ISSUE BRIEF
PRIIA Section 209 Intercity Passenger Rail Service

Establishing Standard Pricing Policies
Annual Operating Costs and Capital Charges

Prepared for PRIIA 209 States and Other Interested States by
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Establishing Standard Pricing Policies – Annual Operating Costs and Capital Charges

PRIIA Section 209 Overview
Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (Public Law No. 110-432, Division B, enacted October 16, 2008) directs the states and Amtrak to “develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak” related to trains that operate on corridors of 750 miles or less. The intent of Section 209 is to ensure that Amtrak treats all states equally and to allocate to each route a proportionate set of costs that reflect the routes’ relative use.

The State Context
State-developed conventional speed and high speed intercity passenger rail operations are an integral element of the Amtrak’s intercity passenger rail (IPR) network. These 750-mile or less IPR trains generally operate in corridors within a single state or connect two states and serve intermediate-distance trips. State corridor routes provide a valuable alternative to air or auto travel. Amtrak’s statutory right of access over the freight railroads has in the past allowed states to receive these services at relatively low cost.

Today, Amtrak provides state-supported passenger rail service in 15 states, generally offering a turnkey operation that may include rolling stock, on-board operating crews, station staff, management and administrative support, maintenance of equipment, maintenance of way (tracks and signals) on Amtrak-owned tracks, marketing and advertising, reservation sales, and ticketing. The 1970 Rail Passenger Services Act (RPSA) created the framework for individual states to request these additional rail services, and Section 403(b) of the RPSA allowed Amtrak to be reimbursed by the states for these services. This new Section 209 policy establishes that the operating losses of a corridor service must be covered through a combination of farebox revenues and state support.

The policy, developed under Section 403(b) has led to variation in how Amtrak charges states for the route service. Currently, some states, due to prior arrangements with Amtrak or historical circumstances, pay nothing or a partial share of their route costs (Attachment A) while other states pay the 100 percent of their costs. Nationally, Amtrak receives approximately $191 million per year from 15 States for 27 IPR routes. On an average weekday, the service level is 110 trains operating on these 27 state routes; 36 of the 110 trains are not supported by states. In other words, States are paying the costs (total expenses less revenues) of 74 weekday trains with Amtrak picking up the costs for 36 weekday trains (Attachment B).
**Purpose of Section 209**

Congress, under the provisions of PRIIA Section 209, established that all states must pay the operating costs and capital charges associated with their corridor route. Amtrak and states have been charged with collaboratively creating an operating cost methodology that “allocates to each route the costs incurred for the benefit of that route and a proportionate share, based upon factors that reasonably reflect use, of costs incurred for the benefit of more than 1 route plus an annual capital charge for Amtrak-owned equipment and facilities used for these IPR trains. Once Section 209 is implemented, the current 36 trains that has historically been paid by Amtrak will now become state-supported IPR trains consistent with the other 74 state–supported IPR trains or ceases to operate. In addition, all corridor state supported routes will be treated in a fair and equitable manner.

**State and Authority Budget Impacts of Section 209 Policy**

States need a consistent budget planning process with Amtrak to develop costs and revenues for IPR services, which, in turn, will help states secure stable, predictable funding sources to support and expand Amtrak-operated, state-supported IPR trains. Such efforts are critical in supporting state policy-makers as they initiate long-term planning and investment strategies to properly understand current costs and to project costs associated with future regional intercity passenger service as part of states’ multi-modal transportation investment plans.

The direct benefits of IPR investment include: continued existing regional IPR service, reduced train travel times, increased service frequencies, and reliable schedules that build ridership and reduce operating costs. Indirect benefits include reduced traffic congestion, improved regional air quality, job creation and economic growth.

Just as notably, recent federal actions have placed IPR train services in the forefront of a comprehensive national transportation policy framework. In the past several years, Federal Railroad Administration (FRA) has developed and administered the new Capital Assistance to States - Intercity Passenger Rail Service program. The program focuses on projects that lead to on-time performance of at least 80 percent (FRA has required greater than 80% in its contract negotiations with states), reduced travel times, increased service frequency or enhanced service quality for intercity rail passengers. One of the more notable requirements to receive these capital grant funds from the FRA is that no federal funds will be used to support the operation of these new or upgraded IPR routes. All operating funds must be supported by state or local sources. The definition and examination of the operating funding requirements is directly linked to the costing established in PRIIA Section 209. FRA has proposed a concept of providing a transitional operating grant program to states that is still under discussion at the federal level.

**PRIIA Section 209 Pricing Policy**

The focus of Section 209 is for the Amtrak Board of Directors to develop a single, nationwide standard methodology in consultation with the US DOT Secretary and the Governors of each relevant state. The methodology will “establish and allocate operating and capital costs among the states and Amtrak associated with trains operated on each route.” The deadline, established in the 2008 law, for an agreement between states and Amtrak was October 16, 2010. Under Section 209, if Amtrak and the states “do not voluntarily” adopt and implement a methodology by the deadline
outlined in statute (October 16, 2010), the matter is referred to the Surface Transportation Board (STB) which “shall determine the appropriate methodology required for the provision of service.”

While PRIIA passed in October, 2008, this effort between Amtrak and the states really began nineteen months later in April, 2010 with the first national meeting of Amtrak and the affected states. Between April and September, 2010, Amtrak worked to familiarize the states with their new FRA-funded cost allocation system – Amtrak Performance Tracking (APT) – and offered alternative methodologies on operating cost allocation. In addition, in mid-September, Amtrak shared with states their initial proposal on a capital charge methodology.

Amtrak and the states met in September 2010 and agreed it was not in the best interests of either to have this issue decided by the STB. The States for Passenger Rail (SPRC), the AASHTO Standing Committee on Rail Transportation (SCORT) and Amtrak agreed that neither would seek relief from STB for six months, creating a new deadline of April 16, 2011. In light of the compressed deadline, the SCORT and SPRC chairs appointed a States Working Group (SWG) to work with Amtrak on behalf of the states. The members of the SWG include: Maine (NNEPRA), California (Capitol Corridor), North Carolina DOT, Virginia DRPT, Wisconsin DOT, and AASHTO staff. Amtrak and the SWG agree that Section 209 policy needs to be simple, comprehensive, fair and equitable for states that have existing IPR corridor service and for states that plan to implement IPR train service. While progress continues in the discussions on the development of the policy for Section 209, the parties agreed to extend the deadline an additional two months to June 16, 2011 in order to complete the policy and submit it to the affected States.

The Development of the 209 Pricing Policy:

October 2010 – December 2010: Framing the Policy Discussion

In October of 2010, the SWG began reviewing and evaluating the cost proposals provided by Amtrak and collaborating with States to develop a consensus on the policy and implementation of PRIIA Section 209. A set of principles was developed and shared with Amtrak at the first meeting to guide the discussion. (Attachment C).

In late November, the SWG coordinated with AASHTO’s Standing Committee on Rail Transportation (SCORT) to conduct a survey on passenger rail operation funding. Surveys were sent to all states that will be affected by Section 209 policy. Most states responded to the survey and those responses provided critical guidance to the SWG as it moved forward on developing an alternative methodology for allocating costs. A summary of the completed surveys can be found in Attachment D.

Some of the common themes in the survey responses include:

- Support for paying 100 percent of Amtrak direct costs as long as there is a transparent means to review costs and develop budgets;
- Concern with Amtrak’s ability to define and adequately capture and fairly allocate shared/indirect costs;
Belief that Amtrak’s proposed capital cost charges to states be only those costs associated with supporting IPR trains (such as rolling stock, stations, and maintenance facilities).

As the SWG and Amtrak continued to meet over the next few months, the survey responses in conjunction with the basic principles (Attachment C) guided the development of the Section 209 policy.

In their first two sets of meetings, held in October and December of 2010, the SWG and Amtrak made significant progress. The meetings were cordial and professional; both the SWG and Amtrak have demonstrated genuine interest in meeting the April 16, 2011 deadline. Feedback from the 209 states and responses to the SWG survey were very useful in reaching agreement on basic principles of a new pricing methodology. Below is a summary of key issues addressed at first two meeting between the SWG and Amtrak:

- Amtrak and the SWG acknowledged that the policy needs to consider the significant and adverse impacts of increased annual operating and capital costs that could result from this policy. These increases could force states to cut successful Amtrak-operated IPR services just as they complete ARRA/HSIPR capital construction projects to increase capacity for passenger rail service.

- While some IPR sponsors have outsourced elements such as food service, maintenance, and call center services, Amtrak is currently the sole operator of intercity passenger rail service. As such, the SWG focused on ensuring that Amtrak commits to implementing cost savings and efficiencies to keep its operational costs stabilized.

- One of the key elements of discussion was Amtrak’s shared (or supporting) costs, particularly the General and Administrative (G&A) cost category. Amtrak’s policies A and B both included high shared costs compared to direct costs – ranging from under 50 percent of direct costs for some states to over 150 percent of direct costs for other states. Amtrak and SWG discussed whether national G&A costs should be included in any pricing policy for Section 209 or if G&A costs should be supported through federal support for the national passenger railroad system.

- Working with the FRA and the Volpe Center, Amtrak has developed the APT cost allocation system which will serve as the baseline for determining state costs. It is Amtrak’s view that APT provides a more transparent system compared to the prior Amtrak cost allocation system. For the most part, the APT system does appear to provide better detail with respect to those costs that directly support a state IPR train route (such as train and engine crews, food service, maintenance of equipment). However, APT has not been verified by the U.S. Inspector General’s office, as required under PRIIA, and an audit of the system will not be complete prior to October 2011. To that end, both Amtrak and the SWG have agreed that Amtrak will make any modification suggested by the IG report that would affect the states’ route cost allocations. In addition, APT will continue to be refined and improved each year. This will allow the parties to modify operating costs on an annual basis, which in the long-term will provide an improved, transparent budgeting process.

- Not all states had received all the updated APT information necessary to both evaluate and raise issues with the Amtrak data. In addition, the SWG requested that as new cost proposals were made that Amtrak recalculate operating and capital costs and make them available to all states. The SWG wants to assure that all states have adequate time to review their information and make necessary adjustments on their information with Amtrak.
While the SWG and Amtrak have reached some consensus on a direct cost structure, open issues include cost structure for indirect/shared/support costs and capital charges that directly support a route versus those charges to support the national system.

Amtrak agreed in the December 2010 meeting to modify their approach to capital charges. Amtrak’s first proposal suggested that capital charges were to be based on the depreciation of all Amtrak assets and allocated among States. Amtrak further proposed that the capital charges paid by States be kept in a “lock box” for future investment in the route(s) sponsored by that State. The SWG suggested and Amtrak concurred that capital charges would be assessed only on assets used by a particular route, for instance equipment and stations. Additional elements of the capital charge methodology remained open for discussion.

January 2011 – March 2011: Peer State Review and SWG Proposal

The SWG and Amtrak continued to work to develop a methodology that is equitable to both parties. Efforts were aimed at refocusing how shared – or support costs – will be allocated to the states. The SWG developed a proposal for Amtrak’s consideration that significantly changed the method for allocating shared costs and pricing IPR services, but provided States with more transparency and cost control of their Amtrak services.

During January 2011, the SWG developed and vetted an alternative pricing methodology to Amtrak’s Policies A and B with states. The process included several conference calls followed by meetings in Washington D.C. The SWG received States approval to move forward, and presented the new proposed methodology to Amtrak staff in early February 2011.

The primary objectives associated with SWG proposal were to establish a pricing mechanism which:

- Fairly and appropriately allocates costs to states
- Is less than what has been described by Amtrak as “Fully Allocated Costs”
- Sustains the level of funding currently provided by States that currently support the “whole costs” of their routes.
- Defines and gives States more control and a better understanding of the specific corridor costs (Route Costs)
- Assigns overhead/non specific costs (Support Fees) as a percentage, based on the level of service provided, not as a share of what Amtrak spends.

Key elements of the SWG Operating Cost proposal:

- **Route Operating Costs.** Under the proposed SWG methodology, states pay 100 percent of the verifiable “route operating costs” (a combination of direct and shared costs which are directly associated with the operation of a route) associated with a corridor service.
• **Support Fees.** Under the SWG methodology, states pay “support fees” (instead of shared costs) in proportion to route costs which will cover overhead and other shared expenses. Support fees will be assessed in the form of “additives” applied to cost families of route costs or other service elements. The additives suggested by the SWG in the initial proposal were based on an analysis of Amtrak’s APT cost ranges for various families of services.

Amtrak staff briefed the Amtrak Board of Directors on the SWG proposal and indicated their support for the overall approach, indicating they would provide alternative approaches to the SWG in the coming weeks, particularly focusing on further analysis of the SWG recommendation on multipliers. (See Attachment G)

• **Issues for further consideration associated with operating costs.** While great progress had been made on the route and support cost issues, both the SWG and Amtrak believed that further detailed analysis be completed on the allocation of:
  1. Station costs where several corridor routes share a large Amtrak stations, e.g. Chicago Union Station,
  2. The approach for allocating through revenue or the allocation of revenues and costs associated with corridor trains along the Northeast Corridor that may move in and out of the corridor, and
  3. Connecting motorcoach services.

Key elements of the developing Capital Cost proposal:

The capital cost policy was modified to state that costs would only be assessed on Amtrak assets specifically used by a route, with credit given for investments made in Amtrak assets. These capital payments by the States will be reinvested in assets which the state/agency and Amtrak mutually agree will benefit the route.

• **Issues for further consideration associated with capital costs.** By March 2010, Amtrak had not provided states with their revised capital cost estimates so that states can have time to ask appropriate questions and provide feedback on their revised numbers. In addition, states need to assess the workability of Amtrak’s lock box concept on capital costs.

Amtrak indicated they will make their best efforts to provide all Section 209 states with their updated capital cost numbers by the end of February.

**More Time Needed to Complete Policy**

By late March Amtrak and the SWG recognized that they will need a couple additional months to complete work on the Section 209 cost allocation methodology. As outlined in their February 18, 2011 memo to the SWG *(Attachment G)*, Amtrak has indicated to the SWG that they want to work with the SWG to “come to a mutually agreeable
understanding on a schedule that keeps the momentum up but permits us enough time to complete the process effectively.”

April 2011-May 2011: Amtrak Analysis and Policy Development

In April 2011, Amtrak responded to the SWG with their analysis of the operating cost proposal, recommendations regarding additives, and a new approach to capital costs.

Operating Costs: Amtrak again concurred that they were willing to move forward with the Route Cost/Additive model to determine the pricing of route operating costs. They made a series of recommendations for additives which were reviewed by the SWG.

Capital Costs: Amtrak, based on discussions with some states, modified their approach to capital costs, and determined that instead of charging states for the depreciation of assets they would work with states to develop a capital maintenance program, and charge states, based on units used, for the capital investments made in the Amtrak assets used to support specific routes and keep these assets in a State of Good Repair (SGR). These capital charges could possibly be available for a federal matching program through the FRA. The source of funds and program would need to be developed with Amtrak, FRA and the Section 209 States.

In early May, Amtrak and the SWG met for a two-day meeting where final agreement was reached regarding route costs, additives, and capital costs. The chart on the following page (S209 Operating Cost Pricing Methodology) illustrates the basic elements of operating cost calculations resulting from the May meeting.

Contracts. Both Amtrak and the SWG agree that all parties would benefit from a standardized contract outline. For states, the contract outline can serve as a check list of service choices and formats that states can choose to best fit their needs and which gives states options. For Amtrak, the standardized contract can save time for Amtrak staff in identifying issues based on a common set of issues, saving Amtrak staff time and resources.

• Issues for further consideration associated with contracts. The SWG and Amtrak have developed a draft contract template, but haven’t had time to properly review the draft with the States. Once the larger issues are addressed, the SWG will work with the states and Amtrak to address the contracts issue.

In late May, Amtrak and the SWG began drafting a policy packet to be transmitted to states in early June along with their operating and capital costs as outlined by the 209 Policy.
### S209 Operating Cost Pricing Methodology

<table>
<thead>
<tr>
<th>ROUTE COSTS</th>
<th>SUPPORT FEE</th>
<th>OPERATING COSTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Train &amp; Engine Crew Labor</td>
<td>$T&amp;E \text{ Route } \times (\text{Division Additive}^* + \text{System Additive} (12.9%))$</td>
<td>Total Train &amp; Engine Crew Labor</td>
</tr>
<tr>
<td>Car &amp; Locomotive Maintenance &amp; Turnaround</td>
<td>$\text{Car &amp; Loco Route Cost} \times \text{System Additive} (27%)$</td>
<td>Total Maintenance of Equipment</td>
</tr>
<tr>
<td>On Board Service (OBS) Crew &amp; Provisions</td>
<td>$\text{OBS Route Cost} \times 10% \text{ OBS Additive}$</td>
<td>Total On Board Services</td>
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<tr>
<td>Route Advertising</td>
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<td>Total Route Advertising</td>
</tr>
<tr>
<td>Sales &amp; Distribution</td>
<td>$\text{Marketing Additive}^* \times \text{Passenger and Allocated Revenue}^*$</td>
<td>Total Sales &amp; Marketing</td>
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<tr>
<td>Reservations &amp; Call Centers</td>
<td></td>
<td>Total Res &amp; Call Center</td>
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<td>Stations – Route</td>
<td></td>
<td>Total Route Stations</td>
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<tr>
<td>Station – Shared</td>
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<td>Total Shared Stations</td>
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<tr>
<td>Commissions</td>
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<td>Total Commissions</td>
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<td>Customer Concessions</td>
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<td>Total Concessions</td>
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<tr>
<td>Connecting Motor Coach</td>
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<td>Total Motor Coach</td>
</tr>
<tr>
<td>Regional/Local Police</td>
<td>$\text{Passenger Miles} \times \text{Police Additive ($0.005)}$</td>
<td>Total Police &amp; Security</td>
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<td>Terminal Yard Operations</td>
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<td>Total Terminal Yard Ops</td>
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<td>Terminal Maintenance of Way</td>
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<td>Total Terminal MoW</td>
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<td>Insurance</td>
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<td>Total Insurance</td>
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<tr>
<td><strong>Total Route Costs</strong> (Sum of Above)</td>
<td>$\text{Total Route Costs} \times \text{General &amp; Administration Additive} (2%)$</td>
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<td><strong>Route Service Fee</strong> (Sum of Above)</td>
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<td></td>
<td>$\text{Host RR Maintenance of Way} + \text{Host RR Performance} + \text{Fuel &amp; Power}$</td>
<td>$\text{Total Operating Costs} + \text{3rd Party Costs}$</td>
</tr>
</tbody>
</table>
|                                        |                                                 | $\text{Less Passenger and Other Allocated Revenue}$ | $\text{NET STATE COST}$

*Denotes variable additive. Reference Appendix D*
ATTACHMENT A
Segmentation of Amtrak’s National Train Service

Amtrak National Train Service
- Total State Supported Routes
- National System Routes
- Northeast Corridor Routes

Single State

Multi-State (non NEC)
- Empire Service
- Ethan Allen Express
- Maple Leaf
- Downeaster
- IL Zephyr/Carl Sandburg
- Pacific Surfliner
- Capitals
- San Joaquins
- River Runner (KC-St. Louis)
- Piedmont

Multi-State (non NEC)
- Heartland Flyer
- Cascades
- Adirondack
- Hiawatha
- Wolverines
- Hoosier State
- Pere Marquette

NEC Base-Increment (single & multi-state)
- Vermont
- New Haven – Springfield
- Keystone Service
- Lynchburg Service
- Richmond – Newport News Service
- Pennsylvania
- Carolinian

Some service not currently paid by states
Service not currently paid by states
### ATTACHMENT B
### Amtrak State Corridor Routes

11/1/2010

<table>
<thead>
<tr>
<th>Route</th>
<th>Territory</th>
<th>Approx. Weekday Round Trips</th>
<th>Historical Trains</th>
<th>Approx. Weekday Supported Round Trips</th>
<th>Unsupported Round Trips</th>
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<td></td>
<td></td>
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<td>Vermonter</td>
<td>VT, MA, NEC</td>
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<td>VT</td>
<td>1</td>
<td>-</td>
</tr>
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<td>Maple Leaf</td>
<td>NY, ON</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Empire Service</td>
<td>NY</td>
<td>9</td>
<td>-</td>
<td>9</td>
<td>-</td>
</tr>
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<td>NY</td>
<td>1</td>
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<td>ME (NNEPRA)</td>
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<td>New Haven-Springfield</td>
<td>CT, MA, NEC</td>
<td>5</td>
<td>-</td>
<td>5</td>
<td>-</td>
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<td>Keystone Service</td>
<td>PA, NEC</td>
<td>13</td>
<td>PA</td>
<td>6.6</td>
<td>6.4</td>
</tr>
<tr>
<td><strong>Pennsylvania</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington-Lynchburg</td>
<td>VA, NEC</td>
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<td>VA</td>
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<td>Washington-Newport News</td>
<td>VA, NEC</td>
<td>5</td>
<td>VA</td>
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<td>Carolinian</td>
<td>NC, VA, NEC</td>
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<td>NC</td>
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<td>Piedmont</td>
<td>NC</td>
<td>2</td>
<td>NC</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td><strong>Midwest</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Lincoln Service (Chi-St. Louis)</td>
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<td>Illini/Saluki</td>
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<td>Hiawathas</td>
<td>WI, IL</td>
<td>7</td>
<td>WI, IL</td>
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<tr>
<td>Wolverines</td>
<td>MI, IN, IL</td>
<td>3</td>
<td>-</td>
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<td>Blue Water</td>
<td>MI, IN, IL</td>
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<td>Pere Marquette</td>
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<tr>
<td>Heartland Flyer</td>
<td>OK, TX</td>
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<td>OK, TX</td>
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<tr>
<td>Hoosier State</td>
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<td>-</td>
<td>&lt; 1</td>
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<tr>
<td>Mo. River Runner (KC-St. Louis)</td>
<td>MO</td>
<td>2</td>
<td>MO</td>
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<td>-</td>
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<tr>
<td><strong>West</strong></td>
<td></td>
<td></td>
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<tr>
<td>Pacific Surfliner</td>
<td>CA</td>
<td>12</td>
<td>CA</td>
<td>8.4</td>
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<td>CA</td>
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<tr>
<td>Capitol Corridor</td>
<td>CA</td>
<td>16</td>
<td>CA (CCJPA)</td>
<td>16</td>
<td>-</td>
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<tr>
<td>Cascades</td>
<td>OR, WA</td>
<td>6</td>
<td>OR, WA</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td><strong>27 routes</strong></td>
<td></td>
<td>110</td>
<td></td>
<td>36</td>
<td>-</td>
</tr>
</tbody>
</table>

#### Summary of Round Trips Not Currently State Supported

<table>
<thead>
<tr>
<th>Primary Route Territory</th>
<th>Route(s)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>Empire Service, Maple Leaf</td>
<td>10</td>
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<tr>
<td>Pennsylvania</td>
<td>Keystone, Pennsylvanian</td>
<td>7.4</td>
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<tr>
<td>Connecticut/Massachusetts</td>
<td>New Haven-Springfield</td>
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<td>Virginia</td>
<td>Newport News</td>
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<td>California</td>
<td>Pacific Surfliner</td>
<td>3.6</td>
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<td>Michigan</td>
<td>Wolverines</td>
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<td>Illinois</td>
<td>Chicago-St. Louis</td>
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<td>Oregon/Washington</td>
<td>Cascades</td>
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<tr>
<td>Indiana</td>
<td>Hoosier State</td>
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</tbody>
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#### Notes

1. Routes with multiple daily round trips may have a different schedules for weekdays, weekends, and in each direction.
2. NNEPRA - Northern New England Passenger Rail Authority. CCJPA - Capitol Corridor Joint Powers Authority
3. Trains sharing segments with other routes are counted only once (e.g., Ethan Allen Express, Pennsylvanian)
Policy Goals and Objectives
The Passenger Rail Investment and Improvement Act (PRIIA) (Public Law No. 110-432, Division B, enacted October 16, 2008) of 2008 establishes a planning structure and funding to support expanded intercity passenger rail service, and outlines roles and responsibilities for the federal government, the states, the freight railroads and Amtrak in delivering new or continued passenger rail service. Included among the new shared responsibilities (in Section 209) is the development and implementation of a new methodology “for establishing and allocating operating and capital costs among the states and Amtrak.” A mutual goal in implementing this provision is to establish a transparent, rigorous methodology which is consistent with generally accepted accounting principles, as well as a collaborative and standardized process for future reporting and adjustment. Ultimately, the broader mutual goal is to ensure a well-funded, cost-efficient, customer-based, robust system of intercity passenger rail services throughout the nation.

Principles

- **Accounting** – Costs are dynamic and subject to constant change. Therefore, it is essential to establish, as part of the regular budget process, a system of providing to the states, at the start of the budget process, updated projections in the Amtrak’s Performance Tracking (APT) System, including
  a. Detailed budget sheets for all services/routes
  b. Third Party costs
  c. Route-specific and shared costs
  d. Descriptions of cost fluctuations

- **Inspector General (IG) Review** – As APT is the foundation for the Section 209 policy, any changes to the APT system which may result from a review by the DOT IG will be incorporated into a revised cost sharing methodology, and reflected in revisions to the cost sharing policy. Any future adaptations or upgrades or revisions to the APT system will, as necessary, be incorporated into the cost sharing policy.

- **Direct Costs** – Charges for direct costs should be determined as a percentage of such direct costs as provided through the APT system. Third party costs, including for example, host railroad fees, fuel, railroad incentive payments or on non-Amtrak resources, will not be included in the direct cost calculations.

- **Expenses for States Supporting 100% of Route Trains** - The total expenses for States that are currently supporting all trains within a route will not increase by more the cost of inflation.

- **Supporting/Overhead Costs** – States will pay a proportionate share of any shared costs for a route based on their proportionate share of direct costs with the following provisos --
a. The proportionate share will be based on no more than 100% of direct costs;
b. Third Party costs should not be included in the shared cost calculations; and
c. The calculation should be based on a simple formula using attributes for expenses shared with other Amtrak routes.

- **Capital Charges** - Amtrak should accelerate the schedule for distribution of capital charge data to the states, by no later than December 31, 2010, and should provide detailed and verifiable data regarding capital costs. In the future, this detailed information should be provided in advance of any state meetings to develop cost sharing agreements.

- **Revenues** – All revenue collected on a state-supported train should be credited to that state. Shared and direct revenues will be regularly reported, transparent and be based on generally accepted accounting principles.

- **Performance Guarantees/Standards** – Service standards or guarantees should be established in order to link state fees and charges to the level and quality of service provided. Standards may include, for example:
  
  - Customer Satisfaction Scores
  - Non-performance in areas of mechanical, revenue collection, customer service
  - Standards of conduct for train crews and station agents
  - Reviews or audits of equipment readiness and availability
  - Employee incentive programs

- **Time lines and Milestones** – By December 31, 2010, Amtrak will:
  
  - Hold meetings with the states on the most recent available Federal Fiscal Year Data
  - Provide to the states APT projections for FY 2010 for direct and supporting/shared costs and capital charges
  - Provide to the states detailed budget information for all routes including NEC, state-supported and long distance
  - Provide revised expenses and estimated costs for affected State-supported IPR routes based on the Principles set forth above
ATTACHMENT D

State Survey regarding PRIIA 209 Policy Objectives and Summary of State Responses
November 2010

PRIIA Section 209 State Opinion Survey

In an effort to gather input related to specific issues associated with the PRIIA Section 209 implementation, the State Working Group (SWG) is asking States to complete the following survey and return to Shayne Gil by COB on Monday, November 29, 2010. Please highlight your preferred response to each question.

Please tell us who you are:
• What State & Amtrak Route(s) do you represent?
• Name of person completing form:
• Title of person completing form:
• Email & Phone Number of person completing form:

1. ACCOUNTING:
   Question 1: From a policy perspective, are you in agreement with Amtrak’s position regarding Accounting as stated in the Statement of Principles, Side-by-Side Analysis?
   Yes                 No  Other (please provide your input):

2. IG REVIEW:
   Question 2: From a policy perspective, are you in agreement with Amtrak’s position regarding IG Review as stated in the Statement of Principles, Side-by-Side Analysis?
   Yes                 No  Other (please provide your input):

3. DIRECT COSTS
Direct Costs are defined as the costs incurred only for the benefit of a particular route. They include:
• Train & Engine Crew Labor
• On Board Service Labor & Support
• Host Railroad Maintenance of Way
• Host Railroad Performance Incentives
• Fuel & Power
• Commissary Provisions & Management
• Car & Locomotive Maintenance and Turnaround
• Direct Advertising
• Commissions
• Reservations & Call Centers
• Customer Concession
• Connective Motor Coach
• Route specific Stations
Question 3A: From a policy perspective do you agree that States should pay 100% of the Direct Costs associated with the routes serving their states as long as the state is in agreement that the Direct Costs being allocated to their state is correct and appropriate for the level of service being provided?

Yes      No      Other (please provide your input):

Question 3B: Host Railroad Maintenance of Way, Host Railroad Performance Incentives, and Fuel & Power, are “3rd Party Costs” which are paid to Amtrak and then passed through to the host railroad and fuel provider at cost. From a policy perspective, do you agree that the value of the 3rd Party Costs for a particular route should not be included in any calculations used to determine shared costs?

Yes      No      Other (please provide your input):

4. EXPENSES for STATES SUPPORTING 100% ROUTE TRAINS

Question 4: From a policy perspective do you agree that costs to States currently supporting all trains within a route should not initially increase more than the cost of inflation, and that any other justifiable cost increases which may apply, as agreed upon in the S209 Policy, would be transitioned based on a specific schedule agreed upon by Amtrak and the State.

Yes      No      Other (please provide your input):

5. SUPPORTING/OVERHEAD/SHARED COSTS:

Shared Costs are defined as costs incurred for the common benefit of more than one route. According to PRIIA 209, States should pay a proportionate share of Shared Costs based on factors that reasonably reflect relative use.

The categories of Shared Costs Include:
- Shared Stations
- MoE Supervision Training & Overhead
- MoW Support
- Yard Operations
- Marketing and Distribution
- Police, Environmental & Safety
- T&E Overhead and Operations Management
- Utilities
- General & Administrative – State Supported
- General & Administrative- Amtrak

Question 5B: From a policy perspective, do you agree that the following categories should be included in state allocations?

- G&A-State Supported
  - Yes
  - No
  - Comment:

- G&A- Amtrak
  - Yes
  - No
  - Comment:
**Question 5C:** The APT system calculates what Amtrak spends in these categories and allocates shared costs to routes based on various formulas. From a Policy Perspective, do you agree that *(select one)*:

- a. States should pay a fee to cover shared costs based on a percentage of the Direct Costs for their route(s). This percentage will vary by route based on the specific characteristics of that route and will be based on allocations of APT.
- b. States should pay a fee to cover shared costs based on another calculation such as Train Miles or Seat Miles.
- c. None of the above. I suggest the following methodology to address the allocation of Shared Costs:

**6. REVENUE:**
Among State Supported Services, there are routes that operate independent of other Amtrak Routes and there are some which operate as part of other Amtrak Routes or NEC Services.

**Question 6A:** From a policy perspective, do you agree that in cases where there are state-supported and non state-supported legs associated with a specific route that revenue should be matched against expenses based on a cause and effect relationship and that the specific distribution of revenue between Amtrak and the impacted state(s) should determined on a route specific basis and documented in the operating agreement between the State and Amtrak.

- Yes
- No
- Other *(please provide your input)*:

**Question 6B:** In some cases, ticket revenues for a particular route exceed the operating costs / service fee. From a policy perspective do you agree that the distribution of revenue in excess of operating costs/service fee should be addressed on a route specific basis and documented in the operating agreement between the State and Amtrak.

- Yes
- No
- Other *(please provide your input)*:

**7. CAPITAL CHARGES**
**Question 7a:** The Capital Charge Policy which has been presented by Amtrak, charges states, based on a national allocation model, for capital assets in 3 categories: Equipment, Land & Track. From a policy perspective do you agree that capital charges should *only* be assessed on the equipment, land or track specifically used by a particular route.

- Yes
- No
- Other/Comment:

**Question 7b:** The Amtrak policy also states that the capital charges paid by states will be set in an Amtrak account (lock box) and used for capital investment projects mutually agreed to between States and Amtrak. From a policy perspective, is your state legally authorized to pay a capital fee which will be set aside for a future, undetermined project?

- Yes
- No
- Other/Comment:

**8. PERFORMANCE GUARANTEES**
**Question 8:** From a policy perspective, do you agree that performance guarantees should be incorporated into Amtrak/State agreements and that the specific details will be worked out later in the 209 process.

- Yes
- No
- Other/Comment:
9. MANAGEMENT DECISIONS

Question 9a: Amtrak’s decisions to make capital investments, agree to labor agreements or change operating systems will have a financial impact on states. From a policy perspective do you agree that Amtrak must consult with effected States before making a change in operations which impacts the operating costs (over the road and or station costs) and or the revenues for a state-sponsored train? Yes No Other/Comment:

Question 9b: If the impact on a state-sponsored train is negative, should Amtrak hold that state harmless? Yes No Other/Comment:

Question 9c: Do you agree that revenues and expenditures for all trains under a state operating agreement with Amtrak should be combined under one state contract? Yes No Other/Comment:

10. MANAGEMENT DECISIONS

Question 10a: Given the agreed to 6 month extension, what have you done to prepare your state for Section 209 decisions and implementation?

Question 10b: Are there any other Policy Issues related specifically to Operating Costs/Revenues which should be addressed by the 209 Working Group at the next meeting?
Summary of State Responses to State Survey – November 2010

Summary of Responses:

ACCOUNTING & Inspector General (IG)
- Most states agree with the Principles related to Accounting and the IG Review, but skepticism remains regarding confidence in Amtrak accounting and cost allocation.

DIRECT COSTS
- While most States agree in concept that States should pay 100% of Direct Costs, the lack of confidence in Amtrak accounting is keeping the others from concurrence.
- Even the Direct Cost line items contain significant shared cost elements, and the APT methodology does not make it easy, or even possible, for States to draw a direct correlation between the service they are receiving and the price they are paying.
- Amtrak/State Operating Agreements must specifically define the parameters of services being purchased, for instance, consistent size and crew size. There are also other factors which need to be considered such as the level of management and oversight specifically associated with each service.
- There is overlap between Direct and Shared Costs.
- States want more input into the service they are paying for and want a better understanding of where costs are coming from.
- States want to be involved in the negotiation of 3rd party contracts with host railroads so they understand the performance levels and payment structures.
- It is possible to get State agreement on 100% costs, but only with more definition and transparency provided by Amtrak regarding true direct costs.

SHARED COSTS
- There is unanimous concern about Shared Costs and most states concur that Shared Costs should be allocated based on a formula.
- The concept of a Percentage of Direct Costs is well received, although this concept ties closely to Direct Costs.
- A suggestion was made to consider a hybrid which assesses costs in 3 levels – Direct, Shared and Overhead.
- States agree that shared costs should be allocated based on a formula of some sort. The challenge is finding that formula.
Proposed Action Item: Review and enhance the definition of each line item in such a way that it is clear which costs are truly direct, which are shared, and how they are allocated. With a proper understanding and reporting of Direct and Shared Costs, it will be easier to determine the formula for payment and to get agreement from States.

REVENUE

- The distribution of revenue between Amtrak and States can become very complex and many states believe that State services contribute to the national system beyond the state boundaries.
- In general, States concur that the specific model for distribution or ticket revenues should be NEGOTATED and AGREED UPON between Amtrak and the sponsor State and outlined in the Operating Agreement.
- States also concur that Operating Agreements should address the distribution of revenues in excess of the State Service Payment, with most requesting that the excess amount should be retained by the State(s).

CAPITAL

- States remain confused by the Capital Charge Policy provided by Amtrak. There is much concern regarding how capital charges are derived, how the amount is determined, whether or not specific assets have already been depreciated.
- In general, States agree that they should only “pay” for assets used by their route.
- In addition to there being concern about the ability for a state to pre-pay capital expenses to Amtrak, the Lock Box concept is not well received by states.
- Who “owns” the money?
- How will the funds be distributed and what is the process for determining which projects qualify?
- How will states be credited for past investments?
- Should there be a forward looking Capital Plan, instead of a backward looking assessment on old assets?
- There is some support for capital charges/lease payments for Amtrak used equipment.
- In general, it will be impossible to get State agreement on the Capital Policy as proposed by Amtrak.

ACTION/DISCUSSION ITEM

- Revisit the policy to understand the intention, Amtrak’s goals and the ability of the states to comply.
- Discuss the potential for establishing capital plans with a cost sharing mechanism to meet capital needs
- Discuss the role of the Federal Government, FRA and the HSIPR Grant programs to address capital needs.
PERFORMANCE GUARANTEES
- States agree that Amtrak should be accountable for delivering a specified level of service to sponsoring States.
- This should be put in the parking lot until a later date.

MAJOR PURCHASES/SERVICE CHANGES
- In general, states want input into decisions regarding all items which impact service levels or costs.
- States should be held harmless in instances where service changes are made which negatively impact a service.

MULTIPLE CONTRACTS
- States believe they should have the ability to combine multiple routes into one contract.
# PRIIA Section 209 Policy Development Timeline, Public Outreach and Milestones

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 20-21, 2010</td>
<td>First national meeting of the PRIIA 209 States and Amtrak held in Chicago, IL. APT system introduced.</td>
</tr>
<tr>
<td>Summer 2010</td>
<td>Amtrak holds individual/regional meetings with the PRIIA 209 States to explain APT and cost allocation methodology.</td>
</tr>
<tr>
<td>August 12, 2010</td>
<td>State call with Amtrak Pres. Boardman seeking 1 year extension to develop PRIIA 209 methodology.</td>
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<tr>
<td>August 16-17 2010</td>
<td>Second national meeting of the PRIIA 209 States in Chicago, IL.</td>
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<tr>
<td>August 19, 2010</td>
<td>States call with House T&amp;I and Senate Commerce Staff.</td>
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<tr>
<td>August 24, 2010</td>
<td>States letter to Amtrak Board Chair Tom Carper seeking cooperation.</td>
</tr>
<tr>
<td>September 10, 2010</td>
<td>Amtrak provides first draft of annual Capital Charges.</td>
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<tr>
<td>September 19, 2010</td>
<td>States meet with Amtrak at AASHTO/SCORT/S4PRC meeting in Jacksonville, FL.</td>
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<tr>
<td>September 19, 2010</td>
<td>States establish Section 209 States Working Group to work with Amtrak.</td>
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<tr>
<td>October 1, 2010</td>
<td>Amtrak response letter regarding States Senate/House Letter.</td>
</tr>
<tr>
<td>October 7, 2010</td>
<td>States letter to Amtrak President in response to Amtrak 10/1/10 letter.</td>
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<tr>
<td>October 16, 2010</td>
<td>PRIIA Section 209 Statutory Deadline.</td>
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<tr>
<td>October 28-29, 2010</td>
<td>First meeting between Amtrak and SWG (Wash DC).</td>
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<tr>
<td>December 1-2, 2010</td>
<td>Meeting with Amtrak and SWG (Wash DC).</td>
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<tr>
<td>December 6, 2010</td>
<td>Brief 209 Overview provided to NE/NY Compact</td>
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<tr>
<td>December 9, 2010</td>
<td>SWG/Amtrak Working Committees (Cost Definitions, Contracts) established to address specific aspects of 209 Policy.</td>
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<tr>
<td>December 10, 2010</td>
<td>SWG Briefing Conference Call Mid-West Regional Rail Initiative</td>
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<tr>
<td>January 5-6, 2011</td>
<td>Meeting with Amtrak and SWG (Wash DC) to discuss new pricing scenarios.</td>
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<tr>
<td>January 5-6, 2011</td>
<td>SWG/Amtrak brief Congressional Staff</td>
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<tr>
<td>January 19, 2011</td>
<td>SWG Conference Call with States to discuss new Policy approach.</td>
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<tr>
<td>January 23, 2011</td>
<td>SWG presentation at S4PRC Meeting to further discuss Policy approach.</td>
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<tr>
<td>January 24, 2011</td>
<td>SWG/States Conference call to further discuss Policy approach.</td>
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<tr>
<td>January 24-25, 2011</td>
<td>SWG/Amtrak meeting to move forward with Policy approach.</td>
</tr>
<tr>
<td>February 4, 2011</td>
<td>Amtrak sends letters to 209 State transportation leadership to identifying S209 impacted states and informing them about the progression of new Policy development.</td>
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<tr>
<td>Date</td>
<td>Event</td>
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<tr>
<td>February 8, 2011</td>
<td>SWG/Amtrak Conference call regarding pricing proposal.</td>
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<tr>
<td>February 18, 2011</td>
<td>Amtrak responds positively to concept of initial SWG Pricing Proposal.</td>
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<tr>
<td>February 22, 2011</td>
<td>SWG updates FRA via Conference Call.</td>
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<tr>
<td>March–April 2011</td>
<td>Amtrak holds individual meetings with States to explain APT and pricing proposals.</td>
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<tr>
<td>March 3, 2011</td>
<td>Amtrak/SWG meeting to discuss Policy specifics</td>
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<tr>
<td>March 3, 2011</td>
<td>Amtrak/SWG brief FRA regarding 209 Policy direction</td>
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<tr>
<td>March 4, 2011</td>
<td>Amtrak/SWG present Policy concept at AASHTO IPR Leadership meeting in Washington DC.</td>
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<tr>
<td>March 14-15, 2011</td>
<td>SWG/Amtrak provide status update at SCORT Meeting in Washington DC.</td>
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<tr>
<td>March 16, 2011</td>
<td>Amtrak Board meeting – status update.</td>
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<tr>
<td>March 23, 2011</td>
<td>Brief overview of 209 Policy progression provided at NEC Corridor Commission Meeting, Wilmington, DE</td>
</tr>
<tr>
<td>April 13, 2011</td>
<td>SWG Briefing Conference Call Mid-West Regional Rail Initiative</td>
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<tr>
<td>April/May 2011</td>
<td>SWG and Amtrak work on Policy development &amp; refinement of cost additives.</td>
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<tr>
<td>May 3, 2011</td>
<td>Amtrak/SWG present Policy concept at AASHTO IPR Leadership meeting in Washington DC.</td>
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<tr>
<td>May 11-12, 2011</td>
<td>SWG/Amtrak meeting to develop final cost allocation model and approve additives.</td>
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<tr>
<td>May 17, 2011</td>
<td>SWG Briefing to States during S4PRC Call.</td>
</tr>
<tr>
<td>May 23-June 3, 2011</td>
<td>SWG and Amtrak confer regularly to finalize Policy Package.</td>
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<tr>
<td>June 10, 2011</td>
<td>Amtrak and SWG release draft Policy Package to States.</td>
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<tr>
<td>June 15, 2011</td>
<td>SWG/States Conference Call to discuss Policy Package.</td>
</tr>
<tr>
<td>June 24, 2011</td>
<td>State comments on Draft Policy due.</td>
</tr>
<tr>
<td>July 2011</td>
<td>SWG/Amtrak incorporate State comments into final Policy to present to Amtrak Board for Vote. Final Policy will be transmitted to States for approval.</td>
</tr>
<tr>
<td>August 2011</td>
<td>Tentative Deadline for Policy approval by States.</td>
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Congressional Outreach

Summary of States Congressional Outreach on PRIIA Section 209 Implementation

In August 2010, states affected by the implementation of PRIIA Section 209 were concerned with the progress that had been made with Amtrak on the creation of a new cost methodology. The 209 states determined that the best course of action was to seek an extension of the October 16, 2010 deadline.

Since the deadline was established in statute, the representatives of the 209 states held conference calls with staffs from the House Transportation and Infrastructure Subcommittee on Railroads and the Senate Commerce Committee. The purpose of these calls was to provide an update on the status of the Section 209 effort and express states’ concerns with the pending October 16, 2010 deadline. The states asked the staffs to consider amending law to allow for a one-year extension of Section 209 implementation.

After discussions with congressional staff and Amtrak, Amtrak and the states agreed to a voluntary six-month extension (April 16, 2011) before either party would petition the Surface Transportation Board (STB) to review the cost allocation methodology.

On January 5, 2011, the State Working Group (SWG) and Amtrak officials met with Senate Commerce majority and minority staff1 to provide a progress report on the work of the 209 effort since August, 2010. The following day, the SWG and Amtrak officials met with the House Transportation and Infrastructure Committee majority and minority staff2.

Both meetings focused on the efforts of the SWG and Amtrak to develop the cost allocation methodology required by the statute – our progress and continued challenges. Congressional staff expressed appreciation and optimism that the two parties were working together to reach agreement by the April 2011 deadline. The SWG and Amtrak highlighted their commitment to work on a methodology that will continue to support the success of the state supported corridor routes.

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1 Senate Meeting attendees included: SWG Members representing (California) Capitol Corridors Joint Powers Authority, Northern New England Passenger Rail Authority, North Carolina DOT and Wisconsin DOT, AASHTO Staff and States for Passenger Rail Coalition Staff as well as members of Amtrak’s PRIIA 209 Team/Government Affairs (Stephen Gardner, John Bennett, Max Johnson and Caroline Decker.) Senate Commerce staff included: Melissa Porter, John Drake, Ian Johnson, Taylor Woods, Dan Nuemann and Mike Meenan.

2 Joyce Rose, Jennifer Esposito Homedy and Rachel Carr.
ATTACHMENT G

To: State Working Group  
From: Amtrak Policy & Development  
Date: February 18, 2011  
Re: Response to Policy Proposal, February 8

Thank you for submitting your proposed PRIIA Section 209 operating pricing policy via e-mail on February 8. Our understanding of the key features of the policy is as follows:

- Costs are classified into 3 categories: Third Party Costs, Route Costs, and Other Costs. Third Party Costs consist of host railroad maintenance of way and performance incentives, and fuel. Route Costs consists of costs that States are generally able to “see and touch” on their routes, and costs that are easily understood and allocated.
- Third Party Costs will be charged to States, Route Costs will be charged to States, and Other Costs will not be charged to States.
- Additives will be charged to certain Route Cost line items in place of Other Costs. These additives will vary based on whether routes connect with the Northeast Corridor.

Areas of Agreement
We agree with your classification of costs into Third Party, Route, and Other. Between now and the conclusion of this Section 209 process, we may propose minor adjustments to this classification based on new information about how data flows through the APT system, but we do not think this is likely or that these changes will be material.

We agree with your approach of proposing multiple additives to Route Costs, and we also agree with the approach of including those additives only on selected Route Costs. We believe that limiting the number of additives will help keep this pricing approach simple and consistently applied, and will help ensure its long term success.

Next Steps for Amtrak
First, we agree that our State partners need updated financial data to evaluate the effects of these policy proposals. Due to our limited resources, we have experienced delays in providing all of this information. We will make our best efforts to provide all current and potential State partners with updated capital charge information, reflecting the results of Policy “D” (widely-allocated assets excluded) by Friday, February 25.

We will also make our best efforts to schedule meetings with States to discuss the updated capital charge, and updated operating results presented in the format of Third Party, Route, and Other Costs, by March 18.

For this policy to be successful, we must ensure that the additive rates we select are affordable to the States, fair to Amtrak, and that there is widespread understanding of what costs they intend to represent. Right now, those groups include the States and Amtrak departments responsible for the costs, but future stakeholders could include Inspectors General, auditors, the Surface Transportation Board, the Federal Railroad Administration, and others. To meet this standard, Amtrak must undertake a process of discussing and reviewing these rates among its relevant departments to determine their appropriateness, and will propose modified rates or categories back to the State Working Group, as appropriate. Additionally, Amtrak is reviewing the proposal that the additives be differentiated into only two groups: NEC-connected and non NEC-connected.

Open Issues for Discussion
At this point in the process, there are a few outstanding issues related to both the APT system and policy options:

- APT: Connecting motor coach. The revenues and costs from connecting motor coaches originate with an Amtrak Thruway bus number, which should allow them to be directly assigned, not allocated, to routes. At this time it appears that there are system issues
Amtrak Response to SWG Feb 8 Policy Proposal

with how these Thruway buses are being assigned to routes. While these issues are being resolved, all connecting motor coach revenues and expenses will be based on source data.

- APT/Policy: Station costs. At some larger stations where there is a mix of corridor and long distance service, some States are concerned that the corridor services are receiving a disproportionate share of costs. Policy & Development will work with Amtrak Finance and applicable States to explore ways of allocating specific components of station expense in ways that reflect each service type’s usage of those costs. If this is not possible in the APT system, Policy & Development will propose adjustments to the APT data adjusting for how different service types use stations.

- Policy: Through revenue. At this time, Amtrak is awaiting a proposal from the State Working Group on how to treat through revenue between State-supported services and the NEC. In the meantime, Policy & Development is working with Amtrak Revenue Management to gather additional information on this issue.
October 1, 2010

Honorable Frank J. Busalacchi
Chair, States for Passenger Rail Coalition
Secretary
Wisconsin Department of Transportation
PO Box 7910
Madison, Wisconsin 53707-7910

Honorable Eugene A. Conti Jr.
Chair, Standing Committee on Rail Transportation
American Association of State Highway and Transportation Officials
Secretary
North Carolina Department of Transportation
Transportation Building
One S. Wilmington Street
Raleigh, NC 27699-1501

Dear Secretaries Busalacchi and Conti:

Thank you for providing us with a copy of your August 18 letter to Senator Rockefeller and Representative Oberstar.

We recognize that Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) contains requirements that are very challenging in the current economic and political climate, and that states want and deserve adequate information to understand the impacts of any new methodology and sufficient time to consider its ramifications. As you expressed in your letter, your concerns about the new Amtrak Performance Tracking (APT) cost-allocation system; the availability of capital cost data; and the general timing of the process present significant impediments to your members’ voluntary adoption of any new methodology before the pending statutory deadline. Thus, you have asked Congress to consider extending the deadline for the states and Amtrak to agree on a methodology past the October 16 date established in Section 209. Such a delay would push back the date at which the parties could seek Surface Transportation Board (STB) resolution of this matter.

While we agree that all three of these factors have hampered our collective progress, we feel that none of them present insurmountable obstacles that should prevent us from coming to agreement on a core methodology within a reasonable period of time. We believe that such additional time is available to the parties to continue collaboratively pursuing this methodology simply by each party agreeing to defer a
filing of the matter before the STB. Under our interpretation of the relevant statutes, STB involvement in the matter will likely only be triggered by an application of relief by one of the parties. Amtrak’s Board of Directors is willing to withhold seeking such relief for a period of six months following the October 16th deadline to allow us more time to reach agreement, providing that the parties agree on a process and schedule for the resolution of the remaining issues and work in good faith. As such, we do not believe that a legislative change to Section 209 is necessary at this time.

If the States for Passenger Rail Coalition and the Standing Committee on Rail Transportation are in agreement to defer any STB filings for six months after the October 16 deadline, we think it would be beneficial to all participants in the Section 209 process to memorialize this in a letter. We look forward to your favorable response, and we appreciate the work you and your members have contributed to the Section 209 process.

Sincerely,

Joseph H. Boardman
President and Chief Executive Officer
October 15, 2010

Frank J. Busalacchi
Chair, States for Passenger Rail Coalition
Secretary, Wisconsin Department of Transportation

Eugene A. Conti Jr.
Chair, Standing Committee on Rail Transportation
American Association of State Highway and Transportation Officials
Secretary, North Carolina Department of Transportation

Dear Secretaries Busalacchi and Conti:

President Boardman asked me to respond to your letter of October 7 with a revised proposal for a course of action in the likely event that we will not be able to meet the upcoming October 16, 2010 deadline as specified in Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). We appreciate your partnership in this endeavor and remain committed to working collaboratively with the States to complete our work on this important task.

Regarding your proposed 1 year time period for continuing our discussion, while we acknowledge that six months is an aggressive timetable for mutually developing a pricing policy, we believe we have a high chance of addressing the States’ outstanding technical concerns within that timeframe. As such, we continue to believe that a six month extension period is appropriate for us to substantially conclude this part of the process with continued hard work from all parties. To that end, as of this writing, we have begun the process of sharing detailed capital data with impacted States.

As you indicate, some of our State partners will have new Governors this coming January. By that time, we will have spent three more months examining the detail behind the capital charge data and working to finalize any outstanding adjustments to the operating data. If we are able to continue our recent rate of progress, we should be in a position where much of the discussion about the underlying data is behind us and any remaining policy questions have been clearly defined. At that time, we believe that both new and incumbent Governors and their staffs will have three additional months to work with Amtrak on finalizing the pricing policy issues at the heart of the Section 209 process.

As we have discussed, changes to the adopted policy are allowed under the statute, so the policy may be revised over time. As APT is the foundation for the Section 209 policy, any changes to the APT system which may result from a review by the DOT IG would accordingly be incorporated into a revised cost sharing methodology and reflected in revisions to the policy.
ATTACHMENT H (continued)

We applaud your creation of a Section 209 Working Group, and we think this will be helpful in continuing to move the process forward. We look forward to beginning our discussions with the Working Group in Washington, DC around the time of the October 27-28 Amtrak Board of Directors meeting. With respect to the information you requested in your recent letter, we will be pleased to provide this to you in detail at upcoming meetings, including revenue growth and cost containment efforts, and financial data for the Northeast Corridor and Long Distance operations.

As stated above, we are optimistic based on the recent progress we have made that in the next six months we will be able to resolve these issues. While we expect all parties to keep the momentum toward reaching agreement, we acknowledge the possibility that unforeseen difficulties might arise that could slow our expected pace but believe that the best time to address these and any necessary adjustments to our approach is as we near the end of the coming six month extension period.

Likewise, we also must acknowledge the possibility that at the end of the six month extension, we may find ourselves at an impasse in these discussions. In that case, we believe it is important for both the States and Amtrak to retain the ability to turn to the Surface Transportation Board for their assistance in settling this matter as called for in Section 209. This is an outcome that Amtrak neither desires nor predicts based on the progress we have been making, but we feel it is an important safeguard for everyone involved in the process.

If you are in agreement, we respectfully request that you sign the attached letter agreement memorializing this understanding. We look forward to the swift conclusion of the PRIIA Section 209 process.

Sincerely,

Stephen J. Gardner
Vice President, Policy and Development

cc: Daniel R. Elliott III, Chairman, Surface Transportation Board
October 27, 2010

Frank J. Busalacchi
Chair, States for Passenger Rail Coalition
Secretary
Wisconsin Department of Transportation
PO Box 7910
Madison, Wisconsin 53707-7910

Eugene A. Conti Jr.
Chair, Standing Committee on Rail Transportation
American Association of State Highway and Transportation Officials
Secretary
North Carolina Department of Transportation
Transportation Building
One S. Wilmington Street
Raleigh, NC 27699-1501

Dear Secretaries Busalacchi and Conti:

In recent months, Amtrak and its current State partners (the States) represented by your entities, the Standing Committee on Rail Transportation, American Association of State Highway and Transportation Officials (AASHTO) and the States for Passenger Rail Coalition (S4PR), have made substantial efforts toward fulfilling the requirements of Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Nevertheless, for a variety of reasons we have not met Section 209’s requirements that we “develop and implement a single, nationwide standardized methodology…” “within 2 years after the date of enactment of this Act,” as called for in subsection (a). Based on PRIIA’s enactment on October 16, 2008, the deadline of October 16, 2010 has passed.

Subsection (c) of Section 209 states that if we do not meet this deadline, “the Surface Transportation Board [STB] shall determine the appropriate methodology…” and gives the parties the ability to seek resolution of this matter before the Board. Rather than exercise this right at this time, we share a common belief that the States and Amtrak should continue the work currently in progress to collaboratively determine a methodology for Section 209. We propose agreeing to continue this work for a period of six (6) months until April 16, 2011.

Amtrak recognizes that the States represented by your groups are individual entities, but they have assembled a Working Group under your auspices to represent the interests of the States with respect to Section 209 issues. Amtrak’s management team, representing the Amtrak Board, and the working group will begin discussions this month both on the substantive issues relating to Section 209 and to establish a process and schedule to guide the negotiations.
Prior to April 16, 2011, we agree that Amtrak and the States represented by your two organizations may decide to approach the STB for assistance in Section 209 matters but shall agree to limit this action to instances of mutual decision, assuming the parties continue to work in good faith towards the completion of a new methodology under Section 209. If, at the end of the 6 month period described in this letter, Amtrak and the States agree that there remain significant and material technical obstacles to determining a methodology, they may consider a limited extension of this period.

To indicate your agreement with this proposal described above, please sign this letter and return it to the above address. We look forward to working collaboratively with you and your organizations on this important process.

Sincerely,

[Signature]

Joseph H. Boardman
President and Chief Executive Officer

cc: Daniel R. Elliott III, Chairman, Surface Transportation Board
    Section 209 Working Group: David Kutosky, CCJPA
                               Patricia Quinn, NNEPRA
                               Patrick Simmons, NCDOT
                               Kevin Page, VA-DRPT
                               Beth Nachreiner, WisDOT

ACCEPTED AND AGREED:

Date: 11/3/10

By: [Signature]

Title: Chair SCORT/AASHTO
March 17, 2011

Paula J. Hammond
Chair, States for Passenger Rail Coalition
Secretary, Washington Department of Transportation
310 Maple Park Avenue SE
P.O. Box 47300
Olympia, WA 98504-7300

Eugene A. Conti Jr.
Chair, Standing Committee on Rail Transportation
American Association of State Highway and Transportation Officials
Secretary, North Carolina Department of Transportation
Transportation Building
One S. Wilkinson Street
Raleigh, NC 27699-1501

Dear Secretaries Hammond and Conti:

I’m writing today to discuss our collaborative efforts to advance Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). First, I’d like to recognize the time and effort that your agencies and fellow States have contributed to the Section 209 process. We have made significant progress and this would not have been possible without this cooperation and, in particular, the substantial contributions of the Section 209 States Working Group (SWG) appointed by your organizations.

The recent pricing proposal from the SWG represents a major shift in how Amtrak and our State and agency partners would share the costs of providing passenger rail service. The Amtrak Board of Directors has reviewed and indicated its general support for this approach, subject to agreement on the addictive rates and other details, and we believe it will be a solid foundation for cooperatively growing our operations in the future. While this generally policy concurrence represents a significant step forward, at this time, certain details of this proposal remain outstanding as we continue to cooperatively refine this proposal. We are confident that we can resolve these issues, but we believe that we can do so in a more thorough manner by devoting some additional time to the Section 209 process.

To that end, we propose that we extend the agreement between our organizations, originally executed by Secretaries Basalaschi and Conti on October 15, 2010 and attached, for an additional two months until June 16, 2011. Under this proposed extension, we will continue to work in good faith to finalize these details, and we will continue to agree to only approach the Surface Transportation Board (STB) for assistance in cases of mutual agreement.
To indicate your agreement with this extension, please sign this letter and return it to the above address. We look forward to the swift conclusion of this important process, and I would again like to thank all our state and agency partners for their contributions.

Sincerely,

[Signature]

Stephen Gardner
Vice President, Policy & Development

ACCEPTED AND AGREED:

Date: 5/9/11
By: [Signature]
Title: [Title]

Date: 5/9/11
By: [Signature]
Title: [Title]

cc: Thomas Carper, Chair, Amtrak Board of Directors
    Joseph H. Boardman, President and CEO, Amtrak