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Partnerships for Success:  
Working Together to Improve Intercity Passenger Rail Service

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# Overview

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- System Overview
- Partnership Opportunities and Challenges
- The Policymaking Environment
- The Way Forward

# Amtrak 101 – basic company and system statistics



- Congressionally chartered corporation owned by DOT
- We operate a 21,100 mile system
  - 308 daily intercity trains using 528 stations
  - 1,519 cars and 469 locomotives, 80 auto carriers, and 101 baggage cars
  - More than 20,000 employees
  - Nearly half of our services operate at 100+ mph
- Amtrak generated total of \$2.3 billion in revenues in FY 09 (incl. ancillary business)
- 70% of our train-miles run on railroads other than Amtrak:
  - BNSF Railway (6.69 million train-miles)
  - Union Pacific Railroad (6.09 million train-miles)
  - CSX Transportation (5.85 million train-miles)
  - Norfolk Southern Railway (2.36 million train-miles)
  - Canadian National Railway (1.45 million train-miles)
  - Metro-North Commuter Railroad (1.34 million train-miles)
- Amtrak requested slightly more than \$2.6B in Federal funding for FY2011
  - \$592 million for operating expenses, \$2 billion for capital needs
  - House-passed bill contains \$1.788B; Senate Committee recommends \$1.98B

# Amtrak – Host Relationship

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- In 1970, many railroads were bankrupt. To help them, the Rail Passenger Service Act was enacted
  - It offered railroads a way out of the operating losses they incurred from their obligation to provide intercity passenger service
  - Railroads voluntarily agreed to turn over their passenger operations to Amtrak
  - Amtrak reimburses railroads for their additional out-of-pocket (“incremental”) costs of Amtrak using a line, and absorbs the passenger trains’ operating losses through payments from Congress and states
  - To make this work, Congress provided Amtrak with unique statutory rights to operate passenger trains on the nation’s railroads, to relieve them of having to operate the trains and bear the financial losses themselves
- Railroads were relieved from the obligation to supply passenger trains’ equipment and crews, and from bearing their operating losses, but not from the obligation to accommodate passenger trains
- This “public bargain” is the foundation of all intercity rail passenger service in the U.S.
  - It’s where the public’s leverage exists
- Placing this leverage within a single entity enables a holistic view of the system
  - Integration of corridors to form a national network
  - Public bargaining position is stronger with single negotiations over large grants (conducted by the party with statutory rights)
- Fosters timeliness, accountability, and value in the negotiation process

# A closer look at Amtrak's Rights

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- Access to all host railroad-owned lines (not just routes used by Amtrak in 1970)
  - If Amtrak and host cannot agree on terms, STB will allow Amtrak access and impose agreement terms on Amtrak and the host
- Incremental cost
  - Amtrak reimburses the hosts their out-of-pocket costs from Amtrak's use of a line (example: Amtrak pays for track wear and tear, but not the cost of the dispatcher that the host would employ even if Amtrak stopped operating).
- Right to operate trains at accelerated speeds
  - Hosts cannot unilaterally require separate tracks for operation above a particular speed
- Right to operate additional trains
  - Hosts cannot unilaterally refuse to allow Amtrak to operate additional trains
  - Standard is avoiding unreasonable impairment of freight transportation, not zero effect on freight operations
- Preference over freight transportation
  - Except in an emergency, Amtrak has preference over freight in using a rail line, junction, or crossing
- Condemnation authority of property and railway
  - Amtrak can subsequently transfer condemned assets to third parties
- Amtrak-host contracts contain
  - Host commitments to maintain track to a level at which schedules can be maintained with a reasonable degree of reliability and passenger comfort
  - Host performance incentives and penalties (but not specific host performance commitments)
  - No-fault liability apportionment

# On-Time Performance

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- Off-NEC OTP can be a great challenge for Amtrak
  - Host railroads control right-of-way, dispatching, and maintenance
  - 70% of Amtrak train-miles run on RoW owned by other railroads
- Weak performance enforcement regime
- DOT IG studied Amtrak OTP in 2008 and found:
  - Host railroad dispatching and maintenance practices were among the root causes of poor Amtrak OTP
  - 85% OTP off-NEC would have cut Amtrak's operating loss by approximately \$100 million in 2006
- OTP hit bottom in 2006, with some trains' OTP in single digits



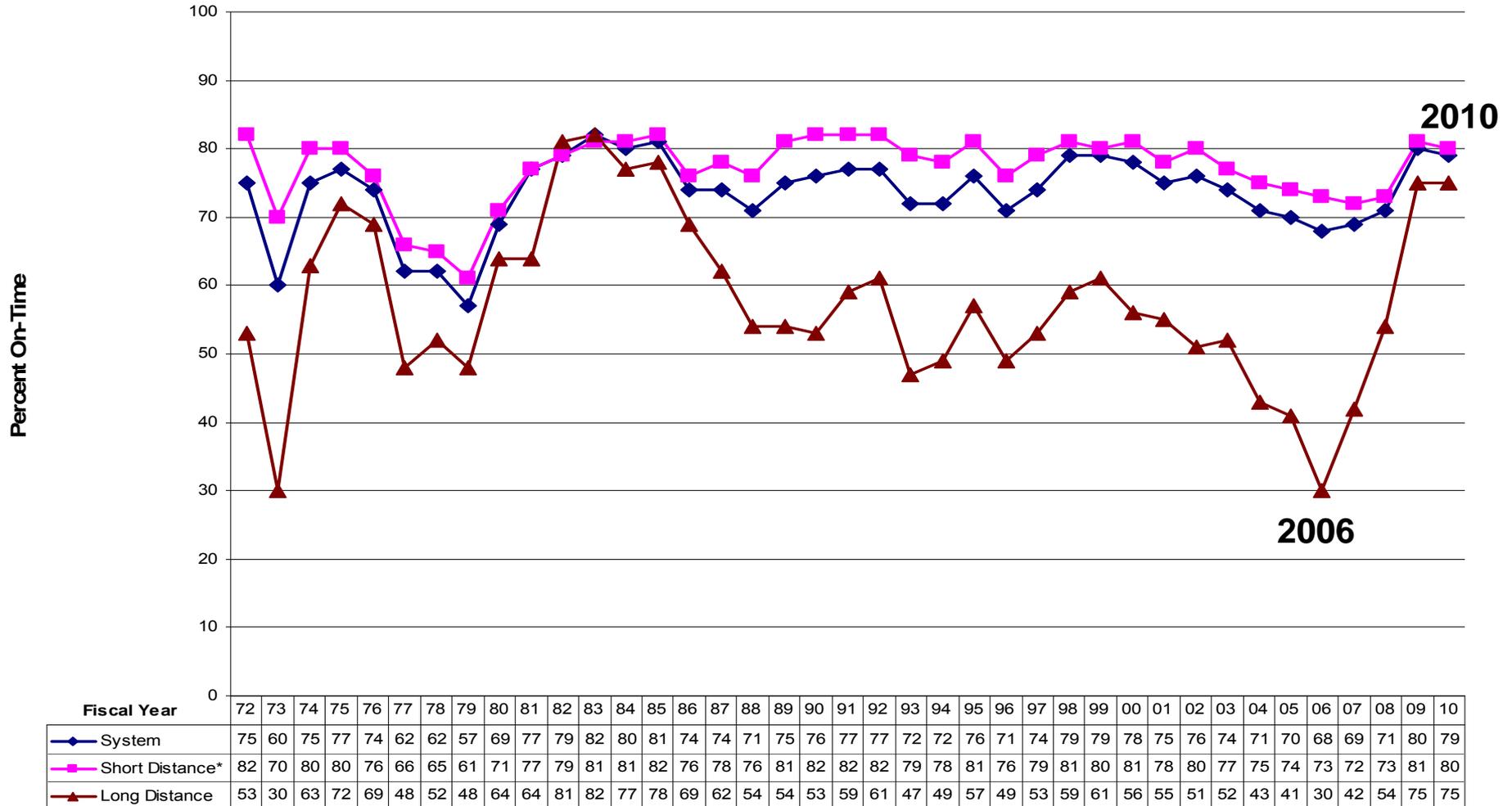
## Frustration reflected in increased Federal involvement

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- FRA began publishing quarterly Amtrak performance report and first required Performance Improvement Programs
- Then-US DOT Secretary Peters challenged hosts to participate in performance improvement programs
- PRIIA contains
  - Performance metrics and standards
  - Provisions for STB investigations and damages
- Creates effective enforcement regime
- In this environment, Amtrak OTP on hosts began to rebound and delays declined
  - Improvements began *before* freight traffic declines of late 2008
  - FY 09 OTP closed at 84.7%
  - FY 10 OTP is a little lower – 78% through the end of August
- We are going to need to work together in the near future to address:
  - Slow orders
  - Partnering for capacity investment
  - Need for continued improvement in host dispatching practices

# OTP Began to Rebound After 2006, *Before* Freight Traffic Declined

**Amtrak On-Time Performance  
from 1972 to 2010 (FY YTD ending August)**



\*Includes Northeast Corridor operations

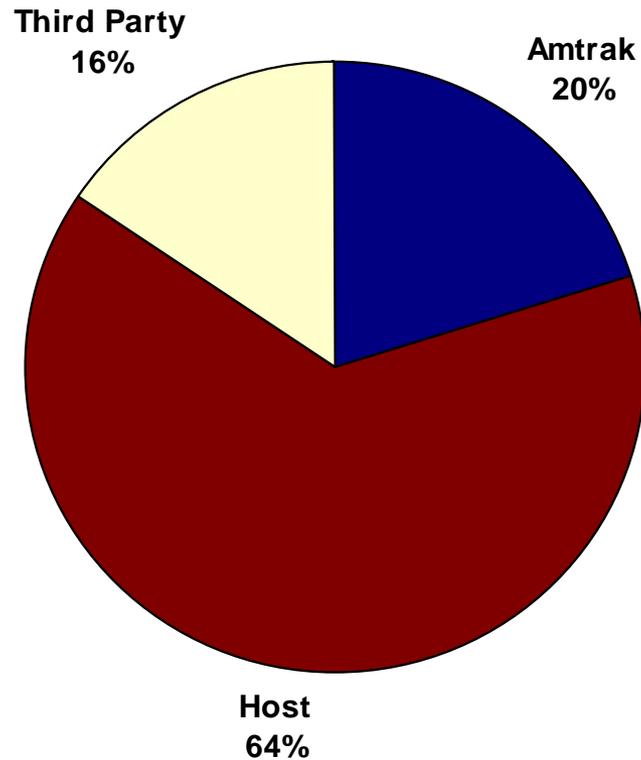
System Short Distance\* Long Distance



# FY10 Off-NEC Delays By Responsible Party

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**Delays by Responsibility**  
*(Excludes Northeast Corridor delays)*



**Primary Amtrak delay categories:**

- Passenger-related
- Locomotive failure
- Crew & System

**Primary host delay categories:**

- Freight Train Interference
- Slow Orders
- Signals
- Passenger Train Interference
- Routing
- Maintenance of Way

\* Unused Recovery Time Not Included.

# Liability and Indemnity

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- Amtrak maintains “no fault” liability apportionment/indemnity agreements with host and joint use railroads
  - An important facet of the larger relationship
  - In place since early 1970s
  - Specify which party is responsible for various claims
  - Responsible party defends and indemnifies the other party
  - Significant efficiencies and public interest benefits
- States playing increased role in passenger train operations and rail line ownership
  - Increased state involvement in intercity and commuter operations means increased engagement with this issue
  - Acquiring jointly used rail lines for new or expanded commuter rail services
- State sovereign immunity issue
  - States may refuse to accept any liability allocation/indemnity arrangement or claim current arrangements are unenforceable
  - Creates conflict – as a Federally-supported entity, Amtrak must limit the public’s exposure

- Some options to deal with this issue are:
  - Extend \$200m federal statutory per accident cap to all claims
  - Establish minimum liability insurance requirements for all operators
  - Condition Federal funding on satisfaction of insurance requirements
  - Authorize insurance pools, government-sponsored insurance

# State, Host, Amtrak Collaboration for New and Expanded Routes

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- For new or expanded intercity rail passenger service funded by FRA grants, the state, host, Amtrak, and FRA must agree up-front on Service Outcomes, in particular
  - Amtrak train trips per day
  - Amtrak train trip time
  - Maximum delay minutes per Amtrak train trip
- Host, Amtrak, state, and FRA must ensure that host infrastructure can support agreed-upon passenger service outcomes—and host railroads must make enforceable commitments to deliver that performance using the public investment in their private infrastructure
  - Without unreasonably impairing the quality of freight service to shippers
- Hosts are understandably concerned about capacity; states are working hard but often lack leverage in negotiations
  - One host often has the only route needed by that state’s projects
  - Current system of grants to states can result in impasses or states conceding to unreasonable host terms
    - States are like “captive shippers”
- Managing projects on a national level leads to efficiencies and a stronger public negotiation position
  - Many hosts compete for many projects
  - Provides significant opportunities for project synergies, negotiating leverage, give-and-take, and win-win outcomes

## Unique route characteristics must determine investment solutions

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- Analysis of route characteristics determines infrastructure needs
  - Number, speed, and time of day of passenger trains
  - Number, speed, and time of day of freight trains
  - Physical characteristics (e.g., curvature, grades, etc)
  - Freight tonnage density and its effect on cost of maintaining high-speed tracks
  - Feasibility and environmental/community impacts of constructing separate ROW
- Case-by-case analysis should prevail over one-size-fits-all solutions (i.e., separated ROW required for any 90+ mph service)
  - Amtrak's statutory access rights aren't limited to certain speeds
  - In fact, Amtrak's statutory rights specifically provide for accelerated speeds on hosts
  - Not a safety issue - all of Amtrak's existing 90+ mph services (over half of our daily trains) operate safely on tracks shared with freight trains – up to 150 mph
- Obtain investment necessary to build reasonable capacity
- We need agreements that protect everyone's rights – including the public's

# Surface Transportation Reauthorization or Deauthorization?

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- Reauthorization process is highly unlikely to deliver (in the near term) the funding we need
- New Congress means new members, staff, committee assignments, chairmen, agendas
  - May not be familiar with or sympathetic to our needs
- A Republican House agenda will be dominated by deficit politics, anti-tax fervor, small government
- Doubtful that Congress will find the revenue necessary to address HTF insolvency
  - CBO: \$13.5 billion gap between HTF spending and tax receipts for FY10; projected to stay at that level through at least FY16
    - Perpetual General Fund support or  $\approx 7$  cent tax increase needed just to maintain baseline spending (plus inflation)
- Potential conservative responses:
  - Devolve transportation funding responsibility to the states (Heritage Foundation position);
  - Eliminate federal spending outside the “core” highway program
- What does that say about the prospects for increasing annual Amtrak and HSIPR grant funding, let alone finding dedicated revenue?
  - 18 months since ARRA, only \$600 million of \$8 billion is obligated; \$8 million outlaid

# Amtrak Principles for Surface Reauthorization

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- National surface transportation policy should articulate clear strategic objectives
  - Energy/climate security; economic competitiveness; safety; etc.
  - Rail can play a key role in many of the pressing issues of the day
- Investment decisions should be accountable to those objectives
- Provide for a comprehensive and robust planning process
  - Improved data and modeling to accurately measure performance
- Transition to a mode-neutral framework
  - Organize programs by purpose and outcomes; promote transportation choices
  - Integrate modes into a seamless network
- Current need for dedicated intercity passenger rail program
  - “Catch-up” period necessary for ultimate shift to true multi-modal structure
- Eliminate redundancies in environmental review process without affecting quality or integrity of process
  - HSR development will necessarily involve some significant local environmental and property impacts, but there are larger-scale benefits to be gained
- Consider a diverse portfolio of options to raise substantial and sustainable amounts of new revenue

# Amtrak perspectives on the National Rail Plan (NRP)

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- PRIIA requires FRA to develop a National Rail Plan to guide all Federal rail activities and integrate state plans into coherent national system.
- NRP is crucial to success of the program, as it must create the Federal vision for this interstate system and provide the justification for long-term investment.
- Must lead state, regional, and Amtrak planning and development efforts - the NRP must make decisions.
- NRP must start by setting forth major US transportation challenges and rail's role. Existing Amtrak, designated HSR corridors, commuter and freight system is starting point.
- NRP should the set system performance goals all industry segments – intercity corridor, high speed, intercity long-distance, trunkline, shortline, and commuter.
- Each segment's performance goal should be correlated to addressing identified challenges.
- Plan should contain map, general program, schedule, investment estimates, and financing options
- Implementation plan should follow. What's needed is a portrait of a system in 10, 20, and 30 years.
- Sec. 207 performance standards and other metrics (transit connectivity, market characteristics, etc) should guide NRP development priorities and route determinations

## A few conclusions

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- A tremendous opportunity still exists, but peril is mounting
  - We finally have money, but to sustain it we must demonstrate results
- Success will depend on
  - Matching service plans to travel demand, with
    - Infrastructure investments driven by need
    - Agreements that protect everyone's interest
  - Successful partnerships to carry out the plans we have made:
    - Timely implementation
    - Reliable operations
    - Sustained performance
- Close and sustained collaboration is required

# Some food for thought

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- PRIIA model designed primarily to preserve Amtrak system and support incremental growth
  - Contemplates more modest investment relative to the post-ARRA world (e.g., \$600M authorized in FY10 – compare to \$2.5B appropriated)
  - Purpose was to allow new roles, relationships and institutions to develop – transitional period
- It's being used as a vehicle for growth rather than the foundation for growth that it is
  - ARRA and subsequent appropriations funnel a major investment program through a statutory model designed for something else
- There is a mismatch between the current program structure and the national vision/public expectations for transformational growth in terms of scope (we need a national network) and timing (we need it soon)
- Raises several questions:
  - How should projects be coordinated?
  - How should service be integrated into a cohesive network?
  - How should corridors connect with other modes to form a higher-performing national transportation system?
  - What standards should exist for infrastructure, equipment, planning, performance tracking? Who should set them?
  - What is the Federal return on Federal investment?
  - Is a stronger Federal planning role warranted?
  - What is the right balance between Federal vs. state funding responsibility and corresponding planning authority/control?
- A national high-speed rail network is a very different policy proposition than the transportation programs of today, which are largely designed for mature system preservation and localized improvements