

TESTIMONY OF

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**BEFORE THE
FEDERAL RAILROAD ADMINISTRATION**

**Public Hearing on
Competitive Passenger Rail Service Pilot Program**

September 7, 2016



My name is John Risch and I am the National Legislative Director for the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART TD). SMART TD – formerly the United Transportation Union – is an organization representing approximately 125,000 transportation workers most of whom are employed in freight and passenger rail operating crafts.

I appreciate the opportunity to appear here today. I represent conductors, engineers, trainmen and yardmasters on freight and passenger railroads. The vast majority of our members work for private for-profit rail carriers.

We represent the conductors, assistant conductors and yardmasters on Amtrak, which is why we are very interested in this proposed rule.

That being said, we are strong supporters of Amtrak continuing to be the service provider on all the lines that they currently operate. Amtrak knows how to operate passenger trains and they know the complex operating rules that operating trains entail. Plus, they have in their employ our members who are federally certified professionals that know how to operate passenger trains safely.

We are not opposed to private entities operating passenger trains. In fact, our members work for BNSF on passenger trains in Chicago, Minneapolis and Seattle on Union Pacific in Chicago and Keolis in Virginia.

The concern we have is opening up existing passenger service to any new potential operator. When a private for-profit entity provides passenger service they not only have to cover their costs, they also need to make a profit for their investors. Several years ago I was on a House Transportation and Infrastructure panel at a field hearing in New York City, chaired by then T&I Chairman John Mica. On my panel was a Wall Street investor who plainly stated that investors would expect at least a 10 percent return on their investments if they were to invest in a passenger enterprise. Which means a private investor would need more money to operate a rail line than Amtrak receives because of the margin needed to satisfy their investors.

Of course they would have to make a profit at operating passenger trains. I wouldn't invest my meager IRA in a company that simply wanted to break even at the end of the day, or worse, less than what I invested.

But there are those who claim there is some mystical private entity that can take an existing money-losing passenger rail enterprise and with brilliant managing skills turn it into a money maker. The proponents of privatization always peddle this nonsense. A recent example of this folly is with the privatization of some prisons. This issue came to light when last week the federal government announced that they will phase out all private prisons because of the abuses that have occurred. They found that private prisons were less safe for both inmates and guards, they paid lower wages, provided inmates with inferior health care and food, and operated prisons under deplorable conditions. But the one thing they did do was pay their CEO millions of dollars annually, which is what for-profit enterprises generally do.

There is no silver bullet. There is no trick out there to make Amtrak passenger service profitable. Just like every other rail passenger service in the world, rail passenger service will require public subsidies, just like our transit and highway users do. Can the management of Amtrak be improved upon? You bet. Amtrak just hired a well-respected new CEO to try to do that very thing.

Our union is a member of TTD and we support the comments they filed on this NPRM. Those comments focused on the FAST Act's requirement that any entity that takes over an Amtrak passenger line must play by the same rules as Amtrak does.

They must comply with rail laws, including Railroad Retirement, the Railway Labor Act and the FELA. They also need to offer jobs to the existing employees and honor, or at the very least negotiate, new labor agreements. They will need to do these things if they hope to attract skilled workers. Operating passenger trains is highly skilled work. You can't just put a hat on a guy that says conductor and he is one.

It needs to be made clear in FRA's final rule that any newcomer to this business will be a first class operator, not some slipshod employer who can only compete by using substandard employment and safety practices.