for PTC implementation by the 2015 deadline.

Funding Issues

In an attempt to quantify the costs associated with implementing Positive Train Control, APTA surveyed its public commuter rail members in 2009 to ask for initial cost estimates. The results were staggering. The preliminary assessment was more than \$2 billion for commuter railroads, not including costs associated with acquiring the necessary radio spectrum or the subsequent software and operating expenses. According to the Association of American Railroads (AAR), the cost to freight railroads would be significantly greater, with early estimates upwards of \$10 billion. These estimates are now considered to be conservative and industry experts believe costs may in fact be greater.

When the Rail Safety Improvement Act was enacted in 2008, the commuter rail industry was aware that achieving the PTC goal within the mandated timeframes posed significant financial challenges. Nonetheless, the commuter railroads have, and will continue to, work together in good faith to comply with the Act’s requirements. The industry operated under the premise that a new surface transportation authorization bill would be in place to dramatically increase – if not double – the federal capital support for the type of maintenance and state of good repair investments necessary for operating public commuter rails systems, freeing up other capital funds for PTC implementation

projects. Additional federal funding is fundamental to the industry's ability to meet the 2015 deadline. As we move into the latest authorization extension period, it has become clear that a new bill providing increased funding is unlikely to materialize in time to help support the substantial upfront costs associated with PTC implementation. Agencies are likely to be faced with flat or declining federal funding levels that must not only support current safety and state of good repair projects, but to also fund this capital-intensive federal mandate. Commuter railroads that have begun the process of funding PTC are facing very difficult choices -- some agencies are already planning to defer critical safety sensitive infrastructure maintenance on bridges and electrical substations to pay for PTC, while others have concluded they will have to reduce existing passenger service to pay for costs associated with meeting the federally imposed mandate. Delaying critical safety projects and cutting service are not acceptable methods of funding PTC. A multi-year approach to funding PTC projects is critically important to sound investment and the commuter rail industry strongly supports the passage of a well funded six-year multimodal surface transportation bill that significantly increases the level of authorized funding for PTC implementation on commuter railroads.

In addition to concerns about levels of long-term federal support, the downturn in the national economy over the last several years has drastically reduced state and local capital revenue streams, the only other source of funding for large capital projects by commuter railroads. Compounding this shortage of capital funding, many commuter railroad operators have been under tremendous pressure to tap capital funding to pay for operating costs. That pressure led Congress to allow up to 10 percent of 2009's American Recovery and Reinvestment Act (ARRA) dollars to be used for such operating purposes. As expected, this allowance was helpful, but a 2010 survey of APTA transit system members found that over 80 percent of public transit providers were still forced to reduce service, increase passenger fares, lay off staff, or some combination of the three.

The Rail Safety Technology Grant program in the RSIA authorized \$250 million over 5 years to assist in the deployment of PTC related technologies on commuter and freight railroads. Under this program, applicants can request funding for technology related projects, with preference given to those projects that are the collaborative effort of multiple railroads. Unfortunately, funding for the annual \$50 million authorization for this program was not included in the Administration's budget requests for Fiscal Year (FY) 2009, 2010, or 2011 and is absent in the 2012 budget as well. While the Administration did not request funding for PTC, Congress did include \$50 million in FY2010 appropriations legislation for the program, however, recent actions by Congress rescinded that \$50 million, leaving the program unfunded. Furthermore, even if fully appropriated, this authorization was never enough to make a significant dent in the more than \$2 billion estimated cost faced by commuter rail agencies. To help implement PTC, we strongly urge Congress to immediately substantially increase the authorization level for publicly funded commuter railroads to a level that adequately reflects industry needs and ensure that those funds are appropriated quickly.

To ensure that positive train control systems go online by 2015, agencies must begin their procurement processes immediately, committing extremely limited capital funding for PTC implementation. The nation's publicly funded commuter railroads remain committed to implementing PTC on their railroads and ask the federal government to demonstrate the same level of commitment by increasing the authorization to cover at least 80 percent of the cost to implement PTC on publicly funded commuter railroads, as is consistent with other federal Department of Transportation programs. Providing an 80/20 cost share to publicly funded commuter railroads allows operators to install PTC on

their systems while also continuing critically needed state-of-good-repair projects – a level of flexibility that is vital to operators. Redirecting an agency’s entire capital budget to install PTC is not an effective use of limited funding, especially if deferred critical safety maintenance projects result in inoperable electrical substations, bridges or other safety critical systems.

It should be noted that the option of using low interest loans from the Railroad Rehabilitation and Improvement Financing (RRIF) program has been mentioned as a potential source of funding for PTC implementation. For publicly funded commuter railroads to assume additional debt in a time of deep economic crisis in order to finance a severely underfunded federal safety mandate is not the answer. For example, at the New York Metropolitan Transportation Authority (NYMTA), early estimates to install PTC on its two commuter railroads, Long Island Railroad (LIRR) and Metro North Railroad (MNRR), are in the hundreds of millions of dollars. Unfortunately, with an annual debt service of \$1 billion dollars, NYMTA is at its practical indebted limit and adding hundreds of millions of dollars in new debt may impact creditworthiness. Similarly, the North County Transit District (NCTD) in San Diego estimates its PTC costs to be in the \$60-90 million range, despite an annual capital budget of only \$10-\$15 million. Significant federal investment must be part of the equation to fund the enormous cost of PTC implementation on our nation’s publicly funded commuter railroads.

Technological Issues

The technological obstacles associated with implementing PTC by 2015 are proving to be equally as challenging. Positive Train Control technologies are largely untested in the commuter rail environment, with no successful testing achievements to date. In comparison to freight and intercity rail operations, the commuter rail environment poses unique challenges given the high traffic volumes, close headways, and reliability demands that have a low tolerance for service delays. For example, MTA Metro North commuter railroad operates approximately 700 revenue trains daily. During the peak morning rush hour, as many as 200 trains are required to meet the demand. Ensuring successful and cost efficient operations to passengers depends on providing daily, on-time, reliable service, therefore, PTC systems must be carefully integrated to allow for these high volumes of service and must be calibrated to meet the needs of the precise operating environment of a commuter railroad.

Further complicating matters is the realization that few vendors have the expertise necessary to install PTC technologies on freight and passenger railroads. There are currently no “turn-key” vendors who can install all components of a PTC system. Instead, to implement PTC it will be necessary to contract with multiple vendors who provide differing services. Competition to secure these vendors will likely result in services being sold to the highest bidder, pushing privately held companies to the top of the list and publicly funded commuter railroads to the bottom.

Vendor concerns aside, the fact remains that most of the technology associated with PTC simply does not exist at present. There is no off-the-shelf technology available to freight or commuter railroads, as nearly all components are still in the research and development phase. For example, it is our understanding, based on information provided at a meeting of the Interoperable Train Communication Committee (ITC), that the radios to be used for interoperable communications, a critical piece of the PTC puzzle, will not be available until the first quarter of 2012. These radios are necessary in order to complete work on the software and messaging platform over which the radios are expected to operate. Furthermore, these radios must be complete in order for commuter railroads to begin the procurement process, and any delays in their development will result in delays in procurement.

The December 2010 report by the U.S. Government Accountability Office entitled *“Rail Safety: Federal Railroad Administration Should Report on Risks to the Successful Implementation of Mandated Safety Technology”* also found that while all railroads impacted by PTC requirements have been putting forth good faith efforts to meet the mandate, there is strong potential for delays if certain problematic components of the process are not rectified in a timely manner. The most striking information to come out of the report is the GAO’s likening of the PTC technology rollout to that of the development of a military weapons system, noting that “demonstrating a high level of maturity before allowing new technologies into product development programs increases the chance for successful implementation, and that, conversely, technologies that were included in a product development program before they were mature later contributed to cost increases and schedule delays.” We therefore urge this committee to include language to its surface transportation authorization bill to amend the Rail Safety Improvement Act of 2008 to extend the PTC implementation deadline for commuter railroads to December 31, 2018, and to provide federal funding equal to 80 percent of the estimated \$2 billion implementation costs on commuter railroads.

We also ask this committee to include language which directs the FCC to set aside at no cost enough radio frequency spectrum to ensure commuter railroads are successful in meeting this federal mandate. The implementation of Positive Train Control requires an extensive communications infrastructure to support the transmission of train control based data communications and the RSIA did not include provisions for allocating spectrum to commuter railroads for PTC purposes.

Notwithstanding, we do not believe that an extension should preclude commuter railroads who have committed to implement PTC prior to the 2015 deadline, such as the Southern California Regional Rail Authority (SCRRA) or other Southern California properties, from moving forward with their advanced implementation schedule. We fully understand, appreciate and support SCRRA’s concerted effort to implement PTC on its rail network by 2012.

APTA strongly supports the early implementation of PTC in Southern California and endorses the SCRRA service area to be the first interoperable PTC system in service, allowing it to serve as the basis to inform all commuter railroads on PTC. Further, we believe that federal resources should be provided, including expeditious action by the Federal Communications Commission (FCC) on the pending 220 spectrum acquisition application by SCRRA, and on the allocation of a no cost radio spectrum set aside for PTC on commuter railroads nationwide. We urge the Federal Railroad Administration to devote the necessary resources to fully support SCRRA’s early implementation of PTC on its commuter rail system by 2012.

All commuter railroads can learn from early implementation efforts and prevent costly mistakes from being repeated across the nation. These early implementation efforts will likely result in a more cost-efficient and technologically sound blueprint for implementing PTC on other commuter railroads. Extending the date would also give Congress the opportunity to review both the FRA’s 2012 mid-term Report to Congress on the Status of PTC Implementation as well as the Federal Transit Administration’s report on PTC, which is expected to be completed in 2013.

On March 17, 2011, APTA member Joseph J. Giulietti, Executive Director of the South Florida Regional Transportation Authority testified at a hearing before the House Transportation and Infrastructure Subcommittee on Railroads, Pipelines and Hazardous Materials. In this hearing, Mr. Giulietti testified that many commuter railroads are facing the hard decision of choosing between

implementing costly PTC technologies or performing critical system safety state of good repair (SOGR) construction and maintenance projects. Subcommittee Chairman Bill Shuster (R-PA) asked Mr. Giuliotti to work with APTA to determine which safety critical state of good repair projects would be deferred in order to implement PTC by 2015. APTA conducted a brief survey of its members and found that examples of potentially deferred SOGR projects range from delayed installation of fencing to prevent access to vandals to delayed bridge replacement construction which may result in restrictions for freight rail operations to the complete shutdown of a commuter railroad if viable funding options are not made available.

Delaying critical safety projects and cutting service are not acceptable methods of funding PTC and we urge this committee to provide adequate funding to ensure the commuter railroads are successful in their efforts to implement PTC.

Spectrum Issues

Though it is not within the jurisdiction of this subcommittee, I would like to address the issue of radio frequency spectrum as it pertains to interoperable communications required under the RSIA.

The implementation of Positive Train Control will require an extensive communications infrastructure to support the transmission of train control based data communications. Unfortunately, the RSIA contained no provision for allocating spectrum for PTC purposes, therefore commuter railroads are actively seeking to acquire radio spectrum on the open market to support wireless and interoperable radio communications. While some agencies have been successful in acquiring spectrum, most have run into significant difficulties, as spectrum is a finite and highly competitive commodity that some qualified license holders are offering for sale at exorbitant rates. Two agencies currently have applications pending before the FCC to settle acquisition disputes involving qualified spectrum license holders and third party claimants. To date, the FCC has not acted on these applications and has taken no action to ensure that spectrum is available to support implementation of PTC in time to satisfy the 2015 deadline.

The Federal Railroad Administration weighed in on the matter with a July 2010 letter from Administrator Joseph C. Szabo to the FCC requesting a set aside of spectrum for publicly funded commuter railroads. In his request, Administrator Szabo astutely identified that since publicly funded commuter railroads “are specifically operated to provide a public service, as opposed to private gain, they rely heavily on public funding to meet operating and capital requirements...the financial ability of such railroads to obtain the necessary spectrum to meet the statutory deadline is questionable at best.”

A nationwide PTC spectrum needs analysis is currently being conducted, in conjunction with the Transportation Research Board (TRB), but it is our understanding that this report will not be available for at least another six months. To ensure that PTC is operational by the federally mandated timeline, spectrum acquisition must take place immediately. Therefore, pending completion of the nationwide spectrum needs analysis, we urge the FCC to act now to reserve and reallocate spectrum in the following urban areas with major commuter rail systems, which, because of the current density of all railroad traffic, already experience significant communications congestion: New York, Chicago, Boston, Philadelphia, Los Angeles, San Francisco, Baltimore, Miami, Washington, D.C., Seattle, San Diego, Dallas/Fort Worth, and Salt Lake City. It is anticipated that the PTC spectrum needs analysis may identify other systems that will also experience difficulty in acquiring spectrum for PTC, and this interim request for a PTC spectrum set aside may need to be supplemented to cover additional systems after the needs

analysis is completed. Granting this set aside will remove a costly and burdensome roadblock for publicly funded railroads on their path to meeting the PTC deadline.

HIGHSPEED AND INTERCITY PASSENGER RAILROADS

To meet the rapidly expanding needs of an ever-growing and highly mobile population, the United States must develop a fully integrated multimodal high-speed and intercity passenger rail system. It is more important than ever for the U.S. to invest in its infrastructure as the efficient movement of people and goods is essential for sustained economic growth and recovery. Investing in high-speed rail projects will produce new passenger rail networks that will create hundreds of thousands of private sector, construction and manufacturing jobs as well as stimulate domestic business growth that will generate additional jobs in related consumer-driven industries. According to data from the U.S. Conference of Mayors, expenditures for high-speed rail construction are estimated to support 24,000 jobs for each billion dollars of investment.

APTA strongly supports President Obama's proposal to provide \$53 billion dollars, from non-highway/transit trust fund account monies, over six years to improve and expand high-speed and intercity passenger rail and urges Congress to provide the first \$8 billion which was included in the President's Fiscal Year 2012 (FY12) budget request. Further, APTA strongly opposes any attempts to rescind or eliminate HSIPR funding to ensure that the 32 states and District of Columbia which are forging ahead with planning and implementing high-speed and intercity passenger rail improvements can continue their efforts to modernize our nation's passenger rail system.

Some have questioned whether the American public supports high speed rail. An October 2010 study sheds some light on this question. APTA worked with Synovate, a global market researcher, to conduct a survey of nearly 25,000 adults across the country on attitudes towards high-speed rail service. The survey found that nearly two-thirds of adults (62 percent) said they would "definitely or probably use" high-speed rail service for leisure or business travel if it were an option, citing convenience and saving money as key factors in determining whether they would choose high-speed rail over other modes of transportation. When asked how important various factors would be in choosing high-speed rail service, survey respondents ranked the top four as follows: (91%) shorter travel times compared to driving to my destination; (91%) less expensive than flying to my destination; (89%) less expensive than driving to my destination; and (85%) integration with local public transit so I can avoid use of rental cars, cabs and parking fees. Notably, while 62 percent said they would definitely or probably use high-speed rail service, only 11 percent of survey respondents said they would "definitely or probably not" use the service.

The strong public demand for high and higher speed rail is also evident at Amtrak, the nation's intercity passenger rail provider. Despite chronic underinvestment, Amtrak has reported record ridership numbers with sustained growth over the last 16 months. In fact, according to recent reports, Amtrak ridership achieved an all time record high in the month of February 2011 with nearly 2.1 million passengers. The higher-speed Acela Express train, which operates on Amtrak's Northeast Corridor, posted near double-digit increases in Fiscal Year 2010 with a ridership increase of 9.2 percent. These numbers highlight the strong public demand for high speed passenger rail as an alternative transportation option.

In addition to the strong public demand, anticipated population growth in the United States further bolsters the need for additional modes of transportation. U.S. Census Bureau projections illustrate that the population of the United States is expected to grow by nearly 100 million people in

the next 40 years. Put simply, with chronically congested roadways, airways and passenger rail systems operating at near capacity, our current transportation network cannot sustain expected usage increases brought about by the projected growths in population. Furthermore, the carbon footprints of an additional 100 million people will likely result in significant environmental challenges. Studies performed by Center for Neighborhood Technology found that high-speed rail cuts CO₂ emissions nationwide, as well as in every corridor where projects are proposed. They further projected total emissions savings of 6 billion pounds of CO₂ per year if all proposed high-speed rail systems they studied are built. The strong public demand for high-speed rail, coupled with expected population increases which may result in increased carbon emissions, demonstrates that our nation must look to new modes of transporting passengers. High-speed rail provides the logical solution.

From a business perspective, creating a high-speed rail network in the United States will not only produce new passenger rail networks, but it will create hundreds of thousands of private sector, construction and manufacturing jobs and generate domestic business growth. Studies conducted by the U.S. Conference of Mayor show that expenditures for high-speed rail construction are estimated to support 24,000 jobs for each billion dollars of investment. Reports from the California High-Speed Rail Authority project 600,000 full time construction jobs will be created over the course of building their corridor and that 450,000 permanent new jobs will result from high-speed rail related economic growth over the next 25 years.

In its report entitled *U.S. Manufacture of Rail Vehicles for Intercity Passenger Rail and Urban Transit*, Duke University found that an extensive domestic supply chain for rail manufacturing already exists and that this geographically diverse network stands ready to respond to anticipated demands. This supply chain includes at least 249 U.S. manufacturing locations in 35 states. The Duke University report also identified a total of 15 railcar builders, 5 locomotive builders and 159 component suppliers ranging in size from small firms with fewer than 20 employees and a single manufacturing site to larger and more diverse firms with thousands of employees and multiple domestic manufacturing locations.

The benefits of investing in high-speed rail networks transcend passenger rail as upgraded tracks, bridges and rights of way spur efficiencies for freight and commuter railroads which operate on shared tracks. Two recently signed agreements between host freight railroads and state departments of transportation in Washington and North Carolina are indicative of the progress being made between private sector companies and public passenger rail providers. Such agreements will ensure that our world-class freight system continues to operate at maximum efficiency while allowing for our country to modernize its passenger rail system. To continue these successful and mutually beneficial partnerships between HSIPR, freight and commuter rail providers, APTA supports allowing common and incidental benefits on commuter and regional passenger rail systems to be an eligible part of corridor investment.

In 2010, APTA approved consensus based principles for a high-speed passenger rail legislative framework. These comprehensive principles, which among other things call for a dedicated funding source other than the highway trust fund (HTF), and a streamlined National Environmental Protection Act (NEPA) review process, also encourage an efficient combination of private and public sector leadership in the development of new rail service. I would highlight APTA's recommendation to include private sector participation in the construction of new rail infrastructure: "HSIPR corridor projects shall be financed through a combination of federal, state, local, regional and private funding. Tax incentives should be provided to attract private sector investment and participation." I would also highlight our recommendation to facilitate competition among operators: "the [HSIPR] program should be designed

to encourage open, strong and fair competition among competing pre-qualified operating and rail service companies.”

To review APTA’s HSIPR program principles, see Appendix I, “Fleshing Out an Ongoing Federal High-Speed and Intercity Passenger Rail Program: Principles for a Legislative Framework,” Adopted by the APTA Board of Directors on October 23, 2010.

HIGH-SPEED RAIL WORKFORCE DEVELOPMENT AND STANDARDS DEVELOPMENT

High-speed rail has been in operation in Japan for nearly 50 years and in France for 30 years, yet aside from the higher-speed intercity service provided by Amtrak’s Acela Express trains, high-speed rail has never been offered in the United States. As such, the corresponding workforce has never been properly developed or trained. In 2010, to support the Federal Railroad Administration’s efforts to provide true high-speed rail service in the United States, APTA partnered with the International Union of Railways (IUC), an international organization with 200 members who provide rail service on 5 continents, to begin the process of training domestic high-speed rail service providers. The 2-day practicums, which were held in Washington, DC, Chicago and Los Angeles brought together international high-speed rail practitioners and domestic rail experts for an in-depth series of graduate-level classes that provided information on how to implement high and higher speed rail in the United States. Presentations ranged from engineers discussing issues such as tunnel boring and construction to an industrial designer who discussed the importance of visually appealing trains and infrastructure. Domestic demand for high-speed rail workforce development is so great that in May 2011, APTA and the IUC will again host the practicums and add an advanced track that builds off of the introductory session provided in 2010.

In July 2012, APTA will partner with the American Association of Railroads, Amtrak, and the IUC to host the 8th IUC World Congress on High-Speed Rail. For nearly 20 years the World Congress has brought together high-level government officials from around the world, as well as experts from international rail authorities and organizations to share information on technical matters and promote cooperation between international rail providers. We look forward to bringing the world’s leading experts on high-speed rail to the United States to share their experiences.

Achieving the highest level of safety for high-speed rail will ultimately be our number one goal. As an officially accredited Standards Development Organization (SDO), APTA is working to create standards for matters related to high-speed rail. For the last year, APTA has worked with the FRA through their Railroad Safety Advisory Committee (RSAC) and the emerging high-speed rail industry to develop standards related to railcar crashworthiness and the tracks over which high-speed rail trains will operate. In March 2011, APTA hosted a meeting of its Standards Committee to develop a framework by which the high-speed rail standards program will be established and is currently working with the FRA to advance this initiative.

FEDERAL TRANSIT ADMINISTRATION PROGRAM REFORMS

Although this Subcommittee does not have specific jurisdiction over Federal Transit Administration Programs (FTA), I would like to mention APTA’s recommendations for reforming two programs that have a significant impact on our Commuter Rail operators – the Major Capital Investments Program (New Starts) and the Fixed Guideway Modernization Program. Both of these accounts provide significant resources for the construction, expansion and maintenance of our nation’s commuter rail system.

New Starts Reforms

Historically, the New Starts program has provided substantial investments for new commuter rail systems and the expansion of existing systems. Last week I offered testimony to the Highways and Transit Subcommittee of this Committee, outlining suggestions to reform the New Starts Program to streamline the program and help speed project delivery. As I noted, the New Starts program is critical to the future of passenger rail. However, the process for developing and delivering a project can stretch out for a decade or longer, and program reforms must be addressed in the next authorization bill.

Unlike most other FTA programs, the New Starts program is funded from the General Fund, not the Mass Transit Account of the Federal Highway Trust Fund. Funding for New Starts was included in funding guarantees for highway and transit programs, and the success of these major, multi-year capital projects requires predictable support by Congress and FTA. Congress established Full Funding Grant Agreements to ensure this predictability.

Going forward, whether the New Starts program is funded out of the general fund or from a trust fund, APTA believes that the program should grow at the same rate and with the same funding guarantees as the rest of the transit program. New Starts is essential to enhancing our nation's mobility, accessibility and economic prosperity while promoting energy conservation and environmental quality.

APTA asks Congress to eliminate the requirement for an Alternatives Analysis stage in New Starts as is required by current law. Work completed during the Alternatives Analysis stage often replicates work that is also federally required under the Metropolitan Transportation Planning process and/or the National Environmental Policy Act (NEPA) alternatives analysis stage. In cases where local agencies and officials deem that a corridor-level planning study, or more formal Alternatives Analysis, would be of value for Major Capital Investment Projects, they may still perform such studies if this phase of the New Starts process is eliminated.

APTA also calls for reducing the number of approvals that a project must receive from FTA throughout the entire New Starts process. Approval of a project to enter the New Starts program should convey FTA's intent to recommend a project for eventual funding, provided the project continues to meet certain criteria and satisfies NEPA requirements and other project development conditions. This change would eliminate the current need for separate formal approvals to enter the Preliminary Engineering and Final Design stages. Waiting for each of these approvals means that all project development work stalls between each successive step, often lagging for months at different steps in the process. APTA has also called for the use of Project Development Agreements (PDA), which have been used in the Small Starts process, to set schedules and roles for both FTA and the project sponsor. A PDA can also be the basis for an Early Systems Work Agreement once the NEPA process is completed with a Record of Decision (ROD) or a Finding of No Significant Impact (FONSI).

I want to note that FTA has been developing very similar recommendations that are based on the agency's extensive experience and efforts to improve program delivery. In recent years, FTA has already made changes that simplify project rating criteria and ensure that rating criteria better reflect the full range of benefits from New Starts and Small Starts projects, another APTA priority. In addition, the President's FY 2012 budget, which contains early policy recommendations for authorization, specifically suggests eliminating the Alternative Analysis process and reducing the number of FTA approval steps in the New Starts process. We look forward to working with the Committee and the Administration to speed the delivery of high-quality projects under the New Starts program.

Finally, previous project applicants have been unable to apply for a loan under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program because of concern that the total amount of any loan taken, not the federal subsidy cost of a TIFIA loan, would be counted toward the federal share of the project's total cost under New Starts project rating criteria. This obstacle should be eliminated. Financing programs should, to the greatest extent possible, be available to accelerate the delivery of New Starts projects.

Fixed Guideway Modernization Program

The fixed guideway modernization program, commonly referred to as the "rail-modernization" program, provides formula grants to fixed guideway transit systems, including commuter rail operators, to modernize or improve existing systems. Funds can be used to purchase and rehabilitate rolling stock, track, line equipment, structures, signals and communications, power equipment and substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, operational support equipment including computer hardware and software, system extensions, and preventive maintenance. Fixed guideway modernization includes all fixed guideway modes; exclusive busways, trolley coach, ferry boat and all types of rail transit.

This program was initially designed to rehabilitate the nation's oldest passenger rail systems. Program updates over the past two decades through the authorization process have resulted in a complex, seven-tiered funding formula. APTA proposes to simplify the rail modernization program by replacing the current seven tiers with a simpler two-tiered fixed guideway modernization formula. The first tier would use the existing apportionment tiers to determine the base amount for all users that currently receive funds under this program. This proposal assumes that funding for the program will grow over the authorization period, and therefore all current grantees would be "held harmless" from funding decreases in the first tier. In addition to the base amount for the first tier, 50 percent of all new funds would be dedicated to the first tier to grow this category.

The second 50 percent of new funds for the program would fund a second tier. These funds would be distributed based on the Section 5307 rail tier formula for all fixed guideway properties or line segments that meet the seven year minimum age requirement. The second tier would ensure that new fixed guideway systems will become eligible to receive rail modernization funds once they reach the seven year threshold. APTA believes that this new two-tiered program will not only simplify the process for determining the annual apportionment under this program, but also strike a better balance between addressing the needs of our nation's oldest fixed guideway systems and ensuring that newer systems are maintaining a state-of-good-repair.

CONCLUSION

Thank you again for the opportunity to testify today on matters related to commuter, high-speed and intercity passenger rail. APTA is appreciative of the work this subcommittee and its staff have done to ensure that all stakeholders are given the opportunity to provide their insights on the next transportation authorization bill. We urge this subcommittee to continue its work to assist commuter railroads as they work to implement PTC by extending the implementation deadline to 2018, authorizing at least 80 percent of the \$2 billion dollar industry need, and working with the FCC to establish a set aside for PTC spectrum purposes. APTA also urges the committee to support the President's budget request of \$53 billion over 6 years to modernize our nation's high-speed and intercity passenger rail network and to streamline the New Starts and Fixed Guideway Modernization programs to ensure efficient and timely project completion.

APPENDIX I

Adopted by the APTA Board of Directors (October 3, 2010)

American Public Transportation Association

Fleshing Out an Ongoing Federal High-Speed and Intercity Passenger Rail Program: Principles for a Legislative Framework

1. *Preamble:* The act should clearly state the intent to integrate high-speed and intercity passenger rail (HSIPR) corridors across the United States with the existing Amtrak network, with commuter rail and transit operations wherever possible to create a national passenger rail network. This network would be part of a balanced, multi-modal, and inter-connected national transportation system that would enable America's air, rail, bus and highway systems each to function most efficiently. It should speak to the national benefits to be achieved in doing so, including, among other things:
 - the importance of HSIPR in meeting the critical mobility needs of Americans by adding needed capacity to our transportation network, and in so doing provide new travel options;
 - the relation between transportation policies to overarching national priorities including energy, environment, and economic goals;
 - the opportunity to generate hundreds of thousands of new American jobs and nurture the growth of existing domestic businesses and new domestic businesses, as well as to create many additional jobs due to for economic development around stations; and
 - the national benefits gained through connecting America's economic hubs to each other and to rural America.

Together, this represents a new, forward-looking vision for 21st century transportation enabling choice, mobility options, connectivity and economic growth.

2. *HSIPR Title in Surface Transportation Authorization Legislation:* A separate HSIPR title shall be included in the next authorization of federal surface transportation laws, funded by other than Highway Trust Fund revenues.
3. *Funding levels:* Not less than \$50 billion in federal funding should be provided over the initial six-year authorization period, supplementing the \$10.5 billion provided through the American Recovery and Reinvestment Act of 2009 and FY 2010 transportation appropriations. In this context, APTA reaffirms its call for a separate transit title of no less than \$123 billion over six years.

4. *Funding partnerships:* The federal share shall be the standard 90 percent share consistent with the construction of the interstate highway program. HSIPR corridor projects shall be financed through a combination of federal, state, local, regional and private funding. Tax incentives should be provided to attract private sector investment and participation.
5. *Dedicated funding source:* There should be a dedicated federal revenue source, other than revenue sources used to fund the Highway Trust Fund, for planning, design and construction of HSIPR. Consistent with White House announcements, proceeds from the auction of spectrum for mobile wireless use could be used as a source of funding for the initial years for the federal HSIPR program. This is consistent with previously adopted APTA principles that require that HSIPR investments not interfere with the federal Highway Trust Fund.
6. *Ability to leverage funding:* Revenue streams created through dedicated funding programs should be structured to encourage the leveraging of funds through public and private financing, thus enabling projects to be implemented faster and at less expense, and with shared risk. HSIPR programs should be broadly eligible for all federal credit support programs.
7. *National vision, plan and map:* The national vision for high-speed and intercity passenger rail shall be represented through a national map and corridor descriptions reflecting defined and agreed-to passenger rail corridors that meet criteria and increase the speed of passenger rail transportation. The intent is for these defined and agreed-to corridors to be completed over a multi-year period through a system of scheduled federal payments. Drawing from a dedicated and predictable funding source, projects would be allocated sufficient funds so that they can be completed on a reasonable schedule. This national plan will be updated periodically, shall identify obligation requirements for each corridor, shall add additional corridors as such corridors are justified, and shall recognize that additional projects in the planning stages will be added over time. The map shall include the Northeast Corridor and recognize the cost to bring the Northeast Corridor to a state of good repair and to assure capacity for growth.
8. *A combination of annual and discretionary grants:* Corridors represented on the national map shall receive annual formula allocations of funds consistent with the schedule to complete such projects. Overall, a majority of HSIPR funding should be provided on a steady, predictable basis. Additional funding should be awarded on a discretionary basis to projects which are ready to go and are judged to have special merit and rank high based on national criteria which could include, among other things, competitive travel times, regional connectivity, frequency of service, and national significance. Consideration would be given where advancing the project schedule would significantly enhance the overall benefits of the project. In addition, projects acquiring separate rights-of-way to avoid operating in mixed traffic should be encouraged through the discretionary grant program. Planning funds shall be provided to nurture the next generation of projects towards national systems goals.

9. *Eligibility:* HSIPR grants shall be awarded to states, groups of states, or public authorities authorized by states or groups of states pursuant to sections 301, 302 and 501 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).
10. *Local and regional planning/decision-making:* Projects should be defined at the state and local level, but should align with national goals and objectives. The planning process should determine the type of project most appropriate for the particular region (i.e., Express Rail 150 +mph; Regional Rail 110-150 mph; Emerging Rail 90-110 mph; Conventional Rail 79-90 mph.) Public involvement is a key element. The national vision, plan and map should be the result of a consultative process with state and local governments. State rail plans should address state level funding issues, service integration issues, short and long-term sustainability, and shall establish the terms of private sector involvement consistent with the National Rail Plan.
11. *Grant agreements:* Funding shall be provided through multi-year contract authority. Grants should fund minimal operable segments or provide added utility on selected corridors.
12. *Program delivery:* The federal grants review process should be kept simple. Work in pre-approved corridors should proceed with minimal grant review. Accountability should be enforced through self-certification and post-delivery reviews, rather than through a burdensome process that holds up projects by requiring extensive documentation up-front. However, the U.S. DOT should provide initial reviews and screening as to whether applications or applicants comply with express requirements of grant statutes before grants are released. U.S. DOT should establish common standards, across all U.S. DOT agencies, for the efficient administration of provisions of the National Environmental Protection Act (NEPA). An expanded system of categorical exclusions should be developed and widely applied. A process for waiving non-statutory requirements when needed to expedite projects should be established for HSIPR projects, as it currently exists for FHWA projects under the SEP 15 program. Permits and review shall be treated in an expedited manner, with reviews coordinated in a concurrent manner and not handled sequentially.
13. *Expedited grant process:* The Secretary may approve funding prior to all grant issues being resolved, provided there is agreement on all critical aspects of the project and on key contractual areas and passenger service outcomes, and provided that the grantee shall remain accountable for addressing remaining issues in a reasonable period of time and will be held accountable through normal audits. Adequate funds shall be available for program administration in order that the HSIPR program is managed efficiently and so that grants and project decisions can proceed expeditiously.

14. *Connectivity*: Connectivity with existing transportation systems and networks must be a key element of project plans and should be considered in funding decisions. Project scopes may include activities which establish and support local and regional public transportation services connecting to facilities. All corridor projects shall include a plan outlining strategies for connecting with current passenger rail, urban transit, regional and intercity bus, airports, highways, bicycle networks, and pedestrian networks.
15. *Shared Facilities*: Common, incidental benefits afforded commuter and regional passenger rail systems as a result of investments in HSIPR corridors should be an eligible part of the corridor investment.
16. *Contingencies*: Project agreements should provide for a process that will allow reasonable adjustments to the project cost, scope and schedule based on new information that becomes available and unanticipated new circumstances that arise in the course of implementing a project. Financial risk should be shared by all parties.
17. *Competition*: The federal and state supported HSIPR program should be designed to encourage open, strong and fair competition among competing pre-qualified operating and rail service companies. To ensure fair competition, all competing companies must comply with all federal railroad laws.
18. *Access to rail freight corridors*: Access to freight railroad rights-of-way is a significant issue in the implementation and the eventual outcome of the federal HSIPR program. Federal policies should encourage growth of both rail-passenger and rail-freight operations, as there are substantive public benefits to both. Within this context, an equitable and fair process for negotiating passenger rail operational access on freight railroads and in the use of adjacent freight rail rights-of-way must be established.
19. *Terms of liability*: Within an affirmative context of safety, the existing \$200 million cap on liability as established in the Amtrak Reform and Accountability Act of 1997 should apply to all claims against high-speed and intercity rail operators, sponsoring agencies, host railroads, and commuter railroads and shall apply consistently regardless of the operating entity or its contractor. Without such statutory limits, the cost of obtaining insurance and the cost of rail passenger operations will become prohibitively costly. Host railroads shall not require liability coverage in excess of the statutory cap.

20. *Research, Technology and Standards:* The federal HSIPR program should support standards development, technology research, a cooperative research program, job training, career development, data collection, information management and international exchange. As with the interstate highway program, consideration should be given to establishing common standards to be consistent throughout the national program, to assure inter-operability and other desirable national features.
21. *Disadvantaged Business Enterprise (DBE) Program:* A DBE program for HSIPR should be established.
22. *Grade Crossing Elimination:* Building on the Federal Highway Administration's Section 130 grade-crossing elimination program, a robust federal grade-crossing elimination program should be established and adequately funded within the Federal-aid highway program, with recognition of high-priority passenger rail corridors, and high-risk grade crossings within those corridors.
23. *Access for Persons with Disabilities:* In writing a new HSIPR title, Congress shall recognize and support the continued applicability of the Americans with Disabilities Act.