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Amtrak: Budget and Reauthorizat

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Amtrak: Budget and Reauthorization

SUMMARY

Amtrak was created by Congress in 1970 to provide intercity passenger railroad service. It operates approximately 44 routes over 22,000 miles of track, 97% of which is owned by freight rail companies. It runs a deficit each year, and requires federal assistance to cover operating losses and capital investment. Without a yearly federal grant to cover operating losses, Amtrak would not survive as presently configured.

The crux of the public policy issue facing Congress has been succinctly stated by Kenneth Mead, the Department of Transportation Inspector General (DOT IG): “The mismatch between the public resources made available to fund intercity passenger rail service, the total cost of maintaining the system that Amtrak continues to operate, and proposals to restructure the system comprise the dysfunction that must be resolved in the reauthorization process of the nation’s intercity passenger rail system.”

Congress has reached a stalemate with respect to Amtrak. During the 107th and 108th Congresses, it was unable to reauthorize Amtrak or to reach a consensus on what kind of passenger rail system it would be willing to fund. It failed to endorse Amtrak’s strategy of maintaining its full current network while restoring its infrastructure to a state of good repair. Amtrak’s president, David Gunn, in a October 4, 2004 letter to the DOT IG, wrote: “Management agrees with a number of conclusions reached in your report... Deferred capital investment has reached critical levels and continued deferral brings Amtrak closer to a major failure somewhere in the system. We are playing Russian roulette.”

Appropriations. The Administration’s FY2006 Budget requests no funding for

Amtrak: “With no subsidies, Amtrak would quickly enter bankruptcy, which would likely lead to the elimination of inefficient operations and the reorganization of the railroad through bankruptcy procedures.” In a letter to Amtrak employees, Mr. Gunn stated “the [Administration] proposal is irresponsible and a surprising disappointment.”

Amtrak requested \$1.8 billion in federal assistance for FY2006, but has prepared a plan to operate for FY2006 on \$1.2 billion, the amount it received in FY2004 and FY2005. Notwithstanding the budget deficit and other funding needs, such as the war in Iraq, Amtrak remains popular with some Members, who many believe will likely seek to restore Amtrak funding for FY2006 to some level.

Reauthorization. Amtrak’s authorization expired in December 2002. Reauthorization issues include Amtrak’s funding level, the size of its network, the introduction of competition for routes, and Amtrak restructuring.

Efforts to reauthorize Amtrak are likely to continue in the 109th Congress. The Bush Administration has announced that it will once again introduce its Amtrak restructuring proposal, the Passenger Rail Investment Reform Act. The principles of that bill are expected to be similar to legislation introduced during the 108th Congress, which would have largely shifted responsibility for intercity passenger rail to the states, established a 50-50 match for state investments in passenger rail infrastructure, phased out federal support for Amtrak operating costs, and transferred Amtrak’s Northeast Corridor infrastructure to a consortium of states.



MOST RECENT DEVELOPMENTS

On February 7, 2005, the President presented his budget proposal to Congress. The proposal contained no funding for Amtrak, and stated that without subsidies, Amtrak would quickly enter bankruptcy, thus hastening its reorganization. The Administration requested \$360 million for the Surface Transportation Board to support the operation of commuter trains on the Northeast Corridor in the event Amtrak ceases operations. This appears to be intended to preempt a complete closure of commuter rail traffic on the Northeast Corridor should Amtrak suddenly shut its system down. On February 14, 2005, Secretary of Transportation Mineta also announced that the Administration will soon reintroduce the Passenger Rail Investment Reform Act.

On December 8, 2004, the President signed P.L. 108-447, the Omnibus Appropriations Act of FY2005, which provided \$1.2 billion in funding for Amtrak for FY2005.

On November 18, 2004, the Department of Transportation's Inspector General (DOT IG) issued a report noting that Congress has not bought into Amtrak's strategy of maintaining the current system size, and warning that Amtrak's postponement of needed maintenance increases the risk of a serious accident on its network.

BACKGROUND AND ANALYSIS

Amtrak — officially, the National Railroad Passenger Corporation — is the nation's only provider of intercity passenger rail service. Amtrak is structured as a private company, but virtually all its shares are held by the United States Department of Transportation (DOT). Amtrak was created by Congress in 1970 to maintain a minimum level of intercity passenger rail service, while relieving the railroad companies of the financial burden of providing that money-losing service. Although created as a for-profit corporation, Amtrak, like intercity passenger rail operators in other countries, has not been able to make a profit. During the last 35 years, federal assistance to Amtrak has amounted to approximately \$29 billion.¹

Amtrak employs 20,000 people to operate trains and maintain its infrastructure. It operates approximately 44 routes over 22,000 miles of track. More than 97% of that track is owned by freight rail companies; Amtrak owns about 730 route miles of track.² The section it owns — the Northeast Corridor — includes some of the most heavily used segments of track in the nation, not only by Amtrak trains but also by commuter and freight trains. Amtrak operates corridor routes (covering distances under 400 miles) and long-distance routes (over 400 miles in length). Some of Amtrak's corridor routes are supported in part by assistance from the states they serve. Amtrak also operates commuter service under contract with state and local commuter authorities in various parts of the country.

¹ Executive Office of the President. Budget of the United States Government, FY2006. Washington, DC: U.S. GPO, 2005. p. 242.

² Amtrak. Testimony of David L. Gunn before Senate Commerce Subcommittee on Surface Transportation and Merchant Marine. July 10, 2002.

Amtrak is required by statute to “operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service” (49 U.S.C. 24701).³ The Amtrak Reform and Accountability Act of 1997 (P.L. 105-134; 111 Stat. 2570) authorized Amtrak for the period December 1997 through December 2002. It required that Amtrak operate without federal operating assistance after 2002; this was not accomplished. During the period leading up to this operational self-sufficiency deadline, Amtrak’s then-president, George Warrington, repeatedly assured Congress that Amtrak was on a ‘glide-path’ to profitability. However, in FY2002 Amtrak proved to be in worse financial shape than in 1997. Warrington resigned in April 2002.

In May 2002, David Gunn took over as Amtrak’s new president. In June 2002, Mr. Gunn and the Amtrak Board announced that Amtrak’s was in danger of running out of money and that the railroad faced an imminent shutdown if Amtrak did not receive \$200 million to keep the company operating through September 2002. After tense negotiations, the Department of Transportation provided a \$100 million loan and Congress approved a \$100 million grant to Amtrak.⁴

Although Amtrak’s FY2005-2009 Strategic Plan calls for more than \$8 billion in federal assistance over five years, Congress has thus far declined to provide the requested funding; Amtrak’s annual appropriation has been \$1.2 billion since FY2003, enough to keep the system operating, but not enough to prevent the deferral of some significant maintenance projects. Although short of the funding required to accomplish Amtrak’s strategic vision, Amtrak has resisted reorganizing the system and, according to the DOT IG, “it appears that Amtrak’s management plans to continue operating the status quo system.”⁵ The DOT IG has stated that a new federal intercity passenger rail strategy is needed.⁶ More fundamentally, the DOT IG characterizes the public policy conundrum in the following way: “The mismatch between the public resources made available to fund intercity passenger rail service, the total cost of maintaining the system that Amtrak continues to operate, and proposals to restructure the system comprise the dysfunction that must be resolved in the reauthorization process of the nation’s intercity passenger rail system.”⁷

³ This language was incorporated into the U.S. Code as part of the Amtrak Reform and Accountability Act of 1997 (P.L. 105-134; 111 Stat. 2570). It replaced the original statutory language requiring Amtrak to operate “the basic system” which had been designed by the DOT at Congress’s direction, any significant changes to which required Congressional approval. In addition to replacing Amtrak’s prescribed network with a principle (“operate a national ... system”), the act eliminated Amtrak’s ability to exclude potential intercity passenger rail competitors from offering service — - but did not provide a mechanism to encourage competition and did not affect Amtrak’s monopoly status as a provider of intercity passenger rail service.

⁴ Rogers, David. “House Approves Treasury Bill That Eases Tourist Trips to Cuba,” *Wall Street Journal*, July 25, 2002. p. A4.

⁵ DOT. Office of the Inspector General. Assessment Report on Amtrak’s 2003 and 2004 Financial Performance and Requirements. CR-2005-013. November 18, 2004. p. 2.

⁶ *Ibid.*, pp. 1-2.

⁷ *Ibid.*, p. 5.

Finances

Amtrak runs a deficit of over a billion dollars each year. This deficit can be divided into two parts: (1) an operating loss (which, when depreciation and other non-cash items are subtracted, is also referred to as a “cash loss”) of around \$650 million annually, which comes largely from Amtrak’s long-distance train routes; and (2) capital depreciation (not a cash loss, but the estimated cost of repairing the wear and tear to equipment and infrastructure) of around \$600 million annually, most of which is incurred on the Northeast Corridor. A third significant expense is debt service (principal and interest payments on Amtrak’s accumulated debt is forecast to be \$363 million in 2006).

Virtually all Amtrak’s 44 or so routes lose money; only Amtrak’s signature ‘high-speed’ service on the Northeast Corridor, the Acela, and its companion Metroliner service, consistently earn more than their operating costs. However, the annual maintenance cost of the Northeast Corridor dwarfs the operating profit generated by Acela and Metroliner service.

In addition to its annual deficit, Amtrak has major liabilities due to deferred maintenance and accumulated debt. Lacking money to complete all its capital repair and maintenance projects, Amtrak has deferred many maintenance projects. This has led the DOT IG to observe that Amtrak’s continued deferral of maintenance increases the risk of a major failure on its system. Amtrak has an estimated \$6 billion in backlogged capital maintenance needs.⁸ These include replacement of aging bridges, signal equipment, and catenary (the power source for the Northeast Corridor trains), improvements to tunnels and track, repair of wrecked equipment, and overhaul of aging equipment. The IG’s report criticizes some of the capital spending choices Amtrak has made, such as refurbishing sleeper cars instead of replacing aging bridges. Amtrak’s president, David Gunn, in a October 4, 2004 letter to the DOT IG, wrote: “Management agrees with a number of conclusions reached in your report.... Deferred capital investment has reached critical levels and continued deferral brings Amtrak closer to a major failure somewhere in the system. We are playing Russian roulette.”⁹

The Amtrak Reform Council and the DOT IG have both estimated that Amtrak requires around \$1.5 - \$2 billion in federal operating and capital support annually.¹⁰ This is a higher level of federal funding than Amtrak has ever consistently received. In FY1998 and FY1999 Amtrak received around \$1.7 billion annually in federal assistance, through a combination

⁸ Testimony of DOT Inspector General Kenneth M. Mead, before the Senate Committee on Commerce, Science, and Transportation, “The Future of Intercity Passenger Rail Service and Amtrak,” 108th Cong., 1st Sess., October 2, 2003, CC-2003-155, 3.

⁹ DOT. IG Report, Appendix, Management Comments. p. 29.

¹⁰ The Amtrak Reform Council was created by the Amtrak Reform and Accountability Act of 1997 to recommend improvements to Amtrak and to draw up a new policy for intercity passenger rail service. While acknowledging the structural aspects of Amtrak’s deficit, both the Reform Council and the DOT IG have also been critical of Amtrak’s management, as have the Government Accountability Office and other observers.

of appropriations and an exceptional one-time funding provision of \$2.3 billion (divided equally between FY1998 and FY1999) in the Taxpayers Relief Act of 1997.¹¹

In recent years Amtrak has stopped borrowing, trimmed its workforce, and cut its expenses, while at the same time achieving increases in ridership. However, the cuts in expenses have been small relative to Amtrak's annual deficit, and increases in ridership have been relatively modest as well. In this context, the DOT IG has observed that Amtrak cannot "save its way to financial health."¹²

Amtrak's internal options for significantly reducing its annual deficit in the short term are limited. As noted, its two major cost categories are the operating losses of the long-distance trains and maintenance costs of the Northeast Corridor. Reducing the size of its system could, in the long run, significantly reduce Amtrak's deficit and the long-run cost to the Federal Government, although Amtrak would still run a short-term deficit even if it eliminated all its long-distance trains, because of severance payments to employees. Additionally, the costs of maintaining the Northeast Corridor would remain, whatever the fate of long-distance service. Amtrak interprets 49 U.S.C. 24701 to require it to provide service nationwide, which it takes to mean service that spans the nation, rather than service in different parts of the nation. Thus, Amtrak is unlikely to eliminate or restructure long-distance routes without explicit direction from Congress. Many Members of Congress continue to support a nationwide Amtrak network.

Nor can Amtrak increase its revenues enough to eliminate its deficits. Although Amtrak's ridership has grown slightly over the past few years, Amtrak's level of service and on-time performance have declined, due at least in part to the postponement of maintenance work. On-time performance declined from 74.1% in FY2003 to 70.7% in FY2004. More significantly, while Amtrak ridership increased in FY2003 and again in FY2004, its total passenger and non-passenger revenues declined each year. (FY2003: ridership up 2.7% to 24 million, revenues down by 10% or \$230 million; FY2004: ridership up by 4.3% to 25 million passengers, revenues declined by 7.8% or \$161 million)¹³ Thus, increases in ridership are not guaranteed to increase revenue and, in all likelihood, a sustained rise in the number of Amtrak riders would require a significant increase in Amtrak's level of service and on-time performance, which would require significant increases in funding.

Appropriations

The President's FY2006 budget proposal requests no money for Amtrak: "With no subsidies, Amtrak would quickly enter bankruptcy, which would likely lead to the elimination of inefficient operations and the reorganization of the railroad through

¹¹ CBO. An Economic Analysis of the Taxpayer Relief Act of 1997. CBO Paper. April 2000. pp. 2, 10.

¹² DOT. IG Report, Nov. 2004. p. 3.

¹³ Amtrak. Monthly Financial Report, September 2004. pp. A-5.3 and A-6.1; DOT. IG Report. pp. 4, 9-10.

bankruptcy proceedings.”¹⁴ It is not at all clear what the outcome of an Amtrak bankruptcy proceeding would be, except that the outcome would be determined by the courts rather than by Congress or the Administration. Previous administrations have on occasion proposed no funding for Amtrak, but Congress has always provided enough funding for Amtrak to continue operations, and several Members of Congress have said that Congress will do so in this case as well. Congress provided \$1.2 billion for Amtrak for FY2004 and again for FY2005. In both years, the Administration had requested \$900 million for Amtrak, and Amtrak had requested \$1.8 billion.

Amtrak’s Strategic Plan for FY2005-09 identifies a need for an average of \$1.7 billion per year over the life of the plan.¹⁵ This amount would allow it to operate the current network, begin to address its backlog of deferred maintenance and capital improvements, and cover its debt service. Congress has rarely provided Amtrak with this level of funding. As previously mentioned, a consequence has been the decision by Amtrak to defer maintenance projects, which increases the risk of a major failure somewhere in the system. Options include providing more funding to Amtrak to address the backlog of deferred projects or directing Amtrak to reduce its operating costs to address backlogged maintenance projects. Addressing the issue of operating costs, David Gunn has stated that “Any substantial reduction in operating costs will require extensive route and service actions, and the savings will be more than offset by restructuring costs.”¹⁶

Federal Oversight of Amtrak

In response to Amtrak’s inaccurate descriptions of its financial condition between 1998 and 2002, Congress has included provisions in Amtrak’s recent appropriations, beginning in FY2003 (in P.L. 108-7), intended to bring greater transparency to Amtrak’s finances and to increase DOT’s control over Amtrak’s use of its appropriation. Amtrak is required to submit a Strategic Plan to Congress, updated annually, and is prohibited from making expenditures not programmed in the Strategic Plan without advance notice to Congress. Amtrak is also required to submit a monthly financial statement to Congress. Also, Congress changed the way Amtrak receives its funding; the funding no longer goes directly to Amtrak, but is allocated to the Secretary of Transportation, who makes quarterly grants to Amtrak. Amtrak is required to submit grant applications to DOT for each route to receive this funding.

Amtrak Reauthorization

Amtrak’s previous authorization expired in December 2002. Since then, reauthorization of Amtrak has been stalled by the aforementioned disagreement over the future of U.S. passenger rail policy. Although numerous bills were introduced in the 107th and 108th Congresses and various approaches have been suggested, Congress has thus far been unwilling either to provide Amtrak with the level of funding that it has requested or to require an Amtrak restructuring that would be consistent with the level of funding that

¹⁴ Budget of the United States, FY2006. p. 243.

¹⁵ Amtrak. Strategic Plan FY2005-09. June 29, 2004. p. 4.

¹⁶ DOT. IG Report. p. 30.

Congress has been willing to provide. Since 2002, Congress has essentially reached a stalemate with respect to Amtrak. During the 107th and 108th Congresses, it was unable to reauthorize Amtrak or to reach a consensus on what kind of passenger rail system it would be willing to fund. It failed to endorse Amtrak's strategy of maintaining its full current network while restoring its infrastructure to a state of good repair or to provide the funding that would have allowed that strategy to be executed by Amtrak.

As Congress once again considers Amtrak reauthorization, the range of options for passenger rail include (1) providing higher levels of funding to support an expanded passenger rail system; (2) providing funding for operating and maintaining the current system; (3) focusing available resources on providing service only to those corridors that can be justified on economic grounds; (4) reducing Amtrak funding and eliminating much of the present passenger rail network; (5) eliminating funding for Amtrak and reorganizing passenger rail service in the United States. Although various combinations of the above options are possible, the DOT IG has concluded that the 'status quo' option is unsustainable.

Amtrak estimates the cost of fully funding the 'status quo' system at about \$1.7 billion per year. With a constrained federal budget, the war in Iraq, homeland security, and concerns about spending levels for other surface transportation programs, as well as other priority federal programs, making the case for additional Amtrak funding is a formidable challenge. And there appears to be limited support in Congress for an expanded — and thus more expensive — Amtrak. On the other hand, options that would eliminate Amtrak's long-distance service could make it much more difficult to achieve a level of congressional support needed to reauthorize Amtrak. If higher levels of funding are not made available to Amtrak, the remaining options, singly or in combination, available to Congress would result in a smaller Amtrak, a reorganized passenger rail service, or possibly the elimination of a federal role in passenger rail service. Because of labor agreements and other potential costs that might be triggered by an Amtrak restructuring, short-term costs could rise, while long-term costs would be expected to decline.

One possible option for bringing Amtrak spending in line with its available revenues (including any federal payments authorized or appropriated for Amtrak) would be for Congress to direct that Amtrak eliminate its network of long distance, non-corridor routes. Many of the long-distance trains run only once a day and are relatively lightly used. As a result, the cash loss per passenger on long-distance routes is high. According to the DOT IG, "The bottom line is that the existing system is not sustainable at current funding levels, and corridor development (in addition to the Northeast Corridor) cannot progress in any meaningful way until reauthorization legislation is enacted. The corridors are the sources of greatest potential passenger benefits."¹⁷

Supporters of long-distance trains argue that the trains provide an important service to the many small communities they serve. Amtrak argues that eliminating long-distance service would increase its cash losses in the short term because of severance payments to employees. For a few years, Amtrak's funding needs would rise, but would then fall as the corporation achieved long-term savings. Eliminating long-distance routes, however, would

¹⁷ DOT. IG Report. p. 3.

not change the picture with respect to the large capital investments that would still be required for the Northeast Corridor.

The issue of competition in provision of passenger rail service has been raised in several venues. The Amtrak Reform Council recommended route competition in its 2002 report to Congress and the Bush Administration has also given its strong support to the provision of rail service by alternative suppliers of service. Frequently cited are the cases of Japan and Britain, where rail privatization initiatives have been underway for years. In June 2002, the Bush Administration proposed that rail service be separated from infrastructure ownership (this primarily applies to the Northeast Corridor where Amtrak combines its operating mission with an infrastructure maintenance function) and that competition for provision of service on certain routes (initially in states outside the Northeast Corridor) be established. That proposal was introduced in the 108th Congress as the Passenger Rail Investment Reform Act (H.R. 3211/S. 1501, both bills introduced by request). In 2004, Congress directed the DOT to establish a process for competitive bidding on routes that Amtrak operates with financial support from the states.¹⁸ Beyond its request for comment, the Federal Railroad Administration has not yet announced how it will proceed.

Some, including the Amtrak Reform Council and the Bush Administration, have argued that the current federal intercity passenger rail system — that is, Amtrak — should be restructured. A variety of proposals for restructuring the passenger rail system have been suggested; among the most commonly cited ones are separating responsibility for Amtrak's infrastructure (chiefly, the Northeast Corridor) from operations (i.e., vertical separation). This would allow one entity to assume responsibility for the large capital investments that are needed on that corridor. Separating infrastructure from operations would not solve the financial burdens that a corridor entity would inherit. It is likely that such a move would require significant ongoing support from Congress, leaving the question of long-term funding unclear.

Advocates for restructuring believe that improved service and reduced costs would be the principal benefits. Opponents of restructuring argue that Amtrak will cease to serve the nation and will primarily operate corridor-only service. Proponents of maintaining Amtrak in its current configuration frequently advocate the creation of a dedicated funding source for intercity passenger rail. They note that highways and aviation have trust funds that provide a steady source of funding for capital improvements, but that Amtrak has no similar source of funding. The highway and aviation trust funds primarily derive their funding from users, who pay gasoline, ticket, and other taxes to support those modes. The imposition of taxes on rail passengers as a steady source of trust fund financing has the potential to reduce the attractiveness of rail as an alternative to the automobile, plane, or bus. This is because the amount that passengers would have to pay to have a fully funded trust fund would so raise rail fares that rail would be uncompetitive with other modes.

¹⁸ Section 151 of the General Provisions of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (included as Division F of the Consolidated Appropriations Act, 2004 (Public Law 108 — 199 (January 23, 2004))). On April 13, 2004, the Federal Railroad Administration (FRA) published a Notice of Funds Availability and Request for Comment to Assist in the Development and Implementation of a Procedure for Fair Competitive Bidding by Amtrak and Non-Amtrak Operators of State-Supported Intercity Passenger Rail Routes. *Federal Register*, Vol. 69, p. 19612.

Amtrak Legislation

During the 108th Congress, a number of bills were introduced that would have reauthorized Amtrak. In the House, Committee on Transportation and Infrastructure Chairman Don Young introduced a three-year reauthorization bill (108th: H.R. 2572) that would have provided Amtrak with \$2 billion per year for FY2004-2006 for capital and operating expenses. The bill was reported out by the Transportation and Infrastructure Committee but no further action was taken. In the Senate, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 (SAFETEA)(108th: S. 1072) contained a provision (Sec. 4601) that would have authorized \$2 billion per year for Amtrak for FY2004-2009. The bill was passed by the Senate, although the Amtrak provision elicited a specific veto threat by the Bush Administration.

Although several bills were introduced in the 108th Congress that had as their goal the restructuring of Amtrak, none was passed by either House. The Administration's reform proposal, the Passenger Rail Investment Reform Act (108th: S. 1501, introduced by Senator McCain, by request, and H.R. 3211, introduced by Representative Don Young, by request) was the subject of a Senate hearing. That bill received no further consideration. The Administration proposal would have largely transferred responsibility for planning, managing, and funding passenger rail service to the states; phased out federal operating support; and provided federal matching grants for capital improvements. The Administration proposal would have transferred responsibility for the Northeast Corridor to a consortium of the states served by the corridor, with federal capital grants provided to help cover the maintenance costs of the corridor. Secretary Mineta has indicated that the Administration intends to reintroduce that proposed legislation.¹⁹

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¹⁹ Mineta, Norman Y. "Starving Amtrak to Save It," *New York Times*, February 23, 2005. p. A31.

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