

Chairman Mica, and fellow Members:

Thank you for the opportunity to submit testimony to the House subcommittee on Transportation and Public Assets hearing entitled, Lagging Behind: The State of High Speed Rail in the U.S.

My name is Baruch Feigenbaum. I am the Assistant Director for Transportation Policy at Reason Foundation, a non-profit think tank with offices in Los Angeles and Washington DC. For almost four decades Reason's transportation experts have been advising federal, state and local policymakers on market-based approaches to transportation.

My Credentials on Today's Topic

I am a graduate of the Georgia Institute of Technology with degrees in Public Policy and Transportation Planning with a concentration in Engineering. My Master's Thesis studied Induced Demand in growing areas and potential solutions. With Reason, I have authored studies on high-speed rail in Europe and Asia, high-speed rail in Texas, mobility, transit options, funding alternatives and innovative financing. I have worked with the states of Georgia and North Carolina as well as numerous counties to implement transportation policy, financing and funding reform. I currently serve on two National Academy of Sciences Transportation Research Board Committees, Bus Transit Systems and Intelligent Transportation Systems. My testimony today draws on these experiences.

Overview of Transportation

For the past 40 years, ever since the Johnson administration, the U.S. has shown an interest in high-speed rail. Previous programs failed to gain traction. However, that changed with the American Recovery and Reinvestment Act (ARRA) also known as the stimulus. The Obama Administration proposed spending \$8 billion of stimulus funds to lay the groundwork for high-speed rail throughout the country.

While the Obama Administration envisioned a national network of high-speed rail service, actual high-speed rail service has fallen short of this promise. To date, the administration has no clear policy on high speed rail development and the existing program lacks clearly defined goals.

Implementing any new federal program is challenging. It is unlikely that the program would have been perfect from day one. However, there is a wealth of evidence that suggests the program could have been managed more effectively. Generally, high-speed rail program problems can be broken down into the overall structure/vision for the program, which I will detail first, and the actual implementation issues that I will detail second.

From the beginning, the High Speed Rail program has lacked a clear direction. Officially, the program's aim is to help address the nation's transportation investment challenges by making strategic investments in an efficient network of

passenger rail corridors that connect communities across the country. But while that may be an inspirational statement, it is not a goal. Every country around the world that has built high-speed rail has done so for one of two reasons. Most built rail to relieve crowding on existing conventional rail lines. Several countries built HSR to protect rail's share of travelers and prevent passengers from switching from rail to another travel mode. Since the number of U.S. passengers taking rail has remained constant, and gains on the Acela and regional trains in the Northeast corridor have offset losses on long-distance service, the U.S. could not justify building rail for the purposes of either alleviating overcrowding or retaining passenger mode-share. The administration might have justified building rail for economic development purposes or to add a new travel choice. But these were never given.

Lines built solely for economic development or travel choice reasons generally have smaller passenger loads and lose larger amounts of money. Both of the lines that have recovered all of their capital and operating costs, Tokyo-Kyoto and Paris-Lyon were built in corridors with conventional rail passenger loads bursting at the seams. Most of the train lines around the world that have relatively small losses operate in similar corridors.

From the beginning, the administration considered the politics of high speed rail as much, or more, than the policy behind it. All countries that have built successful high-speed rail lines have built the first line in the corridor most suited to high-speed rail. In the U.S., this is the Northeast corridor which connects Boston, New York City and Washington DC. While Amtrak currently operates higher speed rail along this corridor, this service averages 68 miles per hour between Boston and New York and 82 miles per hour between New York and Washington. True high speed rail would operate at an average speed of 150 miles per hour or more, approximately twice the speed of the Northeast corridor. Several lines in other countries have transitioned from higher speed rail to true high speed rail including several in England and Germany.

Additionally, instead of awarding funding to the most promising single line, the administration provided funding to 33 states, the District of Columbia and Amtrak. Much of this funding was not for building high speed rail but for improving operations of existing passenger rail corridors to increase train speeds. Fifteen states that do not have to plans to operate anything other than conventional rail were given grants under this program.

The original *high-speed* rail grant was awarded to a line connecting downtown Tampa with the Orlando International Airport. The administration chose that corridor because the state of Florida had studied it several years before. However, the line was not ranked in the top 100 potential corridors by the advocacy group America 2050. The corridor lacked the land use and transit characteristics needed to make high speed rail successful. It was also so short that no scheduled airline

service exists between these two cities—generally a key indicator of possible HSR demand.

Transportation projects are major undertakings and affect both the people living nearby and the environment. The administration failed to properly consider these complications. All major construction projects in transportation are subject to the National Environmental Policy Act (NEPA) or a similar state law such as the California Environmental Quality Act (CEQA). These laws were put in place to ensure that environmental effects of major actions are considered. Unfortunately, NEPA is often used as a stalling tactic by the opposition to delay or cancel many projects. Construction of high-speed rail projects emits significant amounts of greenhouse gases. Further, high speed rail trains emit pass-by noise volumes of between 85-97 dB(A) 25 meters away (equivalent to loud city traffic, a jackhammer or a hand drill). As a result, local communities have filed lawsuits to stop HSR construction for noise or greenhouse gas emissions reasons. Regardless of the validity of these lawsuits, they increase the time needed to build HSR. FRA should have considered these likely reactions during its process, both advising state officials of potential problems and reforming the process.

While transportation knowledge is not every politician's strength, it is important to communicate realistic goals to the public. In 2009, President Obama outlined a strategic plan that envisioned 10 high-speed rail lines encompassing 34 states. This plan suggested that an \$8 billion upfront investment and an additional \$1 billion annually for 5 years would build a significant part of the network. Yet a relatively short high-speed rail line (250 miles) costs at least \$20 billion to build, more than all of the federal funds the President planned to obligate. And that would cover only one rail line out of ten proposed. For the President's high-speed rail vision to be realistic, the farebox recovery rate would have to be close to 80% and the states would need to chip in significant funding.

Yet in comparison, for the construction of the Interstate Highway System, which the high-speed rail program was often compared to, the federal government provided 90% of the costs. Previous attempts to have states foot the bill for construction of a superhighway failed; many states in the Northeast and Midwest built toll roads that covered their capital and operating cost. However, that was not a realistic option in every state. To build the President's publicly supported high-speed rail network, the federal government would need to spend at least \$200 billion on construction. This figure does not include subsidies for operations or maintenance. And since few lines would cover their capital and operating costs, the subsidies would have to come from somewhere else.

By overpromising what was fiscally possible with \$13 billion of funding, the White House raised unrealistic expectations causing predictable disappointment when most of the lines were not constructed. This fueled pessimism in Congress and among the American people. It also makes building even a justifiable high-speed rail line more challenging in the future.

The implementation of the President's vision had a number of problems as well. Staffing at the Federal railroad administration and many state DOT's lacked the proper knowledge and training. The Passenger Rail Investment and Improvement Act of 2008 (PRIIA) expanded FRA's role in developing and managing the country's rail network. Tasking FRA with overseeing a massive railroad expansion, in early 2009, only one year after the agency's mission had broadened to awarding, obligating and disbursing funds, almost guaranteed failure. FRA did not have the ability to draft procedures or hire staff. For example, FRA did not start drafting a Grants Management Manual until April of 2010, three months after the \$8 billion in grants were awarded. While the agency required Stakeholder service outcome agreements for long-term projects before obligation, these agreements lack maintenance and construction provisions required for receiving funds. As a result funds for these projects were delayed. Further, even when funding was provided, the agency was limited in monitoring grants for railway construction or capital purchases.

In another instance, the FRA set a goal of December 30, 2010 to complete short-term project obligations, yet the agency did not begin working on these obligations until September 2010 and did not complete most of them until late in 2011. The agency's concentration on long-term goals delayed its consideration of short-term agreements. Yet the administration argued in the ARRA Act that the short-term projects were the most important; that was the supposed focus of the stimulus. When FRA provided guidance, it did so on a project- by- project basis rather than in written format. As a result, many short-term grantees told GAO that they had trouble understanding FRAs guidance. As of early 2011, only \$5.8 billion of the planned \$8 billion in funding had been allocated to high speed rail.

And the problems continue to the present day. Earlier this year, the Government Accountability Office reprimanded the agency for failing to establish a process to identify project-specific goals and associated performance measures, a leading practice of effective grants management. FRA has also failed to provide documentation detailing grantees' expectations "as well as guidance on specific types of equipment purposes."

State DOTs, the entities charged with oversight in the 50 states, DC, and Puerto Rico also lacked the needed expertise to oversee the program. These agencies administer most of the passenger rail funding but lack expertise in this field. Many state DOTs, including those organized by mode, lack passenger rail staff. To the extent the state DOTs have staff, they are focused on relationships with freight railroads not passenger rail. Additionally, most state rail agencies are focused on planning service, not administering grants.

The Obama Administration and future administrations should more closely examine building high-speed rail through public private partnerships (P3s). All of Japan's Shinkansen trains are privately operated as is one of Italy's two main lines.

Specifically, I recommend separating the NEC from Amtrak in order to revamp it via a long-term PPP. Issuing a request for Information (RFI) would be the first step. Interested potential developer/operators would be asked to spell out what they think it would take to create a viable business model for HSR in the NEC. The RFI should make it clear that Congress is willing to start with a clean sheet of paper, exempting the NEC from many of the conditions that lead to Amtrak's current high cost structure including:

- No specific high-speed requirement, leaving that to be determined as part of the business plan;
- Freedom to define stations served (and not served) without political interference;
- Exemption from Buy America provisions, to permit acquisition of commercial, off-the-shelf rolling stock from abroad;
- Exemption from some or all of current railroad labor provisions, such as the Railway Labor Act, Railroad Retirement, Federal Employers' Liability Act, and Railroad Unemployment Insurance Act;
- Exemption from Davis-Bacon Act.

One question is whether the private sector would be most interested in simply revamping, operating, and maintaining the infrastructure (as in the two recent European PPP projects described previously) or whether they would prefer to develop HSR and other services as a vertically integrated business.

The responses to the RFI would provide valuable feedback as to what the private sector thinks is feasible. That would enable the government to develop a request for proposals (RFP), inviting qualified teams to respond with specific proposals for how they would transform the NEC. Bidders would have to commit to maintaining access for existing commuter and freight services operated by other rail providers on the NEC right of way, but they would be free to propose changes in all passenger services currently offered by Amtrak in the NEC, so as to allow for an array of local, express, and HSR express services.

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 1, 2016

Mr. Baruch Feigenbaum
Assistant Director, Transportation Policy
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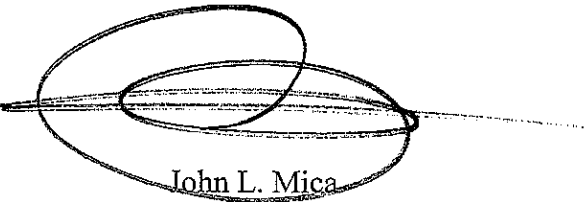
Dear Mr. Feigenbaum:

The Subcommittee on Transportation and Public Assets of the House Committee on Oversight and Government Reform hereby requests your testimony at a hearing entitled, "Lagging Behind: The State of High Speed Rail in the U.S.," on **Thursday, July 14, 2016, at 2:00 p.m.** in room 2154 of the Rayburn House Office Building.


The hearing will examine the current state of high speed rail in the United States and President Obama's High-Speed Intercity Passenger Rail Program. You should be prepared to provide a five-minute opening statement and answer questions posed by Members.

The enclosed Witness Instruction Sheet provides information for witnesses appearing before the Committee. In particular, please note the procedures for submitting written testimony at least two business days prior to the hearing. Please contact the Committee by July 5, 2016 to confirm your attendance. If you have questions, please contact Ari Wisch of the Committee staff at (202) 225-5074.

Sincerely,



John L. Mica
Chairman
Subcommittee on Transportation
and Public Assets



Tammy Duckworth
Ranking Minority Member
Subcommittee on Transportation
and Public Assets

Enclosure

Witness Instruction Sheet
Non-governmental Witness
Subcommittee Hearing

The following are pertinent rules and procedures applicable to a witness testifying before the Committee on Oversight and Government Reform.

1. The witness should prepare written testimony, provide a short biographical summary, and complete the "Truth in Testimony" disclosure form. **These three documents need to be provided to the Committee no later than 10:00 a.m. two business days prior to the hearing.**
 - a. Electronic submission: The witness should submit an electronic version of the written testimony, biographical information, and completed disclosure form Willie Marx at William.Marx@mail.house.gov
 - i. The Committee prints the final record after the hearing. Considering printing costs, please submit your testimony single-spaced and no font size larger than 12 point.
 - b. Delivery of hard copies: The witness should print 30 copies of the written testimony and staple a copy of the biographical summary and a copy of the completed disclosure form behind each copy of the written testimony. These 30 packets should be delivered to Willie Marx at 2157 Rayburn House Office Building. Please do not send the packets by U.S. Mail, UPS, Federal Express, or other shippers. Such packages are processed through an offsite security facility and will arrive 7-10 days late.
2. At the hearing, the witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions. However, the written testimony may extend to any reasonable length.
3. At the conclusion of the hearing, the witness' written testimony, biographical summary, and completed disclosure form will be posted on the Committee's website. The documents will also be entered into the hearing record. Therefore it is recommended that personally identifiable information, such as addresses and phone numbers, not be included.
4. The Committee does not provide financial reimbursement for witness travel or accommodations. However, a witness with extenuating circumstances may submit a written request for such reimbursements to Robin Butler, Financial Administrator, 2157 Rayburn House Office Building, at least one week prior to the hearing. Reimbursements will not be made without prior approval.
5. A witness with a disability should contact Committee staff to arrange any necessary accommodations.
6. The Committee on Oversight and Government Reform is the principal oversight committee in the U.S. House of Representatives. The jurisdiction of the Committee is set forth in the House Rules X, clauses 1(m), 2, 3, and 4.
7. Committee Rules governing this hearing are online at <http://oversight.house.gov/>.

For inquiries regarding these rules and procedures, please contact the Committee on Oversight and Government Reform at (202) 225-5074.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)(5)

Name:

Baruch Feigenbaum

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

I have not received any federal grants or contracts since October 1, 2012.

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

I am testifying on behalf of the Reason Foundation a 501(c)(3) non-profit organization that conducts transportation policy research. At Reason I serve as the Assistant Director of Transportation Policy.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

I have not recieved any grants.

I certify that the above information is true and correct.

Signature:

Baruch Feigenbaum

Date:

7/1/16

Baruch Feigenbaum is Assistant Director of Transportation Policy at Reason Foundation a non-profit think tank advancing free minds and free markets. Feigenbaum has a diverse background researching and implementing transportation issues including revenue and finance, public-private partnerships, highways, transit, high-speed rail, ports, intelligent transportation systems, land use, and local policymaking.

Feigenbaum is involved with various transportation organizations. He is a member of the Transportation Research Board Bus Transit Systems and Intelligent Transportation Systems Committees. He is Vice President of Programming for the Transportation and Research Forum Washington Chapter, a reviewer for the *Journal of the American Planning Association (JAPA)* and a contributor to *Planetizen*. He has appeared on NBC Nightly News and CNBC. His work has been featured in the *Washington Post* and *Wall Street Journal*.

Prior to joining Reason, Feigenbaum handled transportation issues on Capitol Hill for Representative Lynn Westmoreland. He earned his Master's degree in Transportation from the Georgia Institute of Technology.